

In the
Supreme Court of the State of Nevada

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Elizabeth A. Brown
Clerk of Supreme Court

NEVADANS FOR
REPRODUCTIVE FREEDOM, a
political action committee,

Case No.: 87681

Appellant,

First Judicial District Court

vs.

Case No.: 23 OC 00115 1B

DONNA WASHINGTON, an
individual; COALITION FOR
PARENTS AND CHILDREN, a
political action committee; and
FRANCISCO V. AGUILAR, in his
official capacity as NEVADA
SECRETARY OF STATE,

Respondents.

**APPELLANT'S REPLY BRIEF IN SUPPORT OF MOTION FOR
EXPEDITED CONSIDERATION OF APPEAL**

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Appellant Nevadans for Reproductive Freedom respectfully submits this Reply Brief in Support of its Motion for Expedited Consideration of Appeal.

I. INTRODUCTION

Time is of the essence in this appeal. Less than four weeks ago, the district court enjoined the Secretary of State from placing Initiative Petition C-01-2023 (the “Petition”) on the 2024 general-election ballot. Appellant, the sponsor of the Petition, quickly appealed and submitted its Opening Brief less than three weeks after the district court’s decision. Appellant also asked the Court to order an expedited schedule that would allow the Court to hear argument at the first possible opportunity—during the January sitting. Every week that passes impedes Appellant’s ability to collect the signatures of more than 100,000 Nevada voters that must be filed by the end of June to qualify the Petition for the ballot.

Respondents Donna Washington and Coalition for Parents and Children do not oppose expedition out of hand, but they propose an alternative schedule that would delay potential relief by at least a month and thereby prejudice Appellant’s opportunity to complete the signature-collection process by the legal deadline. Given the stakes of this appeal

and the shortcomings of Respondents' arguments, Appellant's motion should be granted in full, with Respondents' Answering Brief due on December 22 and the appeal set for argument during the Court's January sitting.

II. ARGUMENT

None of Respondents' arguments justifies their request to delay this matter of vital public importance. *See Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 302 (2022) (recognizing that reproductive rights "present[] a profound moral question" that should be addressed by "the people and their elected representatives"); *Nevadans for Prot. of Prop. Rts., Inc. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247 (2006) ("[O]ur Constitution reserves to the people the initiative power.").

First, Respondents object that Appellant's proposed briefing schedule gives them only 14 days to prepare an Answering Brief. Limited Opp'n to Appellant's Mot. for Expedited Consideration of Appeal ("Opp'n") 2. But Appellant has subjected itself to similarly short deadlines, filing its Opening Brief just 17 days after the district court entered its order—a period of time that included the Thanksgiving holiday—and proposing to file its Reply Brief just 7 days after Answering

Briefs are due. Moreover, Appellant has intentionally proposed deadlines that would *not* require Respondents to work over the Christmas holiday. And given that Respondents already briefed these same issues before the district court and are defending an order that they themselves wrote, the task is hardly insurmountable in the time proposed.

Second, Respondents' counsel indicates that he will be out of the country in January "due to a preexisting obligation that cannot be moved," *id.*, but Respondents do not explain the nature of this scheduling conflict or why it should take precedence over a time-sensitive matter implicating "the people's right to express their will through the initiative process," *Nevadans for Prot. of Prop. Rts.*, 122 Nev. at 912, 141 P.3d at 1247. Nor do they explain why, if necessary, other counsel cannot argue the appeal.

Third, Respondents note that Appellant has filed a notice to circulate a revised initiative petition, C-05-2023. But the filing of this new petition does nothing to alleviate the urgency of this matter because it is significantly narrower than the Petition at issue here. In particular, the new petition seeks to establish only a constitutional "right to abortion," *C-05-2023: Notice of Intent to Circulate Petition*, Nev. Sec'y of

State (Dec. 6, 2023), <https://www.nvsos.gov/sos/home/showpublisheddocument/12633/638375592027970000>, while the Petition challenged here contemplates the creation of a broader “right to reproductive freedom,” JA 0015. The new petition is thus fundamentally different and substantively narrower, so it neither undermines Appellant’s interest in sponsoring the Petition at issue here nor does anything to mitigate the time pressures that Appellant identified in its motion and describes below.

Finally, Respondents argue that there is plenty of time for the Court to rule on the merits of this appeal even after a February argument. Opp’n 3. But the signature-collection process is extraordinarily time consuming and difficult to accomplish even without the delays of litigation. Appellant must gather and submit more than *100,000* signatures to qualify the Petition for the 2024 general-election ballot. See Nev. Const. art. 19, § 1(2); N.R.S. 295.056; *Silver State General Election Results 2022*, Nev. Sec’y of State (Nov. 22, 2022), <https://silverstateelection.nv.gov/NVOther/index.shtml>. In the race to fulfill that requirement, every week counts. Expedited relief is therefore necessary to ensure that Appellant has a fair opportunity to complete this

demanding signature-collection process so that voters can make their voices heard on this issue, consistent with the Court’s admonition that it “make every effort to sustain and preserve the people’s constitutional right to amend their constitution through the initiative process.” *Nevadans for Prot. of Prop. Rts.*, 122 Nev. at 912, 141 P.3d at 1247.

III. CONCLUSION

Based upon the foregoing, Appellant respectfully requests that the Court grant its Motion for Expedited Consideration of Appeal and adopt its proposed expedited briefing schedule:

1. Respondents will file their respective Answering Briefs by December 22, 2023.
2. Appellant will file its Reply Brief by December 29, 2023.

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3. Appellant respectfully asks the Court for placement on the January 2024 argument calendar, or as soon thereafter as the Court's docket permits.

Dated this 14th day of December, 2023.

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CERTIFICATE OF COMPLIANCE

1. I certify that this Brief 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 Brief complies with the type-volume limitations of N.R.A.P. 32(a)(7) because, excluding the parts of the Brief exempted by N.R.A.P. 32(a)(7)(C), it contains 985 words.

3. Finally, I hereby certify that I have read this Brief, 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 Brief complies with all applicable Nevada Rules of Appellate Procedure, in particular N.R.A.P. 28(e)(1), which requires every assertion in the Brief 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 accompanying Brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 14th day of December, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of December, 2023, a true and correct copy of **APPELLANT'S REPLY BRIEF IN SUPPORT OF 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