UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN

PUBLIC INTEREST LEGAL FOUNDATION, *Plaintiff*, *v.* JOCELYN BENSON, in her official capacity as Michigan Secretary of State, *Defendant*.	Civ. No. 1:21-cv-929 **ORAL ARGUMENT REQUESTED**

PLAINTIFF'S REPLY MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT

Table of Contents

Table of Authorities

Cases

Statutes and Rules

Plaintiff Public Interest Legal Foundation ("Foundation") moved for summary judgment on Count II of its Complaint and on the affirmative defenses stated in Defendant's Answer. (ECF No. 153, PageID.3204-3206.) The Foundation now replies to the Defendant's Brief in Opposition. (ECF No. 166, PageID.3335-3363.) Because there are no issues of material fact genuinely in dispute, the Foundation is entitled to judgment as a matter of law.

Reply to Plaintiff's Undisputed Material Facts

3-4. Defendant disputes the materiality of this statement but proffers no evidence to dispute its veracity.

5-9. Defendant does not deny that the Foundation sent each referenced letter.

10. Defendant's response does not cite to any "particular parts of materials in the record…." Fed. R. Civ. P. 56(c)(1).

12-14. Defendant does not deny that the Foundation sent each referenced letter.

15. Defendant does not dispute the stated calculation.

16. Defendant does not deny that the Foundation sent the referenced letter.

17. Defendant claims this statement is "significantly incomplete" without citing any "particular parts of materials in the record…." Fed. R. Civ. P. 56(c)(1).

18-20. Defendant claims this statement is "incomplete and potentially misleading" without citing any "particular parts of materials in the record…." Fed. R. Civ. P. 56(c)(1).

21. Defendant claims this statement "misstates" the record. The Foundation cited the Defendant's interrogatory response, which Defendant quotes in its response. (ECF No. 166, PageID.3343.) The response demonstrates that the process is one that is done through the CARS database which only then updates a corresponding entry in the QVF, if one exists.

22-24. Defendant claims that the Foundation's "summary of the testimony differs slightly and is inferior to a quotation of the actual testimony" but does not cite to any "particular parts of materials in the record…." Fed. R. Civ. P. 56(c)(1).

25. Defendant claims that this statement is "incomplete and potentially misleading." (ECF No. 166, PageID.3344.) But the quotation Defendant includes does not alter the statement in any material way.

Response to Defendant's Facts

None of the Defendant's unnumbered additional "facts" change the conclusion that the Foundation is entitled to judgment as a matter of law.

1. It is undisputed that the Defendant received the December 11, 2020, Letter. (ECF No. 166, PageID.3341.) The Foundation disputes the Defendant's characterization of the categories of records sought as "broad." (ECF No. 166, PageID.3344.) Additionally, whether a request is "broad' is not material to the question of whether the Defendant violated the NVRA, nor a defense to such a violation. *See Project Vote / Voting for Am., Inc. v. Long*, 682 F.3d 331, 336 (4th Cir. 2012) (explaining that the NVRA's "use of the word 'all' [as a modifier] suggests an expansive meaning because 'all' is a term of great *breadth*") (emphasis added)).

2. This statement ignores the fact that the Foundation's earlier December 11, 2020, Letter set forth the plan to send a representative on December 18, 2020, and asked to be alerted should Defendant wish to provide copies of the records instead. (ECF No. 1-9, PageID.64.) As above, it is undisputed that the Defendant received the December 11, 2020, Letter. (ECF No. 166, PageID.3341.) The Foundation, on its own, followed up by email on December 16, 2020. (ECF No. 1-10, PageID.66.) Defendant's email on December 17, 2020, did not provide copies of the requested documents. (ECF No. 1-10, PageID.65-66.)

On December 18, 2020, the Foundation notified Defendant that it was in violation of the NVRA for failing to permit inspection and duplication of public records. (ECF No. 1-11, PageID.67-68.) Defendant acknowledges that the Foundation sent another letter on January 13, 2021. (ECF No. 166, PageID.3345.) Defendant did not respond to either the December 18, 2020, or the January 13, 2021, letters. (ECF No. 157, PageID.3276-3277.)

3. Defendant includes a section with the heading "Kinds of documents kept by MDOS concerning list maintenance that may be subject to inspection under the NVRA." (ECF No. 166, PageID.3345.) It is not up to the Defendant to decide which records are covered by the NVRA's Public Disclosure Provision. Congress did that. The law requires public disclosure of "**all records** concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters[.]" 52 U.S.C. § 20507(i)(1) (emphasis added). As articulated in the Foundation's summary judgment memorandum, each of the requested records falls squarely within the scope of this disclosure command. (ECF No. 154, PageID.3221-3225.) The Foundation incorporates by reference its discussion of the specific records at issue.

4. Defendant devotes several pages detailing "[o]ther events occurring contemporaneous with" the Foundation's requests. (ECF No. 166, PageID.3346-3348.) Even assuming that Defendant provided sufficient record citations for these statements, none of them are material to any question before the Court. The NVRA does not contain any excuse for non-compliance, much less does it excuse non-compliance of the sort in which Defendant engaged. Defendant does not point to any authority supporting the evaluation of any such evidence in connection with the issues presented here. The record shows that the Foundation reached out several times and said that Defendant could provide the records electronically. (ECF No. 1-9,

PageID.64, ECF No. 1-10, PageID.66.) The record also shows that the Foundation was physically present in Defendant's office in October 2020 to collect a flash drive of the Qualified Voter File. (ECF No. 1-7, PageID.54.) The record also shows that Bureau of Elections staff was aware when the Foundation called the office. (ECF No. 1-10, PageID.65) ("I heard that you had called our office, and assumed it was related to the below.") Defendant could have but did not communicate with the Foundation to seek more time to respond. Defendant could also have provided documents electronically.

Defendant primarily relies upon defense counsel's questions during the deposition of the Director of Elections for the argument that, following the 2020 election, the Department's "resources were the most depleted." (ECF No. 166, PageID.3347.) Yet, in early December 2020, before the Foundation asked to inspect records, the Director of Elections took the time to participate in a "Policy Lab," likely among other time-consuming activities, put on by a university in Rhode Island. Jennifer Broullard, "Deconstructing Election 2020" (Dec. 10, 2020), *available at* https://www.jwu.edu/news/2020/12/deconstructing-election-2020.html.

Further, even if "Bureau staff were not allowed back into their offices until February of 2021," (ECF No. 166, PageID.3348,) it cannot be disputed that the Foundation filed this action some *nine months* later, in November of 2021. Equities here weigh substantially in favor of the patient, flexible, earnest, and courteous efforts by the Foundation to obtain records that Congress deemed the Foundation has a right to inspect.

Argument

It is not disputed that the Foundation requested and was denied access to list maintenance documents within the NVRA's scope. (ECF No. 157, PageID.3276, ECF No. 154, PageID.3213-3214.) Further, the undisputed record demonstrates that the Defendant's affirmative defenses set

forth in its Answer cannot withstand scrutiny. Accordingly, judgment should enter for the Foundation.

I. The Foundation Has Standing.

This Court previously determined that the Foundation had standing when it resolved Defendant's motion to dismiss, and standing has only been strengthened through discovery. The Court noted, "With regard to Count II, PILF's records claim, the Supreme Court has held that a plaintiff suffers an 'injury in fact' when the plaintiff fails to obtain information that must be publicly disclosed pursuant to a statute. *Fed. Election Comm'n v. Akins*, 524 U.S. 11, 21 (1998)." (ECF No. 35, PageID.390.) Defendant acknowledges this and then asks this Court to reconsider its reliance on a Supreme Court decision and, instead, follow an out-of-circuit case from 2022. (ECF No. 166, PageID.3349.) Even if that case is considered, it does not change that the Foundation has standing in this case.

A. The Foundation Has Suffered an Informational Injury.

The Foundation incorporates by reference its briefing on Defendant's same arguments that it addressed in its summary judgment response. (ECF No. 168, PageID.3439-3441.) In *Public Citizen v. United States Department of Justice*, 491 U.S. 440 (1989), the defendant asserted that the plaintiff did not "allege[] [an] injury sufficiently concrete and specific to confer standing." *Id*. at 448. The Supreme Court "reject[ed] these arguments." *Id*. at 449.

> As when an agency denies requests for information under the Freedom of Information Act, refusal to permit appellants to scrutinize the ABA Committee's activities to the extent FACA allows constitutes a sufficiently distinct injury to provide standing to sue.

Id. In other words, the inability to "scrutinize" the activities of government "constitutes a sufficiently distinct injury." *Id*. The Court reaffirmed the holding of *Public Citizen* in *FEC v. Akins*, 524 U.S. 11 (1998), the case relied upon by the Court in its Order denying Defendant's

motion to dismiss. (ECF No. 35, PageID.390.) *See also Pub. Interest Legal Found., Inc. v. Bellows*, No. 1:20-cv-00061-GZS, 2023 U.S. Dist. LEXIS 52315, at *18 (D. Me. Mar. 28, 2023) (citing *Akins*, 524 U.S. 11, 21 ("plaintiff suffers an 'injury in fact' when the plaintiff fails to obtain information which must be publicly disclosed pursuant to a statute.")).

B. The Foundation Has Suffered "Downstream Consequences."

The case cited by the Defendant, in addition to being out of circuit, is distinguishable from this case. The Foundation incorporates by reference its briefing on Defendant's same arguments that it addressed in its summary judgment response. (ECF No. 168, PageID.3441-3443.) Defendant misconstrues the Foundation's injury in this case as being "based simply on not having the records they requested." (ECF No. 166, PageID.3350.) Not so. The Foundation's Complaint describes the Foundation's programmatic activities that are relevant to this action. Even the portion of the record the Defendant cites for its argument explains that the Defendant's violation "prevents the Foundation from engaging in its research, educational, and remedial activities." (ECF No. 166, PageID.3350) (citing ECF No. 1, PageID.19.) The Foundation also alleges that it "seeks to promote the integrity of elections in Michigan and other jurisdictions nationwide through research, education, remedial programs, and litigation." (ECF No. 1, PageID.2.) Further, "[t]he Foundation communicates with election officials about problems or defects found in list maintenance practices and about ways to improve those practices." (*Id.*) Defendant has impaired the accumulation of institutional knowledge to assist and inform these core functions, knowledge informed by state's compliance with the NVRA. The Foundation's injuries thus exceed the mere deprivation of information.

Whereas the plaintiffs in *Campaign Legal Ctr. v. Scott* alleged speculative injuries to others not before the court, 49 F.4th 931, 936 (5th Cir. 2022) ("*the public* and *affected Texas*

voters writ large), the Foundation alleges concrete and imminent injuries to *itself* that are directly traceable to Defendant's refusal to disclose information under the NVRA. The "downstream consequences" the Foundation identifies are consistent with the examples articulated by the *Scott* concurrence, including the need "to engage in public advocacy about a pressing matter of policy." *Scott*, 49 F.4th at 940 (Ho, J., concurring in the judgment). *See also*, *United States v. McDowell*, No. 3:19-cr-14-RGJ, 2023 U.S. Dist. LEXIS 161185, at *6-7 (W.D. Ky. Sep. 11, 2023) ("Smithers also appears to satisfy the Fifth Circuit's interpretation, which suggests that a downstream consequence includes the inability to use the sealed information for a distinct, civic purpose.")

Further, *Scott* did not alter the landscape upon which this Court previously determined the Foundation had standing. As the Sixth Circuit recently explained,

> Since *TransUnion*, the courts of appeals have consistently recognized that, to have standing, a plaintiff claiming an informational injury must have suffered adverse effects from the denial of access to information. *See* … *Kelly v. RealPage, Inc*., 47 F.4th 202, 211-14 (3d Cir. 2022); *Campaign Legal Ctr. v. Scott*, 49 F.4th 931, 936-39 (5th Cir. 2022); … And courts have further recognized that *TransUnion* did not work a "sea change"—it "simply reiterated the lessons of . . . prior cases: namely, to state a cognizable informational injury a plaintiff must allege that they failed to receive required information, and that the omission led to adverse effects or other downstream consequences." *Kelly*, 47 F.4th at 214 (cleaned up).
>
> Two earlier Supreme Court informational-injury cases are not to the contrary. *See* [*Akins*]; [*Public Citizen*].

Grae v. Corr. Corp. of Am., 57 F.4th 567, 570 (6th Cir. 2023). The Sixth Circuit went on to note that the party in the case "conceded at argument that he hasn't alleged any adverse effects at all" but "in cases where the issue has been presented, other courts have not found it difficult to define 'adverse effects.'" *Id*. at 571.

Defendant's reliance on *Dickson v. Direct Energy, LP* is misplaced. There, the Sixth Circuit noted, "In *Spokeo,* the Supreme Court observed that 'Congress is well positioned to

identify intangible harms that meet minimum Article III requirements,' and so found its judgment 'instructive and important' in determining whether an intangible harm rises to an injury in fact." *Dickson v. Direct Energy, LP*, 69 F.4th 338, 349 (6th Cir. 2023). Further, the Sixth Circuit noted that "[c]ourts accordingly 'afford due respect to Congress's decision to impose a statutory prohibition or obligation on a defendant, and to grant a plaintiff a cause of action to sue over the defendant's violation of that statutory prohibition or obligation.'" *Id*.

Like the cases referenced by the court in *Dickson*, the Foundation has alleged that the Defendant "caused the specific kind of harm prohibited by the relevant statute." *Id*. Defendant's violation of the Public Disclosure Provision prohibited and continues to prohibit the Foundation from engaging in regular, identifiable, programmatic activities that "directly correlate[]," *Dickson*, 69 F.4th at 349, to the interests Congress sought to protect via the NVRA. The NVRA's Public Disclosure Provision "convey[s] Congress's intention that the public should be monitoring the state of the voter rolls and the adequacy of election officials' list maintenance programs." *Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at *12-13 (S.D. Fla. Mar. 30, 2018). Indeed, Congress made all list maintenance records subject to public inspection precisely so that the public can enjoy a transparent election process and assess compliance with federal laws. *See Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 339-40.

II. Defendant's Denial of Access to List Maintenance Records Violates the NVRA.

Defendant purports to have the authority as to what must be disclosed under the NVRA. Congress has already answered this question. The law requires public disclosure of "**all records** concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters[.]" 52 U.S.C. § 20507(i)(1)

(emphasis added). Each of the requested records fall squarely within the scope of this disclosure command. (ECF No. 154, PageID.3221-3225.) The Foundation incorporates by reference its discussion of the specific records at issue.

Defendant does not dispute that the Foundation properly made a request pursuant to the NVRA and that it did not provide *any* documents prior to the filing of this suit. (ECF No. 166, PageID.3352.) That should settle the question under the law. Yet Defendant contends the Foundation is not entitled to summary judgment as to Count II because Defendant *was busy* when the Foundation requested to see the documents and, in its opinion, "it is far from clear" that what the Foundation sought "are actually records subject to disclosure under the NVRA." (ECF No. 166, PageID.3352.)

Defendant's reliance on a decision from the U.S. District Court for the District of New Jersey does not support its position here. There, in partially denying a motion to dismiss, the court determined that a technical manual was *not* subject to the NVRA. *Pub. Interest Legal Found., Inc. v. Way*, Civil Action No. 22-02865 (FLW), 2022 U.S. Dist. LEXIS 204083, at *19-20 (D.N.J. Nov. 9, 2022) ("The Voter Module contains only technical information, not information about whether eligible voters are included on New Jersey's voter roll or whether ineligible voters are being removed. Thus, production of the Voter Module would not achieve any of the purposes of the NVRA or the disclosure provision."). The records sought here are starkly different. They focus on the very question of "whether eligible voters are included on [Michigan's] voter roll or whether ineligible voters are being removed."

The NVRA's Public Disclosure Provision is no ordinary transparency law. Its unique and expansive scope is deliberate because it is designed to protect the right that is "preservative of all rights"—the right to vote. *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). The Public Disclosure

Provision "embodies Congress's conviction that Americans who are eligible under law to vote have every right to exercise their franchise, a right that must not be sacrificed to administrative chicanery, oversights, or inefficiencies." *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 334-35. Congress designed the Public Disclosure Provision to shed light on all activities that determine who belongs and who does not belong on the voter rolls. *See Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at *12-13 (S.D. Fla. Mar. 30, 2018). Indeed, Congress made *all* list maintenance records subject to public inspection precisely so that the public can enjoy a transparent election process and assess compliance with federal laws.

A. The Requested Records "Concern" the "Implementation of Programs and Activities Conducted for the Purpose of Ensuring the Accuracy and Currency of Official Lists of Eligible Voters[.]"

1. SSA Data

Defendant contends that the data regarding deceased individuals that it receives from the U.S. Social Security Administration ("SSA Data") is not disclosable because it "is not a voter registration list and is not a record 'related to the accuracy of official list of registered voters.'" (ECF No. 166, PageID.3354.) Defendant contends that *only* the end product – "Michigan's official list of voters"—is the disclosable record. For starters, Defendant's interpretation violates the plain meaning of the words Congress used. Congress did not say "end product records," it said, "all records." 52 U.S.C. 20507(i)(1). The uniform weight of authority also supports the Foundation here. *See, e.g.*, *Project Vote, Inc. v. Kemp*, 208 F. Supp. 3d 1320, 1341 (N.D. Ga. 2016) ("The Court concludes that, in addition to requiring records regarding the processes a state implements to ensure the accuracy and currency of voter rolls, considering the NVRA as a consistent whole, individual applicant records are encompassed by the Section 8(i) disclosure requirements."); *Pub. Interest Legal Found. v. Matthews*, 589 F. Supp. 3d 932, 941 (C.D. Ill.

2022) ("On balance, the two phrases, when read together, make clear that any record, be it data regarding maintenance activities, the processes involved in the maintenance activities, or the output of those maintenance activities, including the statewide voter registration list, must be made available to the public.").

The underlying records are essential for the Foundation to "monitor[] the state of the voter rolls and the adequacy of election officials' list maintenance programs." *Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at *12-13 (S.D. Fla. Mar. 30, 2018). With only the end-product in hand, the Foundation cannot evaluate whether Defendant is adequately, reasonably, and lawfully maintaining its voter list. The Foundation cannot evaluate whether and to what extent the Defendant is using SSA Data, including but not limited to monitoring the intervals between receipt of the information and cancellation of any deceased registrants and the evaluation of "close matches" by the Defendant's staff. Further, Defendant's concerns about the data including social security numbers implicates whether redactions are needed, not whether the files are records.

2. QVF Cancellation Records

Defendant appears to concede that this request seeks records that "concern" the "implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency official lists of eligible voters[.]" 52 U.S.C. § 20507(i)(1).

3. Records relating to the investigation of potentially deceased registrants.

Defendant appears to concede that these requested records should have been produced. Defendant's main argument is that the Foundation's request "made no reference to any local jurisdiction or election official by name." (ECF No. 166, PageID.3355.) There is no such requirement under the law but, importantly, the record is clear that the Defendant did not ask the

Foundation for any guidance on its request. The Foundation provided one, easy example in its summary judgment memorandum stemming from information in its Complaint regarding the City of Detroit. The Complaint stated that "According to the City of Detroit election officials, 'The State discovered that in many cases, discrepancies between the information contained in the SSDI and in the QVF has made it difficult to confirm the deaths of the voters at issue. However, the State is continuing its investigation, and is cancelling voters as deceased as it deems appropriate.'" (ECF No. 1, PageID.6, see also ECF No. 1-2, PageID.41.) Defendant points to *some* documents it provided in discovery. (ECF No. 166, PageID.3355-3356.) Of the 38 pages the Defendant attached as an exhibit, 21 pages consist of letters *from* the Foundation. One document is an email from a City of Detroit official to the Defendant's office asking for them to "review and advise" on information sent by the Foundation regarding likely deceased registrants. (ECF No. 166-2, PageID.3390.) But no response to that email was identified nor do any cited documents appear to reference the "discrepancies between the information contained in the SSDI and in the QVF" that the City of Detroit said the Defendant discovered nor the continuing investigation by the Defendant regarding the Foundation's list of likely deceased registrants sent to the City of Detroit that is specifically referenced in the Foundation's Complaint. (ECF No. 1, PageID.6, see also ECF No. 1-2, PageID.41.) All records relating to that investigation, not just *some* correspondence between the City and the Secretary's office, along with other investigations undertaken by the Defendant, are responsive to the Foundation's NVRA Inspection Request.

The exact number of responsive documents is not known to the Foundation because that information is solely within Defendant's custody and control. Regardless, Defendant is required to allow inspection of "all records" pursuant to the NVRA. It has not done so.

4. ERIC Records

Defendant's argument as to the ERIC records raises serious concerns as to whether it will provide documents in the future, even as to records that are not subject to the LADMF. Defendant claims, without citing any authority, that "'correspondence' with ERIC is not a record" under the Public Disclosure Provision. (ECF No. 166, PageID.3357.) But, just like the information originating from the SSA, information from and communications with the ERIC organization "concern" list maintenance "activities," and are therefore within the NVRA's scope under a plain-meaning analysis. These records are essential for the Foundation to "monitor[] the state of the voter rolls and the adequacy of election officials' list maintenance programs." *Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at *12-13 (S.D. Fla. Mar. 30, 2018). The Defendant should be required to permit inspection of all ERIC records.

Defendant mistakenly claims that "there is no meaningful relief to be granted" as to Count II. (ECF No. 166, PageID.3359.) Not accurate. There are still records for which the Defendant has not allowed inspection. Even if the Defendant has now provided all responsive documents, it has not shown that its impermissible conduct will not recur. The Sixth Circuit has found that, "'as a general rule, voluntary cessation of allegedly illegal conduct does not deprive the tribunal of power to hear and determine the case, *i.e.*, does not make the case moot." *Ostergren v. Frick*, 856 F. App'x 562, 566 (6th Cir. 2021) (internal quotations omitted.) "However, while the 'bar is high' to show that voluntary cessation has mooted a claim, it is slightly lower 'when it is the government that has voluntarily ceased its conduct.'" *Id*. at 567 (internal quotations omitted.) Courts have found that, for government officials, "self-correction provides a secure foundation for a dismissal based on mootness so long as it appears genuine." *Love v. Johnson*, No. 15-11834, 2016 U.S. Dist. LEXIS 112035, at *7-8 (E.D. Mich. Aug. 23,

2016). The records that the Defendant has now allowed the Foundation to see were in response to discovery requests or a court order on a discovery motion, not a voluntary, genuine change in Defendant's policy. In fact, Defendant has not changed its policy. Defendant maintains that it is "far from clear" that the records the Foundation sought are "subject to disclosure under the NVRA." (ECF No. 166, PageID.3352.) Nowhere does Defendant state that it will comply with similar requests in the future. The threshold requirement of the voluntary cessation doctrine—cessation of illegal conduct—has thus not even occurred.

The Foundation incorporates by reference its arguments regarding the need for a permanent injunction in this matter. (ECF No. 154, PageID.3226-3228.) A permanent injunction is necessary to prevent the Defendant from unilaterally vetoing the public's inspection rights when they are most needed.

Conclusion

The NVRA means what it says—"all records" concerning voter list maintenance are subject to public inspection and reproduction. That broad mandate includes the requested records. Because there are no material facts genuinely in dispute, the Foundation is entitled to judgment as a matter of law.

Dated: November 13, 2023

Respectfully submitted,

For the Plaintiff:

/s/ Kaylan Phillips
Kaylan Phillips
Noel Johnson
Joseph M. Nixon
J. Christian Adams
Public Interest Legal Foundation

107 S West St, Suite #700
Alexandria, VA 22314
Telephone: (703) 745-5870
kphillips@publicinterestlegal.org
njohnson@publicinterestlegal.org
jnixon@publicinterestlegal.org
adams@publicinterestlegal.org

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to each ECF participant.

Dated: November 13, 2023

/s/ Kaylan Phillips
Kaylan Phillips
Counsel for Plaintiff