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**Pro hac vice forthcoming*

**EIGHTH JUDICIAL DISTRICT COURT
IN AND FOR CLARK COUNTY, STATE OF NEVADA**

THE ELECTION INTEGRITY PROJECT
OF NEVADA, a Nevada LLC; and
SHARRON ANGLE, an individual,

Plaintiffs,

v.

THE STATE OF NEVADA, on relation of
BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,

Defendants,

Case No. A-20-820510-C
Dept. No.: 32

HEARING REQUESTED

**MOTION TO INTERVENE AS
DEFENDANTS ON ORDER
SHORTENING TIME**

Hearing Date: September 17, 2020
Hearing Time: 11:00 a.m.

1 and

2 INSTITUTE FOR A PROGRESSIVE
3 NEVADA; and PROGRESSIVE
4 LEADERSHIP ALLIANCE OF NEVADA,

5 Proposed
6 Intervenor-
7 Defendants.

8 Pursuant to Nevada Rule of Civil Procedure (“NRCP”) 24, Proposed Intervenor-
9 Defendants Institute for a Progressive Nevada and Progressive Leadership Alliance of Nevada
10 (together, “Proposed Intervenors”) move to intervene as defendants in the above-titled action on
11 an order shortening time. Defendant consents to Proposed Intervenors’ motion to intervene as
12 defendants. Plaintiffs have not responded to Proposed Intervenors’ request for their consent.

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

16 DATED this 10th day of September, 2020.

17 **WOLF, RIFKIN, SHAPIRO, SCHULMAN &
18 RABKIN, LLP**

19 By: /s/ Bradley S. Schragger, Esq.

20 Bradley S. Schragger, Esq., SBN 10217
21 Daniel Bravo, Esq., SBN 13078

22 Marc E. Elias, Esq.*
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Defendants Institute for a Progressive
Nevada and Progressive Leadership Alliance
of Nevada*

**Pro hac vice forthcoming*

1 **DECLARATION OF DANIEL BRAVO, ESQ. IN SUPPORT OF MOTION TO**
2 **INTERVENE AS DEFENDANTS ON ORDER SHORTENING TIME**

3 I, Daniel Bravo, Esq., declare as follows:

4 1. I am duly admitted to practice law in the state of Nevada and am an associate with
5 the law firm Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP (“Wolf Rifkin”), counsel for
6 Proposed Intervenor-Defendants, Institute for a Progressive Nevada and Progressive Leadership
7 Alliance of Nevada (collectively “Proposed Intervenor-Defendants”). I make this Declaration of
8 personal, firsthand knowledge and, if called and sworn as a witness, I could and would testify
9 competently thereto. I have personal knowledge of the facts stated herein.

10 2. I make this Declaration in support of Proposed Intervenor-Defendants’ Motion to
11 Intervene as Defendants (the “Motion”).

12 3. Shortening time for the Court to adjudicate Plaintiff’s Motion is appropriate. The
13 Court’s typical practice would result in this Motion being adjudicated within 30-45 days of its
14 filing (i.e., between mid- to late October 2020). This would leave Proposed Intervenor-Defendants
15 with no time to intervene as defendants in the above-titled action and oppose Plaintiffs’ Motion for
16 Preliminary Injunction (filed Sept. 3, 2020) and Plaintiffs’ Application for Emergency Temporary
17 Restraining Order (filed Sept. 4, 2020) which have both been set for hearing on September 17,
18 2020.

19 4. As further detailed in Proposed Intervenor-Defendants’ Motion, the highly
20 contagious coronavirus has fundamentally altered Nevadans’ daily lives—including how they
21 vote. Recognizing that the novel coronavirus will impact the November 3, 2020 general election
22 (the “November Election”), the Nevada Legislature enacted Assembly Bill 4. Plaintiffs, The
23 Election Integrity Project of Nevada, LLC, and Sharron Angle (collectively, “Plaintiffs”), seek to
24 undo several of Assembly Bill 4’s important provisions. Plaintiffs allege a hodgepodge of claims,
25 none of them viable, in an attempt to undermine the State’s efforts to provide certainty to election
26 officials and protect Nevada voters during a public health crisis. Plaintiffs’ claims pose a clear and
27 direct threat to Proposed Intervenor’s rights and legal interests.

28 5. Considering the foregoing, good cause exists to hear Proposed Intervenor-

1 Defendants' Motion on shortened time, and no prejudice arises from requiring the Motion to be
2 considered on shortened time.

3 I declare under penalty of perjury that the foregoing is true and correct to the best of my
4 knowledge.

5 Executed this 10th day of September, 2020.

6
7 By: /s/ Daniel Bravo
8 DANIEL BRAVO, ESQ. (SBN 13078)

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ORDER SHORTENING TIME

After considering the Declaration of Daniel Bravo, Esq., and good cause appearing, the Court, pursuant to EDCR 2.60, grants the Order Shortening Time and sets **MOTION TO INTERVENE AS DEFENDANTS** for hearing on the 17th day of September, 2020, at 11:00 a.m. or as soon thereafter as the Court deems necessary.

Proposed Intervenor-Defendants shall serve this order upon all parties immediately by electronic filing, and shall also email courtesy copies to counsel of record. All other parties shall have until 5 p.m. on 15th of September, 2020, to file an opposition to the motion, if any. If time permits, Proposed Intervenors may file a reply.

DATED this 10th day of September, 2020.



ROB BARE, DISTRICT COURT JUDGE

HGL

Submitted:

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 The United States is in the midst of an unprecedented public health crisis; Nevada is no
3 exception. The highly contagious coronavirus has fundamentally altered Nevadans’ daily lives—
4 including how they vote. Recognizing that the novel coronavirus will impact the November 3,
5 2020 general election (the “November Election”), the Nevada Legislature enacted Assembly Bill
6 4. It has two parts. The first articulates an infrastructure for elections held during states of
7 emergency. These changes largely incorporate and supplement Nevada’s existing election laws
8 and provide greater certainty to election officials regarding how the November Election (and any
9 future elections held during emergencies) should be conducted. The second part of Assembly Bill
10 4 makes general, permanent changes to Nevada’s election laws. Overall, the Legislature has taken
11 the necessary and appropriate steps to ensure that all Nevadans have safe and meaningful
12 opportunities to vote, both during the pandemic and after.

13 Plaintiffs the Election Integrity Project of Nevada and Sharron Angle now seek to undo
14 this essential law. They allege a hodgepodge of claims, none of them viable, in an attempt to
15 undermine the State’s efforts to provide certainty to election officials and protect Nevada voters
16 during a public health crisis. Their claims thus pose a clear and direct threat to Proposed
17 Intervenors’ rights and legal interests.

18 For the reasons set forth below, Proposed Intervenors are entitled to intervene in this case
19 as a matter of right under NRCP 24(a)(2). Such intervention is needed to protect the substantial
20 and distinct legal interests of Proposed Intervenors, which will otherwise be inadequately
21 represented in this litigation. In the alternative, Proposed Intervenors should be granted permissive
22 intervention pursuant to NRCP 24(b). In accordance with NRCP 24(c), a proposed answer is
23 attached as Exhibit 1.

24 **BACKGROUND**

25 On August 3, the Nevada Legislature enacted Assembly Bill 4 (“A.B. 4”). *See* AB4, Nev.
26 Elec. Legis. Info. Sys., [https://www.leg.state.nv.us/App/NELIS/REL/
27 32nd2020Special/Bill/7150/Text](https://www.leg.state.nv.us/App/NELIS/REL/32nd2020Special/Bill/7150/Text) (last visited Sept. 9, 2020). Assembly Bill 4 makes several
28 updates to the Nevada election code, only some of which are directly at issue in this case.

1 Sections 2 to 27 codify procedures for conducting elections during declared states of
2 emergency, including the November Election, with the stated purpose of ensuring that “[e]lection
3 officials have certainty concerning the procedures to prepare for and conduct an” affected election
4 and that “voters have faith and confidence that they can participate in [an] affected election and
5 exercise their right to vote without fear for their health, safety and welfare under such
6 circumstances.” A.B. 4 § 2. More specifically, Sections 2 to 10 set forth the general principles
7 governing interpretation of the law, and when the law applies. For example, Sections 5 and 8
8 define an “affected election” subject to Sections 2 to 27 as one occurring when either the Governor
9 or the Legislature has proclaimed a state of emergency or declaration of disaster by a certain time.
10 And Section 9 clarifies that the other, non-conflicting provisions of Chapter 293 of the Nevada
11 Revised Statutes (“N.R.S.”)—the election code—continue to apply to mail-based elections. Next,
12 Sections 11 to 13 address the long lines experienced in the states’ most populous counties during
13 the June Primary by requiring Nevada counties to offer a minimum number of vote center polling
14 locations based on population. Sections 15 and 16 modify Nevada’s current election laws, which
15 previously *allowed* counties to mail ballots to voters, *see* N.R.S. 293.213(4), to *require* counties to
16 do so if an election is affected by a state of emergency. Finally, Sections 17 to 27 provide an
17 infrastructure for affected elections, incorporating and on building upon preexisting election laws
18 to ensure that elections held during a state of emergency are administered consistently with other
19 Nevada elections. For example, Section 20 applies the postmark law that already exists for
20 absentee ballots to mail ballots. *Compare* A.B. 4 § 20 *with* N.R.S. 293.317. And Section 22
21 codifies the authority county election officials already possess and exercise to create procedures
22 for processing ballots. Assembly Bill 4 also allows third parties to assist voters in returning mail
23 ballots both in a state of emergency, *see* A.B. 4 § 21, and otherwise, *see id.* §§ 44, 70.

24 The remaining sections of Assembly Bill 4 make various changes to Nevada’s election
25 code. Most notably, Sections 39 and 69 reform the State’s signature matching regime, which
26 requires that a ballot envelope with a purported signature mismatch be cured “[i]f at least two”
27 election workers “believe there is a reasonable question of fact as to whether the signature”
28 matches. *Id.* § 39(1)(b). In order to avoid arbitrary disenfranchisement of voters, Assembly Bill 4

1 specifies that “a reasonable question of fact” exists when “the signature used for the absent ballot
2 differs in multiple, significant and obvious respects from the signatures of the voter available in
3 the records of the county clerk.” *Id.* § 39(2)(a); *see also id.* § 39(b) (no reasonable question of fact
4 where “[t]he signature used for the absent ballot is a variation of the signature of the voter caused
5 by the substitution of initials for the first or middle name or the use of a common nickname and it
6 does not otherwise differ in multiple, significant and obvious respects,” or where “[t]here are only
7 slight dissimilarities between the” two signatures); *id.* § 23 (applying new signature matching
8 rules to affected elections).

9 Plaintiffs initiated this suit on September 1, 2020. *See* Compl. for Prelim. Inj., Permanent
10 Inj., and Declaratory Relief. Their complaint poses various challenges to Assembly Bill 4, which
11 fall under two causes of action. Count I alleges that Assembly Bill 4 “violates Nevada Law
12 prohibiting unfunded mandates” because it “does not fully or adequately fund the mandate to local
13 governments to carry out an all-mail ballots election.” *Id.* at 24. Count II claims that various
14 provisions of Assembly Bill 4—namely, the allocation of in-person polling locations during
15 affected elections; the standard for processing ballots; the postmark presumption; the use of early
16 voting, vote centers, and same-day registration; the signature matching rules; the counting of mail
17 ballots prior to election day; and the allowance for third-party ballot collection—will lead to both
18 arbitrary treatment and voter fraud in violation of the Nevada Constitution’s Equal Protection
19 Clause. *Id.* at 24–26. Plaintiffs ask this Court to enjoin Assembly Bill 4 in its entirety. *Id.* at 26–
20 27.

21 Proposed Intervenors are progressive nonpartisan organizations that focus on civic
22 engagement in Nevada, which includes educating Nevadans on how to exercise their right to vote.
23 Part of their civic engagement efforts included advocating for Assembly Bill 4, which furthers
24 their mission of increasing voter turnout in Nevada. Since AB4 passed, Proposed Intervenors have
25 invested considerable money and time educating voters on the changes imposed by Assembly Bill
26 4. If Assembly Bill 4 were enjoined, it would be devastating to Proposed Intervenors’ mission.
27 Proposed Intervenors do not have the resources and time required to re-educate Nevada voters if
28 Plaintiffs are successful at unwinding the provisions of Assembly Bill 4.

1 **STANDARD OF LAW**

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

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

6 *Am. Home Assurance Co. v. Eighth Judicial Dist. Court ex rel. County of Clark*, 122 Nev. 1229,
7 1238, 147 P.3d 1120, 1126 (2006). “In evaluating whether Rule 24(a)(2)’s requirements are met,”
8 courts “construe the Rule ‘broadly in favor of proposed intervenors’ because ‘[a] liberal
9 policy in favor of intervention serves both efficient resolution of issues and broadened access to
10 the courts.’” *Wilderness Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (second
11 alteration in original) (quoting *United States v. City of Los Angeles*, 288 F.3d 391, 397–98 (9th
12 Cir. 2002)).

13 Under NRCP 24(b), an applicant may permissively intervene if it “has a claim or defense
14 that shares with the main action a common question of law or fact.” NRCP 24(b)(1)(B). “In
15 exercising its discretion, the court must consider whether the intervention will unduly delay or
16 prejudice the adjudication of the original parties’ rights.” NRCP 24(b)(3); accord *Hairr v. First
17 Judicial Dist. Court*, 132 Nev. 180, 186–88, 368 P.3d 1198, 1202–03 (2016).

18 Because NRCP 24 and Federal Rule of Civil Procedure 24 are “equivalent,” *Lawler v.
19 Ginocchio*, 94 Nev. 623, 626, 584 P.2d 667, 668 (1978), “[f]ederal cases interpreting [Rule 24] ‘are
20 strong persuasive authority.’” *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d
21 872, 876 (2002) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772,
22 776 (1990)).

23 **ARGUMENT**

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

26 Proposed Intervenors satisfy each of the four requirements of NRCP 24(a).

27 *First* and *second*, Proposed Intervenors have significantly protectable interests in this
28 lawsuit that might be impaired by Plaintiffs’ causes of action. “A ‘significantly protectable

1 interest' . . . is protected under the law and bears a relationship to the plaintiff's claims." *Am.*
2 *Home Assurance Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (quoting *Donaldson v. United States*,
3 400 U.S. 517, 531, 91 S.Ct. 534, 542 (1971)). In assessing whether such an interest is sufficiently
4 "impair[ed] or impede[d]," NRCP 24(a)(2), courts "look[] to the 'practical consequences' of
5 denying intervention." *Nat. Res. Def. Council v. Costle*, 561 F.2d 904, 909 (D.C. Cir. 1977)
6 (quoting *Nuesse v. Camp*, 385 F.2d 694, 702 (D.C. Cir. 1967)). "Once an applicant has established
7 a significantly protectable interest in an action, courts regularly find that disposition of the case
8 may, as a practical matter, impair an applicant's ability to protect that interest." *Venetian Casino*
9 *Resort, LLC v. Enwave Las Vegas, LLC*, No. 2:19-CV-1197 JCM (DJA), 2020 WL 1539691, at *3
10 (D. Nev. Jan. 7, 2020) (citing *California ex rel. Lockyer v. United States*, 450 F.3d 436, 442 (9th
11 Cir. 2006)).

12 Plaintiffs' challenge to Assembly Bill 4 would impair Proposed Intervenors' legally
13 protected interests. If Plaintiffs succeed in their suit, then the various provisions of Assembly Bill
14 4 designed to help Nevadans vote—such as the use of third-party ballot collection, reforms to the
15 election code's signature matching rules, and proactive distribution of mail ballots during the
16 November Election—will be struck down. The result would be potential disenfranchisement for
17 those Nevada voters who are unable, due to the ongoing pandemic and other issues, to safely cast
18 ballots. This would implicate and impair Proposed Intervenors' interests in improving voter
19 turnout in Nevada. Proposed Intervenors possess organizational interests that are threatened by
20 Plaintiffs' lawsuit. Most notably, the disruptive and disenfranchising effects of Plaintiffs' action
21 would require Proposed Intervenors to divert resources to address restricted voting opportunities.
22 Proposed Intervenors are nonpartisan organizations dedicated to promoting civic engagement and
23 expanding the franchise. If Plaintiffs were to succeed and Assembly Bill 4 were enjoined, then
24 Proposed Intervenors would be required to divert their organizational resources from their other
25 activities to remedy the suppressive and disenfranchising effects that an injunction would have on
26 Nevada voters. Courts have regularly concluded that such diversions of resources constitute
27 cognizable harms to organizations. *See Nat'l Council of La Raza v. Cegavske*, 800 F.3d 1032,
28 1040 (9th Cir. 2015) (finding "concrete and particular" injury where plaintiffs alleged that but for

1 defendants’ conduct, they “would be able to allocate substantial resources to other activities
2 central to [their] mission[s]” (alterations in original) (citing *Havens Reality Corp. v. Coleman*, 455
3 U.S. 363, 379, 102 S.Ct. 1114, 1124 (1982)); *Crawford v. Marion Cty. Election Bd.*, 472 F.3d
4 949, 951 (7th Cir. 2007) (concluding “new law injure[d] the Democratic Party by compelling the
5 party to devote resources” that it would not have needed to devote absent the new law), *aff’d*, 553
6 U.S. 181, 28 S.Ct. 1610 (2008); *Democratic Nat’l Comm. v. Reagan*, 329 F.Supp.3d 824, 841 (D.
7 Ariz. 2018) (finding standing where law “require[d] Democratic organizations . . . to retool their
8 [get-out-the-vote] strategies and divert [] resources”), *rev’d on other grounds sub nom.*
9 *Democratic Nat’l Comm. v. Hobbs*, 948 F.3d 989 (9th Cir. 2020) (en banc). Because Proposed
10 Intervenors possess substantial and distinct legal interests that would be impaired if Plaintiffs
11 succeed in this suit, they have satisfied the first and second requirements of NRCP 24(a)(2).

12 **Third**, Proposed Intervenors cannot rely on the parties in this case to adequately represent
13 their interests. “[T]he burden on proposed intervenors in showing inadequate representation is
14 minimal, and would be satisfied if they could demonstrate that representation of their interests
15 ‘may be’ inadequate.” *Hairr*, 132 Nev. at 185, 368 P.3d at 1201 (quoting *Arakaki v. Cayetano*,
16 324 F.3d 1078, 1086 (9th Cir. 2003)). Among the factors that “dictate whether an intervenor’s
17 interest is represented by existing parties” are “whether the party will make the same arguments
18 the intervenor would make, the party is capable and willing to make those arguments, and the
19 party’s argument would neglect an important issue that the intervenor would not have neglected.”
20 *In re Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at *2 (Nev. May 24, 2013) (citing
21 *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528 (9th Cir. 1983)).

22 Here, while the Secretary has an undeniable interest in defending the actions of state
23 government, Proposed Intervenors have a different focus: ensuring that every voter in Nevada has
24 a meaningful opportunity to cast a ballot and have that ballot counted, both in the November
25 Election and in future elections. Courts have “often concluded that governmental entities do not
26 adequately represent the interests of aspiring intervenors.” *Fund for Animals, Inc. v. Norton*, 322
27 F.3d 728, 736 (D.C. Cir. 2003); *accord Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647
28 F.3d 893, 899 (9th Cir. 2011) (“[T]he government’s representation of the public interest may not

1 be ‘identical to the individual parochial interest’ of a particular group just because ‘both entities
2 occupy the same posture in the litigation.’” (quoting *WildEarth Guardians v. U.S. Forest Serv.*,
3 573 F.3d 992, 996 (10th Cir. 2009))). That is the case here. Proposed Intervenors have specific
4 interests and concerns—in particular, the proper allocation of their limited resources to maximize
5 voter turnout and promote civic engagement—that neither the Secretary nor any other party in this
6 lawsuit shares. Accordingly, this is not a case where “there is an ‘assumption of adequacy
7 [because] the government is acting on behalf of a constituency it represents,’” since such an
8 assumption only arises “when the applicant *shares the same interest.*” *Hairr*, 132 Nev. at 185, 368
9 P.3d at 1201 (emphasis added) (quoting *Arakaki*, 324 F.3d at 1086); *see also id.*, 368 P.3d at 1201
10 (noting that “when the [applicant’s] interest or ultimate objective in the litigation *is the same* as
11 the [existing party]’s interest or subsumed within [that existing party’s] objective, the . . .
12 representation should generally be adequate” (alterations in original) (emphasis added) (quoting
13 *Am. Home Assurance Co.*, 122 Nev. at 1241, 147 P.3d at 1128)). Rather, this is an instance where

14 [a]lthough Defendants and the Proposed Intervenors fall on the same side of the
15 dispute, Defendants’ interests in the implementation of the [challenged law] differ
16 from those of the Proposed Intervenors. While Defendants’ arguments turn on their
17 inherent authority as [government officials] and their responsibility to properly
18 administer election laws, the Proposed Intervenors are concerned with ensuring . . .
the voters they represent have the opportunity to vote in the upcoming federal
election . . . and allocating their limited resources to inform voters about the
election procedures. As a result, the parties’ interests are neither “identical” nor
“the same.”

19 *Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020 WL 3074351, at *3 (E.D. Cal. June 10,
20 2020) (citation omitted).

21 While the State might defend Assembly Bill 4 as a law properly passed by the Nevada
22 Legislature, it cannot be relied upon to raise Proposed Intervenors’ broader arguments regarding
23 expansive voting rights. *See Guardianship of A.M.*, 2013 WL 3278878, at *2 (affirming
24 intervention as of right where present parties’ “testimony could not and did not encompass all of
25 [intervenor’s] arguments or interests”); *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 974 (3d Cir.
26 1998) (granting motion to intervene as of right where private parties’ interests diverged from
27 government’s interest in representation, and where “[t]he early presence of intervenors may serve
28 to prevent errors from creeping into the proceedings, clarify some issues, and perhaps contribute to

1 an amicable settlement”); *Ohio River Valley Env'tl. Coal., Inc. v. Salazar*, No. 3:09-0149, 2009
2 WL 1734420, at *1 (S.D.W. Va. June 18, 2009) (granting motion to intervene as of right where
3 defendant and proposed intervenor had identical goals but “difference in degree of interest could
4 motivate the [intervenor] to mount a more vigorous defense” and “[t]he possibility that this
5 difference in vigor could unearth a meritorious argument overlooked by the current Defendant
6 justifies the potential burden on having an additional party in litigation”). Because their interests
7 are not shared by the current parties to the litigation, Proposed Intervenor cannot rely on the
8 Secretary or anyone else to provide adequate representation. They have thus satisfied the third
9 requirement for intervention as of right.

10 **Fourth**, the motion is timely. Plaintiffs filed their complaint on September 1, 2020; this
11 motion follows less than two weeks later, before any substantive activity in the case. There has
12 therefore been no delay, and no possible risk of prejudice to the other parties. *See Guardianship of*
13 *A.M.*, 2013 WL 3278878, at *3; *Lawler*, 94 Nev. at 626, 584 P.2d at 669; *see also, e.g., Nevada v.*
14 *United States*, No. 3:18-cv-569-MMD-CBC, 2019 WL 718825, at *2 (D. Nev. Jan. 14, 2019)
15 (granting motion to intervene filed several weeks after action commenced); *W. Expl. LLC v. U.S.*
16 *Dep't of Interior*, No. 3:15-cv-00491-MMD-VPC, 2016 WL 355122, at *2 (D. Nev. Jan. 28, 2016)
17 (granting motion to intervene filed nearly two months after action commenced).

18 **II. Alternatively, Proposed Intervenors satisfy NRCP 24(b)'s requirements for**
19 **permissive intervention.**

20 Generally, NRCP 24(b) grants courts broad discretion to permit intervention where an
21 applicant's claim or defense and the main action have a question of law or fact in common and
22 intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.
23 *See Hairr*, 132 Nev. at 187, 368 P.3d at 1202.

24 For the reasons discussed in Part I *supra*, Proposed Intervenors' motion is timely, and they
25 cannot rely on the Secretary to adequately protect their interests. Proposed Intervenors also have
26 defenses to Plaintiffs' claims that share common questions of law and fact—for example, whether
27 Plaintiffs have stated a claim under the Nevada Constitution's Equal Protection Clause. *See Ex. 1.*

28 And significantly, intervention will result in neither prejudice nor undue delay. Proposed

1 Intervenor have an undeniable interest in a swift resolution of this action to ensure that Assembly
2 Bill 4 is timely implemented to allow every eligible Nevadan to cast a ballot—and have that ballot
3 counted—in the November Election. Indeed, Proposed Intervenor contend that this action itself
4 threatens to cause harmful delays that could stymie the State’s efforts to circulate mail ballots.
5 Proposed Intervenor therefore have a strong interest in defending Assembly Bill 4 and opposing
6 Plaintiffs’ lawsuit. Given the legal and factual shortcomings of Plaintiffs’ claims, Proposed
7 Intervenor are confident that their intervention in this case, and the filings that will follow, will
8 result in expeditious resolution of this litigation.

9 **CONCLUSION**

10 For the reasons stated above, Proposed Intervenor respectfully request that the Court grant
11 their motion to intervene as a matter of right under NRCP 24(a)(2) or, in the alternative, permit
12 them to intervene under NRCP 24(b).¹

13 DATED this 10th day of September, 2020.

14 **WOLF, RIFKIN, SHAPIRO, SCHULMAN &
15 RABKIN, LLP**

16 By: /s/ Bradley S. Schragger, Esq.
17 Bradley S. Schragger, Esq., SBN 10217
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26 *Attorneys for Proposed Intervenor-
27 Defendants Institute for a Progressive
28 Nevada and Progressive Leadership Alliance
of Nevada*

**Pro hac vice forthcoming*

27 ¹ Alternatively, Proposed Intervenor request permission from the Court “to submit briefs on
28 determinative issues as amici curiae.” *Hairr*, 132 Nev. at 188, 368 P.3d at 1203.

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CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of September, 2020, a true and correct copy of **MOTION TO INTERVENE AS DEFENDANTS** was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV system and serving all parties with an email-address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

By: /s/ Danielle Fresquez
Danielle Fresquez, an Employee of
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EXHIBIT 1

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17 *Progressive Leadership Alliance of Nevada*

18 **Pro hac vice forthcoming*

19
20 **EIGHTH JUDICIAL DISTRICT COURT**
IN AND FOR CLARK COUNTY, STATE OF NEVADA

21 THE ELECTION INTEGRITY PROJECT
22 OF NEVADA, a Nevada LLC; and
23 SHARRON ANGLE, an individual,

24 Plaintiffs,

25 v.

26 THE STATE OF NEVADA, on relation of
BARBARA CEGAVSKE, in her official
27 capacity as Nevada Secretary of State,

28 Defendants,

Case No. A-20-820510-C
Dept. No.: 32

**[PROPOSED] ANSWER TO
COMPLAINT FOR PRELIMINARY
INJUNCTION, PERMANENT
INJUNCTION, AND DECLARATORY
RELIEF**

1 and

2 INSTITUTE FOR A PROGRESSIVE
3 NEVADA; and PROGRESSIVE
4 LEADERSHIP ALLIANCE OF NEVADA,

5 Proposed
6 Intervenor-
7 Defendants.

8 Proposed Intervenor-Defendants Institute for a Progressive Nevada and Progressive
9 Leadership Alliance of Nevada (“Proposed Intervenors”), by and through their attorneys, submit
10 the following Answer to Plaintiffs’ Complaint for Preliminary Injunction, Permanent Injunction,
11 and Declaratory Relief (the “Complaint”). Proposed Intervenors respond to the allegations in the
12 Complaint as follows:

13 **I.**

14 1. Paragraph 1 contains mere characterizations, legal contentions, and conclusions to
15 which no response is required.

16 2. Paragraph 2 contains mere characterizations, legal contentions, and conclusions to
17 which no response is required. To the extent a response is required, Proposed Intervenors deny the
18 allegations.

19 3. Paragraph 3 contains mere characterizations, legal contentions, and conclusions to
20 which no response is required. To the extent a response is required, Proposed Intervenors deny the
21 allegations.

22 4. Paragraph 4 contains mere characterizations, legal contentions, and conclusions to
23 which no response is required.

24 5. Proposed Intervenors are without sufficient information or knowledge with which
25 to form a belief as to the truth or falsity of the allegations in Paragraph 5.

26 6. Proposed Intervenors deny that the vote of Plaintiff Sharron Angle “as well as the
27 vote of all other Nevada voters, will be diluted and compromised if AB4 . . . is allowed to be
28 carried out for the general election in November.” Proposed Intervenors are without sufficient
information or knowledge with which to form a belief as to the truth or falsity of the remaining

1 allegations in Paragraph 6.

2 7. Proposed Intervenors admit the allegations in Paragraph 7.

3 **II.**

4 8. Proposed Intervenors admit the allegations in Paragraph 8.

5 9. Paragraph 9 contains mere characterizations, legal contentions, and conclusions to
6 which no response is required.

7 10. Proposed Intervenors deny the allegations in Paragraph 10.

8 11. Proposed Intervenors admit that Assembly Bill 4 was introduced on July 31, 2020.
9 The remaining allegations in Paragraph 2 are mere characterizations, legal contentions, and
10 conclusions to which no response is required.

11 12. Paragraph 12 contains mere characterizations, legal contentions, and conclusions to
12 which no response is required. To the extent a response is required, Proposed Intervenors deny the
13 allegations.

14 13. Paragraph 13 contains mere characterizations, legal contentions, and conclusions to
15 which no response is required.

16 14. Paragraph 14 contains mere characterizations, legal contentions, and conclusions to
17 which no response is required. To the extent a response is required, Proposed Intervenors deny the
18 allegations.

19 15. Paragraph 15 contains mere characterizations, legal contentions, and conclusions to
20 which no response is required. To the extent a response is required, Proposed Intervenors deny the
21 allegations.

22 16. Paragraph 16 contains mere characterizations, legal contentions, and conclusions to
23 which no response is required. To the extent a response is required, Proposed Intervenors deny the
24 allegations.

25 **III.**

26 17. Paragraph 17 contains mere characterizations, legal contentions, and conclusions to
27 which no response is required.

28 18. Paragraph 18 contains mere characterizations, legal contentions, and conclusions to

1 which no response is required.

2 19. Paragraph 19 contains mere characterizations, legal contentions, and conclusions to
3 which no response is required.

4 20. Paragraph 20 contains mere characterizations, legal contentions, and conclusions to
5 which no response is required. To the extent a response is required, Proposed Intervenor deny the
6 allegations.

7 21. Paragraph 21 contains mere characterizations, legal contentions, and conclusions to
8 which no response is required.

9 22. Proposed Intervenor deny that “[d]uplicated registrants can easily vote by mail
10 more than once undetected.” Proposed Intervenor are without sufficient information or
11 knowledge with which to form a belief as to the truth or falsity of the remaining allegations in
12 Paragraph 22.

13 23. Proposed Intervenor are without sufficient information or knowledge with which
14 to form a belief as to the truth or falsity of the allegations in Paragraph 23.

15 24. Proposed Intervenor deny that “[p]ersons sent more than one ballot can easily vote
16 more than once undetected.” Proposed Intervenor are without sufficient information or
17 knowledge with which to form a belief as to the truth or falsity of the remaining allegations in
18 Paragraph 24.

19 25. Proposed Intervenor deny the allegations in Paragraph 25.

20 26. Proposed Intervenor are without sufficient information or knowledge with which
21 to form a belief as to the truth or falsity of the allegations in Paragraph 26.

22 27. Proposed Intervenor are without sufficient information or knowledge with which
23 to form a belief as to the truth or falsity of the allegations in Paragraph 27.

24 28. Paragraph 28 contains mere characterizations, legal contentions, and conclusions to
25 which no response is required. Proposed Intervenor are without sufficient information or
26 knowledge with which to form a belief as to the truth or falsity of the remaining allegations in
27 Paragraph 28.

28 29. Paragraph 29 contains mere characterizations, legal contentions, and conclusions to

1 which no response is required. Proposed Intervenor are without sufficient information or
2 knowledge with which to form a belief as to the truth or falsity of the remaining allegations in
3 Paragraph 29.

4 30. Paragraph 30 contains mere characterizations, legal contentions, and conclusions to
5 which no response is required. To the extent a response is required, Proposed Intervenor deny the
6 allegations.

7 31. Paragraph 31 contains mere characterizations, legal contentions, and conclusions to
8 which no response is required. Proposed Intervenor are without sufficient information or
9 knowledge with which to form a belief as to the truth or falsity of the remaining allegations in
10 Paragraph 31.

11 32. Proposed Intervenor are without sufficient information or knowledge with which
12 to form a belief as to the truth or falsity of the allegations in Paragraph 32.

13 33. Proposed Intervenor deny that Assembly Bill 4 revises Nevada’s election law such
14 that “[s]ignature [v]erification [is] [n]ot [r]equired.” Paragraph 33 otherwise contains mere
15 characterizations, legal contentions, and conclusions to which no response is required.

16 34. Paragraph 34 contains mere characterizations, legal contentions, and conclusions to
17 which no response is required. To the extent a response is required, Proposed Intervenor deny the
18 allegations.

19 35. Paragraph 35 contains mere characterizations, legal contentions, and conclusions to
20 which no response is required. To the extent a response is required, Proposed Intervenor deny the
21 allegations.

22 36. Proposed Intervenor are without sufficient information or knowledge with which
23 to form a belief as to the truth or falsity of the allegations in Paragraph 36.

24 37. Paragraph 37 contains mere characterizations, legal contentions, and conclusions to
25 which no response is required. To the extent a response is required, Proposed Intervenor deny the
26 allegations.

27 38. Paragraph 38 contains mere characterizations, legal contentions, and conclusions to
28 which no response is required.

1 39. Paragraph 39 contains mere characterizations, legal contentions, and conclusions to
2 which no response is required. To the extent a response is required, Proposed Intervenor deny the
3 allegations.

4 40. Paragraph 40 contains mere characterizations, legal contentions, and conclusions to
5 which no response is required. To the extent a response is required, Proposed Intervenor deny the
6 allegations.

7 41. Paragraph 41 contains mere characterizations, legal contentions, and conclusions to
8 which no response is required.

9 42. Proposed Intervenor admit that at least 6,700 ballots were not counted in Nevada’s
10 primary election due to signature mismatch. Proposed Intervenor deny that allowing third parties
11 to assist voters encourages fraud or results in the targeting or exploitation of elderly voters by
12 “ballot harvesters.” Paragraph 42 otherwise contains mere characterizations, legal contentions, and
13 conclusions to which no response is required. To the extent a response is required, Proposed
14 Intervenor deny the allegations.

15 43. Paragraph 43 contains mere characterizations, legal contentions, and conclusions to
16 which no response is required.

17 44. Paragraph 44 contains mere characterizations, legal contentions, and conclusions to
18 which no response is required. To the extent a response is required, Proposed Intervenor deny the
19 allegations.

20 45. Proposed Intervenor admit that the language quoted appeared in articles published
21 by the *Las Vegas Review Journal* and *Just the News*. Proposed Intervenor are without sufficient
22 information or knowledge with which to form a belief as to the truth or falsity of the remaining
23 allegations in Paragraph 45.

24 46. Proposed Intervenor admit that the language quoted appeared in an article
25 published by KDXU. Paragraph 46 otherwise contains mere characterizations, legal contentions,
26 and conclusions to which no response is required. To the extent a response is required, Proposed
27 Intervenor deny the allegations.

28 47. Proposed Intervenor deny that “[p]ersons sent more than one ballot can easily vote

1 more than once undetected.” Proposed Intervenors are without sufficient information or
2 knowledge with which to form a belief as to the truth or falsity of the remaining allegations in
3 Paragraph 47.

4 48. Proposed Intervenors are without sufficient information or knowledge with which
5 to form a belief as to the truth or falsity of the figures provided in Paragraph 48. Paragraph 48
6 otherwise contains mere characterizations, legal contentions, and conclusions to which no
7 response is required. To the extent a response is required, Proposed Intervenors deny the
8 allegations.

9 49. Proposed Intervenors are without sufficient information or knowledge with which
10 to form a belief as to the truth or falsity of the figures provided in Paragraph 49. Paragraph 49
11 otherwise contains mere characterizations, legal contentions, and conclusions to which no
12 response is required. To the extent a response is required, Proposed Intervenors deny the
13 allegations.

14 **III.**

15 50. Paragraph 50 contains mere characterizations, legal contentions, and conclusions to
16 which no response is required.

17 51. Paragraph 51 contains mere characterizations, legal contentions, and conclusions to
18 which no response is required. To the extent a response is required, Proposed Intervenors deny the
19 allegations.

20 52. Proposed Intervenors admit that Defendant Barbara Cegavske has stated that the
21 equipment, education, printing, and postage would cost her office an estimated \$3 million, not
22 including costs to counties. Paragraph 52 otherwise contains mere characterizations, legal
23 contentions, and conclusions to which no response is required. To the extent a response is
24 required, Proposed Intervenors deny the allegations.

25 53. Proposed Intervenors admit that the information cited in Paragraph 53 appears in an
26 article published by the *Reno Gazette Journal*. Proposed Intervenors are without sufficient
27 information or knowledge with which to form a belief as to the truth or falsity of the remaining
28 allegations in Paragraph 53.

1 allegations.

2 65. Paragraph 65 contains mere characterizations, legal contentions, and conclusions to
3 which no response is required. To the extent a response is required, Proposed Intervenors deny the
4 allegations.

5 66. Paragraph 66 contains mere characterizations, legal contentions, and conclusions to
6 which no response is required. To the extent a response is required, Proposed Intervenors deny the
7 allegations.

8 67. Paragraph 67 contains mere characterizations, legal contentions, and conclusions to
9 which no response is required. To the extent a response is required, Proposed Intervenors deny the
10 allegations.

11 68. Paragraph 68 contains mere characterizations, legal contentions, and conclusions to
12 which no response is required. To the extent a response is required, Proposed Intervenors deny the
13 allegations.

14 69. Paragraph 69 contains mere characterizations, legal contentions, and conclusions to
15 which no response is required.

16 70. Paragraph 70 contains mere characterizations, legal contentions, and conclusions to
17 which no response is required. To the extent a response is required, Proposed Intervenors deny the
18 allegations.

19 71. Paragraph 71 contains mere characterizations, legal contentions, and conclusions to
20 which no response is required. To the extent a response is required, Proposed Intervenors deny the
21 allegations.

22 72. The Complaint does not have a Paragraph 72.

23 73. Paragraph 73 contains mere characterizations, legal contentions, and conclusions to
24 which no response is required.

25 74. Paragraph 74 contains mere characterizations, legal contentions, and conclusions to
26 which no response is required.

27 75. Paragraph 75 contains mere characterizations, legal contentions, and conclusions to
28 which no response is required. To the extent a response is required, Proposed Intervenors deny the

1 allegations.

2 76. Paragraph 76 contains mere characterizations, legal contentions, and conclusions to
3 which no response is required. To the extent a response is required, Proposed Intervenors deny the
4 allegations.

5 77. Paragraph 77 contains mere characterizations, legal contentions, and conclusions to
6 which no response is required. To the extent a response is required, Proposed Intervenors deny the
7 allegations.

8 78. Paragraph 78 contains mere characterizations, legal contentions, and conclusions to
9 which no response is required. To the extent a response is required, Proposed Intervenors deny the
10 allegations.

11 79. Paragraph 79 contains mere characterizations, legal contentions, and conclusions to
12 which no response is required. To the extent a response is required, Proposed Intervenors deny the
13 allegations.

14 80. Paragraph 80 contains mere characterizations, legal contentions, and conclusions to
15 which no response is required.

16 81. Paragraph 81 contains mere characterizations, legal contentions, and conclusions to
17 which no response is required. To the extent a response is required, Proposed Intervenors deny the
18 allegations.

19 82. Paragraph 82 contains mere characterizations, legal contentions, and conclusions to
20 which no response is required.

21 83. Paragraph 83 contains mere characterizations, legal contentions, and conclusions to
22 which no response is required.

23 84. Paragraph 84 contains mere characterizations, legal contentions, and conclusions to
24 which no response is required. To the extent a response is required, Proposed Intervenors deny the
25 allegations.

26 85. Paragraph 85 contains mere characterizations, legal contentions, and conclusions to
27 which no response is required. To the extent a response is required, Proposed Intervenors deny the
28 allegations.

1 allegations.

2 3. Paragraph 3, which extends from page 24 to page 25, contains mere
3 characterizations, legal contentions, and conclusions to which no response is required. To the
4 extent a response is required, Proposed Intervenors deny the allegations.

5 **COUNT II**

6 1. Paragraph 1, which extends from page 25 to page 26, contains mere
7 characterizations, legal contentions, and conclusions to which no response is required. To the
8 extent a response is required, Proposed Intervenors deny the allegations.

9 2. The Complaint has no Paragraph 2 under Count II.

10 3. Paragraph 3 contains mere characterizations, legal contentions, and conclusions to
11 which no response is required. To the extent a response is required, Proposed Intervenors deny the
12 allegations.

13 **AFFIRMATIVE DEFENSES**

14 Proposed Intervenors set forth their affirmative defenses without assuming the burden of
15 proving any fact, issue, or element of a cause of action where such burden properly belongs to
16 Plaintiffs. Moreover, nothing stated here is intended or shall be construed as an admission that any
17 particular issue or subject matter is relevant to the allegations in the Complaint. Proposed
18 Intervenors reserve the right to amend or supplement their affirmative defenses as additional facts
19 concerning defenses become known.

20 Proposed Intervenors allege as follows:

21 Plaintiffs fail to state a claim on which relief can be granted.
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DATED this 10th day of September, 2020.

**WOLF, RIFKIN, SHAPIRO, SCHULMAN &
RABKIN, LLP**

By: /s/ Bradley S. Schrager

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*Attorneys for Proposed Intervenor-
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Nevada and Progressive Leadership Alliance
of Nevada*

**Pro hac vice forthcoming*

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September, 2020, a true and correct copy of **[PROPOSED] ANSWER TO COMPLAINT FOR PRELIMINARY INJUNCTION, PERMANENT INJUNCTION, AND DECLARATORY RELIEF** was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV system and serving all parties with an email-address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

By: /s/ Danielle Fresquez
Danielle Fresquez, an Employee of
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