

In the
Supreme Court of the State of Nevada

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Elizabeth A. Brown
Clerk of Supreme Court

KATE FELDMAN, an individual;
STOP PREDATORY LENDING NV,
a Nevada nonprofit corporation,

Appellants,

vs.

NEVADANS FOR FINANCIAL
CHOICE, a Nevada Political Action
Committee; CHRISTINA BAUER,
an individual; FRANCISCO V.
AGUILAR, in his official capacity as
Nevada Secretary of State;
DAILYPAY, INC., a Delaware
Corporation; PREFERRED
CAPITAL FUNDING-NEVADA,
LLC, a Nevada limited liability
company; ALLIANCE FOR
RESPONSIBLE CONSUMER
LEGAL FUNDING, an Illinois
nonprofit corporation;
ACTIVEHOURS, INC., a Delaware
corporation; and STACY PRESS, an
individual,

Respondents.

Case No.: 88526

District Court Case No.:
Lead Case No.: 24 OC 00018 1B

Consolidated with:

Case No.: 24 OC 00021 1B

Case No.: 24 OC 00023 1B

Case No.: 24 OC 00029 1B

**Immediate Consideration
Requested**

**APPELLANTS' MOTION FOR EXPEDITED
CONSIDERATION OF APPEAL**

BRADLEY S. SCHRAGER, ESQ. (NSB 10217)

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N.R.A.P. 26.1 DISCLOSURE

Pursuant to N.R.A.P. 26.1, the undersigned counsel of record certifies that there are no persons or entities as described in N.R.A.P. 26.1(a) that must be disclosed.

The following law firm has appeared and/or is expected to appear in this Court on behalf of Appellants:

Bradley Schragger, Esq., and Daniel Bravo, Esq., of Bravo Schragger LLP.

DATED this 22nd day of April, 2024.

BRAVO SCHRAGER LLP

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Attorneys for Appellants

Appellants KATE FELDMAN and STOP PREDATORY LENDING NV respectfully request that this Court expedite the consideration and resolution of this appeal so that it can be decided in time to qualify Initiative Petition S-01-2024, which is the subject matter of the appeal. This motion is based on the following Memorandum of Points and Authorities and the papers on file with this Court.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On January 5, 2024, Kate Feldman filed Initiative Petition S-01-2024 (the “Petition”) with the Nevada Secretary of State. The Petition proposes to amend the Nevada Revised Statutes to include a new chapter 604D entitled the “Preventing Predatory Payday and Other Loans Act.” Ms. Feldman later filed a second Initiative Petition, S-03-2024, on January 24, 2024, which proposes to enact the same “Preventing Predatory Payday and Other Loans Act,” but omits provisions included in the first Petition, S-01-2024. The present appeal only concerns the first petition, Initiative Petition S-01-2024.

On January 26, 2024, Respondents Nevadans for Financial Choice and Christina Bauer (collectively, “Nevadans for Financial Choice” or “NFFC”) filed a Complaint for Declaratory and Injunctive Relief

challenging the legal sufficiency of Initiative Petition S-01-2024, pursuant to NRS 295.061, and submitted a Brief in Support of the Complaint. Subsequently, on February 14, Plaintiffs Nevadans for Financial Choice filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their challenge.

On January 29, 2024, Respondent DailyPay, Inc. (“DailyPay”) filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On January 29, 2024, Respondents Preferred Capital Funding-Nevada, LLC and Alliance For Responsible Consumer Legal Funding (collectively, “Preferred Capital”) filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On February 13, 2024, Respondents ActiveHours, Inc. and Stacy Press (collectively, “ActiveHours”) filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

On or about February 22, 2024, the parties stipulated to, and the district court ordered, that the filed suits be consolidated into one action to make the matter more efficient in terms of judicial economy, the intervention of Ms. Feldman and Stop Predatory Lending NV, a Nevada nonprofit corporation, as appropriate, and a briefing schedule. After briefing, the district court held a hearing on the consolidated matters on March 22, 2024.

On April 15, 2024, the district court issued its order declaring that Petition S-01-2024 was invalid under Nevada law and enjoining the Nevada Secretary of State from permitting the Petition from being circulated for signatures. Concurrently, the court held that the companion measure, S-03-2024, was valid and could proceed.

Appellants timely filed this appeal concerning S-01-2024 on April 16, 2024.

II. ARGUMENT

The People’s power to legislate by initiative and referendum petitions is “one of the basic powers enumerated in this state’s constitution.” *Nevadans for Prot. of Prop. Rts., Inc. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247 (2006) (quoting *Univ. & Cmty. Coll. Sys. v.*

Nevadans for Sound Gov't, 120 Nev. 712, 734, 100 P.3d 179, 195 (2004) (per curiam)).

Time is of the essence in ballot question litigation. *See Coal. for Nevada's Future v. RIP Com. Tax, Inc.*, 132 Nev. 956 n.5 (2016) (“In light of the nature and urgency of this matter, we suspend NRAP 41(a) and direct the clerk of this court to issue the remittitur forthwith.”); *see also* NRS 295.061(1) (ballot question cases receive “priority ... over all other matters pending with the court, except for criminal proceedings.”). One of the factors that can potentially limit the constitutional right to qualify initiative petitions is a short timeframe between the date a petition can be placed on file with the Secretary of State and the date by which signatures must be submitted for verification—compression that is exacerbated when a legal challenge to a petition is filed. Here, to qualify the Petition for presentation to the 2025 legislative session, a number of valid signatures equal to at least 10% of the number of voters who voted at the last general election must be collected and submitted to the various county clerks and registrars of voters by November 20, 2024. *See* Nev. Const. art. 19, § 1(2); NRS 295.056. Appellants therefore ask this Court for expedited consideration of this appeal given the short timeframe to collect signatures.

This Court has recognized on numerous occasions the need for prompt resolution of appeals regarding initiative and referendum petitions by granting motions to expedite. *See, e.g., Helton v. Nev. Voters First PAC*, Docket No. 84110 (2022) (granting motion to expedite and setting briefing schedule); *Prevent Sanctuary Cities v. Haley*, Docket No. 74966 (2018) (granting motion to expedite and setting briefing schedule); *Coal. for Nev.'s Future v. RIP Com. Tax, Inc.*, Docket No. 69501 (2016) (granting motion to expedite); *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, Docket No. 61996 (2013) (issuing order to show cause why matter should not be decided on district court record).

This appeal merits the same expediency. Accordingly, Appellants asks this Court to process this appeal on an expedited basis, including the consideration and resolution of the matter on the district court record if this Court deems it appropriate to do so. If the Court declines to consider the matter on the district court record, Appellants propose the following schedule for submission of briefs and hearing of oral arguments:

1. Appellants will file their Opening Brief and the record on appeal by **May 1, 2024**.

CERTIFICATE OF COMPLIANCE

1. I certify that this Motion complies with the formatting requirements of N.R.A.P. 32(a)(4), the typeface requirements of N.R.A.P. 32(a)(5) and the type style requirements of N.R.A.P. 32(a)(6) because it has been prepared in a proportionally-spaced typeface, size 14, Century Schoolbook.

2. I further certify that this Motion complies with the type volume limitations of N.R.A.P. 32(a)(7) because, excluding the parts of the Motion exempted by N.R.A.P. 32(a)(7)(C), it contains 1,001 words.

3. Finally, I hereby certify that I have read this Motion, and to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this Motion complies with all applicable Nevada Rules of Appellate Procedure, in particular N.R.A.P. 28(e)(1), which requires every assertion in the Motion regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to

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sanctions in the event that the Motion is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 22nd day of April, 2024.

BRAVO SCHRAGER LLP

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Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 2024, a true and correct copy of **APPELLANTS’ MOTION FOR EXPEDITED CONSIDERATION OF APPEAL** was served upon all counsel of record by electronically filing the document using the Nevada Supreme Court’s electronic filing system:

By: /s/ Dannielle Fresquez
Dannielle Fresquez, an Employee of
BRAVO SCHRAGER LLP