



1 Complaint contains a single cause of action alleging that the Green Party did not submit a sufficient  
2 number of valid signatures from each petition district. Complaint, ¶ 21.

3 On July 1, 2024, the Democratic Party filed its First Amended Complaint (“FAC”). The  
4 Democratic Party also filed a new Appendix of Exhibits. The new appendix contains two new  
5 exhibits, Exhibits 10 and 11, which are samples of petition documents from Washoe County and Clark  
6 County. The Democratic Party did not file a new brief in support of the FAC.

7 Like the original Complaint, the FAC is styled to allege only one cause of action; however, it  
8 adds two new claims that were not present in the original Complaint. First, that the wrong circulator  
9 affidavit was used, and therefore all of the Green Party’s signatures are invalid. FAC, ¶¶ 15-16, 27,  
10 28, 30. Second, that the Green Party “circulated a blank petition, not the one it actually filed with the  
11 Nevada Secretary of State’s Office as mandated by NRS 293.1715(4).” FAC, ¶¶ 18, 29, 30.

12 The Green Party filed its Answer and Brief in Opposition on July 11, 2024. Also on July 11,  
13 2024, the Secretary of State’s Office filed a Limited Response stating that it takes no position on the  
14 legal sufficiency of the Green Party’s petition.

15 On July 15, 2024 the Court held a status check hearing with counsel for all parties to discuss  
16 the Democratic Party’s request to file with the Court all of the petition documents that the Green Party  
17 submitted to the counties for verification, totaling an estimated 9,000 pages. The Court discussed the  
18 technological limitations of handling that many documents and whether it was necessary to file all of  
19 the documents.

20 On July 15, 2024, the Green Party filed a Motion to Strike all petition documents filed, or  
21 attempted to be filed, by the Democratic Party, including Exhibits 10 and 11 to the FAC, after the  
22 June 10, 2024 deadline. The Motion requested, as alternative relief, leave to file a sur-reply.

23 On July 18, 2024, the Democratic Party filed its Reply in Support of the FAC. It also submitted  
24 a flash drive containing electronic copies of 100 volumes and over 9,000 pages of petition documents.

25 The Democratic Party filed an opposition to the Motion to Strike on July 22, 2024. Also on  
26 July 22, 2024, the Court held another status check hearing with counsel for all parties to discuss the  
27 volume of documents and whether it would be possible to reduce the volume of documents that would  
28 be necessary to include in the record. Counsel indicated that they were able to stipulate to certain facts

1 and that the Democratic Party would file a supplemental appendix containing only those documents  
2 that were referenced in Exhibit 1 to its Reply.

3 During the status check, the Green Party requested leave to file a sur-reply to address the  
4 documents identified and the arguments raised by the Democratic Party for the first time in its Reply.  
5 The Green Party also requested that the hearing, which was originally scheduled for July 25, 2024, be  
6 rescheduled to a later date to allow it more time to review the documents identified by the Democratic  
7 Party in its Reply. The Democratic Party did not oppose either request. The Court granted leave for  
8 the Green Party to file a sur-reply and rescheduled the hearing from July 25, 2024 to August 2, 2024.

9 The Parties filed a statement of Stipulated Facts on July 23, 2024. The Green Party filed its  
10 sur-reply on July 26, 2024, along with an appendix containing illustrative examples of petition  
11 documents.

## 12 II. UNDISPUTED FACTS

13 The Nevada Green Party is a minor political party that has been in continual existence in  
14 Nevada since at least 2020. (G. Appx. 001)<sup>1</sup>. The Secretary of State certified the Green Party as a  
15 minor political party on January 29, 2021, July 13, 2023, and January 19, 2024. (G. Appx. 003-04; P.  
16 Appx. 040).

17 To obtain ballot access for the 2024 general election, the Green Party was required to obtain  
18 10,095 valid signatures. NRS 293.1715(2)(c); Minor Party Qualification Guide 2024 (G. Appx. at  
19 009). These signatures must be apportioned evenly among the four petition districts, meaning the  
20 Green Party must obtain at least 2524 valid signatures in each petition district. *Id.*

21 Prior to circulating it, the Green Party filed its petition for ballot access for the 2024 general  
22 election with the Secretary of State's Office via email on July 10, 2023. (G. Appx. 033). This petition  
23 contained the correct circulator affidavit for minor parties seeking ballot access. (G. Appx. 036).

24 On the same day, an employee of the Secretary of State's office responded to the Green Party  
25 by email, and noted that the form the Green Party submitted did not contain a space at the top of the  
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27 <sup>1</sup> The abbreviation "G. Appx." refers to the Green Party's Appendix of Exhibits to its Brief in Opposition. The numbers  
28 following the abbreviation refer to the Bates numbers of the documents in that appendix. Similarly, "P. Appx." refers to the  
Democratic Party's appendix of documents.

1 document for the petition district. (G. Appx. 033). The employee attached a minor party ballot access  
2 form, and sent this form to the Green Party. The employee wrote: "Please use the documents attached  
3 to begin collecting signatures." *Id.*

4 The form provided by the Secretary of State's Office to the Green Party contains the circulator  
5 affidavit required for initiatives and referenda, instead of the circulator affidavit for minor party ballot  
6 access petitions. (G. Appx. 038-039); *see also* NAC 295.020 (prescribing the form for the circulator  
7 affidavit for initiatives and referenda). The petition form in the 2024 Minor Party Qualification Guide  
8 also contains the wrong circulator affidavit. (G. Appx. at 019). That circulator affidavit states:

9 I, [circulator's name], (print name), being first duly sworn under penalty of perjury, depose  
10 and say: (1) that I reside at [circulator's address] (print street, city and state); (2) that I am 18  
11 years of age or older; (3) that I personally circulated this document; (4) that all signatures were  
12 affixed in my presence; (5) that the number of signatures affixed thereon is [number]; and (6)  
that each person who signed had an opportunity before signing to read the full text of the act  
or resolution on which the initiative or referendum is demanded.

13 Stipulated Facts, ¶ 1. This affidavit was used on all of the petition documents that the Green Party  
14 submitted. *Id.* NAC 293.182 provides that the minor party ballot access circulator affidavit must be  
15 in substantially the following form:

16 I, \_\_\_\_\_ (print name), being first duly sworn under penalty of perjury, depose and say:  
17 (1) that I reside at \_\_\_\_\_ (print street, city and state); (2) that I am 18  
18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were  
19 affixed in my presence; (5) that I believe each person who signed was at the time of signing a  
registered voter in the county of his or her residence; and (6) that the number of signatures  
affixed thereon is \_\_\_\_\_.

20 The affidavit actually used by the Green Party lacks the fifth statement: "that I believe each person  
21 who signed was at the time of signing a registered voter in the county of his or her residence."

22 Stipulated Facts, ¶ 1.

23 The Green Party circulated the petition and obtained a total of 29,584 signatures, submitting  
24 the following number of signatures in each petition district: District 1: 7826; District 2: 5214; District  
25 3: 7510; District 4: 9034. Stipulated Facts, ¶ 2. The Secretary of State notified the county clerks and  
26 registrars of voters that the raw count of signatures was sufficient, and therefore directed the clerks  
27 and registrars to proceed with verification of the signatures pursuant to NRS 293.1277. (P. Appx.  
28 041).

1 The clerks and registrars verified the signatures pursuant to NRS 293.1277, which includes a  
2 random sampling process when more than 500 signatures are submitted. Stipulated Facts, ¶ 3. Based  
3 on the counties' certificates of signature verification results, the Secretary of State found the following  
4 number of valid signatures in each petition district: District 1: 3365; District 2: 3388; District 3: 3079;  
5 District 4: 4989. *Id.*

6 After reviewing all the counties' certificates of results, the Secretary of State's office  
7 determined that the Green Party had submitted 14,821 valid signatures. (G. App. 058). Since that  
8 number exceeds 10,095, the minimum number of required signatures, the Secretary of State declared  
9 that the Green Party qualified for ballot access for the 2024 general election. *Id.*

10 Robert Hanson is the Nye County at Large Member of the Nevada Green Party and he notarized  
11 petitions for Gregor Kent Knauer. Stipulated Facts, ¶ 4. All of the affected documents are listed in  
12 paragraph 12(b) of Exhibit 1 to the Democratic Party's Reply. *Id.* The Democratic Party asserts that  
13 these notarizations affect the following number of signatures in each district: District 1: 425; District  
14 2: 136; District 3: 296; District 4: 754. (P. Reply Appx. 002-003, ¶¶ 12(a),(b)(Declaration of Todd L.  
15 Bice, Esq.).

16 "A number of circulator's affidavits included alterations." Stipulated Facts, ¶ 5. All of these  
17 affected documents are listed in paragraph 12(c) of Exhibit 1 to the Democratic Party's Reply. *Id.* The  
18 Democratic Party asserts that these alterations affect the following number of signatures in each  
19 district: District 1: 482; District 2: 26; District 3: 128; District 4: 2798. (P. Reply Appx. 003, ¶ 12(c)).

20 A number of petitions submitted either left the section regarding the minor political party's  
21 name blank, or had "Nevada Green Party," "Green Party," or "NV Green Party" handwritten in.  
22 Stipulated Facts, ¶ 6. All of the affected documents are listed in paragraph 12(d) of Exhibit 1 to the  
23 Democratic Party's Reply. *Id.* The Democratic Party asserts that this affected the following number  
24 of signatures in each district: District 1: 358; District 2: 138; District 3: 74; District 4: 585.

### 25 **III. ANALYSIS, FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

26 This challenge of a political party's effort to place candidate names on the ballot begins with  
27 the short statute, NRS 293.174, which attempts to regulate the manner in which the challenge is made.  
28 This statute is one of five statutes regulating minor political parties in this state. *See* NRS 293.171-

1 174. Unfortunately, there is much left to ponder as to the specifics of this challenge process. Although  
2 the statute requires that a “challenge” is to be filed in the First Judicial District Court, there is nothing  
3 showing what form that challenge is to take, in what form any response is to be, who has any burden  
4 of proof and what that burden is, and what the specific timing of actions is. There are also no Nevada  
5 Supreme Court opinions analyzing this statutory scheme. This leaves it to the attorneys and,  
6 ultimately, this Court to interpret.

7 **A. Jurisdiction and First Amended Complaint**

8 It appears to be undisputed that the Democratic Party’s initial complaint was timely filed. The  
9 Parties disagree on the propriety of the First Amended Complaint when considering the provisions of  
10 NRS 293.174 and NRCP 15(a)(i). The Green Party asserts that the Court lacks jurisdiction to consider  
11 the Democratic Party’s FAC claim that all signatures on the petitions are invalid because the wrong  
12 circulator affidavit was used.

13 As noted above, the FAC was filed on July 1, while the original complaint was filed on June  
14 10, the deadline to file a “challenge” under NRS 293.174. The Democratic Party claims that the new  
15 “claims” relate back to the original filing, while the Green Party asserts that the new claims do not  
16 relate back and cannot be considered.

17 The Nevada Rules of Civil Procedure allow a party to amend a pleading once as a matter of  
18 course within 21 days of serving it. NRCP 15(a)(1). An amendment relates back to the date of the  
19 original pleading when it asserts a claim or defense arising out of the conduct, transaction, or  
20 occurrence set out in the original pleading. *Id.*, Rule 15(c).

21 The Green Party asserts that the FAC was filed late because, according to NRS 293.174, “all  
22 affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the second  
23 Monday in June.” According to this argument, no other claims or assertions of error can be made by  
24 a challenger of a qualification of a minor party.

25 The original complaint challenged the Green Party's ballot-access qualification, and it put the  
26 Green Party on notice that the circulator affidavits for the Petition were defective and improper. The  
27 Court finds that the FAC simply put forth more factual detail regarding the circulator affidavits flaws  
28 to which Plaintiff gained access after it finally obtained all the Petitions from the various county clerks

1 and registrars. Thus, the FAC asserts a claim that arose out of the same conduct, transaction, or  
2 occurrence set out in the initial complaint. Accordingly, this Court has jurisdiction as the FAC relates  
3 back to the operative complaint. *See Costello v. Casler*, 127 Nev. 436, 440-41, 254 P.3d 631, 634-35  
4 (2011) (holding that the relation-back doctrine is liberally applied).

5 **B. Legal Standard and Burden of Proof**

6 The Parties disagree as to which party bears the burden of proof in this case and what that  
7 burden is. The Green Party asserts that the Democratic Party, as the party challenging the petition,  
8 bears the burden of demonstrating that the petition is “clearly invalid,” citing *Las Vegas Taxpayer*  
9 *Accountability Comm. v. City Council of Las Vegas*, 125 Nev. 165, 176, 208 P.3d 429, 436 (2009) and  
10 *Helton v. Nevada Voters First PAC*, 138 Nev. \_\_\_, 512 P.3d 309 (Nev. Adv. Op. 45, 2022). The  
11 Democratic Party argues that the Green Party bears the burden of proving that the petition  
12 substantially complies with the law because it failed to use the correct circulator affidavit, citing  
13 *LVCVA v. Secretary of State*, 191 P.3d 1138, 1147, 124 Nev. 669, 682 (Nev. 2008)[hereinafter  
14 “*LVCVA*”].

15 Although the FAC alleges only a single cause of action, the Democratic Party is really  
16 advancing two different claims. First, the Democratic Party claims that the petition has an insufficient  
17 number of valid signatures resulting from defects in the petition documents because they were  
18 notarized by a Green Party member, the party name was handwritten at the top instead of being pre-  
19 printed, or the circulator affidavit was “altered.” Second, the Democratic Party claims that all of the  
20 petition documents are invalid because the wrong circulator affidavit was used (and therefore there are  
21 zero valid signatures).

22 In this case, it is the Democratic Party which has filed a complaint for declaratory and  
23 injunctive relief. A plaintiff will typically have the burden of proving its case. This is also a  
24 “challenge” by the Democratic Party pursuant to NRS 293.174, although a burden of proof is not  
25 addressed in statutes. No Nevada cases have been found which clearly address the burden of proof in  
26 this respect.

27 There has been litigation in Nevada regarding the sufficiency of initiative petitions and  
28 supporting affidavits required to be filed with the Secretary of State under chapter 295 of NRS. The

1 opinion in *LVCVA* discussed the burden of proof with regard to the requirements for a circulator's  
2 affidavit under NRS 295.0575. In that case, all of the affidavits failed to include a reference to the  
3 number of signatures on the document and a statement that each signer had an opportunity to read the  
4 text of the subject on which the referendum or initiative is demanded. *LVCVA*, 124 Nev. at 681, 191  
5 P.3d at 1146. The initiative circulators had filed the petitions and signatures with the Secretary of  
6 State which found the affidavits defective and that no signatures with those defects could be counted.  
7 *Id.* at 676, 191 P.3d at 1142. The proponents then challenged that determination. The supreme court  
8 concluded that the proponents were "properly allocated the burden of proving that the Secretary of  
9 State's decision was incorrect, that is, the proponents were required to demonstrate that they  
10 substantially complied with the statute. The burden is appropriately placed on the proponents in this  
11 case because they caused the situation when they failed to review the current statutes and comply with  
12 their requirements." *Id.* at 682-83, 191 P.3d at 1147.

13 In the case at bar, the Secretary of State affirmatively found a sufficient number of signatures  
14 in the raw counts pursuant to NRS 293.1277(1) and sent letters to the county clerks to begin verifying  
15 signatures. *See* P Appx. 3 at 041. The county clerks then validated signature samples, which included  
16 a verification of county residency and voter registration. *See* G Appx. 046-053. Thus, the Green  
17 Party was not and is not challenging the decision of those officials. This is opposite of the situation in  
18 *LVCVA* and the burden of proving the "challenge" pursuant to NRS 293.174 remains on the  
19 Democratic Party which brought this action.

20 This is not a case involving the substance of an initiative petition under NRS 295.009, such as  
21 in *Las Vegas Taxpayer Comm. v. City Council*, 125 Nev. 165, 208 P.3d 429 (2009). There, the  
22 supreme court held that the burden of proof was on the opponents of the measure to demonstrate that  
23 the substance of a proposed ballot measure was "clearly invalid." In this case, we are not dealing with  
24 the substance of petition language, the requirement of a single subject, a description not including  
25 more than 200 words, and a description of the effect of the initiative. Therefore, the burden of proof  
26 does not require a showing that the petition was "clearly invalid."

27 This Court finds that the Democratic Party, as the plaintiff filing a challenge pursuant to NRS  
28 293.174 and filing a complaint for declaratory and injunctive relief has the burden of proof. That



1 burden is to show that the Petitions to Qualify submitted by the Green Party did not substantially  
2 comply with NRS 293.171 to NRS 293.1725 in light of the Secretary of State's validation of  
3 signatures and the county clerks' verification of residency and registration in the county.

4 **C. Substantial Compliance**

5 The Democratic Party has failed to meet its burden of demonstrating that the petition was not  
6 in substantial compliance with the law. First, it failed to account for the fact that some of the signatures  
7 it alleges are invalid were necessarily already invalidated by the counties in the verification process.  
8 Second, even without making any adjustment to account for that fact, the Democratic Party's evidence  
9 does not show that a significant number of signatures are invalid due to "alterations" to the circulator  
10 affidavit. The petition therefore still has a sufficient number of valid signatures in all petition districts.

- 11 1. After accounting for the signatures already invalidated by the counties, the Democratic  
12 Party's evidence does not show that the petition was not in substantial compliance.

13 If more than 500 signatures are submitted, the clerks verify a random sample of 500 signatures  
14 or 5%, whichever is greater. NRS 293.1277(2). The sampling must be done in a way that all signatures  
15 submitted have an equal chance of being included in the sample. *Id.* As shown on the counties'  
16 certificates of results, the number of signers who are found to *not* be registered voters is part of the  
17 total number of invalid signatures in the sample. Appx. to Opps., Exhibits 10-13. The clerks calculate  
18 a validity rate based on the number of valid signatures in the sample, and then apply that rate to the  
19 number of raw signatures to determine the total number of valid signatures. *Id.*

20 The following table states the number of raw signatures the Green Party submitted to each  
21 district, the number of valid signatures following verification by the counties, the validity rate, and  
22 the number of valid signatures in excess of the required number:

23

24 <b>Table 1</b>	Raw signatures	Valid signatures	Validity Rate	Excess over 2524
25 District 1	7826	3365	43%	841
26 District 2	5214	3388	65%	864
27 District 3	7510	3079	41%	555

28

District 4	9034	4989	55%	2465
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The Democratic Party asserts that certain signatures are invalid for three reasons: (1) the circulator affidavit was notarized by Robert Hanson, the Member at Large of the Nevada Green Party; (2) the party name was handwritten in on some petitions, and thus it was not the same petition that was filed with the Secretary of State; and (3) some of the circulator affidavits were “altered.” Stipulated Facts, ¶¶ 4-6. The total number of invalid signatures the Democratic Party claims for each district are as follows: District 1: 1265; District 2; 300; District 3: 498; District 4: 4137. Reply Brief, Exhibit 1, ¶ 12.

The Democratic Party, however, has not produced any evidence showing that all of these allegedly invalid signatures were amongst those that the counties deemed to be *valid*. Therefore, some of the signatures that the Democratic Party alleges are invalid were already necessarily invalidated by the counties when the clerks and registrars applied the validity rate to the raw number of signatures. Accordingly, if the Court were to simply take the Democratic Party’s numbers at face value, it would result in counting some of the signatures as invalid twice.

Therefore, the total number of allegedly invalid signatures must be reduced by applying the validity rate for each petition district, as follows:

<b>Table 2</b>	Total allegedly invalid	Validity rate	Corrected total allegedly invalid
District 1	1265	43%	544
District 2	300	70%	210
District 3	498	41%	205
District 4	4137	55%	2276

In each petition district, the corrected total number of allegedly invalid signatures is less than the number of excess valid signatures, as shown in Table 1. Thus, even assuming that the Democratic Party prevailed on its legal arguments regarding all categories, and also assuming that there is no overlap between the categories, the petition still qualifies.

1           2. The Democratic Party has failed to demonstrate that the “alterations” to the circulator  
2           affidavit render those affidavits invalid.

3           The majority of the signatures that the Democratic Party claims are invalid are due to an  
4           “alteration” to the circulator affidavit. The legal standard for circulator affidavits is substantial  
5           compliance. *LVCVA*, 124 Nev. at 682-83, 191 P.3d at 1147. The court in *LVCVA* noted that substantial  
6           compliance is met even when required elements are incomplete or missing, if the purpose of the  
7           requirement is met. *Id.* at 683-84, 191 P.3d at 1147-48. Accordingly, the mere fact that an “alteration”  
8           was made to a circulator affidavit does not automatically invalidate that affidavit and all the signatures  
9           attached to it.

10           The Democratic Party’s allegations regarding invalid signatures fall into four categories: (1)  
11           affidavits notarized by Mr. Hanson; (2) signatures gathered by Mr. Knauer; (3) affidavits that were  
12           “altered”; and, (4) petitions where the name of the party was handwritten at the top, instead of being  
13           pre-printed. Reply, Exhibit 1, ¶ 12. The documents and signatures in categories (1) and (2) are the  
14           same – thus, they will be treated as one category for mathematical purposes.

15           The following table shows the number of signatures that the Democratic Party claims are  
16           invalid, according to category and district (Reply, Exhibit 1, ¶ 12):

17

<b>Table 3</b>	Hanson Notarized	Alterations	Party Name Handwritten	Total allegedly invalid
District 1	425	482	358	1265
District 2	136	26	138	300
District 3	296	128	74	498
District 4	754	2798	585	4137

18  
19  
20  
21  
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23           The totals of allegedly invalid signatures for District 2 and District 3 are less than the excess  
24           number of valid signatures for those districts. (Compare Table 1 and Table 2.) Thus, the petition  
25           qualifies in those two districts even without considering any signatures already invalidated by the  
26           clerks or overlap between the categories. Accordingly, only the signatures in District 1 and District 4  
27           are material.  
28

1 Most of the “alterations” that the Democratic Party points out fall into four categories: (1) a  
2 signer of the petition mistakenly started to fill out the circulator affidavit; (2) the notary mixed up  
3 their own name and the circulator’s name on the jurat; (3) the number of signatures claimed to be on  
4 the document was changed; or (4) the county at the top of the affidavit was changed.

5 After examining the documents in question, the Court finds that almost all the “alterations” at  
6 issue are actually corrections to obvious mistakes. As to the first category, there are several affidavits  
7 where the person who signed the petition in the first box on that page also mistakenly wrote his name  
8 and address on the circulator affidavit. The circulator corrected the affidavit by writing in his own  
9 name and address. Clearly, this was a mistake by a signer of the petition, not by the circulator.

10 As for the second category, the Democratic Party alleges that 2798 signatures are invalid in  
11 District 4 due to “alterations,” citing some 330 documents. Reply, Ex. 1, ¶ 12(c). However, on 240 of  
12 those 330 documents (affecting at least 1483 signatures), the only alteration to the affidavit is a  
13 correction where the notary mistakenly wrote their name on the jurat, instead of the name of the  
14 circulator. The notary’s name is crossed-out, and the circulator’s name written in instead. *See*  
15 Defendant Green Party’s Sur-Reply at 6. This too is an obvious clerical mistake by a third party (the  
16 notary).

17 The Democratic Party also asserts that various documents are invalid because the number of  
18 signatures stated on the affidavit was corrected. These also appear to be corrections of clerical  
19 mistakes. For example, one of the signature boxes was skipped or incomplete, or a signature was  
20 crossed out, or something similar, usually on the first page. The affidavit was corrected to state, for  
21 example, that the total number of signatures was 6, not 7. In virtually every case, this correction was  
22 to reduce the number of signatures claimed on the documents.

23 Finally, a change to the county at the top of the affidavit does not invalidate the affidavit  
24 because the county on the circulator affidavit is the county where the notarization occurs; it is not  
25 necessarily the same as the county where the petition was circulated. Robert Hanson Decl. (G. Appx.  
26 056). Thus, the fact that the county on the circulator affidavit was corrected to reflect the place of  
27 notarization does not invalidate the affidavit. *See e.g.*, P. Appx. 089.

28 The Court finds that the affidavits that have changes that fall into those four categories

1 substantially comply with the law because they are complete, and the “alterations” are mere  
2 corrections to what appear to be minor mistakes. Thus, they supply all the required information on  
3 the affidavit and are properly notarized. This meets the purposes of the statute.

4 There are a small number of affidavits that have some other type of alteration. For example,  
5 the circulator’s name was crossed out and a different name written in the body of the affidavit. Unlike  
6 the other documents discussed above, it is not apparent why these changes were made. These  
7 documents affect 53 signatures in District 1 and 103 signatures in District 4.

8 In conclusion, the Court finds that the Democratic Party’s evidence shows that, at most, 53  
9 signatures in District 1 and 103 signatures in District 4 are invalid due to alterations to the circulator  
10 affidavit. Based on this finding, the total number of allegedly invalid signatures in District 1 is reduced  
11 from 1265 to 836, which is less than the number of 841 excess valid signatures, as shown in Table 1.  
12 The total number of allegedly invalid signatures in District 4 is reduced from 4137 to 1442, which is  
13 also less than the number of excess valid signatures, as shown in Table 1. These totals are not adjusted  
14 to account for the fact that some of these signatures were necessarily already invalidated by the  
15 counties, nor do they account for any overlap between the categories. Even so, the petition has a  
16 sufficient number of valid signatures in all petition districts.

17 Accordingly, the petition still qualifies, even if the Court were to invalidate all of the  
18 signatures notarized by Mr. Hanson and all of the signatures where the party name was handwritten  
19 instead of pre-printed. It is therefore not necessary for the Court to determine whether the signatures  
20 notarized by Mr. Hanson are valid, nor is it necessary to determine whether affidavits with the party  
21 name handwritten in substantially complies with the law. The Democratic Party has not met its burden  
22 of demonstrating that the petition is clearly invalid because it has not produced sufficient evidence to  
23 show that the petition has less than the required number of valid signatures in any petition district.

24 3. The circulator affidavits substantially comply with the law.

25 In *LVCVA*, the court held that “substantial compliance” is the proper standard for circulator  
26 affidavits. 124 Nev. at 682, 191 P.3d at 1147. “Substantial compliance” means “compliance with  
27 essential matters necessary to ensure that every reasonable objective of the statute is met.” *Williams*  
28 *v. Clark County Dist. Attorney*, 118 Nev. 473, 480, 50 P.3d 536, 541 (2002).

1 As discussed above, the burden is on the Democratic Party to show that the circulator affidavits  
2 do not substantially comply with the law, because it is the party challenging the Secretary's  
3 determination that the petition is sufficient. The parties agree that the wrong circulator affidavit was  
4 used on all the Green Party's petitions, and that the affidavits lack a statement by the circulator "that  
5 I believe each person who signed was at the time of signing a registered voter in the county of his or  
6 her residence." Stipulated Facts, ¶ 1.

7 The Democratic Party argues that if an affidavit is missing a single statement required by law,  
8 it is necessarily invalid. Reply, p. 7. This would effectively be a strict compliance standard, which the  
9 court in *LVCVA* specifically rejected. *LVCVA*, 124 Nev. at 681-82, 191 P.3d at 1146-47. The  
10 Democratic Party also argues that finding substantial compliance in this case would render the statute  
11 nugatory, by eliminating altogether the requirement for including that statement. Reply, p. 8.  
12 Essentially this is just a different way of making the same argument that an affidavit that is missing a  
13 single required element is *ipso facto* void. The analysis in *LVCVA* demonstrates that that is not the  
14 law. Instead, the Nevada Supreme Court thoroughly examined whether the missing statements in that  
15 case were "essential matters" and whether substantial compliance was achieved despite the absence  
16 of those statements. *See LVCVA*, 124 Nev. at 682, 191 P.3d at 1147-51. Accordingly, the absence of  
17 a required statement does not necessarily render the affidavit invalid, nor does it render the statutory  
18 requirement a nullity, especially where the particular facts of the case are unlikely to recur.

19 The facts of this case are unusual in that the only statement missing from the affidavit – that  
20 the circulator believes the signer to be a registered voter of his or her county of residence – goes  
21 directly to something that the counties specifically check as part of the official signature verification  
22 process. *See NRS 293.172(3), (4); NRS 293.1277*. This contrasts with the circulator's affidavit for a  
23 referendum petition swearing to facts that the clerks are not able to verify – for example, that each  
24 signer had an opportunity to read the full text of the measure prior to signing.

25 Also, the statement at issue here is only a statement of belief. Given that the counties verify  
26 whether the signer is a registered voter of that county, the circulator's statement as to their *belief* about  
27 the very same fact does not appear to serve any "essential" purpose. Furthermore, this statement is  
28 not required at all for initiatives or referenda, even though those petitions are subject to the same

1 requirement that only registered voters of the county may sign the petition. NAC 295.025(1).  
2 Signatures on initiatives and referenda are verified by the counties in the same manner as signatures  
3 on ballot access petitions. NRS 293.1277(1). This further demonstrates that the statement does not  
4 relate to an “essential matter.”

5 The court in *LVCVA* recognized that, even if the missing statements relate to an “essential  
6 matter,” the petition can still substantially comply with the law if the evidence shows that the purpose  
7 of the statute was otherwise met. 124 Nev. at 685-86, 191 P.3d at 1149-50, *citing Redl v. Secretary of*  
8 *State*, 120 Nev. 75, 81-82, 85 P.3d 797, 801 (2004).

9 In *LVCVA*, the signatures on the petition were not verified by the clerks and registrars because  
10 the Secretary of State found that the affidavits were invalid and, therefore, never ordered the  
11 verification to go forward. *Id.* at 687, 191 P.3d at 1150. Importantly, the court recognized that, “had  
12 a sufficient number of signatures been verified, the purpose of that provision of the statute [the  
13 statement regarding the number of signatures on the document] would perhaps have been adequately  
14 met to satisfy substantial compliance.” *Id.* (parenthetical added).

15 That is what happened in this case. Specifically, the clerks and registrars check that the signer  
16 is a registered voter of that county, and found a sufficient number of valid signatures from such voters.  
17 *See Green Party Exhibits 10-13 (G. Appx. 046-053)*. Thus, the verification of signatures shows that  
18 the Green Party substantially complied with the statute and the purpose of the statute has been met.

19 The Democratic Party argues that, because the counties use a random sampling of only 500  
20 signatures, the clerks did not actually verify a sufficient number of valid signatures from registered  
21 voters (i.e., 10,095 signatures) and, therefore, the clerks’ verification of signatures does not  
22 demonstrate substantial compliance. This ignores that the random sampling process is routinely used  
23 and relied upon for all petitions, including initiative and referenda petitions, which are not required to  
24 contain any statement at all from the circulator attesting to the signers’ voter registration status. There  
25 is no reason to believe that the random sampling verification process does not adequately account for  
26 the number of signers who turn out not to be registered voters in that county. As shown on the  
27 counties’ certificates of results, the number of signers who are found to *not* be registered voters is part  
28 of the total number of invalid signatures in the sample. The clerks calculate a validity rate based on

1 the number of valid signatures in the sample, and then apply that rate to the number of raw signatures  
2 to determine the total number of valid signatures. (G. Appx. at 046-053). The Democratic Party has  
3 not produced any evidence suggesting that this process is inadequate to ensure that there are sufficient  
4 valid signatures from registered voters, either generally or in this case specifically.

5 Finally, the reason the pertinent statement is missing from the circulator affidavit is because  
6 the Secretary of State's Office supplied the Green Party with a form that contained the wrong  
7 circulator affidavit. This occurred in response to the Green Party filing its petition for ballot access  
8 which contained the correct circulator affidavit. By contrast, in *LVCVA* the Secretary of State had no  
9 communications with the petition proponents and made no representations or recommendations to  
10 them of any kind. 124 Nev. at 700, 191 P.3d at 1158. Here, an employee of the Secretary of State's  
11 Office emailed a form containing the wrong affidavit to the Green Party and specifically instructed  
12 the Green Party to use that form to collect signatures. (G. Appx. 033). This shows that the Green Party  
13 relied on the form given to it by the Secretary of State's Office; it was not careless or negligent like  
14 the proponents in *LVCVA*.

15 In conclusion, the circulator affidavits in this case substantially comply with the law, despite  
16 the missing statement. The missing statement does not relate to an "essential matter," as evidenced  
17 by the fact that it is not required for initiatives and referenda, which are subject to the same  
18 requirement that only registered voters of the county can sign the petition, and which are verified by  
19 the counties in the same way. The Green Party attempted to at least partially comply with the  
20 requirement in practice. And, finally, the official verification process found that there was a sufficient  
21 number of signatures from registered voters in the respective counties. Accordingly, all of the  
22 reasonable objectives of the statute have been met, despite the missing statement in the circulator  
23 affidavit. The Court therefore finds that the Democratic Party did not meet its burden to show that the  
24 Green Party failed to substantially comply with the law.<sup>2</sup>

25 **ORDER**

26 For the foregoing reasons, IT IS HEREBY ORDERED THAT:  
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28 <sup>2</sup> Because the Court finds that the petition is sufficient, it is unnecessary to address the Green Party's constitutional arguments.



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1. The Democratic Party's requests for declaratory and injunctive relief are DENIED;
2. All of the Democratic Party's claims are DISMISSED with prejudice;
3. The Defendant Green Party's Motion to Strike is DENIED as moot; and,
4. The Defendant Green Party is the prevailing party in this action.

Dated: August 12, 2024.

  
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DISTRICT COURT JUDGE

*Draft Prepared by:*

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