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**United States District Court
District of Hawaii**

PUBLIC INTEREST LEGAL FOUNDATION, INC., RALPH CUSHNIE <i>Plaintiffs,</i> v. MOANA LUTEY, in her capacity as County Clerk of Maui; and JADE K. FOUNTAIN-TANIGAWA, in her capacity as County Clerk of Kaua'i <i>Defendants.</i>	Civil Case No. _____
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COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Plaintiff Public Interest Legal Foundation, Inc., and Ralph Cushnie by and through counsel, brings this action for declaratory and injunctive relief against Defendants for violations of the National Voter Registration Act of 1993 ("NVRA"), 52 U.S.C. § 20507.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, because the action arises under the laws of the United States. This Court also has jurisdiction under 52 U.S.C. § 20510(b), because the action seeks injunctive and declaratory relief under the NVRA. This Court may also grant declaratory relief under 28 U.S.C. § 2201.

2. This Court also has jurisdiction because Plaintiff complied with the NVRA's pre-litigation notice requirements and Defendant failed to cure the violation of law in the time the NVRA affords. *See* 52 U.S.C. § 20510(b)(3).

3. Venue in this Court is proper under 28 U.S.C. § 1391(b)(1), because the Defendants reside in this district, and under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claim occurred in this district.

PARTIES

4. The Public Interest Legal Foundation ("The Foundation") is a non-partisan, public interest organization incorporated and based in Alexandria, Virginia. The Foundation seeks to promote the integrity of the electoral process nationwide through research, education, remedial programs, and litigation. The Foundation regularly utilizes the NVRA's Public Disclosure Provision and state and federal open records laws that require government records be made available to the public. Using records and data compiled through these open records laws, the Foundation analyzes the programs and activities of state and local election officials to determine whether lawful efforts are being made to keep voter rolls current and accurate, and to determine whether eligible registrants have been improperly removed from voter rolls. Where necessary, the Foundation takes remedial action based on issues revealed by these public records. To advance the public education aspect of its organizational mission, the Foundation uses records

and data to produce and disseminate reports, articles, blog and social media posts, and newsletters. The Foundation also uses records and data to inform and advise lawmakers, including members of Congress and state legislators, about different circumstances, including possible amendments to the NVRA, the State's compliance with federal law, and whether the NVRA's four articulated legislative purposes are actualized.

5. Ralph Cushnie ("The Commissioner") is a Commissioner on the Board of Elections and is a long-time Kaua'i County resident.

6. Defendant Moana Lutey ("Clerk Lutey") is the County Clerk of Maui and the chief election officer "delegate[s] responsibilities within [Maui] county to the clerk." HRS § 11-2. Ms. Lutey is sued in her official capacity only.

7. Defendant Jade K. Fountain-Tanigawa ("Clerk Fountain-Tanigawa") is the County Clerk of Kaua'i and the chief election officer "delegate[s] responsibilities within [Hawai'i] county to the clerk." HRS § 11-2. Ms. Fountain-Tanigawa is sued in her official capacity only.

8. Each of the clerks is appointed by their county councils and is responsible for voter registration, voting processes, and ensuring receipt of ballots.

BACKGROUND

The NVRA

9. The NVRA provides, in relevant part, "In the administration of voter registration for elections for Federal office, each State shall—conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—the death of the registrant[.]" 52 U.S.C. § 20507(a)(4)(A).

10. The NVRA also provides, in relevant part, “Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters[.]” 52 U.S.C. § 20507(i)(1) (hereafter, the “Public Disclosure Provision”).¹

11. The Public Disclosure Provision thus has two distinct requirements: maintenance and disclosure. *See id.*

12. In April 2026, the Ninth Circuit held that States are required to disclose records that “describe measures to maintain the accuracy and currency of voter lists,” explaining that the statute encompasses materials documenting the implementation of list-maintenance programs, such as duplicate-removal reports, procedural manuals, and voter correspondence. Because the NVRA creates a public right to obtain those records, the court further held that the denial of such information constitutes a concrete informational injury sufficient for Article III standing. *See Pub. Int. Leg. Found., Inc. v. Nago*, 174 F.4th 664, 680 (9th Cir. 2026). (“The category of ‘records concerning . . . implementation’ . . . encompasses materials documenting each step a state undertakes when actively implementing relevant programs. Examples . . . include duplicate-removal reports, procedural manuals about list maintenance tasks, or correspondence with voters.”)

13. Other federal appellate courts have similarly recognized the NVRA’s broad reach and voter-protection goals. In the words of the Fourth Circuit, the Public Disclosure Provision “embodies Congress’s conviction that Americans who are eligible under law to vote have every right to exercise their franchise, a right that must not be sacrificed to administrative chicanery,

¹ The records described by the Public Disclosure Provision are commonly referred to as “voter list maintenance records.”

oversights, or inefficiencies.” *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 334-35 (4th Cir. 2012).

14. The First Circuit held that the Public Disclosure Provision “evinces Congress’s belief that public inspection, and thus public release, of Voter File data is necessary to accomplish the objectives behind the NVRA.” *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 54 (1st Cir. 2024). Plaintiffs’ request is not for the Voter File data but for records concerning the implementation of each of the County’s elections.

15. United States District Courts accord. *Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at *12 (S.D. Fla., Mar. 30, 2018) (citing 52 U.S.C. § 20507(i)) (“To ensure that election officials are fulfilling their list maintenance duties, the NVRA contains public inspection provisions.”); *True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 721 (S.D. Miss 2014) (“The Public Disclosure Provision thus helps ‘to ensure that accurate and current voter registration rolls are maintained.’”) (citations and quotations omitted).

16. The Public Disclosure Provision is thus a means to ensure eligible registrants are registered and ineligible registrants are not. *See, e.g., Project Vote/Voting for Am., Inc. v. Long*, 752 F. Supp. 2d 697, 706 (E.D. Va. 2010) (explaining that the “‘official lists of eligible voters’ would be inaccurate and obsolete if eligible voters were improperly denied registration.”).

Defendants are denying Plaintiffs Access to Hawaii’s Voter Maintenance Files

NVRA Requests

17. On February 6, 2026, The Plaintiffs sent an NVRA Request letter pursuant to 52 U.S.C. § 20510(b)(1) to each of the Defendants, as well as Honolulu and Hawaii Counties requesting the following voter list maintenance records (Ex. A-C):

1. All written procedural guides, manuals, or other documents explaining how to perform list maintenance on registration files in the event of the relocation of a registrant. Ideally, responsive records would include the necessary steps to positively match a registrant to the information source indicating that a relocation had occurred. Please note, Request 1 does not seek records which would reveal sensitive functions within the statewide voter registration system software or related infrastructure.
2. A summary report indicating the number of absentee ballots returned to your office as undeliverable from the 2024 General Election.
3. A summary report indicating the number of absentee ballots returned to your office as undeliverable from the 2024 Primary Election.
4. A summary report indicating the number of registered voters cancelled from January 1, 2023, to December 31, 2024, due to circumstances regulated under Haw. Code §3-173-157(c)(3).
5. An SVRS database extract listing the registered voters who are credited for voting (including voting methods) in the 2024 General Election.

Honolulu County's Response

18. On February 24, 2026, the office of Honolulu responded to the initial NVRA request.
19. The response granted in part and denied in part the initial NVRA Request.
20. As to request 1, Honolulu said, "the only potentially responsive document we possess is an operational manual which would need redactions before production. However, the process is as follows: a voter may update their registration by (1) submitting a voter registration

application or (2) using the online registration portal. Upon receipt of the request, the City processes the submission and updates the voter's record accordingly."

21. As to requests 2- 5, Honolulu provided either the requested documents or an answer to the question in the request.

Hawaii County's Response

22. On March 25, 2026, Clerk Henricks responded, on behalf of Hawai'i County to the first request by writing, "No written procedural guides, manuals, or other documents exist." To comply with the NVRA, these guidebooks must exist to ensure compliance with federal law.

23. To the second request, Clerk Henricks responded that his office, "does not possess a summary report indicating the number of absentee ballots returned to our office as undeliverable from the 2024 General Election."

24. To the third request, Clerk Henricks responded that his office, "does not possess a summary report indicating the number of absentee ballots returned to our office as undeliverable from the 2024 Primary Election."

25. To the fourth request, Clerk Henricks responded that his office "could not locate Haw. Code §3-173-157(c)(3)."

26. Clerk Henricks's office complied with the fifth request.

27. On July 31, 2026, Clerk Henricks sent a follow-up letter in response to a Notice of NVRA Violation. This letter clarified and elaborated upon the previous response and adequately responded to the initial NVRA request.

Maui County's Response

28. On June 23, 2026, the Plaintiffs wrote Maui again, seeking an acknowledgement and update on the progress of the requests.

29. On July 10, 2026, Clerk Lutey responded to confirm receipt of the letter and to write, “Please be advised that this request strays from the protocol followed when a commissioner, in his official capacity, is seeking information from County Clerk offices in the state of Hawaii and may violate rules of ethics.” (Exh. D).

30. On July 17, Maui requested a signed affidavit on Application for Voter Registration Data.

31. This affidavit requires an “election or government purpose,” which would conflict with NVRA’s statutory purpose and text.

32. As of this date, Maui has not provided any of the requested information or documents.

Kaua’i County’s Response

33. On July 10, 2026, Ms. Fountain-Tanigawa replied to Plaintiffs’ request for information, rebuffing the requests.

34. To the Plaintiffs’ first request, Ms. Fountain-Tanigawa, representing Kaua’i County, wrote, “Request cannot be granted. A separate guide or manual does not exist.” (Exh. F). To comply with the NVRA, these guidebooks must exist to ensure compliance with federal law.

35. To the second request, Ms. Fountain-Tanigawa wrote, “Request cannot be granted. The requested information is not maintained. HRS §92F-3.” Ms. Fountain-Tanigawa’s office fails to see the importance of complying with the NVRA and requisite federal laws, only citing definitions that key information to conduct list maintenance is not maintained.

36. To the third request, Ms. Fountain-Tanigawa replied verbatim to the second request.

37. To the fourth request, Ms. Fountain-Tanigawa wrote, “Request cannot be granted. Requires the creation of a summary or compilation from records but the requested information is not readily retrievable. HRS §92F11(c).”

Notice of NVRA Violation

38. On July 17, 2026, the Plaintiffs responded to each Defendant by writing again. The Plaintiffs stated clearly that the NVRA permits the public to inspect voter list maintenance records and that each of the Defendants must produce them as required by the NVRA.

39. The Plaintiffs reiterated that 52 U.S.C. § 20507(i)(1) required disclosure of voter list maintenance records and the preservation of these records for at least 2 years.

40. Defendants have failed to cure the NVRA violation by responding to the requests.

41. The Defendants’ failure to reply to our requests is in violation of 52 U.S.C. § 20507(i)(1) requiring disclosure of voter list maintenance records.

The County Clerks’ Actions Are Harming the Plaintiffs

42. The requested records are records within the scope of the NVRA’s Public Disclosure Provision.

43. The NVRA’s Public Disclosure Provision requires the Counties to maintain the requested records for at least two years.

44. The Public Disclosure Provision authorizes and entitles the Plaintiffs to inspect and reproduce or otherwise receive the requested records electronically.

45. The Counties’ NVRA violation is causing the Plaintiffs to suffer a concrete informational injury because the Plaintiffs do not have records and information to which they are entitled under federal law. *FEC v. Akins*, 524 U.S. 11, 21 (1998) (“[A] plaintiff suffers an ‘injury

in fact’ when the plaintiff fails to obtain information which must be publicly disclosed pursuant to a statute.”).

46. The Plaintiffs’ information injury is causing the Plaintiffs to suffer additional adverse consequences or downstream consequences.

47. First, by denying the Plaintiffs the requested voter list maintenance records, the Counties are preventing the Plaintiffs from evaluating whether Hawaii is complying with the NVRA and state voter list maintenance obligations.

48. Second, by denying the Plaintiffs the requested voter list maintenance records, the Counties are preventing the Plaintiffs from drafting and publicizing a report about Hawaii’s programs and activities.

49. Third, by denying the Plaintiffs the requested voter list maintenance records, the Counties are preventing the Plaintiffs from assisting Hawaii in carrying out its voter list maintenance programs and activities with the goal of ensuring that Hawaii’s voter rolls are accurate and current, and registrants are not unlawfully disenfranchised due to errors and omissions in official records of death. *See* 52 U.S.C. § 20501(b)(4) (explaining that one of the NVRA’s purposes is “to ensure that accurate and current voter registration rolls are maintained”); *see also, e.g.*, Public Interest Legal Foundation, *Best Practices for Achieving Integrity in Voter Registration*, June 21, 2017, <https://publicinterestlegal.org/pilf-files/PILF-best-practices-report-FINAL.pdf> (last accessed May 27, 2026); *see also, e.g.*, Public Interest Legal Foundation, *Stealing the Vote: Allegheny County, PA Reveals How Citizenship Verification Protects Citizens and Immigrants Alike* at 15 (Proposed Solutions), July 12, 2018, <https://publicinterestlegal.org/blog/report-how-noncitizens-vote-in-allegheeny-county-pa/> (last accessed May 27, 2026).

50. Fourth, by denying the Plaintiffs the requested voter list maintenance records, the Counties are preventing the Plaintiffs from speaking (and educating) about matters of public and government importance—namely, erroneous disenfranchisement of voters and voter roll accuracy.² Relatedly, the Plaintiffs are prevented from providing similar policy advice to state officials and legislative guidance and testimony to Congress regarding state compliance with voting rights legislation. *See, e.g.*, Public Interest Legal Foundation, *ICYMI: PILF Testified to U.S. Congress on Preventing Aliens from Voting*, May 17, 2024, <https://publicinterestlegal.org/election-frontline/icymi-pilf-testified-to-u-s-congress-on-preventing-aliens-from-registering-and-voting/> (last accessed May 27, 2026).

51. Fifth, by denying the Plaintiffs the requested voter list maintenance records, the Counties frustrates the Plaintiffs' accumulation of current and timely institutional knowledge upon which it depends to operate effectively and accurately.

52. As described in the preceding paragraphs, the Counties' NVRA violation is frustrating, impeding, and harming the Plaintiffs' efforts to carry out specific planned activities and its organizational mission and thereby injuring the Plaintiffs.

53. This action is filed under 52 U.S.C. § 20510(b)(2) as a private action after notice of the violation in anticipation of the election to be held on August 8, 2026.

COUNT I
Violation of Section 8(i) of the NVRA, 52 U.S.C. § 20507(i)
Failure to Maintain Voter List Maintenance Records for At least Two Years

54. The Plaintiffs reallege the preceding paragraphs as if fully stated herein.

² *See, e.g.*, Public Interest Legal Foundation, *Critical Condition: American Voter Rolls Filled with Errors, Dead Voters, and Duplicate Registrations*, Sept. 16, 2020, <https://publicinterestlegal.org/pilf-files/Report-Critical-Condition-Web-FINAL-FINAL.pdf> (last accessed May 27, 2026).

55. The records requested are documents within the scope of the NVRA's Public Disclosure Provision. 52 U.S.C. § 20507(i). *See Pub. Int. Legal Found., v. Nago*, 174 F.4th 664, 679 (9th Cir. 2026).

56. The NVRA requires "[e]ach State" to maintain and allow inspection of all records within the Public Disclosure Provision's scope. 52 U.S.C. § 20507(i)(1).

57. The NVRA's Public Disclosure Provision requires the Counties to maintain the required documents and related correspondence for a minimum of two years.

58. The Public Disclosure Provision thus authorizes and entitles the Plaintiffs to inspect and copy, or otherwise purchase and receive, the requested documents as these items go to list maintenance.

59. Upon information and belief—and because the Counties have not acknowledged their maintenance, the Counties do not maintain the documents and related correspondence for two years or for any period of time.

60. By not maintaining the requested documents as the NVRA requires, the Counties are violating the NVRA.

61. Any Hawaii statute, regulation, practice, or policy that conflicts with, overrides, or poses obstacles to the NVRA, a federal statute, is preempted and superseded under the Supremacy Clause and the Elections Clause of the Constitution of the United States. *See Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1, 9 (2013)

62. As alleged herein, the Counties' actions are causing concrete harm to the Plaintiffs.

63. The Plaintiffs are entitled to relief but have no adequate remedy at law

COUNT II

Violation of Section 8(i) of the NVRA, 52 U.S.C. § 20507(i)

Failure to Make Voter List Maintenance Records Available for Public Inspection

64. The Plaintiffs reallege the preceding paragraphs as if fully stated herein.

65. The requested written procedural guides or documents pertaining to how each county performs list maintenance, summary reports of undeliverable absentee ballots in the 2024 General and Primary Elections, and a report indicating the number of registered voters cancelled from the voter rolls are records subject to maintenance and disclosure (“the Plaintiffs’ requested voter list maintenance documents”) under the NVRA’s Public Disclosure Provision, 52 U.S.C. § 20507(i)(1).

66. The Plaintiffs requested voter list maintenance documents and related correspondence are in the Defendants’ possession, custody, and control.

67. The NVRA’s Public Disclosure Provision requires the Clerks to make the Plaintiffs’ requested voter list maintenance documents and related correspondence available for public inspection and duplication, or otherwise produce them electronically. 52 U.S.C. § 20507(i)(1).

68. The respective Clerks have not allowed inspection and duplication of or produced the requested records electronically to the Plaintiffs.

69. By not permitting inspection and duplication of or producing the requested records electronically to the Plaintiffs as the NVRA requires, the Clerks are violating the NVRA.

70. Any Hawaii statute, regulation, practice, or policy that conflicts with, overrides, or poses obstacles to the NVRA, a federal statute, is preempted and superseded under the Supremacy Clause and the Elections Clause of the Constitution of the United States. *See Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1, 9 (2013); *see Pub. Int. Legal Found., v. Nago*, 174

F.4th 664, 679 (9th Cir. 2026) (holding that voter list maintenance records are required to be given the district court's holding that the NVRA preempts Hawaii law prohibiting certain uses and sharing of voter roll data). Any such statute, regulation, practice, or policy is invalid and unenforceable.

71. As alleged herein, the Defendants' actions are causing concrete harm to the Plaintiffs.

72. The Plaintiffs are entitled to relief but have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment:

1. Declaring that Defendants are in violation of Section 8(i) of the NVRA for failing to maintain the requested documents for a minimum of two years.
2. Declaring that Defendants are in violation of Section 8(i) of the NVRA for denying the Plaintiffs the opportunity to inspect and copy, or otherwise receive electronically, the requested documents.
3. Ordering Defendants to make available to the Plaintiffs the requested documents that Defendants currently possess.
4. Ordering Defendants to maintain the requested documents for a minimum of two years, as the NVRA requires.
5. Permanently enjoining Defendants from engaging in similar unlawful actions.
6. Ordering Defendants to pay the Plaintiffs' reasonable attorney's fees, including litigation expenses and costs, pursuant to 52 U.S.C. § 20510(c); and,
7. Granting the Plaintiffs further relief that this Court deems just and proper.

Dated: August 7, 2026.

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