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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF NEVADA**  
10 **UNLIMITED JURISDICTION**

11 GINA WILL,  
12 Contestant  
13 vs.  
14 ROB TRIBBLE,  
15 Defendant.

Case No. CU0000159

(Assigned to the Honorable Judge S.  
Robert Tice-Raskin - Department 6)

**CONTESTANT GINA WILL'S  
SUPPLEMENTAL BRIEF RE:  
BURDEN OF PROOF AND  
STANDARD OF PROOF**

Trial Date: October 31, 2022

Time: 9 a.m.

Dept: 6

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21 GREGORY DIAZ, in his official  
capacity as Nevada County Registrar of  
22 Voters; and DOES 1-25,  
23 Real Parties in Interest.

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27 **CONTESTANT GINA WILL'S SUPPLEMENTAL BRIEF**  
28 **RE: BURDEN OF PROOF AND STANDARD OF PROOF**

1 Contestant Gina Will (“Contestant”) hereby responds to the Court’s October 25, 2022  
2 Supplemental Briefing Order directing the parties to submit short briefs regarding the burden  
3 of proof and standard of proof which apply to this election contest. Simply put, and as  
4 explained below: (1) both parties bear the burden of proof, with the Contestant initially  
5 bearing the burden, and then the Defendant bearing it; (2) the burden applies to the one  
6 contested issue in the case; and (3) the standard of proof is “clear and convincing evidence.”

7 At the evidentiary hearing beginning on October 31, 2022, it will become apparent to  
8 the Court that Contestant – via the Stipulated Facts, Stipulated Exhibits, legal briefs, and live  
9 testimony – has satisfied her burden and met the applicable standard, while Defendant Robert  
10 Tribble (“Defendant”) has not.

11 **1. In Election Contests, the Contestant Initially Bears the Burden of Proof,**  
12 **and Then the Defendant Bears It.**

13 In this election contest, Contestant bears the initial burden of proving that Defendant  
14 does not meet the statutory qualifications for the office of Nevada County Auditor-Controller.  
15 Once Contestant meets this burden, the burden shifts to Defendant to prove that he does meet  
16 the qualifications.

17 In DeMiglio v. Mashore (1992) 4 Cal.App.4th 1260, 1268-69, an election contest  
18 regarding whether a candidate met the residency requirements for office, the appellate court  
19 found that the contestant had the initial burden of proving that the defendant did not live in the  
20 jurisdiction he sought to represent, and the defendant then had the burden of proving that he  
21 did live in the jurisdiction.

22 **2. The Burden of Proof Applies to the One Contested Issue.**

23 In the instant case, there is only one contested issue: whether Defendant satisfies the  
24 recent work experience requirements for the office of Auditor-Controller set forth in  
25 California Government Code section 26945(b). As such, both parties bear the burden of proof  
26 on this issue, as discussed above.

27 CONTESTANT GINA WILL’S SUPPLEMENTAL BRIEF  
28 RE: BURDEN OF PROOF AND STANDARD OF PROOF



