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Respondents RISE, Institute for a Progressive
Nevada, and the Nevada Alliance for Retired
Americans*

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

CITIZEN OUTREACH FOUNDATION,
CHARLES MUTH, individually,

Petitioners,

v.

CARRE-ANN BURGESS, in her official
capacity as the acting Registrar of Voters, for
Washoe County,

Respondent.

Case No.: CV24-02182
Dept. No.: 3

**MOTION TO INTERVENE AS
RESPONDENTS**

Pursuant to Nevada Rule of Civil Procedure 24, Proposed Intervenor-Respondents RISE, Institute for a Progressive Nevada, and the Nevada Alliance for Retired Americans (“Proposed Intervenor”), by and through their attorneys, move to intervene as respondents in the above-titled action.

This Motion is based on the Memorandum of Points and Authorities below, the declarations and exhibits attached hereto, all papers and pleadings on file, and any oral argument

1 this Court sees fit to allow at the hearing on this matter.

2 DATED this 27th day of September, 2024.

3 By: /s/ Bradley S. Schrager

4 Bradley S. Schrager (NV Bar No. 13078)

5 Daniel Bravo (NV Bar No. 10217)

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10 *Attorneys for Proposed Intervenor-*
11 *Respondents RISE, Institute for a Progressive*
12 *Nevada, and the Nevada Alliance for Retired*
13 *Americans*

1 on their eligibility, and help them re-register to vote if they are removed or made inactive. No
2 existing party adequately protects Proposed Intervenor's interests in this case. Proposed
3 Intervenor is accordingly entitled to intervene in this case as a matter of right under Rule
4 24(a)(2). In the alternative, the Court should grant Proposed Intervenor permissive intervention
5 pursuant to Rule 24(b).¹

6 BACKGROUND

7 I. Statutory Background

8 Maintenance of Nevada's voter rolls is primarily the responsibility of county officials, who
9 "may use any reliable and reasonable means available" to correct the portions of the statewide
10 registered voter list relevant to them, subject to procedural and substantive safeguards. NRS
11 293.530(1) (emphasis added). Third parties like Petitioners may participate in that process only by
12 filing voter challenges under either of two challenge statutes, NRS 293.535 and .547, both of which
13 allow only challenges based on the challenger's "personal knowledge." This case involves
14 challenges under NRS 293.535, which allows "any elector or other reliable person" to challenge a
15 voter by swearing to facts based on personal knowledge showing that a voter is not a U.S. citizen
16 or has moved outside the county where he or she is registered to vote and established residence
17 elsewhere. NRS 293.535(1). When a valid NRS 293.535 challenge is filed based on residency, the
18 clerk must mail a written notice to the voter, and, if the voter does not return the mailed postcard
19 within 30 days, mark the voter as inactive. NRS 293.530(1)(c), (g). Inactive voters do not receive
20 mail ballots, NRS 293.269911(1), and they will be fully removed if they do not vote or take certain
21 other actions in the next two general election cycles. NRS 293.530(1)(c).

22 Several of these limitations on the voter challenge process reflect protections imposed by
23 the National Voter Registration Act of 1993 ("NVRA"). The NVRA prevents states from removing
24 voters from the rolls due to a change of residence unless they first fail to respond to a mailed notice
25 and then fail to vote in two federal election cycles. 52 U.S.C. § 20507(d)(1)(B). The NVRA also
26 requires states to complete "any program the purpose of which is to systematically remove the

27 _____
28 ¹ As Rule 24(c) requires, Proposed Intervenor's proposed answer is **Exhibit 1** hereto.

names of ineligible voters from the official lists of eligible voters” no “later than 90 days prior to the date of a primary or general election for Federal office.” *Id.* § 20507(c)(2)(A). Federal law therefore prohibits all such removal programs until after the November 2024 election.

II. Petitioners’ Attempts to Remove Nevada Voters from the Rolls

This lawsuit represents the latest twist in Petitioners’ years-long effort, which they call the “Pigpen Project,” to remove Nevada voters from the voter rolls based on Petitioners’ review of various third-party and government databases.² Petitioners’ effort is flawed to its core because Nevada law makes list maintenance the responsibility of county officials, not third-party groups, and provides only narrow avenues—the two challenge statutes, NRS 293.535 and .547—for third parties to contribute to those efforts. Petitioners therefore sought to package their review of databases into voter challenges, and on July 29, 2024, they filed almost 4,000 challenges under NRS 293.535 across the state.³ As of August 28, the number of challenges had grown; Petitioners submitted 11,063 challenges in Washoe County alone. Pet. ¶ 29. On August 27, 2024, the Secretary of State advised county clerks in Memo 2024-026 that voter challenges must be based on “firsthand knowledge through experience or observation” and that challenges based on “review of data from databases or compilations of information” were therefore invalid. Pet. Ex. 1 at 1, 3 (quoting NAC 293.416(3)). Counties across the state therefore rejected Petitioners’ challenges, and in the last week, Petitioners have brought three mandamus actions—in this Court and in Clark County and Carson City—to compel counties to process them.

III. Proposed Intervenors

Rise. Rise Action Fund (“Rise”) is a student-led 501(c)(4) nonprofit organization that operates student-focused statewide advocacy and voter mobilization programs in Nevada. *See* Decl. of Christian Solomon ¶¶ 5–6, 8–12 (“Solomon Decl.”) (attached as **Exhibit 2**). Its election-focused work—empowering and mobilizing students in the political process—is important to

² *See generally* Chuck Muth, *Follow-Up: My Conversation with NV SOS Aguilar*, PigPenProject.com (Aug. 29, 2024), <https://pigpenproject.com/blog/follow-up-my-conversation-with-nv-sos-aguilar/>.

³ *See id.*

Rise’s mission, which hinges on its ability to build political power within the student population. *Id.* ¶¶ 5, 16. To build political support for its policy goals, including gun safety issues, student debt relief, and financial assistance, Rise organizes and educates its student constituents at University of Nevada, Las Vegas, University of Nevada, Reno, Nevada State University, and College of Southern Nevada about the 2024 general election. *Id.* ¶¶ 8–10, 12–18. Rise runs programs on campus to register students to vote and to ensure that students *stay* registered and are able to vote. *Id.* ¶ 16. Rise’s goal is to reach each student three to five times, on the phone or in person, by the election. *Id.*

The relief that Petitioners seek harms the students that Rise advocates for and serves. *Id.* ¶¶ 19–22. Many college students move frequently without abandoning their permanent residence and may accordingly easily miss—or fail to timely receive—notices sent to their permanent addresses advising them that their registration is at risk of cancellation. *Id.* ¶ 20. Other college students register at their college address but move frequently—every year, or even every semester—within the same small geographic area. *Id.* With just over a month before the election, students are at a particularly high risk of being removed from the rolls due to Petitioners’ belated and improper efforts. Petitioners’ suit is therefore a direct attack on the very voters Rise organizes and advocates for. If Petitioners are successful, Rise will need to help students confirm their registration status, find and respond to mailed notices, and re-register. *Id.* ¶ 21. These efforts would come at the expense of Rise’s work in support of its other mission-critical priorities. *Id.* ¶¶ 21–22.

Institute for a Progressive Nevada. The core mission of the Institute for a Progressive Nevada (“IPN”) is to ensure that every Nevadan can vote confidently and successfully. Decl. of Shelbie Swartz ¶ 4 (“Swartz Decl.”) (attached as **Exhibit 3**). As part of its work, IPN publishes a non-partisan voter guide every election cycle, with comprehensive instructions on how to register and vote, and provides a voter registration platform to help voters register. *See id.* In addition, IPN works with partner organizations to distribute its voter materials to educate them about upcoming election deadlines, eligibility requirements, where and how to vote, and universal vote-by-mail. *Id.* IPN also engages in targeted advertising campaigns to educate Nevadans about and ensure that the resources reach Nevadans who are most at risk of being disenfranchised. *Id.*

Petitioners' suit is a direct affront to IPN's mission to empower all Nevadans to vote. Petitioners seek to compel Respondent to begin the process of removing voters from the rolls based on challenges that are unsupported by any actual personal knowledge that the voter is ineligible. Should Petitioners succeed, IPN would have to retool its voter guide to inform voters why their registration might be challenged and how to confirm their registration status, and it would have to refocus its limited advertising to spread awareness about the need for voters to check their registration and potentially re-register. *Id.* ¶¶ 5–7. These efforts would pull from IPN's limited financial resources, likely making it more difficult to meet payroll for existing employees and reduce IPN's ability to organize around other issues. *See id.*

The Alliance. The Alliance for Retired Americans is a nonpartisan 501(c)(4) membership organization dedicated to ensuring the social and economic justice and full civil rights of retirees, with a particular emphasis on safeguarding the right to vote. Decl. of Thomas Bird ¶¶ 3–4 (“Bird Decl.”) (attached as **Exhibit 4**). The Nevada Alliance for Retired Americans has roughly 20,000 members. *Id.* ¶ 3. The Alliance organizes chapter meetings and speaks with members about key policy goals, such as preserving Social Security and Medicare. *See id.* ¶ 9.

Alliance members are disproportionately vulnerable to unfounded voter challenges like Petitioners' because many retirees move within Nevada after retiring and many often travel out of state for long periods, during which time they may miss and fail to return a mailed notice regarding their registration status. *Id.* ¶¶ 5–6, 9. Furthermore, members who spend time caring for grandchildren at another family member's home or enjoy retirement at a second home may miss a crucial notice of cancellation if that notice is sent only to the retiree's home address. *See id.* Petitioners' suit threatens the registration of the Alliance's 20,000 members, including 3,303 members in Washoe County. *Id.* ¶ 3. If Petitioners succeed, the Alliance would be forced to refocus its efforts on preparing materials and presentations to educate its members about confirming their registration status, help them re-register if they are removed, and answer questions about the process. *Id.* ¶¶ 7–9. These efforts would take up scarce presentation and organizing time at chapter meetings and would frustrate the Alliance's mission by diverting its resources from other essential tasks, such as advocating to lower the cost of prescription drugs, preserving Social Security and

1 Medicare, and other voter education work. *Id.* ¶¶ 9–10.

2 STANDARD OF LAW

3 Nevada Rule of Civil Procedure 24 governs intervention in Nevada state court actions.
4 Because Rule 24 and Federal Rule of Civil Procedure 24 are “equivalent,” *Lawler v. Ginochio*, 94
5 Nev. 623, 626, 584 P.2d 667, 668 (1978) (per curiam), “[f]ederal cases interpreting [Rule 24] ‘are
6 strong persuasive authority.’” *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P. 3d
7 872, 876 (2002) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772,
8 776 (1990) (per curiam)).

9 To intervene as of right under Rule 24(a)(2),
10 an applicant must meet four requirements: (1) that it has a sufficient interest in
11 the litigation’s subject matter, (2) that it could suffer an impairment of its ability
12 to protect that interest if it does not intervene, (3) that its interest is not
13 adequately represented by existing parties, and (4) that its application is timely.
14 *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex rel. County of Clark*, 122 Nev. 1229, 1238,
15 147 P.3d 1120, 1126 (2006). “In evaluating whether Rule 24(a)(2)’s requirements are met,” courts
16 “construe the Rule broadly in favor of proposed intervenors . . . because a liberal policy in favor
17 of intervention serves both efficient resolution of issues and broadened access to the courts.”
18 *Wilderness Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (cleaned up).

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

23 ARGUMENT

24 I. Proposed Intervenors satisfy all of Rule 24(a)’s requirements for intervention as a 25 matter of right.

26 Proposed Intervenors satisfy each of the four requirements of NRCP 24(a) and thus are
27 entitled to intervene as a matter of right.

28 A. The motion is timely.

First, the motion is timely. This motion comes less than a week after Petitioners filed the
Petition. There has therefore been no delay, and there is no risk of prejudice to the other parties.

1 *See In re Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at *3 (Nev. May 24, 2013);
2 *Lawler*, 94 Nev. at 626, 584 P.2d at 669. If the Court grants intervention, Proposed Intervenor
3 will abide by any court-ordered schedule and will very promptly respond to the motion for a
4 preliminary injunction that Petitioners filed yesterday.

5 **B. Proposed Intervenor have significant protectable interests that may be**
6 **impaired by this lawsuit.**

7 Proposed Intervenor also (1) have significant protectable interests in this lawsuit (2) that
8 may be impaired by Petitioners' claims. "A 'significantly protectable interest' . . . [is] one that is
9 protected under the law and bears a relationship to the plaintiff's claims." *Am. Home Assurance*
10 *Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (en banc) (quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d
11 794, 803 (9th Cir. 2002)). If a would-be intervenor "would be substantially affected in a practical
12 sense by the determination made in an action, he should, as a general rule, be entitled to intervene,"
13 *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 822 (9th Cir. 2001) (quoting Fed. R. Civ.
14 P. 24 advisory committee note to 1966 amendment)). This interest requirement is less stringent
15 than the injury required for standing. *See Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991). !!

16 Proposed Intervenor have at least two significant interests in this lawsuit. *First*, they have
17 a compelling interest in ensuring that their members and constituents can register to vote, remain
18 registered to vote and in active status, and successfully participate in future elections. Petitioners
19 threaten these interests by seeking a writ of mandamus that would compel Respondent to process
20 voter challenges based on nothing more than Petitioners' review of third-party databases. Such
21 relief would dramatically increase the probability that voters—including Proposed Intervenor's
22 members and constituents—will be wrongfully removed from the voter rolls.

23 In analogous cases, courts have recognized similar interests as a proper basis for
24 intervention. Earlier this year, the First Judicial District granted the Alliance's motion to intervene
25 in a challenge to Nevada's deadline for the receipt by mail of unpostmarked ballots based on its
26 assertion of similar interests. *See Order Granting Mot. to Intervene, Republican Nat'l Comm. v.*
27 *Aguilar*, No. 24-OC-00101B (Nev. 1st Jud. Dist. Ct. June 14, 2024) ("*Aguilar Order*") (attached
28 as **Exhibit 5**); *see also, e.g., Bellitto v. Snipes*, No. 16-cv-61474, 2016 WL 5118568, at *2–3 (S.D.

1 Fla. Sept. 21, 2016) (granting labor union intervention in suit seeking court-ordered voter list
2 maintenance), *reconsideration denied*, 2016 WL 10518461 (S.D. Fla. Oct. 4, 2016); *Pub. Int.*
3 *Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799 (E.D. Mich. 2020) (granting organization
4 intervention in suit seeking to compel city to take more aggressive measures to purge allegedly
5 ineligible voters). Here, the Alliance similarly seeks to protect the voting rights of its 20,000 retiree
6 members in Nevada, Bird Decl. ¶¶ 3–4, and Rise seeks to protect its constituency of politically
7 marginalized students, Solomon Decl. ¶ 5.⁴

8 *Second*, should Petitioners succeed in forcing Respondent to process unfounded voter
9 challenges, Proposed Intervenors would face injury to their core missions, not least of all because
10 policymakers are more likely to listen to the concerns of individuals who can and do vote. To
11 reduce that injury, Petitioners would need to divert time and resources to helping their members
12 and constituents verify—and, if necessary, renew—their voter registrations, taking resources away
13 from Proposed Intervenors’ other priorities and harming their missions. IPN would have to update
14 its voter registration platform to help voters determine if they have been removed or marked
15 inactive and educate voters and help them confirm their registration status, to the detriment of its
16 other projects. *See* Swartz Decl. ¶ 7. Rise would have to redirect its efforts away from educating
17 students about loan repayment assistance and college aid plans and towards helping students
18 confirm their registration status and re-register, which would harm Rise’s mission. Solomon Decl.
19 ¶¶ 21–22. Similarly, the Alliance would have to use its limited volunteer resources to prepare and
20 distribute materials educating its members on how to confirm their registration status, help them
21 locate and respond to mailed notices, and help them re-register. *See* Bird Decl. ¶¶ 7–9. This effort
22 will reduce the Alliance’s ability to organize its members on other key policy goals like protecting
23 Social Security and Medicare. *See id.* ¶ 10.

24
25 _____
26 ⁴ Unlike *Kraus v. Burgess*, No. CV24-01051 (Nev. 2nd Jud. Dist. July 16, 2024) at 11–12, where
27 the court found that proposed intervenors’ interests were based on the speculative, contingent
28 actions of third parties who may bring future voter challenges, the interests of Proposed
Intervenors here rest on the threat of disenfranchisement from the over ten thousand voter
challenges that have already been brought by Petitioners.

1 “Once an applicant has established a significantly protectable interest in an action, courts
2 regularly find that disposition of the case may, as a practical matter, impair an applicant’s ability
3 to protect that interest.” *Venetian Casino Resort, LLC v. Enwave Las Vegas, LLC*, No. 2:19-CV-
4 1197 JCM (DJA), 2020 WL 1539691, at *3 (D. Nev. Jan. 7, 2020) (citing *California ex rel.*
5 *Lockyer v. United States*, 450 F.3d 436, 442 (9th Cir. 2006)). Petitioners’ lawsuit seeks to compel
6 county clerks to act on the unsubstantiated challenges of third parties, which would require
7 Proposed Intervenors to divert resources to respond to this unwarranted attack on the rights of their
8 members and constituents. Accordingly, if Petitioners’ suit succeeds, Proposed Intervenors’
9 interests in their members’ and constituents’ voting rights as well as their interests in their own
10 resources will be impaired. This criterion for intervention of right is accordingly satisfied.

11 **C. Respondent does not adequately represent Proposed Intervenors.**

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

24 Proposed Intervenors are focused on ensuring that their members and constituents remain
25 registered to vote and are able to successfully cast their ballots, which is a distinct interest from
26 Respondent’s interests in administering election laws generally. *See Aguilar Order* at 12–13.
27 Courts in Nevada adjudicating similar voter roll maintenance issues have recognized that election
28 officials must balance “easing barriers to registration and voting” with “protecting electoral

1 integrity,” while the mission of Proposed Intervenor is “ensur[ing] that voters are retained on or
2 restored to the rolls,” which “provide the counterbalance to plaintiffs’ singular purpose that
3 defendants’ split mission does not allow.” *Republican Nat’l Comm. v. Aguilar*, No. 2:24-cv-00518-
4 CDS-MDC, 2024 WL 3409860, *3 (D. Nev. July 12, 2024); *see also Pub. Int. Legal Found*, 463
5 F. Supp. 3d at 799 (holding that the “interests of election officials in voting roll maintenance are
6 sufficiently distinct [] to warrant intervention by those who could be impacted by the results of the
7 maintenance process”); *Bellitto*, 2016 WL 5118568, at *2 (same). Moreover, Proposed Intervenor
8 have specific interests and concerns over the allocation of their limited resources to help members
9 and constituents identify whether they have been removed from the rolls and help them re-register
10 that no other party in this lawsuit shares. Proposed Intervenor therefore cannot rely on Respondent
11 or anyone else to adequately represent their interests in this case.

12 **D. Alternatively, Proposed Intervenor satisfy Rule 24(b)’s requirements for**
13 **permissive intervention.**

14 Alternatively, the Court should grant Proposed Intervenor permissive intervention. Courts
15 have broad discretion to permit intervention under Rule 24(b) where an applicant’s claim or
16 defense and the main action have a question of law or fact in common and intervention will not
17 unduly delay or prejudice the adjudication of the rights of the original parties. *See Hairr*, 132 Nev.
18 at 187, 368 P.3d at 1202.

19 For the reasons discussed *supra* Argument § I, Proposed Intervenor’s motion is timely, and
20 Proposed Intervenor cannot rely on Respondent to adequately protect their interests. Proposed
21 Intervenor also have defenses to Petitioner’s claims that share common questions of law and
22 fact—for example, whether Petitioner have pleaded facts allowing a court to conclude that they
23 have a clear legal right to the extraordinary remedy of mandamus and whether their claims are
24 preempted by the NVRA. *See* Proposed Answer (attached as **Exhibit 1**). Intervention will not
25 result in any undue delay or prejudice, because Proposed Intervenor have a strong interest in a
26 swift resolution to this action to ensure that their members’ and constituents’ voting rights are
27 protected, while simultaneously avoiding any unnecessary delay.

1 For all of those reasons, the U.S. District Court for the District of Nevada granted these
2 same three Proposed Intervenors permissive intervention in a federal challenge to Nevada’s voter
3 registration list maintenance procedures earlier this year, explaining that Proposed Intervenors’
4 mission of “ensur[ing] that voters are retained on or restored to the rolls” provides an appropriate
5 “counterbalance to plaintiffs’ singular purpose” of seeking a purge of the voter rolls. *Aguilar*, 2024
6 WL 3409860, at *3. Exactly the same analysis applies here, and permissive intervention should be
7 granted for the same reason.

8 CONCLUSION

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

12 AFFIRMATION

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

15 DATED this 27th day of September, 2024.

16 By: /s/ Bradley Schrager

17 Bradley S. Schrager (NV Bar No. 13078)

18 Daniel Bravo (NV Bar No. 10217)

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25 *Nevada, and the Nevada Alliance for Retired*
26 *Americans*

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 2024, a true and correct copy of **MOTION TO INTERVENE AS RESPONDENTS** was served via the Washoe County E-Flex Filing System on all parties or persons requesting notice.

By: /s/ Dannielle Fresquez
Dannielle Fresquez, an employee of
BRAVO SCHRAGER LLP

INDEX OF EXHIBITS

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2	Declaration of Christian Solomon	5
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5	Order Granting Motion to Intervene	15

EXHIBIT 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT 1

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

CITIZEN OUTREACH FOUNDATION,
CHARLES MUTH, individually,

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v.

CARRE-ANN BURGESS, in her official
capacity as the acting Registrar of Voters, for
Washoe County,

Respondents.

Case No.: CV24-02182
Dept. No.: 3

**[PROPOSED] ANSWER TO PETITION
FOR WRIT OF MANDAMUS**

Proposed Intervenor-Respondents RISE, Institute for a Progressive Nevada, and Nevada Alliance for Retired Americans (“Proposed Intervenor”), by and through their attorneys, submit the following Proposed Answer to Petitioners’ Petition for Writ of Mandamus (the “Petition”). Proposed Intervenor responds to the allegations in the Petition as follows:

NATURE OF THE CASE

1. Proposed Intervenor lacks knowledge and information sufficient to form a belief as

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

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

4 3. Exhibit 1 to the Petition speaks for itself. Proposed Intervenor otherwise lack
5 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph
6 3 and therefore deny them.

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

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

11 6. Exhibit 2 to the Petition speaks for itself. Proposed Intervenor otherwise lack
12 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph
13 6 and therefore deny them.

14 7. Exhibit 3 to the Petition speaks for itself. Proposed Intervenor otherwise lack
15 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph
16 7 and therefore deny them.

17 8. Exhibit 4 to the Petition speaks for itself. Proposed Intervenor otherwise lack
18 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph
19 8 and therefore deny them.

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

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

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

26 12. Proposed Intervenor lack knowledge and information sufficient to form a belief as
27 to the truth of the allegations in Paragraph 12 and therefore deny them.

1 **PARTIES**

2 13. Proposed Intervenor lack knowledge and information sufficient to form a belief as
3 to the truth of the allegations in Paragraph 13 and therefore deny them.

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

6 15. Paragraph 15 contains legal contentions, characterizations, conclusions, and
7 opinions to which no response is required. To the extent a response is required, denied.

8 16. Admitted.

9 **JURISDICTION AND VENUE**

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

12 18. Admitted.

13 **GENERAL FACTUAL ALLEGATIONS**

14 19. Proposed Intervenor admit that Paragraph 19 accurately quotes the excerpted
15 portion of NRS 293.535, with added emphasis that does not appear in the statute. The remainder
16 of Paragraph 19 contains legal contentions, characterizations, conclusions, and opinions to which
17 no response is required. To the extent a response is required, denied.

18 20. Proposed Intervenor admit that Paragraph 20 accurately quotes the excerpted
19 portion of NRS 293.535, with added emphasis that does not appear in the statute.

20 21. Proposed Intervenor admit that Paragraph 21 accurately quotes the excerpted
21 portion of NRS 293.530, with added emphasis that does not appear in the statute.

22 22. Proposed Intervenor admit that Paragraph 22 accurately quotes the excerpted
23 portion of NRS 293.530, with added emphasis that does not appear in the statute.

24 23. Proposed Intervenor admit that Paragraph 23 accurately quotes the excerpted
25 portion of NRS 293.530.

26 24. Proposed Intervenor admit that Paragraph 24 accurately quotes the excerpted
27 portion of NRS 293.530, with added emphasis that does not appear in the statute.

25. Proposed Intervenor admits that Paragraph 25 accurately quotes the excerpted portion of NRS 293.530.

26. Proposed Intervenor's admit that Paragraph 26 accurately quotes NRS 293.5303.

27. Paragraph 27 contains legal contentions, characterizations, conclusions, and opinions to which no response is required. To the extent a response is required, denied.

COUNT I

Writ of Mandamus for Violation of the NRS 293.535 and 293.530

28. Proposed Intervenorors incorporate their responses to Paragraphs 1 through 27 as if set forth fully herein.

29. Exhibit 5 to the Petition speaks for itself. Proposed intervenors otherwise lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 29 and therefore deny them.

30. Proposed Intervenor's lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 30 and therefore deny them.

31. Proposed Intervenor lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 31 and therefore deny them.

32. Paragraph 32 contains legal contentions, characterizations, conclusions, and opinions to which no response is required. To the extent a response is required, denied.

33. Denied.

34. Proposed Intervenor admits that Petitioners purport to seek a writ of mandamus, but deny that Petitioners are entitled to any relief.

35. Proposed Intervenor admits that Petitioners purport to seek a declaratory judgment, but deny that Petitioners are entitled to any relief.

COUNT II

Declaratory Relief

36. Proposed Intervenorors incorporate their responses to Paragraphs 1 through 35 as if set forth fully herein.

1 37. Proposed Intervenor's admit that Paragraph 37 accurately quotes the excerpted
2 portion of NRS 30.040(1).

3 38. Paragraph 38 contains legal contentions, characterizations, conclusions, and
4 opinions to which no response is required. To the extent a response is required, denied.

5 39. Denied.

6 40. Denied.

7 **COUNT III**

8 **Injunctive Relief**

9 41. Proposed Intervenor's incorporate their responses to Paragraphs 1 through 40 as if
10 set forth fully herein.

11 42. Denied.

12 43. Denied.

13 44. Denied.

14 45. Denied.

15 46. Denied.

16 47. Paragraph 47 contains legal contentions, characterizations, conclusions, and
17 opinions to which no response is required. To the extent a response is required, denied.

18 **GENERAL DENIAL**

19 Proposed Intervenor's deny every allegation in the Petition that is not expressly admitted
20 herein.

21 **AFFIRMATIVE DEFENSES**

22 Proposed Intervenor's set forth their affirmative defenses without assuming the burden of
23 proving any fact, issue, or element of a cause of action where such burden properly belongs to
24 Petitioner's. Moreover, nothing stated here is intended or shall be construed as an admission that
25 any particular issue or subject matter is relevant to the allegations in the Petition. Proposed
26 Intervenor's reserve the right to amend or supplement their affirmative defenses as additional facts
27 concerning defenses become known.
28

1 Proposed Intervenor assert the following affirmative defenses:

2 Petitioners' claim is preempted by the National Voter Registration Act.

3 Petitioners fail to plead facts showing a clear legal right to the extraordinary remedy of
4 mandamus.

5 Petitioners are not entitled to a writ of mandamus because they have an alternate, adequate
6 legal remedy available to them.

7 Petitioners' claims are barred by the doctrine of laches.

8 Petitioners lack standing to pursue their claims.

9 Petitioners fail to state a claim on which relief can be granted.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Proposed Intervenor respectfully request that this Court:

- 12 A. Deny that Petitioners are entitled to any relief;
13 B. Dismiss the Petition in its entirety, with prejudice; and
14 C. Grant such other and further relief as the Court may deem just and proper.

15
16 **AFFIRMATION**

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

1 DATED this 27th day of September, 2024.

2 By: /s/ Bradley Schrager

3 Bradley S. Schrager (NV Bar No. 13078)

4 Daniel Bravo (NV Bar No. 10217)

5 **BRAVO SCHRAGER LLP**

6 6675 South Tenaya Way, Suite 200

7 Las Vegas, NV 89113

8 David R. Fox (NV Bar No. 16536)

9 **ELIAS LAW GROUP LLP**

10 250 Massachusetts Ave NW, Suite 400

11 Washington, DC 20001

12 *Attorneys for Proposed Intervenor-*
13 *Respondents RISE, Institute for a Progressive*
14 *Nevada, and Nevada Alliance for Retired*
15 *Americans.*

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EXHIBIT 2

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EXHIBIT 2

1 organization dedicated to promoting the interests of young people and students between the ages
2 of 18 and 27—Rise’s core constituency. I was hired as State Director to build up Rise’s operations
3 within the state. My role as State Director is a full-time paid position.

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

9 8. We currently have active programming at the University of Nevada, Las Vegas
10 (“UNLV”), University of Nevada, Reno (“UNR”), Nevada State University (“NSU”), and College
11 of Southern Nevada (“CSN”). Our Deputy State Director focuses on the Reno area, and we have
12 field organizers, campus fellows, and student volunteers focused on each of these schools.

13 9. Rise currently has sixteen staff members, including six organizers at UNLV, six
14 organizers at UNR, and two organizers for the Southern Nevada region, which includes NSU and
15 CSN.

16 10. Many of our schools are commuter campuses, especially CSN and NSU, which
17 have multiple locations. We have previously organized at Truckee Meadows Community College
18 and Great Basin College—both commuter campuses—and we run virtual programming to reach
19 students in rural areas.

20 11. We run many of our digital programs to reach students statewide. For example, our
21 Unleashing the Youth Wave Campaign is an informational and educational digital campaign that
22 focuses on participative story-banking and trusted messenger videos to reach and engage Gen Z
23 voters all over Nevada.

24 12. The Nevada chapter of Rise shares the national organization’s mission, and
25 accordingly one of our major goals is educating Nevada students about various student aid, loan
26 repayment, and debt relief programs. We have previously organized phone banks to educate
27 students about debt assistance, repayment assistance, and debt forgiveness programs. We have also
28 run a student debt clinic and continue to provide more targeted referrals and assistance to students.

1 13. Our Rise chapter has also made gun violence prevention a major objective.
2 Tragically, our inaugural training on UNLV's campus coincided with a mass shooting event on
3 UNLV's campus the very same day, resulting in the deaths of three people and forcing me, our
4 other organizers, and our student volunteers into lockdown for several hours. In response to student
5 concern about the issue of gun safety, we have organized campaigns to promote gun safety
6 legislation in Nevada, including petitions, postcard campaigns, phonebanks, and other advocacy
7 actions regarding gun violence.

8 14. We have supported bills that prompted lawmakers to provide security for all
9 campuses and proposed legislation like ghost gun bans, prohibitions on firearms within 100 feet
10 of polling locations, and raising the shotgun purchase age to 21.

11 15. We have also held advocacy workshops to train students on testifying on issues like
12 gun violence prevention, housing accessibility, and climate action before the General Assembly.

13 16. It is also critical to Rise's effectiveness as an organization to harness student
14 political power. Organizing and educating students ahead of the 2024 general election is therefore
15 one of our major priorities for the year. We run extensive registration drives and Get Out the Vote
16 operations on campuses. Our goal this year is to register 4,000 voters and collect 38,000 pledges
17 to vote. We run phone banking, texting, and digital campaigns to reach our voter registration and
18 turnout goals, and our goal is to have our organizers and volunteers contact every student at UNLV
19 and UNR at least three to five times before the election, whether through phone banking or direct
20 communication on campus. We also organize and turn out voters around specific ballot questions,
21 like Question 6 on the right to abortion, which is on the ballot this year.

22 17. Over 80% of UNLV's student population comes from in-state, so the students we
23 register to vote will largely be Nevada voters. Those attending UNLV from out of state may also
24 choose to register in Nevada as well, if they wish to make Nevada their residence. Similarly, over
25 70% of UNR's student population is from Nevada; many are already or become Nevada voters as
26 well.

27 18. Many of the students we organize and engage at UNR are voters in Washoe County.

28 19. The lawsuit filed by Citizen Outreach Project and Charles Puth threatens Rise's

mission and the work described above.

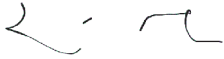
20. In particular, the lawsuit threatens the ability of Rise's constituency—students and younger people—to vote in the 2024 general election. Many college students live away from their family homes and voting residences for long periods of time while at school. They also frequently change their temporary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

21. Furthermore, if this suit is successful, it will derail Rise's electoral, organizing, and advocacy work. Should petitioners succeed in forcing Respondents to accept mass voter challenges that are not based on personal knowledge in Washoe County, we would need to immediately refocus our volunteer phone banking efforts towards helping students who are registered there to confirm their registration status and re-register where necessary. Given the centrality of voting to our mission, this would be our top priority through the election. In view of our limited resources, however, this effort would come at the expense of our other organizing efforts around debt relief, gun violence, ballot measures, and voter turnout—all key issues for our student constituents. It would also reduce our ability to recruit and train new organizers at other schools in Nevada, as our limited staff resources would be focused on first ensuring that student voters are able to successfully cast a ballot.

22. Both of these impacts would severely harm Rise's mission. We cannot successfully realize our mission as an organization if our student constituents are not able to successfully cast a ballot and make their voices heard. Similarly, our ability to expand our work and operations in

1 Nevada will be hampered if we have to respond to a large number of last minute mass challenges
2 that are likely to disproportionately harm student voters.

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

4
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Executed on: 9/27/2024

6 Christian Solomon
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EXHIBIT 3

1 advertisements on radio and social media to ensure that the information and resources we produce
2 reach Nevadans who are most likely to be disenfranchised due to information and language
3 barriers.

4 5. This lawsuit, which seeks to compel county clerks to process mass, unverified voter
5 challenges on the eve of the election, would threaten our ability to fulfill our mission by increasing
6 the likelihood that the already at-risk voters we work with would be unable to vote because they
7 had been challenged. In response to this threat, we would need to completely change our voter
8 education program. We would have to refocus the limited resources available for our advertising
9 program to encourage potentially impacted Nevadans to check their voter registration status and
10 potentially re-register if necessary. We would do this through targeted advertisements on radio,
11 television, and digitally, as well as through op-ed placement and traditional earned media
12 opportunities.

13 6. We would also need to update all of our voter education materials, including our
14 comprehensive voter guide. We would likewise need to translate our voter education materials into
15 several languages and to work with our c3 partners to create new canvassing and phonebanking
16 scripts.

17 7. Additionally, we would need to create a new section on our website to allow voters
18 to check their registration status, to inform them about this lawsuit and how it could impact them,
19 and to offer them guidance on what to do if they are challenged. In total, it would require at least
20 50 staff hours to update all of our materials. Because we have limited financial resources, funding
21 this work would make it extremely difficult for us to fulfill our duty to the people of Nevada while
22 still making payroll. It would also severely limit our ability to do non-challenge related voter
23 education work and to dedicate resources towards voter turnout efforts.

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

25
26 *Shelbie Swartz*

Executed on: 9/27/2024

27 Shelbie Swartz

EXHIBIT 4

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EXHIBIT 4

1 about how to get their ballots cast and counted.

2 5. Because our members are retired, they often relocate to assisted living facilities, to
3 be closer to or to move in with family, or to transition into smaller homes for financial reasons.
4 Many of them also frequently travel out of state to visit family or for personal travel. They are thus
5 at particular risk of missing notifications by mail regarding their voter registration status.

6 6. Retirees are particularly likely to not receive mailed notices related to their voter
7 registration status for the reasons outlined above. As a result, the acceptance of mass challenges
8 of large numbers of Nevada voters that are not based on personal knowledge would undoubtedly
9 and disproportionately impact the Alliance's members.

10 7. If such challenges were to be accepted in Washoe County, ensuring that our
11 members in Washoe County are registered and that any previously registered, eligible members
12 get re-registered to vote would quickly become the Alliance's top priority. We would immediately
13 use the tools available to us on social media, via email and traditional mail, and through phone
14 banking to attempt to reach any potentially impacted members. We would also need to update and
15 create new voter education materials in response to the challenges.

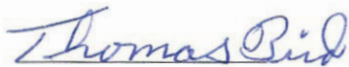
16 8. In our conversations with members, and through our materials, we would direct all
17 members to confirm their registration status, help them locate and respond to mailed notices, and
18 outline the steps they would need to take to get re-registered were they to discover they had been
19 challenged.

20 9. Because Nevada is a large state, because many of our members do not own
21 computers or cell phones, and because, for the reasons articulated above, our members often
22 change mailing addresses and do not have regular access to their mail, focusing on an in-person
23 voter education campaign would be of particular importance to reach our members. Currently, our
24 practice is to visit each of our 20 affiliated union and community groups across Nevada twice a
25 year to speak with members about key policy goals, such as preserving Social Security and
26 Medicare. If Petitioners' mass challenges are accepted, we would have to double down on those
27 efforts in Washoe County and maintain regular contact with our members, in person, prior to the
28 upcoming election and ensure that all of our members are registered and remain registered to vote.

1 Our members are also a very engaged group and are likely to have a lot of questions that would
2 require time and resources to address.

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

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

13
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Executed on: 9-27-24

15 Thomas Bird
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EXHIBIT 5

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11 *Attorneys for Proposed Intervenor-*
Defendants Vet Voice Foundation and the
12 *Nevada Alliance for Retired Americans*

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

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

18 v.

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

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

**[PROPOSED] ORDER GRANTING
MOTION TO INTERVENE**

1 This matter comes before the Court pursuant to the motion of Proposed Intervenor-
2 Defendants Vet Voice Foundation (“Vet Voice”), and the Nevada Alliance for Retired Americans
3 (“Alliance”) (collectively “Proposed Intervenor”) to intervene as defendants in this lawsuit under
4 Nevada Rule of Civil Procedure 24, along with their Memorandum of Points and Authorities in
5 support of the motion and the exhibits attached thereto.

6 Having considered the parties’ filings and the arguments of counsel, the Court rules as
7 follows: Proposed Intervenor are entitled to intervene in this case as a matter of right under
8 Nevada Rule of Civil Procedure 24(a)(2). In the alternative, the Court grants Proposed Intervenor
9 permissive intervention pursuant to Rule 24(b).

10 LEGAL AND PROCEDURAL BACKGROUND

11 Voting by mail is extremely popular in Nevada. In the most recent full federal election
12 cycle, over half of Nevada voters cast mail ballots in both the primary and general elections.¹ In
13 the recent February 6 primary election, nearly eighty percent of Nevada voters cast mail ballots.²

14 To return a mail ballot by mail, it must be “[m]ailed to the county clerk, and: (1)
15 [p]ostmarked on or before the day of the election; and (2) [r]eceived by the clerk not later than 5
16 p.m. on the fourth day following the election.” NRS 293.269921(1)(b). Nevada law also accounts,
17 however, for the possibility that “the date of the postmark cannot be determined.” NRS
18 293.269921(2). In such cases, “[i]f a mail ballot is received by mail not later than 5 p.m. on the
19 third day following the election, . . . the mail ballot shall be deemed to have been postmarked on
20 or before the day of the election.” *Id.*

21 The no-postmark-date provision is the focus of this case. Plaintiffs object to public
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25 ¹ See *Voter Turnout*, Nev. Sec’y of State, <https://silverstateelection.nv.gov/vote-turnout/> (last
26 accessed June 7, 2024) (showing 56.7% of primary voters cast mail ballots and 51.21% of general
27 election voters in 2022).

28 ² See *supra* n.2.

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

6 FINDINGS OF FACT³

7 Proposed Intervenor-Defendants Vet Voice and the Nevada Alliance for Retired
8 Americans are non-profit, non-partisan organizations dedicated to supporting the voting rights of
9 their members and constituents. Both groups have significant organizational and associational
10 interests at stake in this litigation and they represent members and constituents who will be acutely
11 harmed by Plaintiffs’ efforts to artificially narrow the no-postmark-date provision in this case.
12 Both Vet Voice and the Nevada Alliance were recently granted intervention in a related federal-
13 court challenge. *See Order, RNC v. Burgess*, No. 3:24-cv-00198-MMD-CLB (D. Nev. June 6,
14 2024), ECF No. 70 (“*Burgess Order*”). And Vet Voice and the Alliance’s sister organization in
15 Mississippi were also granted intervention in a similar challenge to Mississippi’s mail ballot
16 receipt deadline that was also brought by the RNC and its state affiliate. *See Republican Nat’l*
17 *Comm. v. Wetzel*, No. 1:24-cv-25-LG-RPM, 2024 WL 988383, at *1 (S.D. Miss. Mar. 7, 2024)
18 (noting Vet Voice and the Mississippi Alliance for Retired Americans were granted intervention
19 on March 4, 2024).

20 **Vet Voice.** Vet Voice is a national non-profit, non-partisan organization dedicated to
21 empowering veterans across the country to become civic leaders and policy advocates. *See*
22 Declaration of Janessa Goldbeck ¶¶ 3, 5 (“*Goldbeck Decl.*”). It has over 1.5 million subscribers
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26 ³ Any findings of fact which are more appropriately considered conclusions of law shall be treated
27 as such, and any conclusions of law which are more appropriately considered findings of fact shall
28 be treated as such.

1 who receive Vet Voice communications, including thousands here in Nevada. *Id.* ¶ 4. Beyond
2 those who affirmatively subscribe to its communications, Vet Voice’s constituency broadly
3 includes active servicemembers, including those deployed away from home, as well as military
4 veterans, many of whom are older or have physical disabilities (oftentimes attributable to their
5 time in service) that make voting in person difficult. *Id.* ¶¶ 8–9. Increasing voter turnout among
6 military and veteran voters, as well as their families, is critical to Vet Voice’s mission. *Id.* ¶ 5. Vet
7 Voice strongly believes that turning out the “veteran vote” benefits all Americans by engaging in
8 the civic process people who have served their country, and aims to promote turnout among all
9 veterans, regardless of their political beliefs. *Id.* ¶¶ 5–6, 13.

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

19 Roughly three-quarters of America’s 1.4 million active servicemembers are eligible to vote
20 by mail. *Id.* ¶ 8. Despite this right, active servicemembers vote at significantly lower rates than the
21 national population. *Id.* ¶ 10. These voters depend heavily on mail ballot voting, *id.*, which they
22 are permitted to use under Nevada law, *see* NRS 293.269911(1). As the Department of Justice has
23 repeatedly noted, mail voting laws with extended receipt deadlines are particularly important to
24 guard against the systemic disenfranchisement of military voters and their families due to obstacles
25 such as long mail transit times. *See* U.S. Amicus Curiae Br. at 23–28, *Bost v. Ill. State Bd. of*
26 *Elections*, No. 23-2644 (7th Cir. Dec. 6, 2023), ECF No. 21 (discussing challenges faced by
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1 military and overseas voters and the importance of extended ballot receipt deadlines to such
2 voters); Statement of Interest of U.S. at 1, 10–15, *Splonskowski v. White*, No. 1:23-cv-00123-
3 DMT-CRH (D.N.D. Sept. 11, 2023), ECF No. 19 (explaining extended ballot receipt deadlines
4 “can be vital in ensuring that military and overseas voters are able to exercise their right to vote”);
5 Statement of Interest of U.S. at 1, 15–21, *Republican Nat’l Comm. v. Wetzel*, No. 1:24-cv-00025-
6 LG-RPM (S.D. Miss. Apr. 11, 2024), ECF No. 84 (same); Goldbeck Decl. ¶¶ 10–12.

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

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

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

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

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

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

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

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

20 STANDARD OF LAW

21 Nevada Rule of Civil Procedure 24 governs intervention in Nevada state court actions.
22 Because Rule 24 and Federal Rule of Civil Procedure 24 are "equivalent," *Lawler v. Ginocchio*, 94
23 Nev. 623, 626, 584 P.2d 667, 668 (1978) (per curiam), "[f]ederal cases interpreting [Rule 24] 'are
24 strong persuasive authority.'" *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P. 3d
25 872, 876 (2002) (per curiam) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119,
26 787 P.2d 772, 776 (1990)).

1 To intervene as of right under Rule 24(a)(2),

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

6 *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 122 Nev. 1229, 1238, 147
7 P.3d 1120, 1126 (2006). "In evaluating whether Rule 24(a)(2)'s requirements are met," courts
8 "construe the Rule broadly in favor of proposed intervenors . . . because a liberal policy in favor
9 of intervention serves both efficient resolution of issues and broadened access courts." *Wilderness
10 Soc'y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (cleaned up).

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

15 CONCLUSIONS OF LAW

16 I. Proposed Intervenors satisfy all of Rule 24(a)'s requirements for intervention as a 17 matter of right.

18 Proposed Intervenors satisfy each of the four requirements of NRCP 24(a) and the Court
19 will therefore grant them intervention as a matter of right.

20 A. The motion is timely.

21 First, the motion is timely. Plaintiffs filed their petition on May 31, 2024; Proposed
22 Intervenors' motion followed less than two weeks later and before any substantive activity
23 occurred in the case. There has therefore been no delay, and no possible risk of prejudice to the
24 other parties. *See In re Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at *3 (Nev. May 24,
25 2013); *Lawler*, 94 Nev. at 626, 584 P.2d at 669; *see also, e.g., Nevada v. United States*, No. 3:18-
26 cv-569-MMD-CBC, 2019 WL 718825, at *2 (D. Nev. Jan. 14, 2019) (granting motion to intervene
27 filed several weeks after action commenced); *W. Expl. LLC v. U.S. Dep't of Interior*, No. 3:15-cv-
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00491-MMD-VPC, 2016 WL 355122, at *2 (D. Nev. Jan. 28, 2016) (granting motion to intervene filed nearly two months after action commenced).

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

Proposed Intervenors also satisfy the next two requirements for intervention as a matter of right because they (1) have significantly protectable interests in this lawsuit (2) that may be impaired by Plaintiffs' claims. "A 'significantly protectable interest' . . . [is] one that is protected under the law and bears a relationship to the plaintiff's claims." *Am. Home Assurance Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d 794, 803 (9th Cir. 2002)). In the federal context, courts have made clear that if a would-be intervenor "would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene," *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 822 (9th Cir. 2001) (quoting Fed. R. Civ. P. 24 advisory committee note to 1966 amendment)). This interest requirement is less stringent than Article III's standing requirement. *See Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991). !!

As the federal court found in *Burgess*, the related case that Plaintiffs filed in federal court, Vet Voice and the Alliance easily satisfy these requirements. *Burgess* Order at 3–5. If Plaintiffs succeed in narrowing the no-postmark date provision to exclude entirely unpostmarked ballots, Vet Voice's and the Alliance's members, supporters, and constituents will be subject to disenfranchisement if, through no fault of their own, the postal service fails to postmark their ballots. Both Vet Voice and the Alliance serve communities that rely heavily on mail ballots to vote. Vet Voice, for example, spends significant resources to promote voting among active service members and military family members, many of whom are often stationed away from their permanent homes and depend on mail ballots to participate in elections. Goldbeck Decl. ¶¶ 14, 20. And many veterans in Nevada rely on mail voting as well. *Id.* ¶ 9. Vet Voice's military voter file includes over 120,000 Nevada servicemembers, veterans, and military family members, *id.* ¶ 6,

1 and Vet Voice has over 14,000 Nevada subscribers whom the group seeks to mobilize in
2 furtherance of its mission, *id.* ¶ 4. Vet Voice’s mission is to ensure that all of these voters have full
3 access to the ballot box and that military voters are heard at the polls. *Id.* ¶¶ 5–6.

4 The Alliance, too, has many members in Nevada who rely on mail voting due to the greater
5 obstacles they face voting in person, whether due to age or disability. Bird Decl. ¶ 6. They vote by
6 mail because, among other reasons, they lack transportation or are not comfortable standing in
7 long lines at polling places. *Id.* Nevada historically has long wait times on election day, making
8 the option to vote by mail critical to the Alliance’s members, many of whom have more difficulty
9 overcoming such obstacles. *Id.* If Plaintiffs succeed, the Alliance’s members will accordingly face
10 heightened risks of having their mail ballots rejected. *Id.* Ensuring access to the ballot is a critical
11 piece of the Alliance’s mission. *Id.* The Alliance would therefore have to use its limited volunteer
12 resources to prepare materials educating its members about how to track ballots, and then distribute
13 these materials to members through social media channels, email, and at chapter meetings. *See Id.*
14 ¶¶ 7–9. This effort will reduce the Alliance’s ability to speak to its members about key policy
15 goals, including protecting Social Security and Medicare. *See id.* ¶ 11.

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

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2 **C. Defendants do not adequately represent Proposed Intervenor.**

3 Proposed Intervenor also satisfy the third requirement for intervention as of right because
4 they cannot rely on the parties in this case to adequately represent their interests. “[T]he burden on
5 proposed intervenors in showing inadequate representation is minimal, and would be satisfied if
6 they could demonstrate that representation of their interests ‘may be’ inadequate.” *Hairr v. First*
7 *Jud. Dist. Ct.*, 132 Nev. 180, 185, 368 P.3d 1198, 1201 (2016) (quoting *Arakaki v. Cayetano*, 324
8 F.3d 1078, 1086 (9th Cir. 2003)). Courts have “often concluded that governmental entities do not
9 adequately represent the interests of aspiring intervenors.” *Fund for Animals, Inc. v. Norton*, 322
10 F.3d 728, 736 (D.C. Cir. 2003); *see also Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647
11 F.3d 893, 899 (9th Cir. 2011) (“[T]he government’s representation of the public interest may not
12 be ‘identical to the individual parochial interest’ of a particular group just because ‘both entities
13 occupy the same posture in the litigation.’” (quoting *WildEarth Guardians v. U.S. Forest Serv.*,
14 573 F.3d 992, 996 (10th Cir. 2009))).

15 While Defendants Aguilar, Burgess, Galassini, Portillo, and Goya have an interest in
16 administering the election laws generally, Proposed Intervenor are focused on ensuring that their
17 members and constituents have their individual ballots counted. Moreover, Proposed Intervenor
18 have specific interests and concerns—in particular, the proper allocation of their limited resources
19 to maximize voter turnout and promote civic engagement—that no other party in this lawsuit
20 shares. Should Plaintiffs be successful, Proposed Intervenor will have to divert resources to new
21 activities, rendering those resources unavailable for Proposed Intervenor’s other work.

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

9 **II. Alternatively, Proposed Intervenor satisfy Rule 24(b)’s requirements for**
10 **permissive intervention.**

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

16 For the reasons already discussed, Proposed Intervenor’s motion is timely, and Proposed
17 Intervenor cannot rely on the existing parties to adequately protect their interests. Proposed
18 Intervenor also raised defenses to Plaintiffs’ claims that share common questions of law and
19 fact—for example, whether Plaintiffs have pleaded facts allowing a court to conclude that they
20 have a clear legal right to a permanent injunction. Intervention will not result in any undue delay
21 or prejudice.

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ORDER

IT IS HEREBY ORDERED that the motion of Vet Voice Foundation and the Nevada Alliance for Retired Americans to intervene as defendants in this action is **GRANTED**.

Bradley S. Schrager shall serve a notice of entry of the order on all parties and file proof of such service within 7 days after the date the Court sent the order to the attorney.

IT IS SO ORDERED.

Dated this 14th day of June, 2024.


Hon. James T. Russell
District Court Judge

Submitted by:

/s/ Bradley S. Schrager

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on June 14, 2024, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

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