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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

**~~PROPOSED~~ ORDER GRANTING
MOTION TO INTERVENE**

23 This matter comes before the Court pursuant to the motion of Proposed Intervenor-
24 Respondents RISE, Institute for a Progressive Nevada, and the Nevada Alliance for Retired
25 Americans (collectively "Proposed Intervenor") to intervene as Respondents in this lawsuit under
26 Nevada Rule of Civil Procedure 24, along with their Memorandum of Points and Authorities in
27 support of the motion and the exhibits attached thereto.
28

1 Having considered the parties' filings and the arguments of counsel, the Court rules as
2 follows: Proposed Intervenors are entitled to intervene in this case as a matter of right under
3 Nevada Rule of Civil Procedure 24(a)(2). In the alternative, the Court grants Proposed Intervenors
4 permissive intervention pursuant to Rule 24(b).

5 LEGAL AND PROCEDURAL BACKGROUND

6 I. Statutory Background

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

21 Several of these limitations on the voter challenge process reflect protections imposed by
22 the National Voter Registration Act of 1993 ("NVRA"). The NVRA prevents states from removing
23 voters from the rolls due to a change of residence unless they first fail to respond to a mailed notice
24 and then fail to vote in two federal election cycles. 52 U.S.C. § 20507(d)(1)(B). The NVRA also
25 requires states to complete "any program the purpose of which is to systematically remove the
26 names of ineligible voters from the official lists of eligible voters" no "later than 90 days prior to
27 the date of a primary or general election for Federal office." *Id.* § 20507(c)(2)(A). Federal law
28 therefore prohibits all such removal programs until after the November 2024 election.

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

2 This lawsuit is part of what Petitioners call the “Pigpen Project,” which seeks to remove
3 voters from the voter rolls based on Petitioners’ review of various third-party and government
4 databases.¹ On July 29, 2024, Petitioners filed almost 4,000 challenges under NRS 293.535 across
5 the state,² including 480 in Carson City and 44 in Storey County. Pet. ¶¶ 1, 30–32. On August 27,
6 2024, the Secretary of State advised county clerks in Memo 2024-026 that voter challenges must
7 be based on “firsthand knowledge through experience or observation” and that challenges based
8 on “review of data from databases or compilations of information” were therefore invalid. Pet. Ex.
9 1 at 1, 3 (quoting NAC 293.416(3)). Counties across the state therefore rejected Petitioners’
10 challenges, and in the last week, Petitioners have brought three mandamus actions—in this Court
11 and in Clark and Washoe Counties—to compel counties to process them.

12 **FINDINGS OF FACT³**

13 **Rise.** Rise Action Fund (“Rise”) is a student-led 501(c)(4) nonprofit organization that
14 operates student-focused statewide advocacy and voter mobilization programs in Nevada. *See*
15 Decl. of Christian Solomon ¶¶ 5–6, 8–12 (“Solomon Decl.”). Its election-focused work—
16 empowering and mobilizing students in the political process—is important to Rise’s mission,
17 which hinges on its ability to build political power within the student population. *Id.* ¶¶ 5, 16. To
18 build political support for its policy goals, including gun safety issues, student debt relief, and
19 financial assistance, Rise organizes and educates its student constituents at University of Nevada,
20 Las Vegas, University of Nevada, Reno, Nevada State University, and College of Southern Nevada
21 about the 2024 general election. *Id.* ¶¶ 8–10, 12–18. Rise runs programs on campus to register
22 students to vote and to ensure that students *stay* registered and are able to vote. *Id.* ¶ 16. Rise’s
23

24 ¹ *See generally* Chuck Muth, *Follow-Up: My Conversation with NV SOS Aguilar*,
25 PigPenProject.com (Aug. 29, 2024), <https://pigpenproject.com/blog/follow-up-my-conversation-with-nv-sos-aguilar/>.

26 ² *See id.*

27 ³ Any findings of fact which are more appropriately considered conclusions of law shall be
28 treated as such, and any conclusions of law which are more appropriately considered findings of
fact shall be treated as such.

1 goal is to reach each student three to five times, on the phone or in person, by the election. *Id.*

2 The relief that Petitioners seek harms the students that Rise advocates for and serves. *Id.*
3 ¶¶ 19–22. Many college students move frequently without abandoning their permanent residence
4 and do not have ready access to mailed notices sent to their permanent addresses advising them
5 that their registration is at risk of cancellation. *Id.* ¶ 20. Other college students register at their
6 college address but move frequently—every year, or even every semester—within the same small
7 geographic area. *Id.* With just over a month before the election, students are at a particularly high
8 risk of being removed from the rolls due to Petitioners’ efforts on the eve of the election.
9 Petitioners’ suit is therefore a direct attack on the very voters Rise organizes and advocates for. If
10 Petitioners are successful, Rise will need to help students confirm their registration status, find and
11 respond to mailed notices, and re-register. *Id.* ¶ 21. These efforts would come at the expense of
12 Rise’s work in support of its other mission-critical priorities. *Id.* ¶¶ 21–22.

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

22 Petitioners’ suit threatens IPN’s mission to empower all Nevadans to vote. Petitioners seek
23 to compel Respondents to begin the process of removing voters from the rolls based on challenges
24 that are unsupported by any actual personal knowledge that the voter is ineligible. Should
25 Petitioners succeed, IPN would have to retool its voter guide to inform voters why their registration
26 might be challenged and how to confirm their registration status, and it would have to refocus its
27 limited advertising to spread awareness about the need for voters to check their registration and
28 potentially re-register. *Id.* ¶¶ 5–7 These efforts would pull from IPN’s limited financial resources,

1 likely making it more difficult to meet payroll for existing employees and reduce IPN’s ability to
2 organize around other issues. *See id.*

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

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

23 **STANDARD OF LAW**

24 Nevada Rule of Civil Procedure 24 governs intervention in Nevada state court actions.
25 Because Rule 24 and Federal Rule of Civil Procedure 24 are “equivalent,” *Lawler v. Ginocchio*, 94
26 Nev. 623, 626, 584 P.2d 667, 668 (1978) (per curiam), “[f]ederal cases interpreting [Rule 24] ‘are
27 strong persuasive authority.’” *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P. 3d
28

1 872, 876 (2002) (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772,
2 776 (1990) (per curiam)).

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

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

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

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

17 CONCLUSIONS OF LAW

18 I. Proposed Intervenors satisfy all of Rule 24(a)'s requirements for intervention as a 19 matter of right.

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

22 A. The motion is timely.

23 First, the motion is timely. This motion was filed just a week after Petitioners filed the
24 Petition and before any substantive activity has occurred in the case. There has therefore been no
25 delay, and there is no risk of prejudice to the other parties. *See In re Guardianship of A.M.*, No.
26 59116, 2013 WL 3278878, at *3 (Nev. May 24, 2013); *Lawler*, 94 Nev. at 626, 584 P.2d at 669.
27 Proposed Intervenors have promised to abide by any court-ordered schedule.
28

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

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

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

19 In analogous cases, courts have recognized similar interests as a proper basis for
20 intervention. *See e.g.* Order Granting Mot. to Intervene, *Republican Nat'l Comm. v. Aguilar*, No.
21 24-OC-00101B (Nev. 1st Jud. Dist. Ct. June 14, 2024) ("*Aguilar Order*"); *see also, e.g., Bellitto v.*
22 *Snipes*, No. 16-cv-61474, 2016 WL 5118568, at *2–3 (S.D. Fla. Sept. 21, 2016) (granting labor
23 union intervention in suit seeking court-ordered voter list maintenance), *reconsideration denied*,
24 2016 WL 10518461 (S.D. Fla. Oct. 4, 2016); *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp.
25 3d 795, 799 (E.D. Mich. 2020) (granting organization intervention in suit seeking to compel city
26 to take more aggressive measures to purge allegedly ineligible voters). Here, the Alliance similarly
27 seeks to protect the voting rights of its 20,000 retiree members in Nevada, Bird Decl. ¶¶ 3–4, and
28 Rise seeks to protect its constituency of politically marginalized students, Solomon Decl. ¶ 5.

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

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

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

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

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

1 Respondents or anyone else to adequately represent their interests in this case.

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

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

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

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

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26 ///

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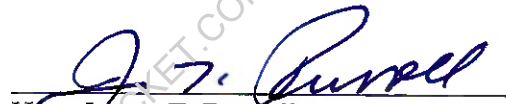
1 **ORDER**

2 **IT IS HEREBY ORDERED** that the motion of RISE, Institute for a Progressive Nevada,
3 and the Nevada Alliance for Retired Americans to intervene as respondents in this action is
4 **GRANTED.**

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

7 **IT IS SO ORDERED.**

8
9 Dated this 27th day of September, 2024.

10
11 
12 Hon. James T. Russell
13 District Court Judge

14 Submitted by:

15 
16

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