UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

REPUBLICAN NATIONAL COMMITTEE, DONALD J. TRUMP FOR PRESIDENT 2024, INC., MICHIGAN REPUBLICAN PARTY and RYAN KIDD

Plaintiffs,

v

GRETCHEN WHITMER, in her official capacity as Governor of Michigan, 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, U.S. SMALL BUSINESS ADMINISTRATION, ISABEL GUZMAN, in her official capacity as Administrator of the Small Business Administration, DEPARTMENT OF VETERANS AFFAIRS, and DENIS McDONOUGH, in his official capacity as Secretary of Veterans Affairs,

Defendants.

No. 1:24-cv-00720

HON. PAUL L. MALONEY

DEFENDANTS GOVERNOR GRETCHEN WHITMER, SECRETARY OF STATE JOCELYN BENSON AND DIRECTOR OF ELECTIONS JONATHAN BRATER'S REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS

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1. Whether Plaintiffs' state-law claim against the State Defendants is barred by the Eleventh Amendment?

2. Whether Plaintiffs have failed to allege an injury in fact sufficient to support standing under Article III?

3. Whether Plaintiffs have failed to state a claim for a violation of the Michigan Election Law?

INTRODUCTION

The tone and tenor of Plaintiffs response to the State Defendants motion to dismiss makes clear that this case is less about the law than it is politics. This is one of five similar lawsuits the Republican National Committee and the Michigan Republican Party have filed against one or more of the State Defendants in the last six months, the most recent being a tardy attack on Michigan's military and overseas voters.[1]

As Plaintiffs' own complaint makes clear, their claim against the State in this case presents one simple question of state-law statutory interpretation: does the Michigan Election Law allow the Governor to designate the U.S. Department of Veterans Affairs (DVA) and the U.S. Small Business Administration (SBA) as voter registration agencies (VRAs)? While the State has already explained that the answer to that question is yes, for purposes of this Court's subject-matter jurisdiction, the answer does not matter. What matters is that Plaintiffs are asking this Court to interpret the Michigan Election Law, conclude that Michigan's Governor and Secretary of State have violated it, and issue an injunction against those parties on that basis. Blackletter doctrine makes clear that the Eleventh Amendment forbids the Court from entertaining this request. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984). Plaintiffs' only response—a confused effort to grasp at *Ex Parte Young*—does not change the simple fact that their sole

[1] *See* Republicans file lawsuits to challenge overseas ballots — including those coming from military personnel (msn.com) (accessed October 11, 2024).

claim against the State Defendants is premised entirely on the violation of state law. The State Defendants are thus immune from Plaintiffs' suit, and their claims must be dismissed.

Further, while the State's entitlement to immunity is dispositive, Plaintiffs also lacking standing to sue. A prerequisite to standing is that Plaintiffs plausibly plead an injury in fact that is actual and imminent, concrete and particularized, and not hypothetical or speculative. *Lujan v. Defs. of Wildlife*, 504 U.S. 555 (1992). Plaintiffs' unfounded fear that enlisting two federal agencies to help Michiganders register to vote will somehow produce confusion, competitive harm, or even fraud is epitomic speculation. And their (incorrect) assertion that the State has violated state law by designating those agencies is precisely the sort of generalized grievance the U.S. Supreme Court has said is insufficient to support standing.

Finally, Plaintiffs are wrong on the merits of their state-law claim. The State Defendants' have acted lawfully and within their executive branch authority in designating state public assistance agencies and the DVA and SBA as VRAs. The Governor's interpretation of § 509u as authorizing her designations is a reasonable construction of the statute based on its plain language and the context of its enactment. Plaintiffs' construction is not. Plaintiffs misapply basic statutory construction principles articulated by the Michigan Supreme Court to read a limitation into the statute that simply is not there.

Plaintiffs' hostility to Michigan's veterans and small business community remains perplexing. Even so, the State Defendants' decision to provide additional

voter registration services to these individuals is consistent with state law and the NVRA. Plaintiffs' claims against the State Defendants should be dismissed.

ARGUMENT

I. The Eleventh Amendment prohibits this Court from granting Plaintiffs any relief under their state-law claim against the State Defendants.

As argued in the State Defendants' principal brief, Plaintiffs' claims against them must be dismissed pursuant to the Eleventh Amendment. (ECF No. 22, State MTD Brf, PageID.188, 204-07.) The federal Defendants also moved to dismiss based on the State Defendants' Eleventh Amendment immunity, (ECF No. 32, Fed Defs Brf, PageID.371-73), which arguments the State Defendants incorporate herein. Fed. R. Civ P. 10(c). The State Defendants also incorporate their response in opposition to Plaintiffs' motion for summary judgment. (ECF No. 38, PageID.442, 457-61.)

Plaintiffs attempt to circumvent the Eleventh Amendment by invoking the *Ex Parte Young* doctrine. (ECF No. 36, Plfs' Resp Brf, PageID.402, 423-24.) But that doctrine does not apply where Plaintiffs allege that the State has violated state law, specifically Mich. Comp. Laws § 168.509u, and seek to enjoin the State Defendants from acting pursuant to that statute. *Ex Parte Young* creates an exception to Eleventh Amendment immunity only when a plaintiff seeks prospective injunctive relief against individual state officials for violations of *federal* law. *Diaz v. Michigan Dept. of Corrs.*, 703 F.3d 956, 964 (6th Cir. 2013); *see Ex Parte Young*, 209 U.S. 123, 158-59 (1908). In other words, it applies "when a federal court

commands a state official to do *nothing more than refrain from violating federal law*." *See Va. Office for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 248 (2011) (emphasis added). *Ex Parte Young*'s exception to Eleventh Amendment immunity is driven by "the need to promote the supremacy of federal law." *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 105 (1984) (emphasis added). But that need is "wholly absent, however, when a plaintiff alleges that a state official has violated *state* law." *Id.* at 106. Indeed, "it is difficult to think of a greater intrusion on state sovereignty than when a federal court instructs state officials on how to conform their conduct to state law." *Id.* As a result, *Ex Parte Young* is "inapplicable in a suit against state officials on the basis of state law," *id.*, and "states' constitutional immunity from suit prohibits *all* state-law claims filed against a [s]tate in federal court, whether those claims are monetary or injunctive in nature." *Ernst v. Rising*, 427 F.3d 351, 368 (6th Cir. 2005).

Plaintiffs argue the exception applies because they are "alleging that [the State Defendants] designations of VRAs violates the NVRA and Administrative Procedures Act. And Plaintiffs request prospective relief to end these continuing violations." (ECF No. 36, PageID.424.) But that assertion is flatly contradicted by the relief they seek, which is:

> A. A declaratory judgment that the State Defendants have violated Michigan Const. 1963, art. 2, § 4(2), as well as MCL 168.509m and MCL 168.509u;
>
> B. A preliminary and permanent injunction barring the State Defendants from designating any VRAs without express authorization from the Michigan Legislature;
>
> C. An order declaring the designation of any VRAs under ED 2023-6, the 2022 Interagency Agreement, the 2023 MOU and MOA, and any future executive directives issued without legislative authorization are invalid;

(ECF No. 1, Compl, PageID.17-18, ¶¶ A, B, C.) Plaintiffs also entitle their claim against the State Defendants as:

COUNT I
VIOLATION OF MICHIGAN LAW BY STATE DEFENDANTS

(*Id.*, PageID.16.) Plaintiffs' argument that the State has violated the NVRA is a ruse where it is predicated on their claim that the State Defendants violated state law, Mich. Comp. Laws § 509u. Indeed, no possible NVRA violation exists without this Court interpreting § 509u and declaring that the State Defendants have violated that state law. And their request for injunctive relief is nothing more than a request to enjoin the State Defendants from enforcing or acting under § 509u. Finally, Plaintiffs request that this Court declare the Governor's executive directives invalid is likewise premised on their claim that the State Defendants acted in violation of § 509u and the Michigan Constitution.

For *Ex Parte Young* to apply, Plaintiffs can only seek relief that requires the State Defendants to do "nothing more than refrain from violating federal law." *Va. Office for Prot. & Advoc.*, 563 U.S. at 248. But here, Plaintiffs' requests for relief are all directed at having this Court command the State to refrain from violating state law. They do not plead a claim against the State under the NVRA or seek any declaration that the State Defendants have violated NVRA. That is easy to discern by comparing Plaintiffs' claims against the State Defendants with those pled against the federal Defendants, which specifically allege a violation of the NVRA, (ECF No. 1, PageID.18-20), and seek a declaration that the "SBA and VA are in

violation of Section 7 of the NVRA." (ECF No. 1, PageID.18-20.) As a result, *Ex Parte Young* provides no authorization for this Court to entertain Plaintiffs' request to issue an injunction against the State Defendants on the ground that their actions violated a state statute.

Indeed, if Plaintiffs were allowed to proceed on their theory of finding a federal-law violation through a state-law violation, it would defeat the purpose of Eleventh Amendment immunity. And it would open the floodgates to federal suits premised on violations of state law simply on the basis that the state action has some relation to a federal program. This Court should reject Plaintiffs' invitation to create such a loophole to the Eleventh Amendment.

For these reasons, the claim against the State Defendants must be dismissed.

II. Plaintiffs lack standing to bring their state-law claim against the State Defendants.

The State Defendants argued in their principal brief that Plaintiffs' claims against them must be dismissed for lack of standing. (ECF No. 22, PageID.188, 207-15.) The federal Defendants also moved to dismiss Plaintiffs' complaint based on lack of standing, (ECF No. 32, PageID.355-364), which arguments the State Defendants incorporate herein. Fed. R. Civ P. 10(c). The State Defendants also incorporate their response in opposition to Plaintiffs' motion for summary judgment. (ECF No. 38, PageID.442, 461-66.)

Plaintiffs' response is largely a litany of quotes strung together from a law review article and numerous out-of-circuit cases. (ECF No. 36, PageID.418-22.)

They argue that the State Defendants impermissibly attack their factual allegations in support of standing, where this Court must instead accept the allegations in Plaintiffs' complaint as true and draw inferences in their favor. (ECF No. 36, PageID.419.) But "[a]s the Supreme Court has long explained, to establish standing at the motion-to-dismiss stage, plaintiffs must *plausibly* allege . . . a concrete and particularized injury in fact that is actual or imminent[.]" *Charlton-Perkins v. Univ. of Cincinnati*, 35 F.4th 1053, 1059 (6th Cir. 2022) (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992).) *See also Ass'n of Am. Physicians & Surgeons*, 13 F.4th 531, 544 (6th Cir. 2021) (applying "plausibility test" to motion to dismiss for lack of standing). Plaintiffs bear the burden of demonstrating "standing as to each claim and each type of relief sought." *Patterson v. United HealthCare Ins. Co.*, 76 F.4th 487, 493 (6th Cir. 2023). A complaint states a plausible claim when it states "enough facts to raise a reasonable expectation that discovery will reveal evidence" that a plaintiff has standing. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007). And, of course, "the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009) (quotations and citation omitted).

Here, Plaintiffs have not plausibly alleged—factually or legally—injuries in fact. The organizational Plaintiffs argue they have pled cognizable injuries based on a "diversion of resources" theory. (ECF No. 36, PageID.419-20.) But as explained in the State's principal brief, they have not. Plaintiffs are alleging that they have had to, or will have to, spend time, money, or resources to investigate or

counteract State Defendants alleged "ultra vires" acts in designating VRAs. But a "plaintiff cannot create an injury by taking precautionary measures against a speculative fear." *Buchholz v. Meyer Njus Tanick, PA*, 946 F.3d 855, 865 (6th Cir. 2020). Plaintiffs cannot create their own injury based on their decisions to spend time and money investigating voter registration activities based on their speculative concerns of fraud, abuse, or other harm. *See also Online Merchants Guild v. Cameron*, 995 F.3d 540, 547 (6th Cir. 2021) (concluding courts have "rejected assertions of direct organizational standing where an overly speculative fear triggered the shift in organizational resources"); *accord Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 416 (2013) (noting a plaintiff "cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending").

The same is true with respect to their invocation of "competitive standing." (ECF No. 36, PageID.420.) Again, they cite their complaint and quote various articles and cases, (*id.*, PageID.420-21), but do not respond to the State's arguments. Their assertions that they are injured by the designations of the VRAs because the agreements somehow place them at a competitive disadvantage in the electoral process are without merit. They offer no plausible support for why that would be the case: the agencies' voter registration activities are available to any qualified person in Michigan, and the agreements expressly prohibit any political favoritism. (ECF No. 22-2, PageID.225, Def's Ex A, sections VI, VII, X; ECF No. 22-3, PageID.234, Def's Ex B, sections VI, VII, X.) *See also* 52 U.S.C. § 20506(a)(5)(A)-

(C). As a result, Plaintiffs have not pled a competitive injury. *See, e.g.*, *Republican Nat'l Comm. v. Burgess*, 2024 WL 3445254 at *2 (July 17, 2024, D. Nev. 2024).

The RNC and MRP also allege they have associational standing to sue on behalf of their members based on the organizations and their members concerns that the unlawful designation of VRAs undermines the integrity of Michigan elections by increasing the chances of fraudulent registrations. (ECF No. 36, PageID.421.) But Plaintiffs' and their members alleged fear over the possibility of ineligible voters registering, unsupported by any facts, do not support standing. The "fear" of unlawful voting is the type of psychic injury that "falls well short of a concrete harm needed to establish Article III standing." *Glennborough Homeowners Ass'n v. United States Postal Serv.*, 21 F.4th 410, 415 (6th Cir. 2021). Indeed, merely invoking "the possibility and potential for voter fraud" based only on "hypotheticals, rather than actual events," is insufficient to support an injury. *Donald J. Trump for President, Inc., v. Boockvar*, 493 F. Supp. 3d 331, 406 (W.D. Pa. 2020).

Likewise, Plaintiffs general allegation that the State has failed to comply with state law does not support standing. *See*, *e.g*, *Lance v. Coffman*, 549 U.S. 437, 439 (2007) (per curiam) (a plaintiff who is "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."); *Johnson v. Bredesen*, 356 F. App'x 781, 784 (6th Cir. 2009) ("The Supreme Court has long held that a plaintiff

does not have standing 'to challenge laws of general application where their own injury is not distinct from that suffered in general by other taxpayers or citizens.'"); *Hotze v. Hudspeth*, 16 F.4th 1121, 1124 (5th Cir. 2021) (holding that a plaintiff's claim "that drive-thru voting hurt the 'integrity' of the election process" was "far too generalized to warrant standing").

Finally, as to Plaintiff Kidd, for the reasons already stated in the State Defendants' principal brief, (ECF No. 22, PageID.215-217), and in their response to Plaintiffs' motion for summary judgment, (ECF No. 36, PageID.461-65), his "confusion"-based injury must be actual, not speculative or hypothetical, and it must be plausible. Because his allegations meet none of those requirements, he also lacks standing to sue.

Because no Plaintiff has standing to sue, the State Defendants are entitled to dismissal of the complaint against them.

III. Plaintiffs fail to state a claim against the State Defendants for a violation Michigan law.

Finally, the State Defendants argued in their principal brief that Plaintiffs claim Defendants violated state law in designating additional VRAs is without merit. (ECF No. 22, PageID.188, 217-21). The State incorporates its similar argument in opposition to Plaintiffs' motion for summary judgment, (ECF No. 38, PageID.466-70). *See* Fed. R. Civ P. 10(c).

Plaintiffs spend 13 pages in their response brief making a fairly simple issue exceedingly complex—and, in doing so, interpret the Michigan Election Law in a way that would violate the NVRA. (ECF 38, PageID.425-38.)

A. The statute does not prohibit future designations of VRAs.

Plaintiffs' entire argument turns on the interpretation of Mich. Comp. Laws § 168.509u, which provides:

> *Not later than the thirtieth day after the effective date of this section*, the governor shall provide a list to the secretary of state designating the executive departments, state agencies, or other offices that will perform voter registration activities in this state.

(Emphasis added.) Plaintiffs argue the "[n]ot later than" language has prohibited Michigan Governors, including Governor Whitmer, from designating VRAs since February 9, 1995—the thirtieth day after the act's January 10, 1995, effective date. (ECF No. 36, PageID.427.) Plaintiffs' argument in support of this theory spans all of two paragraphs:

> M.C.L. § 168.509u . . . authorized the Governor to "provide a list to the secretary of state designating the executive departments, state agencies, or other offices that will perform voter registration activities in this state." However, that authority had to be exercised "[n]ot later than the thirtieth day after the effective date of [M.C.L. § 168.509u]." M.C.L. § 168.509u became effective January 10, 1995. *Therefore, under the plain language of § 168.509u, the Michigan Legislature did not grant the Governor authority to designate any VRAs after February 9, 1995.* It follows that the Governor of Michigan has lacked any statutory authority to designate additional VRAs since that date.
>
> This conclusion is buttressed by the canon of statutory construction known as "*expressio unius est exclusio alterius,*" the "express mention of one thing in a statutory provision implies the exclusion of similar things." So, M.C.L. § 168.509u's express mention of the Governor's authority to designate VRAs *through February 9, 1995* implies that no such authority existed *after* that date. Michigan's Legislature knows

> how to give open-ended authority to designate VRAs – in 2023 PA 263, it granted authority to designate *state* agencies as VRAs to the Secretary of State *effective June 30, 2025* (more on that below).

(ECF No. 26, PageID.271) (emphasis added). Plaintiffs' interpretation of § 509u is not a reasonable construction of the statute.

Michigan courts have not interpreted this statute, "so this Court must apply Michigan principles of statutory interpretation to predict how they would do so in the first instance." *Kyle v. Oakland County*, ___ F. Supp. 3d ___, ___ (E.D. Mich. 2024); 2024 WL 1259472 *16 (Mar. 25, 2024). In Michigan,

> [t]he primary goal is "to give effect to the [Michigan] Legislature's intent." *Ricks* [*v. State*], [507 Mich. 387], 968 N.W.2d [428], 432 [(Mich. 2021).] In Michigan, the focus of the analysis is on "the statute's express language," which Michigan courts consider to be "the most reliable evidence of the Legislature's intent." *Sanford v. State*, 506 Mich. 10, 954 N.W.2d 82, 84 (2020) (quotations omitted). A statutory phrase should not be viewed in isolation but in the context of the statute as a whole. *Badeen v. PAR, Inc.* 496 Mich. 75, 853 N.W.2d 303, 306 (2014).

Kyle, 2024 WL 1259472 at *16. Further, "[w]hen interpreting a statute, [the court's] purpose is to ascertain and effectuate the legislative intent at the time it passed the act." *Daher v. Prime Healthcare Servs. Garden City, LLC,* No. 165377, 2024 WL 3587935, at *4 (Mich. July 30, 2024).

Here, the pertinent language—"[n]ot later than the thirtieth day after the effective date of this section"—plainly imposed a date by which then Governor Engler was to make an initial designation of VRAs. It neither plainly nor expressly precludes subsequent gubernatorial designations. This interpretation is supported by the circumstances surrounding the enactment of § 509u and Public Act 441. (*See* ECF No. 22, PageID.217-19.) Indeed, then Governor Engler understood the statute

to permit future designations as evidenced by the language in his Executive Order 1995-1.

Plaintiffs reference to the doctrine of *expressio unius est exclusio alterius* is unavailing. The Michigan Supreme Court has explained that "[u]nder [the negative-implication] canon of statutory construction, the express mention of one thing implies the exclusion of other similar things." *Comerica, Inc v Dep't of Treasury*, 984 N.W.2d 1, 7 (Mich. 2022). But the canon "does not apply without a strong enough association between the specified and unspecified items." *Id.* Here, again looking at the context—as courts applying this canon must, *id.*—there is not a strong enough association between the requirement to act by a date certain, "no later than the thirtieth day," and the supposed prohibition of action after that date. So, there is "no contextual or circumstantial predicate for invoking the negative-implication canon[.]" *Id.* at 8 (defendant "offers no reason to think that the Legislature meant to regulate all the ways that credits could be transferred so that when the Legislature said only 'assign' it was impliedly prohibiting other forms of transfer").

The fact that Governors have declined to make additional designations does not require a different construction. The decisions not to do so could easily reflect continued philosophical disagreement with the federal mandate to do so, first espoused by Governor Engler, or the belief that the original designations remained largely adequate. Michigan has, and already had at the time NVRA was enacted, a robust voter registration system.

Further, as the State Defendants argued previously, Plaintiffs construction would create a conflict between Michigan law and the NVRA and render Michigan noncompliant with the NVRA by not having a mechanism for designating VRAs. (ECF No. 22, PageID.219-21.)

Because the statute does not prohibit future designations of VRAs, Governor Whitmer did not act "ultra vires" in issuing Executive Directives 2023-6 and 2024-3, and designating additional voter registration agencies, including the DVA and the SBA. Plaintiffs state statutory challenge is without merit.

B. The Secretary of State did violate any statutes in negotiating agreements with the DVA and SBA.

Plaintiffs argue in their brief that the Secretary acted "ultra vires" when she "designated" the DVA and SBA as VRAs. (ECF No. 36, PageID.433-35.) But this argument is also without merit where the Secretary did not "designate" the DVA or SBA as VRAs—rather, the Governor did in Executive Directives 2023-6 and 2024-3 consistent with Mich. Comp. Laws § 168.509u and Executive Order 1995-1.[2]

The Michigan Department of State (MDOS) entered into the agreements with the DVA and SBA to coordinate their voter registration activities as expressly contemplated by 52 U.S.C. § 20506(a)(3)(B)(ii), which provides that designated VRAs "may include . . . Federal and nongovernmental offices, with the *agreement*

[2] As Plaintiffs note, the Michigan Legislature amended the Michigan Election Law to authorize the Secretary of State to designate state agencies as VRAs, effective June 30, 2025. *See* 2023 Public Act 263, Mich. Comp. Laws § 168.493b, as amended.

of such offices." (Emphasis added). The Secretary's negotiation of such agreements was also consistent with her responsibility under the Michigan Election Law to coordinate the requirements of the NVRA, and to instruct VRAs about registration procedures and requirements. Mich. Comp. Laws § 168.509n(b).

The agreement with the DVA was signed September 14, 2023. (ECF No. 22-2, PageID.225, 232, Def's Ex A.) And the Governor issued Executive Directive 2023-6 on December 18, 2023, designating the DVA as a voter registration agency. (ECF No. 26-6, PageID.313-15.) MDOS's agreement with the SBA was signed March 18, 2024. (ECF No. 22-3, PageID.234-42, Def's Ex B.) The Governor issued Executive Directive 2024-13 designating the SBA as a VRA on June 20, 2024. (ECF No. 26-6, PageID.316-17.) If the Governor had not made the official designations, these agreements would have had no effect.

C. The State Defendants have not violated the NVRA.

Plaintiffs also attempt a contorted argument that the State Defendants have violated the *NVRA*, despite the fact their complaint makes no such assertion whatsoever. (ECF No. 36, PageID.435-38.) The predicate for this argument is simply that the Governor had no authority to designate VRAs under § 509u. As already explained, Plaintiffs' argument on that front is without merit. As a result, their claim that the State Defendants have violated the NVRA—Plaintiffs' purported hook for avoiding the Eleventh Amendment—is likewise without merit.

Because the Governor's designation of the DVA and SBA as VRAs was consistent with Michigan law and the NVRA, and where the Secretary's negotiation

of agreements with both entities was also consistent with state law and the NVRA, Count I of Plaintiffs' complaint fails to state a claim against the State Defendants, and must be dismissed.

CONCLUSION AND RELIEF REQUESTED

For these reasons, Defendants Governor Gretchen Whitmer, Secretary of State Jocelyn Benson and Director of Elections Jonathan Brater respectfully request that this Honorable Court grant their motion to dismiss and enter an order dismissing the complaint as to them in its entirety, together with any other relief that the Court determines to be appropriate under the circumstances.

Respectfully submitted,

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Dated: October 11, 2024

CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2024, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing of the foregoing document as well as via US Mail to all non-ECF participants.

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