

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants,

v.

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

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**RESPONDENTS NEVADANS FOR FINANCIAL CHOICE
AND CHRISTINA BAUER'S RESPONSE TO BRIEF AMICUS CURIAE
OF NEVADANS FOR THE COMMON GOOD IN SUPPORT
OF APPELLANTS AND REVERSAL**

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I. INTRODUCTION

Nevadans for the Common Good's ("NCG") amicus brief advances policy-based campaign-style arguments supporting S-01-2024 ("Petition"). But such arguments are irrelevant to a preelection challenge to a ballot initiative. Stripped of its policy-based advocacy, NCG's brief merely reiterates Appellants' arguments and suffers the same flaws. S-01-2024's provisions are not functionally related and germane to each other or the Petition's purpose. And the new purpose NCG manufactures is excessively broad. As such, this Court should affirm the district court's order.

II. ARGUMENT

A. **The Proposed "Single Subject of Protecting Nevadans From The Debt Treadmill" is Excessively General, Thus Violating the Single-Subject Rule.**

Recognizing Appellants' failure to refute the Petition's single-subject failures, NCG attempts to rescue the Petition by proposing a new purpose: "Protecting Nevadans From The Debt Treadmill."¹ Am. Br. 2. Specifically, NCG contends that "[t]here is a singular public policy interest in ensuring that Nevadans are not impoverished without a way off the debt treadmill." *Id.* Reiterating their policy-not-law approach, NCG asserts that "the predatory rate of the loans and the amount left

¹ This is at least the sixth different purpose asserted for this Petition. (1 AA 9 (identifying three purposes for the Petition)); AOB 13 (identifying two different purposes for the Petition).

protected in [a person's] bank account after garnishing are of course 'necessarily connected,' and 'functionally related and germane to each other.'" *Id.* at 3.

Much like Appellants' asserted purposes, the proposed "debt treadmill" purpose is excessively general. *See Las Vegas Taxpayer Accountability Comm. v. City Council of Las Vegas (LVTAC)*, 125 Nev. 165, 181, 208 P.3d 429, 439 (2009) (providing that an initiative proponent "may not circumvent the single-subject rule by phrasing the proposed law's purpose or object in terms of 'excessive generality'"). Indeed, the purpose of providing "a way off the debt treadmill" is so broad that it can capture a virtually unlimited number of proposals like capping interest rates on loans, limiting the ability to garnish property, include mass debt forgiveness, or otherwise revamp any regulation of any financial transaction tangentially related to debt. *Cf. Chem. Specialties Mfrs. Ass'n, Inc. v. Deukmejian*, 278 Cal. Rptr. 128, 133 (Ct. App. 1991) (holding that an initiative's purpose is excessively general when it is "so broad that a virtually unlimited array of provisions could be considered germane thereto and joined in [the] proposition"). Such a broad subject is the quintessential excessively general petition purpose. *See LVTAC*, 125 Nev. at 181, 208 P.3d at 440 (concluding a petition seeking to provide voters "with greater input into the City's redevelopment" fails as "voter approval" is an excessively general purpose).

B. The Petition's Provisions are not Related and Germane to Each Other.

NCG's second argument – that focused on the merits of the Petition, not the legal merits of a preelection challenge – similarly fails. NCG contends that the Petition's two provisions, the interest rate cap and wage garnishment provisions, are "[i]nterconnected" because both are "require[d]" to fix "Nevada's predatory lending market." Am. Br. 5-6. Specifically, NCG says the interest rate cap "is key to protecting borrowers from predatory 'set up to fail' lenders" while "enhanced debt collection protections are critical to protect borrowers from both seeking and trying to break free of predatory 'set up to fail' lenders." *Id.* at 6, 8. But, much like Appellants, NCG's arguments miss the mark.

As this Court has held, multiple provisions of an initiative are related and germane to each other where the provisions are intertwined with the other provisions' ability to function.² In *Helton v. Nevada Voters First PAC*, rejecting a germaneness challenge, this Court explained that "the effectiveness of one change would be limited without the other." 138 Nev., Adv. Op. 45, 512 P.3d 309, 315 (2022). Specifically, this Court recognized that the provisions would be functionally meaningless without each other:

² For a deeper analysis of this issue, see Respondents Nevadans for Financial Choice's and Christina Bauer's Answering Brief at 17-21.

For example: absent the open-primary change, the ranked-choice-voting change would have little practical effect because the closed primary system makes it more likely that voters would have only two candidates to choose from in the general election . . . such that voters would have no need to rank the general election candidates beyond their first choice.

Id.

That is not the case here. NCG itself recognizes that the Petition's two provisions address different issues and are not necessary to each other. The interest rate cap "will force lenders to stop providing loans designed to fail" while the wage-garnishment provisions prevent "aggressive collection tactics." Am. Br. 6, 8-9. But unlike *Helton* where the changes to the framework of the primary election are necessary to make the changes to the framework of the general election function – after all, what use is rank choice voting if the parties each put forth a single candidate – the interest rate cap will still stop lenders from making loans designed to fail regardless of what collection tactics are available. Similarly, protecting debtors from aggressive collection practices functions well regardless of the interest rate charged on any loan. Thus, the Petition's provisions are not related and germane to each other.

III. CONCLUSION

Simply put, NCG's brief is filled with policy arguments and campaign talking points as to the merits, if any, of the Petition. Such arguments have no place in a preelection challenge. Stripped of its improper policy arguments, NCG's brief reveals that any purpose proposed for the Petition must be excessively general to

capture its disparate provisions. And it further concedes, as it must, that the Petition's provisions are not related and germane to each other as each provision functions independently from each other. As such, this Court should affirm the district court's order.³

DATED this 24th day of May, 2024.

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³ NCG's brief does not address the description of effect issue or the full-text violation. *See generally* Am. Br. Thus, should this Court credit NCG's arguments, the Petition nonetheless fails as a matter of law, as explained in Respondents Nevadans for Financial Choice's and Christina Bauer's Answering Brief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 24th day of May, 2024, I caused to be served through the Court's CM/ECF website true and correct copies of the above and foregoing **RESPONDENTS NEVADANS FOR FINANCIAL CHOICE AND CHRISTINA BAUER'S RESPONSE TO BRIEF AMICUS CURIAE OF NEVADANS FOR THE COMMON GOOD IN SUPPORT OF APPELLANTS AND REVERSAL** to all parties registered for service, as follows:

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