

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

FREDERICK H. KRAUS; PUBLIC  
INTEREST LEGAL FOUNDATION.,

Petitioner,

vs.

CARRIE-ANN BURGESS, in her official  
capacity as Washoe County Interim Registrar  
of Voters,

Respondent,

and

FRANCISCO V. AGUILAR, in his Official  
Capacity as NEVADA SECRETARY OF  
STATE,

Intervenor.

Case No. CV24-01051

Department No.: 4

**ORDER DISMISSING THE PETITION FOR WRIT OF MANDAMUS PURSUANT TO  
NRS 34.160 FOR WASHOE COUNTY REGISTRAR OF VOTERS TO DETERMINE  
WHETHER COMMERCIAL ADDRESSES ON VOTER ROLL ARE ACCURATE AS  
REQUIRED BY NRS 293.530**

On May 10, 2024, Petitioners FREDERICK H. KRAUS and PUBLIC INTEREST  
LEGAL FOUNDATION (collectively “KRAUS & PILF”), by and through their attorney David  
C. O’Mara, Esq. of the O’Mara Law Firm, P.C., filed the *Petition for Writ of Mandamus  
Pursuant to NRS 34.160 for Washoe County Registrar of Voters to Determine Whether  
Commercial Addresses on Voter Roll are Accurate as Required by NRS 293.530* (hereinafter  
“*Petition*”).

1           On May 28, 2024, Proposed Intervenor – Respondents RISE ACTION FUND, the  
2 INSTITUTE FOR PROGRESSIVE NEVADA, and the NEVADA ALLIANCE FOR RETIRED  
3 AMERICANS, by and through their attorneys Bradley Schrager, Esq. and Daniel Bravo, Esq. of  
4 Bravo Schrager LLP, and David R. Fox, Esq. of Elias Law Group LLP, filed a *Motion to*  
5 *Intervene as Respondents*. On June 11, 2024, KRAUS & PILF filed a *Response in Opposition to*  
6 *Motion to Intervene as Respondents*. On June 18, 2024, the RISE ACTION FUND, the  
7 INSTITUTE FOR PROGRESSIVE NEVADA, and the NEVADA ALLIANCE FOR RETIRED  
8 AMERICANS filed their *Reply in Support of Motion to Intervene as Respondents*. On July 16,  
9 2024, the Court entered its *Order Denying Motion to Intervene as Respondents*.<sup>1</sup>

10           On June 17, 2024, Proposed Intervenor-Respondent FRANCISCO AGUILAR, in his  
11 official capacity as Nevada Secretary of State (hereinafter “SECRETARY AGUILAR”), by and  
12 through his counsel Nevada Attorney General Aaron D. Ford, Senior Deputy Attorney General  
13 Laena St-Jules, and Deputy Attorney General Devin A. Oliver, filed a *Motion to Intervene as*  
14 *Respondent*. On July 1, 2024, KRAUS & PILF filed a *Response in Opposition to Motion to*  
15 *Intervene as Respondent*. On July 8, 2024, SECRETARY AGUILAR filed a *Reply in Support of*  
16 *Motion to Intervene as Respondent*. On July 25, 2024, the Court entered its *Order Granting*  
17 *Motion to Intervene as Respondent*.

18           On July 15, 2024, Respondent CARRIE-ANN BURGESS (hereinafter “BURGESS”), by  
19 and through her counsel Washoe County District Attorney Christopher J. Hicks and Deputy  
20 District Attorney Elizabeth Hickman, filed a *Motion to Dismiss Petition for Writ of Mandamus*.  
21 On July 22, 2024, RISE ACTION FUND, the INSTITUTE FOR PROGRESSIVE NEVADA,  
22 and the NEVADA ALLIANCE FOR RETIRED AMERICANS filed a *Brief of Amici Curiae in*  
23 *Support of Respondent’s Motion to Dismiss Petition for Writ of Mandamus*. On July 25, 2024,  
24 KRAUS & PILF filed a *Response in Opposition to Respondent’s Motion to Dismiss*. On August  
25 1, 2024, BURGESS filed a *Reply in Support of Motion to Dismiss Petition for Writ of*  
26 *Mandamus*.

27  
28           

---

<sup>1</sup> The Court did allow leave to RISE ACTION FUND, the INSTITUTE FOR PROGRESSIVE NEVADA, and the  
NEVADA ALLIANCE FOR RETIRED AMERICANS to file an *amici curiae* brief.

1 On August 13, 2024, SECRETARY AGUILAR filed *Intervenor-Respondent Nevada*  
2 *Secretary of State’s Motion to Dismiss Petition for Writ of Mandamus* (hereinafter “SA MTD”).

3 On August 20, 2024, the Court entered the *Order Denying Motion to Dismiss Petition for*  
4 *Writ of Mandamus*.

5 On August 27, 2024, KRAUS & PILF filed a *Response in Opposition to Intervenor-*  
6 *Respondent’s Motion to Dismiss* (hereinafter “*Opp. to SA MTD*”). On September 3, 2024,  
7 SECRETARY AGUILAR filed a *Reply in Support of Motion to Dismiss Petition for Writ of*  
8 *Mandamus*.

9 On October 28, 2024, BURGESS filed *Washoe County Registrar of Voters’ Answer to*  
10 *Petition for Writ of Mandamus*. Also, on October 28, 2024, BURGESS filed *Washoe County*  
11 *Registrar of Voters and Secretary of State’s Opposition to Petition for Writ of Mandamus*  
12 (hereinafter “*Opp. to Petition*”). Additionally, on October 28, 2024, SECRETARY AGUILAR  
13 filed *Secretary of State’s Answer to Petition for Writ of Mandamus*.

14 On November 7, 2024, KRAUS & PILF filed *Reply to Opposition to Petition for Writ of*  
15 *Mandamus* (hereinafter “*Reply*”).

16 On April 11, 2024, KRAUS & PILF wrote to BURGESS requesting that she investigate  
17 the apparent commercial addresses listed on the voter roll in Washoe County. *Petition* at 7.  
18 Specifically, KRAUS & PILF informed BURGESS of voter registrations listing 48 apparent  
19 commercial addresses as the residential address. *Id.* at 6–43.

20 On April 12, 2024, George Guthrie, Registrar of Voters Media Production Specialist,  
21 responded to KRAUS & PILF’s letter stating that the office was “reviewing your letter now  
22 along with the provided information you’ve found. Would you be able to send us the documents  
23 you’re using as references to find these addresses?”<sup>2</sup> *Id.* at 43. KRAUS & PILF responded that  
24 the information was found by reviewing “the Nevada voter roll directly to identify commercial  
25 addresses. We visited each location and took the included pictures.”<sup>3</sup> *Id.* George Guthrie  
26 responded, asking several questions:

27  
28 

---

<sup>2</sup> Quoting *Petition*, Exhibit B at 4.

<sup>3</sup> Quoting *Id.* at 3.

1 When we're talking about the Nevada voter roll, are you talking about a list  
2 provided by our office? NV SOS? Federal voter list including Nevada? When we  
3 took a look at a few of the examples provided, some were not showing any active  
4 registrations under the address. Or the address was just appropriately marked as  
commercial so it would be impossible to register at the location. I just want to  
make sure I am able to reference the same information that you used to conduct  
your investigations, so we can discuss the full picture.

5 If not, I can give you responses based on the information we have on hand.<sup>4</sup> Id. at  
6 43–44.

7 That same day, KRAUS & PILF responded “Yes, the voter roll is from the NVSOS data  
8 portal, focusing on the residential address fields--not the mailing ones. Our research noted active,  
9 inactive, or a combination of those at the addresses shown in the presentation list. Please let me  
10 know if you have any other questions. Thank you for your attention on this matter.”<sup>5</sup> Id. at 44.  
11 On April 22, 2024, George Guthrie responded that they are “taking a look at all the addresses  
12 provided in your letter” and would be “sending a bulk response to each in the coming weeks.”<sup>6</sup>  
13 Id. After hearing nothing further, KRAUS & PILF reached out on May 2, 2024, for an update.  
14 Id. On May 6, 2024, George Guthrie responded, stating: “After further evaluation of the  
15 information you’ve provided to our office, I would suggest bringing the information to the  
16 Secretary of State’s office. Furthermore, I would also note that we are within the 90 day list  
17 maintenance window as described by the NVRA...”<sup>7</sup> Id.

18 As a preliminary matter the Court notes that it heard oral arguments on the instant matter  
19 on December 19, 2024. At the oral arguments, the Court heard argument in connection with the  
20 *SA MTD* and the *Petition*. At the conclusion of oral arguments, the Court took under submission  
21 the *SA MTD* and the portion of the *Petition* pertaining to standing. In other words, currently  
22 before the Court are the arguments related to standing brought forth by SECRETARY  
23 AGUILAR in the *SA MTD* and the argument related to standing brought forth by BURGESS in  
24 the *Opposition to Petition*. The arguments in both are nearly identical.

25 ////

26 \_\_\_\_\_  
27 <sup>4</sup> Quoting Id. at 2–3.

28 <sup>5</sup> Quoting Id. at 2.

<sup>6</sup> Quoting Id.

<sup>7</sup> Quoting Id. at 1.

1           Considering this, the Court notes that it is within the Court’s inherent power “to control  
2 the disposition of the causes on its docket with economy of time and effort for itself, for counsel,  
3 and for litigants.” Maheu v. Eighth Judicial Dist. Court, 89 Nev. 214, 217 (1973) (internal  
4 quotation omitted). Utilizing this inherent power, the Court finds it appropriate to solely address  
5 the arguments raised by BURGESS in the *Opposition to Petition*. Addressing both the *SA MTD*  
6 and *Opposition to Petition* would run counter to the goal of judicial economy and the dictates of  
7 NRCP 1, as the Court would effectively have to reach the same conclusions twice given the  
8 nearly identical arguments raised in both.

9           BURGESS argues that KRAUS & PILF lack standing to bring their claims. *Opposition to*  
10 *Petition* at 6.

11           As to KRAUS, BURGESS argues that he articulates no cognizable injury-in-fact. *Id.* at 7.  
12 BURGESS submits that “[t]he Petition’s sole reference to any injury purportedly suffered by  
13 Petitioner Frederick Kraus is that the Registrar’s ‘actions have frustrated and harmed  
14 Petitioners.’” *Id.* (quoting *Petition* at 45). Building off this, BURGESS argues that “[t]here is  
15 nothing concrete or particularized about this assertion.” *Id.* BURGESS then contends that “[a]t  
16 absolute best, Petitioners claimed in their Opposition to the Secretary’s Motion to Dismiss that ‘a  
17 Nevada registered voter,’ like Kraus, ‘has the right to seek that [the Registrar] is following  
18 Nevada’s statutes and not registering voters at commercial addresses.’” *Id.* (quoting *Opp. to SA*  
19 *MTD* at 4). As to this, BURGESS argues that this is the type of “generalize grievance” that is  
20 insufficient to confer standing. *Id.*

21           Next, as to PILF, BURGESS argues that PILF does not have direct organizational  
22 standing. *Id.* at 8. BURGESS submits that the allegations raised by PILF are “inadequate” to  
23 establish organizational standing. *Id.* Relying on the Court’s decision in Bd. of Pharmacy v.  
24 Cannabis Equity & Inclusion Comm., the United State Supreme Court’s decision in FDA v. All.  
25 for Hippocratic Medicine, and the Ninth Circuit’s decision in Ariz. All. For Retired Americans v.  
26 Mayes, BURGESS argues that organization standing requires a party to allege that they are  
27 unable to continue their core activities and that PILF has not raised such an allegation. *Id.* at 8–  
28 9.

1           Lastly, BURGESS argues that KRAUS & PILF do not have public-importance standing.<sup>8</sup>  
2 Id. at 9.

3           In response, KRAUS & PILF argue that they have standing. *Reply* at 9.

4           As to PILF, KRAUS & PILF argue that it has organizational standing. Id. KRAUS &  
5 PILF submit that PILF does not rely on the type of remote injuries pleaded in FDA v. All. for  
6 Hippocratic Medicine. Id. Rather, KRAUS & PILF submit that PILF “alleges an injury based  
7 upon the Washoe County Registrar’s failure to maintain the voter roll in contravention of her  
8 duties and failure to investigate the information Petitioners brought to her attention.” Id. Building  
9 off this, KRAUS & PILF submit that PILF alleges the type of direct interference with business  
10 activities that FDA v. All. for Hippocratic Medicine deems sufficient for standing purposes. Id.  
11 at 10.

12           As to KRAUS, KRAUS & PILF maintain that KRAUS has standing. Id. KRAUS & PILF  
13 highlight that KRAUS “is a Nevada voter seeking a writ of mandamus compelling the Washoe  
14 County Registrar to investigate a specific subset of addresses.” Id. KRAUS & PILF then contend  
15 that KRAUS has been injured by the Washoe County Registrar’s refusal to investigate these  
16 specific addresses.” Id. Further, KRAUS & PILF contend that “[t]his injury will be redressed by  
17 the granting of the Petition.” Id.

18           First, the Court notes that there is some abstruseness as to Nevada’s jurisprudence  
19 regarding standing in a writ action. Previously, in Heller v. Legislature of State of Nev., the Court  
20 stated that “[t]o establish standing in a mandamus proceeding, the petitioner must demonstrate a  
21 ‘beneficial interest’ in obtaining writ relief.” 120 Nev. 456, 460–61 (2004). But, just recently, the  
22 Court seems to have diverged from this standard. Specifically, in Bd. of Pharmacy v. Cannabis  
23 Equity & Inclusion Cmty., an action centered around a petition for writ of mandamus, the Court  
24 applied the Article III standing test that is primarily utilized by federal courts. Although not  
25 made explicitly clear, it appears that the Court tacitly endorsed the use of Article III standing test  
26 for writ actions. Further, BURGESS and KRAUS & PILF’s arguments relating to standing all

27 <sup>8</sup> BURGESS also argues that PILF cannot claim injury based on voter dilution. *Opposition to Petition* at 9. In  
28 response to this argument, KRAUS & PILF submit that PILF “has never claimed to base standing upon claims of  
voter dilution.” *Reply* at 10. As such, the Court will not address this line of argument.

1 center around the Article III standing test. Neither party suggests that the Court’s standing  
2 analysis should be confined to the above-describe standard in Heller v. Legislature of State of  
3 Nev. As such, for purposes of the instant matter, the Court will apply the Article III standing  
4 test.<sup>9</sup>

5 “Standing is the legal right to set judicial machinery in motion” Heller, 120 Nev. at 460.  
6 “The question of standing concerns whether the party seeking relief has a sufficient interest in  
7 the litigation. The primary purpose of this standing inquiry is to ensure the litigant will  
8 vigorously and effectively present his or her case against an adverse party.” Schwartz v. Lopez,  
9 132 Nev. 732, 743 (2016) (internal citations omitted). “The party seeking relief bears the burden  
10 to prove standing.” Bd. of Pharmacy v. Cannabis Equity & Inclusion Cmty., 553 P.3d 440 at \*1  
11 (Nev. 2024) (citing Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61 (1992)).

12 Article III of the United States Constitution “confines the federal judicial power to the  
13 resolution of ‘Cases’ and ‘Controversies’ in which a plaintiff has a ‘personal stake.’” TransUnion  
14 LLC v. Ramirez, 594 U.S. 413, 414 (2021) (quoting Raines v. Byrd, 521 U.S. 811, 819–820  
15 (1997)). Under Article III of the United States Constitution, “[t]o establish standing, as this Court  
16 has often stated, a plaintiff must demonstrate (i) that she has suffered or likely will suffer an  
17 injury in fact, (ii) that the injury likely was caused or will be caused by the defendant, and (iii)  
18 that the injury likely would be redressed by the requested judicial relief.” Food & Drug Admin.  
19 v. All. for Hippocratic Med., 602 U.S. 367, 380 (2024). Conversely, “[t]he Nevada Constitution  
20 does not include the ‘case or controversy’ requirement stated in Article III of the United States  
21 Constitution, so we are not strictly bound to federal constitutional standing requirements.” Nat’l  
22 Ass’n of Mut. Ins. Companies v. Dep’t of Bus. & Indus., Div. of Ins., 524 P.3d 470, 476 (Nev.

23  
24 <sup>9</sup> The Court notes that Bd. of Pharmacy v. Cannabis Equity & Inclusion Cmty., is an unpublished disposition. NRAP  
25 36(c)(2) states that “[a]n unpublished disposition, while publicly available, does not establish mandatory precedent  
26 except in a subsequent stage of a case in which the unpublished disposition was entered, in a related case, or in any  
27 case for purposes of issue or claim preclusion or to establish law of the case.” While the Court’s disposition in Bd.  
28 of Pharmacy v. Cannabis Equity & Inclusion Cmty. does not establish mandatory precedent, the Court still finds it  
appropriate to rely on it for purposes of the instant matter. Importantly, the Court follows the principle of party  
presentation. “The principle of party presentation sets forth that courts rely on the parties to frame the issues of a  
given matter.” Nevada Poly Rsch. Inst., Inc. v. Miller, 558 P.3d 319, 331 (Nev. 2024). Given that the parties relied  
on Article III standing test, as the Court did in Bd. of Pharmacy v. Cannabis Equity & Inclusion Cmty., the Court  
will comply with the principle of party presentation and rely on the Article III standing test.

1 2023). At the same time, while the Court is not strictly bound to federal constitutional standing  
2 requirements, “our caselaw generally requires the same showing of injury-in-fact, redressability,  
3 and causation that federal cases require for Article III standing.” Id.

4 As explained by United States Supreme Court, “organizations may have standing to sue  
5 on their own behalf for injuries they have sustained.” Food & Drug Admin. 602 U.S. at 393.  
6 Moreover, “organizations must satisfy the usual standards for injury in fact, causation, and  
7 redressability that apply to individuals.” Id. at 393–94. “[A]n organization may not establish  
8 standing simply based on the intensity of the litigant’s interest.” Id. at 394 (internal citations  
9 omitted). Likewise, an organization may not establish standing “because of strong opposition to  
10 the government’s conduct,” regardless of “how longstanding the interest and no matter how  
11 qualified the organization.” Id. An organization “must show far more than simply a setback to  
12 the organization’s abstract social interests.” Id. (internal citations omitted).

13 Keeping this in mind, the Court will first assess if PILF maintains standing.

14 In relevant part, KRAUS & PILF allege the following in the *Petition*:

15 Petitioners brought to Respondent’s attention evidence concerning whether  
16 residential addresses listed on the statewide voter registration list are accurate as  
17 there is no indication that individuals reside at the specific locations identified.  
18 Petitioners sought Respondent’s compliance with state law regarding the accuracy  
19 of the statewide voter list through investigations of specific addresses for  
20 accuracy. Respondent has not acted.

21 .....

22 The Foundation seeks to promote the integrity of elections in Nevada and other  
23 jurisdictions nationwide through research, education, remedial programs, and  
24 litigation. The Foundation regularly analyzes the programs and activities of state  
25 and local election officials to determine whether lawful efforts are being made to  
26 keep voter rolls current and accurate. The Foundation also uses records and data  
27 to produce and disseminate reports, articles, blog and social media posts, and  
28 newsletters to advance the public education aspect of its organizational mission.

.....

The Foundation has devoted significant resources to analyzing Nevada’s  
statewide voter list. In conducting its analysis, it identified numerous addresses  
listed as residential that appeared to be commercial buildings. The Foundation  
conducted a similar analysis in the past and documented its findings in a video.

.....

////

////



1 The Foundation is especially concerned with the accuracy of Respondent’s voter  
2 roll given that Nevada has recently expanded voting by mail. The Foundation has  
3 studied the effects of errors on Nevada’s statewide voter list in terms of mail  
4 ballots being sent to incorrect addresses. *Petition* at 2–3.

4 Further, PILF has been involved in multiple lawsuits concerning election laws throughout  
5 the country.<sup>10</sup> Given all this, it is clear that PILF exists as an organization in order to pursue  
6 election integrity throughout the nation.

7 By all reasonable means, BURGESS’s alleged failure to investigate the purported  
8 commercial addresses runs directly counter to PILF’s mission of preserving election integrity  
9 throughout the nation. But PILF “must allege more than that their mission or goal has been  
10 frustrated—they must plead facts showing that their core activities are directly affected by the  
11 defendant’s conduct.” Arizona All. for Retired Americans v. Mayes, 117 F.4th 1165, 1172 (9th  
12 Cir. 2024). This raises the question of what constitutes a disruption to the core activities of an  
13 organization. Havens Realty Corp. v. Coleman, helps answer this question.

14 In Havens Realty Corp., the defendant company managed two apartment complexes, one  
15 was occupied predominantly by Caucasians, and the other was integrated. 455 U.S. 363, 374  
16 (1982). Defendants allegedly engaged in “racial steering” by steering minorities only to the  
17 integrated apartment complex and away from the largely Caucasian apartment complex. Id. at  
18 366–68. These activities included falsely informing minority prospective renters, including a  
19 HOME employee, that there were no apartments available in the largely white complex. Id. at  
20 368. The United States Supreme Court held that HOME had standing to challenge the landlord’s  
21 racial steering practices because the practices “frustrated” HOME’s “efforts to assist equal access  
22 to housing through counseling and other referral services” and required HOME to “devote  
23 significant resources to identify and counteract” the practices. Id. at 379.<sup>11</sup>

24 ////

25 ////

26 \_\_\_\_\_  
27 <sup>10</sup> See e.g., Pub. Int. Legal Found., Inc. v. Dahlstrom, 673 F. Supp. 3d 1004 (D. Alaska 2023).

28 <sup>11</sup> Notably, in Food & Drug Admin., the United States Supreme Court clarified that “Havens was an unusual case, and this Court has been careful not to extend the Havens holding beyond its context.” Food & Drug Admin., 602 U.S. 367 at 370.

1 Here, the purported injury suffered by PILF is far different than the injury suffered by  
2 HOME in Havens Reality. In Havens Reality, it was “[c]ritical[ ]” that HOME was “not only  
3 [an] issue-advocacy organization, but also operated a housing counseling service.” Food & Drug  
4 Admin, 602 U.S. at 395. “In other words, HOME had standing because receiving false  
5 information about available housing directly harmed HOME's core activity—counseling its  
6 clients on housing availability.” Arizona All. for Retired Americans, 117 F.4th at 1177.

7 PILF cannot point to a comparable core activity that is being impacted by BURGESS.  
8 PILF is not claiming that BURGESS’s failure to investigate the purported commercial address  
9 somehow impacts its ability to function and run itself as an organization. PILF is still able to  
10 pursue and advocate for election integrity throughout the Nevada and other states. Focusing on  
11 the instant matter, PILF is able to publicize BURGESS’s purported dereliction of her duties and  
12 call for others to implore BURGESS to investigate the purported commercial addresses.

13 It is important to note that PILF, through its actions, created the purported injury. Had  
14 PILF not chosen to divert its resources and time to analyze the Nevada voter list, there would be  
15 no purported injury suffered by PILF. Conversely, in Havens Reality, the racial steering practices  
16 employed by the defendants caused the injury in HOME.

17 With, this in mind, it is important to note that the claimed injury to PILF, as put by PILF,  
18 is “based upon [BURGESS’s] failure to maintain the voter roll in contravention of her duties and  
19 failure to investigate the information Petitioners brought to her attention.” *Reply* at 9. Thus, PILF  
20 is claiming that due to BURGESS’s failure to comply with their request, it has been injured.

21 Aside from an expansion of resources and an ideological opposition to BURGESS’s  
22 failure, the Court is unable to discern the purported injury suffered by PILF. As noted above,  
23 PILF can continue its core and ongoing business of promoting the election integrity in Nevada  
24 and other states. While BURGESS may not have complied with KRAUS & PILF’s request, PILF  
25 fails to show how BURGESS’s failure to investigate directly harms its already existing core  
26 activities “*apart* from [PILF’s] response” to that action. Arizona All. for Retired Americans, 117  
27 F.4th at 1170 (*emphasis in original*).

28

1 The Court finds that PILF does not maintain organization standing in the instant matter.

2 Next, the Court will assess whether KRAUS maintains standing.

3 As a precursor, the United States Supreme Court case Lance v. Coffman is highly  
4 persuasive. Therefore, the Court will summarize it below.

5 In Lance v. Coffman, four concerned Colorado citizens argued that the Colorado  
6 Supreme Court's interpretation of Article V, § 44, of the Colorado Constitution violated their  
7 rights under the Elections Clause of the United States Constitution. 549 U.S. 437, 438 (2007). In  
8 addressing this contention, the Court stated the following: "the problem with this allegation  
9 should be obvious: The only injury plaintiffs allege is that the law—specifically the Elections  
10 Clause—has not been followed. This injury is precisely the kind of undifferentiated, generalized  
11 grievance about the conduct of government that we have refused to countenance in the past." Id.  
12 Thus, the Court found that the Colorado citizens lacked standing to bring their claim. Id.

13 Here, the only cognizable injury allegedly suffered by KRAUS "is that the law. . . has  
14 not been followed." Id. In other words, KRAUS only maintains an "undifferentiated, generalized  
15 grievance about the conduct of government. . . ." Id. This is the same type of grievance that any  
16 concerned citizen in Nevada may maintain. This type of injury has consistently been held as one  
17 that does not provide one with standing.

18 The Court finds that KRAUS has not suffered an injury that can provide him with  
19 standing.

20 Next, the Court will assess if KRAUS & PILF maintain standing under the public  
21 importance exception.

22 In Schwartz v. Lopez, the Court stated the following: "[u]nder this public-importance  
23 exception, we may grant standing to a Nevada citizen to raise constitutional challenges to  
24 legislative expenditures or appropriations without a showing of a special or personal injury." 132  
25 Nev. 732, 743 (2016). The Court clarified that the public-importance exception to standing  
26 applies if the following criteria are met: (1) "the case must involve an issue of significant public  
27 importance"; (2) "the case must involve a challenge to a legislative expenditure or appropriation  
28 on the basis that it violates a specific provision of the Nevada Constitution"; (3) "[a]nd third, the

1 plaintiff must be an appropriate party, meaning that there is no one else in a better position who  
2 will likely bring an action and that the plaintiff is capable of fully advocating his or her position  
3 in court.” Schwartz v. Lopez, 132 Nev. 732, 743 (2016) (internal quotations omitted).

4 Sometime after, in Nevada Pol’y Rsch. Inst., Inc. v. Cannizzaro, the Court expanded the  
5 public-importance exception elucidated in Schwartz v. Lopez. Specifically, the Court clarified  
6 that:

7 the public-importance doctrine may apply both where a plaintiff seeks to protect  
8 public funds or where, as here, the plaintiff seeks to enforce a public official's  
9 compliance with a public duty pursuant to the separation-of-powers clause, but  
10 only where an appropriate party seeks enforcement of that right, the issue is likely  
11 to recur, and it requires judicial resolution for future guidance.  
12 Nevada Pol’y Rsch. Inst., Inc. v. Cannizzaro, 138 Nev. 259, 263–64 (2022).

13 Here, KRAUS & PILF do not meet the requirements for the public-importance exception  
14 to standing set forth in Schwartz v. Lopez. Specifically, the instant matter does not involve a  
15 challenge to legislative expenditure or appropriation on the basis that it violates a specific  
16 provision to the Nevada Constitution. Importantly, Schwartz v. Lopez specifically requires that  
17 all three delineated requirements be met. 132 Nev. 732 at 743 (the “public-importance exception  
18 is narrow and available only if the following criteria are met”). Given this, KRAUS & PILF  
19 cannot meet the three delineated requirements set forth in Schwartz v. Lopez.

20 Similarly, KRAUS & PILF do not meet the requirements for the expanded public-  
21 importance exception to establish standing as set forth in Nevada Pol’y Rsch. Inst., Inc. v.  
22 Cannizzaro. Specifically, the instant matter does not seek to enforce a public official's  
23 compliance with a public duty pursuant to the separation-of-powers clause. Importantly, “[t]he  
24 purpose of the separation of powers doctrine is to prevent one branch of government from  
25 encroaching on the powers of another branch.” Comm’n on Ethics v. Hardy, 125 Nev. 285, 291–  
26 92 (2009). The *gravamen* of the instant matter is that BURGESS is purportedly failing to carry  
27 out her statutorily ascribed duties. There is no allegation that one branch of government is  
28 encroaching on the powers of another. Given this, KRAUS & PILF cannot meet the requirements  
set forth in Nevada Pol’y Rsch. Inst., Inc. v. Cannizzaro.

1 With all this in mind, the Court reiterates that “[s]tanding is the legal right to set judicial  
2 machinery in motion” Heller, 120 Nev. at 460. Here, KRAUS & PILF do not have standing.  
3 Given this, KRAUS & PILF are unable to set the judicial machinery in motion. Due to this, the  
4 Court finds that it must dismiss the *Petition*.

5 Based upon the foregoing and good cause appearing,

6 IT IS HEREBY ORDERED that FREDERICK H. KRAUS and PUBLIC INTEREST  
7 LEGAL FOUNDATION do not have standing to bring the *Petition for Writ of Mandamus*  
8 *Pursuant to NRS 34.160 for Washoe County Registrar of Voters to Determine Whether*  
9 *Commercial Addresses on Voter Roll are Accurate as Required by NRS 293.530*.

10 IT IS HEREBY FURTHER ORDERED that the *Petition for Writ of Mandamus Pursuant*  
11 *to NRS 34.160 for Washoe County Registrar of Voters to Determine Whether Commercial*  
12 *Addresses on Voter Roll are Accurate as Required by NRS 293.530* is dismissed.

13 IT IS HEREBY FURTHER ORDERED that Intervenor-Respondent Nevada Secretary of  
14 State’s Motion to Dismiss Petition for Writ of Mandamus is DENIED, as moot.

15 DATED this 27 day of January, 2025.

16   
17 \_\_\_\_\_  
18 DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 CASE NO. CV24-01051

3 I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the  
4 STATE OF NEVADA, COUNTY OF WASHOE; that on the 27 day of January, 2024, I  
5 electronically filed the **ORDER DISMISSING THE PETITION FOR WRIT OF**  
6 **MANDAMUS PURSUANT TO NRS 34.160 FOR WASHOE COUNTY REGISTRAR OF**  
7 **VOTERS TO DETERMINE WHETHER COMMERCIAL ADDRESSES ON VOTER**  
8 **ROLL ARE ACCURATE AS REQUIRED BY NRS 293.530** with the Clerk of the Court by  
9 using the ECF system.

10 I further certify that I transmitted a true and correct copy of the foregoing document by  
11 the method(s) noted below:

12 **Personal delivery to the following: [NONE]**

13 **Electronically filed with the Clerk of the Court by using the ECF system which will send a**  
14 **notice of electronic filing to the following:**

15 DEVIN A. OLIVER, ESQ. for FRANCISCO V. AGUILAR, SECRETARY OF STATE

16 LAENA ST-JULES, ESQ. for FRANCISCO V. AGUILAR, SECRETARY OF STATE

17 ELIZABETH HICKMAN, ESQ. for CARRIE-ANN BURGESS

18 DAVID C. O'MARA, ESQ. for PUBLIC INTEREST LEGAL FOUNDATION, FREDERICK H  
19 KRAUS

20 BRADLEY SCHRAGER, ESQ.

21 **Deposited in the Washoe County mailing system for postage and mailing with the United**  
22 **States Postal Service in Reno, Nevada:**

23  
24  
25  
26  
27  
28  
