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11 Attorneys for Amicus Curiae Democratic National
12 Committee,

13 * *Pro hac vice application forthcoming*

14 **UNITED STATES DISTRICT COURT**

15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 **UNITED STATES OF AMERICA,**

17 Case No.: 2:25-cv-09149-DOC-ADS

18 Plaintiff,

18 **DEMOCRATIC NATIONAL
19 COMMITTEE'S MOTION FOR
20 LEAVE TO FILE AN AMICUS BRIEF**

21 v.

22 **SHIRLEY N. WEBER, in her
23 official capacity as Secretary of
24 State of the STATE OF
25 CALIFORNIA, and the State of
26 California,**

27 Defendants.

27 Date: Monday, Dec. 8, 2025
28 Time: 8:30 a.m.
Courtroom: 10A
Judge: Hon. David O. Carter
Trial Date: None Set
Action Filed: Sept. 25, 2025

25 **MOTION FOR LEAVE TO FILE AMICUS BRIEF**

26 The Democratic National Committee (DNC) respectfully moves for leave to
27 submit a brief in this matter as amicus curiae. The DNC is the oldest continuing
28

1 party committee in the United States, and its purposes and functions are to
2 communicate the Democratic Party's position on issues, protect voters' rights, and
3 aid the election of Democratic candidates nationwide, including by organizing
4 citizens to register as Democrats and vote in favor of Democratic candidates. The
5 DNC represents tens of millions of voters, including over 10,000,000 registered
6 Democrats in California. In compliance with Local Rule 7-3, the DNC met and
7 conferred with counsel for the United States and for Defendants. *See* Declaration of
8 Daniel J. Freeman, attached hereto as Exhibit "A." The United States opposes the
9 DNC's request to file a brief as amicus curiae, and Defendants take no position on
10 the instant motion. *Id.*

11 This Court should exercise its discretion to allow the DNC to file an amicus
12 brief. The Federal Rules of Civil Procedure "do not address requests to participate as
13 amici" in district courts. *Stoyas v. Toshiba Corp.*, No. 15-cv-4194, 2021 WL
14 2315200, at *2 (C.D. Cal. June 7, 2021); *cf. Fed. R. App. P. 29(b)(2); S. Ct. R. 37.*
15 Nonetheless, this Court "has broad discretion to appoint amici curiae." *Hoptowit v.*
16 *Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v.*
17 *Conner*, 515 U.S. 472 (1995). "The classic role of amicus curiae [is in] assisting in a
18 case of general public interest, supplementing the efforts of counsel, and drawing the
19 court's attention to law that escaped consideration." *Miller-Wohl Co. v. Comm'r of*
20 *Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982); *see also Snitko v.*
21 *United States*, No. 2:21-cv-04405, 2022 WL 17224713, at *2 (C.D. Cal. Aug. 16,
22 2022) (finding that a party can qualify as an amicus by making a "showing that [its]
23 participation is useful to or otherwise desirable to the court" (internal citation and
24 quotation marks omitted)).

25 In this case, the U.S. Department of Justice demands a copy of the State of
26 California's complete, unredacted voter file, which includes the personal identifying
27 information of over 10,000,000 registered Democrats. This demand forces registered
28 Democrats and unregistered citizens who favor Democratic candidates to choose

1 between democratic participation and data privacy. Conditioning the right to vote on
2 the release of private information “creates an intolerable burden on that
3 right.” *Project Vote/Voting for America, Inc. v. Long*, 682 F.3d 331, 339 (4th Cir.
4 2012). The concerns of ordinary Democrats are amplified by uncertainty as to the
5 intended use of their data and the Trump Administration’s extraordinary partisan bias
6 and retributive impulse. *See, e.g.*, Jess Bidgood and Devlin Barrett, *Trump’s Efforts*
7 *to Punish His Enemies Are Ramping Up*, N.Y. Times, Sept. 22, 2025,
8 <https://perma.cc/BTW5-ZMT3>; *see also* Ryan Lucas, *As Trump Talks of Designating*
9 *Antifa a Foreign Terrorist Group, Experts See Danger*, NPR, Oct. 28, 2025,
10 <https://perma.cc/CNM6-A5MC> (“Deputy White House Chief of Staff Stephen
11 Miller recently said the Democratic party ‘is not a political party. It is a domestic
12 extremist organization.’”). In turn, the DNC has a significant protectable interest in
13 the success of Democratic candidates, and pressure on Democrats to avoid
14 registration or to remove themselves from the voter rolls would impose an
15 intolerable burden on that interest. *See, e.g.*, *Paher v. Cegavske*, No. 3:20-cv-243,
16 2020 WL 2042365, at *1 (D. Nev. Apr. 28, 2020).

17 The DNC would also bring substantial expertise concerning the statutes at
18 issue: Title III of the Civil Rights Act of 1960 (Title III), 52 U.S.C. §§ 20701-06, the
19 National Voter Registration Act of 1993 (NVRA), 52 U.S.C. §§ 20501-11, and the
20 Help America Vote Act of 2002 (HAVA), 52 U.S.C. §§ 20901-21145. The DNC
21 routinely litigates matters under both the NVRA and HAVA. *See, e.g.*, *Republican*
22 *Nat'l Comm. v. N.C. State Bd. of Elections*, No. 5:24-cv-547 (E.D.N.C.) (HAVA);
23 *Mi Familia Vota v. Fontes*, No. 2:22-cv-509 (D. Ariz.) (NVRA). More broadly, the
24 DNC regularly works with state election officials to ensure that elections are
25 conducted in a free, fair, and lawful manner and relies on the document retention
26 requirements at the heart of Title III.

27 The DNC respectfully requests that this Court grant its motion for leave to file
28 an amicus brief. A proposed amicus brief is attached hereto as Exhibit “B” and a

1 Proposed Order is attached hereto as Exhibit "C." Although this Court's local rules
2 do not set page limits for amicus filings, the proposed brief complies with
3 requirements for memoranda of points and authorities, as well as pretrial, trial, and
4 posttrial briefs. *See L.R. 11-6.*

5

6 Dated: November 13, 2025

Respectfully submitted,

7 /s/ Daniel J. Freeman

8 Daniel J. Freeman* (NY Bar No. 4582037)

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25 *Attorneys for Amicus Curiae Democratic*
26 *National Committee*

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EXHIBIT A

KAUFMAN LEGAL GROUP, APC

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14 **UNITED STATES DISTRICT COURT**
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 **UNITED STATES OF
18 AMERICA,**

19 Plaintiff,

20 v.

21 **SHIRLEY N. WEBER, in her
22 official capacity as Secretary of
State of the STATE OF
23 CALIFORNIA, and the State of
California,**

24 Defendants.

Case No.: 2:25-cv-09149-DOC-ADS

**DECLARATION OF COUNSEL
DANIEL J. FREEMAN UNDER
LOCAL RULE 7-3**

Date: Monday, Dec. 8, 2025
Time: 8:30 a.m.
Courtroom: 10A
Judge: Hon. David O. Carter
Trial Date: None Set
Action Filed: Sept. 25, 2025

25 I, Daniel J. Freeman, hereby declare as follows:
26

27 1. I am a U.S. citizen, over the age of 18, am competent to testify, and
28 have personal knowledge of the facts and information set forth in this declaration.

2. I am the litigation director at and counsel for the Democratic National Committee, the proposed amicus curiae in this matter.

3. Proposed amicus curiae made a good-faith attempt to confer with counsel for Plaintiff and Defendants about relief sought by this Motion, as required by Local Rule 7-3.

4. On November 10, 2025, I conferred by telephone with Defendants' counsel regarding this motion. Defendants' counsel indicated that they have no position on this Motion for Leave to File as Amicus Curiae.

5. On November 12, 2025, I conferred by telephone with Plaintiff's counsel regarding this motion. Plaintiff's counsel indicated that they oppose this Motion for Leave to File as Amicus Curiae.

I declare under penalty of perjury that the foregoing is true and correct.

Executed On: November 13, 2025

/s/ Daniel J. Freeman

Daniel J. Freeman

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EXHIBIT B

1 Daniel J. Freeman* (NY Bar No. 4582037)
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15 **UNITED STATES DISTRICT COURT**
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17 **UNITED STATES OF AMERICA,**

18 Plaintiff,

19 v.

20 **SHIRLEY N. WEBER, in her
21 official capacity as Secretary of
22 State of the STATE OF
23 CALIFORNIA, and the State of
24 California,**

Defendants.

Case No.: 2:25-cv-09149-DOC-ADS

**[PROPOSED] BRIEF OF AMICUS
CURIAE THE DEMOCRATIC
NATIONAL COMMITTEE**

Date: Monday, Dec. 8, 2025
Time: 8:30 a.m.
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1 Federal law authorizes the Attorney General to demand voter registration
2 records, but she cannot do so based on a misrepresentation. Rather than disclosing
3 “the basis and the purpose” for its demand for the complete, unredacted California
4 voter file—as Title III of the Civil Rights Act of 1960 requires, 52 U.S.C. § 20703—
5 the Department of Justice suggests it is engaged in routine enforcement of the
6 National Voter Registration Act (NVRA). In fact, the Justice Department intends to
7 transfer the personal identifying information and partisan affiliation of every
8 registered voter in California to the Department of Homeland Security and is
9 reportedly consolidating state databases into a national voter file. This deception
10 invalidates the Title III demand. Invocations of the public records provision of the
11 NVRA and basic enforcement authority under the Help America Vote Act (HAVA)
12 fare no better; neither authorizes demands for unredacted personal information. A
13 Department of Justice that cannot be honest with state officials cannot be trusted
14 with the personal information of every registered voter in California, including over
15 ten million voters identified as Democrats on California’s voter registration rolls.
16 The Democratic National Committee submits this amicus brief to protect the privacy
17 interests of its members and the interests of its candidates and campaigns in free and
18 fair elections and respectfully requests that this Court grant Defendants’ motion to
19 dismiss.

20 **I. Interest of Amicus Curiae**

21 The Democratic National Committee (DNC) is the oldest continuing party
22 committee in the United States. Its purposes and functions are to communicate the
23 Democratic Party’s position on issues, protect voters’ rights, and aid the election of
24 Democratic candidates nationwide, including by organizing citizens to register as
25 Democrats and vote in favor of Democratic candidates. The DNC represents
26 millions of voters, including more than ten million registered Democrats in
27 California.

28 The U.S. Department of Justice (DOJ) has demanded a copy of the State of

1 California's complete, unredacted voter file. This demand forces registered
2 Democrats and unregistered citizens who favor Democratic candidates to choose
3 between democratic participation and the privacy and security of their personal
4 information. Conditioning the right to vote on the release of private information
5 "creates an intolerable burden on that right." *Project Vote/Voting for America, Inc.*
6 *v. Long*, 682 F.3d 331, 339 (4th Cir. 2012). The concerns of ordinary Democrats are
7 amplified by uncertainty as to the intended use of their data and the Trump
8 Administration's extraordinary partisan bias and retributive impulse. *See, e.g.*, Jess
9 Bidgood and Devlin Barrett, *Trump's Efforts to Punish His Enemies Are Ramping*
10 *Up*, N.Y. Times, Sept. 22, 2025, <https://perma.cc/BTW5-ZMT3>; *see also* Ryan
11 Lucas, *As Trump Talks of Designating Antifa a Foreign Terrorist Group, Experts*
12 *See Danger*, NPR, Oct. 28, 2025, <https://perma.cc/CNM6-A5MC> ("Deputy White
13 House Chief of Staff Stephen Miller recently said the Democratic party 'is not a
14 political party. It is a domestic extremist organization.'"). In turn, the DNC has a
15 significant protectable interest in the success for Democratic candidates, and pressure
16 on Democrats to avoid registration or even remove themselves from the voter rolls
17 would impose an intolerable burden on that interest. *See, e.g.*, *Paher v. Cegavske*,
18 No. 3:20-cv-243, 2020 WL 2042365 (D. Nev. Apr. 28, 2020).

19 II. Background

20 In June 2025, DOJ began sending letters to state officials demanding
21 complete, unredacted copies of state voter files, and a senior official eventually
22 acknowledged that DOJ intends to send demands to all 50 states. *See* Jonathan
23 Shorman, *DOJ Plans to Ask All States for Detailed Voting Info*, Stateline, Aug. 1,
24 2025, <https://perma.cc/526V-97C3>. Early letters indicated that the files would be
25 used to oversee "HAVA compliance" or "full compliance with the NVRA." *E.g.*,
26 Let. from Maureen Riordan, U.S. Dep't of Justice, to Steve Simon, Minn. Sec'y of
27 State (June 25, 2025), <https://perma.cc/NZ9N-FCDC>; Let. from Michael E. Gates,
28 U.S. Dep't of Justice, to Deirdre Henderson, Lt. Gov. of Utah (July 15, 2025),

1 https://perma.cc/FV8G-W965. However, DOJ has publicly confirmed that it is
2 sharing lists it receives with the Department of Homeland Security (DHS), and
3 reporting indicates that DOJ is developing a national voter file. *See* Jonathan
4 Shorman, *DOJ Is Sharing State Voter Roll Lists with Homeland Security*, Stateline,
5 Sept. 12, 2025, https://perma.cc/C6RQ-6ATP (quoting DOJ and DHS statements);
6 Devlin Barrett and Nick Corasaniti, *Trump Administration Quietly Seeks to Build*
7 *National Voter Roll*, N.Y. Times, Sept. 9, 2025, https://perma.cc/9PM4-2A6R.

8 On July 10, DOJ sent a letter to California Secretary of State Shirley N. Weber
9 demanding all fields within California’s statewide voter registration list—which
10 includes driver’s license number, partial Social Security number, date of birth, and
11 party affiliation—pursuant to Section 8(i) of the National Voter Registration Act of
12 1993 (NVRA), 52 U.S.C. § 20507(i). *See* July 10 Let., ECF No. 37-2, at 6.
13 Following an exchange of letters regarding the timing of the request, *see* July 22
14 Let., ECF No. 37-2, at 10, July 29 Let., ECF No. 37-2, Secretary Weber indicated
15 that she would not produce the “unredacted statewide voter registration list” because
16 it is not subject to disclosure under California law or the NVRA. *See* Aug. 8 Let.,
17 ECF No. 37-2, at 15. DOJ then sent another letter to Secretary Weber requesting an
18 unredacted copy of the voter file by August 21. *See* Aug. 13 Let., ECF No. 37-2, at
19 20. This final DOJ letter invoked Title III of the Civil Rights Act of 1960 (Title III),
20 52 U.S.C. §§ 20701-06, as authority for the demand and stated that the purpose of
21 the request was “to assist in our determination of whether California’s list
22 maintenance program complies with the NVRA.” *Id.* at 2. The final DOJ letter also
23 asserted that Section 401 of HAVA, 52 U.S.C. § 41111, provides authority to
24 demand unredacted voter files. *See id.* at 1. On August 21, Secretary Weber sent
25 another letter to DOJ declining to provide the unredacted California voter file. *See*
26 Aug. 21 Let., ECF No. 37-2, at 24.

27 On September 25, the United States filed suit against Secretary Weber and the
28 State of California, demanding production of the unredacted statewide voter

1 registration database. *See* Compl., [ECF No. 1](#). Defendants moved to dismiss on
2 November 7. Or. Mot., [ECF No. 37](#).¹

3 **III. Legal Standard**

4 Title III of the Civil Rights Act of 1960 (Title III), [52 U.S.C. §§ 20701-06](#),
5 dictates that “every officer of election shall retain and preserve, for a period of
6 twenty-two months from the date of any [federal election], all records and papers
7 which come into his possession relating to any application, registration, payment of
8 poll tax, or other act requisite to voting in such election” or transfer such materials to
9 another officer of election or designated custodian. [52 U.S.C. § 20701](#). In turn,
10 “[a]ny record or paper required by [Title III] to be retained and preserved shall, upon
11 demand in writing by the Attorney General or his representative directed to the
12 person having custody, possession, or control of such record or paper, be made
13 available for inspection, reproduction, and copying at the principal office of such
14 custodian by the Attorney General or his representative.” *Id.* § 20703. “This
15 demand shall contain a statement of the basis and the purpose therefor.” *Id.* “The
16 United States district court for the district in which a demand is made pursuant
17 to [Title III], or in which a record or paper so demanded is located, shall have
18 jurisdiction by appropriate process to compel the production of such record or
19 paper.” *Id.* § 20705.

20 The National Voter Registration Act of 1993 (NVRA), [52 U.S.C. §§ 20501-](#)
21 [11](#), aims to improve both voter registration access and accuracy. *See* [52 U.S.C.](#)
22 [§ 20501\(b\)\(1\)-\(4\)](#). To facilitate public oversight, Section 8(i) requires each covered

23
24 _____
25 ¹ DOJ has thus far sued California and seven additional states to seek complete,
26 unredacted voter files. *See* Press Release, U.S. Dep’t of Justice, *Justice Department*
27 *Sues Oregon and Maine for Failure to Provide Voter Registration Rolls* (Sept. 16,
28 2025), <https://perma.cc/8URN-US8S>; Press Release, U.S. Dep’t of Justice, *Justice*
Department Sues Six States for Failure to Provide Voter Registration Rolls (Sept. 25,
2025), <https://perma.cc/6Q23-2X8Y>.

1 state to “maintain for at least 2 years and . . . make available for public inspection
2 and, where available, photocopying at a reasonable cost, all records concerning the
3 implementation of programs and activities conducted for the purpose of ensuring the
4 accuracy and currency of official lists of eligible voters,” subject to specified
5 exceptions. *Id.* § 20507(i).

6 The Help America Vote Act of 2002 (HAVA), 52 U.S.C. §§ 20901-21145,
7 imposes additional requirements on the administration of federal elections. The
8 Attorney General may enforce only “the uniform and nondiscriminatory election
9 technology and administration requirements” in Sections 301 to 304 of the Act. 52
10 U.S.C. § 21111. HAVA does not contain express subpoena authority or public
11 disclosure requirements.

12 **IV. Argument**

13 DOJ has no legal basis to obtain the complete, unredacted California voter file.
14 By refusing to offer an honest statement of “the basis and the purpose” for the
15 demand, the Attorney General has forfeited Title III authority. 52 U.S.C. § 20703.
16 The NVRA’s public records provision does not authorize disclosure of sensitive
17 personal information. *See, e.g.*, *Pub. Interest Legal Found. v. Bellows*, 92 F.4th 36,
18 56 (1st Cir. 2024). And HAVA contains no subpoena authority at all. *See* 52 U.S.C.
19 § 21111; *see also*, *e.g.*, *United States v. Iannone*, 610 F.2d 943, 945-46 (D.C. Cir.
20 1979) (rejecting claim of implied subpoena authority). Because the United States’
21 complaint does not state a claim upon which relief can be granted, this Court should
22 grant Defendants’ motion to dismiss.

23 **A. DOJ Has Obscured the True Basis and Purpose for its Title 24 III Demand.**

25 DOJ’s Title III demand for California’s complete, unredacted voter file should
26 be denied because the demand did not state “the basis and the purpose therefor.” 52
27 U.S.C. § 20703; *see also* Defs.’ Mem. 7-8, ECF No. 37-1. Title III requires candor
28 between federal officials and state and local election administrators who safeguard

1 voters' sensitive personal information. *See id.* Yet DOJ has provided California and
2 its citizens less than a half-truth. DOJ told Secretary Weber that the purpose of the
3 request was "to assist in our determination of whether California's list maintenance
4 program complies with the NVRA." Aug. 13 Let. at 2. However, DOJ has publicly
5 confirmed that it is sharing voter files it obtains with DHS, and reporting indicates
6 that DOJ is compiling a national voter file for its own use. *See DOJ Is Sharing State*
7 *Voter Roll Lists with Homeland Security, supra; Trump Administration Quietly Seeks*
8 *to Build National Voter Rolls, supra.* As explained below, neither action is related to
9 NVRA enforcement.²

10 Title III demands a statement of "*the* basis and *the* purpose" for the demand,
11 not merely *a* basis and *a* purpose. 52 U.S.C. § 20703 (emphasis added). By twice
12 using the definite article, Title III requires that the Attorney General to offer "a
13 discrete thing": the complete basis and purpose of the request and not merely one
14 basis and purpose among many. *Niz-Chavez v. Garland*, 593 U.S. 155, 166 (2021);
15 *see also, e.g., Corner Post, Inc. v. Bd. of Governors of the Fed. Rsr. Sys.*, 603 U.S.
16 799, 817 (2024) (emphasizing distinction between definite and indefinite article).
17 Ultimately, "half-truths—representations that state the truth only so far as it goes,
18 while omitting critical qualifying information—can be actionable
19 misrepresentations." *Universal Health Servs. v. United States ex. rel. Escobar*, 579
20 U.S. 176, 188 (2016) (recognizing that"); *cf. Dep't of Commerce v. New York*, 588
21 U.S. 752, 781-85 (2019) (setting aside agency action due to pretextual invocation of
22 the Voting Rights Act). Thus, DOJ's refusal to be forthright with state officials and
23 registered voters about the intended use of sensitive personal information is fatal to
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26 ² DOJ similarly invoked the NVRA when requesting records from Fulton County,
27 Georgia related to the 2020 Presidential election, even while claiming its actual
28 interest was "transparency." Oct. 30 Let., <https://perma.cc/WCM3-FVTW>. Repeat
demands for records based on pretextual invocation of the NVRA further undercut
purported reliance on that statute here.

1 the demand.

2 DHS has broad authority over counterterrorism, emergency management,
3 immigration, and border protection, but its powers do not extend to NVRA
4 enforcement. *See* 6 U.S.C. § 111(b); *cf.* 52 U.S.C. § 20510(a) (DOJ authority).
5 Even if DOJ were only interested in comparing California’s voter registration
6 records with DHS data—which would not require transferring California’s voter file
7 to DHS custody—such database matching would not advance NVRA enforcement.
8 The NVRA’s affirmative list maintenance mandate concerns only deceased
9 registrants and those who have moved outside the jurisdiction of a local registrar.
10 *See* 52 U.S.C. § 20507(a)(4). Federal data concerning deaths and changes of address
11 are held by the Social Security Administration and the U.S. Postal Service
12 respectively, not DHS. *See* 42 U.S.C. § 1306c(d) (defining the Social Security Death
13 Master File); 52 U.S.C. § 20507(c)(1) (describing use of Postal Service address
14 information by election officials); *see also* 39 C.F.R. § 122.2(b) (providing for
15 prompt transmission of change-of-address information to election officials); Exec.
16 Order. No. 14,248, § 3(a), 90 Fed. Reg. 14005, 14007 (Mar. 25, 2025) (ensuring that
17 the Social Security Administration allows election officials to access the Death
18 Master File). Thus, DHS data is not relevant to NVRA enforcement.

19 Adding the complete, unredacted California voter file to a DOJ national voter
20 database also does not advance the stated purpose of investigating California’s
21 NVRA compliance. The NVRA requires that states conduct only a “reasonable
22 effort to remove the names of ineligible voters by reason of the death of the
23 registrant[] or a change in the residence of the registrant.” 52 U.S.C. § 20507(a)(4).
24 With respect to movers, the “reasonable effort” requirement can be met using Postal
25 Service data alone. *See id.* § 20507(c)(1). In any case, joining the California voter
26 file to another state’s voter file—a file California does not possess and is not legally
27 required to obtain—does not help DOJ determine whether California has met the
28 “reasonable effort” requirement. *Cf. id.* § 21083(a)(2)(A)(ii) (requiring voter file

1 coordination with in-state databases on felony status and records of death).

2 DOJ cannot avoid scrutiny of the basis and purpose for its Title III demand by
3 claiming that the Civil Rights Act of 1960 authorizes a “special statutory
4 proceeding,” as it recently has elsewhere. *See* DOJ Mot. 8, *United States v. Bellows*,
5 No. 1:25-cv-468 (D. Me. Sept. 18, 2025), ECF No. 5-1 (quoting *Kennedy v. Lynd*,
6 306 F.2d 222, 225 (5th Cir. 1962)). In the six decades since DOJ last litigated a
7 contested Title III action, the Supreme Court has confirmed that “the Federal Rules
8 apply to proceedings to compel the giving of testimony or production of documents
9 in accordance with a subpoena issued by an officer or agency of the United States
10 under any statute of the United States except as otherwise provided by statute or by
11 rules of the district court or by order of the court in the proceedings.” *Becker v.*
12 *United States*, 451 U.S. 1306, 1308 (1981) (internal citation and quotation marks
13 omitted); *see also* Fed. R. Civ. P. 81(a)(5) (contemporary restatement). Indeed, just
14 two years after *Kennedy v. Lynd*, on which DOJ recently relied, the Supreme Court
15 held that the IRS Commissioner bears the burden to establish statutory requirements
16 before a tax subpoena may be enforced. *See United States v. Powell*, 379 U.S. 48,
17 57-58 (1964); *see also, e.g.*, *Sugarloaf Funding, LLC v. U.S. Dep’t of Treasury*, 584
18 F.3d 340, 347-50 (1st Cir. 2009) (allowing summons recipient opportunity to rebut
19 government’s *prima facie* case). Nothing in the text of Title III insulates the
20 sufficiency of the requisite “statement of the basis and the purpose” of a demand
21 from judicial review. 52 U.S.C. § 20703.³ Rather, Title III’s jurisdictional provision

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23 ³ Facing resistance from district judges in the Jim Crow South, the Fifth Circuit
24 indicated in 1962 that “the factual foundation for, or the sufficiency of, the Attorney
25 General’s ‘statement of the basis and the purpose’ contained in the written demand is
26 not open to judicial review or ascertainment.” *Lynd*, 306 F.2d at 226 (quoting former
27 42 U.S.C. § 1974b); *see also, e.g.*, *Kennedy v. Bruce*, 298 F.2d 860, 862 (5th Cir.
28 1962) (reversing district court dismissal in conflict with controlling precedent).
Although racist mass disenfranchisement may have warranted truncating
proceedings in the early 1960s, the Supreme Court’s 1964 decision in *Powell* makes
clear that even in exigency, the government must establish the requirements that

1 authorizes only “appropriate process to compel the production” of documents. *Id.* §
2 20705; *see also Lynd*, 306 F.2d at 230 (anticipating that “appropriate process” . . .
3 will include the power and duty to issue protective orders” (quoting former 42
4 U.S.C. § 1974d)). While DOJ might ordinarily be presumed to be acting in good
5 faith, “appropriate process” requires an opportunity to prove otherwise. *See In re*
6 *Coleman*, 208 F. Supp. 199, 201 (S.D. Miss. 1962) (ascribing good faith to Title III
7 request “unless otherwise shown”); *see also, e.g.*, *LULAC v. Exec. Off. of the*
8 *President*, 780 F. Supp. 3d 135, 187 n.29 (D.D.C. 2025) (describing
9 misrepresentation in recent election litigation).⁴

10 Even if Title III required the Attorney General’s representative to provide only
11 “a purpose” and not “the purpose” of a demand—and it does not—DOJ’s demand for
12 California’s complete, unredacted voter file is unrelated to a “determination of
13 whether California’s list maintenance program complies with the NVRA.” Aug. 13
14 Let. at 2.⁵ For nearly two decades, DOJ has neither demanded nor required a
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16 Congress has set to issue a document request. *See* 379 U.S. at 57-58.

17 ⁴ The presumption of regularity articulated in *United States v. Chemical Foundation, Inc.*, 272 U.S. 1, 15 (1926), does not shield official actions “from a thorough, probing, in-depth review.” *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 415 (1971); *see also, e.g.*, *McCreary Cnty. v. ACLU*, 545 U.S. 844, 862 (2005). In recent months, district courts have repeatedly “identified serious defects in the government’s explanations and representations . . . prompting judges to discount government submissions, compel expedited discovery, and withhold the presumption.” Ryan Goodman et al., *The “Presumption of Regularity” in Trump Administration Litigation* (Oct. 15, 2025), <https://perma.cc/VMA2-YJDQ>

18 ⁵ In other states, DOJ asserted that the purpose of obtaining the unredacted voter file
19 was to ascertain “compliance with the list maintenance requirements of the NVRA
20 and HAVA,” the Help America Vote Act. *E.g.*, Let. from Harmeet K. Dhillon, U.S.
21 Dep’t of Justice, to Tobias Read, Or. Sec’y of State (Aug. 14, 2025),
22 <https://perma.cc/3JGD-GEB9>. DOJ has not invoked HAVA in support of its Title III
23 request here. The Justice Department’s assertion of varying purposes for identical
24 voter file requests suggests that the claimed NVRA enforcement aim here is mere
25 pretext. *Cf. Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 478 U.S. 252,

1 complete, unredacted voter file to investigate NVRA violations or oversee
2 compliance with a remedy. *See, e.g.*, Press Release, U.S. Dep’t of Justice, *United*
3 *States Announces Settlement with Kentucky Ensuring Compliance with Voter*
4 *Registration List Maintenance Requirements*, July 5, 2018, <https://perma.cc/G2EZ-UUA5> (describing 2017 letters to all 44 states covered by the NVRA requesting list
5 maintenance information but not demanding voter files). And with good reason. As
6 noted above, the NVRA’s affirmative list maintenance mandate requires only a
7 “reasonable effort” to remove deceased registrants and movers. *See* 52 U.S.C.
8 § 20507(a)(4); *see also id.* § 20507(c)(1) (allowing the requirement concerning
9 movers to be met as a matter of law using safe harbor procedures). DOJ has
10 recognized this flexible standard since the Act’s passage. *See, e.g.*, U.S. Dep’t of
11 Justice, *The National Voter Registration Act of 1993* (last updated Nov. 1, 2024),
12 <https://perma.cc/D8YZ-F9AM>; U.S. Dep’t of Justice, *NVRA List Maintenance*
13 *Guidance* (Sept. 2024), <https://perma.cc/J3C2-WSSE>. Thus, state and local
14 procedures establish compliance; voter files that result from those procedures do not.
15 *See Pub. Int. Legal Found. v. Benson*, 136 F.4th 613, 624-26 (6th Cir. 2025), *petition for cert. pending*, No. 24-1255 (filed Oct. 7, 2025) (defining “reasonable effort” as
16 “a serious attempt that is rational and sensible” and rejecting any “quantifiable,
17 objective standard”); *Bellitto*, 935 F.3d at 1205 (finding a “reasonable effort” based
18 on safe harbor procedures alone). Even if DOJ could identify movers and deceased
19 voters on the registration rolls, this would not indicate that efforts taken to remove
20 such voters did not meet the “reasonable effort” requirement. *See Benson*, 136 F.4th
21 at 626-27 (rejecting identification of “27,000 ‘potentially deceased’ voters on
22 Michigan’s registration rolls” as evidence of an NVRA violation); *Republican Nat’l*
23 *Comm. v. Benson*, No. 24-1985, 2025 WL 2731704 (6th Cir. Sept. 25, 2025) (per
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267 (1977) (deeming departures from substantive and procedural norms to be
27 evidence of pretext).

1 curiam) (acknowledging that some movers remain on the rolls temporarily due to the
2 NVRA’s “procedural restraints”); *see also* 52 U.S.C. § 20507(d)(1) (limiting
3 removal of movers). Ultimately, the NVRA places responsibility for voter
4 registration list maintenance with the States and does not authorize the Justice
5 Department to search for individual registrants that federal officials suspect may not
6 meet state eligibility requirements.⁶ Therefore, Title III provides no basis for DOJ’s
7 request for the unredacted California voter file.

8 **B. The NVRA Does Not Require Public Disclosure of
9 Unredacted Voter Files.**

10 The United States’ request for California’s complete unredacted voter file
11 under Section 8(i) of the NVRA fares no better. Section 8(i) requires public
12 disclosure of voter registration rolls, but “nothing in the text of the NVRA prohibits
13 the appropriate redaction of uniquely or highly sensitive personal information in the
14 Voter File.” *Bellows*, 92 F.4th at 56; *see also* Defs.’ Mem. at 16-18. Moreover, the
15 NVRA does not “prohibit the redaction of personal information that can be
16 particularly sensitive in certain circumstances, including those circumstances
17 explicitly recognized by federal courts.” *Id.*; *see also*, e.g., *Pub. Interest Legal*
18 *Found, Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 268 (4th Cir. 2021)
19 (remanding for redactions). DOJ has historically agreed, recognizing that “the
20 NVRA does not prohibit States from redacting ‘uniquely sensitive information’ like
21 voters’ Social Security Numbers before disclosing records” under Section 8(i). DOJ

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6 In 2006, DOJ sought and obtained a state voter registration file, including Social
Security numbers, for the ostensible purpose of assessing NVRA compliance. *See*
Compl. ¶ 9, *United States v. Georgia*, No. 1:06-cv-2442 (N.D. Ga. Oct. 12, 2006);
see also Consent Decree, *United States v. Georgia*, No. 1:06-cv-2442 (N.D. Ga. Oct.
30, 2006). DOJ did not pursue an enforcement action based on the file, *see* U.S.
Dep’t of Justice, *Cases Raising Claims under the National Voter Registration Act*,
<https://perma.cc/A3JG-CNZA>, and for the next 19 years abandoned attempts to use
voter files to assess NVRA compliance.

1 Amicus Br. 27, *Pub. Interest Legal Found. v. Bellows*, No. 23-1361 (1st Cir. July 23,
2 2023) (quoting *Project Vote*, 682 F.3d at 339), <https://perma.cc/ML4S-5V4S>; *see*
3 *also* DOJ Amicus Br. 28-29, *Public Interest Legal Found. v. Schmidt*, No. 23-1590
4 (3d Cir. Nov. 6, 2023), <https://perma.cc/3BQ9-36UJ> (“States may redact certain
5 information before disclosing Section 8(i) records.”); DOJ Amicus Br. 24-26,
6 *Project Vote/Voting for America, Inc. v. Long*, No. 11-1809 (4th Cir. Oct. 18, 2011),
7 <https://perma.cc/HSM3-U964>.

8 Because Section 8(i) is a public records provision, redactions are necessary to
9 avoid widespread risk of identity theft and voter intimidation. Social Security
10 numbers are “are uniquely sensitive and vulnerable to abuse” and “a statute that
11 conditions voting on public release of a voter's Social Security number creates an
12 intolerable burden on that right as protected by the First and Fourteenth
13 Amendments.” *Project Vote*, 682 F.3d at 339 (internal citations and quotation marks
14 omitted); *see also* Liz Landers and Doug Adams, *How the Trump Administration Is*
15 *Trying to Change the Way People Vote*, PBS News Hour, Sept. 26, 2025,
16 <https://perma.cc/7V2J-QY9V> (describing Social Security number, driver's license
17 number, and date of birth as “the holy trinity of identity theft”); *cf. 5 U.S.C. §*
18 552(b)(6) (allowing redactions from publicly available information if disclosure
19 “would constitute a clearly unwarranted invasion of personal privacy”). Once again,
20 DOJ has historically agreed, arguing under Section 8(i) that a litigant was “wrong to
21 claim that disclosures of personally identifiable information are ‘imaginary
22 monsters.’” U.S. Amicus Br. 29, *Pub. Interest Legal Found. v. Bellows*, *supra*
23 (internal citation omitted). And Section 8(i) does not distinguish between categories
24 of requestors when making information available, which might allow election
25 officials to provide unredacted information only to favored individuals, groups, or
26 entities. *See 52 U.S.C. § 20507(i); cf. 11 C.F.R. 9428.7* (requiring biennial state
27 production of NVRA-related information only to the U.S. Election Assistance
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1 Commission).⁷ Perhaps for that reason, DOJ has not historically invoked the
2 NVRA’s public records provision when seeking election records, relying instead on
3 its Title III authority. *See, e.g.*, Let. from Michael L. Jones, Off. Ala. Sec’y of State,
4 to DOJ (Sept. 19, 2024), <https://perma.cc/LN4M-HH9E> (producing records “in
5 compliance with Title III of the Civil Rights Act of 1960”). Thus, the NVRA also
6 provides no basis for DOJ’s request for the unredacted California voter file.

7 **C. HAVA Does Not Provide DOJ with Subpoena Authority.**

8 The United States’ invocation of HAVA as a third basis for its demand is at
9 best puzzling, as HAVA contains neither subpoena authority nor a public records
10 provision. *See 52 U.S.C. §§ 20901-21145; cf. id* § 21003(b) (requiring states to
11 submit HAVA compliance plans to the U.S. Election Assistance Commission as a
12 condition for federal funding); *see also* Defs.’ Mem. at 17-18. Although DOJ claims
13 that HAVA “provides authority for the Justice Department to seek the State’s [voter
14 file] via Section 401,” Aug. 13 Let. at 1, that provision merely authorizes the
15 Attorney General to enforce four sections of the Act, *see 52 U.S.C. § 21111*. An
16 enforcement provision alone does not grant subpoena authority to the enforcement
17 agency. *See, e.g.*, *Iannone*, 610 F.2d at 945-46; *Bobreski v. EPA*, 284 F. Supp. 2d
18 67, 75-78 (D.D.C. 2003); *see also* *Cuahy Packing Co. v. Holland*, 315 U.S. 357,
19 364-66 (1942) (rejecting implied subpoena delegation authority). In turn,
20 enforcement authority does not mandate direct oversight of state election authorities,
21 which would impose substantial federalism costs. *See, e.g.*, *Shelby Cnty. v. Holder*,
22 570 U.S. 529, 549 (2013); *see also* 52 U.S.C. § 21085 (codifying state discretion).
23 Ultimately, the United States may demand records relevant to HAVA compliance
24 under Title III, although it must follow the requirements of that law.

25 _____
26 ⁷ In recent months, the federal government has not shown itself to be a uniquely
27 dependable custodian of sensitive data. *See, e.g.*, Fatima Hussein, *After Trump’s
28 DOGE Action, 300 Million People’s Social Security Data Is at Risk, Whistleblower
Says*, AP, Aug. 26, 2025, <https://perma.cc/G77Z-K7Y5>.

1 If enforcement authority were always accompanied by the authority to demand
2 relevant documents, express subpoena provisions throughout the United States Code
3 would be meaningless surplusage. *See, e.g., Obduskey v. McCarthy & Holthus LLP,*
4 586 U.S. 466, 476 (2019) (recognizing that courts “generally presum[e] that statutes
5 do not contain surplusage” (internal citation and quotation marks omitted)). Title III
6 itself would not have been needed to ensure that DOJ could effectively enforce the
7 Civil Rights Act of 1957. *See* S. Rep. No. 86-1205 (1960). These arguments do not
8 bear scrutiny. Therefore HAVA provides no basis for DOJ’s request for the
9 unredacted California voter file.

10 **V. Conclusion**

11 For the reasons set out above, this Court should grant Defendants’ motion to
12 dismiss.

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1 Dated: November 13, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Amicus Curiae, the Democratic National Committee, certifies that this brief contains 15 pages, which:

____ complies with the word limit of L.R. 11-6.1.

x complies with the page limit set by Section 6 under “Judge’s Procedures” on Judge Carter’s courtroom website,

<https://apps.cacd.uscourts.gov/Jps/honorable-david-o-carter>

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EXHIBIT C

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHIRLEY N. WEBER, in her official capacity as Secretary of State of the State of California, and the STATE OF CALIFORNIA,

Defendants.

Civil Action No. 2:25-cv-09149-DOC-ADS

[PROPOSED] ORDER GRANTING MOTION FOR LEAVE TO FILE AMICUS BRIEF

Courtroom: 10A
Judge: Hon. David O. Carter
Trial Date: None Set
Action Filed: Sept. 25, 2025

On November 13, 2025, Democratic National Committee (DNC) moved for leave to file a brief as amicus curiae. Because the DNC's participation as amicus would be useful to this Court, the DNC's motion is hereby GRANTED.

SO ORDERED on this _____ day of _____, 2025.

DAVID O. CARTER
UNITED STATES DISTRICT JUDGE