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4 **UNITED STATES DISTRICT COURT**
WESTERN DISTRICT OF WASHINGTON
5 **AT SEATTLE**

6 ONEAMERICA VOTES; LATINO
7 COMMUNITY FUND OF
8 WASHINGTON STATE; and UNITED
9 FOOD AND COMMERCIAL
10 WORKERS INTERNATIONAL
11 UNION,

12 Plaintiffs,

13 v.

14 DONALD J. TRUMP, in his official
15 capacity as President of the United
16 States; U.S. DEPARTMENT OF
17 JUSTICE; TODD BLANCHE, in his
18 official capacity as U.S. Attorney
19 General; CHARLES NEIL FLOYD, in
20 his official capacity as Acting U.S.
21 Attorney for the Western District of
22 Washington; SIMON PETER
23 SERRANO, in his official capacity as
24 First Assistant U.S. Attorney for the
Eastern District of Washington; U.S.
DEPARTMENT OF HOMELAND
SECURITY; and MARKWAYNE
MULLIN, in his official capacity as
Secretary of Homeland Security,

Defendants.

Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

20 **INTRODUCTION**

21 1. With ballots already in the hands of Washington voters, the President, the U.S.
22 Department of Justice (“DOJ”), the Department of Homeland Security (“DHS”), and their
23

1 agents have brought to our State a flagrantly unlawful, chilling, eleventh-hour operation
2 purporting to target “noncitizen voters”—most, if not all of whom are likely lawful voters—
3 and election officials who count their ballots pursuant to State law.

4 2. Defendants’ operation is lawless.

5 3. On October 26, 2026—eight days before Election Day—two federal
6 prosecutors sent Washington’s Secretary of State Steve Hobbs a list of roughly 400 registered
7 voters whom federal agencies believe “are or were noncitizens,” conceding in the same breath
8 that those voters “may have subsequently naturalized.” Ex. A. They demanded that the
9 Washington Secretary of State instruct county election officials not to proceed with signature
10 verification or tabulation of those voters’ ballots until their “citizenship can be determined,”
11 and gave the Secretary 48 hours to comply. *Id.* at 2. And they made clear that they will not stop
12 at these 400 voters, warning that before Election Day they plan to send the State additional
13 names.

14 4. The same day, federal prosecutors and a DHS official held a press conference
15 warning that anyone who “assists” a noncitizen in voting—including the election officials who
16 process ballots—could be prosecuted as an aider and abettor. Ex. B at 8. Three days later, the
17 Acting Deputy Attorney General sent the Secretary a letter reminding him that mishandling the
18 ballots and envelopes election officials process is a federal crime punishable by imprisonment.
19 Ex. C.

20 5. Washington has not been Defendants’ sole target. A similar pattern recently
21 unfolded in California, where DOJ delivered a list of more than 20,000 registered voters the
22 federal government “believes are likely noncitizens” on a thumb drive, and demanded
23

1 (among other things) that California officials review the list within 48 hours and set aside the
2 ballots of voters on it—threatening criminal exposure for noncooperation.

3 6. After DOJ sued in the Central District of California to enforce that demand, a
4 federal district court minced no words in rejecting it. Holding DOJ lacked any legal grounds for
5 its actions, the court admonished: “these threats must stop.” *United States v. California*, No.
6 2:26-cv-12025-DOC-ADS, 2026 WL 3252428, at *4 (C.D. Cal. Oct. 28, 2026) (Carter, J.)
7 (“*California II*”); *see also United States v. California*, No. 26-7231, slip op. (9th Cir. Oct. 30,
8 2026) (per curiam) (“*California III*”) (agreeing DOJ’s demand is baseless, denying injunction
9 pending appeal).

10 7. In Washington, Defendants now attempt the same attack on voters and election
11 officials, but by a different route, hoping to bypass the scrutiny of the judiciary and instead
12 coerce local election administrators to abide by their demands. To this end, Defendants have
13 stated that election officials are now “on notice,” that their goal is to “make sure these ballots
14 aren’t counted,” and “if ultimately we have to send 39 letters to 39 auditors over the next couple
15 of days, we can do that,” even though doing so puts election officials “in a pickle” by forcing
16 them to choose to either “comply with state law,” or comply with Defendants’ baseless “federal”
17 demands under threat of “federal penalties.” Ex. D at 2; Ex. E at 2–3.

18 8. Defendants’ list is not evidence of anything, and their deeply chilling threats
19 of federal penalty for election officials and others who fail to conform to their demands are
20 baseless. By their own account, their list was assembled by trying to match federal immigration
21 records against publicly available voter lists that lack the identifying information needed to
22 know whether the person in one database is the same person as in the other. *See* Ex. A.

1 9. And, indeed, the sloppiness of Defendants’ work is evident in many ways on
2 its face. DOJ’s October 26 letter misstated the date of election day (which is November 3, 2026)
3 as “November 2, 2026.” Ex. A at 2. More concerning, Secretary Hobbs found after a
4 preliminary analysis of Defendants’ list that, contrary to DOJ’s characterizations, the list
5 contained many United States citizens as well as “a significant number of people” not registered
6 to vote or on inactive status. Ex. F at 2.

7 10. The federal officials seeking to set aside ballots on the basis of their lists
8 acknowledged that they “don’t know everything the state knows”; that whether the people on
9 the list actually filled out the ballots attributed to them, or whether “someone else register[ed]
10 them,” are “questions that we still have to answer”; and that “many of them are telling us, ‘Yeah,
11 I never filled out a ballot.’” Ex. B at 4. On information and belief, no one on the list has been
12 charged with any crime. *See id.* The same process, when tested in California, produced a list on
13 which more than a quarter of sampled records reflected a U.S. birthplace. In Nevada, DHS’s
14 claim of nearly 16,000 noncitizen registrants collapsed to 185, and then to none.

15 11. Federal law gives DOJ and DHS no authority whatsoever to do any of this.
16 The Constitution commits the administration of elections—including the “registration,”
17 “protection of voters,” and “counting of votes”—to the States, subject only to Congress’s power
18 to make or alter those rules. *Smiley v. Holm*, 285 U.S. 355, 366 (1932); *see* U.S. Const. art. I, §
19 4, cl. 1. The President and the agencies he directs have no role in that structure except as
20 Congress has provided, and Congress has not authorized their conduct.

21 12. The statute Defendants have repeatedly invoked, 18 U.S.C. § 611, is a criminal
22 prohibition on voting by noncitizens. It authorizes prosecution of individuals who violate it,
23 through the criminal process and its protections. It does not authorize federal officials to tell

1 States whose ballots to verify and count, or to threaten the officials who count them. Nor, as a
2 Ninth Circuit panel held earlier today, can it displace state election law that governs when and
3 how voters can be challenged on eligibility grounds. *See California III*, No. 26-7231, slip op.
4 at 10–14. Yet Defendants are broadcasting to the entire State that voters and election officials
5 are “on notice” that federal officials are coming after them—threats the federal government has
6 been making since July, when the DHS Secretary stated at a press conference that officials the
7 government believes facilitate noncitizen voting could face “prison time.” Ex. B; Doina Chiacu
8 & A.J. Vicens, *DHS Threatens States with Fines, Charges Over Election Measures*, Reuters
9 (July 17, 2026), [https://www.reuters.com/legal/government/us-dhs-chief-asks-four-states-](https://www.reuters.com/legal/government/us-dhs-chief-asks-four-states-check-voter-rolls-non-citizens-2026-07-17/)
10 [check-voter-rolls-non-citizens-2026-07-17/](https://www.reuters.com/legal/government/us-dhs-chief-asks-four-states-check-voter-rolls-non-citizens-2026-07-17/).

11 13. The Court cannot let Defendants’ lawless “noncitizen voter” operation (the
12 “Washington Ballot Operation”) continue. It is already causing irreparable harm. It is plainly
13 designed to coerce Washington’s election officials into abandoning the procedures that state
14 and federal law require, and it chills eligible voters—above all, naturalized citizens, the voters
15 most likely to be misidentified by federal records—from exercising their right to vote.

16 14. As a result, it violates Section 11(b) of the Voting Rights Act, which forbids
17 anyone, “whether acting under color of law or otherwise,” from intimidating, threatening, or
18 coercing voters or those who aid them. 52 U.S.C. § 10307(b). It exceeds Defendants’ statutory
19 and constitutional authority, commandeers state officials in violation of the Tenth Amendment,
20 and is arbitrary and capricious and contrary to law under the Administrative Procedure Act
21 (“APA”).

22 15. Plaintiffs OneAmerica Votes, Latino Community Fund of Washington State
23 (“LCF”), and the United Food and Commercial Workers International Union (“UCFW”) are

1 Washington civic organizations and a labor union that, among other things, register, educate,
2 and turn out voters in Washington, and whose members include immigrant, refugee, and Latino
3 communities, including many naturalized citizens. In the final days of the election, Defendants'
4 actions are undoing Plaintiffs' work, deterring the voters they serve, and forcing them to divert
5 scarce resources to protect their members and other voters.

6 16. Plaintiffs seek declaratory and injunctive relief to stop Defendants from
7 directing or coercing Washington election officials to withhold, segregate, decline to verify, or
8 decline to count the ballots of registered voters.

9 **JURISDICTION AND VENUE**

10 17. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and
11 1343(a)(4) because this action arises under the Constitution and laws of the United States and
12 seeks relief under an Act of Congress providing for the protection of the right to vote. The Court
13 may grant declaratory and further relief under 28 U.S.C. §§ 2201 and 2202 and 5 U.S.C. §§ 705
14 and 706.

15 18. The United States has waived sovereign immunity for this action, which seeks
16 relief other than money damages against federal agencies and officers acting in their official
17 capacities. *See* 5 U.S.C. § 702.

18 19. Venue is proper under 28 U.S.C. § 1391(e)(1). Defendants are agencies of the
19 United States and officers of the United States sued in their official capacities; at least some
20 Plaintiffs and their members reside in this District; and a substantial part of the events giving
21 rise to Plaintiffs' claims occurred here, including the transmission of Defendants' October 26,
22 2026 demand to Washington's Secretary of State, in Olympia, as well as Defendants' press
23 conference announcing that demand, in Seattle.

20. Assignment to the Seattle Division is appropriate under Local Civil Rule 3(e) because at least some Plaintiffs are either headquartered or have substantial membership in King County and a substantial part of the events giving rise to their claims occurred there, including but not limited to the press conferencing announcing the October 26, 2026 demand.

PARTIES

21. Plaintiff OneAmerica Votes is a nonprofit organizing, civic engagement, and advocacy organization headquartered in Seattle, Washington. Along with its sister organization OneAmerica, it is one of the largest immigrant-serving civic organizations in Washington. OneAmerica Votes advances justice and democracy by building power in immigrant and refugee communities, including by registering voters, educating them about their rights, and helping them cast ballots that count. OneAmerica has hundreds of members and a broader constituency of more than 25,000 individuals across Washington, including immigrants, refugees, individuals in the naturalization process, naturalized citizens, and the children of immigrants. A core part of its work is helping naturalized citizens register and vote. OneAmerica Votes is in the final days of its get-out-the-vote program for the November 2026 general election and plans to contact approximately 11,000 voters before Election Day. OneAmerica Votes' members include registered Washington voters who are naturalized citizens and who have voted or intend to vote in this election. As detailed below, they are being chilled by Defendants' Washington Ballot Operation. OneAmerica Votes sues on its own behalf and on behalf of its members.

22. Plaintiff Latino Community Fund of Washington State (“LCF”) is a Washington-based nonprofit civic engagement organization headquartered in Seattle. Its mission is to build power within Latino, immigrant, and allied communities, including through

1 civic participation, voter registration, voter education, and get-out-the-vote campaigns. LCF
2 serves individuals primarily in Yakima, Snohomish, Pierce, Franklin, and King Counties,
3 including many naturalized citizens. LCF has a long history of protecting Latino voters in
4 Washington, including by challenging the State's former signature-matching regime which it
5 alleged disproportionately disenfranchised Latino voters. LCF has already contacted more than
6 15,000 voters to encourage and facilitate turning them out to vote in this election and intends to
7 contact thousands more before Election Day. LCF sues on its own behalf and on behalf of its
8 members and constituents.

9 23. Plaintiff United Food and Commercial Workers International Union
10 ("UFCW") is a labor union made up of approximately 1.2 million men and women throughout
11 the United States and Canada, including grocery workers, meatpacking, food processing and
12 beverage production workers, retail workers, healthcare workers, chemical workers, distillery,
13 wine and allied workers, pharmacy workers and booksellers. UFCW has more than 60,000
14 members across Washington State. UFCW membership also includes many naturalized U.S.
15 citizens. UFCW works to encourage and help its members participate in the political process
16 through voting, and so voter-registration, voter-education, voter-assistance, and get-out-the-
17 vote ("GOTV") programs are critical to its mission. UFCW has organized and is now in the
18 final weeks of its GOTV and voter-education efforts for the November 2026 general election,
19 including person-to-person canvassing, messaging campaigns, and efforts to help its members
20 and voters in its communities return their mail ballots and ensure their votes are counted. UFCW
21 sues on its own behalf and on behalf of its members.

22 24. Defendant Donald J. Trump is the President of the United States. He is sued in
23 his official capacity.

1 25. Defendant U.S. Department of Justice is an executive department of the United
2 States headquartered in Washington, D.C., and an “agency” within the meaning of 5 U.S.C. §
3 551(1).

4 26. Defendant Todd Blanche is the Attorney General of the United States. He
5 heads DOJ, including its Civil Rights Division and the United States Attorneys’ Offices, and is
6 sued in his official capacity.

7 27. Defendant Charles Neil Floyd is the Acting United States Attorney for the
8 Western District of Washington. He signed and announced Defendants’ October 26, 2026
9 demand to Washington’s Secretary of State and is sued in his official capacity.

10 28. Defendant Simon Peter Serrano is the First Assistant United States for the
11 Eastern District of Washington. He co-signed and announced Defendants’ October 26, 2026
12 demand and is sued in his official capacity.

13 29. Defendant U.S. Department of Homeland Security is an executive department
14 of the United States headquartered in Washington, D.C., and an “agency” within the meaning
15 of 5 U.S.C. § 551(1). DHS includes U.S. Citizenship and Immigration Services (“USCIS”) and
16 Homeland Security Investigations (“HSI”), which generated lists of voters at the center of
17 Defendants’ demand.

18 30. Defendant Markwayne Mullin is the Secretary of Homeland Security and is
19 sued in his official capacity.
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LEGAL BACKGROUND

I. Federal law invests States with authority and responsibility to conduct federal elections.

31. The Elections Clause “invests the States with responsibility for the mechanics of congressional elections,” subject only to Congress’s power to “preempt state legislative choices.” *Foster v. Love*, 522 U.S. 67, 69 (1997); U.S. Const. art. I, § 4, cl. 1. Absent congressional action, the States are responsible for providing “a complete code for congressional elections,” including “registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns.” *Smiley*, 285 U.S. at 366.

32. Congress’s power under the Elections Clause extends to “*how* federal elections are held, but not *who* may vote in them.” *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 16 (2013). And even when Congress acts, federal law supersedes state election procedures only “so far as it is exercised, and no farther.” *Id.* at 9 (quoting *Ex parte Siebold*, 100 U.S. 371, 392 (1880)).

33. The Executive Branch has no freestanding constitutional authority over the administration of elections. Its role is limited to what Congress has authorized. *See FEC v. Cruz*, 596 U.S. 289, 301 (2022) (an agency “literally has no power to act . . . unless and until Congress authorizes it to do so by statute” (citation omitted)).

34. Meanwhile, Congress has given federal agencies narrow and specific roles in election administration. The National Voter Registration Act (“NVRA”) charges the States—not the federal government—with administering voter registration for federal elections and maintaining voter rolls. 52 U.S.C. § 20507(a). It requires that any program to ensure the

accuracy of the rolls be “uniform, nondiscriminatory, and in compliance with the Voting Rights Act,” *id.* § 20507(b)(1), and forbids any program “the purpose of which is to systematically remove the names of ineligible voters” within 90 days of a federal election, *id.* § 20507(c)(2)(A). The 90-day provision applies to programs targeting suspected noncitizens, and a program built on database matching to find non-citizens is inherently “systematic.” *Mi Familia Vota v. Fontes*, 129 F.4th 691, 715–17 (9th Cir. 2025); *see also California III*, No. 26-7231, slip op. at 15.¹

35. The Help America Vote Act (“HAVA”) likewise requires each State to maintain a computerized statewide voter registration list that is “defined, maintained, and administered at the State level,” 52 U.S.C. § 21083(a)(1)(A), and leaves the “specific choices on the methods of complying” with HAVA to “the discretion of the State,” *id.* § 21085.

36. Congress authorized the Attorney General to enforce the NVRA and HAVA through civil actions. 52 U.S.C. §§ 20510(a), 21111. Neither statute authorizes federal officials to identify voters they suspect are ineligible and direct States to set aside those voters’ ballots.

37. Federal law also makes it a crime for a noncitizen to vote in a federal election, 18 U.S.C. § 611, and to falsely claim citizenship to register, *id.* § 1015(f). Those statutes are enforced through criminal prosecution of individuals, with the protections of criminal process. Section 611 includes an express exception for certain individuals who reasonably believed they

¹ The Supreme Court stayed an aspect of *Mi Familia Vota* not at issue here. *See RNC v. Mi Familia Vota*, 145 S. Ct. 108 (Aug. 22, 2024). It later granted *certiorari* on that unrelated aspect of the decision, and on the 90-day provision issue, with argument scheduled in December. *See RNC v. Mi Familia Vota*, 146 S. Ct. 2799 (June 29, 2026). *Mi Familia Vota* is controlling precedent in this Circuit.

1 were citizens. *Id.* § 611(c)(3). Nothing in these criminal statutes authorizes DOJ or DHS to
2 direct election officials to withhold, set aside, or refuse to count ballots.

3 38. Section 11(b) of the Voting Rights Act prohibits any person, “whether acting
4 under color of law or otherwise,” from intimidating, threatening, or coercing, or attempting to
5 intimidate, threaten, or coerce, “any person for voting or attempting to vote” or “for urging or
6 aiding any person to vote or attempt to vote.” 52 U.S.C. § 10307(b).

7 **II. Washington conducts its elections by mail, under careful procedures**
8 **prescribed by state law.**

9 39. Washington conducts all elections by mail. Every registered voter is mailed a
10 ballot, and county auditors must mail ballots for a general election at least 18 days before
11 Election Day. RCW 29A.40.010, .070. For the November 3, 2026 election, ballots were mailed
12 to registered voters no later than October 16, 2026.

13 40. To register, every Washington voter must attest under penalty of perjury that
14 he or she is a U.S. citizen. RCW 29A.08.230. Washington law independently limits voting to
15 citizens, Wash. Const. art. VI, § 1, and makes it a crime for an unqualified person to vote, RCW
16 29A.84.660.

17 41. Washington law prescribes how returned ballots are processed. County
18 officials verify the signature on each returned ballot envelope against the voter’s registration
19 record, notify voters of signature problems and give them an opportunity to cure, and tabulate
20 ballots of voters whose signatures are verified. RCW 29A.40.110; RCW 29A.60.165. County
21 canvassing boards must certify the results of the general election within 21 days. RCW
22 29A.60.190.

42. Washington law also prescribes the exclusive procedures for challenging a registered voter's eligibility, including a sworn challenge based on the challenger's personal knowledge and notice and an opportunity for the voter to respond. *See* RCW 29A.08.810–.850. Nothing in Washington law authorizes election officials to refuse to verify or count a registered voter's ballot because a federal agency has placed the voter on a list.

FACTUAL ALLEGATIONS

I. Defendants have pursued a sustained campaign to seize control of election administration, but courts have rejected it at every turn.

43. Since returning to office, President Trump has repeatedly claimed, without evidence, that noncitizens vote in large numbers and has called for the federal government to “nationalize” voting. Miles Parks, *Trump Says He Wants Republicans to ‘Nationalize’ Elections*, NPR (Feb. 3, 2026), <https://www.npr.org/2026/02/03/nx-s1-5698095/trump-says-he-wants-republicans-to-nationalize-elections>. Congress has declined to enact his preferred legislation, including the SAVE America Act.

44. So the President has taken to executive action to try to insert the federal government in state election administration. In March 2025, he issued Executive Order 14,248, which, among other things, directed the Attorney General to “prioritize enforcement” of federal election laws against States that declined to share voter data with the federal government. Courts enjoined much of that Order as beyond the President's authority. *See, e.g., Washington v. Trump*, 814 F. Supp. 3d 1173 (W.D. Wash. 2026); *League of United Latin Am. Citizens v. Exec. Off. of the President (“LULAC III”)*, 818 F. Supp. 3d 34 (D.D.C. 2026).

45. In March 2026, the President issued Executive Order 14,399, which directed the Attorney General to “prioritize the investigation and, as appropriate, the prosecution of State

1 and local officials or any others involved in the administration of Federal elections who issue
2 Federal ballots to individuals not eligible to vote in a Federal election.” Exec. Order No. 14,399,
3 § 2(b), 91 Fed. Reg. 17,125, 17,126 (Mar. 31, 2026).

4 46. Throughout 2025 and 2026, in an effort that DOJ has itself tied to the
5 President’s Executive Orders, DOJ demanded unredacted statewide voter registration lists—
6 including driver’s license and partial Social Security numbers—from nearly every State, with
7 the intention of running them through DHS’s Systematic Alien Verification for Entitlements
8 (“SAVE”) system and pressing States to remove voters flagged as potentially ineligible.
9 *Common Cause v. U.S. Dep’t of Just.*, No. 1:26-cv-1352, 2026 WL 3033772, at *4–6 (D.D.C.
10 Oct. 9, 2026).

11 47. Washington was among dozens of states that declined to hand over their
12 voters’ sensitive data to the federal government, and DOJ sued. Judge Evanson recently
13 dismissed DOJ’s suit in this District. *United States v. Hobbs*, No. 3:25-cv-6078-KKE, 2026 WL
14 2833713 (W.D. Wash. Sep. 22, 2026). Every other federal court to resolve DOJ’s similar suits
15 against other States has dismissed them, too. *See, e.g., United States v. Weber*, 816 F. Supp. 3d
16 1168 (C.D. Cal. 2026); *United States v. Oregon*, 828 F. Supp. 3d 1092 (D. Or. 2026); *United*
17 *States v. Henderson*, No. 2:26-cv-00166-DBB-DAO, 2026 WL 3181405, at *4 n.50 (D. Utah
18 Oct. 23, 2026) (collecting remaining cases).

19 48. Recently, on October 9, 2026, a federal court vacated the policy under which
20 DOJ had pursued that data, holding, among other things, that DOJ had failed to consider the
21 risk that its use of citizenship records known to be unreliable would lead it to demand that States
22 remove U.S. citizens from their voter rolls. *Common Cause*, 2026 WL 3033772, at *1, *8.

1 49. As that court and others have recognized, federal citizenship data, in SAVE
2 and elsewhere, is notoriously unreliable for naturalized citizens. The Social Security
3 Administration and other federal agencies frequently fail to update their records when a person
4 naturalizes, so naturalized citizens often appear in federal databases as noncitizens. *See League*
5 *of Women Voters v. DHS*, 835 F. Supp. 3d 79, 102 (D.D.C. 2026), *stay granted on other*
6 *grounds*, No. 26A308, 2026 WL 2879700 (U.S. Sep. 25, 2026); *Mi Familia Vota*, 129 F.4th at
7 714. When state and local election officials have scrutinized federal lists of supposed
8 noncitizens, they have found that the lists have been riddled with errors.

9 50. That these lists are patently unreliable appears to be the result of the deeply
10 suspect and unreliable process by which they were made. A federal whistleblower has described
11 how DHS generated lists of supposed noncitizen voters. According to the whistleblower,
12 officers assigned to DHS's "Unlawful Voter Initiative" received less than two hours of training,
13 were assigned quotas of reviewing 40 records a day, worked from data that likely included
14 naturalized citizens, and were told that the lists were compiled with what officials described as
15 "supplemental magic," and were directed to search state voter lookup systems using
16 individuals' personal information. *See Letter from Anonymous Whistleblower to Alex Padilla*,
17 U.S. Senator at 30, 39–40 (Sep. 8, 2026), available at <https://perma.cc/J3D3-GLDF>.

18 51. DHS has also surged armed agents into communities to question residents
19 about their voter registration and eligibility. On information and belief, DHS guidance issued
20 on or about September 1, 2026, directed HSI to conduct field operations, including face-to-face
21 interrogations, in at least nine States, including Washington. A federal court has since enjoined
22 those operations. *See Cal. Nurses Ass'n v. Mullin*, No. 26-cv-10680-AMO, 2026 WL 3166149,
23 at *10–11 (N.D. Cal. Oct. 21, 2026).

II. Defendants threaten election officials with prosecution based on unreliable lists of supposed noncitizen voters.

52. On July 7, 2026, DOJ’s Civil Rights Division sent letters to election officials in every State, including Washington, warning that any election official, “including the chief election officer of the state,” who “knowingly retains noncitizens” on the voter rolls or “facilitates noncitizens in receiving and casting ballots” could be criminally prosecuted. Ex. G at 2.

53. On July 16, 2026, DHS sent letters to the chief election officials of California, Nevada, New Jersey, and Pennsylvania claiming that “preliminary reviews” of publicly available voter data had identified thousands to hundreds of thousands of possible noncitizens on their rolls. Press Release, DHS, *DHS Secretary Markwayne Mullin Sends Letters to Secretaries of State Warning About Non-Citizens on Voter Rolls* (July 16, 2026), <https://www.dhs.gov/news/2026/07/17/dhs-secretary-markwayne-mullin-sends-letters-secretaries-state-warning-about-non>.

54. The letters did not disclose DHS’s methodology or data sources. The next day, Secretary Mullin publicly warned that election officials who failed to act on DHS’s findings could face fines, penalties, and “even . . . prison time.” Doina Chiacu & A.J. Vicens, *DHS Threatens States with Fines, Charges Over Election Measures*, Reuters (July 17, 2026), <https://www.reuters.com/legal/government/us-dhs-chief-asks-four-states-check-voter-rolls-non-citizens-2026-07-17/>.

55. Those claims collapsed when tested by election officials. In Nevada, DHS claimed it had found nearly 16,000 possible noncitizen registrants, then narrowed its claim to 185 individuals it said it had confirmed were noncitizens. Nevada’s review indicated that all

1 185 were citizens, and DHS offered nothing to the contrary. In Pennsylvania, DHS officials
2 acknowledged that they lacked high confidence in their claim that more than 14,500 registrants
3 were noncitizens. Ex. H at 1.

4 56. On July 16, 2026, Secretary Hobbs responded to the federal government's July
5 7 letter. He noted that the letter did not identify any specific concerns about Washington's
6 practices and asked for the factual basis and legal authority for any federal recommendations.
7 Ex. I at 2. On information and belief, Defendants did not provide that information.

8 57. On October 13, 2026—after California had mailed ballots to every registered
9 voter—DOJ sent California's Secretary of State and the Los Angeles County Registrar a list of
10 more than 20,000 registered voters whom it asserted the federal government "believes are likely
11 noncitizens," delivered on a thumb drive. DOJ demanded that California review the list within
12 48 hours; segregate the ballots of listed voters whose citizenship it could not independently
13 confirm; and, for ballots already returned, "not verify the signature and/or tabulate the ballot
14 until citizenship can be determined." DOJ threatened to seek emergency relief if California did
15 not comply. Ex. J at 2.

16 58. California refused, explaining that DOJ had provided no information about its
17 data or methodology and that its demands were contrary to federal and state law. DOJ sued
18 California, its Secretary of State, and the Los Angeles County Registrar on October 15, 2026,
19 asserting a novel claim that Section 611 preempted California's counting of the listed voters'
20 ballots. *See United States v. California*, No. 2:26-cv-12025 (C.D. Cal. filed Oct. 15, 2026).

21 59. Immediately, serious and significant problems with and errors in DOJ's list
22 began to come to light. Los Angeles County reviewed a sample of the listed voters with Los
23 Angeles addresses and found that more than a quarter of the sampled entries listed a place of

1 birth in the United States, and that more than 40% concerned registrations that had already been
2 cancelled. Opp’n to Ex Parte Appl. for TRO at 17, *California*, No. 2:26-cv-12025 (C.D. Cal.
3 Oct. 20, 2026), ECF No. 32-1. In a separate sample, nearly 39% of records with meaningful
4 birthplace information reflected birth in the United States. *See United States v. California*, No.
5 26-7070, 2026 WL 3212945, at *13 n.4 (9th Cir. Oct. 26, 2026) (Bennett, J., concurring)
6 (“*California I*”).

7 60. Defendants escalated their threats while that litigation was pending. On
8 October 16, 2026, Bill Essayli, who purports to lead the U.S. Attorney’s Office for the Central
9 District of California, warned that election officials who refused DOJ’s demands faced
10 significant legal consequences for “knowingly” facilitating noncitizen voting.
11 @USAttyEssayli, X (Oct. 16, 2026), <https://perma.cc/8NBN-3SJQ>. The President reposted the
12 warning, declaring of California’s officials: “They will all go to jail for a long period of time!!!”
13 Jasper Ward, *Trump Threatens California Officials with Imprisonment over Stance on Mail*
14 *Ballots*, Reuters (Oct. 16, 2026), <https://perma.cc/44RT-JDV4>. During the same period, DOJ
15 opened a criminal investigation into dozens of county election officials and issued federal grand
16 jury subpoenas.

17 61. Before the district court issued any ruling in their case, DOJ sought an
18 injunction from the Ninth Circuit, premised on a purported “constructive denial” of their request
19 to immediately sequester and prevent the counting of ballots for any person on its list. *See*
20 *California I*, 2026 WL 3212945. On October 26, 2026, the Ninth Circuit dismissed DOJ’s
21 appeal, finding that it lacked jurisdiction and that the emergency DOJ asserted was “at least in
22 part . . . a self-constructed one.” *Id.* at *6. Both judges in the majority wrote separately to explain
23 that DOJ’s claim would fail on the merits in any event: Section 611 regulates individual voters,

1 not state election administration; Congress limited the Executive’s role in voter-list matters to
2 civil enforcement of the NVRA and HAVA; DOJ’s demand likely conflicted with the NVRA’s
3 90-day bar; and the relief DOJ sought would alter the rules of an election already underway. *Id.*
4 at *7–16 (Bennett, J., concurring), *id.* at *16–20 (Sanchez, J., concurring).

5 62. On October 27, 2026, the district court held a two-hour hearing on DOJ’s
6 request for preliminary relief and the following day, October 28, it denied DOJ’s motion.
7 *California II*, 2026 WL 3252428. Noting that the government had reiterated in open court its
8 threat that state and county officials who did not comply with its letters risked federal aiding-
9 and-abetting charges under 18 U.S.C. § 2, the court admonished: “these threats must stop.”
10 *California II*, 2026 WL 3252428, at *4. DOJ immediately sought an injunction pending appeal,
11 and today the Ninth Circuit denied that request, finding that DOJ had failed to make a showing
12 that it was appropriate, rejecting DOJ’s claim on the merits, and noting that the request also
13 came far too late in the election cycle. *California III*, No. 26-7231, slip. op. at 8–21. Both the
14 district court and the Ninth Circuit further recognized that DOJ’s eleventh-hour demands
15 threaten to disenfranchise lawfully registered citizens—and especially recently naturalized
16 citizens. *See California II*, 2026 WL 3252428, at *14; *California III*, No. 26-7231, slip. op. at
17 17.

18 63. The threats did not stop, and they have not stopped. The next day, October 29,
19 2026, it was reported that DOJ had directed federal prosecutors to pursue criminal subpoenas
20 of state and local election officials in California for allegedly facilitating unlawful votes. Ben
21 Penn, *DOJ Orders Criminal Probes of California Officials on Voting*, Bloomberg L. (Oct. 29,
22 2026), [https://news.bloomberglaw.com/us-law-week/doj-orders-criminal-probes-of-california-](https://news.bloomberglaw.com/us-law-week/doj-orders-criminal-probes-of-california-officials-over-ballots)
23 [officials-over-ballots](https://news.bloomberglaw.com/us-law-week/doj-orders-criminal-probes-of-california-officials-over-ballots).

1 **III. Defendants bring their operation to Washington.**

2 **A. Defendants announce their demand, threatening alleged**
3 **noncitizen voters and election officials.**

4 64. On October 26, 2026—the same day the Ninth Circuit dismissed DOJ’s
5 California appeal, and eight days before Election Day—Defendants sent Secretary Hobbs a
6 letter (the “October 26 Demand”) identifying approximately 405 registered Washington voters
7 whom federal agencies believe “are or were noncitizens (i.e., they may have subsequently
8 naturalized),” and who had been sent a vote-by-mail ballot for the general election. Ex. A.

9 65. The October 26 Demand directed Secretary Hobbs to instruct Washington’s
10 election officials “to not verify the signature and/or tabulate the ballot” of any listed voter “until
11 citizenship can be determined.” *Id.* at 2. It gave the Secretary 48 hours to comply and warned
12 that, if he did not, DOJ “will have no choice but to seek emergency relief.” *Id.* The October 26
13 Demand also warned that Defendants would refer matters to state prosecutors and stated that
14 Defendants expect to send Washington additional names before Election Day. *See id.*

15 66. The same afternoon, Defendants and the acting special agent in charge of HSI
16 for the Pacific Northwest, held a press conference to announce the October 26 Demand. A
17 transcript is attached as Exhibit B.

18 67. At the press conference, Defendant Floyd told the public that “[k]nowingly
19 assisting those who are voting illegally is a crime,” and that federal prosecutors “will criminally
20 prosecute those who vote illegally and those who assist others in voting illegally.” Ex. B at 2.
21 He declared that “[n]ow that the state is on notice, it is incumbent upon state officials to make
22 sure they are counting only legal votes.” *Id.* at 1.

1 68. Asked whether county election officials could face charges if they processed
2 the ballots of voters on the list, Defendant Floyd answered that anyone who “assists someone
3 in voting illegally would be also guilty of that crime under the aiding abetting theory,” and that
4 “if you conspire, if you aid and abet someone else in committing a crime, then you could be
5 guilty of a crime as well.” *Id.* at 8.

6 69. Defendant Floyd also addressed voters directly: “If you are not a citizen of the
7 United States and you register to vote or you vote illegally, we will find you.” *Id.* at 2.

8 70. Defendant Floyd described the list as a “test to see if [the State is] checking.”
9 *Id.* at 8. Asked what would happen if Washington did not comply, he said that “we sit back and
10 watch,” that Defendants would “continue to provide them notice of those individuals that are
11 non-citizens.” *Id.* at 5. He acknowledged that the timing was late: “It would have been nice if
12 we’d have done it before many of the ballots had already been sent out.” *Id.* at 3.

13 71. Secretary Hobbs responded to the October 26 Demand on October 28. *See* Ex.
14 F. He noted “several glaring deficiencies” in DOJ’s list of supposed citizen voters, including
15 that DOJ provided “no information about how the information was collected or what sources
16 were used” and lacked necessary information to identify individuals on the list, making it
17 “difficult—if not impossible—to confirm whether an entry on the list matche[s] a voter
18 registration.” *Id.* at 1–2. Secretary Hobbs then explained that even for those individuals his
19 office was able to identify, DOJ’s list of supposed noncitizen voters contained many United
20 States citizens as well as “a significant number of people” not registered to vote or on inactive
21 status. *Id.* at 2 He concluded that “it would likely be unlawful to decline to count ballots simply
22 because a person’s name appears on the unverified list.” *Id.*

1 72. Defendants nonetheless doubled down on their intimidation. On October 29,
2 2026, the day after Judge Carter in California admonished Defendants that their threats against
3 election officials “must stop,” Acting Deputy Attorney General R. Trent McCotter sent
4 Secretary Hobbs a letter titled “Obligations Under 52 U.S.C. § 20701.” Ex. C. The same official
5 signed DOJ’s October 13 demand to California.

6 73. The letter recited a series of close elections. It then reminded the Secretary that
7 federal law requires election officials to preserve, for 22 months, records “requisite to voting.”
8 *Id.* at 1. The letter asserted that those records include “envelopes containing a completed ballot”
9 and “the ballot itself whether mailed, placed in a drop box, or submitted in person.” *Id.* It also
10 asserted that the obligation extends to “each county or local election official charged with
11 administering a federal election” in Washington. *Id.*

12 74. The letter then warned that “[i]t is a crime to willfully fail to comply with
13 Section 20701,” punishable “by up to a year in prison and a \$1,000 fine,” and that it is “also
14 unlawful to willfully steal, destroy, conceal, mutilate, or alter these records.” *Id.* at 2.

15 75. The letter identified no reason to believe that Washington or any county had
16 failed, or would fail, to preserve election records. It came days before Election Day and three
17 days after Defendants demanded that Washington set aside the listed voters’ ballots. It also
18 came while Defendants were publicly warning that election officials who process those ballots
19 could be prosecuted as aiders and abettors. In that context, the letter served to remind
20 Washington’s election officials that they face federal criminal exposure in connection with the
21 ballots they handle if they do not do Defendants’ bidding.

22 76. Defendants have also made clear that the purpose of their demands has been
23 to create criminal exposure. The day the Demand was sent, Defendant Floyd told a Seattle radio

audience: “Now that we’ve put them [the State] on notice, it raises the bar a little bit because it is a violation of 18 USC 611 to vote illegally when you’re not a citizen, and if someone were to cooperate or aid and abet, or to assist someone in voting illegally, then they could be guilty of a crime as well.” Ex. D at 3.

77. Asked about his next steps, Defendant Serrano stated: “I think we’re gonna continually demand that these are segregated. We want to make sure these ballots aren’t counted, and if ultimately we have to send 39 letters to 39 auditors over the next couple of days, we can do that.” Ex. E at 2– 3. He acknowledged that doing so would put the auditors “in a pickle,” forcing them to choose: “Do we comply with the federal subpoena, or do we comply with state law?” He added a suggestion that because “DOJ [is] demanding information from them,” a failure to respond to such demands could “subject [them] to federal penalties.” *Id.* at 2.

B. Defendants admit their data is unreliable.

78. Federal officials’ own description of how they built the list shows that it is not a reliable basis for determining that any registered voter is ineligible.

79. Federal agents did not start from Washington’s voter rolls. By Defendant Floyd’s account, they began with what he called “a very tiny population of people that we have made contact with recently”—people who applied to USCIS for immigration benefits, people interviewed while crossing the border, and people arrested and detained—and then tried to find those individuals on Washington’s rolls, including by entering names and dates of birth into the State’s public voter lookup website. Ex. B at 5, 7. Defendants explained that, because the list begins with people known to federal immigration authorities, it could easily sweep in naturalized citizens.

1 80. Asked what other voter lists federal agents had used, Defendant Floyd
2 responded that “a lot of that stuff is publicly available and I don’t know, and if I did, I wouldn’t
3 tell you the exact list that we’re looking at.” *Id.* at 5.

4 81. Defendant Floyd acknowledged that the public voter data lacks Social Security
5 numbers and other identifying information, making it difficult to “marry those two lists”
6 because “there might be a lot of John Does.” *Id.* at 4.

7 82. Defendant Floyd conceded that federal investigators “don’t know everything
8 the state knows”; that whether the people on the list “are the ones that filled out the ballot,” and
9 whether “someone else register[ed] them,” are “questions that we still have to answer”; and that
10 “many of them are telling us, ‘Yeah, I never filled out a ballot.’” *Id.* Defendants have charged
11 no one on the list with any crime. *Id.*

12 83. The October 26 Demand itself concedes that listed voters “may have
13 subsequently naturalized.” Ex. A. The votes Defendants attribute to listed individuals span
14 “[d]ecades” of prior elections, and Defendants describe many listed individuals as lawful
15 permanent residents, *id.* at 6—precisely the population most likely to have naturalized in the
16 interim. Washington’s Secretary of State noted that at least one record on the list dated from
17 1994, *see* Ex. E.

18 84. Washington voters, including Plaintiffs’ members and the voters they serve,
19 have no way to learn whether they have been flagged, and no process through which to contest
20 that designation.

IV. Defendants' actions are already inflicting irreparable harm on Plaintiffs and the public.

85. Defendants' actions directly impair Plaintiffs' members' ability to exercise their fundamental rights, and further impair Plaintiffs' core activities. Central to each Plaintiff's work is helping voters register, vote, and ensure those votes are counted; for OneAmerica Votes and LCF, those voters are primarily in immigrant, refugee, and Latino communities and include many naturalized citizens. All Plaintiffs' work includes educating voters about their rights, and helping them cast ballots that count. Defendants' actions strike at that work in the final days of the election.

86. Defendants' actions threaten to disenfranchise eligible voters whom Plaintiffs have registered and encouraged to vote, including Plaintiffs' members. Naturalized citizens are the voters most likely to be misidentified as noncitizens by federal records, and they are the population from which Defendants' list was drawn. If Washington officials capitulate to Defendants' demands, voters' ballots will be set aside, and many will never be counted: voters will not know their ballots were flagged, and few will be able to prove their citizenship to federal officials in time because there is no existing process for them to do so. Plaintiffs' work registering and turning out those voters would be undone.

87. Defendants' actions also deter eligible voters from participating. Naturalized citizens in the communities Plaintiffs serve already fear that registering and voting will expose them and their families to unwarranted government scrutiny or retaliation. Defendants' secret list, their public threats that federal agents "will find you," and their threats against the officials who count ballots confirm those fears. Some eligible voters will conclude that voting is not worth the risk of being misidentified and investigated; others will conclude that their ballots

1 may never be counted so is not worth the risk or effort. Each such voter is a voter Plaintiffs have
2 worked to bring into the electorate and cannot now turn out.

3 88. Defendants' actions force Plaintiffs to divert resources from their planned get-
4 out-the-vote work at the most critical moment of the election cycle. Plaintiffs will have to now
5 divert time and resources to field questions from worried community members, create and
6 distribute new materials, retrain staff and volunteers, and develop programs to help voters learn
7 whether their ballots have been counted and gather documents to prove their citizenship if their
8 ballots are set aside. Every hour spent responding to Defendants' actions impacts the Plaintiffs'
9 abilities to help Washingtonians exercise their fundamental right to vote. That lost time and
10 capacity cannot be recovered, and if eligible voters' ballots are set aside or go uncounted, that
11 harm cannot be undone after the election.

12 89. Defendants' threats against election officials also threaten the orderly
13 administration of the election in which Plaintiffs' members vote. Election officials must now
14 process and canvass ballots under the threat of federal prosecution for following state law.

15 90. Plaintiffs' injuries are caused by Defendants' actions and would be redressed
16 by the relief Plaintiffs seek.

17 **CLAIMS FOR RELIEF**

18 **COUNT I: *ULTRA VIRES* EXECUTIVE ACTION** 19 **U.S. Const. art. I, § 4, cl. 1 (Elections Clause)**

20 91. Plaintiffs incorporate each preceding paragraph as if fully set forth herein.

21 92. "The Framers created a Federal Government of limited powers, and assigned
22 to [federal courts] the duty of enforcing those limits." *Nat'l Fed'n of Indep. Bus. v. Sebelius*
23 (*NFIB*), 567 U.S. 519, 588 (2012). A federal agency "literally has no power to act . . . unless

1 and until Congress authorizes it to do so by statute.” *Cruz*, 596 U.S. at 301. And where Congress
2 authorizes a “lawful means” for an agency to pursue its “policy aims,” the tools it provides are
3 exhaustive: Agencies may not “‘improvise on the powers granted by Congress’ by devising an
4 extralegal path” to their chosen ends. *SAS Inst. Inc. v. Iancu*, 584 U.S. 357, 368 n.* (2018)
5 (quoting *Civ. Aeronautics Bd. v. Delta Air Lines, Inc.*, 367 U.S. 316, 330 (1961)).

6 93. It has been axiomatic since the Founding that the Constitution “submit[s] the
7 regulation of elections for the federal government, in the first instance, to the local
8 administrations.” The Federalist No. 59 (Alexander Hamilton). To that end, the Constitution
9 “invests the States with responsibility for the mechanics of congressional elections,” *Foster*,
10 522 U.S. at 69 (citing U.S. Const. art. I, § 4, cl. 1); *see also* U.S. Const. art. II, § 1, cl. 2. States
11 thus have expansive authority to regulate “registration, supervision of voting, protection of
12 voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and
13 canvassers, and making and publication of election returns.” *Moore v. Harper*, 600 U.S. 1, 29
14 (2023) (quoting *Smiley*, 285 U.S. at 366).

15 94. The Constitution gives Congress preemptive power over the “Times, Places
16 and Manner of holding Elections.” U.S. Const. art. I, § 4, cl. 1. It is only “the action of
17 Congress,” not the executive, that may “supersede[]” contrary state law. *Ex parte Siebold*, 100
18 U.S. at 384 (emphasis added). Even then, “Congress’s power to regulate elections
19 ‘supersede[s]’ state law ‘so far as it is exercised, and no farther.’” *Watson v. RNC*, 609 U.S.
20 672, 697 (2026) (alteration in original) (quoting *Ex parte Siebold*, 100 U.S. at 392).

21 95. The Executive Branch’s constitutional and statutory authority over elections is
22 purposefully limited. “Despite many constitutional provisions addressing elections, voting, or
23 both, none authorize the President or the Executive Branch to exercise authority over the

1 administration of federal elections.” *Washington*, 814 F. Supp. 3d at 1214 n.57. The
2 “Constitution does not spell out a role for the President in the operation of state voting
3 procedures in federal elections.” *State. v. Meadows*, 88 F.4th 1331, 1346 (11th Cir. 2023). The
4 Executive Branch lacks any “direct control” over “the individuals—members of Congress and
5 state officials—who conduct federal elections,” and it thus has “no authority” to “interfere[]
6 with state election procedures based solely on the federal executive’s own initiative.” *Id.* at
7 1347. Instead, executive officers may only act “in relation to another branch’s constitutionally
8 authorized act.” *Id.*

9 96. “Constitutional ultra vires claims” are available where “the executive
10 exceed[s] its powers under the Constitution.” *Am. Fed’n of Lab. & Cong. of Indus. Orgs. v.*
11 *Dep’t of Lab.*, 836 F. Supp. 3d 137, 173 (D.D.C. 2026). As distinguished from statutory ultra
12 vires claims arguing that agency action “exceeded specific statutory authority,” constitutional
13 ultra vires claims arise where the Executive Branch “disclaims reliance on any statute,
14 ostensibly in favor of inherent constitutional authority.” *Id.* (citing *Dalton v. Specter*, 511 U.S.
15 462, 472 (1994)). And in such circumstances, “courts are normally available to reestablish the
16 limits on [its] authority.” *Chamber of Com. of U.S. v. Reich*, 74 F.3d 1322, 1328 (D.C. Cir.
17 1996) (collecting authority); *see also Am. Forest Res. Council v. United States*, 77 F.4th 787,
18 798 (D.C. Cir. 2023) (concluding claims of ultra vires action are reviewable), *cert. denied*, 144
19 S. Ct. 1110 (2024).

20 97. Defendants’ effort to federalize certain aspects of state election administration
21 falls outside any colorable boundary of Defendants’ lawfully delegated authority when it comes
22 to conducting federal elections.

1 98. Defendants have targeted States that refused to purge their voter rolls using the
2 SAVE database. *Supra* ¶¶ 43–51. In such States, Defendants have generated lists comprising
3 thousands of voters whom they believe, based on shoddy data-matching techniques, may not be
4 citizens. Defendants have, in turn, launched a campaign to coerce States—through the threat or
5 initiation of civil or criminal action—to remove these registered voters from the rolls, and to
6 withhold, segregate, and refuse to tally potentially thousands of lawful ballots cast by these
7 individuals.

8 99. No source of legal authority exists for the Executive Branch to compel or
9 coerce States into segregating or refusing to tally ballots cast by registered voters. While
10 Defendants have grounded their efforts in their inherent authority under the “Supremacy
11 Clause” to prevent the casting of any ballot in violation of 18 U.S.C. § 611, *supra* ¶ 58, no such
12 authority exists: 18 U.S.C. § 611 simply makes it “unlawful for any alien to vote in any [federal]
13 election.”

14 100. Nothing in Section 611 authorizes Defendants to seek injunctive relief against,
15 or otherwise compel or coerce, States to withhold, segregate, or refuse to tally ballots cast by
16 registered voters. Defendants appear to recognize as much in their litigation against California
17 election authorities, which is why they have thus far disclaimed reliance on any clear statutory
18 authority and instead have relied upon vague invocation of the Supremacy Clause to support
19 their ultra vires conduct. Today, the Ninth Circuit rejected even that argument. *California III*,
20 No. 26-7231, slip op. at 10–11 (holding that “nothing in § 611” preempts “how a state deals
21 with citizenship challenges to vote-by-mail ballots”).

22 101. Accordingly, Defendants’ issuance and enforcement of the October 26
23 Demand, and their threats to prosecute Washington election officials who decline to follow it

are straightforwardly ultra vires and this Court must “reestablish the limits on [the executive’s] authority,” *Reich*, 74 F.3d at 1328 (quoting *Dart v. United States*, 848 F.2d 217, 224 (D.C. Cir. 1988)), by issuing injunctive and declaratory relief against Defendants’ attempts to prevent Washington from canvassing ballots of lawfully registered voters, *see also Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689 (1949).

**COUNT II: VIOLATION OF THE CONSTITUTIONAL
SEPARATION OF POWERS**
U.S. Const. art. I, § 4, cl. 1; U.S. Const. art. II, § 1, cl. 2; U.S. Const. amend. X

102. Plaintiffs incorporate each preceding paragraph as if fully set forth herein.

103. The Tenth Amendment reserves to the States all “powers not delegated to the United States by the Constitution, nor prohibited by it to the States.” U.S. Const. amend. X. This separation of powers is further reflected in the Constitution’s express reservation of certain rights to the States, at least where Congress has not acted in a contrary manner. *See id.* art. I, § 4, cl. 1; *id.* art. II, § 1, cl. 2.

104. This is especially true in the election context. “The Constitution addresses two types of power over federal elections: first, the power to determine who is qualified to vote, and second, the power to regulate federal election procedures. In both spheres, the Constitution vests authority first in the States.” *LULAC III*, 818 F. Supp. 3d at 59. Thus, “considerations of federalism and the vertical separation of powers” are especially salient where an executive order intrudes on a traditional domain of state authority. *Id.* at 100.

105. Defendants’ conduct violates the vertical separation of powers between the federal government and the States by intruding upon matters that both the Constitution and Congress have left to the States, namely the maintenance of voter rolls, and the issuance and canvassing of ballots to voters who have lawfully registered under state law.

106. Such conduct is inconsistent with the Constitution and Congress’s longstanding assignment of most election administration responsibilities to the States, and is at odds with the States’ reserved authority to “determine who is qualified to vote” and “regulate federal election procedures.” *Id.* at 59; *accord Smiley*, 285 U.S. at 366.

107. While Defendants have nominally identified supposed sources of authority for their actions, such as the Supremacy Clause and 18 U.S.C. § 611, those sources do not grant Defendants the freewheeling election administration powers they claim. Indeed, they merely emphasize that Defendants enjoy only specific powers when it comes to elections that are derived from express congressional enactments. Defendants may not transgress such grants of authority, *Foster*, 522 U.S. at 69, yet they have done just that, trampling upon matters reserved to the States in the process.

108. Plaintiffs have a cause of action to remedy this separation-of-powers violation. The Supreme Court’s precedents have long recognized that “whenever a separation-of-powers violation occurs, any aggrieved party with standing may file a constitutional challenge.” *Collins v. Yellen*, 594 U.S. 220, 245 (2021); *see also Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010) (recognizing “an implied private right of action directly under the Constitution to challenge governmental action under . . . separation-of-powers principles” (citation omitted)).

COUNT III: VIOLATION OF THE ANTICOMMANDEERING DOCTRINE
U.S. Const. art. I, § 4, cl. 1; U.S. Const. art. II, § 1, cl. 2; U.S. Const. amend. X

109. Plaintiffs incorporate each Paragraph above as if set forth fully herein.

110. As noted, the Tenth Amendment reserves any “powers not delegated to the United States by the Constitution, nor prohibited by it to the States . . . to the States respectively,

1 or to the people.” U.S. Const. amend. X. Based on the Founders’ “fundamental structural
 2 decision” in that regard, *Murphy v. NCAA*, 584 U.S. 453, 470 (2018), the anticommandeering
 3 doctrine prohibits the federal government from “commandeer[ing] the legislative processes of
 4 the States by directly compelling them to enact and enforce a federal regulatory program,” *New*
 5 *York v. United States*, 505 U.S. 144, 176 (1992) (quoting *Hodel v. Va. Surface Mining &*
 6 *Reclamation Ass’n, Inc.*, 452 U.S. 264, 288 (1981)). The rule applies “whether Congress
 7 directly commands a State to regulate or indirectly coerces a State to adopt a federal regulatory
 8 system as its own.” *NFIB*, 567 U.S. at 578.

9 111. The anticommandeering doctrine is not limited exclusively to instances where
 10 the federal government hijacks state legislative processes. It also applies when the federal
 11 government seeks to conscript state officials into enforcing federal priorities, *see New York*, 505
 12 U.S. at 161–62, 188; *Printz v. United States*, 521 U.S. 898, 935 (1997), or to punish States and
 13 state officials for refusing to acquiesce to federal demands, *see, e.g., In re Grand Jury*
 14 *Subpoenas*, 835 F. Supp. 3d 947, 955 (D. Minn. 2026) (“Nor may the federal government coerce
 15 or retaliate against states or political subdivisions who decline to help the federal government
 16 enforce federal laws.”); *City & County of San Francisco v. Trump*, 816 F. Supp. 3d 1017, 1040–
 17 41 (N.D. Cal. 2026).

18 112. Defendants’ efforts to federalize voter list maintenance, and to control how
 19 Washington counts ballots, therefore reflect a textbook violation of the anticommandeering
 20 doctrine, in keeping with the President’s insistence that his political party should “nationalize”
 21 voting. *Supra* ¶ 43. Specifically, Defendants have repeatedly pressured and attempted to coerce
 22 Washington into purging its voter rolls of individuals who appear on USCIS-generated lists of
 23 supposed noncitizens because the State declined to run its voter rolls through SAVE, and have
 24

1 now demanded that Washington refuse to count ballots from individuals on these USCIS-
2 generated lists.

3 113. In essence, Defendants seek to conscript Washington’s election officials into
4 a federal investigation of suspected noncitizens: they demand that state officials set aside ballots
5 pending a federal citizenship determination, and they threaten prosecution if the officials
6 decline. Defendants’ actions violate the Tenth Amendment and the constitutional allocation of
7 authority over elections.

8 114. Nothing in federal statutory or constitutional law affords Defendants such
9 authority, which seeks to override legitimate state choices about how to engage in “supervision
10 of voting, . . . prevention of fraud and corrupt practices, counting of votes, [and the] duties of
11 inspectors and canvassers.” *Moore*, 600 U.S. at 29 (internal quotation marks omitted). By
12 “weaponiz[ing]” enforcement authority against States that “purportedly fail to comply with”
13 Defendants’ preferred election administration policies, Defendants have violated the
14 anticommandeering principle contained within the Tenth Amendment. *City & Cnty. of San*
15 *Francisco*, 816 F. Supp. 3d at 1041.

16 115. Plaintiffs may challenge this direct structural constitutional violation, which
17 injures them, through a cause of action in equity. *See Bond v. United States*, 564 U.S. 211, 222–
18 24 (2011); *Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010).

19 **COUNT IV: VIOLATION OF THE VOTING RIGHTS ACT**
20 **52 U.S.C. § 10307(b)**

21 116. Plaintiffs incorporate each preceding paragraph as if fully set forth herein.

22 117. Section 11(b) of the Voting Rights Act provides that “[n]o person, whether
23 acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to

1 intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate,
2 threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding
3 any person to vote or attempt to vote.” 52 U.S.C. § 10307(b).

4 118. Section 11(b) applies to federal officials. The provision reaches threats of legal
5 action and criminal prosecution, and does not require proof of specific intent or racial animus.
6 *See, e.g., Nat’l Coal. on Black Civic Participation v. Wohl*, 498 F. Supp. 3d 457, 477, 484
7 (S.D.N.Y. 2020); *Cal. Nurses Ass’n*, 2026 WL 3166149, at *8.

8 119. Washington election officials who verify signatures on and tabulate the ballots
9 of registered voters are “aiding” those voters to vote within the meaning of Section 11(b). Voters
10 who return mail ballots are “voting or attempting to vote.” 52 U.S.C. § 10307(b).

11 120. Defendants have threatened Washington election officials with criminal
12 prosecution as aiders and abettors for verifying and counting the ballots of registered voters
13 whom Defendants have placed on an unverified list, and have done so in order to coerce those
14 officials into refusing to verify and count those ballots.

15 121. Defendants have also intimidated and threatened, and attempted to intimidate
16 and threaten, voters—including Plaintiffs’ members and the voters Plaintiffs serve—for voting
17 or attempting to vote, including by publicly warning that federal agents “will find you,” by
18 compiling and transmitting a secret list of registered voters that the voters cannot see or contest,
19 and by demanding that ballots, including those of naturalized citizens who appear on that list,
20 be set aside.

21 122. Considered against the background of contemporaneous events—including
22 Defendants’ grand jury subpoenas to California election officials, the President’s declaration
23 that California officials “will all go to jail,” DHS’s field operations questioning residents about
24

1 their voter registration, and Defendants’ refusal to stop after a federal court admonished them
 2 that “these threats must stop”—Defendants’ conduct would intimidate a reasonable election
 3 official and a reasonable voter.

4 123. Defendants’ conduct in carrying out the Washington Ballot Operation violates
 5 Section 11(b) and, unless enjoined, will continue to cause Plaintiffs and their members
 6 irreparable harm.

7 **COUNT V: ADMINISTRATIVE PROCEDURE ACT (AGENCY ACTION**
 8 **CONTRARY TO CONSTITUTIONAL RIGHT, POWER, AND**
 9 **PRIVILEGE AND IN EXCESS OF STATUTORY AUTHORITY)**
 10 **5 U.S.C. § 706(2)(A)–(C)**

11 124. Plaintiffs incorporate each preceding paragraph as if fully set forth herein.

12 125. DOJ and DHS are agencies subject to the APA. 5 U.S.C. § 701(b)(1).

13 126. The Washington Ballot Operation, including Defendants’ October 26 Demand,
 14 their program of generating lists of registered voters suspected of being noncitizens,
 15 transmitting them to state election officials, and directing those officials to segregate and decline
 16 to count the listed voters’ ballots on pain of litigation and prosecution, is final agency action.
 17 They mark the consummation of Defendants’ decision making: Defendants designated specific
 18 registered voters as suspected noncitizens, issued a directive to state officials with a 48-hour
 19 deadline, and provided no further process. And legal consequences flow from them: Defendants
 20 assert that the October 26 Demand places election officials on notice for purposes of criminal
 21 liability, and Defendants have treated noncompliance as grounds for litigation and criminal
 22 investigation. *See Bennett v. Spear*, 520 U.S. 154, 177–78 (1997); *U.S. Army Corps of Eng’rs*
 23 *v. Hawkes Co.*, 578 U.S. 590, 597–600 (2016); *Sackett v. EPA*, 566 U.S. 120, 126–27 (2012).

1 127. Section 706(2) of the APA directs courts to “hold unlawful and set aside
2 agency action” that is found to be “contrary to constitutional right, power, privilege, or
3 immunity” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory
4 right.” 5 U.S.C. § 706(2)(B)–(C). “An analysis of whether agency action violates the APA
5 because it is contrary to constitutional right mirrors the analysis of whether the agency action
6 violates the relevant constitutional provision.” *Nat’l Educ. Ass’n v. U.S. Dep’t of Educ.*, 779 F.
7 Supp. 3d 149, 197 (D.N.H. 2025); *see also, e.g., Bronco Wine Co. v. U.S. Dep’t of Treasury*,
8 997 F. Supp. 1309, 1316 (E.D. Cal. 1996) (similar).

9 128. The Washington Ballot Operation violates the Elections Clause (Count I), the
10 Tenth Amendment (Count II), the separation of powers (Count III), as well as the First and Fifth
11 Amendments (Count VII); it is therefore contrary to constitutional right, power, or privilege
12 under the APA. *See* 5 U.S.C. § 706(2)(B).

13 129. Defendants’ Washington Ballot Operation, including the October 26 Demand,
14 also exceeds Defendants’ statutory authority and is contrary to law. 5 U.S.C. § 706(2)(A)–(B).
15 It violates Section 11(b) of the Voting Rights Act, 52 U.S.C. § 10307(b), *see supra* Count IV,
16 as well as the NVRA, 52 U.S.C. § 20507(c)(2)(A). Defendants seek to accomplish, within 90
17 days of a federal election, a systematic program to exclude registered voters whom Defendants
18 deem ineligible, in violation of § 20507(c)(2)(A), and are doing so through a non-uniform and
19 discriminatory process that targets naturalized citizens, in violation of § 20507(b)(1). In
20 addition, they subject registered voters identified through federal immigration records to a
21 citizenship-verification procedure applied to no other voter, contrary to 52 U.S.C. §
22 10101(a)(2)(A).

1 130. Because the Washington Ballot Operation, including the October 26 Demand,
2 is contrary to constitutional right, power, or privilege, and in excess of statutory law, it should
3 be held unlawful and set aside, and Defendants should be enjoined from implementing it.

4 **COUNT VI: ADMINISTRATIVE PROCEDURE ACT (ARBITRARY AND**
5 **CAPRICIOUS AGENCY ACTION)**
6 **5 U.S.C. § 706(2)(A)–(C)**

7 131. Plaintiffs incorporate each preceding paragraph as if fully set forth herein.

8 132. Agency action is arbitrary and capricious if the agency fails to provide “a
9 satisfactory explanation for its action including a rational connection between the facts found
10 and the choice made,” fails to consider “an important aspect of the problem,” or offers an
11 explanation “that runs counter to the evidence before the agency.” *Motor Vehicle Mfrs. Ass’n*
v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983) (citation modified).

12 133. The October 26 Demand and the Washington Ballot Operation are arbitrary
13 and capricious. Defendants, among other things, offered no explanation of their data sources,
14 methodology, or the reliability of their matches; failed to consider the well-documented
15 unreliability of federal citizenship data for naturalized citizens, which a federal court found DOJ
16 had already failed to consider weeks earlier, acknowledged that listed voters “may have
17 subsequently naturalized” yet demanded that their ballots be set aside anyway; drew their list
18 from a population that excludes U.S.-born citizens by design; failed to consider that their own
19 investigators could not determine whether listed individuals had cast the ballots attributed to
20 them; failed to provide any process, standard, or timeline for determining citizenship, or any
21 means for voters to learn of or contest their designation; and failed to consider the reliance
22 interests of registered voters who cast ballots under procedures established by state law, the
23

1 harms of mid-election disruption, and the collapse of materially identical lists in Nevada and
2 California.

3 134. Worse still, Defendants’ Washington Ballot Operation comes as the November
4 2026 election is already underway, which alone makes it arbitrary and capricious. *See, e.g., U.S.*
5 *Postal Serv. v. California*, No. 26A305, 2026 WL 2687160, at *1 (U.S. Sep. 14, 2026)
6 (Kavanaugh, J., concurring) (explaining that “applying [a new] rule” issued by the federal
7 government in September 2026 “would be arbitrary and capricious in violation of the
8 Administrative Procedure Act because state and local election officials do not have sufficient
9 time to reasonably implement the rule before the election”).

10 135. Section 706(2)(A) of the APA directs courts to “hold unlawful and set aside
11 agency action” that is found to be “arbitrary, capricious [or] an abuse of discretion.” 5 U.S.C.
12 § 706(2)(A). Because it is arbitrary and capricious, the Washington Ballot Operation, including
13 Defendants’ October 26 Demand, should be held unlawful and set aside.

14 **COUNT VII: VIOLATION OF THE RIGHT TO VOTE AND FUNDAMENTALLY**
15 **FAIR ELECTIONS**
U.S. Const. AMENDS. I, V

16 136. Plaintiffs incorporate each preceding paragraph as if fully set forth herein.

17 137. The Constitution protects the right of qualified citizens to vote and to have
18 their votes counted. *United States v. Classic*, 313 U.S. 299, 315 (1941); *Reynolds v. Sims*, 377
19 U.S. 533, 554–55 (1964). The Due Process Clause of the Fifth Amendment protects that right
20 against federal action and protects voters against government conduct that renders an election
21 fundamentally unfair. *See Bennett v. Yoshina*, 140 F.3d 1218, 1226–27 (9th Cir. 1998).

22 138. Defendants’ actions severely burden the right to vote of eligible Washington
23 voters, including Plaintiffs’ members, by seeking to have their lawfully cast ballots set aside

1 and left uncounted based on an unreliable list, without notice or any opportunity to be heard,
2 and by deterring eligible citizens from voting. *See Anderson v. Celebrezze*, 460 U.S. 780, 789
3 (1983); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). No legitimate federal interest justifies
4 that burden: Defendants may investigate and prosecute any individual who votes unlawfully
5 through the criminal process, without interfering with the counting of registered voters' ballots.

6 139. Defendants' actions also induce state officials to depart, in the middle of an
7 election, from the procedures on which Washington voters relied in casting their ballots,
8 threatening to render the election fundamentally unfair. *See Bennett*, 140 F.3d at 1226–27.

9 140. Defendants' actions violate the fundamental right to vote as secured by the
10 First and Fourteenth Amendments and the Due Process Clause of the Fifth Amendment.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs respectfully request that the Court:

- 13 A. Declare that Defendants' October 26 Demand, the Washington Ballot Operation, and
14 Defendants' threats to prosecute Washington election officials for verifying and
15 counting the ballots of registered voters are ultra vires, and violate the constitutional
16 separation of powers and the anticommandeering doctrine, Section 11(b) of the Voting
17 Rights Act, the Administrative Procedure Act, and the constitutional right to vote and
18 right to fundamentally fair elections;
- 19 B. Declare that Washington election officials who verify, process, and tabulate the ballots
20 of registered voters in accordance with state law do not violate federal law merely
21 because a voter appears on a list transmitted by Defendants;
- 22 C. Preliminarily and permanently enjoin Defendants and their officers, agents,
23 employees, and all persons acting in concert with them, from (i) requesting, directing,

1 or coercing any Washington state or local election official to remove registered voters
2 from the voter rolls; withhold ballots from registered voters; or segregate, decline to
3 verify the signature on, or decline to tabulate any ballot cast by a registered voter in
4 the November 3, 2026 general election based on the voter's inclusion on any list
5 compiled or transmitted by Defendants; (ii) threatening Washington election officials
6 with criminal prosecution, investigation, or other legal action for verifying,
7 processing, or tabulating ballots in accordance with state law on the basis that a voter
8 appears on any list compiled or transmitted by Defendants; or (iii) otherwise
9 interfering with the administration, process, or certification of Washington's
10 November 3, 2026 general election.

11 D. Hold unlawful, vacate, and set aside the October 26 Demand and the Washington
12 Ballot Operation as applied to Washington, and stay them pending final judgment
13 under 5 U.S.C. § 705;

14 E. Order Defendants to notify the Washington Secretary of State and each county auditor
15 in writing that the October 26 Demand, and any other list or demand Defendants have
16 transmitted concerning the November 3, 2026 general election, has been withdrawn
17 or enjoined;

18 F. Order Defendants to notify the Court and Plaintiffs within 24 hours of transmitting
19 any further list of registered Washington voters, or any further demand concerning the
20 processing or counting of ballots, to any Washington election official before
21 certification of the November 3, 2026 general election;

22 G. Award Plaintiffs their costs and reasonable attorneys' fees, including under 28 U.S.C.
23 § 2412; and

H. Grant such other and further relief as the Court deems just and proper.

Dated: October 30, 2026

Respectfully submitted,

/s/ Abha Khanna

ABHA KHANNA

WA Bar No. 42612

TYLER L. BISHOP

WA Bar No. 63821

WALKER McKUSICK

WA Bar No. 63205

ELIAS LAW GROUP LLP

1700 Seventh Avenue, Suite 2100

Seattle, WA 98101

(206) 656-0177

akhanna@elias.law

tbishop@elias.law

wmckusick@elias.law

LUCAS W. LALLINGER*

DC Bar No. 1046778

HARLEEN K. GAMBHIR*

DC Bar No. 1781869

ELIAS LAW GROUP LLP

250 Massachusetts Ave. NW, Suite 400

Washington, DC 20001

(202) 935-1148

llallinger@elias.law

hgambhir@elias.law

*Attorneys for OneAmerica Votes, the
Latino Community Fund of Washington
State, and the United Food and
Commercial Workers International
Union*

**Pro hac vice application forthcoming*