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5 *Attorney for Petitioners*

6  
7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
8 **IN AND FOR THE COUNTY OF CLARK**

9 CITIZENS OUTREACH FOUNDATION,  
CHARLES MUTH, Individually ,

10 *Petitioners,*

11 v.

12 LORENA PORTILLO, in her official  
13 capacity as the acting Registrar of Voters,  
14 for Clark County.

15 *Respondent.*

Case No.: A-24-902351-W

Dept. No.: 28

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

HEARING DATE: October 10,  
2024 (IN CHAMBERS)

Entered in Odyssey./kd

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

1 **ORDER SHORTENING TIME**

2 Upon the Declaration of David C. O’Mara, Esq., and good cause appearing therefore,  
3 IT IS HEREBY ORDERED that Petitioner’s Motion for Preliminary Injunction shall be heard on  
4 shortened time on October 10, 2024 (IN CHAMBERS) in Department 28.

5 Defendants have until 5:00 p.m. on Friday, October 4, 2024 to file an opposition.

6 Petitioners shall file any reply before 5:00 p.m. on ~~Friday, October 11, 2024.~~  
7 Wednesday, October 9, 2024.

8 DATED:

Dated this 1st day of October, 2024



DISTRICT JUDGE

A 24-902351-W  
0615 1A3 EFC1 2A4E  
Ronald J. Israel  
District Court Judge

kd

9 Submitted by:  
10 THE O’MARA LAW FIRM, P.C.

11 /s/ David C. O’Mara  
12 DAVID C. O’MARA, ESQ  
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14 311 E. Liberty Street  
15 Reno, NV 89501  
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17 *Attorney for Petitioners*

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1 Petitioners and the public will not have been able to exercise the protections provided under  
2 Nevada Law.

3 10. Regular briefing of this motion, and the filing of a response pursuant to this Court's  
4 Order, would result in the deadline to notify challenged registrants passing without Respondent  
5 processing timely presented challenges and notifying challenged registrants pursuant to NRS  
6 293.535 and NRS 293.530.

7 11. . As such, Counsel is asking for this motion to be heard on shortened time. Any  
8 objections to the motion for preliminary injunction should be filed by the close of business on  
9 Friday, October 4, 2024. Any reply must be filed by Friday, October 11, 2024, and set for hearing  
10 as soon as possible on the Court's calendar.

11 12. Petitioners are also seeking to advance the trial on the merits as the nature of this  
12 action is one of statutory construction.

13 Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of  
14 Nevada that the foregoing is true and correct.

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DATED: September 25, 2024

Respectfully submitted,  
THE O'MARA LAW FIRM, P.C.

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*Liaison Counsel for Plaintiffs*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. BACKGROUND**

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

7 Petitioners have provided the following challenges in Clark County: (1) 9,590 challenges  
8 to registrants who have moved within their county of registration but out of the precinct they were  
9 registered; (2) 190 challenges to registrants who have moved from one Nevada county to another  
10 Nevada county; (3) 6,844 challenges to registrants who have moved out of Nevada, (4) 3,030  
11 challenges to registrants who have moved out of Nevada and registered to vote in another states,  
12 and (5) 86 challenges to registrants who have moved out of Nevada and registered to vote and  
13 voted in another state. In all, the total number of challenges in Clark County was 19,740.

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

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

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

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

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

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

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

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

1 the inactive voter list. Petitioners had no reason to believe that that Respondent would not process  
2 the challenges, and were not involved in the Secretary of State’s decision to direct the Respondent  
3 not to process the challenges.

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

6 **III. FACTUAL BACKGROUND**

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

11 Unbeknownst to Petitioners, on August 27, 2024, the Nevada Secretary of State, issued a  
12 private memorandum to Nevada’s 17 County Clerks and Registrars providing “guidance” on the  
13 “personal knowledge” required to challenge a registered voter pursuant to NRS 293.535 and NRS  
14 293.547. *See* Muth Decl. Exhibit 1.

15 While Petitioners had been working with each County Registrar/Clerk and provided  
16 updates and correspondence with the Secretary of State regarding Petitioner’s efforts in assisting  
17 the County Registrar/Clerk with maintaining the voter rolls, the memorandum was only issued to  
18 the Clerks/Registrars and was not provided to either Petitioner. Petitioners were never notified of  
19 the secret memorandum, or that several Registrars/Clerks have followed the Secretary of State’s  
20 directive and have stopped processing the challenges or continue to refuse to process the  
21 challenges.

22 On September 8, 2024, Petitioners sent an “Open Letter to Nevada Secretary of State” to  
23 Secretary Aguilar setting forth Petitioners response to the private memorandum, and the telephone  
24 discussion between Mr. Muth and Secretary Aguilar. *See* Muth Decl. Exhibit 2. As of the filing  
25 of this litigation, Petitioners have received no response from the Secretary of State, but instead,  
26 received a response from the Attorney General’s Office stating, “*We are in receipt of said written*  
27 *communications. As counsel for the Secretary of State’s Office, we will review these*  
28 *communications and, as needed, respond to you.*”

1 See Muth Decl. Exhibit 3.

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

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

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

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

#### 19 IV. LEGAL STANDARD

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

26 When obtaining a preliminary injunction, the movement must show a "reasonable  
27 likelihood of success on the merits," as well as demonstrate that it will be subjected to irreparable  
28 harm for which no adequate remedy at law exists should the relief not be granted. NRCP 65(b);



1 *Excellence Com. Mgmt., LLC, v. Gilmore*, 131 Nev. 347, 350-51, 351 P.3d 720, 722 (2015); *Pickett*  
2 *v. Comanche Construction, Inc.*, 108 Nev. 422, 426, 836 P.2d 42 (1992); *Dixon v. Thatcher*, 103  
3 Nev. 414, 415, 743 P.2d 1029, 1029 (1987). “In considering preliminary injunctions, courts also  
4 weigh the potential hardships to the relative parties and others, and the public interest. *Univ. &*  
5 *Cmty. Coll. Sys. of Nevada v. Nevadans for Sound Gov’t*, 120 Nev. 712, 721, 100 P.3d 179, 187  
6 (2004).

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

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

15 **V. LAW AND ARGUMENT**

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

20 Applying these factors, this Court should enter an order requiring Respondent to send the  
21 notice and copy of the affidavit to the challenged voter pursuant to NRS 293.530. Respondent is  
22 required to provide such notice, and by directing Respondent to do so during the pendency of the  
23 litigation, the Court will preserve the status quo and protect the interests of the parties during this  
24 litigation.

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

26 Petitioners are seeking a Writ of Mandamus requiring Respondent to properly process the  
27 challenges of a registrant pursuant to NRS 293.535, to have the Respondent provide notice to the  
28 registrant of the challenge pursuant to NRS 293.53, upon which, after receiving or not receiving

1 a response from the challenge registrant, follow the requirements for NRS 293.530<sup>1</sup>.  
2 Additionally, Petitioners are seeking Declaratory Relief that upon the filing of an affidavit,  
3 Nevada law requires County Clerks and Registrar of Voters to “notify the registrant in the  
4 manner set forth in NRS 293.530.”

5 NRS 293.535 specifically requires that Respondents

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

8 ...

9 (b) the registrant has:

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

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

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

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

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27 <sup>1</sup> In Nevada, injunctive relief is a remedy, not an independent claim for relief. *See Carrington*  
28 *Mortgage Services, LLC v. SFR Investments Pool One, LLC, et al*, 337 F. Sup Third 1187.  
However, it is customary to plead a claim for injunctive relief id a party will be seeking such relief  
in the action.

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

18 As such, Respondent has no authority to withhold the notice to the challenged registrant  
19 because of the arbitrary and unsupported decision of the Secretary of State, especially when the  
20 Secretary of State failed to promulgate regulations as required.<sup>2</sup> The Court must direct Respondent  
21 to satisfy her obligations under the law and require Respondent to provide notice under NRS  
22 293.540.

23 Additionally, even if the Court determines that Respondent must make a cursory review of  
24 the affidavit to determine if the Elector or reliable person has “personal knowledge,” Petitioners,  
25

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26 <sup>2</sup> It is not appropriate for the Court to give any deference to the Secretary’s interpretation when he  
27 failed to promulgate regulations pursuant to NRS 293.247. See *Nevada State Democratic Party .v*  
28 *Nevada Republican Party*, 256 P.3d 1 (2011), citing *Jefferson v. U.S.*, 546 F.3d 477 (7<sup>th</sup> Cir. 2008)  
(noting that the Internal Revenue Service’s failure to promulgate regulations when mandated to do  
so by Congress could result in an ambiguous statute’s nonenforcement.)

1 in this case have personal knowledge of the facts set forth in the affidavit. Indeed, Mr. Muth has  
2 stated in the affidavit that “I have ‘personal knowledge of the facts set forth’ in this affidavit” as  
3 required by the statute. *See* Muth Decl. Exhibit 5. Additionally, Mr. Muth set forth that he has  
4 reviewed relevant business records by reviewing the National Change of Address (NCOA)  
5 database maintained by the United States Postal Service (USPS). *Id.*

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

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

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

25 Indeed, Secretary Aguilar misrepresents the legislative intent when he claims “the  
26 requirement of ‘personal knowledge’ was meant to preclude challenges based on such  
27 comparisons,” using the DMV addresses. *See* Muth Decl., Exhibit 1. As Mr. Muth stated in his  
28 open letter to Secretary Aguilar, the Nevada Legislature *clearly rejected* the testimony as the

1 intention of the Legislature. In fact, the Nevada Legislature amended the legislation and  
2 specifically deleted the following language “[F]or the purposes of this subsection, the personal  
3 knowledge of the registered voter must not be based on any information obtained from the records  
4 of the department of motor vehicles and public safety.” See Muth Declaration, Exhibit 6; compare  
5 page COF0012 and page COF0085. The legislative intent does not get any clearer than to have  
6 language deleted from the legislation.

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

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

1 NRS 293.535 and NRS 293.530 are clear and unambiguous and require Respondents to  
2 sent notice to the challenged registrants upon the filing of an affidavit. Respondents refuse to  
3 satisfy their obligations under Nevada Law and accordingly, a Writ of Mandamus must be issued  
4 to require the Respondents to provide notice under NRS 293.535 and NRS 293.530. Additionally,  
5 the Court should declare that the statute requires Respondents to undertake this tasks required  
6 pursuant to NRS 293.535 and NRS 293.530, and in the future.

7 Petitionrs are more than likely to succeed on the merits of their Petition and injunctive  
8 relief should be granted.

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

10 Petitioners will suffer irreparable harm if Respondents are not required to provide notice  
11 to the challenged registrants before the general election on November 5, 2024, election. Indeed,  
12 Respondent's inaction have already caused irreparable harm to Petitioners and Nevada citizens  
13 because Respondent's failure to provide notice when they received the challenges have precluded  
14 Petitioners from obtaining the protections of NRS 293.535 and NRS 293.530, by having the  
15 challenged registrants designated "inactive" and thus, not entitled to receive a mail-in ballot  
16 delivered to an address where they no long live or reside.

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

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

22 When balancing the hardships of the parties, and the public, injunctive relief is still  
23 warranted, especially because Respondent will suffer no harm by having to send notices to the  
24 challenged registrants. Indeed, Humboldt County and Lander County have already processed the  
25 challenges, and Storey County has already acknowledged that the notices have been prepared but  
26 have not been sent out. The public has a right to make sure the voter rolls are clean and that if an  
27 individual has moved out of the State or to a different location in Nevada, the registration will be  
28 placed in inactive status and will thereafter be cancelled after the allowable time.

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

6 D. *Posting of Minimal Bond is Appropriate*

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

18 **VI. CONCLUSION**

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

27 Additionally, considering Respondents' failure to satisfy their obligations under NRS  
28 293.535 and NRS 293.530, Petitioners request that the Court require Respondents to remove any

1 mail-in ballot that they receive from any of the challenged registrants until such time as the  
2 Respondents can confirm the challenged registrant is eligible to vote, and in fact, the ballot was  
3 voted by the challenged registrant. Indeed, under NAC 293.412, an inactive voter is only entitled  
4 to mail in ballot if one is requested pursuant to NRS 293.313 or 293 C310 or a military-overseas  
5 ballot pursuant to chapter 293D of NRS. Also, the inactive voter can vote in person at a polling  
6 place in the same manner as an active voter. The segregation of these ballots is necessary to protect  
7 the integrity of the election since Respondent failed to act accordingly.

8 Dated: September 25, 2024

THE O'MARA LAW FIRM, P.C.

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

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1 **CERTIFICATE OF SERVICE**

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

5 \_\_\_\_\_ Via Email

6  X  Electronically through the Court’s Electronic Filing System

7  X  Hand Delivery (via Legal Wings)

8  
9 Lorena S. Portillo  
10 Clark County Registrar of Voters  
11 965 Trade Dr. Ste A,  
North Las Vegas, NV 89030

Clark County District Attorney’s Office  
200 Lewis Ave,  
Las Vegas, NV 89101

12 DATED: September 26, 2024

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

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Citizens Outreach Foundation,  
Plaintiff(s)

CASE NO: A-24-902351-W

7 vs.

DEPT. NO. Department 28

8  
9 Lorena Portillo in her Official  
Capacity as the Clark County  
10 Registrar of Voters, Defendant(s)

11  
12 **AUTOMATED CERTIFICATE OF SERVICE**

13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Shortening Time was served via the court's electronic eFile  
15 system to all recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 10/1/2024

17 David O'Mara

david@omaralaw.net

18 Bryan Snyder

bsnyder@omaralaw.net

19 Valerie Weis

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20 Dannielle Fresquez

dannielle@bravoschrager.com

21 Bradley Schrager

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22 Lisa Logsdon

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23 Renee Albert

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24 David Fox

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25 Daniel Bravo

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26 Brad Barnhill

ElectBarnhill@gmail.com

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