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6 *Attorneys for Nevada Legislature*

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

9 JOHN KOENIG, an individual;
10 GREGORY T. HAFEN, II, an individual;
ELKO COUNTY, a political subdivision
11 of the State of Nevada; WILDE
12 BROUGH, an individual; BURT GURR,
an individual; REX STENINGER, an
13 individual; SAM MORI, an individual;
TRACY MORI, an individual; PETER
14 M. MORI, an individual; TAMMY
15 MORI, an individual; JOHN ELLISON,
an individual; and WILLIAM
16 O'DONNELL, an individual,

17 Plaintiffs,

18 vs.

19 STATE OF NEVADA, *ex rel.*, THE
HONORABLE STEPHEN SISOLAK, in
20 his official capacity as Governor of the
State of Nevada; THE HONORABLE
21 AARON FORD, in his official capacity
22 as the Attorney General of the State of
Nevada; and THE HONORABLE
23 BARBARA K. CEGAVSKE, in her
24 official capacity as Secretary of State for
the State of Nevada,

25 Defendants.
26
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Case No. 21 OC 00166 1B

Dept. No.: II

**THE NEVADA LEGISLATURE'S
MOTION TO INTERVENE**

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 The Nevada Legislature (hereinafter, the “Legislature”), through appropriate
3 statutory processes, has deemed it necessary and advisable to protect its official
4 interests by participating as a party in the above-entitled action, and therefore moves
5 this Court for an order granting its request to intervene as Defendants-in-
6 Intervention, pursuant both to NRCPC 24(a)(1)¹ and Section 20 of Senate Bill 1 (“S.B.
7 1”) of the 33rd Special Session of the Nevada Legislature.² The Legislature makes
8 this request with no purpose of delay or obstruction, and its grant will prejudice no
9 existing party to this matter.

10 Intervention as of right under NRCPC 24(a)(1) is appropriate here. The
11 Legislature, pursuant to S.B. 1, Section 20(2), has the statutory right to intervene in
12 this action. “If a party commences or prosecutes any action or proceeding relating to
13 any election or petition district, the Legislature may elect to intervene in the
14 action ...” under the appropriate rules of procedure, and if the motion is accompanied
15 by an appropriate pleading, brief, or dispositive motion, or by a request to file such at
16 a later time. This motion is accompanied by the proposed Answer of the Legislature
17 to the Amended Complaint, here attached as **Exhibit A**, and the Legislature also
18 requests the ability to file all such briefs and motions it deems necessary in the future

19 _____
20 ¹ **Rule 24. Intervention**

21 (a) **Intervention of Right.** On timely motion, the court must permit anyone
22 to intervene who:

23 (1) is given an unconditional right to intervene by a state or federal statute;
24 or

25 (2) claims an interest relating to the property or transaction that is the
26 subject of the action, and is so situated that disposing of the action may as a practical
27 matter impair or impede the movant’s ability to protect its interest, unless existing
28 parties adequately represent that interest.

29 ² S.B. 1, § 20, 33rd Special Sess. (Nev. 2021) (available at
30 https://www.leg.state.nv.us/Session/33rd2021Special/Bills/SB/SB1_EN.pdf, at 78-80)
31 (last accessed on Feb. 10, 2022).

1 to protect its interests. Under Section 20(3) of S.B. 1, the Legislature “has an
2 unconditional right and standing to intervene in the action or proceeding, and to
3 present its arguments, claims, objections or defenses, in law or in fact, whether or not
4 the Legislature’s interests are adequately represented by existing parties and
5 whether or not the State or any agency, officer, or employee of the State is an existing
6 party.” Upon intervention as of right, “the Legislature has all the rights of a party.”

7 *Id.*

8 This motion is timely, no party has filed an Answer to Plaintiffs’ Amended
9 Complaint, a preliminary injunction motion is in briefing stages, and, to the
10 Legislature’s knowledge, no deadlines approach or have passed that would cause
11 unnecessary prejudice to the Plaintiffs.

12 The necessary elements of NRCP 24(a)(1) are thus satisfied, and the
13 Legislature asks the Court to grant its motion, either by the draft order here provided
14 as a proposed Order of the Court (*see Exhibit B*) or through its own order, to permit
15 its proposed Answer to be filed, and to grant the Legislature all rights and privileges
16 as a party to this action.

17 **AFFIRMATION**

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

20 DATED this 14th day of February, 2022.

21 **WOLF, RIFKIN, SHAPIRO,**
22 **SCHULMAN & RABKIN, LLP**

23 By: 

24 BRADLEY S. SCHRAGER, ESQ. (NSB 10217)
25 JOHN SAMBERG, ESQ. (NSB 10828)
26 DANIEL BRAVO, ESQ. (NSB 13078)
27 3773 Howard Hughes Parkway, Suite 590 South
28 Las Vegas, Nevada 89169
Attorneys for Nevada Legislature

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 14th day of February, 2022, a true and correct
3 copy of the **NEVADA LEGISLATURE’S MOTION TO INTERVENE** was served
4 upon all parties via U.S. Mail, postage prepaid Reno, Nevada and via electronic
5 mailing to the following:

6 Karen A. Patterson, Esq.
7 Justin Townsend, Esq.
8 ALLISON MacKENZIE, LTD.
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13 ATTORNEYS OFFICE
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Attorneys for Defendants

15 *Attorney for Plaintiffs*

16 Billie Shadron
17 Judicial Assistant, Dept. 2
18 First Judicial District Court
19 BShadron@carson.org

20 By: /s/ Laura Simar
21 Employee of WOLF, RIFKIN, SHAPIRO,
22 SCHULMAN & RABKIN, LLP
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EXHIBIT A

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EXHIBIT A

1 BRADLEY S. SCHRAGER, ESQ. (NSB 10217)
JOHN SAMBERG, ESQ. (NSB 10828)
2 DANIEL BRAVO, ESQ. (NSB 13078)
ERIC LEVINRAD, ESQ. (*pro hac vice forthcoming*)
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7 *Attorneys for the Nevada Legislature*

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TRACY MORI, an individual; PETER
15 M. MORI, an individual; TAMMY
MORI, an individual; JOHN ELLISON,
16 an individual; and WILLIAM
O'DONNELL, an individual,

17
18 Plaintiffs,

19 vs.

20 STATE OF NEVADA, *ex rel.*, THE
HONORABLE STEPHEN SISOLAK, in
21 his official capacity as Governor of the
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22 AARON FORD, in his official capacity
as the Attorney General of the State of
23 Nevada; and THE HONORABLE
24 BARBARA K. CEGAVSKE, in her
official capacity as Secretary of State for
25 the State of Nevada,

26 Defendants.
27
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Case No. 21 OC 00166 1B

Dept. No.: II

**THE NEVADA LEGISLATURE'S
PROPOSED ANSWER TO THE
AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

1 The Nevada Legislature (hereinafter, the “Legislature”), by and through its
2 counsel of record of Wolf Rifkin, Shapiro, Schulman & Rabkin, LLP, and files its
3 answer to the allegations contained in the Amended Complaint filed on January 19,
4 2022.

5 1. In answering the allegations contained in paragraphs 1, 2, 19, 20, 21,
6 23, 24, 25, 30, 33, 36, 44, 54, 63, 64, 68, 70, 74, 76, 77, 78, 79, 83, 86, 87, 95, 96, 103,
7 106, 114, and 121 of Plaintiff’s First Amended Complaint, Nevada Legislature
8 responds as follows: The paragraph consists of averSIONS and conclusions for which
9 no response is required, and therefore those are denied.

10 2. In answering the allegations contained in paragraph 3, 4, 5, 10, 11, 12, 13, 14,
11 15, 16, 18, 27, 28, 31, 35, 37, 38, 39, 40, 53, 57, 59, 60, 69, 71, 72, 73, 75, 81, 82, 100,
12 101, 111, and 112 of Plaintiff’s First Amended Complaint, Nevada Legislature
13 responds as follows: The paragraph consists of averSIONS and conclusions for which
14 no response is required, or for which the Legislature has not enough information with
15 which to respond at this juncture, and therefore those are denied.

16 3. In answering the allegations contained in paragraph 6, 7, 8, 9, 22, 26, 32, 42,
17 43, 45, 46, 47, 48, 49, 50, 52, 62, 65, 67, 80, 84, 85, 88, 89, 90, 91, 92, 93, 94, 104, 105,
18 115, 116, and 117 of Plaintiff’s First Amended Complaint, Nevada Legislature
19 responds as follows: The paragraph consists of averSIONS and conclusions for which
20 no response is required, or for which the Legislature has not enough information with
21 which to respond at this juncture, or references materials, documents, or other
22 purported evidence that speaks for itself or themselves, and therefore those are
23 denied.

24 4. In answering the allegations contained in paragraph 17, 29, 34, 41, 51, 55, 56,
25 58, 61, 66, 97, 98, 99, 102, 107, 108, 109, 110, 113, 118, 119, and 120 of Plaintiff’s
26 First Amended Complaint, Nevada Legislature responds as follows: Denied.

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AFFIRMATIVE DEFENSES

- 1. Plaintiffs do not state a claim for which relief can be granted.
- 2. Plaintiffs' claims are barred by the doctrine of laches.
- 3. Plaintiffs' claims are barred by the application of doctrines of legislative privilege.
- 4. Plaintiffs have suffered no actual injuries sufficient to maintain suit.
- 5. Plaintiffs lack standing to maintain this suit.
- 6. Plaintiffs are not the real parties in interest to this suit.
- 7. Plaintiffs may not recover attorney fees in this action.
- 8. All other such appropriate affirmative defenses to the claims of Plaintiffs, to be asserted as necessary in the course of the action.

PRAYER FOR RELIEF


The Nevada Legislature asks this Court to provide Plaintiffs nothing, none of their requested relief, by way of their Amended Complaint.

AFFIRMATION

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

DATED this 14th day of February, 2022.

**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**

By: 

BRADLEY S. SCHRAGER, ESQ. (NSB 10217)
 JOHN SAMBERG, ESQ. (NSB 10828)
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 ERIC LEVINRAD, ESQ. (*pro hac vice forthcoming*)
 3773 Howard Hughes Parkway, Suite 590 South
 Las Vegas, Nevada 89169
Attorneys for the Nevada Legislature

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this ____ day of February, 2022, a true and correct
3 copy of the **NEVADA LEGISLATURE'S PROPOSED ANSWER TO THE**
4 **AMENDED COMPLAINT** was served upon all parties via U.S. Mail, postage
5 prepaid Las Vegas, Nevada and via electronic mailing to the following:

6 Karen A. Patterson, Esq.
7 Justin Townsend, Esq.
8 ALLISON MacKENZIE, LTD.
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11 Rand J. Greenburg, Esq.
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Attorney for Plaintiffs

16 Billie Shadron
17 Judicial Assistant, Dept. 2
18 First Judicial District Court
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20 By: _____
21 Employee of WOLF, RIFKIN, SHAPIRO,
22 SCHULMAN & RABKIN, LLP
23
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EXHIBIT B

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EXHIBIT B

1 BRADLEY S. SCHRAGER, ESQ. (NSB 10217)
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14 M. MORI, an individual; TAMMY
MORI, an individual; JOHN ELLISON,
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22 AARON FORD, in his official capacity
as the Attorney General of the State of
23 Nevada; and THE HONORABLE
24 BARBARA K. CEGAVSKE, in her
official capacity as Secretary of State for
25 the State of Nevada,

26 Defendants.
27
28

Case No. 21 OC 00166 1B

Dept. No.: II

**[PROPOSED] ORDER GRANTING
THE NEVADA LEGISLATURE'S
MOTION TO INTERVENE**

ORDER GRANTING THE NEVADA LEGISLATURE’S
MOTION TO INTERVENE

Before this Court is the motion of the Nevada Legislature (the “Legislature”) for an order granting it intervenor status in this action, as Defendant-in-Intervention.

The Legislature seeks to intervene pursuant to NRCP 24(a)(1), intervention of right. In pertinent part, NRCP 24(a)(1) states:

Rule 24. Intervention

(a) **Intervention of Right.** On timely motion, the court must permit anyone to intervene who:

- (1) is given an unconditional right to intervene by a state or federal statute;...

Here, the Legislature claims intervention of right under a provision of the very law Plaintiffs challenge in this action, Senate Bill 1 (“S.B. 1”) of the 33rd Special Session of the Nevada Legislature (2021). Section 20 of that bill, which was enacted in law by the Legislature and approved by the Governor in November, 2021, provides, in pertinent parts, that “[w]hen deemed necessary or advisable to protect the official interests of the Legislature,” if any “party commences or prosecutes any action or proceeding relating to any election or petition district, the Legislature may elect to intervene in the action ...” and may move to do so under the applicable rules and procedures, including the inclusion of an appropriate pleading with its motion to intervene. S.B. 1, § 20(1-2), as enrolled, at page 78. Furthermore, under Section 20(3) of the bill, “the Legislature has an unconditional right and standing to intervene in the action or proceeding, whether or not the Legislature’s interests are adequately represented by existing parties ...” *Id.*, at 79.

The Court finds and concludes that the Legislature has the unconditional right to intervene in this action, and that the form of its motion and associated submissions is proper. Plaintiffs have brought an action challenging, and therefore relating to, multiple election districts contained in S.B. 1, and is of the type of action for which the provisions of S.B. 1 establishing the Legislature’s right of intervention was enacted.

1 Furthermore, the Amended Complaint in this matter was filed only January 19,
2 2022, no defendant has yet answered, and the only pending matter before the Court is
3 a motion for preliminary injunction by Plaintiffs, filed on February 1, 2022, which
4 remains in the briefing stage. The Court foresees no prejudice to any existing party by
5 the Legislature's intervention. The Legislature's motion, therefore, is timely.

6 Lastly, the Legislature has included with its motion the required appropriate
7 pleading setting forth, at least, defenses in law or fact, to Plaintiffs' claims.

8 The elements of intervention of right pursuant to NRCP 24(a)(1), as well as to
9 the provisions of S.B. 1, Section 20, are met.

10 **THEREFORE**, good cause appearing, the Legislature's motion to intervene is
11 **GRANTED**, and the Legislature is accorded full rights of a party as Defendant-in-
12 Intervention.

13 DATED this __ day of _____, 2022.

14
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16 _____
District Court Judge

17
18
19
20 Submitted by:

21 
22 _____
BRADLEY S. SCHRAGER, ESQ. (NSB 10217)
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