

IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

FREDERICK H. KRAUS; PUBLIC INTEREST
LEGAL FOUNDATION,

Case No. CV24-01051

Petitioner,

Department No.: 4

vs.

CARRIE-ANN BURGESS, in her official capacity
as Washoe County Interim Registrar of Voters,

Respondent,

and

RISE ACTION FUND; INSTITUTE FOR A
PROGRESSIVE NEVADA; and NEVADA
ALLIANCE FOR RETIRED AMERICANS,

Proposed Intervenors.

ORDER DENYING MOTION TO INTERVENE AS RESPONDENTS

On May 10, 2024, Petitioners FREDERICK H. KRAUS and PUBLIC INTEREST LEGAL FOUNDATION (collectively “KRAUS & PILF”), by and through their attorney David C. O’Mara, Esq. of the O’Mara Law Firm, P.C., filed *Petition for Writ of Mandamus Pursuant to NRS 34.160 for Washoe County Registrar of Voters to Determine Whether Commercial Addresses on Voter Roll are Accurate as Required by NRS 293.530* (“Petition”).

On May 28, 2024, Proposed Intervenors – Respondents RISE ACTION FUND (“RISE”), the INSTITUTE FOR PROGRESSIVE NEVADA (“IPN”), and the NEVADA ALLIANCE FOR RETIRED AMERICANS (“ALLIANCE”) (collectively “PROPOSED INTERVENORS”), by

1 and through its attorneys Bradley Schrager, Esq. and Daniel Bravo, Esq. of Bravo Schrager LLP,
2 and David R. Fox, Esq. of Elias Law Group LLP, filed a *Motion to Intervene as Respondents*
3 (“*MTI*”). On June 11, 2024, KRAUS & PILF filed a *Response in Opposition to Motion to*
4 *Intervene as Respondents* (“*Opp. to MTI*”). On June 18, 2024, the PROPOSED INTERVENORS
5 filed their *Reply in Support of Motion to Intervene as Respondents* (“*Reply*”).

6 In the *Petition*, KRAUS & PILF aver that they brought to CARRIE-ANN BURGESS’
7 (“BURGESS”) attention evidence concerning whether 48 purported residential addresses listed
8 on the Nevada statewide registration list are accurate as these 48 addresses appear to be
9 commercial buildings wherein nobody resides – allegedly violating NRS 293.486(1)¹. *See*
10 *generally Petition*. KRAUS & PILF seek the following relief: (1) “[f]or a writ of mandamus
11 compelling [BURGESS] to investigate known commercial addresses listed as residences on the
12 voter roll”, (2) “[d]eclaring that [BURGESS] is in violation of NRS 293.530 and 293.675.”, (3)
13 “[f]or any necessary injunctive or declaratory remedies or relief”, (4) “[f]or an award of
14 reasonable costs and attorneys’ fees”, and (5) “[a]ny additional relief this Court deems just,
15 proper, and equitable.” *Id.* at 45–46.

16 NRCP 24 (a) states the following:

17 Intervention of Right. On timely motion, the court must permit anyone to
18 intervene who:

19 (1) is given an unconditional right to intervene by a state or federal statute; or

20 (2) claims an interest relating to the property or transaction that is the subject of
21 the action, and is so situated that disposing of the action may as a practical matter
adequately represent that interest.

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28 ¹ NRS 293.486(1) states the following: “[e]xcept as otherwise provided in subsection 2, for the purposes of
preregistering or registering to vote, the address at which the person actually resides is the street address assigned to
the location at which the person actually resides.”

1 To intervene under NRCP 24(a)(2), an applicant must meet the following four
2 requirements:

3 (1) that it has a sufficient interest in the litigation's subject matter, (2) that it could
4 suffer an impairment of its ability to protect that interest if it does not intervene,
5 (3) that its interest is not adequately represented by existing parties, and (4) that
6 its application is timely. Determining whether an applicant has met these four
7 requirements is within the district court's discretion. Am. Home Assur. Co. v.
8 Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark, 122 Nev. 1229, 1238 (2006).

9 “[I]n evaluating whether Rule 24(a)(2)'s requirements are met, we normally follow
10 practical and equitable considerations and construe the Rule broadly in favor of proposed
11 intervenors. . . We do so because a liberal policy in favor of intervention serves both efficient
12 resolution of issues and broadened access to the courts.” Wilderness Soc. v. U.S. Forest Serv.,
13 630 F.3d 1173, 1179 (9th Cir. 2011).²

14 The PROPOSED INTERVENORS submit that they meet all of NRCP 24(a)'s
15 requirements for intervention as a matter of right. *MTI* at 12.

16 As to the fourth requirement, the PROPOSED INTERVENORS contend that the *MTI* is
17 timely.³ Id. at 13.

18 As to the first and second requirement, the PROPOSED INTERVENORS contend that
19 they (1) have significant protectable interests that (2) may be impaired by this lawsuit. Id.

20 The PROPOSED INTERVENORS argue that they have at least two significant interests
21 in this lawsuit. Id.

22 First, the PROPOSED INTERVENORS argue they have a compelling interest in
23 ensuring that their members and constituents are able to register to vote, remain registered to
24 vote and in active status, and successfully participate in future elections. Id. The PROPOSED
25 INTERVENORS further argue that KRAUS & PILF directly threaten these interests by seeking
26 a writ of mandamus that would compel BURGESS to conduct investigations based on specious

27 ² “Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority, because the
28 Nevada Rules of Civil Procedure are based in large part upon their federal counterparts.” Exec. Mgmt., Ltd. v. Tigor
Title Ins. Co., 118 Nev. 46, 53 (2002) (internal quotations omitted).

³ In support of this contention, the PROPOSED INTERVENORS cite to the following: In re
Guardianship of A.M., No. 59116, 2013 WL 3278878, at *3 (Nev. May 24, 2013); Nevada v. United States, No.
3:18-cv-569-MMD-CBC, 2019 WL 718825, at *2 (D. Nev. Jan. 14, 2019); W. Expl. LLC v. U.S. Dep’t of Interior,
No. 3:15-cv-00491-MMD-VPC, 2016 WL 355122, at *2 (D. Nev. Jan. 28, 2016).

1 third-party information entirely outside the appropriate statutory challenge process. Id. at 13 –
2 14. The PROPOSED INTERVENORS then argue that such an interpretation of the law would
3 seemingly impose a duty on any Nevada county clerk to investigate any voter based on any
4 report from any third party, and it would dramatically increase the probability that voters will be
5 wrongfully removed from active status or deregistered. Id. at 14. Moreover, the PROPOSED
6 INTERVENORS aver that in analogous cases, courts have recognized that the interests that the
7 PROPOSED INTERVENORS seek to intervene to represent in the instant matter serve as a
8 proper basis for intervention.⁴ Id.

9 Second, the PROPOSED INTERVENORS argue that should KRAUS & PILF succeed in
10 forcing BURGESS to investigate voter eligibility based on unsourced and unsworn third-party
11 information offered outside the voter challenge process, each of the PROPOSED
12 INTERVENORS would have to divert time and resources to educate voters about the need to
13 verify their registration to ensure that it has not been inactivated. Id. at 14 – 15. The PROPOSED
14 INTERVENORS then argue that this would take resources away from the PROPOSED
15 INTERVENORS’ other essential priorities, harming their missions in the process. Id. at 15.

16 For instance, the PROPOSED INTERVENORS aver that IPN would have to take several
17 steps in response to KRAUS & PILF’s suit – for example it would have to update its voter
18 registration platform to help Nevada voters determine if they have been removed. Id. at 15. The
19 PROPOSED INTERVENORS further contend that because empowering people to vote is at the
20 core of IPN’s mission, the organization would be forced to use its limited financial resources to
21 educate voters and instruct them on how to confirm their registration status – inhibiting IPN’s
22 ability to conduct other voter education work, thus harming IPN’s mission. Id.

23 The PROPOSED INTERVENORS also contend that RISE and ALLIANCE would suffer
24 similar harms. Id. The PROPOSED INTERVENORS aver that RISE plans to focus its efforts on
25 educating students about their various options for loan repayment assistance and other college
26 aid plans. Id. The PROPOSED INTERVENORS then argue that if KRAUS & PILF prevail,

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28 ⁴ Citing Bellitto v. Snipes, 2016 WL 5118568, at *2 (S.D. Fla. Sept. 21, 2016); Pub. Int. Legal Found., Inc. v. Winfrey, 463 F. Supp. 3d 795, 799 (E.D. Mich. 2020).

1 RISE will have to redirect some of these efforts towards educating students about how to
2 confirm their registration status. Id. The PROPOSED INTERVENORS moreover argue that this
3 would severely harm RISE's mission, which includes fighting for free higher public education
4 and being responsive to local student concerns. Id. Similarly, the PROPOSED INTERVENORS
5 argue that the ALLIANCE will have to use its limited volunteer resources to prepare materials
6 educating its members about how to confirm their registration status, and then distribute these
7 materials to members through social media channels, email, and at chapter meetings – reducing
8 the ALLIANCE's ability to speak to its members about other key policy goals. Id.

9 Next, the PROPOSED INTERVENORS argue that KRAUS & PILF's lawsuit seeks to
10 make it easier for third parties to challenge a voter's registration and to require clerks to take
11 action to this effect on short notice. Id. at 15 – 16. Accordingly, the PROPOSED
12 INTERVENORS argue that if KRAUS & PILF's suit succeeds, their interests in their members'
13 and constituents' voting rights as well as their interests in their own resources will be impaired.
14 Id. at 16.

15 As to the third requirement, the PROPOSED INTERVENORS argue that they satisfy this
16 requirement because they cannot rely on the parties in this case to adequately represent their
17 interests. Id. The PROPOSED INTERVENORS states that while BURGESS has an interest in
18 administering the election laws generally, they are focused on ensuring that their members and
19 constituents remain registered to vote. Id. The PROPOSED INTERVENORS also state that they
20 have specific interests and concerns – in particular, the proper allocation of their limited
21 resources to maximize voter turnout and promote civic engagement – that neither BURGESS nor
22 any other party in this lawsuit shares. Id. at 17.

23 In opposition, KRAUS & PILF argue that the PROPOSED INTERVENORS have no
24 significantly protectable interest in the subject matter of the instant matter. *Opp. to MTI* at 3.

25 KRAUS & PILF aver that they have identified 48 commercial addresses at which it
26 appears no one lives. Id. at 4. KRAUS & PILF further aver the PROPOSED INTERVENORS
27 have not alleged that a single member of any of their three organizations is registered at any of
28 those 48 addresses. Id. KRAUS & PILF argue that the Court's analysis should end here. Id.

1 Next, KRAUS & PILF contend that instead of articulating an interest based on relief they
2 seek, the PROPOSED INTERVENORS try to articulate a justiciable interest by claiming
3 KRAUS & PILF seek “doomsday” relief not sought. Id. KRAUS & PILF further contend that the
4 PROPOSED INTERVENORS’ concerns and fears are generalized, speculative, and do not rise
5 to the level of a legally protectable interest in the outcome of this case because the basis of their
6 fears does not exist. Id. at 5.

7 KRAUS & PILE further argue that the PROPOSED INTERVENORS interest will not be
8 impaired by the disposition of the action. Id. at 6. KRAUS & PILF contend that none of the
9 PROPOSED INTERVENORS explain how the relief sought, an investigation into the
10 commercial addresses in question, impairs a protectable interest. Id. at 8.

11 KRAUS & PILF next argue that the PROPOSED INTERVENORS have not overcome
12 the presumption of adequate representation. Id. KRAUS & PILF highlight, that at the time of the
13 filing of the *MTI*, BURGESS had yet to answer the *Petition*. Id. Therefore, KRAUS & PILF
14 submit that, without yet knowing what BURGESS will argue, the presumption remains that
15 BURGESS will adequately represent the interests of the PROPOSED INTERVENORS.

16 The Court will begin by assessing whether the PROPOSED INTERVENORS have a
17 sufficient interest in the litigation's subject matter.

18 “An applicant for intervention has a significantly protectable interest if the interest is
19 protected by law and there is a relationship between the legally protected interest and the
20 plaintiff's claims.” United States v. Alisal Water Corp., 370 F.3d 915, 919 (9th Cir. 2004). “A
21 significantly protectable interest has been described. . . . as one that is protected under the law
22 and bears a relationship to the plaintiff's claims.” Am. Home Assur. Co., 122 Nev at 1239
23 (internal quotations omitted). “The ‘interest test’ is not a clear-cut or bright-line rule, because no
24 specific legal or equitable interest need be established.” S. California Edison Co. v. Lynch, 307
25 F.3d 794, 803 (9th Cir.) (cleaned up). “Instead, the ‘interest’ test directs courts to make a
26 practical, threshold inquiry, and is primarily a practical guide to disposing of lawsuits by
27 involving as many apparently concerned persons as is compatible with efficiency and due
28 process.” Id. (cleaned up).

1 Here, the PROPOSED INTERVENORS and KRAUS & PILF disagree as to the scope of
2 the relief sought by KRAUS & PILF. KRAUS & PILF aver that they are seeking a writ of
3 mandamus specifically seeking to compel BURGESS to investigate 48 commercial addresses
4 listed as residence on the voter roll. *See Opp. to MTI* at 4. To this, the PROPOSED
5 INTERVENORS argue that KRAUS & PILF are actually seeking a declaratory judgment that
6 BURGESS is not in compliance with NRS 293.530 and NRS 293.675. *See Reply* at 3. As a
7 result, the PROPOSED INTERVENORS assert that “[KRAUS & PILF’s] requested relief would
8 have significantly broader consequences that [KRAUS & PILF] let on in their response; indeed,
9 it would entirely change election officials’ obligations to act on third-party investigation
10 demands.” *Id.* The Court acknowledges that KRAUS & PILF are seeking declaratory relief
11 “[d]eclaring that [BURGESS] is in violation of NRS 293.530 and 293.675.” As such, the Court
12 will assess whether this broad relief for request warrants allowing the PROPOSED
13 INTERVENORS to intervene in the instant matter.

14 NRS 293.530 states the following:

15 1. Except as otherwise provided in NRS 293.541:

16 (a) County clerks may use any reliable and reasonable means available to correct
17 the portions of the statewide voter registration list which are relevant to the
18 county clerks and to determine whether a registered voter's current residence is
19 other than that indicated on the voter's application to register to vote.

20 (b) A county clerk may, with the consent of the board of county commissioners,
21 make investigations of registration in the county by census, by house-to-house
22 canvass or by any other method.

23 (c) A county clerk shall cancel the registration of a voter pursuant to this
24 subsection if:

25 (1) The county clerk mails a written notice to the voter which the United
26 States Postal Service is required to forward;

27 (2) The county clerk mails a return postcard with the notice which has a
28 place for the voter to write his or her new address, is addressed to the
county clerk and has postage guaranteed;

(3) The voter does not respond; and

(4) The voter does not appear to vote in an election before the polls have
closed in the second general election following the date of the notice.

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1 (d) For the purposes of this subsection, the date of the notice is deemed to be 3
2 days after it is mailed.

3 (e) The county clerk shall maintain records of:

4 (1) Any notice mailed pursuant to paragraph (c);

5 (2) Any response to such notice; and

6 (3) Whether a person to whom a notice is mailed appears to vote in an
election, for not less than 2 years after creation.

7 (f) The county clerk shall use any postcards which are returned to correct the
8 portions of the statewide voter registration list which are relevant to the county
clerk.

9 (g) If a voter fails to return the postcard mailed pursuant to paragraph (c) within
10 30 days, the county clerk shall designate the voter as inactive on the voter's
application to register to vote.

11 (h) The Secretary of State shall adopt regulations to prescribe the method for
12 maintaining a list of voters who have been designated as inactive pursuant to
paragraph (g).

13 (i) If:

14 (1) The name of a voter is added to the statewide voter registration list
15 pursuant to NRS 293.5752; or

16 (2) The voter registration information of a voter whose name is on the
statewide voter registration list is updated pursuant to NRS 293.5752,

17 the county clerk shall provide written notice of the addition or change to the voter
18 not later than 5 working days after the addition or change is made. Except as
otherwise provided in this paragraph, the notice must be mailed to the current
19 residence of the voter. The county clerk may send the notice by electronic mail if
the voter confirms the validity of the electronic mail address to which the notice
20 will be sent by responding to a confirmation inquiry sent to that electronic mail
address. Such a confirmation inquiry must be sent for each notice sent pursuant to
21 this paragraph.

22 2. A county clerk is not required to take any action pursuant to this section in
relation to a person who preregisters to vote until the person is deemed to be
23 registered to vote pursuant to subsection 2 of NRS 293.4855.

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1 NRS 293.675 states the following:

2 1. The Secretary of State shall establish and maintain a centralized, top-down
3 database that collects and stores information related to the preregistration of
4 persons and the registration of electors from all the counties in this State. The
5 Secretary of State shall ensure that the database is capable of storing
6 preregistration information separately until a person is qualified to register to
7 vote. Each county clerk shall use the database created by the Secretary of State
8 pursuant to this subsection to collect and maintain all records of preregistration
9 and registration to vote.

10 2. The Secretary of State shall use the voter registration information collected in
11 the database created pursuant to subsection 1 to create the official statewide voter
12 registration list, which may be maintained on the Internet, in consultation with
13 each county and city clerk.

14 3. The statewide voter registration list must:

15 (a) Be a uniform, centralized and interactive computerized list;

16 (b) Serve as the single method for storing and managing the official list of
17 registered voters in this State;

18 (c) Serve as the official list of registered voters for the conduct of all
19 elections in this State;

20 (d) Contain the name and registration information of every legally
21 registered voter in this State;

22 (e) Include a unique identifier assigned by the Secretary of State to each
23 legally registered voter in this State;

24 (f) Except as otherwise provided in subsection 9, be coordinated with the
25 appropriate databases of other agencies in this State;

26 (g) Be electronically accessible to each state and local election official in
27 this State at all times;

28 (h) Except as otherwise provided in subsection 10, allow for data to be
shared with other states under certain circumstances; and

(i) Be regularly maintained to ensure the integrity of the registration
process and the election process.

4. Each county and city clerk shall:

(a) Electronically enter into the database created pursuant to subsection 1
all information related to voter preregistration and registration obtained by
the county or city clerk at the time the information is provided to the
county or city clerk; and

(b) Provide the Secretary of State with information concerning the voter
registration of the county or city and other reasonable information
requested by the Secretary of State in the form required by the Secretary
of State to establish or maintain the statewide voter registration list.

1 5. In establishing and maintaining the statewide voter registration list, the
2 Secretary of State shall enter into a cooperative agreement with the Department of
3 Motor Vehicles to match information in the database of the statewide voter
4 registration list with information in the appropriate database of the Department of
5 Motor Vehicles to verify the accuracy of the information in an application to
6 register to vote.

7 6. The Department of Motor Vehicles shall enter into an agreement with the
8 Social Security Administration pursuant to 52 U.S.C. § 21083, to verify the
9 accuracy of information in an application to register to vote.

10 7. The Department of Motor Vehicles shall ensure that its database:

11 (a) Is capable of processing any information related to an application to
12 register to vote, an application to update voter registration information or a
13 request to verify the accuracy of voter registration information as quickly
14 as is feasible; and

15 (b) Does not limit the number of applications to register to vote,
16 applications to update voter registration information or requests to verify
17 the accuracy of voter registration information that may be processed by
18 the database in any given day.

19 8. The Secretary of State shall enter into a cooperative agreement with the State
20 Registrar of Vital Statistics to match information in the database of the statewide
21 voter registration list with information in the records of the State Registrar of
22 Vital Statistics concerning the death of a resident of this State to maintain the
23 statewide voter registration list. The Secretary of State must compare the records
24 of the State Registrar of Vital Statistics to those in the statewide voter registration
25 list at least once per month.

26 9. Except as otherwise provided in NRS 481.063 or any provision of law
27 providing for the confidentiality of information, the Secretary of State may enter
28 into an agreement with an agency of this State pursuant to which the agency
provides to the Secretary of State any information in the possession of the agency
that the Secretary of State deems necessary to maintain the statewide voter
registration list.

10 10. The Secretary of State may:

11 (a) Request from the chief officer of elections of another state any
12 information which the Secretary of State deems necessary to maintain the
13 statewide voter registration list; and

14 (b) Provide to the chief officer of elections of another state any
15 information which is requested and which the Secretary of State deems
16 necessary for the chief officer of elections of that state to maintain a voter
17 registration list, if the Secretary of State is satisfied that the information
18 provided pursuant to this paragraph will be used only for the maintenance
19 of that voter registration list.

20 First, as discussed above, when determining whether a party has a significant protectable
21 interest that may be impaired by a matter, the Court does not apply an exacting standard; rather,

1 the Court applies a liberal standard. Regardless, “[a] general, indirect, contingent, or
2 insubstantial interest is insufficient.” Am. Home Assur. Co., 122 Nev. 1229, 1238–39 (2006).

3 Here, the gravamen of the *MTI* is that if the Court grants the broad relief sought by
4 KRAUS & PILF, any members of the community will be able to challenge the voter rolls and
5 this will likely result in the PROPOSED INTERVENORS’ members and constituents being
6 wrongfully removed from the voter rolls. The PROPOSED INTERVENORS provide specifics as
7 to what steps they would be required to take if the Court grants KRAUS & PILF their requested
8 relief. As to IPN, the PROPOSED INTERVENORS aver that “[IPN] would have to update its
9 voter registration platform to help Nevada voters determine if they have been removed.” *MTI* at
10 15. As to RISE, the PROPOSED INTERVENORS aver that “[RISE] plans to focus its efforts on
11 educating students about their various options for loan repayment assistance and other college
12 aid plans. . . . If [KRAUS & PILF] prevail, however, [RISE] will have to redirect some of these
13 efforts towards educating students about how to confirm their registration status.” *Id.* As to
14 ALLIANCE, the PROPOSED INTERVENORS avert that “[ALLIANCE] will have to use its
15 limited volunteer resources to prepare materials educating its members about how to confirm
16 their registration status, and then distribute these materials to members through social media
17 channels, email, and at chapter meetings.” *Id.*

18 However, the Court notes that these aforementioned averments are fully based on the
19 assumption that “[i]f the Court grants [KRAUS & PILF’s requested relief], [BURGESS] – and
20 other clerks and registrars across the state – will be flooded with third-party demands to
21 investigate all manner of alleged peculiarities in the voter rolls, based on unsourced, unverified,
22 and unsworn information.” *Id.* at 3. While the Court acknowledges that these speculative
23 concerns may manifest and come to fruition, there is no guarantee that these concerns will come
24 to fruition – providing an air of speculation to the PROPOSED INTERVENORS’ concerns. As
25 such, the PROPOSED INTERVENORS purported significant protectable interests are
26 inextricably linked to concerns which are speculative in nature.

27 Further the Court notes that “[t]o intervene as a matter of right, [the PROPOSED
28 INTERVENORS] must establish an ‘interest’, under Rule 24, that is direct, **non-contingent**,

1 substantial and legally protectable. Dilks v. Aloha Airlines, 642 F.2d 1155, 1156–57 (9th Cir.
2 1981) (**emphasis added**).⁵ Here, as emphasized *supra*, the PROPOSED INTERVENORS
3 “interest” in the instant matter is fully contingent on subsequent events, which may or may not
4 transpire. Speculaotry concerns that are contingent upon events which may or may not occur
5 cannot serve as the basis for intervention.

6 Additionally, the Court notes that a finding that the PROPOSED INTERVENORS have a
7 significant protectable interest in the instant matter would run counter to the goal of judicial
8 economy. Such a finding would mean that any political organization that is concerned with
9 educating its members about registering to vote and other election related concerns could
10 reasonably claim a significant protectable interest in the instant matter. Such a broad
11 interpretation of what constitutes a significant protectable interest – under NRCP 24(a)(2) –
12 would run directly counter to this Court’s goal of ensuring “the just, speedy, and inexpensive
13 determination of every action and proceeding” as innumerable parties could reasonably intervene
14 in the instant matter. NRCP 1.

15 Overall, the Court does not find the PROPOSED INTERVENORS have a significant
16 protectable interest in the instant matter.

17 In light of the foregoing considerations, the Court finds that the PROPOSED
18 INTERVENORS may not intervene under NRCP 24(a)(2).⁶

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22 ⁵ Federal Courts across the United States have arrived at a similar determination. See Laube v. Campbell, 215
23 F.R.D. 655, 657 (M.D. Ala. 2003) (“Interests that are contingent upon some future events and which are purely a
24 matter of speculation are not the kind of protectable interest necessary to support intervention as of right.” (citations
25 and internal quotation marks omitted)); Washington Elec. Co-op., Inc. v. Massachusetts Mun. Wholesale Elec. Co.,
26 922 F.2d 92, 96 (2d Cir. 1990) (“An interest that is remote from the subject matter of the proceeding, or that is
contingent upon the occurrence of a sequence of events before it becomes colorable, will not satisfy the rule.”);
27 Med. Liab. Mut. Ins. Co. v. Alan Curtis LLC, 485 F.3d 1006, 1008 (8th Cir. 2007)) (“Economic interests or interests
contingent on a sequence of events are generally insufficient for mandatory intervention.”).

28 ⁶ The Court notes that a proposed intervenor must be able to meet the four applicable requirements to be allowed to
intervene under NRCP 24(a)(2). See Am. Home Assur. Co., 122 Nev. 1229 at 1238 (“[T]o intervene under NRCP
24(a)(2), an applicant must meet four requirements[.]”). Since the PROPOSED INTERVENORS cannot meet the
first requirement set forth by NRCP 24(a)(2), the PROPOSED INTERVENORS cannot intervene under NRCP
24(a)(2). Therefore, the Court will not analyze the remainder of the requirements under NRCP 24(a)(2).

1 Next, the PROPOSED INTERVENORS argue that they satisfy NRCP 24(b)'s
2 requirements for permissive intervention. *MTI* at 18.

3 In opposition, KRAUS & PILF argue that the court should deny permissive intervention.
4 *Opp. to MTI* at 10. KRAUS & PILF submit that the PROPOSED INTERVENORS do not have a
5 separate claim or defense. Id. KRAUS & PILE also submit that the PROPOSED
6 INTERVENORS will duplicate efforts, add to the parties' burdens, and cause undue delay and
7 expense if permitted to intervene. Id.

8 NRCP 24(b) states the following:

9 (1) In General. On timely motion, the court may permit anyone to intervene who:

10 (A) is given a conditional right to intervene by a state or federal statute; or

11 (B) has a claim or defense that shares with the main action a common question of
12 law or fact.

13 (2) By a Government Officer or Agency. On timely motion, the court may permit
14 a state or federal governmental officer or agency to intervene if a party's claim or
15 defense is based on:

16 (A) a statute or executive order administered by the officer or agency; or

17 (B) any regulation, order, requirement, or agreement issued or made under the
18 statute or executive order.

19 (3) Delay or Prejudice. In exercising its discretion, the court must consider
20 whether the intervention will unduly delay or prejudice the adjudication of the
21 original parties' rights.

22 "Permissive intervention 'is wholly discretionary with the [district] court ... and even
23 though there is a common question of law or fact, or the requirements of Rule 24(b) are
24 otherwise satisfied, the court may refuse to allow intervention.'" Hairr v. First Jud. Dist. Ct., 132
25 Nev. 180, 187 (2016) (quoting 7C Charles Alan Wright et al., *Federal Practice and Procedure* §
26 1913 (3d ed.2007)).

27 Adopting the reasoning set forth above, the Court does not find allowing the PROPOSED
28 INTERVENORS to intervene, via NRCP 24(b), to be appropriate in the instant matter.

Alternatively, the PROPOSED INTERVENORS request permission from this Court to
submit brief on determinative issues as *amici curiae*. *MTI* at 18, fn. 6. KRAUS & PILF aver that
they have no objection to the PROPOSED INTERVENORS doing so. *Opp. to MTI* at 2, fn. 1.

1 The Court finds it appropriate to allow the PROPOSED INTERVENORS to submit briefs
2 in the instant matter as *amici curiae*.

3 Based on the foregoing and good cause appearing,

4 IT IS HEREBY ORDERED that the *Motion to Intervene as Respondents* is **DENIED**.

5 IT IS HEREBY FUTHER ORDERED that the PROPOSED INTREVENORS may
6 submit an *amici curiae* brief on determinative issues.

7 DATED this 15 day of July, 2024.

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10 _____
DISTRICT JUDGE

CERTIFICATE OF SERVICE

CASE NO. CV24-01051

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the ____ day of July 2024, I electronically filed the **ORDER DENYING MOTION TO INTERVENE AS RESPONDENTS** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Personal delivery to the following: [NONE]

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

BRADLEY SCHRAGER, ESQ. – RISE ACTION FUND, INSTITUTE FOR A PROGRESSIVE NEVADA, NEVADA ALLIANCE FOR RETIRED AMERICANS

DAVID O'MARA, ESQ. for PUBLIC INTEREST LEGAL FOUNDATION, FREDERICK H KRAUS

ELIZABETH HICKMAN, ESQ. for CARRIE-ANN BURGESS

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada: [NONE]


