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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

REPUBLICAN NATIONAL COMMITTEE, NEVADA REPUBLICAN PARTY, and SCOTT JOHNSTON,

Plaintiffs,

vs.

FRANCISCO AGUILAR, in his official capacity as Nevada Secretary of State; LORENA PORTILLO, in her official capacity as the Registrar of Voters for Clark County; WILLIAM "SCOTT" HOEN, AMY BURGANS, STACI LINDBERG, and JIM HINDLE, in their official capacities as County Clerks,

Defendants.

Case No. 2:24-cv-00518-CDS-MDC

DEFENDANT SECRETARY OF STATE'S REPLY IN SUPPORT OF MOTION TO DISMISS SECOND AMENDED COMPLAINT [ECF No. 131]

Defendant Francisco Aguilar, in his official capacity as Nevada Secretary of State, replies here to Plaintiffs' Response in Opposition to Defendants' Motions to Dismiss Second Amended Complaint, ECF No. 141 ("Opposition").

I. INTRODUCTION

Plaintiffs' SAC[1] must be dismissed. Plaintiffs fail to allege an injury that satisfies both Article III and the NVRA's zone of interests. They also fail to state a claim because the inferences they ask the Court to draw are unwarranted, unreasonable, and implausible. And the Secretary's arguments that Nevada is a leader in list maintenance are left with no response.

[1] Defined terms have the same meanings as set forth in the Secretary's Motion to Dismiss the Second Amended Complaint, ECF No. 132 ("Motion").

II. ARGUMENT

A. Plaintiffs Have Failed to Allege a Cognizable Injury

As detailed in the Motion, Plaintiffs have failed to allege a cognizable injury under both Article III and the NVRA's zone of interests. Plaintiffs complain that their inability to allege an adequate injury means the NVRA's list-maintenance provisions are "a dead-letter statute." Opp. at 1. However, "[t]he assumption that if [Plaintiffs] have no standing to sue, no one would have standing, is not a reason to find standing," *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 420 (2013) (citations omitted), or to find Plaintiffs have an injury that falls within the NVRA's zone of interests, *see FDA v. All. For Hippocratic Med.*, 602 U.S. 367, 382 (2024) ("Vindicating 'the *public* interest (including the public interest in Government observance of the Constitution and laws) is the function of Congress and the Chief Executive.'").

1. The Organizational Plaintiffs Do Not Have Standing

The RNC and NVGOP claim that they have alleged harm to their pre-existing activities because, as a result of allegedly improperly maintained voter rolls, they may not know whether to devote resources to registering voters or to turning out votes. *See* Opp. at 6–7. As an initial matter, Plaintiffs' decision "to shift some resources from one set of pre-existing activities in support of their overall mission to another, new set of activities" is not a cognizable injury. *See Ariz. All. for Retired Ams. v. Mayes*, 117 F.4th 1165, 1180 (9th Cir. 2024). Further, Plaintiffs cannot claim injury because they might have to message differently when reaching out to potential voters. In Nevada, individuals can register to vote or update their voter registration through election day and still vote on election day. *See generally* NRS 293.5832–5852. If Plaintiffs reach out to an individual to vote but learn the individual is not registered, they can still encourage the individual to register and vote. Outreach is not an either/or proposition in Nevada. Plaintiffs' alleged injury is thus indistinguishable from the injury the Ninth Circuit rejected in *Mayes* where the plaintiffs claimed as harm that they would have to develop different messaging. *Mayes*, 117 F.4th at 1178 (finding allegations that the plaintiffs "must now take it upon themselves to

develop training materials or ask constituents additional questions in response to the Cancellation Provision" inadequate to show an injury-in-fact).

Mayes also shows why Plaintiffs' allegations about expending resources on voter-engagement and outreach efforts that do not reach their intended targets fail. *See* Opp. at 7. Notably, *Mayes* overruled *National Council of La Raza v. Cegavske*, 800 F.3d 1032 (9th Cir. 2015). *See Mayes*, 117 F.4th at 1178. In *La Raza*, the Ninth Circuit held that the plaintiffs had standing because they were allegedly expending resources to register voters that they would not have had to register if the State had complied with its NVRA obligations. *La Raza*, 800 F.3d at 1040–41. But the *Mayes* court found that this holding—that a "voter advocacy organization suffered injury by engaging in additional voter advocacy"—was irreconcilable following *Alliance for Hippocratic Medicine*. *Mayes*, 117 F.4th at 1175, 1178. Plaintiffs appear to agree. They argue that this case is different from *Mayes* because the *Mayes* plaintiffs' activity of registering voters was not made "more difficult or less effective," "regardless of whether few or many voters' registrations were cancelled." Opp. at 10. Thus, just because an organization expends additional resources in performing its pre-existing activities, it does not create a cognizable injury-in-fact. *See RNC v. Burgess*, Case No. 3:24-cv-00198-MMD-CLB, 2024 WL 3445254, at *5 (D. Nev. July 17, 2024), *appeal filed* No. 24-5071 ("[O]rganizations who train and hire poll watchers and ballot counters do not have standing to challenge the expansion of access to mail voting merely because it might create more work for them."). At bottom, Plaintiffs can "continue their core activities that they have always engaged in." *Mayes*, 117 F.4th at 1178.

More broadly, Plaintiffs cannot establish standing because they have alleged that they are able to cure any purported inaccuracy through their "residency discrepancy reports." *See* SAC ¶¶ 28–30. As the Secretary explained, based on the way the NVRA is structured, "simple reliance on voter rolls, even if maintained in compliance with the NVRA, would cause the same alleged injuries to the Organizational Plaintiffs' outreach and strategizing activities." Mot. at 9. Plaintiffs try to frame this as a factual dispute, *see* Opp. at 11–12, but they bear the burden of showing that their allegations are plausible.

When the NVRA is structured to allow many ineligible voters to remain on the voter rolls, it is speculative to say that Plaintiffs' alleged harm is traceable to inaccurately maintained voter rolls. And further, Plaintiffs have failed to "clearly . . . allege facts demonstrating" redressability. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016) (citation omitted). Plaintiffs try to avoid the redressability issue by citing to a case that discusses quantifying the magnitude of an injury. *See* Opp. at 12 (quoting *Mecinas v. Hobbs*, 30 F.4th 890, 905 (9th Cir. 2022)). But the fact remains that many ineligible voters will remain on voter rolls maintained in compliance with the NVRA, and Plaintiffs have not clearly alleged facts that plausibly demonstrate that they would not have to conduct residency discrepancy reports if the Court grants the relief they request.

Finally, Plaintiffs also fail to establish that this case is like *Havens*. *See* Opp. at 12–14. As the Secretary explained, Plaintiffs were required to show that "the challenged activity . . . directly injure[s] or interfere[s] with [their] pre-existing core activities." Mot. at 8 (citing *Mayes*, 117 F.4th at 1180). In *Havens*, the lie about housing availability was made to HOME's employees, and its effect was direct. *See Mayes*, 117 F.4th at 1180. The same would be true for Plaintiffs' manufacturer hypothetical where a manufacturer provides faulty goods to a retailer directly. *See* Opp. at 13. The Secretary, however, maintains the voter rolls independent of Plaintiffs, and not for the purpose of providing them to Plaintiffs for their partisan uses. Just as a doctor wouldn't have standing to challenge the constitutionality of a "middle school football league . . . because she might need to spend more time treating concussions," *All. for Hippocratic Medicine*, 602 U.S. at 391, Plaintiffs' theory of causation is not sufficiently direct to establish causation.

2. The Organizational Plaintiffs' Injuries Are Outside the NVRA's Zone of Interests

a. *ACORN* Has Not Survived the Test of Time

Plaintiffs point to the Fifth Circuit's decision in *Association of Community Organizations for Reform Now v. Fowler*, 178 F.3d 350 (5th Cir. 1999) ("*ACORN*"), to argue that the Organizational Plaintiffs fall within the NVRA's zone of interests. *See* Opp.

at 14–15. But the *ACORN* court did not consider the question here. And even if it had, *ACORN's* reasoning is no longer sound given intervening Supreme Court precedent.

First, the question in *ACORN* was whether organizations may qualify as "person[s]" who are "aggrieved by a violation" of the NVRA. *ACORN*, 178 F.3d at 363. In other words, *ACORN* focused on the "who" of NVRA prudential standing. In this case, however, the issue is the "what": what *kinds of interests* Congress intended the NVRA to protect. *ACORN*'s sweeping statement that Congress intended to eliminate all prudential standing requirements was not made considering such a question.

This conclusion that the NVRA's use of the term "person . . . aggrieved" extends prudential standing to Article III's limits has also failed the test of time. *See id.* at 365. In 2011, the Supreme Court rejected the notion that use of "person claiming to be aggrieved" in a description of who has a private cause of action, standing alone, extends the zone of interests to the limits of Article III and eliminates the inquiry. *Thompson v. N. Am. Stainless, LP*, 562 U.S. 170, 178 (2011). Instead, in the context of Title VII, it found that the term aggrieved "incorporates [the common law] test, enabling suit by any plaintiff with an interest arguably sought to be protected by the statute, while excluding plaintiffs who might technically be injured in an Article III sense but whose interests are unrelated to the statutory prohibitions in Title VII." *Id.* (cleaned up); *see also Leyse v. Bank of Am. Nat'l Ass'n*, 804 F.3d 316, 322–23 (3d Cir. 2015) (holding that even though a statute provides that "any 'person or entity'" may have a "private right of action" for certain violations, "Article III is not the only barrier faced by potential plaintiffs" as some may fall outside the zone of interests). Here too, a wide range of plaintiffs may be "aggrieved," but only those whose interests relate to the NVRA's protected interests may bring suit.

Second, even if it were applicable here, *ACORN*'s broad reading of the NVRA rests on an unsound foundation. *ACORN* predates the Supreme Court's decision in *Lexmark* by 15 years, and accordingly analyzes the NVRA's zone of interests through the lens of prudential standing rather than as a matter of statutory interpretation. *Compare ACORN*, ///

178 F.3d at 363 *with Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 127–28 (2014). This difference dooms Plaintiffs' reliance on *ACORN*.

As the Supreme Court explained in *Lexmark*, the zone-of-interests requirement is "root[ed]" in the "common-law rule" providing that a plaintiff may "recover under the law of negligence for injuries caused by violation of a statute" only if "the statute 'is interpreted as designed to protect the class of persons in which the plaintiff is included, against the risk of the type of harm which has in fact occurred as a result of its violation.'" *Lexmark*, 572 U.S. at 130 n.5 (citations omitted). *Lexmark* clarified that "Congress is presumed to legislate against the background" of this common-law rule, and Courts thus apply it "to all statutorily created causes of action . . . unless it is *expressly* negated." *Id.* at 129 (cleaned up and emphasis added). As *ACORN* itself concedes, nothing in the NVRA expressly negates the zone-of-interests rule. *ACORN*, 178 F.3d at 363 ("We concede that Congress's use of the term aggrieved person to eliminate prudential standing requirements under the NVRA is not as clear as under Section 810(a) of the Civil Rights Act of 1982 (Title VIII), in which it explicitly defined" the term.). Accordingly, *ACORN* does not survive *Lexmark*.

b. The Organizational Plaintiffs' Injuries Do Not Satisfy Both Article III and the NVRA's Zone of Interests

The only "[p]rotected interests" that can satisfy the zone-of-interests test "are ones asserted either by 'intended beneficiaries' of the statute at issue or by other 'suitable challengers'—*i.e.*, parties whose interests coincide 'systemically, not fortuitously' with those of intended beneficiaries." *Twin Rivers Paper Co. v. SEC*, 934 F.3d 607, 616 (D.C. Cir. 2019) (citation omitted). Plaintiffs' partisan aims do not align with the NVRA's objective to generally increase turnout and protect elections. *See* Mot. at 1–2, 10. Their alleged interests have nothing to do with this case. "[V]oter turnout, voter registration, mail-voting campaigns, and in-person efforts" are all aimed at increasing Republican voter turnout. *See* Opp. at 15 (citing SAC ¶ 20). Even putting aside Plaintiffs' underlying partisan aims, this is far removed from the only relevant interest protected by the statute: "to make it possible for Federal, State, and local governments to implement

this chapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office." 52 U.S.C. § 20501(b)(2). Expanding participation of eligible citizens is not what this case is about. Plaintiffs brought this case to *remove* voters from Nevada's rolls. To the extent Plaintiffs argue that inaccurate information on voter rolls harms them because they must spend more money on turnout operations, the NVRA was not crafted to save political parties money on turnout operations—and certainly not where the cost is removing eligible voters from the rolls.

To be sure, it is possible that the interests of organizations founded to ensure "that accurate and current voter registration rolls are maintained," 52 U.S.C. § 20501(b)(4), may fall within the NVRA's zone of interests, *see, e.g., Pub. Int. Legal Found. v. Boockvar*, 370 F. Supp. 3d 449, 456 (M.D. Pa. 2019). But as the Secretary explained, "the injury that supplies constitutional standing must be the same as the injury within the requisite 'zone of interests.'" Mot. at 11 (quoting *Mountain State Legal Found. v. Glickman*, 92 F.3d 1228, 1232 (D.C. Cir. 1996), and collecting cases). And an interest in accurate and current voter rolls does not satisfy Article III after the Supreme Court's decision in *Alliance for Hippocratic Medicine* because a plaintiff cannot create a "concrete injury" "simply by expending money to gather information and advocate against the defendant's action[s]." *All. for Hippocratic Medicine*, 602 U.S. at 394; *see also Mayes*, 117 F.4th at 1181. Moreover, such a broad interest would be insufficiently generalized. *See, e.g.*, *Lance v. Coffman*, 549 U.S. 437, 439 (2007) ("[A] plaintiff raising only a generally available grievance about government—claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not state an Article III case or controversy.").

Plaintiffs also argue that they must allege a private injury to satisfy Article III standing, so the Secretary must be incorrect that the NVRA's zone of interests do not extend to their private injuries. *See* Opp. at 15. But certain private injuries *would* fall within the NVRA's zone of interests. For instance, a person wrongly removed from the

voter rolls likely would have a private injury within the NVRA's zone of interests. The injury must relate to the intended purpose of the statute. *See, e.g.*, *Air Courier Conf. of Am. v. Am. Postal Workers Union*, 498 U.S. 517, 526–28 (1991) (holding that interests of postal workers in their employment were outside the zone of interests of a statute meant to ensure that postal services were provided in a manner consistent with the public interest); *Bzdzuich v. U.S. DEA.*, 76 F.3d 738, 742 (6th Cir. 1996) (holding that statute protected the "interest of the public in the legitimate use of controlled substances and, by implication, [the containment of] the deleterious consequences to the public's health and safety of illegitimate use" and a pharmacist's interest in employment was not covered). Plaintiffs' private injury, however, does not relate to the NVRA's zone of interests.

At base, Plaintiffs cannot mix and match injuries to satisfy Article III and zone-of-interests requirements; they cannot rely on voter-turnout-related interests when the relief they truly seek—removing voters from the rolls—is at best irrelevant and, more likely, in direct conflict with that interest. The only interests Plaintiffs identify that are anything more than "strong opposition" to Nevada's policies—which do not qualify for Article III purposes, *All. for Hippocratic Medicine*, 602 U.S. at 394—are purely private and partisan—which are outside of the NVRA's zone of interests.

With respect to proximate causation, Plaintiffs focus on *Lexmark*'s discussion of when a party can be said to be a victim of illegal activity, *see* Opp. at 16, as opposed to addressing that "the harm alleged [must have] a sufficiently close connection to the conduct the statute prohibits," *Bank of Am. Corp. v. City of Miami*, 581 U.S. 189, 201 (2017) (citation omitted). The NVRA does not categorically prohibit ineligible voters from remaining on the voter rolls. In fact, it prohibits immediate removal of voters suspected of having changed residence. *See* 52 U.S.C. § 20507(b). And it only requires "reasonable efforts" to remove ineligible voters who have changed residence. *See* 52 U.S.C. § 20507(a)(4). Against this backdrop, Plaintiffs' alleged injuries relating to turning out Republican votes is not sufficiently connected to any conduct the NVRA prohibits.

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B. Plaintiffs Fail to State a Claim

1. Plaintiffs' Active Voter Registration Calculations Do Not Plausibly Allege an NVRA Violation

Plaintiffs seek to wield a statistical comparison of vastly different snapshots in time as a free ride ticket to plausibility. Merely alleging a statistical comparison is not sufficient to defeat a motion to dismiss. Contrary to Plaintiffs' assertions, Opp. at 21, courts appropriately review a statistical analysis on a motion to dismiss to determine whether a claim has plausibility, *see, e.g.*, *Integra Med Analytics LLC v. Providence Health & Servs.*, 854 F. App'x 840, 844 (9th Cir. 2021) (finding that an explanation of a statistical trend consistent with liability was only possible); *O'Neal v. Oregon Dep't of Just.*, Case No. 3:15-cv-00773-SI, 2015 WL 7722413, at *3–4 (D. Or. Nov. 30, 2015) (analyzing whether analysis constituted an "appropriate statistical measure"). Prior out-of-circuit district court cases that allowed NVRA claims based on similar allegations to proceed past a motion to dismiss are not a reason to ignore that Plaintiffs are asking the Court to draw inferences that are not warranted. *See Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998 (9th Cir. 2010). Moreover, more recently, NVRA allegations similar to the ones Plaintiffs advance here have been dismissed. *See RNC v. Benson*, Case No. 1:24-cv-262, 2024 WL 4539309, at *14 (W.D. Mich. Oct. 22, 2024), *appeal docketed* No. 24-1985 (6th Cir. Nov. 8, 2024).

Plaintiffs have no real answer to the Secretary's argument that their methodology does not lead to accurate or plausible inferences. To start, the Secretary explained that there are many reasons why active registration numbers may exceed citizen voting age population estimates without an NVRA violation. Mot. at 13–15.[2] Further, comparing

[2] Plaintiffs claim there is a contradiction in the Secretary's argument that the active voter rolls as of November 1, 2024, are inflated versus the Secretary's argument that Plaintiffs do not plausibly allege that Nevada is failing in its list maintenance obligations. *See* Opp. at 20. There is no contradiction. As a result of the NVRA's 90-day prohibition on list maintenance activities, as of November 1, 2024, Nevada's voter rolls were temporarily inflated because no list maintenance activities relating to active voters who may have changed address could have practicably taken place for approximately three months. *See* Mot. at 15. The temporary inflation does not suggest improper list maintenance; it reflects, and is consistent with, compliance with the NVRA's requirements. *See Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 192 (2008) (noting that the NVRA is "partly responsible" for high registration rates).

citizen voting age population estimates against active voter registration numbers from *four years later* is not an appropriate statistical measure and does not allow for a plausible inference of an NVRA violation. As detailed in the Motion, the Secretary showed that the same methodology applied in previous years would lead to inflated active voter registration rates that were completely at odds with real-time comparisons. Mot. at 17. Time and again in Nevada, the actual comparison of citizen voting age populations against active registration numbers from the same time period shows active registration rates in in the 70–75% range, where Plaintiffs' methodology would have yielded rates in the 88–93% range. *Id.* Plaintiffs' calculations offer the Court no basis to conclude that it is plausible that active registration numbers are inflated as compared against the *current* citizen voting age population.

The Secretary is not merely disagreeing about "which data best measures [registration] practices"; the Secretary is instead arguing that Plaintiffs' numbers say *nothing* about "the registration practices of today." *See* Opp. at 21. It is also no answer for Plaintiffs to argue that disputed facts cannot be judicially noticed. *See id.* The Secretary has taken Plaintiffs' factual allegations (as opposed to unwarranted deductions) at face value, and Plaintiffs do not claim that "there is a reasonable dispute as to what the [agency] report[s]" cited by the Secretary "establish[]." *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 1001 (9th Cir. 2018). At best, Plaintiffs simply dislike the inferences that naturally flow from the undisputed facts identified in the agency reports. All data and documentation the Secretary has cited come from the same government agencies Plaintiffs cite in their SAC, Mot. at 13, so if Plaintiffs want to claim that those agencies' facts are subject to dispute, they would be conceding that their allegations are unsupported and lack plausibility. They can't have it both ways.[3]

Further, as the Secretary argued—and Plaintiffs do not dispute—Nevada has a substantially growing population. Mot. at 18. The population of today is distinct from the

[3] Plaintiffs' citations to *Khoja* all concern discussion of the incorporation by reference doctrine, not judicial notice, and are therefore inapposite. *See* Opp. at 21.

population of 2020. It would make as much sense to compare Nevada's active voter registration numbers from 2024 against the citizen voting age population of Arkansas and claim that this shows some NVRA violation. Plaintiffs are comparing apples to orangutans, and it cannot be the case that the Court must unquestioningly accept an inference based on a fundamentally flawed analysis. The Ninth Circuit has directed that allegations that are "unwarranted deductions of fact" or "unreasonable inferences" are not entitled to the presumption of truth, which permits the Court to assess the quality of the inferences in ruling on a motion to dismiss. *See Daniels-Hall*, 629 F.3d at 998.

As explained in the Motion, factors that are relevant to assessing an inference's plausibility all underscore the implausibility of Plaintiffs' inferences. Mot. at 18. Because Plaintiffs' allegations are "consistent with a growing electorate," they are "not only compatible with, but indeed [are] more likely explained by, lawful . . . behavior," and Plaintiffs' claim fails. *See Election Integrity Project Cal., Inc. v. Weber*, 113 F.4th 1072, 1098 (9th Cir. 2024) (citation omitted).

2. Plaintiffs' Allegations Relating to Inactive Registrations and Relocation Rates Are Not Plausible

To support their allegations of an NVRA violation based on the approximately 4,684 voters that allegedly should have been removed from the inactive voter list, Plaintiffs seek to distance themselves from the holdings of *Pub. Int. Legal Found. v. Benson*, Case No. 1:21-cv-929, 2024 WL 1128565 (W.D. Mich. Mar. 1, 2024) ("*PILF*"). *See* Opp. at 24. While that case was decided on summary judgment, the court's analysis rested on a legal conclusion, not a fact dispute, and it is therefore persuasive here. The *PILF* Court concluded that even if 0.3% of the total number of registered voters were ineligible to remain on the voter rolls, that would, by law, not be unreasonable under the NVRA. *Id.* The same is true here. Citing to 0.20% of voters remaining on the voter rolls who allegedly should have been removed, Mot. at 22, is insufficient to allege an NVRA violation because, as the *PILF* court held, that would not be unreasonable under the NVRA, *PILF*, 2024 WL 1128565, at *10.

Plaintiffs' allegations relating to removal rates also do not give rise to a plausible inference of an NVRA violation. *See Benson*, 2024 WL 4539309, at *14. Plaintiffs do not address that a change of residence alone does not mean that a voter should have their registration inactivated and subsequently canceled. Mot. at 22–23. And their removal numbers from two years ago for counties whose populations are among the smallest in the state, *see* Opp. at 22 (citing SAC ¶ 81), suffer from their own assertion that they are challenging "the registration practices of today," not from before, *see id.* at 21.

3. Plaintiffs' Other Allegations Add Nothing

Plaintiffs argue that a lawsuit that was dismissed, with no relevant legal holdings, somehow enhances the plausibility of their claim. Opp. at 24–25 (citing *Kraus v. Portillo*, Doc. 1, No. A-24-896151-W (8th Jud. Dist. Ct. Nev. June 25, 2024)). Anyone can claim anything in a lawsuit, but it does not mean their claim has merit. The *Kraus* lawsuit involved a legal dispute about what may constitute a residence for voter registration purposes under Nevada law. *See id.* With no finding that a residence for voter registration purposes cannot include, for example, a business address[4] or a parking lot, the *Kraus* complaint does not plausibly raise any inference of improper list maintenance.

Plaintiffs also appear to argue that the Secretary, who is "the Chief Officer of Elections for this State," NRS 293.124(1), is not allowed to send Nevadans postcards. Opp. at 25. The Nevada Legislature did not see fit to preclude the State's Chief Officer of Elections from sending postcards, nor did it see fit to tie postcards sent by the Secretary to list maintenance activities. Plaintiffs' complaints about the Secretary's actions are better directed to the Legislature and certainly do not plausibly allege any list maintenance failure.

Finally, Plaintiffs attempt to rehabilitate their discussion of the state's new top-down voter registration system. *See* Opp. at 25–26. As the Secretary explained, however, there is no "indication that the new system has been used in connection with any list maintenance

[4] Plaintiffs claim that NRS 293.507(4)(c) somehow contradicts that voter registration does not require a residential address. Opp. at 24. It does not. NRS 293.507(4)(c) allows the listing of a business address as a residence for voter registration purposes if "the applicant actually resides there."

activities." Mot. at 24. Plaintiffs cite no factual allegation suggesting otherwise; their only citation simply does not allege as much. *See* Opp. at 26 (citing SAC ¶ 95).

III. CONCLUSION

For the foregoing reasons, the Court should dismiss the SAC.

DATED this 7th day of January, 2025.

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