

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

CHARLES E. WILSON *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA BOARD OF
ELECTIONS,

Defendant.

Civil Action No. 2023 CAB 005414
Before Carl E. Ross, Associate Judge

Next Event: Status Conference Scheduled
for August 15, 2025 at 10:00 a.m.

**MOTION OF LISA D. T. RICE AND GROW DEMOCRACY D.C.
FOR INTERVENTION AS OF RIGHT OR FOR PERMISSIVE
INTERVENTION AND MEMORANDUM IN SUPPORT**

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTRODUCTION	1
FACTUAL BACKGROUND	1
ARGUMENT	3
I. Proposed Intervenors Rice and Grow Democracy D.C. Are Entitled to Intervene as a Matter of Right.....	3
A. Proposed Intervenors Rice and Grow Democracy D.C. Each Have an Interest Relating to Initiative 83, the Subject of the Action	5
i. Proposed Intervenor Rice’s Interests as the Proposer of Initiative 83 and as an Independent Voter Committed to Initiative 83’s Pro-Democracy Reforms	6
ii. Proposed Intervenor Grow Democracy D.C.’s Interests in the Implementation of Initiative 83	9
B. Proceeding Without Proposed Intervenors Would Impair Their Ability to Protect Their Interests	10
C. Proposed Intervenors Are Not Adequately Represented by Any Existing Parties to this Litigation	11
D. Proposed Intervenors’ Motion to Intervene Is Timely and Will Not Cause Prejudice to Any Existing Parties	13
II. Proposed Intervenors Rice and Grow Democracy D.C. Should Be Granted Permissive Intervention	15
CONCLUSION.....	15
CERTIFICATE OF SERVICE	17

TABLE OF AUTHORITIES

Cases	Page
<i>Alaskans for a Common Language, Inc. v. Kritz</i> , 3 P.3d 906 (Alaska 2000)	6
<i>Calvin-Humphrey v. District of Columbia</i> , 340 A.2d 795 (D.C. 1975).....	4, 5
<i>Chula Vista Citizens for Jobs and Fair Competition v. Norris</i> , 782 F.3d 520 (9th Cir. 2015)	6
<i>County Council of Sumter County, South Carolina v. United States</i> , 555 F. Supp. 694 (D.D.C. 1983)	14
<i>Critical Mass Energy Project v. Nuclear Regulatory Commission</i> , 975 F.2d 871 (D.C. Cir. 1992)	14
<i>Dimond v. District of Columbia</i> , 792 F.2d 179 (D.C. Cir. 1986)	12
<i>District of Columbia Board of Elections and Ethics v. Jones</i> , 481 A.2d 456 (D.C. 1984).....	5, 11, 12, 15
<i>EEOC v. National Children’s Center</i> , 146 F.3d 1042 (D.C. Cir. 1998)	15
<i>Emmco Insurance Co. v. White Motor Corp.</i> , 429 A.2d 1385 (D.C. 1981).....	13
<i>Farmer v. United States Environmental Protection Agency</i> , No. 24-CV-1654 (DLF), 2024 WL 5118193 (D.D.C. Dec. 16, 2024).....	10, 12
<i>Fund For Animals, Inc. v. Norton</i> , 322 F.3d 728 (D.C. Cir. 2003)	10, 12
<i>HSBC Bank USA, N.A. v. Mendoza</i> , 11 A.3d 229 (D.C. 2010)	4, 11, 12
<i>Humane Society of the United States v. United States Department of Agriculture</i> , No. 19-CV-2458, 2023 WL 3433970 (D.D.C. May 12, 2023)	14
<i>Jones v. Fondufe</i> , 908 A.2d 1161 (D.C. 2006)	11
<i>McPherson v. District of Columbia Housing Authority</i> , 833 A.2d 991 (D.C. 2003)	4, 5
<i>Mokhiber v. Davis</i> , 537 A.2d 1100 (D.C. 1988).....	5
<i>NRDC v. Costle</i> , 561 F.2d 904 (D.C. Cir. 1977)	4
<i>Perry v. Brown</i> , 265 P.3d 1002 (Cal. 2011).....	6, 13
<i>Roane v. Leonhart</i> , 741 F.3d 147 (D.C. Cir. 2014)	14
<i>Robinson v. First National Bank of Chicago</i> , 765 A.2d 543 (D.C. 2001)	4, 15
<i>Sportsmen for I-143 v. Montana Fifteenth Judicial District Court, Sheridan County</i> , 2002 MT 18, 308 Mont. 189, 40 P.3d 400.....	6

<i>Vale Properties, Ltd. v. Canterbury Tales, Inc.</i> , 431 A.2d 11 (D.C. 1981).....	4
<i>Walker v. Priest</i> , 29 S.W.3d 657 (Ark. 2000).....	6
<i>Wilson v. Bowser</i> , 330 A.3d 993 (D.C. 2025).....	3, 14
<i>Yniguez v. State of Arizona</i> , 939 F.2d 727 (9th Cir. 1991)	6, 10
Rules	
D.C. Super. Ct. Civ. R. 24(a)(2)	3
D.C. Super. Ct. Civ. R. 24(b)	15
Regulations and Codes	
3 D.C.M.R. § 3016.3.....	1
72 D.C. Reg. 3106 (Mar. 25, 2025)	3
D.C. Code § 1-1001.02(13).....	2
D.C. Code § 1-1001.16	5
D.C. Code § 1–1001.16(l).....	6
D.C. Code § 1–1001.16(b)(1)	2
D.C. Code § 1–1001.16(b)(3)	6, 8
D.C. Code § 1-204.101(a).....	2
Other Authorities	
Council of the District of Columbia Notice, D.C. Law 25-295, https://perma.cc/Z4HW-UY7L	3
DISTRICT OF COLUMBIA BOARD OF ELECTIONS, <i>General Election 2024 – Certified Results</i> , https://electionresults.dcboe.org/election_results/2024-General-Election (last visited April 15, 2025)	2

INTRODUCTION

Proposed Intervenor-Defendants Lisa D. T. Rice and Grow Democracy D.C. respectfully move to intervene as of right, or in the alternative, by permission, pursuant to Rule 24 of the Superior Court Rules of Civil Procedure. Proposed Intervenor Rice is an independent voter in the District of Columbia and the Proposer of the Ranked Choice Voting and Open the Primary Elections to Independent Voters Act of 2024 (“Initiative 83”), while Proposed Intervenor Grow Democracy D.C. is an organization dedicated to Initiative 83’s successful funding and implementation. Both Proposed Intervenors have a significant interest in this matter that would be impaired, absent intervention, by Plaintiffs’ challenge to Initiative 83; those interests are not adequately represented by any existing parties to the litigation; and this Motion is timely filed such that it would not prejudice any existing parties, thus satisfying the requirements for intervention under Rule 24(a)-(b). A Proposed Motion for Summary Disposition and/or to Dismiss for Failure to State a Claim is attached hereto as Exhibit A, in satisfaction of the responsive pleading requirement of Rule 24(c). Proposed Intervenors have conferred or attempted to confer, through counsel, with the parties regarding their positions on this motion. Defendant D.C. Board of Elections takes no position on the motion. Plaintiffs did not respond to undersigned counsel’s attempts to obtain their position by email on April 21 and 22, 2025.

FACTUAL BACKGROUND

Lisa D. T. Rice is a native Washingtonian and an independent voter. Rice is the Proposer of Initiative 83, and led Make All Votes Count D.C.,¹ a grassroots ballot initiative campaign

¹ Make All Votes Count D.C., which was formed as the official ballot committee to collect signatures to get Initiative 83 on the ballot and advocate for its passage, will dissolve in May 2025, pursuant to D.C. law regarding ballot initiative committees. *See* Ex. B (Declaration of Lisa D. T. Rice [hereinafter “Rice Decl.”]) ¶ 12; *see also* 3 D.C.M.R. § 3016.3.

committee dedicated to achieving placement of Initiative 83 on the ballot and promoting its adoption into law by the voters of the District. Grow Democracy D.C., also founded by Proposed Intervenor Rice, is a 501(c)(4) nonprofit nonpartisan organization dedicated to promoting democratic reforms in the District of Columbia. Core to Grow Democracy D.C.'s mission is the implementation of Initiative 83, including through advocacy following Initiative 83's overwhelming passage by the people of the District.

On June 16, 2023, as a D.C. registered independent voter, Rice filed a proposed initiative measure that was later designated as Initiative 83.² This initiative would change the determination of the election winners for "elected officials," D.C. Code § 1-1001.02(13), from the current plurality vote method to a ranked choice system and would open party primaries to all D.C. registered voters who have not specified a political party on their voter registration form. This would end the disenfranchisement of 75,000 independent voters in primary elections, allow independent voters to participate in a primary even after the 21st day prior to such primary, and require winning candidates to win a majority of votes rather than a plurality.

On July 21, 2023, Defendant D.C. Board of Elections ("Board") determined that Initiative 83 is a proper subject of initiative pursuant to D.C. Code § 1-1001.16(b)(1). Initiative Measure No. 83 was subsequently placed on the 2024 General Election ballot and was overwhelmingly adopted by D.C. voters, receiving 72.89% of the vote.³ On or about March 7, 2025, the Congressional layover period for Initiative 83 expired without Congress issuing a joint resolution

² The term "initiative" refers to the process by which District of Columbia voters may propose laws and have such proposals placed on an election ballot for adoption directly by District of Columbia residents. D.C. Code § 1-204.101(a).

³ DISTRICT OF COLUMBIA BOARD OF ELECTIONS, *General Election 2024 – Certified Results*, https://electionresults.dcboe.org/election_results/2024-General-Election (last visited April 15, 2025).

of disapproval. As a result, Initiative 83 became law in the District of Columbia. *See* Council of the District of Columbia Notice, D.C. Law 25-295, <https://perma.cc/Z4HW-UY7L>; *see also* 72 D.C. Reg. 3106 (Mar. 25, 2025).

This litigation proceeded in parallel with the Initiative 83 campaign. On August 31, 2023, Plaintiffs filed this case. On March 28, 2024, this Court dismissed the case as untimely. Plaintiffs appealed on April 22, 2024. On February 10, 2025, the D.C. Court of Appeals vacated this Court’s dismissal on the basis of untimeliness and remanded. *See Wilson v. Bowser*, 330 A.3d 993 (D.C. 2025), *en banc review denied* (March 31, 2025). The Court of Appeals issued its mandate on April 8, and the Board filed its motion to dismiss the same day. On April 21, 2025, the Court granted Plaintiffs’ motion to extend their deadline to respond to the Board’s motion until May 23, 2025, and scheduled a status hearing for August 15, 2025.

Plaintiffs’ suit requests that this Court nullify the choice of nearly three-quarters of D.C. voters by declaring Initiative 83 to be “wrongful, unlawful and null and void” and by “permanently block[ing] the implementation of the subject Initiative.” Compl. at 33. Rice and Grow Democracy D.C. seek to intervene as Defendants in this matter to protect their unique interests in safeguarding Initiative 83’s status as D.C. law and in promoting the implementation of the initiative.

ARGUMENT

I. Proposed Intervenors Rice and Grow Democracy D.C. Are Entitled to Intervene as a Matter of Right

Proposed Intervenors Rice and Grow Democracy D.C. are entitled to intervene as a matter of right under D.C. Super. Ct. Civ. R. 24(a)(2). In deciding a motion to intervene as of right, courts must thus consider three factors, whether: (1) the person seeking to intervene “has an interest in the transaction which is the subject matter of the suit”; (2) “the disposition of the suit may as a practical matter impair his [or her] ability to protect that interest”; and (3) “his [or her] interest is

adequately represented by existing parties.” *McPherson v. District of Columbia Housing Auth.*, 833 A.2d 991, 994 (D.C. 2003) (citing *Calvin-Humphrey v. District of Columbia*, 340 A.2d 795, 798 (D.C. 1975)). Courts must also exercise their “discretion in determining whether the application is timely made.” *McPherson*, 833 A.2d at 994.

In general, a Rule 24(a) intervention “promote[s] judicial economy by facilitating the resolution of related issues in a single lawsuit, while preventing litigation from becoming unmanageably complex.” *Calvin-Humphrey*, 340 A.2d at 799. Accordingly, “Rule 24(a) ‘should be liberally interpreted,’” *Robinson v. First Nat’l Bank of Chicago*, 765 A.2d 543, 544 (D.C. 2001) (citation omitted), such that any doubt concerning “the propriety of allowing intervention should be resolved in favor of the proposed intervenors”—precisely “because it allows the court to resolve all related disputes in a single action,” *HSBC Bank USA, N.A. v. Mendoza*, 11 A.3d 229, 233 (D.C. 2010) (citations omitted). Moreover, the intervention of parties (like the Proposer of a ballot initiative and a 501(c)(4) operating in the District) to be regulated by an agency (like the Board of Elections) may “be likely to serve as a vigorous and helpful supplement” to the defense of the agency’s actions. *NRDC v. Costle*, 561 F.2d 904, 912-13 (D.C. Cir. 1977).⁴

Here, Proposed Intervenors Rice and Grow Democracy D.C. satisfy all the factors required to intervene as a matter of right. Both have legally significant and protectable interests in Initiative 83 and being barred from participation in this matter would inhibit their ability to protect those interests, which are not otherwise adequately represented by any existing party in the case.

⁴ The D.C. Court of Appeals has made clear that “Super. Ct. Civ. R. 24 is identical in all relevant respects to Fed. R. Civ. P. 24, and accordingly we look to federal court decisions as persuasive authority in interpreting it.” *Vale Properties, Ltd. v. Canterbury Tales, Inc.*, 431 A.2d 11, 14 n.3 (D.C. 1981) (internal citations omitted).

Proposed Intervenor’s motion is likewise timely and no party would suffer prejudice from the granting of this motion.

A. Proposed Intervenor Rice and Grow Democracy D.C. Each Have an Interest Relating to Initiative 83, the Subject of the Action

First, Proposed Intervenor’s unquestionably have cognizable interests in the legal viability of Initiative 83. The D.C. Court of Appeals has adopted a broad reading of the word “interest,” concluding that “the ‘interest’ test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process.” *Calvin-Humphrey*, 340 A.2d at 799 (quoting *Nuesse v. Camp*, 385 F.2d 694, 700 (1967)). The Court has “eschew[ed] any attempt precisely to define the nature of the ‘interest’ required for intervention,” *id.* at 798, instead finding intervenor’s stated interests pertinent under a wide variety of circumstances. *See, e.g., id.* at 799 (taxpayer interests in municipal assessments); *McPherson*, 933 A.2d 991, 995 (D.C. 2003) (tenant interests in property); *D.C. Bd. of Elections & Ethics v. Jones*, 481 A.2d 456, 460-61 (D.C. 1984) (trade associations’ financial interests in a ballot initiative concerning unemployment). In general, proposed intervenors demonstrate sufficient interest in a matter where they are able to prove a “legally protectable” interest in the litigation, *Mokhiber v. Davis*, 537 A.2d 1100, 1114 (D.C. 1988) (citations omitted).

Recognizing the unique legal interests that ballot initiative proposers like Rice have in the success of their proposed initiatives, the District’s Initiative Procedures Act, *see* D.C. Code § 1-1001.16, grants proposers the right to appear in court to defend those interests. The initiative process must be started by an individual—the “proposer”—who must be a qualified elector in the District and provide his or her name and address to the Board. If the Board refuses to accept a measure as a proper subject of initiative, the Initiative Procedures Act grants the Proposer—and only the Proposer—the right to file an expedited action in this Court seeking a writ of mandamus

“to compel the Board to accept such measure.” *See* D.C. Code § 1–1001.16(b)(3). The Act also grants Proposers a similar cause of action in instances where the Board refuses to accept an initiative’s signature petition. *Id.* § 1–1001.16(l).

Other jurisdictions have also acknowledged the special interests held by ballot initiative proposers. Federal courts have found that “there is a virtual *per se* rule that the sponsors of a ballot initiative have a sufficient interest in the subject matter of litigation [regarding] that initiative to intervene.” *Yniguez v. State of Ariz.*, 939 F.2d 727, 733 (9th Cir. 1991); *see also, e.g., Chula Vista Citizens for Jobs and Fair Competition v. Norris*, 782 F.3d 520, 530–31 (9th Cir. 2015) (describing official ballot initiative proponents as “akin to a legislator—sponsoring legislation and shepherding it through the legislative process” and thus appropriate as intervenors). State supreme courts across the country have similarly recognized the interests of ballot initiative proposers and proponents as intervenors in cases dealing with the legal viability of the initiative itself. *See, e.g., Perry v. Brown*, 265 P.3d 1002, 1022–23 (Cal. 2011); *Alaskans for a Common Language, Inc. v. Kritz*, 3 P.3d 906, 912 (Alaska 2000); *Walker v. Priest*, 29 S.W.3d 657, 658 (Ark. 2000); *Sportsmen for I-143 v. Montana Fifteenth Jud. Dist. Ct., Sheridan Cnty.*, 2002 MT 18, ¶ 12, 308 Mont. 189, 194, 40 P.3d 400, 403.

i. Proposed Intervenor Rice’s Interests as the Proposer of Initiative 83 and as an Independent Voter Committed to Initiative 83’s Pro-Democracy Reforms

Proposed Intervenor Rice has a clear interest in this matter as the Proposer of Initiative 83. By asking this Court to declare Initiative 83 invalid and enjoin it permanently, Plaintiffs seek to nullify the results of Rice’s work as Initiative 83’s Proposer—and the votes of D.C. voters in the November 2024 election. Rice would suffer a particularized injury from nullification of the initiative she proposed and championed; she therefore has an obvious interest in this Court’s adjudication of the legality of that initiative. *See generally* Rice Decl.

Rice was born and raised in the District and registered to vote here when she turned 18 years old. *Id.* ¶ 2. She lives in Ward 7 and previously served as an Advisory Neighborhood Commissioner. *Id.* Frustrated with political duopoly and the failure of political parties to adequately represent and be responsive to the majority of constituents across the District, Rice registered as an independent in 2017. *Id.* ¶ 13. She soon learned however, that registering as an independent meant she was disenfranchised in the District’s partisan—albeit taxpayer funded—primary elections, which regularly determine the winning candidate in the general election. *See id.* ¶¶ 4, 14. This presented a dilemma: Rice could maintain her registration as a nonpartisan, independent voter and never be able to vote in the District’s consequential primary elections, or she could register with a political party even though that party did not fully represent her beliefs. *Id.* ¶ 4. Rice chose a third option: she decided to remain a registered independent but work to change the District’s electoral processes. *Id.*

Rice soon became a leader in the effort to pass Initiative 83, becoming the official Initiative Proposer and forming and supervising the activity of the ballot initiative committee, Make All Votes Count D.C. *Id.* ¶¶ 3, 5. Rice formed and served as a member of Make All Votes Count D.C.’s steering committee, assembled and worked closely with volunteers to draft the legislation, raised money, hired staff, strategized to engage with and gather signatures from voters across the District, and ultimately proposed Initiative 83. *Id.* ¶¶ 5-6, 10. Rice also represented Make All Votes Count D.C. and its “Yes on 83” campaign in public debates, interviews, and media appearances, and oversaw the organization’s participation as *amicus curiae* at the D.C. Court of Appeals in this case. *Id.* ¶¶ 6, 10. In sum, from 2022 to the present, Proposer Rice has been deeply committed to and involved in turning an idea for a better and more representative democracy in D.C. into reality for D.C. voters—in the form of Initiative 83. *Id.* ¶¶ 3-18. Therefore, Rice, as the Proposer of the

Initiative, has a significant interest in the Board's determination that Initiative 83 is a proper subject of initiative and this Court's review of that decision in this case. *Id.* ¶ 11; *cf.* D.C. Code § 1–1001.16(b)(3) (allowing Proposer to challenge Board decision that an initiative is not a proper subject in this Court).

Rice's interest is not limited just to her role as Initiative 83's Proposer, however; it extends to her status as a registered independent voter who wants to exercise her rights under Initiative 83 to (1) participate in the District's partisan primaries and (2) fully express her political preferences via ranked choice voting. *See id.* ¶¶ 13-17. Rice believes that voting is a precious right we as Americans have, and that one should not have to join any political party to exercise that right. *Id.* ¶ 14. If Plaintiffs were successful in these proceedings, however, Rice as an independent voter would again be disenfranchised in the District's partisan primaries, as she was prior to the passage of Initiative 83. *Id.* It is equally important to Rice that elected representatives in the District have the support of and truly represent a majority of their constituents, and are not able to get elected with a mere plurality of the vote. *Id.* ¶ 15. For this reason, Rice favors ranked choice voting, which fosters more majoritarian, responsive government and allows voters to more fully express their political preferences. *Id.* If Plaintiffs were successful in these proceedings, however, the District would retain a plurality voting system and Rice would not be able to express her full political preferences through ranked choice voting. *Id.* ¶ 16. Rice, as an individual District voter, thus has additional interests in this matter above and beyond her interests as the Proposer of Initiative 83.

Having worked tirelessly to organize, draft, propose, champion, and ultimately convince 72 percent of District voters to adopt Initiative 83, and as a voter who benefits from Initiative 83's pro-democracy reforms, Proposed Intervenor Rice has concrete, particularized, and significant interests in this matter that are sufficient to satisfy Rule 24. *See id.* ¶¶ 1, 18.

ii. Proposed Intervenor Grow Democracy D.C.’s Interests in the Implementation of Initiative 83

Following Initiative 83’s overwhelming approval by D.C. voters in November 2024 and the end of Make All Votes Count D.C.’s work as a ballot initiative committee, *see id.* ¶ 12, Rice and other members of Make All Votes Count D.C.’s steering committee formed a new, nonpartisan nonprofit organization to support the implementation of Initiative 83, *id.* ¶ 18. Thus, Grow Democracy D.C. was born, and is already advocating for the funding and implementation of Initiative 83 by the D.C. Council. Grow Democracy D.C. thus has a concrete and particularized interest in this matter and any determination about the legality of Initiative 83. If Plaintiffs were successful in these proceedings, Grow Democracy D.C. would be obstructed from pursuing the very mission it was formed to accomplish: creating a more representative democracy in the District through, first and foremost, the implementation of Initiative 83. *See* Rice Decl. ¶¶ 18-23.

Grow Democracy D.C. was formed in November 2024 and officially incorporated in February 2025, with a mission to expand democracy in the District, change systems to put voters first, and make it easier to hold politicians accountable. *Id.* ¶ 19. Grow Democracy D.C. was a natural outgrowth of the work of Make All Votes Count D.C.: whereas the latter existed to run the campaign to pass Initiative 83, Grow Democracy D.C. is focused on ensuring that Initiative 83 is properly funded and implemented by the D.C. Council and is, accordingly, working to mobilize support on the Council for such implementation. *Id.* ¶¶ 19-20. To support this goal, Grow Democracy D.C. has applied for grants, opened a bank account, purchased a web domain, retained a lobbying firm to advocate for Initiative 83’s successful implementation, and has generally invested significant time and resources into supporting the implementation of Initiative 83—with plans to continue doing so. *Id.* ¶¶ 21-22. Indeed, securing funding for and implementation of Initiative 83 is a core goal of Grow Democracy D.C. and the primary way in which it will advance

its mission for at least the next year. *Id.* ¶ 22. As an organization specifically founded with the goal of advocating for the funding and implementation of Initiative 83, Grow Democracy D.C. has a significant interest in this matter and any decision adjudicating the legal merits of Initiative 83.

Moreover, as the natural outgrowth of Initiative 83’s original ballot initiative committee, Make All Votes Count D.C., Grow Democracy D.C. has an interest in these proceedings akin to that of a ballot initiative committee—i.e., an interest in the very initiative both organizations were formed to and worked to champion. *See Yniguez*, 939 F.2d at 733.

In sum, while Plaintiffs’ Complaint directs its legal claims against the D.C. Board of Elections, its grievance is with Initiative 83 itself: Plaintiffs’ ultimate objective is to nullify Initiative 83 as law and thereby prevent its implementation. Given this, there can be no question that Proposed Intervenors have significant interests in this Court’s review of the Board’s decision that Initiative 83 is a proper subject of initiative—(1) for Rice, both as Initiative 83’s Proposer and as an individual voter impacted by any determination about the legality of Initiative 83’s pro-democracy reforms, and (2) for Grow Democracy D.C., as an organization that was founded and exists in large part to advocate for the funding and ultimate implementation of Initiative 83.⁵

B. Proceeding Without Proposed Intervenors Would Impair Their Ability to Protect Their Interests

Given Proposed Intervenors’ compelling interests in this case, as detailed in Part I.A, proceeding without them now would necessarily prevent Proposed Intervenors from protecting their significant interests in Initiative 83 and any determination about its legal merits and future

⁵ While District law does not require it, to the extent federal law requires Proposed Intervenors to demonstrate Article III standing as a requirement for intervention, *see, e.g., Fund For Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003); *Farmer v. United States Env’t Prot. Agency*, No. 24-CV-1654 (DLF), 2024 WL 5118193 at *2 (D.D.C. Dec. 16, 2024), the interests of Proposed Intervenors detailed here are sufficient to confer standing.

viability. “To satisfy this element of the intervention test, a would-be intervenor must show only that impairment of its substantial legal interest is possible if intervention is denied. This burden is minimal.” *HSBC Bank USA*, 11 A.3d at 235 (citation and internal quotation marks omitted); *see also, e.g., Jones v. Fondufe*, 908 A.2d 1161, 1165 (D.C. 2006) (“[i]t is not enough to deny intervention . . . because applicants may vindicate their interests in some later, albeit more burdensome, litigation.”) (citation and internal quotation marks omitted). Any judicial determination about the legality of a ballot initiative, like Initiative 83, and the operation of *stare decisis* that could limit future legal actions by an intervention applicant with a cognizable interest in that ballot initiative would “undoubtedly impair” the applicant’s legal interest. *D.C. Bd. of Elections & Ethics*, 481 A.2d at 460-61.

As described in Part I.A, Proposed Intervenors Rice and Grow Democracy D.C.—as the Proposer of Initiative 83 and an organization committed to Initiative 83’s implementation—unquestionably have cognizable interests in the legal viability of Initiative 83. But Plaintiffs, through this case, seek to nullify those interests and Initiative 83 altogether, asking this Court to declare the initiative invalid and enjoin it permanently. Under these circumstances, Proposed Intervenors clearly meet their minimal burden to show that, absent intervention, their legal interests could “possibly” be impaired: any interest they hold in Initiative 83—and their ability to defend and advocate for its full implementation moving forward—would not just be burdened but eliminated entirely if Plaintiffs’ requested relief is granted.

C. Proposed Intervenors Are Not Adequately Represented by Any Existing Parties to this Litigation

Proposed Intervenors’ significant and particularized interests in this case are different by nature from those of the Board of Elections and thus are not adequately represented by any existing parties to this litigation—the third factor bearing on an application to intervene as of right. *See*,

e.g., *HSBC Bank USA*, 11 A.3d at 236; *see also Farmer*, No. 24-CV-1654 (DLF), 2024 WL 5118193 at *4. Indeed, the Board has taken no position on Proposed Intervenor’s motion.

The burden on proposed intervenors to show their interest is *not* adequately represented “should be treated as minimal,” such that an applicant need only show that representation of their interest “‘*may be*’ inadequate.” *HSBC Bank USA*, 11 A.3d at 236 (quoting *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)) (emphasis added); *see also, e.g., Dimond v. District of Columbia*, 792 F.2d 179, 192-93 (D.C. Cir. 1986) (burden to show inadequate representation is “not onerous”). This is true “even if there is a significant overlap between the would-be intervenor’s interest and that of a party: if the movant’s interest is similar to, but not identical with, that of one of the parties, a discriminating judgment is required on the circumstances of the particular case, although intervention ordinarily should be allowed unless it is clear that the party will provide adequate representation for the movant.” *HSBC Bank USA*, 11 A.3d at 236 (cleaned up).

Government agencies, like the Board of Elections, are “charged by law with representing the public interest of its citizens.” *Dimond*, 792 F.2d at 192. Consequently, even when the Board of Elections is defending the propriety of an initiative, “its arguments [a]re designed only to protect the integrity and insure the legality of the elections process,” not to defend explicitly the substance of the initiative or a particular “outcome of the litigation.” *D.C. Bd. of Elections & Ethics*, 481 A.2d at 460-61. Given the necessarily broad interests of government entities like the Board of Elections, courts have “often concluded that governmental entities do not adequately represent the interests of aspiring intervenors.” *Farmer*, 2024 WL 5118193, at *4 (quoting *Fund For Animals*, 322 F.3d at 736 & n.9 (collecting cases)); *see also, e.g., D.C. Bd. of Elections & Ethics*, 481 A.2d

at 461 (finding intervening Board of Trade was not “adequately represented” by the Board of Elections).

Here, the Board’s interests in this matter differ from and are thus inadequate to represent Proposed Intervenors’ interests in Initiative 83 as a citizen-led ballot initiative. As the Proposer of Initiative 83 and an organization dedicated to Initiative 83’s implementation, Proposed Intervenors have a substantial interest in the substance of the initiative and are best situated to represent the perspective of those who conceived of, drafted and proposed, organized and campaigned for, and ultimately successfully passed Initiative 83. Proposed Intervenors provide unique insights that would inform the Court’s understanding of the statutory and constitutional claims at issue in this case, which go to the core of Initiative 83’s substance—a topic Proposed Intervenors understand best. *Cf. Perry*, 265 P.3d at 1022 (“[A] court should ordinarily permit the official proponents of an initiative measure to intervene in an action challenging the validity of the measure in order ‘to guard the people’s right to exercise initiative power.’ . . . [I]t is appropriate to view the proponents as acting in an analogous and complementary capacity to those public officials, namely as asserting the people’s interest . . . in the validity of a duly enacted law.”).

D. Proposed Intervenors’ Motion to Intervene Is Timely and Will Not Cause Prejudice to Any Existing Parties

Proposed Intervenors are timely in moving to intervene. In determining the timeliness of an application for intervention, the trial court ordinarily must consider a number of factors including the stage to which the litigation has progressed, the time that has passed since the applicant knew or should have known of his or her interest in the suit, the reason for the delay, and the prejudice the original parties would suffer from granting intervention and the applicant would suffer from denial. *See Emmco Ins. Co. v. White Motor Corp.*, 429 A.2d 1385, 1387 (D.C. 1981).

Here neither Plaintiffs nor the Board will suffer any prejudice from granting intervention—which is the “most important” timeliness consideration. *Roane v. Leonhart*, 741 F.3d 147, 151 (D.C. Cir. 2014). This case is still in its early stages; indeed, a status conference in this matter is not scheduled until August 15, 2025—almost four months following the granting of Plaintiffs’ extension request. Given this extension, Plaintiffs’ responses to the Board’s and Proposed Intervenor’s Motions to Dismiss could proceed on the same or similar timelines. The existing parties thus face no prejudice. On the other side of the ledger, Proposed Intervenor would suffer from not having the ability to defend against the challenge to Initiative 83. *See supra* Part I.A-B.

The remaining timeliness considerations also favor intervention. Proposed Intervenor has moved to intervene just 14 days after this case was remanded from the D.C. Court of Appeals to this Court. *See e.g., Humane Soc’y of the United States v. United States Dep’t of Agric.*, No. 19-CV-2458, 2023 WL 3433970, at *8 (D.D.C. May 12, 2023) (granting intervention in the trial court after remand); *Critical Mass Energy Project v. Nuclear Regul. Comm’n*, 975 F.2d 871, 875 (D.C. Cir. 1992) (noting post-remand intervention). Proposed Intervenor thus acted expeditiously as soon as this case was before this Court again after the Court of Appeals decided the Court would adjudicate the merits of Plaintiffs’ claims.⁶ As the attached Proposed Motion to Dismiss demonstrates, Proposed Intervenor intend to make only prospective arguments about the merits, and not to relitigate any of the arguments previously decided by this Court or the Court of Appeals. *See Cnty. Council of Sumter Cnty., S.C. v. United States*, 555 F. Supp. 694, 697 (D.D.C. 1983) (finding intervention timely where proposed intervenors did not seek to relitigate old issues and had perspective that could be enlightening to the court). The case is now in the same posture as

⁶ Proposed Intervenor Rice also oversaw Make All Votes Count D.C.’s participation as *amicus curiae* at the Court of Appeals to present arguments on the merits of Initiative 83, when Plaintiffs raised them in their briefing. *See Wilson*, 330 A.3d at 995; Rice Decl. ¶ 10.

when the Board filed its motion to dismiss on October 23, 2023, and “no proceedings ha[ve] taken place that intervention would require repeating.” *Robinson*, 765 A.2d at 545.

II. Proposed Intervenors Rice and Grow Democracy D.C. Should Be Granted Permissive Intervention

In the alternative, this Court should grant Proposed Intervenors permissive intervention. Rule 24(b) of the Superior Court Rules of Civil Procedure provides that “[o]n timely motion, the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact.” D.C. Super. Ct. Civ. R. 24(b). Permissive intervention is discretionary, and the Court must “consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” *See EEOC v. Nat’l Children’s Ctr.*, 146 F.3d 1042, 1045 (D.C. Cir. 1998) (internal quotations omitted). In *District of Columbia Board of Elections and Ethics v. Jones*, the D.C. Court of Appeals reversed the Superior Court and granted permissive intervention to the Board of Trade due to its “substantial financial interest in the outcome of the litigation . . . [i]f the initiative were ruled proper and passed by the electorate.” 481 A.2d at 461. Here, Proposed Intervenors satisfy the requirements of Rule 24(b) for the same reasons that they are entitled to intervene as a matter of right. *See supra* Part I.

CONCLUSION

For the foregoing reasons, Proposed Intervenors’ motion to intervene should be granted.

Dated: April 22, 2025

Respectfully submitted,

/s/ Kevin P. Hancock

Adav Noti (D.C. Bar 490714)
Kevin P. Hancock (D.C. Bar 90000011)
Alexandra Copper (Cal. Bar 335528)*
Benjamin Phillips (D.C. Bar 90005450)
Lucas Della Ventura (D.C. Bar 90029017)
CAMPAIGN LEGAL CENTER
1101 14th St. NW, Ste. 400

Washington, D.C. 20005
Telephone: (202) 736-2200
Fax: (202) 736-2222
anoti@campaignlegalcenter.org
khancock@campaignlegalcenter.org
acopper@campaignlegalcenter.org
bphillips@campaignlegalcenter.org
ldellaventura@campaignlegalcenter.org

Counsel for Proposed Intervenor-Defendants

** pro hac vice application pending*

CERTIFICATE OF SERVICE

I certify that on April 22, 2025, this motion was served through this Court's electronic filing system to:

Johnny Barnes, Donald R. Dinan, Andrew Clarke, and Daraja Carroll, Counsel for Plaintiffs Charles E. Wilson, the District of Columbia Democratic Party, and Keith Silver;

Terri Stroud and Christine R. Pembroke, Counsel for Defendant District of Columbia Board of Elections; and

Pamela A. Disney, Marcus D. Ireland, and Amanda C. Pescovitz, Counsel for Defendants Mayor Muriel E. Bowser and the District of Columbia

/s/ Kevin P. Hancock
Kevin P. Hancock

Counsel for Proposed Intervenor-Defendants

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

CHARLES E. WILSON *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA BOARD OF
ELECTIONS,

Defendant.

Civil Action No. 2023 CAB 005414
Before Carl E. Ross, Associate Judge

Next Event: Status Conference Scheduled
for August 15, 2025 at 10:00 a.m.

PROPOSED ORDER

Upon consideration of the Motion of Lisa D. T. Rice and Grow Democracy D.C. for Intervention as of Right or for Permissive Intervention, any opposition, any replies, and the entire record, it is this ____ day of _____, 2025, hereby,

ORDERED that Proposed Intervenor-Defendants' motion is **GRANTED**; and it is

FURTHER ORDERED that Lisa D. T. Rice and Grow Democracy D.C. have hereby intervened in this case as Defendants.

Associate Judge Carl E. Ross
Superior Court, District of Columbia

COPIES OF THIS ORDER SHOULD BE SENT TO:

Terri Stroud
Christine Pembroke
District of Columbia Board of Elections
Office of the General Counsel

1015 Half Street SE, Suite 750
Washington, DC 20003
tstroud@dcboe.org
cpembroke@dcboe.org

Counsel for Defendant D.C. Board of Elections

Pamela A. Disney
Marcus D. Ireland
Amanda C. Pescovitz
Office of Attorney General of the District of Columbia
400 6th Street, NW
Washington, D.C. 20001
pamela.disney@dc.gov
marcus.ireland@dc.gov
amanda.pescovitz@dc.gov

Counsel for Defendants Mayor Muriel E. Bowser and the District of Columbia

Adav Noti
Kevin P. Hancock
Alexandra Copper
Benjamin Phillips
Lucas Della Ventura
CAMPAIGN LEGAL CENTER
1101 14th St. NW, Ste. 400
Washington, D.C. 20005
anoti@campaignlegalcenter.org
khancock@campaignlegalcenter.org
acopper@campaignlegalcenter.org
bphillips@campaignlegalcenter.org
ldellaventura@campaignlegalcenter.org

Counsel for Intervenor-Defendants Lisa D. T. Rice and Grow Democracy D.C.

Johnny Barnes
301 G Street, SW, Suite B101
Washington, D.C. 20024
AttorneyJB7@gmail.com

Donald R. Dinan
221 9th Street, SE
Washington, D.C. 20003
dondinan@gmail.com

Andrew O. Clarke
District Legal Group, PLLC
163 Waterfront Street, Suite 440
National Harbor, MD 20745
aclarke@districtlegalgroup.com

Daraja Carroll
District Legal Group, PLLC
700 Pennsylvania Ave, SE Suite 2098
Washington, D.C. 20003
Daraja@districtlegalgroup.com

Counsel for Plaintiffs