

**ORIGINAL**

1 **Marquis Aurbach**  
2 Brian R. Hardy, Esq.  
3 Nevada Bar No. 10068  
4 Harry L. Arnold, Esq.  
5 Nevada Bar No. 15866  
6 Nicholas M. Adams, Esq.  
7 Nevada Bar No. 15859  
8 10001 Park Run Drive  
9 Las Vegas, Nevada 89145  
10 Telephone: (702) 382-0711  
11 Facsimile: (702) 382-5816  
12 bhardy@maclaw.com  
13 harnold@maclaw.com  
14 nadams@maclaw.com  
15 Attorneys for Plaintiff

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WILLIAM SCOTT HOEN  
CLERK

BY DEPUTY

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

**IN AND FOR CARSON CITY**

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

Case No.: 24-OC-001531B  
Dept. No.: 1

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

16 FRANCISCO AGUILAR, in his official capacity  
17 as NEVADA SECRETARY OF STATE,  
18 DEMOCRATIC NATIONAL COMMITTEE,  
19 NEVADA STATE DEMOCRATIC PARTY

Defendant.

20 Plaintiffs ZENAIDA DAGUSEN, an individual and the REPUBLICAN NATIONAL  
21 COMMITTEE, the NEVADA REPUBLICAN PARTY, and DONALD J. TRUMP FOR  
22 PRESIDENT 2024, INC. (collectively, "Plaintiffs") hereby submit the following Opposition to the  
23 Motion to Intervene as Defendant (the "Motion") by NAACP Tri-State Conference of Idaho-  
24 Nevada-Utah ("NAACP").

25 ///

**MARQUIS AURBACH**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 This Opposition is based upon the following Memorandum of Points and Authorities, the pleadings  
2 and papers on file herein and any oral argument allowed at a hearing on this matter.

3 Dated this 14th day of November, 2024.

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MARQUIS AURBACH

By 

Brian R. Hardy, Esq.  
Nevada Bar No. 10068  
Harry L. Arnold, Esq.  
Nevada Bar No. 15866  
Nicholas M. Adams, Esq.  
Nevada Bar No. 15859  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorney(s) for Plaintiff

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## **I. INTRODUCTION**

The NAACP proposed intervenors have no right to help the Nevada Secretary of State (the “State”), nor the Democratic National Committee (“DNC”), nor the Nevada State Democratic Party (collectively with the DNC, the “Democratic Defendants”) litigate this case. Adding a fourth defendant to this case serves no purpose other than to complicate the litigation, delay proceedings, inflate expenses, and encumber the parties and the Court with more filings. The NAACP does not have valid interests that will be impaired by this case. Additionally, the State and Democratic Defendants are collectively more than well-equipped to handle this case and advance the purported interests that the NAACP claims to represent and be at risk in this case. The Court should thus deny the Motion.

## II. LEGAL STANDARD

Nevada courts allow, under certain circumstances, both intervention as a matter of right (*i.e.*, mandatory intervention), and permissive intervention. *See* NRCP 24. In this case, the NAACP has moved for intervention as a defendant as a matter of right, and in the alternative, intervention on a permissive basis.

Intervention as a matter of right may be granted on two distinct bases pursuant to NRCP 24(a)(1) and NRCP 24(a)(2). The NAACP has moved for intervention as a matter of right based upon the latter basis. Under NRCP 24(a)(2), a party “has a right to intervene in an action where it ‘shows that (1) it has a sufficient interest in the subject matter of the litigation, (2) its ability to protect its interest would be impaired if it does not intervene, (3) its interest is not adequately represented, and (4) its application is timely.’” See, e.g., *Las Vegas Police Protective Ass’n, Inc. v. Eighth Jud. Dist. Ct. in & for Cnty. of Clark*, 138 Nev. Adv. Op. 59, 515 P.3d 842, 846 (2022).

Permissive intervention similarly may be granted on two distinct bases pursuant to NRCP 24(b)(1)(A) and NRCP 24(b)(1)(B). The NAACP has moved, in the alternative, for permissive intervention based upon the latter basis. Under NRCP 24(b)(1)(B), a party may intervene that “has a claim or defense that shares with the main action a common question of law or fact.” *See id.* In

1 making the *discretionary* decision to allow (or not allow) permissive intervention, a court “must  
2 consider whether the intervention will unduly delay or prejudice the adjudication of the original  
3 parties’ rights.” *See* NRCP 24(b)(3).

4 **III. LEGAL ARGUMENT**

5 **A. THE NAACP DOES NOT HAVE A RIGHT TO INTERVENE IN THIS  
6 CASE**

7 **1. The NAACP Does Not Have Legally Protectable Interests at Stake in  
8 This Case**

9 The NAACP carries the burden of showing that all requisite elements of its request to  
10 intervene as a matter of right are met. *See, e.g.*, *United States v. Alisal Water Corp.*, 370 F.3d 915,  
11 919 (9th Cir. 2004). “Failure to satisfy any one of the requirements is fatal to the application, and  
12 [the court] need not reach the remaining elements if one of the elements is not satisfied.” *Id.* at  
13 950. One such required element the NAACP carries the burden of establishing is showing that they  
14 have an interest relating to this case. And on this point, the NAACP proffers two distinct interests  
15 that they allege are at issue in this case: (1) “interest in advancing the fundamental constitutional  
16 right of its members and constituents to vote, free from unlawful interference and intimidation”<sup>1</sup>  
17 and (2) “voter registration, voter education, and get-out-the-vote and ballot-cure activities” that  
18 “ensure eligible Nevada voters, particularly voters in traditionally disenfranchised communities,  
can exercise their right to vote.”<sup>2</sup>

19 Importantly, an intervenor’s asserted interests must be “legally protected” and  
20 “significant,” and cannot be “undifferentiated” or “generalized.” *Alisal Water*, 370 F.3d at 920. In  
21 this case, the NAACP’s proffered interests are not only “generalized” but highly speculative and  
22 hypothetical, such that intervention should be swiftly denied.

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26 <sup>1</sup> *See* Motion at pg. 5.

27 <sup>2</sup> *Id.* at pg. 6.

1           As to the NAACP's first proffered interest, *i.e.*, protecting the right of its members to vote,  
2 the NAACP argues the following<sup>3</sup>: (a) it counts naturalized U.S. citizens among its ranks, (b)  
3 Plaintiffs' complaint seeks to remove non-citizens from Nevada's voter rolls, (c) many non-  
4 citizens become naturalized U.S. citizens each year, and (d) some of the identified "non-citizens"  
5 in Plaintiffs' action may in fact have become naturalized citizens in the interim, such that Plaintiffs'  
6 efforts to remove non-citizens from the voter rolls may in fact remove naturalized U.S. citizens as  
7 well, thus disenfranchising the NAACP's membership. Clearly, this speculative, connect-the-dots  
8 logic is exactly the type of "generalized" interest that is insufficient to sustain a request to  
9 intervene.

10           Assuming, *arguendo*, that the ability of naturalized citizens to vote is even at stake in this  
11 case (which it is not), the NAACP has failed to articulate how many of its members are even  
12 naturalized citizens. It could be several hundred, or it could be a dozen or less. This Court has no  
13 signpost for evaluating the degree to which the NAACP's proffered interest is truly at stake –  
14 making it rather generalized and undifferentiated. Additionally, the NAACP is effectively asking  
15 this Court to speculate on the number of naturalized citizens who would be purportedly purged  
16 from the voter rolls in the event Plaintiffs obtain their requested relief<sup>4</sup> are the same, overlapping  
17 naturalized citizens that it counts among its membership. But to even reach this speculative  
18 conclusion, this Court would have to buy the equally speculative, unsubstantiated assertion that  
19 naturalized citizens would even be removed at all from the voter rolls in the event Plaintiffs prevail  
20 in the action. Simply put, none of the allegations in Plaintiffs' Complaint, nor their requested  
21 Prayer for Relief,<sup>5</sup> would result in naturalized citizens being removed from the voter rolls. The  
22 NAACP latches on to Plaintiffs' reference to the December 2020 DMV file,<sup>6</sup> and argues that  
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<sup>3</sup> See Motion at pgs. 3, 5-6.

25           <sup>4</sup> Something that Plaintiffs certainly do not concede would ever happen.

26           <sup>5</sup> See Complaint at pgs. 21-22.

27           <sup>6</sup> See Complaint at pgs. 10-11, ¶¶ 58-59.

1 Plaintiffs are seeking to disenfranchise the 6,136 individuals in said file who presented an  
2 immigration document while obtaining a driver's license, and are/were actively registered to vote.  
3 Yet Plaintiffs do not make that specific request in the Complaint, and merely cite to this figure as  
4 part of its larger argument (and its actual request for relief) that the Nevada Secretary of State  
5 should be required to adopt and implement more rigorous, systemic processes for ensuring non-  
6 citizens are not registered to vote.

7 The NAACP's second proffered interest is even more speculative and unavailing. At best,  
8 the NAACP offers an incredibly generalized, vague basis for how Plaintiffs prevailing in the  
9 instant action would specifically impair its efforts to engage in "voter registration, voter education,  
10 and get-out-the-vote and ballot-cure activities."<sup>7</sup> Indeed, regardless of whether non-citizens are  
11 taken off Nevada's voter rolls, and regardless of whether the Nevada Secretary of State is required  
12 to implement more rigorous processes for verifying the eligibility of voters based on citizenship  
13 status, the NAACP will still be free to pursue all of the aforementioned activities uninhibited and  
14 to the same extent should Plaintiffs not prevail. Simply put, the NAACP has no valid interest in  
15 pursuing any of these aforementioned activities in the context of non-citizen voters, making this  
16 proffered interest incapable of independently sustaining a request to intervene in this case.

17 **2. The NAACP Has Not Made a "Compelling Showing" that the State**  
**and Democratic Defendants' Representation Will Be Inadequate**

18 In arguing that the State and Democratic Defendants do not adequately represent its  
19 interests in this case, the NAACP fatally misapplies the governing legal standard. To be sure, the  
20 NAACP is correct when it cites in its Motion case law suggesting that, by default, its burden is  
21 "minimal" in the event it can demonstrate the representation of its interest might be inadequate.<sup>8</sup>  
22 Yet where the NAACP falls short is suggesting that a divergence of interests automatically results  
23 in an inadequacy of representation. Indeed, the NAACP argues that the State's chief interest in this  
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26 <sup>7</sup> See Motion at pg. 7.

27 <sup>8</sup> *id*

1 case is “the fair and efficient administration of the electoral process,” while the Democratic  
2 Defendants have a “partisan interest in protecting the rights of *Democratic* voters and candidates.”<sup>9</sup>

3 What the NAACP notably does *not* argue in its Motion is why/how these purportedly  
4 divergent interests will actually result in “inadequate” representation, *i.e.*, the governing legal  
5 standard. Seemingly, the NAACP wants this Court to make the illogical leap that a party with a  
6 slightly divergent interest/rationale can never “adequately” represent the interests of another co-  
7 party. Importantly, and tellingly left unsaid in the NAACP’s Motion, is the fact that when a  
8 proposed intervenor shares the same “ultimate objective” as an existing party, the default  
9 “minimal” showing standard is elevated to a “compelling showing” standard. *See Perry v.*  
10 *Proposition 8 Off. Proponents*, 587 F.3d 947, 951 (9th Cir. 2009). And in this case, per its own  
11 Exhibit 2 to its Motion, the NAACP is requesting that this Court “[d]ismiss the Complaint in its  
12 entirety” and “[d]eny that Plaintiffs are entitled to any relief.”<sup>10</sup> This requested relief sought by the  
13 NAACP is clearly the functional equivalent of what the Democratic Defendants are seeking in this  
14 case, given their pending motion to dismiss the *entirety* of Plaintiffs’ complaint.

15 Simply put, the NAACP has not sustained its burden of providing a “compelling showing”  
16 as to why its interests will not be sufficiently represented by the State and in particular, the  
17 Democratic Defendants. Indeed, the NAACP has not offered, even in the slightest, a single  
18 reason/argument as to how it would approach this case differently than the Democratic Defendants.  
19 It would be one thing if the NAACP was seeking to intervene and subsequently dismiss and/or  
20 defend the case on a differing basis than the Democratic Defendants. But, the substance of the  
21 NAACP’s proposed answer demonstrates that it is adequately represented by the Democratic  
22 Defendants.

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<sup>9</sup> *Id.* at pgs. 7-8.

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<sup>10</sup> *See* Exhibit 2 to Motion at pg. 18 (Prayer for Relief).

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**B. THE COURT SHOULD ALSO DENY PERMISSIVE INTERVENTION**

2           The Court should also deny the NAACP’s alternatively-sought permissive intervention. To  
3   be sure, the NAACP, to be eligible for permissive intervention under NRCP 24(b)(1)(B), merely  
4   has to show a “claim or defense that shares with the main action a common question of law or  
5   fact.” Critically, being “eligible” for permissive intervention does not necessarily entitle one to  
6   permissive intervention as a matter of course. Allowing permissive intervention is undoubtedly a  
7   highly-discretionary decision in which the district court is afforded considerable deference. *See,*  
8   *e.g., Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 187-88, 368 P.3d 1198, 1202-03 (2016) (“A district  
9   court’s ruling on permissive intervention is subject to ‘particularly deferential’ review”) (citations  
10   omitted).

11 As part of this vast discretion, it is entirely appropriate and routine for a district court to  
12 evaluate whether the participation of the proposed intervenors would be superfluous/add anything  
13 new to the underlying substantive argument, or whether said intervenors' interests are already  
14 appropriately represented. *See id.* ("As one court has observed, '[w]here he presents no new  
15 questions, a third party can contribute usually most effectively and always most expeditiously by  
16 a brief amicus curiae and not by intervention.'") (citation omitted); *see also United States ex rel.*  
17 *Richards v. De Leon Guerrero v. De Leon Guerrero*, 4 F.3d 749, 756 (9th Cir. 1993) (denying  
18 permissive intervention on the basis of adequate representation via another party). In this case, the  
19 NAACP has woefully failed in this regard, and has not offered a substantive basis (beyond mere  
20 eligibility for permissive intervention) for adding a fourth defendant to this case.

21 || IV. CONCLUSION

22 For all of the foregoing reasons, Plaintiffs request that the Court deny the Motion and enter  
23 the proposed order affixed hereto.<sup>11</sup>

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<sup>27</sup> <sup>11</sup> Contrary to Local Rule 3.10, the NAACP filed its Motion without affixing any proposed order.

## **AFFIRMATION**

**(Under NRS 239B.030)**

The undersigned does hereby affirm that the preceding document filed in the above referenced matter does not contain the social security number of any person.

Dated this 14th day of November, 2024.

## MARQUIS AURBACH

By Brian R. Hardy, Esq.  
Nevada Bar No. 10068  
Harry L. Arnold, Esq.  
Nevada Bar No. 15866  
Nicholas M. Adams, Esq.  
Nevada Bar No. 15859  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorney(s) for Plaintiff

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**CERTIFICATE OF SERVICE**

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I hereby certify that a true and correct copy of the foregoing **OPPOSITION TO MOTION**  
**TO INTERVENE AS DEFENDANT BY NAACP TRI-STATE CONFERENCE OF IDAHO-**  
**NEVADA-UTAH** was served on the 14th day of November, 2024 via email as follows:

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BRAVO SCHRAGER LLP  
Bradley S. Schrager, Esq.  
Daniel Bravo, Esq.  
6675 S. Tenaya Way, Ste. 200  
Las Vegas, NV 89113  
[bradley@bravoschrager.com](mailto:bradley@bravoschrager.com)  
[daniel@bravoschrager.com](mailto:daniel@bravoschrager.com)

6

7

8

Laena St Jules  
Senior Deputy Attorney General  
100 N. Carson St.  
Carson City, NV 89701  
[lstjules@ag.nv.gov](mailto:lstjules@ag.nv.gov)  
*Attorneys for Defendant Francisco V. Aguilar*

9

ELIAS LAW GROUP LLP  
David R. Fox, Esq.  
250 Massachusetts Ave. NW, Ste. 400  
Washington, D.C. 20001  
[dfox@elias.law](mailto:dfox@elias.law)  
*Attorneys for Defendants Democratic National Committee and Nevada State Democratic Party*

10

11

12

Julie Harkleroad  
Judicial Assistant to Hon. James R. Russell  
First Judicial District Court, Dept. I  
885 E. Musser St, Suite 3031  
Carson City, NV 89701  
[jharkleroad@carson.org](mailto:jharkleroad@carson.org)

13

WOODBURN AND WEDGE  
W. Chris Wicker, Esq.  
Jose A. Tafoya, Esq.  
6100 Neil Road Suite 500  
Reno, NV 89511-1149  
[wwicker@woodburnandwedge.com](mailto:wwicker@woodburnandwedge.com)  
[jtafoya@woodburnandwedge.com](mailto:jtafoya@woodburnandwedge.com)  
*Attorneys for NAACP Tri-State Conference of Idaho-Nevadah-Utah*

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15

16

17

18

FREE SPEECH FOR PEOPLE  
Amira Mattar, Esq. (pro hac forthcoming)  
[amira@freespeechforpeople.org](mailto:amira@freespeechforpeople.org)  
John Bonifaz, Esq. (pro hac forthcoming)  
[jbonifaz@freespeechforpeople.org](mailto:jbonifaz@freespeechforpeople.org)  
Ben Clements, Esq. (pro hac forthcoming)  
[bclements@freespeechforpeople.org](mailto:bclements@freespeechforpeople.org)  
Courtney Hostetler, Esq. (pro hac forthcoming)  
[chohostetler@freespeechforpeople.org](mailto:chohostetler@freespeechforpeople.org)  
48 N. Pleasant Street, Suite 304  
Amherst, MA 01002  
*Attorneys for NAACP Tri-State Conference of Idaho-Nevadah-Utah*

19

20

21

22

23

24

25

MAYER BROWN LLP  
Lee Rubin, Esq. (pro hac forthcoming)  
Two Palo Alto Square, Suite 300  
3000 El Camino Real  
Palo Alto, CA 94306-2112  
[lrubin@mayerbrown.com](mailto:lrubin@mayerbrown.com)  
Rachel J. Lamorte, Esq. (pro hac forthcoming)  
1999 K Street, NW  
Washington, DC 20006-1101  
[rlamorte@mayerbrown.com](mailto:rlamorte@mayerbrown.com)  
Robert C. Double III, Esq. (pro hac forthcoming)  
333 South Grand Ave, 47<sup>th</sup> Floor  
Los Angeles, CA 90071  
[rdouble@mayerbrown.com](mailto:rdouble@mayerbrown.com)  
*Attorneys for NAACP Tri-State Conference of Idaho-Nevadah-Utah*

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An employee of Marquis Aurbach

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

## IN AND FOR CARSON CITY

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

Case No.: 24-OC-001531B  
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Plaintiff,

vs.

16 FRANCISCO AGUILAR, in his official capacity  
17 as NEVADA SECRETARY OF STATE,  
DEMOCRATIC NATIONAL COMMITTEE,  
NEVADA STATE DEMOCRATIC PARTY

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

Defendant.

**[PROPOSED ORDER]**

22 This matter came before the Court pursuant to NAACP Tri-State Conference of Idaho-  
23 Nevada-Utah’s (“NAACP”) Motion to Intervene as Defendant (the “Motion”) Having considered  
the parties’ filings and the arguments of counsel, the Court rules as follows:

## BACKGROUND

On October 31, 2024, the NAACP filed a motion seeking to intervene as a defendant in this matter. Pursuant to NRCP 24(c), the NAACP has affixed a proposed answer to its Motion. Plaintiffs ZENAIDA DAGUSEN, an individual and the REPUBLICAN NATIONAL

1 COMMITTEE, the NEVADA REPUBLICAN PARTY, and DONALD J. TRUMP FOR  
2 PRESIDENT 2024, INC. (collectively, “Plaintiffs”) have opposed the Motion.

3 **STANDARD OF LAW**

4 Nevada courts allow, under certain circumstances, both intervention as a matter of right  
5 (*i.e.*, mandatory intervention), and permissive intervention. *See* NRCP 24. In this case, the NAACP  
6 has moved for intervention as a defendant as a matter of right, and in the alternative, intervention  
7 on a permissive basis.

8 Intervention as a matter of right may be granted on two distinct bases pursuant to NRCP  
9 24(a)(1) and NRCP 24(a)(2). The NAACP has moved for intervention as a matter of right based  
10 upon the latter basis. Under NRCP 24(a)(2), a party “has a right to intervene in an action where it  
11 ‘shows that (1) it has a sufficient interest in the subject matter of the litigation, (2) its ability to  
12 protect its interest would be impaired if it does not intervene, (3) its interest is not adequately  
13 represented, and (4) *its application is timely.*’” *See, e.g., Las Vegas Police Protective Ass’n, Inc. v.*  
14 *Eighth Jud. Dist. Ct. in & for Cnty. of Clark*, 138 Nev. Adv. Op. 59, 515 P.3d 842, 846 (2022).

15 Permissive intervention similarly may be granted on two distinct bases pursuant to NRCP  
16 24(b)(1)(A) and NRCP 24(b)(1)(B). The NAACP has moved, in the alternative, for permissive  
17 intervention based upon the latter basis. Under NRCP 24(b)(1)(B), a party may intervene that “has  
18 a claim or defense that shares with the main action a common question of law or fact.” *See id.* In  
19 making the *discretionary* decision to allow (or not allow) permissive intervention, a court “must  
20 consider whether the intervention will unduly delay or prejudice the adjudication of the original  
21 parties’ rights.” *See* NRCP 24(b)(3).

22 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 A. **THE NAACP DOES NOT HAVE A RIGHT TO INTERVENE IN THIS  
24 CASE**

25 1. **The NAACP Does Not Have Legally Protectable Interests at Stake in  
26 This Case**

27 The NAACP carries the burden of showing that all requisite elements of its request to

1 intervene as a matter of right are met. *See, e.g., United States v. Alisal Water Corp.*, 370 F.3d 915,  
2 919 (9th Cir. 2004). “Failure to satisfy any one of the requirements is fatal to the application, and  
3 [the court] need not reach the remaining elements if one of the elements is not satisfied.” *Id.* at  
4 950. One such required element the NAACP carries the burden of establishing is showing that they  
5 have an interest relating to this case. And on this point, the NAACP proffers two distinct interests  
6 that they allege are at issue in this case: (1) “interest in advancing the fundamental constitutional  
7 right of its members and constituents to vote, free from unlawful interference and intimidation”<sup>1</sup>  
8 and (2) “voter registration, voter education, and get-out-the-vote and ballot-cure activities” that  
9 “ensure eligible Nevada voters, particularly voters in traditionally disenfranchised communities,  
10 can exercise their right to vote.”<sup>2</sup>

11 Importantly, an intervenor’s asserted interests must be “legally protected” and  
12 “significant,” and cannot be “undifferentiated” or “generalized.” *Alisal Water*, 370 F.3d at 920. In  
13 this case, the NAACP’s proffered interests are not only “generalized” but highly speculative and  
14 hypothetical, such that intervention should be swiftly denied.

15 As to the NAACP’s first proffered interest, *i.e.*, protecting the right of its members to vote,  
16 the NAACP argues the following<sup>3</sup>: (a) it counts naturalized U.S. citizens among its ranks, (b)  
17 Plaintiffs’ complaint seeks to remove non-citizens from Nevada’s voter rolls, (c) many non-  
18 citizens become naturalized U.S. citizens each year, and (d) some of the identified “non-citizens”  
19 in Plaintiffs’ action may in fact have become naturalized citizens in the interim, such that Plaintiffs’  
20 efforts to remove non-citizens from the voter rolls may in fact remove naturalized U.S. citizens as  
21 well, thus disenfranchising the NAACP’s membership. Clearly, this speculative, connect-the-dots  
22 logic is exactly the type of “generalized” interest that is insufficient to sustain a request to  
23 intervene.

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25 <sup>1</sup> *See Motion at pg. 5.*

26 <sup>2</sup> *Id.* at pg. 6.

27 <sup>3</sup> *See Motion at pgs. 3, 5-6.*

1 Assuming, *arguendo*, that the ability of naturalized citizens to vote is even at stake in this  
2 case (which it is not), the NAACP has failed to articulate how many of its members are even  
3 naturalized citizens. It could be several hundred, or it could be a dozen or less. This Court has no  
4 signpost for evaluating the degree to which the NAACP's proffered interest is truly at stake –  
5 making it rather generalized and undifferentiated. Additionally, the NAACP is effectively asking  
6 this Court to speculate on the number of naturalized citizens who would be purportedly purged  
7 from the voter rolls in the event Plaintiffs obtain their requested relief<sup>4</sup> are the same, overlapping  
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9 conclusion, this Court would have to buy the equally speculative, unsubstantiated assertion that  
10 naturalized citizens would even be removed at all from the voter rolls in the event Plaintiffs prevail  
11 in the action. Simply put, none of the allegations in Plaintiffs' Complaint, nor their requested  
12 Prayer for Relief,<sup>5</sup> would result in naturalized citizens being removed from the voter rolls. The  
13 NAACP latches on to Plaintiffs' reference to the December 2020 DMV file,<sup>6</sup> and argues that  
14 Plaintiffs are seeking to disenfranchise the 6,136 individuals in said file who presented an  
15 immigration document while obtaining a driver's license, and are/were actively registered to vote.  
16 Yet Plaintiffs do not make that specific request in the Complaint, and merely cite to this figure as  
17 part of its larger argument (and its actual request for relief) that the Nevada Secretary of State  
18 should be required to adopt and implement more rigorous, systemic processes for ensuring non-  
19 citizens are not registered to vote.

20 The NAACP's second proffered interest is even more speculative and unavailing. At best,  
21 the NAACP offers an incredibly generalized, vague basis for how Plaintiffs prevailing in the  
22 instant action would specifically impair its efforts to engage in "voter registration, voter education,  
23  
24

25 <sup>4</sup> Something that Plaintiffs certainly do not concede would ever happen.

26 <sup>5</sup> See Complaint at pgs. 21-22.

27 <sup>6</sup> See Complaint at pgs. 10-11, ¶¶ 58-59.

1 and get-out-the-vote and ballot-cure activities.”<sup>7</sup> Indeed, regardless of whether non-citizens are  
2 taken off Nevada’s voter rolls, and regardless of whether the Nevada Secretary of State is required  
3 to implement more rigorous processes for verifying the eligibility of voters based on citizenship  
4 status, the NAACP will still be free to pursue all of the aforementioned activities uninhibited and  
5 to the same extent should Plaintiffs not prevail. Simply put, the NAACP has no valid interest in  
6 pursuing any of these aforementioned activities in the context of non-citizen voters, making this  
7 proffered interest incapable of independently sustaining a request to intervene in this case.

8 **2. The NAACP Has Not Made a “Compelling Showing” that the State**  
**and Democratic Defendants’ Representation Will Be Inadequate**

9  
10 In arguing that the State and Democratic Defendants do not adequately represent its  
11 interests in this case, the NAACP fatally misapplies the governing legal standard. To be sure, the  
12 NAACP is correct when it cites in its Motion case law suggesting that, by default, its burden is  
13 “minimal” in the event it can demonstrate the representation of its interest might be inadequate.<sup>8</sup>  
14 Yet where the NAACP falls short is suggesting that a divergence of interests automatically results  
15 in an inadequacy of representation. Indeed, the NAACP argues that the State’s chief interest in this  
16 case is “the fair and efficient administration of the electoral process,” while the Democratic  
17 Defendants have a “partisan interest in protecting the rights of *Democratic* voters and candidates.”<sup>9</sup>

18 What the NAACP notably does *not* argue in its Motion is why/how these purportedly  
19 divergent interests will actually result in “inadequate” representation, *i.e.*, the governing legal  
20 standard. Seemingly, the NAACP wants this Court to make the illogical leap that a party with a  
21 slightly divergent interest/rationale can never “adequately” represent the interests of another co-  
22 party. Importantly, and tellingly left unsaid in the NAACP’s Motion, is the fact that when a  
23 proposed intervenor shares the same “ultimate objective” as an existing party, the default  
24 “minimal” showing standard is elevated to a “compelling showing” standard. *See Perry v.*

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25 <sup>7</sup> See Motion at pg. 7.

26 <sup>8</sup> *id*

27 <sup>9</sup> *Id.* at pgs. 7-8.

1        *Proposition 8 Off. Proponents*, 587 F.3d 947, 951 (9th Cir. 2009). And in this case, per its own  
2        Exhibit 2 to its Motion, the NAACP is requesting that this Court “[d]ismiss the Complaint in its  
3        entirety” and “[d]eny that Plaintiffs are entitled to any relief.”<sup>10</sup> This requested relief sought by the  
4        NAACP is clearly the functional equivalent of what the Democratic Defendants are seeking in this  
5        case, given their pending motion to dismiss the *entirety* of Plaintiffs’ complaint.

6           Simply put, the NAACP has not sustained its burden of providing a “compelling showing”  
7        as to why its interests will not be sufficiently represented by the State and in particular, the  
8        Democratic Defendants. Indeed, the NAACP has not offered, even in the slightest, a single  
9        reason/argument as to how it would approach this case differently than the Democratic Defendants.  
10       It would be one thing if the NAACP was seeking to intervene and subsequently dismiss and/or  
11       defend the case on a differing basis than the Democratic Defendants. But, the substance of the  
12       NAACP’s proposed answer demonstrates that it is adequately represented by the Democratic  
13       Defendants.

14           **B.        PERMISSIVE INTERVENTION IS ALSO NOT MERITED**

15        To be sure, the NAACP, to be eligible for permissive intervention under NRCP  
16        24(b)(1)(B), merely has to show a “claim or defense that shares with the main action a common  
17        question of law or fact.” Critically, being “eligible” for permissive intervention does not  
18        necessarily entitle one to permissive intervention as a matter of course. Allowing permissive  
19        intervention is undoubtedly a highly-discretionary decision in which the district court is afforded  
20        considerable deference. *See, e.g., Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 187-88, 368 P.3d  
21        1198, 1202-03 (2016) (“A district court’s ruling on permissive intervention is subject to  
22        ‘particularly deferential’ review”) (citations omitted).

23        As part of this vast discretion, it is entirely appropriate and routine for a district court to  
24        evaluate whether the participation of the proposed intervenors would be superfluous/add anything  
25        new to the underlying substantive argument, or whether said intervenors’ interests are already  
26

27        <sup>10</sup> See Exhibit 2 to Motion at pg. 18 (Prayer for Relief).  
28

1 appropriately represented. *See id.* (“As one court has observed, ‘[w]here he presents no new  
2 questions, a third party can contribute usually most effectively and always most expeditiously by  
3 a brief amicus curiae and not by intervention.’”) (citation omitted); *see also United States ex rel.*  
4 *Richards v. De Leon Guerrero v. De Leon Guerrero*, 4 F.3d 749, 756 (9th Cir. 1993) (denying  
5 permissive intervention on the basis of adequate representation via another party). In this case, the  
6 NAACP has woefully failed in this regard, and has not offered a substantive basis (beyond mere  
7 eligibility for permissive intervention) for adding a fourth defendant to this case.

8 Accordingly, for the reasons set forth above, **IT IS HEREBY ORDERED** and declared  
9 that the NAACP Tri-State Conference of Idaho-Nevada-Utah’s Motion to Intervene as Defendant  
10 is DENIED in its entirety.

11 Brian R. Hardy shall serve a notice of entry of the order on all parties and file proof of such  
12 service within 7 days after the date the Court sent the order to the attorney.

13 **IT IS SO ORDERED.**

14 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

15  
16  
17 JUDGE RUSSELL

18 Respectfully Submitted by:

19 MARQUIS AURBACH

20  
21  
22 By \_\_\_\_\_  
23 Brian R. Hardy, Esq.

24 Nevada Bar No. 10068  
25 Harry L. Arnold, Esq.  
26 Nevada Bar No. 15866  
27 Nicholas M. Adams, Esq.  
28 Nevada Bar No. 15859  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorney(s) for Plaintiff