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Attorneys for NAACP Tri-State Conference of Idaho-Nevada-Utah

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

ZENAIDA DAGUSEN, an individual;
REPUBLICAN NATIONAL COMMITTEE;
NEVADA REPUBLICAN PARTY; and
DONALD J. TRUMP FOR PRESIDENT 2024,
INC.

Plaintiffs,

vs.

CASE NO.: 24-OC-001531B

DEPT. NO.: 1

**REPLY IN SUPPORT OF MOTION TO
INTERVENE AS DEFENDANT BY
NAACP TRI-STATE CONFERENCE
OF IDAHO-NEVADA-UTAH**

1 FRANCISCO AGUILAR, in his official
2 capacity as Nevada Secretary of State;
3 DEMOCRATIC NATIONAL COMMITTEE;
4 and NEVADA STATE DEMOCRATIC
5 PARTY

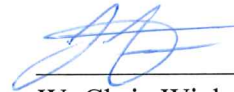
6 Defendants.

7 NAACP Tri-State Conference of Idaho-Nevada-Utah (“Tri-State NAACP”), by and
8 through its attorneys Woodburn and Wedge, Mayer Brown LLP, and Free Speech for People,
9 hereby submit the following Reply in Support of Motion to Intervene as Defendant by NAACP
10 Tri-State Conference of Idaho-Nevada-Utah (the “Reply”).

11 This Reply is based on the Memorandum of Points and Authorities below, the attached
12 declaration, all papers and pleadings on file, and any oral argument this Court sees fit to allow
13 at the hearing on this matter.

14 DATED this 21st of November, 2024.

15 By:



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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION AND BACKGROUND**

3 Just weeks before the 2024 General Election, Plaintiffs asked this Court to require the
4 Nevada Secretary of State (the “Secretary”) to adopt a vague and flawed standard to purge from
5 the voter rolls individuals allegedly identified as noncitizens by Plaintiffs’ flawed analysis. (*See*
6 *Mot.* at 2–3.) Tri-State NAACP sought to intervene to protect the right of its members and
7 constituents to vote, as well as its organizational interests. As set forth in its Motion to Intervene
8 as Defendant by NAACP Tri-State Conference of Idaho-Nevada-Utah (the “Motion” or “Mot.”),
9 Tri-State NAACP’s membership and constituency consist of predominately Black, Latino, and
10 other individuals in underrepresented groups, including individuals from low socio-economic
11 backgrounds and naturalized citizens. Declaration of Lonnie Feemster (“Feemster Decl.”) ¶¶ 11–
12 12. The organization has nearly 650 members throughout Nevada, including members who are
13 naturalized citizens. *Id.* ¶¶ 9, 11–12. Protecting and promoting the voting rights of its members
14 and constituents, regardless of political affiliation, is central to its core mission. *Id.* ¶¶ 6, 7.

15 These interests are no less salient after the conclusion of the 2024 General Election. As
16 set forth in the Motion and this Reply, Tri-State NAACP satisfies all requirements to intervene
17 as a matter of right or to permissively intervene. Plaintiffs have not provided any compelling
18 arguments to the contrary, and the Court therefore should grant Tri-State NAACP’s Motion.

19 **ARGUMENT**

20 **I. Tri-State NAACP is Entitled to Intervene as a Matter of Right.**

21 Tri-State NAACP meets all of the requirements for intervention as of right under
22 NRCP 24(a)(2). It (1) “has a sufficient interest in the [action’s] subject matter,” (2) “could suffer
23 an impairment of its ability to protect that interest if it does not intervene,” (3) does not have “its
24 interest adequately represented by existing parties,” and (4) has made a timely application to
25 intervene. *See Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex. rel. Cnty. of Clark*, 122 Nev.
26 1229, 1238, 147 P.3d 1120, 1126 (2006). Plaintiffs’ arguments do not contradict such a
27 conclusion and granting intervention where, as here, there is a challenge that threatens the right
28 to vote, is consistent with considerable precedent (*see Mot.* at 4–5 (collecting cases)).

1 **A. Tri-State NAACP Has Significant, Protectable Interests.**

2 A proposed intervenor has a significant, protectable interest sufficient for intervention
3 when an interest “is protected under the law and bears a relationship to the plaintiff’s claims.”
4 *Am. Home Assurance Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (quoting *S. Cal. Edison Co. v.*
5 *Lynch*, 307 F.3d 794, 803 (9th Cir. 2002)); *see also Greene v. United States*, 996 F.2d 973, 976
6 (9th Cir. 1993) (“[n]o specific legal or equitable interest need be established” to grant
7 intervention). Tri-State NAACP has at least two significant, protectable interests at stake.

8 First, Tri-State has an interest in advancing the right of its members and constituents to
9 vote, free from unlawful interference and intimidation. Plaintiffs’ requested relief would
10 potentially purge from the voter rolls individuals whose citizenship cannot be verified based on
11 flawed information, which could result in thousands of citizens and Tri-State NAACP’s
12 members and constituents being denied their right to vote, especially naturalized citizens. Mot.
13 at 5–6. Plaintiffs contend that this interest is “speculative,” because it is unknown whether their
14 requested relief will lead to naturalized citizens being removed from the voter rolls. Opp’n at 5.
15 But Plaintiffs identified allegedly “thousands of noncitizens” on the voter rolls because they
16 “presented an immigration document” when obtaining a drivers’ license or state ID card. Compl.
17 ¶ 58. Naturalized citizens fit this description, and potential disenfranchisement is sufficient in
18 such circumstances. *See Martin v. Crittenden*, 347 F. Supp. 3d 1302, 1307 (N.D. Ga. 2018). In
19 addition, even if naturalized citizens are not purged from the voter rolls, this action still may
20 deter those citizens from voting if they have reason to believe that information held by state or
21 federal agencies could reflect an outdated citizenship status. Mot. at 6. Nor does Plaintiffs’
22 contention that because Tri-State NAACP has not identified the number of its members and
23 constituents that are naturalized citizens, its interest is “generalized and undifferentiated.” Opp’n
24 at 5. Plaintiffs cite no case for the proposition that such quantification is required, and Tri-State
25 NAACP is aware of no such requirement.

26 Second, Tri-State NAACP has an interest in pursuing its election-related activities
27 without the burden of Plaintiffs’ requested relief. Tri-State NAACP engages in voter registration,
28 voter education, and get-out-the-vote and ballot-cure activities to ensure that eligible Nevada

1 voters, particularly voters in traditionally disenfranchised communities, can exercise their right
2 to vote. Feemster Decl. ¶¶ 7, 13, 20–21. Whether Plaintiffs’ requested relief was granted before
3 the 2024 General Election or after, Tri-State NAACP has limited staff and volunteer resources
4 to devote to other activities, including to resource-intensive projects like troubleshooting issues
5 that may arise if its members and constituents are purged from the voter rolls and expanding
6 voter education to address confusion created by Plaintiffs’ requested relief. *Id.* ¶¶ 20–21. In
7 addition, as described in the Motion, the vagueness of Plaintiffs’ request prevents Tri-State
8 NAACP from fully anticipating and addressing the many issues that may arise.

9 Plaintiffs cite no precedent for their contention that this is not a legitimate interest.
10 Tri-State NAACP’s core mission is ensuring that eligible Nevada voters can exercise the right
11 to vote; if Plaintiffs’ requested relief is granted, Tri-State NAACP must devote resources to
12 troubleshooting and new voter education activities focused on that relief. This type of diversion
13 of resources satisfies standing requirements, and thus meets the less stringent requirement for
14 intervention by right. *See Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991) (explaining that
15 satisfying Article III standing requirements “compels the conclusion that [intervenors] have an
16 adequate interest”); *cf. Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 394
17 (2024) (distinguishing between organizations that manufacture standing “by expending money
18 to gather information and advocate against . . . action” and organizations whose core missions
19 are frustrated by action).

20 As described in the Motion, both such interests are routinely found sufficient for
21 intervention by right. Mot. at 7 (collecting cases).

22 **B. Defendants Do Not Adequately Represent Tri-State NAACP’s Interests.**

23 Tri-State NAACP’s interests are also not adequately represented by Defendants.

24 “The most important factor in determining the adequacy of representation is how the
25 interest compares with the interests of existing parties.” *Hairr v. First Jud. Dist. Ct.*, 132 Nev.
26 180, 185, 368 P.3d 1198, 1201 (2016). Though Tri-State NAACP may have overlapping interests
27 with Defendants, the divergence is such that Tri-State NAACP will not be adequately
28 represented by them. As described in the Motion and above, Tri-State NAACP has interests in

1 preserving its resources to allow it to fulfill its core mission and in protecting the right to vote of
2 its members and constituents (including naturalized citizens) regardless of their partisan
3 affiliations and free from unlawful interference and intimidation. By contrast, the Secretary’s
4 primary interest is in the fair and efficient administration of the electoral process in accordance
5 with state and federal law. Mot. at 7–8 (collecting cases). The DNC and Nevada State
6 Democratic Party have a partisan interest in protecting the rights of *Democratic* voters and
7 candidates.

8 Since the time of the Motion, it has become clearer that Tri-State NAACP will not be
9 adequately represented by Defendants. *First*, Tri-State NAACP does not share an ultimate
10 objective with the Secretary; Tri-State NAACP intends to move to dismiss Plaintiffs’ Complaint,
11 Mot. at 4 n.3, while the Secretary is engaged in discussions with Plaintiffs about “a potential
12 resolution of this litigation,” Sec’y State’s Unopposed Mot. Extend Deadline (Nov. 15, 2024).
13 *Second*, Tri-State NAACP’s motion to dismiss arguments are not duplicative of those of the
14 DNC and Nevada State Democratic Party. Tri-State NAACP has an additional ground, namely
15 that Plaintiffs’ requested relief would unconstitutionally depriving U.S. citizens who are eligible
16 voters of their right to vote (Answer at 17-18). Accordingly, it is not the case that any of the
17 Defendants would “undoubtedly make all of proposed intervenor’s arguments,” let alone
18 whether they are “capable and willing to make such arguments.” *Citizens for Balanced Use v.*
19 *Mont. Wilderness Ass’n*, 647 F.3d 893, 898 (9th Cir. 2011). Any applicable presumption of
20 inadequacy does not apply.

21 **C. The Motion to Intervene Is Timely.**

22 Plaintiffs do not dispute that Tri-State NAACP’s Motion is timely. Since Tri-State
23 NAACP’s Motion was filed, the motion to dismiss of the DNC and Nevada State Democratic
24 Party has been fully briefed, but the Secretary has requested an extension of his time to respond
25 to the Complaint until December 2, 2024. Tri-State NAACP agrees to abide by any schedule set
26 by the Court. Tri-State NAACP’s intervention, therefore, would not delay the action and there
27 is no risk of prejudice to the existing parties. *See* Mot. at 8–9 (collecting cases).

28 Tri-State NAACP, therefore, is entitled to intervention as a matter of right.

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II. In the Alternative, the Court Should Grant Permissive Intervention.

Rule 24(b) grants courts broad discretion to permit intervention where an applicant’s defense and the main action have a question of law or fact in common and intervention will not unduly delay or prejudice the adjudication of the rights of the original parties. *See Hairr*, 132 Nev. at 186, 368 P.3d at 1202–03; *see also* NRCP 24(b)(1).

Plaintiffs neither dispute that Tri-State NAACP’s defenses present questions of law and fact in common with the pending action, nor that the Motion is timely. Rather, they claim that the Court should exercise its discretion to reject Tri-State NAACP’s motion to permissively intervene on the same grounds that Tri-State NAACP should be denied intervention by right. *See* Opp’n at 8. That should be rejected for the reasons described above. Because Tri-State NAACP and its members and constituents stand to be harmed by the relief Plaintiffs seek, it will aid the Court in developing a full record of the relevant considerations—including the effect of this litigation on those voters whose rights it threatens. Those realities should be at the forefront of the Court’s consideration as to whether to grant Plaintiffs’ requested relief.

CONCLUSION

For these reasons, Tri-State NAACP respectfully requests that the Court grant its motion to intervene as a matter of right under Nevada Rule of Civil Procedure 24(a), or in the alternative, permit it to intervene under Nevada Rule of Civil Procedure 24(b).

WHEREFORE, Tri-State NAACP respectfully requests that the Court grant its Motion to Intervene as a matter of right, or in the alternative with permission of the Court, and an expedited consideration of this Motion.

Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

1 DATED this 21st day of November, 2024.

2

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By:



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Woodburn and Wedge, and that on the below date, I caused a true and correct copy of the *REPLY IN SUPPORT OF MOTION TO INTERVENE AS DEFENDANT BY NAACP TRI-STATE CONFERENCE OF IDAHO-NEVADA-UTAH* to be served via E-Mail, to the following:

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DATED this 21st day of November, 2024.


An employee of Woodburn and Wedge

INDEX OF EXHIBITS

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<u>Exhibit No.</u>	<u>Description</u>	<u>No. of Pages</u>
1	Declaration of Lonnie Feemster, President of the Tri-State Idaho, Nevada, and Utah Conference of the NAACP in support of Motion to Intervene as Defendant	6
2	[Proposed] Order	9

EXHIBIT 1

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28 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

IN AND FOR CARSON CITY

ZENAIDA DAGUSEN, an individual;
REPUBLICAN NATIONAL
COMMITTEE; NEVADA REPUBLICAN
PARTY; and DONALD J. TRUMP FOR
PRESIDENT 2024, INC.

Plaintiffs,

v.

FRANCISCO AGUILAR, in his official
capacity as Nevada Secretary of State;

CASE NO.: 24-OC-001531B

DEPT. NO.: 1

1 DEMOCRATIC NATIONAL
2 COMMITTEE; and NEVADA STATE
3 DEMOCRATIC PARTY,
4 Defendants.

5 **DECLARATION OF LONNIE FEEMSTER, PRESIDENT OF THE TRI-STATE**
6 **IDAHO, NEVADA, AND UTAH CONFERENCE OF THE NAACP IN SUPPORT OF**
7 **MOTION TO INTERVENE AS DEFENDANT**

8 I, Lonnie Feemster, swear under penalty of perjury under the law of the State of Nevada
9 that the following information is true to the best of my knowledge and declare as follows:

10 1. I am over the age of 18 years, have personal knowledge of the matters stated
11 herein, am competent to make this declaration, and would testify to the same if called as a witness
12 in Court.

13 2. I was born and raised in Reno, Nevada and am currently a resident of Sparks,
14 Nevada.

15 3. I am the President of the Tri-State Idaho, Nevada, and Utah Conference of the
16 National Association for the Advancement of Colored People ("Tri-State NAACP"). I have
17 served as President of Tri-State NAACP since August 2024. I am authorized to speak for Tri-
18 State NAACP in this matter.

19 4. Tri-State NAACP is a state chapter of the National NAACP. The National
20 NAACP is a 501(c)(4) registered nonpartisan, nonprofit community organization dedicated to
21 eliminating racial hatred and racial discrimination through education, advocacy, and litigation.

22 5. Tri-State NAACP was founded in 1909. Tri-State NAACP is a non-partisan,
23 interracial, nonprofit membership organization with a mission to eliminate racial discrimination
24 through democratic processes and ensure the equal political, educational, social, and economic
25 rights of all persons, in particular the rights of Americans who are racial and ethnic minorities or
26 come from low economic backgrounds. Protecting and promoting the voting rights of Black
27 voters, other voters of color, and underserved communities is essential to this mission.

28 6. Tri-State NAACP is one of the largest, most significant organizations promoting
and protecting the civil rights of African Americans and other racial and ethnic minorities in

1 Nevada, as well as Americans of low socio-economic backgrounds and naturalized citizens,
2 regardless of partisan affiliation.

3 7. In pursuit of its core mission, Tri-State NAACP engages in voter registration,
4 voter education, and get-out-the-vote activities, expending considerable resources towards
5 ensuring that eligible voters in Nevada, particularly voters in traditionally disenfranchised
6 communities, can exercise their right to vote, free from unlawful interference and intimidation.

7 8. As President of Tri-State NAACP, my office is located in Sparks, Nevada.
8 Tri-State NAACP has two branches and two chapters throughout the State.

9 9. At this time, Tri-State NAACP has nearly 650 members in Nevada.

10 10. Tri-State NAACP's members, including those who are registered voters, are in at
11 least five counties in Nevada.

12 11. Tri-State NAACP's membership is comprised of predominately Black, Latino,
13 and individuals in other underrepresented groups. The membership also includes individuals
14 from low socio-economic backgrounds and naturalized U.S. citizens. Many of Tri-State
15 NAACP's members are registered voters throughout the state.

16 12. A number of Tri-State NAACP's members in Nevada are naturalized U.S.
17 citizens, including members from Argentina, Belize, Brazil, Colombia, Haiti, Mexico, and
18 Nigeria.

19 13. Ahead of the November 2024 General Election, Tri-State NAACP has been
20 holding get-out-the-vote events, registering prospective voters, advising its members and
21 broader constituents to check their voter registration, and planning its Souls-to-the-Polls
22 programs.

23 14. Tri-State NAACP has helped hundreds of individuals to register to vote in 2024.
24 These individuals are those who previously did not know how to access their right to vote, or
25 those who became eligible to vote as naturalized U.S. citizens.

26 15. Many Tri-State NAACP members plan to vote in the upcoming General Election.
27
28

1 16. I am aware about the lawsuit filed just 55 days before the General Election by the
2 Republican National Committee (“RNC”), Nevada Republican Party, and Donald J. Trump For
3 President 2024, Inc. (“Trump Campaign”). I am alarmed by the relief sought by these parties,
4 because they seek to prevent registered voters whom they suspect to be noncitizens from voting,
5 based on combing through data, in some instances outdated, maintained by the federal
6 government, Nevada courts, and state agencies, like the Department of Motor Vehicles. In
7 addition, the parties do not specify entirely the data to be used in these checks.

8 17. We are so close to the General Election—less than one week away, in fact. The
9 relief sought in this case is impractical to implement before the election. In fact, I believe that
10 the relief, if granted, will be disastrous for our members who plan to vote in in the General
11 Election.

12 18. Tri-State NAACP’s members will be harmed because registered voters, including
13 those who have previously voted and those who plan to vote for the first time, will be intimidated
14 before casting their vote because they may be concerned whether they will be impacted by the
15 Plaintiffs’ requested relief right before the General Election. Furthermore, it also suggests that
16 there is widespread illegal voting in Nevada, even though I am not aware of any evidence to
17 support that. Unsubstantiated claims of widespread noncitizen voting activity harm the
18 immigrant communities that we work with, and it impacts Tri-State NAACP’s mission to
19 eliminate racial discrimination.

20 19. The relief sought also directly frustrates Tri-State NAACP’s mission. Tri-State
21 NAACP works hard to register prospective voters, to educate them of their right to vote free
22 from unlawful interference and intimidation, and is now planning to mobilize these voters to the
23 polls. These last-minute challenges have the potential to disenfranchise Tri-State NAACP’s
24 members and constituents. It will undo much of the hard work that Tri-State NAACP has done.

25 20. Tri-State NAACP has limited staff and volunteer resources to troubleshoot any
26 issues that arise if members find out that they will be prevented from voting because of inaccurate
27 databases. Tri-State NAACP also has limited insight into whether their members will be purged

28

1 by the relief sought because the RNC, Nevada Republican Party, and Trump Campaign have
2 failed to identify the more than 6,000 voters they seek to prevent from voting and do not specify
3 entirely which data will be used to identify potential noncitizen voters. Our staff time so far has
4 been dedicated to registering, educating, and activating voters for the upcoming General
5 Election. And after the General Election, we plan to spend the bulk of our time helping voters
6 who cast provisional ballots to cure those ballots. But with this looming litigation, we must divert
7 our limited resources towards new issues that will arise from the permanent injunction sought in
8 this case.

9 21. These tasks will be challenging and resource-intensive, especially in our
10 marginalized constituencies. Those vulnerable voters have less time and resources to fight
11 against any uncertainty and confusion that will be caused by this change in voter roll. To that
12 end, Tri-State NAACP's resources will be stretched thin. We spend a lot of our limited time,
13 resources, and staff helping voters who cast provisional ballots at the polls cure those ballots in
14 the days after the General Election. And we will not be able to do so at the same degree if we
15 have to deal with the consequences of this litigation.

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22. Tri-State NAACP's work relating to other initiatives in the criminal justice and economic justice spaces would also suffer if we were forced to spend considerable resources responding to last minute mass voter challenges.

I, Lonnie Feemster, declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on October 29 2024



Lonnie Feemster

EXHIBIT 2

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

ZENAIDA DAGUSEN, an individual;
REPUBLICAN NATIONAL COMMITTEE;
NEVADA REPUBLICAN PARTY; and
DONALD J. TRUMP FOR PRESIDENT 2024,
INC.

Plaintiffs,

vs.

CASE NO.: 24-OC-001531B

DEPT. NO.: 1

**PROPOSED ORDER GRANTING
MOTION TO INTERVENE AS
DEFENDANT BY NAACP TRI-STATE
CONFERENCE OF IDAHO-NEVADA-
UTAH**

1 FRANCISCO AGUILAR, in his official
2 capacity as Nevada Secretary of State;
3 DEMOCRATIC NATIONAL COMMITTEE;
4 and NEVADA STATE DEMOCRATIC
5 PARTY

6 Defendants.

7 **[PROPOSED ORDER]**

8 This matter came before the Court pursuant to NAACP Tri-State Conference of Idaho-
9 Nevada-Utah's ("Tri-State NAACP") Motion to Intervene as Defendant (the "Motion"). Having
10 considered the parties' filings and the arguments of counsel, the Court rules as follows:

11 **BACKGROUND**

12 On September 11, 2024, Plaintiffs filed a Complaint challenging Nevada's voter roll
13 maintenance and citizenship verification practices under Nevada state law. They sought an order
14 requiring the Secretary of State to implement a new voter roll maintenance program and verify
15 the citizenship of all Nevada registered voters before the November 2024 General Election.

16 On October 31, 2024, Tri-State NAACP filed a Motion to Intervene as Defendant in this
17 matter and, pursuant to NRCP 24(c), affixed a proposed answer to its Motion. On November 14,
18 2024, Plaintiffs submitted a brief in Opposition to the Motion. Tri-State NAACP filed its Reply
19 in support of the Motion on November 21, 2024.

20 **LEGAL STANDARD**

21 NRCP 24(a)(2) permits intervention as a matter of right when a proposed intervenor
22 (1) "has a sufficient interest in the [litigation's] subject matter," (2) "could suffer an impairment
23 of its ability to protect that interest if it does not intervene," (3) does not have "its interest
24 adequately represented by existing parties," and (4) makes a timely application to intervene. *See*
25 *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex. rel. Cnty. of Clark*, 122 Nev. 1229, 1238,
147 P.3d 1120, 1126 (2006).

26 Such requirements are construed "broadly in favor of proposed intervenors . . . because
27 a liberal policy in favor of intervention serves both efficient resolution of issues and broadened
28 access to the courts." *Wilderness Soc'y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011)

1 (cleaned up) (quoting *United States v. City of L.A.*, 288 F.3d 391, 397-98 (9th Cir. 2002)).¹ Courts
2 regularly grant motions to intervene under Rule 24(a) when organizations seek to defend against
3 a challenge that threatens the right to vote. *See, e.g., Paher v. Cegavske*, No. 20-CV-00243, 2020
4 WL 2042365, at *2–3 (D. Nev. Apr. 28, 2020) (granting motion to intervene brought by groups
5 seeking to protect the right to vote in case involving challenge to Nevada’s vote-by-mail plan);
6 *Issa v. Newsom*, No. 20-cv-01055, 2020 WL 3074351, at *2–4 (E.D. Cal. June 10, 2020) (same
7 in California).

8 Rule 24(b) grants courts broad discretion to permit intervention where an applicant’s
9 defense and the main action have a question of law or fact in common and intervention will not
10 unduly delay or prejudice the adjudication of the rights of the original parties. *See Hairr v. First*
11 *Jud. Dist. Ct.*, 132 Nev. 180, 186, 368 P.3d 1198,1202–03 (2016); *see also* NRCP 24(b)(1)(B)
12 (allowing a party to permissively intervene if it “has a . . . defense that shares with the main
13 action a common question of law or fact”); *id.* 24(b)(3) (a court “must consider whether the
14 intervention will unduly delay or prejudice the adjudication of the original parties’ rights”).

15 FINDINGS OF FACT AND CONCLUSIONS OF LAW

16 17 **I. Tri-State NAACP Is Entitled to Intervene as a Matter of Right.**

18 **A. The Disposition of This Case Will Impede the Ability of Tri-State NAACP to** 19 **Protect Its Interests.**

20 Tri-State NAACP has significant protectable interests that may be impaired by Plaintiffs’
21 claims. A “‘significantly protectable interest’ . . . [is] one that is protected under the law and
22 bears a relationship to the plaintiff’s claims.” *Am. Home Assurance Co.*, 122 Nev. at 1239, 147
23 P.3d at 1127 (quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d 794, 803 (9th Cir. 2002)). “Once an
24 applicant has established a significantly protectable interest in an action, courts regularly find
25 that disposition of the case may, as a practical matter, impair an applicant’s ability to protect that

26 ¹ Nevada courts have stated that “[f]ederal cases interpreting [Rule 24] ‘are strong persuasive authority.’” *Exec.*
27 *Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002) (quoting *Las Vegas Novelty, Inc. v.*
Fernandez, 106 Nev. 113, 119, 787 P.2d 772, 776 (1990); *see also* *Lawler v. Ginochio*, 94 Nev. 623, 626, 584
28 P.2d 667, 668 (1978) (acknowledging that Nevada and Federal versions of Rule 24 are “equivalent”).

1 interest.” *Venetian Casino Resort, LLC v. Enwave Las Vegas, LLC*, No. 19-cv-1197, 2020 WL
2 1539691, at *3 (D. Nev. Jan. 7, 2020) (citing *California ex. rel. Lockyer v. United States*, 450
3 F.3d 436, 442 (9th Cir. 2006)). Indeed, “[n]o specific legal or equitable interest need be
4 established” for courts to grant intervention. *Greene v. United States*, 996 F.2d 973, 976 (9th Cir.
5 1993); *see also Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 822 (9th Cir. 2001)
6 (inquiry turns on whether “an absentee would be substantially affected in a practical sense”
7 (citation omitted)).

8 Tri-State NAACP has at least two significant, protectable interests at stake in this lawsuit.
9 First, it has a significant interest in advancing the fundamental constitutional right of its members
10 and constituents—including naturalized United States citizens—to vote, free from unlawful
11 interference and intimidation. Declaration of Lonnie Feemster (“Feemster Decl.”) ¶¶11-12.
12 Plaintiffs threaten this interest by asking the Court to require the Secretary of State to purge from
13 the state voter rolls individuals whose citizenship cannot be verified based on what in many cases
14 could be outdated information, including from the DMV. This could result in thousands of
15 American citizens and many of Tri-State NAACP’s members and constituents being denied their
16 right to vote, with naturalized citizens likely bearing the brunt of such denial. Moreover, even if
17 certain naturalized citizens are not purged from the voting rolls, this action still may deter them
18 from voting if they have reason to believe that information held by state or federal agencies could
19 reflect an outdated citizenship status.

20 Second, Tri-State NAACP’s organizational interests will be impaired if Plaintiffs obtain
21 their requested relief. In pursuit of its core mission, Tri-State NAACP engages in voter
22 registration, voter education, and get-out-the-vote and ballot-cure activities to ensure that eligible
23 Nevada voters, particularly voters in traditionally disenfranchised communities, can exercise
24 their right to vote. Feemster Decl. ¶¶ 7, 13, 20–21. The organization has limited staff and
25 volunteer resources to devote to other activities, including to troubleshoot any issues that may
26 arise if its members and constituents are purged from the voter rolls and to expand its voter
27 education to address any confusion otherwise created by Plaintiffs’ requested relief. *Id.* ¶ 20.
28 These tasks would be challenging and resource-intensive, especially in Tri-State NAACP’s

1 marginalized constituencies that have less time and resources to address these issues themselves.
2 *Id.* ¶ 21.

3 In addition, Plaintiffs broadly ask that the Secretary of State be required to use
4 “information regarding citizenship status” or “non-citizenship” held by the Department of
5 Homeland Security (including the SAVE system), Nevada courts related to jury-duty eligibility,
6 the DMV, “and other state agencies.” Compl. at Prayer. The vagueness of their request prevents
7 Tri-State NAACP from fully anticipating and addressing the many issues that may arise from
8 such information-sharing, requiring Tri-State NAACP to divert its limited resources for many of
9 its crucial voting-related activities. *Id.* ¶ 20.

10 Both these interests “are routinely found to constitute significant protectable interests”
11 that favor intervention as of right. *Issa*, 2020 WL 3074351, at *3; *see Paher*, 2020 WL 2042365,
12 at *2, 4 (political groups and voters had protectable interest in promoting the franchise, the
13 election of party candidates, and voting by mail); *Jud. Watch, Inc. v. Ill. State Bd. of Elections*,
14 No. 24- cv-1867, 2024 WL 3454706, at *4 (N.D. Ill. July 18, 2024) (union had protectable
15 interest in protecting the rights of members and use of its own resources to protect them from
16 removal from the rolls); *Bellitto v. Snipes*, No. 16-cv-61474, 2016 WL 5118568, at *2 (S.D. Fla.
17 Sept. 21, 2016) (granting union’s motion to intervene in NVRA case because it “asserts that its
18 interest and the interests of its members would be threatened by the court-ordered ‘voter list
19 maintenance’ sought by Plaintiffs”).

20 **B. Defendants Do Not Adequately Represent Tri-State NAACP’s Interests.**

21 Tri-State NAACP’s interests are not adequately represented by Defendants. A
22 prospective intervenor seeking intervention as a matter of right under Rule 24(a) bears the burden
23 of showing that there is inadequate representation of that interest by existing parties. *W.*
24 *Watersheds Project v. Haaland*, 22 F.4th 828, 840 (9th Cir. 2022). But that burden “is ‘minimal’
25 and satisfied if [the proposed intervenors] can demonstrate that representation of their interests
26 ‘may be’ inadequate.” *Id.* at 840 (citation omitted); *see also Berger v. N.C. State Conf. of the*

1 NAACP, 597 U.S. 179, 181 (2022) (this prong of the Rule’s test “presents proposed intervenors
2 with only a minimal challenge . . .”).

3 The Secretary of State, DNC, and Nevada State Democratic Party each have interests that
4 diverge from those of Tri-State NAACP, even though they are on the side of the lawsuit Tri-State
5 NAACP seeks to join. As discussed above, Tri-State NAACP has interests in preserving its
6 resources to allow it to fulfill its core mission, and in protecting the right to vote of its members
7 and constituents (including naturalized citizens) regardless of their partisan affiliations and free
8 from unlawful interference and intimidation.

9 By contrast, the Secretary of State’s primary interest is in the fair and efficient
10 administration of the electoral process in accordance with state and federal law. *See Pub. Int.*
11 *Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799 (E.D. Mich. 2020) (holding that the
12 “interests of election officials in voting roll maintenance are sufficiently distinct ... to warrant
13 intervention by those who could be impacted by the results of the maintenance process”);
14 *Bellitto*, 2016 WL 5118568, at *2 (same); *Republican Nat’l Comm. v. Aguilar*, No. 24-CV-
15 00518, 2024 WL 3409860, at *3 (D. Nev. July 12, 2024) (in voting roll-maintenance action,
16 holding that proposed intervenors with the mission “to ensure that voters are retained on or
17 restored to the rolls” “provide the counterbalance to plaintiffs’ singular purpose that defendants’
18 [including the Nevada Secretary of State’s] mission does not allow”). The DNC and Nevada
19 State Democratic Party have a partisan interest in protecting the rights of *Democratic* voters and
20 candidates.

21 Given this divergence of interests, it is not clear that any of the Defendants would
22 “undoubtedly make all of a prospective intervenor’s arguments,” let alone whether they are
23 “capable and willing to make such arguments.” *Citizens for Balanced Use v. Mont. Wilderness*
24 *Ass’n*, 647 F.3d 893, 898 (9th Cir. 2011). In such circumstances, courts have consistently allowed
25 voting rights organizations to intervene as of right.

26 **C. The Motion to Intervene Is Timely.**

27 Tri-State NAACP’s motion is timely. Plaintiffs filed their complaint on September 11,
28 2024, the Democratic National Committee and Nevada State Democratic Party moved to dismiss

1 the complaint on October 3, 2024, and Plaintiffs opposed the motion to dismiss on October 25,
2 2024. The deadline for the Secretary of State’s response to the complaint has been extended to
3 December 2, 2024 and no other substantive proceedings have taken place. And Tri-State NAACP
4 has agreed to abide by any schedule set by the Court. Tri-State NAACP’s intervention, therefore,
5 would not delay the action and there is no risk of prejudice to the existing parties. *See In re*
6 *Guardianship of A.M.*, No. 59116, 2013 WL 3278878, at *3 (Nev. May 24, 2013) (timeliness
7 determination weighs prejudice to existing parties resulting from delay against prejudice
8 resulting from the application being denied); *Lawler*, 94 Nev. at 626, 584 P.2d at 669 (“[t]he
9 most important question to be resolved in the determination of the timeliness of an application
10 for intervention is not the length of the delay by the intervenor but the extent of prejudice to the
11 rights of existing parties resulting from the delay”); *see also Kalbers v. U.S. Dep’t of Justice*, 22
12 F.4th 816, 825 (9th Cir. 2021) (interval of “just a few weeks” “weigh[ed] in favor of timeliness”);
13 *Issa*, 2020 WL 3074351, at *2, 4 (motion was timely where “no substantive proceeding[] ha[d]
14 occurred”); *Nev. v. United States*, No. 18-cv-569, 2019 WL 718825, at *3 (D. Nev. Jan. 14,
15 2019) (granting motion to intervene filed several weeks after action commenced); *W. Expl. LLC*
16 *v. Dep’t of Interior*, No. 15-cv-00491, 2016 WL 355122, at *2-3 (D. Nev. Jan. 28, 2016)
17 (granting motion to intervene filed nearly two months after action commenced).

18 Tri-State NAACP has significant, protectable interests at stake that will not be adequately
19 represented by any other party to this action. It has moved to intervene in a timely manner,
20 without threat of delaying the action or otherwise prejudicing any other party. Tri-State NAACP,
21 therefore, is entitled to intervention as a matter of right.

22 II. Tri-State NAACP is Entitled to Permissive Intervention.

23 Tri-State NAACP’s defenses—that Plaintiffs’ requested relief is unconstitutional,
24 invalid, and violates the rights of voters—present clear questions of law and fact in common
25 with the pending action. And because Tri-State NAACP and its members and constituents stand
26 to be harmed by the relief Plaintiffs seek, it will aid the Court in developing a full record of the
27 relevant considerations—including the effect of this litigation on those voters whose rights it
28 threatens. Moreover, intervention will not result in any undue delay or prejudice because

1 Tri-State NAACP has a strong interest in swift resolution to this action to ensure that its
2 members' and constituents' voting rights, and its own organizational interests, are protected.

3 Therefore, Tri-State NAACP also is entitled to permissive intervention.

4 Accordingly, for the reasons set forth above, **IT IS HEREBY ORDERED** and declared
5 that the NAACP Tri-State Conference of Idaho-Nevada-Utah's Motion to Intervene as
6 Defendant is GRANTED.

7 W. Chris Wicker shall serve a notice of entry of the order on all parties and file proof of
8 such service within 7 days after the date the Court sent the order to the attorney.

9 **IT IS SO ORDERED.**

10 Dated this _____ day of _____, 2024.

11

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13

DISTRICT COURT JUDGE

14

15 Respectfully Submitted by:

16 WOODBURN AND WEDGE

17

18 By: 

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