

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

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.

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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

**RESPONSE TO NOTICES RE: MOOTNESS**

BRADLEY S. SCHRAGER, ESQ. (NSB 10217)

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Respondents KATE FELDMAN and STOP PREDATORY LENDING NV (collectively, “Respondents”) here respond Appellants’ Notices as to why this appeal should not be dismissed as moot.

**MEMORANDUM OF POINTS & AUTHORITIES**

Respondents Feldman and Stop Predatory Lending NV filed Statewide Initiative Petition S-03-2024 on **January 24, 2024**, three weeks after the very first day such petitions could be placed on file per Nev. Const. Article 19, Section 2(3). *See* Vol. I of Appellants’ Appendix (“AA”) at 120–136.

After challenge by four discrete plaintiffs pursuant to NRS 295.061, consolidated and expedited hearing was held in the First Judicial District Court on **March 22, 2024**. IV AA 608–749. Order in this matter was entered in favor of Respondents on **April 16, 2024**. IV AA 760–774. The various Appellants in this appeal filed their respective notices of appeal between **April 24, 2024**, and **May 13, 2024**. IV AA 775–826; V AA 827–880; V AA 881–927; V AA 928–982. This appeal was first docketed in this Court on **April 26, 2024**.

Respondents moved to expedite this appeal on **June 10, 2024**. Doc. 24-20190. They moved again on **September 16, 2024** to expedite

this appeal and to forego oral argument, so that resolution may have been promptly had. Doc. 24-34130.

Respondents have weathered motions for summary adjudication from Appellants. Doc. 24-24187. They have countered and defeated interim NRCP 62.1 motions in district court (decided summarily, essentially as frivolous, without argument). *See* District Court Order, attached hereto as **Exhibit 1**.

In the span of ballot measure litigation, all of these events occurred juridical lifetimes ago. NRS 295.061(1) urges district courts to expedite ballot measure litigation cases to accommodate the important rights of initiative proponents to propose legislation through direct democracy. Courts in Nevada, as has been the law of this state for many years, “must make every effort to sustain and preserve the people’s constitutional right” to the initiative process.” *Nevadans for the Protection of Property Rights, Inc., v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247 (2006).

This Court has made clear that it, too, directs lower courts to act promptly in such matters, and that “district courts should use every effort to abide by NRS 295.061(2) because, as we explained in *Reid*, initiative deadlines in general are relatively short and challenges to initiative petitions could be used as a delay tactic to prevent an initiative from

being placed on the ballot.” *Fair Maps Nevada v. Jeng*, 548 P.3d 427, 2024 WL 2120696, at \*2 (Nev. 2024) (unpublished disposition) (internal quotations omitted). Furthermore, the Court has long maintained that it stands ready to resolve “election and ballot cases on an expedited basis, especially when requested to do so.” *Aguilar v. Washoe Cnty. Bd. of Cnty. Commissioners*, 553 P.3d 1002, 2024 WL 3873300, at \*1 (Nev. 2024) (unpublished disposition) (citing *Personhood Nev. v. Bristol*, 126 Nev. 599, 603, 245 P.3d 572, 575 (2010)).

Here, Respondents did everything that could possibly be asked of them to shepherd their initiative through the process. They filed their measure with the Nevada Secretary of State, almost as soon as legally possible, back in January of this year. They worked in good faith with the multiple plaintiffs below to consolidate cases and move things along briskly. They waited patiently for the losing plaintiffs to file their notices of appeal, knowing that no court would force them to submit these before the appropriate deadline; of course, those parties waited as long as possible to do so, and furthermore sought and received multiple extensions of periods in which to file briefs. Respondents moved this Court to expedite proceedings more than once. In October, this Court

indicated on its docket that the appeal was set for submission and decision.

It is patently unfair for this appeal to be rendered moot now. A ballot measure petition filed in January, heard below in March, appealed and docketed in this Court in April, yet remaining undecided—indeed, unargued—in December is not equitable treatment of a matter every party, and this Court, understands to be required to be resolved in an expedited fashion. If it be so considered, there is a debilitating—and extra-constitutional—flaw in Nevada’s purported right to direct democracy.

In the reality of modern politics, not every ballot measure proponent has multiple millions of dollars to wager on judicial outcomes. The particular structure of Nevada ballot measure law, in which any disruption of the process—a change in the description of effect, a procedural dispute over formatting—means sending proponents back to the drawing board, no matter how many signatures have been gathered at that juncture, means that courts must be sensitive to how its handling of such matters affects the constitutional rights of the parties. As anyone must admit, every ballot measure proponent has the same rights to the

process as anyone else, and certainly the same rights as opponents who can fund multi-suit onslaughts on filed initiative petitions.

The lassitude of the legal process should not deprive petition proponents of their rights. Signature collection, in the modern age, is a multi-million-dollar investment. This Court should recognize the plain reality that an initiative proponent who files their measure in January has every right to reasonably expect judicial resolution of any legal challenge prior to the signature deadline in November, with plenty of time to conduct signature gathering efforts thereafter. Proponents here acted with rational expectations regarding the legal process, but with precious resources that must be husbanded appropriately. At the very least, they merit a decision regarding the legal sufficiency of the Petition.

As a strict legal matter, it is undisputed that Respondents did not submit 102,000-plus valid signatures required by the November 20, 2024, constitutional deadline. But even if this Court finds the issues in this appeal potentially moot, it “may still consider the issue if it constitutes a matter of widespread importance capable of repetition yet evading review.” *State v. Second Jud. Dist. Ct.*, 132 Nev. 352, 354, 373 P.3d 63, 65 (2016). The Court has stated that “[i]n determining whether a party has demonstrated that an issue is capable of repetition yet evading

review, we consider whether (1) the duration of the challenged action is relatively short, (2) there is a likelihood that a similar issue will arise in the future, and (3) the matter is **important.**” *Aguilar*, 2024 WL 3873300, at \*1 (quoting *Bisch v. Las Vegas Metro. Police Dep’t*, 129 Nev. 328, 335, 302 P.3d 1108, 1113 (2013)).

Here, first of all, quite clearly, the duration of the challenged action is short: there are statutory deadlines in place for deciding these cases; signature deadlines approach rapidly; and any statutory initiative must be transmitted to subsequent Nevada Legislatures posthaste. Any ballot measure facing pre-election litigation necessarily faces short-duration timeframes that require prompt attention by the judicial system.

Secondly, as the attached Feldman declaration attests, not only is there a likelihood this or a similar issue will arise in the future, she intends to submit the exact measure at the very next opportunity, beginning January 1, 2026. *See* Feldman Declaration, attached hereto as **Exhibit 2.**

Third, the importance of this matter is manifest. As a statewide initiative proposal potentially affecting tens of thousands of Nevadans, the issue is important on its face. As a matter of equity regarding the ability of citizens with fewer monetary resources to access the

constitutional mechanisms of direct democracy, its importance increases. And as a matter in which the potential regulation of Nevada's singularly uncontrolled and usurious lending culture is at stake, the policy questions involved are similarly important.

Furthermore, as to the overarching issue of whether this issue may evade review in the future, Respondents can only say they never expected it to evade review in the first place, and yet here we are, eleven months after filing the measure initially, arguing for the simple right to have the petition considered for baseline legal sufficiency. Clearly, future efforts cannot be assured of timely legal review.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of December, 2024, a true and correct copy of **RESPONSE TO NOTICES RE: MOOTNESS** 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

# EXHIBIT 1

# EXHIBIT 1

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IN THE FIRST JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

SCOTT H...  
CLERK  
DEPUTY

NEVADANS FOR FINANCIAL CHOICE,  
a Nevada Political Action Committee, and  
CHRISTINA BAUER, an individual,

Lead Case No.: 24 OC 00018 1B

Dept. No.: II

Plaintiffs,

vs.

KATE FELDMAN, an individual, STOP  
PREDATORY LENDING NV, a Nevada  
Nonprofit Corp., and FRANCISCO V.  
AGUILAR, in his official capacity as  
Nevada Secretary of State,

Consolidated with

Defendants.

DAILYPAY, INC., a Delaware  
Corporation,

Case No.: 24 OC 00021 1B

Dept. No.: II

Plaintiff,

vs.

FRANCISCO V. AGUILAR, in his official  
capacity as NEVADA SECRETARY OF  
STATE,

Defendant,

and

STOP PREDATORY LENDING NV, a  
Nevada Nonprofit Corp., and  
KATE FELDMAN, an individual,

Intervenor-Defendants.

1 PREFERRED CAPITAL FUNDING-  
2 NEVADA, LLC, a Nevada limited liability  
3 company, and ALLIANCE FOR  
4 RESPONSIBLE CONSUMER LEGAL  
5 FUNDING, an Illinois nonprofit  
6 corporation,

7 Plaintiffs,

8 vs.

9 FRANCISCO V. AGUILAR, in his official  
10 capacity as NEVADA SECRETARY OF  
11 STATE, and KATE FELDMAN, an  
12 individual,

13 Defendants,

14 and

15 STOP PREDATORY LENDING NV, a  
16 Nevada Nonprofit Corp.,

17 Intervenor-Defendant.

Case No.: 24 OC 00023 1B

Dept. No.: I

18 ACTIVEHOURS, INC., a Delaware  
19 corporation; STACY PRESS, an  
20 individual,

21 Plaintiffs,

22 vs.

23 KATE FELDMAN, an individual; STOP  
24 PREDATORY LENDING NV, a Nevada  
25 Nonprofit Corp.; and FRANCISCO V.  
26 AGUILAR, in his official capacity as  
27 NEVADA SECRETARY OF STATE,

28 Defendants.

Case No.: 24 OC 00029 1B

Dept. No.: I

29 **ORDER DENYING PLAINTIFF DAILYPAY, INC.'S**  
30 **MOTION FOR RELIEF PENDING APPEAL**

31 This matter came before this Court following a motion for injunctive relief  
32 pending an appeal of a previous Order denying injunctive relief as to Petition  
33 S-3-2024 (the "Petition"), filed by Plaintiff DAILYPAY, INC ("Plaintiff DailyPay").

1 Defendants KATE FELDMAN and STOP PREDATORY LENDING NV (collectively,  
2 “Defendants” or “Petitioners”) filed a response in opposition to the motion, and  
3 Plaintiff DailyPay filed a reply.

4 The Court, having reviewed the papers and pleadings on file, considered the  
5 matter, being fully advised, and good cause appearing, finds, concludes, and orders  
6 as follows:

7 On January 24, 2024, Petitioners filed the Petition with the Nevada Secretary  
8 of State. In its prefatory material—not within the substantive bodies of the measure  
9 itself or in its description of effect—is the introductory phrase, “The Nevada Revised  
10 Statutes are hereby amended by adding thereto a new Chapter, to be designated  
11 Chapter 604D: Preventing Predatory Payday and Other Loans Act.” At the time of  
12 filing, there was no NRS Chapter 604D; the sequence of statutory chapters in NRS  
13 Title 52 ended, at that time, with Chapter 604C. Recently, LCB codified a different  
14 legislative measure, S.B. 290 (2023), as new NRS Chapter 604D.

15 LCB acts pursuant to NRS 220.120. “[LCB] shall classify and arrange the  
16 entire body of statute laws in logical order throughout the volumes, the arrangement  
17 to be such as will enable subjects of a kindred nature to be placed under one general  
18 head, with necessary cross references.” NRS 220.120(3). LCB, “in keeping Nevada  
19 Revised Statutes current, shall not alter the sense, meaning or effect of any legislative  
20 act, but may **renumber sections** and parts of sections thereof, change the wording  
21 of headnotes, **rearrange sections, change reference numbers or words to**  
22 **agree with renumbered chapters or sections**, [etc.]” NRS 220.120(5) (emphasis  
23 added). LCB may, at its discretion, “**create new titles, chapters and sections of**  
24 **Nevada Revised Statutes, or otherwise revise the title, chapter and sectional**  
25 **organization of Nevada Revised Statutes, all as may be required from time**  
26 **to time, to effectuate the orderly and logical arrangement of the statutes.”**  
27 NRS 220.120(6)(a) (emphasis added).

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1 Furthermore, the Legislature has charged LCB with the ability to “add, revise,  
2 move or remove non-substantive definitions in titles, chapters and sections of Nevada  
3 Revised Statutes to effectuate the orderly and logical arrangement of the statutes,  
4 improve readability or reduce repetitious or lengthy words or phrases.”  
5 NRS 220.120(6)(b).

6 The renumbering, re-ordering, or other such administrative codification of  
7 state laws are expressly considered **non-substantive ministerial tasks**: “If the  
8 Legislative Counsel renumbers any section of Nevada Revised Statutes because the  
9 section has been moved, divided or combined with another section during the  
10 reorganization of the statutes or for any other reason, the citation to the previously  
11 assigned number in any legal document, publication, signage or in any other place  
12 shall be deemed to have the same meaning and legal effect as if the citation were to  
13 the new number, regardless of how long it has been since the new number was  
14 assigned and regardless of any revisions made to the section after the assignment of  
15 the new number, unless another intent is otherwise specified.” NRS 220.120(7).

16 Furthermore, as the Nevada Supreme Court has noted, “the Legislature enacts  
17 the actual laws of Nevada, while the Legislative Counsel Bureau ... codifies and  
18 classifies those laws as the Nevada Revised Statutes, grouping laws of similar subject  
19 matter together in logical order, but not itself exercising the legislative function.”  
20 *Taylor v. State*, 136 Nev. 885, 472 P.3d 195 (2020) (unpublished disposition).

21 This Court finds that, as a matter of law, Plaintiff DailyPay fails to meet the  
22 standard for an injunction. The recent codification of S.B. 290 does not, as Plaintiff  
23 DailyPay claims, turn the Petition into a referendum on that legislative act. This  
24 Court’s original findings remain accurate, that the Petition does not change a single  
25 word of S.B. 290, regardless of where in the code either measure finally resides.  
26 Codification of new NRS Chapter 604D by LCB has no substantive effect upon the  
27 Petition. Therefore, this Court denies the motion pursuant to NRCP 62.1(a)(2).

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**ORDER**

Based on the foregoing findings of fact and conclusions of law:

**IT IS THEREFORE ORDERED** and declared that Plaintiff DAILYPAY, INC's motion for injunctive relief pending an appeal is **DENIED**.

Dated this 22nd day of August, 2024.

Kristi Lins  
District Court Judge

Respectfully Submitted by:

*/s/ Bradley S. Schragger*  
BRADLEY S. SCHRAGER, ESQ. (SBN 10217)  
DANIEL BRAVO, ESQ. (SBN 13078)  
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Stop Predatory Lending NV*



# EXHIBIT 2

# EXHIBIT 2

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

DAILYPAY, INC., et al.,

Appellants,

vs.

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

**DECLARATION OF KATE FELDMAN**

BRADLEY S. SCHRAGER, ESQ. (NSB 10217)

DANIEL BRAVO, ESQ. (NSB 13078)

**BRAVO SCHRAGER LLP**

6675 S. Tenaya Way, Suite 200

Las Vegas, Nevada 89113

*Attorneys for Respondents Kate Feldman and  
Stop Predatory Lending NV*

I, Kate Feldman, under penalty of perjury, declare as follows:

1. I make this declaration of personal, firsthand knowledge and, if called and sworn as a witness, I could and would testify competently thereto. I have personal knowledge of the facts stated herein.

2. On January 24, 2024, I filed Statewide Initiative Petition designated as S-03-2024 with the Nevada Secretary of State.

3. If this Court finds this appeal now moot, I will file statewide initiative petition identical to S-2024-03 at the next opportunity to do so, beginning January 1, 2026.

Under penalty of perjury under the laws of the United States of America and the State of Nevada, I declare that the foregoing is true and correct to my own knowledge.

Dated: December 2, 2024.

*/s/ Kate Feldman*

Kate Feldman