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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JUDICIAL WATCH, INC., et al.,
Plaintiffs,
v.
DEAN C. LOGAN, et al.,
Defendants.

Case No. 2:17-cv-08948-R-SK
**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO INTERVENE OF MI
FAMILIA VOTA EDUCATION
FUND, ROCK THE VOTE, AND
LEAGUE OF WOMEN VOTERS OF
LOS ANGELES**
Hon. Manuel L. Real
Hearing Date: June 4, 2018
Time: 10:00 a.m.
Courtroom: 880

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INTRODUCTION

1
2 Mi Familia Vota Education Fund (“MFVEF”), Rock the Vote, and the
3 League of Women Voters of Los Angeles (“LWVLA”) respectfully move to
4 intervene as defendants in this case to protect the interests and rights of themselves
5 and their members. Movants seek to ensure that no voter in Los Angeles County,
6 including movants’ members, has a voter registration improperly canceled as a
7 result of Plaintiffs’ request for a court-ordered program to remove purportedly
8 “ineligible” voters from the voter rolls. *See* ECF 1, Complaint, at p. 26, lines 18-21.

9 Movants are nonpartisan voter engagement organizations that register
10 thousands of voters in Los Angeles County and across California every year. They
11 focus their voter registration and membership recruitment efforts on communities
12 that face the biggest barriers to voter registration, including young, lower income,
13 Latino, and African American voters. Movants have a direct and personal interest in
14 ensuring their members and the voters they engage remain registered to vote and
15 are not adversely impacted by the voter removal program Plaintiffs are requesting.

16 The National Voter Registration Act (“NVRA”), 52 U.S.C. §§ 20507, et seq.,
17 does not permit the court-ordered voter removal program requested by Plaintiffs.
18 To the contrary, the NVRA was intended to make it easier for eligible voters to
19 become and remain registered to vote. Any attempt to remove voters from Los
20 Angeles County’s voter rolls based on the misleading data put forth by Plaintiffs,
21 particularly one that results in the disenfranchisement of voters who already face
22 barriers to voter registration and participation, risks violating voters’ rights under
23 the NVRA, as well as the California Constitution and the federal Voting Rights Act
24 of 1965, 52 U.S.C. § 10301.

25 Movants’ unique interest in ensuring their members and marginalized voters
26 remain registered to vote may not be adequately represented by Defendants, who
27 are public servants with limited resources and broad constituencies, and could be
28 subject to public and financial pressure to resolve this case in a manner adverse to

1 movants' interests. Movants therefore request this Court grant their motion to
2 intervene as of right under Federal Rule of Civil Procedure 24(a) or, alternatively,
3 by permission under Rule 24(b).

4 **DESCRIPTION OF PROPOSED INTERVENORS**

5 MFVEF is a 501(c)(3) nonpartisan, nonprofit organization whose mission is
6 to facilitate the civic engagement of the Latino community. Monterroso Decl., ¶ 3.
7 Since its founding in 2011, MFVEF has become one of the leading Latino civic
8 engagement organizations in the country, with field offices in 15 cities across ten
9 states, including California. Monterroso Decl., ¶ 4. The organization has 70,518
10 members nationwide, including 7,767 members in California. Monterroso Decl., ¶
11 4. In California, MFVEF works to expand the electorate by assisting legal
12 permanent residents in the naturalization process, educating and registering new
13 voters, and ensuring voters keep their registrations up to date. Monterroso Decl., ¶
14 5. In the past two years alone, MFVEF successfully registered more than 15,000
15 voters in California, most of whom are between the ages of 17 and 30 years of age,
16 and 69% of whom are Latino. Monterroso Decl., ¶ 6. MFVEF is concerned that the
17 present action could result in the wrongful removal of its members and the voters it
18 registers and engages from the Los Angeles County voter rolls. Monterroso Decl.,
19 ¶¶ 7, 8.

20 Rock the Vote is a national and nonpartisan nonprofit dedicated to building
21 long-term youth political power. Tolentino Decl., ¶ 2. Since 1990, Rock the Vote
22 has pioneered innovative ways to register and mobilize more young voters.
23 Tolentino Decl., ¶ 3. In 2015, Rock the Vote opened a Los Angeles office to further
24 explore opportunities to close registration age gaps in California. Tolentino Decl., ¶
25 5. In 2016 alone, Rock the Vote processed more than 240,000 voter registration
26 applications in California; 72,647 of those registrations were in Los Angeles
27 County. Tolentino Decl., ¶ 6. Because young voters move at significantly higher
28 rates than their older counterparts, they often have little time to establish a voting

1 history or may have inconsistent voting histories. Tolentino Decl., ¶ 8. Rock the
 2 Vote is therefore concerned that the court-ordered list maintenance that Plaintiffs
 3 seek could result in the wrongful removal of eligible young voters from the voter
 4 rolls. Tolentino Decl., ¶ 8.

5 LWVLA is a nonpartisan political organization that works to encourage
 6 informed and active participation in elections and government. Guevara Decl. ¶ 2.
 7 LWVLA has 336 members and serves the city of Los Angeles and nearby
 8 communities. Guevara Decl. ¶ 3. To meet its objectives, LWVLA works to register
 9 and educate voters in communities with persistent registration and participations
 10 gaps, including youth, people of color, and low-income Americans. Guevara Decl.
 11 ¶ 4. In 2016 and 2017 alone, LWVLA worked with community partners to register
 12 more than 3,000 youth voters. Guevara Decl. ¶ 5. LWVLA is concerned that the
 13 relief Plaintiffs seek could result in its members and voters they engage being
 14 wrongfully purged from the voter rolls. Guevara Decl. ¶¶ 7, 8.

ARGUMENT

I. THE COURT SHOULD GRANT THE MOTION TO INTERVENE AS OF RIGHT TO ENSURE MOVANTS' INTERESTS ARE PROTECTED.

19 Under Federal Rule of Civil Procedure 24(a)(2), a court must allow a party to
 20 intervene when: (1) the motion to intervene is timely; (2) the movant has a
 21 “‘significantly protectable’ interest relating to the property or transaction that is the
 22 subject of the action;” (3) the disposition of the action could impair or impede
 23 movant’s ability to protect that interest; and (4) the movant’s interest may not be
 24 adequately represented by the existing parties to the lawsuit. *Southwest Ctr. for*
 25 *Biological Diversity v. Berg*, 268 F.3d 810, 817, 823 (9th Cir. 2001) (quoting
 26 *Northwest Forest Resource Council (“NFRC”) v. Glickman*, 82 F.3d 825, 836 (9th
 27 Cir. 1996)).

28 The Ninth Circuit mandates a “broad construction” of Rule 24(a)(2). *Id.* at

1 818. Courts in the Ninth Circuit therefore “construe Rule 24(a) liberally in favor of
2 potential intervenors.” *Id.* (quoting *Forest Conservation Council v. U.S. Forest*
3 *Serv.*, 66 F.3d 1489, 1493 (9th Cir. 1995)). A liberal policy in favor of intervention,
4 guided by “practical and equitable considerations,” ensures “efficient resolution of
5 issues and broadened access to the courts.” *Wilderness Soc’y v. U.S. Forest Serv.*,
6 630 F.3d 1173, 1179 (9th Cir. 2011) (citing *United States v. City of Los Angeles*,
7 288 F.3d 391, 397-398 (9th Cir. 2002)). A court deciding a motion to intervene
8 must accept all non-conclusory allegations in the motion, declarations, and
9 proposed answer as true. *Southwest Ctr.*, 268 F.3d at 820.

10 MFVEF, Rock the Vote, and the LWVLA satisfy Rule 24(a)’s requirements
11 for intervention as of right because (1) their motion to intervene is timely in that the
12 case is still in the early stages of the proceedings; (2) Movants and their members
13 have a strong, protectable interest in ensuring their members and other Los Angeles
14 County voters are not wrongfully removed from the voter rolls and denied the
15 opportunity to vote; (3) any order concerning the Defendant Los Angeles County’s
16 list-maintenance practices or the guidance provided by Defendant Secretary of State
17 on such activities will necessarily impact Movants’ interests and potentially impair
18 their ability to carry out their mission of registering and engaging their members
19 and other voters; and (4) as public officials subject to numerous and potentially
20 competing obligations, Defendants have interests that may not align with the
21 interests of Movants, and Defendants thus may not adequately represent Movants’
22 interests.

23 **A. The Motion to Intervene Is Timely.**

24 Courts in the Ninth Circuit look at the totality of the circumstances to
25 determine the timeliness of a motion to intervene. *Smith v. Los Angeles Unified*
26 *School Dist.*, 830 F.3d 843, 854 (9th Cir. 2016). Courts generally weigh three
27 factors when assessing timeliness: (1) the stage of the proceedings; (2) the prejudice
28 to other parties; and (3) the reasons for and length of any delay. *Id.* (citing *United*

1 *States v. Alisal Water Corp.*, 370 F.3d 915, 921 (9th Cir. 2004)). “The crucial date
2 for assessing the timeliness of a motion to intervene is when proposed intervenors
3 should have been aware that their interests would not be adequately protected by
4 the existing parties.” *Smith*, 830 F.3d at 854 (quoting *Smith v. Marsh*, 194 F.3d
5 1045, 1052 (9th Cir. 1999)).

6 Applying these three factors, Movants’ motion to intervene in this case is
7 timely. First, movants are seeking to intervene at an early stage in the proceedings.
8 The pleadings were closed on January 23, 2018, when Defendants filed their
9 respective Answers. Neither Defendant filed a motion to dismiss. The parties filed a
10 Rule 26 Discovery Plan in March. ECF 27, Joint Report, March 5, 2018. Movants
11 are submitting this motion to intervene before any significant discovery has
12 occurred and well before the October 2018 fact discovery cutoff. Granting
13 intervention would not require any modification of the Discovery Plan or pretrial or
14 trial deadlines in this case.

15 Indeed, promptly after their review of the pleadings, Movants obtained
16 representation, sought the advice of counsel, and decided intervention was
17 necessary to protect their unique interests in this case. Movants met and conferred
18 with the parties to seek their consent to intervention, which Plaintiffs refused to
19 grant. Defendants consent to intervention. Because this case is still in the early
20 stages, Movants’ motion to intervene comes before any hearings or rulings on the
21 claims and interests at issue, and affords the Court ample time to consider Movants’
22 arguments alongside those of the existing parties to the case. *See Idaho Farm*
23 *Bureau Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (motion to intervene
24 filed four months after action filed was timely because it was “filed at a very early
25 stage, before any hearings or rulings on substantive matters”).

26 Second, the existing parties will suffer no prejudice due to the timing of
27 Movants’ motion. When assessing prejudice, the only relevant question in the Ninth
28 Circuit is whether any prejudice would result from potential intervenors’ failure to

1 intervene when they should have known their interests were not being adequately
2 represented. *Smith*, 830 F.3d at 857. As discussed above, Movants are filing their
3 motion upon determining their unique interests cannot be adequately represented
4 and at an early stage in the proceedings – before any significant discovery or
5 substantive hearings or rulings has taken place. Intervention, therefore, will cause
6 no delay in the case, will impose no extra burden on Plaintiffs or Defendants, and
7 will not prejudice any existing parties.

8 Third, there is no basis for a finding of unnecessary delay. Any time that has
9 elapsed between Movants’ determination that their interests may not be adequately
10 represented by the existing parties and the filing of this Motion has been devoted to
11 preparation of this Motion and supporting documents and conducting the required
12 conferences with the existing parties.

13 Because Movants are requesting intervention at an early stage of the
14 proceedings, Movants’ intervention will not prejudice the existing parties, and there
15 has been no unreasonable delay in seeking intervention, the Motion to Intervene is
16 timely. *Id.*; *cf. Smith v. Marsh*, 194 F.3d at 1052-1053 (motion to intervene filed 15
17 months after commencement of the action was untimely when case had progressed
18 significantly and movants offered no explanation for delay).

19 **B. Movants Seek to Vindicate Protectable Interests.**

20 An applicant has a right to intervene if it has “a ‘protectable interest’ in the
21 outcome of the litigation of sufficient magnitude to warrant inclusion in the action.”
22 *Smith v. Pangilinan*, 651 F.2d 1320, 1324 (9th Cir. 1981). The applicant is not
23 required to show it has “a legal or equitable interest in jeopardy.” *Id.* Instead, a
24 court need only conduct a “practical, threshold inquiry” to determine whether an
25 applicant has demonstrated a sufficient interest in the action. *Citizens for Balanced*
26 *Use v. Montana Wilderness Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011) (quoting
27 *NFRC*, 82 F.3d at 837) (internal quotation marks omitted).

28

1 Voting is a constitutionally protected right. As the Supreme Court has
2 repeatedly held, “Restrictions on access to the ballot burden two distinct and
3 fundamental rights, ‘the right of individuals to associate for the advancement of
4 political beliefs, and the right of qualified voters, regardless of their political
5 persuasion, to cast their votes effectively.’” *Illinois State Bd. of Elections v.*
6 *Socialist Workers Party*, 440 U.S. 173, 184 (1979) (quoting *Williams v. Rhodes*,
7 393 U.S. 23, 30 (1968)). The Supreme Court has further held that election laws
8 directly impact and can impose burdens on individual voters:

9 Each provision of a code, “whether it governs the
10 registration and qualifications of voters, the selection and
11 eligibility of candidates, or the voting process itself,
12 inevitably affects—at least to some degree—the
13 individual's right to vote and his right to associate with
14 others for political ends.”

15 *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (quoting *Anderson v. Celebrezze*, 460
16 U.S. 780, 788 (1983)).

17 Courts therefore recognize that a party’s interest in protecting access to the
18 political process warrants intervention. *See, e.g., Georgia v. Ashcroft*, 539 U.S. 461,
19 476 (2003) (upholding District Court’s grant of intervention as of right where
20 intervenors had an identifiable interest in judicial preclearance proceedings under
21 Section 5 of the federal Voting Rights Act). Importantly, courts have granted
22 intervention in cases where parties specifically seek to protect their interest in
23 ensuring that registered voters remain registered to vote and are not wrongfully
24 purged from voter rolls. *See Bellitto v. Snipes*¹, No. 16-cv-61474, slip op. at 3 (S.D.
25 Fla. March 30, 2018) (noting, in order denying plaintiffs’ challenge to Broward
26 County Florida’s list maintenance practices, that court had granted intervention to

27 _____
28 ¹ For convenience, the order is attached as Exhibit A to the Declaration of Anna Do
filed concurrently herewith.

1 defendant-intervenor union representing numerous members who would be affected
2 by the stricter purge requirements sought by plaintiffs).

3 Here, Plaintiffs are asking the Court to interpret the NVRA in a manner that
4 requires Los Angeles County to purge additional voters from its voter rolls.
5 Movants have a significant interest in opposing any unlawful voter removal
6 program, particularly the overly aggressive purge sought by Plaintiff that could
7 result in Intervenor's members and other eligible voters being wrongfully removed
8 from the voter rolls and deprived of their rights to political access. *See, e.g., Nat'l*
9 *Council of La Raza v. Cegavske*, 800 F.3d 1032, 1045 (9th Cir. 2015) (recognizing
10 that organizational plaintiffs seeking compliance with Section 7 of the NVRA had
11 an interest in "maximizing voter registration"). Movants expend organizational
12 resources to ensure that eligible voters, including their members, are registered to
13 vote and remain registered and engaged in the political process. *See Monterroso*
14 *Decl.*, ¶¶ 5, 6; *Tolentino Decl.* ¶¶ 3, 4; *Guevara Decl.* ¶¶ 4, 5.

15 In addition, Movants have a significant interest in ensuring that the NVRA is
16 enforced in a manner that ensures that voters remain registered to vote. The NVRA
17 was intended to protect those interests, specifically providing private, aggrieved
18 parties a right of action. 52 U.S.C. § 20510(b). Finally, because Movants'
19 membership and voter registration efforts focus on marginalized communities,
20 including Latino and African American voters, any voter list maintenance program
21 that adversely impacts those communities further implicates the protections of the
22 federal Voting Rights Act and equal protection guarantees of the California
23 Constitution.²

24 _____
25 ² While the movants' interests here are fully adequate to support independent
26 Article III standing, this circuit does not require intervenors to meet Article III
27 standing requirements. *Yniguez v. State of Arizona*, 939 F.2d 727, 731 (9th Cir.
28 1991) (holding lower threshold for intervention applies when there is ongoing
litigation between other parties); *cf. Common Cause Indiana v. Lawson*, No. 1:17-
cv-03936, 2018 WL 1070472 (S.D. Ind. February 27, 2018) (motion to intervene

1 **C. Movants’ Interests in the Case Will Be Impaired If Intervention Is**
2 **Denied.**

3 The Ninth Circuit has emphasized that “intervention of right does not require
4 an absolute certainty that a party’s interests will be impaired” *Citizens for*
5 *Balanced Use*, 647 F.3d at 900. Instead, intervention should be granted where, as
6 here, disposition of the action without the potential intervenors “*may* as a practical
7 matter impair or impede their ability to safeguard their protectable interest.”
8 *Southwest Ctr.*, 268 F.3d at 823 (emphasis added); *Smith*, 830 F.3d at 862; *see also*
9 Fed. R. Civ. P. 24, Advisory Comm. Note to 1966 Amend. (“If an absentee would
10 be substantially affected in a practical sense by the determination made in an action,
11 he should, as a general rule, be entitled to intervene.”).

12 Movants are organizations that work to promote and maintain lawful voter
13 registration, and engage marginalized and infrequent voters. Any court-ordered
14 action that would result in eligible voters’ registrations being put at risk by
15 unnecessary, improper, or unlawful purges of Los Angeles County’s voting rolls
16 would harm Movants’ interests. These interests are heightened in light of the
17 upcoming 2018 elections and the work Movants do to turn out voters. Moreover,
18 any court-ordered list maintenance procedures could impact list maintenance
19 practices in other counties in California, and would further and negatively impact
20 the interests of Movants MFVEF and Rock the Vote, both of which work to register
21 and engage voters across California.

22 While § 20510(b) of the NVRA provides aggrieved parties a private right of
23 action when their rights under the statute to register and remain registered to vote
24 are violated, a collateral suit may not offer Movants meaningful relief if the existing
25 parties reach a court-approved settlement agreement or Plaintiffs obtain other court-

26 _____
27 denied where proposed intervenors failed to demonstrate they had Article III
28 standing, a requirement for all intervenors in the Seventh Circuit).

1 ordered relief. In that instance, the *stare decisis* effect of the Court’s action could
2 thwart Movants’ ability to challenge any resolution of the case that is adverse to
3 their interests. The interests of Movants and their members are therefore threatened
4 by the court-ordered list maintenance that Plaintiffs seek to compel, and those
5 interests will be impaired if Movants’ Motion to Intervene is denied.

6 **D. Defendants May Not Adequately Represent or Protect Movants’**
7 **Interests.**

8 A proposed intervenor need not demonstrate with “absolute certainty” that its
9 interests will not be adequately represented by the existing parties. *Citizens for*
10 *Balanced Use*, 647 F.3d at 900. Instead, “the burden of showing inadequacy is
11 ‘minimal,’ and the applicant need only show that representation of its interests by
12 existing parties ‘may be’ inadequate.” *Southwest Ctr.*, 268 F.3d at 822 (quoting
13 *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)).

14 To assess whether a proposed intervenor has met this minimal burden, courts
15 consider whether the existing parties will “undoubtedly make all the intervenor’s
16 arguments,” whether they are “capable and willing to make such arguments,” and
17 whether the proposed intervenor “would offer any necessary elements to the
18 proceedings that other parties would neglect.” *Southwest Ctr.*, 268 F.3d at 822
19 (quoting *NFRC*, 82 F.3d at 838) (internal quotation marks omitted).

20 In the present case, Defendants’ interests do not completely align with those
21 of Movants, and it is certainly not “undoubtedly clear” that Defendants will either
22 make all of Movants’ arguments or will be capable of doing so. Defendants are
23 public servants with limited resources, broad responsibilities, and potentially
24 competing constituencies and political pressures. Defendant Dean C. Logan (“the
25 County Defendant”) manages the largest local election jurisdiction in the country.
26 He is tasked with managing a vast staff, stewarding limited public resources, and
27 running special and general elections, including the upcoming 2018 elections.
28 Defendant Alex Padilla (the “State Defendant”) is not only a public servant, but

1 also an elected official tasked with overseeing and providing guidance on election
2 administration statewide, and must do so while balancing the needs and challenges
3 of counties of different size, geography, demographics, and varying resources.

4 Both Defendants are accountable to broad constituencies that limit their
5 ability to raise arguments on behalf of Movants' interests. The County Defendant
6 has responsibilities toward all of the voters in Los Angeles County, and the State
7 Defendant is an elected official accountable to all voters in the state. Accordingly,
8 neither Defendant can be expected to, nor are they necessarily capable of focusing
9 their defense or arguments on particular groups of voters, including Movants'
10 members and the communities of voters they engage. This is why courts often find
11 that governmental entities may not be capable of adequately representing the
12 interests of private, non-governmental intervenors. *See Johnson v. San Francisco*
13 *Unified School Dist.*, 500 F.2d 349, 353-54 (9th Cir. 1974) (holding that school
14 district "charged with the representation of all parents within the district" could not
15 adequately represent the interests of Chinese-American parent intervenors); *Meek v*
16 *Metropolitan Dade County*, 985 F.2d 1471, 1478 (11th Cir. 1993) (finding county
17 defendants could not adequately represent interests of intervenors because it "was
18 required to balance a range of interests likely to diverge from those of the
19 intervenors" including "the overall fairness of the election system to be employed
20 in the future . . . and the social and political divisiveness of the election issue")
21 *abrogated on other grounds, Dillard v. Chilton County Com'n*, 495 F.3d 1324 (11th
22 Cir. 2007); *Southwest Ctr.*, 268 F.3d at 824 (holding intervention by private
23 contractor and building trade associations was warranted because there was
24 sufficient doubt about the adequacy of defendant City's defense of case brought by
25 environmental groups under the Endangered Species Act); *Bellitto*, 16-cv-61474, at
26 3 (noting, in order denying plaintiffs' claims for relief under Section 8 of the
27 NVRA, that court had granted motion to intervene of defendant-intervenor union on
28 grounds it represented numerous members who would be affected by changes in

1 county defendant's purge procedures). Indeed, in *Bellitto*, a case remarkably similar
2 to the present case that went to trial, a great deal of the evidence the court relied on
3 to reject the plaintiffs' claims of an NVRA Section 8 violation was presented by the
4 defendant-intervenor rather than the defendant election official. *Id.* at 52-54.

5 In addition, the State Defendant's interpretation of other provisions of the
6 NVRA has not always aligned with organizations that, like Movants, seek to ensure
7 the NVRA is interpreted and implemented in a manner that expands and protects
8 access to the political process. For example, the League of Women Voters of
9 California, in the past year, sued the State Defendant and the California Secretary of
10 Transportation because of inadequate implementation of other provisions of the
11 NVRA. *League of Women Voters of California v. Kelly*, No. 17-cv-02665-LB, 2017
12 WL 4354909 (N.D. Cal. Sept. 29, 2017) (order denying defendants' motion to
13 dismiss plaintiffs' lawsuit challenging state's failure to comply with NVRA's
14 requirement to incorporate voter registration into California Department of Motor
15 Vehicles license renewal forms).

16 Finally, even assuming Defendants have the best of intentions in defending
17 this case and the NVRA, the reality is that they have institutional duties that may
18 require them to weigh the financial burden of this litigation on taxpayers against the
19 savings of a settlement or swift resolution of the action. *See, e.g., Meek*, 985 F.2d at
20 1478 (citing county's potential concern about "expense of litigation to defend the
21 existing system" as a reason county defendant might not adequately represent the
22 interests of intervenors).

23 The interests of Movants, on the other hand, are focused exclusively on the
24 proper interpretation and application of the NVRA, and on the protection of the
25 right to register to vote, to remain registered, and to cast a ballot. Movants bring
26 unique perspectives to the proceedings that Defendants cannot – namely, the
27 perspective of their members and the voters they engage, many of whom face
28 significant barriers to voter registration and participation in the electoral process. It

1 is these voters who are most in jeopardy of being disenfranchised if purge practices
2 are adopted that overlook the unique challenges these voters face in getting
3 registered and remaining registered to vote.

4 In the absence of adequate representation, a resulting consent decree,
5 settlement agreement, or other court-ordered relief could violate or fail to
6 adequately protect the rights of Movants and their members under the NVRA, the
7 California Constitution, and the federal Voting Rights Act. For example, if
8 Defendants resolve this case by agreeing to new list maintenance practices that
9 result in the disproportionate removal of voters of color from the voting rolls,
10 Movants may have a Voting Rights Act claim for vote denial based on race under
11 Section 2's results test, or a similar claim under the equal protection provisions of
12 the California Constitution. Movants would then be forced to consider a later
13 collateral challenge to any court-monitored settlement, or to otherwise seek relief
14 against the Defendants. The interests of justice and judicial efficiency are therefore
15 served if Movants are made a party to the current action so that their protected
16 interests may be considered and litigated simultaneously.

17 For the foregoing reasons, Movants respectfully request the Court grant their
18 Motion to Intervene as of right.

19 **II. IN THE ALTERNATIVE, THE COURT SHOULD EXERCISE ITS**
20 **BROAD DISCRETION TO GRANT PERMISSIVE INTERVENTION.**

21 In the event that the Court finds the requirements for intervention as of right
22 have not been satisfied, the Court should nevertheless grant permissive intervention
23 pursuant to Federal Rule of Civil Procedure 24(b). Permissive intervention requires
24 the proposed intervenor to share a common question of law or fact, a timely motion,
25 and an independent basis for the court's jurisdiction over the proposed intervenor.
26 *Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998); *see also City of Los*
27 *Angeles*, 288 F.3d at 403. Courts also consider whether the intervention will
28 "unduly delay or prejudice the adjudication of the original parties' rights." Fed. R.

1 Civ. P. 24(b)(3). Courts have broad discretion to grant or deny permissive
2 intervention. *Donnelly*, 159 F.3d at 412.

3 Movants satisfy the standards that guide permissive intervention. As
4 discussed *supra*, Movants’ Motion to Intervene is timely and will therefore neither
5 delay nor prejudice the adjudication of the existing parties’ rights.

6 Importantly, Movants’ defenses and the main action share common questions
7 of law and fact—whether Los Angeles County’s list-maintenance activities satisfy
8 the requirements of the National Voter Registration Act. *See, e.g., Kootenai Tribe*
9 *of Idaho v. Veneman*, 313 F.3d 1094, 1111 (9th Cir. 2002) (holding lower court’s
10 granting of permissive intervention under Rule 26(b) was within its discretion
11 because “if there is a common question of law or fact, the requirement of the rule
12 has been satisfied”), *abrogated on other grounds by Wilderness Soc’y v. U.S.*
13 *Forest Serv.*, 630 F.3d 1173, 1180 (9th Cir. 2011).

14 Movants’ defenses will rely upon many of the same facts presented by the
15 existing parties, although they may supplement the record with facts related to their
16 unique interests and positions as organizations that engage with or have as members
17 the voters that would be impacted by any court-ordered list maintenance
18 procedures. *See Bellitto*, 16-cv-61474, at 52-54 (in case that involved a similar
19 challenge to Broward County Florida’s list maintenance practices, it was the
20 defendant-intervenor that put forward important evidence on the deficiencies in
21 plaintiffs’ statistical analysis, and it was this evidence the court relied upon in
22 rejecting plaintiffs’ claims). Additionally, Movants’ will “assert[] defenses . . .
23 directly responsive to” Plaintiffs’ claims that Defendants’ have failed to comply
24 with the voter list maintenance requirements of Section 8 of the NVRA. *Kootenai*
25 *Tribe*, 313 F.3d at 1110.

26 Finally, the Court has jurisdiction over Movants, all of whom either register
27 voters or have members who are voters in Los Angeles County.

28

