

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

DANIEL BRAVO (NV Bar No. 13078)

2 **BRAVO SCHRAGER LLP**

3 6675 South Tenaya Way, Suite 200

Las Vegas, NV 89113

4 (702) 996-1724

bradley@bravoschrager.com

5 daniel@bravoschrager.com

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

7 **ELIAS LAW GROUP LLP**

50 Massachusetts Ave NW, Suite 400

8 Washington, DC 20001

Tel: (202) 968-4490

9 dfox@elias.law

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

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

15 CITIZEN OUTREACH FOUNDATION,  
16 CHARLES MUTH, individually,

17 Petitioners,

18 v.

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

21 Respondents,

Case No.: 24EW000201B

Dept. No.: 1

**MOTION TO INTERVENE AS**  
**RESPONDENTS**

22  
23 Pursuant to Nevada Rule of Civil Procedure 24, Proposed Intervenor-Respondents RISE,  
24 Institute for a Progressive Nevada, and the Nevada Alliance for Retired Americans (“Proposed  
25 Intervenor-Respondents”), by and through their attorneys, move to intervene as respondents in the above-titled  
26 action. Pursuant to 1st Judicial District Rule 3.7(b), I conferred with counsel to Petitioners and  
27 Respondents on September 26 by telephone and/or email. Petitioners did not respond. Respondent  
28

1 Hoen did not object to intervention. Respondent Hindle did not object to intervention.

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

5 DATED this 26th day of September, 2024.

6 By: 

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

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

13 *Attorneys for Proposed Intervenor-*  
14 *Respondents RISE, Institute for a Progressive*  
15 *Nevada, and the Nevada Alliance for Retired*  
16 *Americans*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

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

5 Petitioners ask this Court to upend Nevada’s established voter-challenge rules by requiring  
6 Respondents to process hundreds of improper voter challenges in Carson City and Storey  
7 County—and thousands more across the state—in the middle of this year’s general election: after  
8 military and overseas ballots have already been mailed, while mail ballots are being delivered to  
9 Nevada residents located out-of-state, and just weeks before mail ballots are sent to every  
10 registered Nevada voter who has not opted out and the start of early voting. Such an order would  
11 threaten electoral chaos, burdening already overburdened election officials with mass unfounded  
12 challenges and threatening improperly challenged voters with movement to inactive status—and  
13 therefore removal from the list of voters who will receive mail ballots—just as ballots are being  
14 mailed, completed, and returned.

15 There is no legal basis for Petitioners’ belated lawsuit. As the Secretary of State explained  
16 to counties a month ago, voter challenges under NRS 293.535 may be brought only by someone  
17 with “personal knowledge of the facts” on which the challenge is based—specifically, facts that  
18 the challenged registrant either (1) has permanently moved and established a new residence outside  
19 of the county with the intention to remain there, or (2) is not a U.S. citizen. NRS 293.535(1); *see*  
20 *Pet. Ex. 1* at 1. The hundreds of challenges submitted by Petitioners facially do not meet that  
21 standard: they allege knowledge only of what appears in the “National Change of Address”  
22 database, and not any *personal* knowledge that the challenged registrants have in fact permanently  
23 moved out of the county with the intent to remain there. *See Pet. Ex. 5*. The Secretary of State  
24 properly advised Respondents to reject these challenges, and Respondents properly did so.

25 The Court should allow Proposed Intervenors to intervene to defend Respondents’ actions  
26 and the Secretary’s guidance. A contrary ruling from this Court would severely harm Proposed  
27 Intervenors by threatening their members’ and constituents’ voting rights and requiring Proposed  
28 Intervenors to expend substantial resources to educate voters, protect them from baseless attacks

1 on their eligibility, and help them re-register to vote if they are removed or made inactive. No  
2 existing party adequately protects Proposed Intervenors' interests in this case. Proposed  
3 Intervenors are accordingly entitled to intervene in this case as a matter of right under Rule  
4 24(a)(2). In the alternative, the Court should grant Proposed Intervenors permissive intervention  
5 pursuant to Rule 24(b).<sup>1</sup>

## 6 BACKGROUND

### 7 I. Statutory Background

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

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

27 \_\_\_\_\_  
28 <sup>1</sup> As Rule 24(c) requires, Proposed Intervenors' proposed answer is **Exhibit 1** hereto.

1 names of ineligible voters from the official lists of eligible voters” no “later than 90 days prior to  
2 the date of a primary or general election for Federal office.” *Id.* § 20507(c)(2)(A). Federal law  
3 therefore prohibits all such removal programs until after the November 2024 election.

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

5 This lawsuit represents the latest twist in Petitioners’ years-long effort, which they call the  
6 “Pigpen Project,” to remove Nevada voters from the voter rolls based on Petitioners’ review of  
7 various third-party and government databases.<sup>2</sup> Petitioners’ effort is flawed to its core because  
8 Nevada law makes list maintenance the responsibility of county officials, not third-party groups,  
9 and provides only narrow avenues—the two challenge statutes, NRS 293.535 and .547—for third  
10 parties to contribute to those efforts. Petitioners therefore sought to package their review of  
11 databases into voter challenges, and on July 29, 2024, they filed almost 4,000 challenges under  
12 NRS 293.535 across the state,<sup>3</sup> including 480 in Carson City and 44 in Storey County. Pet. ¶¶ 1,  
13 30–32. On August 27, 2024, the Secretary of State advised county clerks in Memo 2024-026 that  
14 voter challenges must be based on “firsthand knowledge through experience or observation” and  
15 that challenges based on “review of data from databases or compilations of information” were  
16 therefore invalid. Pet. Ex. 1 at 1, 3 (quoting NAC 293.416(3)). Counties across the state therefore  
17 rejected Petitioners’ challenges, and in the last week, Petitioners have brought three mandamus  
18 actions—in this Court and in Clark and Washoe Counties—to compel counties to process them.

## 19 **III. Proposed Intervenors**

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

25  
26 <sup>2</sup> *See generally* Chuck Muth, *Follow-Up: My Conversation with NV SOS Aguilar*,  
27 PigPenProject.com (Aug. 29, 2024), <https://pigpenproject.com/blog/follow-up-my-conversation-with-nv-sos-aguilar/>.

28 <sup>3</sup> *See id.*

1 *Id.* ¶¶ 5, 16. To build political support for its policy goals, including gun safety issues, student debt  
2 relief, and financial assistance, Rise organizes and educates its student constituents at University  
3 of Nevada, Las Vegas, University of Nevada, Reno, Nevada State University, and College of  
4 Southern Nevada about the 2024 general election. *Id.* ¶¶ 8–10, 12–18. Rise runs programs on  
5 campus to register students to vote and to ensure that students *stay* registered and are able to vote.  
6 *Id.* ¶ 16. Rise’s goal is to reach each student three to five times, on the phone or in person, by the  
7 election. *Id.*

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

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

28         Petitioners’ suit is a direct affront to IPN’s mission to empower all Nevadans to vote.

1 Petitioners seek to compel Respondents to begin the process of removing voters from the rolls  
2 based on challenges that are unsupported by any actual personal knowledge that the voter is  
3 ineligible. Should Petitioners succeed, IPN would have to retool its voter guide to inform voters  
4 why their registration might be challenged and how to confirm their registration status, and it  
5 would have to refocus its limited advertising to spread awareness about the need for voters to check  
6 their registration and potentially re-register. *Id.* ¶¶ 5–7 These efforts would pull from IPN’s limited  
7 financial resources, likely making it more difficult to meet payroll for existing employees and  
8 reduce IPN’s ability to organize around other issues. *See id.*

9 **The Alliance.** The Alliance for Retired Americans is a nonpartisan 501(c)(4) membership  
10 organization dedicated to ensuring the social and economic justice and full civil rights of retirees,  
11 with a particular emphasis on safeguarding the right to vote. Decl. of Thomas Bird ¶¶ 3–4 (“Bird  
12 Decl.”) (attached as **Exhibit 4**). The Nevada Alliance for Retired Americans has roughly 20,000  
13 members. *Id.* ¶ 3. The Alliance organizes chapter meetings and speaks with members about key  
14 policy goals, such as preserving Social Security and Medicare. *See id.* ¶ 9.

15 Alliance members are disproportionately vulnerable to unfounded voter challenges like  
16 Petitioners’ because many retirees move within Nevada after retiring and many often travel out of  
17 state for long periods, during which time they may miss and fail to return a mailed notice regarding  
18 their registration status. *Id.* ¶¶ 5–6, 9. Furthermore, members who spend time caring for  
19 grandchildren at another family member’s home or enjoy retirement at a second home may miss a  
20 crucial notice of cancellation if that notice is sent only to the retiree’s home address. *See id.*  
21 Petitioners’ suit threatens the registration of the Alliance’s 20,000 members, including over a  
22 thousand members in Carson City and Storey County. *Id.* ¶ 3. If Petitioners succeed, the Alliance  
23 would be forced to refocus its efforts on preparing materials and presentations to educate its  
24 members about confirming their registration status, help them re-register if they are removed, and  
25 answer questions about the process. *Id.* ¶¶ 7–9. These efforts would take up scarce presentation  
26 and organizing time at chapter meetings and would frustrate the Alliance’s mission by diverting  
27 its resources from other essential tasks, such as advocating to lower the cost of prescription drugs,  
28 preserving Social Security and Medicare, and other voter education work. *Id.* ¶¶ 9–10.

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## STANDARD OF LAW

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

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

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

## ARGUMENT

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

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

#### **A. The motion is timely.**

First, the motion is timely. This motion comes just a week after Petitioners filed the Petition and before any substantive activity has occurred in the case. There has therefore been no delay, and there is no risk of prejudice to the other parties. *See In re Guardianship of A.M.*, No. 59116,



1 2013 WL 3278878, at \*3 (Nev. May 24, 2013); *Lawler*, 94 Nev. at 626, 584 P.2d at 669. And if  
2 the Court grants intervention, Proposed Intervenors will abide by any court-ordered schedule.

3 **B. Proposed Intervenors have significant protectable interests that may be**  
4 **impaired by this lawsuit.**

5 Proposed Intervenors also (1) have significant protectable interests in this lawsuit (2) that  
6 may be impaired by Petitioners' claims. "A 'significantly protectable interest' . . . [is] one that is  
7 protected under the law and bears a relationship to the plaintiff's claims." *Am. Home Assurance*  
8 *Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (en banc) (quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d  
9 794, 803 (9th Cir. 2002)). If a would-be intervenor "would be substantially affected in a practical  
10 sense by the determination made in an action, he should, as a general rule, be entitled to intervene,"  
11 *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 822 (9th Cir. 2001) (quoting Fed. R. Civ.  
12 P. 24 advisory committee note to 1966 amendment)). This interest requirement is less stringent  
13 than the injury required for standing. *See Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991).

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

21 In analogous cases, this Court and others have recognized similar interests as a proper basis  
22 for intervention. Earlier this year, this Court granted the Alliance's motion to intervene in a  
23 challenge to Nevada's deadline for the receipt by mail of unpostmarked ballots based on its  
24 assertion of similar interests. *See Order Granting Mot. to Intervene, Republican Nat'l Comm. v.*  
25 *Aguilar*, No. 24-OC-00101B (Nev. 1st Jud. Dist. Ct. June 14, 2024) ("*Aguilar Order*") (attached  
26 as **Exhibit 5**); *see also, e.g., Bellitto v. Snipes*, No. 16-cv-61474, 2016 WL 5118568, at \*2–3 (S.D.  
27 Fla. Sept. 21, 2016) (granting labor union intervention in suit seeking court-ordered voter list  
28 maintenance), *reconsideration denied*, 2016 WL 10518461 (S.D. Fla. Oct. 4, 2016); *Pub. Int.*

1 *Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799 (E.D. Mich. 2020) (granting organization  
2 intervention in suit seeking to compel city to take more aggressive measures to purge allegedly  
3 ineligible voters). Here, the Alliance similarly seeks to protect the voting rights of its 20,000 retiree  
4 members in Nevada, Bird Decl. ¶¶ 3–4, and Rise seeks to protect its constituency of politically  
5 marginalized students, Solomon Decl. ¶ 5.

6 *Second*, should Petitioners succeed in forcing Respondents to process unfounded voter  
7 challenges, Proposed Intervenors would face injury to their core missions, not least of all because  
8 policymakers are more likely to listen to the concerns of individuals who can and do vote. To  
9 reduce that injury, Petitioners would need to divert time and resources to helping their members  
10 and constituents verify—and, if necessary, renew—their voter registrations, taking resources away  
11 from Proposed Intervenors’ other priorities and harming their missions. IPN would have to update  
12 its voter registration platform to help voters determine if they have been removed or marked  
13 inactive and educate voters and help them confirm their registration status, to the detriment of its  
14 other projects. *See* Swartz Decl. ¶ 7. Rise would have to redirect its efforts away from educating  
15 students about loan repayment assistance and college aid plans and towards helping students  
16 confirm their registration status and re-register, which would harm Rise’s mission. Solomon Decl.  
17 ¶¶ 21–22. Similarly, the Alliance would have to use its limited volunteer resources to prepare and  
18 distribute materials educating its members on how to confirm their registration status, help them  
19 locate and respond to mailed notices, and help them re-register. *See* Bird Decl. ¶¶ 7–9. This effort  
20 will reduce the Alliance’s ability to organize its members on other key policy goals like protecting  
21 Social Security and Medicare. *See id.* ¶ 10.

22 “Once an applicant has established a significantly protectable interest in an action, courts  
23 regularly find that disposition of the case may, as a practical matter, impair an applicant’s ability  
24 to protect that interest.” *Venetian Casino Resort, LLC v. Enwave Las Vegas, LLC*, No. 2:19-CV-  
25 1197 JCM (DJA), 2020 WL 1539691, at \*3 (D. Nev. Jan. 7, 2020) (citing *California ex rel.*  
26 *Lockyer v. United States*, 450 F.3d 436, 442 (9th Cir. 2006)). Petitioners’ lawsuit seeks to compel  
27 county clerks to act on the unsubstantiated challenges of third parties, which would require  
28 Proposed Intervenors to divert resources to respond to this unwarranted attack on the rights of their

1 members and constituents. Accordingly, if Petitioners' suit succeeds, Proposed Intervenors'  
2 interests in their members' and constituents' voting rights as well as their interests in their own  
3 resources will be impaired. This criterion for intervention of right is accordingly satisfied.

4 **C. Respondent does not adequately represent Proposed Intervenors.**

5 Proposed Intervenors also satisfy the third requirement for intervention as of right because  
6 they cannot rely on the parties in this case to adequately represent their interests. "[T]he burden on  
7 proposed intervenors in showing inadequate representation is minimal, and would be satisfied if  
8 they could demonstrate that representation of their interests 'may be' inadequate." *Hairr v. First*  
9 *Jud. Dist. Ct.*, 132 Nev. 180, 185, 368 P.3d 1198, 1201 (2016) (quoting *Arakaki v. Cayetano*, 324  
10 F.3d 1078, 1086 (9th Cir. 2003)). Courts have "often concluded that governmental entities do not  
11 adequately represent the interests of aspiring intervenors." *Fund for Animals, Inc. v. Norton*, 322  
12 F.3d 728, 736 (D.C. Cir. 2003); *see also Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647  
13 F.3d 893, 899 (9th Cir. 2011) ("[T]he government's representation of the public interest may not  
14 be 'identical to the individual parochial interest' of a particular group just because 'both entities  
15 occupy the same posture in the litigation.'" (quoting *WildEarth Guardians v. U.S. Forest Serv.*,  
16 573 F.3d 992, 996 (10th Cir. 2009)))

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

1 have specific interests and concerns over the allocation of their limited resources to help members  
2 and constituents identify whether they have been removed from the rolls and help them re-register  
3 that no other party in this lawsuit shares. Proposed Intervenors therefore cannot rely on  
4 Respondents or anyone else to adequately represent their interests in this case.

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

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

12 For the reasons discussed *supra* Argument § I, Proposed Intervenors' motion is timely, and  
13 Proposed Intervenors cannot rely on Respondents to adequately protect their interests. Proposed  
14 Intervenors also have defenses to Petitioners' claims that share common questions of law and  
15 fact—for example, whether Petitioners have pleaded facts allowing a court to conclude that they  
16 have a clear legal right to the extraordinary remedy of mandamus and whether their claims are  
17 preempted by the NVRA. *See* Proposed Answer (attached as **Exhibit 1**). Intervention will not  
18 result in any undue delay or prejudice, because Proposed Intervenors have a strong interest in a  
19 swift resolution to this action to ensure that their members' and constituents' voting rights are  
20 protected, while simultaneously avoiding any unnecessary delay.

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

1 **CONCLUSION**

2 For the reasons stated above, Proposed Intervenors respectfully request that the Court grant  
3 their motion to intervene as a matter of right under Rule 24(a)(2) or, in the alternative, permit them  
4 to intervene under Rule 24(b).<sup>4</sup>

5 **AFFIRMATION**

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

8 DATED this 26th day of September, 2024.

9 By: 

10 Bradley S. Schrage (NV Bar No. 13078)  
11 Daniel Bravo (NV Bar No. 10217)  
12 **BRAVO SCHRAGER LLP**  
13 6675 South Tenaya Way, Suite 200  
14 Las Vegas, NV 89113

15 David R. Fox (NV Bar No. 16536)  
16 **ELIAS LAW GROUP LLP**  
17 250 Massachusetts Ave NW, Suite 400  
18 Washington, DC 20001

19 *Attorneys for Proposed Intervenor-*  
20 *Respondents RISE, Institute for a Progressive*  
21 *Nevada, and the Nevada Alliance for Retired*  
22 *Americans*

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27 <sup>4</sup> Alternatively, Proposed Intervenors request permission from the Court “to submit briefs  
28 on determinative issues as amici curiae.” *Hairr*, 132 Nev. at 188, 368 P.3d at 1203.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 26th day of September, 2024, a true and correct copy of the  
3 foregoing **Motion to Intervene as Respondents** was served via U.S.P.S. postage pre-paid, Las  
4 Vegas, Nevada as follows:

5 David C. O'Mara, Esq.  
6 **THE O'MARA LAW FIRM, P.C.**  
7 311 E. Liberty Street  
8 Reno, Nevada 89501

9 *Attorney for Petitioners*

10 Julie Harkleroad  
11 Judicial Assistant to  
12 Hon. James T. Russell  
13 First Judicial District Court, Dept. I

Jason Woodbury, Esq.  
885 East Musser Street, Suite 2030  
Carson City, Nevada 89701

14 [carson.org](http://carson.org)  
15 *Attorneys for Respondent,*  
16 *Scott Hoen*

17 Anne Langer, Esq.  
18 201 S. C St.  
19 P.O. Box 496  
20 Virginia City, Nevada 89440

21 [vccounty.org](http://vccounty.org)  
22 *Attorneys for Respondent,*  
23 *Jim Hindle*

24 By: *Dannielle Fresquez*  
25 Dannielle Fresquez, an Employee of  
26 BRAVO SCHRAGER LLP

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5	Order Granting Motion to Intervene	15

# EXHIBIT 1

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# EXHIBIT 1

1 BRADLEY S. SCHRAGER (NV Bar No. 10217)  
DANIEL BRAVO (NV Bar No. 13078)  
2 **BRAVO SCHRAGER LLP**  
6675 South Tenaya Way, Suite 200  
3 Las Vegas, NV 89113  
(702) 996-1724  
4 bradley@bravoschrager.com  
daniel@bravoschrager.com  
5

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

9 *Attorneys for Proposed Intervenor-*  
*Respondents RISE, Institute for a Progressive*  
10 *Nevada, and Nevada Alliance for Retired*  
*Americans.*  
11

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

14 CITIZEN OUTREACH FOUNDATION,  
CHARLES MUTH, individually,  
15

Petitioners,  
16

v.  
17

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

Respondents,  
20

Case No.: 24EW000201B  
Dept. No.: 1

**[PROPOSED] ANSWER TO PETITION  
FOR WRIT OF MANDAMUS**

22 Proposed Intervenor-Respondents RISE, Institute for a Progressive Nevada, and Nevada  
23 Alliance for Retired Americans (“Proposed Intervenor”), by and through their attorneys, submit  
24 the following Proposed Answer to Petitioners’ Petition for Writ of Mandamus (the “Petition”).  
25 Proposed Intervenor respond to the allegations in the Petition as follows:

26 **NATURE OF THE CASE**

27 1. Proposed Intervenor lack knowledge and information sufficient to form a belief as  
28



1 to the truth of the allegations in Paragraph 1 and therefore deny them.

2           2.       Proposed Intervenors lack knowledge and information sufficient to form a belief  
3 as to the truth of the allegations in Paragraph 2 and therefore deny them.

4           3.       Exhibit 1 to the Petition speaks for itself. Proposed Intervenors otherwise lack  
5 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph  
6 3 and therefore deny them.

7           4.       Proposed Intervenors lack knowledge and information sufficient to form a belief as  
8 to the truth of the allegations in Paragraph 4 and therefore deny them.

9           5.       Proposed Intervenors lack knowledge and information sufficient to form a belief as  
10 to the truth of the allegations in Paragraph 5 and therefore deny them.

11          6.       Exhibit 2 to the Petition speaks for itself. Proposed Intervenors otherwise lack  
12 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph  
13 6 and therefore deny them.

14          7.       Exhibit 3 to the Petition speaks for itself. Proposed Intervenors otherwise lack  
15 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph  
16 7 and therefore deny them.

17          8.       Exhibit 4 to the Petition speaks for itself. Proposed Intervenors otherwise lack  
18 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph  
19 8 and therefore deny them.

20          9.       Proposed Intervenors lack knowledge and information sufficient to form a belief as  
21 to the truth of the allegations in Paragraph 9 and therefore deny them.

22          10.      Proposed Intervenors lack knowledge and information sufficient to form a belief as  
23 to the truth of the allegations in Paragraph 10 and therefore deny them.

24          11.      Proposed Intervenors lack knowledge and information sufficient to form a belief as  
25 to the truth of the allegations in Paragraph 11 and therefore deny them.

26          12.      Proposed Intervenors lack knowledge and information sufficient to form a belief as  
27 to the truth of the allegations in Paragraph 12 and therefore deny them.

28



1 portion of NRS 293.530.

2 25. Proposed Intervenors admit that Paragraph 25 accurately quotes the excerpted  
3 portion of NRS 293.530, with added emphasis that does not appear in the statute.

4 26. Proposed Intervenors admit that Paragraph 26 accurately quotes the excerpted  
5 portion of NRS 293.530.

6 27. Proposed Intervenors admit that Paragraph 27 accurately quotes NRS 293.5303.

7 28. Paragraph 28 contains legal contentions, characterizations, conclusions, and  
8 opinions to which no response is required. To the extent a response is required, denied.

9 **COUNT I**

10 **Writ of Mandamus for Violation of the NRS 293.535 and 293.530**

11 29. Proposed Intervenors incorporate their responses to Paragraphs 1 through 28 as if  
12 set forth fully herein.

13 30. Exhibit 5 to the Petition speaks for itself. Proposed Intervenors otherwise lack  
14 knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph  
15 30 and therefore deny them.

16 31. Proposed Intervenors lack knowledge and information sufficient to form a belief as  
17 to the truth of the allegations in Paragraph 31 and therefore deny them.

18 32. Proposed Intervenors lack knowledge and information sufficient to form a belief as  
19 to the truth of the allegations in Paragraph 32 and therefore deny them.

20 33. Proposed Intervenors lack knowledge and information sufficient to form a belief as  
21 to the truth of the allegations in Paragraph 33 and therefore deny them.

22 34. Paragraph 34 contains legal contentions, characterizations, conclusions, and  
23 opinions to which no response is required. To the extent a response is required, denied.

24 35. Denied.

25 36. Proposed Intervenors admit that Petitioners purport to seek a writ of mandamus  
26 requiring Respondents to notify each registrant subject to the challenges that have been filed, but  
27 deny that Petitioners are entitled to any relief.

1 37. Proposed Intervenors admit that Petitioners purport to seek a declaratory judgment  
2 that Respondent is not in compliance with NRS 293.530 and NRS 293.675, but deny that  
3 Petitioners are entitled to any relief.

4 **COUNT II**

5 **Declaratory Relief**

6 38. Proposed Intervenors incorporate their responses to Paragraphs 1 through 37 as if  
7 set forth fully herein.

8 39. Proposed Intervenors admit that Paragraph 39 accurately quotes the excerpted  
9 portion of NRS 30.040(1).

10 40. Paragraph 40 contains legal contentions, characterizations, conclusions, and  
11 opinions to which no response is required. To the extent a response is required, denied.

12 41. Denied.

13 42. Denied.

14 **COUNT III**

15 **Injunctive Relief**

16 43. Proposed Intervenors incorporate their responses to Paragraphs 1 through 42 as if  
17 set forth fully herein.

18 44. Denied.

19 45. Denied.

20 46. Denied.

21 47. Denied.

22 48. Denied.

23 49. Paragraph 49 contains legal contentions, characterizations, conclusions, and  
24 opinions to which no response is required. To the extent a response is required, denied.

25 **GENERAL DENIAL**

26 Proposed Intervenors deny every allegation in the Petition that is not expressly admitted  
27 herein.

1 **AFFIRMATIVE DEFENSES**

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

8 Proposed Intervenors assert the following affirmative defenses:

9 Petitioners’ claim is preempted by the National Voter Registration Act.

10 Petitioners fail to plead facts showing a clear legal right to the extraordinary remedy of  
11 mandamus.

12 Petitioners are not entitled to a writ of mandamus because they have an alternate, adequate  
13 legal remedy available to them.

14 Petitioners’ claims are barred by the doctrine of laches.

15 Petitioners lack standing to pursue their claims.

16 Petitioners fail to state a claim on which relief can be granted.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Proposed Intervenors respectfully request that this Court:

- 19 A. Deny that Petitioners are entitled to any relief;
- 20 B. Dismiss the Petition in its entirety, with prejudice; and
- 21 C. Grant such other and further relief as the Court may deem just and proper.

22  
23 **AFFIRMATION**

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

1 DATED this 26th day of September, 2024.

2 By: /s/ Bradley Schrager

3 Bradley S. Schrager (NV Bar No. 13078)

4 Daniel Bravo (NV Bar No. 10217)

5 **BRAVO SCHRAGER LLP**

6 6675 South Tenaya Way, Suite 200

7 Las Vegas, NV 89113

8 David R. Fox (NV Bar No. 16536)

9 **ELIAS LAW GROUP LLP**

10 250 Massachusetts Ave NW, Suite 400

11 Washington, DC 20001

12 *Attorneys for Proposed Intervenor-*  
13 *Respondents RISE, Institute for a Progressive*  
14 *Nevada, and Nevada Alliance for Retired*  
15 *Americans.*

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# EXHIBIT 2

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# EXHIBIT 2

1 FIRST JUDICIAL DISTRICT COURT  
2 IN AND FOR CARSON CITY, STATE OF NEVADA  
3

4 CITIZEN OUTREACH FOUNDATION, and  
5 CHARLES MUTH, individually,

6 Petitioners,

7 v.

8 WILLIAM “SCOTT” HOEN, in his official  
9 capacity as Carson City Clerk and JIM  
10 HINDLE, in his official capacity as Storey  
11 County Clerk,

12 Respondents.

Case No. 24-EW-000201B

**DECLARATION OF CHRISTIAN  
SOLOMON**

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

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

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

17 3. I am currently the Nevada State Director of Rise Action Fund (“Rise”).

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

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

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



1 organization dedicated to promoting the interests of young people and students between the ages  
2 of 18 and 27—Rise’s core constituency. I was hired as State Director to build up Rise’s operations  
3 within the state. My role as State Director is a full-time paid position.

4 7. Rise operates based on an organizer model, meaning that we recruit and train  
5 organizers and part-time organizers (known as fellows), who then marshal and supervise  
6 volunteers in campaign actions meant to further our mission. We recruit and train student  
7 volunteers through what we call “Rise University” events, which train students about how to be  
8 civically engaged volunteers around our key organizational goals.

9 8. We currently have active programming at the University of Nevada, Las Vegas  
10 (“UNLV”), University of Nevada, Reno (“UNR”), Nevada State University (“NSU”), and College  
11 of Southern Nevada (“CSN”). Our Deputy State Director focuses on the Reno area, and we have  
12 field organizers, campus fellows, and student volunteers focused on each of these schools.

13 9. Rise currently has sixteen staff members, including six organizers at UNLV, six  
14 organizers at UNR, and two organizers for the Southern Nevada region, which includes NSU and  
15 CSN.

16 10. Many of our schools are commuter campuses, especially CSN and NSU, which  
17 have multiple locations. We have previously organized at Truckee Meadows Community College,  
18 which is a commuter campus near Carson City, and Great Basin College, also a commuter campus,  
19 and we run virtual programming to reach students in rural areas.

20 11. We run many of our digital programs to reach students statewide. For example, our  
21 Unleashing the Youth Wave Campaign is an informational and educational digital campaign that  
22 focuses on participative story-banking and trusted messenger videos to reach and engage Gen Z  
23 voters all over Nevada.

24 12. The Nevada chapter of Rise shares the national organization’s mission, and  
25 accordingly one of our major goals is educating Nevada students about various student aid, loan  
26 repayment, and debt relief programs. We have previously organized phone banks to educate  
27 students about debt assistance, repayment assistance, and debt forgiveness programs. We have also  
28 run a student debt clinic and continue to provide more targeted referrals and assistance to students.

1           13. Our Rise chapter has also made gun violence prevention a major objective.  
2 Tragically, our inaugural training on UNLV's campus coincided with a mass shooting event on  
3 UNLV's campus the very same day, resulting in the deaths of three people and forcing me, our  
4 other organizers, and our student volunteers into lockdown for several hours. In response to student  
5 concern about the issue of gun safety, we have organized campaigns to promote gun safety  
6 legislation in Nevada, including petitions, postcard campaigns, phonebanks, and other advocacy  
7 actions regarding gun violence.

8           14. We have supported bills that prompted lawmakers to provide security for all  
9 campuses and proposed legislation like ghost gun bans, prohibitions on firearms within 100 feet  
10 of polling locations, and raising the shotgun purchase age to 21.

11           15. We have also held advocacy workshops to train students on testifying on issues like  
12 gun violence prevention, housing accessibility, and climate action before the General Assembly.

13           16. It is also critical to Rise's effectiveness as an organization to harness student  
14 political power. Organizing and educating students ahead of the 2024 general election is therefore  
15 one of our major priorities for the year. We run extensive registration drives and Get Out the Vote  
16 operations on campuses. Our goal this year is to register 4,000 voters and collect 38,000 pledges  
17 to vote. We run phonebanking, texting, and digital campaigns to reach our voter registration and  
18 turnout goals, and our goal is to have our organizers and volunteers contact every student at UNLV  
19 and UNR at least three to five times before the election, whether through phone banking or direct  
20 communication on campus. We also organize and turn out voters around specific ballot questions,  
21 like Question 6 on the right to abortion, which is on the ballot this year.

22           17. Over 80% of UNLV's student population comes from in-state, so the students we  
23 register to vote will largely be Nevada voters. Those attending UNLV from out of state may also  
24 choose to register in Nevada as well, if they wish to make Nevada their residence. Similarly, over  
25 70% of UNR's student population is from Nevada; many are already or become Nevada voters as  
26 well.

27           18. UNR is just half an hour's drive from Carson City and much of Storey County, and  
28 it is the closest major university to both. Our organizers at UNR often encounter students from

1 Carson City and Storey County, including many students who continue to consider themselves  
2 Carson City or Storey County residents.

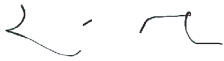
3 19. The lawsuit filed by Citizen Outreach Project and Charles Puth threatens Rise's  
4 mission and the work described above.

5 20. In particular, the lawsuit threatens the ability of Rise's constituency—students and  
6 younger people—to vote in the 2024 general election. Many college students live away from their  
7 family homes and voting residences for long periods of time while at school. They also frequently  
8 change their temporary residence while at school, for example by moving between dorm rooms or  
9 off campus apartments, while still maintaining a permanent residence with family. Due to this  
10 frequent moving, and long stretches away from their voting residence, students often do not receive  
11 mailed notices meant to advise them that their registration is at risk, and only learn later that they  
12 have been challenged. Similarly, many college students and young people establish new permanent  
13 residences on or near campus but move frequently within a small area while in school or starting  
14 their careers. These people remain eligible to vote in the same area, but also are likely to not receive  
15 election-related mail concerning their registration status. Any student voter who is challenged as  
16 a result of this lawsuit would risk never receiving a mail ballot, which is the most common and  
17 convenient method of voting in Nevada, diminishing the voting power of Rise's core constituency.

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

1           22. Both of these impacts would severely harm Rise’s mission. We cannot successfully  
2 realize our mission as an organization if our student constituents are not able to successfully cast  
3 a ballot and make their voices heard. Similarly, our ability to expand our work and operations in  
4 Nevada will be hampered if we have to respond to a large number of last minute mass challenges  
5 that are likely to disproportionately harm student voters.

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

7 

8 Executed on: 9/26/2024

9 Christian Solomon

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# EXHIBIT 3

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# EXHIBIT 3

1 FIRST JUDICIAL DISTRICT COURT  
2 IN AND FOR CARSON CITY, STATE OF NEVADA  
3

4 CITIZEN OUTREACH FOUNDATION, and  
5 CHARLES MUTH, individually,

6 Petitioners,

7 v.

8 WILLIAM “SCOTT” HOEN, in his official  
9 capacity as Carson City Clerk and JIM  
10 HINDLE, in his official capacity as Storey  
11 County Clerk,

12 Respondents.

Case No. 24-EW-000201B

**DECLARATION OF SHELBY  
SWARTZ**

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

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

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

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

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

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

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

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

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

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

26  
27 *Shelbie Swartz*

9/25/2024

Executed on: \_\_\_\_\_

28 Shelbie Swartz

# EXHIBIT 4

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# EXHIBIT 4



1 FIRST JUDICIAL DISTRICT COURT  
2 IN AND FOR CARSON CITY, STATE OF NEVADA  
3

4 CITIZEN OUTREACH FOUNDATION, and  
5 CHARLES MUTH, individually,

6 Petitioners,

7 v.

8 WILLIAM “SCOTT” HOEN, in his official  
9 capacity as Carson City Clerk and JIM  
10 HINDLE, in his official capacity as Storey  
11 County Clerk,

12 Respondents.

Case No. 24-EW-000201B

**DECLARATION OF THOMAS BIRD**

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

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

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

17 3. I am currently the President of the Nevada Alliance for Retired Americans (“The  
18 Alliance”), a non-partisan 501(c)(4) membership organization with roughly 20,000 members  
19 across the state of Nevada—825 of which are in Carson City and 235 of which are in Storey  
20 County—and with over 4.4 million members across the country. Our members are geographically  
21 diverse, spanning from Elko to Las Vegas and from Reno to Ely. They are also diverse in terms of  
22 age and profession. We serve both older retirees who are farther into their retirement and new  
23 retirees, who have only recently stopped working. Similarly, our retirees come from many different  
24 AFL-CIO affiliated unions, and worked in many different industries before their retirement.

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

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

3 5. Because our members are retired, they often relocate to assisted living facilities, to  
4 be closer to or to move in with family, or to transition into smaller homes for financial reasons.  
5 Many of them also frequently travel out of state to visit family or for personal travel. They are thus  
6 at particular risk of missing notifications by mail regarding their voter registration status.

7 6. Retirees are particularly likely to not receive mailed notices related to their voter  
8 registration status for the reasons outlined above. As a result, the acceptance of mass challenges  
9 of large numbers of Nevada voters that are not based on personal knowledge would undoubtedly  
10 and disproportionately impact the Alliance's members.

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

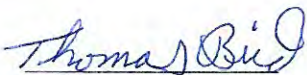
18 8. In our conversations with members, and through our materials, we would direct all  
19 members to confirm their registration status, help them locate and respond to mailed notices, and  
20 outline the steps they would need to take to get re-registered were they to discover they had been  
21 challenged.

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

1 efforts in Carson City and Storey County and maintain regular contact with our members in both  
2 counties, in person, prior to the upcoming election and ensure that all of our members are registered  
3 and remain registered to vote. Our members are also a very engaged group and are likely to have  
4 a lot of questions that would require time and resources to address.

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

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

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17 Thomas Bird

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Executed on: 9/26/24

# EXHIBIT 5

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# EXHIBIT 5

REC'D & FILED

2024 JUN 14 AM 8:47

WILLIAM SCOTT HOEN  
CLERK

BY *[Signature]*  
DEPUTY

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

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

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

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

15 REPUBLICAN NATIONAL COMMITTEE;  
16 NEVADA REPUBLICAN PARTY; DONALD  
J. TRUMP FOR PRESIDENT 2024, INC.;  
17 SCOTT JOHNSON,  
18 Plaintiffs,

Case No.: 24 OC 00101 B  
Dept. No.: 1

**[PROPOSED] ORDER GRANTING  
MOTION TO INTERVENE**

19 v.

20 FRANCISCO AGUILAR, in his official capacity  
as Nevada Secretary of State; State of  
21 NEVADA; CARI-ANN BURGESS, in her  
official capacity as the Washoe County Registrar  
of Voters; JAN GALASSINI, in her official  
22 capacity as the Washoe County Clerk; LORENA  
PORTILLO, in her official capacity as the Clark  
23 County Registrar of Voters; LYNN MARIE  
GOYA, in her official capacity as the Clark  
24 County Clerk,  
25 Defendants,

1 This matter comes before the Court pursuant to the motion of Proposed Intervenor-  
2 Defendants Vet Voice Foundation (“Vet Voice”), and the Nevada Alliance for Retired Americans  
3 (“Alliance”) (collectively “Proposed Intervenor”) to intervene as defendants in this lawsuit under  
4 Nevada Rule of Civil Procedure 24, along with their Memorandum of Points and Authorities in  
5 support of the motion and the exhibits attached thereto.

6 Having considered the parties’ filings and the arguments of counsel, the Court rules as  
7 follows: Proposed Intervenor are entitled to intervene in this case as a matter of right under  
8 Nevada Rule of Civil Procedure 24(a)(2). In the alternative, the Court grants Proposed Intervenor  
9 permissive intervention pursuant to Rule 24(b).

#### 10 LEGAL AND PROCEDURAL BACKGROUND

11 Voting by mail is extremely popular in Nevada. In the most recent full federal election  
12 cycle, over half of Nevada voters cast mail ballots in both the primary and general elections.<sup>1</sup> In  
13 the recent February 6 primary election, nearly eighty percent of Nevada voters cast mail ballots.<sup>2</sup>

14 To return a mail ballot by mail, it must be “[m]ailed to the county clerk, and: (1)  
15 [p]ostmarked on or before the day of the election; and (2) [r]eceived by the clerk not later than 5  
16 p.m. on the fourth day following the election.” NRS 293.269921(1)(b). Nevada law also accounts,  
17 however, for the possibility that “the date of the postmark cannot be determined.” NRS  
18 293.269921(2). In such cases, “[i]f a mail ballot is received by mail not later than 5 p.m. on the  
19 third day following the election, . . . the mail ballot shall be deemed to have been postmarked on  
20 or before the day of the election.” *Id.*

21 The no-postmark-date provision is the focus of this case. Plaintiffs object to public  
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25 <sup>1</sup> See *Voter Turnout*, Nev. Sec’y of State, <https://silverstateelection.nv.gov/vote-turnout/> (last  
26 accessed June 7, 2024) (showing 56.7% of primary voters cast mail ballots and 51.21% of general  
27 election voters in 2022).

28 <sup>2</sup> See *supra* n.2.

1 testimony by Deputy Secretary of State Mark Wlaschin more than a month ago on April 23, 2024,  
2 in which he explained that the no-postmark-date provision applies to ballots received by mail that  
3 lack any visible postmark, as well as those with a visible postmark but no legible date. Compl. ¶  
4 2. Plaintiffs seek a permanent injunction prohibiting election officials from counting ballots  
5 received after election day with no visible postmark at all. *Id.* at ¶¶ 62–78.

### 6 FINDINGS OF FACT<sup>3</sup>

7 Proposed Intervenor-Defendants Vet Voice and the Nevada Alliance for Retired  
8 Americans are non-profit, non-partisan organizations dedicated to supporting the voting rights of  
9 their members and constituents. Both groups have significant organizational and associational  
10 interests at stake in this litigation and they represent members and constituents who will be acutely  
11 harmed by Plaintiffs’ efforts to artificially narrow the no-postmark-date provision in this case.  
12 Both Vet Voice and the Nevada Alliance were recently granted intervention in a related federal-  
13 court challenge. *See Order, RNC v. Burgess*, No. 3:24-cv-00198-MMD-CLB (D. Nev. June 6,  
14 2024), ECF No. 70 (“*Burgess Order*”). And Vet Voice and the Alliance’s sister organization in  
15 Mississippi were also granted intervention in a similar challenge to Mississippi’s mail ballot  
16 receipt deadline that was also brought by the RNC and its state affiliate. *See Republican Nat’l*  
17 *Comm. v. Wetzel*, No. 1:24-cv-25-LG-RPM, 2024 WL 988383, at \*1 (S.D. Miss. Mar. 7, 2024)  
18 (noting Vet Voice and the Mississippi Alliance for Retired Americans were granted intervention  
19 on March 4, 2024).

20 **Vet Voice.** Vet Voice is a national non-profit, non-partisan organization dedicated to  
21 empowering veterans across the country to become civic leaders and policy advocates. *See*  
22 Declaration of Janessa Goldbeck ¶¶ 3, 5 (“*Goldbeck Decl.*”). It has over 1.5 million subscribers  
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26 <sup>3</sup> Any findings of fact which are more appropriately considered conclusions of law shall be treated  
27 as such, and any conclusions of law which are more appropriately considered findings of fact shall  
28 be treated as such.

1 who receive Vet Voice communications, including thousands here in Nevada. *Id.* ¶ 4. Beyond  
2 those who affirmatively subscribe to its communications, Vet Voice’s constituency broadly  
3 includes active servicemembers, including those deployed away from home, as well as military  
4 veterans, many of whom are older or have physical disabilities (oftentimes attributable to their  
5 time in service) that make voting in person difficult. *Id.* ¶¶ 8–9. Increasing voter turnout among  
6 military and veteran voters, as well as their families, is critical to Vet Voice’s mission. *Id.* ¶ 5. Vet  
7 Voice strongly believes that turning out the “veteran vote” benefits all Americans by engaging in  
8 the civic process people who have served their country, and aims to promote turnout among all  
9 veterans, regardless of their political beliefs. *Id.* ¶¶ 5–6, 13.

10 Military voters and veterans often face challenges in exercising their right to vote. For  
11 example, active-duty servicemembers and their families are oftentimes deployed away from home,  
12 making it physically impossible for them to appear in person at their local polling sites on election  
13 day. *Id.* ¶ 8. Such servicemembers are highly reliant on mail voting to exercise the franchise. *Id.*  
14 Vet Voice’s CEO, Janessa Goldbeck, has firsthand knowledge of these challenges. During her  
15 seven years in the U.S. Marine Corps, she personally had to rely on mail voting to cast her ballot  
16 on several occasions, including in 2012 when she was not able to leave officer training school at  
17 Marine Corps Base Quantico. *Id.* ¶¶ 7, 11. Veteran voters also often face obstacles voting in person,  
18 either due to age or disability. *Id.* ¶ 9.

19 Roughly three-quarters of America’s 1.4 million active servicemembers are eligible to vote  
20 by mail. *Id.* ¶ 8. Despite this right, active servicemembers vote at significantly lower rates than the  
21 national population. *Id.* ¶ 10. These voters depend heavily on mail ballot voting, *id.*, which they  
22 are permitted to use under Nevada law, *see* NRS 293.269911(1). As the Department of Justice has  
23 repeatedly noted, mail voting laws with extended receipt deadlines are particularly important to  
24 guard against the systemic disenfranchisement of military voters and their families due to obstacles  
25 such as long mail transit times. *See* U.S. Amicus Curiae Br. at 23–28, *Bost v. Ill. State Bd. of*  
26 *Elections*, No. 23-2644 (7th Cir. Dec. 6, 2023), ECF No. 21 (discussing challenges faced by  
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1 military and overseas voters and the importance of extended ballot receipt deadlines to such  
2 voters); Statement of Interest of U.S. at 1, 10–15, *Splonskowski v. White*, No. 1:23-cv-00123-  
3 DMT-CRH (D.N.D. Sept. 11, 2023), ECF No. 19 (explaining extended ballot receipt deadlines  
4 “can be vital in ensuring that military and overseas voters are able to exercise their right to vote”);  
5 Statement of Interest of U.S. at 1, 15–21, *Republican Nat’l Comm. v. Wetzel*, No. 1:24-cv-00025-  
6 LG-RPM (S.D. Miss. Apr. 11, 2024), ECF No. 84 (same); Goldbeck Decl. ¶¶ 10–12.

7 Vet Voice dedicates significant resources, including money, personnel time, and volunteer  
8 effort, to improving military and veteran voter turnout rates. Goldbeck Decl. ¶ 14. It has developed  
9 a first-of-its kind military voter file containing approximately 14 million records of veterans and  
10 military family members, including records for over 120,000 voters in Nevada. *Id.* ¶ 6. Vet Voice  
11 uses this voter file to directly reach out to military voters, often by facilitating veteran-to-veteran  
12 communications—including in Nevada. *Id.* ¶ 15. In the 2020 general election, Vet Voice sent over  
13 2.5 million texts to 1.5 million military voters and saw a substantial increase in turnout among  
14 contacted voters versus non-contacted voters. *Id.* Vet Voice is actively building this voter file to  
15 prepare for voter education and mobilization efforts in the 2024 general election, including in  
16 Nevada. *Id.* ¶ 16. On top of this, Vet Voice also engages in more traditional forms of voter  
17 engagement, including direct mailers, phone banking, rural radio advertising, and digital  
18 advertising. *Id.* ¶ 19. Given the importance of mail voting to Vet Voice’s constituencies, these  
19 contacts often focus on educating military voters about how to vote by mail, including by providing  
20 information about eligibility requirements, application deadlines, and deadlines for submitting  
21 ballots. *Id.* ¶ 21.

22 Nevada is a particularly critical state for Vet Voice. *Id.* ¶ 17. According to the U.S. Census  
23 Bureau, as of 2022, 8.3 percent of Nevada’s population served in the military, placing it seventh  
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1 in the country in terms of veteran share of the population. *Id.*<sup>4</sup> Vet Voice has already identified and  
2 plans to target approximately 10,000 individual veteran and military-affiliated voters in Nevada to  
3 mobilize them to vote in the 2024 elections using direct mail and text messages. *Id.* ¶ 18. And Vet  
4 Voice already has staff on the ground in Nevada. *Id.*

5 If successful, Plaintiffs' challenge will make it harder for Vet Voice's supporters and  
6 constituents—including active-duty servicemembers and veterans—to successfully cast a mail  
7 ballot in Nevada. *Id.* ¶ 23. Voters, of course, lack control over the mail. In particular, active-duty  
8 servicemembers deployed overseas, in combat zones, or on ships and submarines often have to  
9 contend with highly unreliable and irregular mail service. *Id.* ¶¶ 12, 23. There is nothing they can  
10 do to ensure that their ballots are properly postmarked and, even when they do not delay in  
11 returning their ballots, they also lack control over the date they are ultimately delivered. In addition  
12 to threatening Vet Voice's supporters and constituents, Plaintiffs' challenge also frustrates Vet  
13 Voice's effort to effectively plan voter engagement and mobilization efforts in Nevada—a  
14 mission-critical state for the organization—ahead of the 2024 election. *Id.* ¶¶ 16–22. Vet Voice  
15 must understand the relevant legal landscape before preparing its voter education efforts. *Id.* ¶ 21.  
16 It seeks to intervene in this case to protect the voting rights of its supporters and constituencies,  
17 settle the legal landscape for its voter education efforts ahead of the 2024 election, and protect its  
18 own significant expenditure of resources in promoting mail ballot voting. *Id.* ¶¶ 21–24.

19 **The Alliance.** The Alliance for Retired Americans is a non-partisan 501(c)(4) membership  
20 organization with over 4.4 million members nationwide. Declaration of Thomas Bird ¶ 3 (“Bird  
21 Decl.”). Its mission is to ensure the social and economic justice and full civil rights that retirees  
22 have earned after a lifetime of work, with a particular emphasis on safeguarding the right to vote.

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26 <sup>4</sup> See also Ivana Saric & Alice Feng, *Mapped: The U.S. states with the highest and lowest shares*  
27 *of veterans*, Axios (Nov. 10, 2023), <https://www.axios.com/2023/11/10/map-where-veterans-live-us>  
(interactive map).

1 *Id.* ¶ 4. The Alliance’s Nevada chapter, the Nevada Alliance for Retired Americans, has  
2 approximately 20,000 members comprising retirees from numerous public and private sector  
3 unions, members of community organizations, and individual activists. *Id.* ¶ 3. It works with 20  
4 affiliated chapters—comprised of other union and community groups—across Nevada. *Id.* ¶ 5. A  
5 major focus of the Alliance’s work is attending these chapter meetings to speak with members  
6 about key policy goals, such as preserving Social Security and Medicare. *Id.*

7       Ensuring access to the ballot is also a critical piece of the Alliance’s mission, and  
8 accordingly it dedicates significant effort to voter registration and voter education efforts. *Id.* ¶¶ 4,  
9 6, 8–9. The Alliance, its members, and volunteers undertake numerous activities to register and  
10 educate voters about how to vote, including door knocking, phone banking, Zoom meetings,  
11 postcard parties, and appearing at community events like health fairs and labor union conventions.  
12 *Id.* ¶ 9. The Alliance often partners with other non-partisan organizations to host these voter  
13 education events across Nevada. *Id.* The Alliance also hosts retirement forums and conventions,  
14 during which it provides speakers and presentations about registering to vote and voting, including  
15 on the mechanics of voting by mail. *Id.* In addition to appearing at community events, many of the  
16 Alliance’s members and volunteers also speak with family, friends, neighbors, and others about  
17 voting. *Id.* ¶ 10. The Alliance frequently answers questions related to voting, and strives to be a  
18 central information source for voters so that if the Alliance isn’t aware of the answer to a particular  
19 question, the Alliance will help track it down and report back. *Id.* The Alliance’s members are a  
20 very engaged group and are likely to have a lot of questions that require time and resources to  
21 address. *Id.* The Alliance also helps educate its members by sharing articles and posting  
22 information and resources on social media posts. *Id.*

23       The Alliance’s members are highly reliant on mail ballot voting. *Id.* ¶ 6. Thomas Bird, the  
24 President of the Alliance, estimates that a majority of the group’s membership votes by mail. *Id.*  
25 These members choose to vote by mail for many reasons: they may lack transportation to make it  
26 to the polls, not be comfortable standing in long lines at polling places, have a disability or injury  
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1 that makes in-person voting difficult, prefer for health reasons not to wait a long time in-person to  
2 vote, want to avoid potential voter intimidation or harassment at the polls, or simply prefer to spend  
3 more time with their ballot while completing it from the comfort of their kitchen table. *Id.* Many  
4 of the Alliance’s members are also concerned with increasing mail delays, which can impact  
5 everything from their timely receipt of prescription medication by mail to their ability to  
6 successfully vote a mail ballot. *Id.* ¶ 7.

7 If Plaintiffs’ suit is successful, the Alliance’s members will face increased risk of having  
8 their mail ballots rejected if, through no fault of their own, the ballots are not postmarked. *Id.* ¶ 6.  
9 As a result, the Alliance would have to divert its limited resources to help its members sign up for  
10 various mail tracking systems, ranging from the U.S. Postal Service’s informed delivery service  
11 to the state of Nevada’s ballot tracking service (Ballottrax), so they can keep track of the timing of  
12 their mail ballot. *Id.* ¶ 8. Many of the Alliance’s members are not comfortable with technology and  
13 have concerns with fraud, and they will require individualized assistance in signing up for these  
14 services. *Id.* The Alliance will also have to fundamentally reshape their voter education activities  
15 to emphasize the risk of mail ballots not being counted, at the expense of other mission-critical  
16 issues. *Id.* ¶ 9.

17 The Alliance seeks to intervene in this case to protect its members’ right to cast mail ballots  
18 under Nevada law, as well as their right to vote generally. *Id.* ¶ 6. It also seeks to protect its ongoing  
19 voter education efforts. *Id.* ¶¶ 4, 8, 10.

#### 20 STANDARD OF LAW

21 Nevada Rule of Civil Procedure 24 governs intervention in Nevada state court actions.  
22 Because Rule 24 and Federal Rule of Civil Procedure 24 are “equivalent,” *Lawler v. Ginocchio*, 94  
23 Nev. 623, 626, 584 P.2d 667, 668 (1978) (per curiam), “[f]ederal cases interpreting [Rule 24] ‘are  
24 strong persuasive authority.’” *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P. 3d  
25 872, 876 (2002) (per curiam) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119,  
26 787 P.2d 772, 776 (1990)).

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

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

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

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

### 15 CONCLUSIONS OF LAW

#### 16 I. Proposed Intervenors satisfy all of Rule 24(a)'s requirements for intervention as a 17 matter of right.

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

#### 20 A. The motion is timely.

21 First, the motion is timely. Plaintiffs filed their petition on May 31, 2024; Proposed  
22 Intervenors' motion followed less than two weeks later and before any substantive activity  
23 occurred in the case. There has therefore been no delay, and no possible risk of prejudice to the  
24 other parties. *See In re Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at \*3 (Nev. May 24,  
25 2013); *Lawler*, 94 Nev. at 626, 584 P.2d at 669; *see also, e.g., Nevada v. United States*, No. 3:18-  
26 cv-569-MMD-CBC, 2019 WL 718825, at \*2 (D. Nev. Jan. 14, 2019) (granting motion to intervene  
27 filed several weeks after action commenced); *W. Expl. LLC v. U.S. Dep't of Interior*, No. 3:15-cv-  
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1 00491-MMD-VPC, 2016 WL 355122, at \*2 (D. Nev. Jan. 28, 2016) (granting motion to intervene  
2 filed nearly two months after action commenced).

3 **B. Proposed Intervenors have significant protectable interests that may be**  
4 **impaired by this lawsuit.**

5 Proposed Intervenors also satisfy the next two requirements for intervention as a matter of  
6 right because they (1) have significantly protectable interests in this lawsuit (2) that may be  
7 impaired by Plaintiffs' claims. "A 'significantly protectable interest' . . . [is] one that is protected  
8 under the law and bears a relationship to the plaintiff's claims." *Am. Home Assurance Co.*, 122  
9 Nev. at 1239, 147 P.3d at 1127 (quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d 794, 803 (9th Cir.  
10 2002)). In the federal context, courts have made clear that if a would-be intervenor "would be  
11 substantially affected in a practical sense by the determination made in an action, he should, as a  
12 general rule, be entitled to intervene," *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 822  
13 (9th Cir. 2001) (quoting Fed. R. Civ. P. 24 advisory committee note to 1966 amendment)). This  
14 interest requirement is less stringent than Article III's standing requirement. *See Yniguez v.*  
15 *Arizona*, 939 F.2d 727, 735 (9th Cir. 1991). !!

16 As the federal court found in *Burgess*, the related case that Plaintiffs filed in federal court,  
17 Vet Voice and the Alliance easily satisfy these requirements. *Burgess* Order at 3–5. If Plaintiffs  
18 succeed in narrowing the no-postmark date provision to exclude entirely unpostmarked ballots,  
19 Vet Voice's and the Alliance's members, supporters, and constituents will be subject to  
20 disenfranchisement if, through no fault of their own, the postal service fails to postmark their  
21 ballots. Both Vet Voice and the Alliance serve communities that rely heavily on mail ballots to  
22 vote. Vet Voice, for example, spends significant resources to promote voting among active service  
23 members and military family members, many of whom are often stationed away from their  
24 permanent homes and depend on mail ballots to participate in elections. Goldbeck Decl. ¶¶ 14, 20.  
25 And many veterans in Nevada rely on mail voting as well. *Id.* ¶ 9. Vet Voice's military voter file  
26 includes over 120,000 Nevada servicemembers, veterans, and military family members, *id.* ¶ 6,  
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1 and Vet Voice has over 14,000 Nevada subscribers whom the group seeks to mobilize in  
2 furtherance of its mission, *id.* ¶ 4. Vet Voice’s mission is to ensure that all of these voters have full  
3 access to the ballot box and that military voters are heard at the polls. *Id.* ¶¶ 5–6.

4 The Alliance, too, has many members in Nevada who rely on mail voting due to the greater  
5 obstacles they face voting in person, whether due to age or disability. Bird Decl. ¶ 6. They vote by  
6 mail because, among other reasons, they lack transportation or are not comfortable standing in  
7 long lines at polling places. *Id.* Nevada historically has long wait times on election day, making  
8 the option to vote by mail critical to the Alliance’s members, many of whom have more difficulty  
9 overcoming such obstacles. *Id.* If Plaintiffs succeed, the Alliance’s members will accordingly face  
10 heightened risks of having their mail ballots rejected. *Id.* Ensuring access to the ballot is a critical  
11 piece of the Alliance’s mission. *Id.* The Alliance would therefore have to use its limited volunteer  
12 resources to prepare materials educating its members about how to track ballots, and then distribute  
13 these materials to members through social media channels, email, and at chapter meetings. *See Id.*  
14 ¶¶ 7–9. This effort will reduce the Alliance’s ability to speak to its members about key policy  
15 goals, including protecting Social Security and Medicare. *See id.* ¶ 11.

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

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2 **C. Defendants do not adequately represent Proposed Intervenors.**

3 Proposed Intervenors also satisfy the third requirement for intervention as of right because  
4 they cannot rely on the parties in this case to adequately represent their interests. “[T]he burden on  
5 proposed intervenors in showing inadequate representation is minimal, and would be satisfied if  
6 they could demonstrate that representation of their interests ‘may be’ inadequate.” *Hairr v. First*  
7 *Jud. Dist. Ct.*, 132 Nev. 180, 185, 368 P.3d 1198, 1201 (2016) (quoting *Arakaki v. Cayetano*, 324  
8 F.3d 1078, 1086 (9th Cir. 2003)). Courts have “often concluded that governmental entities do not  
9 adequately represent the interests of aspiring intervenors.” *Fund for Animals, Inc. v. Norton*, 322  
10 F.3d 728, 736 (D.C. Cir. 2003); *see also Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647  
11 F.3d 893, 899 (9th Cir. 2011) (“[T]he government’s representation of the public interest may not  
12 be ‘identical to the individual parochial interest’ of a particular group just because ‘both entities  
13 occupy the same posture in the litigation.’” (quoting *WildEarth Guardians v. U.S. Forest Serv.*,  
14 573 F.3d 992, 996 (10th Cir. 2009))).

15 While Defendants Aguilar, Burgess, Galassini, Portillo, and Goya have an interest in  
16 administering the election laws generally, Proposed Intervenors are focused on ensuring that their  
17 members and constituents have their individual ballots counted. Moreover, Proposed Intervenors  
18 have specific interests and concerns—in particular, the proper allocation of their limited resources  
19 to maximize voter turnout and promote civic engagement—that no other party in this lawsuit  
20 shares. Should Plaintiffs be successful, Proposed Intervenors will have to divert resources to new  
21 activities, rendering those resources unavailable for Proposed Intervenors’ other work.

22 Accordingly, this is not a case where “there is an ‘assumption of adequacy [because] the  
23 government is acting on behalf of a constituency it represents,’” since such an assumption only  
24 arises “when the applicant shares the same interest.” *Hairr*, 132 Nev. at 185, 368 P.3d at 1201  
25 (quoting *Arakaki*, 324 F.3d at 1086). Rather, this is an instance where, “[a]lthough [Defendants]  
26 and the Proposed Intervenors fall on the same side of the dispute, Defendants’ interests . . . differ  
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1 from those of the Proposed Intervenors.” *Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020  
2 WL 3074351, at \*3 (E.D. Cal. June 10, 2020). While Defendants’ arguments are likely to “turn on  
3 their . . . responsibility to properly administer election laws,” Proposed Intervenors are concerned  
4 with ensuring that their members and constituents “have the opportunity to vote” and “allocating  
5 their limited resources to inform voters about the election procedures.” *Id.* (granting motion to  
6 intervene as a matter of right). Because these interests are not shared by the current parties to the  
7 litigation, Proposed Intervenors cannot rely on Defendants or anyone else to provide adequate  
8 representation, and the third requirement for intervention of right is satisfied.

9 **II. Alternatively, Proposed Intervenors satisfy Rule 24(b)’s requirements for**  
10 **permissive intervention.**

11 Alternatively, the Court grants Proposed Intervenors permissive intervention. Rule 24(b)  
12 grants courts broad discretion to permit intervention where an applicant’s claim or defense and the  
13 main action have a question of law or fact in common and intervention will not unduly delay or  
14 prejudice the adjudication of the rights of the original parties. *See Hairr*, 132 Nev. at 187, 368 P.3d  
15 at 1202.

16 For the reasons already discussed, Proposed Intervenors’ motion is timely, and Proposed  
17 Intervenors cannot rely on the existing parties to adequately protect their interests. Proposed  
18 Intervenors also raised defenses to Plaintiffs’ claims that share common questions of law and  
19 fact—for example, whether Plaintiffs have pleaded facts allowing a court to conclude that they  
20 have a clear legal right to a permanent injunction. Intervention will not result in any undue delay  
21 or prejudice.

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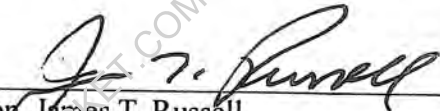
**ORDER**

**IT IS HEREBY ORDERED** that the motion of Vet Voice Foundation and the Nevada Alliance for Retired Americans to intervene as defendants in this action is **GRANTED**.

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

**IT IS SO ORDERED.**

Dated this 14<sup>th</sup> day of June, 2024.

  
Hon. James T. Russell  
District Court Judge

Submitted by:

/s/ Bradley S. Schragger

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

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


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

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2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District  
4 Court, and that on June 14, 2024, I deposited for mailing, postage paid, at Carson City,  
5 Nevada, a true and correct copy of the foregoing Order addressed as follows:

6 Jeffrey F. Barr, Esq.  
7 9405 West Russell Road, Suite 240  
8 Las Vegas, NV 89148

9 Bradley S. Schrager, Esq.  
10 Daniel Bravo, Esq.  
11 Bravo Schrager LLP  
12 6675 South Tenaya Way, Suite 200  
13 Las Vegas, NV 89113

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15 Julie Harkleroad  
16 Judicial Assistant, Dept. 1  
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