

**In the
Supreme Court of the State of Nevada**

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Elizabeth A. Brown
Clerk of Supreme Court

DAILYPAY, INC., et al.,

Appellants,

vs.

KATE FELDMAN, an individual;
STOP PREDATORY LENDING
NV, a Nevada nonprofit
corporation; FRANCISCO V.
AGUILAR, in his official capacity as
Nevada Secretary of State,

Respondents.

Case No.: 88557

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**

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

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Respondents KATE FELDMAN and STOP PREDATORY LENDING NV (collectively, “Respondents”) 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-03-2024, 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 with the Nevada Secretary of State. Initiative Petition S-01-2024 proposes to amend the Nevada Revised Statutes to include a new chapter 604D entitled the “Preventing Predatory Payday and Other Loans Act.”

On January 24, 2024, Ms. Feldman filed a second Initiative Petition, S-03-2024 (the “Petition”), which proposes to enact the same “Preventing Predatory Payday and Other Loans Act,” but omits provisions included in the first Initiative Petition S-01-2024. The present appeal only concerns the second petition, Initiative Petition S-03-2024.

On January 26, 2024, Appellants 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, Appellant 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, Appellants 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, Appellants 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-03-2024 was valid and could proceed. Concurrently, the district court held that the companion measure, Initiative Petition S-01-2024 was invalid under Nevada law and enjoining the Nevada Secretary of State from permitting it from being circulated for signatures.

Appellant DailyPay filed its appeal concerning Initiative Petition S-03-2024 on April 26, 2024. Later, the other Appellants timely filed their respective appeals concerning Initiative Petition S-03-2024.

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.

Respondents therefore ask this Court for expedited consideration of this appeal given the short timeframe to collect signatures. This Court in the related case of *Feldman v. Aguilar*, Sup. Crt. Case No. 88557, granted a similar motion to expedite which concerns Initiative Petition S-01-2024. *See id.*, Dkt. 24-14692 (filed Apr. 26, 2024).

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, Respondents asks this Court to process this appeal on an expedited basis. Respondents propose a similar schedule for submission of briefs and hearing of oral arguments as the related case of *Feldman v. Aguilar*, Sup. Crt. Case No. 88557.

Respondents propose the following schedule:

1. Appellants will file their respective Opening Briefs and the record on appeal by **July 12, 2024**.

2. Respondents will file their Answering Brief by **August 2, 2024**.

3. Appellants will file their respective Reply Briefs by **August 16, 2024**.

4. Appellants respectfully ask the Court for placement on the **September 2024 argument calendar**.

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June, 2024, a true and correct copy of **RESPONDENTS' 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/ Danielle Fresquez
Danielle Fresquez, an Employee of
BRAVO SCHRAGER LLP