

1 THE O'MARA LAW FIRM, P.C.  
2 David C. O'Mara, Esq.,  
3 NV Bar 08599  
4 311 E. Liberty Street  
5 Reno, Nevada 89501  
6 775.323.1321  
7 [david@omaralaw.net](mailto:david@omaralaw.net)

8 *Counsel for Petitioners*

9  
10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
11 **IN AND FOR THE COUNTY OF WASHOE**

12 CITIZENS OUTREACH FOUNDATION,  
13 CHARLES MUTH, Individually,

14 *Petitioners,*

15 v.

16 CARI ANN BURGESS, in her official  
17 capacity as interim Washoe County  
18 Registrar of Voters,

19 *Respondent.*

Case No.: CV24-02182

Dept. No.: 3

**MOTION FOR PRELIMINARY  
ENJOINCTION AND TO ADVANCE THE  
TRIAL ON THE MERITS**

20 Plaintiffs, Citizens Outreach Foundation, and Charles Muth ("Plaintiffs"), by and through  
21 their counsel of record, David C. O'Mara, Esq., and The O'Mara Law Firm, P.C., hereby move  
22 this court for entry of a preliminary injunction, pursuant to NRCP 65 and NRS 33.010, requiring  
23 respondents to notify, pursuant to NRS 293.530, each registrant who has been challenged under  
24 NRS 293.535. This motion is made and based upon the following Memorandum of Points and  
25 Authorities, with attached exhibits, the Declarations of Charles Muth in support of the Motion for  
26 Preliminary Injunction, and any papers on pleadings on file herein and is brought in good faith.  
27 Plaintiffs are requesting an expedited briefing schedule and will be filing an ex parte motion for  
28 order shortening time as Petitioners have provided notice of its intent at 2:40 p.m. on September  
26, 2024. Additionally, Petitioners will be seeking to advance the matter on its merits when a  
hearing is scheduled on the preliminary injunction.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. BACKGROUND**

3 On or about July 29, 2024, Petitioners, and specifically, Mr. Muth, submitted and filed  
4 properly processed challenges to almost every Nevada County Registrar/Clerk, including Clark  
5 County. At this time, several county clerks/registrars promptly and properly processed these  
6 challenges.

7 Petitioners have provided the following challenges in Washoe County: (1) 5,293 challenges  
8 to registrants who have moved within their county of registration but out of the precinct they were  
9 registered; (2) 593 challenges to registrants who have moved from one Nevada county to another  
10 Nevada county; (3) 4,575 challenges to registrants who have moved out of Nevada, (4) 588  
11 challenges to registrants who have moved out of Nevada and registered to vote in another states,  
12 and (5) 14 challenges to registrants who have moved out of Nevada and registered to vote and  
13 voted in another state. In all, the total number of challenges in Washoe County was 11,063.

14 Upon information and belief, the Respondent, on behalf of Clark County, has not, and did  
15 not process any of the challenges filed.

16 On August 27, 2024, the Nevada Secretary of State issued a private memorandum to  
17 Nevada’s 17 County Clerks and Registrars providing “guidance” on the “personal knowledge”  
18 required to challenge a registered voter pursuant to NRS 293.535 and NRS 293.547.

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

20 The purpose of this motion is to require Respondent to satisfy their duties under Nevada  
21 Law regarding their legal obligation to process several hundred challenges filed pursuant to NRS  
22 293.535. Under NRS 293.535, Respondent is required to notify the challenged registrants, pursuant  
23 to NRS 293.530, that the registrant has been challenged under Nevada law. This matter concerns  
24 the Respondent’s failure to process challenges and notify registrants that have been challenged and  
25 the subsequent irreparable harm caused by Respondent’s failure to timely provide notice.  
26 Respondent has failed to protect Petitioners and the citizens of Nevada, and the integrity of the  
27 election process. Indeed, had Respondent sent the notices, as required, then the protections  
28 afforded to Nevada citizens would be in place prior to the start of voting in the 2024 Nevada

1 general election. *See* NRS 293.530(g) (“[i]f a voter fails to return the postcard mailed pursuant to  
2 paragraph (c) within 30 days, the county clerk shall designate the voter as inactive on the voter’s  
3 application to register to vote.”) Because of Respondent’s failures, various protections will not be  
4 in place when mail in ballots are sent out to Nevada voters. Instead, the ballots will be mailed to  
5 addresses for the challenged registrants when these challenged registrants should be placed on the  
6 “inactive” voter list. Nevada law requires that **only active voters** will receive a mail in ballot. *See*  
7 NRS 293.269911 (“the county clerk shall prepare and distribute to each active registered voter in  
8 the county...a mail ballot for every election”)

9 At this time, the only protections that will be afforded to Petitioners and the citizens of  
10 Nevada are that (1) notice will be given to the challenged registrant that their registration will be  
11 cancelled if they do not vote in an election before or during the 2026 general election, and (2) the  
12 challenged voter will be placed on the “inactive” list on Election Day. If the challenged voter does  
13 not vote in any election after notice, then the challenged voter will be removed from the voter rolls  
14 after the 2026 general election.

15 For these protections to be implemented, Respondent must be required to mail the notice  
16 to the challenged registrant no later than October 1, 2025. Even if the Court is unable to render a  
17 decision before October 1, 2024, the Court should require the Respondent to send the notices  
18 immediately, and at no time, should the notices be sent after November 1, 2024, as failure to send  
19 the notices by this date will further damages Petitioners and Nevada citizens because notice must  
20 be mailed (3) days before the general election so that the period of time to have the challenged  
21 registrant removed from the voter rolls, as required under NVRA starts at the 2024 general election  
22 and not the 2026 general election. *See* NRS 293.530(1)(c)(1-4) (“If the registrant fails to respond  
23 **or appear to vote** within the time required, the county clerk shall cancel the registration.”) and  
24 293.535(2).

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

1 the inactive voter list. Petitioners had no reason to believe that that Respondent would not process  
2 the challenges and were not involved in the Secretary of State’s decision to direct the Respondent  
3 not to process the challenges. More importantly, it is worth noting that Humboldt County and  
4 Lander County are processing the affidavits and sending notice to the challenged registrants even  
5 after the Secretary of State issued his directive. As of the filing of this motion, the Secretary of  
6 State has taken no action against those counties to stop them from satisfying their duty and  
7 obligation under the law.

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

### 10 **III. FACTUAL BACKGROUND**

11 On or about July 29, 2024, Petitioners, and specifically, Mr. Charles Muth, submitted and  
12 filed properly formatted challenges to almost every Nevada County Registrar/Clerk, including  
13 Clark County. At this time, several county clerks/registrar promptly and properly processed these  
14 challenges. Upon information and belief, Respondent did not process any of the challenged filed.

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 the Clerks/Registrars and was not provided to either Petitioner or the County. Petitioners were  
23 never notified of the secret memorandum, or that several Registrars/Clerks have followed the  
24 Secretary of State’s directive and have stopped processing the challenges or continue to refuse to  
25 process the challenges.

26 On September 8, 2024, Petitioners sent an “Open Letter to Nevada Secretary of State” to  
27 Secretary Aguilar setting forth Petitioners response to the private memorandum, and the telephone  
28 discussion between Mr. Muth and Secretary Aguilar. *See* Muth Decl. Exhibit 2. As of the filing

1 of this litigation, Petitioners have received no response from the Secretary of State, but instead,  
2 received a response from the Attorney General’s Office stating, “*We are in receipt of said written*  
3 *communications. As counsel for the Secretary of State’s Office, we will review these*  
4 *communications and, as needed, respond to you.*”

5 See Muth Decl. Exhibit 3.

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

9 Upon information and belief, it appears that Humboldt County has rejected the Secretary of  
10 State’s directive and will continue to allow the properly filed challenges to be processed.  
11 According to Kevin Pasquale, Humboldt County District Attorney, he “*gave my opinion to our*  
12 *County Clerk several weeks ago, I reviewed that opinion earlier today, further discussed it with*  
13 *her, and see no reason to alter it.*”

14 Upon information and belief, it also appears that Lander County also properly processes  
15 the valid challenges. According to William E. Schaeffer, District Attorney for Lander County, he  
16 is “*in agreement with my colleague, Mr. Pasquale, in Humboldt County. As far as I know, our*  
17 *Clerk is going ahead and looking at the challenges and following up on them...she’s sending*  
18 *out letters checking on the status.*”

19 Pershing County Clerk, Lacey Donaldson advised Petitioners on September 11, 2024, that  
20 “*Pershing County is in receipt of your Challenges from August 29<sup>th</sup> and September 10.*  
21 *Following guidance from my District Attorney, the Nevada Secretary of State, and the Nevada*  
22 *Attorney General’s office, we will not be processing these challenges at this time.*”

#### 23 IV. LEGAL STANDARD

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

3 When obtaining a preliminary injunction, the movement must show a "reasonable  
4 likelihood of success on the merits," as well as demonstrate that it will be subjected to irreparable  
5 harm for which no adequate remedy at law exists should the relief not be granted. NRCP 65(b);  
6 *Excellence Com. Mgmt., LLC, v. Gilmore*, 131 Nev. 347, 350-51, 351 P.3d 720, 722 (2015); *Pickett*  
7 *v. Comanche Construction, Inc.*, 108 Nev. 422, 426, 836 P.2d 42 (1992); *Dixon v. Thatcher*, 103  
8 Nev. 414, 415, 743 P.2d 1029, 1029 (1987). "In considering preliminary injunctions, courts also  
9 weigh the potential hardships to the relative parties and others, and the public interest. *Univ. &*  
10 *Cmty. Coll. Sys. of Nevada v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187  
11 (2004).

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

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

## 20 V. LAW AND ARGUMENT

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

25 Applying these factors, this Court should enter an order requiring Respondent to send the  
26 notice and copy of the affidavit to the challenged voter pursuant to NRS 293.530. Respondent is  
27 required to provide such notice, and by directing Respondent to do so during the pendency of the

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1 litigation, the Court will preserve the status quo and protect the interests of the parties during this  
2 litigation.

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

4 Petitioners are seeking a Writ of Mandamus requiring Respondent to properly process the  
5 challenges of a registrant pursuant to NRS 293.535, to have the Respondent provide notice to the  
6 registrant of the challenge pursuant to NRS 293.53, upon which, after receiving or not receiving  
7 a response from the challenge registrant, follow the requirements for NRS 293.530<sup>1</sup>.  
8 Additionally, Petitioners are seeking Declaratory Relief that upon the filing of an affidavit,  
9 Nevada law requires County Clerks and Registrar of Voters to “notify the registrant in the  
10 manner set forth in NRS 293.530.”

11 NRS 293.535 specifically requires that Respondents  
12 shall notify a registrant if an elector or other reliable person files an affidavit with  
13 the county clerk stating that,  
14 ...

14 (b) the registrant has:

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

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

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

21 NRS 293.535 is clear and unambiguous, and thus, the Court must start its statutory analysis with  
22 the plain meaning rule. *See We the People Nevada v. Secretary of State*, 124 Nev. 874, 881, 192  
23 P.3d 116, 1170-71 (2008). If the Legislature’s intention is apparent from the face of the statute,  
24 ***as it is in this case***, there is no room for construction, and the Court must give the statute the plain

26 \_\_\_\_\_  
27 <sup>1</sup> 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 id a party will be seeking such relief  
in the action.

1 meaning. *See Madera v. SIIS*, 114 Nev. 253, 257, 956 P.2d 117, 120 (1998); *see also McKay v.*  
2 *Bd. of Supervisors*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986) (when a statute is facially clear,  
3 a court should not go beyond its language in determining its meaning.); *Las Vegas Taxpayer*  
4 *Comm. v. City Council*, 125 Nev. 17, —, 208 P.3d 429, 437 (2009) (explaining that a statute's  
5 meaning is plain when it is “facially clear”).

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

23 As such, Respondent has no authority to withhold the notice to the challenged registrant  
24 because of the arbitrary and unsupported decision of the Secretary of State, especially when the  
25 Secretary of State failed to promulgate regulations as required.<sup>2</sup> The Court must direct Respondent  
26

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27 <sup>2</sup> It is not appropriate for the Court to give any deference to the Secretary’s interpretation when he  
28 failed to promulgate regulations pursuant to NRS 293.247. *See Nevada State Democratic Party .v*  
*Nevada Republican Party*, 256 P.3d 1 (2011), citing *Jefferson v. U.S.*, 546 F.3d 477 (7<sup>th</sup> Cir. 2008)



1 to satisfy her obligations under the law and require Respondent to provide notice under NRS  
2 293.540.

3           Additionally, even if the Court determines that Respondent must make a cursory review of  
4 the affidavit to determine if the Elector or reliable person has “personal knowledge,” Petitioners,  
5 in this case have personal knowledge of the facts set forth in the affidavit. Indeed, Mr. Muth has  
6 stated in the affidavit that “I have ‘personal knowledge of the facts set forth’ in this affidavit” as  
7 required by the statute. *See* Muth Decl. Exhibit 5. Additionally, Mr. Muth set forth that he has  
8 reviewed relevant business records by reviewing the National Change of Address (NCOA)  
9 database maintained by the United States Postal Service (USPS). *Id.*

10           “A review of relevant business records can be the basis for personal knowledge in  
11 affidavits.” *See Kroll v. Incline Village General Improvement Dist.* 130 Nev. 1206 (2014) *citing*  
12 *Vote v. United States*, 753 F. Supp. 866, 868 (D. Nev. 1990) (holding an IRS officer’s review of a  
13 taxpayer’s file met the “personal knowledge” requirement of FRCP 56(e)); *Washington Cent. R.R.*  
14 *Co., Inc. v. Nat’l Mediation Bd.*, 830 F. Supp. 1343, 1353 (E.D. Wash. 1993) (holding “personal  
15 knowledge can come from review of the contents of files and records.). The Secretary Aguilar  
16 confirms that “[o]ne way to satisfy the general requirements [of NVRA] is to rely on the change-  
17 of-address information supplied by the U.S. Postal Service (NCOA Data). 52 U.S.C. §  
18 20507(c)(1). *See* Muth Decl., Exhibit 1. Moreover, the testimony regarding AB 652 in 1991, by  
19 Mr. Elliot was that the U.S. Postal Service’s National Change of Address Program, which utilized  
20 the best information available to keep up with ever-moving voters. *See* Muth Declaration, Exhibit  
21 6, page COF0014.

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

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28 (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.)

1 Secretary Aguilar made a political decision to direct Respondent not to fulfill her duties  
2 under the law and then cherry-picked various statements during legislative testimony in order to  
3 justify his legally deficient analysis and opinion. Secretary Aguilar’s opinion and directive is not  
4 supported by the clear and plain language of the statute and legal authority.

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

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

24 Petitioner’s actions do not constitute a systematic removal of the names of ineligible voters  
25 from the official lists of eligible voters by the State. More importantly, the results of Petitioners’  
26 actions do not remove any registrant from the “official eligible list.” Indeed, upon filing the  
27 affidavit, Respondent is required to send a notice, with the affidavit, to the challenged registrant.  
28 *See* NRS 293.530. Only after the challenged registrant fails to respond to the notice, does the

1 challenged registrant get designated as inactive on the voter’s application to register to vote. *See*  
2 NRS 293.530(1)(g); *see also Common Cause/New York v. Brehm*, 344 F. Supp. 3d 542 (2018)  
3 (placement of voter on “inactive status” after mail sent to voter was returned as undeliverable,  
4 which results in voter’s name removed from the official poll book at his voting precinct, so that  
5 his name only appeared on list of voters maintained by the elections board, ***did not amount to***  
6 ***voter’s removal from “official list of eligible voters,”*** as would violate NVRA). Accordingly,  
7 Secretary Aguilar is simply incorrect in his “opinion” and legal analysis of the National Voter  
8 Registration Act.

9 NRS 293.535 and NRS 293.530 are clear and unambiguous and require Respondent to send  
10 notice to the challenged registrants upon the filing of an affidavit. Respondent refuses to satisfy  
11 her obligations under Nevada Law and accordingly, a Writ of Mandamus must be issued to require  
12 Respondent to mail out notice to the challenged registrant, pursuant to NRS 293.535 and NRS  
13 293.530. Additionally, the Court should declare that the statute requires Respondent to undertake  
14 the tasks required pursuant to NRS 293.535 and NRS 293.530, and in the future.

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

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

18 Petitioners will suffer irreparable harm if Respondent continues to skirt her duties and  
19 obligations and does not provide notice to the challenged registrants before the general election  
20 on November 5, 2024. Indeed, Respondent’s inaction has already caused irreparable harm to  
21 Petitioners and Nevada citizens because Respondent’s failure to provide notice when they  
22 received the challenges have precluded Petitioners from obtaining the protections of NRS  
23 293.535 and NRS 293.530, by having the challenged registrants designated “inactive” and thus,  
24 not entitled to receive a mail-in ballot delivered to an address where they no longer live or reside.

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

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

2                   When balancing the hardships of the parties, and the public, injunctive relief is still  
3 warranted, especially because Respondent will suffer no harm by having to send notices to the  
4 challenged registrants. Indeed, Humboldt County and Lander County have already processed the  
5 challenges, and Storey County had already acknowledged that the notices had been prepared but  
6 have not been sent out because of the Secretary of State’s faulty opinion. The public has a right  
7 to make sure the voter rolls are clean and that if an individual has moved out of the State or to a  
8 different location in Nevada, the registration will be placed in inactive status and will thereafter be  
9 cancelled after the allowable time.

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

15                   D.       *Posting of Minimal Bond is Appropriate*

16                  Given Petitioners’ likelihood of success on the merits of claims, coupled with the absence  
17 of harm to respondents, *See Ticketmaster LLC v. RMG Techs., Inc.*, 507 F. Supp. 2<sup>nd</sup> 1096, 1116.  
18 “A bond may not be required, or maybe minimal, when the harm to the enjoined party is slight or  
19 where the movant has demonstrated the likelihood of success.”); see also *Connecticut Gen. Life*  
20 *Ins. Co. v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9<sup>th</sup> Cir. 2003) (“The district is afforded  
21 wide discretion in setting of the bond,... and the bond amount may be zero if there is no evidence  
22 the party will suffer damages from the injunction.” Here, no bond is warranted given that  
23 Respondent will suffer no damages if injunction relief is granted. No bond is also appropriate at  
24 this time as the court may always increase the amount of the bond during dependency of the  
25 injunction if the facts and circumstances so warrant. Petitioners therefore respectfully request that  
26 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 Respondent 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 Respondent’s failure to satisfy their obligations under NRS 293.535 and NRS 293.530, Petitioners request that the Court require Respondent to remove any mail-in ballot that they receive from any of the challenged registrants until such time as the Respondent can confirm that 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 a mail 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.

**AFFIRMATION**  
(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document filed in the above referenced matter does not contain the social security number of any person.

Dated: September 26, 2024

THE O’MARA LAW FIRM, P.C.

/s/ David C. O’Mara  
DAVID C. O’MARA, ESQ.  
311 E. Liberty Street  
Reno, Nevada 89501  
[david@omaralaw.net](mailto:david@omaralaw.net)

*Attorney for Petitioners*

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:

- 5  Via Email (Elizabeth Hickman)  
6 \_\_\_\_\_ Electronically through the Court's Electronic Filing System  
7 \_\_\_\_\_ U.S. Mail (Both)  
8

9 WASHOE COUNTY DISTRICT ATTORNEY  
10 Elizabeth Hickman, Esq.  
11 One South Sierra Street  
12 Reno, Nevada 89501

*Attorney for Cari-Ann Burgess*

WASHOE COUNTY REGISTRAR OF  
VOTERS  
Cari Ann Burgess  
1001 E. 9<sup>th</sup> St, Bldg A  
Reno, Nevada 89512

13 DATED: September 26, 2024

\_\_\_\_\_  
14 /s/ Bryan Snyder  
BRYAN SNYDER

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