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13 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
14 **IN AND FOR THE COUNTY OF CLARK**

15 CITIZEN OUTREACH FOUNDATION,  
CHARLES MUTH, individually,  
16  
17 Petitioners,  
18  
19 vs.  
LORENA PORTILLO, in her official capacity as  
the acting Registrar of Voters, for Clark County,  
20  
21 Respondent.

Case No.: A-24-902351-W  
Department: 28  
HEARING REQUESTED

22 **MOTION TO INTERVENE BY AMERICAN CIVIL LIBERTIES UNION**  
23 **OF NEVADA AND MEMORANDUM OF POINTS AND AUTHORITIES**

24 Proposed Intervenor American Civil Liberties Union of Nevada (“ACLUNV”) moves,  
25 under Nevada Rule of Civil Procedure 24(a)(2), to intervene as of right as a Respondent in this  
26 matter on behalf of itself and its affected members in Clark County; or in the alternative, moves  
27 for permissive intervention pursuant to Rule 24(b). Pursuant to Rule 24(c), Proposed Intervenor’s

1 Answer is attached hereto as Exhibit 1. This Motion is based on the Memorandum of Points and  
2 Authorities below, the Declaration of Athar Haseebullah filed concurrently herewith (attached  
3 hereto as Exhibit 2), and any oral argument this Court may request.

4 DATED this 2nd day of October, 2024.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 With just weeks to spare before the November 5, 2024, presidential election, Petitioners  
3 demand that this Court require 19,740 registered Clark County voters to prove their eligibility to  
4 vote solely because their names “appear[] to be listed in” the USPS National Change of Address  
5 (“NCOA”) database.<sup>1</sup> Petitioners’ requested relief would violate state and federal law. Under  
6 federal law, county clerks may not conduct list maintenance based on NCOA data within 90 days  
7 of an election, and that “quiet period” began weeks ago, on August 7, 2024.<sup>2</sup> Under state law,  
8 petitioners may challenge the residency of an individual Nevada voter only if the petitioners have  
9 “personal knowledge” that the challenged voter has in fact abandoned their residence in a  
10 jurisdiction and lost their eligibility to vote there.<sup>3</sup> Petitioners all but concede they lack this  
11 personal knowledge, acknowledging that they filed these challenges based solely on systematic  
12 NCOA matching. In fact, they do not allege that they have actual, firsthand knowledge that a *single*  
13 voter among the thousands they have challenged has abandoned their residence. By contrast, one  
14 voter the Petitioners challenged in another Nevada county has already explained to that county’s  
15 clerk that he requested mail forwarding because he is “married to an Active-Duty Air Force  
16 member” who was called to serve overseas.<sup>4</sup> Service abroad in our nation’s armed forces is just  
17 one of many permissible reasons why a lawfully registered Nevada voter might need to forward  
18 their mail on an indefinite basis, which is exactly why Nevada and federal law bar the use of  
19 NCOA data alone to alter a voter’s registration status this close to an election.<sup>5</sup>

20 \_\_\_\_\_  
21 <sup>1</sup> Dkt. No. 1 (Petition), Exh. 5 (Challenge Affidavit) at 1.

22 <sup>2</sup> See NRS § 293.503; 52 U.S.C. § 20507(c)(2)(B).

23 <sup>3</sup> See NRS § 293.535(1).

24 <sup>4</sup> See Ex. 2, Declaration of Athar Haseebullah (“Haseebullah Decl.”) ¶ \_\_.

25 <sup>5</sup> Petitioners acknowledge that NCOA data is not a reliable source to determine voter eligibility.  
26 See Chuck Muth, *RNC vs. Pigpen Project: A Clash of Approaches in Cleaning Up the Voter Files*,  
27 Project Pigpen, <https://pigpenproject.com/blog/rnc-vs-pigpen-project-a-clash-of-approaches-in-cleaning-up-the-voter-files/> (last visited Sept. 26, 2024) (“just because someone has moved out of state does NOT mean they’re ineligible to vote in Nevada. The voter may be on a temporary out-of-state work assignment, attending an out-of-state college, or serving out-of-state in the military.”)

1 If Petitioners obtain their requested relief, thousands of Clark County voters, including  
2 ACLUNV members living in Clark County and targeted by Petitioners’ challenges, could be  
3 placed on “inactive” status and immediately deprived of their right to vote by mail and receive  
4 election-related information in the mail.<sup>6</sup> Based on how other counties have responded to  
5 Petitioners’ challenges, these voters also face the risk of having their registrations cancelled  
6 outright before November, leaving them fully disenfranchised for the upcoming presidential  
7 election. And although Nevada offers same-day voter registration, such registration must be done  
8 in person, and voters who register during the voting period may only submit a provisional ballot  
9 and must provide proof of residency.<sup>7</sup> Moreover, Petitioners’ flawed legal theory, if embraced by  
10 this Court, would invite potentially hundreds of thousands of mass challenges based on freelance  
11 database analysis by self-appointed citizen vigilantes—a practice that both the United States  
12 Department of Justice<sup>8</sup> and the Nevada Secretary of State<sup>9</sup> have determined to be unlawful this  
13 close to the election and which heightens the risk voter disenfranchisement across the State,  
14 including to ACLUNV members.

15 This case directly affects Proposed Intervenor because Petitioners have challenged several  
16 of ACLUNV’s own members registered to vote in Clark County based on purported NCOA  
17 matches. ACLUNV now seeks to intervene on behalf of its members and itself as an affected  
18

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19 That’s why you can’t simply use the National Change of Address (NCOA) list from the post  
20 office.”). Yet their challenges are based exclusively on NCOA data. *See* Dkt. No. 1, Exh. 5.

21 <sup>6</sup> *See* Clark County, *All Mail Ballot Elections* (July 15, 2024),  
22 <https://www.clarkcountynv.gov/government/departments/elections/services/mb.php#:~:text=Starting%20in%202022,%20Nevada%20began%20having%20all-mail%20ballot>.

23 <sup>7</sup> *See* Nevada Election Procedures Manual at 28–29 (last visited October 1, 2024),  
<https://www.nvsos.gov/sos/home/showpublisheddocument/13559/638512695188370000>.

24 <sup>8</sup> U.S. Dep’t of Justice, *Voter Registration List Maintenance: Guidance under Section 8 of the*  
*National Voter Registration Act*, 52 U.S.C. § 20507, at 4 (Sept. 2024),  
25 <https://www.justice.gov/crt/media/1366561/dl>.

26 <sup>9</sup> Office of the Secretary of State, *Memo 2024-026 – Personal Knowledge*, at 3 (August 27,  
27 2024), <https://pigpenproject.com/wp-content/uploads/2024/09/Pigpen-Project.SOS-Memo-2024-026.pdf>.

1 organization. Proposed Intervenor is the Nevada state affiliate of the American Civil Liberties  
2 Union, the nation’s largest civil rights and civil liberties association. ACLUNV has more than  
3 5,000 members across Nevada, 3,377 of whom live in Clark County. *See* Ex. 2, Declaration of  
4 Athar Haseebullah (“Haseebullah Decl.”) ¶ 4. In comparing the challenges submitted by  
5 Petitioners to the Clark County Clerk disclosed through a public records request and ACLUNV’s  
6 current membership list, ACLUNV has verified that Petitioners have challenged at least fourteen,  
7 and possibly many more, active ACLUNV members in Clark County. *Id.* ¶ 17. Furthermore,  
8 ACLUNV’s mission for decades has been to protect and expand the voting rights of all Nevadans  
9 through voter education, advocacy, and litigation. *Id.* ¶¶ 5-7, 9-11. Petitioners’ requested relief  
10 would not only threaten ACLUNV members’ fundamental right to vote but would also impede  
11 ACLUNV’s efforts to increase voter registration and participation among its members. *Id.* ¶¶ 15-  
12 16, 18-19. If Petitioners succeed, ACLUNV would be forced to divert organizational resources  
13 from its voter registration and education efforts to identify, contact, and assist voters affected by  
14 the challenges in time for them to fully participate in the upcoming election. *Id.* ACLUNV satisfies  
15 each requirement for intervention as a matter of right under Rule 24(a)(2), and the Court should  
16 grant its motion to intervene. Alternatively, the Court should exercise its discretion to grant  
17 permissive intervention under Rule 24(b)(1).

## 18 ARGUMENT

### 19 I. MOVANT IS ENTITLED TO INTERVENE AS A MATTER OF RIGHT.

20 Proposed Intervenor is entitled to intervene as a matter of right under Nevada Rule of Civil  
21 Procedure 24(a). A motion to intervene under Rule 24(a) must be granted if the proposed  
22 intervenor claims “(1) that it has a sufficient interest in the litigation’s subject matter, (2) that it  
23 could suffer an impairment of its ability to protect that interest if it does not intervene, (3) that its  
24 interest is not adequately represented by existing parties, and (4) that its application is timely.”  
25 *Am. Home Assur. Co. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Washoe*, 122 Nev. 1229, 1238, 147  
26 P.3d 1120 (2006).

1 Because Rule 24 is “equivalent” to Rule 24 of the Federal Rules of Civil Procedure, *see*  
2 *Lawler v. Ginochio*, 94 Nev. 623, 626, 584 P.2d 667 (1978), federal law provides “strong  
3 persuasive authority” here. *See Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d  
4 872 (2002) (quotation omitted). Federal courts “construe Rule 24 liberally in favor of potential  
5 intervenors, focusing on practical considerations rather than technical distinctions.” *Paher v.*  
6 *Cegavske*, No. 3:20-CV-00243-MMD, 2020 WL 2042365, at \*2 (D. Nev. Apr. 28, 2020) (quoting  
7 *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 817 (9th Cir. 2001)). Federal courts in the  
8 Ninth Circuit regularly grant motions to intervene under Rule 24(a) when organizations seek to  
9 defend against a challenge that threatens the right to vote. *See, e.g., id.* at \*2–3 (granting motion  
10 to intervene brought by groups seeking to protect the right to vote in case involving challenge to  
11 Nevada’s vote-by-mail plan); *Issa v. Newsom*, 2:20-cv-01055-MCE-CKD, 2020 WL 3074351, at  
12 \*2–4 (E.D. Cal. June 10, 2020) (same in California).

13 Proposed Intervenor satisfies all of the requirements of Rule 24(a). It has significantly  
14 protectable interests in ensuring that its members and eligible voters in Clark County can exercise  
15 their right to vote freely and without undue interference, and to guard against an unnecessary drain  
16 on their own scarce resources to address Petitioners’ many thousands of improper challenges.  
17 Those interests will be gravely impaired if Petitioners prevail because Petitioners seek to ultimately  
18 remove tens of thousands of registered voters from Clark County’s voter rolls and immediately  
19 imperil their right to vote weeks out from a presidential election. Respondent will not adequately  
20 protect Proposed Intervenor’s interests because Respondent’s interests in this matter are distinct  
21 and likely to be divergent to ACLUNV’s fundamental interest in removing barriers to voting for  
22 its members—especially the members registered to vote in Clark County who Petitioners have  
23 already challenged.

24 Accordingly, ACLUNV is entitled to intervene as a matter of right.

25 **A. This Motion is Timely.**

26 Proposed Intervenor’s motion is timely because it was filed just nine days after Petitioners  
27 filed their writ request, which is when ACLUNV learned that its interests were threatened, and no

1 substantive proceedings have taken place. *See Kalbers v. U.S. Dep't of Justice*, 22 F.4th 816, 825  
2 (9th Cir. 2021) (interval of “just a few weeks” “weigh[ed] in favor of timeliness”); *Issa*, 2020 WL  
3 3074351, at \*4 (motion was timely where “no substantive proceeding ha[d] occurred”). Given the  
4 early stage of this litigation and how quickly Movant has sought to intervene, the existing parties  
5 will not be prejudiced by intervention. *See, e.g., Apache Stronghold v. United States*, 21-cv-00050-  
6 SPL, 2023 WL 3692937, at \*2 (D. Ariz. May 29, 2023) (parties would not be prejudiced by  
7 intervention where the case was “still in the very early stages”).

8 **B. Movant Has a Significantly Protectable Interest in the Subject Matter of this**  
9 **Lawsuit that Will be Impaired if Petitioners Prevail.**

10 To demonstrate a “significantly protectable interest” relating to the subject matter of the  
11 action, the intervenor must (1) assert “an interest that is protected under some law,” and (2) show  
12 that “there is a relationship between its legally protected interest and the plaintiff’s claims.”  
13 *Kalbers*, 22 F.4th at 827. This is a “practical, threshold inquiry”; no “specific legal or equitable  
14 interest need be established.” *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir.  
15 2001). This interest requirement is also less stringent than Article III’s standing requirement. *See*  
16 *Yniguez v. Arizona*, 939 F.2d 727, 731, 735 (9th Cir. 1991).<sup>10</sup>

17 Movant has two significant interests at stake in this case. First, ACLUNV is one of the  
18 largest membership organizations in Clark County, and its many members in the county stand to  
19 receive confusing, intimidating, and burdensome communications from Respondent demanding  
20 that they prove their residency to remain active, registered voters in Clark County. If they do not  
21 receive the notice or do not have time to respond before voting begins, they would lose their right  
22 to vote by mail and receive information about the election, and potentially be improperly removed  
23 from the rolls. As noted above, Petitioners have challenged several ACLU members registered to

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24  
25 Though a party does not necessarily need traditional standing to intervene in a matter as a  
26 respondent, ACLUNV would in fact have standing to pursue a separate legal action for any  
27 attempts to remove from Clark County’s voter rolls the fourteen ACLUNV members that have  
been identified as being challenged. Granting ACLUNV’s motion to intervene as a matter of right,  
while proper under NRCP 24(a), would also promote sound judicial economy and administration.

1 vote in Clark County, heightening Proposed Intervenor’s substantial interests in the outcome of  
2 this case. Ex. 2, Haseebullah Decl. ¶ 17. But ACLUNV also has an interest in defending all its  
3 members’ fundamental right to vote freely and on equal terms with all Nevadans, *id.* ¶¶ 5-6, which  
4 is protected by state and federal law, and which is directly threatened by Petitioners’ request for  
5 declaratory relief. Second, ACLUNV has an interest in engaging in planned registration and voter  
6 mobilization activities without being forced to divert resources to address the harms to its members  
7 that would flow from Petitioners’ requested relief. *See id.* ¶¶ 12-15, 19. Both of these interests “are  
8 routinely found to constitute significant protectable interests” that weigh in favor of intervention  
9 as of right. *Issa*, 2020 WL 3074351, at \*3; *see Paher*, 2020 WL 2042365, at \*4 (political groups  
10 and voters had protectable interest in promoting the franchise, the election of party candidates, and  
11 voting by mail); *Jud. Watch, Inc. v. Illinois State Bd. of Elections*, No. 24-cv-1867-SLE, 2024 WL  
12 3454706, at \*4 (N.D. Ill. July 18, 2024) (union had protectable interest in protecting the rights of  
13 members and use of its own resources to protect them from removal from the rolls).

14 To satisfy the interest impairment requirement, an intervenor need only show that “it will  
15 suffer a practical impairment of its interests as a result of the pending litigation.” *Wilderness Soc.*  
16 *v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (quotation omitted). “Once an applicant  
17 has established a significantly protectable interest in an action, courts regularly find that  
18 disposition of the case may, as a practical matter, impair an applicant’s ability to protect that  
19 interest.” *Venetian Casino Resort, LLC v. Enwave Las Vegas, LLC*, No. 19-cv-1197-JCM, 2020  
20 WL 1539691, at \*3 (D. Nev. Jan. 7, 2020) (citing *California ex. rel. Lockyer v. United States*, 450  
21 F.3d 436, 442 (9th Cir. 2006)).

22 Movant satisfies the interest impairment requirement for at least three reasons.

23 First, granting Petitioners’ requested relief could subject ACLUNV’s members—especially  
24 its several challenged members who are registered to vote in Clark County, Haseebullah Decl. ¶  
25 17—to new burdens to the exercise of the franchise and potential disenfranchisement.  
26 Consequently, an adverse decision from this Court would substantially impair its protectable  
27 interests in defending the right of its members to freely exercise their right to vote on equal terms.



1 *See Bellitto v. Snipes*, No. 16-cv-61474, 2016 WL 5118568, at \*2 (S.D. Fla. Sept. 20, 2016)  
2 (granting union’s motion to intervene in NVRA case because it “asserts that its interest and the  
3 interests of its members would be threatened by the court-ordered ‘voter list maintenance’ sought  
4 by Plaintiffs”).

5 Second, ACLUNV would be forced to redirect some of its voter-registration and voter-  
6 education resources toward contacting challenged voters and helping them remain on the rolls in  
7 the last few crucial weeks before the General Election. If Petitioners prevail, ACLUNV would be  
8 forced to divert attention and resources away from its planned programs to instead identify  
9 members and other constituents who have been challenged and advocate for their right to remain  
10 active registered voters. Haseebullah Decl. ¶ 19; *see also Jud. Watch*, 2024 WL 3454706, at \*4  
11 (recognizing impairment of union’s interests where adverse decision might require it to reallocate  
12 resources to protect its members’ voter registrations).

13 Third, an adverse decision from this Court would upend the status quo in Nevada and allow  
14 Petitioners and others to immediately file even *more* mass, non-individualized, NCOA-based voter  
15 challenges in the style of Petitioners’, which would only further threaten ACLUNV’s interest in  
16 protecting its members’ and Nevadans’ right to vote and further force it to divert resources away  
17 from its planned preelection activities toward emergency responses to voter challenges. *See Paher*,  
18 2020 WL 2042365, at \*4 (intervenors’ interests protecting voting rights and electing candidates  
19 would be impaired by challenge to California’s all-mail election provisions); *see also S.E.C. v.*  
20 *Navin*, 166 F.R.D. 435, 440 (N.D. Cal. 1995) (intervenor need only show “potential adverse  
21 impact” on the interest).

22 **C. Movant’s Interests Will Not Be Adequately Protected by the Existing Parties.**

23 Movant cannot rely on the existing parties to adequately represent its interests. Courts  
24 consider three factors in evaluating adequacy of representation: “(1) whether the interest of a  
25 present party is such that it will undoubtedly make all of a proposed intervenor’s arguments; (2)  
26 whether the present party is capable and willing to make such arguments; and (3) whether a  
27 proposed intervenor would offer any necessary elements to the proceeding that other parties would

1 neglect.” *Citizens for Balanced Use v. Mo. Wilderness Ass’n*, 647 F.3d 893, 898 (9th Cir. 2011)  
2 (cleaned up). Courts will not assume that representation is adequate unless the proposed  
3 intervenor’s “interest or ultimate objective in the litigation is the same” as an existing party’s. *See*  
4 *Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 185, 368 P.3d 1198, 1201 (2016).

5 Federal courts have repeatedly allowed voting rights organizations to intervene as of right  
6 because their interests are different from those of the government entities charged with enforcing  
7 election laws. For example, the Eleventh Circuit reversed an order denying intervention by voters  
8 as defendants in a Voting Rights Act case, holding that the voters’ “interests [were] in achieving  
9 the greatest possible participation in the political process” while the county “was required to  
10 balance a range of interests likely to diverge from those of the intervenors.” *Meek v. Metro. Dade*  
11 *Cnty., Fla.*, 985 F.2d 1471, 1478 (11th Cir. 1993), *abrogated on other grounds*, *Dillard v. Chilton*  
12 *Cty. Comm’n*, 495 F.3d 1324 (11th Cir. 2007); *see also Clark v. Putnam Cnty.*, 168 F.3d 458, 461-  
13 62 (11th Cir. 1999) (noting elected officials and election administrators have an interest in  
14 “remain[ing] popular and effective leaders.”) (alteration in original). Indeed, the Ninth Circuit has  
15 explained that “the government’s representation of the public interest may not be identical to the  
16 individual parochial interest of a particular group just because both entities occupy the same  
17 posture in the litigation.” *Citizens for Balanced Use*, 647 F.3d at 899 (quotation omitted).

18 This is the case here. Respondent Portillo is tasked with maintaining Clark County’s voter  
19 rolls and must balance voters’ interests in remaining registered against her duty to verify their  
20 eligibility. She does not share Movant’s distinct and particular interests in protecting its members,  
21 including its challenged members registered to vote in Clark County, *see Ex. 2*, Haseebullah  
22 Decl. ¶ 17, from additional burdens on voting or the risks of improper disenfranchisement.  
23 Respondent is also obligated to consider her county’s resources and the risks and benefits of  
24 litigation. And she has no obligation to consider the impact of sustaining mass challenges on  
25 Proposed Intervenor’s limited resources and commitment to expanding voting rights. In a very  
26 similar recent list-maintenance case, a federal court granted a union’s motion to intervene as a  
27 defendant alongside the government because it “assert[ed] an interest in preserving *their* resources

1 and protecting the voting rights of *their* members,” whereas the government had “no obligation to  
2 protect these specific resources or voting interests.” *Jud. Watch, Inc. v. Illinois State Bd. of*  
3 *Elections*, No. 24-cv-1867, 2024 WL 3454706, at \*3 (N.D. Ill. July 18, 2024) (citing *Bost v. Ill.*  
4 *State Bd. of Elections*, 75 F.4th 682, 687 (7th Cir. 2023)) (emphasis in original). Courts routinely  
5 reach the same conclusion in voting rights cases. *See Issa*, 2020 WL 3074351, at \*3 (contrasting  
6 the government’s general interest in enforcing the law with political groups’ interests in “ensuring  
7 their party members and the voters they represent have the opportunity to vote . . . and allocating  
8 their limited resources to inform voters about the election procedures”); *Bellitto v. Snipes*, No. 16-  
9 61474, 2016 WL 5118568, at \*4 (S.D. Fla. Sept. 20, 2016) (granting motion to intervene as of right  
10 by voter intervenors because the defendant election administrator’s “interests and interpretation of  
11 the NVRA may not be aligned and its reasons for seeking dismissal” are different from the  
12 intervenors’ reasons).

13 Proposed Intervenor will make two critical arguments: (1) no voter challenges based on  
14 systematic database analysis are permissible at any time under Nevada law, and (2) no systematic  
15 list maintenance activities are permissible within 90 days of the election under federal law,  
16 specifically the National Voter Registration Act of 1993 (“NVRA”). Proposed Intervenor will  
17 pursue both of those arguments on any appeal. Respondent has not filed a response and thus  
18 Proposed Intervenor has no assurance that Respondent will make either, let alone both, of those  
19 arguments. Respondent may press a much narrower reading of the NVRA, or she could decide that  
20 the most efficient course is to settle or to decline an appeal after an unfavorable ruling, thereby  
21 prejudicing Proposed Intervenor and its members. These reasons are sufficient to find that  
22 ACLUNV’s interests may not be adequately protected by the existing parties. *See Paher*, 2020 WL  
23 2042365, at \*5 (“Proposed Intervenor . . . ha[s] demonstrated entitlement to intervene as a matter  
24 of right” where they “may present arguments about the need to safeguard [the] right to vote that  
25 are distinct from Defendants’ arguments”); *cf. Berger v. N. Carolina State Conf. of the NAACP*,  
26 597 U.S. 179, 198 (2022) (legislators were not adequately represented where they uniquely would  
27

1 “focus on defending the [challenged] law vigorously on the merits without an eye to crosscutting  
2 administrative concerns”).

3 **II. ALTERNATIVELY, MOVANT SATISFIES THE REQUIREMENTS FOR**  
4 **PERMISSIVE INTERVENTION.**

5 In the alternative, ACLUNV also satisfies the requirements for permissive intervention  
6 under Rule 24(b). “NRC 24(b) provides that “[u]pon timely application anyone may be permitted  
7 to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when  
8 an applicant’s claim or defense and the main action have a question of law or fact in common.”  
9 *Hairr*, 132 Nev. at 187. In exercising its discretion, a court must also “consider whether the  
10 intervention will unduly delay or prejudice the adjudication of the rights of the original parties.”  
11 Nev. R. Civ. P. 24(b)(3). Federal courts consider several factors, including, “the nature and extent  
12 of the intervenors’ interest,” the “legal position [the intervenors] seek to advance,” and “whether  
13 parties seeking intervention will significantly contribute to full development of the underlying  
14 factual issues in the suit and to the just and equitable adjudication of the legal questions presented.”  
15 *Sullivan v. Ferguson*, 22-cv-05403-DGE, 2022 WL 10428165, at \*4 (W.D. Wash. Oct. 18, 2022)  
16 (quoting *Spangler v. Pasadena City Bd. of Educ.*, 552 F.2d 1326, 1329 (9th Cir. 1977)). All of  
17 these considerations favor granting permissive intervention here.

18 First, Proposed Intervenor’s defenses “relate to the subject matter of the action before the  
19 district court,” and “are clearly a critical part of the instant case.” *Republican Nat’l Comm. v.*  
20 *Aguilar*, 24-cv-00518-CDS, 2024 WL 3409860, at \*2 (D. Nev. July 12, 2024) (cleaned up).  
21 ACLUNV will argue that Respondent may not accept *any* written challenges at *any* time that are  
22 not based on “personal knowledge” of the facts establishing a voter’s changed residency, and may  
23 not conduct *any* systematic list maintenance activities like those Petitioners seek during the 90-  
24 day quiet period imposed by federal law. This includes sending out requests for voters to verify  
25 their registrations and moving voters to inactive status.

26 Second, there will be no prejudice to any existing party if Movant is permitted to intervene,  
27 nor will there be any delay because this case has just been filed and is still in the early stages.

1 Proposed Intervenor can coordinate with Respondent to streamline the briefing to mitigate as much  
2 as possible any additional burdens on the parties and the Court.

3 Finally, Proposed Intervenor will represent the unique and particular interests of the very  
4 voters who stand to be disenfranchised and/or inhibited from exercising their right to vote on equal  
5 terms as a result of Petitioners’ challenges—a perspective that the government Respondent cannot  
6 share. *See* Haseebullah Decl. ¶¶ 4-6, 9-10, 17. As such, Movant “will significantly contribute to  
7 full development of the underlying factual issues in the suit and to the just and equitable  
8 adjudication of the legal questions presented.” *Sullivan*, 2022 WL 10428165, at \*4.

9 A federal court in this District recently allowed voting rights organizations to intervene in  
10 a similar case in which third-party organizations sought to compel list maintenance, on grounds  
11 that the intervening organizations brought different objectives and arguments to the dispute than  
12 the government. The court explained:

[P]laintiffs seek to compel the State to remove from the rolls voters  
whom they claim are ineligible while defendants are required to  
balance the twin objectives of the NVRA in litigating this suit—  
easing barriers to registration and voting, while at the same time  
protecting electoral integrity. However, the expressed mission of the  
Proposed Intervenor is to ensure that voters are retained on or  
restored to the rolls. In other words, Proposed Intervenor provide the  
counterbalance to plaintiffs’ singular purpose that defendants’ split  
mission does not allow.

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18 *Aguilar*, 2024 WL 3409860, at \*1, \*3. The same reasoning applies here. Proposed Intervenor will  
19 provide an important “counterbalance” to Petitioners’ arguments that Respondent cannot provide  
20 due to her “split mission” of “easing barriers to registration and voting” and “protecting electoral  
21 integrity.” *Republican Nat’l Comm.*, 2024 WL 3409860, at \*3; *see also Public Interest Legal*  
22 *Found., Inc. v. Winfrey*, 463 F. Supp. 3d 799 (E.D. Mich. 2020) (same). If it does not grant  
23 intervention as of right, the Court should exercise its discretion to allow permissive intervention  
24 under Rule 24(b).

25 /

26 /

27

1 **CONCLUSION**

2 For the reasons set forth above, ACLUNV respectfully requests that the Court grant its  
3 motion to intervene and deem filed its proposed Answer.

4 **AFFIRMATION**

5 The undersigned affirms that the preceding document does not contain any person's  
6 personal information as defined in NRS § 239B.030(4).

7  
8 Respectfully submitted on October 2, 2024.

9 */s/ Sadmira Ramic*  
10 **SADMIRA RAMIC, ESQ.**  
Nevada Bar No. 15984  
11 **CHRISTOPHER M. PETERSON**  
Nevada Bar No. 13932  
12 **AMERICAN CIVIL LIBERTIES**  
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Telephone: (702) 366-1226  
14 Facsimile: (702) 366-1331  
Email: ramic@aclunv.org

15  
16 */s/ Sara Worth*  
**SARA WORTH\***  
California Bar No. 341088  
17 **AMERICAN CIVIL LIBERTIES**  
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Telephone: (212) 549-2500  
19 Email: vrp\_SW@aclu.org

20  
21 *Attorneys for Proposed Intervenor*  
*ACLU of Nevada*

22 *\*application for admission pro hac*  
23 *vice forthcoming*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on October 2, 2024, I electronically filed the foregoing **MOTION TO**  
3 **INTERVENE BY AMERICAN CIVIL LIBERTIES UNION OF NEVADA** with the Eighth  
4 Judicial District Court using the e-filing system.

5 Participants in the case who are registered with this Court’s electronic filing system will  
6 receive notice that the document has been filed and is available on the court’s electronic filing  
7 system. To my knowledge, all parties in this matter are registered with this Court’s electronic filing  
8 system.

9  
10 /s/ Sadmira Ramic  
11 An employee of the ACLU of Nevada  
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**INDEX OF EXHIBITS**

<b>Exhibit No.</b>	<b>Description</b>	<b>Number of Pages</b>
1	Proposed Answer to Petition for Writ of Mandamus By Intervenor- Respondent ACLU of Nevada	7
2	Declaration of Athar Haseebullah	4

DATED this 2<sup>nd</sup> day of October 2024



# **EXHIBIT 1**

1 SADMIRA RAMIC  
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2 CHRISTOPHER M. PETERSON  
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7 SARA WORTH (*pro hac vice forthcoming*)  
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11 *Attorneys for ACLU of Nevada*

12 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
13 **IN AND FOR THE COUNTY OF CLARK**

14 CITIZEN OUTREACH FOUNDATION,  
15 CHARLES MUTH, individually,

16 Petitioners,

17 vs.

18 LORENA PORTILLO, in her official capacity as  
the acting Registrar of Voters, for Clark County,

19 Respondent.

Case No.: A-24-902351-W

Department: 28

20  
21 **PROPOSED ANSWER TO PETITION FOR WRIT OF MANDMUS BY INTERVENOR-**  
22 **RESPONDENT ACLU OF NEVADA**  
23  
24  
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27

1           Intervenor-Respondent the American Civil Liberties Union of Nevada, by and through its  
2 counsel, for its Answer to Petitioners’ Petition for Writ of Mandamus, denies each and every  
3 allegation of the Petition not specifically admitted herein, and further answers as follows:

4           1.        Answering Paragraph 1, Respondent admits upon information and belief that on  
5 or about July 29, 2024, Petitioner MUTH submitted voter challenges to Nevada county clerks  
6 and registrars, including Clark County. Respondent lacks sufficient information to admit or deny  
7 that Petitioner MUTH’s challenges were “processed” by “several county clerks/registrars.”  
8 Respondent denies that the challenges submitted by Mr. Muth were “properly processed” or  
9 could be processed properly consistent with the laws of Nevada and the United States.

10          2.        Respondent lacks sufficient information to admit or deny the allegations of  
11 Paragraph 2.

12          3.        Answering Paragraph 3, Respondent admits upon information and belief that on  
13 or about August 27, 2024, the Nevada Secretary of State issued a memorandum to Nevada’s  
14 county clerks and registrars but denies the characterization that the memorandum was “private.”

15          4.        Respondent lacks sufficient information to admit or deny the allegations of  
16 Paragraph 4.

17          5.        Respondent denies the characterization that the memorandum was “secret.”  
18 Respondent lacks sufficient information to admit or deny the remaining allegations of Paragraph  
19 5.

20          6.        Answering Paragraph 6, Respondent admits upon information and belief that  
21 Petitioners sent an “Open Letter to Nevada Secretary of State” to Secretary Aguilar on or about  
22 September 8, 2024 reproduced at Petitioners’ Exhibit 2. Respondent does not have sufficient  
23 information to admit or deny the allegations contained within the Open Letter.

24          7.        Answering Paragraph 7, Respondent admits upon information and belief that  
25 Petitioners received the response from the Nevada Attorney General’s Office reproduced at  
26 Petitioners’ Exhibit 3. Respondent does not have sufficient information to admit or deny the  
27 remaining allegations of Paragraph 7.

1           8.       Answering Paragraph 8, Respondent admits upon information and belief that  
2           Petitioners sent the correspondence reproduced at Petitioners' Exhibit 4. Respondent does not  
3           have sufficient information to admit or deny that Petitioners sent this correspondence to each  
4           district attorney of Nevada.

5           9.       Respondent does not have sufficient information to admit or deny the allegations  
6           of Paragraph 9.

7           10.      Respondent does not have sufficient information to admit or deny the allegations  
8           of Paragraph 10.

9           11.      Respondent does not have sufficient information to admit or deny the allegations  
10          of Paragraph 11.

11          12.      Respondent does not have sufficient information to admit or deny the allegations  
12          of Paragraph 12.

13          13.      Answering Paragraph 13, Respondent does not have sufficient information to  
14          admit or deny the allegation that Petitioner MUTH is an elector registered to vote in Nevada. The  
15          remaining allegations in Paragraph 13 call for a legal conclusion and no response is required. To  
16          the extent a response is required, Respondent denies the remaining allegations of Paragraph 13.

17          14.      Respondent does not have sufficient information to admit or deny the allegations  
18          of Paragraph 14.

19          15.      Answering Paragraph 15, Respondent admits that Respondent PORTILLO is  
20          responsible for maintaining Nevada's voter rolls. The remaining allegations of Paragraph 15 call  
21          for legal conclusions and no response is required.

22          16.      The allegations of Paragraph 16 are admitted.

23          17.      Answering Paragraph 17, Respondent takes no position on Petitioners' recitation  
24          of Nevada Law, which speaks for itself. To the extent a response is required, Respondent admits  
25          the allegations in Paragraph 17.

26          18.      The allegations of Paragraph 18 are admitted.

1           19.     Answering Paragraph 19, Respondent takes no position on Petitioners' recitation  
2 of Nevada Law.

3           20.     Answering Paragraph 20, Respondent takes no position on Petitioners' recitation  
4 of Nevada Law.

5           21.     Answering Paragraph 21, Respondent takes no position on Petitioners' recitation  
6 of Nevada Law.

7           22.     Answering Paragraph 22, Respondent takes no position on Petitioners' recitation  
8 of Nevada Law.

9           23.     Answering Paragraph 23, Respondent takes no position on Petitioners' recitation  
10 of Nevada Law.

11          24.     Answering Paragraph 24, Respondent takes no position on Petitioners' recitation  
12 of Nevada Law.

13          25.     Answering Paragraph 25, Respondent takes no position on Petitioners' recitation  
14 of Nevada Law.

15          26.     Answering Paragraph 26, Respondent takes no position on Petitioners' recitation  
16 of Nevada Law.

17          27.     The allegations of Paragraph 27 call for legal conclusions and no response is  
18 required.

19          28.     Respondent incorporates its prior answers to the allegations of Paragraph 28.

20          29.     Answering Paragraph 29, Respondent admits upon information and belief that  
21 Petitioner MUTH filed 19,740 challenges in Clark County.

22          30.     Respondent lacks sufficient information to admit or deny the allegations of  
23 Paragraph 30.

24          31.     Answering Paragraph 31, the document speaks for itself.

25          32.     The allegations of Paragraph 32 call for legal conclusions and no response is  
26 required.

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1           33.     The allegations of Paragraph 33 call for legal conclusions and no response is  
2 required. To the extent a response is required, the allegations are denied.

3           34.     Answering Paragraph 34, Respondent admits that Petitioners seek a writ of  
4 mandamus to this effect. To the extent Respondent alleges that this relief constitutes “necessary  
5 actions pursuant to NRS 293.530,” the allegation is denied.

6           35.     Answering Paragraph 35, Respondent admits that Petitioners seek a declaratory  
7 judgment to this effect. To the extent Respondent alleges that this declaratory judgment is  
8 warranted, the allegation is denied.

9           36.     Respondent incorporates its prior answers to the allegations of Paragraph 36.

10          37.     Answering Paragraph 37, Respondent takes no position on Petitioners’ recitation  
11 of Nevada Law.

12          38.     The allegations of Paragraph 38 call for legal conclusions and no response is  
13 required.

14          39.     The allegations of Paragraph 39 call for legal conclusions and no response is  
15 required.

16          40.     The allegations of Paragraph 40 call for legal conclusions and no response is  
17 required.

18          41.     Respondent incorporates its prior answers to the allegations of Paragraph 41.

19          42.     Respondent does not have sufficient information to admit or deny the allegations  
20 of Paragraph 42.

21          43.     The allegations of Paragraph 43 call for legal conclusions and no response is  
22 required.

23          44.     The allegations of Paragraph 44 call for legal conclusions and no response is  
24 required.

25          45.     The allegations of Paragraph 45 call for legal conclusions and no response is  
26 required.

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1 46. The allegations of Paragraph 46 call for legal conclusions and no response is  
2 required.

3 47. The allegations of Paragraph 47 call for legal conclusions and no response is  
4 required.

5 **AFFIRMATIVE DEFENSES**

- 6 1. Petitioners lack standing to obtain relief.  
7 2. Petitioners fail to state a claim for relief.  
8 3. Petitioners have not stated a plausible claim for relief under NRS §§ 293.530 and  
9 293.535.  
10 4. Nevada law bars the relief Petitioners seek here. *See* NRS §§ 293.503, 293.530, 293.535.  
11 5. Federal law bars the relief Petitioners seek here. *See* 52 U.S.C. § 20507.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, ACLUNV respectfully requests that this Court:

- 14 1. Deny that Petitioners are entitled to any relief;  
15 2. Dismiss the Petition in its entirety, with prejudice;  
16 3. Award reasonable costs and attorneys' fees; and  
17 4. Grant additional relief as this court deems just and equitable.

18 Respectfully submitted on October 2, 2024,

19 */s/ Sadmira Ramic*  
20 **SADMIRA RAMIC, ESQ.**  
21 Nevada Bar No. 15984  
22 **CHRISTOPHER M. PETERSON**  
23 Nevada Bar No. 13932  
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*/s/ Sara Worth*  
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*Attorneys for Intervenor-Respondent  
ACLU of Nevada*

*\*application for admission pro hac  
vice forthcoming*



# **EXHIBIT 2**

**DECLARATION OF ATHAR HASEEBULLAH, ESQ.**

I, Athar Haseebullah, Esq., under penalty of perjury declare:

1. I am over the age of 18 and I am competent to testify.
2. I am the Executive Director of American Civil Liberties Union (ACLU) of Nevada and an attorney licensed to practice before Nevada Courts.
3. I have personal knowledge of the facts set forth in this declaration.
4. ACLU of Nevada is a non-partisan, non-profit organization with more than 5,000 members statewide, including over 3,300 members who reside in Clark County.
5. ACLU of Nevada continually works to defend and advance the civil liberties and civil rights of all Nevadans.
6. This includes members who are registered to vote in Clark County and who plan to cast ballots in the upcoming November 5, 2024, General Election.
7. ACLU of Nevada has been at the forefront of numerous efforts surrounding voting rights, including bringing forth legal challenges in *ACLU of Nev. v. Cnty. of Nye*, 519 P.3d 36 (Nev. 2022); *Martin v. City of North Las Vegas*, No. A-21-845709-W (Eighth Jud. Dist. Ct. Clark Cnty., Nev. filed Feb. 4, 2022); and *ACLU of Nev. v. Cnty. of Elko*, No. DC-CV-24-55 (Fourth Jud. Dist. Ct. Elko Cnty., Nev. filed May. 6, 2024).
8. The Nevada Supreme Court has found that the ACLU of Nevada has standing to challenge restrictions on voting rights including when conduct of election officials impacts voters' ability to cast their ballots. *See e.g. ACLU of Nev. v. Cnty. of Nye*, 519 P.3d 36 (Nev. 2022).

9. Protecting the fundamental right to vote is a core tenet of ACLU of Nevada's work, and ACLU of Nevada has frequently engaged in systemic work in furtherance of this mission and has been part of its strategic priorities for over two years.
10. ACLU of Nevada's voting rights work includes running one of the largest non-partisan election protection programs within the state, assisting its members, communities, and organizational partners in registering to vote including during voter registration events as recently as September of 2024, educating the community about voting in the 2024 General election, and engaging in get-out-the-vote activities to ensure eligible voters participate in the 2024 election.
11. ACLU of Nevada does not support or oppose political candidates for office but has taken a position on multiple ballot initiatives which Nevada voters will vote upon during the 2024 General Election.
12. On September 23, 2024, upon learning of the mass voter challenges that were lodged by the Petitioners, ACLU of Nevada requested public records from Clark County.
13. The request was made using the Clark County Public Records Portal at <https://clarkcountynv.justfoia.com/publicportal/home/newrequest>.
14. The response received from the Clark County Registrar of Voters Office included over 10,000 pages of documents.
15. ACLU of Nevada requested records from other counties in Nevada, and upon review of the responding documents, discovered several eligible voters who were challenged despite being lawfully registered, including a voter who requested mail forwarding because he is married to an Active-Duty Air Force member who was called to serve overseas.

16. ACLU of Nevada had to exert resources, including staff salaries which were to be devoted to other civil rights matters, to request this information and then sift through numerous responsive documents to be able to determine if its members were or will be impacted.
17. The complaint filed in this matter asks the Clark County Registrar of Voters to remove over 19,000 registered voters before the 2024 General Election.
18. There are *at least* fourteen official ACLU of Nevada members listed among the 19,000 challenges, and if removed from the voter registration list, they face the risk of not being able to vote in the 2024 General Election. If placed on the inactive list because of these challenges, they will be unable to vote absentee in the 2024 General Election.
19. ACLU of Nevada members will be directly impacted by the requested relief sought by the Petitioners by having their right to vote significantly and unlawfully burdened, and potentially facing outright disenfranchisement, with no possible recourse before the 2024 General Election.
20. If the requested relief of Petitioners is granted, the ACLU of Nevada will be hindered in its ability to carry out core components of its election year programs referenced above because it would have to divert from its ordinary work to research, contact, and re-register voters, and make efforts to reach out to its members to inform them of possible disenfranchisement, all before the first day of early vote, which is less than a month away.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 2nd day of October, 2024.

*Athar Haseebullah*

---

Athar Haseebullah, Esq.  
Executive Director  
American Civil Liberties Union of Nevada