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8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR CARSON CITY**

10 CITIZENS OUTREACH FOUNDATION,
11 CHARLES MUTH, INDIVIDUALLY, ,

12 *Petitioners,*

13 v.

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

16 *Respondent.*

Case No.: 24 EW 00020 1B

Dept. No.: I

**MOTION FOR PRELIMINARY
INJUNCTION, AND TO ADVANCE THE
TRIAL ON THE MERITS**

17
18 Plaintiffs, Citizens Outreach Foundation, and Charles Muth ("Plaintiffs"), by and through
19 their counsel of record, David C. O'Mara, Esq., and The O'Mara Law Firm, P.C., hereby move
20 this court for entry of a preliminary injunction, pursuant to NRCP 65 and NRS 33.010, requiring
21 respondents to notify, pursuant to NRS 293.530, each registrant who has been challenged under
22 NRS 293.535. This motion is made and based upon the following Memorandum of Points and
23 Authorities, with attached exhibits, the Declarations of Charles Muth and Dan Burdish in support
24 of the Motion for Preliminary Injunction, and any papers on pleadings on file herein and is brought
25 in good faith.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. BACKGROUND**

3 On or about Thursday, August 29, 2024, Marc O Alan, deputy clerk of the election
4 department in Storey, notified Petitioners that the Storey County Clerk would no longer process
5 the challenges filed with the Storey County Clerk’s office based upon discussions within other
6 counties and the Secretary of State’s office. *See* Declaration of Dan Burdish (“Burdish Dec’l”),
7 Exhibit 1.

8 Mr. Alan originally informed Petitioners that notices were “sent to the 18 voters being
9 challenged on August 28, 2024, but then the following day, changed his story and advised that
10 “while I have prepared the notice, I have not sent out the 18 notices due to discussions between
11 the counties and SOS.” *Id.*

12 The Carson City Clerk has refused to provide any information or communications
13 regarding whether the Clerk will be satisfying his obligations to provide notice to hundreds of
14 registrants who have been challenged pursuant to NRS 293.535, and thus, it is believed that
15 Respondent HOEN will continue to reject the affidavits filed by Petitioners, and instead, will follow
16 the faulty Secretary of State’s directive and refuse to provide notice to the challenged registrants
17 pursuant to Nevada law.

18 **II. EMERGENCY BASIS FOR THIS MOTION**

19 The purpose of this motion is to require Respondents to satisfy their duties under Nevada
20 Law regarding their legal obligation to process several challenges filed pursuant to NRS 293.535.
21 Under NRS 293.535, Respondents are required to notify the challenged registrants, pursuant to
22 NRS 293.530, that the registrant has been challenged under Nevada law. This matter concerns the
23 Respondent’s failure to process challenges and notify registrants that have been challenged and
24 the subsequent irreparable harm caused by Respondent’s failure to timely provide notice.
25 Respondents have failed to protect Petitioners, the citizens of Nevada, and the integrity of the
26 election process. Indeed, had Respondents sent the notices, as required, then the protections
27 afforded to Nevada citizens would be in place prior to start of voting for the 2024 general election.
28 *See* NRS 293.530(g) (“[i]f a voter fails to return the postcard mailed pursuant to paragraph (c)

1 within 30 days, the county clerk shall designate the voter as inactive on the voter’s application to
2 register to vote.”) Because of the Respondents failures, various protections will not be in place
3 and mail in ballots will be sent to inactive voter’s addresses and because the challenged registrants,
4 who should be placed on the “inactive” voter list, will remain as active voters during the early
5 voting period. Nevada law requires that *only active voters* will receive a mail in ballot. *See* NRS
6 293.269911 (“the county clerk shall prepare and distribute to each active registered voter in the
7 county...a mail ballot for every election”)

8 At this time, the only protections that will be put in place when Respondents are required
9 to satisfy their duties under the law is (1) that notice will be given to the challenged registrant that
10 their registration will be cancelled if they do not vote in an election before or during the 2024
11 general election, and (2) the challenged voter will be placed on the “inactive” list on Election Day.
12 In order for the last remaining protections to be implemented, Respondents must be required to
13 mail the notice to the challenged registrant no later than October 1, 2025. Even if the Court is
14 unable to render a decision before October 1, 2024, the Court should require the Respondents to
15 send the notices immediately, and at no time, should the notices be sent after November 1, 2024,
16 as failure to send the notices by this date will further damages Petitioners and Nevada citizens
17 because notice must be mailed (3) days before the general election so that the period of time to
18 have the challenged registrant removed from the voter rolls, as required under NVRA starts at the
19 2024 general election and not the 2026 general election. *See* NRS 293.530(1)(c)(1-4) (“If the
20 registrant fails to respond *or appear to vote* within the time required, the county clerk shall cancel
21 the registration.”) and 293.535(2).

22 Accordingly, injunctive relief is necessary to require the notices to be mailed before
23 October 1, 2025, and at least no later than November 1, 2024. Petitioners provided several
24 challenges on or about July 29, 2024, which was sufficient time for Respondents to notify the
25 registrant and allow the registrant to respond within thirty (30) days before placing the voter on
26 the inactive voter list.

27 Petitioners seek to advance the trial on the merits and consolidate it with the hearing on the
28 preliminary injunction pursuant to NRCP 65(a)(2).

1 **III. FACTUAL BACKGROUND**

2 On or about July 29, 2024, Petitioners, and specifically, Mr. Charles Muth, submitted and
3 filed properly formatted challenges to almost every Nevada County Registrar/Clerk, including
4 Carson City.¹ At this time, several county clerks/registrars promptly and properly processed these
5 challenges. Upon information and belief, the Carson City Registrar/Clerk did not process any of
6 the challenged filed.

7 On or about Thursday, August 29, 2024, Marc O Alan, deputy clerk of the election
8 department in Storey, notified Petitioners that the Storey County Clerk would no longer process
9 the challenges filed with the Storey County Clerk’s office based upon discussions within other
10 counties and the Secretary of State’s office. *See* Burdish Decl., Exhibit 1.

11 Mr. Alan originally informed Petitioners that notices were “sent to the 18 voters being
12 challenged on August 28, 2024, but then the following day, changed his story and advised that
13 “while I have prepared the notice, I have not sent out the 18 notices due to discussions between
14 the counties and SOS.” *Id.*

15 Unbeknownst to Petitioners, on August 27, 2024, the Nevada Secretary of State, issued a
16 private memorandum to Nevada’s 17 County Clerks and Registrars providing “guidance” on the
17 “personal knowledge” required to challenge a registered voter pursuant to NRS 293.535 and NRS
18 293.547. *See* Muth Decl. Exhibit 1.

19 While Petitioners had been working with each County Registrar/Clerk and provided
20 updates and correspondence with the Secretary of State regarding Petitioner’s efforts in assisting
21 the County Registrar/Clerk with maintaining the voter rolls, the memorandum was only issued to
22

23 ¹ The petition incorrectly states the number of affidavits filed with Carson City and Storey County.

24 A total of 665 affidavits was filed with Carson City, 185 Moved within their county of registration
25 but out of the precinct they were registered, 180 Moved from one Nevada county to another
26 Nevada County; 244 moved out of Nevada; 56 moved out of Nevada and registered to vote in
another state.

27 A total of 45 affidavits were filed in Storey County. 1 Moved within their county of registration
28 but out of the precinct they were registered, 22 Moved from one Nevada county to another Nevada
County; 18 moved out of Nevada; 4 moved out of Nevada and registered to vote in another state.

1 the Clerks/Registrars and was not provided to either Petitioner. Petitioners were never notified of
2 the secret memorandum, or that several Registrars/Clerks have followed the Secretary of State's
3 directive and have stopped processing the challenges or continue to refuse to process the
4 challenges.

5 On September 8, 2024, Petitioners sent an "Open Letter to Nevada Secretary of State" to
6 Secretary Aguilar setting forth Petitioners response to the private memorandum, and the telephone
7 discussion between Mr. Muth and Secretary Aguilar. See Muth Decl. Exhibit 2. As of the filing
8 of this litigation, Petitioners have received no response from the Secretary of State, but instead,
9 received a response from the Attorney General's Office stating, "*We are in receipt of said written*
10 *communications. As counsel for the Secretary of State's Office, we will review these*
11 *communications and, as needed, respond to you.*"

12 See Muth Decl. Exhibit 3.

13 On September 10, 2024, Petitioners sent correspondence to each district attorney regarding
14 the failure to process the challenges because of the memorandum issued by Cisco Aguilar, Nevada
15 Secretary of State. See Muth Decl. Exhibit 4.

16 Upon information and belief, it appears that Humboldt County has rejected the Secretary of
17 State's directive and will continue to allow the properly filed challenges to be processed.
18 According to Kevin Pasquale, Humboldt County District Attorney, he "*gave my opinion to our*
19 *County Clerk several weeks ago, I reviewed that opinion earlier today, further discussed it with*
20 *her, and see no reason to alter it.*"

21 Upon information and belief, it also appears that Lander County also properly processes
22 the valid challenges. According to William E. Schaeffer, District Attorney for Lander County, he
23 is "*in agreement with my colleague, Mr. Pasquale, in Humboldt County. As far as I know, our*
24 *Clerk is going ahead and looking at the challenges and following up on them...she's sending*
25 *out letters checking on the status.*"

26 Pershing County Clerk, Lacey Donaldson advised Petitioners on September 11, 2024, that
27 "*Pershing County is in receipt of your Challenges from August 29th and September 10.*
28

1 *Following guidance from my District Attorney, the Nevada Secretary of State, and the Nevada*
2 *Attorney General's office, we will not be processing these challenges at this time."*

3 As of the filing of this matter, Carson City did not respond to the correspondence, nor have the
4 several other counties.

5 IV. LEGAL STANDARD

6 NRS 33.010 provides that an injunction may be granted: (1) when it shall appear by the
7 complaint or affidavit that the commission or continuance of some act, during the litigation, would
8 produce great or irreparable injury to the plaintiff; or (2) "[w]hen it shall appear, during the
9 litigation, that the defendant is doing or threatens, or is about to do, or is procuring or suffering to
10 be done, some act in violation of the plaintiff's rights respecting the subject of the action, and
11 tending to render the judgment in effectual." This is such a case.

12 When obtaining a preliminary injunction, the movement must show a "reasonable
13 likelihood of success on the merits," as well as demonstrate that it will be subjected to irreparable
14 harm for which no adequate remedy at law exists should the relief not be granted. NRCP 65(b);
15 *Excellence Com. Mgmt., LLC, v. Gilmore*, 131 Nev. 347, 350-51, 351 P.3d 720, 722 (2015); *Pickett*
16 *v. Comanche Construction, Inc.*, 108 Nev. 422, 426, 836 P.2d 42 (1992); *Dixon v. Thatcher*, 103
17 Nev. 414, 415, 743 P.2d 1029, 1029 (1987). "In considering preliminary injunctions, courts also
18 weigh the potential hardships to the relative parties and others, and the public interest. *Univ. &*
19 *Cnty. Coll. Sys. of Nevada v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187
20 (2004).

21 Injunctive relief may only be issued where the applicant has posted a security (bond), a
22 sum which the court deems proper, for the cost and damages that may be suffered by any party
23 found to have been wrongfully, joined or restrained. NRCP 65(c).

24 The court has substantial discretion to grant a request for preliminary injunction. *See e.g.*
25 *Number One Rent-A-Car v. Ramada Inns, Inc.*, 94 Nev. 779, 780, 587 P.2d 1329 (1978) ("the grant
26 or denial of a preliminary injunction is a question to be addressed to the discretion of the district
27 court. "); *Coronet Homes, Inc. v. Mylan*, 84 Nev. 435, 437, 442 P.2d 901 (1968) ("the granting,
28 refusing or dissolving of injunctions or restraining orders is a matter of discretion. ")

1 **V. LAW AND ARGUMENT**

2 As illustrated in greater detail below, Petitioners satisfy all requirements for injunctive
3 relief: (1) Petitioners have a more than reasonable likelihood of success on the merits; (2)
4 Petitioners will sustain irreparable harm at the relief requested is not granted; (3) the balance of
5 hardship favors injunction relief, and (4) Petitioner will post a bond.

6 Applying these factors, this Court should enter an order requiring respondents to send the
7 notice and copy of the affidavit to the challenged voter pursuant to NRS 293.530. Respondents are
8 required to provide such notice, and by directing Respondents to do so during the pendency of the
9 litigation, the Court will preserve the status quo and protect the interests of the parties during this
10 litigation.

11 A. *Petitioners have a Reasonable Likelihood of Success on the Merits*

12 Petitioner are seeking a Writ of Mandamus requiring the county clerks and registrars to
13 properly process the challenges of a registrant pursuant to NRS 293.535, to have the Clerks and
14 Registrars provide notice to the registrant of the challenge pursuant to NRS 293.53, upon which
15 after receiving or not receiving a response from the challenge registrant, the clerk registrar will
16 follow the requirements for NRS 293.530². Additionally, Petitioners are seeking Declaratory
17 Relief that upon the filing of an affidavit, Nevada law requires the county clerk to “notify the
18 registrant in the manner set forth in NRS 293.530.

19 NRS 293.535 specifically requires that Respondents

20 shall notify a registrant if an elector or other reliable person files an affidavit with
21 the county clerk stating that,

21 ...

22 (b) the registrant has:

23 (1) Moved outside the boundaries of the county where he or she is registered to
24 another county, state, territory or foreign country, with the intention of remaining
25 there for an indefinite time and with the intention of abandoning his or her residence
26 in the county where registered, and

26

27 ² In Nevada, injunctive relief is a remedy, not an independent claim for relief. *See Carrington*
28 *Mortgage Services, LLC v. SFR Investments Pool One, LLC, et al*, 337 F. Sup Third 1187.
 However, it is customary to plead a claim for injunctive relief if a party will be seeking such relief
 in the action.

1 (2) Established residence in some other state, territory or foreign country, or in
2 some other county of this state, naming the place.

3 The affiant must state that he or she has personal knowledge of facts set for in the
4 affidavit.

4 NRS 293.535 is clear and unambiguous, and thus, the Court must start its statutory analysis with
5 the plain meaning rule. *See We the People Nevada v. Secretary of State*, 124 Nev. 874, 881, 192
6 P.3d 116, 1170-71 (2008). If the Legislature’s intention is apparent from the face of the statute,
7 **as it is in this case**, there is no room for construction, and the Court must give the statute the plain
8 meaning. *See Madera v. SIIS*, 114 Nev. 253, 257, 956 P.2d 117, 120 (1998); see also *McKay v.*
9 *Bd. of Supervisors*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986) (when a statute is facially clear,
10 a court should not go beyond its language in determining its meaning.); *Las Vegas Taxpayer*
11 *Comm. v. City Council*, 125 Nev. 17, —, 208 P.3d 429, 437 (2009) (explaining that a statute's
12 meaning is plain when it is “facially clear”).

13 Under the plain meaning of this statute, Respondents have no discretion to determine
14 whether to accept or reject an affidavit. Nothing in the statute, nor the codified regulations provide
15 the Respondent with any authority to investigate the validity of the affidavit. Indeed, the statute
16 specifically states that “[u]pon the filing of an affidavit pursuant to paragraph (b), the county clerk
17 **shall notify the registrant in the manner set forth in NRS 293.530 and shall enclose a copy of**
18 **the affidavit.**” *See* NRS 293.535(2). Nowhere in the statute does it provide authority or require
19 Respondents that undertake “an investigation and/or confirmation of the statements made in the
20 affidavit, before Respondents are to provide notice to the challenged registrant.” In fact, the Court
21 needs only look at the Legislative intent for written challenges under NRS 293.547, in which is
22 specifically directs the district attorney to “investigate the challenged within 14 days, and, if
23 appropriate, cause proceedings to be instituted.” *See* NRS 293.547(6). Indeed, just as in NRS
24 293.535, the Nevada Legislature directed the county clerks to take specific action in NRS 293.547,
25 none of which was to investigate the challenge, but instead, immediately notify the challenged
26 registrant and the district attorney. If the Nevada Legislature wanted to provide authority to the
27 Registrants to investigate the affidavit, or the facts set forth in the affidavit before sending notice,
28 the legislature would have done so.

1 As such, Respondents have no authority to withhold the notice to the challenged registrant
2 because of the arbitrary and unsupported decision of the Secretary of State, especially when the
3 Secretary of State failed to promulgate regulations as required.³ The Court must direct
4 Respondents to satisfy their obligations under the law and require the Respondents to provide
5 notice under NRS 293.540.

6 Additionally, even if the Court determines that Respondents must make a cursory review
7 of the affidavit to determine if the Elector or reliable person has “personal knowledge,” Petitioners
8 in this case have personal knowledge of the facts set forth in the affidavit. Indeed, Mr. Muth has
9 stated in the affidavit that “I have ‘personal knowledge of the facts set forth’ in this affidavit” as
10 required by the statute. *See* Muth Decl. Exhibit 5⁴. Additionally, Mr. Muth set forth that he has
11 reviewed relevant business records by reviewing the National Change of Address (NCOA)
12 database maintained by the United States Postal Service (USPS). *Id.*

13 “A review of relevant business records can be the basis for personal knowledge in
14 affidavits.” *See Kroll v. Incline Village General Improvement Dist.* 130 Nev. 1206 (2014) *citing*
15 *Vote v. United States*, 753 F. Supp. 866, 868 (D. Nev. 1990) (holding an IRS officer’s review of a
16 taxpayer’s file met the “personal knowledge” requirement of FRCP 56(e)); *Washington Cent. R.R.*
17 *Co., Inc. v. Nat’l Mediation Bd.*, 830 F. Supp. 1343, 1353 (E.D. Wash. 1993) (holding “personal
18 knowledge can come from review of the contents of files and records.). The Secretary Aguilar
19 confirms that “[o]ne way to satisfy the general requirements [of NVRA] is to rely on the change-
20 of-address information supplied by the U.S. Postal Service (NCOA Data). 52 U.S.C. §
21 20507(c)(1). *See* Muth Declaration, Exhibit 1. Moreover, the testimony regarding AB 652 in
22 1991, by Mr. Elliot was that the U.S. Postal Service’s National Change of Address Program, which
23

24 ³ It is not appropriate for the Court to give any deference to the Secretary’s interpretation when he
25 failed to promulgate regulations pursuant to NRS 293.247. *See Nevada State Democratic Party v*
26 *Nevada Republican Party*, 256 P.3d 1 (2011), *citing* *Jefferson v. U.S.*, 546 F.3d 477 (7th Cir. 2008)
(noting that the Internal Revenue Service’s failure to promulgate regulations when mandated to do
so by Congress could result in an ambiguous statute’s nonenforcement.)

27 ⁴ A copy of each challenge will be provided as an exhibit at the hearing, however, each challenge
28 is not provided in this document to minimize the paper used. Petitioners hope that there is another
method then printing three (3) copies of the documents for Exhibits.

1 utilized the best information available to keep up with ever-moving voters. *See* Muth Declaration,
2 Exhibit 6, page COF0014.

3 Mr. Muth, while not required by statute, also provided the challenged registrant's address
4 in Nevada, and the challenged individuals new address, which in many cases are outside the state
5 of Nevada. *See* Muth Declaration, Exhibit 5.

6 Secretary Aguilar made a political decision to direct Respondents not to fulfill their duties
7 under the law and then cherry-picked various statements during legislative testimony in order to
8 justify his legally deficient analysis and opinion. Secretary Aguilar's opinion and directive is not
9 supported by the clear and plain language of the statute and legal authority.

10 Indeed, Secretary Aguilar misrepresents the legislative intent when he claims "the
11 requirement of 'personal knowledge' was meant to preclude challenges based on such
12 comparisons," which was using the DMV addresses. *See* Muth Declaration Exhibit 1. As Mr.
13 Muth stated in his open letter to Secretary Aguilar, the Nevada Legislature *clearly rejected* the
14 testimony as the Nevada Legislature amended the legislation and specifically deleted the following
15 language "[F]or the purposes of this subsection, the personal knowledge of the registered voter
16 must not be based on any information obtained from the records of the department of motor
17 vehicles and public safety." *See* Muth Declaration, Exhibit 6; compare page COF0012 and page
18 COF0085. The legislative intent does not get any clearer than to have language deleted from the
19 legislation.

20 Additionally, Secretary Aguilar attempts to claim that the individual challenges filed by
21 Petitioners are not based on individualized information, claiming that Mr. Muth's individual
22 challenges pursuant to NRS 293.535 are somehow part of the State's systematic removal of
23 ineligible voters from the official lists of eligible voters. Secretary Aguilar cites to *Arcia v. Fla.*
24 *Sec'y of State*, 772 F.3d 1335, which dealt with two state run programs. The first program was the
25 state secretary of state compiling a list of registered voters who presented the Department of
26 Highway Safety and Motor Vehicles (DHSMV), with green cards and foreign passports,
27 suggesting that they are non-citizens. The second program relied upon the Department of
28 Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database.

1 Petitioner’s actions do not constitute a systematic removal of the names of ineligible voters
2 from the official lists of eligible voters, by the state, more importantly, the results of Petitioners’
3 actions do not remove any voter from the “official eligible list.” Indeed, upon filing the affidavit,
4 Respondents are to send a notice, with the affidavit, to the challenged registrant. *See* NRS 293.530.
5 Only after the challenged registrant fails to respond to the notice, does the challenged registrant
6 get designated as inactive on the voter’s application to register to vote. *See* NRS 293.530(1)(g);
7 *see also Common Cause/New York v. Brehm*, 344 F. Supp. 3d 542 (2018) (placement of voter on
8 “inactive status” after mail sent to voter was returned as undeliverable, which results in voter’s
9 name removed from the official poll book at his voting precinct, so that his name only appeared
10 on list of voters maintained by the elections board, *did not amount to voter’s removal from*
11 *“official list of eligible voters,”* as would violate NVRA). Accordingly, Secretary Aguilar is
12 simply incorrect in his “opinion” and legal analysis of the National Voter Registration Act.

13 NRS 293.535 and NRS 293.530 are clear and unambiguous and require Respondents to
14 send notice to the challenged registrants upon the filing of an affidavit. Respondents refuse to
15 satisfy their obligations under Nevada Law and accordingly, a Writ of Mandamus must be issued
16 to require the Respondents to provide notice under NRS 293.535 and NRS 293.530. Additionally,
17 the Court should declare that the statute requires Respondents to undertake the requirements of
18 NRS 293.535 and NRS 293.530 immediately, and in the future.

19 Petitioners are more than likely to succeed on the merits of their Petition and injunctive
20 relief should be granted.

21 B. *Petitioners will Suffer Irreparable Harm Without Injunction*

22 Petitioners will suffer irreparable harm if Respondents are not required to provide notice
23 to the challenged registrants before the general election on November 5, 2024, election. Indeed,
24 Respondents’ inaction have already caused irreparable harm to Petitioners and Nevada citizens
25 because Respondents’ failure to provide notice when they received the challenges have precluded
26 Petitioners from obtaining the protections of NRS 293.535 and NRS 293.530, by having the
27 challenged registrants designated “inactive” and thus, not entitled to receive a mail-in ballot
28 delivered to an address where they no long live or reside.

1 Additionally, the purpose of the challenges will be defeated if Respondents are not required
2 to provide notice to the challenged registrants prior to the November 5, 2024, general election,
3 because the notice will not be timely to have the registrant’s registration cancelled after the 2026
4 general election if the registrant fails to respond to the challenge. *See* NRS 293.530(1)(c)(4).

5 C. *The Balance of Hardships Favors Injunctive Relief*

6 When balancing the hardships of the parties, and the public, injunctive relief is still
7 warranted, especially because Respondents will suffer no harm by having to send notices to the
8 challenged registrants. Indeed, Storey County has already acknowledged that the notices have
9 been prepared but have not been sent out. *See* Burdish Decl. Exhibit 1. The public has a right to
10 make sure the voter rolls are clean and that if an individual has moved out of the State or to a
11 different location in Nevada, the registration will be cancelled after the allowable time.

12 The balance of hardships to registrants being challenged is also minimal, if there is a
13 hardship at all. Indeed, the registrants will receive notice that they have been challenged and
14 depending on their circumstances, can take several actions, including responding to the notice
15 and/or voting at any election up to the 2026 general election. The challenged registrant can also
16 do nothing.

17 D. *Posting of Minimal Bond is Appropriate*

18 Given Petitioners likelihood of success on the merits of claims, coupled with the absence
19 of harm to respondents, *See Ticketmaster LLC v. RMG Techs., Inc.*, 507 F. Supp. 2nd 1096, 1116.
20 “A bond may not be required, or maybe minimal, when the harm to the enjoined party is slight or
21 where the movant has demonstrated the likelihood of success.”); *see also Connecticut Gen. Life*
22 *Ins. Co. v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9th Cir. 2003) (“The district is afforded
23 wide discretion in setting of the bond,... and the bond amount may be zero if there is no evidence
24 the party will suffer damages from the injunction.” Here, no bond is warranted given that
25 Respondents will suffer no damages if injunction relief is granted. No bond is also appropriate at
26 this time as the court may always increase the amount of the bond during dependency of the
27 injunction if the facts and circumstances so warrant. Petitioners therefore respectfully request that
28 this Court set the bond at zero or a minimal bond amount of One Thousand Dollars (\$1000.00).

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VI. CONCLUSION

Because petitioners are likely to succeed on the merits and will suffer irreparable harm if such relief is not granted. Petitioners respectfully request that this court enter a preliminary injunction, and advance that matter to trial for a decision on Petitioners Writ of Mandamus, Declaratory Relief, and for a Permanent Injunction that will confirm and require Respondents to provide notice to each of the challenge registrant, to attach the affidavit filed by Petitioner, and to follow the requirements under NRS 293.530 if, and when, the challenged registrant fails to response to the notice. Notice to the challenged registrants should be sent within two (2) days of this Court's Order.

Additionally, considering Respondents' failure to satisfy their obligations under NRS 293.535 and NRS 293.530, Petitioners request that the Court require Respondents to remove any mail-in ballot that they receive from any of the challenged registrants until such time as the Respondents can confirm the challenged registrant is eligible to vote, and in fact, the ballot was voted by the challenged registrant. Indeed, under NAC 293.412, an inactive voter is only entitled to mail in ballot if one is requested pursuant to NRS 293.313 or 293 C310 or a military-overseas ballot pursuant to chapter 293D of NRS. Also, the inactive voter can vote in person at a polling place in the same manner as an active voter. The segregation of these ballots is necessary to protect the integrity of the election since Respondent failed to act accordingly.

Dated: September 25, 2024

THE O'MARA LAW FIRM, P.C.



DAVID C. O'MARA, ESO.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of The O'Mara Law Firm, P.C., 311 E. Liberty
3 Street, Reno, Nevada 89501, and on this date I served a true and correct copy of the foregoing
4 document on all parties to this action by U.S. Mail and email.
5

6 Jason Woodbury
7 Carson City District Attorney
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Anne M. Langer
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10 DATED: September 25, 2024

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13 BRYAN SNYDER
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