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14 UNITED STATES DISTRICT COURT
15 DISTRICT OF NEVADA

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

18 Plaintiffs,

19 v.

20 FRANCISCO AGUILAR, *in his official capacity as*
21 *Nevada Secretary of State*; LORENA PORTILLO, *in*
22 *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,*

23 Defendants.

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

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

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

5 **INTRODUCTION**

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

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

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

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

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

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

18 **JURISDICTION AND VENUE**

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

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

PARTIES

1
2 9. Plaintiff, the Republican National Committee (RNC), is the national
3 committee of the Republican Party, as defined by 52 U.S.C. §30101(14), with its principal
4 place of business at 310 First Street S.E., Washington, DC 20003.

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

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

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

17 13. The RNC relies on voter registration lists to accomplish its core business
18 of electing Republican candidates and turn out Republican voters in local, state, and
19 federal elections.

20 14. The RNC relies on Nevada's voter registration numbers in part to estimate
21 the number of active and inactive voters in a jurisdiction, which informs the number of
22 staff the RNC needs in that jurisdiction, the number of volunteers needed to contact
23 voters, and how much the RNC will spend on paid voter contacts. If voter registration
24 lists include names of voters who are not eligible to vote, the RNC will spend resources

1 on mailers, knocking on doors, and otherwise trying to contact voters who are ineligible
2 to vote. That wasted effort impedes the RNC's core business objective to elect
3 Republican candidates and turn out Republicans to vote. And it forces the RNC to divert
4 resources away from other activities critical to its mission, such as voter-registration and
5 get-out-the-vote efforts.

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

12 16. Defendants' list-maintenance violations also harm the RNC's ballot-chase
13 efforts. Because Nevada automatically sends all active voters a mail ballot, inaccurate
14 voter rolls result in more ineligible voters receiving mail ballots. That means the RNC
15 must spend divert resources to ensure it is chasing mail ballots of eligible voters, rather
16 than ballots mailed to voters who are no longer eligible to vote.

17 17. Nevada's inaccurate registration lists also impair the RNC's business of
18 advising candidates how to run an effective campaign. Inaccurate voter rolls provide a
19 false picture of a candidates' electorate, which impedes the RNC's ability to help
20 Republican candidates run their campaigns and win their elections.

21 18. The RNC and its members are concerned that Defendants' failure to
22 comply with the NVRA's voter-list maintenance obligations undermines the integrity of
23 elections by increasing the opportunity for ineligible voters or voters intent on fraud to
24 cast ballots. Independent of any litigation, the RNC thus monitors state and local

1 election officials' compliance with their NVRA list maintenance obligations through
2 publicly available records from jurisdictions across the nation. These efforts are essential
3 to the core electoral missions of the RNC.

4 19. Because Defendants do not maintain accurate voter rolls, the RNC must
5 spend more of its time and resources monitoring Nevada elections for fraud and abuse,
6 mobilizing voters to counteract it, educating the public about election-integrity issues,
7 and persuading elected officials to improve list maintenance.

8 20. The RNC has diverted substantial time and resources to mitigate these
9 injuries caused by Defendants' NVRA violations. Were it not for Defendants' failure to
10 comply with their list-maintenance obligations, Plaintiffs would have expended those
11 resources on other activities critical to their mission, such as voter-turnout and voter-
12 registration efforts.

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

22 22. The NVGOP represents over 550,000 registered Republican voters in
23 Nevada.

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

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

8 25. The residency discrepancy reports are necessary to ensure that the
9 NVGOP is accomplishing its core business of electing Republican candidates in Nevada
10 and turning out Republican voters throughout the State. Voter rolls that list voters who
11 no longer reside in Nevada and no longer vote in Nevada impede the NVGOP's efforts
12 to engage active voters, conduct mail-ballot chase programs, and otherwise accomplish
13 their mission to elect Republican candidates and turn out Republican candidates.

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

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

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1 28. Because Defendants do not maintain accurate voter rolls, Mr. Johnston
2 reasonably fears that ineligible voters can and do vote in Nevada elections. Those votes
3 will dilute his legitimate vote. And Nevada’s inaccurate rolls undermine Mr. Johnston’s
4 confidence in the integrity of Nevada elections, which also burdens his right to vote.

5 29. Mr. Johnston is an active member of the Republican Party. He works in
6 Nevada to advance conservative policies and to help elect Republican candidates. He is
7 a member of the Washoe Central Committee, which is the governing body of the
8 Washoe County Republican Party. Mr. Johnston has served as a precinct captain for the
9 Galena Forest Estates area since 2020, and a Nevada State Central Committee person
10 since 2021.

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

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

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

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

1 34. Defendant Staci Lindberg is the Clerk for Lyon County. She is the county's
2 chief election officer and plays a direct role in list maintenance. *See* Nev. Rev. Stat.
3 §§293.503, 293.530. Defendant Lindberg is sued in her official capacity.

4 35. Defendant Jim Hindle is the Clerk for Storey County. He is the county's
5 chief election officer and plays a direct role in list maintenance. *See* Nev. Rev. Stat.
6 §§293.503, 293.530. Defendant Hindle is sued in his official capacity.

BACKGROUND

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

7
8
9 36. Congress enacted the NVRA “to protect the integrity of the electoral
10 process.” 52 U.S.C. §20501(b)(3). Specifically, section 8 was enacted “to ensure that
11 accurate and current voter registration rolls are maintained.” *Id.* §20501(b)(4).

12 37. Retaining voter rolls bloated with ineligible voters harms the electoral
13 process, heightens the risk of electoral fraud, and undermines public confidence in
14 elections. “Confidence in the integrity of our electoral processes is,” in turn, “essential
15 to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4
16 (2006).

17 38. Section 8 obligates States to “conduct a general program that makes a
18 reasonable effort to remove the names of ineligible voters from the official lists of
19 eligible voters” due to death or change of residence. 52 U.S.C. §20507(a)(4). “[F]ederal
20 law makes this removal mandatory.” *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833,
21 1842 (2018).

22 39. Each State’s program for maintaining voter-registration lists must be
23 “uniform, non-discriminatory, and in compliance with the Voting Rights Act.” 52 U.S.C.
24 §20507(b)(1).

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

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

8 42. States must “ensure that voter registration records in the State are accurate
9 and are updated regularly,” an obligation that includes a “reasonable effort to remove
10 registrants who are ineligible to vote from the official list of eligible voters.” 52 U.S.C.
11 §21083(a)(4).

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

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

19 45. According to the bipartisan Carter-Baker Commission, “registration lists
20 lie at the root of most problems encountered in U.S. elections.” Comm. on Federal
21 Election Reform, Building Confidence in U.S. Elections 10 (Sept. 2005) (Carter-Baker
22 Report). Inaccurate voter rolls that contain “ineligible, duplicate, fictional, or deceased
23 voters” invite “fraud.” *Id.* Although voter fraud is often difficult to detect, “the risk of
24 voter fraud [is] real,” and can “affect the outcome of a close election.” *Crawford v. Marion*

1 *Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (op. of Stevens, J.). And regardless of whether
2 fraud is detected, “the perception of possible fraud contributes to low confidence in the
3 system.” Carter-Baker Report, *supra*, at 18. The Supreme Court agrees. *See Crawford*, 553
4 U.S. at 193-97.

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

13 47. Voter fraud is very real in Nevada. The Nevada Secretary of State’s Office
14 has referred at least 14 cases of potential election fraud for criminal prosecution since
15 2020. *See Nev. Sec’y of State, 2024 Election Security*, perma.cc/8WMQ-TDKV.

16 48. And several recent elections have suffered from voter fraud. *See, e.g., Nev.*
17 *Att’y Gen., Attorney General Ford Announces Guilty Plea of Las Vegas Man Charged with Voter*
18 *Fraud* (Nov. 16, 2021), perma.cc/WN9D-T9V2; *Nev. Att’y Gen., Attorney General Ford*
19 *Announces Guilty Plea of Las Vegas Man for Voting Twice in 2016 Election* (Feb. 17, 2021),
20 perma.cc/XP2E-EDWE.

21 49. Nevada has also experienced its fair share of registration-related fraud in
22 particular. *E.g., Sean Whaley, Illegal Voter Sentenced in Reno*, L.V. Review-Journal (Aug. 15,
23 2014), perma.cc/42BJ-HB9J (illegal immigrant pleaded guilty to registering to vote
24 under false name); *Laura Myers, Las Vegas Woman Pleads Guilty in Voter Fraud Case*, L.V.

1 Review-Journal (Sept. 9, 2014) (pleaded guilty to double registration under false name),
2 perma.cc/AW97-6HD8.

3 50. Maintaining accurate voter rolls is especially important given Nevada’s
4 recent transition to universal mail-in voting. Since the passage of Assembly Bill 321 in
5 2021, all active registered voters in Nevada receive a ballot by mail unless they submit
6 an opt-out form to their respective county clerks. Mailing ballots based on inaccurate
7 registration lists further damages the integrity of Nevada’s elections.

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

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

15 52. Federal and state law make Nevada’s Secretary of State primarily
16 responsible for list maintenance.

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

20 54. Nevada law designates the Secretary of State as the State’s chief election
21 officer charged with overseeing and maintaining voter registration. *See* Nev. Rev. Stat.
22 §293.124.

23 55. Ultimate responsibility for coordinating and overseeing all list maintenance
24 activities rests with the Secretary. A chief election official “may not delegate the

1 responsibility to conduct a general program to a local official and thereby avoid
2 responsibility if such a program is not reasonably conducted.” *United States v. Missouri*,
3 535 F.3d 844, 850 (8th Cir. 2008).

4 56. Indeed, “the NVRA’s centralization of responsibility counsels against ...
5 buck passing.” *Scott v. Schedler*, 771 F.3d 831, 839 (5th Cir. 2014). Courts have rejected
6 the view that, “once the state designates” a local entity to assist with complying with
7 federal law, “her responsibility ends.” *Harkless v. Brunner*, 545 F.3d 445, 452 (6th Cir.
8 2008). “[I]f every state passed legislation delegating” their responsibilities “to local
9 authorities, the fifty states would be completely insulated from any enforcement
10 burdens.” *Id.*

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

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

17 58. Based on data gathered from the U.S. Census Bureau’s 2022 American
18 Community Survey and the most up-to-date count of registered active voters available
19 from the Nevada Secretary of State, three counties have more active registered voters
20 than voting-eligible citizens, and three other counties have suspiciously high rates of
21 active voter registration.

22 59. Comparing the registered active voter count to the 2022 Census data
23 reveals that these three counties have voter registration rates at or above 100 percent:
24 Douglas (106%), Lyon (107%), and Storey (115%).

1 60. An additional three counties have voter registration rates of 90 percent or
2 greater: Carson City (94%), Clark (94%), and Washoe (94%).

3 61. These voter registration rates are abnormally or, in the case of counties
4 with greater than 100 percent registration, impossibly high.

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

7 63. Similarly, only 72.7% of the citizen voting-age population was registered
8 nationwide in the November 2020 election.

9 64. The U.S. Census Bureau further reported that Nevada’s statewide voter
10 registration rates for the 2022 and 2020 elections were 65.1% and 66.2% of the citizen
11 voting-age population, respectively.

12 65. Thus, these six counties are significant outliers, touting voter registration
13 rates 21 to 46 percentage points higher than the national figures from 2022 and 2020,
14 and 28 to 50 percentage points above the State figures for the same period.
15 Discrepancies on this scale cannot be attributed to above-average voter participation
16 and instead point to deficient list maintenance.

17 66. There is no evidence that these counties experienced above-average voter
18 participation compared to the rest of the country or State. The only explanation for
19 these discrepancies is substandard list maintenance.

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

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

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

7 70. Among other things, the EAC’s survey requests data concerning the
8 number of registrations removed for voters’ failure to respond to an address
9 confirmation notice.

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

12 72. In response to the EAC’s survey for the 2020-2022 period, Mineral County
13 and Esmeralda County reported removing less than 2% of their registration lists for
14 residency changes during that period. That is, registrations removed because the voter
15 moved away or failed to respond to an address confirmation notice represented just 2%
16 of the total number of registrants in those counties. And those removals are spread out
17 over a two-year period, which means that these counties removed on average less than
18 1% of their registration lists per year for residency changes. Larger counties such as
19 Washoe experienced high relocation rates (16%) but relatively low removal rates (2%).

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

24

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1 74. Growing evidence shows that Clark County in particular has a significant
2 number of non-residential addresses listed on its voter rolls. *See Kraus v. Portillo*, Doc. 1,
3 No. A-24-896151-W (8th Jud. Dist., Clark Cty. June 25, 2024). Voter registration
4 requires a residential address, and clerks can use “any reliable and reasonable means
5 available ... to determine whether a registered voter’s current residence is other than
6 that indicated on the voter’s application to register to vote.” Nev. Stat. §293.530(1)(a).
7 But many registrations on Clark County’s rolls list addresses that are not a voter’s
8 residence, making it impossible to determine whether the voter currently resides in
9 Nevada. Clark County’s failure to use “reliable and reasonable means” to confirm voters’
10 residences indicates a systemic failure to maintain the voter rolls.

11 75. Several Nevada counties also have inordinately high inactive registration
12 rates, indicating that Defendants do not make a reasonable effort to remove outdated
13 registrations.

14 76. According to the EAC report, in 2022 Nevada reported 359,403 inactive
15 registrations, representing 16.3% of the total registrations. The number is well above the
16 national average of 11.1%.

17 77. In addition, several Nevada counties currently have inactive registration
18 rates of 17% or greater, well above the state and national averages. Those counties are
19 Elko (29%), Eureka (22%), Humboldt (24%), Lincoln (24%), Mineral (28%), Nye (29%),
20 and White Pine (22%).

21 78. Having a high percentage of inactive registrations is an indication that a
22 state or jurisdiction is not removing inactive registrations after two general federal
23 elections.

1 79. Other evidence confirms that Defendants are failing to implement the list-
2 maintenance procedures required by state law. For example, the most recent statewide
3 voter rolls currently list at least 4,684 inactive voters who have should have been
4 removed after the 2022 general election. Those voters were listed as inactive in the June
5 2019 voter file and have not voted in any federal election since. State law requires their
6 removal. *See* Nev. Rev. Stat. §293.530. But the statewide voter file from June 17, 2024—
7 following the Nevada primary election—still lists those 4,684 inactive voters as
8 registered to vote. Defendants’ failure to remove those inactive voters is both a violation
9 of state law and evidence that they are failing to engage in reasonable list-maintenance
10 efforts required by the NVRA.

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

16 81. Even if information about undeliverable postcards is available to the
17 Secretary, the Secretary failed to share that information with the counties. State law
18 requires clerks to “use any postcards which are returned to correct the portions of the
19 statewide voter registration list which are relevant to the county clerk.” Nev. Rev. Stat.
20 §293.530(1)(f). The Secretary’s failure to gather and distribute information about
21 undeliverable election mail is evidence of a failure to conduct a reasonable list-
22 maintenance program.

23 82. Nevada’s impossibly high registration rates, large rates of inactive
24 registered voters, low numbers of removals, lack of communication between

1 Defendants, and inconsistent enforcement across counties indicate an ongoing, systemic
2 problem with its voter-list maintenance efforts.

3 83. Nevada recently moved to a centralized, top-down voter registration
4 system. *See* Act Relating to Elections, 2021 Nevada Laws Ch. 554 (A.B. 422). The
5 evidence shows that the new system is broken—the Secretary is not providing essential
6 maintenance information the counties, and all Defendants are failing to implement basic
7 list-maintenance procedures, even when required by state law.

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

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

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

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

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

22 88. In December 2019, another organization sued Detroit under the NVRA,
23 alleging that “Detroit has more registered voters than adult citizens of voting age
24

1 (106%).” The suit was dismissed on June 29, 2020, because Detroit removed substantial
2 numbers of invalid registrations.

3 89. In June 2020, a voter sued Michigan’s Secretary of State and Direct of
4 Elections for violating the NVRA. The complaint alleged that one county had more
5 registered voters than adult citizens over the age of 18, and an additional 15 counties
6 had voter registration rates that exceeded 90 percent of adult citizens over the age of 18.
7 The court denied the defendants’ motion to dismiss, and Michigan agreed to slate
8 177,000 erroneous registrations for cancellation and implement other list-maintenance
9 reforms.

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

14 **V. Plaintiffs provided Defendants notice of their statutory violations.**

15 91. Under the NVRA, “Plaintiffs have [statutory] standing assuming they
16 provided proper notice within the meaning of 52 U.S.C. §20510(b)(1).” *Bellitto v. Snipes*,
17 221 F. Supp. 3d 1354, 1362 (S.D. Fla. 2016).

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

20 93. The December 4 letter notified the Secretary and the officials of the
21 counties identified in the letter that they “are not conducting appropriate list
22 maintenance to ensure that the voter registration roll is accurate and current, as required
23 by federal law.”
24

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

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

7 96. The notice stated that Plaintiffs “hope[d] to avoid litigation and would
8 welcome immediate efforts by your office to bring Nevada into compliance with Section
9 8.”

10 97. Plaintiffs asked that Defendants ensure they have a “comprehensive,
11 nondiscriminatory” list maintenance program in place that complies with federal law,
12 and to “identify and remove” several categories of ineligible individuals “from the
13 official lists of eligible voters.”

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

20 99. Additionally, Plaintiffs asked Defendants to state “what policies are
21 presently in place, or will be put in place, to ensure effective and routine coordination
22 of list maintenance activities,” and “a description of the specific steps [Defendants]
23 intend to take to ensure routine and effective list maintenance on a continuing basis
24 beyond the 2024 election.”

1 100. Finally, Plaintiffs requested that Defendants take steps to preserve
2 documents as required by section 8(i) of the NVRA, 52 U.S.C. §20507(i)(1)-(2), and
3 other federal law. *See, e.g., In re Enron Corp. Sec., Derivative & Erisa Litig.*, 762 F. Supp. 2d
4 942, 963 (S.D. Tex. 2010) (“The obligation to preserve evidence arises when the party
5 has notice that the evidence is relevant to litigation or when a party should have known
6 that the evidence may be relevant to future litigation.”).

7 101. The notice letter stated that Plaintiffs would file a lawsuit under 52 U.S.C.
8 §20510(b)(2) if the identified violations were not corrected within 90 days of receipt of
9 the letter.

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

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

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

23 105. Defendants’ failure to satisfy their list-maintenance obligations also
24 infringes the federal and state statutory rights of Mr. Johnston and the individual

1 members of the RNC and NVGOP who are lawfully registered to vote in Nevada. These
2 individuals have a statutory right to vote in elections for federal office that comply with
3 the procedures and protections required by the NVRA.

4 106. Defendants' NVRA violations have also caused economic, financial, and
5 political injury to the Plaintiffs. Defendants' inaccurate voter rolls have forced Plaintiffs
6 to allocate additional resources and misallocate their scarce resources in ways they
7 otherwise would not have.

8 **COUNT**
9 **Violation of the NVRA**

10 107. Plaintiffs incorporate all their prior allegations.

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

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

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

17 111. Plaintiffs have no adequate remedy at law.

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

- 20 A. A declaratory judgment that Defendants are in violation of section 8 of
21 the NVRA;
- 22 B. A permanent injunction barring Defendants from violating section 8 of
23 the NVRA;
- 24 C. An order instructing Defendants to develop and implement reasonable
25 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;

1 D. Plaintiffs' reasonable costs and expenses of this action, including
2 attorneys' fees; and

3 E. All other further relief that Plaintiffs may be entitled to.

4 Dated: July 2, 2024

Respectfully submitted,

5 */s/ Jeffrey F. Barr*

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