

1 MARC E. ELIAS, ESQ. (D.C. Bar No. 442007) (*pro hac vice forthcoming*)
COURTNEY A. ELGART, ESQ. (D.C. Bar No. 1645065) (*pro hac vice forthcoming*)
2 HENRY J. BREWSTER, ESQ. (D.C. Bar No. 1033410) (*pro hac vice forthcoming*)

PERKINS COIE LLP

3 700 Thirteenth Street NW, Suite 800
Washington, D.C. 20005-3960
4 Tel: (202) 654-6200
melias@perkinscoie.com
5 celgart@perkinscoie.com
hbrewster@perkinscoie.com

6 ABHA KHANNA, ESQ. (Wash. Bar No. 42612) (*pro hac vice forthcoming*)
7 REINA A. ALMON-GRIFFIN, ESQ. (Wash. Bar No. 54651) (*pro hac vice forthcoming*)
JONATHAN P. HAWLEY, ESQ. (Wash. Bar No. 56297) (*pro hac vice forthcoming*)

PERKINS COIE LLP

8 1201 Third Avenue, Suite 4900
9 Seattle, Washington 98101-3099
Tel: (206) 359-8000
10 akhanna@perkinscoie.com
ralmon-griffin@perkinscoie.com
11 jhawley@perkinscoie.com

12 BRADLEY SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)

**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**

13 3556 E. Russell Road, Second Floor
14 Las Vegas, Nevada 89120
15 Tel: (702) 341-5200
bschrager@wrslawyers.com
16 dbravo@wrslawyers.com

17 *Attorneys for Proposed Intervenor-Defendants*
DNC Services Corporation/Democratic National
18 *Committee, DCCC, and Nevada State*
Democratic Party
19

20 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA
21

22 DONALD J. TRUMP FOR PRESIDENT,
INC., REPUBLICAN NATIONAL
23 COMMITTEE, and NEVADA REPUBLICAN
PARTY,

24 Plaintiffs,

25 v.

26 BARBARA CEGAVSKE, in her official
27 capacity as Nevada Secretary of State,
28

Case No.: 2:20-cv-01445-JCM-VCF

**MOTION TO INTERVENE AS
DEFENDANTS**

EXPEDITED BRIEFING SCHEDULE
REQUESTED

1 Defendant,

2 and

3 DNC SERVICES
4 CORPORATION/DEMOCRATIC
5 NATIONAL COMMITTEE, DCCC, and
6 NEVADA STATE DEMOCRATIC PARTY,

7 Proposed
8 Intervenor-
9 Defendants.

10 Pursuant to Federal Rule of Civil Procedure 24, Proposed Intervenor-Defendants DNC
11 Services Corporation/Democratic National Committee (“DNC”), DCCC, and the Nevada State
12 Democratic Party (“NSDP,” and collectively, “Proposed Intervenor-Defendants”) move to intervene as
13 defendants in the above-titled action. Defendant consents to this motion and Plaintiffs reserve
14 taking a position.

15 The United States is in the midst of an unprecedented public health crisis; Nevada is no
16 exception. The highly contagious coronavirus has fundamentally altered Nevadans’ daily lives—
17 including how they vote. Recognizing that the novel coronavirus will impact the November 3,
18 2020 general election (the “November Election”), the Nevada Legislature enacted Assembly Bill
19 4. It has two parts. The first—at issue in this lawsuit—articulates an infrastructure for elections
20 held during states of emergency. These changes largely incorporate and supplement Nevada’s
21 existing election laws and provide greater certainty to election officials regarding how the
22 November Election (and any future elections held during emergencies) should be conducted. The
23 second part of Assembly Bill 4—not challenged by Plaintiffs—makes general, permanent
24 changes to Nevada’s election laws. As a result, the Legislature has taken the necessary and
25 appropriate steps to ensure that all Nevadans have safe and meaningful opportunities to vote,
26 both during the pandemic and after.

27 Plaintiffs Donald J. Trump for President, Inc., Republican National Committee, and
28 Nevada Republican Party now seek to undo several of Assembly Bill 4’s important provisions.

1 Plaintiffs allege a hodgepodge of claims, none of them viable, in an attempt to undermine the
2 State's efforts to provide certainty to election officials and protect Nevada voters during a public
3 health crisis. Their claims thus pose a clear and direct threat to Proposed Intervenors' rights and
4 legal interests.

5 For the reasons set forth below, Proposed Intervenors are entitled to intervene in this case
6 as a matter of right under Federal Rule of Civil Procedure 24(a)(2). Such intervention is needed
7 to protect the substantial and distinct legal interests of Proposed Intervenors, which will
8 otherwise be inadequately represented in this litigation. In the alternative, Proposed Intervenors
9 should be granted permissive intervention pursuant to Rule 24(b). In accordance with Rule 24(c),
10 a proposed Answer is attached as Exhibit 1.

11 Proposed Intervenors also respectfully request that this Court enter an expedited briefing
12 schedule on this Motion.

13 **BACKGROUND**

14 On March 24, 2020, in response to the coronavirus pandemic, Defendant Barbara
15 Cegavske (the "Secretary") announced plans to "conduct an all-mail election" for the June 9,
16 2020 Primary (the "June Primary Plan"). Press Release, Nev. Sec'y of State, *Secretary Cegavske*
17 *Announces Plan to Conduct the June 9, 2020 Primary Election by All Mail* (Mar. 24, 2020),
18 <https://www.nvsos.gov/sos/Home/Components/News/News/2823/23>. While the June Primary
19 Plan required county election officials to mail ballots to all active registered voters, it
20 significantly reduced in-person voting opportunities, allocating only one polling location for each
21 county regardless of population. *Id.* Moreover, the June Primary Plan did *not* address the impacts
22 of Nevada election laws that burdened the right to vote for Nevadans attempting to vote by mail.

23 **A. The State Court Action**

24 On April 10, NSDP sent a letter to the Secretary expressing concern about the lack of in-
25 person polling locations in Nevada's more populous counties and the likely disenfranchising
26 impact of Nevada's voter assistance ban. *See* Letter to Hon. Barbara Cegavske, NSDP (Apr. 10,
27 2020), <https://nvdeems.com/wp-content/uploads/2020/04/200410-Letter-to-Hon.-Barbara->

1 Cegavske.pdf. On April 16, after the Secretary refused to address NSDP’s concerns, *see* April
2 Corbin Girnus & Arianna Skibell, *Nevada Dems Push for Changes to Upcoming All-Mail*
3 *Primary*, Nev. Current (Apr. 15, 2020), [https://www.nevadacurrent.com/2020/04/15/nevada-](https://www.nevadacurrent.com/2020/04/15/nevada-dems-push-for-changes-to-upcoming-all-mail-primary)
4 [dems-push-for-changes-to-upcoming-all-mail-primary](https://www.nevadacurrent.com/2020/04/15/nevada-dems-push-for-changes-to-upcoming-all-mail-primary), Proposed Intervenors—joined by
5 Priorities USA and a group of concerned Nevada voters (collectively, the “State Court
6 Plaintiffs”)—filed a lawsuit in Nevada state court seeking declaratory and injunctive relief (the
7 “State Court Action”). *See* Compl. for Declaratory and Injunctive Relief, *Corona v. Cegavske*,
8 No. 20 OC 00064 1B (Nev. Dist. Ct. Apr. 16, 2020).¹ The State Court Plaintiffs’ complaint and
9 subsequently filed motion for preliminary injunction argued, among other things, that the Nevada
10 and U.S. Constitutions require Nevada election officials to provide additional voting locations in
11 more populous counties and allow third parties to assist voters in returning their mail ballots. The
12 Republican National Committee and Nevada Republican Party, both Plaintiffs here, moved for
13 and were granted intervention as defendants in the State Court Action. The State Court Plaintiffs
14 withdrew their request for an injunction as to the June 2020 primary election (the “June
15 Primary”) when Clark County agreed to open additional polling locations and provide other
16 remedial measures that would help people vote.²

17 Following the June Primary, on June 19, the State Court Plaintiffs filed an amended
18

19 ¹ The *Corona* complaint can also be found attached to Proposed Intervenors’ motion to intervene
20 in a separate federal court action. *See* Mot. to Intervene as Defendants, Ex. 3, *Paher v. Cegavske*,
No. 3:20-cv-00243-MMD-WGC (D. Nev. Apr. 27, 2020), ECF No. 27-3.

21 ² Around the same time, a different set of voters filed suit in this Court, challenging the June
22 Primary Plan’s requirement that election officials mail ballots to active, registered voters. *See*
23 Verified Compl. for Declaratory and Injunctive Relief, *Paher v. Cegavkse*, No. 3:20-cv-00243-
24 MMD-WGC (D. Nev. Apr. 21, 2020), ECF No. 1. Among other things, the *Paher* plaintiffs
25 argued that vote by mail would result in an increased risk of voter fraud that threatened to dilute
26 their votes. Proposed Intervenors sought and were granted intervention as of right in that case.
27 *See Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2042365, at *1 (D. Nev.
28 Apr. 28, 2020). This Court ultimately rejected the *Paher* plaintiffs’ claims—including their
“speculative claim of voter fraud”—and dismissed the case. *Paher v. Cegavkse*, No. 3:20-cv-
00243-MMD-WGC, 2020 WL 2089813, at *1, *5 (D. Nev. Apr. 30, 2020); *see also Paher v.*
Cegavkse, No. 3:20-cv-00243-MMD-WGC, 2020 WL 4431567, at *7 (D. Nev. July 31, 2020).

1 complaint narrowing their claims to the State’s ban on voter assistance in returning mail ballots
 2 and its signature match laws for mailing and absentee ballots. *See* Am. Compl. for Declaratory
 3 and Injunctive Relief, *Corona v. Cegavske*, No. 20 OC 00064 1B (Nev. Dist. Ct. June 19, 2020).
 4 Trial was set for August 17, 2020, and discovery commenced.

5 In the meantime, the coronavirus pandemic worsened. Shortly before Nevada’s election
 6 officials decided to convert the June Primary to a mail-based election, on March 12, 2020,
 7 Nevada reported 11 total cases of COVID-19. *See Nevada Coronavirus Map and Case Count*,
 8 N.Y. Times <https://www.nytimes.com/interactive/2020/us/nevada-coronavirus-cases.html> (last
 9 visited Aug. 7, 2020). By July, Nevada was reporting between 412 and 1,437 new cases of
 10 COVID-19 *each day*. *See id.* In total, Nevada has experienced more than 53,000 confirmed case
 11 of COVID-19 to date. *See id.*³

12 **B. Assembly Bill 4**

13 On August 3, the Nevada Legislature enacted Assembly Bill 4 (“A.B. 4”). *See* AB4, Nev.
 14 Elec. Legis. Info. Sys.,
 15 <https://www.leg.state.nv.us/App/NELIS/REL/32nd2020Special/Bill/7150/Text> (last visited Aug.
 16 7, 2020). Assembly Bill 4 makes several updates to the Nevada election code, only some of
 17 which are at issue in this case. Sections 2 to 27 codify procedures for conducting elections during
 18 declared states of emergency, including the November Election, with the stated purpose of
 19 ensuring that “[e]lection officials have certainty concerning the procedures to prepare for and
 20 conduct an” affected election and that “voters have faith and confidence that they can participate
 21 in [an] affected election and exercise their right to vote without fear for their health, safety and
 22 welfare under such circumstances.” A.B. 4, § 2.

23 Relevant here, Sections 2 to 10 set forth the general principles governing interpretation of
 24 _____

25 ³ The number of confirmed deaths from COVID-19 has also greatly increased since Governor
 26 Sisolak first declared a state of emergency. On March 16, 2020, Nevada reported its first
 27 confirmed death from COVID-19. *See Nevada Coronavirus Map, supra*. Since then, at least 900
 28 Nevadans have died from the disease. *See id.*

1 the law, and when the law applies. For example, Sections 5 and 8 define an “affected election”
2 subject to Sections 2 to 27 as one occurring when either the Governor or the Legislature has
3 proclaimed a state of emergency or declaration of disaster by a certain time. And Section 9
4 clarifies that the other, non-conflicting provisions of Chapter 293 of the Nevada Revised Statutes
5 (“N.R.S.”)—the election code—continue to apply to mail-based elections. Next, Sections 11 to
6 13 address the long lines experienced in the states’ most populous counties during the June
7 Primary by requiring Nevada counties to offer a minimum number of vote center polling
8 locations based on population. Then, Sections 15 and 16 modify Nevada’s current election
9 laws—which previously *allowed* counties to mail ballots to voters, *see* N.R.S. 293.213(4)—to
10 *require* counties to do so if an election is affected by a state of emergency. Finally, Sections 17
11 to 27 provide an infrastructure for mail-based elections, incorporating and on building upon
12 preexisting election laws to ensure that mail-based elections under Assembly Bill 4 are
13 administered consistently with other Nevada elections. For example, Section 20 applies the
14 postmark law that already exists for absentee ballots to mail ballots. *Compare* A.B. 4, § 20 *with*
15 N.R.S. 293.317. And Section 22 codifies the authority county election officials already possess
16 and exercise to create procedures for processing ballots. Assembly Bill 4 also addresses the
17 concerns raised in the State Court Action by allowing third parties to assist voters in returning
18 mail ballots both in a state of emergency, *see* A.B. 4, § 21, and otherwise, *see id.*, §§ 44, 70.

19 Following the passage of Assembly Bill 4, but before it was even signed by the
20 Governor, counsel for Plaintiffs Republican National Committee and Nevada Republican
21 Party—intervenor-defendants in the State Court Action—demanded immediate dismissal of the
22 State Court Plaintiffs’ amended complaint in light of Assembly Bill 4, threatening to move for
23 sanctions if they did not oblige. The State Court Plaintiffs, acknowledging that Assembly Bill 4
24 fully addressed their claims, voluntarily dismissed the case on August 4.

25 **C. The Present Litigation**

26 Later that day, Plaintiffs initiated this suit. Their complaint lodges five challenges to
27 Assembly Bill 4, all confined to Sections 2 to 27. Count I challenges its postmark law in the
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1 context of mail-based elections. Count II challenges its guidelines for allocating vote center
2 polling locations. Count III challenges Section 22, which allows county election officials to
3 establish the procedures for processing and counting mail ballots. Count IV challenges Section
4 25, which provides guidance on the processing of ballots that are folded together in the same
5 return envelope. And Count V challenges Assembly Bill 4’s entire mail-based election
6 infrastructure set forth in Sections 2 to 27 as a violation of the right to vote, based on the
7 purported threat of voter fraud.

8 Plaintiffs’ success in this litigation would make it more difficult for Proposed
9 Intervenors’ supporters and members to vote and threaten to undo the basis on which Proposed
10 Intervenors dismissed the State Court Action—both of which are interests not shared by the
11 present parties in this litigation. For these and other reasons, Proposed Intervenors now move to
12 intervene.

13 STANDARD OF LAW

14 “Rule 24 traditionally receives liberal construction in favor of applicants for
15 intervention.” *Arakaki v. Cayetano*, 324 F.3d 1078, 1083 (9th Cir. 2003); *accord Venetian*
16 *Casino Resort, LLC v. Enwave Las Vegas, LLC*, No. 2:19-CV-1197 JCM (DJA), 2020 WL
17 1539691, at *3 (D. Nev. Jan. 7, 2020) (noting intervention requirements “are broadly interpreted
18 in favor of intervention” (quoting *Prete v. Bradbury*, 438 F.3d 949, 954 (9th Cir. 2006))); *see*
19 *also W. Expl. LLC v. U.S. Dep’t of Interior*, No. 3:15-cv-00491-MMD-VPC, 2016 WL 355122,
20 at *2 (D. Nev. Jan. 28, 2016) (noting Rule 24’s liberal construction and “focus[] on practical
21 considerations rather than technical distinctions”).

22 The Ninth Circuit “require[s] applicants for intervention as of right pursuant to Rule
23 24(a)(2) to meet a four-part test”:

24 (1) the motion must be timely; (2) the applicant must claim a “significantly
25 protectable” interest relating to the property or transaction which is the subject of
26 the action; (3) the applicant must be so situated that the disposition of the action
27 may as a practical matter impair or impede its ability to protect that interest; and
28 (4) the applicant’s interest must be inadequately represented by the parties to the
action.

1 *United States v. Aerojet Gen. Corp.*, 606 F.3d 1142, 1148 (9th Cir. 2010) (quoting *California ex*
2 *rel. Lockyer v. United States*, 450 F.3d 436, 440 (9th Cir. 2006)).

3 “Rule 24(b) permits the Court to allow anyone to intervene who submits a timely motion
4 and ‘has a claim or defense that shares with the main action a common question of law or fact.’”
5 *Nevada v. United States*, No. 3:18-cv-569-MMD-CBC, 2019 WL 718825, at *2 (D. Nev. Jan. 14,
6 2019) (quoting Fed. R. Civ. P. 24(b)(1)(B)).

7 ARGUMENT

8 **I. Proposed Intervenors satisfy Rule 24(a)’s requirements for intervention as a matter** 9 **of right.**

10 Proposed Intervenors satisfy each of the four requirements of Rule 24(a).

11 **First**, the motion is timely. Plaintiffs filed their complaint on August 4, 2020; this motion
12 follows three days later, and before any substantive activity in the case. There has therefore been
13 no delay, and no possible risk of prejudice to the other parties. *See League of United Latin Am.*
14 *Citizens v. Wilson*, 131 F.3d 1297, 1302 (9th Cir. 1997); *see also Nevada*, 2019 WL 718825, at
15 *2 (granting motion to intervene filed several weeks after action commenced); *W. Expl.*, 2016
16 WL 355122, at *2 (granting motion to intervene filed nearly two months after action
17 commenced).

18 **Second** and **third**, Proposed Intervenors have significant protectable interests in this
19 lawsuit that might be impaired by Plaintiffs’ causes of action. “An applicant [for intervention]
20 has a ‘significant protectable interest’ in an action if (1) it asserts an interest that is protected
21 under some law, and (2) there is a ‘relationship’ between its legally protected interest and the
22 plaintiff’s claims.” *W. Expl.*, 2016 WL 355122, at *2 (quoting *Lockyer*, 450 F.3d at 441). In
23 assessing whether such an interest is sufficiently “impair[ed] or impede[d],” Fed. R. Civ. P.
24 24(a)(2), courts “look[] to the ‘practical consequences’ of denying intervention.” *Nat. Res. Def.*
25 *Council v. Costle*, 561 F.2d 904, 909 (D.C. Cir. 1977) (quoting *Nuesse v. Camp*, 385 F.2d 694,
26 702 (D.C. Cir. 1967)). “Once an applicant has established a significantly protectable interest in
27 an action, courts regularly find that disposition of the case may, as a practical matter, impair an
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1 applicant's ability to protect that interest." *Venetian Casino Resort*, 2020 WL 1539691, at *3
2 (citing *Lockyer*, 450 F.3d at 442).

3 Plaintiffs' challenge to Assembly Bill 4 would impair Proposed Intervenors' legally
4 protected interests. In addition to representing the interests of its members who risk
5 disenfranchisement, Proposed Intervenors also possess organizational interests that are
6 threatened by Plaintiffs' lawsuit. If Plaintiffs succeed and the challenged portions of Assembly
7 Bill 4 are enjoined, then Proposed Intervenors—each of which is an organization dedicated to
8 promoting the franchise and supporting the election of Democratic Party candidates—will suffer
9 direct injury because fewer Democratic voters will have an opportunity to vote and have their
10 votes counted in the November Election and future contests. Without expansive opportunities to
11 vote by mail coupled with meaningful opportunities to vote in person, many Nevadans will be
12 forced to choose between risking their health to vote and participating in the November Election.
13 The result will be far less robust turnout among Democratic supporters. Courts have routinely
14 concluded that interference with a political party's electoral prospects constitutes a direct injury
15 that satisfies Article III standing, which goes beyond the requirement needed for intervention
16 under Rule 24(a)(2) in this case. *See, e.g., Owen v. Mulligan*, 640 F.2d 1130, 1132 (9th Cir.
17 1981) (holding that "the potential loss of an election" is sufficient injury to confer Article III
18 standing); *see also Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586–87 (5th Cir. 2006)
19 (recognizing that "harm to [] election prospects" constitutes "a concrete and particularized
20 injury"); *cf. Town of Chester v. Laroe Estates, Inc.*, 137 S. Ct. 1645, 1651 (2017) (noting that an
21 intervenor by right only needs "Article III standing in order to pursue relief that is different from
22 that which is sought by a party with standing"). Indeed, Proposed Intervenors have intervened in
23 several voting cases this cycle on this very theory. *See Issa v. Newsom*, No. 2:20-cv-01044-
24 MCE-CKD, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (granting intervention of right to
25 DCCC); *Republican Nat'l Comm. v. Newsom*, No. 2:20-cv-01055-MCE-CKD, slip op. at 5 (E.D.
26 Cal. June 10, 2020), ECF No. 38 (same); *Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC,
27 2020 WL 2042365, at *2 (D. Nev. Apr. 28, 2020) (granting intervention as of right to DNC,

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1 DCCC, and NSDP where “Plaintiffs’ success on their claims would disrupt the organizational
2 intervenors’ efforts to promote the franchise and ensure the election of Democratic Party
3 candidates”).

4 Moreover, the disruptive and disenfranchising effects of Plaintiffs’ action would require
5 Proposed Intervenors to divert resources to address restricted voting opportunities—another
6 legally protected interest that is implicated by Plaintiffs’ claims. *See, e.g., Crawford v. Marion*
7 *Cty. Election Bd.*, 472 F.3d 949, 951 (7th Cir. 2007) (concluding “new law injure[d] the
8 Democratic Party by compelling the party to devote resources” that it would not have needed to
9 devote absent the new law), *aff’d*, 553 U.S. 181 (2008); *Democratic Nat’l Comm. v. Reagan*, 329
10 F. Supp. 3d 824, 841 (D. Ariz. 2018) (finding standing where law “require[d] Democratic
11 organizations . . . to retool their [get-out-the-vote] strategies and divert [] resources”), *rev’d on*
12 *other grounds sub nom. Democratic Nat’l Comm. v. Hobbs*, 948 F.3d 989 (9th Cir. 2020) (en
13 banc). Accordingly, Proposed Intervenors satisfy the second and third requirements of Rule
14 24(a)(2).

15 **Fourth**, Proposed Intervenors cannot rely on the parties in this case to adequately
16 represent their interests. “Courts consider three factors when assessing whether a present party
17 will adequately represent the interests of an applicant for intervention”:

18 (1) whether the interest of a present party is such that it will undoubtedly make all
19 of a proposed intervenor’s arguments; (2) whether the present party is capable and
20 willing to make such arguments; and (3) whether a proposed intervenor would
offer any necessary elements to the proceeding that other parties would neglect.

21 *W. Expl.*, 2016 WL 355122, at *3 (quoting *Arakaki*, 324 F.3d at 1086). “[T]he requirement of
22 inadequacy of representation is satisfied if the applicant shows that representation of its interests
23 ‘may be’ inadequate,” and therefore “the burden of making this showing is minimal.” *Id.*
24 (quoting *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528 (9th Cir. 1983)).

25 While the Secretary has an undeniable interest in defending the actions of state
26 government, Proposed Intervenors have a different focus: ensuring that every Democratic voter
27 in Nevada has a meaningful opportunity to cast a ballot and have that ballot counted, both in the
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1 November Election and in future elections. Courts have “often concluded that governmental
2 entities do not adequately represent the interests of aspiring intervenors.” *Fund for Animals, Inc.*
3 *v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003); accord *Citizens for Balanced Use v. Mont.*
4 *Wilderness Ass’n*, 647 F.3d 893, 899 (9th Cir. 2011) (“[T]he government’s representation of the
5 public interest may not be ‘identical to the individual parochial interest’ of a particular group just
6 because ‘both entities occupy the same posture in the litigation.’” (quoting *WildEarth Guardians*
7 *v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009))). That is the case here, where Proposed
8 Intervenors have specific interests and concerns—from their overall electoral prospects to the
9 most efficient use of their limited resources to promote get-out-the-vote-efforts—that neither the
10 Secretary nor any other party in this lawsuit shares. See *Paher*, 2020 WL 2042365, at *3
11 (granting intervention as of right where proposed intervenors “may present arguments about the
12 need to safeguard Nevada[ns’] right to vote that are distinct from [state defendants’]
13 arguments”); *Associated Gen. Contractors of Am. v. Cal. Dep’t of Transp.*, No. 09-01622, 2009
14 WL 5206722, at *2–3 (E.D. Cal. Dec. 23, 2009) (granting intervention where defendant state
15 agency’s “main interest is ensuring safe public roads and highways” and agency “is not charged
16 by law with advocating on behalf of minority business owners” as intervenors would). Indeed,
17 the Secretary’s inability to adequately safeguard Proposed Intervenors’ interests is evidenced by
18 the course of the State Court Action, in which Proposed Intervenors and the Secretary were
19 opposing parties. Proposed Intervenors cannot rely on the Secretary—their adversary in the State
20 Court Action—to adequately safeguard their legally protected interests in this case.

21 Phrased in the parlance of Rule 24, neither Plaintiffs nor the Secretary have interests
22 “such that [they] will undoubtedly make all of” Proposed Intervenors’ arguments. *W. Expl.*, 2016
23 WL 355122, at *3 (quoting *Arakaki*, 324 F.3d at 1086). While the Secretary might defend
24 Assembly Bill 4 as a law properly passed by the Nevada Legislature, she is less likely to join
25 Proposed Intervenors in advocating that certain of Assembly Bill 4’s policies challenged in this
26 suit are *required* to safeguard Nevadans’ right to vote. By actively arguing against Proposed
27 Intervenors’ positions in the State Court Action, the Secretary has clearly demonstrated that she

1 is neither “capable [nor] willing to make such” critical arguments. *W. Expl.*, 2016 WL 355122, at
2 *3 (quoting *Arakaki*, 324 F.3d at 1086); *see also, e.g., Kleissler v. U.S. Forest Serv.*, 157 F.3d
3 964, 974 (3d Cir. 1998) (granting motion to intervene as of right where private parties’ interests
4 diverged from the government’s interest in representation, and where “[t]he early presence of
5 intervenors may serve to prevent errors from creeping into the proceedings, clarify some issues,
6 and perhaps contribute to an amicable settlement”); *Venetian Casino Resort*, 2020 WL 1539691,
7 at *4 (granting intervention where intervenor and defendant “ha[d] a similar interest” but it was
8 “conceivable that [defendant’s] interest . . . could conflict with [intervenor’s] interest”); *Ohio*
9 *River Valley Envtl. Coal., Inc. v. Salazar*, No. 3:09-0149, 2009 WL 1734420, at *1 (S.D.W. Va.
10 June 18, 2009) (granting motion to intervene as of right where defendant and proposed
11 intervenor had identical goals but the “difference in degree of interest could motivate the
12 [intervenor] to mount a more vigorous defense” and “[t]he possibility that this difference in vigor
13 could unearth a meritorious argument overlooked by the current Defendant justifies the potential
14 burden on having an additional party in litigation”).

15 Proposed Intervenors intend to forcefully promote the ability of *all* eligible Nevadans to
16 cast ballots in the November Election and have those ballots counted. Because these arguments
17 will not be made by the current parties to the litigation, Proposed Intervenors cannot rely on the
18 Secretary to provide adequate representation. They have thus satisfied the four requirements for
19 intervention as of right under Rule 24(a)(2). *See Paher*, 2020 WL 2042365, at *3 (granting DNC,
20 DCCC, and NSDP intervention as of right in challenge to the June Primary Plan).

21 **II. Alternatively, Proposed Intervenors satisfy Rule 24(b)’s requirements for**
22 **permissive intervention.**

23 Even if this Court were to find Proposed Intervenors ineligible for intervention as of
24 right, they easily satisfy the requirements for permissive intervention under Rule 24(b), which
25 provides the Court with broad discretion “to allow anyone to intervene who submits a timely
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1 motion and ‘has a claim or defense that shares with the main action a common question of law or
2 fact.’” *Nevada*, 2019 WL 718825, at *2 (quoting Fed. R. Civ. P. 24(b)(1)(B)).⁴ “Because a court
3 has discretion in deciding whether to permit intervention, it should consider whether intervention
4 will cause undue delay or prejudice to the original parties, whether the applicant’s interests are
5 adequately represented by the existing parties, and whether judicial economy favors
6 intervention.” *Id.* (citing *Venegas v. Skaggs*, 867 F.2d 527, 530–31 (9th Cir. 1989)).

7 For the reasons discussed in Part I *supra*, Proposed Intervenors’ motion is timely, and
8 they cannot rely on the Secretary to adequately protect their interests. Proposed Intervenors also
9 have defenses to Plaintiffs’ claims that share common questions of law and fact—for example,
10 whether Plaintiffs have stated a claim under the Equal Protection Clause.

11 And significantly, intervention will result in neither prejudice nor undue delay. Proposed
12 Intervenors have an undeniable interest in a swift resolution of this action to ensure that
13 Assembly Bill 4 is timely implemented to allow every eligible Nevadan to cast a ballot—and
14 have that ballot counted—in the November Election. Indeed, Proposed Intervenors contend that
15 *this action itself* threatens to cause harmful delays that could stymie the State’s efforts to
16 circulate mail ballots. Proposed Intervenors therefore have a strong interest in defending
17 Assembly Bill 4 and opposing Plaintiffs’ lawsuit. Given the legal and factual shortcomings of
18 Plaintiffs’ claims, Proposed Intervenors are confident that their intervention in this case, and the
19 filings that will follow, will result in expeditious resolution of this litigation.

20 **REQUEST TO EXPEDITE BRIEFING SCHEDULE**

21 Proposed Intervenors believe that expeditious resolution of the Motion would serve the
22 interests of judicial efficiency and ensure that Proposed Intervenors are able to protect their
23 rights and interests. Proposed Intervenors respectfully request the following briefing schedule:

24
25 ⁴ Although permissive intervention also generally requires that “the court has an independent
26 basis for jurisdiction,” that finding “is unnecessary where, as here, in a federal question case the
27 proposed intervener raises no new claims.” *Nevada*, 2019 WL 718825, at *2 (quoting *Donnelly*
v. Glickman, 159 F.3d 405, 412 (9th Cir. 1998)).

1 • Responses to Proposed Intervenors' Motion to Intervene as Defendants shall be
2 filed on or before Wednesday, August 12, 2020; and

3 • Proposed Intervenors' reply briefs, if any, shall be filed on or before Thursday,
4 August 13, 2020.

5 **CONCLUSION**

6 For the reasons stated above, Proposed Intervenors respectfully request that the Court
7 grant their motion to intervene as a matter of right under Rule 24(a)(2) or, in the alternative,
8 permit them to intervene under Rule 24(b).

9 DATED this 7th day of August, 2020

10 **WOLF, RIFKIN, SHAPIRO,**
11 **SCHULMAN & RABKIN. LLP**

12 By: /s/ Bradley Schrager

13 Bradley S. Schrager, Esq., SBN 10217
14 Daniel Bravo, Esq., SBN 13078
15 3556 E. Russell Road, Second Floor
16 Las Vegas, Nevada 89120

17 Marc E. Elias, Esq.*
18 Courtney A. Elgart, Esq.*
19 Henry J. Brewster, Esq.*

20 **PERKINS COIE LLP**
21 700 Thirteenth Street NW, Suite 800
22 Washington, D.C. 20005-3960

23 Abha Khanna, Esq.*
24 Reina A. Almon-Griffin, Esq.*
25 Jonathan P. Hawley, Esq.*

26 **PERKINS COIE LLP**
27 1201 Third Avenue, Suite 4900
28 Seattle, Washington 98101-3099

*Attorneys for Proposed Intervenor-Defendants DNC
Services Corporation/Democratic National
Committee, DCCC, and Nevada State Democratic
Party*

**Pro hac vice applications forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on this 7th of August, 2020 a true and correct copy of **MOTION TO INTERVENE AS DEFENDANTS** was served via the United States District Court's CM/ECF system on all parties or persons requiring notice.

By: /s/ Danielle Fresquez
Danielle Fresquez, an Employee of
WOLF, RIFKIN, SHAPIRO, SCHULMAN &
RABKIN, LLP

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Exhibit 1

[Proposed] Answer to
Complaint

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 MARC E. ELIAS, ESQ. (D.C. Bar No. 442007) (*pro hac vice forthcoming*)
COURTNEY A. ELGART, ESQ. (D.C. Bar No. 1645065) (*pro hac vice forthcoming*)
2 HENRY J. BREWSTER, ESQ. (D.C. Bar No. 1033410) (*pro hac vice forthcoming*)

PERKINS COIE LLP

3 700 Thirteenth Street NW, Suite 800
Washington, D.C. 20005-3960
4 Tel: (202) 654-6200
melias@perkinscoie.com
5 celgart@perkinscoie.com
hbrewster@perkinscoie.com

6 ABHA KHANNA, ESQ. (Wash. Bar No. 42612) (*pro hac vice forthcoming*)
7 REINA A. ALMON-GRIFFIN, ESQ. (Wash. Bar No. 54651) (*pro hac vice forthcoming*)
JONATHAN P. HAWLEY, ESQ. (Wash. Bar No. 56297) (*pro hac vice forthcoming*)

PERKINS COIE LLP

8 1201 Third Avenue, Suite 4900
9 Seattle, Washington 98101-3099
Tel: (206) 359-8000
10 akhanna@perkinscoie.com
ralmon-griffin@perkinscoie.com
11 jhawley@perkinscoie.com

12 BRADLEY SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)

**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**

13 3556 E. Russell Road, Second Floor
14 Las Vegas, Nevada 89120
15 Tel: (702) 341-5200
bschrager@wrslawyers.com
16 dbravo@wrslawyers.com

17 *Attorneys for Proposed Intervenor-Defendants*
DNC Services Corporation/Democratic National
18 *Committee, DCCC, and Nevada State*
19 *Democratic Party*

20 **UNITED STATES DISTRICT COURT**
21 **DISTRICT OF NEVADA**

22 DONALD J. TRUMP FOR PRESIDENT,
INC., REPUBLICAN NATIONAL
23 COMMITTEE, and NEVADA REPUBLICAN
24 PARTY,

25 Plaintiffs,

26 v.

27 BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,

Case No.: 2:20-cv-01445-JCM-VCF

**[PROPOSED] ANSWER TO
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

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Defendant,
and
DNC SERVICES
CORPORATION/DEMOCRATIC
NATIONAL COMMITTEE, DCCC, and
NEVADA STATE DEMOCRATIC PARTY,
Proposed
Intervenor-
Defendants.

Proposed Intervenor-Defendants DNC Services Corporation/Democratic National Committee, DCCC, and Nevada State Democratic Party (“Proposed Intervenor”), by and through their attorneys, submit the following Answer to Plaintiffs’ Complaint for Declaratory and Injunctive Relief (“Complaint”). Proposed Intervenor respond to the allegations in the Complaint as follows:

INTRODUCTION

1. Proposed Intervenor agree that every eligible voter should be able to vote freely. Paragraph 1 also contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

2. Proposed Intervenor admit that Assembly Bill 4 was introduced on July 31, 2020. The remaining allegations in Paragraph 2 are mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

3. Paragraph 3 contains mere characterizations, legal contentions, and conclusions to which no response is required.

4. Paragraph 4 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

1 5. Paragraph 5 contains mere characterizations, legal contentions, and conclusions to
2 which no response is required. To the extent a response is required, Proposed Intervenors deny
3 the allegations.

4 6. Paragraph 6 contains mere characterizations, legal contentions, and conclusions to
5 which no response is required. To the extent a response is required, Proposed Intervenors deny
6 the allegations.

7 7. Proposed Intervenors admit that the language quoted appeared in an article
8 published by the *New York Times*. The remaining allegations in Paragraph 7 are mere
9 characterizations, legal contentions, and conclusions to which no response is required. To the
10 extent a response is required, Proposed Intervenors deny the allegations.

11 8. Paragraph 8 contains mere characterizations, legal contentions, and conclusions to
12 which no response is required. To the extent a response is required, Proposed Intervenors deny
13 the allegations.

14 **JURISDICTION AND VENUE**

15 9. Paragraph 9 contains mere characterizations, legal contentions, and conclusions to
16 which no response is required.

17 10. Paragraph 10 contains mere characterizations, legal contentions, and conclusions
18 to which no response is required.

19 **PARTIES**

20 11. Proposed Intervenors admit the allegations in Paragraph 11.

21 12. Proposed Intervenors admit the allegations in Paragraph 12.

22 13. Proposed Intervenors admit the allegations in Paragraph 13.

23 14. Proposed Intervenors are without sufficient information or knowledge with which
24 to form a belief as to the truth or falsity of the allegations contained in Paragraph 14.

25 15. Proposed Intervenors admit that the Cook Political Report lists two of Nevada's
26 four U.S. House of Representatives races as "competitive," with one of those as "likely
27 Democratic" and the other as "lean Democratic." Proposed Intervenors are without sufficient
28

1 information or knowledge with which to form a belief as to the truth or falsity of the allegations
2 contained in Paragraph 15.

3 16. Paragraph 16 contains mere characterizations, legal contentions, and conclusions
4 to which no response is required. To the extent a response is required, Proposed Intervenors deny
5 the allegations.

6 17. Paragraph 17 contains mere characterizations, legal contentions, and conclusions
7 to which no response is required. To the extent a response is required, Proposed Intervenors deny
8 the allegations.

9 18. Proposed Intervenors admit that Plaintiff Nevada Republican Party is a political
10 party in Nevada with its principal place of business at 2810 West Charleston Blvd. #69, Las
11 Vegas, Nevada 89102. Proposed Intervenors further admit that the quoted language in Paragraph
12 18 appears in the Bylaws of the Nevada Republican Central Committee. Plaintiffs are without
13 sufficient information or knowledge with which to form a belief as to the truth or falsity of the
14 remaining allegations in Paragraph 18.

15 19. Proposed Intervenors are without sufficient information or knowledge with which
16 to form a belief as to the truth or falsity of the allegations contained in Paragraph 19.

17 20. Paragraph 20 contains mere characterizations, legal contentions, and conclusions
18 to which no response is required.

19 21. Proposed Intervenors admit the allegations in Paragraph 21.

20 **BACKGROUND**

21 22. Paragraph 22 contains mere characterizations, legal contentions, and conclusions
22 to which no response is required.

23 23. Paragraph 23 contains mere characterizations, legal contentions, and conclusions
24 to which no response is required.

25 24. Paragraph 24 contains mere characterizations, legal contentions, and conclusions
26 to which no response is required.

27 25. Paragraph 25 contains mere characterizations, legal contentions, and conclusions
28

1 to which no response is required.

2 26. Paragraph 26 contains mere characterizations, legal contentions, and conclusions
3 to which no response is required.

4 27. Paragraph 27 contains mere characterizations, legal contentions, and conclusions
5 to which no response is required.

6 28. Paragraph 28 contains mere characterizations, legal contentions, and conclusions
7 to which no response is required.

8 29. Paragraph 29 contains mere characterizations, legal contentions, and conclusions
9 to which no response is required.

10 30. Paragraph 30 contains mere characterizations, legal contentions, and conclusions
11 to which no response is required.

12 31. Paragraph 31 contains mere characterizations, legal contentions, and conclusions
13 to which no response is required.

14 32. Paragraph 32 contains mere characterizations, legal contentions, and conclusions
15 to which no response is required.

16 33. Paragraph 33 contains mere characterizations, legal contentions, and conclusions
17 to which no response is required.

18 34. Paragraph 34 contains mere characterizations, legal contentions, and conclusions
19 to which no response is required. To the extent a response is required, Proposed Intervenor deny
20 the allegations.

21 35. Paragraph 35 contains mere characterizations, legal contentions, and conclusions
22 to which no response is required.

23 36. Paragraph 36 contains mere characterizations, legal contentions, and conclusions
24 to which no response is required.

25 37. Paragraph 37 contains mere characterizations, legal contentions, and conclusions
26 to which no response is required.

27 38. Paragraph 38 contains mere characterizations, legal contentions, and conclusions

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1 to which no response is required.

2 39. Paragraph 39 contains mere characterizations, legal contentions, and conclusions
3 to which no response is required.

4 40. Paragraph 40 contains mere characterizations, legal contentions, and conclusions
5 to which no response is required.

6 41. Proposed Intervenors admit that approximately 9 out of every 10 ballots were cast
7 in person in the 2016 and 2018 election cycles. The remaining allegations in Paragraph 41 are
8 mere characterizations, legal contentions, and conclusions to which no response is required.

9 42. Proposed Intervenors admit that the figures in Paragraph 42 were published by the
10 Secretary's office.

11 43. Proposed Intervenors admit that the figures in Paragraph 43 were published by the
12 Secretary's office.

13 44. Proposed Intervenors admit that the figures in Paragraph 44 were published by the
14 Secretary's office.

15 45. Proposed Intervenors admit that the figures in Paragraph 45 were published by the
16 Secretary's office.

17 46. Proposed Intervenors admit the allegations in Paragraph 46.

18 47. Proposed Intervenors admit that DNC Services Corporation/Democratic National
19 Committee, DCCC, Nevada State Democratic Party, Priorities USA, and four individual
20 Nevadans filed a complaint in Nevada state court listing the Secretary, the Clark County
21 Registrar of Voters, the Washoe County Registrar of Voters, the Elko County Clerk, and the
22 Nevada Attorney General as defendants. Proposed Intervenors further admit that the lawsuit
23 sought to increase in-person voting opportunities and that the Republican National Committee
24 and the Nevada Republican Party intervened in the case. The remaining allegations in Paragraph
25 47 are mere characterizations, legal contentions, and conclusions to which no response is
26 required.

27 48. Proposed Intervenors admit the allegations in Paragraph 48.

28

1 49. Proposed Intervenors admit that the Clark County Registrar stated in a court filing
2 that “[a]t the direction of local county officials,” his office “is setting up two additional election
3 day voting sites and will mail absent ballots to all registered voters, including inactive voters.”
4 Proposed Intervenors are without sufficient information or knowledge with which to form a
5 belief as to the truth or falsity of the remaining allegations in Paragraph 49.

6 50. Proposed Intervenors admit that after receiving notice of Clark County’s
7 concessions, the *Corona* plaintiffs withdrew their motion for preliminary injunction. Proposed
8 Intervenors are without sufficient information or knowledge with which to form a belief as to the
9 truth or falsity of the remaining allegations in Paragraph 50.

10 51. Proposed Intervenors admit that the language quoted appeared in an article
11 published in the *Las Vegas Review-Journal*. The remaining allegations in Paragraph 51 are mere
12 characterizations, legal contentions, and conclusions to which no response is required. To the
13 extent a response is required, Proposed Intervenors deny the remaining allegations.

14 52. Proposed Intervenors admit that the language quoted appeared in an article
15 published in the *Las Vegas Review-Journal*, but Proposed Intervenors are without sufficient
16 information or knowledge with which to form a belief as to the truth or falsity of the allegations
17 in Paragraph 52.

18 53. Proposed Intervenors admit that the language quoted appeared in an article
19 published in the *Las Vegas Review-Journal*, but Proposed Intervenors are without sufficient
20 information or knowledge with which to form a belief as to the truth or falsity of the allegations
21 in Paragraph 53.

22 54. Proposed Intervenors are without sufficient information or knowledge with which
23 to form a belief as to the truth or falsity of the allegations in Paragraph 54.

24 55. Proposed Intervenors admit that the language quoted appeared in an article
25 published in the *Las Vegas Review-Journal*, but Proposed Intervenors are without sufficient
26 information or knowledge with which to form a belief as to the truth or falsity of the allegations
27 in Paragraph 55.

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1 56. Paragraph 56 contains mere characterizations, legal contentions, and conclusions
2 to which no response is required. To the extent a response is required, Proposed Intervenor deny
3 the allegations.

4 57. Proposed Intervenor admit that the language quoted appeared in an article
5 published by InsiderNJ, but Proposed Intervenor are without sufficient information or
6 knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph
7 57.

8 58. Proposed Intervenor are without sufficient information or knowledge with which
9 to form a belief as to the truth or falsity of the allegations in Paragraph 58.

10 59. Proposed Intervenor are without sufficient information or knowledge with which
11 to form a belief as to the truth or falsity of the remaining allegations in Paragraph 59.

12 60. Proposed Intervenor are without sufficient information or knowledge with which
13 to form a belief as to the truth or falsity of the remaining allegations in Paragraph 60.

14 61. Proposed Intervenor admit that the language quoted appeared in an article
15 published by InsiderNJ, but Proposed Intervenor are without sufficient information or
16 knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph
17 61.

18 62. Proposed Intervenor admit that the language quoted in Paragraph 62 appeared in
19 articles published in the *Patterson Press* and InsiderNJ, but Proposed Intervenor are without
20 sufficient information or knowledge with which to form a belief as to the truth or falsity of the
21 allegations in Paragraph 62.

22 63. Proposed Intervenor admit that the language quoted appeared in the report of the
23 Commission on Federal Election Reform, Michael T. Morley's *Election Emergency Redlines*
24 ("*Redlines*"), and the Seventh Circuit's opinion in *Griffin v. Roupas*. Paragraph 63 otherwise
25 contains mere characterizations, legal contentions, and conclusions to which no response is
26 required. To the extent a response is required, Proposed Intervenor deny the allegations.

27 64. Proposed Intervenor admit that the language quoted in the first seven sentences
28

1 appeared in the report of the Commission on Federal Election Reform. Paragraph 64 otherwise
2 contains mere characterizations, legal contentions, and conclusions to which no response is
3 required. To the extent a response is required, Proposed Intervenors deny the allegations.

4 65. Proposed Intervenors admit that the language quoted appeared in *Redlines*.
5 Paragraph 65 otherwise contains mere characterizations, legal contentions, and conclusions to
6 which no response is required. To the extent a response is required, Proposed Intervenors deny
7 the allegations.

8 66. Proposed Intervenors admit that the language quoted appeared in a 2012 study by
9 the Pew Center on the States, but Proposed Intervenors are without sufficient information or
10 knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph
11 66.

12 67. Proposed Intervenors admit that the language quoted appeared in a 2010 study by
13 the Caltech/MIT Voting Technology Project, but Proposed Intervenors are without sufficient
14 information or knowledge with which to form a belief as to the truth or falsity of the allegations
15 in Paragraph 67.

16 68. Paragraph 68 contains mere characterizations, legal contentions, and conclusions
17 to which no response is required. To the extent a response is required, Proposed Intervenors deny
18 the allegations.

19 69. Proposed Intervenors admit that after Nevada's June 2020 primary election,
20 Plaintiffs in *Corona v. Cegavske* amended their complaint. Proposed Intervenors further admit
21 that trial was scheduled to begin on Monday, August 17, 2020. The remaining allegations in
22 Paragraph 69 are mere characterizations, legal contentions, and conclusions to which no response
23 is required. To the extent a response is required, Proposed Intervenors deny the allegations.

24 70. Proposed Intervenors admit the allegations in Paragraph 70.

25 71. Proposed Intervenors admit the allegations in Paragraph 71.

26 72. Proposed Intervenors admit that Assembly Bill 4 was introduced in the afternoon
27 on July 31, 2020. Proposed Intervenors further admit that Assembly Bill 4 is 64 pages single-

28

1 spaced. The remaining allegations in Paragraph 72 are mere characterizations, legal contentions,
2 and conclusions to which no response is required.

3 73. Proposed Intervenors admit the allegations in Paragraph 73.

4 74. Proposed Intervenors admit the allegations in Paragraph 74.

5 75. Proposed Intervenors admit that Assembly Bill 4 has 88 sections. The remaining
6 allegations in Paragraph 75 are mere characterizations, legal contentions, and conclusions to
7 which no response is required.

8 76. Proposed Intervenors admit that the Secretary published an op-ed in the *Nevada*
9 *Independent* titled “Nevada’s voting laws do not need to be changed.” The remaining allegations
10 in Paragraph 76 are mere characterizations, legal contentions, and conclusions to which no
11 response is required. To the extent a response is required, Proposed Intervenors deny the
12 allegations.

13 77. Paragraph 77 contains mere characterizations, legal contentions, and conclusions
14 to which no response is required. To the extent a response is required, Proposed Intervenors deny
15 the allegations.

16 78. Paragraph 78 contains mere characterizations, legal contentions, and conclusions
17 to which no response is required. To the extent a response is required, Proposed Intervenors deny
18 the allegations.

19 79. Paragraph 79 contains mere characterizations, legal contentions, and conclusions
20 to which no response is required.

21 80. Paragraph 80 contains mere characterizations, legal contentions, and conclusions
22 to which no response is required. To the extent a response is required, Proposed Intervenors deny
23 the allegations.

24 81. Proposed Intervenors deny the allegations in Paragraph 81.

25 82. Proposed Intervenors deny the allegations in Paragraph 82.

26 83. Paragraph 83 contains mere characterizations, legal contentions, and conclusions
27 to which no response is required. To the extent a response is required, Proposed Intervenors deny
28

1 the allegations.

2 84. Paragraph 84 contains mere characterizations, legal contentions, and conclusions
3 to which no response is required. To the extent a response is required, Proposed Intervenor deny
4 the allegations.

5 85. Paragraph 85 contains mere characterizations, legal contentions, and conclusions
6 to which no response is required. To the extent a response is required, Proposed Intervenor deny
7 the allegations.

8 86. Proposed Intervenor admit the allegations in Paragraph 86.

9 **CAUSES OF ACTION**

10 **COUNT I**

11 **Violation of 3 U.S.C. § 1, 2 U.S.C. § 7, 2 U.S.C. § 1;**
12 **Elections Clause (U.S. Const. art. I § 4, cl. 1); Electors Clause (U.S. Const. art. II, § 1, cl. 4);**
13 **Supremacy Clause (U.S. Const. art VI, §2)**

14 87. Proposed Intervenor incorporate by reference all of their responses in the
15 preceding and ensuing paragraphs as if fully set forth herein.

16 88. Paragraph 88 contains mere characterizations, legal contentions, and conclusions
17 to which no response is required.

18 89. Paragraph 89 contains mere characterizations, legal contentions, and conclusions
19 to which no response is required.

20 90. Paragraph 90 contains mere characterizations, legal contentions, and conclusions
21 to which no response is required.

22 91. Paragraph 91 contains mere characterizations, legal contentions, and conclusions
23 to which no response is required.

24 92. Paragraph 92 contains mere characterizations, legal contentions, and conclusions
25 to which no response is required.

26 93. Paragraph 93 contains mere characterizations, legal contentions, and conclusions
27 to which no response is required.

28 94. Paragraph 94 contains mere characterizations, legal contentions, and conclusions

1 to which no response is required.

2 95. Paragraph 95 contains mere characterizations, legal contentions, and conclusions
3 to which no response is required.

4 96. Paragraph 96 contains mere characterizations, legal contentions, and conclusions
5 to which no response is required.

6 97. Paragraph 97 contains mere characterizations, legal contentions, and conclusions
7 to which no response is required.

8 98. Paragraph 98 contains mere characterizations, legal contentions, and conclusions
9 to which no response is required. To the extent a response is required, Proposed Intervenors deny
10 the allegations.

11 99. Proposed Intervenors admit the allegations in Paragraph 99.

12 100. Proposed Intervenors are without sufficient information or knowledge with which
13 to form a belief as to the truth or falsity of the allegations contained in Paragraph 100.

14 101. Proposed Intervenors deny the allegations in Paragraph 101.

15 102. Paragraph 102 contains mere characterizations, legal contentions, and conclusions
16 to which no response is required. To the extent a response is required, Proposed Intervenors deny
17 the allegations.

18 103. Paragraph 103 contains mere characterizations, legal contentions, and conclusions
19 to which no response is required. To the extent a response is required, Proposed Intervenors deny
20 the allegations.

21 104. Paragraph 104 contains mere characterizations, legal contentions, and conclusions
22 to which no response is required. To the extent a response is required, Proposed Intervenors deny
23 the allegations.

24 105. Paragraph 105 contains mere characterizations, legal contentions, and conclusions
25 to which no response is required. To the extent a response is required, Proposed Intervenors deny
26 the allegations.

27 106. Paragraph 106 contains mere characterizations, legal contentions, and conclusions
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1 to which no response is required. To the extent a response is required, Proposed Intervenor deny
2 the allegations.

3 **COUNT II**

4 **Violation of the Equal Protection Clause (42 U.S.C. § 1983)**

5 107. Proposed Intervenor incorporate by reference all of their responses in the
6 preceding and ensuing paragraphs as if fully set forth herein.

7 108. Paragraph 108 contains mere characterizations, legal contentions, and conclusions
8 to which no response is required.

9 109. Paragraph 109 contains mere characterizations, legal contentions, and conclusions
10 to which no response is required. To the extent a response is required, Proposed Intervenor deny
11 the allegations.

12 110. Paragraph 110 contains mere characterizations, legal contentions, and conclusions
13 to which no response is required.

14 111. Paragraph 111 contains mere characterizations, legal contentions, and conclusions
15 to which no response is required.

16 112. Paragraph 112 contains mere characterizations, legal contentions, and conclusions
17 to which no response is required. To the extent a response is required, Proposed Intervenor deny
18 the allegations.

19 113. Proposed Intervenor admit the allegations in Paragraph 113.

20 114. Proposed Intervenor admit the polling place figures in Paragraph 114. The
21 remaining allegations are mere characterizations, legal contentions, and conclusions to which no
22 response is required.

23 115. Proposed Intervenor admit that Section 12(2)(b) of Assembly Bill 4 requires
24 Washoe County to establish 25 vote centers on election day, and that the figures in Paragraph
25 115 are accurate for election day.

26 116. Proposed Intervenor admit the vote center figures in Paragraph 116. The
27 remaining allegations are mere characterizations, legal contentions, and conclusions to which no
28

1 response is required.

2 117. Paragraph 117 contains mere characterizations, legal contentions, and conclusions
3 to which no response is required. To the extent a response is required, Proposed Intervenor deny
4 the allegations.

5 118. Paragraph 118 contains mere characterizations, legal contentions, and conclusions
6 to which no response is required. To the extent a response is required, Proposed Intervenor deny
7 the allegations.

8 119. Paragraph 119 contains mere characterizations, legal contentions, and conclusions
9 to which no response is required. To the extent a response is required, Proposed Intervenor deny
10 the allegations.

11 120. Paragraph 120 contains mere characterizations, legal contentions, and conclusions
12 to which no response is required. To the extent a response is required, Proposed Intervenor deny
13 the allegations.

14 121. Paragraph 121 contains mere characterizations, legal contentions, and conclusions
15 to which no response is required. To the extent a response is required, Proposed Intervenor deny
16 the allegations.

17 **COUNT III**

18 **Violation of the Equal Protection Clause (42 U.S.C. § 1983)**

19 122. Proposed Intervenor incorporate by reference all of their responses in the
20 preceding and ensuing paragraphs as if fully set forth herein.

21 123. Paragraph 123 contains mere characterizations, legal contentions, and conclusions
22 to which no response is required.

23 124. Paragraph 124 contains mere characterizations, legal contentions, and conclusions
24 to which no response is required.

25 125. Paragraph 125 contains mere characterizations, legal contentions, and conclusions
26 to which no response is required.

27 126. Paragraph 126 contains mere characterizations, legal contentions, and conclusions
28

1 to which no response is required.

2 127. Paragraph 127 contains mere characterizations, legal contentions, and conclusions
3 to which no response is required. To the extent a response is required, Proposed Intervenor deny
4 the allegations.

5 128. Paragraph 128 contains mere characterizations, legal contentions, and conclusions
6 to which no response is required. To the extent a response is required, Proposed Intervenor deny
7 the allegations.

8 129. Paragraph 129 contains mere characterizations, legal contentions, and conclusions
9 to which no response is required. To the extent a response is required, Proposed Intervenor deny
10 the allegations.

11 130. Paragraph 130 contains mere characterizations, legal contentions, and conclusions
12 to which no response is required.

13 131. Paragraph 131 contains mere characterizations, legal contentions, and conclusions
14 to which no response is required.

15 132. Paragraph 132 contains mere characterizations, legal contentions, and conclusions
16 to which no response is required. To the extent a response is required, Proposed Intervenor deny
17 the allegations.

18 133. Paragraph 133 contains mere characterizations, legal contentions, and conclusions
19 to which no response is required. To the extent a response is required, Proposed Intervenor deny
20 the allegations.

21 134. Paragraph 134 contains mere characterizations, legal contentions, and conclusions
22 to which no response is required. To the extent a response is required, Proposed Intervenor deny
23 the allegations.

24 135. Paragraph 135 contains mere characterizations, legal contentions, and conclusions
25 to which no response is required. To the extent a response is required, Proposed Intervenor deny
26 the allegations.

27

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COUNT IV

Violation of the Equal Protection Clause (42 U.S.C. § 1983)

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2
3 136. Proposed Intervenors incorporate by reference all of their responses in the
4 preceding and ensuing paragraphs as if fully set forth herein.

5 137. Paragraph 137 contains mere characterizations, legal contentions, and conclusions
6 to which no response is required.

7 138. Paragraph 138 contains mere characterizations, legal contentions, and conclusions
8 to which no response is required.

9 139. Paragraph 139 contains mere characterizations, legal contentions, and conclusions
10 to which no response is required.

11 140. Paragraph 140 contains mere characterizations, legal contentions, and conclusions
12 to which no response is required.

13 141. Paragraph 141 contains mere characterizations, legal contentions, and conclusions
14 to which no response is required. To the extent a response is required, Proposed Intervenors deny
15 the allegations.

16 142. Paragraph 142 contains mere characterizations, legal contentions, and conclusions
17 to which no response is required. To the extent a response is required, Proposed Intervenors deny
18 the allegations.

19 143. Paragraph 143 contains mere characterizations, legal contentions, and conclusions
20 to which no response is required. To the extent a response is required, Proposed Intervenors deny
21 the allegations.

22 144. Paragraph 144 contains mere characterizations, legal contentions, and conclusions
23 to which no response is required. To the extent a response is required, Proposed Intervenors deny
24 the allegations.

25 145. Paragraph 145 contains mere characterizations, legal contentions, and conclusions
26 to which no response is required. To the extent a response is required, Proposed Intervenors deny
27 the allegations.

28

1 the allegations.

2 **AFFIRMATIVE DEFENSES**

3 Proposed Intervenors set forth their affirmative defenses without assuming the burden of
4 proving any fact, issue, or element of a cause of action where such burden properly belongs to
5 Plaintiffs. Moreover, nothing stated here is intended or shall be construed as an admission that
6 any particular issue or subject matter is relevant to the allegations in the Complaint. Proposed
7 Intervenors reserve the right to amend or supplement their affirmative defenses as additional
8 facts concerning defenses become known.

9 Proposed Intervenors allege as follows:

10 Plaintiffs fail to state a claim on which relief can be granted.

11 Plaintiffs have unclean hands and are otherwise equitably estopped from seeking the
12 requested relief.

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PRAYER FOR RELIEF

WHEREFORE, Proposed Intervenors respectfully requests that this Court:

- A. Deny that Plaintiffs are entitled to any relief;
- B. Dismiss the complaint in its entirety, with prejudice; and
- C. Grant such other and further relief as the Court may deem just and proper.

DATED this 7th day of August 2020

**WOLF, RIFKIN, SHAPIRO, SCHULMAN
& RABKIN, LLP**

By: /s/ Bradley Schrager

Bradley S. Schrager, Esq., SBN 10217
Daniel Bravo, Esq., SBN 13078
3556 E. Russell Road, Second Floor
Las Vegas, Nevada 89120

Marc E. Elias, Esq.*
Courtney A. Elgart, Esq.*
Henry J. Brewster, Esq.*

PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, D.C. 20005-3960

Abha Khanna, Esq.*
Reina A. Almon-Griffin, Esq.*
Jonathan P. Hawley, Esq.*

PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101

*Attorneys for Proposed Intervenor-
Defendants DNC Services
Corporation/Democratic National
Committee, DCCC, and Nevada State
Democratic Party*

**Pro hac vice applications forthcoming*