

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDY MICHAEL THOMPSON
Appellant

v.

NEVADA SECRETARY OF STATE

Electronically Filed
Supreme Court No. 2025-06
Dec 02 2025 07:35 PM
Elizabeth A. Brown
Clerk of Supreme Court

**SUPPLEMENTAL BRIEF IN SUPPORT OF PENDING MOTIONS
FOR JUDICIAL NOTICE**

Appellant, appearing pro se, submits this limited supplement to his pending Motions for Judicial Notice.

This filing raises no new issues and seeks no new relief.

Its sole purpose is to clarify why the two noticed items are indispensable to:

1. this Court's jurisdiction,
2. the accuracy of the appellate record, and

3. the integrity of any resulting judgment.

I. Judicial Notice Is Required to Preserve an Accurate Appellate Record

The two items for which judicial notice is sought are:

1. **The July 10, 2025 Email from Deputy Attorney General Gregory Ott**, directing Nevada counties to proceed with Dominion updates that overwrite 2024 election system data while litigation over those records was pending; and
2. **The federal docket in Thompson v. Nevada Secretary of State**, Case No. 2:25-cv-01284-CDS-EJY, specifically Defendant’s non-opposition to motions concerning spoliation of those same records, and the resulting concessions mandated by District of Nevada Local Rule 7-2(d).

These are **public adjudicative facts** within the meaning of NRS 47.130(2)(b)—facts “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”

On December 2, 2025, the United States District Court issued a Minute Order (ECF 31) confirming the accuracy of the federal docket, including the pendency of Plaintiff's Objection and the absence of any opposition to ECF 21 or ECF 22.

Under NRS 47.150(2), the Court **shall** take judicial notice of such facts when supplied with the necessary information.

Judicial notice is mandatory here because these facts bear directly on:

- whether Appellant is an “aggrieved” elector under NRS 293.407(1)(a);
- whether the 2024 certification rests on any verifiable evidentiary foundation; and
- whether this Court may affirm a judgment whose factual predicate the Respondent has, in another court, thoroughly abandoned.

Proceeding without resolving judicial notice would risk an appeal being decided on an inaccurate or incomplete factual predicate, contrary to NRS 47.150(2), which mandates that the

Court “shall take judicial notice” of adjudicative facts when requested and supplied with the necessary information.

II. These Facts Thoroughly Pierce the Presumptions Underlying Certification

The Ott Email and the federal non-opposition concessions do not introduce new argument.

They clarify the State’s own subsequent conduct concerning the same 2024 records.

Together, they establish that:

- those records existed,
- they were relevant,
- they were overwritten during active contest and appeal proceedings, and
- the Respondent did not oppose sanctions motions confirming that destruction, triggering the mandatory effect of LR 7-2(d).

Under LR 7-2(d), failure to oppose constitutes **consent to the granting of the motion** and the acceptance of its factual predicates.

These facts directly affect:

- Appellant's injury,
- the applicability of the presumption of regularity, and
- the validity of the 2024 canvass.

A certification cannot stand on a foundation that has been thoroughly pierced by the certifying authority's own later admissions.

III. The Ott Email Directly Affects Aggrieved-Person Standing Under NRS 293.407

The Ott Email confirms:

1. specific 2024 election records **existed** at the time Appellant invoked inspection and contest rights;
2. the State **authorized their overwrite** while those rights were being exercised; and

3. this authorization originated from the **Respondent whose certification is challenged.**

Nevada precedent recognizes that an elector is aggrieved when procedural irregularities or obstructions “adversely affect” the elector’s ability to ensure that the canvass was conducted according to law.

See *Hansen v. Paher*, 116 Nev. 648, 651 (2000); *Klein v. Adams*, 96 Nev. 88, 90 (1980); *Stoffel v. Donnelly*, 115 Nev. 367, 373 (1999).

Those decisions confirm that aggrievement arises when:

- the elector’s inspection rights are impaired,
- material irregularities affect the ability to verify the canvass, or
- essential evidence is withheld or removed.

The Ott Email therefore must be judicially noticed because it disproves the factual predicate on which a denial of standing could otherwise rest.

IV. The Federal Non-Opposition Concessions Establish Destruction of Material Evidence

In the parallel federal case regarding the same 2024 records,

Respondent:

- failed to oppose a motion for sanctions for spoliation;
- failed to oppose a motion to compel related system documentation;
and
- did so after explicit warning that silence constitutes **consent** under LR 7-2(d).

The effect is not interpretive; it is **procedural**:

1. the destruction is conceded;
2. the motions are deemed granted; and
3. the factual predicates of destruction must be treated as established.

These concessions directly inform:

- whether the 2024 record is complete,
- whether Appellant's concerns were speculative or grounded, and

- whether this Court can affirm certification on a record the State has acknowledged no longer exists.

These adjudicative facts must be noticed before any merits decision.

V. Failure to Resolve Judicial Notice Before Merits Review Would Constitute Structural Error

If this Court resolves the merits while omitting judicial notice of these facts, it would:

- decide aggrievement without considering facts showing direct impairment;
- decide certification regularity while excluding conceded destruction;
- rely on presumptions the State has subsequently contradicted; and
- create an appellate record incompatible with federal review.

Nevada law does not permit affirmance on a factual premise that has been thoroughly pierced by later, undisputed State conduct.

Judicial notice must precede any merits ruling to preserve the integrity of appellate review.

VI. Requested Relief

Appellant respectfully requests that this Court:

1. Grant judicial notice of

- a. the July 10, 2025 Ott Email; and
- b. the specified federal filings and LR 7-2(d) concessions in Case No. 2:25-cv-01284-CDS-EJY;

or, alternatively,

- 2. Resolve the Motions** for Judicial Notice before issuing any merits decision, ensuring that this appeal does not rest on an incomplete or inaccurate factual foundation.

Dated December 2, 2025

Respectfully submitted,

/s/ Andy Michael Thompson



Appellant, Pro Se

CERTIFICATE OF SERVICE

I certify that on December 2, 2025, I electronically filed the foregoing **Supplemental Brief in Support of Pending Motions** with the Clerk of the Supreme Court of Nevada using the Court's eFlex system, which automatically served all registered parties, including Gregory D. Ott, Chief Deputy Attorney General, on behalf of Respondent Secretary of State.

/s/ Andy Michael Thompson

Plaintiff, Pro se