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May 2, 2023

Mr. David J. Smith, Clerk of Court
U.S. Court of Appeals for the 11th Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Re: *Greater Birmingham Ministries v. Secretary of State, et. al.*, No. 22-13708

Dear Mr. Smith:

Greater Birmingham Ministries (GBM) submitted *Public Interest Legal Foundation, Inc. v. Bellows*, Case No. 1:20-cv-00061-GZS, 2023 WL 2663827 (D. Me. Mar. 28, 2023), as supplemental authority. App. 39. That decision, which is on appeal, is generally unhelpful as the district court did not address the key issues pending in this appeal.

The dispute in Maine concerns the State's voter file. The district court previously decided that the voter file was within the scope of § 20507(i), *Bellows*, 2023 WL 2663827 at *4, and the court refused to revisit the issue, *id.* at *4 n.10. Maine's voter file was initially unavailable to the plaintiff and then legislatively made available for a fee and subject to conditions on use. *Id.* at *5-6. The issue in the opinion was whether those conditions were preempted by the NVRA.

The court, however, never considered whether the NVRA's requirement that a State "make available" covered records "for public inspection and, where available, photocopying at a reasonable cost" included a requirement that the State provide electronic disclosure of records. 52 U.S.C. § 20507(i)(1). The question does not appear to have been raised. But here, the Secretary has explained that "public inspection" and "photocopying" do not also include electronic disclosure. *See, e.g.*, Blue Br. 23-32. And because "the NVRA does not mandate" electronic disclosure, the NVRA and the Secretary's practice of charging for electronic records "do not conflict, there is no preemption, and" Alabama law "controls." *See True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 732 (S.D. Miss. 2014) (footnote omitted).

Respectfully submitted,

s/ Edmund G. LaCour Jr.
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CERTIFICATE OF COMPLIANCE

1. I certify that this document complies with the type-volume limitations set forth in Fed. R. App. P. 28(j) and 11th Cir. R. 28, I.O.P. 6. The body of the letter contains 255 words.

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/s/ Edmund G. LaCour Jr. _____

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Counsel for the Secretary of State

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CERTIFICATE OF INTERESTED PERSONS

In accordance with 11th Cir. R. 26.1-1(a)(3) and 26.1-2(b), undersigned counsel certifies that the persons and entities listed in the Certificate of Interested Persons and Corporate Disclosure Statement contained in the Secretary of State's Reply Brief are all persons or entities known to undersigned counsel to have an interest in the outcome of this appeal.

/s/ Edmund G. LaCour Jr.

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Counsel for the Secretary of State

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed on May 2, 2023, using the CM/ECF Document Filing System, which will send notification of such filing to all noticed parties.

/s/ Edmund G. LaCour Jr.

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