



OPPM
Brad Lee Barnhill
8104 Defiance Ave.
Las Vegas, Nevada 89129
T: 702.613.2576
e: electbarnhill@gmail.com
Plaintiff, *in propria persona*

In the Eighth Judicial District Court

Clark county, state of Nevada

CITIZEN OUTREACH FOUNDATION,
CHARLES MUTH, individually,

Petitioners,

v.

LORENA PORTILLO, in her official
capacity as the acting Registrar of Voters for
Clark County,

Respondent.

Brad Lee Barnhill, individually, and in his
capacity as Independent American Party of
Nevada candidate for Nevada Senate
District 6,

Putative Intervenor.

CASE NO. A-24-902351-W
DEPT. NO. 28

**INTERVENOR BRAD LEE
BARNHILL'S OPPOSITION TO
PROPOSED INTERVENOR-
RESPONDENTS RISE, INSTITUTE
FOR A PROGRESSIVE NEVADA, AND
THE NEVADA ALLIANCE FOR
RETIRED AMERICANS' MOTION TO
INTERVENE**

Comes now, Putative Intervenor Brad Lee Barnhill, *in propria persona, sui juris*, to
submit this *OPPOSITION TO PROPOSED INTERVENOR-RESPONDENTS RISE,
INSTITUTE FOR A PROGRESSIVE NEVADA, AND THE NEVADA ALLIANCE FOR
RETIRED AMERICANS' MOTION TO INTERVENE* (hereinafter "Motion"). This Opposition
is based upon the Memorandum of Points and Authorities, and any oral argument considered
upon the hearing of this Motion.

SUBSCRIBED and submitted this 5th day of October, in the Year of Our Lord and
Savior, Jesus the Christ, Two Thousand Twenty-Four, by:

/s/ Brad Lee Barnhill

Brad Lee Barnhill, *in propria persona*

I. INTRODUCTION

Putative Intervenor Brad Lee Barnhill (hereinafter **I, Me, My**) is the Independent American Party of Nevada candidate for Nevada Senate District 6 in Clark County for the 2024 general election. As a candidate, I have a substantial and legally protected interest in ensuring that the election in Clark County is conducted in a lawful manner and that the voter rolls are properly maintained in accordance with Nevada law.

I oppose the Motion to intervene filed by Rise, Institute for a Progressive Nevada, and the Nevada Alliance for Retired Americans (collectively “**Respondents**”). Respondents fail to meet the requirements for intervention under Nevada Rule of Civil Procedure 24, as they offer **no evidence** that **any** of their members are directly impacted by the voter challenges in this case, and even if their members were affected, those members bear the consequences for failing to update their voter registration information with the elections department.

For these reasons, the I respectfully request that the Court deny Respondents’ Motion to Intervene.

II. LACK OF EVIDENCE OF AFFECTED VOTERS

To intervene as a matter of right under NRCP 24(a)(2), Respondents must demonstrate a significant protectable interest that could be impaired by the outcome of this litigation. They fail to do so. Respondents merely speculate that their members **may be** subject to the voter challenges at issue, but provide no specific evidence to substantiate this claim. They do not identify a single member whose voter registration has been challenged, nor do they present any facts that would show that these challenges were improperly issued.

Merely asserting that their constituencies include students and retirees who might be affected by the lawsuit does not meet the legal standard for intervention. Courts require more than speculative harm to grant intervention. Respondents must demonstrate a direct connection between their members and the legal claims in the original petition. Here, Respondents have failed to do so.

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1 In analogous cases, courts have consistently held that an applicant for intervention must
2 demonstrate that their interest in the litigation is “significantly protectable.” Without
3 identifying specific members who are directly impacted by the challenges, Respondents
4 cannot satisfy this requirement.

5 In Nevada, to intervene as a matter of right, courts follow the principles outlined under
6 NRCp 24(a)(2). Applicants must show that they possess a “significantly protectable interest”
7 in the litigation. This was reaffirmed in *Nalder v. Eighth Judicial District Court*, 36 Nev.
8 Adv. Op. 21 (Nev. Apr. 30, 2020), where the Nevada Supreme Court emphasized that an
9 intervenor must demonstrate a legally protected interest directly related to the subject matter
10 of the lawsuit, and that failure to intervene would impair the intervenor's ability to protect that
11 interest. Additionally, courts require that the existing parties do not adequately represent the
12 intervenor's interests.

13 In another recent case, *City of Fernley v. The Tenth Judicial Dist. of the State*, No.
14 85900 (Nev. Oct. 5, 2023), the court reiterated that an intervenor must show a “significantly
15 protectable interest,” which means the interest must be grounded in law and closely tied to the
16 claims at issue. The court further noted that an applicant's interest must not be speculative and
17 must demonstrate a real potential for harm if they are excluded from the case.

18 These decisions illustrate that Nevada courts are strict about requiring concrete, legally
19 grounded interests before allowing intervention, and speculative or generalized claims are
20 insufficient.

21 **III. IT IS THE CHALLENGED VOTERS' RESPONSIBILITY TO UPDATE** 22 **THEIR REGISTRATION INFORMATION**

23 Even if Respondents could demonstrate that *some* of their members are subject to the
24 voter challenges, these challenges are based on the voters’ own failure to maintain updated
25 voter registration information as required by Nevada law. Pursuant to NRS 293.525, voters
26 are obligated to update their registration when they change residences. The voter challenges at
27 issue in this case are legitimate and consistent with Nevada law, targeting voters who have
28 moved and failed to update their contact information with the elections department.

1 If the challenged voter has moved his residence, but neglected to notify the election
2 department, the voter can still vote, but only “*after providing an oral or written affirmation*
3 *before an election board officer attesting to his or her new address.*”

4 **NRS 293.525 Vote after residence changed but registration not**
5 **transferred; affirmation by elector; use of information regarding current**
6 **address to correct statewide voter registration list and roster.**

7 1. Any elector who is presently registered and has changed residence after
8 the last preceding general election and who fails to return or never receives a
9 postcard mailed pursuant to [NRS 293.5235](#), [293.530](#) or [293.535](#) who moved:

10 (a) From one precinct to another or from one congressional district to
11 another within the same county must be allowed to vote in the precinct where the
12 elector previously resided *after providing an oral or written affirmation before*
13 *an election board officer attesting to his or her new address.*

14 (b) Within the same precinct must be allowed to vote after providing an oral
15 or written affirmation before an election board officer attesting to his or her new
16 address.

17 2. If an elector alleges that the statewide voter registration list or the roster
18 incorrectly indicates that the elector has changed residence, the elector must be
19 permitted to vote *after providing an oral or written affirmation before an*
20 *election board officer attesting that he or she continues to reside at the same*
21 *address.*

22 3. If an elector refuses to provide an oral or written affirmation attesting to
23 his or her address as required by this section, the elector may only vote at the
24 special polling place in the county in the manner set forth in [NRS 293.304](#).

25 4. The county clerk shall use any information regarding the current address
26 of an elector obtained pursuant to this section to correct information in the
27 statewide voter registration list and the roster.

28 (Added to NRS by [1960, 274](#); A [1961, 295](#); [1967, 851](#); [1979, 177](#); [1989,](#)
[2168](#); [1991, 1686, 2224](#); [1995, 2277](#); [1999, 2160](#); [2015, 3160](#); [2021, 3830](#))

29 **IV. THE NCOA DATABASE IS NOT HEARSAY BECAUSE IT IS AN**
30 **OFFICIAL GOVERNMENT RECORD**

31 Proposed Intervenorors argue that voter challenges based on data from the National
32 Change of Address (NCOA) database are flawed because they rely on hearsay. This assertion
33 is incorrect. Information from the NCOA database is not hearsay under Nevada law because it
34 constitutes an official government record.

1 Under NRS 51.115, hearsay is defined as “a statement, other than one made by the
2 declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the
3 matter asserted.” However, there are many exceptions to the hearsay rule, including those for
4 public records and government documents.

5 The NCOA database is a system maintained by the United States Postal Service
6 (USPS), a federal government agency, to record address changes submitted by individuals. As
7 a public record maintained by a government agency, NCOA data falls under the public
8 records exception to the hearsay rule, codified in NRS 51.155. This statute provides that
9 records, reports, or data compilations made by a public office or agency setting forth the
10 activities of the office or matters observed pursuant to duty imposed by law are not excluded
11 by the hearsay rule.

12 NCOA records meet this definition for several reasons:

13 a. NCOA Data is a Government Record: The USPS collects and compiles NCOA
14 information in the course of its official duties under federal law. When individuals move, they
15 are required to notify the USPS of their change of address. The USPS then records and
16 maintains this information, which is subsequently used in the NCOA database.

17 b. Reliability of the Data: NCOA data is inherently reliable because it is derived
18 directly from the individuals who submit their change of address forms to a federal agency.
19 The process of collecting, verifying, and maintaining NCOA information is highly regulated,
20 ensuring its accuracy and integrity. As such, courts across the country have recognized the
21 reliability of NCOA data in various legal contexts, including challenges to voter registration.

22 c. Application of the Public Records Exception (NRS 51.155): Nevada law
23 explicitly provides that public records and reports from government agencies are admissible
24 as an exception to the hearsay rule. NCOA data qualifies under this exception because it is
25 maintained by the USPS and sets forth changes of address as reported by individuals under a
26 legal duty to notify the USPS.

27 d. Furthermore, under NRS 51.245, a “record of a regularly conducted activity” is
28 also admissible if it is made in the regular course of business and meets certain reliability

1 criteria. The NCOA database is updated regularly as part of the USPS's standard procedures,
2 further supporting its admissibility under this additional hearsay exception.

3 Respondents' assertion that the NCOA database is hearsay is therefore legally unsound.
4 The data provided by the NCOA is a reliable, government-maintained record and falls
5 squarely within the public records exception to the hearsay rule. As such, it provides a valid
6 and lawful basis for the voter challenges at issue in this case.

7 Respondents argument that the challenges are improper because they rely on third-
8 party data, such as the National Change of Address (NCOA) database does not negate the fact
9 that the voters in question are legally required to provide updated information. If
10 Respondents' members failed to comply with this statutory requirement, they should be
11 subject to the same challenge process as any other voter.

12 Respondents argue that voter challenges based on data from the National Change of
13 Address (NCOA) database are not "personal knowledge". Information from the NCOA
14 database is not hearsay under Nevada law because it constitutes an official government
15 record. Petitioners' reliance upon the NCOA is therefore proper and constitutes "personal
16 knowledge" of information from a reliable government source.

17 Moreover, NRS 293.535 requires challenges to be based on personal knowledge or
18 reliable information. The reliance on NCOA data provides reliable evidence that voters may
19 have changed residence and serves as a valid basis for challenging their eligibility.

20 **V. RELIANCE UPON THE NCOA DATABASE CONSTITUTES**
21 **"PERSONAL KNOWLEDGE"**

22 Respondents argue that the challenges are improper because they rely on third-party
23 data, such as the National Change of Address (NCOA) database. However, this does not
24 negate the fact that the voters in question are legally required to provide updated information.
25 If Respondents' members failed to comply with this statutory requirement, they should be
26 subject to the same challenge process as any other voter.

27 Respondents argue that voter challenges based on data from the National Change of
28 Address (NCOA) database are not "personal knowledge". Information from the NCOA

1 database is not hearsay under Nevada law because it constitutes an official government
2 record. Petitioners' reliance upon the NCOA is therefore proper and constitutes "personal
3 knowledge" of information from a reliable government source.

4 Moreover, NRS 293.535 requires challenges to be based on personal knowledge or
5 reliable information. The reliance on NCOA data provides reliable evidence that voters may
6 have changed residence and serves as a valid basis for challenging their eligibility.

7 **VI. ADEQUATE REPRESENTATION BY EXISTING PARTIES**

8 Additionally, the interests that Respondents claim to represent are already adequately
9 protected by the government Respondent in this case, the Clark County Registrar of Voters.
10 The Registrar's office has the statutory responsibility to maintain accurate voter rolls while
11 ensuring that voter rights are protected. The Registrar is fully capable of defending the
12 validity of the current voter registration processes, and there is no indication that the Registrar
13 will fail to adequately represent the interests of all voters, including those claimed by the
14 Respondents.

15 The Respondents' broad concerns about voter suppression and protecting marginalized
16 groups are already accounted for in the statutory framework governing Nevada's elections.
17 The Registrar is tasked with balancing these concerns with the need to maintain accurate voter
18 rolls, and no additional representation is necessary to protect those interests.

19 **VII. INTERVENTION WILL UNNECESSARILY DELAY PROCEEDING**

20 Allowing Respondents to intervene in this matter will cause unnecessary delays and
21 complicate the legal proceedings without adding any new substantive issues. The key legal
22 question in this case is whether the voter challenges were properly filed under NRS 293.530
23 and NRS 293.535. The inclusion of Respondents, who do not present any new facts or legal
24 arguments, will only prolong the resolution of this issue and burden the court and existing
25 parties with irrelevant arguments.

26 **CONCLUSION**

27 For the foregoing reasons, I respectfully request that the Court deny the Respondents'
28 Motion to Intervene. Respondents have not demonstrated that their members are directly

1 impacted by the voter challenges, and any voters who are subject to the challenges failed to
2 meet their legal obligation to update their registration information. Further, the interests of
3 Respondents are adequately represented by the Registrar, and their intervention would only
4 delay the proceedings unnecessarily.

5 SUBSCRIBED and submitted this 5th day of October, in the Year of Our Lord and
6 Savior, Jesus the Christ, Two Thousand Twenty-Four.

7 */s/ Brad Lee Barnhill*

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Brad Lee Barnhill, in propria persona

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5 (b), I hereby certify that I am the putative Intervenor in this action, and that on the 5th day of October, 2024, I served a true and correct copy of the foregoing ***INTERVENOR BRAD LEE BARNHILL'S OPPOSITION TO PROPOSED INTERVENOR-RESPONDENTS RISE, INSTITUTE FOR A PROGRESSIVE NEVADA, AND THE NEVADA ALLIANCE FOR RETIRED AMERICANS' MOTION TO INTERVENE***, as indicated below by:

 X the documents were submitted electronically for filing and/or service within the Eighth Judicial District Court pursuant to Administrative Order 14-02 for eservice to the following:

_____ placing a copy of the original in a sealed envelope, first-class postage fully prepaid thereon, and depositing the envelope in the U.S. mail at Las Vegas, Nevada addressed as follows:

_____ sending the document by facsimile transmission to the following parties:

_____ by hand delivery to the following addresses:

David C. O'Mara, Esq.
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501
Counsel for Petitioners

BRADLEY S. SCHRAGER
DANIEL BRAVO
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, NV 89113

STEVEN B. WOLFSON
District Attorney
CIVIL DIVISION
LISA V. LOGSDON
COUNTY COUNSEL
500 South Grand Central Pkwy. 5th Flr.
Las Vegas, Nevada 89155-2215
F: (702) 382-5178
Attorneys for Respondent Lorena Portillo

DAVID R. FOX
ELIAS LAW GROUP LLP
50 Massachusetts Ave NW, Suite 400
Washington, DC 20001
Tel: (202) 968-4490
*Attorneys for Proposed Intervenor-Respondents
Rise, Institute for a Progressive Nevada,
and the Nevada Alliance for Retired
Americans*

/s/ Brad Lee Barnhill

Brad Lee Barnhill, in propria persona