

1 BRADLEY S. SCHRAGER (NV Bar No. 10217)
DANIEL BRAVO (NV Bar No. 13078)

2 **BRAVO SCHRAGER LLP**
6675 South Tenaya Way, Suite 200
3 Las Vegas, NV 89113
(702) 996-1724
4 bradley@bravoschrager.com
daniel@bravoschrager.com

5 DAVID R. FOX (NV Bar No. 16536)
6 **ELIAS LAW GROUP LLP**
50 Massachusetts Ave NW, Suite 400
7 Washington, DC 20001
Tel: (202) 968-4490
8 dfox@elias.law

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

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

16 MARGARET M. OSBORNE, individually,
17
18 Petitioner,

19 v.

20 SCOTT HOEN, in his official capacity as the
21 Carson City Clerk and JASON WOODBURY, in
22 his official capacity as the Carson City District
23 Attorney,

24 Respondents.

Case No.: 24 EW 00025 1B
Dept. No.: II

**MOTION TO INTERVENE AS
RESPONDENTS**

25 Pursuant to Nevada Rule of Civil Procedure 24, Proposed Intervenor-Respondents Rise,
26 Institute for a Progressive Nevada, and the Nevada Alliance for Retired Americans ("Proposed
27 Intervenor"), by and through their attorneys, move to intervene as respondents in the above-titled
28 action. Pursuant to 1st Judicial District Rule 3.7(b), counsel to Proposed Intervenor conferred
with counsel to Petitioner and Respondents on October 22. Petitioner opposes this Motion;
Respondents do not.

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

4 DATED this 23rd day of October, 2024.

5 By: 

6 Bradley S. Schrager (NV Bar No. 13078)
7 Daniel Bravo (NV Bar No. 10217)
8 **BRAVO SCHRAGER LLP**
9 6675 South Tenaya Way, Suite 200
10 Las Vegas, NV 89113

11 David R. Fox (NV Bar No. 16536)
12 **ELIAS LAW GROUP LLP**
13 250 Massachusetts Ave NW, Suite 400
14 Washington, DC 20001

15 *Attorneys for Proposed Intervenor-*
16 *Respondents Rise, Institute for a Progressive*
17 *Nevada, and the Nevada Alliance for Retired*
18 *Americans*

MEMORANDUM OF POINTS AND AUTHORITIES

Proposed Intervenor-Respondents Rise, Institute for a Progressive Nevada, and the Nevada Alliance for Retired Americans (“Proposed Intervenor”) move to intervene as respondents in this lawsuit under Nevada Rule of Civil Procedure 24.

NRS 293.547 provides a narrow window for voters who have personal knowledge that another voter in their precinct is no longer eligible to vote there to file a written challenge to that voter's registration. Petitioner—an affiliate of the state-wide "Pigpen Project" that has filed tens of thousands of voter challenges in various forms across the state—asks the Court to greatly expand that process to encompass challenges filed by voters who do not know the voters they are challenging and who have only second-hand knowledge (from unnamed individuals who assertedly answered the door at the voters' addresses of registration) about the challenged voters' eligibility. Such a ruling would demolish the careful controls the legislature placed on the NRS 293.547 process, allowing groups like Pigpen to bring mass challenges of voters they do not know based on second-hand information.

A ruling from this Court adopting Petitioner's view of the law would harm Proposed Intervenor by threatening their members' and constituents' voting rights and requiring Proposed Intervenor to expend substantial resources to educate voters, protect them from baseless attacks on their eligibility, and help them re-register to vote if they are removed or made inactive. No existing party adequately protects Proposed Intervenor's interests in this case. Proposed Intervenor is accordingly entitled to intervene in this case as a matter of right under Rule 24(a)(2). In the alternative, the Court should grant Proposed Intervenor permissive intervention pursuant to Rule 24(b).¹

¹ As Rule 24(c) requires, Proposed Intervenor's proposed answer is **Exhibit 1** hereto. Because the Petition's allegations are not in numbered paragraphs, Proposed Intervenor's answer reproduces the text of the Petition in italic text and provides Proposed Intervenor's response in a bullet after each paragraph.

BACKGROUND

I. Statutory Background

Maintenance of Nevada's voter rolls is primarily the responsibility of county officials, who "may use any reliable and reasonable means available" to correct the portions of the statewide registered voter list relevant to them, subject to procedural and substantive safeguards. NRS 293.530(1)(a) (emphasis added). Third parties like Petitioner may participate in that process only by filing voter challenges under either of two challenge statutes, NRS 293.535 and .547, both of which allow only challenges based on the challenger's "personal knowledge."

This case involves challenges under NRS 293.547, which allows registered voters to challenge other voters in their precinct by filing a written challenge within a short, five-day window ending 25 days before election day. NRS 293.547(1). Such challenges must be "based on personal knowledge of the registered voter" and be "signed and verified" by the challenger. NRS 293.547(2)(b), (3). When valid challenges of this type are filed, county clerks must mail a written notice to the voter, and, if the voter does not return the mailed postcard within 30 days, mark the voter as inactive, and remove them from the rolls if they do not vote or take certain other actions in the next two general election cycles. NRS 293.530(1)(c), (g); NRS 293.547(5)(b). Clerks must also attach a copy of the challenge form to the challenged registration in the voter roster, NRS 293.547(5)(a), and the district attorney must investigate the challenge within 14 days and, "if appropriate," commence judicial proceedings "without delay" to cancel the voter's registration, NRS 293.547(6). If the challenged voter appears in person to vote, they may be required to provide a supplemental affirmation of eligibility before voting. NRS 293.303(2).

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

1 therefore prohibits all such removal programs until after the November 2024 election.

2 **II. Pigpen Project's Attempts to Remove Nevada Voters from the Rolls**

3 The voter challenges at issue in this case were signed by Petitioner but filed by the Citizen
4 Outreach Foundation, which runs the "Pigpen Project," a years-long effort to seek the removal of
5 large numbers of voters from Nevada's voter rolls based on scant evidence. *See* Pet. Ex. 1;
6 PigpenProject.com. Over the summer, the Pigpen Project filed tens of thousands of voter
7 challenges under NRS 293.535, each based on review of third-party databases rather than personal
8 knowledge. Counties across the state rejected the challenges because they were not based on
9 "firsthand knowledge through experience or observation," NAC 293.416(3), and the Pigpen
10 Project brought three mandamus actions—in this Court and in Clark and Washoe Counties—to
11 compel counties to process them. Proposed Intervenors were granted intervention both in this
12 Court and in Washoe. Pigpen Project soon after voluntarily dismissed each of those actions.

13 Meanwhile, the Pigpen Project announced that it had an "army of volunteers . . . collecting
14 new challenges under Section 547."² And they have now filed hundreds of Section 547 challenges
15 in counties across the state, including the nine challenges at issue in this case.³ Each of those nine
16 challenges is based on a single asserted fact: "Person who answered the door said [voter] no longer
17 lives at this address." Pet. Exs. 2–10. Respondents rejected those challenges as inadequate, and
18 Petitioners seek to compel the Court to process them.

19 **III. Proposed Intervenors**

20 **Rise.** Rise Action Fund ("Rise") is a student-led 501(c)(4) nonprofit organization that
21 operates student-focused statewide advocacy and voter mobilization programs in Nevada. *See*
22 Decl. of Christian Solomon ¶¶ 5–6, 8–12 ("Solomon Decl.") (attached as **Exhibit 2**). Its election-
23 focused work—empowering and mobilizing students in the political process—is important to
24 Rise's mission, which hinges on its ability to build political power within the student population.

25
26 ² Chuck Muth, *Fast and Furious: Quick Pigpen Project Update* (Oct. 3, 2024),
<https://perma.cc/27J9-647T/>.

27 ³ Chuck Muth, *SOS, AG Do "Snoopy Dance" Over Lawsuit Withdrawal, However...*,
28 PigPenProject.com (Oct. 15, 2024), <https://perma.cc/MQU4-NSPY>.

1 *Id.* ¶¶ 5, 16. To build political support for its policy goals, including gun safety issues, student debt
2 relief, and financial assistance, Rise organizes and educates its student constituents at University
3 of Nevada, Las Vegas, University of Nevada, Reno, Nevada State University, and College of
4 Southern Nevada about the 2024 general election. *Id.* ¶¶ 8–10, 12–18. Rise runs campus programs
5 to register students to vote and to ensure that students *stay* registered and can vote. *Id.* ¶ 16.

6 The students that Rise advocates for and serves are at a particularly high risk of being
7 removed from the rolls due to Petitioner’s efforts. *Id.* ¶¶ 19–22. Many college students move
8 frequently without abandoning their permanent residence, so they might not be home if a
9 challenger knocked on the door at their residential address, and they do not have ready access to
10 mailed notices sent to their permanent addresses advising them that their registration is at risk of
11 cancellation. *Id.* ¶ 20. Petitioner’s suit is therefore a direct attack on the very voters Rise organizes
12 and advocates for. If Petitioner is successful, Rise will need to help students confirm their
13 registration status, find and respond to mailed notices, and re-register. *Id.* ¶ 21. These efforts would
14 come at the expense of Rise’s work in support of its other mission-critical priorities. *Id.* ¶¶ 21–22.

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

24 Petitioner’s suit is a direct affront to IPN’s mission to empower all Nevadans to vote.
25 Should Petitioner succeed, IPN would have to retool its voter guide to inform voters why their
26 registration might be challenged and how to confirm their registration status, and it would have to
27 refocus its limited advertising to spread awareness about the need for voters to check their
28 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 Petitioner's because many retirees move within Nevada after retiring and many often travel out of state for long periods, during which time they would not be home if a challenger knocked on their door, and they might 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 similarly not be home if a challenger knocks, and might miss a crucial notice of cancellation if that notice is sent only to the retiree's home address. *See id.* Petitioner's suit, and the hundreds of similar PigPen Project-backed challenges filed across Nevada, threaten the registration of the Alliance's 20,000 members, including over 800 members in Carson City. *Id.* ¶ 3. If Petitioner succeeds, 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 time at chapter meetings and would frustrate the Alliance's mission by diverting resources from other essential tasks, such as advocating for lower cost prescription drugs, preserving Social Security and Medicare, and voter education. *Id.* ¶¶ 9–10.

STANDARD OF LAW

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

an applicant must meet four requirements: (1) that it has a sufficient interest in the litigation's subject matter, (2) that it could suffer an impairment of its ability

1 to protect that interest if it does not intervene, (3) that its interest is not
2 adequately represented by existing parties, and (4) that its application is timely.
3 *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 122 Nev. 1229, 1238, 147
4 P.3d 1120, 1126 (2006). “In evaluating whether Rule 24(a)(2)’s requirements are met,” courts
5 “construe the Rule broadly in favor of proposed intervenors . . . because a liberal policy in favor
6 of intervention serves both efficient resolution of issues and broadened access to the courts.”
7 *Wilderness Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (cleaned up).⁴

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

12 ARGUMENT

13 I. Proposed Intervenors satisfy all of Rule 24(a)’s requirements for intervention as a 14 matter of right.

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

17 A. The motion is timely.

18 First, the motion is timely. This motion comes just two days after Petitioner filed the
19 Petition and before any substantive activity has occurred in the case. There has therefore been no
20 delay, and there is no risk of prejudice to the other parties. *See In re Guardianship of A.M.*, No.
21 59116, 2013 WL 3278878, at *3 (Nev. May 24, 2013). And if the Court grants intervention,
22 Proposed Intervenors will abide by the existing court-ordered schedule.

23
24
25
26 ⁴ Because Rule 24 and Federal Rule of Civil Procedure 24 are “equivalent,” *Lawler v. Ginocchio*,
27 94 Nev. 623, 626, 584 P.2d 667, 668 (1978) (per curiam), “[f]ederal cases interpreting [Rule 24]
28 are strong persuasive authority.” *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.
3d 872, 876 (2002) (quotation omitted).

1 **B. Proposed Intervenorors have significant protectable interests that may be**
2 **impaired by this lawsuit.**

3 Proposed Intervenorors also (1) have significant protectable interests in this lawsuit (2) that
4 may be impaired by Petitioner's claims. "A 'significantly protectable interest' . . . [is] one that is
5 protected under the law and bears a relationship to the plaintiff's claims." *Am. Home Assurance*
6 *Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (en banc) (quotation omitted). If a would-be intervenor
7 "would be substantially affected in a practical sense by the determination made in an action, he
8 should, as a general rule, be entitled to intervene," *Sw. Ctr. for Biological Diversity v. Berg*, 268
9 F.3d 810, 822 (9th Cir. 2001) (quotation omitted). This interest requirement is less stringent than
10 the injury required for standing. *See Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991).

11 Proposed Intervenorors have at least two significant interests in this lawsuit. *First*, they have
12 a compelling interest in ensuring that their members and constituents can register to vote, remain
13 registered to vote and in active status, and successfully participate in future elections. Petitioner
14 threatens these interests by seeking a ruling that would compel Respondents—and, by extension,
15 county clerks across Nevada—to process their hundreds of voter challenges based on nothing more
16 than secondhand accounts of voter circumstances. That relief would dramatically increase the
17 probability that voters—including Proposed Intervenorors' members and constituents—will be
18 wrongfully removed from the voter rolls.

19 In analogous cases, Nevada courts have recognized similar interests as a proper basis for
20 intervention. Less than a month ago, Judge Russell granted Proposed Intervenorors' motion to
21 intervene in a suit filed by Petitioner's organization that sought to force county clerks to process
22 their voter challenges under NRS 293.535. Order Granting Mot. to Intervene, *Citizen Outreach*
23 *Found. v. Hoen*, No. 24EW000201B (Nev. 1st Jud. Dist. Ct. Sept. 27, 2024) (attached as **Exhibit**
24 **5**). And Judge Riggs in Washoe County granted Proposed Intervenorors' motion to intervene in the
25 similar case filed there. Order Granting Mots. to Intervene, *Citizen Outreach Found. v. Burgess*,
26 No. CV24-02182 (Nev. 2d Jud. Dist. Ct. Oct. 3, 2024) (attached as **Exhibit 6**). Earlier this year,
27 Judge Russell granted the Alliance's motion to intervene in a challenge to Nevada's deadline for
28 the receipt by mail of unpostmarked ballots based on its assertion of similar interests. *See Order*

1 Granting Mot. to Intervene, *Republican Nat'l Comm. v. Aguilar*, No. 24-OC-00101B (Nev. 1st
2 Jud. Dist. Ct. June 14, 2024) (attached as **Exhibit 7**); *see also, e.g., Bellitto v. Snipes*, No. 16-cv-
3 61474, 2016 WL 5118568, at *2–3 (S.D. Fla. Sept. 21, 2016) (granting labor union intervention
4 in suit seeking court-ordered voter list maintenance), *reconsideration denied*, 2016 WL 10518461
5 (S.D. Fla. Oct. 4, 2016); *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799 (E.D.
6 Mich. 2020) (granting organization intervention in suit seeking to compel city to take more
7 aggressive measures to purge allegedly ineligible voters).

8 *Second*, should Petitioner succeed in forcing Respondents to process unfounded voter
9 challenges, Proposed Intervenors would face injury to their core missions. To reduce that injury,
10 Proposed Intervenors would need to divert time and resources to helping their members and
11 constituents verify—and, if necessary, renew—their voter registrations, taking resources away
12 from Proposed Intervenors' other priorities and harming their missions. IPN would have to update
13 its voter registration platform to help voters determine if they have been removed or marked
14 inactive and educate voters and help them confirm their registration status, to the detriment of its
15 other projects. *See Swartz Decl.* ¶ 7. Rise would have to redirect its efforts away from educating
16 students about loan repayment assistance and college aid plans and towards helping students
17 confirm their registration status and re-register, which would harm Rise's mission. Solomon Decl.
18 ¶¶ 21–22. Similarly, the Alliance would have to use its limited volunteer resources to prepare and
19 distribute materials educating its members on how to confirm their registration status, help them
20 locate and respond to mailed notices, and help them re-register. *See Bird Decl.* ¶¶ 7–9. This effort
21 will reduce the Alliance's ability to organize its members on other key policy goals like protecting
22 Social Security and Medicare. *See id.* ¶ 10.

23 “Once an applicant has established a significantly protectable interest in an action, courts
24 regularly find that disposition of the case may, as a practical matter, impair an applicant's ability
25 to protect that interest.” *Venetian Casino Resort, LLC v. Enwave Las Vegas, LLC*, No. 2:19-CV-
26 1197 JCM (DJA), 2020 WL 1539691, at *3 (D. Nev. Jan. 7, 2020) (citation omitted). As explained,
27 if Petitioner's suit succeeds, Proposed Intervenors' interests in their members' and constituents'
28

1 voting rights as well as their interests in their own resources will be impaired. This criterion for
2 intervention of right is accordingly satisfied.

3 **C. Respondent does not adequately represent Proposed Intervenor.**

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

15 Proposed Intervenor are focused on ensuring that their members and constituents remain
16 registered to vote and are able to successfully cast their ballots, which is a distinct interest from
17 Respondents’ interests in administering election laws generally. *See* Order Granting Rise’s Mot.
18 to Intervene at 7, No. 24EW000201B. Courts in Nevada adjudicating similar voter roll
19 maintenance issues have recognized that election officials must balance “easing barriers to
20 registration and voting” with “protecting electoral integrity,” while the mission of Proposed
21 Intervenor is “ensur[ing] that voters are retained on or restored to the rolls,” which “provide the
22 counterbalance to plaintiffs’ singular purpose that defendants’ split mission does not allow.”
23 *Republican Nat’l Comm. v. Aguilar*, No. 2:24-cv-00518-CDS-MDC, 2024 WL 3409860, at *3 (D.
24 Nev. July 12, 2024); *see also Pub. Int. Legal Found*, 463 F. Supp. 3d at 799 (holding that the
25 “interests of election officials in voting roll maintenance are sufficiently distinct [] to warrant
26 intervention by those who could be impacted by the results of the maintenance process”); *Bellitto*,
27 2016 WL 5118568, at *2 (same). Moreover, Proposed Intervenor have specific interests and
28 concerns over the allocation of their limited resources to help members and constituents identify

1 whether they have been challenged or removed from the rolls and help them re-register if
2 necessary, interests that no other party in this lawsuit shares. Proposed Intervenor therefore cannot
3 rely on Respondents or anyone else to adequately represent their interests in this case.

4 **II. Alternatively, Proposed Intervenor satisfy Rule 24(b)'s requirements for**
5 **permissive intervention.**

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

11 For the reasons discussed *supra* Argument § I, Proposed Intervenor's motion is timely, and
12 Proposed Intervenor cannot rely on Respondents to adequately protect their interests. Proposed
13 Intervenor also have defenses to Petitioner's claims that share common questions of law and fact,
14 including whether Petitioner states a claim for which relief can be granted. *See* Proposed Answer
15 (attached as **Exhibit 1**). Intervention will not result in any undue delay or prejudice, because
16 Proposed Intervenor have a strong interest in a swift resolution to this action to ensure that their
17 members' and constituents' voting rights are protected, while simultaneously avoiding any
18 unnecessary delay.

19 For all of those reasons, the U.S. District Court for the District of Nevada granted these
20 same three Proposed Intervenor permissive intervention in a federal challenge to Nevada's voter
21 registration list maintenance procedures earlier this year, explaining that Proposed Intervenor's
22 mission of "ensur[ing] that voters are retained on or restored to the rolls" provides an appropriate
23 "counterbalance to plaintiffs' singular purpose" of seeking a purge of the voter rolls. *Aguilar*, 2024
24 WL 3409860, at *3. The same analysis applies here, and permissive intervention should be granted
25 for the same reason.

26 **CONCLUSION**

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

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DATED this 23rd day of October, 2024.

Be

Las Vegas, NV 89113

Washington, DC 20001

*Attorneys for Proposed Intervenor-
Respondents Rise, Institute for a Progressive
Nevada, and the Nevada Alliance for Retired
Americans*

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David C. O'Mara, Esq.
THE O'MARA LAW FIRM, P.C.
 311 E. Liberty Street
 Reno, Nevada 89501
david@omaralaw.net
Attorney for Petitioner

Billie Shadron, Judicial Assistant to
Hon. Kristin Luis
First Judicial District Court, Dept. 2
BShadron@carson.org

By: Dannielle Fresquez
Dannielle Fresquez, an Employee of
BRAVO SCHRAGER LLP

INDEX OF EXHIBITS

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EXHIBIT 1

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EXHIBIT 1

BRADLEY S. SCHRAGER (NV Bar No. 10217)
DANIEL BRAVO (NV Bar No. 13078)

BRAVO SCHRAGER LLP

6675 South Tenaya Way, Suite 200
Las Vegas, NV 89113

(702) 996-1724

bradley@bravoschrager.com

daniel@bravoschrager.com

DAVID R. FOX (NV Bar No. 16536)

ELIAS LAW GROUP LLP

50 Massachusetts Ave NW, Suite 400
Washington, DC 20001

Tel: (202) 968-4490

dfox@elias.law

*Attorneys for Proposed Intervenor-
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**FIRST JUDICIAL DISTRICT COURT
IN AND FOR CARSON CITY, STATE OF NEVADA**

MARGARET M. OSBORNE, individually,

Petitioner,

v.

SCOTT HOEN, in his official capacity as the
Carson City Clerk and JASON WOODBURY, in
his official capacity as the Carson City District
Attorney,

Respondents.

Case No.: 24-EW-000251B

Dept. No.: II

**[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-Respondents"), by and through their attorneys, submit the following Proposed Answer to Petitioner's Petition for Writ of Mandamus (the "Petition"). Proposed Intervenor-Respondents respond to the allegations in the Petition as follows:

1 *Petitioner Margaret M. Osborne ("Ms. Osborne"), Individually, submit this Petition for Writ*
2 *of Mandamus to compel the Carson City Clerk Scott Hoen ("Hoen") and the Carson City District*
3 *Attorney Jason Woodbury ("Woodbury")(Collectively "Respondents") to perform their duties as*
4 *required by NRS 293.547 and NRS 293.530 by requiring the Clerk to attach the challenges to the*
5 *challenged voter, notify the registrant of the challenge and take the necessary actions as required*
6 *under NRS 293.530 and for the Carson City District Attorney to investigate the challenge within 14*
7 *days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent*
8 *jurisdiction without delay.*

- 9 • Proposed Intervenors admit that Petitioner seeks the relief described in the above
10 paragraph but deny that she is entitled to it.

11 **PARTIES**

12 *Petitioner Margaret M. Osborne is registered to vote in the same precinct as the nine (9)*
13 *people that have been challenged because they no longer live in the residence listed on their*
14 *registration.*

- 15 • Proposed Intervenors lack knowledge and information sufficient to form a belief as to
16 the truth of the allegations in the above paragraph and therefore deny them.

17 *Respondent HOEN is responsible for maintaining accepting challenges filed pursuant to NRS*
18 *293.547 and (1) attach a copy of the challenge to the challenged registration in the roster, (2) within*
19 *5 days sending a notice to the challenged voter in the manner set forth in NRS 293.530, and (3)*
20 *immediately notify the district attorney.*

- 21 • The above paragraph contains legal contentions, characterizations, conclusions, and
22 opinions to which no response is required. To the extent a response is required, denied.

23 *Respondent Jason Woodbury is the District Attorney of Carson City. Pursuant to NRS*
24 *293.547, Woodbury is required, upon receipt of the challenge, to investigate the challenge within 14*
25 *days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent*
26 *jurisdiction without delay.*

- 27 • Proposed Intervenors admit that Jason Woodbury is the District Attorney of Carson
28 City. The above paragraph otherwise contains legal contentions, characterizations,

1 conclusions, and opinions to which no response is required. To the extent a response
2 is required, denied.

3 *Respondents HOEN and WOODBURY are named in their official capacity only.*

- 4 • Admitted.

5 NATURE OF THE CASE

6 *On October 9, 2024, nine (9) challenges to registered voters were provided to HOEN under*
7 *NRS 293.547. See Exhibit 1.¹ Petitioner filed these nine challenges against the following individuals:*
8 *Suzanne T. Baker, Nancy A. Gibson, Deena D. Hocker, Jacob J. Kunter, Daniel M. Martins, Elizabeth*
9 *J. Martins, Madison L. Newcombe, Michael C. Schwieger, and Paige Yochum, See Exhibits 2-10.*
10 *Hoen, as required by NRS 293.547(5)(c), “[i]mmediately notified the district attorney” and it*
11 *appears that Hoen provided a copy of the challenge with the notice. See Exhibit 11².*

- 12 • The cited Exhibits speak for themselves. Proposed Intervenor otherwise lack
13 knowledge and information sufficient to form a belief as to the truth of the allegations
14 in the above paragraph and therefore deny them.

15 *While Hoen provided notice immediately to the district attorney's office, pursuant to NRS*
16 *293.547(5)(c), Hoen failed to mail the notice in the manner set forth in NRS 293.530 to the person*
17 *whose right to vote had been challenged pursuant to this section informing the person of the*
18 *challenge. See NRS 293.547(5)(b). Moreover, upon information and belief, Hoen has also failed to*
19 *attach a copy of the challenge to the challenged registration in the roster. See NRS 293.547(5)(a).*

- 20 • Proposed Intervenor lack knowledge and information sufficient to form a belief as to
21 the truth of the allegations in the above paragraph and therefore deny them.

22 *Instead, upon receiving the challenges, the District Attorney's office abdicated his*
23 *responsibility of investigating the challenge, and instead, sought to obtain guidance from Secretary*
24 *of State Aguilar.³ Secretary Aguilar did not provide “guidance,” but instead, Senior Deputy Attorney*
25 *General, Laena St-Jules, provided her own view, (“in my view”) of the challenges. Moreover, the*
26

27 ¹ Delivery of the Challenges was at 8:04 a.m. on October 9, 2024.

28 ² Notice to the district attorney occurred at 9:08 a.m. on October 9, 2024.

³ Guidance was requested immediately at 9:14 a.m. on October 9, 2024.

1 Secretary of State is not authorized to provide "guidance" but is instead, only authorized to provide
2 interpretations of the statutes when the Secretary of State has properly promulgated regulations. See
3 Nevada State Democratic Party v. Nevada Republican Party, 256 P.3d 1 (2011). Neither Hoen, nor
4 the District Attorney provided any response to Petitioners, save and except that "Carson City
5 acknowledges receipt of the voter challenges attached to your email. See Exhibit 1.

- 6 • The cited Exhibit speaks for itself. The above paragraph otherwise contains legal
7 contentions, characterizations, conclusions, and opinions to which no response is
8 required. To the extent a response is required, denied.

9 Only on October 16, 2024, did the District Attorney provide a response claiming that,

10 after consultation with the Nevada Secretary of State's Office, it has been determined
11 that your challenges do not meet the requirements of NRS 293.547 and the National
12 Voter Registration Act of 1993 (NVRA). Accordingly, the Clerk-Recorder cannot act
13 on the challenges.

14 See Exhibit 1. The Clerk and District Attorney rejected the challenges based upon improper guidance
15 from a Senior Deputy Attorney General who provided her own view, and not the interpretation of the
16 Secretary of State, nor the opinion of the Attorney General.

- 17 • The cited Exhibit speaks for itself. The above paragraph otherwise contains legal
18 contentions, characterizations, conclusions, and opinions to which no response is
19 required. To the extent a response is required, denied.

20 NRS 293.247 provides that,

21 The Secretary of State shall adopt regulations, not inconsistent with the election laws
22 of this State, for the conduct of primary, presidential preference, primary, general,
23 special and district elections in all cities and counties. Permanent regulations of the
24 Secretary of State that regulate the conduct of a primary, general, special or district
25 election and are effective on or before the last business day of February immediately
26 preceding a primary, general, special or district election govern the conduct of that
27 election.

28 See NRS 293.247(1).

- Proposed Intervenors admit that the above paragraph accurately quotes from NRS
293.247.

In carrying out his duties, the secretary of state is authorized to "provide interpretations ...
for the effective administration of the statutes and regulations governing the conduct of primary,
general, special and district election in this state." See NRS 293.247(4). In this case, however, the

1 Secretary of State did not provide an interpretation⁴, but instead, a staff attorney at the Attorney
2 General's office provided her personal thoughts on the matter. See Exhibit 11 ("In my view").

- 3 • The above paragraph contains legal contentions, characterizations, conclusions, and
4 opinions to which no response is required. To the extent a response is required, denied.

5 *The Secretary of State oversees the administration of elections, manages state records, and*
6 *handles various administrative functions. The Attorney General, on the other hand, serves as the*
7 *chief legal office of the state. This office is responsible for providing legal advice to state agencies*
8 *and district attorneys, but should only do so through Attorney General Opinions, pursuant to NRS*
9 *228.150. NRS 228.150 provides that, when requested, the Attorney General shall give his or her*
10 *opinion, in writing, upon any question of law, to the Governor, the Secretary of State, ... to any district*
11 *attorney ... upon any question of law relating to their respective offices, ... " See NRS 228.150(1).*
12 *The personal opinions of a staff attorney for the Attorney General's office are not an Attorney General*
13 *Opinion, nor are secretive directive's disguised as "guidance."*

- 14 • The above paragraph contains legal contentions, characterizations, conclusions, and
15 opinions to which no response is required. To the extent a response is required, denied.

16 *While the Secretary of State appears to have revised the form required for a challenger to*
17 *challenge a voter under NRS 293.547 in August of 2023 (See Exhibit 2-10), the Secretary of State has*
18 *failed to promulgate regulations regarding the procedure that a Clerk and/or the district attorney*
19 *must follow upon receiving a challenge pursuant to NRS 293.547, and thus, the Court must look at*
20 *the language of the statute to determine what must occur. The Court must not give any deference to*
21 *the Secretary of State or the Attorney General's email "guidance" because it is invalid and a futile*
22 *act. See Nevada State Democratic Party v. Nevada Republican Party, 256 P.3d 21 (2011), see also*
23 *Kelly v. Murphy, 377 P.2d 177 (1963).*

- 24 • The above paragraph contains legal contentions, characterizations, conclusions, and
25 opinions to which no response is required. To the extent a response is required, denied.

26
27
28 ⁴ The email in response to the District Attorneys' Office regarding "guidance" did not meet the
requirements of an interpretation and was not prepared by the Secretary of State, nor was it distributed to the
county clerks. See NRS 293.247.

1 NRS 293.547 provides, in relevant part,

2 (5) The county clerk shall:

3 (a) Attach a copy of the challenge to the challenged registration in the roster.

4 (b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in
5 NRS 293.530 to the person whose right to vote has been challenged pursuant to this
6 section informing the person of the challenge ... A copy of the challenge and
7 information describing how to reregister properly must accompany the notice.

8 (c) Immediately notify the district attorney. A copy of the challenge must accompany
9 the notice.

10 See NRS 293.547(5). Additionally, NAC 293.416 provides that,

11 A written challenge authorized by NRS 293.547 must:

12 (a) Be on a form prescribed by the Secretary of State;

13 (b) Be filed with the county clerk after the 30th day but not later than the 25th day
14 before the day of the election; and

15 (c) Contain, in addition to any other required information:

16 (1) The address and, if readily available, the telephone number of the person whose
17 right to vote is challenged;

18 (2) The number of the precinct in which the person whose right to vote is challenged
19 is registered to vote;

20 (3) The name, address and telephone number of the person filing the challenge;

21 (4) The precinct in which the person filing the challenge is registered to vote;

22 (5) The date of the challenge;

23 (6) A statement of the facts upon which each ground for the challenge is based;

24 (7) A statement that the challenge is based on personal knowledge of the facts upon
25 which each ground for the challenge is based; and

26 (8) Any documentation or evidence supporting the facts upon which each ground for
27 the challenge is based.

- 28
- Proposed Intervenor's admit that the above paragraph accurately quotes the cited excerpts.

The challenges filed against the nine (9) registrants were made using the Secretary of State's form. See Exhibits 2-10. The District Attorney, after receiving "guidance" from the Attorney General's office, concluded that the "challenges submitted rely not on personal knowledge of the challenger, but instead on statements of unnamed third-party individuals with no established or

1 *purported knowledge of the voter being challenged." See Exhibit 11.*

- 2 • The cited exhibits speak for themselves. Proposed Intervenors otherwise lack
3 knowledge and information sufficient to form a belief as to the truth of the allegations
4 in the above paragraph and therefore deny them.

5 *Ms. Osborne filled out the form provided by the Secretary of State and provided all of the*
6 *relevant information required by the form. The information provided shows that these nine*
7 *(9) individuals do not reside at the residence for which the address is listed in the roster. Indeed,*
8 *Ms. Osborne has "personal knowledge" as she has the "experience or observation of the facts" by*
9 *visiting the location claimed to be the voter's residence, knocking on the door, and experiencing and*
10 *observing that Elizabeth Martins, is not there, and that Elizabeth Martins no longer lives at the*
11 *address. Indeed, Ms. Osborne provides the address of the challenged voter. More importantly, she*
12 *checked the box stating that this person "does not reside at the residence for which the address is*
13 *listed in the roster" when the form asks, "challenge is based upon the ground(s) that the person*
14 *challenged." See Exhibits 2-10. Thereafter, Ms. Osborne thereafter stated the facts upon which each*
15 *ground for the challenge is based, and she signed the form, that states, "The forgoing challenge is*
16 *based on the personal knowledge of the facts upon which each ground for the challenge is based."*

- 17 • The above paragraph contains legal contentions, characterizations, conclusions, and
18 opinions to which no response is required. To the extent a response is required, denied.

19 *Even assuming that Ms. Osborne's challenges were insufficient, the Court should and must*
20 *conclude that Ms. Osborne substantially complied with the statute. NRS 293.127 provides that "[t]his*
21 *title must be liberally construed to the end that: ... (c) the real will of the electors is not defeated by*
22 *any informality or by failure substantially to comply with he provisions of this title with respect to the*
23 *giving of any notice or the conducting of an election or certifying the results thereof." See NRS*
24 *293.127(1)(c). "Courts have defined substantial compliance as compliance with essential matters*
25 *necessary to ensure that a every reasonable objective of the statute is met." See Williams v. Clark*
26 *County Dist. Attorney, 118 Nev. 472, 50 P.3d 536 (2002). The Nevada Supreme Court ha~ required*
27 *only substantial compliance with statutory requirements. See Cirac v. Lander County, 95 Nev. 723,*
28 *731, 602 P.2d 1012, 1017 (1979); Cleland v. District Court, 92 Nev. 454,456, 552 P.2d 488,490*

1 (1976). In *Cirac v. Lander County*, the Supreme Court applied a rule of substantial compliance and
2 stated that the "rule of substantial compliance best furthers the purpose of insuring that only
3 registered voters are engaged in the qualifying procedures." *Id.*

- 4 • The above paragraph contains legal contentions, characterizations, conclusions, and
5 opinions to which no response is required. To the extent a response is required, denied.

6 *In this case, Ms. Osborne has substantially complied with the statute, as she has provided the*
7 *supporting facts that allow HOEN to provide a notice under NRS 293.530.*

- 8 • The above paragraph contains legal contentions, characterizations, conclusions, and
9 opinions to which no response is required. To the extent a response is required, denied.

10 *Additionally, the district attorney's office was provided with the challenges on October 9,*
11 *2024, and has failed to investigate, as required by law, into the challenged voter residence. There is*
12 *certainly enough evidence for the district attorney to start an investigation and decide whether the*
13 *nine individuals do not reside at the location they claim in their registration. Indeed, the district*
14 *attorney could have simply started its investigation by going to the address listed on the challenged*
15 *voter's registration and determining if the person lives at the residence. Moreover, there are several*
16 *other methods in which the district attorney could have utilized in its investigation to determine if the*
17 *residence attached to the registration is where the challenged voter resides. See e.g. NRS 293.530*
18 *("use any reliable and reasonable means available"); see also NRS 293.5303 ("changes of addresses*
19 *of its postal patrons for use by the county clerk to correct the portions of the statewide voter*
20 *registration list relevant to the county clerk.")⁵*

- 21 • The above paragraph contains legal contentions, characterizations, conclusions, and
22 opinions to which no response is required. To the extent a response is required, denied.

23 *If Woodbury needs additional information for to conduct his investigation, besides going to*
24 *the challenged voter's addresses listed on the registration, Woodbury should also contact the*
25

26
27
28 ⁵ Upon information and believe, the Carson City Clerk has entered into an agreement with either the USPS
or another person (entity) authorized to obtain the data compiled See NRS 293.5307, and thus, the clerk "shall"
review the data and "shall" mail a notice to each such registered voter under NRS 293.530.

1 challenged voters at the following address:⁶

2 Suzanne T. Baker
3 314 Rockhill Dr.
San Antonio, Texas 78209

Nancy A. Gibson
2355 Columbia Way
Carson City, NV 89706

Deena D. Hocker
2450 Highway M
Clinton, MO 64735

4 Jacob J. Kunter
5 712 Hot Springs Road,
Apt. 202
6 Carson City, NV 89760

Daniel M. Martins
34 Ansell St.
Alexandria, VA 22305

Elizabeth J. Martins
34 Ansell St.
Alexandria, VA 22305

7 Madison L. Newcombe
2250 S. Edmonds Dr.
8 Carson City, NV 89701

Michael C. Schwieger
1464 Rand Ave #103
Carson City, Nevada 89706

Paige Yochum
11326 Snow Bay Dr.
Houston Tx 77067

- 9
- 10 • Proposed Intervenors lack knowledge and information sufficient to form a belief as to
11 whether the named individuals reside at the addresses listed in the above paragraph.
12 The above paragraph otherwise contains legal contentions, characterizations,
13 conclusions, and opinions to which no response is required. To the extent a response
14 is required, denied.

15 *Moreover, the Nevada Legislature has provided a statutory mechanism for the withdrawal of*
16 *challenges pursuant to NRS 293.547, which necessitates that the only way to withdraw a challenge,*
17 *or not process a challenge is for the removal under NRS 293.548. Ms. Osborne has not sought to*
18 *remove the challenges and thus, the challenges must be processed accordingly. Additionally, since*
19 *Ms. Osborne signed the challenge form under penalty of perjury that the information provided in this*
20 *document is true and correct, it is unlikely that the challenged voter resides at the location on their*
21 *registration, and thus, she has substantially complied with the requirements of the statutes and an*
22 *investigation must be undertaken and the individuals removed from the voter rolls.*

- 23
- 24 • The above paragraph contains legal contentions, characterizations, conclusions, and
25 opinions to which no response is required. To the extent a response is required, denied.

26 **JURISDICTION AND VENUE**

27 *This Court has jurisdiction to issue writs of mandamus pursuant to Article 6, Section 6 of the*
28 *Nevada Constitution and NRS 34.160. "A writ of mandamus is available to compel the performance*

⁶ *An investigation of the Carson City residence would promote the ability of these individuals being able to
vote in their specific precinct and receiving a mail ballot that will not be forwarded, even though there is a local
Carson City residence.*

1 of an act that the law requires as a duty resulting from an office, trust, or station or to control an
2 arbitrary or capricious exercise of discretion." *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*,
3 124 Nev. 193, 197, 179 P.3d 556, 558 (2008).

- 4 • Admitted.

5 NRS 30.040(1) provides that "[a]ny person ... whose rights, status or other legal relations are
6 affected by a statute, municipal ordinance, contract or franchise, may have determined any question
7 of construction or validity arising under the instrument, statute, ordinance, contract or franchise and
8 obtain a declaration of rights, status or other legal relations thereunder.

- 9 • Proposed Intervenor admits that the above paragraph accurately quotes the excerpted
10 portion of NRS 30.040(1).

11 *This Court is the proper venue as it is where the Respondents are located.*

- 12 • Admitted.

13 COUNT 1

14 **Writ of Mandamus for Violation of the NRS 293. 547 and NRS 293.530**

15 *Petitioners realleges all paragraphs set forth above as fully stated herein.*

- 16 • Proposed Intervenor incorporates their responses to the paragraphs above as if set forth
17 fully herein.

18 *On October 9, 2024, Ms. Osborne filed nine (9) challenges to the registered voters pursuant*
19 *to NRS 293.547.*

- 20 • Proposed Intervenor lacks knowledge and information sufficient to form a belief as to
21 the truth of the allegations in the above paragraph and therefore deny them.

22 *Petitioner sought compliance with NRS 293.547, but Respondents have refused to act under*
23 *NRS 293.547 and/or NRS 293.530.*

- 24 • The above paragraph contains legal contentions, characterizations, conclusions, and
25 opinions to which no response is required. To the extent a response is required, denied.

26 *Petitioner and the Public will continue to be injured by Respondents HOEN and WOODBURY*
27 *failure to act unless and until they are required to fulfill their duties under Nevada law. The purpose*
28 *of these statutes is to ensure that only registered voters, who continue to reside at the residence listed*

1 on their registration, are allowed to vote.

- 2 • Denied.

3 *Petitioner seeks a writ of mandamus requiring Respondent HOEN to attach the challenge to*
4 *the registration of the registered voter, and to notify each challenged voter that they have been*
5 *challenged.*

- 6 • Proposed Intervenor admits that Petitioner seeks the relief described in the above
7 paragraph but deny that she is entitled to it.

8 *Petitioner seeks a writ of mandamus requiring Respondent Woodbury to investigate the*
9 *challenge within 14 days of October 9, 2024, and if appropriate, cause proceedings to be instituted*
10 *and prosecuted in a competent jurisdiction without delay.*

- 11 • Proposed Intervenor admits that Petitioner seeks the relief described in the above
12 paragraph but deny that she is entitled to it.

13 *Petitioner seeks a declaratory judgment that Respondents are not in compliance with NRS*
14 *293.530 and 293.547.*

- 15 • Proposed Intervenor admits that Petitioner seeks the relief described in the above
16 paragraph but deny that she is entitled to it.

17 *Petitioner seeks an award of attorneys' fees and costs.*

- 18 • Proposed Intervenor admits that Petitioner seeks the relief described in the above
19 paragraph but deny that she is entitled to it.

20 **COUNT II**

21 **DECLARATORY RELIEF**

22 *Petitioner realleges all of the paragraphs above as if fully stated herein.*

- 23 • Proposed Intervenor incorporates their responses to the paragraphs above as if set forth
24 fully herein.

25 *NRS 30.040(1) provides that 11 [a]ny person ... whose rights, status or other legal relations*
26 *are affected by a statute, municipal ordinance, contract or franchise, may have determined any*
27 *question of construction or validity arising under the instrument, statute, ordinance, contract or*
28 *franchise and obtain a declaration of rights, status or other legal relations thereunder.*

- Proposed Intervenor admits that the above paragraph accurately quotes the excerpted portion of NRS 30.040(1).

After filing the challenges submitted by Ms. Osborne, on the form provided by the Secretary of State, pursuant to NRS 293.547, the Clerk must provide notice to the registrant pursuant to NRS 293.530 and attach a copy of the challenge to the challenged registration in the roster.

- The above paragraph contains legal contentions, characterizations, conclusions, and opinions to which no response is required. To the extent a response is required, denied.

After receiving a copy of the filed challenge form from the clerk, Woodbury is required to investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

- The above paragraph contains legal contentions, characterizations, conclusions, and opinions to which no response is required. To the extent a response is required, denied.

Despite these statutory requirements, Respondents have failed to properly process and investigate the valid challenges under NRS 293.547 and refuse to do so.

- The above paragraph contains legal contentions, characterizations, conclusions, and opinions to which no response is required. To the extent a response is required, denied.

Petitioner is entitled to a declaratory judgment that upon the filing of the challenge under NRS 293.547, Nevada law requires the county clerk to "(a) attach a copy of the challenge to the challenged registration in the roster and (b) within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing the person of the challenge, and (c) immediately notify the district attorney. The Clerk has failed to satisfy the requirements of NRS 293.530, except it has notified the district attorney.

- Denied.

Petitioner is entitled to a declaratory judgment that upon the filing of the challenge under NRS 293.547, Woodbury is required to investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

- Denied.

1 *Petitioner has the right to recover its attorneys' fees and costs for bringing this action.*

- 2 • Denied.

3 **GENERAL DENIAL**

4 Proposed Intervenor deny every allegation in the Petition that is not expressly admitted
5 herein.

6 **AFFIRMATIVE DEFENSES**

7 Proposed Intervenor set forth their affirmative defenses without assuming the burden of
8 proving any fact, issue, or element of a cause of action where such burden properly belongs to
9 Petitioners. Moreover, nothing stated here is intended or shall be construed as an admission that any
10 particular issue or subject matter is relevant to the allegations in the Petition. Proposed Intervenor
11 reserve the right to amend or supplement their affirmative defenses as additional facts concerning
12 defenses become known.

13 Proposed Intervenor assert the following affirmative defenses:

14 Petitioner's claim is preempted by the National Voter Registration Act.

15 Petitioner fails to plead facts showing a clear legal right to the extraordinary remedy of
16 mandamus.

17 Petitioner is not entitled to a writ of mandamus because they have an alternate, adequate legal
18 remedy available to her.

19 Petitioner fails to state a claim on which relief can be granted.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Proposed Intervenor respectfully request that this Court:

- 22 A. Deny that Petitioner is entitled to any relief;
23 B. Dismiss the Petition in its entirety, with prejudice; and
24 C. Grant such other and further relief as the Court may deem just and proper.
25
26
27
28

EXHIBIT 2

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT 2

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

MARGARET M. OSBORNE, individually,

Petitioner,

v.

SCOTT HOEN, in his official capacity as the
Carson City Clerk and JASON WOODBURY,
in his official capacity as the Carson City
District Attorney,

Respondents.

Case No. 24-EW-000251B

**DECLARATION OF CHRISTIAN
SOLOMON**

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

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

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

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

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

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

6. Rise expanded into Nevada in 2023. At the time, Nevada did not have any statewide

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 which is a commuter campus near Carson City, and Great Basin College, also a commuter campus,
19 and we run virtual programming to reach 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 phonebanking, 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. UNR is just half an hour's drive from Carson City and it is the closest major
28 university. Our organizers at UNR often encounter students from Carson City, including many

1 students who continue to consider themselves Carson City residents.

2 19. The lawsuit filed by Margaret M. Osborne threatens Rise's mission and the work
3 described above.

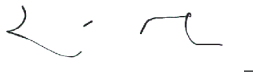
4 20. In particular, the lawsuit threatens the ability of Rise's constituency—students and
5 younger people—to vote in the 2024 general election. Many college students live away from their
6 family homes and voting residences for long periods of time while at school. They also frequently
7 change their temporary residence while at school, for example by moving between dorm rooms or
8 off campus apartments, while still maintaining a permanent residence with family. Due to this
9 frequent moving, and long stretches away from their voting residence, students might not be home
10 if a challenger were to knock on the door at their residential address. Likewise, they might not
11 have ready access to mailed notices meant to advise them that their registration is at risk, and might
12 only learn later that they have been challenged. Similarly, many college students and young people
13 establish new permanent residences on or near campus but move frequently within a small area
14 while in school or starting their careers. These people remain eligible to vote in the same area, but
15 also are likely not to be home if a challenger knocks on their door and not to promptly receive
16 election-related mail concerning their registration status

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

28 22. Both of these impacts would severely harm Rise's mission. We cannot successfully

1 realize our mission as an organization if our student constituents are not able to successfully cast
2 a ballot and make their voices heard. Similarly, our ability to expand our work and operations in
3 Nevada will be hampered if we have to respond to hundreds of last-minute challenges that are
4 likely to disproportionately harm student voters.

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

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Executed on: 10/23/2024

8 Christian Solomon
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EXHIBIT 3

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EXHIBIT 3

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

MARGARET M. OSBORNE, individually,

Case No. 24-EW-000251B

Petitioner,

v.

SCOTT HOEN, in his official capacity as the
Carson City Clerk and JASON WOODBURY,
in his official capacity as the Carson City
District Attorney,

**DECLARATION OF SHELBY
SWARTZ**

Respondents.

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

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

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

3. I am currently the Executive Director of the Institute for a Progressive Nevada (“IPN”), a non-partisan, 501(c)(3) civic engagement and voting rights organization that serves all Nevadans, including those in Carson City. In addition to an Executive Director, we currently have 14 other employees on staff, including a Deputy Director, a Communications Director, and a Lead Organizer with a focus on voter education. We also work with a limited number of volunteers, and we work closely with our c3 table partners across the state.

4. IPN’s mission is to ensure that all Nevadans know how to vote and can do so with confidence. To further our mission, we produce and distribute in-language voter materials that we share with our c3 partners to ensure that all Nevadans can access critical information about how and where to cast their ballots. For example, we publish a comprehensive non-partisan voter guide which includes candidate information, explains where and how to vote, and provides information on universal vote-by-mail in Nevada. In coordination with our c3 partners, we also host a website—RegisterNevada.org—that allows eligible voters to register to vote online and educates

1 them about upcoming election deadlines and eligibility requirements. Finally, we pay for targeted
2 advertisements on radio and social media to ensure that the information and resources we produce
3 reach Nevadans who are most likely to be disenfranchised due to information and language
4 barriers.

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

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

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

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

27 Shelbie Swartz

Executed on: 10/23/2024

28 Shelbie Swartz

EXHIBIT 4

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EXHIBIT 4

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

MARGARET M. OSBORNE, individually,

Case No. 24-EW-000251B

Petitioner,

v.

SCOTT HOEN, in his official capacity as the
Carson City Clerk and JASON WOODBURY,
in his official capacity as the Carson City
District Attorney,

DECLARATION OF THOMAS BIRD

Respondents.

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

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

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

3. I am currently the President of the Nevada Alliance for Retired Americans (“The Alliance”), a non-partisan 501(c)(4) membership organization with roughly 20,000 members across the state of Nevada—825 of which are in Carson City—and with over 4.4 million members across the country. Our members are geographically diverse, spanning from Elko to Las Vegas and from Reno to Ely. They are also diverse in terms of age and profession. We serve both older retirees who are farther into their retirement and new retirees, who have only recently stopped working. Similarly, our retirees come from many different AFL-CIO affiliated unions, and worked in many different industries before their retirement.

4. The Alliance’s mission is to ensure the social and economic justice and full civil rights that retirees have earned after a lifetime of work, with a particular emphasis on protecting the right to vote. To further that mission, each election cycle, we travel across the state to bring a voter education campaign directly to our members. As part of our voter education work, we put together voter education materials, help our members confirm their voter registration status and

1 track the status of their submitted mail ballots, and answer any other questions they may have
2 about how to get their ballots cast and counted.

3 5. Because our members are retired, they often relocate to assisted living facilities, to
4 be closer to or to move in with family, or to transition into smaller homes for financial reasons.
5 Many of them also frequently travel out of state to visit family or for personal travel, during which
6 time they would not be home if a challenger knocked on their door and might miss a mailed
7 notification regarding their voter registration status.

8 6. As a result, this lawsuit and the hundreds of similar Pigpen Project-backed
9 challenges filed across Nevada, which seek to compel county clerks to process challenges to
10 Nevada voters from third parties that are not based on personal knowledge, would undoubtedly
11 and disproportionately impact the Alliance's members.

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

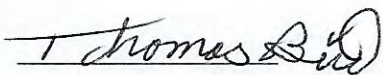
19 8. In our conversations with members, and through our materials, we would direct all
20 members to confirm their registration status, help them locate and respond to mailed notices, and
21 outline the steps they would need to take to get re-registered were they to discover they had been
22 challenged.

23 9. Because Nevada is a large state, because many of our members do not own
24 computers or cell phones, and because, for the reasons articulated above, our members often
25 change mailing addresses and do not have regular access to their mail, focusing on an in-person
26 voter education campaign would be of particular importance to reach our members. Currently, our
27 practice is to visit each of our 20 affiliated union and community groups across Nevada twice a
28 year to speak with members about key policy goals, such as preserving Social Security and

1 Medicare. If Petitioner's challenges are accepted, we would have to double down on those efforts
2 in Carson City and all over Nevada and maintain regular contact with our members, in person,
3 prior to the upcoming election and ensure that all of our members are registered and remain
4 registered to vote. Our members are also a very engaged group and are likely to have a lot of
5 questions that would require time and resources to address.

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

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

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18 Thomas Bird

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28 Executed on: 10-23-24

EXHIBIT 5

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EXHIBIT 5

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WILLIAM SCOTT HOEN
BY *William Scott Hoen*

1 BRADLEY S. SCHRAGER (NV Bar No. 10217)

2 DANIEL BRAVO (NV Bar No. 13078)

3 **BRAVO SCHRAGER LLP**

6675 South Tenaya Way, Suite 200

Las Vegas, NV 89113

(702) 996-1724

bradley@bravoschrager.com

daniel@bravoschrager.com

6 DAVID R. FOX (NV Bar No. 16536)

7 **ELIAS LAW GROUP LLP**

50 Massachusetts Ave NW, Suite 400

Washington, DC 20001

Tel: (202) 968-4490

dfox@elias.law

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

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

15 CITIZEN OUTREACH FOUNDATION,
16 CHARLES MUTH, individually,

17 Petitioners,

18 v.

19 SCOTT HOEN, in his official capacity as the
20 Carson City Clerk, and JIM HINDLE, in his
official capacity as the Storey County Clerk,

21 Respondents,

Case No.: 24EW000201B

Dept. No.: 1

**~~PROPOSED~~ ORDER GRANTING
MOTION TO INTERVENE**

23 This matter comes before the Court pursuant to the motion of Proposed Intervenor-
24 Respondents RISE, Institute for a Progressive Nevada, and the Nevada Alliance for Retired
25 Americans (collectively "Proposed Intervenor") to intervene as Respondents in this lawsuit under
26 Nevada Rule of Civil Procedure 24, along with their Memorandum of Points and Authorities in
27 support of the motion and the exhibits attached thereto.
28

1 Having considered the parties' filings and the arguments of counsel, the Court rules as
2 follows: Proposed Intervenorors are entitled to intervene in this case as a matter of right under
3 Nevada Rule of Civil Procedure 24(a)(2). In the alternative, the Court grants Proposed Intervenorors
4 permissive intervention pursuant to Rule 24(b).

5 LEGAL AND PROCEDURAL BACKGROUND

6 I. Statutory Background

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

21 Several of these limitations on the voter challenge process reflect protections imposed by
22 the National Voter Registration Act of 1993 ("NVRA"). The NVRA prevents states from removing
23 voters from the rolls due to a change of residence unless they first fail to respond to a mailed notice
24 and then fail to vote in two federal election cycles. 52 U.S.C. § 20507(d)(1)(B). The NVRA also
25 requires states to complete "any program the purpose of which is to systematically remove the
26 names of ineligible voters from the official lists of eligible voters" no "later than 90 days prior to
27 the date of a primary or general election for Federal office." *Id.* § 20507(c)(2)(A). Federal law
28 therefore prohibits all such removal programs until after the November 2024 election.

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

2 This lawsuit is part of what Petitioners call the “Pigpen Project,” which seeks to remove
3 voters from the voter rolls based on Petitioners’ review of various third-party and government
4 databases.¹ On July 29, 2024, Petitioners filed almost 4,000 challenges under NRS 293.535 across
5 the state,² including 480 in Carson City and 44 in Storey County. Pet. ¶¶ 1, 30–32. On August 27,
6 2024, the Secretary of State advised county clerks in Memo 2024-026 that voter challenges must
7 be based on “firsthand knowledge through experience or observation” and that challenges based
8 on “review of data from databases or compilations of information” were therefore invalid. Pet. Ex.
9 1 at 1, 3 (quoting NAC 293.416(3)). Counties across the state therefore rejected Petitioners’
10 challenges, and in the last week, Petitioners have brought three mandamus actions—in this Court
11 and in Clark and Washoe Counties—to compel counties to process them.

12 **FINDINGS OF FACT³**

13 **Rise.** Rise Action Fund (“Rise”) is a student-led 501(c)(4) nonprofit organization that
14 operates student-focused statewide advocacy and voter mobilization programs in Nevada. *See*
15 Decl. of Christian Solomon ¶¶ 5–6, 8–12 (“Solomon Decl.”). Its election-focused work—
16 empowering and mobilizing students in the political process—is important to Rise’s mission,
17 which hinges on its ability to build political power within the student population. *Id.* ¶¶ 5, 16. To
18 build political support for its policy goals, including gun safety issues, student debt relief, and
19 financial assistance, Rise organizes and educates its student constituents at University of Nevada,
20 Las Vegas, University of Nevada, Reno, Nevada State University, and College of Southern Nevada
21 about the 2024 general election. *Id.* ¶¶ 8–10, 12–18. Rise runs programs on campus to register
22 students to vote and to ensure that students *stay* registered and are able to vote. *Id.* ¶ 16. Rise’s

23
24 ¹ *See generally* Chuck Muth, *Follow-Up: My Conversation with NV SOS Aguilar*,
25 PigPenProject.com (Aug. 29, 2024), <https://pigpenproject.com/blog/follow-up-my-conversation-with-nv-sos-aguilar/>.

26 ² *See id.*

27 ³ Any findings of fact which are more appropriately considered conclusions of law shall be
28 treated as such, and any conclusions of law which are more appropriately considered findings of
fact shall be treated as such.

1 goal is to reach each student three to five times, on the phone or in person, by the election. *Id.*

2 The relief that Petitioners seek harms the students that Rise advocates for and serves. *Id.*
3 ¶¶ 19–22. Many college students move frequently without abandoning their permanent residence
4 and do not have ready access to mailed notices sent to their permanent addresses advising them
5 that their registration is at risk of cancellation. *Id.* ¶ 20. Other college students register at their
6 college address but move frequently—every year, or even every semester—within the same small
7 geographic area. *Id.* With just over a month before the election, students are at a particularly high
8 risk of being removed from the rolls due to Petitioners’ efforts on the eve of the election.
9 Petitioners’ suit is therefore a direct attack on the very voters Rise organizes and advocates for. If
10 Petitioners are successful, Rise will need to help students confirm their registration status, find and
11 respond to mailed notices, and re-register. *Id.* ¶ 21. These efforts would come at the expense of
12 Rise’s work in support of its other mission-critical priorities. *Id.* ¶¶ 21–22.

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

22 Petitioners’ suit threatens IPN’s mission to empower all Nevadans to vote. Petitioners seek
23 to compel Respondents to begin the process of removing voters from the rolls based on challenges
24 that are unsupported by any actual personal knowledge that the voter is ineligible. Should
25 Petitioners succeed, IPN would have to retool its voter guide to inform voters why their registration
26 might be challenged and how to confirm their registration status, and it would have to refocus its
27 limited advertising to spread awareness about the need for voters to check their registration and
28 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.”). 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 over a thousand members in Carson City and Storey 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 Medicare, and other voter education work. *Id.* ¶¶ 9–10.

STANDARD OF LAW

Nevada Rule of Civil Procedure 24 governs intervention in Nevada state court actions. Because Rule 24 and Federal Rule of Civil Procedure 24 are “equivalent,” *Lawler v. Ginochio*, 94 Nev. 623, 626, 584 P.2d 667, 668 (1978) (per curiam), “[f]ederal cases interpreting [Rule 24] ‘are strong persuasive authority.’” *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P. 3d

1 872, 876 (2002) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772,
2 776 (1990) (per curiam)).

3 To intervene as of right under Rule 24(a)(2),
4 an applicant must meet four requirements: (1) that it has a sufficient interest in
5 the litigation's subject matter, (2) that it could suffer an impairment of its ability
6 *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex rel. County of Clark*, 122 Nev. 1229, 1238,
7 147 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 to the courts."
10 *Wilderness 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 thus are
19 entitled to intervene as a matter of right.

20 **A. The motion is timely.**

21 First, the motion is timely. This motion was filed just a week after Petitioners filed the
22 Petition and before any substantive activity has occurred in the case. There has therefore been no
23 delay, and there is no risk of prejudice to the other parties. *See In re Guardianship of A.M.*, No.
24 59116, 2013 WL 3278878, at *3 (Nev. May 24, 2013); *Lawler*, 94 Nev. at 626, 584 P.2d at 669.
25 Proposed Intervenors have promised to abide by any court-ordered schedule.

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

Proposed Intervenorors also (1) have significant protectable interests in this lawsuit (2) that may be impaired by Petitioners' 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 (en banc) (quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d 794, 803 (9th Cir. 2002)). 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 the injury required for standing. *See Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991).

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

In analogous cases, courts have recognized similar interests as a proper basis for intervention. *See e.g.* Order Granting Mot. to Intervene, *Republican Nat'l Comm. v. Aguilar*, No. 24-OC-00101B (Nev. 1st Jud. Dist. Ct. June 14, 2024) ("*Aguilar Order*"); *see also, e.g., Bellitto v. Snipes*, No. 16-cv-61474, 2016 WL 5118568, at *2–3 (S.D. Fla. Sept. 21, 2016) (granting labor union intervention in suit seeking court-ordered voter list maintenance), *reconsideration denied*, 2016 WL 10518461 (S.D. Fla. Oct. 4, 2016); *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799 (E.D. Mich. 2020) (granting organization intervention in suit seeking to compel city to take more aggressive measures to purge allegedly ineligible voters). Here, the Alliance similarly seeks to protect the voting rights of its 20,000 retiree members in Nevada, Bird Decl. ¶¶ 3–4, and Rise seeks to protect its constituency of politically marginalized students, Solomon Decl. ¶ 5.

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

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

1 **C. Respondent does not adequately represent Proposed Intervenor.**

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

14 Proposed Intervenor are focused on ensuring that their members and constituents remain
15 registered to vote and are able to successfully cast their ballots, which is a distinct interest from
16 Respondents’ interests in administering election laws generally. *See Aguilar Order* at 12–13.
17 Courts in Nevada adjudicating similar voter roll maintenance issues have recognized that election
18 officials must balance “easing barriers to registration and voting” with “protecting electoral
19 integrity,” while the mission of Proposed Intervenor is “ensur[ing] that voters are retained on or
20 restored to the rolls,” which “provide the counterbalance to plaintiffs’ singular purpose that
21 defendants’ split mission does not allow.” *Republican Nat’l Comm. v. Aguilar*, No. 2:24-cv-00518-
22 CDS-MDC, 2024 WL 3409860, *3 (D. Nev. July 12, 2024); *see also Pub. Int. Legal Found*, 463
23 F. Supp. 3d at 799 (holding that the “interests of election officials in voting roll maintenance are
24 sufficiently distinct [] to warrant intervention by those who could be impacted by the results of the
25 maintenance process”); *Bellitto*, 2016 WL 5118568, at *2 (same). Moreover, Proposed Intervenor
26 have specific interests and concerns over the allocation of their limited resources to help members
27 and constituents identify whether they have been removed from the rolls and help them re-register
28 that no other party in this lawsuit shares. Proposed Intervenor therefore cannot rely on

1 Respondents or anyone else to adequately represent their interests in this case.

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

4 The Court also grants Proposed Intervenors' alternative request for permissive
5 intervention. Courts have broad discretion to permit intervention under Rule 24(b) where an
6 applicant's claim or defense and the main action have a question of law or fact in common and
7 intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.
8 *See Hairr*, 132 Nev. at 187, 368 P.3d at 1202.

9 For the reasons discussed above, Proposed Intervenors' motion is timely, and Proposed
10 Intervenors cannot rely on Respondents to adequately protect their interests. Proposed Intervenors
11 also have defenses to Petitioners' claims that share common questions of law and fact—for
12 example, whether Petitioners have pleaded facts allowing a court to conclude that they have a clear
13 legal right to the extraordinary remedy of mandamus and whether their claims are preempted by
14 the NVRA. Intervention will not result in any undue delay or prejudice, because Proposed
15 Intervenors have a strong interest in a swift resolution to this action to ensure that their members'
16 and constituents' voting rights are protected, while simultaneously avoiding any unnecessary
17 delay.

18 For all of those reasons, the U.S. District Court for the District of Nevada granted these
19 same three Proposed Intervenors permissive intervention in a federal challenge to Nevada's voter
20 registration list maintenance procedures earlier this year, explaining that Proposed Intervenors'
21 mission of "ensur[ing] that voters are retained on or restored to the rolls" provides an appropriate
22 "counterbalance to plaintiffs' singular purpose" of seeking a purge of the voter rolls. *Aguilar*, 2024
23 WL 3409860, at *3. A similar analysis applies here, and permissive intervention is granted for the
24 same reason.

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1 **ORDER**

2 **IT IS HEREBY ORDERED** that the motion of RISE, Institute for a Progressive Nevada,
3 and the Nevada Alliance for Retired Americans to intervene as respondents in this action is
4 **GRANTED.**

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

7 **IT IS SO ORDERED.**

8
9 Dated this 27th day of September, 2024.

10
11 
12 Hon. James T. Russell
13 District Court Judge

14 Submitted by:

15 
16

17 BRADLEY S. SCHRAGER (NV Bar No. 10217)
18 DANIEL BRAVO (NV Bar No. 13078)
19 **BRAVO SCHRAGER LLP**
20 6675 South Tenaya Way, Suite 200
21 Las Vegas, NV 89113
22 (702) 996-1724
23 bradley@bravoschrager.com
24 daniel@bravoschrager.com

21 DAVID R. FOX (NV Bar No. 16536)
22 **ELIAS LAW GROUP LLP**
23 250 Massachusetts Ave NW, Suite 400
24 Washington, DC 20001
Tel: (202) 968-4490
dfox@elias.law

25 *Attorneys for Proposed Intervenor-*
26 *Respondents RISE, Institute for a Progressive*
27 *Nevada, and the Nevada Alliance for Retired*
28 *Americans*

EXHIBIT 6

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EXHIBIT 6

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

CITIZENS OUTREACH
FOUNDATION, CHARLES MUTH,
individually,

Case No.: CV24-02182

Dept. No.: 3

Petitioners,

vs.

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

Respondent,

and

FRANCISCO V. AGUILAR, in his
official capacity as Nevada Secretary
of State; RISE; INSTITUTE FOR A
PROGRESSIVE NEVADA; NEVADA
ALLIANCE FOR RETIRED
AMERICANS; AMERICAN CIVIL
LIBERTIES UNION OF NEVADA,

Intervenor-Respondents.

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Also before the Court is a Motion to Intervene as Respondents (“Motion to Intervene”), filed by Proposed Intervenor-Respondents RISE, the Institute for a Progressive Nevada (“IPN”), and the Nevada Alliance for Retired Americans (the “Alliance”) on September 27, 2024.

On October 2, 2024, this Court entered its *Order Re: Motions for Order Shortening Time; Order to Set In-Person Hearing* (“*Order*”). The Court granted the Proposed Intervenor-Respondents’ Motions for Order Shortening Time and set a briefing schedule for the outstanding Motions to Intervene. *See Order*, at 2:11-22. Specifically, the Court stated that “(1) all opposing points and authorities shall be filed by 9:00 A.M. on Thursday, October 3, 2024; (2) all reply points and authorities shall be filed by 5:00 P.M. on Thursday, October 3, 2024.” *Id.* at 2:20-22. Petitioners Citizens Outreach Foundation and Charles Muth (“Petitioners”) declined to file opposing points and authorities by the stated deadline.

Pursuant to DCR 13(3), “[f]ailure of the opposing party to serve and file a written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same.” Accordingly, the Court construes the lack of opposition by Petitioners as an admission that the Motions to Intervene are meritorious and as consent to granting the same.

///

1 Therefore, for the foregoing reasons, and good cause appearing,
2 **IT IS HEREBY ORDERED** that Secretary Aguilar's Motion to
3 Intervene is **GRANTED**.

4 **IT IS FURTHER ORDERED** that RISE, IPN, and the Alliance's
5 Motion to Intervene is **GRANTED**.

6 **IT IS FURTHER ORDERED** that ACLUNV's Motion to Intervene is
7 **GRANTED**.

8 **IT IS FURTHER ORDERED** that the Intervenor-Respondents shall each file
9 their Proposed Answer to Petition for Writ of Mandamus by 12:00 P.M. on Friday,
10 October 4, 2024.

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12 **IT IS SO ORDERED.**

13 **DATED** this 3rd day of October, 2024.

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16 TAMMY M. RIGGS
17 District Judge
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 3rd day of October, 2024, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DAVID O'MARA, ESQ.
DEVIN OLIVER, ESQ.
LAENA ST-JULES, ESQ.
BRADLEY SCHRAGER, ESQ.



Judicial Assistant

EXHIBIT 7

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EXHIBIT 7

REC'D & FILED

2024 JUN 14 AM 8:47

WILLIAM SCOTT HOEN
CLERK

BY W. Scott Hoehn
DEPUTY

1 DAVID R. FOX (NV Bar No. 16536)
RICHARD A. MEDINA (*pro hac vice* forthcoming)
2 MARCOS MOCINE-MCQUEEN (*pro hac vice* forthcoming)
ELIAS LAW GROUP LLP
3 250 Massachusetts Ave NW, Suite 400
Washington, DC 20001
4 Tel: (202) 968-4490
dfox@elias.law
5 rmedina@elias.law
mmcqueen@elias.law

6
7 BRADLEY S. SCHRAGER (NV Bar No. 10217)
DANIEL BRAVO (NV Bar No. 13078)
BRAVO SCHRAGER LLP
8 6675 South Tenaya Way, Suite 200
Las Vegas, NV 89113
9 (702) 996-1724
bradley@bravoschrager.com
10 daniel@bravoschrager.com

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
to protect that interest if it does not intervene, (3) that its interest is not
adequately represented by existing parties, and (4) that the application is timely.

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

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

13 CONCLUSIONS OF LAW

14 **I. Proposed Intervenors satisfy all of Rule 24(a)'s requirements for intervention as a** 15 **matter of right.**

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

18 **A. The motion is timely.**

19 First, the motion is timely. Plaintiffs filed their petition on May 31, 2024; Proposed
20 Intervenors' motion followed less than two weeks later and before any substantive activity
21 occurred in the case. There has therefore been no delay, and no possible risk of prejudice to the
22 other parties. *See In re Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at *3 (Nev. May 24,
23 2013); *Lawler*, 94 Nev. at 626, 584 P.2d at 669; *see also, e.g., Nevada v. United States*, No. 3:18-
24 cv-569-MMD-CBC, 2019 WL 718825, at *2 (D. Nev. Jan. 14, 2019) (granting motion to intervene
25 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 Intervenorors have significant protectable interests that may be impaired by this lawsuit.

Proposed Intervenorors 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

DAVID R. FOX (NV Bar No. 16536)
RICHARD A. MEDINA (*pro hac vice* forthcoming)
MARCOS MOCINE-MCQUEEN (*pro hac vice* forthcoming)
ELIAS LAW GROUP LLP
250 Massachusetts Ave NW, Suite 400
Washington, DC 20001
Tel: (202) 968-4490
dfox@elias.law
rmedina@elias.law
mmcqueen@elias.law

BRADLEY S. SCHRAGER (NV Bar No. 10217)
DANIEL BRAVO (NV Bar No. 13078)
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, NV 89113
(702) 996-1724
bradley@bravoschrager.com
daniel@bravoschrager.com

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


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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:

Jeffrey F. Barr, Esq.
9405 West Russell Road, Suite 240
Las Vegas, NV 89148

Bradley S. Schrager, Esq.
Daniel Bravo, Esq.
Bravo Schrager LLP
6675 South Tenaya Way, Suite 200
Las Vegas, NV 89113


Julie Harkleroad
Judicial Assistant, Dept. 1

RETRIEVED FROM DEMOCRACY DOCKET.COM

1 **AFFIRMATION**

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

4 DATED this 23rd day of October, 2024.

5 By: 

6 Bradley S. Schrager (NV Bar No. 13078)
7 Daniel Bravo (NV Bar No. 10217)
8 **BRAVO SCHRAGER LLP**
9 6675 South Tenaya Way, Suite 200
10 Las Vegas, NV 89113

11 David R. Fox (NV Bar No. 16536)
12 **ELIAS LAW GROUP LLP**
13 250 Massachusetts Ave NW, Suite 400
14 Washington, DC 20001

15 *Attorneys for Proposed Intervenor-*
16 *Respondents Rise, Institute for a Progressive*
17 *Nevada, and the Nevada Alliance for Retired*
18 *Americans*