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1 **MOT**  
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10 Attorney for Proposed Intervenor  
11 *David Gibbs Et Al*

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

9 EMILY PERSAUD- ZAMORA, an )  
10 individual, )  
11 Plaintiff, )  
12 vs. )  
13 BARBARA CEGAVSKE, in her official )  
14 capacity as NEVADA SECRETARY OF )  
15 STATE, )  
16 Defendants. )  
17 )  
18 )

220C 00022 1B  
Case No: ~~2-18-CV-01338-JCM-PAL~~

**MOTION TO INTERVENE AS A  
PARTY OF INTEREST**

19 **PARTY IN INTEREST DAVID GIBB'S MOTION TO INTERVENE AS A PARTY IN**  
20 **INTEREST**

21 COMES NOW, DAVID GIBBS, individually and on behalf of REPAIR THE VOTE  
22 POLITICAL ACTION COMITTE (hereinafter "PAC"), by and through the undersigned attorney  
23 of record, SIGAL CHATTAH, ESQ., of CHATTAH LAW GROUP, who hereby submit the  
24 following MOTION TO INTERVENE as a party in interest. Proposed Intervenor David G.  
25

1 Gibbs individually and on behalf of Repair the Vote PAC, is the signatory of the Petition filed  
2 under NRS 295.009 as the Petition Filer.

3 David G. Gibbs, individually and on behalf of REPAIR THE VOTE PAC hereby  
4 requests that the Court grant him leave to intervene as a party in interest as of right pursuant to  
5 Nevada Rule of Civil Procedure 24(a)(2).  
6

### 7 **INTRODUCTION**

8 The litigation *sub judice* involves a Complaint for Declaratory Relief and Injunctive  
9 Relief challenging Initiative Petition C-03-2022, filed against Nevada Secretary of State Barbara  
10 Cegavske. Proposed Intervenor David G. Gibbs, was omitted from the action as a Defendant  
11 either individually and/or on behalf of REPAIR THE VOTE PAC.

12 REPAIR THE VOTE PAC filed a Notice of Intent to Circulate Statewide Initiative or  
13 Referendum Petition, attached hereto as Exhibit "A". This Motion to Intervene is brought to  
14 allow David G. Gibbs individually and on behalf of REPAIR THE VOTE PAC to participate in  
15 this action.

### 16 **STATEMENT OF FACTS**

17 On or about January 28, 2022, Intervenor DAVID G. GIBBS, on behalf of the REPAIR  
18 THE VOTE PAC, filed Initiative Petition C-03-2022 with the Nevada Secretary of State. The  
19 Petition seeks to amend the Nevada Constitution to impose changes to the State's electoral  
20 system. The subject of the Petition focuses on enacting two new sections within Article II of the  
21 Nevada Constitution.  
22

23 The changes include 1) Voter Identification requirement on in-person voting; and 2)  
24 Inclusion of an identification number from specified government issued documents, for the  
25 voting by mail process.

1 The Initiative Petition drew the Complaint on file herein with a failure to include as a Co-  
2 Defendant neither the PAC or the individual acting on its behalf as a necessary party for  
3 participation and adjudication of the matter.

4 The Nevada Rules of Civil Procedure and the Local Rules of this Court do not require to  
5 attempt to meet and confer with the other Parties prior to filing this Motion.

6  
7 **LEGAL ARGUMENT**

8 NRCP 24 entitled Intervention provides

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

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

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

16 "[I]ntervention is the requisite method for a nonparty to become a party to a  
17 lawsuit." *United States ex rel. Eisenstein v. City of N.Y.*, 556 U.S. 928, 933, 129 S. Ct. 2230, 173  
18 L. Ed. 2d 1255 (2009) (citation omitted).

19 Repair the Vote PAC meets the criteria for intervention as of right under Rule 24(a)  
20 because (1) it has a sufficient interest in the litigation's subject matter, (2) it could suffer an  
21 impairment of its ability to protect that interest if it does not intervene, (3) its interest is not  
22 adequately represented by existing parties, and (4) its application is timely. *See Hairr v. First*  
23 *Jud. Dist. Court*, 132 Nev. Adv. Rep. 16, 368 P.3d 1198, 1200 (2016).

1 On timely motion, the court must permit anyone to intervene who . . . claims an interest  
2 relating to the property or transaction that is the subject of the action, and is so situated that  
3 disposing of the action may as a practical matter impair or impede the movant's ability to protect  
4 its interest, unless existing parties adequately represent that interest. *Arakaki v. Cayetano*, 324  
5 *F.3d 1078, 1083 (9th Cir. 2003)*.<sup>1</sup>

6 Here, it is indisputable that REPAIR THE VOTE PAC has a specific interest in the  
7 dispute *sub judice* and has the right to protect its interest by intervening in this action, which they  
8 were intentionally omitted from.

9  
10 **A. THE COURT SHOULD GRANT INTERVENTION AS OF RIGHT**

11 Upon filing of a timely Motion, Nevada Rule of Procedure 24(a)(2) requires that this  
12 Court “permit anyone to intervene who claims and interest relating to the property or transaction  
13 that is the subject of the action, and is so situated that disposing of the action may as a practical  
14 matter impair or impeded the movant’s ability to protect its interest unless existing parties  
15 adequately represent that interest.” *Id.*

16 As to adequacy of representation, the requirement of the Rule is satisfied if the applicant  
17 shows that representation of his interest “may be” inadequate; and the burden of making that  
18 showing should be treated as minimal. The final requirement of the test for intervention is  
19 “minimal,” and is satisfied so long as “the applicant can demonstrate that representation of its  
20 interests ‘may be’ inadequate.” *Citizens for Balanced Use v. Montana Wilderness Ass'n*, 647  
21 *F.3d 893, 898 (9th Cir. 2011)* *Lake Inv’rs Dev. Grp, Inc. v Egidi Dev. Grp.*, 715 *F.2d 1256*,

22  
23  
24  
25 <sup>1</sup> It is appropriate to supplement the Nevada caselaw with relevant federal precedent because “[f]ederal cases interpreting the Federal Rules of Civil Procedure ‘are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts.’” *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 *Nev. 46, 53 (2002)* (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 *Nev. 113, 119 (1990)*).

1 1261(7<sup>th</sup> Cir, 1983) (quoting *Trbovich v United Mine Workers of America*, 404 U.S. 528, 538 n  
2 10(1972).

3 When seeking intervention as of right under Nev. R. Civ. P. 24, an applicant must “(1)  
4 make timely application; (2) have an interest relating to the subject matter of the action; (3) be at  
5 risk that that interest will be impaired, ‘as a practical matter’, by the action’s disposition and (4)  
6 lack adequate representation of the interest by the existing parties.” *Arakaki v. Cayetano*, 324  
7 *F.3d 1078, 1083 (9th Cir. 2003) (citing Fed. R. Civ. P. 24(a)(2); Nissei Sangyo Am. V United*  
8 *States 31 F.3d 435, 438 (7<sup>th</sup> Cir. 1994).*

9  
10 **A. Intervenor’s Motion Is Timely**

11 First, Rule 24 requires that a motion to intervene be timely filed. This requirement  
12 “essentially sets out a reasonableness standard: potential intervenors need to be reasonably  
13 diligent in learning of a suit that might affect their rights, and upon so learning they need to act  
14 reasonably promptly.” *United States v. Alisal Water Corp.*, 370 *F.3d 915, 923 (9th Cir. 2004)*  
15 *(quotation marks, citation omitted); see also Garza v. County of Los Angeles*, 918 *F.2d 763, 777*  
16 *(9th Cir. 1990)* (intervention motion untimely where prospective intervenor delayed in moving  
17 for intervention even though she knew the lawsuit was pending and “that part of the relief  
18 sought” might adversely affect her interests) *Nissei Sangyo Am v United States*, 31 *F.3d 435, 438*  
19 *(7<sup>th</sup> Cir. 1994)*

20  
21 There has been exceptionally little time since Intervenor’s became aware of this case, and  
22 therefore it’s interest in it. This action was filed on February 18, 2022, and Intervenor’s bring  
23 this Motion a week, thereafter.

1           **B.     Repair the Vote Pac Has A Strong Interest in the Outcome of this Matter,**  
2           **since Intervenor filed the Initiative**

3           Second, Nev. R. Civ. P. Rule 24 requires that a movant “[c]laim an interest relating to the  
4 property or transaction that is the subject of the action, and [be] so situated that disposing of the  
5 action may as a practice matter impair or impeded the movant’s ability to protect its interest.  
6 *Nev. R. Civ. P. 24 (a)(2).*

7           Whether an intervenor in a given case has a significant interest is a fact-specific inquiry,  
8 such that ‘comparison to other cases is of limited value’” see. *Ins. Co. of Hartsford v schipporeit,*  
9 *Inc. 69 F.3d 1377, 1381 (7<sup>th</sup> Cir. 1995).* Accordingly, the intervenor must simply show “a direct,  
10 significant and legally protectable interest” that is unique from the parties in the case. *Keith v*  
11 *Daley, 764 F.2d 1265 (7<sup>th</sup> Cir, 1985).*

12           Repair the Vote Pac, and David G. Gibbs are the parties who filed the Notice of Intent to  
13 Circulate Statewide Initiative or Referendum Petition. The Notice of Intent filed on January 28,  
14 2022 was signed by Gibbs on said day. The intent and interest of the initiative along with any  
15 type of evidence thereon is exclusive to the Intervenor, regardless of Defendants’ position.  
16

17           **C.     The PAC’s Interests Will be Impaired if Plaintiff Prevails in this Action**

18           When the disposition of a case will “as a practical matter foreclose rights of [a] proposed  
19 intervenor in a subsequent proceeding”, the proposed intervenor’s interest will be impaired.  
20 *Meridian Homes Corp. v Nicholas W. Prassas & Co., 683 F.d 201,204 (7<sup>th</sup> Cir. 1982).*

21           Rule 24(a) requires applicants to demonstrate they will “either gain or lose by the direct  
22 legal operation and effect of the judgment which might be rendered in the suit between the  
23 original parties.” *Stephens v. First Nat’l Bank of Nev., 64 Nev. 292, 304–05, 182 P.2d 146, 151–*  
24 *52 (1947) (quoting Harlan v. Eureka Mining Co., 10 Nev. 92, 94–95 (1875)).*  
25

1 Here if Plaintiff prevails, it will have successfully precluded Repair the Vote Pac from  
2 participating in this action without intervention or protection of its interests. Repair the Vote  
3 PAC has a direct, significant and legally protectable interest that is unique from the parties in  
4 the case.

5 **D. Existing Parties Will Not Adequately Protect Repair the Vote PAC's**  
6 **Interests**

7 Adequacy of representation is determined by considering whether “(1) the interest of a  
8 present party is such that it will undoubtedly make all of a proposed intervenor’s arguments; (2)  
9 the present party is capable and willing to make such arguments; and (3) a proposed intervenor  
10 would offer any necessary elements to the proceeding that other parties would neglect.” *Arakaki*,  
11 *324 F.3d at 1086*. “When an applicant for intervention and an existing party have the same  
12 ultimate objective, a presumption of adequacy of representation arises,” and “a compelling  
13 showing should be required to demonstrate inadequate representation.” *Id.*

14 The Nevada Secretary of State has no interest in representing or making arguments on  
15 behalf of Repair the Vote PAC. The Secretary of State has no knowledge nor likely any interest  
16 in defending the Petition, its content or legality, and will likely divest itself from taking any  
17 extraordinary measures to protect it.

18 Absent the opportunity to intervene, Repair the Vote PAC’s interests almost certainly  
19 will not be adequately represented. Accordingly, Repair the Vote PAC is able to meet the  
20 “minimal burden” of showing that his interests are not already represented in this litigation.

21 First, Defendant’s interests are different and distinct from Repair the Vote PAC’s  
22 interests. As such, the Defendant is not likely to press fully all defenses available in this case.  
23 Nor is the Defendant likely to press against the factual assertions contained in the Complaint as  
24  
25



1 fully as they might. Repair the Vote PAC is unrestrained by constitutional concerns and can  
2 provide this Court with the full range of potential factual and legal defects in the Complaint.

3 Specifically, Repair the Vote PAC has reviewed the pleadings filed by the Parties. It is  
4 clear that Defendant will undoubtedly not make all the PAC's arguments; Nor is she capable and  
5 willing to make such arguments.

6 **B. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE**  
7 **INTERVENTION**

8 If the Court nonetheless determines that Repair the Vote PAC is not entitled to intervene  
9 as of right, it should grant permissive intervention. *Nev. R. Civ P. 24(b)*. Rule 24(b) authorizes  
10 the Court to grant permissive intervention to anyone who has a claim or defense that shares with  
11 the main action a common question of law or fact. A district Court has broad discretion to permit  
12 intervention. *Griffith v Univ Hosp. LLC, 249 F.3d 658, 662 (7<sup>th</sup> Cir. 2001)*. The Court must  
13 determine whether a proposed intervenor's claims and the main action share a common question  
14 of fact or law and then whether the intervention will unduly delay the litigation or prejudice the  
15 original parties. *Freedom from Religion Found., Inc. v. Geithner, 644 F.3d 836, 843 (9<sup>th</sup> Cir.*  
16 *2011)*. *Donnelly v. Glickman, 159 F.3d 405, 412 (9<sup>th</sup> Cir. 1998)*.

17  
18 Intervenor's proposed Answer includes defenses and legal arguments that rely on the  
19 same facts and legal claims set forth in the Complaint, permissive intervention is appropriate  
20 here. NRCP 24(b) permits intervention as follows:

21 (b) Permissive intervention. Upon timely application anyone may be permitted to  
22 intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an  
23 applicant's claim or defense and the main action have a question of law or fact in common. In  
24 exercising its discretion the court shall consider whether the intervention will unduly delay or  
25



1 prejudice the adjudication of the rights of the original parties. Although provision Rule 24(b)(1)  
2 does not apply here, the remaining provisions of the rule support permissive intervention.

3 **A. Timeless and Delay**

4 In considering the timeliness of the intervention, the Court should consider the totality of  
5 circumstances. *NAACP v New York*, 413 U.S. 345, 366 (1973), including the length of time since  
6 the movant knew of its interest in the case, prejudice to the existing parties caused by any delay  
7 in intervening (but not delay caused by the intervention itself) prejudiced to the proposed  
8 intervenor, and the existence of any unusual circumstances, *United Nuclear Corp. v Cannon*, 696  
9 *F.2d* 141, 143 (1<sup>st</sup> Cir. 1982)

10  
11 As is stated above, Intervenor is filing this motion as soon as possible following the filing  
12 of the Complaint. Intervenor submits that any additional issues he intends to raise and litigate  
13 will cause no delay in this litigation.

14 The movant is not required to asset a separate or additional claim or defense in order to  
15 show commonality. Instead, permissive intervention is appropriate where the proposed  
16 “intervenor’s defense raises the same legal questions as the defense of the named Defendants.”  
17 *Miller v Silbermann*, 832 *F. Supp.* 663, 673 (S.D.N.Y 1993). Similarly, Repair the Vote PAC has  
18 a special interest in the resolution of this matter favoring Defendant. While, Cegavske’s and the  
19 PAC’s interests are different and distinct the legal issue is the same.

20 ///

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# EXHIBIT "A"

# State of Nevada - Initiative Petition – Constitutional Amendment

The People of the State of Nevada do enact as follows:

## FULL TEXT OF THE PROPOSED MEASURE

Article 2 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Section 1B and Section 1C, to read as follows:

**Sec 1B. Photo Identification.** Each voter in Nevada shall present photo identification to verify their identity when voting in person at a polling place during early voting or on election day before being provided a ballot. To be considered valid, the photo identification must be current or expired for no more than four years. If the voter is 70 years old or more, the identification can be expired for any length of time, so long as it is otherwise valid. Acceptable forms of identification include:

1. Nevada driver's license.
2. Identification card issued by the State of Nevada, any other State, or the US Government.
3. Employee photo identification card issued by the US government, Nevada government, or any county, municipality, board, authority, or other Nevada government entity.
4. US passport.
5. US military identification card.
6. Student photo identification card issued by a Nevada public college, university, or technical school.
7. Tribal photo identification.
8. Nevada concealed firearms permit.
9. Other form of government-issued photo identification that the Legislature may approve.

**Sec 1C. Voter Verification.** Each voter in Nevada who votes by mail-in ballot shall enter one of the following in the block provided next to the voter's signature for election officials to use in verifying the voter's identity:

1. The last four digits of their Nevada driver's license number.
2. If the voter does not possess a Nevada driver's license, the last four digits of their Social Security number.
3. If the voter has neither a Nevada driver's license or a Social Security number, the number provided by the county clerk when the voter registered to vote.

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**DECLARATION OF DAVID G. GIBBS**

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I, DAVID G. GIBBS, declare as follows:

1. I am submitting this Declaration in Support of Motion to Intervene, individually and on behalf of Repair the Vote PAC.
2. On January 28, 2022, I signed and filed a Notice of Intent to Circulate Statewide Initiative or Referendum Petitions on behalf of Repair the Vote PAC.
3. This Notice was filed in reference to two matters, to wit: 1) Constitutional Amendment, Article 2 of the Nevada Constitution re: Voter Identification; and 2) Referendum to approve/disapprove selected provisions of Assembly Bill 321.
4. This Motion to Intervene on behalf of Defendants is filed for the purposes of participating in the litigation of these cases, as Repair the Vote PAC was omitted from this litigation.
5. Repair the Vote PAC claims an interest relating to this litigation that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the PAC's ability to protect its interest, unless existing parties adequately represent that interest.
6. Defendant Cegasvke in her capacity as Nevada Secretary of State has no vested interest in protecting the initiatives that are the subject of this litigation and it is likely that the PAC's interests will not be adequately represented accordingly.
7. This Motion was filed in a timely manner as the pending Complaint was filed on February 18, 2022.
8. Neither parties will suffer any prejudicial effect of the PAC's intervention in this action

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9. Further Affiant sayeth naught.

Dated this 25th day of February, 2022

  
**DAVID G. GIBBS**

1 **ANS**  
2 **SIGAL CHATTAH ESQ.**  
3 Nevada Bar No.: 8264  
4 **CHATTAH LAW GROUP**  
5 5875 S. Rainbow Blvd #204  
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9 Chattahlaw@gmail.com  
10 Attorney for Proposed Intervenor  
11 *David Gibbs Et Al*

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

14 EMILY PERSAUD-ZAMORA, an )  
15 individual, )  
16 ) Case No:22DC00022-B  
17 Plaintiff, ) Dept No.: I  
18 vs. ) [PROPOSED ANSWER]  
19 )  
20 BARBARA CEGAVSKE, in her official )  
21 capacity as NEVADA SECRETARY OF )  
22 STATE, )  
23 Defendants. )  
24 )  
25 )

26 **INTERVENORS' ANSWER TO COMPLAINT**

27 COME NOW, Defendant/Intervenor DAVID G. GIBBS individually and on behalf of  
28 REPAIR THE VOTE PAC by and through the undersigned attorney of record, SIGAL  
29 CHATTAH, ESQ., of CHATTAH LAW GROUP who hereby answer Plaintiffs as intervenor  
30 follows:

- 31 1. Defendants admit paragraphs 1, 2 and 4 -6, 10 of Plaintiffs' Complaint.









1 **TWENTY FIRST AFFIRMATIVE DEFENSE**

2 Plaintiff's claims are barred by the Statute of Limitations and/or Statute of Repose.

3 WHEREFORE, Defendants pray as follows:

- 4 1. That Plaintiff takes nothing by way of the Complaint on file herein;
- 5 2. For reasonable attorney's fees and costs of suit incurred herein;
- 6 3. For such other and further relief as the Court may deem just and proper.
- 7

8 Dated this 24th day of February, 2022.

9 CHATTAH LAW GROUP

10 A handwritten signature in blue ink, appearing to read 'Sigal Chatta', is written over a horizontal line. The signature is stylized and loops around the line.

11 S  
SIGAL CHATTAH, ESQ.  
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13 5875 S. Rainbow Blvd. #204  
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15 (702) 360-6200  
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**IAFD**

SIGAL CHATTAH ESQ.  
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Attorney for Proposed Intervenor  
*David Gibbs Et Al*

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

EMILY PERSAUD-ZAMORA, an  
individual,

Plaintiff,

vs.

BARBARA CEGAVSKE, in her official  
capacity as NEVADA SECRETARY OF  
STATE,

Defendants.


)  
)  
) Case No:22OC00022-B  
) Dept No.: I  
)  
) INITIAL APPEARANCE FEE  
) DISCLOSURE

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above entitled action as indicated below:

DAVID G GIBBS	Defendant	\$218.00
TOTAL REMITTED:		\$218.00

Dated this 20 day of February, 2022

CHATTAH LAW GROUP




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SIGAL CHATTAH, ESQ.  
Nevada Bar No.: 8264  
CHATTAH LAW GROUP  
5875 S. Rainbow Blvd #204  
Las Vegas, Nevada 89118  
Attorney for Defendant