

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAILYPAY, INC., a Delaware Corporation; NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee; CHRISTINA BAUER, an individual; ACTIVEHOURS, INC., a Delaware Corporation; STACY PRESS, an individual; PREFERRED CAPITAL FUNDING NEVADA, LLC, a Nevada limited liability company; and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation,

Appellants,

vs.

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

Respondents.

Case No.: 88557

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Case No.: 24 OC 00021 1B

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**APPELLANT DAILYPAY, INC.'S OPPOSITION TO
RESPONDENTS' MOTION TO EXPEDITE AND FOREGO ORAL
ARGUMENT**

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Pursuant to NRAP 26.1, the undersigned counsel of record certifies that there are no persons or entities as described in NRAP 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:

Matthew Morris, Esq., and J. Malcolm DeVoy, Esq., of Holland & Hart LLP.

DATED this 17th day of September 2024.

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I. INTRODUCTION

DailyPay, Inc. (“DailyPay”) opposes Respondents Kate Feldman’s and Stop Predatory Lending NV’s (“Respondents[’]”) Motion to Expedite Decision and Forego Oral Argument, filed September 17, 2024 (“Motion”).

Respondents have failed to identify any compelling reason to accelerate consideration of this matter. This appeal raises significant and novel legal issues of statewide importance. In particular, it stands poised to be the most recent in a quickly growing corpus of precedent that further defines the rules and procedures governing Nevadans’ fundamental right to a fair and transparent ballot initiative process. This right deserves the full and considered review of the entire Court. Respondents’ request to expedite is particularly unwarranted here, given Respondents’ admitted ability to gather signatures in support of the Petition while this appeal proceeds.

Accordingly, DailyPay respectfully urges this Court to devote its full consideration to the merits of this appeal. Such review includes the scheduling of oral argument, if necessary, to allow the parties to aid the Court in understanding and assessing the record and the parties’ legal contentions.

II. ARGUMENT

This Court has recognized, even in appeals involving ballot initiatives when “the need for an early decision on the merits [is] pressing,” that the parties should be “allowed to present oral argument upon the legal issues[s], as an aid to the court in deciding the matter.” *Lundberg v. Koontz*, 82 Nev. 360, 363, 418 P.2d 808, 809 (1966).

Respondents acknowledge the court below “issued its order declaring that Petition S-03-2024 was valid, and could proceed.” Resp. Mot. to Expedite, at 2. While Respondents aver that it is “less than ideal”¹ for this Court to devote its full and considered review to this challenge, nothing prevents Respondents from gathering signatures while this Court’s proceedings are ongoing. Respondents’ decision to delay circulating their Petition is a self-imposed constraint reflecting their own calculated and strategic choice. But Respondents’ choice to delay circulating the Petition should not unduly accelerate the timing of this Court’s proceedings. And Respondents’ preferred strategy for circulating the Petition should not be permitted to prejudice DailyPay and other

¹ Resp. Mot. to Expedite, at 6.

parties to this appeal, or otherwise impair the Court’s full and considered review on a matter of statewide importance.

The significant legal issues raised in this appeal warrant this Court’s full consideration. Time and again, this Court has ordered—and benefited from—oral argument in time-sensitive ballot initiative appeals. Like this appeal, those cases also involved statutory deadlines for signature-gathering and related time-sensitive procedures. *Nevadans for Reproductive Freedom v. Washington*, 140 Nev. Adv. Op. 28, 546 P.3d 801, 810 (2024) (discussing Respondent’s statements at oral argument regarding challenges to an initiative petition); *Taxpayers for Protection of Nev. Jobs v. Arena Initiative Cmte.*, 128 Nev. 939, 381 P.3d 668 (June 19, 2012) (unpublished) at *3 (discussing statements during oral argument informing the Court’s conclusion that an “initiative’s description of effect is deceptive and materially misleading”); *Las Vegas Conv. and Visitors Auth. v. Miller*, 124 Nev. 669, 686, 191 P.3d 1138, 1149 (2008) (noting that “at oral argument before this Court, the [initiative] proponents pointed to two items in the record that they asserted demonstrated substantial compliance” with statutory rules for ballot measures).

Further, it would be premature to issue a decision dispensing with oral argument before the parties have even completed their briefing. *See, Stanfill v. State*, 99 Nev. 499, 501, 665 P.2d 1146, 1147 (1983) (“The purpose of briefing and oral argument is to inform this Court of all authorities relevant to the issues raised in the appeal”). While Respondents may benefit from a hurried review of this appeal and the underlying proceedings, such a review does not advance the interests Nevadans have in a fair and transparent ballot initiative process.

III. CONCLUSION

Nothing prevents Respondents from circulating the challenged Petition if Respondents choose to do so. The legal issues raised in this appeal are significant and implicate matters of statewide importance, warranting this Court’s full and considered review.

DailyPay therefore opposes Respondents’ motion to accelerate that review and respectfully urges that this Court deny Respondents’ motion in its entirety.

DATED this 17th day of September 2024.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(1)(b) and 25(1)(d), I, the undersigned, hereby certify that I electronically filed the foregoing **OPPOSITION TO MOTION TO EXPEDITE AND FOREGO ORAL ARRUGMENT** with the Clerk of Court for the Supreme Court of Nevada by using the Supreme Court of Nevada’s E-filing system on the 17th day of September 2024.

I further certify that all participants in this case are registered with the Supreme Court of Nevada’s E-filing system, and that service has been accomplished to the following individuals through the Court’s E-filing System or by first class United States mail, postage prepaid, at Las Vegas, Nevada as follows:

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