



1 MARC E. ELIAS, ESQ. (D.C. Bar No. 442007) (pro hac vice forthcoming)
JOHN M. DEVANEY, ESQ. (D.C. Bar No. 375465) (pro hac vice forthcoming)

2 **PERKINS COIE LLP**
700 Thirteenth Street NW, Suite 800
3 Washington, D.C. 20005-3960
Tel: (202) 654-6200
4 melias@perkinscoie.com
jdevaney@perkinscoie.com

5 KEVIN J. HAMILTON, ESQ. (Wash. Bar No. 15648) (pro hac vice forthcoming)
6 ABHA KHANNA, ESQ. (Wash. Bar No. 42612) (pro hac vice forthcoming)

7 **PERKINS COIE LLP**
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
8 Tel.: (206) 359-8000
khamilton@perkinscoie.com
9 akhanna@perkinscoie.com

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

11 **WOLF, RIFKIN, SHAPIRO,**
SCHULMAN & RABKIN, LLP
12 3556 East Russell Road, Second Floor
Las Vegas, Nevada 89120
13 Tel: (702) 341-5200
bschrager@wrslawyers.com
14 dbravo@wrslawyers.com

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

17
18 **EIGHTH JUDICIAL DISTRICT COURT**
IN AND FOR CLARK COUNTY, STATE OF NEVADA
19

20 APRIL BECKER, as an individual, as a
Candidate for Senate District 6, and as a Voter
21 in Clark County, Nevada,

22 Plaintiff,

23 v.

24 JOSEPH P. GLORIA, in his official capacity
as Registrar of Voters for Clark County,
25 Nevada; CLARK COUNTY, a political
subdivision of the State of Nevada; DOES I
26 through X; and ROE CORPORATIONS I
through X, inclusive,

27 Defendants,
28

Case No. A-20-824878-W
Dept. No.: 4

HEARING REQUESTED

**MOTION TO INTERVENE AS
DEFENDANTS**

1 and

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

6 Proposed
7 Intervenor-
8 Defendants.

9 Pursuant to Nevada Rule of Civil Procedure 24, Proposed Intervenor-Defendants DNC
10 Services Corporation/Democratic National Committee and Nevada State Democratic Party
11 (“Proposed Intervenors”) move to intervene as defendants in the above-titled. Defendants consent
12 to Proposed Intervenors’ motion to intervene as defendants. Plaintiff has not responded to
13 Proposed Intervenors’ request for their consent.

14 This Motion is based on the Memorandum of Points and Authorities below, any affidavits
15 and exhibits attached hereto, all papers and pleadings on file, and any oral argument this Court
16 sees fit to allow at the hearing on this matter.

17 DATED this 18th day of November, 2020.

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

20 By: /s/ Bradley S. Schrager, Esq.

21 Bradley S. Schrager, Esq., SBN 10217
22 Daniel Bravo, Esq., SBN 13078
23 3556 East Russell Road, Second Floor
24 Las Vegas, Nevada 89120

25 Marc E. Elias, Esq.*
26 John M. Devaney, Esq.*
27 **PERKINS COIE LLP**
28 700 Thirteenth Street NW, Suite 800
Washington, D.C. 20005-3960

Kevin J. Hamilton, Esq.*
Abha Khanna, Esq.*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101

*Attorneys for Proposed Intervenor-
Defendants DNC Services*

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*Corporation/Democratic National Committee
and Nevada State Democratic Party*

**Pro hac vice forthcoming*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Pursuant to Nevada Rule of Civil Procedure (“NRCP”) 24, Proposed Intervenor-
3 Defendants DNC Services Corporation/Democratic National Committee (“DNC”) and Nevada
4 State Democratic Party (“NSDP,” and together, “Proposed Intervenors”) move to intervene as
5 defendants in this lawsuit. Through this action, Plaintiff April Becker seeks to upend the results of
6 the election in Clark County, and the extraordinary relief she seeks—an entirely new election and
7 an unjustified judicial intervention into the mechanics of Clark County’s election administration—
8 threatens Proposed Intervenors’ distinct and protectable legal interests. Proposed Intervenors
9 represent a diverse group of Democrats, including elected officials, candidates for elected office,
10 state committee members, advisory caucuses, affiliate groups, grassroots activists, and voters.
11 Plaintiff’s requested relief threatens to deprive Proposed Intervenors’ individual members of the
12 right to have their votes counted, undermine the electoral prospects of their candidates, and divert
13 their limited organizational resources. Proposed Intervenors’ immediate intervention to protect
14 those interests is therefore warranted.

15 For the reasons set forth below, Proposed Intervenors are entitled to intervene in this case
16 as a matter of right under NRCP 24(a)(2). Such intervention is needed to protect their substantial
17 and distinct legal interests, which will otherwise be inadequately represented in this litigation. In
18 the alternative, Proposed Intervenors should be granted permissive intervention pursuant to NRCP
19 24(b). In accordance with NRCP 24(c), a proposed answer is attached as Exhibit 1.

20 **BACKGROUND**

21 In a special session this past summer, the Nevada Legislature enacted Assembly Bill 4
22 (“AB 4”), creating a category of “affected elections” during emergency periods for which the State
23 would mail ballots to active voters. Those rules applied to the November 3, 2020 general election.
24 Plaintiff’s complaint touches on only one area of AB 4 and Nevada’s other election laws: the
25 processing and counting of mail ballots.

26 When a ballot is received by the county clerk, the counting board is required to check the
27 signature on the ballot return envelope against the signature in the registration records. *See* Nevada
28 Revised Statutes (“NRS”) 293.8874(1)(a) (“The clerk or employee shall check the signature used

1 for the mail ballot against all signatures of the voter available in the records of the clerk.”). The
2 statute does not require that a manual or electronic process be used, specifying only that a ballot
3 cannot be flagged for rejection unless “at least two employees in the office of the clerk believe
4 there is a reasonable question of fact as to whether the signature used for the mail ballot matches
5 the signature of the voter.” NRS 293.8874(1)(b). AB 4 specifically allows the clerk to “establish
6 procedures for the processing and counting of mail ballots.” NRS 293.8871(1). Those procedures
7 “[m]ay authorize mail ballots to be *processed and counted by electronic means.*” NRS
8 293.8871(2)(a) (emphasis added).

9 The issue of whether use of the Agilis vote processing machine is permissible under
10 Nevada law was raised by the plaintiffs—including Donald J. Trump for President, Inc.—and
11 resolved by the First Judicial District Court in *Kraus v. Cegavske*, No. 20 OC 00142 1B, slip op. at
12 12 (Nev. 1st Jud. Dist. Ct. Oct. 29, 2020), a case in which Proposed Intervenors were granted
13 intervention. After a ten-hour evidentiary hearing, District Judge James E. Wilson, Jr. found that
14 “major metropolitan areas including Cook County, Illinois, Salt Lake City, Utah, and Houston
15 Texas use Agilis,” and that although the same system was “used for the June primary election,”
16 “[n]o evidence was presented that the setting used by Clark County causes or has resulted in any
17 fraudulent ballot being validated or any valid ballot invalidated.” *Id.* at 4. In denying this and other
18 claims on standing grounds, Judge Wilson concluded that “[t]here is no evidence that any vote that
19 should lawfully not be counted has been or will be counted,” and that “[t]here is no evidence that
20 any election worker did anything outside of the law, policy, or procedures.” *Id.* at 9. And on the
21 merits, Judge Wilson explained that

22 AB 4 passed by the legislature in August 2020 specifically authorized county
23 officials to process and count ballots by electronic means. Petitioners’ argument
24 that AB 4, Sec. 23(a) requires a clerk or employee check the signature on a
25 returned ballot means the check can only be done manually is meritless. The
26 ballot must certainly be checked but the statute does not prohibit the use of
27 electronic means to check the signature.

28 *Id.* at 12 (citation omitted).

Two days after election day, another group of plaintiffs filed suit in federal court and
alleged that “us[e of] the Agilis software system” was unlawful under Nevada’s election statutes

1 and thus violated the Elections Clause. Compl. ¶ 21, *Stokke v. Cegavske*, No. 2:20-cv-02046-APG-
2 DJA (D. Nev. Nov. 5, 2020), ECF No. 1. There, as here, the plaintiffs alleged that “Defendant
3 Gloria is using the Agilis signature-verification software in a manner which is contrary to the
4 manufacturer’s prescriptions” by using “signature files from the DMV which are all scanned at
5 less than 200 D.P.I., resulting in the Agilis machine being unable to perform its required
6 function.” *Id.* ¶ 14. After an evidentiary hearing, the Court granted intervention to Proposed
7 Intervenors and denied the *Stokke* plaintiffs’ motion for temporary restraining order and
8 preliminary injunction. *See* Minutes of Proceedings, *Stokke v. Cegavske*, No. 2:20-cv-02046-APG-
9 DJA (D. Nev. Nov. 6, 2020), ECF No. 27.

10 DNC is a national political committee as defined in 52 U.S.C. § 30101 that is, among other
11 things, dedicated to electing local, state, and national candidates of the Democratic Party in
12 Nevada. NSDP is the Democratic Party’s official state party committee for the State, and its
13 mission is to elect Democratic Party candidates to offices across Nevada, up and down the ballot.
14 Both seek intervention on their own behalf and on behalf of their members, candidates, and voters.

15 STANDARD OF LAW

16 To intervene as of right under NRCP 24(a)(2),

17 an applicant must meet four requirements: (1) that it has a sufficient interest in the
18 litigation’s subject matter, (2) that it could suffer an impairment of its ability to
19 protect that interest if it does not intervene, (3) that its interest is not adequately
represented by existing parties, and (4) that its application is timely.

20 *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex rel. County of Clark*, 122 Nev. 1229, 1238,
21 147 P.3d 1120, 1126 (2006). “In evaluating whether Rule 24(a)(2)’s requirements are met,” courts
22 “construe the Rule ‘broadly in favor of proposed intervenors’ . . . because ‘[a] liberal policy in
23 favor of intervention serves both efficient resolution of issues and broadened access to the
24 courts.’” *Wilderness Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (second
25 alteration in original) (quoting *United States v. City of Los Angeles*, 288 F.3d 391, 397–98 (9th
26 Cir. 2002)).

27 Under NRCP 24(b), an applicant may permissively intervene if it “has a claim or defense
28 that shares with the main action a common question of law or fact.” NRCP 24(b)(1)(B). “In

1 exercising its discretion, the court must consider whether the intervention will unduly delay or
2 prejudice the adjudication of the original parties' rights." NRCPC 24(b)(3); *accord Hairr v. First*
3 *Jud. Dist. Ct.*, 132 Nev. 180, 186–88, 368 P.3d 1198, 1202–03 (2016).

4 Because NRCPC 24 and Federal Rule of Civil Procedure 24 are "equivalent," *Lawler v.*
5 *Ginocchio*, 94 Nev. 623, 626, 584 P.2d 667, 668 (1978), "[f]ederal cases interpreting [Rule 24] 'are
6 strong persuasive authority.'" *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d
7 872, 876 (2002) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772,
8 776 (1990)).

9 ARGUMENT

10 I. Proposed Intervenors satisfy NRCPC 24(a)'s requirements for intervention as a matter 11 of right.

12 Proposed Intervenors satisfy each of the four requirements of NRCPC 24(a).

13 *First* and *second*, Proposed Intervenors have significantly protectable interests in this
14 lawsuit that might be impaired by Plaintiff's causes of action. "A 'significantly protectable
15 interest' . . . is protected under the law and bears a relationship to the plaintiff's claims." *Am.*
16 *Home Assurance Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (quoting *Donaldson v. United States*,
17 400 U.S. 517, 531, 91 S. Ct. 534, 542 (1971)). In assessing whether such an interest is sufficiently
18 "impair[ed] or impede[d]," NRCPC 24(a)(2), courts "look[] to the 'practical consequences' of
19 denying intervention." *Nat. Res. Def. Council v. Costle*, 561 F.2d 904, 909 (D.C. Cir. 1977)
20 (quoting *Nuesse v. Camp*, 385 F.2d 694, 702 (D.C. Cir. 1967)). "Once an applicant has established
21 a significantly protectable interest in an action, courts regularly find that disposition of the case
22 may, as a practical matter, impair an applicant's ability to protect that interest." *Venetian Casino*
23 *Resort, LLC v. Enwave Las Vegas, LLC*, No. 2:19-CV-1197 JCM (DJA), 2020 WL 1539691, at *3
24 (D. Nev. Jan. 7, 2020) (citing *California ex rel. Lockyer v. United States*, 450 F.3d 436, 442 (9th
25 Cir. 2006)).

26 Here, Proposed Intervenors have several legally cognizable interests that might be
27 impaired by this lawsuit. First, Plaintiff's request to redo the November 3 election threatens to
28 disrupt the certification of lawfully cast ballots and thus the election of Proposed Intervenors'

1 candidates, including Senator Nicole Cannizzaro, who defeated Plaintiff in the election for State
2 Senate District 6. Courts have often concluded that such interference with a political party’s
3 electoral prospects constitutes a legally cognizable injury. *See, e.g., Tex. Democratic Party v.*
4 *Benkiser*, 459 F.3d 582, 586–87 (5th Cir. 2006) (recognizing that “harm to [] election prospects”
5 constitutes “a concrete and particularized injury”); *Owen v. Mulligan*, 640 F.2d 1130, 1132 (9th
6 Cir. 1981) (holding that “the potential loss of an election” is sufficient injury to confer Article III
7 standing). Indeed, political parties—including Proposed Intervenors—have been granted
8 intervention in several recent voting cases on these grounds. *See, e.g., Issa v. Newsom*, No. 2:20-
9 cv-0 1044MCECKD, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (granting intervention
10 to state party and party committee where “Plaintiffs’ success on their claims would disrupt the
11 organizational intervenors’ efforts to promote the franchise and ensure the election of Democratic
12 Party candidates” (quoting *Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL
13 2042365, at *2 (D. Nev. Apr. 28, 2020))); *Paher*, 2020 WL 2042365, at *1–2 & n.3 (citing these
14 protected interests and granting intervention to DNC and NSDP).

15 Moreover, Plaintiff’s requested relief of throwing out the lawful election results threatens
16 the right to vote of Proposed Intervenors’ members. “[T]o refuse to count and return the vote as
17 cast [is] as much an infringement of that personal right as to exclude the voter from the polling
18 place.” *United States v. Saylor*, 322 U.S. 385, 387–88, 64 S. Ct. 1101, 1103 (1944). In turn, the
19 disruptive and potentially disenfranchising effects of Plaintiff’s action would require Proposed
20 Intervenors to divert resources to safeguard the results of the election, thus implicating another of
21 their protected interests. *See, e.g., Ne. Ohio Coal. for Homeless v. Husted*, 837 F.3d 612, 624 (6th
22 Cir. 2016) (finding concrete, particularized harm where organization had to “redirect its focus”
23 and divert its “limited resources” due to election laws); *Crawford v. Marion Cnty. Election Bd.*,
24 472 F.3d 949, 951 (7th Cir. 2007) (concluding that electoral change “injure[d] the Democratic
25 Party by compelling the party to devote resources” that it would not have needed to devote absent
26 new law), *aff’d*, 553 U.S. 181, 128 S. Ct. 1610 (2008); *Democratic Nat’l Comm. v. Reagan*, 329 F.
27 Supp. 3d 824, 841 (D. Ariz. 2018) (finding standing where law “require[d] Democratic
28 organizations . . . to retool their [get-out-the-vote] strategies and divert [] resources”), *rev’d on*

1 *other grounds sub nom. Democratic Nat'l Comm. v. Hobbs*, 948 F.3d 989 (9th Cir. 2020) (en
2 banc); *see also* Issa, 2020 WL 3074351, at *3 (granting intervention and citing this protected
3 interest).

4 **Third**, Proposed Intervenors cannot rely on the parties in this case to adequately represent
5 their interests. “[T]he burden on proposed intervenors in showing inadequate representation is
6 minimal, and would be satisfied if they could demonstrate that representation of their interests
7 ‘may be’ inadequate.” *Hairr*, 132 Nev. at 185, 368 P.3d at 1201 (quoting *Arakaki v. Cayetano*,
8 324 F.3d 1078, 1086 (9th Cir. 2003)). Among the factors that “dictate whether an intervenor’s
9 interest is represented by existing parties” are “whether the party will make the same arguments
10 the intervenor would make, the party is capable and willing to make those arguments, and the
11 party’s argument would neglect an important issue that the intervenor would not have neglected.”
12 *In re Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at *2 (Nev. May 24, 2013) (citing
13 *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528 (9th Cir. 1983)).

14 Here, while Defendants have undeniable interests in defending the actions of local
15 officials, Proposed Intervenors have different objectives: ensuring that the valid ballot of every
16 Democratic voter in Nevada is properly counted and safeguarding the election of Democratic
17 candidates. Courts have “often concluded that governmental entities do not adequately represent
18 the interests of aspiring intervenors.” *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C.
19 Cir. 2003); *accord Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893, 899 (9th
20 Cir. 2011) (“[T]he government’s representation of the public interest may not be ‘identical to the
21 individual parochial interest’ of a particular group just because ‘both entities occupy the same
22 posture in the litigation.’” (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996
23 (10th Cir. 2009))). That is the case here. Proposed Intervenors have specific interests and
24 concerns—from their overall electoral prospects to the most efficient use of their limited
25 resources—that neither Defendants nor other parties in this lawsuit share. Accordingly, this is not
26 a case where “there is an ‘assumption of adequacy [because] the government is acting on behalf of
27 a constituency it represents,’” since such an assumption only arises “when the applicant *shares the*
28 *same interest.*” *Hairr*, 132 Nev. at 185, 368 P.3d at 1201 (emphasis added) (quoting *Arakaki*, 324

1 F.3d at 1086); *see also id.*, 368 P.3d at 1201 (noting that “when the [applicant’s] interest or
2 ultimate objective in the litigation *is the same* as the [existing party]’s interest or subsumed within
3 [that existing party’s] objective, the . . . representation should generally be adequate” (alterations
4 in original) (emphasis added) (quoting *Am. Home Assurance Co.*, 122 Nev. at 1241, 147 P.3d at
5 1128)). Rather, this is an instance where

6 [a]lthough Defendants and the Proposed Intervenors fall on the same side of the
7 dispute, Defendants’ interests in the implementation of the [challenged law] differ
8 from those of the Proposed Intervenors. While Defendants’ arguments turn on their
9 inherent authority as [government officials] and their responsibility to properly
10 administer election laws, the Proposed Intervenors are concerned with ensuring . . .
the voters they represent have the opportunity to vote in the upcoming federal
election . . . and allocating their limited resources to inform voters about the
election procedures. As a result, the parties’ interests are neither “identical” nor
“the same.”

11 *Issa*, 2020 WL 3074351, at *3 (citation omitted).

12 While Clark County might defend its election procedures as consistent with Nevada law, it
13 cannot be relied upon to raise Proposed Intervenors’ broader arguments regarding expansive
14 voting rights. *See Guardianship of A.M.*, 2013 WL 3278878, at *2 (affirming intervention as of
15 right where present parties’ “testimony could not and did not encompass all of [intervenor’s]
16 arguments or interests”); *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 974 (3d Cir. 1998) (granting
17 motion to intervene as of right where private parties’ interests diverged from government’s interest
18 in representation and “[t]he early presence of intervenors may serve to prevent errors from
19 creeping into the proceedings, clarify some issues, and perhaps contribute to an amicable
20 settlement”); *Ohio River Valley Env’t Coal., Inc. v. Salazar*, No. 3:09-0149, 2009 WL 1734420, at
21 *1 (S.D.W. Va. June 18, 2009) (granting motion to intervene as of right where defendant and
22 proposed intervenor had identical goals but “difference in degree of interest could motivate the
23 [intervenor] to mount a more vigorous defense” and “[t]he possibility that this difference in vigor
24 could unearth a meritorious argument overlooked by the current Defendant justifies the potential
25 burden on having an additional party in litigation”). Because their interests are not shared by the
26 current parties to the litigation, Proposed Intervenors cannot rely on Defendants or anyone else to
27 provide adequate representation. They have thus satisfied the third requirement for intervention as
28 of right.

1 *Fourth*, the motion is timely. Plaintiff filed her complaint on November 16, 2020; this
2 motion follows two days later, before any substantive activity in the case. There has therefore been
3 no delay, and no possible risk of prejudice to the other parties. *See Guardianship of A.M.*, 2013
4 WL 3278878, at *3; *Lawler*, 94 Nev. at 626, 584 P.2d at 669; *see also, e.g., Nevada v. United*
5 *States*, No. 3:18-cv-569-MMD-CBC, 2019 WL 718825, at *2 (D. Nev. Jan. 14, 2019) (granting
6 motion to intervene filed several weeks after action commenced); *W. Expl. LLC v. U.S. Dep't of*
7 *Interior*, No. 3:15-cv-00491-MMD-VPC, 2016 WL 355122, at *2 (D. Nev. Jan. 28, 2016)
8 (granting motion to intervene filed nearly two months after action commenced).

9 **II. Alternatively, Proposed Intervenors satisfy NRCP 24(b)'s requirements for**
10 **permissive intervention.**

11 Generally, NRCP 24(b) grants courts broad discretion to permit intervention where an
12 applicant's claim or defense and the main action have a question of law or fact in common and
13 intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.
14 *See Hairr*, 132 Nev. at 187, 368 P.3d at 1202.

15 For the reasons discussed in Part I *supra*, Proposed Intervenors' motion is timely, and they
16 cannot rely on existing parties to adequately protect their interests. Proposed Intervenors also have
17 defenses to Plaintiff's claims that share common questions of law and fact—for example, whether
18 Clark County's use of the Agilis machine violates Nevada's election laws. *See Ex. 1.*

19 And significantly, intervention will result in neither prejudice nor undue delay. Proposed
20 Intervenors have an undeniable interest in a swift resolution of this action to ensure that the results
21 of the November 3 election are protected and certified. Indeed, Proposed Intervenors contend that
22 *this action itself* threatens to cause harmful delay in the timely certification of Nevadans' lawful
23 votes. Given the legal and factual shortcomings of Plaintiff's claims, Proposed Intervenors are
24 confident that their intervention in this case, and the filings that will follow, will result in
25 expeditious resolution of this litigation.

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CONCLUSION

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

DATED this 18th day of November, 2020.

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

By: /s/ Bradley S. Schrage, Esq.

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

Marc E. Elias, Esq.*
John M. Devaney, Esq.*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 2020, a true and correct copy of **MOTION TO INTERVENE AS DEFENDANTS** was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV system and serving all parties with an email-address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

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

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EXHIBIT 1

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18 **EIGHTH JUDICIAL DISTRICT COURT**
IN AND FOR CLARK COUNTY, STATE OF NEVADA
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Candidate for Senate District 6, and as a Voter
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24 JOSEPH P. GLORIA, in his official capacity
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25 Nevada; CLARK COUNTY, a political
subdivision of the State of Nevada; DOES I
26 through X; and ROE CORPORATIONS I
through X, inclusive,
27

28 Defendants,

Case No. A-20-824878-W
Dept. No.: 4

**[PROPOSED] ANSWER TO PETITION
FOR WRIT OF MANDAMUS AND
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 and

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

6 Proposed
7 Intervenor-
8 Defendant.

9 Proposed Intervenor-Defendants DNC Services Corporation/Democratic National
10 Committee and Nevada State Democratic Party (“Proposed Intervenor”), by and through their
11 attorneys, submit the following Answer to Plaintiff’s Petition for Writ of Mandamus and
12 Complaint for Declaratory and Injunctive Relief (the “Complaint”). Proposed Intervenor respond
13 to the allegations in the Complaint as follows:

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

17 **NATURE OF THE ACTION**

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

21 3. Proposed Intervenor deny that “[t]he Nevada State Legislature delayed changes to
22 the voting scheme whereby making it impossible for Clark County Registrar of Voter to comply
23 with Federal mandates resulting in a decision to send mail in ballots to all active voters and large
24 numbers of what should have been inactive voters.” Proposed Intervenor are without sufficient
25 information or knowledge with which to form a belief as to the truth or falsity of the remaining
26 allegations in Paragraph 3 and therefore deny the same.

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

1 5. Proposed Intervenors deny the allegations in Paragraph 5.

2 **PARTIES**

3 6. Proposed Intervenors admit that Plaintiff April Becker was a candidate for
4 Nevada's State Senate District 6. Proposed Intervenors are without sufficient information or
5 knowledge with which to form a belief as to the truth or falsity of the remaining allegations in
6 Paragraph 6 and therefore deny the same.

7 7. Proposed Intervenors admit that Defendant Joseph P. Gloria ("Registrar Gloria") is
8 the Registrar of Voters for Clark County. Paragraph 7 otherwise contains mere characterizations,
9 legal contentions, and conclusions to which no response is required.

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

13 **FACTS**

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

17 10. Proposed Intervenors admit the allegations in Paragraph 10.

18 11. Proposed Intervenors admit the allegations in Paragraph 11. Proposed Intervenors
19 further note that the named defendants in *Corona v. Cegavske*, No. 20-OC-00064-1B (Nev. 1st
20 Jud. Dist. Ct.), also included Kristine Jakeman, the Elko County Clerk, and Aaron Ford, the
21 Nevada Attorney General.

22 12. Proposed Intervenors admit that, after the plaintiffs in *Corona* filed an emergency
23 motion for preliminary injunction and declaratory relief, Registrar Gloria agreed to mail ballots to
24 all active and inactive voters for the June 2020 primary election. Paragraph 12 otherwise contains
25 mere characterizations, legal contentions, and conclusions to which no response is required. To the
26 extent a response is required, Proposed Intervenors deny the allegations.

27 13. Proposed Intervenors admit that the plaintiffs in *Corona* withdrew their emergency
28 motion for preliminary injunction and declaratory relief after Registrar Gloria submitted his brief

1 in response the plaintiffs’ motion for preliminary injunction. Paragraph 13 otherwise contains
2 mere characterizations, legal contentions, and conclusions to which no response is required. To the
3 extent a response is required, Proposed Intervenor deny the allegations.

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

7 15. Proposed Intervenor admit that the Nevada Legislature passed Assembly Bill 4
8 (“AB 4”) during a special session on July 31, 2020, and that AB 4 was made retroactive to July 1,
9 2020. Paragraph 15 otherwise 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 16. Paragraph 16 contains mere characterizations, legal contentions, and conclusions to
13 which no response is required. To the extent a response is required, Proposed Intervenor deny the
14 allegations.

15 17. Proposed Intervenor are without sufficient information or knowledge with which
16 to form a belief as to the truth or falsity of the allegations in Paragraph 17 and therefore deny the
17 same.

18 18. Proposed Intervenor admit the allegations in Paragraph 18.

19 19. Proposed Intervenor are without sufficient information or knowledge with which
20 to form a belief as to the truth or falsity of the allegations in Paragraph 19 regarding the actions of
21 Secretary of State Barbara Cegavske and Registrar Gloria. Paragraph 19 otherwise contains mere
22 characterizations, legal contentions, and conclusions to which no response is required. To the
23 extent a response is required, Proposed Intervenor deny the allegations.

24 20. Proposed Intervenor deny the allegations in Paragraph 20.

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

28 22. Proposed Intervenor admit that the reported story appeared in the *Las Vegas*

1 *Review-Journal*. Paragraph 22 otherwise contains mere characterizations, legal contentions, and
2 conclusions to which no response is required. To the extent a response is required, Proposed
3 Intervenor deny the allegations.

4 23. Proposed Intervenor deny the allegations in Paragraph 23.

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

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

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

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

15 28. Proposed Intervenor are without sufficient information or knowledge with which
16 to form a belief as to the truth or falsity of the allegations in Paragraph 28 and therefore deny the
17 same.

18 29. Proposed Intervenor are without sufficient information or knowledge with which
19 to form a belief as to the truth or falsity of the first sentence in Paragraph 29. Paragraph 29
20 otherwise contains mere characterizations, legal contentions, and conclusions to which no
21 response is required. To the extent a response is required, Proposed Intervenor deny the
22 allegations.

23 30. Proposed Intervenor deny the allegations in Paragraph 30.

24 31. Proposed Intervenor admit that the reported story appeared in the *Las Vegas*
25 *Review-Journal*. Paragraph 31 otherwise contains mere characterizations, legal contentions, and
26 conclusions to which no response is required. To the extent a response is required, Proposed
27 Intervenor deny the allegations.

28 32. Proposed Intervenor admit that the reported story appeared in the *Las Vegas*

1 *Review-Journal*. Proposed Intervenors are without sufficient information or knowledge with which
2 to form a belief as to the truth or falsity of the remaining allegations in Paragraph 32 and therefore
3 deny the same.

4 33. Proposed Intervenors admit that the reported story appeared on the
5 RealClearPolitics website. Proposed Intervenors are without sufficient information or knowledge
6 with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 33
7 and therefore deny the same.

8 34. Proposed Intervenors admit that the reported story appeared on the KLAS website.
9 Proposed Intervenors are without sufficient information or knowledge with which to form a belief
10 as to the truth or falsity of the remaining allegations in Paragraph 34 and therefore deny the same.

11 35. Proposed Intervenors are without sufficient information or knowledge with which
12 to form a belief as to the truth or falsity of the allegations in Paragraph 35 regarding Robert
13 Thomas's observations and therefore deny the same. Paragraph 35 otherwise contains mere
14 characterizations, legal contentions, and conclusions to which no response is required. To the
15 extent a response is required, Proposed Intervenors deny the allegations.

16 36. Paragraph 36 contains mere characterizations, legal contentions, and conclusions to
17 which no response is required. To the extent a response is required, Proposed Intervenors deny the
18 allegations.

19 37. Proposed Intervenors are without sufficient information or knowledge with which
20 to form a belief as to the truth or falsity of the allegations in Paragraph 37 and therefore deny the
21 same.

22 38. 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 38 and therefore deny the
24 same.

25 39. Proposed Intervenors are without sufficient information or knowledge with which
26 to form a belief as to the truth or falsity of the allegations in Paragraph 39 and therefore deny the
27 same.

28 40. Proposed Intervenors are without sufficient information or knowledge with which

1 to form a belief as to the truth or falsity of the allegations in Paragraph 40 regarding the canvass of
2 57 addresses in Senate District 6 and therefore deny the same. Paragraph 40 otherwise contains
3 mere characterizations, legal contentions, and conclusions to which no response is required. To the
4 extent a response is required, Proposed Intervenors deny the allegations.

5 41. Proposed Intervenors are without sufficient information or knowledge with which
6 to form a belief as to the truth or falsity of the allegations in Paragraph 41 regarding the canvass of
7 57 addresses in Senate District 6 and therefore deny the same. Paragraph 41 otherwise contains
8 mere characterizations, legal contentions, and conclusions to which no response is required. To the
9 extent a response is required, Proposed Intervenors deny the allegations.

10 42. Paragraph 42 contains mere characterizations, legal contentions, and conclusions to
11 which no response is required.

12 43. Proposed Intervenors are without sufficient information or knowledge with which
13 to form a belief as to the truth or falsity of the allegations in Paragraph 43 and therefore deny the
14 same.

15 44. Paragraph 44 contains mere characterizations, legal contentions, and conclusions to
16 which no response is required. To the extent a response is required, Proposed Intervenors deny the
17 allegations.

18 45. Proposed Intervenors are without sufficient information or knowledge with which
19 to form a belief as to the truth or falsity of the allegations in Paragraph 45 and therefore deny the
20 same.

21 46. Paragraph 46 contains mere characterizations, legal contentions, and conclusions to
22 which no response is required. To the extent a response is required, Proposed Intervenors deny the
23 allegations.

24 47. Paragraph 47 contains mere characterizations, legal contentions, and conclusions to
25 which no response is required. To the extent a response is required, Proposed Intervenors deny the
26 allegations.

27 48. Paragraph 48 contains mere characterizations, legal contentions, and conclusions to
28 which no response is required. To the extent a response is required, Proposed Intervenors deny the

1 allegations.

2 49. Paragraph 49 contains mere characterizations, legal contentions, and conclusions to
3 which no response is required. To the extent a response is required, Proposed Intervenors deny the
4 allegations.

5 50. Proposed Intervenors deny the allegations in Paragraph 50.

6 51. Paragraph 51 contains mere characterizations, legal contentions, and conclusions to
7 which no response is required. To the extent a response is required, Proposed Intervenors deny the
8 allegations.

9 52. Proposed Intervenors are without sufficient information or knowledge with which
10 to form a belief as to the truth or falsity of the allegations in Paragraph 52 and therefore deny the
11 same.

12 **CLAIMS FOR RELIEF**
13 **Count One: Petition for Writ of Mandamus**

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

16 54. Paragraph 54 contains mere characterizations, legal contentions, and conclusions to
17 which no response is required. To the extent a response is required, Proposed Intervenors deny the
18 allegations.

19 55. Paragraph 55 contains mere characterizations, legal contentions, and conclusions to
20 which no response is required. To the extent a response is required, Proposed Intervenors deny the
21 allegations.

22 56. Paragraph 56 contains mere characterizations, legal contentions, and conclusions to
23 which no response is required. To the extent a response is required, Proposed Intervenors deny the
24 allegations.

25 57. Paragraph 57 contains mere characterizations, legal contentions, and conclusions to
26 which no response is required. To the extent a response is required, Proposed Intervenors deny the
27 allegations.

28 58. Paragraph 58 contains mere characterizations, legal contentions, and conclusions to

1 which no response is required. To the extent a response is required, Proposed Intervenor deny the
2 allegations.

3 **Count Two: Declaratory and Injunctive Relief**

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

6 60. Paragraph 60 contains mere characterizations, legal contentions, and conclusions to
7 which no response is required. To the extent a response is required, Proposed Intervenor deny the
8 allegations.

9 61. Paragraph 61 contains mere characterizations, legal contentions, and conclusions to
10 which no response is required.

11 62. Proposed Intervenor are without sufficient information or knowledge with which
12 to form a belief as to the truth or falsity of the allegations in Paragraph 62 and therefore deny the
13 same.

14 63. Proposed Intervenor are without sufficient information or knowledge with which
15 to form a belief as to the truth or falsity of the allegations in Paragraph 63 and therefore deny the
16 same.

17 64. Proposed Intervenor are without sufficient information or knowledge with which
18 to form a belief as to the truth or falsity of the allegations in Paragraph 64 and therefore deny the
19 same.

20 65. Paragraph 65 contains mere characterizations, legal contentions, and conclusions to
21 which no response is required. To the extent a response is required, Proposed Intervenor deny the
22 allegations.

23 66. Paragraph 66 contains mere characterizations, legal contentions, and conclusions to
24 which no response is required. To the extent a response is required, Proposed Intervenor deny the
25 allegations.

26 67. Paragraph 67 contains mere characterizations, legal contentions, and conclusions to
27 which no response is required. To the extent a response is required, Proposed Intervenor deny the
28 allegations.

1 68. Paragraph 68 contains mere characterizations, legal contentions, and conclusions to
2 which no response is required. To the extent a response is required, Proposed Intervenor deny the
3 allegations.

4 69. Paragraph 69 contains mere characterizations, legal contentions, and conclusions to
5 which no response is required. To the extent a response is required, Proposed Intervenor deny the
6 allegations.

7 **AFFIRMATIVE DEFENSES**

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

14 Proposed Intervenor allege as follows:

15 Plaintiff is precluded from seeking relief in this action.

16 Plaintiff's claims are barred by the doctrine of laches.

17 Plaintiff fails to state a claim on which relief can be granted.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Proposed Intervenor respectfully request that this Court:

- 20 A. Deny that Plaintiff is entitled to any relief;
21 B. Dismiss the Complaint in its entirety, with prejudice; and
22 C. Grant such other and further relief as the Court may deem just and proper.

23 DATED this 18th day of November, 2020.

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

26 By: /s/ Bradley S. Schrager

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

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Marc E. Elias, Esq.*
John M. Devaney, Esq.*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, D.C. 20005-3960

Kevin J. Hamilton, Esq.*
Abha Khanna, Esq.*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101

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

**Pro hac vice forthcoming*

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