

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

NORTH CAROLINA REPUBLICAN PARTY
and REPUBLICAN NATIONAL
COMMITTEE,

NO. 24CV026820-910

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS; ALAN HIRSCH, in his official
capacity as Chair of the North Carolina State
Board of Elections; JEFF CARMON III, in his
official capacity as Secretary of the North
Carolina State Board of Elections; STACY
EGGERS IV, in his official capacity as
Member of the North Carolina State Board of
Elections; KEVIN N. LEWIS, in his official
capacity as Member of the North Carolina State
Board of Elections; SIOBHAN O'DUFFY
MILLEN, in her official capacity as Member of
the North Carolina State Board of Elections;
and KAREN BRINSON BELL, in her official
capacity as Executive Director of the North
Carolina State Board of Elections,

Defendants.

**NORTH CAROLINA ASIAN AMERICANS TOGETHER AND EL PUEBLO'S MOTION
TO INTERVENE AS DEFENDANTS AND MEMORANDUM OF LAW IN SUPPORT**

Proposed Intervenor North Carolina Asian Americans Together and El Pueblo ("Proposed Intervenor") seek to participate as intervening defendants in the above captioned action under North Carolina Rule of Civil Procedure 24.

INTRODUCTION

Plaintiffs seek to compel a rushed, systematic purge of the voter rolls just weeks before voting in the 2024 general election begins. Plaintiffs demand this extraordinary relief based on

nothing more than their unfounded belief that state election officials are “refusing to comply with and implement” a new state law that requires county boards to consider whether individuals who self-identified as non-citizens on juror questionnaires should be removed from the voter rolls. Compl. ¶ 96. But, as Plaintiffs themselves admit, the process of investigating and confirming the citizenship status of such individuals takes 90 days, *id.* ¶ 69, and Plaintiffs filed this lawsuit only 52 days after the law went into effect. That timeline alone makes it impossible for the Court to declare that Defendants violated the law. Moreover, federal law *prohibits* the state from systematically removing voters from the rolls this late in the election cycle. 52 U.S.C. § 20507(c)(2)(A) (“A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.”).

Nonetheless, Plaintiffs ask this Court to order state election officials to expedite the removal of purported non-citizens on a rushed timeline that would not allow time for those officials to confirm voters’ citizenship status before purging them from the rolls. Such relief, in addition to being inconsistent with state and federal law, would create a severe risk of disenfranchising lawful voters through no fault of their own just days before voting begins on September 6.¹

Proposed Intervenors seek to intervene as defendants to protect the fundamental voting rights of their constituents and community members in North Carolina, as well as their organizational interests, which would be impaired if Plaintiffs succeed. Proposed Intervenors work to empower and enfranchise immigrant communities, including North Carolina’s Asian American and Latin American voters. Both devote significant resources specifically to assisting newly

¹ *Absentee Ballots Begin Mailing Out | 2024 General Election*, N.C. State Bd. of Elections, <https://www.ncsbe.gov/news/events/absentee-ballots-begin-mailing-out-2024-general-election> (last visited Aug. 29, 2024).

naturalized North Carolinians in registering to vote and successfully exercising their political rights. More than 130,000 North Carolinians have become naturalized citizens since 2013, and they face a particularly acute threat from Plaintiffs' effort to force a rushed removal of all voters who self-identified as non-citizens at some point in time. As a result, if Plaintiffs succeed, Proposed Intervenor's missions and programs will face direct threat, and Proposed Intervenor will be forced to divert scarce resources in the middle of a critical election season to combat the reality that the voters who they serve and have helped register may now be improperly purged and barred from voting.

The existing defendants do not adequately represent Proposed Intervenor's interests here. They necessarily represent the interests of the government—which has competing obligations to a wide array of constituents, as well as legal obligations that may at times be at odds with the interests of vulnerable voters who are likely to be caught up in Plaintiffs' efforts to conduct this last-minute purge. As other courts have found in similar cases where a plaintiff seeks to purge voters from the rolls, civic organizations like Proposed Intervenor represent different interests and should be permitted to represent those interests in such litigation. This is particularly true here, where Proposed Intervenor has developed programming for naturalized citizens precisely because naturalized citizens often have trouble successfully navigating the voter registration and voting processes with government support alone.

Because Proposed Intervenor satisfies each requirement for intervention as a matter of right under North Carolina Rule of Civil Procedure 24(a)(2), the Court should grant their motion to intervene. Alternatively, the motion should be granted on a permissive basis under Rule 24(b)(2).

BACKGROUND

I. North Carolina's Voter Registration and List Maintenance Obligations

North Carolina has enacted robust procedures to verify whether people who seek to register to vote are qualified, and to remove individuals who are not qualified to vote. N.C.G.S. § 163-82.14. The State Board of Elections (“NCSBE”) and county election officials each play a significant role in the state’s list maintenance. *Id.*

Until this year, there was no provision in North Carolina law allowing state or county election officials to remove purported non-citizens from the voter rolls. The General Assembly recently enacted Section 44 of North Carolina Session Law 2023-140 (“Section 44”), which requires NCSBE to use communications it receives from state courts reporting requests to be excused from jury duty based on non-citizenship to conduct list maintenance efforts. N.C.G.S. §§ 9-6.2(b), 163-82.14(c1). The process set forth under the new law establishes a timeline that can take up to 90 days, and sometimes longer. This timeline is not only an explicit part of the law’s requirements, but it helps to ensure that the process is undertaken carefully and thoughtfully, to better protect lawfully eligible voters from being erroneously removed from the rolls.

Thus, under the terms of Section 44, within 30 days of receiving a communication from state courts reporting requests to be excused from jury duty based on non-citizenship, NCSBE is required to review the voter registration and citizenship status of each person identified, determine that person’s current citizenship status, and send a report to the county board of elections of each person identified. N.C.G.S. § 163-82.14(c1)(1)(a)–(b).² Once a county board receives a report from NCSBE, it then has 30 days to send a notice to the voter identified as a purported non-citizen.

² If NCSBE determines that the prospective juror voted prior to becoming a United States citizen, it must send the State Bureau of Investigation and the district attorney a copy of its investigation for prosecution. N.C.G.S. § 163-82.14(c1)(1)(c).

Id. § 163-82.14(c1)(2)(a). Upon receipt of a notice, the voter has another 30 days to make an objection; otherwise, the county board shall remove the person’s name from its registration records. *Id.* § 163-82.14(c1)(2)(a)–(b). If the voter objects to the removal within 30 days, the county board of elections must enter a challenge and allow the voter to present evidence at a hearing to prove their citizenship. *Id.* § 163-82.14(c1)(2)(b). There is no statutory timeline for such a hearing. Because Section 44 went into effect on July 1, 2024, it is not possible to infer—let alone determine—whether NCSBE or county election boards are complying with the new law until at least September 29, 2024, which is 90 days after the law went into effect.

Federal law also regulates North Carolina’s list maintenance practices. As relevant here, the state is prohibited from systematically removing voters from the voter rolls within 90 days of an election. 52 U.S.C. § 20507(c)(2)(A) (“A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.”). This year, that deadline with respect to the November general election was August 7, 2024, meaning that North Carolina is currently forbidden from conducting any systematic removal programs until after the 2024 general election has passed.

II. Plaintiffs’ Lawsuit

Plaintiffs, the North Carolina Republican Party and the Republican National Committee, allege that NCSBE “is refusing to enforce [Section 44] in time for the November 5, 2024 election” by failing to “conduct due diligence into the registration of voters who have self-identified as a non-citizen in response to a jury summons.” Compl. ¶¶ 13, 19. In support of this claim, Plaintiffs make only two allegations: (1) Plaintiffs sent correspondence to NCSBE on July 10, 2024 seeking assurance that it is complying with Section 44 in connection with the November election, *id.* ¶ 71; and (2) NCSBE never “substantively” responded to that correspondence, *id.* ¶ 72.

Based on nothing more than these allegations, Plaintiffs seek a declaration from this Court that NCSBE has violated Section 44 and must expedite compliance with Section 44—on a timeline that is at odds with the plain text of Section 44 itself—before the November 2024 election. *Id.* ¶ 100. Plaintiffs also seek injunctive relief, including a “Court-approved plan” directing Defendants to expedite the process of determining whether voters who once self-identified as non-citizens on a juror questionnaire “should remain on North Carolina’s registered voter list.” *Id.* at 29 (Prayer for Relief). The relief Plaintiffs seek would not allow for the individualized inquiry that Section 44 requires and could instead result in a rushed purging of all voters who at one point marked “non-citizen” on a jury questionnaire or were mistakenly flagged as having done so.

Separately, Plaintiffs allege that NCSBE violated the North Carolina Public Records Act because Plaintiffs submitted a public records request on July 10, 2024, and NCSBE has not yet produced any records. *Id.* ¶¶ 74, 79–80.

III. Proposed Intervenor-Defendants

North Carolina Asian Americans Together (“NCAAT”) is a nonpartisan, nonprofit organization committed to supporting equity and justice for all by fostering community among Asian Americans and allies in North Carolina through civic engagement, leadership development, grassroots mobilization, and political participation. Ex. 1, Declaration of Chavi Khanna Koneru ¶ 5 (“Koneru Decl.”). A key tenet of NCAAT’s mission is to empower Asian Americans statewide in civic engagement and movement building by providing resources, training, and education toward a long-term social justice agenda. *Id.* ¶ 7. To accomplish this mission, NCAAT engages in a variety of voter education programming, including producing print and digital materials about how to vote in North Carolina and how to access language assistance. *Id.* ¶ 8. NCAAT also creates infographics and one-pagers to explain the roles of different elected officials and educate constituents on voting by mail, and translates these materials into five to eight of the most

commonly spoken Asian languages. *Id.* ¶¶ 6, 8. Additionally, in major election years, NCAAT hosts a non-partisan election protection hotline available in up to twenty-two Asian languages, which community members can call with questions about voting in North Carolina. *Id.* ¶ 8.

A primary focus of NCAAT's civic engagement work is geared toward newly naturalized citizens. *Id.* ¶ 9. Since 2018, NCAAT has hosted quarterly naturalization workshops and helped nearly 500 people complete the naturalization process. *Id.* Once these community members obtain United States citizenship, NCAAT follows up with them to ensure they get registered to vote and have the resources they need to participate in upcoming elections. *Id.*

El Pueblo is a 501(c)(3) organization with a mission to build collective power through leadership development, organizing, and direct action so that the Latin American community and other marginalized communities control their own stories and destinies. Ex. 2, Declaration of Iliana Santillan ¶ 5 ("Santillan Decl."). To accomplish its mission, El Pueblo operates a robust civic engagement program, which includes aiding community members in obtaining United States citizenship, helping them obtain proper identification, registering eligible voters and newly naturalized citizens to vote, ensuring that all registered voters have the resources and language access they need to cast their ballots, and mobilizing voters to the polls. *Id.* ¶¶ 6–8, 21. For example, El Pueblo has a partnership with U.S. Citizen and Immigration Services and attends naturalization ceremonies at least twice a month, where it passes out voter guides in both English and Spanish. *Id.* ¶ 7.

El Pueblo has already registered about 450 voters, including many newly naturalized citizens, during this election cycle. *Id.* ¶ 9. El Pueblo also educates the voters in its community about candidates, policies, and ballot initiatives. *Id.* ¶ 10. El Pueblo is increasing its civic engagement activities in advance of the November election. *Id.* ¶ 10.

ARGUMENT

I. Proposed Intervenors are entitled to intervene as a matter of right.

Upon a timely motion, Rule 24(a)(2) permits intervention “where (1) the movant has an interest relating to the property or transaction; (2) denying intervention would result in a practical impairment of the protection of that interest; and (3) there is inadequate representation of that interest by existing parties.” *Alford v. Davis*, 131 N.C. App. 214, 218 (1998) (citing N.C.G.S. § 1A-1, Rule 24(a)(2)). North Carolina’s Rule 24 “is virtually identical to Rule 24 of the Federal Rules of Civil Procedure,” and North Carolina courts “look to the federal court decisions for guidance.” *Nicholson v. F. Hoffmann Laroche, Ltd.*, 156 N.C. App. 206, 208 (2003) (quotations omitted). The Fourth Circuit has stated that “liberal intervention is desirable to dispose of as much of a controversy ‘involving as many apparently concerned persons as is compatible with efficiency and due process.’” *Feller v. Brock*, 802 F.2d 722, 729 (4th Cir. 1986) (quoting *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967)). Proposed Intervenors meet each of Rule 24(a)(2)’s requirements and are thus entitled to intervene.

A. The motion to intervene is timely and does not prejudice the parties.

Proposed Intervenors’ motion is filed just 7 days after Plaintiffs filed suit and before any responsive pleadings have been filed. The existing parties will not be prejudiced if Proposed Intervenors are granted intervention at this stage. Because there has been no delay at all, Proposed Intervenors have clearly met the timeliness requirement. *See State Emps.’ Credit Union, Inc. v. Gentry*, 75 N.C. App. 260, 264 (1985) (noting “motions to intervene made prior to trial are seldom denied” due to lack of timeliness); *see also Moore v. Circosta*, Nos. 1:20CV911 & 1:20CV912, 2020 WL 6597291, at *1 (M.D.N.C. Oct. 8, 2020) (finding organization’s motion timely when filed “between four and six days after Plaintiffs filed their Complaints”); *Carcaño v. McCrory*, 315 F.R.D. 176, 178 (M.D.N.C. 2016) (finding motion timely when made “just nine days after

Plaintiffs” filed preliminary injunction motion and “before any of the original Defendants made any filings”).

B. The disposition of this case will impair Proposed Intervenor’s ability to protect their interests.

Proposed Intervenor’s have significant protectable interests that stand to be impaired by Plaintiffs’ lawsuit. A proposed intervenor’s interest is sufficient for intervention purposes if it is of “such direct and immediate character that he will either gain or lose by the direct operation and effect of the judgment.” *Virmani v. Presbyterian Health Servs. Corp.*, 350 N.C. 449, 459 (1999) (quoting *Strickland v. Hughes*, 273 N.C. 481, 485 (1968)).

Proposed Intervenor’s have “direct and immediate” interests in preventing Plaintiffs’ rushed purge of purported non-citizens from the voter rolls, which directly threatens to remove Proposed Intervenor’s constituents from the rolls. Numerous courts have agreed that similar threats to similar interests were sufficient to meet Rule 24’s standard. *See, e.g., Jud. Watch, Inc. v. Ill. State Bd. of Elections*, No. 24 C 1867, 2024 WL 3454706, at *1–2 (N.D. Ill. July 18, 2024); *Bellitto v. Snipes*, No. 16-cv-61474, 2016 WL 5118568, at *2–3 (S.D. Fla. Sept. 21, 2016).³ As in *Bellitto*, for example, Proposed Intervenor’s should be permitted to intervene because “the interests of [their constituents] would be threatened by [any] court-ordered ‘voter list maintenance’ sought by Plaintiffs,” a “potential harm” that is “particularly great in light of the upcoming . . . General Election.” 2016 WL 5118568, at *2.

Courts have consistently held that an organization’s interest in protecting its constituents’ and/or members’ voting rights satisfies even the “more stringent” requirement of standing, which

³ *See also Pub. Int. L. Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799–800, 802 (E.D. Mich. 2020) (granting organization permissive intervention in voter registration list maintenance case); Order, *Daunt v. Benson*, 1:20-cv-522 (W.D. Mich. Sept. 28, 2020), ECF No. 30 (same); Order, *Voter Integrity Project NC, Inc. v. Wake Cnty. Bd. of Elections*, No. 5:16-cv-683 (E.D.N.C. Dec. 1, 2016), ECF No. 26 (granting voters permissive intervention in list maintenance case).

“compels the conclusion that they have an adequate interest” for purposes of Rule 24. *Yniguez v. Arizona*, 939 F.2d 727, 735 (9th Cir. 1991); *see also Voto Latino v. Hirsch*, Nos. 1:23-CV-861 & -862, 2024 WL 230931, at *11 (M.D.N.C. Jan. 21, 2024) (organization had standing based on injury to members’ voting rights). Here, Proposed Intervenor’s interests are particularly significant because they represent constituencies who face an acute risk from rushed, court-ordered investigations and voter roll purges based on juror questionnaires. Koneru Decl. ¶¶ 12–14; Santillan Decl. ¶¶ 11–12. A top priority for both Proposed Intervenor’s is assisting eligible immigrants to obtain United States citizenship and then helping those citizens register to vote and vote. Koneru Decl. ¶¶ 8–9; Santillan Decl. ¶ 7. Thus, many of Proposed Intervenor’s constituents are newly naturalized citizens who were previously ineligible to vote but are now lawful citizens and registered voters with full voting rights. Koneru Decl. ¶ 9; Santillan Decl. ¶ 11. Juror questionnaires—which are typically sent no more frequently than once every two years⁴—do not provide current information about citizenship status. This is especially true where more than 130,000 North Carolinians have become naturalized citizens since 2013. Koneru Decl. ¶ 11.

Even those of Proposed Intervenor’s constituents who are not newly naturalized will face an increased likelihood of erroneous removal as a result of Plaintiffs’ requested relief. First, language barriers, which disproportionately affect Proposed Intervenor’s constituents, substantially increase the likelihood that they would not fully comprehend the juror questionnaire and could mistakenly self-identify as a non-citizen, such that they would be erroneously flagged as a non-citizen in a rushed effort to identify and remove such voters from the rolls. Koneru Decl. ¶ 14; Santillan Decl. ¶ 12. In fact, most of Proposed Intervenor’s constituents immigrated from

⁴ *Jury Service*, N.C. Jud. Branch, <https://www.nccourts.gov/help-topics/jury-service/jury-service> (last visited Aug. 29, 2024).

countries that do not use juries and are therefore unfamiliar with jury service; and they are unlikely to understand that errors in a juror questionnaire could affect their voter registration. Koneru Decl. ¶ 14; Santillan Decl. ¶ 12. Moreover, many of Proposed Intervenor's constituents live in mixed-status households with family members who have similar or identical names but different immigration and citizenship statuses. If one family member has self-identified as a non-citizen, their family member with a similar name may be mistakenly purged from the voter rolls. Santillan Decl. ¶ 13. Additionally, Proposed Intervenor's constituents often have longer, more complex names that do not conform to government standards, and these voters are more likely to be erroneously identified as non-citizens after election officials cross-check information from government databases. Koneru Decl. ¶ 14; Santillan Decl. ¶ 14. Proposed Intervenor thus has protectible interests in ensuring that their community members are not wrongly identified as non-citizens and unlawfully removed from North Carolina's voter rolls.

Proposed Intervenor, as organizations, also stand to "gain or lose" based on the outcome of these proceedings, which will have a direct and immediate impact on their limited resources. *Virmani*, 350 N.C. at 459. If Plaintiffs obtain their requested relief, and county officials are forced to immediately remove suspected non-citizens from the rolls, Proposed Intervenor will be required to divert limited resources from other mission-critical programs to educate members about this impending purge, develop resources encouraging their constituents to confirm their voter registrations, and stand up programs to assist voters who show up to voting sites to find out that their registrations have been cancelled. Koneru Decl. ¶¶ 15–20, 22; Santillan Decl. ¶¶ 17–22. Specifically, NCAAT will be forced to divert resources away from its naturalization workshops, language assistance programs, and efforts to educate voters on the citizenship ballot initiative toward identifying and informing voters who came through its naturalization programs about the

impending investigations and purges, and how to ensure voters remain registered. Koneru Decl. ¶¶ 20–22. Similarly, El Pueblo would be forced to redirect resources away from its get-out-the-vote efforts, digital communication programs, and identification drives toward educating voters about the impending investigations and purges and ensuring that they and their community partners are prepared to counteract such relief. Santillan Decl. ¶¶ 17–22. Additionally, there is a serious risk that Proposed Intervenor’s constituents will be chilled by expedited investigations into their citizenship status from exercising their fundamental right to vote. *Id.* ¶ 15.

Accordingly, Proposed Intervenor would have to further expend resources to aid voters in responding to removal notices and inquiries and ensure they reregister should they be purged, diverting time and resources away from their other priorities. Koneru Decl. ¶¶ 15, 22; Santillan Decl. ¶¶ 17–22. Again, courts have consistently found that such a diversion of resources satisfies the higher burden of establishing Article III standing. *See, e.g., Voto Latino*, 2024 WL 230931, at *10 (finding standing where Latinx voting rights advocacy organization would divert significant funds and resources to address change in same-day voting registration procedures); *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 182–83 (M.D.N.C. 2020) (finding standing where organization would divert resources to assist voters with registering to vote before 25-day deadline); *Action NC v. Strach*, 216 F. Supp. 3d 597, 617–18 (M.D.N.C. 2016) (finding standing where organization would divert limited time and resources to assist voters with registration after DMV allegedly failed to transmit voter registration information to NCSBE); *N.C. State Conf. of the NAACP v. N.C. State Bd. of Elections*, 283 F. Supp. 3d 393, 402–03 (M.D.N.C. 2017) (finding standing where organization would divert resources to combat “en masse voter challenge[s]”). The threatened impairment of Proposed Intervenor’s organizational resources

alone supplies a more than sufficient basis to grant intervention.⁵

C. Defendants do not adequately represent Proposed Intervenor’s interests.

Proposed Intervenor’s interests are not adequately represented by the current Defendants. Simply stated, as a public body and public officials, Defendants’ “sole litigation interests are to protect the public welfare and the interests of [the] general citizenry.” *Letendre v. Currituck County*, 261 N.C. App. 537, 2018 WL 4440587, *4 (Sept. 18, 2018) (unpublished) (cleaned up). Accordingly, “there are many decisions [they] might make which would not be aligned with the interests” of Proposed Intervenor, whose interests are to further their missions and protect the rights of their constituents. *Id.* at *4–5 (concluding county did “not have the same interests” as private parties).

The U.S. Supreme Court’s decision in *Berger v. North Carolina. State Conference of the NAACP*, 597 U.S. 179, 194–95 (2022), confirms that the NCSBE does not adequately represent Proposed Intervenor’s interests. In that case, several civil rights groups sued NCSBE to challenge a voter-identification law adopted by the legislature over the Governor’s veto. *Id.* at 186. Although NCSBE was represented by the Attorney General, several state legislators sought to intervene alongside NCSBE to defend the law. *Id.* at 186–87. The Fourth Circuit concluded en banc that the legislators could not intervene because their interests were adequately represented by NCSBE. *Id.* at 190. The Supreme Court reversed, explaining at the outset that this requirement “presents proposed intervenors with only a minimal challenge.” *Id.* at 181. The Supreme Court further explained that while state agents may pursue “related” interests to political actors, those interests

⁵ Because Proposed Intervenor has several interests that would be directly affected by Plaintiffs’ requested declaratory relief, the Declaratory Judgment Act also gives them a statutory right to intervene. *See* N.C.G.S. § 1-260 (“When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceedings.”); *see also* N.C.G.S. § 1A-1, Rule 24(a)(1).

are not “identical.” *Id.* at 196 (quoting *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 (1972)). In particular, the Court noted that state agencies like NCSBE must “bear in mind broader public-policy implications” than those with more partisan or private interests. *Id.*

The same is true here. While NCSBE and Proposed Intervenors may agree that Plaintiffs have failed to identify any violation of state law, their interests are far from “identical.” *Id.* The Board’s “position is defined by the public interest,” *Feller*, 802 F.2d at 730; *accord Letendre*, 2018 WL 4440587, at *4, while Proposed Intervenors’ parochial interests are rooted in their missions, the resources they invest to achieve those missions, and the voting rights of their specific constituents—immigrants and naturalized citizens. As such, the Board must carry out its “responsibility to properly administer election laws” and respond to the differing concerns and demands of different types of constituencies, whereas Proposed Intervenors are “concerned with ensuring their [] members . . . have the opportunity to vote in the upcoming [] election[s].” *Issa v. Newsom*, No. 2:20-CV-01044-MCE-CKD, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (granting intervention, and further noting intervenors’ distinct interest in “allocating their limited resources to inform voters about the election procedures”).

As courts have recognized in other voter purge cases, the divergence of interests is particularly stark in these cases, where “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.” *Pub. Int. L. Found., Inc.*, 463 F. Supp. 3d at 799 (citing *League of Women Voters of Mich. v. Johnson*, 902 F.3d 572, 579 (6th Cir. 2018)). That is because election officials are tasked with balancing “twin objectives -- easing barriers to registration and voting, while at the same time protecting electoral integrity and the maintenance of accurate voter rolls.” *Bellitto v. Snipes*, 935 F.3d 1192, 1198 (11th Cir. 2019). By

contrast, Proposed Intervenorors are concerned solely with eliminating “barriers to registration and voting,” *id.*, and ensuring their constituents are free from unwarranted scrutiny, rushed investigations into their citizenship status, and unlawful removal from the voter rolls. *See Texas v. United States*, 805 F.3d 653, 662 (5th Cir. 2015) (explaining that an intervenor’s interests may not be protected by a “governmental entity” where the government is balancing several competing interests that diverge from the singular focus of a private party); *N.C. Green Party v. N.C. State Bd. of Elections*, 619 F. Supp. 3d 547, 562 (E.D.N.C. 2022) (granting intervention as defendant alongside NCSBE because even where public body and private party “shared a closely aligned interest,” such parties “did not share identical interests”). The divergence of interests is all the more salient here, where the voters most at risk are naturalized citizens, who often have trouble navigating the political process with government support alone and rely on Proposed Intervenorors’ assistance to exercise their voting rights.

For all of these reasons, Proposed Intervenorors satisfy each of the requirements for intervention as of right, and the Court should find that they are entitled to intervene in this matter. *See, e.g., Jud. Watch, Inc.*, 2024 WL 3454706, at *6 (granting civic organizations intervention as of right in voter purge case); *Bellitto*, 2016 WL 5118568, at *3 (same).

II. In the alternative, the Court should permit intervention under Rule 24(b).

In the alternative, the Court should grant permissive intervention because Proposed Intervenorors’ defenses will depend on resolution of the same law and facts as the main action, their participation will not prejudice the existing parties, and they will aid the Court’s resolution of the issues in this case.

“Upon timely application anyone may be permitted to intervene in an action . . . [w]hen an applicant’s claim or defense and the main action have a question of law or fact in common.” N.C.G.S. § 1A–1, Rule 24(b)(2); *Koenig v. Town of Kure Beach*, 178 N.C. App. 500, 506–07

(2006). “Permissive intervention under the rule ‘rests within the discretion of the trial court.’” *Alford*, 131 N.C. App. at 219 (quoting *State ex rel. Long v. Interstate Cas. Ins. Co.*, 106 N.C. App. 470, 474 (1992)). When exercising that discretion, the court must “consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” N.C. Gen. Stat. § 1A–1, Rule 24(b)(2) (cl. 3). Under the analogous Federal Rule 24(b), permissive intervention is liberally construed in favor of intervention. *Thomas v. Andino*, 335 F.R.D. 364, 369 (D.S.C. 2020).

As explained, this motion is timely and will not unduly delay or prejudice the adjudication of the rights of the original parties. Proposed Intervenors moved expeditiously to intervene before any schedule has been set and agree to abide by any schedule the Court sets. Proposed Intervenors’ defenses depend on resolution of the same questions of fact and law—including the proper interpretation of North Carolina’s election laws that form the bases of Plaintiffs’ claims, and whether Plaintiffs’ requested relief would violate federal law.

There are also significant prudential reasons to grant intervention here. As described, Proposed Intervenors have significant and parochial interests in preventing unlawful investigations and purges of their constituents and ensuring they are not disenfranchised or unlawfully chilled from voting, as well as preserving their limited mission-critical, election-year resources that would be diverted if Plaintiffs’ requested relief is granted. *Supra* Argument § I-B. And because Proposed Intervenors represent the voters who stand to be most harmed by the relief Plaintiffs seek, they will aid the Court in developing a full record of the relevant considerations—including the impact of this litigation and any last-minute relief requiring investigation and purges on voters. For all the reasons described, *see generally* Koneru Decl.; Santillana Decl., Proposed Intervenors have unique insight into the very real impacts that Plaintiffs’ requested relief stands to have on the communities

they serve, and those realities should be part of the Court's consideration as to whether to grant Plaintiffs relief. Defendants do not adequately represent these interests not only because they are obligated under state law to perform list maintenance that risks wrongful removal of Proposed Intervenor's members and constituents, but also because they simply do not have the on-the-ground experience with these communities that could benefit the Court in its resolution of this matter.

In short, because Rule 24 is liberally construed to ensure that all interested parties have the opportunity to protect their rights and interests, if the Court is inclined not to grant intervention as a matter of right, it should grant permissive intervention.

CONCLUSION

For these reasons, Proposed Intervenor respectfully request that the Court grant its motion to intervene as a matter of right under North Carolina Rule of Civil Procedure 24(a), or, in the alternative, permit it to intervene under North Carolina Rule of Civil Procedure 24(b).⁶

⁶ If Proposed Intervenor's motion is granted, Proposed Intervenor intend to file a motion to dismiss the Complaint under Rule 12(b). Because Rule 24(c) requires putative intervenors to attach a proposed pleading to their motion, however, Proposed Intervenor attach a proposed answer hereto as **Exhibit 3**.

Dated: August 29, 2024

Respectfully submitted,

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*Motion for admission *pro hac vice*
forthcoming

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

NORTH CAROLINA REPUBLICAN PARTY,
et al.,

NO. 24CV026820-910

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS, et al.,

Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the MOTION TO INTERVENE in the above captioned matter (filed August 29, 2024) on counsel for Plaintiffs and Defendants by electronic mail as follows:

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RESPECTFULLY SUBMITTED, the 29th day of August, 2024.

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