

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

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UNITED STATES OF AMERICA

Plaintiff,

v.

SARAH COPELAND HANZAS, in her
official capacity as Secretary of State for the
State of Vermont, et. al.

Defendants.

Case No: 2:25-cv-00903-MKL

**UNITED STATES' RESPONSE TO NOTICE
OF SUPPLEMENTAL AUTHORITY (Dkts. 67 & 68)**

The United States respectfully submits this response to the Supplementary Authority filed April 9, 2026. In *United States v. Galvin*, No. 25-13816, 2026 WL 972129 (D. Mass. Apr. 9, 2026) (*Galvin*), the District Court ruled that Title III of the Civil Rights Act of 1960 (CRA), 52 U.S.C. § 20703, requires that the Attorney General's written demand for records must provide a "factual basis," not just a legal basis, to support a demand. *Galvin*, 2026 WL 972129 at *3 (emphasis added). *Galvin* acknowledged that in *Kennedy v. Lynd*, 306 F.2d 222 (5th Cir. 1962), the stated basis for the demand was merely that there was "information in the possession of the Attorney General tending to show that" the states were violating the law. *Id.* at 229 n.6. Nevertheless, *Galvin* ruled that the Attorney General's written demand letters did not provide a factual basis that satisfied *Lynd*. See 2026 WL 972129 at *4. The United States respectfully disagrees with *Galvin's* overly formalistic interpretation of CRA procedure. Another out-of-circuit district noted in a footnote that a similar pair of demand letters "collectively put [the State] on notice of the basis and purpose of its request, which is sufficient to comply with the CRA." *United States v. Benson*, No. 1:25-cv-01148-HYJ-PJG, 2026 WL 362789 at *8 n.3 (W.D. Mich. Feb. 10, 2026), *appeal*

docketed, No. 26-1225 (6th Cir. Feb. 27, 2026). If the Court is persuaded by *Galvin*'s formalistic approach, the United States requests that the Court provide leave for the United States to send Defendant a curing elaboration letter rather than dismiss on the merits to avoid unnecessary delay in resolution of the underlying legal issues.¹

Dated: April 14, 2026.

Respectfully submitted:

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¹ Judge Kari A. Dooley, United States District Judge for the District of Connecticut, suggesting the requisite cure for any alleged deficiency in the written demand, said: "If . . . I find the [written demand] letter does not meet the requisites for a court order, aren't we just back here in six months after a new letter has been sent?" *United States v. Thomas*, No. 3:26-cv-00021-KAD, Tr. of Oral Arg. 85:19-22 (D. Conn. Mar. 19, 2026) (attached as Ex. 1).

Exhibit 1

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1 would just emphasize that *Powell* is not limited to the IRS
2 context. Counsel for the United States again tried to kind
3 of limit that to just IRS proceedings, but the Second Circuit
4 has applied the *Powell* analysis outside of the IRS. Those
5 cases are at Footnote 18 of our brief, kind of collecting how
6 *Powell* has been applied outside the IRS.

7 THE COURT: Thank you.

8 MR. ABBUHL: Just a few clean-up points, Your Honor.

9 Counsel for the United States mentioned how they had
10 seen data that was suggestive that certain states were not
11 following HAVA. Be that as it may, whether that's true or
12 not, it was not in the demand letter itself, which is, again,
13 what is required by the Civil Rights Act and probably just
14 the most straightforward and easy way to resolve this case,
15 since there was no basis about those facts stated in the
16 demand letter.

17 THE COURT: Let me ask you.

18 MR. ABBUHL: Please.

19 THE COURT: If I agree with you and I find the
20 December 12th letter does not meet the requisites for a court
21 order, aren't we just back here in six months after a new
22 letter has been sent?

23 MR. ABBUHL: I have no idea, Your Honor, because the
24 point of that letter is that it forces DOJ to articulate
25 particular facts that suggest they do have a legitimate