

Jeffrey F. Barr (NV Bar No. 7269)
8275 South Eastern Avenue, Suite 200
Las Vegas, NV 89123
(702) 631-4755
barrj@ashcraftbarr.com

Thomas R. McCarthy* (VA Bar No. 47145)
Gilbert C. Dickey* (VA Bar No. 98858)
Conor D. Woodfin* (VA Bar No. 98937)
1600 Wilson Boulevard, Suite 700
Arlington, VA 22209
(703) 243-9423
tom@consovoymccarthy.com
gilbert@consovoymccarthy.com
conor@consovoymccarthy.com

Sigal Chattah (NV Bar No. 8264)
5875 S. Rainbow Blvd #204
Las Vegas, NV 89118
(702) 360-6200
sigal@thegoodlawyerlv.com

Counsel for Plaintiffs
**Admitted pro hac vice*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

REPUBLICAN NATIONAL COMMITTEE,
NEVADA REPUBLICAN PARTY, and SCOTT
JOHNSTON,

Plaintiffs,

v.

FRANCISCO AGUILAR, *in his official capacity*
as Nevada Secretary of State; LORENA
PORTILLO, *in her official capacity as the*
Registrar of Voters for Clark County; WILLIAM
"SCOTT" HOEN, AMY BURGANS, STACI
LINDBERG, and JIM HINDLE, *in their official*
capacities as County Clerks,

Defendants.

No. 2:24-cv-00518-CDS-MDC

**SECOND AMENDED
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 Plaintiffs the Republican National Committee, the Nevada Republican Party,
2 and Scott Johnston file this second amended complaint under the National Voter
3 Registration Act of 1993 (NVRA), 52 U.S.C. §20507, against Defendants for
4 declaratory and injunctive relief. Plaintiffs allege as follows:

5 **INTRODUCTION**

6 1. Section 8 of the NVRA requires States to maintain clean and accurate
7 voter registration records.

8 2. Nevada has failed to live up to the NVRA's requirements.

9 3. At least eight counties in Nevada have inordinately high voter
10 registration rates.

11 4. At least three Nevada counties have more registered voters than they
12 have adult citizens who are over the age of 18. That number of voters is impossibly
13 high.

14 5. An additional five counties have voter registration rates that exceed 90
15 percent of adult citizens over the age of 18. That figure far eclipses the national and
16 statewide voter registration rate in recent elections.

17 6. Based on this and other evidence, Defendants are failing to make a
18 reasonable effort to conduct appropriate list maintenance as required by the NVRA.

19 **JURISDICTION AND VENUE**

20
21 7. The Court has subject-matter jurisdiction because this case alleges
22 violations of the NVRA. *See* 28 U.S.C. §1331; *Ex parte Young*, 209 U.S. 123 (1908).

23 8. Venue is proper because a substantial part of the events or omissions
24 giving rise to the claims occurred in this District and because some Defendants
25 "reside" here. 28 U.S.C. §1391.

PARTIES

9. Plaintiff, the Republican National Committee (RNC), is the national committee of the Republican Party, as defined by 52 U.S.C. §30101(14), with its principal place of business at 310 First Street S.E., Washington, DC 20003.

10. The RNC represents over 30 million registered Republicans in all 50 states, the District of Columbia, and the U.S. territories. It is comprised of 168 voting members representing state Republican Party organizations, including three members who are registered voters in Nevada.

11. The RNC works to elect Republican candidates to state and federal office. In November 2024, its candidates will appear on the ballot in Nevada for numerous federal and state offices.

12. The RNC has vital interests in protecting the ability of Republican voters to cast, and Republican candidates to receive, effective votes in Nevada elections and elsewhere. The RNC brings this suit to vindicate its own rights in this regard, and in a representational capacity to vindicate the rights of its members, affiliated voters, and candidates.

13. The State's maintenance of voter rolls directly affects the RNC's ability to provide services to candidates and voters, and to accomplish its core activities of electing Republican candidates and turning out Republican voters in local, state, and federal elections.

14. The RNC engages in daily voter registration services for candidates, voters, and local state parties. When a State fails to maintain clean voter rolls, the RNC cannot provide effective registration services for those groups. Failing to remove ineligible voters, failing to move voters to inactive status, and failing to remove voters who have been listed as inactive for two election cycles harm those efforts. That is, candidates and local state parties have interest in registering *eligible* voters. And only *eligible* voters have an interest in registering to vote. When a State fails to maintain

1 clean voter rolls, it harms the ability of candidates, voters, and local state parties to
2 know who needs to be registered and who needs to update their registration.

3 15. The State's maintenance of voter rolls also directly affects the RNC's
4 ballot-chase programs and voter-turnout efforts. The number of voters registered in a
5 State and locality drive the RNC's modeling efforts, providing a roadmap of voters
6 who need to be contacted and driven out to vote. A false report of registered voters
7 hinders the RNC's ability to effectively chase ballots and turn out voters in a given
8 State or locality.

9 16. The RNC's ballot-chase efforts are harmed in particular because Nevada
10 automatically sends all active voters a mail ballot. Inaccurate voter rolls result in
11 more ineligible voters receiving mail ballots, which results in the RNC chasing ballots
12 of citizens who are not even eligible to vote.

13 17. In addition, the RNC has limited time, employees, volunteers, and
14 money. In each State and locality, the RNC must allocate these resources to elect
15 Republican candidates and turn out Republican voters. For example, when a State or
16 locality shows that few people are registered to vote, the RNC must focus on voter-
17 registration services in that jurisdiction. Conversely, when a State shows a significant
18 number of voters registered to vote, the RNC must focus instead on voter-turnout
19 efforts. When a State has failed to maintain its voter rolls, it the RNC is unable to
20 determine whether it needs to prioritize voter registration or voter turnout, which
21 necessarily harms the RNC's ability elect Republican candidates and turn out
22 Republican voters.

23 18. The RNC also relies on state voter rolls for its voter contacts. The RNC
24 contacts voters through mail and digital avenues, as well as both volunteer and paid
25 in person contacts. These voter-contact efforts are essential to electing Republican
26 candidates and turning out Republican voters. The RNC uses voter rolls to adjust the
27 size, scope, and audience for these voter contacts. Inaccurate voter rolls harm the
28 effectiveness of these voter-contact efforts by resulting in contacts with registered

1 voters who are no longer eligible to vote and resulting in mail pieces being printed and
2 sent but never properly delivered.

3 19. The RNC also provides essential contact support to all Republican
4 candidates that win their respective primaries. That support includes knocking on
5 doors, making phone calls, sending text messages, registering voters, etc. Voter rolls
6 inform who should be contacted in that candidate's jurisdiction. When voter rolls
7 incorrectly report that those contacts are eligible to vote, it hinders the Republican
8 candidate's ability to effectively target eligible voters, which harms her chances of
9 winning that election.

10 20. The RNC also relies on voter registration numbers to form its electoral
11 strategies. If a State's voter rolls show more active voters registered to vote than is
12 accurate, the RNC's electoral and campaign strategies will be based on a false picture
13 of Nevada's electorate. That inaccurate information impairs the RNC's ability to form
14 winning strategies around voter turnout, voter registration, mail-voting campaigns,
15 and in-person efforts.

16 21. Finally, inaccurate voter rolls increase the likelihood of fraud and abuse
17 in the election system in a manner that harms the RNC. Nevada has, for example,
18 reported noncitizens on the voter rolls in the past. *See Press Release: Secretary*
19 *Cegavske Releases Details Regarding Ongoing Elections Investigation*, Nev. Sec'y of
20 State (Apr. 19, 2017), perma.cc/Y2LK-9JA9. Recent trends show that Nevada likely
21 has many more noncitizens on its voter rolls today. Over the past two years alone,
22 Oregon, Ohio, Georgia, Texas, Virginia, and Boston have removed thousands of
23 noncitizens from their voter rolls. Noncitizen voting favors Democratic candidates and
24 harms Republican candidates. And maintaining noncitizens' registrations facilitates
25 that injury.

26 22. Because Defendants do not maintain accurate voter rolls, the RNC must
27 spend substantial time and resources monitoring Nevada elections for fraud and
28

1 abuse, mobilizing voters to counteract it, educating the public about election-integrity
2 issues, and persuading elected officials to improve list maintenance.

3 23. Each of these injuries harms the RNC's ability to turn out Republican
4 voters and elect Republican candidates. The RNC works to mitigate each of these
5 injuries by diverting substantial resources to counteract the effects of the State's
6 failure to maintain clean rolls. But because the RNC has limited time, employees,
7 volunteers, and money, it must divert resources from other efforts that are critical to
8 its core activities, such as voter-registration efforts, voter-turnout efforts, election-
9 integrity efforts, and voter education.

10 24. Proper voter roll maintenance would redress each of these injuries.

11 25. Plaintiff Nevada Republican Party (NVGOP) is a political party in
12 Nevada with its principal place of business at 2810 West Charleston Blvd. #69, Las
13 Vegas, NV 89102. The Nevada Republican Central Committee (NRCC) is the
14 NVGOP's governing body. The NVGOP and NRCC exercise their federal and state
15 constitutional rights of speech, assembly, petition, and association to "provide the
16 statutory leadership of the Nevada Republican Party as directed in the Nevada
17 Revised statutes," to "recruit, develop, and elect representative government at the
18 national, state, and local levels," and to "promote sound, honest, and representative
19 government at the national, state and local levels." NRCC Bylaws, art. II, §§1.A-1.C.

20 26. The NVGOP represents over 550,000 registered Republican voters in
21 Nevada.

22 27. The NVGOP has the same interests in this case as the RNC and seeks to
23 vindicate those interests in the same ways.

24 28. The NVGOP also conducts residency discrepancy reports to mitigate the
25 impediment to their business that inaccurate voter rolls cause. Relying on public
26 records requests and other public sources of information, these residency discrepancy
27 reports catalogue active voters who have permanently moved to another State, or who
28 have submitted a change of address and have registered to vote in a new State.

1 29. The residency discrepancy reports ensure that the NVGOP is
2 accomplishing its core business of electing Republican candidates in Nevada and
3 turning out Republican voters throughout the State. Voter rolls that list voters who
4 no longer reside in Nevada and no longer vote in Nevada impede the NVGOP's efforts
5 to engage active voters, conduct mail-ballot chase programs, and otherwise accomplish
6 their core activities to elect Republican candidates and turn out Republican
7 candidates.

8 30. The NVGOP currently employs full-time staff to conduct the residency
9 discrepancy reports. But for the inaccurate voter rolls caused by Defendants' NVRA
10 violations, the NVGOP would spend those resources on other activities that further
11 its organizational goals, such as get-out-the-vote efforts and voter registration. Those
12 funds that the NVGOP would use for voter outreach are being diverted to mitigate
13 Defendants' violations of the NVRA.

14 31. Plaintiff Scott Johnston is a registered Nevada voter and 60-year
15 resident of Nevada. He regularly votes in Nevada's primary and general elections. He
16 plans to vote in Nevada's upcoming elections, including for U.S. President, U.S.
17 Congress, and other federal, local, and statewide offices and ballot measures.

18 32. Because Defendants do not maintain accurate voter rolls, Mr. Johnston
19 reasonably fears that ineligible voters can and do vote in Nevada elections. Those
20 votes will dilute his legitimate vote. And Nevada's inaccurate rolls undermine Mr.
21 Johnston's confidence in the integrity of Nevada elections, which also burdens his
22 right to vote.

23 33. Mr. Johnston is an active member of the Republican Party. He works in
24 Nevada to advance conservative policies and to help elect Republican candidates. He
25 is a member of the Washoe Central Committee, which is the governing body of the
26 Washoe County Republican Party. Mr. Johnston has served as a precinct captain for
27 the Galena Forest Estates area since 2020, and a Nevada State Central Committee
28 person since 2021.

34. Defendant Francisco Aguilar is the Secretary of State of Nevada. He serves “as the Chief Officer of Elections” for Nevada and “is responsible for the execution and enforcement of the provisions of title 24 of NRS and all other provisions of state and federal law relating to elections in” Nevada. Nev. Rev. Stat. §293.124. He is sued in his official capacity.

35. Defendant Lorena Portillo is the Registrar of Voters for Clark County. She is the county’s chief election officer and plays a direct role in list maintenance. See Nev. Rev. Stat. §§244.164, 293.530. Defendant Portillo is sued in her official capacity.

36. Defendant William “Scott” Hoen is the Clerk for Carson City. He is the county’s chief election officer and plays a direct role in list maintenance. See Nev. Rev. Stat. §§293.503, 293.530. Defendant Hoen is sued in his official capacity.

37. Defendant Amy Burgans is the Clerk for Douglas County. She is the county’s chief election officer and plays a direct role in list maintenance. See Nev. Rev. Stat. §§293.503, 293.530. Defendant Burgans is sued in her official capacity.

38. Defendant Staci Lindberg is the Clerk for Lyon County. She is the county’s chief election officer and plays a direct role in list maintenance. See Nev. Rev. Stat. §§293.503, 293.530. Defendant Lindberg is sued in her official capacity.

39. Defendant Jim Hindle is the Clerk for Storey County. He is the county’s chief election officer and plays a direct role in list maintenance. See Nev. Rev. Stat. §§293.503, 293.530. Defendant Hindle is sued in his official capacity.

BACKGROUND

I. Federal law requires States to maintain accurate voter rolls.

40. Congress enacted the NVRA “to protect the integrity of the electoral process.” 52 U.S.C. §20501(b)(3). Specifically, section 8 was enacted “to ensure that accurate and current voter registration rolls are maintained.” *Id.* §20501(b)(4).

1 41. Retaining voter rolls bloated with ineligible voters harms the electoral
2 process, heightens the risk of electoral fraud, and undermines public confidence in
3 elections. “Confidence in the integrity of our electoral processes is,” in turn, “essential
4 to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4
5 (2006).

6 42. Section 8 obligates States to “conduct a general program that makes a
7 reasonable effort to remove the names of ineligible voters from the official lists of
8 eligible voters” due to death or change of residence. 52 U.S.C. §20507(a)(4). “[F]ederal
9 law makes this removal mandatory.” *Husted v. A. Philip Randolph Inst.*, 138 S. Ct.
10 1833, 1842 (2018).

11 43. Each State’s program for maintaining voter-registration lists must be
12 “uniform, non-discriminatory, and in compliance with the Voting Rights Act.” 52
13 U.S.C. §20507(b)(1).

14 44. Specifically, section 8 requires States to “remove the names of ineligible
15 voters from the official lists of eligible voters by reason of (A) the death of the
16 registrant or (B) a change in the residence of the registrant” to outside her current
17 voting jurisdiction. 52 U.S.C. §20507(4)(A)-(B).

18 45. The Help America Vote Act (HAVA) also mandates that states adopt
19 computerized statewide voter registration lists and maintain them “on a regular
20 basis” in accordance with the NVRA. 52 U.S.C. §21083(a)(2)(A).

21 46. States must “ensure that voter registration records in the State are
22 accurate and are updated regularly,” an obligation that includes a “reasonable effort
23 to remove registrants who are ineligible to vote from the official list of eligible voters.”
24 52 U.S.C. §21083(a)(4).

25 47. HAVA’s list-maintenance requirements include coordination with “State
26 agency records on death” and “State agency records on felony status” to facilitate the
27 removal of individuals who are deceased or rendered ineligible under state law due to
28 a felony conviction. 52 U.S.C. §21083(a)(2)(A)(ii)(I)-(II).

1 48. State law also requires county clerks to “regularly maintain[]” their
 2 county’s registration lists “to ensure the integrity of the registration process and the
 3 election process.” Nev. Rev. Stat. §293.675(3)(i).

4 49. According to the bipartisan Carter-Baker Commission, “registration lists
 5 lie at the root of most problems encountered in U.S. elections.” Comm. on Federal
 6 Election Reform, Building Confidence in U.S. Elections 10 (Sept. 2005) (Carter-Baker
 7 Report). Inaccurate voter rolls that contain “ineligible, duplicate, fictional, or deceased
 8 voters” invite “fraud.” *Id.* Although voter fraud is often difficult to detect, “the risk of
 9 voter fraud [is] real,” and can “affect the outcome of a close election.” *Crawford v.*
 10 *Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (op. of Stevens, J.). And regardless
 11 of whether fraud is detected, “the perception of possible fraud contributes to low
 12 confidence in the system.” Carter-Baker Report, *supra*, at 18. The Supreme Court
 13 agrees. *See Crawford*, 553 U.S. at 193-97.

14 50. Other courts and experts have likewise recognized that voter fraud is
 15 both real and notoriously “difficult to detect and prosecute.” *Tex. Democratic Party v.*
 16 *Abbott*, 961 F.3d 389, 396 (5th Cir. 2020); *see also Griffin v. Roupas*, 385 F.3d 1128,
 17 1130-31 (7th Cir. 2004) (“Voting fraud is a serious problem in U.S. elections ... and it
 18 is facilitated by absentee voting.”); *Veasey v. Perry*, 71 F. Supp. 3d 627, 641 (S.D. Tex.
 19 2014) (finding broad “agreement that voter fraud actually takes place in abundance
 20 in connection with absentee balloting”); *Tex. Democratic Party*, 961 F.3d at 414 (Ho,
 21 J., concurring) (“[C]ourts have repeatedly found that mail-in ballots are particularly
 22 susceptible to fraud.”).

23 51. Voter fraud is very real in Nevada. The Nevada Secretary of State’s
 24 Office has referred at least 14 cases of potential election fraud for criminal prosecution
 25 since 2020. *See Nev. Sec’y of State, 2024 Election Security*, perma.cc/8WMQ-TDKV.

26 52. And several recent elections have suffered from voter fraud. *See, e.g.,*
 27 Nev. Att’y Gen., *Attorney General Ford Announces Guilty Plea of Las Vegas Man*
 28 *Charged with Voter Fraud* (Nov. 16, 2021), perma.cc/WN9D-T9V2; Nev. Att’y Gen.,

1 *Attorney General Ford Announces Guilty Plea of Las Vegas Man for Voting Twice in*
2 *2016 Election* (Feb. 17, 2021), perma.cc/XP2E-EDWE.

3 53. Nevada has also experienced its fair share of registration-related fraud
4 in particular. *E.g.*, Sean Whaley, *Illegal Voter Sentenced in Reno*, L.V. Review-Journal
5 (Aug. 15, 2014), perma.cc/42BJ-HB9J (illegal immigrant pleaded guilty to registering
6 to vote under false name); Laura Myers, *Las Vegas Woman Pleads Guilty in Voter*
7 *Fraud Case*, L.V. Review-Journal (Sept. 9, 2014) (pleaded guilty to double registration
8 under false name), perma.cc/AW97-6HD8.

9 54. In addition, Nevada’s “new system lacks safeguards meant to keep
10 noncitizens off the voter rolls.” Damon & Santa Cruz, *supra*. Nevada has admitted to
11 problems with noncitizens on the voter rolls in the past. *See Press Release of Apr. 19,*
12 *2017, supra*. And when it comes to safeguards against noncitizens registering to vote,
13 the Secretary claimed that “the new system is no different than the old system in that
14 regard.” Damon & Santa Cruz, *supra*.

15 55. Maintaining accurate voter rolls is especially important given Nevada’s
16 recent transition to universal mail-in voting. Since the passage of Assembly Bill 321
17 in 2021, all active registered voters in Nevada receive a ballot by mail unless they
18 submit an opt-out form to their respective county clerks. Mailing ballots based on
19 inaccurate registration lists further damages the integrity of Nevada’s elections.

20 56. To help address voter fraud and ensure compliance with federal election
21 law, the NVRA includes a private right of action. It empowers any “person who is
22 aggrieved by a violation” to “provide written notice of the violation to the chief election
23 official of the State involved.” 52 U.S.C. §20510(b)(1). “If the violation is not corrected
24 within 90 days after receipt of a notice, ... the aggrieved person may bring a civil action
25 in an appropriate district court for declaratory or injunctive relief.” *Id.* §20510(b)(2).

1 **II. Defendants have specific obligations under the NVRA.**

2 57. Federal and state law make Nevada’s Secretary of State primarily
3 responsible for list maintenance.

4 58. The NVRA requires each State to “designate a State officer or employee
5 as the chief State election official to be responsible for coordination of State
6 responsibilities under” the law. 52 U.S.C. §20509.

7 59. Nevada law designates the Secretary of State as the State’s chief election
8 officer charged with overseeing and maintaining voter registration. *See Nev. Rev.*
9 *Stat.* §293.124.

10 60. Ultimate responsibility for coordinating and overseeing all list
11 maintenance activities rests with the Secretary. A chief election official “may not
12 delegate the responsibility to conduct a general program to a local official and thereby
13 avoid responsibility if such a program is not reasonably conducted.” *United States v.*
14 *Missouri*, 535 F.3d 844, 850 (8th Cir. 2008).

15 61. Indeed, “the NVRA’s centralization of responsibility counsels against ...
16 buck passing.” *Scott v. Schedler*, 771 F.3d 831, 839 (5th Cir. 2014). Courts have
17 rejected the view that, “once the state designates” a local entity to assist with
18 complying with federal law, “her responsibility ends.” *Harkless v. Brunner*, 545 F.3d
19 445, 452 (6th Cir. 2008). “[I]f every state passed legislation delegating” their
20 responsibilities “to local authorities, the fifty states would be completely insulated
21 from any enforcement burdens.” *Id.*

22 **III. Defendants have failed to comply with their list-maintenance**
23 **obligations.**

24 62. Just a decade ago, “24 million voter registrations in the United States—
25 about one in eight—[were] either invalid or significantly inaccurate.” *Husted v. A.*
26 *Philip Randolph Inst.*, 584 U.S. 756, 760 (2018) (citing Pew Center on the States,
27 Election Initiatives Issue Brief (Feb. 2012)). Nevada is no exception, and the evidence
28 underscores the *inaccuracy* of Nevada’s registration records.

1 63. Based on data gathered from the U.S. Census Bureau's 2022 American
2 Community Survey and the most up-to-date count of registered active voters available
3 from the Nevada Secretary of State, three counties have more active registered voters
4 than voting-eligible citizens, and five other counties have suspiciously high rates of
5 active voter registration.

6 64. Comparing the registered active voter count to the 2022 Census data
7 reveals that these three counties have voter registration rates at or above 100 percent:
8 Douglas (104%), Lyon (106%), and Storey (111%).

9 65. An additional five counties have voter registration rates of 90 percent or
10 greater: Carson City (93%), Churchill (90%), Clark (95%), Eureka (94%), and Washoe
11 (96%).

12 66. These voter registration rates are abnormally or, in the case of counties
13 with greater than 100 percent registration, impossibly high.

14 67. According to the U.S. Census Bureau, only 69.1% of the citizen voting-
15 age population was registered nationwide in the November 2022 election.

16 68. Similarly, only 72.7% of the citizen voting-age population was registered
17 nationwide in the November 2020 election.

18 69. The U.S. Census Bureau further reported that Nevada's statewide voter
19 registration rates for the 2022 and 2020 elections were 65.1% and 66.2% of the citizen
20 voting-age population, respectively.

21 70. Thus, these six counties are significant outliers, touting voter
22 registration rates 21 to 42 percentage points higher than the national figures from
23 2022 and 2020, and 25 to 46 percentage points above the State figures for the same
24 period. Discrepancies on this scale cannot be attributed to above-average voter
25 participation and instead point to deficient list maintenance.

26 71. There is no evidence that these counties experienced above-average voter
27 participation compared to the rest of the country or State. The only explanation for
28 these discrepancies is substandard list maintenance.

1 72. “[S]ignificantly high registration rates” such as these “give rise to the
2 inference” that election officials are “not properly implementing a program to
3 maintain an accurate and current voter registration roll, in violation of the NVRA.”
4 *Am. C.R. Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 791 (W.D. Tex. 2015).

5 73. When Plaintiffs notified the Secretary about these unusually high
6 registration rates in December 2023, the registration rates were similar. Douglas,
7 Lyon, and Storey Counties all had registration rates in excess of 100% of the citizen
8 voting-age population. And Carson City, Churchill, Clark, Eureka, and Washoe
9 Counties had registration rates in excess of 90% of the citizen voting-age population.

10 74. In July, these unusually high rates continued. Two of the smaller
11 counties—Eureka and Churchill—dropped below 90%. But larger counties such as
12 Clark and Washoe saw increases of at least two percentage points. *See* 1st Am. Compl.,
13 Doc. 98, ¶¶59-60.

14 75. Despite the Secretary’s assurances that the State would conduct list
15 maintenance this summer, these counties have continued to report implausibly high
16 registration rates for over a year.

17 76. Nevada’s maintenance efforts are especially deficient when it comes to
18 removing voters who have changed residence. *See* 52 U.S.C. §20507(d)(1).

19 77. In 2023, the U.S. Election Assistance Commission published its biannual
20 report covering the registration period between the 2020 and 2022 general elections.
21 *See* U.S. Election Assistance Comm’n, *Election Administration and Voting Survey*
22 *2022 Comprehensive Report* (June 2023), perma.cc/28SQ-T24L.

23 78. Among other things, the EAC’s survey requests data concerning the
24 number of registrations removed for voters’ failure to respond to an address
25 confirmation notice.

26 79. The most recent census data shows that more than 15% of Nevada’s
27 residents were not living in the same house as a year ago.

1 80. In response to the EAC's survey for the 2020-2022 period, Mineral
2 County and Esmeralda County reported removing less than 2% of their registration
3 lists for residency changes during that period. That is, registrations removed because
4 the voter moved away or failed to respond to an address confirmation notice
5 represented just 2% of the total number of registrants in those counties. And those
6 removals are spread out over a two-year period, which means that these counties
7 removed on average less than 1% of their registration lists per year for residency
8 changes. Larger counties such as Washoe experienced high relocation rates (16%) but
9 relatively low removal rates (2%).

10 81. In fact, Esmeralda, Lincoln, Mineral, and Storey Counties removed *no*
11 *voters* for failing to respond to an address-confirmation notice and then not vote over
12 two election cycles, and Elko and Pershing Counties removed only two voters for that
13 reason. Those numbers are implausibly low.

14 82. Growing evidence shows that Clark County in particular has a
15 significant number of non-residential addresses listed on its voter rolls. *See Kraus v.*
16 *Portillo*, Doc. 1, No. A-24-896151-W (8th Jud. Dist., Clark Cty. June 25, 2024). Voter
17 registration requires a residential address, and clerks can use "any reliable and
18 reasonable means available ... to determine whether a registered voter's current
19 residence is other than that indicated on the voter's application to register to vote."
20 Nev. Stat. §293.530(1)(a). But many registrations on Clark County's rolls list
21 addresses that are not a voter's residence, making it impossible to determine whether
22 the voter currently resides in Nevada. Clark County's failure to use "reliable and
23 reasonable means" to confirm voters' residences indicates a systemic failure to
24 maintain the voter rolls.

25 83. Several Nevada counties also have inordinately high inactive
26 registration rates, indicating that Defendants do not make a reasonable effort to
27 remove outdated registrations.

1 84. According to the EAC report, in 2022 Nevada reported 359,403 inactive
2 registrations, representing 16.3% of the total registrations. The number is well above
3 the national average of 11.1%.

4 85. In addition, several Nevada counties currently have inactive registration
5 rates of 17% or greater, well above the state and national averages. Those counties
6 are Clark (17%), Elko (27%), Eureka (18%), Humboldt (23%), Lincoln (21%), Mineral
7 (22%), Nye (25%), and White Pine (18%).

8 86. These counties have been reporting similarly high inactive registration
9 rates for several months. *See* Compl., Doc. 1, ¶68; 1st Am. Compl., ¶77.

10 87. Having a high percentage of inactive registrations is an indication that
11 a state or jurisdiction is not removing inactive registrations after two general federal
12 elections.

13 88. Indeed, at least part of the explanation for high inactive registration
14 rates is that state officials were “assigning voters to the wrong precincts and
15 mislabeling voters as ‘inactive.’” Anjeanette Damon & Nicole Santa Cruz, *Nevada*
16 *Says It Worked Out the Kinks in Its New Voter System in Time for The Election, but*
17 *Concerns Remain*, ProPublica (Nov. 2, 2024), perma.cc/KNP6-P7AS.

18 89. Other evidence confirms that Defendants are failing to implement the
19 list-maintenance procedures required by state law. For example, in July, the
20 statewide voter rolls listed at least 4,684 inactive voters who should have been
21 removed after the 2022 general election. Those voters were listed as inactive in the
22 June 2019 voter file and had not voted in the prior two federal elections. State law
23 required their removal. *See* Nev. Rev. Stat. §293.530. But the statewide voter file from
24 June 17, 2024—following the Nevada primary election—still listed those 4,684
25 inactive voters as registered to vote. Defendants’ failure to remove those inactive
26 voters is both a violation of state law and evidence that they are failing to engage in
27 reasonable list-maintenance efforts required by the NVRA.

1 90. Finally, the Secretary’s recent efforts confirm top-down problems with
2 enforcing a general program. For example, the Secretary sent a postcard to voters
3 before the presidential preference primary that occurred on January 6, 2024. Even
4 though those postcards were official election mail, the Secretary did not catalogue the
5 postcards that were returned as undeliverable.

6 91. Even if information about undeliverable postcards is available to the
7 Secretary, the Secretary failed to share that information with the counties. State law
8 requires clerks to “use any postcards which are returned to correct the portions of the
9 statewide voter registration list which are relevant to the county clerk.” Nev. Rev.
10 Stat. §293.530(1)(f). The Secretary’s failure to gather and distribute information about
11 undeliverable election mail is evidence of a failure to conduct a reasonable list-
12 maintenance program.

13 92. Nevada’s impossibly high registration rates, large rates of inactive
14 registered voters, low numbers of removals, lack of communication between
15 Defendants, and inconsistent enforcement across counties indicate an ongoing,
16 systemic problem with its voter-list maintenance efforts.

17 93. Nevada recently moved to a centralized, top-down voter registration
18 system. *See* Act Relating to Elections, 2021 Nevada Laws Ch. 554 (A.B. 422). The
19 Secretary’s tests of the new system confirmed Plaintiffs’ claims. According to the
20 Washoe County Registrar, “testing of the new system revealed errors affecting tens of
21 thousands of voters in Washoe County, including voters assigned to the wrong
22 precincts and active voters labeled as inactive or vice versa.” Damon & Santa Cruz,
23 *supra*. Washoe County also “missed [the] federal deadline to clean the rolls of inactive
24 voters” before the election. *Id.*

25 94. In addition to revealing existing errors, the new system has exacerbated
26 problems. “[T]he launch, which involves transferring massive voter datasets from
27 antiquated county systems to the new centralized one, has strained understaffed
28 county clerk offices already contending with their routine general election

responsibilities.” Damon & Santa Cruz, *supra*. Test runs revealed at least “20 issues” with the system. *Id.* In fact, there were “enough issues that clerks pressured Aguilar’s office to delay the ‘go-live’ date until after the June primary.” *Id.*

95. The evidence shows that the new system is broken—the Secretary is not providing essential maintenance information the counties, and all Defendants are failing to implement basic list-maintenance procedures, even when required by state law.

96. Despite the Secretary’s assurances that problems have been fixed, a local registrar has told reporters that “shortcomings have not been fully addressed” and “incorrect voter data wound up in the new system.” Damon & Santa Cruz, *supra*.

97. Defendants’ failure to maintain accurate voter rolls violates federal law and jeopardizes the integrity of the State’s upcoming elections, including the next federal election on November 5, 2024.

IV. List-maintenance lawsuits in other States have remedied similar NVRA violations.

98. The United States sued Indiana for violating the NVRA in 2006, noting in its complaint that “25 counties had registration totals of 90-95%” of their voting-age population. Indiana quickly confessed to violating the NVRA in a consent decree.

99. Private organizations sued Indiana in 2012, explaining that “26 counties ... have voter registration rolls that contain between 90% and 100% of TVAP.” The court denied the defendants’ motion to dismiss, and Indiana agreed to conduct a significant, statewide process to clean up its voter rolls.

100. Ohio was sued on the same grounds, and it ultimately agreed to implement heightened review of the accuracy of its voter rolls.

101. In December 2019, another organization sued Detroit under the NVRA, alleging that “Detroit has more registered voters than adult citizens of voting age (106%).” The suit was dismissed on June 29, 2020, because Detroit removed substantial numbers of invalid registrations.

102. In June 2020, a voter sued Michigan’s Secretary of State and Direct of Elections for violating the NVRA. The complaint alleged that one county had more registered voters than adult citizens over the age of 18, and an additional 15 counties had voter registration rates that exceeded 90 percent of adult citizens over the age of 18. The court denied the defendants’ motion to dismiss, and Michigan agreed to slate 177,000 erroneous registrations for cancellation and implement other list-maintenance reforms.

103. In September 2021, voters sued North Carolina, alleging that “40 counties in North Carolina have registration rates that far eclipse the national and statewide voter-registration rate in recent elections.” The district court denied the defendants’ motion to dismiss, and the case is currently in discovery.

V. Plaintiffs provided Defendants notice of their statutory violations.

104. Under the NVRA, “Plaintiffs have [statutory] standing assuming they provided proper notice within the meaning of 52 U.S.C. §20510(b)(1).” *Bellitto v. Snipes*, 221 F. Supp. 3d 1354, 1362 (S.D. Fla. 2016).

105. On December 4, 2023, Plaintiffs mailed a statutory notice letter to Secretary of State Francisco Aguilar. *See* Exh. A.

106. The December 4 letter notified the Secretary and the officials of the counties identified in the letter that they “are not conducting appropriate list maintenance to ensure that the voter registration roll is accurate and current, as required by federal law.”

107. The letter provided evidence of the violation by identifying three Nevada counties that have more registered active voters than voting-eligible citizens, and five other counties that have suspiciously high rates of voter registration, according to the most recent census data at the time.

108. Plaintiffs have since received updated comparisons based on recently available data. Those numbers are reflected in the allegations above.

1 109. The notice stated that Plaintiffs “hope[d] to avoid litigation and would
2 welcome immediate efforts by your office to bring Nevada into compliance with Section
3 8.”

4 110. Plaintiffs asked that Defendants ensure they have a “comprehensive,
5 nondiscriminatory” list maintenance program in place that complies with federal law,
6 and to “identify and remove” several categories of ineligible individuals “from the
7 official lists of eligible voters.”

8 111. Plaintiffs also asked that Defendants “respond in writing within 45 days
9 of the date of this letter,” “fully describ[ing] the efforts, policies, and programs [they]
10 are taking, or plan to undertake before the 2024 general election to bring Nevada into
11 compliance with Section 8,” as well as when they “plan to begin and complete each
12 specified measure and the results of any programs or activities [they] have already
13 undertaken.”

14 112. Additionally, Plaintiffs asked Defendants to state “what policies are
15 presently in place, or will be put in place, to ensure effective and routine coordination
16 of list maintenance activities,” and “a description of the specific steps [Defendants]
17 intend to take to ensure routine and effective list maintenance on a continuing basis
18 beyond the 2024 election.”

19 113. Finally, Plaintiffs requested that Defendants take steps to preserve
20 documents as required by section 8(i) of the NVRA, 52 U.S.C. §20507(i)(1)-(2), and
21 other federal law. *See, e.g., In re Enron Corp. Sec., Derivative & Erisa Litig.*, 762 F.
22 Supp. 2d 942, 963 (S.D. Tex. 2010) (“The obligation to preserve evidence arises when
23 the party has notice that the evidence is relevant to litigation or when a party should
24 have known that the evidence may be relevant to future litigation.”).

25 114. The notice letter stated that Plaintiffs would file a lawsuit under 52
26 U.S.C. §20510(b)(2) if the identified violations were not corrected within 90 days of
27 receipt of the letter.
28

115. Defendants have failed to correct the violations of the NVRA identified in the notice letter and this complaint.

116. Plaintiff Scott Johnston and all individual members of the RNC and NVGOP who are lawfully registered to vote in Nevada have rights under both the U.S. Constitution and the Nevada Constitution to vote in federal and state elections, as well as statutory rights under both federal and state law to the safeguards and protections set forth in the NVRA.

117. Defendants' failure to comply with their NVRA voter-list maintenance obligations burdens the right to vote of Mr. Johnston and the individual members of the RNC and NVGOP who are lawfully registered to vote in Nevada by undermining their confidence in the integrity of the electoral process, discouraging their participation in the democratic process, and instilling in them the fear that their legitimate votes will be nullified or diluted by unlawful votes.

118. Defendants' failure to comply with their NVRA voter-list maintenance obligations also infringes the federal and state statutory rights of Mr. Johnston and the individual members of the RNC and NVGOP who are lawfully registered to vote in Nevada. These individuals have a statutory right to vote in elections for federal office that comply with the procedures and protections required by the NVRA.

COUNT **Violation of the NVRA**

119. Plaintiffs incorporate all their prior allegations.

120. Defendants have failed to make reasonable efforts to conduct voter-list maintenance as required by 52 U.S.C. §20507(a)(4).

121. Plaintiffs have suffered irreparable injuries as a direct result of Defendants' violation of section 8 of the NVRA.

122. Plaintiffs will continue to be injured by Defendants' violations of the NVRA until Defendants are enjoined from violating the law.

123. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs ask this Court to enter judgment in their favor and provide the following relief:

- A. A declaratory judgment that Defendants are in violation of section 8 of the NVRA;
- B. A permanent injunction barring Defendants from violating section 8 of the NVRA;
- C. An order instructing Defendants to develop and implement reasonable and effective registration list-maintenance programs to cure their failure to comply with section 8 of the NVRA and to ensure that ineligible registrants are not on the voter rolls;
- D. Plaintiffs' reasonable costs and expenses of this action, including attorneys' fees; and
- E. All other further relief that Plaintiffs may be entitled to.

Dated: November 11, 2024

Respectfully submitted,

/s/ Jeffrey F. Barr

Thomas R. McCarthy*
 Gilbert C. Dickey*
 Conor D. Woodfin*
 CONSOVOY MCCARTHY PLLC
 1600 Wilson Blvd., Ste. 700
 Arlington, VA 22209
 tom@consovoymccarthy.com
 gilbert@consovoymccarthy.com
 conor@consovoymccarthy.com

Jeffrey F. Barr (Bar No. 7269)
 ASHCRAFT & BARR LLP
 8275 South Eastern Ave., Ste. 200
 Las Vegas, NV 89123
 barrj@ashcraftbarr.com

Sigal Chattah (Bar No. 8264)
 CHATTAH LAW GROUP
 5875 S. Rainbow Blvd #204
 Las Vegas, NV 89118
 sigal@thegoodlawyerlv.com

**Admitted pro hac vice*

Counsel for Plaintiffs