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**FIRST JUDICIAL DISTRICT COURT
IN AND FOR CARSON CITY, STATE OF NEVADA**

REPUBLICAN NATIONAL COMMITTEE;
NEVADA REPUBLICAN PARTY; DONALD
J. TRUMP FOR PRESIDENT 2024, INC.;
SCOTT JOHNSON,

Plaintiffs,

v.

FRANCISCO AGUILAR, in his official capacity
as Nevada Secretary of State; State of
NEVADA; CARI-ANN BURGESS, in her
official capacity as the Washoe County Registrar
of Voters; JAN GALASSINI, in her official
capacity as the Washoe County Clerk; LORENA
PORTILLO, in her official capacity as the Clark
County Registrar of Voters; LYNN MARIE
GOYA, in her official capacity as the Clark
County Clerk,

Defendants.

Case No.: 24 OC 00101 B
Dept. No.: 1

**MOTION TO INTERVENE AS
DEFENDANTS**

1 Pursuant to Nevada Rule of Civil Procedure 24, Proposed Intervenor-Defendants Vet
2 Voice Foundation and the Nevada Alliance for Retired Americans move to intervene as defendants
3 in the above-titled action. Their Proposed Answer is attached hereto as **Exhibit 1**.

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

7 DATED this 7th day of June 2024.

8
9 By: _____

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27
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Proposed Intervenor-Defendants Vet Voice Foundation (“Vet Voice”), and the Nevada
3 Alliance for Retired Americans (“Alliance”) (collectively “Proposed Intervenors”) move to
4 intervene as defendants in this lawsuit under Nevada Rule of Civil Procedure 24.

5 This case is a state law outgrowth of a pending federal lawsuit that the same organizational
6 plaintiffs and a different individual voter filed last month against most of the same defendants,
7 raising closely related issues. *See RNC v. Burgess*, No. 3:24-cv-00198-MMD-CLB (D. Nev. filed
8 May 3, 2024) (“*Burgess*”). Proposed Intervenors were recently granted intervention in the federal
9 case, after the federal court recognized their significant, particularized interests in protecting their
10 members’ and constituents’ ability to cast votes by mail that will be counted, and the threat to
11 those interests posed by Plaintiffs’ effort to invalidate mailed ballots that clerks receive after
12 election day. *See* June 6 Order, *Burgess*, ECF No. 70 (“*Burgess Order*”) (attached hereto as
13 **Exhibit 2**). This lawsuit threatens those same interests, and Proposed Intervenors seek to intervene
14 in this case, too, to protect their interests by presenting a consistent set of arguments in the two
15 cases.

16 Both *Burgess* and this case involve the counting of mail ballots that clerks offices receive
17 from the postal service. When voters return ballots by mail, Nevada law requires them to be
18 “[p]ostmarked on or before the day of the election,” but permits them to be “[r]eceived by the clerk
19 not later than 5 p.m. on the fourth day following the election.” NRS 293.269921(1)(b). But Nevada
20 law also recognizes that sometimes, postal service errors mean “the date of the postmark cannot
21 be determined.” NRS 293.269921(2). In such cases, the ballot “shall be deemed to have been
22 postmarked on or before the day of the election” so long as it is delivered by “5 p.m. on the third
23 day following the election.” *Id.*

24 Plaintiffs ask the federal court in *Burgess* to discard this entire statutory framework so that
25 no ballots received after election day are counted. This case focuses specifically on the no-
26 postmark-date provision: Plaintiffs ask the Court to artificially narrow the no-postmark-date
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1 provision so that it allows ballots to be counted only if there is a visible postmark but no legible
2 date, and not if there is no visible postmark at all. Voters, of course, have no way to control whether
3 the postal service postmarks their ballot. And while Plaintiffs focus their discussion on
4 unpostmarked ballots received after election day, nothing about their statutory argument is so
5 narrow. The no-postmark-date provision is the *only* provision that allows unpostmarked ballots
6 returned by mail to be counted. If Plaintiffs get the relief they seek in this case, *every mail voter*
7 would therefore be at risk of disenfranchisement if the postal service fails to postmark their ballot,
8 no matter when it is delivered.

9 Proposed Intervenorors readily meet the requirements for intervention as a matter of right.
10 *First*, their motion is timely, filed days after this suit was commenced and before any substantive
11 proceedings have occurred. *Second*, Proposed Intervenorors have an interest in the subject of the
12 action, and their ability to protect that interest will be impaired if Plaintiffs obtain the relief they
13 seek. If Plaintiffs are successful, the voters most likely to be disenfranchised are active and former
14 members of the Armed Services and their families, as well as older and disabled voters, all of
15 whom rely heavily on mail ballots to exercise their right to vote. Proposed Intervenorors are non-
16 partisan, non-profit organizations that serve those communities, whose members are “especially
17 likely to be affected by” additional barriers to mail voting. *Burgess* Order at 3. Proposed
18 Intervenorors also have a “clear and direct” interest in avoiding the need to divert their limited
19 resources toward educating their members and constituents about changes to the mail-voting
20 process and assisting them with casting mailed ballots. *Id.* at 4. *Third*, no existing party adequately
21 protects Proposed Intervenorors’ particularized interests in this case, because none is tasked
22 specifically with representing at-risk voters.

23 Proposed Intervenorors are accordingly entitled to intervene in this case as a matter of right
24 under Nevada Rule of Civil Procedure 24(a)(2). In the alternative, the Court should grant Proposed
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Intervenors permissive intervention pursuant to Rule 24(b).¹

BACKGROUND

I. Nevada's mail ballot voting laws.

Voting by mail is extremely popular in Nevada. In the most recent full federal election cycle, over half of Nevada voters cast mail ballots in both the primary and general elections.² In the recent February 6 primary election, nearly eighty percent of Nevada voters cast mail ballots.³

To return a mail ballot by mail, it must be “[m]ailed to the county clerk, and: (1) [p]ostmarked on or before the day of the election; and (2) [r]eceived by the clerk not later than 5 p.m. on the fourth day following the election.” NRS 293.269921(1)(b). Nevada law also accounts, however, for the possibility that “the date of the postmark cannot be determined.” NRS 293.269921(2). In such cases, “[i]f a mail ballot is received by mail not later than 5 p.m. on the third day following the election, . . . the mail ballot shall be deemed to have been postmarked on or before the day of the election.” *Id.*

The no-postmark-date provision is the focus of this case. Plaintiffs object to public testimony by Deputy Secretary of State Mark Wlaschin more than a month ago on April 23, 2024, in which he explained that the no-postmark-date provision applies to ballots received by mail that lack any visible postmark, as well as those with a visible postmark but no legible date. Compl. ¶ 2. Plaintiffs seek a permanent injunction prohibiting election officials from counting ballots received after election day with no visible postmark at all. *Id.* at ¶¶ 62–78. But NRS 293.269921

¹ If Proposed Intervenors' motion is granted, Proposed Intervenors intend to file a motion to dismiss the Petition under Rule 12(b). Because Rule 24(c) requires putative intervenors to attach a proposed pleading to their motion, however, Proposed Intervenors attach a proposed answer hereto as **Exhibit 1**.

² See *Voter Turnout*, Nev. Sec'y of State, <https://silverstateelection.nv.gov/vote-turnout/> (last accessed June 7, 2024) (showing 56.7% of primary voters cast mail ballots and 51.21% of general election voters in 2022).

³ See *supra* n.2.

1 does not distinguish between ballots received after election day and ballots received before election
2 day: it applies equally to all ballots received by mail. So if Plaintiffs were right that mailed but
3 unpostmarked ballots may not be counted under the no-postmark-date provision, it would follow
4 that they may not be counted *at all*, no matter when they are received. That is not Nevada law.

5 **II. Proposed Intervenor**

6 Proposed Intervenor-Defendants Vet Voice and the Nevada Alliance for Retired
7 Americans are non-profit, non-partisan organizations dedicated to supporting the voting rights of
8 their members and constituents. Both groups have significant organizational and associational
9 interests at stake in this litigation and they represent members and constituents who will be acutely
10 harmed by Plaintiffs' efforts to artificially narrow the no-postmark-date provision in this case.
11 Both Vet Voice and the Nevada Alliance were recently granted intervention in the related federal-
12 court challenge, *Burgess*. See *Burgess* Order. And Vet Voice and the Alliance's sister organization
13 in Mississippi were also granted intervention in a similar challenge to Mississippi's mail ballot
14 receipt deadline that was also brought by the RNC and its state affiliate. See *Republican Nat'l*
15 *Comm. v. Wetzel*, No. 1:24-cv-25-LG-RFM, 2024 WL 988383, at *1 (S.D. Miss. Mar. 7, 2024)
16 (noting Vet Voice and the Mississippi Alliance for Retired Americans were granted intervention
17 on March 4, 2024).

18 **Vet Voice.** Vet Voice is a national non-profit, non-partisan organization dedicated to
19 empowering veterans across the country to become civic leaders and policy advocates. See
20 Declaration of Janessa Goldbeck ¶¶ 3, 5 ("Goldbeck Decl.") (attached hereto as **Exhibit 3**). It has
21 over 1.5 million subscribers who receive Vet Voice communications, including thousands here in
22 Nevada. *Id.* ¶ 4. Beyond those who affirmatively subscribe to its communications, Vet Voice's
23 constituency broadly includes active servicemembers, including those deployed away from home,
24 as well as military veterans, many of whom are older or have physical disabilities (oftentimes
25 attributable to their time in service) that make voting in person difficult. *Id.* ¶¶ 8–9. Increasing
26 voter turnout among military and veteran voters, as well as their families, is critical to Vet Voice's
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1 mission. *Id.* ¶ 5. Vet Voice strongly believes that turning out the “veteran vote” benefits all
2 Americans by engaging in the civic process people who have served their country, and aims to
3 promote turnout among all veterans, regardless of their political beliefs. *Id.* ¶¶ 5–6, 13.

4 Military voters and veterans often face challenges in exercising their right to vote. For
5 example, active-duty servicemembers and their families are oftentimes deployed away from home,
6 making it physically impossible for them to appear in person at their local polling sites on election
7 day. *Id.* ¶ 8. Such servicemembers are highly reliant on mail voting to exercise the franchise. *Id.*
8 Vet Voice’s CEO, Janessa Goldbeck, has firsthand knowledge of these challenges. During her
9 seven years in the U.S. Marine Corps, she personally had to rely on mail voting to cast her ballot
10 on several occasions, including in 2012 when she was not able to leave officer training school at
11 Marine Corps Base Quantico. *Id.* ¶¶ 7, 11. Veteran voters also often face obstacles voting in person,
12 either due to age or disability. *Id.* ¶ 9.

13 Roughly three-quarters of America’s 1.4 million active servicemembers are eligible to vote
14 by mail. *Id.* ¶ 8. Despite this right, active servicemembers vote at significantly lower rates than the
15 national population. *Id.* ¶ 10. These voters depend heavily on mail ballot voting, *id.*, which they
16 are permitted to use under Nevada law, *see* NRS 293.26991(1). As the Department of Justice has
17 repeatedly noted, mail voting laws with extended receipt deadlines are particularly important to
18 guard against the systemic disenfranchisement of military voters and their families due to obstacles
19 such as long mail transit times. *See* U.S. Amicus Curiae Br. at 23–28, *Bost v. Ill. State Bd. of*
20 *Elections*, No. 23-2644 (7th Cir. Dec. 6, 2023), ECF No. 21 (discussing challenges faced by
21 military and overseas voters and the importance of extended ballot receipt deadlines to such
22 voters); Statement of Interest of U.S. at 1, 10–15, *Splonskowski v. White*, No. 1:23-cv-00123-
23 DMT-CRH (D.N.D. Sept. 11, 2023), ECF No. 19 (explaining extended ballot receipt deadlines
24 “can be vital in ensuring that military and overseas voters are able to exercise their right to vote”);
25 Statement of Interest of U.S. at 1, 15–21, *Republican Nat’l Comm. v. Wetzel*, No. 1:24-cv-00025-
26 LG-RPM (S.D. Miss. Apr. 11, 2024), ECF No. 84 (same); Goldbeck Decl. ¶¶ 10–12.

1 Vet Voice dedicates significant resources, including money, personnel time, and volunteer
2 effort, to improving military and veteran voter turnout rates. Goldbeck Decl. ¶ 14. It has developed
3 a first-of-its kind military voter file containing approximately 14 million records of veterans and
4 military family members, including records for over 120,000 voters in Nevada. *Id.* ¶ 6. Vet Voice
5 uses this voter file to directly reach out to military voters, often by facilitating veteran-to-veteran
6 communications—including in Nevada. *Id.* ¶ 15. In the 2020 general election, Vet Voice sent over
7 2.5 million texts to 1.5 million military voters and saw a substantial increase in turnout among
8 contacted voters versus non-contacted voters. *Id.* Vet Voice is actively building this voter file to
9 prepare for voter education and mobilization efforts in the 2024 general election, including in
10 Nevada. *Id.* ¶ 16. On top of this, Vet Voice also engages in more traditional forms of voter
11 engagement, including direct mailers, phone banking, rural radio advertising, and digital
12 advertising. *Id.* ¶ 19. Given the importance of mail voting to Vet Voice's constituencies, these
13 contacts often focus on educating military voters about how to vote by mail, including by providing
14 information about eligibility requirements, application deadlines, and deadlines for submitting
15 ballots. *Id.* ¶ 21.

16 Nevada is a particularly critical state for Vet Voice. *Id.* ¶ 17. According to the U.S. Census
17 Bureau, as of 2022, 8.3 percent of Nevada's population served in the military, placing it seventh
18 in the country in terms of veteran share of the population. *Id.*⁴ Vet Voice has already identified and
19 plans to target approximately 10,000 individual veteran and military-affiliated voters in Nevada to
20 mobilize them to vote in the 2024 elections using direct mail and text messages. *Id.* ¶ 18. And Vet
21 Voice already has staff on the ground in Nevada. *Id.*

22 If successful, Plaintiffs' challenge will make it harder for Vet Voice's supporters and
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26 ⁴ See also Ivana Saric & Alice Feng, *Mapped: The U.S. states with the highest and lowest shares*
27 *of veterans*, Axios (Nov. 10, 2023), <https://www.axios.com/2023/11/10/map-where-veterans-live-us>
(interactive map).

1 constituents—including active-duty servicemembers and veterans—to successfully cast a mail
2 ballot in Nevada. *Id.* ¶ 23. Voters, of course, lack control over the mail. In particular, active-duty
3 servicemembers deployed overseas, in combat zones, or on ships and submarines often have to
4 contend with highly unreliable and irregular mail service. *Id.* ¶¶ 12, 23. There is nothing they can
5 do to ensure that their ballots are properly postmarked and, even when they do not delay in
6 returning their ballots, they also lack control over the date they are ultimately delivered. In addition
7 to threatening Vet Voice’s supporters and constituents, Plaintiffs’ challenge also frustrates Vet
8 Voice’s effort to effectively plan voter engagement and mobilization efforts in Nevada—a
9 mission-critical state for the organization—ahead of the 2024 election. *Id.* ¶¶ 16–22. Vet Voice
10 must understand the relevant legal landscape before preparing its voter education efforts. *Id.* ¶ 21.
11 It seeks to intervene in this case to protect the voting rights of its supporters and constituencies,
12 settle the legal landscape for its voter education efforts ahead of the 2024 election, and protect its
13 own significant expenditure of resources in promoting mail ballot voting. *Id.* ¶¶ 21–24.

14 **The Alliance.** The Alliance for Retired Americans is a non-partisan 501(c)(4) membership
15 organization with over 4.4 million members nationwide. Declaration of Thomas Bird ¶ 3 (“Bird
16 Decl.”) (attached hereto as **Exhibit 4**). Its mission is to ensure the social and economic justice and
17 full civil rights that retirees have earned after a lifetime of work, with a particular emphasis on
18 safeguarding the right to vote. *Id.* ¶ 4. The Alliance’s Nevada chapter, the Nevada Alliance for
19 Retired Americans, has approximately 20,000 members comprising retirees from numerous public
20 and private sector unions, members of community organizations, and individual activists. *Id.* ¶ 3.
21 It works with 20 affiliated chapters—comprised of other union and community groups—across
22 Nevada. *Id.* ¶ 5. A major focus of the Alliance’s work is attending these chapter meetings to speak
23 with members about key policy goals, such as preserving Social Security and Medicare. *Id.*

24 Ensuring access to the ballot is also a critical piece of the Alliance’s mission, and
25 accordingly it dedicates significant effort to voter registration and voter education efforts. *Id.* ¶¶ 4,
26 6, 8–9. The Alliance, its members, and volunteers undertake numerous activities to register and
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1 educate voters about how to vote, including door knocking, phone banking, Zoom meetings,
2 postcard parties, and appearing at community events like health fairs and labor union conventions.
3 *Id.* ¶ 9. The Alliance often partners with other non-partisan organizations to host these voter
4 education events across Nevada. *Id.* The Alliance also hosts retirement forums and conventions,
5 during which it provides speakers and presentations about registering to vote and voting, including
6 on the mechanics of voting by mail. *Id.* In addition to appearing at community events, many of the
7 Alliance's members and volunteers also speak with family, friends, neighbors, and others about
8 voting. *Id.* ¶ 10. The Alliance frequently answers questions related to voting, and strives to be a
9 central information source for voters so that if the Alliance isn't aware of the answer to a particular
10 question, the Alliance will help track it down and report back. *Id.* The Alliance's members are a
11 very engaged group and are likely to have a lot of questions that require time and resources to
12 address. *Id.* The Alliance also helps educate its members by sharing articles and posting
13 information and resources on social media posts. *Id.*

14 The Alliance's members are highly reliant on mail ballot voting. *Id.* ¶ 6. Thomas Bird, the
15 President of the Alliance, estimates that a majority of the group's membership votes by mail. *Id.*
16 These members choose to vote by mail for many reasons: they may lack transportation to make it
17 to the polls, not be comfortable standing in long lines at polling places, have a disability or injury
18 that makes in-person voting difficult, prefer for health reasons not to wait a long time in-person to
19 vote, want to avoid potential voter intimidation or harassment at the polls, or simply prefer to spend
20 more time with their ballot while completing it from the comfort of their kitchen table. *Id.* Many
21 of the Alliance's members are also concerned with increasing mail delays, which can impact
22 everything from their timely receipt of prescription medication by mail to their ability to
23 successfully vote a mail ballot. *Id.* ¶ 7.

24 If Plaintiffs' suit is successful, the Alliance's members will face increased risk of having
25 their mail ballots rejected if, through no fault of their own, the ballots are not postmarked. *Id.* ¶ 6.
26 As a result, the Alliance would have to divert its limited resources to help its members sign up for
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1 various mail tracking systems, ranging from the U.S. Postal Service's informed delivery service
2 to the state of Nevada's ballot tracking service (Ballottrax), so they can keep track of the timing of
3 their mail ballot. *Id.* ¶ 8. Many of the Alliance's members are not comfortable with technology and
4 have concerns with fraud, and they will require individualized assistance in signing up for these
5 services. *Id.* The Alliance will also have to fundamentally reshape their voter education activities
6 to emphasize the risk of mail ballots not being counted, at the expense of other mission-critical
7 issues. *Id.* ¶ 9.

8 The Alliance seeks to intervene in this case to protect its members' right to cast mail ballots
9 under Nevada law, as well as their right to vote generally. *Id.* ¶ 6. It also seeks to protect its ongoing
10 voter education efforts. *Id.* ¶¶ 4, 8, 10.

11 STANDARD OF LAW

12 Nevada Rule of Civil Procedure 24 governs intervention in Nevada state court actions.
13 Because Rule 24 and Federal Rule of Civil Procedure 24 are "equivalent," *Lawler v. Ginochio*, 94
14 Nev. 623, 626, 584 P.2d 667, 668 (1978) (per curiam), "[f]ederal cases interpreting [Rule 24] 'are
15 strong persuasive authority.'" *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P. 3d
16 872, 876 (2002) (per curiam) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119,
17 787 P.2d 772, 776 (1990)).

18 To intervene as of right under Rule 24(a)(2),
19 an applicant must meet four requirements: (1) that it has a sufficient interest in
20 the litigation's subject matter, (2) that it could suffer an impairment of its ability
21 to protect that interest if it does not intervene, (3) that its interest is not
22 adequately represented by existing parties, and (4) that the application is timely.
23 *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 122 Nev. 1229, 1238, 147
24 P.3d 1120, 1126 (2006). "In evaluating whether Rule 24(a)(2)'s requirements are met," courts
25 "construe the Rule broadly in favor of proposed intervenors . . . because a liberal policy in favor
26 of intervention serves both efficient resolution of issues and broadened access courts." *Wilderness*
27 *Soc'y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (cleaned up).

1 Under Rule 24(b), a movant may permissively intervene if the movant “has a claim or
2 defense that shares with the main action a common question of law or fact.” NRCP 24(b)(1)(B).
3 “In exercising its discretion, the court must consider whether the intervention will unduly delay or
4 prejudice the adjudication of the original parties’ rights.” NRCP 24(b)(3).

5 ARGUMENT

6 I. Proposed Intervenors satisfy all of Rule 24(a)’s requirements for intervention as a 7 matter of right.

8 Proposed Intervenors satisfy each of the four requirements of NRCP 24(a) and thus should
9 be allowed to intervene as a matter of right.

10 A. The motion is timely.

11 First, the motion is timely. Plaintiffs filed their petition on May 31, 2024; this motion
12 follows less than two weeks later and before any substantive activity has occurred in the case.
13 There has therefore been no delay, and no possible risk of prejudice to the other parties. *See In re*
14 *Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at *3 (Nev. May 24, 2013); *Lawler*, 94 Nev.
15 at 626, 584 P.2d at 669; *see also, e.g., Nevada v. United States*, No. 3:18-cv-569-MMD-CBC,
16 2019 WL 718825, at *2 (D. Nev. Jan. 14, 2019) (granting motion to intervene filed several weeks
17 after action commenced); *W. Expl. LLC v. U.S. Dep’t of Interior*, No. 3:15-cv-00491-MMD-VPC,
18 2016 WL 355122, at *2 (D. Nev. Jan. 28, 2016) (granting motion to intervene filed nearly two
19 months after action commenced).

20 B. Proposed Intervenors have significant protectable interests that may be 21 impaired by this lawsuit.

22 Proposed Intervenors also satisfy the next two requirements for intervention as a matter of
23 right because they (1) have significantly protectable interests in this lawsuit (2) that may be
24 impaired by Plaintiffs’ claims. “A ‘significantly protectable interest’ . . . [is] one that is protected
25 under the law and bears a relationship to the plaintiff’s claims.” *Am. Home Assurance Co.*, 122
26 Nev. at 1239, 147 P.3d at 1127 (quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d 794, 803 (9th Cir.

1 2002)). In the federal context, courts have made clear that if a would-be intervenor “would be
2 substantially affected in a practical sense by the determination made in an action, he should, as a
3 general rule, be entitled to intervene,” *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 822
4 (9th Cir. 2001) (quoting Fed. R. Civ. P. 24 advisory committee note to 1966 amendment)). This
5 interest requirement is less stringent than Article III’s standing requirement. *See Yniguez v.*
6 *Arizona*, 939 F.2d 727, 735 (9th Cir. 1991). !!

7 As the federal court found in *Burgess*, the related case that Plaintiffs filed in federal court,
8 Vet Voice and the Alliance easily satisfy these requirements. *Burgess* Order at 3–5. If Plaintiffs
9 succeed in artificially narrowing the no-postmark date provision to exclude entirely unpostmarked
10 ballots, Vet Voice’s and the Alliance’s members, supporters, and constituents will be subject to
11 disenfranchisement if, through no fault of their own, the postal service fails to postmark their
12 ballots. Both Vet Voice and the Alliance serve communities that rely heavily on mail ballots to
13 vote. Vet Voice, for example, spends significant resources to promote voting among active service
14 members and military family members, many of whom are often stationed away from their
15 permanent homes and depend on mail ballots to participate in elections. Goldbeck Decl. ¶¶ 14, 20.
16 And many veterans in Nevada rely on mail voting as well. *Id.* ¶ 9. Vet Voice’s military voter file
17 includes over 120,000 Nevada servicemembers, veterans, and military family members, *id.* ¶ 6,
18 and Vet Voice has over 14,000 Nevada subscribers whom the group seeks to mobilize in
19 furtherance of its mission, *id.* ¶ 4. Vet Voice’s mission is to ensure that all of these voters have full
20 access to the ballot box and that military voters are heard at the polls. *Id.* ¶¶ 5–6.

21 The Alliance, too, has many members in Nevada who rely on mail voting due to the greater
22 obstacles they face voting in person, whether due to age or disability. Bird Decl. ¶ 6. They vote by
23 mail because, among other reasons, they lack transportation or are not comfortable standing in
24 long lines at polling places. *Id.* Nevada historically has long wait times on election day, making
25 the option to vote by mail critical to the Alliance’s members, many of whom have more difficulty
26 overcoming such obstacles. *Id.* If Plaintiffs succeed, the Alliance’s members will accordingly face
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1 heightened risks of having their mail ballots rejected. *Id.* Ensuring access to the ballot is a critical
2 piece of the Alliance's mission. *Id.* The Alliance would therefore have to use its limited volunteer
3 resources to prepare materials educating its members about how to track ballots, and then distribute
4 these materials to members through social media channels, email, and at chapter meetings. *See Id.*
5 ¶¶ 7–9. This effort will reduce the Alliance's ability to speak to its members about key policy
6 goals, including protecting Social Security and Medicare. *See Id.* ¶ 11.

7 "Once an applicant has established a significantly protectable interest in an action, courts
8 regularly find that disposition of the case may, as a practical matter, impair an applicant's ability
9 to protect that interest." *Venetian Casino Resort, LLC v. Enwave Las Vegas, LLC*, No. 2:19-CV-
10 1197 JCM (DJA), 2020 WL 1539691, at *3 (D. Nev. Jan. 7, 2020) (citing *California ex rel.*
11 *Lockyer v. United States*, 450 F.3d 436, 442 (9th Cir. 2006)). A prohibition on counting ballots
12 lacking a postmark would require Proposed Intervenor's to divert resources to respond to this
13 unwarranted attack on the rights of their members and constituents. Accordingly, if Plaintiffs' suit
14 succeeds, Proposed Intervenor's interests in their members' and constituents' voting rights as well
15 as their interests in their own resources will be impaired. This criterion for intervention of right is
16 accordingly satisfied.

17 **C. Defendants do not adequately represent Proposed Intervenor's.**

18 Proposed Intervenor's also satisfy the third requirement for intervention as of right because
19 they cannot rely on the parties in this case to adequately represent their interests. "[T]he burden on
20 proposed intervenors in showing inadequate representation is minimal, and would be satisfied if
21 they could demonstrate that representation of their interests 'may be' inadequate." *Hairr v. First*
22 *Jud. Dist. Ct.*, 132 Nev. 180, 185, 368 P.3d 1198, 1201 (2016) (quoting *Arakaki v. Cayetano*, 324
23 F.3d 1078, 1086 (9th Cir. 2003)). Courts have "often concluded that governmental entities do not
24 adequately represent the interests of aspiring intervenors." *Fund for Animals, Inc. v. Norton*, 322
25 F.3d 728, 736 (D.C. Cir. 2003); *see also Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647
26 F.3d 893, 899 (9th Cir. 2011) ("[T]he government's representation of the public interest may not
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1 be 'identical to the individual parochial interest' of a particular group just because 'both entities
2 occupy the same posture in the litigation.'" (quoting *WildEarth Guardians v. U.S. Forest Serv.*,
3 573 F.3d 992, 996 (10th Cir. 2009))).

4 While Defendants Aguilar, Burgess, Galassini, Portillo, and Goya have an interest in
5 administering the election laws generally, Proposed Intervenors are focused on ensuring that their
6 members and constituents have their individual ballots counted. Moreover, Proposed Intervenors
7 have specific interests and concerns—in particular, the proper allocation of their limited resources
8 to maximize voter turnout and promote civic engagement—that neither Burgess nor any other
9 party in this lawsuit shares. Should Plaintiffs be successful, Proposed Intervenors will have to
10 divert resources to help protect the process against Plaintiffs' disruptive efforts, rendering those
11 resources unavailable for Proposed Intervenors' other mission-critical work.

12 Accordingly, this is not a case where "there is an 'assumption of adequacy [because] the
13 government is acting on behalf of a constituency it represents,'" since such an assumption only
14 arises "when the applicant shares the same interest." *Hairr*, 132 Nev. at 185, 368 P.3d at 1201
15 (quoting *Arakaki*, 324 F.3d at 1086). Rather, this is an instance where, "[a]lthough [Defendants]
16 and the Proposed Intervenors fall on the same side of the dispute, Defendants' interests . . . differ
17 from those of the Proposed Intervenors." *Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020
18 WL 3074351, at *3 (E.D. Cal. June 10, 2020). While Defendants' arguments are likely to "turn on
19 their . . . responsibility to properly administer election laws," Proposed Intervenors are concerned
20 with ensuring that their members and constituents "have the opportunity to vote" and "allocating
21 their limited resources to inform voters about the election procedures." *Id.* (granting motion to
22 intervene as a matter of right). Because these interests are not shared by the current parties to the
23 litigation, Proposed Intervenors cannot rely on Defendants or anyone else to provide adequate
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1 representation, and the third requirement for intervention of right is satisfied.⁵

2 **II. Alternatively, Proposed Intervenors satisfy Rule 24(b)'s requirements for**
3 **permissive intervention.**

4 Alternatively, the Court should grant Proposed Intervenors permissive intervention, as the
5 federal court did in the related *Burgess* case. *See Burgess* Order at 7–9. Rule 24(b) grants courts
6 broad discretion to permit intervention where an applicant's claim or defense and the main action
7 have a question of law or fact in common and intervention will not unduly delay or prejudice the
8 adjudication of the rights of the original parties. *See Hairr*, 132 Nev. at 187, 368 P.3d at 1202.

9 For the reasons discussed *supra* Argument § I, Proposed Intervenors' motion is timely, and
10 Proposed Intervenors cannot rely on Defendants to adequately protect their interests. Proposed
11 Intervenors also have defenses to Plaintiffs' claims that share common questions of law and fact—
12 for example, whether Plaintiffs have pleaded facts allowing a court to conclude that they have a
13 clear legal right to a permanent injunction. Intervention will not result in any undue delay or
14 prejudice. Proposed Intervenors have a strong interest in a swift resolution to this action to ensure
15 that their members' and constituents' voting rights are protected, while simultaneously avoiding
16 any unnecessary delay. And Proposed Intervenors agree to be bound by any case schedule set by
17 the Court or agreed to by the principal parties.

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23
24 ⁵ Despite emphasizing Proposed Intervenors' substantial, specifically threatened interests, the
25 federal court in *Burgess* found that the government defendants adequately represented
26 Proposed Intervenors' interests and therefore granted permissive intervention rather than
27 intervention of right. *See Burgess* Order at 6–9. But as many other courts have recognized,
28 government parties and civic groups do not share the same objectives in election cases, and thus
adequate representation is not present. *See, e.g., Issa*, 2020 WL 3074351, at *3.

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CONCLUSION

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

AFFIRMATION

Pursuant to NRS 239B.030 and 603A.040, the undersigned does hereby affirm that this document does not contain the personal information of any person.

DATED this 7th day of June 2024.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June 2024, a true and correct copy of **MOTION TO INTERVENE AS DEFENDANTS** was served by depositing a true copy of the same via U.S.P.S. Mail postage pre-paid Las Vegas, Nevada and by email to all parties with an email-address on record on June 7, 2024.

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INDEX OF EXHIBITS

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1	[Proposed] Answer to Complaint for Declaratory and Injunctive Relief	8
2	Order	9
3	Declaration of Janessa Goldbeck	7
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EXHIBIT 1

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13
14 **FIRST JUDICIAL DISTRICT COURT**
IN AND FOR CARSON CITY, STATE OF NEVADA

15 REPUBLICAN NATIONAL COMMITTEE;
NEVADA REPUBLICAN PARTY; DONLD J.
16 TRUMP FOR PRESIDENT 2024, INC.; SCOTT
JOHNSTON,

17 Plaintiffs,

18 v.

19 FRANCISCO AGUILAR, in his official capacity
as Nevada Secretary of State; State of
20 NEVADA; CARRIE-ANN BURGESS, in her
official capacity as Washoe County Registrar of
21 Voters; JAN GALASSINI, in her official
capacity as the Washoe County Clerk; LORENA
22 PORTILLO, in her official capacity as the Clark
County Registrar of Voters; LYNN MARIE
23 GOYA, in her official capacity as the Clark
County Clerk,

24 Defendants,

Case No.: 24 OC 00101 1B
Dept. No.: 1

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

25 Proposed Intervenor Vet Voice Foundation, Inc., and Nevada Alliance for Retired
26 Americans ("Proposed Intervenor"), by and through their attorneys, submit the following
27
28

1 Proposed Answer to Plaintiffs' Complaint for Declaratory and Injunctive Relief ("Complaint").
2 Proposed Intervenor respond to the allegations in the Complaint as follows:

3 NATURE OF THE CASE

4 1. Paragraph 1 contains legal contentions, characterizations, conclusions, and
5 opinions to which no response is required. To the extent a response is required, denied.

6 2. The Deputy Secretary of State's testimony cited in Paragraph 2 speaks for itself.
7 Paragraph 2 otherwise contains legal contentions, characterizations, conclusions, and opinions to
8 which no response is required. To the extent a response is required, denied.

9 3. Denied.

10 4. Paragraph 4 contains legal contentions, characterizations, conclusions, and
11 opinions to which no response is required. To the extent a response is required, denied.

12 5. Proposed Intervenor admit that Plaintiffs purport to seek declaratory and
13 injunctive relief but deny they are entitled to it. Paragraph 5 otherwise contains legal contentions,
14 characterizations, conclusions, and opinions to which no response is required. To the extent a
15 response is required, denied.

16 JURISDICTION AND VENUE

17 6. Paragraph 6 contains legal contentions, characterizations, conclusions, and
18 opinions to which no response is required. To the extent a response is required, denied.

19 7. Paragraph 7 contains legal contentions, characterizations, conclusions, and
20 opinions to which no response is required. To the extent a response is required, denied.

21 PARTIES

22 8. Proposed Intervenor lack knowledge and information sufficient to form a belief as
23 to the truth of the allegations in Paragraph 8 and therefore deny them.

24 9. Proposed Intervenor lack knowledge and information sufficient to form a belief as
25 to the truth of the allegations in Paragraph 9 and therefore deny them.

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

1 11. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
2 to the truth of the allegations in Paragraph 11 and therefore deny them.

3 12. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
4 to the truth of the allegations in Paragraph 12 and therefore deny them.

5 13. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
6 to the truth of the allegations in Paragraph 13 and therefore deny them.

7 14. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
8 to the truth of the allegations in Paragraph 14 and therefore deny them.

9 15. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
10 to the truth of the allegations in Paragraph 15 and therefore deny them.

11 16. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
12 to the truth of the allegations in Paragraph 16 and therefore deny them.

13 17. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
14 to the truth of the allegations in Paragraph 17 and therefore deny them.

15 18. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
16 to the truth of the allegations in Paragraph 18 and therefore deny them.

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

19 20. Proposed intervenor's lack knowledge and information sufficient to form a belief as
20 to the truth of the allegations in Paragraph 20 and therefore deny them.

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

23 22. Proposed Intervenor's lack knowledge and information sufficient to form a belief as
24 to the truth of the allegations in Paragraph 22 and therefore deny them.

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

27 24. Admitted.
28

1 25. Admitted.

2 26. Admitted.

3 27. Admitted.

4 28. Admitted.

5 29. Admitted.

6 **GENERAL ALLEGATIONS**

7 30. Paragraph 30 contains legal contentions, characterizations, conclusions, and
8 opinions to which no response is required. To the extent a response is required, denied.

9 31. Admitted.

10 32. Admitted.

11 33. Paragraph 33 contains legal contentions, characterizations, conclusions, and
12 opinions to which no response is required. To the extent a response is required, denied.

13 34. Proposed Intervenor deny the allegations in Paragraph 34 because the quoted text
14 is a selective, inaccurate, and incomplete recitation of NRS 293.269921(1).

15 35. Proposed Intervenor admit that Paragraph 35 accurately quotes the excerpted
16 portion of NRS 293.269921(2). Paragraph 35 otherwise contains legal contentions,
17 characterizations, conclusions, and opinions to which no response is required. To the extent a
18 response is required, denied.

19 36. Admitted.

20 37. Admitted.

21 38. Admitted.

22 39. The video cited in Paragraph 39 speaks for itself. Proposed Intervenor otherwise
23 lack knowledge and information sufficient to form a belief as to the truth of the allegations in
24 Paragraph 39 and therefore deny them.

25 40. Proposed Intervenor lack knowledge and information sufficient to form a belief as
26 to the truth of the allegations in Paragraph 40 and therefore deny them.

27 41. Admitted.

1 42. Denied.

2 43. Proposed Intervenor lack knowledge and information sufficient to form a belief as
3 to the truth of the allegations in Paragraph 43 and therefore deny them.

4 44. Proposed Intervenor lack knowledge and information sufficient to form a belief as
5 to the truth of the allegations in Paragraph 44 and therefore deny them.

6 45. Proposed Intervenor deny that all mail received by the U.S. Postal Service receives
7 a postmark. Otherwise admitted.

8 46. Proposed Intervenor lack knowledge and information sufficient to form a belief as
9 to the truth of the allegations in Paragraph 46 and therefore deny them.

10 47. Proposed Intervenor lack knowledge and information sufficient to form a belief as
11 to the truth of the allegations in Paragraph 47 and therefore deny them.

12 48. Paragraph 48 contains legal contentions, characterizations, opinions, and
13 conclusions to which no response is required. Proposed Intervenor lack knowledge and
14 information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 48
15 and therefore deny them.

16 49. Denied.

17 50. Paragraph 50 contains legal contentions, characterizations, opinions, and
18 conclusions to which no response is required. To the extent a response is required, denied.

19 51. Paragraph 51 contains legal contentions, characterizations, opinions, and
20 conclusions to which no response is required. To the extent a response is required, denied.

21 52. Paragraph 52 contains legal contentions, characterizations, opinions, and
22 conclusions to which no response is required. To the extent a response is required, denied.

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

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

27 55. Denied.

28

1 56. Proposed Intervenor lack knowledge and information sufficient to form a belief as
2 to the truth of the allegations in Paragraph 56 and therefore deny them.

3 57. Denied.

4 58. Denied.

5 59. Denied.

6 60. Paragraph 60 contains legal contentions, characterizations, opinions, and
7 conclusions to which no response is required. To the extent a response is required, denied.

8 61. Plaintiffs' Complaint in *Republican National Committee et al. v. Burgess*, No. 24-
9 cv-00198 (D. Nev. May 3, 2024), ECF No. 1, speaks for itself. Paragraph 61 otherwise contains
10 legal contentions, characterizations, opinions, and conclusions to which no response is required.
11 To the extent a response is required, denied.

12 **First Cause of Action**

13 **(Declaratory Judgment)**

14 62. Proposed Intervenor incorporate their responses to Paragraphs 1 through 61 as if
15 set forth fully herein.

16 63. Proposed Intervenor admit the Plaintiffs purport to seek a declaratory judgment
17 that mail ballots received after election day which lack a postmark shall not be counted. Proposed
18 Intervenor deny that Plaintiffs are entitled to any such relief.

19 64. Paragraph 64 contains legal contentions, characterizations, opinions, and
20 conclusions to which no response is required. To the extent a response is required, denied.

21 65. Paragraph 65 contains legal contentions, characterizations, opinions, and
22 conclusions to which no response is required. To the extent a response is required, denied.

23 66. Paragraph 66 contains legal contentions, characterizations, opinions, and
24 conclusions to which no response is required. To the extent a response is required, denied.

25 67. Denied.

26 68. Denied.

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

1 to the truth of the allegations in Paragraph 69, and therefore deny them.

2 70. Denied.

3 **Second Cause of Action**

4 **(Injunctive Relief)**

5 71. Proposed Intervenor incorporate their responses to Paragraphs 1 through 61 as if
6 set forth fully herein

7 72. Denied.

8 73. Denied.

9 74. Denied.

10 75. Denied.

11 76. Paragraph 76 contains legal contentions, characterizations, opinions, and
12 conclusions to which no response is required. To the extent a response is required, denied.

13 77. Denied.

14 78. Denied.

15 **GENERAL DENIAL**

16 Proposed Intervenor deny every allegation in the Petition that is not expressly admitted
17 herein.

18 **AFFIRMATIVE DEFENSES**

19 Proposed Intervenor sets forth their affirmative defenses without assuming the burden of
20 proving any fact, issue, or element of a cause of action where such burden properly belongs to
21 Petitioners. Moreover, nothing stated here is intended or shall be construed as an admission that
22 any particular issue or subject matter is relevant to the allegations in the Complaint. Proposed
23 Intervenor reserve the right to amend or supplement their affirmative defenses as additional facts
24 concerning defenses become known.

25 Proposed Intervenor assert the following affirmative defenses:

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

27 Plaintiffs' claims are barred by the doctrine of laches.

1 Plaintiffs lack standing to pursue their claims.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Proposed Intervenor respectfully request that this Court:

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

7

8 **AFFIRMATION**

9 Pursuant to NRS 239B.030 and 603A.040, the undersigned does hereby affirm that this

10 document does not contain the personal information of any person.

11

12 DATED this 7th day of June, 2024.

13 By: 

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15 Daniel Bravo (NV Bar No. 13078)

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27

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EXHIBIT 2

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EXHIBIT 2

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

REPUBLICAN NATIONAL COMMITTEE,
et al.,

Case No. 3:24-cv-00198-MMD-CLB

Plaintiffs,

ORDER

v.

CARI-ANN BURGESS, *et al.*,

Defendants.

I. SUMMARY

Individuals and organizations interested in protecting the ability of Republic voters to cast votes and in electing Republican candidates to public office¹ (collectively, "Plaintiffs") have brought suit to challenge Nevada's mail ballot receipt deadline as unconstitutional and in violation of federal law. (ECF No. 1 ("Complaint").) Pending before the Court is a motion to intervene as defendants filed by the Vet Voice Foundation and the Nevada Alliance for Retired Americans ("NARA") (collectively, "Petitioners"). (ECF No. 15 ("Motion").) The Court has reviewed the parties' responses and replies (ECF Nos. 55, 64) and finds that intervention as of right is not warranted; however, the Court will grant permissive intervention.

II. RELEVANT BACKGROUND

On May 3, 2024, Plaintiffs filed this action challenging the mail ballot receipt deadline in Nevada. (ECF No. 1.) Nevada law generally requires that ballots be

¹Plaintiffs are the Republican National Committee; the Nevada Republican Party; Donald J. Trump for President 2024, Inc.; and Donald Szymanski. They are suing in their official capacities Washoe County Registrar of Voters Cari-Ann Burgess, Washoe County Clerk Jan Galassini, Clark County Registrar of Voters Lorena Portillo, Clark County Clerk Lynn Marie Goya, and Nevada Secretary of State Francisco Aguilar (collectively, "Government Defendants"). The Democratic National Committee is an intervenor-defendant. (ECF No. 56.)

1 postmarked on or before the federal Election Day but allows for ballots to be received by
2 county clerks' offices up to four days after Election Day. (*Id.* at 8-9.) Plaintiffs contend that,
3 in allowing ballots to be received after the federally designated date, the Nevada mail
4 ballot receipt deadline is in violation of the Constitution and federal law. (*Id.* at 14-16.)

5 Vet Voice and NARA filed their Motion on May 10, 2024, seeking to intervene in
6 this action as defendants. (ECF No. 15.) Plaintiffs oppose the Motion (ECF No. 55), and
7 Defendants have not submitted a response.

8 **III. DISCUSSION**

9 Petitioners seek intervention under Federal Rule of Civil Procedure 24(a) as of right
10 or, alternatively, permissive intervention under Rule 24(b).

11 **A. Intervention as of Right**

12 Applicants for intervention as of right under Rule 24(a)(2) must meet four
13 requirements:

14 (1) the motion must be timely; (2) the applicant must claim a "significantly
15 protectable" interest relating to the property or transaction which is the
16 subject of the action; (3) the applicant must be so situated that the
17 disposition of the action may as a practical matter impair or impede its ability
18 to protect that interest; and (4) the applicant's interest must be inadequately
19 represented by the parties to the action.

20 *Wilderness Soc. v. U.S. Forest Serv.*, 630 F.3d 1173, 1177 (9th Cir. 2011) (en banc).
21 Courts assessing whether intervention as of right is appropriate "interpret these
22 requirements broadly in favor of intervention" and are "guided primarily by practical
23 considerations, not technical distinctions." *W. Watersheds Project v. Haaland*, 22 F.4th
24 828, 835 (9th Cir. 2022) (quotation marks omitted).

25 Plaintiffs maintain that Petitioners have failed to demonstrate the second, third, and
26
27
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fourth elements of the test.² The Court will address each of the three latter elements in turn.

1. Significantly Protectable Interests

Petitioners must next establish that they have significantly protectable interests in the subject of this litigation. At minimum, “Rule 24(a)(2) requires that the asserted interest be protectable under some law and that there exist a relationship between the legally protected interest and the claims at issue.” *Cal. Dep’t of Toxic Substances Control v. Jim Dobbas, Inc.*, 54 F.4th 1078, 1088 (9th Cir. 2022) (quotation marks omitted). Determining whether Petitioners have a sufficient interest in an action is a “practical, threshold inquiry,” and they need not establish a “specific legal or equitable interest.” *Citizens for Balanced Use*, 647 F.3d at 897 (quotation marks omitted).

Petitioners first raise associational interests on behalf of their thousands of members and constituents who vote by mail in Nevada and whose votes consequently might not be counted if the four-day grace period is taken away. (ECF No. 15 at 13-16.) The communities that Petitioners serve—retirees, veterans, and servicemembers—“heavily” rely on mail ballots to vote due to old age, disability, and being stationed overseas. (*Id.* at 8, 10, 14-15.) As a result, they are especially likely to be affected by a shortened mail ballot receipt period, and it is probable, rather than speculative, that some of their votes will not be counted if Plaintiffs prevail. *Cf. Pub. Int. Legal Found. v. Benson*, No. 1:21-CV-929, 2022 WL 21295936, at *11 (W.D. Mich. Aug. 25, 2022) (interest in challenging a law removing names from voter registry was too “speculative” where proposed intervenors had no members on the list of names being removed). Petitioners’ interest in ensuring that their members’ and constituents’ votes are counted is sufficient to satisfy the second element. *See Bost v. Ill. State Bd. of Elections*, 75 F.4th 682, 687 (7th

² Plaintiffs essentially conceded that the Motion is timely. Indeed, Petitioners moved for intervention within seven days of the filing of the Complaint and before the parties filed any motions or the Court entered a scheduling order. (ECF Nos. 1, 15.) The Motion thus has the “traditional features of a timely motion.” *Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011); *see also Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2042365, at *2 (D. Nev. Apr. 28, 2020).

1 Cir. 2023); *Mi Familia Vota v. Fontes*, __ F. Supp. 3d __, No. CV-22-00509-PHX-SRB,
2 2024 WL 862406, at *31 (D. Ariz. Feb. 29, 2024) (organizations had representational
3 standing where members faced “realistic danger” of losing the right to vote).³

4 Petitioners further argue that, if Nevada’s mail ballot receipt deadline is invalidated,
5 they will need to allocate resources toward educating their Nevadan members and
6 constituents on the new deadline and assisting them with casting mailed ballots. (ECF No.
7 15 at 16-18.) This economic interest is sufficiently “concrete and related to the underlying
8 subject matter of the action” to support intervention. *United States v. Alisal Water Corp.*,
9 370 F.3d 915, 919 (9th Cir. 2004). Voter turnout among members and constituents is
10 central to the missions of both Vet Voice and NARA, and the organizations dedicate
11 “significant resources” to encouraging their communities to vote. (ECF No. 15 at 7-10.)
12 Both are already preparing mail ballot assistance plans for the 2024 election in Nevada.
13 (*Id.* at 16.) The link between an earlier mail ballot receipt deadline and Petitioners’ financial
14 interests is thus clear and direct. *Cf. Alisal Water*, 370 F.3d at 920 (interest in how an
15 award of penalties would affect a potential intervenor as a creditor was “several degrees
16 removed” from the issues being litigated); *E. Bay Sanctuary Covenant v. Biden*, __ F.4th
17 __, No. 23-16032, 2024 WL 2309476, at *4 (9th Cir. May 22, 2024) (impacts of immigration
18 law on state expenditures and population-based political representation were “incidental
19 effects” not at issue in the suit and could not support states’ intervention). In line with what
20 other courts have “routinely” found, the Court holds that Petitioners, as organizations that
21 seek to increase voter turnout among their constituents, have significant protectable
22 interests in diverting their limited resources toward educating members about additional
23 barriers to casting a ballot in Nevada. *Issa v. Newsom*, No. 2:20-CV-01044-MCE-CKD,
24 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020); *see also E. Bay Sanctuary Covenant*
25 *v. Biden*, 993 F.3d 640, 663 (9th Cir. 2021) (organization had direct standing where the
26 conduct at issue “frustrated its mission and caused it to divert resources in response to
27

28 ³“Article III standing requirements are more stringent than those for intervention under rule 24(a).” *Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991).

that frustration of purpose").⁴

Contrary to Plaintiffs' assertions, neither of these interests in Nevada's mail ballot receipt deadline is "undifferentiated" or "generalized." (ECF No. 55 at 3 (quoting *Alisal Water*, 370 F.3d at 920).) This is not an instance where an organization generally asserts interests in the integrity of the election process common to all members of the public. *Cf. Am. Ass'n of People With Disabilities v. Herrera*, 257 F.R.D. 236, 258 (D.N.M. 2008); *Liebert*, 345 F.R.D. at 173. Nor would allowing Petitioners to intervene "create an open invitation" for virtually any organization with members in Nevada to intervene in lawsuits where voting may become more difficult. *Alisal Water*, 370 F.3d at 920. Again, if Plaintiffs prevail, both organizations will reallocate their resources toward efforts to educate Nevada voters about the new deadline, and both serve communities which would be substantially more impacted than the average population if Plaintiffs prevail. (ECF No. 15 at 8-18.) Petitioners thus possess particularized interests in the Nevada mail ballot receipt deadline.

Petitioners have significantly protectable interests in the subject of this litigation.

2. Impairment of interests

The nature of Petitioners' interests makes the potential impairment of them clear. There is little question that changing Nevada's mail ballot receipt deadline would substantially affect Petitioners and their members in a "practical sense" if, as a direct result of the change, they have to reallocate their limited resources, or their members are unable to vote. *Citizens for Balanced Use*, 647 F.3d at 898 (citing FED. R. CIV. PROC. 24 advisory committee's note to 1966 amendment); see also *La Union del Pueblo Entero*, 29 F.4th at

⁴See e.g., *Bost*, 75 F.4th at 687; *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 305-06 (5th Cir. 2022) (finding interest under lower burden "for a public interest group raising a public interest question"); *Republican Nat'l Comm. v. Wetzel*, No. 1:24-CV-25-LG-RPM, 2024 WL 988383, at *3 (S.D. Miss. Mar. 7, 2024) (also under Fifth Circuit standard); *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1341 (11th Cir. 2014) ("[O]rganizations can establish standing to challenge election laws by showing that they will have to divert personnel and time to educating potential voters on compliance with the laws and assisting voters who might be left off the registration rolls on Election Day."); cf. *Liebert v. Wisc. Elections Comm'n*, 345 F.R.D. 169, 173 (W.D. Wisc. 2023) (potential intervenor-defendants had no significant interest in educating constituents where plaintiffs sought to eliminate, rather than add, restrictions on voting).

307. Petitioners have met their burden for the third element of Rule 24(a).

3. Inadequacy of Representation by Existing Parties

Petitioners must finally establish that existing parties will not adequately represent their interests. The “minimal” burden of showing inadequate representation is generally satisfied if an applicant can demonstrate that representation of its interests “may be” inadequate. See *Citizens for Balanced Use*, 647 F.3d at 898 (quoting *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003), as amended (May 13, 2003)). However, courts employ a rebuttable presumption of adequate representation where the proposed intervenor shares the same “ultimate objective” as a current party or “when the government is acting on behalf of a constituency that it represents.” *Id.* If both conditions are present—that is, a proposed intervenor shares interests with a governmental party acting on behalf of the public—then a proposed intervenor must make a “very compelling showing” of inadequate representation to rebut this presumption. *Oakland Bulk & Oversized Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020); accord *Arakaki*, 324 F.3d at 1086.

Petitioners and the Government Defendants appear to possess the same “ultimate objective” of upholding the Nevada mail ballot receipt deadline. *W. Watersheds Project*, 22 F.4th at 841. A shared interest in upholding a law typically suffices to establish a shared objective. See, e.g., *id.*; *Oakland Bulk*, 960 F.3d at 620. There are instances where “the government’s representation of the public interest may not be ‘identical to the individual parochial interest’ of a particular group” even when “‘both entities occupy the same posture in the litigation.’” *Citizens for Balanced Use*, 647 F.3d at 899 (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009)). That is not the case here, as nothing in the record leads the Court to doubt that the Government Defendants intend to uphold the mail ballot receipt deadline. See *Freedom from Religion Found., Inc. v. Geithner*, 644 F.3d 836, 841 (9th Cir. 2011); cf. *Citizens for Balanced Use*, 647 F.3d at 899 (intervenors and the government did not have “identical” objectives where the government was defending a law “reluctantly”).

1 A "very compelling showing" of inadequate representation is therefore required to
 2 rebut the presumption of adequate representation. *Oakland Bulk*, 960 F.3d at 620 (9th Cir.
 3 2020). Petitioners argue that their interest in this suit—protecting their constituents' voting
 4 rights—is narrower than that of the Government Defendants, who must defend Nevada
 5 voting laws without regard for their effects. (ECF No. 15 at 19.) "But this alone is
 6 insufficient." *Oakland Bulk*, 960 F.3d at 620. To make a compelling showing of inadequate
 7 representation, Petitioners must offer "*persuasive evidence*" that the Government
 8 Defendants' broader interests will likely cause them "to stake out an undesirable legal
 9 position," *id.* (emphasis added), such as by failing to advance potentially meritorious
 10 arguments, *see California ex rel. Lockyer v. United States*, 450 F.3d 436, 444 (9th Cir.
 11 2006); *W. Watersheds Project*, 22 F.4th at 841. Petitioners have instead provided nothing
 12 more than generalized "speculation" as to the purported inadequacy of representation.
 13 *League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1307 (9th Cir. 1997). In the
 14 absence of a very compelling showing to the contrary, the presumption of adequate
 15 representation remains intact.⁵

16 Petitioners' failure to demonstrate sufficiently that Defendants will inadequately
 17 represent their interests is "fatal" to their application for intervention as of right. *Geithner*,
 18 644 F.3d at 841. The Motion is denied as to intervention under Rule 24(a).

19 B. Permissive Intervention

20 Though intervention as of right is not warranted here, Petitioners have
 21 demonstrated that they meet the requirements of permissive intervention. "Resolution of
 22

23
 24 ⁵The Supreme Court's recent decision in *Berger v. North Carolina State Conference*
 25 *of NAACP* does not alter this conclusion. *See* 597 U.S. 179 (2022). There, the Supreme
 26 Court found that a similar presumption of adequate representation cannot apply where
 27 other duly authorized representatives of a state seek intervention. *Id.* at 200. The Court
 28 discussed presumptions of adequate representation in other scenarios—like the one at
 issue here—in reaching that decision but ultimately did not rule on their merits. *See id.* at
 197 ("[W]e need not decide whether a presumption of adequate representation might
 sometimes be appropriate when a private litigant seeks to defend a law alongside the
 government."). *Berger* therefore does not disturb the extensive Ninth Circuit authority
 endorsing this presumption. *See Lair v. Bullock*, 697 F.3d 1200, 1207 (9th Cir. 2012).

1 a motion for permissive intervention is committed to the discretion of the court before which
2 intervention is sought." *Cameron v. EMW Women's Surgical Ctr., P.S.C.*, 595 U.S. 267,
3 278-79 (2022). Under Rule 24(b), the Court may allow anyone to intervene who submits
4 a timely motion and "has a claim or defense that shares with the main action a common
5 question of law or fact." FED. R. CIV. PROC. 24(b).⁶ The Court, in assessing applications
6 for permissive intervention, must also "consider whether the intervention will unduly delay
7 or prejudice the adjudication of the original parties' rights." *Id.* at (b)(3).

8 Both threshold requirements have been met. There is no question that the Motion
9 is timely, and it appears that Petitioners will assert "similar defenses in support of" the
10 Nevada mail ballot receipt deadline, such that they will share common questions of law
11 and fact with the main action. (ECF No. 15-3.) *Paher*, 2020 WL 2042365, at *3.

12 Intervention will not result in undue delay or prejudice to the existing parties,
13 contrary to Plaintiffs' contention. Though this case is essentially on an expedited timeline
14 due to the impending November 2024 election, the Court is confident in its ability to
15 address any disputes going to preliminary relief or dispositive motions to allow sufficient
16 time for the parties to appeal its rulings, even with two additional defendants. Petitioners'
17 Motion was filed within a week of the Complaint and before any other motions had been
18 filed in this action. They have committed themselves "to be bound by any case schedule"
19 and have emphasized their own interests in the "expeditious resolution of this case." (ECF
20 No. 64 at 10.) Moreover, Plaintiffs raise only questions of law, rather than questions of fact
21 whose resolution would require additional, time-consuming discovery if additional
22 defendants were added. *Cf. Perry v. Proposition 8 Off. Proponents*, 587 F.3d 947, 955-56
23 (9th Cir. 2009). These circumstances indicate that including Petitioners as parties to this
24 action will not result in undue delay. As Plaintiffs' arguments as to prejudice are founded
25 on undue delay and no undue delay is expected, the Court finds that the parties will not
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27 ⁶Potential intervenors generally must also show that "the court has an independent
28 basis for jurisdiction." *Donnelly v Glickman*, 159 F.3d 405, 412 (9th Cir. 1998). This finding
is unnecessary where, as here, the proposed interveners raise no new claims. (ECF No.
15-3 (proposed answer).) See *Geithner*, 644 F.3d at 844.

1 be prejudiced by Petitioners' intervention. (ECF No. 55 at 11.)

2 Petitioners have satisfied the requirements for permissive intervention under Rule
3 24(b). The Court accordingly grants permissive intervention.

4 **IV. CONCLUSION**

5 The Court notes that the parties made several arguments and cited several cases
6 not discussed above. The Court has reviewed these arguments and cases and determines
7 that they do not warrant discussion as they do not affect the outcome of the motion before
8 the Court.

9 It is therefore ordered that Vet Voice and NARA's motion to intervene (ECF No. 15)
10 is granted.

11 DATED THIS 6th day of June 2024.

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14 MIRANDA M. DU
15 CHIEF UNITED STATES DISTRICT JUDGE
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EXHIBIT 3

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EXHIBIT 3

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**FIRST JUDICIAL DISTRICT COURT
IN AND FOR CARSON CITY, STATE OF NEVADA**

REPUBLICAN NATIONAL COMMITTEE;
NEVADA REPUBLICAN PARTY; DONALD
J. TRUMP FOR PRESIDENT 2024, INC.;
SCOTT JOHNSON,

Plaintiffs,

v.

FRANCISCO AGUILAR, in his official
capacity as Nevada Secretary of State; State of
NEVADA; CARI-ANN BURGESS, in her
official capacity as the Washoe County
Registrar of Voters; JAN GALASSINI, in her
official capacity as the Washoe County Clerk;
LORENA PORTILLO, in her official capacity
as the Clark County Registrar of Voters; LYNN
MARIE GOYA, in her official capacity as the
Clark County Clerk

Defendants.

**DECLARATION OF JANESSA
GOLDBECK**

I, Janessa Goldbeck, under penalty of perjury, hereby declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.

2. My name is Janessa Goldbeck and I am currently the Chief Executive Officer ("CEO") at Vet Voice Foundation ("Vet Voice") where I have worked for over two years.

3. Vet Voice is a national non-profit, non-partisan organization, founded in 2009 that is organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for charitable and educational purposes.

4. As CEO, my responsibilities include managing and overseeing personnel, as well as the operations and funding of programs, dedicated to serving over 1.5 million subscribers across the country, composed mainly of active-duty military members, veterans, and their families. These

1 subscribers are individuals who have taken affirmative steps to become a recipient of
2 communications from Vet Voice. Vet Voice has over 14,000 subscribers in Nevada.

3 5. In addition to serving its affirmative subscribers, Vet Voice is dedicated to
4 empowering veterans across the country to become civic leaders and policy advocates by providing
5 the support, training, and tools they need to face public-policy issues at home, such as voting rights
6 and combating disinformation, as well as other policy areas like environment, health care, jobs,
7 and more. Increasing turnout among veterans and military voters—and ensuring that their ballots
8 are counted when they do turn out—is critical to this mission.

9 6. As a nonpartisan organization, Vet Voice works to increase turnout of not just its
10 affirmative subscribers but the broader veteran and military community, and it does so regardless
11 of any individual voter's political beliefs or party membership. To advance this goal, Vet Voice
12 has built a first-of-its-kind military voter file containing approximately 14 million records of
13 veterans and military family members, including over 120,000 records for voters in Nevada, to
14 help the organization focus its mobilization, education, and turnout efforts. These voters comprise
15 the other component of Vet Voice's constituency.

16 7. Prior to my time as CEO of Vet Voice, I served for seven years as a commissioned
17 combat engineer officer in the U.S. Marine Corps. I left the Marines in 2019 with the rank of
18 captain. During my time in military service, I deployed to military installations throughout the
19 United States as well as to various countries in Europe in support of NATO operations. I also
20 performed many collateral duties while serving, including acting as my unit's Voting Assistance
21 Officer at one point in my career.

22 8. Vet Voice's subscribers and constituents include active-duty servicemembers and
23 their families who are oftentimes stationed away from their home state. It is oftentimes physically
24 impossible for these voters to appear at the polls in their home state on election day, and thus they
25 are highly reliant on voting by mail to exercise their right to vote. According to the Federal Voting
26 Assistance Program, approximately three-quarters of the nation's 1.4 million active-duty military
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1 members are eligible to vote absentee or by mail because they are stationed away from their home
2 state.¹

3 9. Vet Voice's subscribers and constituents also include veterans, many of whom are
4 seniors or suffer from physical disabilities, often connected to their military service. Indeed, the
5 Bureau of Labor Statistics reported in March 2023 that 27 percent of all veterans have a service-
6 connected disability, including 41 percent of veterans who have served since September 2001.²
7 Older veterans and disabled veterans are also highly reliant on mail voting to exercise the franchise,
8 given the obstacles they face with appearing in person to vote at their polling location.

9 10. Federal data shows that active military members are registered to vote, and actually
10 successfully cast a ballot, at significantly lower rates than civilians. In the 2020 presidential
11 election, only 47 percent of active military members voted, compared to the national rate of 74
12 percent.³ The gap is typically even starker when it comes to military members deployed overseas.
13 These disparate rates in registration and turnout have been traced to unique obstacles that active
14 military members face in accessing the voting system, including the difficulties these voters face
15 in receiving mail ballots in time to vote them, and getting them returned to election officials in
16 time for them to be counted.

17 11. I have both personal and professional familiarity with the difficulties that arise with
18 voting as an active military member. For example, during the 2012 election cycle, I participated
19 in an officer candidate school for ten weeks at Marine Corps Base Quantico, during which time
20 we were not allowed to leave the premises. My only option for participating in the election was to
21 vote absentee. However, I did not have access to a phone or the internet and thus could not confirm
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24 ¹ State of the Military Voter (Federal Voting Assistance Program),
25 <https://www.fvap.gov/info/reports-surveys/StateoftheMilitaryVoter>.

26 ² Employment Situation of Veterans – 2022, <https://www.bls.gov/news.release/pdf/vet.pdf>.

27 ³ State of the Military Voter (Federal Voting Assistance Program),
28 <https://www.fvap.gov/info/reports-surveys/StateoftheMilitaryVoter>.

1 if or when my ballot had been mailed out or received by my state election officials; I had to take
2 it on faith that it was delivered on time through the mail. My experience is a common one in the
3 military.

4 12. I also know that many deployed military members may not have direct or consistent
5 access to postal services or be able to receive mail addressed to them on a daily basis, such as when
6 they are deployed to combat zones or on ships or submarines. This means that military voters may
7 only have limited opportunities to mail their ballots back and will oftentimes have limited
8 opportunities, or no opportunity at all, to cure deficiencies or other issues with their ballots to
9 ensure their vote will be counted in time.

10 13. Vet Voice is committed to improving military and veteran voter turnout and
11 believes that growing the "veteran vote" benefits all Americans by engaging in the civic process
12 those who have served their country.

13 14. Accordingly, a key part of Vet Voice's mission is to mobilize its subscribers and
14 constituency of military voters and their families by giving them the knowledge and tools to
15 successfully participate in elections, especially when they face unique challenges due to being
16 deployed away from home. Vet Voice dedicates significant resources, including money, personnel
17 time, and volunteers, to these voter education and mobilization efforts.

18 15. Vet Voice's military voter file is critical to the organization's activities in
19 specifically targeting and reaching military voters at an unprecedented scale. For example, in the
20 2020 election, Vet Voice volunteers sent 2.5 million texts to approximately 1.5 million veterans
21 and military families, resulting in a significant increase in voter participation among those
22 contacted. In 2022, Vet Voice volunteers targeted its text message campaign toward Nevada voters
23 in its military voter file. When engaged by a Vet Voice volunteer, voters in the lowest 40 percent
24 turnout propensity were three times more likely to vote early or by mail than peers who were not
25 contacted.

26 16. Vet Voice is continuing to expand this military voter file as part of its growing
27 efforts to mobilize the military and veteran community, including in Nevada. We are currently in
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1 the process of planning our voter engagement and education efforts for the 2024 election and
2 expect to significantly build upon our success from the 2020 and 2022 election cycles.

3 17. Because of its high population of military and veteran voters, Nevada is a key
4 priority state for Vet Voice. According to Vet Voice's military voter file, Nevada is the state with
5 the 7th highest population of veterans and is 22nd in terms of active-duty military. Combined,
6 those demographics make Nevada a top target for veteran and military-affiliated voters.

7 18. At this time, Vet Voice has identified and plans to target approximately 10,000
8 individual veteran and military-affiliated voters in Nevada to mobilize them to vote in the 2024
9 elections using direct mail and text messages. That number may change, however, depending on
10 Vet Voice's resources. Vet Voice also currently has staff on the ground in Nevada.

11 19. Vet Voice also engages in more traditional forms of voter engagement to educate
12 voters. This includes direct mailing efforts to inform voters about important voting deadlines,
13 including deadlines to return mail ballots. Vet Voice volunteers also conduct phone banking
14 operations to transmit information about voting to other military voters. Vet Voice also places
15 digital advertising on social media and video platforms to further promote its message and mission.
16 Finally, Vet Voice may advertise on rural radio stations to reach active-duty and military
17 constituents on issues of importance.

18 20. Because the constituents and subscribers we serve are so dependent on voting by
19 mail, a large part of Vet Voice's voter education mission and programming efforts—whether
20 through our voter file or more traditional means—focuses on mail voting. This is true in Nevada
21 as well as in other states across the country.

22 21. Vet Voice is currently planning its outreach strategy in Nevada for the upcoming
23 2024 election. A key component of that strategy is understanding the legal landscape to ensure
24 voters have the correct information to vote. This includes giving Nevada constituents information
25 about their eligibility to vote by mail; how to apply for a mail ballot; how to properly complete a
26 mail ballot; as well as educating voters about the state's deadlines for counting mail ballots,
27 including the current requirement set forth in Nevada law that ballots be postmarked and received
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1 by their local election office no later than four days after election day or, if not postmarked, three
2 days after election day. Laws like these, which give timely-voted ballots more time to make their
3 way back to election officials to be counted, help enfranchise Vet Voice's constituents, who are
4 uniquely vulnerable to and more likely to be disenfranchised by inflexible election-day receipt cut-
5 offs for mail ballots. Understanding and being able to properly educate our constituents on the
6 specific legal landscape in which their ballots will be cast and counted is critical to our mission.

7 22. Given the importance of mail voting to its subscribers and constituents, Vet Voice
8 has previously participated in litigation to protect the ability to effectively cast a ballot by mail.
9 Specifically, Vet Voice has filed challenges in Washington and Colorado to mail-ballot signature
10 matching requirements that increase the risk that a military voter's ballot will be rejected due to
11 inherent flaws with signature matching systems. *Vet Voice Foundation, et al. v. Secretary of State*
12 *Hobbs et al.*, No. 22-2-19384-1 SEA (Wash. Sup. Ct. King Cnty 2022); *Vet Voice Foundation, et*
13 *al. v. Secretary of State Griswold*, No. 2022CV334565, (Colo. District Ct. 2022).

14 23. Vet Voice believes the claims that Plaintiffs make in this lawsuit and their request
15 for relief—specifically, to require Nevada to reject all mail ballots received within the state's ballot
16 receipt deadline but which the post office failed to postmark—are a severe threat to the ability of
17 Vet Voice's subscribers and constituents to vote in Nevada, as well as to Vet Voice's ability to
18 carry out an effective voter engagement and mobilization effort in the state. Plaintiffs' claims seek
19 to toss out lawfully and timely cast ballots because they happen to arrive shortly after election day
20 and lack a postmark due to a post office error over which the voter had no control. This threatens
21 to disenfranchise, in particular, several different groups within Vet Voice's core constituencies,
22 including: actively deployed military voters, who heavily rely on mail voting and often must return
23 their ballots from distant and inaccessible locations with unreliable mail service; active military
24 and their voters currently living outside of their home state, whose ballots often take longer to
25 reach them and to get back to their home state to be counted; as well as senior veterans and
26 physically disabled veterans, many of whom rely on mail voting to vote in Nevada, but whose
27 ballots are at risk of being thrown out because of minor mail delays or post office errors. In all of
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1 these ways, this lawsuit directly threatens Vet Voice's mission of ensuring that military and veteran
2 voters, including in Nevada, have maximal flexibility and opportunity to vote under their states'
3 laws, and have their ballots counted—and not rejected—for reasons largely, or entirely, out of
4 their control.

5 24. For all of these reasons, Vet Voice has a strong interest in defending Nevada's
6 current mail ballot receipt procedures, which do not disenfranchise voters for errors made by the
7 post office and which allow ballots returned by mail voters a few days of leeway in case there are
8 unforeseen and unpreventable mail delays—a common occurrence for military voters, who have
9 no control over how long it will take for their ballots to be transmitted back to election officials in
10 Nevada.

11 25. Vet Voice has also moved to intervene in a case in Nevada's federal district court
12 in which some of the same plaintiffs here seek, under federal law, to require Nevada to discard *all*
13 mail ballots arriving after election day, with or without a postmark. *See Republican Nat'l Comm.*
14 *v. Burgess*, No. 3:24-cv-00198-MMD-CLB (D. Nev. May 10, 2024), ECF No. 15. If Plaintiffs
15 succeed here, they will effectively obtain some of the same relief that they seek in their federal
16 case—requiring all *non-postmarked* ballots arriving after election day to be discarded.

17 26. Vet Voice was also granted intervention in ongoing federal court litigation in
18 Mississippi raising a challenge to that state's mail ballot deadline that is similar to the challenge
19 made by plaintiffs in the Nevada federal case. *See Republican Nat'l Comm. v. Wetzel*, No. 1:24-
20 cv-25-LG-RPM, 2024 WL 988383, at *1 (S.D. Miss. Mar. 7, 2024). These efforts reflect our
21 commitment to ensuring that all military voters across the country can access the franchise through
22 fair mail balloting rules.

23 I certify under penalty of perjury that the foregoing is true and correct.

24 Executed on JUNE 6, 2024

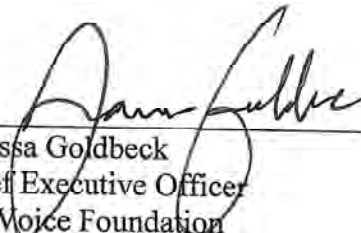
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26 By: 
27 Janessa Goldbeck
28 Chief Executive Officer
Vet Voice Foundation

EXHIBIT 4

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EXHIBIT 4

1
2 **FIRST JUDICIAL DISTRICT COURT**
3 **IN AND FOR CARSON CITY, STATE OF NEVADA**

4 REPUBLICAN NATIONAL COMMITTEE;
5 NEVADA REPUBLICAN PARTY; DONALD
6 J. TRUMP FOR PRESIDENT 2024, INC.;
7 SCOTT JOHNSON,

Plaintiffs,

8 v.

9 FRANCISCO AGUILAR, in his official capacity
10 as Nevada Secretary of State; State of
11 NEVADA; CARI-ANN BURGESS, in her
12 official capacity as the Washoe County Registrar
13 of Voters; JAN GALASSINI, in her official
14 capacity as the Washoe County Clerk; LORENA
15 PORTILLO, in her official capacity as the Clark
16 County Registrar of Voters; LYNN MARIE
17 GOYA, in her official capacity as the Clark
18 County Clerk

Defendants.

DECLARATION OF THOMAS BIRD

19 I, Thomas Bird, under penalty of perjury, hereby declare as follows:

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

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

23 3. I am currently the President of the Nevada Alliance for Retired Americans ("The
24 Alliance"), a non-partisan 501(c)(4) membership organization with approximately 20,000
25 members across the state of Nevada. We are a part of the network of the Alliance for Retired
26 Americans which has over 4.4 million members across the country. The Alliance's members are
27 geographically diverse, spanning from Elko to Las Vegas and from Reno to Ely. They are also
28 diverse in terms of age and profession. We serve both older retirees who are well 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.

1 4. The Alliance's mission is to ensure the social and economic justice and full civil
2 rights that retirees have earned after a lifetime of work, with a particular emphasis on protecting
3 the right to vote. To further that mission, each election cycle, we travel across the state to bring a
4 voter education campaign directly to our members. As part of our voter education work, we put
5 together voter education materials, help our members confirm their voter registration status and
6 track the status of their submitted mail ballots, and answer any other questions they may have
7 about how to get their ballots cast and counted.

8 5. We also work with 20 affiliated chapters—composed of other union and
9 community groups—across Nevada. A major focus of our work is attending chapter meetings to
10 speak with members about key policy goals, such as preserving Social Security and Medicare.

11 6. Ensuring members' ability to successfully vote by mail is a critical piece of the
12 Alliance's mission. Many of the Alliance's members are older and disabled voters who rely deeply
13 on mail ballots to exercise their right to vote. Based on my experience and communications with
14 members, I believe a significant majority of them vote by mail. Since Nevada adopted universal
15 mail balloting, Alliance members have increasingly come to prefer it over voting in person. Voting
16 by mail is important to many of the Alliance's members for numerous reasons: many lack
17 transportation to make it to the polls, are not comfortable standing in long lines at polling places,
18 have a disability or injury that makes in-person voting difficult, prefer for health reasons not to
19 wait a long time in-person to vote, lack spousal support due to a spouse predeceasing them, want
20 to avoid potential voter intimidation or harassment at the polls, or simply prefer to spend more
21 time with their ballot while completing it from the comfort of their kitchen table. If Plaintiffs are
22 successful in excluding mail ballots that lack a postmark and are received after election day, the
23 Alliance's members will be at increased risk of having their mail ballots not counted.

24 7. Many of the Alliance's members are deeply concerned about increasing mail
25 delays, which can impact everything from their timely receipt of prescription medication by mail
26 to their ability to successfully vote a mail ballot. This fear has been significantly heightened
27 recently due to plans from the U.S. Postal Service to route mail in Northern Nevada through
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1 facilities Sacramento rather than Reno.¹ Many Alliance members fear the impact this change could
2 have on their mail service.

3 8. If Plaintiffs are successful in preventing any mail ballots lacking a postmark that
4 are received after election day from being counted, even if timely submitted, then the Alliance
5 plans to divert its limited resources to help its members sign up for various mail tracking systems,
6 ranging from the U.S. Postal Service's informed delivery service to the state of Nevada's ballot
7 tracking service (Ballottrax), so they can keep track of the timing of their mail ballot. Many of the
8 Alliance's members are not comfortable with technology and have concerns with fraud, and will
9 require individualized assistance in signing up for and using these services.

10 9. Many of the Alliance's members and volunteers are active and undertake numerous
11 activities to help register and educate voters about how to vote, including door knocking, phone
12 banking, Zoom meetings, postcard parties, and appearing at community events like health fairs
13 and labor union conventions. The Alliance often partners with other non-partisan organizations to
14 host these voter education events across Nevada. The Alliance also hosts retirement forums and
15 conventions, during which it provides speakers and presentations about registering to vote and
16 voting, including on the mechanics of voting by mail. If Plaintiffs are successful in this action, the
17 Alliance will have to fundamentally reshape their voter education activities to emphasize the risk
18 of mail ballots not being counted, at the expense of other mission-critical issues.

19 10. Many of the Alliance's members also speak with family, friends, neighbors, and
20 others about voting. The Alliance frequently answers questions related to voting, and strives to be
21 a central information source for voters so that if the Alliance isn't aware of the answer to a
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24 ¹ See, e.g., Jessica Hill, *USPS moves ahead on plan to move Nevada mail to CA, despite opposition*,
25 *Las Vegas Review-Journal* (Apr. 23, 2024), <https://www.reviewjournal.com/news/politics-and-government/usps-moves-ahead-on-plan-to-move-ncvada-mail-to-ca-despite-opposition-3039162/>; Eric Neugeboren, *Despite Nevada opposition, USPS to move key mail operations from Reno to Sacramento*, *The Nevada Independent* (Apr. 26, 2024),
26 <https://thenevadaindependent.com/article/despise-nevada-opposition-usps-to-move-key-mail-operations-from-reno-to-sacramento>.
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1 particular question, the Alliance will help track it down and report back. The Alliance's members
2 are a very engaged group and are likely to have a lot of questions that require time and resources
3 to address. The Alliance also helps educate its members by sharing articles and posting information
4 and resources on social media posts.

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

14
15 I declare under penalty of perjury that the foregoing is true and correct.

16
17 Executed on 6-6-24

18
19 By: Thomas Bird

20
21 Thomas Bird
22 President
23 Nevada Alliance for Retired Americans
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