

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN BEALS, in her Official Capacity as
Commissioner of the Virginia Department of
Elections,

Defendant.

No. 3:26-cv-00042
(Hon. Roderick C. Young)

**MEMORANDUM OF LAW IN SUPPORT OF
COMMON CAUSE AND KATHERINE ELLENA's
MOTION TO INTERVENE AS DEFENDANTS**

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Common Cause and Katherine Ellena (collectively, “Proposed Intervenors”) respectfully move to intervene as Defendants pursuant to Rule 24(a) of the Federal Rules of Civil Procedure or, in the alternative, pursuant to Rule 24(b), and set forth the facts and legal argument necessary to support their motion below. *See* L.R. 7(F)(1). Proposed Intervenors append to this brief a proposed motion to dismiss by way of a response to the United States’ Complaint, while reserving the right to supplement their response to the Complaint within the time allowed for response by Rule 12 after intervention is granted. *See* Fed. R. Civ. P. 24(c). The United States does not object to Proposed Intervenors’ intervention. Counsel for Defendant has not yet appeared.

INTRODUCTION

The United States seeks to force Virginia to turn over voters’ sensitive personal information and data. It has been widely reported that the United States will use this data to build an unauthorized national voter database and to target voters for potential challenges and disenfranchisement. These efforts are being driven by self-styled “election-integrity” advocates who have previously used ill-conceived database-matching and database-analysis methods to mass-challenge voters and deny the results of elections, and who now serve in or advise the present Administration.

Proposed Intervenors are Common Cause, a non-partisan, non-profit organization dedicated to grassroots voter engagement and protecting voting rights and civil rights in Virginia, whose own work and whose members’ rights are at risk by the relief sought by the United States in this case, as well as Ms. Ellena, an individual voter whose personal, private data is at risk in this litigation. Proposed Intervenors have an extremely strong interest in preventing the United States’ requests for unfettered and total access to the most sensitive aspects of Virginia’s non-public voter data from being used to harass and potentially disenfranchise voters. Common Cause works to expand access to the ballot and civic engagement, as well as to protect civil liberties, and thus have

an interest in protecting the voting and privacy rights of their members and all Virginia voters. And the interests of Ms. Ellena, as well as the members of Common Cause, are also at stake here. Those members likely include voters who are under particular threat from the United States' requested form of relief, such as voters like Ms. Ellena who are naturalized citizens, voters who have a prior felony conviction, voters who have previously been registered to vote in another state, voters who registered to vote by mail, and voters whose personal information is especially sensitive and who thus have heightened privacy interests.

Proposed Intervenors are entitled to intervene as of right under Rule 24 because this motion is timely, because both their rights and interests are at stake, and because those rights and interests are not adequately represented by the existing Defendant, who unlike Proposed Intervenors, is a state actor, subject to broader public policy and political considerations external to the legal issues presented in this case. Their unique interests in this case, their unique perspective, and their unique motivation to interrogate the purpose of the United States' sweeping request for non-public Virginia voter data will ensure the full development of the record here and aid the Court in its resolution of this case.

Intervention as of right pursuant to Rule 24(a), or in the alternative permissive intervention pursuant to Rule 24(b), should be granted.

BACKGROUND

A. DOJ's Efforts to Obtain Private Voter Information from Virginia

Beginning in May 2025, Plaintiff the United States, through its Department of Justice ("DOJ"), began sending letters to election officials in at least forty states, making escalating demands for the production of voter registration databases, with plans to gather data from all fifty states. *See* Kaylie Martinez-Ochoa, Eileen O'Connor, & Patrick Berry, *Tracker of Justice*

Department Requests for Voter Information, Brennan Ctr. for Just. (updated Jan. 23, 2026), <https://perma.cc/R824-QG68> .

On July 15, 2025, DOJ allegedly sent a letter to Defendant Susan Beals, Virginia’s Commissioner of the Department of Elections, demanding, among other things, an electronic copy of Virginia’s computerized statewide voter registration list, including “all fields” contained within the list. Compl. ¶¶ 21-24. That data purportedly includes each Virginia registrant’s name, residential address, birth date, and driver’s license number and/or partial Social Security Number. Compl. p. 10; *see also id.* ¶¶ 14-15. The letter reflects that DOJ expressed an interest in certain categories of persons who purportedly might be included on the voter rolls, including: voters who might have “duplicate” records in the system for some reason (for example, because they changed addresses and registered to vote at their new address); voters who have been convicted of a felony; voters “who have moved out of the commonwealth” and registered in their new state; and non-citizens. Ex. A to Proposed Mot. to Dismiss, Letter from Deputy Assistant Attorney General Michael Gates to the Hon. Susan Beals (July 15, 2025).

On August 14, 2025, DOJ allegedly sent another letter, again requesting the unredacted voter file, and this time purporting to invoke Title III of the Civil Rights Act of 1960. Compl. ¶¶ 25-27. The United States again demanded sensitive Virginia voter data, including “all fields” in the state voter file. Compl. ¶ 25.

The United States alleges that, in the months that followed, it held “extensive discussions” with Commissioner Beals’s representatives, but that the Virginia voter data was never produced to its satisfaction. Compl. ¶ 28.

On January 16, 2026, the United States filed this lawsuit—one of at least twenty-five nearly identical lawsuits that DOJ has initiated against states and election officials across the country—seeking to compel the production of this sensitive Virginia voter data.¹

Notably, according to extensive public reporting, DOJ’s request for private, sensitive voter data from Virginia and other states appears to be in connection with novel efforts by the United States to construct a national voter database, and to otherwise use untested forms of database analysis in order to scrutinize state voter rolls. According to this reporting, DOJ employees “have been clear that they are interested in a central, federal database of voter information.” Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. TIMES, Sept. 9, 2025, <https://www.nytimes.com/2025/09/09/us/politics/trump-voter-registration-data.html>. DOJ is coordinating these novel efforts with the federal Department of Homeland Security (“DHS”), according to reported statements from DOJ and DHS. *Id.*; Jonathan Shorman, *DOJ is Sharing State Voter Roll Lists with Homeland Security*, STATELINE, Sept. 12, 2025, <https://stateline.org/2025/09/12/doj-is-sharing-state-voter-roll-lists-with-homeland-security> (“Shorman, *DOJ Sharing Lists with Homeland Security*”); Sarah Lynch, *US Justice Dept Considers Handing over Voter Roll Data for Criminal Probes, Documents Show*, REUTERS, Sept.

¹ See Press Release, U.S. Dep’t of Just., *Justice Department Sues Virginia for Failure to Produce Voter Rolls* (Jan. 16, 2026), <https://perma.cc/3L8Q-SJM5>; Press Release, U.S. Dep’t of Just., *Justice Department Sues Arizona and Connecticut for Failure to Produce Voter Rolls* (January 6, 2026), <https://perma.cc/YCM2-QQKM>; Press Release, U.S. Dep’t of Just., *Justice Department Sues Four States for Failure to Produce Voter Rolls* (Dec. 18, 2025), <https://perma.cc/RZL3-4E4B>; Press Release, U.S. Dep’t of Just., *Justice Department Sues Four Additional States and One Locality for Failure to Comply with Federal Elections Laws* (Dec. 12, 2025), <https://perma.cc/TQ5T-FB2A>; Press Release, U.S. Dep’t of Just., *Justice Department Sues Six Additional States for Failure to Provide Voter Registration Rolls* (Dec. 2, 2025), <https://perma.cc/F5MD-NWHD>; Press Release, U.S. Dep’t of Just., *Justice Department Sues Six States for Failure to Provide Voter Registration Rolls* (Sept. 25, 2025), <https://perma.cc/7J99-WGBA>; Press Release, U.S. Dep’t of Just., *Justice Department Sues Oregon and Maine for Failure to Provide Voter Registration Rolls* (Sept. 16, 2025), <https://perma.cc/M69P-YCVC>.

9, 2025, <https://www.reuters.com/legal/government/us-justice-dept-considers-handing-over-voter-roll-data-criminal-probes-documents-2025-09-09>. One article extensively quoted a recently-departed lawyer from DOJ’s Civil Rights Division, describing DOJ’s aims in this case and others like it:

We were tasked with obtaining states’ voter rolls, by suing them if necessary. Leadership said they had a DOGE person who could go through all the data and compare it to the Department of Homeland Security data and Social Security data. . . . I had never before told an opposing party, Hey, I want this information and I’m saying I want it for this reason, but I actually know it’s going to be used for these other reasons. That was dishonest. It felt like a perversion of the role of the Civil Rights Division.

Emily Bazelon & Rachel Poser, *The Unraveling of the Justice Department*, N.Y. TIMES MAG. (Nov. 16, 2025), <https://www.nytimes.com/interactive/2025/11/16/magazine/trump-justice-department-staff-attorneys.html>.

According to additional public reporting, these efforts are being conducted with the involvement of self-proclaimed “election integrity” advocates within and outside the government who have previously sought to disenfranchise voters and overturn elections. Those advocates include Heather Honey, who sought to overturn the result of the 2020 presidential election in multiple states and now serves as DHS’s “deputy assistant secretary for election integrity.”² Also involved is Cleta Mitchell, a private attorney and leader of a national group called the “Election Integrity Network,” who has, among other things, promoted the use of artificial intelligence to

² See Alexandra Berzon & Nick Corasaniti, *Trump Empowers Election Deniers, Still Fixated on 2020 Grievances*, N.Y. TIMES, Oct. 22, 2025, <https://www.nytimes.com/2025/10/22/us/politics/trump-election-deniers-voting-security.html> (documenting “ascent” of election denier Honey); Jen Fifield, *Pa.’s Heather Honey, Who Questioned the 2020 Election, Is Appointed to Federal Election Post*, PA. CAP.-STAR, Aug. 27, 2025, <https://penncapital-star.com/election-2025/pa-s-heather-honey-who-questioned-the-2020-election-is-appointed-to-federal-election-post/>; Doug Bock Clark, *She Pushed to Overturn Trump’s Loss in the 2020 Election. Now She’ll Help Oversee U.S. Election Security*, PROPUBLICA, Aug. 26, 2025, <https://www.propublica.org/article/heather-honey-dhs-election-security>.

challenge registered voters.³ These actors and their associates have previously sought to compel states to engage in aggressive purges of registered voters, and have abused voter data to make mass challenges to disenfranchise voters. *See, e.g., PA Fair Elections v. Pa. Dep't of State*, 337 A.3d 598, 600 n.1 (Pa. Commw. Ct. 2025) (dismissing as meritless complaint brought by “PA Fair Elections,” a group affiliated with current DHS official Honey, challenging Pennsylvania’s voter roll maintenance practices pursuant to HAVA).⁴

For example, in the months before the 2024 election, Honey and an organization affiliated with her, PA Fair Elections, pushed an effort to remove thousands of lawful Pennsylvania voters from the rolls, based on faulty sources of voter data such as “Eagle AI,” a voter database analysis tool supported by Mitchell and her Election Integrity Network.⁵ Then, on the eve of the 2024

³ *See, e.g.,* Matt Cohen, *DHS Said to Brief Cleta Mitchell’s Group on Citizenship Checks for Voting*, DEMOCRACY DOCKET, June 12, 2025, <https://www.democracydocket.com/news-alerts/dhs-said-to-brief-cleta-mitchells-anti-voting-group-on-checking-citizenship-for-voters/>; *see also* Jude Joffe-Block & Miles Parks, *The Trump Administration Is Building a National Citizenship Data System*, NPR, June 29, 2025, <https://www.npr.org/2025/06/29/nx-s1-5409608/citizenship-trump-privacy-voting-database> (reporting that Mitchell had received a “full briefing” from federal officials); *see also* Andy Kroll & Nick Surgey, *Inside Ziklag, the Secret Organization of Wealthy Christians Trying to Sway the Election and Change the Country*, PROPUBLICA, July 13, 2024, <https://www.propublica.org/article/inside-ziklag-secret-christian-charity-2024-election> (“Mitchell is promoting a tool called EagleAI, which has claimed to use artificial intelligence to automate and speed up the process of challenging ineligible voters.”).

⁴ *See* Carter Walker, *Efforts to Challenge Pennsylvania Voters’ Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5> (describing mass-challenges and noting connection to Honey and her organization “PA Fair Elections”); *see also* Jeremy Roebuck & Katie Bernard, *I Can’t Think of Anything Less American’: Right-Wing Activists’ Effort to Nullify Hundreds of Pa. Votes Met with Skepticism*, PHILA. INQUIRER, Nov. 1, 2024, <https://www.inquirer.com/politics/election/heather-honey-pa-fair-elections-vote-challenges-pennsylvania-20241101.html> (noting sworn testimony regarding PA Fair Elections’ involvement in the challenges); Hansi Lo Wang, *Thousands of Pennsylvania Voters Have Had Their Mail Ballot Applications Challenged*, NPR, Nov. 5, 2024, <https://www.npr.org/2024/11/04/nx-s1-5178714/pennsylvania-mail-ballot-voter-challenges-trump> (same).

⁵ *See* Brett Sholtis, *‘PA Fair Elections,’ Tied to Powerful Conservative Groups, Pushes to Remove People from Voter Rolls*, WESA (Sept. 28, 2024), <https://perma.cc/8FNC-5KH9>; *see also* Kroll & Surgey, *supra*, <https://perma.cc/4MEZ-82SF> (“Mitchell is promoting a tool called EagleAI, which

election, over 4,000 Pennsylvania voters were subjected to mass-challenges lodged by individuals affiliated with PA Fair Elections.⁶ Public reporting and contemporaneous hearing testimony confirmed that PA Fair Elections helped facilitate these challenges, which were based on self-evidently flawed attempts to analyze and match data from the Pennsylvania voter database with external sources.⁷ The baseless voter challenges were eventually all rejected. *See, e.g.,* Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5>.

According to public reporting, as another part of its efforts to use novel and unspecified forms of data analysis to scrutinize state voter data and target voters for potential disenfranchisement, DOJ last year asked staffers from the new “Department of Governmental Efficiency” (“DOGE”) to identify noncitizens in state voter rolls by matching voter data with data

has claimed to use artificial intelligence to automate and speed up the process of challenging ineligible voters.”).

⁶ *See* Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5> (describing mass-challenges and noting connection to Honey and her organization “PA Fair Elections”); Jeremy Roebuck and Katie Bernard, *'I Can't Think of Anything Less American': Right-Wing Activists' Effort to Nullify Hundreds of Pa. Votes Met with Skepticism*, PHILA. INQUIRER, Nov. 1, 2024, <https://perma.cc/AMZ5-TFHQ> (noting sworn testimony regarding PA Fair Elections' involvement in the challenges); Hansi Lo Wang, *Thousands of Pennsylvania Voters Have Had Their Mail Ballot Applications Challenged*, NPR, Nov. 5, 2024, <https://perma.cc/9993-RZ6E> (same).

⁷ *E.g.,* Bethany Rodgers, *Testimony: Pa. Election Denial Group Behind Voter Registration Cancellation Form Mailings*, GOERIE.COM (Nov. 2, 2024), <https://www.goerie.com/story/news/politics/elections/state/2024/11/02/pa-voter-registration-cancellation-letters-chester-county/75996247007>. A challenger in one county testified about PA Fair Elections' involvement. Chester County, *Nov. 1, 2024 Election Board Hearing* at 50:30-51:34; 58:00-58:47; 1:54:58-1:55:19, <https://chestercopa.portal.civicclerk.com/event/852/media>.

from the Social Security Administration.⁸ DOJ officials have since claimed that “we’ve checked 47.5 million voting records” and found “several thousand non-citizens who are enrolled to vote in Federal elections,” although public reporting indicates that these efforts are producing false positives—*i.e.*, that they are flagging U.S. citizens as being non-citizens who are ineligible to vote.⁹

A recent federal court filing by DOJ further corroborates how United States officials have been seeking to use voter data in conjunction with DOGE-inspired data-matching and aggregation techniques, and have been working with outside “election integrity” advocates seeking to deny election results in those efforts. As detailed in the filing, which was made on behalf of the U.S. Social Security Administration (SSA):

[I]n March 2025, a political advocacy group contacted two members of SSA’s DOGE Team with a request to analyze state voter rolls that the advocacy group had acquired. The advocacy group’s stated aim was to find evidence of voter fraud and to overturn election results in certain States. In connection with these communications, one of the DOGE team members signed a “Voter Data Agreement,” in his capacity as an SSA employee, with the advocacy group. He sent the executed agreement to the advocacy group on March 24, 2025.

Notice of Corrections to the Record at 5, *Am. Fed’n of State, Cnty. & Mun. Emps., AFL-CIO v. Soc. Sec. Admin.*, No. 25-cv-596-ELH, Dkt. No. 197 (D. Md. Jan. 16, 2026); *see also* Kyle Cheney, *Trump Administration Concedes DOGE Team May Have Misused Social Security Data*, POLITICO, Jan. 20, 2026, <https://www.politico.com/news/2026/01/20/trump-musk-doge-social-security->

⁸ *E.g.*, Miles Parks & Jude Joffe-Block, *Trump’s DOJ focuses in on voter fraud, with a murky assist from DOGE*, NPR, May 22, 2025, <https://www.npr.org/2025/05/17/nx-s1-5383277/trump-doj-doge-noncitizenvoting>.

⁹ December 5, 2025 Post by @AAGDhillon <https://x.com/AAGDhillon/status/1997003629442519114>; *see* Jude Joffe-Block, *Trump’s SAVE Tool Is Looking for Noncitizen Voters. But It’s Flagging U.S. Citizens Too*, NPR, Dec. 10, 2025, <https://www.npr.org/2025/12/10/nx-s1-5588384/savevoting-data-us-citizens>.

00737245. The filings, which do not specify the terms of the “Voter Data Agreement” or the activities these DOGE actors or others undertook pursuant to it, also indicated that, around the same period, DOGE actors also shared unknown amounts of social security data on an unapproved third-party server, in a “manner [that] is outside SSA’s security protocols.” Notice of Corrections to the Record, *supra*, at 6.

B. Proposed Intervenors

Proposed Intervenor Common Cause is a nonpartisan organization committed to, *inter alia*, ensuring that all eligible Virginia voters register to vote and exercise their right of suffrage at each election. *See* Ex. A to Mot. to Intervene, Decl. of Suzanne Almeida (“Almeida Decl.”) ¶¶ 3, 6–8. For example, Common Cause has worked to protect voting rights for returning citizens with previous felony convictions in Virginia. *Id.* ¶ 9. Common Cause expends significant resources conducting on-the-ground voter engagement and assistance efforts, including registering qualified individuals to vote, keeping voters informed about key election deadlines and updates and encouraging voters to participate, and assisting voters when they experience problems in trying to vote. Almeida Decl. ¶¶ 10–12. The success of these efforts, especially with respect to voter registration, depend on voters’ trust that, when they provide personal information to the State as part of the registration process, that information will not be abused, their privacy will be respected, and their right to participate will be honored. Almeida Decl. ¶¶ 11, 13.

Common Cause has more than 20,000 members in Virginia. Almeida Decl. ¶ 5. Those members include Virginia voters whose personal data will be provided to the federal government if DOJ prevails in this lawsuit, and may include voters who are especially likely to be mistakenly caught up in the DOJ’s efforts to remove voters from voter rolls, including naturalized citizens, voters with previous felony convictions, and voters who have recently changed addresses, among others. *See* Almeida Decl. ¶ 5, 7.

Proposed Intervenor Katherine Ellena is a registered Virginia voter and has lived in the Commonwealth for more than twelve years. *See* Ex. B to Mot. to Intervene, Decl. of Katherine Ellena (“Ellena Decl.”) ¶¶ 2–3. Ms. Ellena has spent most of her career supporting democratic governance and electoral integrity throughout the world. *Id.* ¶ 5. Born in New Zealand, Ms. Ellena moved to the United States after marrying a United States citizen in 2011, and became a naturalized citizen herself in 2015. *Id.* ¶¶ 3–4. Since that time, she has consistently exercised her right to vote in Virginia. *Id.* ¶ 4. Ms. Ellena is deeply concerned about the prospect of having her sensitive, personal information shared with the DOJ. *Id.* ¶ 6. Ms. Ellena believes that voting is a sensitive and private process, and the DOJ’s request for this data does not just harm her own personal privacy and liberties, but those of other Virginia voters. *Id.* ¶ 7.

ARGUMENT

I. MOVANTS ARE ENTITLED TO INTERVENE AS A MATTER OF RIGHT.

Proposed Intervenors are entitled to intervene as of right. Under Rule 24(a)(2), “a court must permit anyone to intervene who, (1) on timely motion, (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, (3) unless existing parties adequately represent that interest.” *Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 190 (2022) (internal quotation marks and alterations omitted); *see also* *Stuart v. Huff*, 706 F.3d 345, 349 (4th Cir. 2013). “[L]iberal intervention is desirable to dispose of as much of a controversy involving as many apparently concerned persons as is compatible with efficiency and due process.” *Feller v. Brock*, 802 F.2d 722, 729 (4th Cir. 1986) (internal citation and quotation marks omitted).

Intervention has been granted to Common Cause and similar intervenor groups in materially identical lawsuits in a number of other states. *See, e.g.,* Order, *United States v. Wis.*

Elections Comm., No. 3:25-cv-1036-JDP, Dkt. No. 53 (W.D. Wis. Jan. 22, 2026); Text Order, *United States v. Hanzas*, No. 2:25-cv-903-MKL, Dkt. No. 42 (D. Vt. Jan. 20, 2026); Text Order, *United States v. Schmidt*, No. 2:25-cv-1481-CB, Dkt. No. 105 (W.D. Pa. Jan. 16, 2026); Text Order, *United States v. Amore*, No. 1:25-cv-639-MSM-PAS (D.R.I. Jan. 6, 2026); Text Order, *United States v. Galvin*, No. 1:25-cv-13816-LTS, Dkt. No. 30 (D. Mass. Jan. 6, 2026); Order, *United States v. Simon*, No. 0:25-cv-3761-KMM-EMB, Dkt. No. 90 (D. Minn. Jan. 6, 2026); Order, *United States v. Nago*, No. 1:25-cv-522-LEK-RT, Dkt. No. 20 (D. Haw. Jan. 5, 2026); Order, *United States v. Scanlan*, No. 1:25-cv-371-AJ, Dkt. No. 23 (D.N.H. Jan. 5, 2026); Order, *United States v. Oliver*, No. 1:25-cv-1193-LF-JFR, Dkt. No. 25 (D.N.M. Dec. 19, 2025); Minute Order, *United States v. Weber*, No. 2:25-cv-9149-DOC-ADS, Dkt. No. 70 (C.D. Cal. Nov. 19, 2025). Here too, because the Proposed Intervenors easily meet Rule 24(a)'s requirements, Court should grant their intervention as a matter of right.

A. The Motion to Intervene Is Timely

With respect to timeliness, courts consider: “how far the underlying suit has progressed”; “the prejudice to existing parties that would result from allowing the intervention”; and “why the movant was tardy in filing its motion.” *Intercept Youth Servs., Inc. v. Key Risk Ins. Co., Inc.*, No. 3:18CV901, 2019 WL 1810988, at *2 (E.D. Va. Apr. 24, 2019) (citing *Alt v. U.S. E.P.A.*, 758 F.3d 588, 591 (4th Cir. 2014)). “Mere passage of time is but one factor to be considered in light of all the circumstances,” and the “most important consideration is whether the delay has prejudiced the other parties.” *Spring Const. Co. v. Harris*, 614 F.2d 374, 377 (4th Cir. 1980).

This motion is indisputably timely. The United States filed this suit on January 16, 2026. *See* Compl. Upon receiving notice of the suit, the Proposed Intervenors promptly prepared this motion. *See Vadilal Indus. USA, Inc. v. Singh Trading Co. Inc.*, No. 25-cv-2028-LKG, 2025 WL

2374692, at *7 (D. Md. Aug. 14, 2025) (holding “there can be no genuine dispute that [intervenor’s] motion to intervene is timely” when motion was filed “less than two weeks” after complaint); *Makhteshim Agan of N. Am., Inc. v. Nat’l Marine Fisheries Serv.*, No. 8:18-cv-0961-PWG, 2018 WL 5846816, at *3 n.3 (D. Md. Nov. 8, 2018) (holding intervention motion was timely when filed “about seven weeks” after complaint). Defendant Beals has not yet filed an answer or a motion to dismiss, meaning that this litigation is at its earliest stages and intervention will not unduly delay or prejudice the existing parties.

B. Proposed Intervenors Have Concrete Interests in the Underlying Litigation

Proposed Intervenors have a “sufficient”—*i.e.*, a “significantly protectable”—interest in the litigation. *E.g.*, *Donaldson v. United States*, 400 U.S. 517, 531 (1971). An intervenor has an interest in the subject matter of the action where the intervenor “stand[s] to gain or lose by the direct legal operation of the district court’s judgment” in the underlying action. *Teague v. Bakker*, 931 F.2d 259, 261 (4th Cir. 1991). Here, Proposed Intervenors have multiple, independently sufficient interests that support intervention as of right.

First, Ms. Ellena and Common Cause’s members who are Virginia voters have a right to privacy in the sensitive voter data the United States seeks. DOJ has demanded that Defendant Beals turn over voters’ full name, date of birth, residential address, and driver’s license number or SSN. *E.g.*, Compl. p. 10 & ¶¶ 14-15, 22-25. This type of sensitive personal information is protected from disclosure by federal law, which prohibits the creation of a national voter database of the type that the United States is reportedly seeking to assemble with the data it seeks. *See, e.g.*, 5 U.S.C. § 552a(e)(7) (provision of the federal Privacy Act prohibiting the creation or maintenance of any database “describing how any individual exercises rights guaranteed by the First Amendment,” which necessarily includes exercising the right to vote); *see also, e.g.*, 18 U.S.C. §§ 2721(a), 2725(1), (3), & (4) (Driver’s Privacy Protection Act prohibiting the disclosure of

“personal information” that is obtained by a state Department of Motor Vehicles, which is how many register to vote and provide the information sought to state government).

It is also protected from disclosure by state law. *E.g.*, Va. Code § 24.2-407.1 (prohibiting disclosure of voters’ Social Security numbers or any portion thereof, with certain exceptions not at issue in this case); Va. Code § 24.2-1002.1 (similar). These privacy interests are significant and inure to Ms. Ellena and to each of the organizational Proposed Intervenors’ members who are Virginia voters.

Second, and based on DOJ’s similar data requests to other States, the data DOJ seeks is likely to be used to challenge the voter registration of certain Virginians, potentially including voters with felony convictions; voters who have moved within Virginia or left the state and then returned (but might be deemed “duplicate” voters or “out-of-state” voters due to a shoddy matching system) and voters like Ms. Ellena who are naturalized citizens (who may have indicated they were not a citizen on a government form prior to naturalization. *See supra* p.3. Ms. Ellena and Common Cause members fall within those categories. Almeida Decl. ¶ 5; Ellena Decl. ¶ 4. Ms. Ellena and Common Cause’s members, especially those most likely to be targeted using the information DOJ seeks in this lawsuit, have a concrete interest in not being disenfranchised by so-called “election integrity measures.” *See* Almeida Decl. ¶¶ 4–5, 7, 13–14; Ellena Decl. ¶ 6–7. *See also Ala. Coal. for Immigrant Just. v. Allen*, No. 2:24-cv-1254-AMM, 2024 WL 4510476, at *1 (N.D. Ala. Oct. 16, 2024) (noting that a state purge program ostensibly targeted at noncitizens “included thousands of United States citizens (in addition to far fewer noncitizens)”; *Selcuk v. Pate*, No. 4:24-cv-00390-SHL-HCA, 2024 WL 5054961, at *8–9 (S.D. Iowa Nov. 3, 2024) (noting a state purge program, based on database-matching, which purportedly targeted alleged

noncitizens that flagged 2,176 voters, of whom at least 88% were citizens eligible to vote, many of them naturalized citizens).

Third, Common Cause has protectable interests at stake because its core organizational mission will be harmed if the relief sought is granted. For one, its voter registration activities will be harmed because voters will be chilled from registering and participating if they believe their sensitive personal data will be provided to the federal government (and added into an unauthorized and illegal national database). Almeida Decl. ¶¶ 11, 13; Ellena Decl. ¶ 7. Moreover, these organizations will be further harmed if and when the sensitive voter data sought by the United States is then used to engage in mass challenges of registered voters by “election integrity” activists wielding the power of the federal government. Such mass challenges will force organizational Proposed Intervenors to redirect resources to educating the public about threats to voting rights and mitigating the disenfranchisement of existing voters, and away from their core activities of registering voters and engaging new voters in the democratic process. Almeida Decl. ¶¶ 10–12, 14. Courts routinely find that non-partisan public interest organizations, like the organizational Proposed Intervenors, should be granted intervention in election-related cases, demonstrating the significantly protectable interests such organizations have in safeguarding the electoral process. *See, e.g., Texas v. United States*, 798 F.3d 1108, 1111–12 (D.C. Cir. 2015); *Donald J. Trump for President, Inc. v. Boockvar*, No. 20-cv-2078, 2020 WL 8262029, at *1 (M.D. Pa. Nov. 12, 2020); *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799–800 (E.D. Mich. 2020); *Kobach v. U.S. Election Assistance Comm’n*, No. 13-cv-04095, 2013 WL 6511874, at *1–2 (D. Kan. Dec. 12, 2013); *LaRoque v. Holder*, 755 F. Supp. 2d 156, 162 n.3 (D.D.C. 2010), *rev’d in part on unrelated grounds*, 650 F.3d 777 (D.C. Cir. 2011). This case is no exception.

C. Disposition of this Case May Threaten the Interests of Proposed Intervenors

The Proposed Intervenors also satisfy the third prong of the intervention analysis because the litigation may result in an order that directly affects their interests. To satisfy Rule 24(a)(2)'s interest impairment prong, intervenors “do not need to establish that their interests *will* be impaired. Rather, they must demonstrate only that the disposition of the action ‘may’ impair or impede their ability to protect their interests.” *Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (internal citations omitted). “This burden is minimal.” *Grutter v. Bollinger*, 188 F.3d 394, 399 (6th Cir. 1999) (internal quotation marks and citation omitted).

Here, the threat is significant. The United States proposes to obtain an immediate order compelling the disclosure of private voter data through a “summary” proceeding that bypasses the normal civil litigation process and any discovery into “the basis and the purpose” of their request, 52 U.S.C. § 20703. *See* Compl. ¶¶ 3-4 (describing this as a “special statutory proceeding” where the Attorney General may request “an order directing the officer of election to produce the demanded records, akin to a traditional order to show cause,” and where the “court does not adjudicate the factual foundation for, or the sufficiency of, the Attorney General’s statement of the basis and the purpose contained in the written demand” (internal citations and quotation marks omitted)). This attempt to secure the irrevocable disclosure of private voter data to actors who may misuse it in any number of ways, including by mass-challenging or otherwise attacking Virginians’ right to vote militates strongly in favor of allowing Proposed Intervenors into the case to represent voters’ interests now.

D. Defendant Beals’ Interests Are Different from Those of Proposed Intervenors.

“Under Rule 24(a)(2), once an intervenor has satisfied the three criteria for mandatory intervention, the burden of persuasion shifts such that intervention is mandatory, unless the court

is persuaded that the representation is in fact adequate.” *Friends of the Cap. Crescent Trail v. U.S. Army Corps of Eng’rs*, No. 19-cv-106, 2019 WL 3238749, at *2 (D. Md. July 18, 2019) (cleaned up). “[T]he burden on the applicant of demonstrating a lack of adequate representation ‘should be treated as minimal.’” *Teague*, 931 F.2d at 262 (quoting *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)); *see also Berger*, 597 U.S. at 195 (noting that “[the Supreme] Court has described the Rule’s test as presenting proposed intervenors with only a minimal challenge.”). Proposed Intervenor need not show that representation of their interests *will* be inadequate, but rather only that “representation [of their interests] ‘may be’ inadequate.” *Trbovich*, 404 U.S. at 538 n.10 (internal citation omitted).

Proposed Intervenor meet this minimal burden here. As a government official, Defendant Beals has a generalized interest in carrying out her office’s legal obligations under federal and state laws, and in minimizing burdens on governmental employees and resources. She also must consider broader public policy concerns, in particular the need to maintain working relationships with federal officials. In contrast, Proposed Intervenor will “add [a] missing element” to this litigation, making the existing representation inadequate: the perspective of not only civil rights groups whose sole commitment is to ensuring access to the ballot but also the perspective of individual voters whose very own private information is at risk. *T-Mobile Ne. LLC v. Town of Barnstable*, 969 F.3d 33, 40 (1st Cir. 2020).

In addition, there may be arguments and issues that the Defendant may not be able or willing to raise that are critical to Proposed Intervenor. For example, individual voters have a more direct injury than states under the Privacy Act for misuse of their personal data, especially given that the Privacy Act grants individuals an express right to bring suit. *See* 5 U.S.C. § 552a(g)(1)(D) (“Whenever an agency fails to comply with any other provision of this section . . .

in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency”). As another example, courts have found a risk that political considerations external to the legal issues presented by a case like this can motivate elections officials to pursue a settlement that would jeopardize the private information of Ms. Ellena and/or Common Cause members. *See Judicial Watch, Inc. v. Ill. State Bd. of Elections*, No. 24-C-1867, 2024 WL 3454706, at *5 (N.D. Ill. July 18, 2024) (allowing intervention in NVRA case and observing that “potential intervenors can cite potential conflicts of interests in future settlement negotiations to establish that their interests are not identical with those of a named party”); *cf. Berger*, 597 U.S. at 198 (reversing denial of motion to intervene where North Carolina Board of Elections was “represented by an attorney general who, though no doubt a vigorous advocate for his clients’ interests, is also an elected official who may feel allegiance to the voting public or share the Board’s administrative concerns”).

These diverging perspectives—between the government’s general need to balance various considerations and the Proposed Intervenors’ personal and particular interest in the privacy of their own data—present a classic scenario supporting intervention. *See, e.g., Am. Farm Bureau Fed’n v. EPA*, 278 F.R.D. 98, 110–11 (M.D. Pa. 2011) (allowing public interest groups to intervene, “[b]ecause the EPA represents the broad public interest . . . not only the interests of the public interest groups” and similar stakeholders); *Kobach*, 2013 WL 6511874, at *4 (finding that applicants who had interests in protecting voter rights, particularly in minority and underprivileged communities, may have private interests that diverge from the public interest of an elections agency).

While Proposed Intervenors’ motion rises or falls on its own merit, they also bring a different set of perspectives and interests than the other proposed intervenors in this case. Proposed

Intervenors here include an individual Virginia voter—Ms. Ellena—whose personal information is at risk, and whose unique experiences and interests, including as a naturalized citizen, are not reflected by the other proposed intervenors, *see* Ellena Decl. ¶¶ 2-4, 8.

Proposed Intervenors’ unique interests will help ensure that all issues relevant to the adjudication of this case are explored. For example, the United States requests the data at issue pursuant to purported public disclosure provisions in the Civil Rights Act of 1960, but any requests pursuant to those provisions must come with “a statement of the basis and the purpose therefor.” 52 U.S.C. § 20703. The motivations and purposes for DOJ’s requests, including whether they will be used to create an unauthorized national database as has been reported, and whether they are a prelude to mass challenges based on faulty data-matching techniques, are highly relevant and potentially dispositive here. Proposed Intervenor Common Cause’s unique interest as a good-government, pro-democracy organization in pursuing this highly relevant line of factual inquiry and argument is further strong grounds to support intervention.

II. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE INTERVENTION

If the Court declines to grant intervention as of right, it should grant permissive intervention under Federal Rule of Civil Procedure 24(b). Rule 24(b) “provides that a district court ‘may permit’ intervention if the applicant has ‘a claim or defense that shares with the main action a common question of law or fact.’” *Stuart*, 706 F.3d at 355 (quoting Fed. R. Civ. P. 24(b)(1)(B)). “Rule 24(b) notes that in ‘exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.’” *In re Sierra Club*, 945 F.2d 776, 779 (4th Cir. 1991) (quoting Fed. R. Civ. P. 24(b)(3)). Other factors that courts often evaluate include “the nature and extent of the intervenors’ interest, their standing to raise relevant legal issues,” and “whether parties seeking intervention will significantly contribute to full

development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.” *Brown Inv. Advisory & Tr. Co. v. Allen*, No. 19-cv-2332, 2020 WL 5798365, at *3 (D. Md. Sept. 29, 2020) (internal citation omitted); *Booker, Jr. v. Dominion Va. Power*, No. 3:09CV759, 2010 WL 1286698, at *3 (E.D. Va. Mar. 26, 2010) (courts should consider whether proposed intervenors are “likely to contribute significantly to the development of the underlying factual issues” (internal citations omitted)).

Permissive intervention is appropriate here. As discussed above, this motion is timely, coming shortly after the case began and prior to any discovery or motion practice. *See Vadilal Indus. USA, Inc.*, 2025 WL 2374692, at * 7; *Makhteshim Agan of N. Am., Inc.*, 2018 WL 5846816, at *3 n.3. Because Proposed Intervenors seek to join the case at the beginning, their involvement runs no risk of delaying proceedings. *See Friends of the Cap. Crescent Trail*, 2019 WL 3238749, at *3 (noting motion to intervene was appropriate a month after defendant filed its answer to the complaint “and before any dispositive motions had been filed or discovery completed.”).

Moreover, Proposed Intervenors’ defense goes directly to the issues already presented in this lawsuit, such as (1) whether federal law permits the United States to force Virginia to give it the personal information it seeks; (2) whether legal protections for individual privacy prohibit the disclosure of that information; and (3) whether the United States’ motivations and its potential uses for the data sought are permissible. Proposed Intervenors’ distinct perspective on the legal and factual issues before the Court will thus complement or amplify Defendant’s arguments and sharpen the issues and the quality of the record, aiding the Court in resolving the issues before it. Proposed Intervenors “do not propose to add new issues to the litigation”; instead, they are trying to offer their unique perspective to resolve the existing ones. *City of Greensboro v. Guilford Cnty. Bd. of Elections*, No. 1:15-cv-559, 2015 WL 12752936, at *1 (M.D.N.C. Oct. 30, 2015). As noted

above, Proposed Intervenors provide the unique perspective of specific Virginia voters, as well as vulnerable voters specifically named in the DOJ's requests, such as naturalized citizens. *See supra* Section I.D.

Because of this unique perspective, district courts routinely grant permissive intervention to advocacy organizations, even when a government party defends a challenged action. *See, e.g., Thomas v. Andino*, 335 F.R.D. 364, 371 (D.S.C. 2020) (granting permissive intervention to state political party in challenge related to election laws); *Tirrell v. Edelblut*, No. 24-cv-251-LM-TSM, 2025 WL 1939965, at *3 (D.N.H. July 15, 2025) (allowing “a membership-based organization that represents cisgender athletes” to intervene as a defendant in a suit challenging state restrictions on transgender athletes); *Judicial Watch, Inc. v. Pennsylvania*, No. 20-cv-708 (M.D. Pa. Nov. 19, 2020), Dkt. No. 50 at 3 (granting permissive intervention in NVRA case to Common Cause and League of Women Voters of Pennsylvania upon finding that “the presence of the intervenors may serve to clarify issues and thereby serve judicial economy” (internal quotation marks, citation, and footnote omitted)); *Donald J. Trump for President, Inc.*, 2020 WL 8262029, at *1 (granting Rule 24(b) motion where voters and organizations “have an interest in the constitutionality of Pennsylvania’s voting procedures, which goes to the heart of Plaintiffs’ action” (internal quotation marks and citation omitted)). This Court should do the same here.

CONCLUSION

For the reasons stated above, the Court should grant the Motion to Intervene as Defendants as of right, or in the alternative, via permissive intervention.

Dated: January 30, 2026

Respectfully submitted,

/s/ Davin Rosborough

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** application for admission pro hac vice
forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on January 30, a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record who have appeared and by email on counsel for the United States.

/s/ Davin Rosborough