

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

REPUBLICAN NATIONAL COMMITTEE,
JORDAN JORRITSMA, and EMERSON
SILVERNAIL,

Plaintiffs,

v.

JOCELYN BENSON, *in her official capacity as
Michigan Secretary of State*; JONATHAN BRATER,
*in his official capacity as Director of the Michigan
Bureau of Elections,*

Defendants.

Case No. 1:24-cv-00262
Hon. Jane M. Beckering
Mag. Judge Ray S. Kent

ORAL ARGUMENT REQUESTED

**MOTION TO INTERVENE BY
NON-PARTY LEAGUE OF WOMEN VOTERS OF MICHIGAN**

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THE LEAGUE’S MOTION TO INTERVENE

The League of Women Voters of Michigan (the “League”) respectfully requests that it be permitted to intervene as a defendant in this action as of right under Federal Rule of Civil Procedure 24(a) or, in the alternative, permissively under Federal Rule of Civil Procedure 24(b).

WHEREFORE, the League respectfully requests that the Court grant this motion and allow the League to intervene as a defendant in this matter.

Dated: April 4, 2024

Respectfully submitted,

/s/ Eliza Sweren-Becker

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**Application for admission forthcoming*

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CERTIFICATE OF SERVICE

I certify that on April 4, 2024, I caused a true and correct copy of the foregoing document to be filed and served electronically via the ECF system.

Respectfully submitted,

/s/ Eliza Sweren-Becker
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Case No. 1:24-cv-00262
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Mag. Judge Ray S. Kent

**BRIEF IN SUPPORT OF MOTION TO INTERVENE BY
NON-PARTY LEAGUE OF WOMEN VOTERS OF MICHIGAN**

ORAL ARGUMENT REQUESTED

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CONCISE STATEMENT

Pursuant to Local Civil Rule 7.1(a), the League of Women Voters of Michigan states that intervention should be granted as of right under Federal Rule of Civil Procedure 24(a) or, in the alternative, permissively under Federal Rule of Civil Procedure 24(b).

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INTRODUCTION

Two federal district courts in Michigan recently permitted the League of Women Voters of Michigan (the “League”), a 105-year-old nonpartisan voting rights institution, to intervene in lawsuits alleging that Michigan’s voter-roll maintenance violates the National Voter Registration Act (“NVRA”).¹ The Republican National Committee (“RNC”) brings strikingly similar claims here, warranting intervention for the same reasons.

The RNC’s attempt to purge statewide voter rolls based on its methodologically unsound comparison between outdated census data and current voter lists strikes at the League’s core mission: to secure eligible Michiganders’ right to vote, to encourage them to do so, and to maintain confidence in the electoral process. Implementing the RNC’s proposed scheme would wreak havoc on election administration across Michigan. It would result in overbroad voter purges, which would impair the League’s interests by requiring the League to devote its limited resources to the re-registration of erroneously purged voters, engage in new education efforts and undertake other costly damage control initiatives. It is just for such reasons that the courts in *Winfrey and Daunt* recognized the League’s compelling interest in participating actively in lawsuits such as this one.

This lawsuit presents even more compelling reasons to grant the League’s motion to intervene. It is broader in scope than either of the two prior actions, and is thus virtually guaranteed to impact the League’s membership. It also comes shortly after this Court found that Defendants had taken reasonable measures to remove deceased voters from the official rolls.²

¹ *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799 (E.D. Mich. 2020); *see also* Order Granting Mot. to Intervene, *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. Sept. 28, 2020), ECF No. 30, at 2.

² *See Pub. Int. Legal Found. v. Benson*, -- F. Supp. 3d --, 2024 WL 1128565, at *12 (W.D. Mich. Mar. 1, 2024) (“*PILF*”). The *PILF* case involved a specific challenge to 27,000 individuals

While couched as an innocuous effort to require Michigan to maintain “clean and accurate voter registration records,” Compl. ¶ 1, ECF No. 1, PageID.1, the RNC’s re-assertion of meritless theories in a critical swing state in the months before a federal election, coupled with its well-publicized project to bring similar lawsuits in other states, reveals this lawsuit’s true nature: A cynical and anti-democratic attempt to sow distrust in elections by attempting to create the appearance of wrongdoing by election administrators where none exists. The League’s participation as Intervenor-Defendant will bring a valuable perspective to the Court in adjudicating this important case.

BACKGROUND

A. The League Of Women Voters Of Michigan

The League is a nonpartisan, nonprofit, grassroots statewide organization formed in April 1919 after Michigan voters granted women suffrage in November 1918. *See* Decl. of Paula Bowman (“Bowman Decl.”) ¶ 5. It is dedicated to encouraging its members and Michiganders generally to exercise their right to vote as protected by the federal Constitution, the Michigan Constitution, and federal and state law. *Id.* ¶ 6. The League impacts public policies, promotes citizen education, and makes democracy work by, among other things, removing unnecessary barriers to full participation in the electoral process. *Id.* ¶ 7.

Currently, the League has 28 local Leagues with over 2,600 members of all political affiliations statewide. *Id.* ¶ 12. The League serves voters in nearly all, if not all, counties in

Plaintiff claimed were deceased. *Id.* at *10. Plaintiffs here seek to purge potentially hundreds of thousands of voters, including living voters, that are all but statistically certain to include League members. *See, e.g.*, Compl. ¶¶ 7–8, 47–49, 60–66, ECF No. 1, PageID.2, 11–14. Denial of other organizations’ intervention in *PILF* in no way undermines the certainty of the League’s stake here, as established below.

Michigan, *id.*, including nearly all, if not all, of the roughly 76 counties Plaintiffs target. Compl. ¶¶ 3–4, 48–49, ECF No. 1, PageID.1, 11–12.

As part of its focus on expanding voter access, the League leads voter registration drives, distributes information about the electoral process, promotes electoral laws and practices that encourage voter participation, partners with local organizations to host events on voting rights and other public policy issues, and conducts election protection throughout the election process, among other activities. Bowman Decl. ¶ 9. It thus has a strong and unique interest in protecting against the deregistration of eligible voters.

The League also concentrates its registration efforts in underserved communities with large numbers of unregistered voters, particularly low-income and communities of color where citizens face unique barriers to registration, keeping their registrations current, or re-registration. *Id.* ¶ 10. In recent years, the League has also focused its attention on combatting misinformation about the electoral process, *id.* ¶ 8, ensuring that voters have access to trustworthy facts about how Michigan elections work.

The League has expertise specifically relevant to the issues in this lawsuit. In particular, it has grappled with improper methodologies used to challenge the accuracy of voter rolls. In partnership with the League’s national and other local chapters, the League and its sister Leagues have investigated and litigated challenges based on the accuracy of voter rolls.³

³ See e.g., Legal battles over voter roll purchase heat up as mail-in ballot fight continues (May 28, 2020), <https://www.lwv.org/newsroom/news-clips/legal-battles-over-voter-roll-purges-heat-mail-ballot-fight-continues> (noting League chapter participation in North Carolina case regarding “aggressive—and potentially unlawful” purging of names from state rolls, due to difficulty in reaching and re-registering eligible voters, as well as Pennsylvania lawsuit relying on “outdated data”); Ambrogi and Senecal: ‘Voter Registration Systems Need Both Access & Security—How ERIC Helps State Government Strike the Balance,’ <https://www.lwv.org/newsroom/news-clips/ambrogi-and-senecal-voter-registration-systems-need-both-access-security-how> (national League analysis of tools used to maintain accurate voter rolls).

Based on its expertise in this area, the League believes that if the Secretary of State embarks on the type of overbroad voter roll purges that Plaintiffs demand, the League's constituencies will be impacted. Bowman Decl. ¶ 14. Among other harms, eligible voters who are wrongly purged may not find out their registration is cancelled until they show up to vote in an election or realize that they have not received their absentee ballot. *Id.* ¶ 15. This can prevent them from voting in elections in which they should have been entitled to vote. *Id.*

B. Plaintiffs' Recycled Attempt To Use The NVRA To Disenfranchise Michigan Voters

Plaintiffs bring a single count alleging Michigan's voter-list maintenance practices violate section 8 of the NVRA. *See* Compl. ¶¶ 12–23, 96–100, ECF No. 1, PageID.12–13, 19–20. They seek permanent injunctive, declaratory, and other statewide relief aimed at intervening in state election administration to significantly purge voter rolls before the November 2024 election. *See id.* at WHEREFORE clause, PageID.20.

As the Court recently explained in dismissing a similar section 8 claim, “Congress enacted the NVRA” to “‘increase the number of eligible citizens who register to vote in elections for Federal office;’” “‘enhance[] the participation of eligible citizens as voters in elections for Federal office;’” “‘protect the integrity of the electoral process;’” and “‘ensure that accurate and current voter registration rolls are maintained.’” *See PILF*, 2024 WL 1128565, at *1 (quoting 52 U.S.C. § 20501(b)(1)–(4) (emphasis added)). Congress enacted these provisions to minimize “‘purge systems’ [that] had been used to ‘violate the basic rights of citizens,’ particularly members of ‘minority communities.’” *Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 264 (4th Cir. 2021) (quoting S. Rep. No. 103–6, 18 (1993)).

In enacting the NVRA, Congress was concerned that voter-list maintenance programs “can be abused and may result in the elimination of eligible voters from the rolls.” S. Rep.

No. 103–6 at 17, 32. Thus, the NVRA aims to “ensure that once a citizen is registered to vote, he or she should remain on the voting rolls so long as he or she remains eligible to vote.” *Id.*

Consistent with these concerns, section 8 requires that states implement only a “general program that makes a reasonable effort to remove the names of ineligible voters,” while also complying with the NVRA’s stringent restrictions on states’ ability to remove voters improperly. *See PILF*, 2024 WL 1128565, at *1 (citations omitted). Thus, “the NVRA requires only a ‘reasonable effort,’ not a perfect effort” and “does not require states to immediately remove every voter who may have become ineligible.” *Id.* at *11. This Court confirmed roughly one month ago that “Michigan’s multilateral process” to remove deceased voters from the rolls is “reasonable.” *Id.*

In the past, as in this lawsuit, partisan organizations have attempted to demonstrate that states’ efforts to maintain accurate voting rolls must be flawed by pointing to alleged discrepancies between the voter rolls and population statistics in electoral jurisdictions. Courts have found many of these methodologies to be “misleading” because they do “not account for growth” or “college students, military personnel, and persons who reside only part of the year” in each county, “all of whom may be properly registered and vote...but would not be included in...population estimates.” *See Bellitto v. Snipes*, 935 F.3d 1192, 1208 (11th Cir. 2019); *see also Jud. Watch, Inc. v. Penn.*, 524 F. Supp. 3d 399, 405–06 (M.D. Pa. 2021) (dismissing section 8 claim where plaintiffs’ underlying voter data is “no longer valid”).

C. Efforts To Sow Distrust In Election Administration

Plaintiffs’ complaint includes several misleading and incomplete representations that distort the state of the voter rolls and the voter-list maintenance process. For example, Plaintiffs use a misleading methodology—comparing a five-year Census average that concludes in 2022 to

the number of *current* registrants—to suggest Michigan’s voter rolls are “suspiciously high.” Compl. ¶ 47, ECF No. 1, PageID.11. But, as the district court in *Bellitto* explained, “The data source used for the number of registered voters...numerator is not commensurate with the source used for the number of eligible voters in [the] denominator. This is because the sources include different groups of voters from different time periods.” *Bellitto v. Snipes*, No. 16-cv-61474 (S.D. Fla. Mar. 30, 2018), ECF No. 244, at 18.

Additionally, Plaintiffs’ complaints about high rates of inactive voters and deficiencies in voter-list maintenance related to voters’ changing residences fail to mention the NVRA’s notice-and-waiting requirement. *See* Compl. ¶¶ 61–67, ECF No. 1, PageID.13–14. Under the NVRA, a registrant may be removed from the rolls “by reason of...a change in the residence of the registrant,” only if the “registrant...confirms in writing that the registrant has changed residence” or “has failed to respond to a notice [and] has not voted or appeared to vote in 2 or more consecutive general elections for Federal office.” 52 U.S.C. § 20507(a)(4)(B), (d)(1)(A)-(B). The NVRA’s notice-and-waiting requirement necessarily means that Michigan voters who are *already* in the removal process for reason of a change in residence will remain on the rolls, in inactive status, for at least two years, in compliance with federal law.

This lawsuit is only one front in the RNC’s multifaceted campaign, in the immediate run up to significant elections, to use the courts to disenfranchise voters, sow distrust in the electoral process, and consume election officials’ resources. Just last week, for example, the RNC sued Secretary Benson and Director Brater in the Michigan Court of Claims alleging they “covertly” directed election officials to violate Michigan Election Law.⁴ The RNC regularly promotes its

⁴ Compl. ¶ 6, *Republican National Committee et al. v. Jocelyn Benson et al.*, No. 24-0000-MZ (Mich. Ct. Cl. Mar. 28, 2024), <https://www.democracymatters.com/wp-content/uploads/2024/03/2024-03-27-Complaint.pdf>

sweeping voter purge efforts in national news media, including as recently as last week on Meet the Press where former RNC chair Ronna McDaniel bragged that “we are in 78 lawsuits right now at the RNC.”⁵

ARGUMENT

I. THE COURT SHOULD GRANT INTERVENTION AS OF RIGHT UNDER RULE 24(A)

A non-party has a right to intervene in an action where: (1) the application to intervene is timely; (2) the applicant has a substantial legal interest in the subject matter of the pending litigation; (3) the applicant’s ability to protect that interest in the absence of intervention may be impaired by disposition of the action; and (4) the parties already before the court do not adequately represent that interest. Fed. R. Civ. P. 24(a)(2). The League satisfies each of these elements.

A. The League’s Motion Is Timely

Courts “evaluate timeliness in the context of all relevant circumstances and consider the following five factors” in determining whether a motion to intervene is timely: (1) the stage of the litigation; (2) the purpose for which intervention is sought; (3) the length of time preceding the motion during which the potential intervenors knew or should have known of their interest in the litigation; (4) the prejudice to the original parties due to the potential intervenors’ failure to promptly move to intervene; and (5) the existence of unique circumstances militating against or in favor of intervention. *Kirsch v. Dean*, 733 Fed. App’x 268, 274–75 (6th Cir. 2018) (internal quotation marks and citation omitted).

⁵ See Meet The Press Tr., National Broadcast Corporation, March 24, 2024, <https://www.nbcnews.com/meet-the-press/meet-press-march-24-2024-n1309365>.

Applying these factors, the League's motion is timely. First, the case is in the nascent stage of litigation. Plaintiffs sued less than one month ago on March 13, 2024, no scheduling conference has been set, and discovery has not commenced. No responsive pleadings have been filed. In *Daunt*, where the League moved to intervene more than three months into the case, this Court held that the League's motion was "obviously timely: there has not even been a Rule 16 yet, and a defense motion to dismiss is still being briefed." *See* Order Granting Mot. to Intervene, *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. Sept. 28, 2020), ECF No. 30, at 2. The League's motion to intervene in *Winfrey* was likewise held to be timely even though it was filed more than two months after commencement of the action, after defendants filed a responsive pleading. 463 F. Supp. 3d at 799.

Second, the League has acted expeditiously. Since receiving notice of this action, the League sought the advice of counsel, determined that its interests may not be adequately represented, and moved to intervene even more promptly than in *Daunt and Winfrey*.

Third, the League seeks to intervene for the proper purpose of protecting the voting rights of its members and of all Michigan citizens who are eligible voters. *See, e.g., Winfrey*, 463 F. Supp. 3d at 799 (finding the League's purpose for intervention of preventing the adoption of "unreasonable" list maintenance measures to be "facially legitimate").

Fourth, there is no prejudice to the original parties because the League promptly moved to intervene and will not alter the timeline upon which this case will be adjudicated. *See id.* at 801. To the contrary, the Court and all parties will benefit from the League's knowledge of election administration and its successful execution of nonpartisan duties in Michigan and elsewhere for more than a century. *Kobach v. U.S. Election Assistance Com'n*, No. 13-cv-4095, 2013 WL 6511874, at *4 (D. Kan. Dec. 12, 2013) ("Applicants' experience, views, and

expertise, particularly as to the effects of the state voting registration requirements at issue on voter registration efforts, will help to clarify, rather than clutter the issues in the action, which will in turn assist the Court in reaching its decision.”). Moreover, “even if some prejudice may result, any complication of the case must be weighed against the value of resolving all competing legal positions within a single decisive lawsuit setting out the prevailing law for all parties to follow.” *Winfrey*, 463 F. Supp. 3d at 801–02 (citing *Buck v. Gordon*, 959 F.3d 219, 225 (6th Cir. 2020)).

Finally, there are no unique circumstances that militate against intervention at this early stage of the proceeding.

B. The League Has a Substantial Legal Interest in the Case

The Sixth Circuit “subscribe[s] to a ‘rather expansive notion of the interest sufficient to invoke intervention of right.’” *Grutter v. Bollinger*, 188 F.3d 394, 398 (6th Cir. 1999) (quoting *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1245 (6th Cir. 1997)). It “has acknowledged that ‘interest’ is to be construed liberally.” *Bradley v. Milliken*, 828 F.2d 1186, 1192 (6th Cir. 1987). For instance, a proposed intervenor is not required to have a “specific legal or equitable interest” in the litigation. *Mich. State AFL-CIO*, 103 F.3d at 1245. Given this expansive understanding of an interest sufficient to invoke intervention as of right, “close cases should be resolved in favor of recognizing an interest.” *Mich. State AFL-CIO*, 103 F.3d at 1247.

As a strong proponent of registration reform and a major sponsor of voter assistance and registration efforts, the League has a compelling interest in protecting against the deregistration of eligible voters that Plaintiffs seek. As the court in *Winfrey* recognized, the League has a “facially legitimate” interest to ensure “that no unreasonable measures are adopted that could pose an elevated risk of removal of legitimate registrations” and “to avoid the need to expend the

resources of the association identifying and aiding incorrectly removed legitimate voters in unnecessary efforts to have their registrations restored, in case they are purged by mistake.” See *Winfrey*, 463 F. Supp. 3d at 798–99; see also Order Granting Mot. to Intervene, *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. Sept. 28, 2020), ECF No. 30, at 2 (recognizing the League’s interest in limiting “the risk of chilling or escalating the costs of voter registration drives”). This interest has been at the core of the League’s mission for more than a century and is reflected in its efforts to help register eligible persons to vote and especially in supporting voters in communities with registration and participation gaps, including people of color and low-income Americans for whom the NVRA was enacted to protect. See S. Rep. No. 103–6, 18. By “[c]omparing the registered active voter count to the 2022 Census data” and employing other facially flawed methodologies to deem 2024 registration rates in these counties “impossibly” or “inordinately high,” the RNC threatens the League’s mission and its members’ valid registrations. Compl. ¶¶ 3, 48, 57, ECF No. 1, PageID.1, 11, 13; Bowman Decl. ¶¶ 14-15.

Courts in other jurisdictions have also recognized the League’s and similar organizations’ interests in protecting access to the ballot, and have granted intervention in cases where such organizations seek to ensure that voters are not wrongfully purged from voter rolls. See, e.g., *Bellitto v. Snipes*, No. 16-CV-61474, 2016 WL 5118568, at *2–3 (S.D. Fla. Sept. 21, 2016) (granting union’s motion to intervene where “its interest and the interests of its members would be threatened by the court-ordered ‘voter list maintenance’ sought by Plaintiffs”); *Kobach*, 2013 WL 6511874, at *4 (permitting the League to intervene because “Applicants have clearly shown their interests in either increasing participation in the democratic process, or protecting voting rights, or both, particularly amongst minority and underprivileged communities”).

C. The League’s Ability to Protect Its Interests Will Be Impaired Absent Intervention

The League is “so situated that disposing of th[is] action may as a practical matter impair or impede [its] ability to protect its interest” in protecting eligible Michigan voters. Fed. R. Civ. P. 24(a)(2). “To satisfy this element of the intervention test, a would-be intervenor need show only that impairment of its substantial legal interest is *possible* if intervention is denied.” *Mich. State AFL-CIO*, 103 F.3d at 1247 (emphasis added). “This burden is minimal.” *Id.*

As discussed, the League’s mission is to promote voter registration and participation, and it commits substantial time and resources to encouraging civic participation and registering voters, including in the counties targeted by the RNC. *See Winfrey*, 463 F. Supp. 3d at 799. Given that available information about the current status and residence of voters is inescapably imperfect, and given that there will be a limited amount of time between any ruling in this case and the national elections in November, if Plaintiffs succeed in requiring Defendants to take additional steps to purge the voter rolls across the State, involving potentially hundreds of thousands of voters, voters who are properly registered will nevertheless be incorrectly stricken from the rolls. As a result, the League’s voter education and registration efforts in Michigan would be set back and the League would have to redirect already-strained resources to ensure that erroneously purged voters learn of their removal and re-register before the election. Bowman Decl. ¶¶ 6–10, 13–16.

Thus, for example, the League would have to educate voters and encourage them to regularly check their registration status. *Id.* ¶ 13. And it would have to combat disenchantment and confusion among Michigan voters (including League members) that will arise if Defendants are forced to institute voter roll purges which—inescapably—will sometimes be mistaken. *Id.* ¶ 18.

D. Defendants May Not Adequately Represent the League's Interest

A proposed intervenor “is not required to show that the representation will in fact be inadequate.” *Mich. State AFL-CIO*, 103 F.3d at 1247. It is sufficient to show that the original parties’ “representation might be inadequate.” *Grutter*, 188 F.3d at 400. Thus, the Sixth Circuit has stated that proposed intervenors’ “burden in showing inadequacy is minimal.” *Id.* at 401. For example, even where the League and the Michigan Secretary of State “appear currently aligned” in defeating Plaintiffs’ voter purging efforts, intervention is appropriate under Sixth Circuit precedent where those interests may diverge. *See Order Granting Mot. to Intervene, Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. Sept. 28, 2020), ECF No. 30, at 2 (citing *Buck*, 959 F.3d at 225).

The evidence of potentially inadequate representation here goes beyond the “minimal” showing required to support intervention: the “Sixth Circuit has recognized that the interests of election officials in voting roll maintenance are sufficiently distinct from those of...their constituents to warrant intervention by those who could be impacted by the results of the maintenance process.” *See Winfrey*, 463 F. Supp. 3d at 799 (citing *League of Women Voters of Mich. v. Johnson*, 902 F.3d 572, 579 (6th Cir. 2018).)

As this Court recently put it: “[o]n the one hand, maintaining clean voter rolls may help ensure election integrity, but on the other hand, purging voters from the rolls requires voters to re-register and hinders participation in elections.” *PILF*, 2024 WL 1128565, at *1 (citations and internal quotation marks omitted). Stated differently, “maximum effort at purging voter lists could minimize the number of ineligible voters, but those same efforts might also remove eligible voters.” *Bellitto*, 935 F.3d at 1198.

These well-recognized, potentially diverging interests between Defendants and the League are more than enough to warrant intervention. Indeed, absent League intervention, the interests of voters may not be fully advanced and protected. *See League of Women Voters of Mich.*, 902 F.3d at 579. While the League does not question Defendants' sincere intent to protect the rights of Michigan voters, Defendants have duties (as well as potential financial and manpower constraints) that may prove inconsistent, or at least in serious tension with, the League's laser-focus on enhancing and protecting the constitutional and statutory rights of voters. *See Kobach*, 2013 WL 6511874, at *4 (“[G]overnment Defendants have a duty to represent the public interest, which may diverge from the private interest of Applicants. As such, the existing Defendants may not adequately represent Applicants' specific interests.”).

To be sure, the Court in *PILF* denied the motion to intervene filed by Detroit/Downriver Chapter of the A. Philip Randolph Institute, the Michigan Alliance for Retired Americans and Rise Inc. at the urging of the Secretary, accepting the Secretary's arguments that the proposed intervenors' application was untimely, that they had not established that their members or constituencies would be among those whose registrations might be adversely affected by a ruling in favor of plaintiff and that, in any event, the intervenors' interests were identical to the Secretary's. *See PILF*, 2024 WL 1128565, at *10-11. By contrast, the Secretary does not oppose the League's timely application here, and for good reason, because courts have recognized the League's “facially legitimate,” distinct interests and expertise in voter-roll maintenance. *See Winfrey*, 463 F. Supp. 3d at 798–99; *League of Women Voters of Mich.*, 902 F.3d at 579; *see also Berger v. N.C. State Conf. of the NAACP*, 142 S. Ct. 2191, 2203–04 (2022) (in granting intervention, discussing why state executive officers are often inadequate representatives for private actors with non-identical interests).

II. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE INTERVENTION UNDER RULE 24(B)

Courts routinely grant permissive intervention without regard to whether an applicant is entitled to intervention as of right. *See, e.g., League of Women Voters of Mich.*, 902 F.3d at 577; *Winfrey*, 463 F. Supp. 3d at 799. To permissively intervene, “a proposed intervenor must establish that the motion for intervention is timely and alleges at least one common question of law or fact.” *United States v. Michigan*, 424 F.3d 438, 445 (6th Cir. 2005). Once established, the district court will consider the possible undue delay and prejudice to the original parties and any other relevant factors. *Id.*

For the reasons above, this motion is timely and the League’s intervention will result in no prejudice or delay; if anything, its election expertise and nonpartisan focus may simplify the case. And the League indisputably raises common issues of law and fact. The League should be permitted to intervene here for the same reasons that intervention was permitted in *Daunt* and *Winfrey*. *See Winfrey*, 463 F. Supp. 3d at 799–802; *see also* Order Granting Mot. to Intervene, *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. Sept. 28, 2020), ECF No. 30, at 1–2.

CONCLUSION

The League respectfully requests that the Court grant its motion to intervene.

Dated: April 4, 2024

Respectfully submitted,

/s/ Eliza Sweren-Becker

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**Application for admission forthcoming*

CERTIFICATE OF COMPLIANCE

This document was prepared using Microsoft Word MSO (Version 2309 Build 16731.20600) (64-bit). The word count for the League’s Brief in Support of Motion to Intervene as provided by that software is 4,295, which is less than the 4,300-word limit for a brief filed in support of a nondispositive motion.

Respectfully submitted,

/s/ Eliza Sweren-Becker

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CERTIFICATE OF SERVICE

I certify that on April 4, 2024, I caused a true and correct copy of the foregoing document to be filed and served electronically via the ECF system.

Respectfully submitted,

/s/ Eliza Sweren-Becker _____

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EXHIBIT B

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

REPUBLICAN NATIONAL COMMITTEE, JORDAN
JORRITSMA, and EMERSON SILVERNAIL,

Plaintiffs,

v.

JOCELYN BENSON, in her official capacity as Michigan
Secretary of State; JONATHAN BRATER, in his official
capacity as Director of the Michigan Bureau of Elections,

Defendants.

Case No. 1:24-CV-00262
Hon. Jane M. Beckering
Mag. Judge Ray S. Kent

**PROPOSED ANSWER IN INTERVENTION BY NON-PARTY
LEAGUE OF WOMEN VOTERS OF MICHIGAN**

The League of Women Voters of Michigan (the “League” or “Intervenor-Defendant”), by and through the undersigned counsel, hereby submits this proposed answer to the Complaint filed by Plaintiffs Republican National Committee, Jordan Jorritsma, and Emerson Silvernail (collectively, “Plaintiffs”).

Except as otherwise expressly admitted herein, the League denies each and every allegation in the Complaint. The League further expressly denies that the Plaintiffs are entitled to the requested, or any other, relief, and expressly denies that the State of Michigan has violated any provision of the National Voter Registration Act (“NVRA”), and states that Michigan has engaged in reasonable efforts to remove ineligible voters from its official lists of eligible voters. The League expressly reserves the right to amend and/or supplement this Answer, and to request dismissal of the Complaint on any and all grounds.

The League responds to the specific allegations in the Complaint as follows.

INTRODUCTION¹

1. Section 8 of the NVRA requires States to maintain clean and accurate voter registration records.

Answer: Paragraph 1 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed factual allegations, Intervenor-Defendant denies the characterization of the statute's requirements and refers to the cited statute for the full contents thereof.

2. Michigan has failed to live up to the NVRA's requirements.

Answer: Paragraph 2 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

3. At least 53 Michigan counties have more active registered voters than they have adult citizens who are over the age of 18. That number of voters is impossibly high.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence in paragraph 3. Intervenor-Defendant denies the characterization contained in the second sentence in paragraph 3.

4. An additional 23 counties have active-voter registration rates that exceed 90 percent of adult citizens over the age of 18. That figure far eclipses the national and statewide voter registration rate in recent elections.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.

¹ The League is not required to respond to the headings or subheadings in the Complaint. To the extent that a response is required, the League denies the averments to all headings and subheadings in the Complaint.

5. This is not the first time Michigan has failed to abide by the NVRA's requirements. In 2020, Michigan election officials were sued in this Court for violating the NVRA. *See Daunt v. Benson*, Doc. 1, No. 1:20-cv-522 (W.D. Mich. June 9, 2020).

Answer: The first sentence of paragraph 5 purports to state a conclusion of law as to which no response is required; but to the extent it may be deemed to be a factual allegation, Intervenor-Defendant denies them. Intervenor-Defendant denies the allegations contained in the second sentence of paragraph 5 on the basis that it purports to summarize the case *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. June 9, 2020), which speaks for itself, and refers to the entire record of the cited case for the full contents thereof.

6. At the time, Michigan had one county with registration rates in excess of 100% of the voting-age population, and 15 counties with rates above 90%. The state defendants moved to dismiss the case, but this Court denied the motions.

Answer: Intervenor-Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 6. Intervenor-Defendant admits that the Court denied the motion to dismiss in *Daunt*, but otherwise denies the allegations contained in the second sentence of paragraph 6 on the basis that it purports to summarize the ruling in *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. June 9, 2020), which speaks for itself, and refers to the entire record of the cited case for the full contents thereof.

7. Soon after the Court denied the motions to dismiss, the Secretary of State publicly announced that election officials would cancel the registration of 177,000 former voters who either surrendered a Michigan driver's license to another state or had election mail returned undeliverable to an election official before the 2018 election. *See* Doc. 58, No. 1:20-cv-522. In addition, the Bureau of Elections declared it would provide local election clerks the absentee

ballot applications returned undeliverable to the Bureau for the 2020 election, and it would mail additional notifications requiring verification to voters listed as registered in other states by the Electronic Registration Information Center. Based on these representations, the plaintiffs voluntarily dismissed the case.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 7 on the basis that it purports to summarize the Stipulation of Dismissal filed in *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. June 9, 2020), which speaks for itself, and refers to the entire record of the cited case for the full contents thereof. Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 7.

8. But since *Daunt*, Michigan's voter rolls have gotten exponentially worse. In 2020, Michigan had one county with registration rates above 100% of the voting-age population. Now it has 53.

Answer: Intervenor-Defendant denies the allegations in the first sentence of paragraph 8. Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 8.

9. Based on this and other evidence, Defendants are failing to make a reasonable effort to conduct appropriate list maintenance as required by the NVRA.

Answer: Paragraph 9 purports to state a conclusion of law as to which no response is required; but to the extent it may be deemed to be factual allegations, Intervenor-Defendant denies them.

JURISDICTION AND VENUE

10. The Court has subject-matter jurisdiction because this case alleges violations of the NVRA. *See* 28 U.S.C. §1331; *Ex parte Young*, 209 U.S. 123 (1908).

Answer: Intervenor-Defendant admits the allegations contained in paragraph 10.

11. Venue is proper because a substantial part of the events or omissions giving rise to the claims occurred in this District and because some Defendants “reside” here. 28 U.S.C. §1391.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11.

PARTIES

12. Plaintiff, the Republican National Committee, is the national committee of the Republican Party, as defined by 52 U.S.C. §30101(14), with its principal place of business at 310 First Street S.E., Washington, DC 20003.

Answer: Intervenor-Defendant admits the allegations contained in paragraph 12.

13. The RNC represents over 30 million registered Republicans in all 50 states, the District of Columbia, and the U.S. territories. It is comprised of 168 voting members representing state Republican Party organizations, including three members who are registered voters in Michigan.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13.

14. The RNC works to elect Republican candidates to state and federal office. In November 2024, its candidates will appear on the ballot in Michigan for numerous federal and state offices.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14.

15. The RNC has vital interests in protecting the ability of Republican voters to cast, and Republican candidates to receive, effective votes in Michigan elections and elsewhere. The

RNC brings this suit to vindicate its own rights in this regard, and in a representational capacity to vindicate the rights of its members, affiliated voters, and candidates.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15.

16. The RNC and its members are concerned that Defendants' failure to comply with the NVRA's voter-list maintenance obligations undermines the integrity of elections by increasing the opportunity for ineligible voters or voters intent on fraud to cast ballots. The RNC thus monitors state and local election officials' compliance with their NVRA list maintenance obligations through publicly available records from jurisdictions across the nation.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 concerning the RNC's beliefs and actions. Intervenor-Defendant otherwise denies the allegations in Paragraph 16.

17. In addition, the RNC relies on voter registration lists to determine its plans and budgets. The RNC relies on registration lists to estimate voter turnout, which informs the number of staff the RNC needs in a given jurisdiction, the number of volunteers needed to contact voters, and how much the RNC will spend on paid voter contacts. If voter registration lists include names of voters who should no longer be on the list, the RNC may spend more resources on mailers, knocking on doors, and otherwise trying to contact voters, or it may misallocate its scarce resources among different jurisdictions.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17.

18. Plaintiff Jordan Jorritsma is a registered Michigan voter who lives in Ottawa County. Mr. Jorritsma is a legislative director for the Michigan House of Representatives, and he

currently serves on the Ottawa County Land Bank Authority. Mr. Jorritsma regularly votes in Michigan's primary and general elections. He plans to vote in Michigan's upcoming elections, including for U.S. President, U.S. Senate, and other federal, local, and statewide offices and ballot measures.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18.

19. Because Defendants do not maintain accurate voter rolls, Mr. Jorritsma reasonably fears that ineligible voters can and do vote in Michigan elections. Those votes will dilute his legitimate vote. And Michigan's inaccurate rolls undermine Mr. Jorritsma's confidence in the integrity of Michigan elections, which also burdens his right to vote.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 concerning Mr. Jorritsma's state of mind. Intervenor-Defendant otherwise denies the allegations in paragraph 19.

20. Mr. Jorritsma is an active member of the Republican Party. He is running for election as county commissioner for District 2 in Ottawa County this November. Mr. Jorritsma works in Michigan to advance conservative policies and to help elect Republican candidates.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20.

21. Plaintiff Emerson Silvernail is a registered Michigan voter. Mr. Silvernail is a legislative director in the Michigan House of Representatives who regularly votes in Michigan's primary and general elections. He plans to vote in Michigan's upcoming elections, including for U.S. President, U.S. Senate, and other federal, local, and statewide offices and ballot measures.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21.

22. Because Defendants do not maintain accurate voter rolls, Mr. Silvernail reasonably fears that ineligible voters can and do vote in Michigan elections. Those votes will dilute his legitimate vote. And Michigan's inaccurate rolls undermine Mr. Silvernail's confidence in the integrity of Michigan elections, which also burdens his right to vote.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 concerning Mr. Silvernail's state of mind. Intervenor-Defendant otherwise denies the allegations in paragraph 22.

23. Because Defendants do not maintain accurate voter rolls, all Plaintiffs must deploy their time and resources to spend more of them monitoring Michigan elections for fraud and abuse, mobilizing voters to counteract it, educating the public about election-integrity issues, and persuading elected officials to improve list maintenance.

Answer: Intervenor-Defendant denies the allegations in paragraph 23.

24. The RNC has expended substantial time and resources investigating Defendants' failure to comply with their list-maintenance obligations. It has communicated with Michigan officials and concerned members about Defendants' failures, and it has researched statements made by Defendants in their correspondence.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 concerning the RNC's actions. Intervenor-Defendant otherwise denies the allegations in paragraph 24.

25. Were it not for Defendants' failure to comply with their list-maintenance obligations, the RNC would have expended those resources on other activities or would not have

expended them at all. Instead, it diverted its resources to counteract Defendants' noncompliance and to protect its members' rights.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 concerning the RNC's actions. Intervenor-Defendant otherwise denies allegations in paragraph 25.

26. Defendant Jocelyn Benson is Michigan's Secretary of State. She is the State's chief election officer, Mich. Comp. Laws §168.21, and is responsible for coordinating the statewide list maintenance required by the NVRA, 52 U.S.C. §20509. Secretary Benson is sued in her official capacity.

Answer: Intervenor-Defendant admits the allegations contained in paragraph 26.

27. Defendant Jonathan Brater is Michigan's Director of Elections. He is responsible for "perform[ing] the duties of the secretary of state under his or her supervision, with respect to the supervision and administration of the election laws." Mich. Comp. Laws §168.32. Director Brater is sued in his official capacity.

Answer: Intervenor-Defendant admits that Jonathan Brater is Michigan's Director of Elections with certain responsibilities described by law and is sued in his official capacity. Intervenor-Defendant denies the allegations contained in the second sentence of paragraph 27 on the basis that it is only a partial quotation of the cited statute, and refers to the cited statute for the full contents thereof. Intervenor-Defendant admits the allegations contained in the last sentence.

BACKGROUND

I. Federal law requires States to maintain accurate voter rolls.

28. Congress enacted the NVRA "to protect the integrity of the electoral process." 52 U.S.C. §20501(b)(3). Specifically, section 8 was enacted "to ensure that accurate and current voter registration rolls are maintained." *Id.* §20501(b)(4).

Answer: Paragraph 28 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 28 on the basis that it is only a partial quotation of Section 8 of the NVRA, which speaks for itself, and refers to the cited statute for the full contents thereof.

29. Retaining voter rolls bloated with ineligible voters harms the electoral process, heightens the risk of electoral fraud, and undermines public confidence in elections. “Confidence in the integrity of our electoral processes is,” in turn, “essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006).

Answer: Intervenor-Defendant denies the first sentence of paragraph 29. The second sentence of paragraph 29 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations in the second sentence of paragraph 29 on the basis that it is only a partial quotation from the cited case, which speaks for itself, and refers to the cited case for the full contents thereof.

30. Section 8 obligates States to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters” due to death or change of residence. 52 U.S.C. §20507(a)(4). “[F]ederal law makes this removal mandatory.” *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1842 (2018).

Answer: Paragraph 30 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 30 on the basis that it is only a partial quotation of section 8 of the NVRA and of the cited case, which speak for themselves, and refers to the cited statute and case for the full contents thereof.

31. Each State’s program for maintaining voter-registration lists must be “uniform, non-discriminatory, and in compliance with the Voting Rights Act.” 52 U.S.C. §20507(b)(1).

Answer: Paragraph 31 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 31 on the basis that it is only a partial quotation of section 8 of the NVRA, which speaks for itself, and refers to the cited statute for the full contents thereof.

32. Specifically, section 8 requires States to “remove the names of ineligible voters from the official lists of eligible voters by reason of (A) the death of the registrant or (B) a change in the residence of the registrant” to outside her current voting jurisdiction. 52 U.S.C. §20507(4)(A)-(B).

Answer: Paragraph 32 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 32 on the basis that it is only a partial quotation of section 8 of the NVRA, which speaks for itself, and refers to the cited statute for the full contents thereof.

33. The Help America Vote Act (HAVA) also mandates that states adopt computerized statewide voter registration lists and maintain them “on a regular basis” in accordance with the NVRA. 52 U.S.C. §21083(a)(2)(A).

Answer: Paragraph 33 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 33 on the basis that it is only a partial quotation of HAVA, which speaks for itself, and refers to the cited statute for the full contents thereof.

34. States must “ensure that voter registration records in the State are accurate and are updated regularly,” an obligation that includes a “reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters.” 52 U.S.C. §21083(a)(4).

Answer: Paragraph 34 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 34 on the basis that it is only a partial quotation of HAVA, which speaks for itself, and refers to the cited statute for the full contents thereof.

35. HAVA’s list-maintenance requirements include coordination with “State agency records on death” and “State agency records on felony status” to facilitate the removal of individuals who are deceased or rendered ineligible under state law due to a felony conviction. 52 U.S.C. §21083(a)(2)(A)(ii)(I)-(II).

Answer: Paragraph 35 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 35 on the basis that it is only a partial quotation of HAVA, which speaks for itself, and refers to the cited statute for the full contents thereof.

36. According to the bipartisan Carter-Baker Commission, “registration lists lie at the root of most problems encountered in U.S. elections.” Comm. on Federal Election Reform, *Building Confidence in U.S. Elections* 10 (Sept. 2005) (Carter-Baker Report). Inaccurate voter rolls that contain “ineligible, duplicate, fictional, or deceased voters” invite “fraud.” *Id.* Although voter fraud is often difficult to detect, “the risk of voter fraud [is] real,” and can “affect the outcome of a close election.” *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (op. of Stevens, J.). And regardless of whether fraud is detected, “the perception of possible

fraud contributes to low confidence in the system.” Carter-Baker Report, *supra*, at 18. The Supreme Court agrees. *See Crawford*, 553 U.S. at 193-97.

Answer: Paragraph 36 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 36 on the basis that it is only a partial quotation of the cited material and of the cited case, which speak for themselves, and refers to the cited material and case for the full contents thereof.

37. Other courts and experts have likewise recognized that voter fraud is both real and notoriously “difficult to detect and prosecute.” *Tex. Democratic Party v. Abbott*, 961 F.3d 389, 396 (5th Cir. 2020); *see also Griffin v. Roupas*, 385 F.3d 1128, 1130-31 (7th Cir. 2004) (“Voting fraud is a serious problem in U.S. elections ... and it is facilitated by absentee voting.”); *Veasey v. Perry*, 71 F. Supp. 3d 627, 641 (S.D. Tex. 2014) (finding broad “agreement that voter fraud actually takes place in abundance in connection with absentee balloting”); *Tex. Democratic Party*, 961 F.3d at 414 (Ho, J., concurring) (“[C]ourts have repeatedly found that mail-in ballots are particularly susceptible to fraud.”).

Answer: Paragraph 37 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the remaining allegations contained in paragraph 37 on the basis that they are only partial quotations of the cited cases, which speak for themselves, and refers to the cited cases for the full contents thereof.

38. Voter fraud is very real in Michigan. Several recent elections have suffered from voter fraud. *See, e.g., Kara Berg, Oak Park Guardian Pleads Guilty to 7 Counts of Voter Fraud in 2020 Election*, Detroit News (July 3, 2023), <https://perma.cc/C8C4-6ZLP>; Lynsey Mukomel,

Macomb County Nursing Home Employee Pleads Guilty in Attempted Election Fraud Case, Mich. Dep't Att'y Gen. (Feb. 24, 2022), <https://perma.cc/3L3F-3N47>; Jameson Cook, *Former Sterling Heights Candidate Admits to Falsifying Absentee-Voter Ballots*, Macomb Daily (Oct. 16, 2023), <https://perma.cc/MR65-STJ7>.

Answer: The first sentence of paragraph 38 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them. Intervenor-Defendant admits that paragraph 38 purports to cite to various news articles, which speak for themselves, and refers to the cited materials for the full contents thereof. Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the articles cited in paragraph 38.

39. To help address voter fraud and ensure compliance with federal election law, the NVRA includes a private right of action. It empowers any “person who is aggrieved by a violation” to “provide written notice of the violation to the chief election official of the State involved.” 52 U.S.C. §20510(b)(1). “If the violation is not corrected within 90 days after receipt of a notice, ... the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief.” *Id.* §20510(b)(2).

Answer: Paragraph 39 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 39 on the basis that it is only a partial quotation of section 10 of the NVRA, which speaks for itself, and refers to the cited statute for the full contents thereof.

II. Defendants have specific obligations under the NVRA.

40. Federal and state law make Michigan’s Secretary of State primarily responsible for list maintenance.

Answer: Paragraph 40 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 40.

41. The NVRA requires each State to “designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under” the law. 52 U.S.C. §20509.

Answer: Paragraph 41 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 41 on the basis that it is only a partial quotation of section 8 of the NVRA, which speaks for itself, and refers to the cited statute for the full contents thereof.

42. Michigan law designates the Secretary of State as the State’s chief election officer. Mich. Comp. Laws §168.21. It further instructs the Director of Elections to “perform the duties of the secretary of state under his or her supervision, with respect to the supervision and administration of the election laws.” *Id.* §168.32.

Answer: Paragraph 42 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant admits the allegations contained in the first sentence of paragraph 42. Intervenor-Defendant denies the allegations contained in the second sentence of paragraph 42 on the basis that it is only a partial quotation of the cited statute, which speaks for itself, and refers to the cited statute for the full contents thereof.

43. Ultimate responsibility for coordinating and overseeing all list maintenance activities rests with the Secretary. A chief election official “may not delegate the responsibility to

conduct a general program to a local official and thereby avoid responsibility if such a program is not reasonably conducted.” *United States v. Missouri*, 535 F.3d 844, 850 (8th Cir. 2008).

Answer: Paragraph 43 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 43 and, on that basis, denies those allegations. Intervenor-Defendant denies the allegations in the second sentence of paragraph 43 on the basis that it is only a partial quotation from the cited case, which speaks for itself, and refers to the cited case for the full contents thereof.

44. Indeed, “the NVRA’s centralization of responsibility counsels against ... buck passing.” *Scott v. Schedler*, 771 F.3d 831, 839 (5th Cir. 2014). Courts have rejected the view that, “once the state designates” a local entity to assist with complying with federal law, “her responsibility ends.” *Harkless v. Brunner*, 545 F.3d 445, 452 (6th Cir. 2008). “[I]f every state passed legislation delegating” their responsibilities “to local authorities, the fifty states would be completely insulated from any enforcement burdens.” *Id.*

Answer: Paragraph 44 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 44 on the basis that it is only a partial quotation from the cited cases, which speak for themselves, and refers to the cited cases for the full contents thereof.

45. When Michigan officials were sued for these same violations in 2020, the Secretary and Director of Elections stipulated to the dismissal of the county defendants in recognition of the fact that “the Secretary of State has the ultimate responsibility for maintaining Michigan’s voter rolls.” *Daunt*, Doc. 27, No. 1:20-cv-522.

Answer: Paragraph 45 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations in paragraph 45 on the basis that it is a partial quotation of the Stipulation of Dismissal filed in *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. June 9, 2020), which speaks for itself, and refers to the entire record of the cited case for the full contents thereof.

III. Defendants have failed to comply with their list-maintenance obligations.

46. Just a decade ago, “24 million voter registrations in the United States— about one in eight—[were] either invalid or significantly inaccurate.” *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 760 (2018) (citing Pew Center on the States, Election Initiatives Issue Brief (Feb. 2012)). Michigan is no exception, and the evidence underscores the *inaccuracy* of Michigan’s registration records.

Answer: The first sentence of Paragraph 46 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations in the first sentence of paragraph 46 on the basis that it is only a partial quotation from the cited case, which speaks for itself, and refers to the cited case for the full contents thereof. Intervenor-Defendant denies the remaining allegations in paragraph 46.

47. Based on data gathered from the U.S. Census Bureau’s 2022 American Community Survey and the most up-to-date count of registered active voters available from the Michigan Bureau of Elections, 53 counties have more active registered voters than voting-eligible citizens, and 23 other counties have suspiciously high rates of active voter registration.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47.

48. Comparing the registered active voter count to the 2022 Census data reveals that these 53 counties have active voter registration rates at or above 100 percent of their citizen

voting-age populations: Alcona (112%), Allegan (104%), Alpena (101%), Antrim (111%), Arenac (104%), Barry (102%), Benzie (108%), Berrien (102%), Calhoun (101%), Cass (101%), Charlevoix (105%), Cheboygan (104%), Crawford (110%), Delta (104%), Dickinson (100%), Emmet (104%), Genesee (104%), Gladwin (103%), Gogebic (101%), Grand Traverse (101%), Huron (100%), Iosco (104%), Iron (106%), Kalkaska (115%), Kent (100%), Keweenaw (114%), Lapeer (102%), Leelanau (108%), Livingston (102%), Mackinac (114%), Macomb (101%), Mason (104%), Menominee (101%), Missaukee (106%), Monroe (100%), Montmorency (110%), Muskegon (101%), Newaygo (103%), Oakland (101%), Oceana (105%), Ogemaw (106%), Ontonagon (101%), Osceola (101%), Oscoda (110%), Otsego (111%), Presque Isle (107%), Roscommon (110%), Schoolcraft (107%), Shiawassee (102%), St. Clair (102%), Van Buren (104%), Wayne (101%), and Wexford (105%).

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48.

49. An additional 23 counties purport to have more than 90 percent of their citizen voting-age populations registered and active: Alger (98%), Baraga (95%), Bay (99%), Branch (96%), Clinton (98%), Eaton (98%), Hillsdale (95%), Jackson (94%), Kalamazoo (95%), Lake (98%), Lenawee (95%), Luce (99%), Manistee (99%), Marquette (93%), Mecosta (91%), Midland (100%), Montcalm (95%), Ottawa (98%), Saginaw (99%), Sanilac (97%), St. Joseph (99%), Tuscola (98%), and Washtenaw (93%).

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49.

50. These voter registration rates are abnormally or, in the case of counties with greater than 100 percent registration, impossibly high.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 50.

51. According to the U.S. Census Bureau, only 69.1% of the citizen voting-age population was registered nationwide in the November 2022 election.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51.

52. Similarly, only 72.7% of the citizen voting-age population was registered nationwide in the November 2020 election.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52.

53. The U.S. Census Bureau further reported that Michigan's statewide voter registration rates for the 2022 and 2020 elections were 77.1% and 73.8% of the citizen voting-age population, respectively.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53.

54. Thus, these 76 counties are significant outliers, touting voter registration rates 17 to 54 percentage points higher than the national figures from 2022 and 2020, and 13 to 41 percentage points above the State figures for the same period.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54.

55. There is no evidence that these counties experienced above-average voter participation compared to the rest of the country or State. The only explanation for these discrepancies is substandard list maintenance.

Answer: Paragraph 55 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

56. “[S]ignificantly high registration rates” such as these “give rise to the inference” that election officials are “not properly implementing a program to maintain an accurate and current voter registration roll, in violation of the NVRA.” *Am. C.R. Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 791 (W.D. Tex. 2015).

Answer: Paragraph 56 purports to state conclusions of law to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 56 on the basis that it is only a partial quotation from the cited case, which speaks for itself, and refers to the cited case for the full contents thereof.

57. Other methodologies show that several Michigan counties have inordinately high inactive registration rates, indicating that the State’s general program does not make a reasonable effort to remove outdated registrations.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first part of paragraph 57. The second part of paragraph 57 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

58. In 2023, the U.S. Election Assistance Commission published its biannual report covering the registration period between the 2020 and 2022 general elections. *See* U.S. Election Assistance Comm’n, *Election Administration and Voting Survey 2022 Comprehensive Report* (June 2023), <https://perma.cc/28SQ-T24L>.

Answer: Intervenor-Defendant admits the allegations contained in paragraph 58.

59. Among other things, the EAC's survey requests data concerning the number of registrations removed for voters' failure to respond to an address confirmation notice.

Answer: Intervenor-Defendant admits the allegations contained in paragraph 59.

60. The EAC report indicates that in 2022 Michigan reported 928,845 inactive registrations, representing 11.3% of the total registrations. The number is slightly above the national average of 11.1%.

Answer: Intervenor-Defendant admits the allegations in the first sentence of paragraph 60.

Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 60.

61. Several Michigan counties have inactive registration rates of 15% or greater, well above the state and national averages. Those counties are Gogebic (20%), Washtenaw (20%), Dickinson (17%), Isabella (16%), St. Joseph (16%), Berrien (15%), Baraga (15%), Cass (15%), Menominee (15%), and Ingham (15%).

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61.

62. Having a high percentage of inactive registrations is an indication that a state or jurisdiction is not removing inactive registrations after two general federal elections.

Answer: Intervenor-Defendant denies the allegations in paragraph 62.

63. Michigan's maintenance efforts are especially deficient when it comes to removing voters who have changed residence. *See* 52 U.S.C. §20507(d)(1).

Answer: Paragraph 63 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

64. In response to the EAC's survey for the 2020-2022 period, 10 Michigan counties reported cancelling less than 2% of their registration lists for residency changes during that period. That is, registrations that were cancelled because the voter moved away or failed to respond to an address confirmation notice represented just 2% of the total number of registrants in those counties. And those cancellations are spread out over a two-year period, which means that these counties cancelled on average less than 1% of their registration lists per year for residency changes. Those counties are Alcona, Bay, Huron, Ionia, Missaukee, Montcalm, Newaygo, Presque Isle, Sanilac, and Shiawassee.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64.

65. The most recent census data shows that more than 12% of Michigan's residents were not living in the same house as a year ago. For the 10 counties listed in paragraph 64, the percentage of those changing residences each year ranges from 7.4% (Presque Isle County) to 12.8% (Missaukee County).

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65.

66. Other counties experiences even higher relocation rates with still relatively few cancellations. In Isabella County, for example, 23.5% of residents moved within the last year, but the county removed on average only about 1.4% of its registered voters for residency changes during that time.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66.

67. Despite the frequent moves, the entire State sent out only 590,172 confirmation notices during the two-year reporting period, representing just 8.1% of active voters. More than 30% of those notices were returned as undeliverable. Another 14% were returned as invalid. Only 0.1% of confirmation notices sent out to Michigan voters were confirmed as valid.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67.

68. Compounding the problem, Michigan removed only 485,916 registrations during that period, representing just 5.9% of registered voters. Nearly half of those cancellations were deceased voters.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68.

69. Michigan's impossibly high registration rates, large rates of inactive registered voters, low numbers of address confirmations, and low numbers of removals indicate an ongoing, systemic problem with its voter list maintenance efforts.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 69.

70. Defendants' failure to maintain accurate voter rolls violates federal law and jeopardizes the integrity of the State's upcoming elections.

Answer: Paragraph 70 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

71. Similarly bloated voter rolls in other States have led to litigation that exposes these NVRA violations.

Answer: Paragraph 71 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations in paragraph 71.

72. For example, the United States sued Indiana for violating the NVRA in 2006, noting in its complaint that “25 counties had registration totals of 90-95%” of their voting-age population. Indiana quickly confessed to violating the NVRA in a consent decree.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72.

73. Private organizations sued Indiana in 2012, explaining that “26 counties ... have voter registration rolls that contain between 90% and 100% of TVAP.” Indiana agreed to conduct a significant, statewide process to clean up its voter rolls.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73.

74. Ohio was sued on the same grounds, and it ultimately agreed to implement heightened review of the accuracy of its voter rolls.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74.

75. In December 2019, another organization sued Detroit under the NVRA, alleging that “Detroit has more registered voters than adult citizens of voting age (106%).” The suit was dismissed on June 29, 2020, because Detroit removed substantial numbers of invalid registrations.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 75 on the basis that it purports to summarize the complaint and the Stipulation of Dismissal in *PILF v. Winfrey*,

2:19-cv-13638, which speak for themselves, and refers to the entire record of the cited case for the full contents thereof.

76. In September 2021, voters sued North Carolina, alleging that “40 counties in North Carolina have registration rates that far eclipse the national and statewide voter-registration rate in recent elections.” The district court denied the defendants’ motion to dismiss, and the case is now in discovery.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76.

77. Michigan is also no stranger to these proceedings. In June 2020, Tony Daunt sued Michigan’s Secretary of State and Director of Elections in this Court for violating the NVRA. *See Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. June 9, 2020). The complaint alleged that one county had more registered voters than adult citizens over the age of 18, and an additional 15 counties had voter registration rates that exceeded 90 percent of adult citizens over the age of 18.

Answer: Intervenor-Defendant admits that Tony Daunt sued the Secretary of State and Director of Elections, but otherwise denies the allegations contained in paragraph 77 on the basis that it purports to summarize the complaint filed in *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. June 9, 2020), which speaks for itself, and refers to the entire record of the cited case for the full contents thereof.

78. This Court denied the defendants’ motions to dismiss, holding that the complaint stated a claim for an NVRA violation.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 78 on the basis that it purports to summarize the court’s holding in *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich.

June 9, 2020), which speaks for itself, and refers to the cited decision for the full contents thereof.

79. The suit was voluntarily dismissed in February 2021 because the Secretary agreed to slate 177,000 erroneous registrations for cancellation and implement other list-maintenance reforms.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 79 on the basis that it purports to summarize the Stipulation of Dismissal in *Daunt v. Benson*, No. 1:20-cv-522 (W.D. Mich. June 9, 2020), which speaks for itself, and refers to the entire record of the cited case for the full contents thereof.

80. Yet Michigan's rolls are even more inflated now. In *Daunt*, one county showed more registered voters than voting-eligible citizens. That number has swelled to 53 counties. Michigan represented in 2021 that it would improve the accuracy of its voter rolls. It has failed to live up to that promise.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 80.

81. Michigan also received criticism for its efforts in removing deceased voters from rolls in *Public Interest Legal Foundation v. Benson*, No. 1:21-cv-929 (W.D. Mich.). This Court ruled on summary judgment that the record in that case "demonstrate[d] that deceased voters are removed from Michigan's voter rolls on a regular and ongoing basis," and thus the state officials did not violate the NVRA as a matter of law.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 81 on the basis that it purports to summarize the court's decision in *Public Interest Legal Foundation v. Benson*,

No. 1:21-cv-929 (W.D. Mich.), which speaks for itself, and refers to the entire record of the cited case for the full contents thereof.

IV. Plaintiffs provided Defendants notice of their statutory violations.

82. Under the NVRA, “Plaintiffs have [statutory] standing assuming they provided proper notice within the meaning of 52 U.S.C. §20510(b)(1).” *Bellitto v. Snipes*, 221 F. Supp. 3d 1354, 1362 (S.D. Fla. 2016).

Answer: Paragraph 82 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 82 on the basis that it is only a partial quotation from the cited case and refers to the cited case for the full contents thereof.

83. On December 8, 2023, Plaintiffs mailed a statutory notice letter to Secretary of State Jocelyn Benson and Director of Elections Jonathan Brater, notifying them of 78 Michigan counties that are in violation of section 8 and formally requesting that they correct the violations within 90 days. *See* Exh. A.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 83.

84. Plaintiffs have since received updated comparisons based on recently available data, revealing that nearly all Michigan counties are in violation of section 8. Those numbers are reflected in the allegations above.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 concerning information in Plaintiffs’ possession. Paragraph 84 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations in paragraph 84.

85. The notice stated that Plaintiffs “hope[d] to avoid litigation and would welcome immediate efforts by your office to bring Michigan into compliance with Section 8.”

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85.

86. Plaintiffs asked that Defendants ensure they have a “comprehensive, nondiscriminatory” list maintenance program in place that complies with federal law, and to “identify and remove” several categories of ineligible individuals “from the official lists of eligible voters.”

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 86.

87. Plaintiffs also asked that Defendants “respond in writing within 45 days of the date of this letter,” “fully describ[ing] the efforts, policies, and programs [they] are taking, or plan to undertake before the 2024 general election to bring Michigan into compliance with Section 8,” as well as when they “plan to begin and complete each specified measure and the results of any programs or activities [they] have already undertaken.”

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87.

88. Additionally, asked Defendants to state “what policies are presently in place, or will be put in place, to ensure effective and routine coordination of list maintenance activities,” and “a description of the specific steps [Defendants] intend to take to ensure routine and effective list maintenance on a continuing basis beyond the 2024 election.”

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88.

89. Finally, Plaintiffs requested that Defendants take steps to preserve documents as required by section 8(i) of the NVRA, 52 U.S.C. §20507(i)(1)-(2), and other federal law. *See, e.g., In re Enron Corp. Sec., Derivative & Erisa Litig.*, 762 F. Supp. 2d 942, 963 (S.D. Tex. 2010) (“The obligation to preserve evidence arises when the party has notice that the evidence is relevant to litigation or when a party should have known that the evidence may be relevant to future litigation.”).

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 89. The second sentence of Paragraph 89 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies the allegations contained in paragraph 89 on the basis that it characterizes and is only a partial quotation from the cited case and refers to the cited material for the full contents thereof.

90. The notice letter stated that Plaintiffs would file a lawsuit under 52 U.S.C. §20510(b)(2) if the identified violations were not corrected within 90 days of receipt of the letter.

Answer: Intervenor-Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90.

91. Defendants have failed to correct the violations of the NVRA identified in the notice letter and this complaint.

Answer: Intervenor-Defendant denies the allegations contained in paragraph 91.

92. Plaintiffs Jordan Jorritsma, Emerson Silvernail, and all individual members of the RNC who are lawfully registered to vote in Michigan, have rights under both the U.S. Constitution and the Michigan Constitution to vote in federal and state elections, as well as

statutory rights under both federal and state law to the safeguards and protections set forth in the NVRA.

Answer: Paragraph 92 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

93. Defendants' failure to comply with their NVRA voter list maintenance obligations burdens the right to vote of Mr. Jorritsma, Mr. Silvernail, and the individual members of the RNC who are lawfully registered to vote in Michigan by undermining their confidence in the integrity of the electoral process, discouraging their participation in the democratic process, and instilling in them the fear that their legitimate votes will be nullified or diluted by unlawful votes.

Answer: Paragraph 93 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

94. Defendants' failure to satisfy their list-maintenance obligations also infringes the federal and state statutory rights of Mr. Jorritsma, Mr. Silvernail, and the individual members of the RNC who are lawfully registered to vote in Michigan. These individuals have a statutory right to vote in elections for federal office that comply with the procedures and protections required by the NVRA.

Answer: Paragraph 94 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

95. Defendants' NVRA violations have also caused economic, financial, and political injury to the Plaintiffs. Defendants' inaccurate voter rolls have forced Plaintiffs to allocate

additional resources and misallocate their scarce resources in ways they otherwise would not have.

Answer: Paragraph 95 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

COUNT
Violation of the NVRA

96. Plaintiffs reallege each of the prior allegations in this complaint.

Answer: Intervenor-Defendant restates its answers to paragraphs 1 through 95 as if fully set forth herein.

97. Defendants have failed to make reasonable efforts to conduct voter-list maintenance as required by 52 U.S.C. §20507(a)(4).

Answer: Paragraph 97 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

98. Plaintiffs have suffered irreparable injuries as a direct result of Defendants' violation of section 8 of the NVRA.

Answer: Paragraph 98 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

99. Plaintiffs will continue to be injured by Defendants' violations of the NVRA until Defendants are enjoined from violating the law.

Answer: Paragraph 99 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

100. Plaintiffs have no adequate remedy at law.

Answer: Paragraph 100 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendant denies them.

PRAYER FOR RELIEF

No response is required to the Prayer for Relief. However, to the extent a response is required, Intervenor-Defendant denies the allegations contained in the Prayer for Relief and specifically denies that Plaintiffs are entitled to the relief requested.

AFFIRMATIVE DEFENSES

Intervenor-Defendant asserts the following Affirmative Defenses to the claims made in Plaintiffs' Complaint without assuming the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Plaintiffs:

1. Plaintiffs' claims are barred for failure to state a claim upon which relief can be granted.
2. Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands.
3. Plaintiffs lack standing to bring or maintain some or all of the claims alleged in the Complaint.
4. Plaintiffs' claims are equitably barred.

Intervenor-Defendant reserve the right to add additional Affirmative Defenses to Plaintiffs' Complaint as the existence of such defenses is discovered through the course of discovery or otherwise.

WHEREFORE, Intervenor-Defendant asks this Court to enter judgment in its favor and against Plaintiffs; and to provide such other and further relief as the Court deems just and proper.

Dated: April 4, 2024

Respectfully submitted,

/s/ Eliza Sweren-Becker

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**Application for admission forthcoming*

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