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15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA

17 REPUBLICAN NATIONAL COMMITTEE,
NEVADA REPUBLICAN PARTY, and SCOTT
18 JOHNSTON,

19 Plaintiffs,

20 v.

21 FRANCISCO AGUILAR, *in his official capacity as*
Nevada Secretary of State; LORENA PORTILLO, *in*
22 *her official capacity as the Registrar of Voters for Clark*
County; WILLIAM "SCOTT" HOEN, AMY
23 BURGANS, STACI LINDBERG, and JIM
HINDLE, *in their official capacities as County Clerks,*

24 Defendants.
25

No. _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 Plaintiffs the Republican National Committee, the Nevada Republican Party, and
2 Scott Johnston bring this action under the National Voter Registration Act of 1993
3 (NVRA), 52 U.S.C. §20507, against Defendants for declaratory and injunctive relief.
4 Plaintiffs allege as follows:

5 **INTRODUCTION**

6 1. Section 8 of the NVRA requires States to maintain clean and accurate voter
7 registration records.

8 2. Nevada has failed to live up to the NVRA’s requirements.

9 3. At least five counties in Nevada have inordinately high voter registration
10 rates.

11 4. At least three Nevada counties have more registered voters than they have
12 adult citizens who are over the age of 18. That number of voters is impossibly high.

13 5. An additional two counties have voter registration rates that exceed 90
14 percent of adult citizens over the age of 18. That figure far eclipses the national and
15 statewide voter registration rate in recent elections.

16 6. Based on this and other evidence, Defendants are failing to make a
17 reasonable effort to conduct appropriate list maintenance as required by the NVRA.

18 **JURISDICTION AND VENUE**

19 7. The Court has subject-matter jurisdiction because this case alleges
20 violations of the NVRA. *See* 28 U.S.C. §1331; *Ex parte Young*, 209 U.S. 123 (1908).

21 8. Venue is proper because a substantial part of the events or omissions
22 giving rise to the claims occurred in this District and because some Defendants “reside”
23 here. 28 U.S.C. §1391.

PARTIES

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2 9. Plaintiff, the Republican National Committee (RNC), is the national
3 committee of the Republican Party, as defined by 52 U.S.C. §30101(14), with its principal
4 place of business at 310 First Street S.E., Washington, DC 20003.

5 10. The RNC represents over 30 million registered Republicans in all 50 states,
6 the District of Columbia, and the U.S. territories. It is comprised of 168 voting members
7 representing state Republican Party organizations, including three members who are
8 registered voters in Nevada.

9 11. The RNC works to elect Republican candidates to state and federal office.
10 In November 2024, its candidates will appear on the ballot in Nevada for numerous
11 federal and state offices.

12 12. The RNC has vital interests in protecting the ability of Republican voters
13 to cast, and Republican candidates to receive, effective votes in Nevada elections and
14 elsewhere. The RNC brings this suit to vindicate its own rights in this regard, and in a
15 representational capacity to vindicate the rights of its members, affiliated voters, and
16 candidates.

17 13. The RNC and its members are concerned that Defendants' failure to
18 comply with the NVRA's voter-list maintenance obligations undermines the integrity of
19 elections by increasing the opportunity for ineligible voters or voters intent on fraud to
20 cast ballots. The RNC thus monitors state and local election officials' compliance with
21 their NVRA list maintenance obligations through publicly available records from
22 jurisdictions across the nation.

23 14. In addition, the RNC relies on voter registration lists to determine its plans
24 and budgets. The RNC relies on registration lists to estimate voter turnout, which

1 informs the number of staff the RNC needs in a given jurisdiction, the number of
2 volunteers needed to contact voters, and how much the RNC will spend on paid voter
3 contacts. If voter registration lists include names of voters who should no longer be on
4 the list, the RNC may spend more resources on mailers, knocking on doors, and
5 otherwise trying to contact voters, or it may misallocate its scarce resources among
6 different jurisdictions.

7 15. Plaintiff Nevada Republican Party (NVGOP) is a political party in Nevada
8 with its principal place of business at 2810 West Charleston Blvd. #69, Las Vegas, NV
9 89102. The Nevada Republican Central Committee (NRCC) is the NVGOP's governing
10 body. The NVGOP and NRCC exercise their federal and state constitutional rights of
11 speech, assembly, petition, and association to "provide the statutory leadership of the
12 Nevada Republican Party as directed in the Nevada Revised statutes," to "recruit,
13 develop, and elect representative government at the national, state, and local levels," and
14 to "promote sound, honest, and representative government at the national, state and
15 local levels." NRCC Bylaws, art. II, §§1.A-1.C.

16 16. The NVGOP represents over 550,000 registered Republican voters in
17 Nevada.

18 17. The NVGOP has the same interests in this case as the RNC and seeks to
19 vindicate those interests in the same ways.

20 18. Plaintiff Scott Johnston is a registered Nevada voter and 60-year resident
21 of Nevada. He regularly votes in Nevada's primary and general elections. He plans to
22 vote in Nevada's upcoming elections, including for U.S. President, U.S. Congress, and
23 other federal, local, and statewide offices and ballot measures.

1 19. Because Defendants do not maintain accurate voter rolls, Mr. Johnston
2 reasonably fears that ineligible voters can and do vote in Nevada elections. Those votes
3 will dilute his legitimate vote. And Nevada's inaccurate rolls undermine Mr. Johnston's
4 confidence in the integrity of Nevada elections, which also burdens his right to vote.

5 20. Mr. Johnston is an active member of the Republican Party. He works in
6 Nevada to advance conservative policies and to help elect Republican candidates. He is
7 a member of the Washoe Central Committee, which is the governing body of the
8 Washoe County Republican Party. Mr. Johnston has served as a precinct captain for the
9 Galena Forest Estates area since 2020, and a Nevada State Central Committee person
10 since 2021.

11 21. Because Defendants do not maintain accurate voter rolls, Plaintiffs must
12 spend more of their time and resources monitoring Nevada elections for fraud and
13 abuse, mobilizing voters to counteract it, educating the public about election-integrity
14 issues, and persuading elected officials to improve list maintenance.

15 22. Plaintiffs have expended substantial time and resources investigating
16 Defendants' failure to comply with their list-maintenance obligations. They have
17 communicated with Nevada officials and concerned members about Defendants'
18 failures, and they have researched statements made by Defendants in their
19 correspondence.

20 23. Were it not for Defendants' failure to comply with their list-maintenance
21 obligations, Plaintiffs would have expended those resources on other activities or would
22 not have expended them at all. Instead, they diverted their scarce resources to counteract
23 Defendants' noncompliance and to protect the rights of their members and supporters.

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1 24. Defendant Francisco Aguilar is the Secretary of State of Nevada. He serves
2 “as the Chief Officer of Elections” for Nevada and “is responsible for the execution
3 and enforcement of the provisions of title 24 of NRS and all other provisions of state
4 and federal law relating to elections in” Nevada. Nev. Rev. Stat. §293.124. He is sued in
5 his official capacity.

6 25. Defendant Lorena Portillo is the Registrar of Voters for Clark County. She
7 is the county’s chief election officer and plays a direct role in list maintenance. *See* Nev.
8 Rev. Stat. §§244.164, 293.530. Defendant Portillo is sued in her official capacity.

9 26. Defendant William “Scott” Hoen is the Clerk for Carson City. He is the
10 county’s chief election officer and plays a direct role in list maintenance. *See* Nev. Rev.
11 Stat. §§293.503, 293.530. Defendant Hoen is sued in his official capacity.

12 27. Defendant Amy Burgans is the Clerk for Douglas County. She is the
13 county’s chief election officer and plays a direct role in list maintenance. *See* Nev. Rev.
14 Stat. §§293.503, 293.530. Defendant Burgans is sued in her official capacity.

15 28. Defendant Staci Lindberg is the Clerk for Lyon County. She is the county’s
16 chief election officer and plays a direct role in list maintenance. *See* Nev. Rev. Stat.
17 §§293.503, 293.530. Defendant Lindberg is sued in her official capacity.

18 29. Defendant Jim Hindle is the Clerk for Storey County. He is the county’s
19 chief election officer and plays a direct role in list maintenance. *See* Nev. Rev. Stat.
20 §§293.503, 293.530. Defendant Hindle is sued in his official capacity.

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BACKGROUND

I. Federal law requires States to maintain accurate voter rolls.

30. Congress enacted the NVRA “to protect the integrity of the electoral process.” 52 U.S.C. §20501(b)(3). Specifically, section 8 was enacted “to ensure that accurate and current voter registration rolls are maintained.” *Id.* §20501(b)(4).

31. Retaining voter rolls bloated with ineligible voters harms the electoral process, heightens the risk of electoral fraud, and undermines public confidence in elections. “Confidence in the integrity of our electoral processes is,” in turn, “essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006).

32. Section 8 obligates States to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters” due to death or change of residence. 52 U.S.C. §20507(a)(4). “[F]ederal law makes this removal mandatory.” *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1842 (2018).

33. Each State’s program for maintaining voter-registration lists must be “uniform, non-discriminatory, and in compliance with the Voting Rights Act.” 52 U.S.C. §20507(b)(1).

34. Specifically, section 8 requires States to “remove the names of ineligible voters from the official lists of eligible voters by reason of (A) the death of the registrant or (B) a change in the residence of the registrant” to outside her current voting jurisdiction. 52 U.S.C. §20507(4)(A)-(B).

1 35. The Help America Vote Act (HAVA) also mandates that states adopt
2 computerized statewide voter registration lists and maintain them “on a regular basis”
3 in accordance with the NVRA. 52 U.S.C. §21083(a)(2)(A).

4 36. States must “ensure that voter registration records in the State are accurate
5 and are updated regularly,” an obligation that includes a “reasonable effort to remove
6 registrants who are ineligible to vote from the official list of eligible voters.” 52 U.S.C.
7 §21083(a)(4).

8 37. HAVA’s list-maintenance requirements include coordination with “State
9 agency records on death” and “State agency records on felony status” to facilitate the
10 removal of individuals who are deceased or rendered ineligible under state law due to a
11 felony conviction. 52 U.S.C. §21083(a)(2)(A)(ii)(I)-(II).

12 38. According to the bipartisan Carter-Baker Commission, “registration lists
13 lie at the root of most problems encountered in U.S. elections.” Comm. on Federal
14 Election Reform, Building Confidence in U.S. Elections 10 (Sept. 2005) (Carter-Baker
15 Report). Inaccurate voter rolls that contain “ineligible, duplicate, fictional, or deceased
16 voters” invite “fraud.” *Id.* Although voter fraud is often difficult to detect, “the risk of
17 voter fraud [is] real,” and can “affect the outcome of a close election.” *Crawford v. Marion*
18 *Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (op. of Stevens, J.). And regardless of whether
19 fraud is detected, “the perception of possible fraud contributes to low confidence in the
20 system.” Carter-Baker Report, *supra*, at 18. The Supreme Court agrees. *See Crawford*, 553
21 U.S. at 193-97.

22 39. Other courts and experts have likewise recognized that voter fraud is both
23 real and notoriously “difficult to detect and prosecute.” *Tex. Democratic Party v. Abbott*,
24 961 F.3d 389, 396 (5th Cir. 2020); *see also Griffin v. Roupas*, 385 F.3d 1128, 1130-31 (7th

1 Cir. 2004) (“Voting fraud is a serious problem in U.S. elections ... and it is facilitated by
2 absentee voting.”); *Veasey v. Perry*, 71 F. Supp. 3d 627, 641 (S.D. Tex. 2014) (finding
3 broad “agreement that voter fraud actually takes place in abundance in connection with
4 absentee balloting”); *Tex. Democratic Party*, 961 F.3d at 414 (Ho, J., concurring) (“[C]ourts
5 have repeatedly found that mail-in ballots are particularly susceptible to fraud.”).

6 40. Voter fraud is very real in Nevada. Several recent elections have suffered
7 from voter fraud. *See, e.g.*, Nev. Att’y Gen., *Attorney General Ford Announces Guilty Plea of*
8 *Las Vegas Man Charged with Voter Fraud* (Nov. 16, 2021), [https://perma.cc/WN9D-](https://perma.cc/WN9D-T9V2)
9 *T9V2*; Nev. Att’y Gen., *Attorney General Ford Announces Guilty Plea of Las Vegas Man for*
10 *Voting Twice in 2016 Election* (Feb. 17, 2021), <https://perma.cc/XP2E-EDWE>.

11 41. Maintaining accurate voter rolls is especially important given Nevada’s
12 recent transition to universal mail-in voting. Since the passage of Assembly Bill 321 in
13 2021, all active registered voters in Nevada receive a ballot by mail unless they submit
14 an opt-out form to their respective county clerks. Mailing ballots based on inaccurate
15 registration lists further damages the integrity of Nevada’s elections.

16 42. To help address voter fraud and ensure compliance with federal election
17 law, the NVRA includes a private right of action. It empowers any “person who is
18 aggrieved by a violation” to “provide written notice of the violation to the chief election
19 official of the State involved.” 52 U.S.C. §20510(b)(1). “If the violation is not corrected
20 within 90 days after receipt of a notice, ... the aggrieved person may bring a civil action
21 in an appropriate district court for declaratory or injunctive relief.” *Id.* §20510(b)(2).

22 **II. Defendants have specific obligations under the NVRA.**

23 43. Federal and state law make Nevada’s Secretary of State primarily
24 responsible for list maintenance.

1 44. The NVRA requires each State to “designate a State officer or employee
2 as the chief State election official to be responsible for coordination of State
3 responsibilities under” the law. 52 U.S.C. §20509.

4 45. Nevada law designates the Secretary of State as the State’s chief election
5 officer charged with overseeing and maintaining voter registration. *See Nev. Rev. Stat.*
6 §293.124.

7 46. Ultimate responsibility for coordinating and overseeing all list maintenance
8 activities rests with the Secretary. A chief election official “may not delegate the
9 responsibility to conduct a general program to a local official and thereby avoid
10 responsibility if such a program is not reasonably conducted.” *United States v. Missouri*,
11 535 F.3d 844, 850 (8th Cir. 2008).

12 47. Indeed, “the NVRA’s centralization of responsibility counsels against ...
13 buck passing.” *Scott v. Schedler*, 771 F.3d 831, 839 (5th Cir. 2014). Courts have rejected
14 the view that, “once the state designates” a local entity to assist with complying with
15 federal law, “her responsibility ends.” *Harkless v. Brunner*, 545 F.3d 445, 452 (6th Cir.
16 2008). “[I]f every state passed legislation delegating” their responsibilities “to local
17 authorities, the fifty states would be completely insulated from any enforcement
18 burdens.” *Id.*

19 **III. Defendants have failed to comply with their list-maintenance obligations.**

20 48. Just a decade ago, “24 million voter registrations in the United States—
21 about one in eight—[were] either invalid or significantly inaccurate.” *Husted v. A. Philip*
22 *Randolph Inst.*, 584 U.S. 756, 760 (2018) (citing Pew Center on the States, Election
23 Initiatives Issue Brief (Feb. 2012)). Nevada is no exception, and the evidence
24 underscores the *inaccuracy* of Nevada’s registration records.

1 57. There is no evidence that these counties experienced above-average voter
2 participation compared to the rest of the country or State. The only explanation for
3 these discrepancies is substandard list maintenance.

4 58. “[S]ignificantly high registration rates” such as these “give rise to the
5 inference” that election officials are “not properly implementing a program to maintain
6 an accurate and current voter registration roll, in violation of the NVRA.” *Am. C.R.*
7 *Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 791 (W.D. Tex. 2015).

8 59. Nevada’s maintenance efforts are especially deficient when it comes to
9 removing voters who have changed residence. *See* 52 U.S.C. §20507(d)(1).

10 60. In 2023, the U.S. Election Assistance Commission published its biannual
11 report covering the registration period between the 2020 and 2022 general elections. *See*
12 U.S. Election Assistance Comm’n, *Election Administration and Voting Survey 2022*
13 *Comprehensive Report* (June 2023), <https://perma.cc/28SQ-T24L>.

14 61. Among other things, the EAC’s survey requests data concerning the
15 number of registrations removed for voters’ failure to respond to an address
16 confirmation notice.

17 62. The most recent census data shows that more than 15% of Nevada’s
18 residents were not living in the same house as a year ago.

19 63. In response to the EAC’s survey for the 2020-2022 period, Mineral County
20 and Esmeralda County reported removing less than 2% of their registration lists for
21 residency changes during that period. That is, registrations removed because the voter
22 moved away or failed to respond to an address confirmation notice represented just 2%
23 of the total number of registrants in those counties. And those removals are spread out
24 over a two-year period, which means that these counties removed on average less than

1 1% of their registration lists per year for residency changes. Larger counties such as
2 Washoe experienced high relocation rates (16%) but relatively low removal rates (2%).

3 64. In fact, Esmeralda, Lincoln, Mineral, and Storey Counties removed *no voters*
4 for failing to respond to an address-confirmation notice and then not vote over two
5 election cycles, and Elko and Pershing Counties removed only two voters for that
6 reason. Those numbers are implausibly low.

7 65. In addition, several Nevada counties have inordinately high inactive
8 registration rates, indicating that Defendants do not make a reasonable effort to remove
9 outdated registrations.

10 66. The EAC report indicates that in 2022 Nevada reported 359,403 inactive
11 registrations, representing 16.3% of the total registrations. The number is well above the
12 national average of 11.1%.

13 67. Over 5,000 inactive registrations currently on the rolls were listed as
14 inactive in the June 10, 2019 voter file, which means they should have been removed
15 after the 2022 election.

16 68. In addition, several Nevada counties currently have inactive registration
17 rates of 17% or greater, well above the state and national averages. Those counties are
18 Elko (31%), Eureka (23%), Humboldt (26%), Lincoln (25%), Mineral (30%), Nye (31%),
19 Washoe (17%), and White Pine (23%).

20 69. Having a high percentage of inactive registrations is an indication that a
21 state or jurisdiction is not removing inactive registrations after two general federal
22 elections.

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1 had voter registration rates that exceeded 90 percent of adult citizens over the age of 18.
2 The court denied the defendants' motion to dismiss, and Michigan agreed to slate
3 177,000 erroneous registrations for cancellation and implement other list-maintenance
4 reforms.

5 78. In September 2021, voters sued North Carolina, alleging that "40 counties
6 in North Carolina have registration rates that far eclipse the national and statewide voter-
7 registration rate in recent elections." The district court denied the defendants' motion
8 to dismiss, and the case is now in discovery.

9 **IV. Plaintiffs provided Defendants notice of their statutory violations.**

10 79. Under the NVRA, "Plaintiffs have [statutory] standing assuming they
11 provided proper notice within the meaning of 52 U.S.C. §20510(b)(1)." *Bellitto v. Snipes*,
12 221 F. Supp. 3d 1354, 1362 (S.D. Fla. 2016).

13 80. On December 4, 2023, Plaintiffs mailed a statutory notice letter to
14 Secretary of State Francisco Aguilar, notifying him of these NVRA violations and
15 formally requesting that he correct the violations within 90 days. *See* Exh. A.

16 81. Plaintiffs have since received updated comparisons based on recently
17 available data. Those numbers are reflected in the allegations above.

18 82. The notice stated that Plaintiffs "hope[d] to avoid litigation and would
19 welcome immediate efforts by your office to bring Nevada into compliance with Section
20 8."

21 83. Plaintiffs asked that Defendants ensure they have a "comprehensive,
22 nondiscriminatory" list maintenance program in place that complies with federal law,
23 and to "identify and remove" several categories of ineligible individuals "from the
24 official lists of eligible voters."

1 84. Plaintiffs also asked that Defendants “respond in writing within 45 days of
2 the date of this letter,” “fully describ[ing] the efforts, policies, and programs [they] are
3 taking, or plan to undertake before the 2024 general election to bring Nevada into
4 compliance with Section 8,” as well as when they “plan to begin and complete each
5 specified measure and the results of any programs or activities [they] have already
6 undertaken.”

7 85. Additionally, Plaintiffs asked Defendants to state “what policies are
8 presently in place, or will be put in place, to ensure effective and routine coordination
9 of list maintenance activities,” and “a description of the specific steps [Defendants]
10 intend to take to ensure routine and effective list maintenance on a continuing basis
11 beyond the 2024 election.”

12 86. Finally, Plaintiffs requested that Defendants take steps to preserve
13 documents as required by section 8(i) of the NVRA, 52 U.S.C. §20507(i)(1)-(2), and
14 other federal law. *See, e.g., In re Enron Corp. Sec., Derivative & Erisa Litig.*, 762 F. Supp. 2d
15 942, 963 (S.D. Tex. 2016) (“The obligation to preserve evidence arises when the party
16 has notice that the evidence is relevant to litigation or when a party should have known
17 that the evidence may be relevant to future litigation.”).

18 87. The notice letter stated that Plaintiffs would file a lawsuit under 52 U.S.C.
19 §20510(b)(2) if the identified violations were not corrected within 90 days of receipt of
20 the letter.

21 88. Defendants have failed to correct the violations of the NVRA identified in
22 the notice letter and this complaint.

23 89. Plaintiff Scott Johnston and all individual members of the RNC and
24 NVGOP who are lawfully registered to vote in Nevada have rights under both the U.S.

1 Constitution and the Nevada Constitution to vote in federal and state elections, as well
2 as statutory rights under both federal and state law to the safeguards and protections set
3 forth in the NVRA.

4 90. Defendants' failure to comply with their NVRA voter-list maintenance
5 obligations burdens the right to vote of Mr. Johnston and the individual members of
6 the RNC and NVGOP who are lawfully registered to vote in Nevada by undermining
7 their confidence in the integrity of the electoral process, discouraging their participation
8 in the democratic process, and instilling in them the fear that their legitimate votes will
9 be nullified or diluted by unlawful votes.

10 91. Defendants' failure to satisfy their list-maintenance obligations also
11 infringes the federal and state statutory rights of Mr. Johnston and the individual
12 members of the RNC and NVGOP who are lawfully registered to vote in Nevada. These
13 individuals have a statutory right to vote in elections for federal office that comply with
14 the procedures and protections required by the NVRA.

15 92. Defendants' NVRA violations have also caused economic, financial, and
16 political injury to the Plaintiffs. Defendants' inaccurate voter rolls have forced Plaintiffs
17 to allocate additional resources and misallocate their scarce resources in ways they
18 otherwise would not have.

19 **COUNT**
Violation of the NVRA

20 93. Plaintiffs incorporate all their prior allegations.

21 94. Defendants have failed to make reasonable efforts to conduct voter-list
22 maintenance as required by 52 U.S.C. §20507(a)(4).
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1 95. Plaintiffs have suffered irreparable injuries as a direct result of Defendants'
2 violation of section 8 of the NVRA.

3 96. Plaintiffs will continue to be injured by Defendants' violations of the
4 NVRA until Defendants are enjoined from violating the law.

5 97. Plaintiffs have no adequate remedy at law.

6 **WHEREFORE**, Plaintiffs ask this Court to enter judgment in their favor and
7 provide the following relief:
8

- 9 A. A declaratory judgment that Defendants are in violation of section 8 of
10 the NVRA;
11 B. A permanent injunction barring Defendants from violating section 8 of
12 the NVRA;
13 C. An order instructing Defendants to develop and implement reasonable
14 and effective registration list-maintenance programs to cure their failure
15 to comply with section 8 of the NVRA and to ensure that ineligible
16 registrants are not on the voter rolls;
17 D. Plaintiffs' reasonable costs and expenses of this action, including
18 attorneys' fees; and
19 E. All other further relief that Plaintiffs may be entitled to.
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1 Dated: March 18, 2024

Respectfully submitted,

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