

SHILPI AGRWAL (SBN 270749)**
sagarwal@aclunc.org
ANGELICA SALCEDA (SBN 296152)
asalceda@aclunc.org
ACLU FOUNDATION OF
NORTHERN CALIFORNIA
39 Drumm Street
San Francisco, CA 94111
(415) 621-2493

JULIA A. GOMEZ (SBN 316270)
jagomez@aclu-sdic.org
ACLU FOUNDATION OF SAN
DIEGO & IMPERIAL COUNTIES
P.O. Box 87131
San Diego, CA 92138-7131
(619) 398-4199

ARI SAVITZKY (NY 5060181)*
asavitzky@aclu.org
THERESA J. LEE (NY 5022769)*
tlee@aclu.org
SOPHIA LIN LAKIN (NY 5182076)*
slakin@aclu.org
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500

PETER ELIASBERG (SBN 89110)**
peliasberg@aclusocal.org
ACLU FOUNDATION OF
SOUTHERN CALIFORNIA
1313 West 8th Street
Los Angeles, CA 90017
(213) 977-5232

Counsel for Proposed Intervenor-Defendant
League of Women Voters of California

**Application for admission pro hac vice forthcoming*

***Application for admission forthcoming*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DARRELL ISSA,

Plaintiff,

vs.

SHIRLEY N. WEBER, in her official
capacity as Secretary of State of
California,

Defendant.

Case No.: 25-cv-598-AGS-JLB

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR INTERVENTION
OF LEAGUE OF WOMEN
VOTERS OF CALIFORNIA**

DATE: May 16, 2025

TIME: 2:00 P.M.

COURTROOM: 5C

JUDGE: Hon. Andrew G. Schopler

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2 <https://www.sos.ca.gov/elections/historical-absentee> (last visited Apr. 18, 2025) 2
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4 [https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=20252026](https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=202520260SB406)
5 0SB4064
6 Tim Balk, *Postal Service Reaches Deal With Musk’s Department of Government*
7 *Efficiency*, N.Y. Times (March 13, 2025)4
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1 Pursuant to Federal Rule of Civil Procedure 24(a), proposed Intervenor-
2 Defendant the League of Woman Voters of California (the “League”) respectfully
3 moves to intervene as a matter of right. Alternatively, the League moves for
4 permissive intervention under Federal Rule of Civil Procedure 24(b). The League’s
5 motion should be granted for the reasons set forth below.

6 INTRODUCTION

7 The League of Women Voters of California is a pre-eminent non-partisan
8 good-government organization in the State, dedicated to promoting democracy, civic
9 engagement, and the rights of California voters. The League has thousands of
10 members across the State, and it conducts a major program of voter engagement
11 every election cycle, including engaging with and assisting countless mail ballot
12 voters. The League, its staff, and its members have also been at the forefront of
13 policy debates in California involving the mail ballot process, including the
14 successful effort a decade ago to extend the mail ballot receipt deadline, and debates
15 over these issues continuing into the present day. Indeed, just in the last several
16 months, the League testified in the California Legislature opposing efforts to shorten
17 the receipt deadline. With approximately 80% of Californians voting using a mail
18 ballot each election, ensuring that voters have a reasonable grace period for their
19 ballots to arrive—and that they are not unfairly disenfranchised by happenstance—
20 is of the utmost importance to the League’s vital mission, to its members, and to
21 millions of California voters.

22 The League’s interests are threatened in this action. Plaintiff, an elected
23 official acting in his own telling out of partisan self-interest, asks this Court to nullify
24 hard-won reforms enacted by the California Legislature that have made voting more
25 accessible to millions of Californians. He claims that California’s mail-ballot-
26 receipt deadline, which sensibly provides that a voter’s mail ballot may be counted
27 if received within seven days of Election Day so long as it was properly completed
28 and submitted by Election Day, is preempted by century-old federal statutes that

1 create a uniform national election day for federal elections but that have nothing to
2 do with vote-counting or mail ballots. *See* 2 U.S.C. §§ 1, 7; 3 U.S.C. § 1. He asks
3 the Court, on this meritless theory, to override state law and put in place a rule that
4 could wrongfully disenfranchise hundreds of thousands of California voters.

5 The League seeks to intervene in this action to ensure that its interests and
6 those of its members and the communities it serves are fully and adequately
7 represented. The League’s participation will not cause any delay and will provide
8 the Court with important context that will aid in the swift and just resolution of this
9 case. No other party can fully represent the League’s unique interests here. The
10 League’s motion for mandatory intervention under Rule 24(a)—or in the alternative,
11 for permissive intervention under Rule 24(b)—should accordingly be granted.¹

12 BACKGROUND

13 I. Statutory and Procedural Background

14 California strongly encourages voters to vote by mail. Under state law, “any
15 registered voter” may vote by mail, Cal. Elec. Code § 3003, and indeed all active
16 registered voters are sent a mail ballot with a postage-paid return envelope, which
17 they may return by mail or drop off at a drop-box, voting location, or elections office,
18 *see id.* §§ 3000.5, 3017(a), 3010(a). Since 2020, the vast majority of California
19 voters take advantage of this method of voting, with more than 80% of ballots in the
20 2024 general election—over 13 million ballots—being cast using a mail ballot.²

21 Since 2014, California has allowed for the counting of mail ballots that are
22 received after Election Day so long as they are voted before Election Day. *See* 2014
23 Cal. Legis. Serv. Ch. 618 (S.B. 29). In 2021, the Legislature passed a law setting
24 the receipt deadline to be seven days after Election Day. 2021 Cal. Legis. Serv. Ch.

25
26 ¹ The League’s motion is accompanied by a proposed Answer, pursuant to Rule 24(c). If the
27 League’s motion is granted, the League reserves the right to move to dismiss the complaint by
the applicable deadline.

28 ² *Historical Vote-By-Mail (Absentee) Ballot Use in California*, Cal. Sec’y of State,
<https://www.sos.ca.gov/elections/historical-absentee> (last visited Apr. 18, 2025).

1 312 (A.B. 37); Cal. Elec. Code § 3020 (as codified). To be counted, such mail
2 ballots must either (1) be postmarked on or before Election Day, or (2) if ballots do
3 not have a postmark, indicate that they were cast by Election Day. Cal. Elec. Code
4 § 3020.

5 Setting the receipt deadline after Election Day is an important means of
6 ensuring that all registered voters have their ballots counted. According to the U.S.
7 Postal Service’s 2024 Post-Election Analysis Report, 97.73 percent of voters’ mail
8 ballots were received by election officials within three days of their being sent, but
9 that number rose to 99.88 percent within seven days.³ As this data makes clear,
10 setting the mail ballot receipt deadline to seven days after the election ensures that
11 literally hundreds of thousands of ballots that are timely completed by registered
12 voters are counted and included in the totals.

13 It also ensures that voters who return their ballot by mail have an opportunity
14 “to reach an informed decision *by Election Day*,” thus “placing mail ballot voters in
15 the same position as people who vote in person on Election Day.” Declaration of
16 Helen Hutchison (“Hutchison Decl.”) ¶ 26.

17 California is far from the only state to allow mail ballots cast by Election Day
18 to arrive in the days afterwards. *See, e.g.*, Alaska Stat. § 15.20.081(e) & (h); D.C.
19 Code § 1-1001.05(a)(10A); 10 Ill. Comp. Stat. §§ 5/19-8(c), 5/18A-15; Mass. Gen.
20 Laws ch. 54, § 93; Nev. Rev. Stat. § 293C.26321; N.J. Stat. § 19:63-22(a); N.Y.
21 Elec. Law § 8-412; Or. Rev. Stat. § 253.070(3); Ohio Rev. Code § 3509.05(D)(2);
22 Tex. Elec. Code § 86.007; Va. Code § 24.2-709(B); W. Va. Code §§ 3-3-5(g), 3-5-
23 17. These deadlines are especially important in light of the significant burdens on
24 the U.S. postal system around election season—all the more so in light of recently
25 announced cuts to USPS resources. *E.g.*, Hutchison Decl. ¶ 20 (citing Testimony of
26

27 ³ 2024 *Post-Election Analysis Report*, U.S. Postal Serv. (Dec. 2, 2024),
28 <https://about.usps.com/what/government-services/election-mail/pdf/usps-post-election-report-2024-12-02.pdf>.

1 Dora Rose, Deputy Dir. of the League, in Opp’n to S.B. 406 (2025) before Sen.
2 Standing Comm. on Elec. & Const. Amend. (Apr. 1, 2025),
3 *available at* [https://calmatters.digitaldemocracy.org/hearings/258760?t=1352&f=c](https://calmatters.digitaldemocracy.org/hearings/258760?t=1352&f=cb0dade782768706637c6533b7a4ad46)
4 [b0dade782768706637c6533b7a4ad46](https://calmatters.digitaldemocracy.org/hearings/258760?t=1352&f=cb0dade782768706637c6533b7a4ad46)).⁴

5 In the last several years, groups have sought to change California law through
6 the legislative process to restrict the mail ballot receipt deadline. For example, less
7 than two years after the enactment of the law which set the receipt deadline at seven
8 days after Election Day, a bill was introduced seeking to revert the ballot receipt
9 deadline to the three days following Election Day. *Id.* ¶ 22 (citing A.B. 13 (2023)).
10 This effort, which the League opposed, failed. *Id.* And in the current legislative
11 session, a bill has been introduced that would require mail ballots to be received by
12 Election Day, *see* S.B. 406 (2025), functionally requiring voters who need to rely on
13 the postal service to cast their ballots *well in advance* of Election Day in order to
14 ensure their vote is counted. That bill, which the League opposes, was held in
15 committee without a recommendation following a hearing on April 1, 2025 at which
16 the League’s Deputy Director testified that voters “who complete and post their
17 ballots by Election Day,” and especially voters “in rural, remote, or underserved
18 areas, who rely heavily on the mail,” will be “silenced” by the proposed change.
19 Hutchison Decl. ¶ 20 (quoting Testimony of Dora Rose, Deputy Dir. of the League,
20 in Opp’n to S.B. 406 (2025) before Sen. Standing Comm. on Elec. & Const. Amend.
21 (Apr. 1, 2025), *available at* [https://calmatters.digitaldemocracy.org/](https://calmatters.digitaldemocracy.org/hearings/258760?t=1352&f=cb0dade782768706637c6533b7a4ad46)
22 [hearings/258760?t=1352&f=cb0dade782768706637c6533b7a4ad46](https://calmatters.digitaldemocracy.org/hearings/258760?t=1352&f=cb0dade782768706637c6533b7a4ad46))).⁵
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25 ⁴ *See also, e.g.,* Tim Balk, *Postal Service Reaches Deal With Musk’s Department of Government*
26 *Efficiency*, N.Y. Times (March 13, 2025),
27 <https://www.nytimes.com/2025/03/13/us/politics/postal-service-musk-doge.html>.

28 ⁵ *See also SB-406: Elections: Ballot Submission Deadline, History*, Cal. Legis. Info.,
https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=202520260SB406
(showing S.B. 406 was held in committee) (last visited Apr. 18, 2025).

1 With this action, California Congressman Darrell Issa attempts to end-run the
2 political process and undo the pro-voting measures adopted by the California
3 Legislature that have served voters for a decade. On March 13, 2025, he filed this
4 lawsuit, challenging California’s ballot receipt deadline as a violation of federal law.
5 *See generally* Complaint, *Issa v. Weber*, No. 25-cv-598 (S.D. Cal. Mar. 13, 2025),
6 ECF No. 1. Issa contends that the California Elections Code’s mail ballot receipt
7 deadline is pre-empted by 2 U.S.C. §§ 1, 7 and 3 U.S.C. § 1, the provisions of the
8 U.S. Code setting a uniform federal election day. *Id.* ¶¶ 4-6, 70. Issa claims that
9 accepting mail ballots that are received after Election Day disadvantages him as a
10 candidate and impairs his purported constitutional right to “stand for office.” *Id.*
11 ¶¶ 10, 33-66, 72-77. He seeks an order preventing California from counting any
12 ballot received after Election Day. *Id.* at 10, ¶ c.

13 **II. The League of Women Voters of California**

14 The League is a non-partisan grassroots membership organization that seeks
15 to promote informed and active participation in government by, among other things,
16 promoting voting and civic education and helping California voters navigate the
17 voting process, including especially the process of voting by mail. *E.g.*, Hutchison
18 Decl. ¶¶ 4-5, 8. The League has approximately 7,000 dues-paying members in the
19 state across 60 local chapters, a significant number of whom vote by mail ballot. *Id.*
20 ¶¶ 6-7. League members work year-round in their local communities to build voter
21 engagement as part of an integrated voter engagement model of organizing. *Id.* ¶¶
22 10-11.

23 The League dedicates significant resources—including literally thousands of
24 person-hours of its member-volunteers’ time—to voter engagement, voter service
25 projects, voter registration, get out the vote efforts, and public education about
26 elections. *E.g.*, *id.* ¶¶ 9, 12-13. Information and engagement around voting by mail
27 in California is a ubiquitous element of these efforts—at all of the registration drives,
28 candidate forums, “pros and cons” ballot initiative educational events, and

1 community-based “get out the vote” gatherings, the League provides information to
2 voters about how to complete and return mail ballots and the deadline for returning
3 those ballots under California law, including the need to be completed and
4 postmarked by Election Day, both as part of any speaking program and in its print
5 and digital materials and social media accounts, which it distributes and publicizes
6 as part of these efforts. *Id.* ¶¶ 12, 14; *see also id.* ¶¶ 13, 15-18 (discussing the
7 League’s various print and digital voting-related materials).

8 The League’s expenditure of resources to educate and engage California
9 voters is massive. For example, during 2024, nearly 3,000 League volunteers
10 donated almost 35,000 hours of their time providing voter information to
11 Californians. *Id.* ¶ 12. These volunteer hours were applied at over 2,000 individual
12 activities, including, as noted conducting voter registration drives, providing
13 information on ballot measures, hosting candidate forums, and conducting get out
14 the vote events. *Id.* Also in 2024, the League distributed 153,700 copies of its Easy
15 Voter Guide in five different languages, educating voters on the ways to vote,
16 including clear language about the deadline for returning mail ballots. *Id.* ¶ 13.

17 All of this work will continue into the future—indeed, a wave of intensive
18 planning efforts regarding engaging voters for the 2026 midterm elections will be in
19 full swing at both the local and statewide League level by the summer. *Id.* ¶ 19.

20 In addition to its voter engagement and education efforts, the League also
21 advocates for voter empowerment through legislation and other policy work,
22 including specifically implementation of policies that expand voters’ access to the
23 ballot. *Id.* ¶¶ 20-24. The League strongly supported the 2014 legislation, S.B. 29,
24 which led to the adoption of a post-Election Day receipt deadline for timely-
25 completed mail ballots. *Id.* ¶ 23 & Ex. A (Letter from Helen Hutchison on behalf of
26 the League to Gov. Jerry Brown (Sept. 16, 2014)); *see also* 2014 Cal. Legis. Serv.
27 Ch. 618 (S.B. 29). The League also backed 2021 legislation, A.B. 37, which
28 required that a mail ballot be sent to every active registered voter prior to an election,

1 and which also set the current rule that a mail ballot must be postmarked by Election
2 Day and received within seven days of Election Day. Hutchison Decl. ¶ 24; *see*
3 *also* 2021 Cal. Legis. Serv. Ch. 312 (A.B. 37). And as noted, already, the League
4 has also been active in opposing efforts to claw back these hard-won gains for voters,
5 up to and including its efforts in the current legislative session. *See* Hutchison Decl.
6 ¶¶ 20-21; *see also id.* ¶ 22.

7 If Plaintiff's requested relief is granted, hundreds of thousands of California
8 voters could have their ballots discounted—that is, they could be disenfranchised,
9 through no fault of their own—simply because their mail ballot arrived a few days
10 after Election Day. *Id.* ¶¶ 25, 28. This will substantially increase the risk that
11 League members will be disenfranchised if they mail their ballots close to Election
12 Day. *Id.* ¶ 25.

13 Plaintiff's requested relief would also directly harm the League. As noted
14 already, the League expends substantial resources on voter engagement and
15 education, including by creating print and digital informational materials and
16 training thousands of volunteers to engage with and educate voters about vote-by-
17 mail procedures in California through thousands of person-hours of direct
18 engagement. *Id.* ¶¶ 10-18. If Congressman Issa succeeds here, the League would
19 need to expend significant additional resources on updating or altering (and then re-
20 translating) all of its materials and trainings; formulating and executing (at the cost
21 of numerous volunteer hours) a new campaign to warn voters about heightened
22 disenfranchisement risks of returning mail ballots close to Election Day; and altering
23 its strategic plan for deploying resources around the time of the election, including
24 to “frontload” get out the vote and other voter engagement efforts to ensure that
25 voters are not disenfranchised. *Id.* ¶¶ 26-27. The League's finite resources,
26 including the precious time of its member-volunteers and staff, would need to be
27 diverted to these tasks and away from the League's other, pre-existing priorities,
28

1 including voter outreach and registration activities, and issue-oriented organizing
2 projects. *Id.* ¶ 28.

3 ARGUMENT

4 I. The League Is Entitled to Intervene as of Right Under Rule 24(a)(2).

5 Under Rule 24(a) of the Federal Rules of Civil Procedure, a “timely” motion
6 to intervene must be granted where the movant alleges (1) a “significantly
7 protectable interest” relating to the subject matter of the lawsuit, (2) that “disposition
8 of the action” will “as a practical matter impair or impede its ability to protect that
9 interest[,]” and (3) that the interest will be “inadequately represented by the parties
10 to the action.” *Wilderness Soc’y. v. U.S. Forest Serv.*, 630 F.3d 1173, 1177 (9th Cir.
11 2011) (quoting *Sierra Club v. EPA*, 995 F.2d 1478, 1481 (9th Cir. 1993)). Rule
12 24(a) must be construed “broadly in favor of proposed intervenors.” *Id.* at 1179
13 (quoting *United States v. City of Los Angeles*, 288 F.3d 391, 397 (9th Cir. 2002)).
14 Further, in the Ninth Circuit, intervenors “that seek the same relief sought by at least
15 one existing party to the case need not” independently demonstrate Article III
16 standing. *California Dep’t of Toxic Substances Control v. Jim Dobbas, Inc.*, 54
17 F.4th 1078, 1085 (9th Cir. 2022); *see also* 7C Charles Alan Wright, et al., *Fed. Prac.*
18 *& Proc.* § 1908 (3d ed. 1998 & Supp. 2025). Thus, a party “must” be permitted to
19 intervene when it satisfies the requirements of Rule 24(a). Fed. R. Civ. P. 24(a).
20 Here, the League satisfies each of the elements for intervention as of right.

21 A. Proposed Intervenor-Defendant’s Motion Is Timely.

22 The League’s motion is timely. There are three “primary factors” that courts
23 consider in evaluating timeliness: “(1) the stage of the proceeding at which an
24 applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for
25 and length of the delay.” *Kalbers v. United States Dep’t of Just.*, 22 F.4th 816, 822
26 (9th Cir. 2021) (quoting *Smith v. L.A. Unified Sch. Dist.*, 830 F.3d 843, 854 (9th Cir.
27 2021)). Here, the League has moved for intervention extremely early in the
28 proceedings, just over a month from when the case was filed, and weeks before

responsive pleadings are due from the Defendant. *See* ECF No. 5 (setting deadline of May 19, 2025). Courts routinely find motions to intervene timely under these circumstances. *See, e.g., Kalbers*, 22 F.4th at 825 (finding that a delay of “just a few weeks” was a “short delay” that weighed “in favor of timeliness”); *United States v. Aerojet Gen. Corp.*, 606 F.3d 1142, 1149 (9th Cir. 2010) (motion to intervene was timely where it was filed within four months of when applicants learned of proposed consent decree); *Nw. Env’t Def. Ctr. v. U.S. Army Corps of Eng’rs*, 2024 WL 3290349, at *2 (D. Or. July 2, 2024) (delay of five months constituted “minimal delay”); *Issa v. Newsom*, 2020 WL 3074351, at *2 (E.D. Cal. June 10, 2020) (finding motion timely where “no substantive proceedings ha[d] occurred”).

Intervention at this early stage also will not prejudice any of the existing parties. “The only prejudice that is relevant is that which flows from a prospective intervenor’s failure to intervene after he knew, or reasonably should have known, that his interests were not being adequately represented.” *Kalbers*, 22 F.4th at 825 (quoting *Smith*, 830 F.3d at 857) (cleaned up). Here, given the early stage of this litigation and how quickly the League has sought to intervene, the parties will not be prejudiced by intervention. *See, e.g., Citizens for Balanced Use v. Montana Wilderness Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011) (motion to intervene was timely because it was made “at an early stage of the proceedings, the parties would not have suffered prejudice from the grant of intervention at that early stage, and intervention would not cause disruption or delay in the proceedings”); *Apache Stronghold v. United States*, 2023 WL 3692937, at *2 (D. Ariz. May 29, 2023) (finding motion to intervene timely and that existing parties would not be prejudiced where the case was “still in the very early stages”). No substantive deadlines have passed, and the League will of course comply with any schedule adopted by the Court.

The League thus meets Rule 24(a)’s timeliness requirement.

B. The League Has a Significantly Protectable Interest that Will be Impaired if Plaintiff Prevails.

To demonstrate a “significantly protectable interest” relating to the subject matter of the action, the intervenor must (1) assert “an interest that is protected under some law,” and (2) show that “there is a relationship between its legally protected interest and the plaintiff’s claims.” *Kalbers*, 22 F.4th at 827. This is a “practical, threshold inquiry”; no “specific legal or equitable interest need be established.” *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001). Similarly, to satisfy the impairment requirement, an intervenor need only show that “it will suffer a practical impairment of its interests as a result of the pending litigation.” *Wilderness Soc’y.*, 630 F.3d at 1179. The League easily satisfies these requirements.

The League plainly has a significantly protectable interest in ensuring its members’ right to vote. “[S]uch interests are routinely found to constitute significant protectable interests.” *Issa*, 2020 WL 3074351, at *3; *see also, e.g., Paher v. Cegavske*, 2020 WL 2042365, at *2 (D. Nev. Apr. 28, 2020). Indeed, “[t]here is no right more basic in our democracy than the right to participate in electing our political leaders.” *McCutcheon v. FEC*, 572 U.S. 185, 191 (2014). Included within the right to vote “secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted.” *United States v. Classic*, 313 U.S. 299, 315 (1941).

Plaintiff seeks an injunction requiring the rejection of all mail ballots received after Election Day, regardless of when they were cast. Many of the League’s thousands of members, like the vast majority of Californians, vote using a mail ballot—and the relief Plaintiff seeks will risk disenfranchising those voters. *Hutchison Decl.* ¶¶ 6-7, 25-26. The League has a strong legal interest in helping its members vote and ensuring that their votes are counted.

Further, the League’s own interests in carrying out its mission will be impaired as a practical matter if Plaintiff prevails. This is independently sufficient to satisfy the impairment requirement. *See, e.g., Paher*, 2020 WL 2042365, at *2

(finding that intervenors’ interests in promoting the franchise and the election of the Democratic Party candidates, as well as individual intervenor’s interest in voting by mail, would be impaired by plaintiff’s challenge to Nevada’s all mail election provisions); *see also SEC v. Navin*, 166 F.R.D. 435, 440 (N.D. Cal. 1995) (intervenor need only show “potential adverse impact” on the interest). The League has devoted significant resources to educating California voters about the mail ballot return deadline, Hutchison Decl. ¶¶ 10-18, and it plans to continue doing so in future elections, *id.* ¶ 19. Those efforts include producing print and digital communications, developing trainings, organizing get-out-the-vote and voter education events in local communities, and devoting thousands of person-hours in volunteer time to direct voter engagement. *Id.* ¶¶ 12-17. All of those efforts will be undercut if Plaintiff’s relief is granted, and instead the League will be required to divert its resources to changing, updating, and re-translating its materials; altering its strategic plans for its voter engagement efforts; and spinning up new efforts to prevent disenfranchisement of hundreds of thousands of mail ballot voters. *Id.* ¶ 27. The resources for this new effort will come at the expense of other priorities like voter registration drives, and issue-based voter engagement on member-selected issues like homelessness and climate. *Id.* ¶¶ 11, 28.

In addition, Plaintiff’s relief, if granted, would undo by judicial order the reforms that the League has championed, won, and defended in the political process. *Id.* ¶¶ 20-24. The League specifically supported altering the receipt deadline for mail ballots in order to prevent voter disenfranchisement, facilitate voting by mail, and ensure that those who vote by mail have the same opportunity to make a considered decision by Election Day as other voters. *Id.* ¶¶ 20-26. The League’s efforts to drive pro-voter policy change in California through the legislative process—where it can represent and amplify the voices of its members before their elected representatives—is also a protectable interest that is deeply consistent with the League’s core commitment to promoting democracy and civic engagement.

1 Indeed, the Ninth Circuit has frequently held that “a public interest group is entitled
2 as a matter of right to intervene in an action challenging the legality of a measure it
3 has supported.” *Idaho Farm Bureau Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir.
4 1995) (granting intervention to environmental group to defend agency’s action that
5 the group had advocated); *see also, e.g., Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d
6 525, 526-27 (9th Cir. 1983) (granting intervention to wildlife organization to defend
7 Department of Interior’s creation of a wildlife habitat area, where the group had
8 participated in the administrative process); *Idaho v. Freeman*, 625 F.2d 886 (9th Cir.
9 1980) (granting intervention to women’s rights organization to help a federal agency
10 defend a policy that the organization had supported). In all of these cases, the court
11 had no “difficulty determining that the organization seeking to intervene had an
12 interest in the subject of the suit.” *Sagebrush Rebellion*, 713 F.2d at 527.

13 There can be no doubt that the rights and legal interests of both the League
14 and its members would be directly impeded by the relief Plaintiff seeks.

15 **C. The League’s Interests Are Not Adequately Represented by the**
16 **Existing Parties.**

17 The League cannot rely on the existing parties to adequately represent its
18 interests. Courts in this Circuit consider three factors in evaluating adequacy of
19 representation: “(1) whether the interest of a present party is such that it will
20 undoubtedly make all of a proposed intervenor’s arguments; (2) whether the present
21 party is capable and willing to make such arguments; and (3) whether a proposed
22 intervenor would offer any necessary elements to the proceeding that other parties
23 would neglect.” *Citizens for Balanced Use*, 647 F.3d at 898 (cleaned up). This is a
24 “minimal” burden, and the intervenor need only show that the existing parties’
25 representation of its interests “*may be inadequate*.” *Id.* (emphasis added).

26 Here, the named Defendant will not adequately represent the League’s
27 interests. As the Ninth Circuit has explained, “the government’s representation of
28 the public interest may not be identical to the individual parochial interest of a
particular group just because both entities occupy the same posture in the litigation.”

1 *Citizens for Balanced Use*, 647 F.3d at 899. Thus, while the named Defendant and
2 the League may share the same ultimate objective—defending California’s existing
3 mail ballot receipt deadline—their “interests are neither ‘identical’ nor ‘the same.’”
4 *California Dump Truck Owners Ass’n v. Nichols*, 275 F.R.D. 303, 308 (E.D. Cal.
5 2011). For example, while Defendant is responsible for ensuring compliance with
6 the Elections Code, the League has distinct and particular interests in protecting its
7 members’ personal right to vote as well as ensuring that its organizational mission—
8 including increasing voter participation and advancing pro-voter policies—is
9 unimpeded. Government officials, like the named Defendant, broadly represent the
10 public interest, not the particular concerns of the League. Indeed, “the government’s
11 representation of the public interest may not be ‘identical to the individual parochial
12 interest’ of a particular group just because ‘both entities occupy the same posture in
13 the litigation.’” *Citizens for Balanced Use*, 647 F.3d at 899.

14 Here, no other party will represent the League’s particular interests in this
15 case, so there is no reason to think that Defendant will “undoubtedly make all of”
16 the League’s arguments or that it will be “capable and willing to make such
17 arguments.” *Citizens for Balanced Use*, 647 F.3d at 898. Indeed, the League has a
18 particular interest in advancing merits arguments that both confirm the legal validity
19 of California’s mail-ballot receipt deadline *and* highlight its reasonableness and
20 importance as a policy matter, consistent with federal law. Defendant, by contrast,
21 may seek to emphasize jurisdictional defenses such as standing over the merits.
22 These potential divergences are enough to find that the League’s interests may not
23 be adequately protected by the existing parties. *See, e.g., Paher*, 2020 WL 2042365,
24 at *3 (“Proposed Intervenors . . . have demonstrated entitlement to intervene as a
25 matter of right” where they “may present arguments about the need to safeguard
26 [the] right to vote that are distinct from Defendants’ arguments”); *cf. Associated*
27 *Gen. Contractors of Am. v. Cal. Dep’t of Transp.*, 2009 WL 5206722, at *2-3 (E.D.
28 Cal. Dec. 23, 2009) (granting intervention where defendant state agency’s “main

1 interest is ensuring safe public roads and highways” and agency “is not charged by
2 law with advocating on behalf of minority business owners” as intervenors would).

3 **II. In the Alternative, the League Should Be Granted Permissive**
4 **Intervention Under Rule 24(b).**

5 In addition to the requirements for intervention as of right, the League also
6 satisfies the requirements for permissive intervention. The Court may permit
7 intervention by a proposed intervenor who files a timely motion and “has a claim or
8 defense that shares with the main action a common question of law or fact.” Fed. R.
9 Civ. P. 24(b)(1)(B). The court may utilize its broad discretion to grant permissive
10 intervention when the movant files a “a timely motion” and raises a claim or defenses
11 that shares “a common question of law and fact” with the “main action.” *Freedom*
12 *from Religion Found., Inc. v. Geithner*, 644 F.3d 836, 843 (9th Cir. 2011) (quoting
13 *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992)). In
14 exercising its discretion, a court must “consider whether the intervention will unduly
15 delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P.
16 24(b)(3). Courts also consider other factors, including, “the nature and extent of the
17 intervenors’ interest,” the “legal position [the intervenors] seek to advance,” and
18 “whether parties seeking intervention will significantly contribute to full
19 development of the underlying factual issues in the suit and to the just and equitable
20 adjudication of the legal questions presented.” *Sullivan v. Ferguson*, 2022 WL
21 10428165, at *4 (W.D. Wash. Oct. 18, 2022) (quoting *Spangler v. Pasadena City*
22 *Bd. of Educ.*, 552 F.2d 1326, 1329 (9th Cir. 1977)).

23 Here, all of these considerations favor granting permissive intervention.

24 First, as explained above, the League timely sought intervention. *See supra*
25 Part I.A. The only difference between mandatory and permissive intervention when
26 it comes to timeliness is that courts generally apply the factors “more leniently”
27 when evaluating mandatory intervention. *See United States v. Oregon*, 745 F.2d
28 550, 552 (9th Cir. 1984). However, that distinction makes no difference here

1 because the League sought to intervene at the earliest possible stage of the
2 proceedings.

3 Second, the League's defenses share common questions of law and fact with
4 the main action. "A common question of law and fact between an intervenor's claim
5 or defense and the main action arises when the intervenor's claim or defense relates
6 to the subject matter of the action before the district court," or, put differently, "when
7 such claims or defenses are clearly a critical part of the instant case." *Republican*
8 *Nat'l Comm. v. Aguilar*, 2024 WL 3409860, at *2 (D. Nev. July 12, 2024) (cleaned
9 up). The League easily satisfies this requirement, as the applicable state and federal
10 laws at issue are the same across parties, and the League seeks to protect the very
11 same voting rights of mail ballot voters that, as a factual matter, Plaintiff is aiming
12 to restrict.

13 Third, as explained above, there will be no prejudice to any existing party if
14 the League is permitted to intervene, nor will there be any delay, because this case
15 is still in the early stages, and there are still weeks to go before any responses are
16 due. Further, the League is one of the State's oldest and largest non-partisan good-
17 government organizations and a significant player in the policy debates over mail
18 ballot voting in California over the last decade, including the mail ballot receipt
19 deadline in particular. Hutchison Decl. ¶¶ 20-24. It is a large membership
20 organization with many thousands of California mail voters in its ranks, which
21 dedicated literally thousands of person hours to voter engagement efforts across the
22 state each election cycle, including and especially around the process of voting by
23 mail. *Id.* ¶¶ 5-7, 10-14. It thus represents a unique and informed point of view that
24 would not otherwise be before the Court and that will aid the Court in its
25 consideration of the matter. As such, there is no question that the League "will
26 significantly contribute to full development of the underlying factual issues in the
27 suit and to the just and equitable adjudication of the legal questions presented."
28 *Sullivan*, 2022 WL 10428165, at *4.

1 The district court's decision in *Republican National Committee v. Aguilar* is
2 instructive on this point. There, various groups sought to intervene in a case where
3 plaintiffs sought to "compel the State to remove from the [voter] rolls voters whom
4 they claim[ed were] ineligible" to vote. 2024 WL 3409860, at *1, *3. The court
5 granted permissive intervention, finding that intervenors would "contribute to the
6 just and equitable resolution of the issues before" it because they had a "singular
7 purpose" of "ensur[ing] voters [were] retained on or restored to the rolls," which
8 provided a "counterbalance" to plaintiffs that the state-defendant could not provide
9 due to its "split mission" of "easing barriers to registration and voting" and
10 "protecting electoral integrity." *Republican Nat'l Comm.*, 2024 WL 3409860, at *3.
11 The same reasoning applies here. The League should be permitted to intervene
12 under Rule 24(b) to advance its members' rights and the rights and interests of
13 California voters, which Plaintiff's action threatens.

14 CONCLUSION

15 For the foregoing reasons, the Court should grant the League intervention as
16 of right under Rule 24(a), or in the alternative, permissive intervention under Rule
17 24(b).

18 Dated: April 18, 2025

Respectfully submitted,

19
20 /s/ Julia A. Gomez
21 JULIA A. GOMEZ (SBN 316270)
22 jagomez@aclu-sdic.org
23 ACLU FOUNDATION OF SAN DIEGO
24 & IMPERIAL COUNTIES
25 P.O. Box 87131
San Diego, CA 92138-7131
(619) 398-4199

26 ARI SAVITZKY (NY 5060181)*
27 asavitzky@aclu.org
28 THERESA J. LEE (NY 5022769)*
tlee@aclu.org

1 SOPHIA LIN LAKIN (NY 5182076)*
2 slakin@aclu.org
3 AMERICAN CIVIL LIBERTIES UNION
4 FOUNDATION
5 125 Broad Street, 18th Floor
6 New York, NY 10004
7 (212) 549-2500

8 SHILPI AGARWAL (SBN 270749)**
9 sagarwal@aclunc.org
10 ANGELICA SALCEDA (SBN 296152)
11 asalceda@aclunc.org
12 ACLU FOUNDATION OF NORTHERN
13 CALIFORNIA
14 39 Drumm Street
15 San Francisco, CA 94111
16 (415) 621-2493

17 PETER ELIASBERG (SBN 189110)**
18 peliasberg@aclusocal.org
19 ACLU FOUNDATION OF SOUTHERN
20 CALIFORNIA
21 1313 West 8th Street
22 Los Angeles, CA 90017
23 (213) 977-5232

24 Counsel for Proposed Intervenor-Defendant
25 League of Women Voters of California

26 *Application for admission pro hac vice
27 forthcoming

28 **Application for admission forthcoming