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Rise Action Fund, Institute for a Progressive Nevada,
12 *and Nevada Alliance for Retired Americans*

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE DISTRICT OF NEVADA
16

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

19 Plaintiffs,

20 v.

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

25 Defendants.
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Case No. 2:24-cv-00518-CDS-MDC

**MOTION TO INTERVENE AS
DEFENDANTS**

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28 MOTION TO INTERVENE AS
DEFENDANTS

INTRODUCTION

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2 The National Voter Registration Act is a federal law enacted to make it *easier* for qualified
3 voters to register and *remain* registered. By filing this suit, Plaintiffs have chosen instead to
4 weaponize the NVRA against the very voters the law is meant to protect, seeking a rushed and
5 unlawful purge of the voter rolls as the November general election approaches. This suit does not
6 come out of the blue; it is part of an emerging and dangerous national trend that seeks to enlist
7 federal courts in a coordinated effort to purge qualified voters across the country, based on little
8 more than spurious tales of voter fraud. Indeed, three substantively identical suits have been filed
9 in other states just this month, including one by the lead Plaintiff here.¹ Although similar efforts
10 have uniformly failed in recent years, Plaintiffs—the Republican National Committee, the Nevada
11 Republican Party, and a register Republican Voter—now bring this troubling effort to Nevada.

12 Rise Action Fund, the Institute for a Progressive Nevada, and the Nevada Alliance for
13 Retired Americans (“Proposed Intervenors”) seek to intervene in this case to protect the
14 significant—indeed, constitutionally-protected—rights of their members and constituents, as well
15 as their own interests as organizations. They are entitled to do so as of right under Federal Rule of
16 Procedure 24(a) because this suit threatens to impair those interests as a practical matter. The relief
17 Plaintiffs seek—a rushed purge of Nevada’s voter rolls—creates an intolerable risk of
18 disenfranchising Proposed Intervenors’ members and constituents, including younger people,
19 college students, and retirees. Granting the relief Plaintiffs seek would also force each group to
20 divert its spare resources towards stanching the harm from Plaintiffs’ demanded purge. Given the
21 stakes, Proposed Intervenors cannot reasonably rely upon the named Defendants to adequately
22 represent their interests. As public officers, the named Defendants have distinct, and potentially
23 conflicting, objectives than Proposed Intervenors. Proposed Intervenors have moved swiftly to
24 intervene in this litigation—mere days after the complaint was filed—and their participation poses
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26 ¹ See *Republican Nat’l Comm., et al. v. Benson, et al.*, Case No. 1:24-cv-262, ECF No. 1
27 (E.D. Mich. Mar. 13, 2024); *Pub. Int. Legal Found. v. Knapp*, Case No. 3:24-cv-1276-JFA, ECF
28 No. 1 (D.S.C. Mar. 14, 2024); *Jud. Watch, Inc., et al. v. Ill. State Bd. of Elections, et al.*, Case No.
24-cv-1867, ECF No. 1 (N.D. Ill. Mar. 5, 2024).

1 no risk of prejudice or delay to the existing parties. Their motion should be granted.

2 BACKGROUND

3 I. Nevada's Obligation Under the National Voter Registration Act

4 The National Voter Registration Act of 1993 ("NVRA") is a federal law the requires states
5 to provide simplified, voter-friendly systems for registering to vote. In enacting the NVRA,
6 Congress aimed expressly to *increase* access to the franchise, by establishing "procedures that will
7 increase the number of eligible citizens who register to vote in elections for Federal office" and by
8 making it "possible for Federal, State, and local governments to implement [the NVRA] in a
9 manner that enhances the participation of eligible citizens as voters in elections for Federal office."
10 52 U.S.C. § 20501(b)(1)–(2). Congress also made a finding in the NVRA that "discriminatory and
11 unfair registration laws and procedures can have a direct and damaging effect on voter
12 participation . . . and disproportionately harm voter participation by various groups, including
13 racial minorities." *Id.* § 20501(a)(3).

14 To further those pro-voter purposes, the NVRA imposes strict restrictions on whether,
15 when, and how a state may remove a voter from its registration rolls. *See* 52 U.S.C. § 20507(a)(3)–
16 (4), (b)–(d). A state may immediately remove a voter from the rolls in only rare circumstances,
17 such as when a registrant requests to be deregistered or is convicted of a disenfranchising felony.
18 *See id.* § 20507(a)(3)(A)–(B). Otherwise, a state may not remove voters from the rolls without first
19 complying with prescribed procedural minimums that Congress has mandated to protect qualified
20 voters' access to the franchise and minimize the risk of erroneous deregistration. *See id.* §
21 20507(a)(3)(C), (c), (d). For instance, a registrant may be removed from the rolls by reason of
22 change of residence, in most cases, only after failing to respond to a notice and failing to appear
23 to vote for two general elections following that notice. *Id.* § 20507(d)(1).

24 Thus, by design "the NVRA does not require states to immediately remove every voter
25 who may have become ineligible." *Pub. Int. Legal Found. v. Benson*, No. 1:21-CV-929, 2024 WL
26 1128565, at *11 (W.D. Mich. Mar. 1, 2024) ("*PILF*"). Rather, Congress has made the policy
27 determination that some delay in the removal of voters from the rolls is worthwhile because that
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1 delay minimizes the risk that qualified voters will be wrongly deregistered. As a result of these
2 Congressionally-crafted safeguards against immediate purging of a voter, a single “snapshot” of a
3 county’s voter rolls can “in no way be taken as a definitive picture of what a county’s registration
4 rate is.” *Bellitto v. Snipes*, 935 F.3d 1192, 1208 (11th Cir. 2019).!

5 The RNC’s lawsuit largely ignores these mandatory safeguards and focuses instead on the
6 NVRA’s affirmative list-maintenance obligations. Those obligations, however, are very limited.
7 The NVRA requires only that each state make “a reasonable effort to remove the names of
8 ineligible voters from the official lists of eligible voters by reason of [] the death of the registrant;
9 or [] a change in the residence of the registrant.” 52 U.S.C. § 20507(a)(4)(A). In other words,
10 “Congress did not establish a specific program for states to follow for removing ineligible voters,”
11 *PILF*, 2024 WL 1128565 at *10, it just required reasonable measures, and only with respect to
12 voters who move or die. The NVRA also includes an optional safe-harbor procedure: states are
13 deemed to meet their list maintenance obligations if they use U.S. Postal Service data to identify
14 voters who may have moved and then follow a specified notice procedure to confirm the change
15 of residence and eventually remove the voter. *See* 52 U.S.C. § 20507(c)(1).

16 **II. Plaintiffs’ Suit**

17 Plaintiffs—the Republican National Committee; the Nevada Republican Party; and Scott
18 Johnston, a registered Republican voter—filed suit on March 18, 2024, against Secretary of State
19 Aguilar; Lorena Portillo, the Registrar of Voters for Clark County; William “Scott” Hoen, the
20 Clerk for Carson City, as well as Amy Burgans, Staci Lindberg, and Jim Hindle, the County Clerks
21 for Douglas County, Lyon County, and Storey County, respectively. *See* Complaint, ECF No. 1.
22 The complaint lodges a single claim that the Defendants violated their list-maintenance obligations
23 under Section 8 of the NVRA. *See id.* ¶¶ 93-97 (citing 52 U.S.C. §20507(a)(4)). Plaintiffs demand
24 far-ranging relief. In addition to a declaratory judgment that Defendants are violating Section 8,
25 and an injunction barring them from further such violations, they also request: “An order
26 instructing Defendants to develop and implement reasonable and effective registration list-

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1 maintenance programs to cure their failure to comply with section 8 of the NVRA and to ensure
2 that ineligible registrants are not on the voter rolls.” *Id.* at 18 (Prayer for Relief).

3 The gravamen of Plaintiffs’ complaint is that Defendants *must* be violating the NVRA
4 because, they allege, several Nevada counties presently have improbably high voter registration
5 rates. *See id.* ¶¶ 48-78. But nowhere do Plaintiffs identify a specific deficiency with Nevada’s
6 current practices, nor do they identify any specific, presently registered voter whose presence on
7 the rolls violates the NVRA. The complaint instead relies upon a single snapshot of the voter rolls
8 in a few Nevada counties, nowhere accounting for the fact that the NVRA *by Congressional design*
9 requires only reasonable list-maintenance efforts, not perfect ones, and necessarily requires states
10 to delay for years before removing many potentially ineligible voters, in order to avoid the
11 overzealous removal of eligible voters. *See supra* at 2-3. Other federal courts have warned against
12 just such reliance a “snapshot,” which can “in no way be taken as a definitive picture of what a
13 county’s registration rate is, ‘much less any indication of whether list maintenance is going on and
14 whether it’s . . . reasonable.” *Bellitto*, 935 F.3d at 1208 (affirming trial court’s ruling that Florida’s
15 list-maintenance procedures were “reasonable” under the NVRA). Yet Plaintiffs rely upon just
16 that, and nothing else, to support the inference of an NVRA violation.

17 **III. Proposed Intervenors**

18 **Rise.** Rise is a student-led 501(c)(4) nonprofit organization that runs student-focused
19 statewide advocacy and voter mobilization programs in Nevada, among other states. To advance
20 its mission of fighting for free public higher education and ending homelessness, housing
21 insecurity, and food insecurity among college students, Rise is committed to empowering and
22 mobilizing students in the political process and has recently focused a significant portion of its
23 efforts on students in Nevada. Declaration of Christian Solomon (“Solomon Decl.”) ¶¶ 5, 9.
24 Recognizing that Nevada had few, if any, statewide organizations committed specifically to
25 promoting the interests of young people and students between the ages of 18 and 27, Rise expanded
26 to the state in 2023 and hired a State Director to build out the organization’s operations. *Id.* ¶ 6.
27 Within its first year, Rise’s Nevada chapter held a training at UNLV, hired and trained several
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1 organizers devoted to engaging UNLV students, and recruited several campus fellows. *Id.* ¶ 8.
2 Rise anticipates recruiting and training additional lead campus organizers at other Nevada
3 campuses this year, including at UNR. *Id.* It also plans to hire a Deputy Director to further build
4 upon the group's work in the state. *Id.*

5 While Rise's Nevada chapter shares the organization's broader national mission, it also
6 strives to be responsive to the concerns of its student constituents within Nevada. Rise's first
7 training at UNLV coincided with the December 6, 2023, mass shooting on the UNLV campus,
8 forcing Rise's employees and student attendees into lockdown. *Id.* ¶¶ 5, 10. In response, the
9 Nevada chapter has made organizing students around gun safety issues a top goal. *Id.* ¶ 10. The
10 Nevada chapter also has made student debt relief and financial assistance a policy focus, and is in
11 the process of recruiting volunteers and organizers to hold phone banks educating Nevada college
12 students about the Biden Administration's SAVE Plan,² which offers affordable repayment plans
13 to students, but which many students lack sufficient awareness of. *Id.* ¶ 9.

14 To build political support for these policy goals, Rise plans to make organizing and
15 education its student constituents about the 2024 general election a major priority. *Id.* ¶ 11. It is
16 planning extensive efforts to register students on campus, and also to ensure that already-registered
17 students *stay* registered. *Id.* Rise's goal is to have its organizers and volunteers reach each student
18 at UNLV three to five times, whether through phone banking or direct conversation, ahead of the
19 2024 general election, and it has also adopted specific goals for student voter registration and
20 turnout. *Id.* This election-focused work is important to Rise's mission, which hinges on its ability
21 to build political power with the student population. *Id.* ¶ 5-7, 11, 13.

22 Plaintiffs' suit particularly threatens to harm the student population that Rise advocates for
23 and seeks to serve. *Id.* ¶ 13. Many college students live away from their family homes or places of
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25 ² See generally The White House, Fact Sheet: The Biden-Harris Administration Launches
26 the SAVE Plan, the Most Affordable Student Loan Repayment Plan Ever to Lower Monthly
27 Payments for Millions of Borrowers (Aug. 22, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/22/fact-sheet-the-biden-harris-administration-launches-the-save-plan-the-most-affordable-student-loan-repayment-plan-ever-to-lower-monthly-payments-for-millions-of-borrowers/>.

1 residence for long periods of time while at school, often changing temporary places of residence
2 repeatedly without abandoning their permanent residence, but without immediate access to mailed
3 notices sent to their permanent addresses that might advise them that their registration is at risk of
4 cancellation. *Id.* Other college students establish permanent residences in their new college
5 communities, but may move frequently—every year, or even every semester—within the same
6 small geographic area. *Id.* Students in both categories are particularly at risk for
7 disenfranchisement in a rushed purging process in the months ahead of a major general election of
8 the sort that Plaintiffs seek here. Plaintiffs’ suit is therefore a direct attack on the very voters Rise
9 seeks to organize, empower, and advocate for. And if Plaintiffs’ suit is successful, Rise will have
10 to retool its efforts in Nevada to focus on assisting students in determining their registration status,
11 and re-registering if they are in fact purged. *Id.* ¶¶ 13, 15. Such retooling will disrupt Rise’s pre-
12 election planning and also come at the expense of work on its other mission-critical goals. *Id.* ¶
13 14. In particular, Rise expects that it will have to focus its volunteer phone banking efforts on
14 educating students about the purge and informing them about how to confirm their registration
15 status. *Id.* This volunteer-intensive effort would diminish Rise’s plan to phone bank on other
16 mission-critical efforts, such as informing students about the SAVE Plan and other financial
17 assistance and loan repayment programs. *Id.* ¶ 9, 14.

18 ***Institute for a Progressive Nevada.*** The Institute for a Progressive Nevada (“IPN”) is a
19 progressive, non-partisan, and non-profit organization that educates, empowers, and engages
20 Nevadans to build a state where everyone has a fair opportunity to succeed. Its core mission is to
21 ensure that every Nevadan knows how to vote and how to do so confidently. Declaration of Shelbie
22 Swartz (“Swartz Decl.”) ¶ 4. As part of its civic education and voting rights work, IPN publishes
23 a non-partisan voter guide every election cycle. *Id.* ¶ 4. This guide includes comprehensive
24 instructions on how to register and how to vote in Nevada. *Id.* IPN also hosts its own voter
25 registration platform—RegisterNevada.Org—that it promotes across the state to encourage voter
26 registration. *Id.* The organization also engages in targeted advertising campaigns—chiefly through
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1 social media and radio—to educate citizens about its core policy areas. The organization presently
2 has a dozen employees but would like to hire more. *Id.* ¶¶ 3, 4.

3 Plaintiffs’ suit is a direct affront to IPN’s mission to empower all Nevadans to vote, in
4 effect asking for a rushed purge process that would result in eligible voters being tossed off the
5 rolls. *Id.* ¶¶ 4, 5. IPN would need to take several major steps in response. First, the organization
6 would have to retool its voter guide to educate the public about the purge and add material
7 informing voters about how to confirm their registration status. *Id.* ¶ 5. Second, it would have to
8 refocus its limited advertising to spread awareness about the purge to alert people to the need to
9 check their registration. *Id.* Such a campaign would eat into IPN’s limited financial resources,
10 likely delaying the hiring of new employees and making it more difficult to meet payroll for
11 existing employees. *Id.* And it would also reduce IPN’s ability to advertise about other issues,
12 including spreading awareness of different voting methods within Nevada. *Id.* Nonetheless, given
13 the centrality of voting to its mission, IPN strongly believes it would have to commit these
14 resources to such an advertising campaign, even at the expense of other objectives. *Id.*

15 ***The Alliance.*** The Alliance for Retired Americans is a nonpartisan 501(c)(4) membership
16 organization with over 4.4. million members nationwide. Declaration of Thomas Bird (“Bird
17 Decl.”) ¶ 3. Its mission is to ensure the social and economic justice and full civil rights that retirees
18 have earned after a lifetime of work, with a particular emphasis on safeguarding the right to vote.
19 *Id.* ¶ 4. The Alliance’s Nevada chapter, the Nevada Alliance for Retired Americans, has roughly
20 20,000 members comprising retirees from numerous public and private sector unions, members of
21 community organizations, and individual activists. *Id.* ¶ 3. It works with 20 affiliated chapters—
22 comprised of other union and community groups—across Nevada. *Id.* ¶ 9. A major focus of the
23 Alliance’s work is attending these chapter meetings to speak with members about key policy goals,
24 such as preserving Social Security and Medicare. *Id.* ¶ 10.

25 Because Alliance members are, overwhelmingly, retirees, and are registered to vote at
26 extremely high rates, they are disproportionately vulnerable when voting rolls are purged. *Id.* ¶ 6.
27 In particular, retirees are disproportionately burdened by voter purges because many retirees move
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1 within Nevada after retiring, and because retirees often travel out of state for long periods, when
2 they forward their mail or miss and fail to return a mailed notice regarding their registration status.
3 *Id.* ¶ 5. As a consequence, moving and traveling increase a voter’s risk of wrongful deregistration.
4 *Id.* ¶ 6. For instance, a retiree who spends a lengthy period of time caring for grandchildren at
5 another family member’s home, or enjoying retirement at a second home, may miss a crucial notice
6 of cancellation if that notice is sent only to the retiree’s home address. *Id.* ¶ 5. Beyond that, the
7 Alliance’s sheer size gives it a substantial stake in this case: Given the Alliance’s roughly 20,000
8 members, it is all but certain that a rushed purge process would put many of those members’ voter
9 registrations in jeopardy.

10 A purge of Nevada’s election rolls would also require the Alliance to refocus its efforts on
11 educating its members about registration issues, an area it does not traditionally focus on since
12 most of its members are long-registered voters. *Id.* ¶ 7–9. In a presidential year such as 2024, the
13 Alliance has a wide range of organizational goals to achieve: getting out the vote, educating its
14 members and constituents about where candidates stand on the Alliance’s key issues, and
15 organizing around those issues. *Id.* ¶ 10. A purge would undermine those efforts in several ways.
16 *Id.* Alliance leadership would need to devote time and effort to preparing materials and
17 presentations about the purge, and would then need to use scare presentation and organizing time
18 at chapter meetings to walk members through how to confirm their registrations, as well as to
19 answer members’ questions. *Id.* Alliance leadership and volunteers would also need to assist any
20 members who were deregistered. *Id.* ¶ 8. All this would divert the Alliance’s resources from other
21 essential organizing tasks, and thereby frustrate its mission.

22 STANDARD OF LAW

23 “Rule 24 traditionally receives liberal construction in favor of applicants for intervention.”
24 *Arkaki v. Cayetano*, 324 F.3d 1078, 1083 (9th Cir. 2003); *see also W. Expl. LLC v. U.S. Dep’t of*
25 *Interior*, No. 3:15-cv-00491-MMD-VPC, 2016 WL 355122, at *2 (D. Nev. Jan. 28, 2016) (noting
26 Rule 24’s liberal construction and “focus[] on practical considerations rather than technical
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1 distinctions”).

2 The Ninth Circuit “require[s] applicants for intervention as of right pursuant to Rule
3 24(a)(2) to meet a four-part test”:

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

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

12 “Rule 24(b) permits the Court to allow anyone to intervene who submits a timely motion
13 and ‘has a claim or defense that shares with the main action a common question of law or fact.’”
14 *Nevada v. United States*, No. 3:18-cv-569-MMD-CBC, 2019 WL 718825, at *2 (D. Nev. Jan. 14,
15 2019) (quoting Fed. R. Civ. P. 24(b)(1)(B)). In addition to a common question of law or fact,
16 permissive intervention under Rule 24(b) also requires (1) a timely motion and (2) an independent
17 basis for the court’s jurisdiction. *See Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998).

18 Finally, Rule 24(c) requires that a motion to intervene “be accompanied by a pleading that
19 sets out the claim or defense for which intervention is sought.” Fed. R. Civ. P. 24(c).³

20 ARGUMENT

21 I. Proposed Intervenors are entitled to intervene as a matter of right.

22 A. The motion is timely.

23 The instant motion is indisputably timely, filed mere days after Plaintiffs initiated this suit
24 and before any Defendant has appeared in the case or any substantive activity has occurred.

25 “In determining whether a motion for intervention is timely, [courts in this Circuit]
26 consider three factors: (1) the stage of the proceeding at which an applicant seeks to intervene; (2)
27 the prejudice to other parties; and (3) the reason for and length of the delay.” *League of United*

28 ³ In compliance with Rule 24(c), Proposed Intervenors attach a proposed Answer to this motion. Proposed Intervenors believe, however, that the Complaint should be dismissed under Federal Rule of Civil Procedure 12(b), and intend to file a Rule 12(b) motion by no later than the named Defendants’ deadline to respond to the Complaint.

1 *Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1302 (9th Cir. 1997). Each of these considerations
2 supports a finding of timeliness here.

3 *First*, these proceedings are truly at their earliest stages. Plaintiffs filed their complaint on
4 March 18, 2024; this motion follows just three days later. Plaintiffs have not yet filed proof of
5 service; Defendants have not yet appeared or filed a responsive pleading; and no case schedule has
6 been set. *See, e.g., Nevada v. United States*, No. 3:18-CV-569-MMD-CBC, 2019 WL 718825, at
7 *2 (D. Nev. Jan. 14, 2019) (granting motion to intervene filed several weeks after action
8 commenced); *W. Expl. LLC v. U.S. Dep't of the Interior*, No. 3:15-CV-00491-MMD-VPC; *W.*
9 *Expl.*, 2016 WL 355122, at *2 (granting motion to intervene filed nearly two months after action
10 commenced).

11 *Second*, given the early stage of proceedings, permitting Proposed Intervenors to
12 participate poses no risk of prejudice or delay to the existing parties. Proposed Intervenors will
13 agree to any schedule stipulated to by the principal parties and, of course, will abide by all
14 deadlines and schedules set by the Court. *See, e.g., Portfolio FB-Idaho, LLC v. Fed. Deposit Ins.*
15 *Corp. as Receiver for First Bank of Idaho*, No. 1:10-CV-377-BLW, 2010 WL 5391442, at *4 (D.
16 Idaho Dec. 17, 2010) (finding no risk of prejudice where “discovery has yet to commence, no
17 original deadlines have expired, and [intervenor] represents that it can quickly file a responsive
18 brief”). Proposed Intervenors will therefore not be the cause of any delay in this case.

19 *Finally*, “the reason for and length of the delay” has no relevance here because there has
20 been no delay whatsoever. *See, e.g., W. States Trucking Ass'n v. Schoorl*, No. 2:18-CV-1989-
21 MCE-KJN, 2018 WL 5920148, at *1 (E.D. Cal. Nov. 13, 2018) (finding there had “been no delay”
22 where party “sought to intervene [at] the very outset of litigation”).

23 Proposed Intervenors’ motion thus satisfies the first requirement for intervention as of
24 right: it is timely.

25 **B. Proposed Intervenors have substantial threatened interests.**

26 Proposed Intervenors have significant protectable interests that might be impaired by
27 Plaintiffs’ suit, satisfying the second and third elements of Rule 24(a). Consistent with the liberal
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1 standard in favor of intervention, Proposed Intervenors need not show that impairment is “an
2 absolute certainty.” *Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893, 900 (9th
3 Cir. 2011). Rather, their interests need only be “substantially affected in a practical sense by the
4 determination made in an action.” *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 822
5 (9th Cir. 2001) (quoting Fed. R. Civ. P. 24 advisory committee note to 1966 amendment). In
6 conducting this “practical, threshold inquiry . . . [n]o specific legal or equitable interest need be
7 established” by Proposed Intervenors. *Id.* at 897 (quoting *Greene v. United States*, 996 F.2d 973,
8 976 (9th Cir. 1993)). Rule 24(a)’s interest requirement is less stringent than Article III’s standing
9 requirements, and accordingly the threatened impairment of Proposed Intervenors’ practical
10 interests in the case need not rise to the level of an injury-in-fact. *See Yniguez v. State of Ariz.*, 939
11 F.2d 727, 735 (9th Cir. 1991). Generally, after determining the applicant has a protectable interest,
12 courts have “little difficulty concluding,” the disposition of the case may affect such interest.
13 *Lockyer*, 450 F.3d at 442 (citing *Berg*, 268 F.3d at 822).

14 Proposed Intervenors each have at least two significantly protectable interests that
15 Plaintiffs’ lawsuit threatens to impair. *First*, Proposed Intervenors have a substantial interest in
16 ensuring that their members and constituents are able to register to vote, remain registered to vote,
17 and successfully participate in the upcoming general election. *See* Solomon Decl. ¶¶ 12-15; Bird
18 Decl. ¶¶ 7-10. Numerous courts have recognized this as a well-established basis for intervening
19 in NVRA Section 8 cases that seek to have voters purged from the rolls. *See Bellitto v. Snipes*, No.
20 16-cv-61474, 2016 WL 5118568, at *2 (S.D. Fla. Sept. 21, 2016) (granting organization
21 intervention of right in Section 8 case); *see also Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F.
22 Supp. 3d 795, 799 (E.D. Mich. 2020) (granting organization permissive intervention in Section 8
23 case); Order, *Daunt v. Benson*, 1:20-cv-522 (W.D. Mich. Sept. 28, 2020), ECF No. 30 (same);
24 Order, *Voter Integrity Proj. NC, Inc. v. Wake Cnty. Bd. of Elections*, No. 5:16-cv-683 (E.D.N.C.
25 Dec. 1, 2016), ECF No. 26 (granting voters permissive intervention in Section 8 case). In *Bellitto*,
26 for example, the district court permitted a union with tens of thousands of members in Florida to
27 intervene because “the interests of its members would be threatened by [any] court-ordered ‘voter
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1 list maintenance’ sought by Plaintiffs,” a “potential harm” the court found “particularly great in
 2 light of the upcoming 2016 General Election.” *Bellitto*, 2016 WL 5118568, at *2. That is precisely
 3 what the Alliance seeks to do here on behalf of its nearly 20,000 retiree members in Nevada, most
 4 of whom are union workers, Bird Decl. ¶ 3, and what Rise seeks to do on behalf of its discrete
 5 constituency of politically marginalized students, Solomon Decl. ¶¶ 5-6, 13, 15; *cf. Am. Unites for*
 6 *Kids v. Rousseau*, 985 F.3d 1075, 1096–97 (9th Cir. 2021) (holding that organizations may sue on
 7 behalf of non-member constituents even under the more-demanding Article III test).

8 The NVRA itself reflects Proposed Intervenors’ interest here. The law creates a cause of
 9 action to challenge improper removal of registered voters. 52 U.S.C. § 20510(b). And
 10 organizations like Proposed Intervenors often bring successful claims under that provision to
 11 prevent the very sort of statewide voter purge Plaintiffs here seek to compel. *See, e.g., Common*
 12 *Cause/N.Y. v. Brehm*, 344 F. Supp. 3d 542, 558–59 (S.D.N.Y. 2018) (holding that plaintiff
 13 adequately alleged as-applied NVRA Section 8 claim challenging New York’s registration
 14 removal policy); *Common Cause Ind. v. Lawson*, 327 F. Supp. 3d 1139, 1156 (S.D. Ind. 2018)
 15 (similar). Congress, by creating such a cause of action in the NVRA itself, recognized the very
 16 interest that the Proposed Intervenors seek to vindicate here through intervention—preventing
 17 improper removal of their members from Nevada’s voter rolls.⁴ And courts within this Circuit have
 18 recognized an organization’s interest in protecting its members voting rights satisfies the “more
 19 stringent” requirement of Article III, which “compels the conclusion that they have an adequate
 20 interest” for purposes of Rule 24. *Yniguez*, 939 F.2d at 735; *see also Mi Familia Vota v. Fontes*,
 21 No. CV-22-00509-PHX-SRB, 2024 WL 862406, at *29-32 (D. Ariz. Feb. 29, 2024) (finding
 22 organizations had standing to protect members’ voting rights); *March for Our Lives Idaho v.*
 23 *McGrane*, No. 1:23-CV-00107-AKB, 2023 WL 6623631, at *7 (D. Idaho Oct. 11, 2023) (similar).

24
 25 _____
 26 ⁴ Given the timing of Plaintiffs’ suit, Proposed Intervenors would likely lack sufficient time
 27 to file their own NVRA Section 8 suit in response to any improper purging of the voter rolls
 28 attributable to this suit. Moreover, the *stare decisis* effect of Plaintiffs’ suit might preclude such a
 claim to begin with, leaving Proposed Intervenors no choice but to seek to intervene now. That
 “[P]roposed [I]ntervenors here have no alternative forum where they can” protect against
 Plaintiffs’ desired purge further supports their intervention. *Lockyer*, 450 F.3d at 442. !

1 Proposed Intervenors’ interest on this front is particularly significant because they
2 represent members and constituencies that face acute risk from any court-ordered purge. As
3 explained, *supra* at 5-6, younger voters, and college students in particular, are disproportionately
4 likely to be purged because they move frequently and are often away from their voting residence
5 for prolonged periods of time. *See* Solomon Decl. ¶ 13. Plaintiffs’ requested relief therefore
6 threatens the significant—indeed, constitutionally-protected—interests of the student constituents
7 that Rise seeks to organize, empower, and turn out to vote. *See id.* ¶¶ 13, 15. Any
8 disenfranchisement of student voters impairs Rise’s ability to organize such voters as a political
9 force in pursuit of Rise’s student-oriented mission. *Id.* Similarly, the Alliance’s approximately
10 20,000 members also face challenges that increases their likelihood of being purged, as many of
11 their members move or travel frequently, and spend long periods away from their residence. Bird
12 Decl. ¶¶ 3, 5–6. And IPN seeks to empower *all* Nevadans to know how to vote and to be able to
13 vote with confidence, a goal frustrated by the rushed purge Plaintiffs seek. Swartz Decl. ¶ 4.

14 The sheer scope and immediacy of the relief Plaintiffs seek further reinforces why this case
15 impairs Proposed Intervenors’ significant interests. As one Court of Appeals has put “a maximum
16 effort at purging voter lists could minimize the number of ineligible voters, but those same efforts
17 might also remove eligible voters.” *Bellitto*, 935 F.3d at 1198. Such a “maximum effort” is
18 precisely what Plaintiffs seek here, and Proposed Intervenors have a stark interest in ensuring the
19 “eligible voters” they represent are not illegally removed.

20 Plaintiffs’ requested relief also threatens to impair a second interest held by each Proposed
21 Intervenor. The purge sought by Plaintiffs would require each Proposed Intervenor to divert time
22 and resources away from other essential election-year activities, harming their missions in the
23 process. For example, IPN’s mission to empower all Nevadans to vote would require it to take
24 prophylactic measures in response to the far-ranging purge Plaintiffs seek. In particular, it would
25 have to retool and update its non-partisan voter guide, which instructs Nevadans on how to
26 navigate the registration and voting process. Swartz Decl. ¶ 5. This task would require diverting
27 the time of IPN’s small number of employees away from other mission-critical tasks ahead of the
28

1 election. *Id.* ¶ 5. Moreover, because empowering people to vote is at the core of IPN’s mission,
2 the organization anticipates allocating its limited financial resources to sponsor an advertising
3 campaign educating voters about the purge and instructing them on how to confirm their
4 registration status. *Id.* ¶ 5. Given the organization’s modest resources, this campaign would restrict
5 IPN’s ability to hire new employees, and also limit its ability to launch other planned advertising
6 campaigns, including one focusing on educating Nevadans about different methods of voting. *Id.*
7 These costs harm IPN’s ability to pursue its mission. *Id.*

8 Both Rise and the Alliance would suffer similar harms. As explained, Rise plans to
9 organize volunteer phone banks to educate students about their various options for loan repayment
10 assistance and other college aid plans, including the recently announced SAVE Plan. *See* Solomon
11 Decl. ¶¶ 9, 14. If Plaintiffs prevail, however, Rise will have to redirect some of these efforts
12 towards educating students about the purge and how to confirm their registration status. *Id.* That
13 severely harms Rise’s mission, which includes helping its student constituents pay for their
14 education. *Id.* ¶¶ 5, 14-15. Granting Plaintiffs’ relief will there “substantially affect[]” Rise “in a
15 practical sense.” *Berg*, 268 F.3d at 822. Similarly, the Alliance will have to use its limited volunteer
16 resources to prepare materials educating its members about how to confirm their registration status,
17 and then distribute these materials to members through social media channels, email, and at chapter
18 meetings. Bird Decl. ¶ 7–10. This effort will reduce the Alliance’s ability to speak to its members
19 about other key policy goals, including protecting social security and Medicare. *Id.*

20 Like their interest in protecting their members and constituents’ right to vote, Proposed
21 Intervenor’s interest in protecting their own organizational missions and resources can suffice to
22 provide Article III standing. *See, e.g., E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 663 (9th
23 Cir. 2021) (“[A]n organization has direct standing to sue where it establishes that the defendant’s
24 behavior has frustrated its mission and caused it to divert resources in response to that frustration
25 of purpose.”). This second interest therefore provides a more than sufficient independent basis for
26 granting intervention under Rule 24. *See Yniguez*, 939 F.2d at 735.

1 **C. Defendants do not adequately represent Proposed Intervenors.**

2 Proposed Intervenors will not be assured adequate representation in this matter if they are
3 denied intervention. “[T]he requirement of inadequacy of representation is satisfied if the applicant
4 shows that representation of its interests ‘*may be*’ inadequate,” and therefore “the burden of
5 making this showing is minimal.” *W. Expl.*, 2016 WL 355122, at *3 (quoting *Sagebrush Rebellion,*
6 *Inc. v. Watt*, 713 F.2d 525, 528 (9th Cir. 1983)) (emphasis added); *see also Trbovich v. United*
7 *Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). Accordingly, courts are “liberal in finding”
8 this requirement to be met because “there is good reason in most cases to suppose that the applicant
9 is the best judge of the representation of the applicant’s own interests.” 7C Charles Alan Wright
10 & Arthur R. Miller, *Fed. Prac. & Proc. Civ.* § 1909 (3d ed.). And the Ninth Circuit “stress[es] that
11 intervention of right does not require an absolute certainty . . . that existing parties will not
12 adequately represent [an intervenor’s] interests.” *Citizens for Balanced Use*, 647 F.3d at 900. Here,
13 neither Plaintiffs nor Defendants are assured to adequately represent Proposed Intervenors’
14 interests. As to Plaintiffs, little needs to be said: Plaintiffs seek a rushed purge of Nevada’s voter
15 rolls in a presidential election year. Proposed Intervenors strongly oppose that result.

16 While the Secretary of State and various county official defendants may oppose relief, it
17 does not follow that they will necessarily represent Proposed Intervenors adequately. Courts have
18 “often concluded that governmental entities do not adequately represent the interests of aspiring
19 intervenors.” *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003); *accord*
20 *Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893, 899 (9th Cir. 2011) (“[T]he
21 government’s representation of the public interest may not be ‘identical to the individual parochial
22 interest’ of a particular group just because ‘both entities occupy the same posture in the litigation.’”
23 (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009))). Courts
24 within this District have often reached the same conclusion in election cases. *See, e.g., Donald J.*
25 *Trump for President, Inc. v. Cegavske*, No. 2:20-CV-1445 JCM (VCF), 2020 WL 5229116, at *1
26 (D. Nev. Aug. 21, 2020) (granting intervention as of right because Secretary of State did not
27 adequately represent partisan organization’s interests, despite both wishing to defend against suit);
28

1 *Paher v. Cegavske*, No. 3:20-CV-00243-MMD-WGC, 2020 WL 2042365, at *3 (D. Nev. Apr. 28,
2 2020) (similar, even where intervenors and named Defendant “presumably share[d] the goal of
3 protecting the all-mail election provisions . . . being challenged”); *Fair Maps Nevada v. Cegavske*,
4 No. 3:20-CV-00271-MMD-WGC, 2020 WL 8188427, at *3 (D. Nev. May 20, 2020) (similar).

5 This divergence of interests is particularly true in the context of NVRA claims. Secretary
6 Aguilar and the named county officials are charged with pursuing the NVRA’s “twin objectives --
7 easing barriers to registration and voting, while at the same time protecting electoral integrity and
8 the maintenance of accurate voter rolls.” *Bellitto*, 935 F.3d at 1198. These competing goals
9 “naturally create some tension.” *Id.* In contrast, as another district court recognized in a similar
10 context, groups like Proposed Intervenors have “[t]he mission and interest . . . explicitly to pursue
11 the second of the expressly recognized interests that motivated Congress to enact [the NVRA],”
12 *Winfrey*, 463 F. Supp. 3d at 801, *i.e.*, to eliminate “barriers to registration and voting,” *Bellitto*,
13 935 F.3d at 1198. As a result, Defendants’ representation of Proposed Intervenors cannot be
14 presumed to be adequate. Indeed, recent history has shown that state officials sometimes try to
15 resolve suits like this one through settlement. *See, e.g.*, Stipulation of Dismissal, *Daunt v. Benson*,
16 No. 1:20-cv-522-RJJ-RSK (W.D. Mich. Feb. 16, 2021) (ECF No. 58). Any such settlement here
17 jeopardizes Proposed Intervenors’ interests. That potential conflict in litigation objectives further
18 supports a finding that Defendants will not adequately represent Proposed Intervenors. *See Citizens*
19 *for Balanced Use*, 647 F.3d at 900.

20 The Supreme Court itself has recently emphasized that executive officials will not often be
21 adequate representatives for partisan or private actors who seek to intervene under Rule 24. *See*
22 *Berger v. N.C. State Conf. of the NAACP*, 142 S. Ct. 2191, 2203–04 (2022). In *Berger*, the Supreme
23 Court reiterated its longstanding instruction that even when state agents pursue “related” interests
24 to political actors, those interests are not properly considered “identical.” *Id.* at 2204 (quoting
25 *Trbovich*, 404 U.S. at 538–39). The Court then explained that “[w]here ‘the absentee’s interest is
26 similar to, but not identical with, that of one of the parties,’ that normally is not enough to trigger
27 a presumption of adequate representation.” *Id.* (quoting 7C Wright & Miller, *Fed. Prac. & Proc.*

28

1 Civ. § 1909). In particular, the Court stressed that whereas actors like the named Defendants must
2 “bear in mind broader public-policy implications,” *id.*, such as maintaining the NVRA’s various
3 policy goals, Proposed Intervenors’ sole interest rests in protecting the registration status of their
4 members and constituents. *See, e.g.*, Solomon Decl. ¶¶ 5, 11, 14; Bird Decl. ¶ 7; Swartz Decl. ¶ 5.

5 **II. Proposed Intervenors satisfy Rule 24(b)’s requirements for permissive intervention.**

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

14 For the reasons discussed in Part I *supra*, Proposed Intervenors’ motion is timely, and they
15 cannot rely on Defendants to adequately protect their interests. Moreover, as the proposed answer
16 filed with this motion shows, Proposed Intervenors also have defenses to Plaintiffs’ claims that
17 share common questions of law and fact, including that Plaintiffs lack Article III standing and have
18 failed to state a claim under the NVRA.

19 **CONCLUSION**

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

23 ///

24 ///

25 ///

26 ///

27

28

1 Dated: March 21, 2024

Respectfully submitted,

2 **ELIAS LAW GROUP LLP**

3
4 By: /s/ David R. Fox

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2024 a true and correct copy of Proposed Intervenor's 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/ David R. Fox
David R. Fox

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Exhibit	Description	No. of Pages
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2	Declaration of Christian Solomon	4
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4	Declaration of Thomas Bird	3

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Exhibit 1

[Proposed] Answer to Complaint

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Rise Action Fund, Institute for a Progressive Nevada, and Nevada Alliance
12 *for Retired Americans*

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE DISTRICT OF NEVADA

16
17 REPUBLICAN NATIONAL COMMITTEE,
18 NEVADA REPUBLICAN PARTY, and
SCOTT JOHNSTON,

19 Plaintiffs,

20 v.

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

26 Defendants.

Case No. 2:24-cv-00518-CDS-MDC

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

1 Proposed Intervenor-Defendants Rise Action Fund (“RISE”), the Institute for a Progressive
2 Nevada (“The Institute”), and the Nevada Alliance for Retired Americans (“The Alliance”)
3 (collectively, “Proposed Intervenor”), by and through their attorneys, submit the following
4 Answer to Plaintiffs’ Complaint for Declaratory and Injunctive Relief (“Complaint”). Proposed
5 Intervenor respond to the allegations in the Complaint as follows:

6 **INTRODUCTION**

7 1. Paragraph 1 contains legal contentions, characterizations, conclusions, and
8 opinions to which no response is required.

9 2. Denied.

10 3. Denied.

11 4. Proposed Intervenor deny that the number of voters registered in any Nevada
12 county is impossibly high. Proposed Intervenor lack knowledge and information sufficient to
13 form a belief as to the truth of the remaining allegations in Paragraph 4 and therefore deny them.

14 5. Proposed Intervenor lack knowledge and information sufficient to form a belief as
15 to the truth of the allegations in Paragraph 5 and therefore deny them.

16 6. Denied.

17 **JURISDICTION AND VENUE**

18 7. Paragraph 7 contains legal contentions, characterizations, conclusions, and
19 opinions to which no response is required.

20 8. Admitted.

21 **PARTIES**

22 9. Admitted.

23 10. Proposed Intervenor lack knowledge and information sufficient to form a belief as
24 to the truth of the allegations in Paragraph 10 and therefore deny them.

25 11. Proposed Intervenor lack knowledge and information sufficient to form a belief as
26 to the truth of the allegations in Paragraph 11 and therefore deny them.

27 12. Proposed Intervenor lack knowledge and information sufficient to form a belief as
28

1 to the truth of the allegations in Paragraph 12 and therefore deny them.

2 13. Proposed Intervenors deny that Defendants have failed to comply with the NVRA's
3 voter-list maintenance obligations. Proposed Intervenors lack knowledge and information
4 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 13 and therefore
5 deny them.

6 14. Proposed Intervenors lack knowledge and information sufficient to form a belief as
7 to the truth of the allegations in Paragraph 14 and therefore deny them.

8 15. Proposed Intervenors admit that Plaintiff Nevada Republican Party is a political
9 party in Nevada with its principal place of business at 2810 West Charleston Blvd. #69, Las Vegas,
10 NV 89102. Proposed Intervenors lack knowledge and information sufficient to form a belief as to
11 the truth of the remaining allegations in Paragraph 15 and therefore deny them.

12 16. Proposed Intervenors lack knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in Paragraph 16 and therefore deny them.

14 17. Proposed Intervenors lack knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in Paragraph 17 and therefore deny them.

16 18. Proposed Intervenors lack knowledge and information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 18 and therefore deny them.

18 19. Proposed Intervenors deny that Defendants do not maintain accurate voter rolls and
19 that Mr. Johnston's right to vote has been or will be burdened or diluted. Proposed Intervenors
20 lack knowledge and information sufficient to form a belief as to the truth of the remaining
21 allegations contained in Paragraph 19 and therefore deny them.

22 20. Proposed Intervenors lack knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in Paragraph 20 and therefore deny them.

24 21. Denied.

25 22. Proposed Intervenors deny that Defendants have failed to comply with their list-
26 maintenance obligations. Proposed Intervenors lack knowledge and information sufficient to form
27 a belief as to the truth of the remaining allegations in Paragraph 22 and therefore deny them.

28

1 23. Denied.

2 24. Admitted.

3 25. Proposed Intervenor admits that Lorena Portillo is the Registrar of Voters for Clark
4 County with certain responsibilities described by law and is sued in her official capacity. Proposed
5 Intervenor lacks knowledge and information sufficient to form a belief as to the truth of the
6 remaining allegations in Paragraph 25 and therefore denies them.

7 26. Proposed Intervenor admits that William “Scott” Hoen is the Clerk for Carson City
8 and that he is sued in his official capacity. Proposed Intervenor lacks knowledge and information
9 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 26 and therefore
10 denies them.

11 27. Proposed Intervenor admits that Amy Burgans is the Clerk for Douglas County and
12 that she is sued in her official capacity. Proposed Intervenor lacks knowledge and information
13 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 27 and therefore
14 denies them.

15 28. Proposed Intervenor admits that Staci Lindberg is the Clerk for Lyon County and
16 that she is sued in her official capacity. Proposed Intervenor lacks knowledge and information
17 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 28 and therefore
18 denies them.

19 29. Proposed Intervenor admits that Jim Hindle is the Clerk for Storey County and that
20 he is sued in his official capacity. Proposed Intervenor lacks knowledge and information sufficient
21 to form a belief as to the truth of the remaining allegations in Paragraph 29 and therefore denies
22 them.

23 **BACKGROUND**

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

25 30. Paragraph 30 contains legal contentions, characterizations, conclusions, and
26 opinions to which no response is required.

27 31. Proposed Intervenor denies the first sentence in Paragraph 31. The second sentence
28

1 in Paragraph 31 contains legal contentions, characterizations, conclusions, and opinions to which
2 no response is required.

3 32. Paragraph 32 contains legal contentions, characterizations, conclusions, and
4 opinions to which no response is required.

5 33. Paragraph 33 contains legal contentions, characterizations, conclusions, and
6 opinions to which no response is required.

7 34. Paragraph 34 contains legal contentions, characterizations, conclusions, and
8 opinions to which no response is required.

9 35. Paragraph 35 contains legal contentions, characterizations, conclusions, and
10 opinions to which no response is required.

11 36. Paragraph 36 contains legal contentions, characterizations, conclusions, and
12 opinions to which no response is required.

13 37. Paragraph 37 contains legal contentions, characterizations, conclusions, and
14 opinions to which no response is required.

15 38. Proposed Intervenors admit that the language quoted above appears in the Carter-
16 Baker Report but deny the underlying allegations.

17 39. Paragraph 39 contains legal contentions, characterizations, conclusions, and
18 opinions to which no response is required.

19 40. Denied.

20 41. Proposed Intervenors admit that since the passage of Assembly Bill 321 in 2021,
21 all active registered voters in Nevada receive a ballot by mail unless they submit an opt-out form
22 to their respective county clerks. Proposed Intervenors deny the remaining allegations in Paragraph
23 41.

24 42. Paragraph 42 contains legal contentions, characterizations, conclusions, and
25 opinions to which no response is required.

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

27 43. Paragraph 43 contains legal contentions, characterizations, conclusions, and
28

1 opinions to which no response is required.

2 44. Paragraph 44 contains legal contentions, characterizations, conclusions, and
3 opinions to which no response is required.

4 45. Paragraph 45 contains legal contentions, characterizations, conclusions, and
5 opinions to which no response is required.

6 46. Paragraph 46 contains legal contentions, characterizations, conclusions, and
7 opinions to which no response is required.

8 47. Paragraph 47 contains legal contentions, characterizations, conclusions, and
9 opinions to which no response is required.

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

11 48. Proposed Intervenor deny that Nevada's registration records are inaccurate. The
12 remaining allegations in Paragraph 48 are legal contentions, characterizations, conclusions, and
13 opinions to which no response is required.

14 49. Proposed Intervenor lack knowledge and information sufficient to form a belief as
15 to the truth of the allegations in Paragraph 49 and therefore deny them.

16 50. Proposed Intervenor lack knowledge and information sufficient to form a belief as
17 to the truth of the allegations in Paragraph 50 and therefore deny them.

18 51. Proposed Intervenor lack knowledge and information sufficient to form a belief as
19 to the truth of the allegations in Paragraph 51 and therefore deny them.

20 52. Denied.

21 53. Proposed Intervenor lack knowledge and information sufficient to form a belief as
22 to the truth of the allegations in Paragraph 53 and therefore deny them.

23 54. Proposed Intervenor lack knowledge and information sufficient to form a belief as
24 to the truth of the allegations in Paragraph 54 and therefore deny them.

25 55. Proposed Intervenor lack knowledge and information sufficient to form a belief as
26 to the truth of the allegations in Paragraph 55 and therefore deny them.

27 56. Denied.

28

1 57. Denied.
2 58. Denied.
3 59. Denied.
4 60. Admitted.
5 61. Admitted.
6 62. Proposed Intervenor lack knowledge and information sufficient to form a belief as
7 to the truth of the allegations in Paragraph 62 and therefore deny them.

8 63. Proposed Intervenor admit that according to the EAC survey, Mineral County and
9 Esmeralda County reported removing less than 2% of their registration lists for residency changes.
10 Proposed Intervenor lack knowledge and information sufficient to form a belief as to the truth of
11 the remaining allegations in Paragraph 63 and therefore deny them.

12 64. Proposed Intervenor deny that the number of voters removed due to changes in
13 residency in Esmeralda, Lincoln, Mineral, and Storey Counties is implausibly low. Proposed
14 Intervenor lack knowledge and information sufficient to form a belief as to the truth of the
15 remaining allegations in Paragraph 64 and therefore deny them.

16 65. Denied.

17 66. Proposed Intervenor admit that the EAC report shows 359,403 inactive
18 registrations in Nevada in 2022, that according to the EAC report, this constitutes 16.3% of the
19 total registrations in Nevada, and that according to the EAC report the national average for that
20 figure is 11.1%, which is a lower number. Proposed Intervenor denies the remaining allegations in
21 Paragraph 66.

22 67. Denied.

23 68. Proposed Intervenor lack knowledge and information sufficient to form a belief as
24 to the truth of the allegations in Paragraph 68 and therefore deny them.

25 69. Denied.

26 70. Denied.

27 71. Denied.

28

1 72. Denied.

2 73. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
3 to the truth of the allegations in Paragraph 73, which refer to an uncited, unidentified case, and
4 therefore deny them.

5 74. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
6 to the truth of the allegations in Paragraph 74, which refer to an uncited, unidentified case, and
7 therefore deny them.

8 75. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
9 to the truth of the allegations in Paragraph 75, which refer to an uncited, unidentified case, and
10 therefore deny them.

11 76. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
12 to the truth of the allegations in Paragraph 76, which refer to an uncited, unidentified case, and
13 therefore deny them.

14 77. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
15 to the truth of the allegations in Paragraph 77, which refer to an uncited, unidentified case, and
16 therefore deny them.

17 78. Proposed Intervenor's lack knowledge and sufficient to form a belief as to the truth
18 of the allegations in Paragraph 78, which refer to an uncited, unidentified case, and therefore deny
19 them.

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

21 79. Paragraph 79 contains legal contentions, characterizations, conclusions, and
22 opinions to which no response is required.

23 80. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
24 to the truth of the allegations in Paragraph 80 and therefore deny them.

25 81. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
26 to the truth of the allegations in Paragraph 81 and therefore deny them.

27 82. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
28

1 to the truth of the allegations in Paragraph 82 and therefore deny them.

2 83. Proposed Intervenors lack knowledge and information sufficient to form a belief as
3 to the truth of the allegations in Paragraph 83 and therefore deny them.

4 84. Proposed Intervenors lack knowledge and information sufficient to form a belief as
5 to the truth of the allegations in Paragraph 84 and therefore deny them.

6 85. Proposed Intervenors lack knowledge and information sufficient to form a belief as
7 to the truth of the allegations in Paragraph 85 and therefore deny them.

8 86. Proposed Intervenors lack knowledge and information sufficient to form a belief as
9 to the truth of the allegations regarding Paragraph 86 and therefore deny them.

10 87. Proposed Intervenors lack knowledge and information sufficient to form a belief as
11 to the truth of the allegations in Paragraph 87 and therefore deny them.

12 88. Denied.

13 89. Paragraph 89 contains legal contentions, characterizations, conclusions, and
14 opinions to which no response is required.

15 90. Denied.

16 91. Denied.

17 92. Denied.

18 **COUNT**

19 **Violation of the NVRA**

20 93. Proposed Intervenors incorporate the responses to Paragraphs 1-92 as if set forth
21 fully herein.

22 94. Denied.

23 95. Denied.

24 96. Denied.

25 97. Denied.

26 **AFFIRMATIVE DEFENSES**

27 Proposed Intervenors set forth their affirmative defenses without assuming the

1 burden of proving any fact, issue, or element of a cause of action where such burden
2 properly belongs to Plaintiffs. Moreover, nothing stated here is intended or shall be
3 construed as an admission that any particular issue or subject matter is relevant to the
4 allegations in the complaint. Proposed Intervenors reserve the right to amend or supplement
5 their affirmative defenses as additional facts concerning defenses become known.

6 As separate and distinct affirmative defenses, Proposed Intervenors allege as
7 follows:

- 8 1. Plaintiffs fail to state a claim on which relief can be granted.
- 9 2. This Court lacks subject matter jurisdiction.
- 10 3. Plaintiffs do not have Article III standing.
- 11 4. Plaintiffs lack a private right of action.
- 12 5. Plaintiffs' claims are equitably barred.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, Proposed Intervenors ask this Court to enter judgment in
15 their favor and provide the following relief:

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

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Dated: March 21, 2024

Respectfully submitted,

ELIAS LAW GROUP LLP

By: /s/ David R. Fox

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*Attorneys for Proposed Intervenor-
Defendants*

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Exhibit 2

Declaration of Christian Solomon

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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

Case No. 2:24-cv-00518-CDS-MDC

Plaintiffs,

v.

**DECLARATION OF CHRISTIAN
SOLOMON**

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

Defendants.

I, CHRISTIAN SOLOMON, under penalty of perjury, hereby declare as follows:

1. I am over eighteen years of age. I have personal knowledge of the facts set forth herein. If called upon to testify before this Court, I would do so to the same effect.

2. I am a resident of Clark County, Nevada.

3. I am currently the Nevada State Director of Rise Action Fund (“Rise”).

4. In my capacity as State Director, I am responsible for overseeing Rise’s operations within the state of Nevada, including the training and recruiting of organizers, fellows, and volunteers, as well as the campaign work performed by our organizers, fellows, and volunteers.

5. Rise is a national student-led 501(c)(4) nonprofit organization that runs student-focused advocacy and vote mobilization programs in states across the country. Rise’s mission is to fight for free higher public education and ending homelessness, housing insecurity, and food insecurity among college students. Rise also strives to be responsive to its student constituents, and accordingly each state organization often pursues goals based on local student concerns. To achieve that mission, Rise is committed to empowering and mobilizing students in the political

1 process. It has trained thousands of students across the country in how to be civically engaged
2 forces for change in their communities.

3 6. Rise expanded into Nevada in 2023. At the time, Nevada did not have any statewide
4 organization dedicated to promoting the interests of young people and students between the ages
5 of 18 and 27—Rise’s core constituency. I was hired as State Director to build up Rise’s operations
6 within the state. My role as State Director is a full-time paid position.

7 7. Rise operates based on an organizer model, meaning that we recruit and train
8 organizers and part-time organizers (known as fellows) who then marshal and supervise volunteers
9 in campaign actions meant to further our mission. We recruit and train student volunteers through
10 what we call “Rise University” events, which train students about how to be civically engaged
11 volunteers around our key organizational goals.

12 8. One of my first acts as State Director was to recruit and train two lead organizers—
13 full time paid positions—dedicated to serving the University of Nevada, Las Vegas (“UNLV”). I
14 also organized a Rise University training event at UNLV for student volunteers and recruited
15 several campus fellows, a part time paid position for students who assist our lead organizers. My
16 goals for 2024 include bringing on a Deputy Director and expanding our organizer footprint to
17 other schools within the state, including the University of Nevada, Reno (“UNR”), which is
18 Nevada’s flagship state university.

19 9. The Nevada chapter of Rise shares the national organization’s mission, and
20 accordingly one of our major goals at the moment is educating Nevada students about various
21 student aid, loan repayment, and debt relief programs. It is a priority for us to educate students
22 about the Biden Administration’s recently announced SAVE Plan, which offers repayment
23 assistance and debt forgiveness to students. Very few students are aware of this new program,
24 however. As a result, our organizers are planning to have volunteers phone bank students to
25 educate them about the program.

26 10. Our Rise chapter has also made gun violence prevention a major objective.
27 Tragically, our inaugural training on UNLV’s campus coincided with a mass shooting event on
28 UNLV’s campus the very same day, resulting in the deaths of three people and forcing me, our

1 other organizers, and our student volunteers into lockdown for several hours. In response to student
2 concern about the issue of gun safety, we are planning campaigns to promote gun safety legislation
3 in Nevada.

4 11. It is also critical to Rise's effectiveness as an organization to harness student
5 political power. Organizing and educating students ahead of the 2024 general election is therefore
6 also one of our major priorities for the year. We are planning extensive registration drives on
7 UNLV's campus and have specific goals for the number of students we want to register and turnout
8 to vote. We also aim to have our organizers and volunteers make contact with every student at
9 UNLV at least three to five times before the election, whether through phone banking or direct
10 communication on campus, in order to promote voter registration and voting. Over 80% of
11 UNLV's student population comes from in-state, so the students we register to vote will largely
12 be Nevada voters. Those attending UNLV from out of state may also choose to register in Nevada
13 as well, if they wish to make Nevada their residence.

14 12. The lawsuit filed by the Republican National Committee and Nevada Republican
15 Party, among others, threatens Rise's mission and the work described above.

16 13. In particular, the lawsuit threatens the ability of Rise's constituency—students and
17 younger people—to vote in the 2024 general election. Student voters are disproportionately likely
18 to be purged from the voter rolls. Many college students live away from their family homes and
19 voting residences for long periods of time while at school. They also frequently change their
20 temporary residence while at school, for example by moving between dorm rooms or off campus
21 apartments, while still maintaining a permanent residence with family. Due to this frequent
22 moving, and long stretches away from their voting residence, students often do not receive mailed
23 notices meant to advise them that their registration is at risk, and only learn later that they have
24 been purged. Similarly, many college students and young people establish new permanent
25 residences on or near campus but move frequently within a small area while in school or starting
26 their careers. These people remain eligible to vote in the same area, but also are likely to not receive
27 election-related mail concerning their registration status. Any student voter who is purged as a
28 result of this lawsuit risks never receiving a mail ballot, which is the most common and convenient

1 method of voting in Nevada, diminishing the voting power of Rise’s core constituency.

2 14. Furthermore, if this suit is successful, it will derail Rise’s planned campaign work
3 for the year. If thousands of voters are purged from Nevada’s rolls, our immediate response would
4 be to refocus our volunteer phone banking efforts towards educating students about the purge and
5 how to confirm their registration status. Given the centrality of voting to our mission, this would
6 be our top priority through the election. In view of our limited resources, however, this effort
7 would come at the expense of our already planned phone banking around the issue of college aid,
8 student debt relief, and loan repayment assistance—a key issue for our student constituents. It
9 would also reduce our ability to recruit and train new organizers at other schools in Nevada, as our
10 limited staff resources would be focused on first ensuring that student voters are able to
11 successfully cast a ballot.

12 15. Both of these impacts would severely harm Rise’s mission. We cannot successfully
13 realize our mission as an organization if our student constituents are not able to successfully cast
14 a ballot and make their voices heard. Similarly, our ability to expand our work and operations in
15 Nevada will be hampered if we have to respond to a last minute and rushed voter purge that is
16 likely to disproportionately harm student voters.

17 I declare under penalty of perjury that the foregoing is true and correct.

18
19 *Christian Solomon*

Executed on: 3/21/2024

20 Christian Solomon
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Exhibit 3

Declaration of Shelbie Swartz

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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

Plaintiffs,

v.

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

Defendants.

Case No. 2:24-cv-00518-CDS-MDC

**DECLARATION OF SHELBYE
SWARTZ**

I, SHELBYE SWARTZ, under penalty of perjury, hereby declare as follows:

1. I am over eighteen years of age. I have personal knowledge of the facts set forth herein. If called upon to testify before this Court, I would do so to the same effect.

2. I am a resident of Clark County, Nevada.

3. I am currently the Executive Director of the Institute for a Progressive Nevada ("The Institute"), a non-partisan, 501(c)(3) civic engagement and voting rights organization that serves the entire state of Nevada. In addition to an Executive Director, we currently have 11 other employees on staff, including a Deputy Director, a Communications Director, and a Lead Organizer with a focus on voter education. We also work with a limited number of volunteers, and we work closely with our c3 table partners across the state.

4. The Institute's mission is to ensure that all Nevadans know how to vote and can do so with confidence. To further our mission, we produce and distribute in-language voter materials that we share with our c3 partners to ensure that all Nevadans can access critical information about how and where to cast their ballots. For example, we publish a comprehensive voter guide which

1 includes candidate information, explains where and how to vote, and provides information on
2 universal vote-by-mail in Nevada. In coordination with our c3 partners, we also host a website—
3 RegisterNevada.org—that allows eligible voters to register to vote online and educates them about
4 upcoming election deadlines and eligibility requirements. Finally, we pay for targeted
5 advertisements on radio and social media to ensure that the information and resources we produce
6 reach Nevadans who are most likely to be disenfranchised due to information and language
7 barriers.

8 5. A substantial, pre-election purge of Nevada’s voter rolls would threaten our ability
9 to fulfill our mission by increasing the likelihood that the already at-risk voters we target would
10 be unable to vote because they had been purged from the rolls. To reduce this threat, we would
11 have to undertake a robust, paid advertising campaign encouraging all Nevadans to check their
12 voter registration status. We would also need to update all of our voter education materials,
13 including our comprehensive voter guide, and to have those materials translated into several
14 languages. Because we have limited financial resources, funding such an undertaking would make
15 it extremely difficult for us to fulfill our duty to the people of Nevada while still making payroll.
16 It would also severely limit our ability to do non-purge related voter education work and to dedicate
17 resources towards voter turnout efforts.

18 I declare under penalty of perjury that the foregoing is true and correct.

19 *Shelbie Swartz*
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Executed on: 3/21/2024

21 Shelbie Swartz
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Exhibit 4

Declaration of Thomas Bird

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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

Plaintiffs,

v.

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

Defendants.

Case No. 2:24-cv-00518-CDS-MDC

DECLARATION OF THOMAS BIRD

I, THOMAS BIRD, under penalty of perjury, hereby declare as follows:

1. I am over eighteen years of age. I have personal knowledge of the facts set forth herein. If called upon to testify before this Court, I would do so to the same effect.

2. I am a resident of Lyon County, Nevada.

3. I am currently the President of the Nevada Alliance for Retired Americans (“The Alliance”), a non-partisan 501(c)(4) membership organization with roughly 20,000 members across the state of Nevada and over 4.4 million members across the country. Our members are geographically diverse, spanning from Elko to Las Vegas and from Reno to Ely. They are also diverse in terms of age and profession. We serve both older retirees who are farther into their retirement and new retirees, who have only recently stopped working. Similarly, our retirees come from many different AFL-CIO affiliated unions, and worked in many different industries before their retirement.

4. The Alliance’s mission is to ensure the social and economic justice and full civil rights that retirees have earned after a lifetime of work, with a particular emphasis on protecting

1 the right to vote. To further that mission, each election cycle, we travel across the state to bring a
2 voter education campaign directly to our members. As part of our voter education work, we put
3 together voter education materials, help our members confirm their voter registration status and
4 track the status of their submitted mail ballots, and answer any other questions they may have
5 about how to get their ballots cast and counted.

6 5. Because our members are retired, it is not uncommon for them to relocate to
7 assisted living facilities, to be closer to or to move in with family, or to transition into smaller
8 homes for financial reasons. Many of them also frequently travel out of state to visit family or for
9 personal travel. They are thus at particular risk of missing notifications by mail regarding their
10 voter registration status.

11 6. Retirees are particularly likely to not receive mailed notices related to their voter
12 registration status for the reasons outlined above. As a result, any purge of Nevada's voter rolls
13 would undoubtedly and disproportionately impact the Alliance's members.

14 7. If a purge were to occur, ensuring that our members are registered and that any
15 previously registered, eligible members get re-registered to vote would quickly become the
16 Alliance's top priority. We would immediately host a series of in-person town halls across the state
17 and—using the tools available to us on social media, via email and traditional mail, and through
18 phonebanking—attempt to reach any potentially impacted members. We would also need to
19 update—and likely create new—voter education materials in response to the purge.

20 8. In our conversations with members, and through our materials, we would direct all
21 members to confirm their registration status and explain how to do so as well as outline the steps
22 they would need to take to get re-registered were they to discover they were purged.

23 9. Because Nevada is a large state, because many of our members do not own
24 computers or cell phones, and because, for the reasons articulated above, our members often
25 change mailing addresses and do not have regular access to their mail, focusing on an in-person
26 voter education campaign would be of particular importance to reach our members. Currently, our
27 practice is to visit each of our 20 affiliated union and community groups across Nevada twice a
28 year. In the event of a purge, we would have to double down on that to ensure we could make

1 contact with each group, in person, prior to the upcoming election. Our members are also a very
2 engaged group and are likely to have a lot of questions that would require time and resources to
3 address.

4 10. We are also a small team—the day-to-day activities of the Alliance are conducted
5 entirely by me and my wife and a small board of seniors—so time and resources are already quite
6 limited. Given our limited resources and the particular needs of our membership, responding to a
7 purge would almost certainly come at the expense of other mission-critical priorities, such as
8 advocating to lower the cost of prescription drugs, preserving social security and Medicare, and
9 non-purge related voter education work. Our ability to establish relationships with new members
10 and to focus on critical state legislative work which allows us to keep our members informed about
11 their elected officials' voting records would also be severely compromised, significantly
12 frustrating our mission.

13 I declare under penalty of perjury that the foregoing is true and correct.

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Executed on: 3-21-24

16 Thomas Bird

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