

United States District Court
District of Maine

PUBLIC INTEREST LEGAL FOUNDATION, INC.

Plaintiff,

v.

SHENNA BELLOWS, in her official capacity as the
Secretary of State for the State of Maine

Defendant.

Case No. 1:20-cv-00061-GZS

**Plaintiff Public Interest Legal Foundation's
Response to Defendant's Statement of Material Facts**

Pursuant to L.R. 56(c) the Foundation offers the following response in opposition to the Secretary's statement of material facts (Doc. 79):

The Creation of Maine's CVR System

38. At the time the NVRA passed in 1993, Maine, like many states, had no centralized voter registration database. Declaration of Julie Flynn, dated April 9, 2021 (ECF No. 36) ("1st Flynn Decl.") ¶ 6.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

39. Because Maine elections are administered primarily at the municipal level, each of Maine's more than 500 municipalities was responsible for maintaining voter rolls for its residents, and did so in a variety of forms, including by handwritten lists and a variety of electronic formats. 1st Flynn Decl. ¶ 6.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

40. The enactment of HAVA in 2002 required Maine to upgrade this system of maintaining voter rolls and implement “a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained and administered at the State level that contains the name and registration information of every legally registered voter in the State.” 1st Flynn Decl. ¶ 7.

RESPONSE: Admitted.

41. The Secretary’s office, working with outside vendors, created the statewide electronic system required by HAVA, which is known as the Central Voter Registration system, or CVR, which became fully operational in the spring of 2007. 1st Flynn Decl. ¶ 8.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny who the Secretary worked with to create the CVR or when it became operational. This fact is otherwise admitted.

42. The database portion of CVR contains personal information about every registered voter in the state, including nearly all the information that a voter provides in his or her registration form, such as name, address, party affiliation, and date of birth, as well as certain other information inputted by municipal registrars, such as which elections the voter voted in. 1st Flynn Decl. ¶ 9.

RESPONSE: Admitted.

43. The CVR database is maintained in the Secretary’s secure data center. 1st Flynn Decl. ¶ 9.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

44. As of November 20, 2022, a Voter File generated from CVR would contain personally identifying information on 1,142,764 Maine voters, including 925,899 voters designated “active” and 216,865 voters designated “inactive.” 2d Flynn Decl. ¶ 8.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

Maine's Voter Privacy Law

45. Prior to the implementation of CVR, the fact that voter data was held at the municipal level in a variety of different formats made it nearly impossible for anyone to compile a complete and up-to-date list of all Maine voters. 1st Flynn Decl. ¶ 11.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

46. The Legislature had concerns about the privacy implications of compiling such a large electronic database containing personal information about Maine voters, and enacted the first privacy protections on CVR data in 2005, before CVR became operational. See 2005 P.L. ch. 404 (codified at 21-A M.R.S. § 196, recodified as amended at 21-A M.R.S. § 196-A). 1st Flynn Decl. ¶¶ 11–12.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, legislative history cannot override a statute's plan meaning. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

47. The Legislature identified three "compelling state interests" at stake in regulating public access to CVR data: preventing voter fraud, preventing the potential disenfranchisement of voters, and ensuring that voters are not discouraged from participating in the voting process. 1st Flynn Decl. ¶ 13.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, legislative history cannot override a statute's plan meaning. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

48. The Legislature's concern about voter fraud was that, if CVR data was readily accessible, it might be used by unscrupulous individuals to commit voter fraud. 1st Flynn Decl. ¶ 13.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, legislative history cannot override a statute's plan meaning. The Foundation

denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

49. The Legislature was also concerned that eligible voters might be deterred from registering to vote if they knew the personal data they were providing on the registration form (or other data tracked by CVR, such as voter participation history) would become public or be sold to commercial interests. 1st Flynn Decl. ¶ 13.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, legislative history cannot override a statute's plan meaning. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

50. Based on part on annual reports on CVR issued by the Secretary, the Maine Legislature has amended the laws governing the confidentiality of CVR data several times since 2005. 1st Flynn Decl. ¶ 15.

RESPONSE: Qualified. The Foundation admits the laws governing the CVR have been amended. The Foundation is without knowledge to admit or deny why each of those amendments took place. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

51. The Voter File generated from CVR pursuant to 21-A M.R.S. § 196-A(1)(B), contains extensive data on individual voters, specifically

- the voter's name
- residence address
- mailing address
- year of birth
- enrollment status
- electoral districts
- voter status
- date of registration
- date of change of the voter record if applicable
- voter participation history
- voter record number
- any special designations indicating uniformed service voters, overseas voters or township voters

RESPONSE: Admitted.

52. “Enrollment status” refers to the voter’s party enrollment, if any. “Voter status” refers to whether the voter has failed to respond to a change of address confirmation notice, and is thus at risk of having their registration cancelled if they fail to vote in the next two general elections. See 21-A M.R.S. § 162-A. “Voter participation history” is a record of all state and federal primary and general elections in which the voter has participated going back to the date of registration or 2007, whichever is later. 1st Flynn Decl. ¶ 18.

RESPONSE: Admitted.

53. 21-A M.R.S. § 196-A(1)(B) allows political parties and officials to access this detailed voter information, subject to the restrictions on use, sale, and further dissemination, in recognition of the fact that giving candidates, parties, and other participants in the electoral process the ability to find and communicate with registered voters can increase civic engagement and participation in the electoral process as well as to ensure that political parties are able to associate with their enrolled voters. 1st Flynn Decl. ¶ 19.

RESPONSE: Qualified. The Foundation admits that 21-A M.R.S. § 196-A(1)(B) allows political parties and officials to access data stored in the CVR. The Foundation denies the remainder of this alleged fact. The Foundation denies that the remainder of this fact is material to the disposition of the parties’ cross motions for summary judgment.

54. A law enacted by the 130th Legislature makes available the same Voter File to individuals evaluating the State’s compliance with its voter list maintenance obligations, subject to certain restrictions on use and dissemination of the data in the file. 2d Flynn Decl. ¶¶ 6, 8.

RESPONSE: Qualified. The Foundation admits that the Secretary requires requestors to submit an application to the Secretary to obtain the Voter File. The Foundation denies that the NVRA permits the Secretary to condition access to the Voter File on the submission of an application and an agreement to abide by any use restrictions listed on the application or found in Maine law.

55. Individuals or entities requesting a party/campaign-use voter file under Exception B are required to submit an application to the Secretary documenting that they qualify to receive the data and acknowledging the restrictions on its use. 1st Flynn Decl. ¶ 20.

RESPONSE: Qualified. The Foundation admits that the Secretary requires requestors to submit an application to the Secretary. The Foundation denies that the NVRA permits the Secretary to

condition access to the Voter File on the submission of an application and an agreement to abide by any use restrictions listed on the application or found in Maine law.

56. Following the effective date of the new law, the Elections Division drafted and posted to the Secretary of State website revised application forms. The revised application and instructions, which were posted in early January, 2022, make clear that the Voter File may be requested by individuals or groups wishing to “evaluate the State’s compliance with its voter list maintenance obligations, under the National Voter Registration Act of 1993.” 2d Flynn Decl. ¶¶ 9–10; Joint Stipulation of Material Facts (“Joint Stip.”) (ECF No. 73) ¶¶ 13–14.

RESPONSE: Qualified. The Foundation admits that the Secretary requires requestors to submit an application to the Secretary. The Foundation denies that the NVRA permits the Secretary to condition access to the Voter File on the submission of an application and an agreement to abide by any use restrictions listed on the application or found in Maine law.

57. The revised instructions (as well as the previous version of the instructions) state that CVR data is available for the approved uses upon submission of a completed request form and payment of the applicable fee. 2d Flynn Decl. ¶ 11.

RESPONSE: Qualified. The Foundation admits that the Secretary requires requestors to submit an application to the Secretary. The Foundation denies that the NVRA permits the Secretary to condition access to the Voter File on the submission of an application and an agreement to abide by any use restrictions listed on the application or found in Maine law.

58. The Public Interest Legal Foundation (PILF) has not submitted an application to the Elections Division or paid the applicable fee to obtain the Voter File, and does not intend to do so due to this litigation. 2d Flynn Decl. ¶ 12; Rule 30(b)(6) Deposition of Logan Churchwell, dated Aug. 25, 2022 (ECF No. 78) (“Churchwell Dep.”) at 19:10–17.

RESPONSE: Qualified. The parties have stipulated, “Prior to the filing of this action, the Foundation requested from the Secretary Maine’s ‘Party/Campaign Use Voter File,’ which is described in Title 21-A, Section 196-A(1)(B).” (Doc. 73 ¶ 8.)

59. If PILF submits to the Elections Division a properly completed application acknowledging the restrictions on use and dissemination of the Voter File and pays the

applicable fee, the Elections Division would provide PILF with the Voter File. 2d Flynn Decl. ¶ 13.

RESPONSE: Qualified. The Foundation admits that the Secretary may provide the Foundation the Voter File if the Foundation submits an application agreeing to her use restrictions and pays the required fee. The Foundation denies that the NVRA permits the Secretary to condition access to the Voter File on the submission of an application and an agreement to abide by any use restrictions listed on the application or found in Maine law.

The Secretary's List Maintenance Efforts

60. Since implementation of CVR in 2007, the Secretary has engaged in a program of maintaining the voter registrations documented in CVR, as required by the NVRA and HAVA. 1st Flynn Decl. ¶ 21.

RESPONSE: Admitted.

61. The Secretary's office routinely works with municipalities to identify and remove records of deceased voters, voters who have moved, and duplicate voter records. 1st Flynn Decl. ¶ 21.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation admits that federal and state law requires the Secretary to conduct a reasonable voter list maintenance program.

62. Municipalities review State death records on a monthly basis and cancel the records of voters who have died. 1st Flynn Decl. ¶ 21.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation admits that federal and state law requires the Secretary to cancel voter registration records belonging to deceased registrants.

63. The Secretary's office, in 2007, 2009, 2011, and 2013, conducted system-wide voter list maintenance processes using U.S. Postal Service National Change of Address data. 1st Flynn Decl. ¶ 22.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

64. In 2017, the Secretary's office conducted additional maintenance activities using the Interstate Voter Registration Crosscheck Program, which enabled cancellation of registrations for voters who had registered and voted in other states after having previously registered in Maine. 1st Flynn Decl. ¶ 23.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

65. In 2021, the Legislature authorized the Secretary of State to join the Electronic Registration Information Center ("ERIC"), which provides a secure electronic platform for member states to cross check their voter registration data with those of other states, allowing states to identify individuals who may have moved to other states without canceling their voter registration. The Secretary is currently engaged in efforts to conduct list maintenance using ERIC. 2d Flynn Decl. ¶ 25.

RESPONSE: Qualified. The Foundation admits that Maine is a member of ERIC. The Foundation is without knowledge to admit or deny the activities the Secretary alleges she undertakes. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

66. The Elections Division in the summer of 2022 conducted list maintenance activities under the NVRA in which postcards were mailed to certain Maine voters under 52 U.S.C. § 20507(d)(2) seeking to determine if they remained at their registered address. 2d Flynn Decl. ¶ 24.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment

67. In accordance with the NVRA, the Election Division is preserving records relating to this effort for two years, including the information required to be preserved under 52 U.S.C. §

20507(i)(2). As with past NVRA maintenance efforts, these materials are available to the public for inspection and copying. 2d Flynn Decl. ¶ 24; 1st Flynn Decl. ¶ 25.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

The Voter File

68. The Voter File that the Secretary produces under 21-A M.R.S. § 196-A(1)(J) is not used by the Secretary to conduct list maintenance activities or for any other purpose. 2d Flynn Decl. ¶ 26; see also 1st Flynn Decl. ¶ 26.

RESPONSE: Denied. The Court has already ruled that the Voter File is subject to disclosure under the NVRA. (Doc. 61 at 9-11.)

69. The Voter File contains no information on voters whose registrations were cancelled. 1st Flynn Decl. ¶ 27.

RESPONSE: Denied. The Court has already ruled that the Voter File is subject to disclosure under the NVRA. (Doc. 61 at 9-11.)

70. The Voter File contains no data that would indicate whether a particular voter's registration information was altered as the result of the Secretary's or any municipalities' periodic list maintenance efforts. 1st Flynn Decl. ¶ 28.

RESPONSE: Denied. The Court has already ruled that the Voter File is subject to disclosure under the NVRA. (Doc. 61 at 9-11.)

71. The Voter File contains information on numerous Maine voters whose registration information has never been altered by the Secretary's list maintenance activities. 2d Flynn Decl. ¶ 27.

RESPONSE: Denied. The Court has already ruled that the Voter File is subject to disclosure under the NVRA. (Doc. 61 at 9-11.)

PILF

72. PILF exists in part to “fight against lawlessness in American elections.” Rule 30(b)(6) Deposition of N. Christian Adams, dated Feb. 8, 2021 (ECF No. 37) (“Adams Dep.”) at 57:24–58:13.

RESPONSE: Qualified. The Foundation describes itself in paragraph 3 of the Amended Complaint. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

73. In May 2017, PILF issued a report called Alien Invasion II, the Sequel to the Discovery and Coverup of Noncitizen Registration and Voting in Virginia. Adams Dep. at 141:3–14 & Ex. 12 (ECF No. 37-2).

RESPONSE: Qualified. The Foundation admits it issued a report with that name. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

74. The originally published version of the report attached records that PILF obtained from governmental officials that included the names and contact information of individual Virginia registrants and voters. Adams Dep. at 141:3–14, 144:8–16, & Ex. 12 at Title Page.

RESPONSE: Qualified. The Foundation admits that the report included copies of official government records that included the names and addresses of registrants cancelled by the Commonwealth of Virginia. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

75. One of the report’s attachments was a record that listed voters whose registrations had been cancelled based on a declaration of non-citizenship on a Department of Motor Vehicles form and who failed to affirm citizenship within two weeks of being sent a notice from election officials. Adams Dep. at 141:3–14, 146:6–147:15, & Ex. 12 at Title Page.

RESPONSE: Qualified. The Foundation admits that the report included copies of official government records that identified registrants cancelled by the Commonwealth of Virginia under

the label “Declared – Non-citizen.” The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

76. Some of the individuals named in these records were “false positives,” meaning that they were in fact U.S. citizens. Adams Dep. at 149:19–150:9 & Ex. 12 at Title Page.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

77. In April 2018, individuals identified in the report brought a federal lawsuit against PILF for defamation and violation of the Voting Rights Act and 42 U.S.C. § 1985(3), alleging that they were in fact properly voting citizens and that PILF had falsely accused them of committing felonies. Churchwell Decl., Ex. B at 16–17 (Response to Request for Production No. 8); League of United Latin Am. Citizens - Richmond Region Council 4614 v. Pub. Int. Legal Found., No. 1:18-CV-00423, 2018 WL 3848404, at *1–*2 (E.D. Va. Aug. 13, 2018).

RESPONSE: Qualified. The Foundation admits that the federal lawsuit was filed. The case was closed without any statement or finding of liability whatsoever. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

78. The current version of the Alien Invasion II report contains a statement on the title page explaining that the exhibits identifying specific voters had been removed and stating in part: “PILF recognizes that individuals in Exhibits 1 and 12 were in fact citizens and that these citizens did not commit felonies. PILF profoundly regrets any characterization of those registrants as felons or instances of registration or voting as felonies.” Adams Dep. at 141:3–14 & Ex. 12 at Title Page; see also <https://publicinterestlegal.org/pilf-files/Alien-Invasion-II-FINAL.pdf> (last accessed on Nov. 17, 2022).

RESPONSE: Qualified. To the extent any documents are posted on the Foundation’s website, those documents speak for themselves. The Foundation denies that this fact is material to the disposition of the parties’ cross motions for summary judgment.

79. In November 2019, PILF published a report titled Calm Before the Storm, Are Palm Beach County’s Elections Protected Against Emerging Threats?, in which it published the full names, addresses, birthdates, and party enrollment of Florida voters that PILF alleged were registered to vote twice. Adams Dep. at 120:14–124:14 & Ex. 11 at 16–18;

see also https://publicinterestlegal.org/pilf-files/Report-Calm_Before_the_Storm-Palm_Beach_County1.pdf (last accessed on Nov. 17, 2022).

RESPONSE: Qualified. The Foundation admits that it published a report in November 2019 entitled Calm Before the Storm. The report speaks for itself. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

80. PILF maintains a database estimated to contain data on several hundred million voters. Churchwell Dep. at 33:20–34:4.

RESPONSE: Qualified. A “voter” is someone who casts a ballot. The Foundation admits that its database includes registration data as well as voting history consisting of historic and more recent copies of voter registration records.

81. PILF uses commercial, Social Security, and other databases to match data and attempt to confirm identities of voters listed in the voter lists it obtains from states. Churchwell Dep. at 28:17–30:11, 40:24–42:4; Adams Dep. at 41:10–22, 42:7–25.

RESPONSE: Qualified. The Foundation contracts with vendors to perform certain data matching and analyze registration data and voting history. The Foundation does not possess or have access to full or partial Social Security numbers.

82. PILF would be able to use these databases to derive full birthdates for voters listed in the Maine Voter File, even though the file lists only years of birth. Churchwell Dep. at 42:5–13.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact because the Foundation has never seen the Maine Voter File.

83. It is also theoretically possible for PILF to determine social security numbers of voters in the Voter File. Churchwell Dep. at 42:17–43:15.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact because the Foundation has never seen the Maine Voter File. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

84. PILF's analyses of voter lists result in "false positives," in which its analysis incorrectly indicates that a voter's registration should not remain active. Adams Dep. at 52:22–53:8.

RESPONSE: Qualified. The Foundation admits that it analyzes voter registration data to identify potential errors. It is the job of elections officials to determine whether a voter registration record should be designated as active or inactive. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

85. Only elections officials can conclusively determine whether PILF's analyses of voter data reflect actual misconduct by voters. Churchwell Dep. at 43:16–45:15.

RESPONSE: Qualified. The Foundation admits that election officials are the official arbiter of voter roll accuracy and currency, and election officials along with law enforcement officials determine whether election crimes have occurred. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

86. PILF does not have a hard and fast policy on the use of personally identifying information in its public reports. Churchwell Dep. at 22:8–13.

RESPONSE: Qualified. The Foundation admits that it uses personally identifying information in its public reports as circumstances require.

87. PILF considers redacting voter names and addresses in its published reports in some circumstances to protect the privacy of voters. Churchwell Dep. at 59:9–60:19.

RESPONSE: Qualified. Privacy is one reason the Foundation may redact the personally identifying information of registrants in its published reports. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

88. PILF has withheld identifying information about a voter in a published report in part out of concern that readers would confuse the identified voter for another person with a similar name. Churchwell Dep. at 63:18–64:15, 68:6–10, 68:14–69:9.

RESPONSE: Admitted. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

89. PILF has in prior litigation redacted or omitted personally identifying information about voters in its court filings. Churchwell Dep. at 80:6–82:21.

RESPONSE: Admitted. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

90. PILF has in prior litigation filed under seal exhibits containing personally identifying information about voters. Churchwell Dep. at 84:4–85:10; Churchwell Decl., Ex. D at 2 (Plaintiff's Supplemental Responses to Defendants' Document Requests) (ECF No. 74-6).

RESPONSE: Admitted. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

91. In settling a case in which PILF sought access to Maryland's voter file, PILF was agreeable to restrictions that would prevent it from publishing to the Internet or disclosing in its publications any of the contents of the voter lists at issue. Churchwell Dep. at 86:10–87:11, 91:17–92:23 & Ex. I (ECF No. 78-1).

RESPONSE: Qualified. A copy of the settlement agreement was filed as Docket Entry 78-1. Those terms speak for themselves. The Foundation denies that this fact is material to the disposition of the parties' cross motions for summary judgment.

92. It is standard practice for jurisdictions that sell their voter data to require buyers to agree to not sell it or use it for a commercial purpose. Churchwell Dep. at 89:16–18.

RESPONSE: Admitted.

The Secretary's Interpretation of Exception J

93. The Secretary does not interpret Exception J to prohibit organizations from using the Voter File to evaluate other states' voter list maintenance practices. 2d Flynn Decl. ¶¶ 16, 23.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, the Secretary's interpretation cannot override a statute's plan meaning.

94. The Secretary does not interpret Exception J to prohibit organizations from using the Voter File in judicial proceedings relating to list maintenance or the integrity of voter

lists, so long as the organization took steps to file any relevant portions of the Voter File under seal. 2d Flynn Decl. ¶ 17, 23.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, the Secretary's interpretation cannot override a statute's plan meaning.

95. The Secretary does not interpret Exception J to prohibit organizations from sharing information contained in the Voter File with public officials for a purpose directly related to evaluating compliance with voter list maintenance obligations. 2d Flynn Decl. ¶¶ 18, 23.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, the Secretary's interpretation cannot override a statute's plan meaning.

96. The Secretary does not interpret Exception J to prohibit organizations from using the Voter File to search for instances of registrants voting multiple times. 2d Flynn Decl. ¶ 21.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, the Secretary's interpretation cannot override a statute's plan meaning.

97. The Secretary does not interpret Exception J to prohibit organizations from publishing the results of their evaluations of the Voter File for purposes of public education, so long as the organization abides by the restriction on publicly disclosing personally identifying voter information. 2d Flynn Decl. ¶ 22.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, the Secretary's interpretation cannot override a statute's plan meaning.

98. An organization sharing information in the Voter File with state and local officials within Maine would not be at risk of violating the prohibition on public disclosure of personally identifying voter information in 196-A(1)(J)(2) because Maine officials are themselves required to keep such data confidential. 2d Flynn Decl. ¶ 19.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, the Secretary's interpretation cannot override a statute's plan meaning.

99. An organization's disclosure of personally identifying information from the Maine Voter File to officials outside of Maine would not risk a violation of 21-A M.R.S. § 196-A(1)(J)(2) unless those jurisdictions had no legal safeguards protecting such data from

public disclosure. And, even if the jurisdiction had no such safeguards, the organization would still be free under Maine law to transmit data it acquired from sources other than Maine's Voter File, such as the home state's voter file. 2d Flynn Decl. ¶ 20.

RESPONSE: Qualified. The Foundation is without knowledge to admit or deny this alleged fact. In any event, the Secretary's interpretation cannot override a statute's plain meaning.

Dated: December 23, 2022.

Respectfully submitted,

/s/ Noel H. Johnson
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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2022, I electronically filed the foregoing using the Court's ECF system, which will serve notice on all parties.

/s/ Noel H. Johnson
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