

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOARD OF ELECTIONS OF THE STATE OF
NEW YORK, et al.,

Defendants.

Case No. 1:25-cv-01338-MAD-PJE

**LEAGUE OF WOMEN VOTERS OF NEW YORK STATE'S MEMORANDUM IN
SUPPORT OF MOTION TO INTERVENE**

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INTRODUCTION

Despite its limited role of enforcing federal election laws in elections, the U.S. Department of Justice (“USDOJ”) has gone on an unprecedented data collection expedition, demanding expansive voter information from at least 40 states.¹ It now seeks to use the federal courts to require states to comply with those unlawful demands. In addition to this case, in which the federal government seeks access to data far beyond what the National Voter Registration Act, Help America Vote Act, Civil Rights Act, state law or the Privacy Act permits, the United States has sued seven other states and their respective secretaries of state, in addition to at least one county.² But USDOJ is not investigating specific potential violations of the law. Rather, these lawsuits represent an extraordinary expansion of federal collection of state voter data, without adhering to state and federal protections for voters’ data or respect for the state’s primacy in election administration.

Proposed Intervenor-Defendant the League of Women Voters of New York State (the “League” or “LWVNYS”) is one of New York’s oldest and most well-established pro-democracy organizations. LWVNYS works to encourage civic participation in the state and represents thousands of members across New York whose personal information may be unlawfully shared with the federal government depending on the outcome of this litigation. Because LWVNYS’s

¹ Kaylie Martinez-Ochoa, Eileen O’Connor, and Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Center (Aug. 28, 2025) (last updated Oct. 23, 2025), <https://www.brennancenter.org/our-work/research-reports/tracker-justice-department-requests-voter-information>.

² See *United States v. Bellows*, No. 1:25-CV-468 (D. Me. filed Sep. 16, 2025); *United States v. Weber*, No. 2:25-cv-09149 (C.D. Cal. filed Sep. 25, 2025); *United States v. Benson*, No. 1:25-cv-01148 (W.D. Mich. filed Sep. 25, 2025); *United States v. Simon*, No. 0:25-cv-03761 (D. Minn. filed Sep. 25, 2025); *United States v. Scanlan*, No. 1:25-cv-00371 (D.N.H. filed Sep. 25, 2025); *United States v. Pennsylvania*, No. 2:25-cv-01481 (W.D. Pa. filed Sep. 25, 2025); *United States v. Page*, No. 8:25-cv-01370-DOC-ADS (C.D. Cal. filed June 25, 2025).

interests are directly impacted by this litigation, LWVNYS has a right to intervene pursuant to Federal Rule of Civil Procedure 24(a)(2). In the alternative, LWVNYS seeks permissive intervention under Rule 24(b)(1).

BACKGROUND

I. Background and Procedural Posture

This case is about the federal government’s attempt to amass sensitive data on millions of Americans to build a national voter registration database that can be weaponized to exert political control and chill disfavored political speech.

In the summer of 2025, USDOJ began sending letters to election officials in dozens of states, including New York, demanding production of their statewide voter registration lists, including sensitive information that is not part of the public voter file.³ USDOJ wrote to New York on June 30, 2025, requesting documents and information related to the State’s voter registration processes, including an electronic copy of its statewide voter registration list. ECF No. 1 ¶ 42. According to the Complaint, on August 14, USDOJ sent another letter reiterating its requests, demanding that New York produce a copy of its statewide voter registration list containing “all fields, including each registrant’s full name, date of birth, residential address, their state driver’s license number, and the last four digits of their Social Security number.” *Id.* ¶ 55. This letter invoked the Civil Rights Act (the “CRA”), the National Voter Registration Act (“NVRA”), and the Help America Vote Act (“HAVA”).

³ See Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. Times, (Sep. 9, 2025), <https://www.nytimes.com/2025/09/09/us/politics/trump-voter-registration-data.html><https://www.nytimes.com/2025/09/09/us/politics/trump-voter-registrationdata.html>.

On August 29, New York responded with a public version of the statewide voter registration list. *Id.* ¶ 48. USDOJ alleges that the August 29 Letter “contained a partisan split on the request for the non-public version of the” list. Ultimately, like most other states faced with unsupported USDOJ demands to provide the requested data,⁴ New York declined to provide the non-public statewide voter registration list, which includes confidential voter information. *Id.* ¶ 48-50.

USDOJ filed this suit on September 25, 2025, alleging claims under the CRA, NVRA, and HAVA. ECF No. 1. Immediately upon receiving the Complaint, the Court issued a filing order setting an initial conference for September 29. ECF No. 2. Summonses were issued on September 30, but there is no indication the Defendants have been served. On October 7, the Court issued a stay pursuant to General Order No. 48, and all deadlines are currently stayed until the President signs “into law a budget appropriation that restores Department of Justice funding.” ECF No. 11.

The statutes that USDOJ uses as a justification for its lawsuit do not authorize baseless sweeping demands for entire non-public voter registration lists without sufficient justification or basis, nor do they authorize this Court to compel such production without confirming that USDOJ has made a proper showing of why it is entitled to such data. Rather, the CRA permits the Attorney General to demand access to voter records in writing with “a statement of the basis and the purpose therefor.” 52 U.S.C. § 20703. But USDOJ’s letters to New York, like its demands to other states, do not satisfy the CRA’s requirements for the demand for highly sensitive voter data. Instead, USDOJ claims that it requires access to this data “to carry out its duties of NVRA and HAVA.”

⁴ See Martinez-Ochoa, O’Connor, and Berry, *supra* note 1 (noting that as of October 15, 2025, most states have either provided to the USDOJ the publicly available version of their statewide voter registration list or have not provided any list); Jonathan Shorman, *Some Republican states resist DOJ demand for private voter data*, Stateline (Sep. 18, 2025), <https://stateline.org/2025/09/18/some-republican-states-resist-doj-demand-for-private-voter-data/>.

ECF No. 1 ¶ 49. But the NVRA and HAVA charge states—not the federal government—with maintaining voter registration lists and removing ineligible voters from the rolls. *See* 52 U.S.C. § 20507(a); 52 U.S.C. § 21083(a)(1)-(2); H.R. Rep. No. 107-329, pt. 1, at 31-32 (2001) (emphasizing the importance of administering elections at the state and local level); *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 761 (2018). Neither the NVRA nor HAVA makes the federal government responsible for compiling a national voter registration list or performing list maintenance. *Id.* As such, USDOJ’s purported reasons for seeking sensitive data about millions of New York voters fall short, as a snapshot of a state’s statewide voter registration list does not offer enough information for USDOJ to assess the state’s list-maintenance practices. A snapshot of a statewide voter registration list likewise does not provide enough information for USDOJ to determine whether the state requested certain identifying information at the time of registration.

In the absence of a legitimate statutory purpose, public reporting suggests that USDOJ’s requests appear to be in connection with efforts to create a national voter registration database. According to this reporting, employees at USDOJ “have been clear that they are interested in a central, federal database of voter information,” and asked to “discuss a potential information-sharing agreement” to “help the department investigate election fraud.”⁵ These efforts are being coordinated with the Department of Homeland Security (“DHS”).⁶ According to public reporting, these efforts are being conducted with the involvement of “election integrity” advocates seeking to use a national voter registration database to substantiate debunked accusations that millions of

⁵ Barrett & Corasaniti, *supra* note 3.

⁶ *Id.*; *see also, e.g.*, Jonathan Shorman, *DOJ is Sharing State Voter Roll Lists with Homeland Security*, Stateline (Sep. 12, 2025), <https://perma.cc/ZU9N-GHTC>.

noncitizens voted in previous elections.⁷ Some of these advocates have spread false claims of extensive voter fraud and noncitizen voting in the 2020 presidential election, despite numerous studies and state audits that prove otherwise.⁸ This effort coincides with the federal government’s dramatic overhaul of the Systematic Alien Verification for Entitlements (“SAVE”) database to add the ability to search for all Americans by social security number, as well as the capacity for state and local officials to run “bulk” searches of potentially millions of records in a single query.⁹ DHS has radically altered this system despite known issues with the underlying data, particularly unreliable citizenship data from the Social Security Administration.¹⁰

Far from a legitimate exercise of federal power to protect voting rights, USDOJ’s efforts are part of a larger, unprecedented, and coordinated effort to centralize data about American citizens. *See* Compl. ¶¶ 2, 16, 157, *League of Women Voters v. U.S. Dep’t of Homeland Security*, No. 1:25-cv-03501 (D.D.C. Sep. 30, 2025), ECF No. 1. USDOJ and DHS have made clear that they are using this information not for the reasons purportedly described in USDOJ’s letters to New York but, rather, as part of a DHS’s efforts around immigration.¹¹ USDOJ’s feverish efforts to gather voter data, only to hand it off to DHS, is apparently being done without regard for federal law. *Id.*

⁷ 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>.

⁸ Barrett & Corasaniti, *supra* note 3.

⁹ Press Release, USCIS Deploys Common Sense Tools to Verify Voters, USCIS (May 22, 2025), <https://perma.cc/HBZ5-RW2E>; *see also* Jonathan Shorman, *Trump wants states to feed voter info into powerful citizenship data program*, Stateline (Aug. 15, 2025), <https://perma.cc/A9ZU-SEKH>.

¹⁰ Letter from SSA Off. of Gen. Counsel to Fair Elections Ctr. 2 (July 13, 2023), <https://perma.cc/KS2N-U2US>; SSA Off. of the Inspector Gen., Cong. Resp. Rep. No. A-08-06-26100, Accuracy of the Social Security Administration’s Numident File 13 (Dec. 18, 2006), <https://perma.cc/5G2J-FF4V>.

¹¹ *See* Shorman, *supra* note 6.

II. The League of Women Voters of New York State

The League is a nonpartisan, nonprofit, membership-based political organization that encourages informed and active participation in government and works to increase New Yorkers' understanding of major public policy issues. Ex. B, Declaration of LWVNYS Executive Director Erica Smitka ("Smitka Decl."), ¶ 3. LWVNYS is the New York affiliate of the League of Women Voters ("LWV"), which was founded in 1920 as an outgrowth of the struggle for voting rights for women. Smitka Decl., ¶ 4. LWV has more than one million members and supporters and is organized in more than 750 communities in all 50 states and the District of Columbia. Smitka Decl., ¶ 4. In New York, LWVNYS and its members pursue their shared goal of expanding political participation by conducting nonpartisan voter registration drives, providing educational materials for voters, holding candidate forums, running voter workshops, and conducting get out the vote ("GOTV") efforts, among other activities. Smitka Decl., ¶ 6. For example, LWVNYS registered over 14,000 voters and distributed at least 104,067 pieces of GOTV materials during the 2024 election cycle. Smitka Decl., ¶ 10. Similarly, during the 2022 election cycle, the League registered at least 4,566 voters and provided over 118,000 pieces of GOTV information. Smitka Decl., ¶ 8.

LWVNYS has worked tirelessly to protect, preserve, and expand the voting rights of its members and all New York voters. This has included advocating for adequate funding for local boards of elections, same day voter registration, campaign finance reform, public financing of elections and judicial ethics. Smitka Decl., ¶ 13. LWVNYS has also worked diligently to advance and secure the legislative passage of major voting reforms in the state, including, but not limited to, the establishment of early voting, online and automatic voter registration, expanded access to poll sites for students, improved poll worker training guidelines, primary consolidation, pre-

registration for 16- and 17-year-olds, clarification of ballot proposal language, restoration of voting rights for individuals on parole, and the extension of the voter registration deadline to the constitutional minimum of ten days prior to an election. Smitka Decl., ¶ 13. Moreover, LWVNYS has staunchly opposed rollbacks of voter protections by opposing mandatory photo identification for all New York voters and efforts to limit public input into the structure and substance of New York’s redistricting process. Smitka Decl., ¶ 14.

LWVNYS has over 3,300 members across New York, with 40 local leagues in counties, municipalities, and regions throughout the state. Smitka Decl., ¶ 5. In addition to its members, LWVNYS relies on the efforts of volunteers to conduct its work, including efforts around voter registration. Smitka Decl., ¶ 5. As politically active New Yorkers, the vast majority of the LWVNYS’s members and volunteers are registered voters, who provided information to Defendants New York and New York State Board of Elections to register. Smitka Decl., ¶ 21. This includes their full name, date of birth, residential address, and state driver’s license number, non-driver photo ID number, or the last four digits of their social security number. Smitka Decl., ¶ 21; Ex. C, Declaration of Kimberly Cameron (“Cameron Decl.”), ¶ 3; Ex. D, Declaration of Bijaya Khadka (“Khadka Decl.”), ¶ 3. New York Law guarantees that this information “shall not be released for public inspection.” N.Y. Elec. Law § 3-220. LWVNYS members are concerned about this information being disclosed contrary to law. For example, Kimberly Cameron and Bijaya Khadka, League members, both object to USDOJ’s collection of their sensitive voter data and are concerned about the overall effects of that effort in New York. *See* Cameron Decl., ¶¶ 13-15; Khadka Decl., ¶¶ 11-13.

LEGAL STANDARD

A nonparty is entitled to intervene in an action as a matter of right when: (1) the motion to intervene is timely filed; (2) the proposed intervenors have “an interest relating to” the subject matter of the action; (3) the proposed intervenors are “so situated that disposing of the action may as a practical matter impair or impede [their] ability to protect [that] interest”; and (4) the proposed intervenors’ interests are inadequately represented by the existing parties to the suit. Fed. R. Civ. P. 24(a)(2); *see also Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 190 (2022). “The test is flexible and courts generally look at all of the factors rather than focusing narrowly on any one of the criteria.” *JPMorgan Chase Bank, Nat’l Ass’n v. Nell*, No. 10-cv-1656, 2012 WL 1030904, at *2 (E.D.N.Y. Mar. 27, 2012). Intervention is highly fact dependent. *U.S. v. Hooker Chems. & Plastics Corp.*, 749 F.2d 968, 991 (2d Cir. 1984) (emphasizing “the great variety of factual circumstances in which intervention motions must be decided, the necessity of having the ‘feel of the case’ in deciding these motions, and other considerations essential under a flexible reading of Rule 24(a)”).

“Rule 24(a) is construed broadly, in favor of the applicants for intervention.” *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States*, 921 F.2d 924, 926 (9th Cir. 1990). If a movant meets the four criteria set forth by the Federal Rules, “a court must grant intervention[.]” *Allstar Mktg. Grp., LLC v. AFACAI*, No. 20-CV-8406, 2021 WL 75138, at *2 (S.D.N.Y. Jan. 8, 2021). Even if a nonparty is not entitled to intervene as a matter of right, this Court may still grant permissive intervention when the movant has “a claim or defense that shares with the main action a common question of law or fact,” and the intervention will not “unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P. 24(b). The Court’s discretion under Rule 24(b) is “very broad,” *H.L. Hayden Co. of N.Y. v. Siemens Med.*

Sys., Inc., 797 F.2d 85, 89 (2d Cir. 1986), and, like Rule 24(a), 24(b) is “‘to be liberally construed’ in favor of intervention.” *Delaware Tr. Co. v. Wilmington Tr., N.A.*, 534 B.R. 500, 509 (S.D.N.Y. 2015) (quoting *Degrafinreid v. Ricks*, 417 F. Supp. 2d 403, 407 (S.D.N.Y. 2006)); *see also Greer v. Blum*, 462 F. Supp. 619, 625 (S.D.N.Y. 1978) (“Intervention is to be freely granted.”). A proposed intervenor meets the standard for permissive intervention where “despite factual differences between the parties, a common question of law is involved.” *Davis v. Smith*, 431 F. Supp. 1206, 1209 (S.D.N.Y. 1977), *aff’d*, 607 F.2d 535 (2d Cir. 1978).

“In considering a motion to intervene, the court must accept as true non-conclusory allegations of the motion.” *See United Parcel Serv. of Am., Inc. v. Net, Inc.*, 225 F.R.D. 416, 421 (E.D.N.Y. 2005) (citing *Oneida Indian Nation of Wis. v. New York*, 732 F.2d 261, 265 (2d Cir. 1984)). As the Second Circuit has emphasized, “except for allegations frivolous on their face, an application to intervene cannot be resolved by reference to the ultimate merits of the claims which the intervenor wishes to assert following intervention.” *In re New York City Policing During Summer 2020 Demonstrations*, 27 F.4th 792, 800 (2d Cir. 2022) (quoting *Oneida Indian Nation of Wis.*, 732 F.2d at 265).

ARGUMENT

I. **LWVNYS is entitled to intervene as of right under Rule 24(a)(2).**

LWVNYS is entitled to intervene in this litigation because the motion is timely; the organization and its members have significant interests in the case; those interests will be impacted by the outcome; and no existing party adequately represents those interests.

A. **The motion is timely.**

“Timeliness is not defined by [Rule 24(a)], and is therefore left largely to the court’s discretion which must be guided by consideration of all of the circumstances surrounding the

requested intervention.” *Underwood v. State of N.Y. Office of Court Admin.*, No. 78-cv-4382-CSH, 1983 WL 504, at *3 (S.D.N.Y. Apr. 29, 1983). Under any standard, the League’s motion is timely. LWFVNY moves to intervene within one month of the Complaint, “only a short time period [after] commencement of the action.” *Brooks v. Sussex Cnty. State Bank*, 167 F.R.D. 347, 350 (N.D.N.Y. 1996) (intervention was timely where a motion to intervene was filed slightly more than two months after the Complaint was filed). Defendants have not yet filed a responsive pleading, and no party has filed any substantive motion. Additionally, this matter is currently stayed pursuant to General Order No. 48, with no current deadlines for any party. *See* N.D.N.Y. Gen. Order No. 48 (Oct. 1, 2025). As such, no prejudice in the form of delay will result to the existing parties if LWFVNY’s motion is granted, as there are no deadlines nor a scheduling order that could be disrupted. *Hoblock v. Albany Cnty. Bd. of Elections*, 233 F.R.D. 95, 98 (N.D.N.Y. 2005).

B. LWFVNY has significantly protectable interests related to this litigation.

This litigation is closely tied to LWFVNY’s organizational interests and the interests of its thousands of members. In evaluating whether an interest meets the standard under Rule 24(a)(2), courts examine whether the proposed intervenor’s interests are “direct, substantial, and legally protectable.” *United States v. Peoples Benefit Life Ins. Co.*, 271 F.3d 411, 415 (2d Cir. 2001) (quoting *Washington Elec. Co-op., Inc. v. Massachusetts Mun. Wholesale Elec. Co.*, 922 F.2d 92, 97 (2d Cir. 1990)). However, the Second Circuit has cautioned “against requiring that a proposed intervenor identify a narrow interest amounting to a legal entitlement.” *In re New York City Policing During Summer 2020 Demonstrations*, 27 F.4th 792, 801 (2d Cir. 2022). This factor is satisfied where, for example, individual employees seek to intervene in litigation that would affect employment policies to which they were subject. *Id.* (citing *Brennan v. New York City Bd. of Educ.*,

260 F.3d 123, 130 (2d Cir. 2001) and *Bridgeport Guardians, Inc. v. Delmonte*, 602 F.3d 469, 474 (2nd Cir. 2010)).

LWVNYS's members have interests that are directly related to the litigation, substantial, and legally protectable. League members are registered New York voters who risk having their sensitive personal data disclosed to USDOJ without clarity about how the data will be used. Smitka Decl., ¶ 21. Members were required to submit this sensitive personal data to New York to exercise their right to vote and, at the time that the data was submitted, understood that it would be kept confidential to the extent of the law. *See* Cameron Decl., ¶¶ 3, 13; Khadka Decl., ¶¶ 3, 12. LWVNYS's members have a significant privacy interest in preventing the disclosure or unauthorized aggregation of their sensitive personal data, an interest protected by New York law. *See* N.Y. Elec. Law § 3-220(1) (prohibiting voter driver's license or non-driver photo ID numbers and social security numbers from being released for public inspection). Further, its members are deeply committed to civic engagement, and, like LWVNYS, they fear New Yorkers will be less likely to register to vote because of the possible disclosure of their data. *See* Cameron Decl., ¶ 14; Khadka Decl., ¶ 13. As such, LWVNYS's members' interests are directly related to this litigation because it implicates the proper use of their data, New Yorkers' willingness and ability to register to vote, and the federal government's justification for seeking this data, which appears to be outside the legal authority of USDOJ.

LWVNYS also has organizational interests that are directly related to this litigation, substantial, and legally protectable. LWVNYS has a long-standing interest in civic participation, as demonstrated by their pro-democracy engagement in communities across New York. Smitka Decl., ¶¶ 8–20. LWVNYS has a vested interest in the appropriate and lawful handling of election information. As part of its pro-democracy work, LWVNYS expends significant resources on the

development and distribution of voter registration and education materials. LWNYS encourages eligible New York residents to register to vote and participate in elections. Smitka Decl., ¶¶ 6, 8-12. LWNYS is concerned that its civic participation will be frustrated if its members' sensitive private information is disclosed to USDOJ, particularly to be used for improper purposes. Smitka Decl., ¶ 23. In particular, the League is concerned that New York residents will be more hesitant to engage in the political process for fear that their data will be misused for retaliation or harassment from the federal government. Smitka Decl., ¶ 22. USDOJ's aggressive demands for this data and lack of legitimate explanations for its proposed use amplify these fears for LWNYS's members and make it difficult for LWNYS to fulfill its core mission. *See* Smitka Decl., ¶ 22; Cameron Decl., ¶ 14; Khadka Decl., ¶ 13.

C. The litigation will impact LWNYS's interests.

This litigation directly impacts LWNYS's organizational interests and the interests of its members. In evaluating this factor, courts consider whether an applicant for intervention has shown that "the disposition . . . may as a practical matter impair or impede their ability to protect their interests." *New York Pub. Int. Rsch. Grp., Inc. v. Regents of Univ. of State of N.Y.*, 516 F.2d 350, 352 (2d Cir. 1975). *See also Brennan*, 260 F.3d at 132; *In re New York City Policing During Summer 2020 Demonstrations*, 27 F.4th at 801.

The disposition of this litigation will impact LWNYS's ability to protect its interests and those of its members. USDOJ seeks virtually unlimited access to New York's voter data. If USDOJ can use this Court to compel New York to deliver this level of access, LWNYS's interest in civic participation will be impaired because New York citizens will be less likely to register to vote for fear that their data will be released or used inappropriately beyond applicable federal and state-law protections, including New York law. Smitka Decl., ¶ 22; Cameron Decl., ¶¶ 13-14; Khadka

Decl., ¶¶ 12-13; *see also* N.Y. Elec. Law § 3-220(1). LWVNYS's interest in the appropriate and lawful handling of election information will also be impaired because voters will suffer the disclosure of their personal information to the federal government for murky reasons that could extend well beyond USDOJ's legal authority. Cameron Decl., ¶¶ 13-14; Khadka Decl., ¶¶ 12-13.

The disposition of this litigation will also impact LWVNYS's members' ability to protect their interests. USDOJ is seeking virtually unlimited access to these members' personal information that was provided to the State with the expectation that their privacy would be protected. Cameron Decl., ¶ 11; Khadka Decl., ¶ 10. If USDOJ receives this access, these members fear disclosure of their information for unknown or pretextual purposes. Cameron Decl., ¶¶ 13-14; Khadka Decl., ¶¶ 12-13. Further, LWVNYS members are deeply committed to civic engagement, and, like LWVNYS, they fear eligible residents will be less likely to register to vote because of the possible disclosure of their data. Smitka Decl., ¶ 22.

D. LWVNYS's interests are not adequately represented by the current parties.

LWVNYS's interests are not adequately represented by any existing party in this litigation. The burden of showing that an intervenor's interests are not adequately represented is generally "treated as minimal." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). If an intervenor has the same ultimate interest as an existing party, a question arises as to whether an existing party has interests that are "*so similar* to those of [the proposed intervenor] that adequacy of representation [is] *assured*." *Brennan*, 260 F.3d at 132-33 (emphases added). But adequate representation is not assured when the existing parties do not have the same incentive to raise factual and legal arguments necessary for the intervenor's adequate representation. *See Does I Through 7 v. The Taliban*, No. 6:22-cv-990, 2023 WL 4532763, at *5 (N.D.N.Y. July 12, 2023) (citing *Scwartz v. Town of Huntington Zoning Bd. of Appeals*, 191 F.R.D. 357, 359 (E.D.N.Y.

2000)); *Christa McAuliffe Intermediate Sch. PTO, Inc. v. de Blasio*, No. 18 Civ. 11657, 2020 WL 1432213, at *7 (S.D.N.Y. Mar. 24, 2020); *United States v. Palermino*, 238 F.R.D. 118, 123 (D. Conn. 2006).

The existing Defendants also do not adequately represent LWFVNY's interests. Defendants have not filed a responsive pleading, so it is not yet known whether some or all Defendants and LWFVNY share the same ultimate objective of preventing USDOJ from accessing the voter data in the manner that USDOJ seeks. To the contrary, "[t]he Republican counsel" for the State Board of Elections represented to USDOJ in an August 29, 2025 letter that "the entire [nonpublic voter] list should be shared with the United States." ECF No. 1 ¶ 48. The Republican counsel represents two of the four Commissioners and one of the two Co—Executive Directors of the bipartisan State Board of Elections. The Democratic members of the Board may also have partisan considerations that likely diverge from LWFVNY's distinct nonpartisan and voter focused interests. This bifurcated partisan representation underscores a significant risk that Defendant's litigation decisions will reflect partisan considerations rather than LWFVNY's distinct objectives. Recent litigation, including a matter in which the Board's Democratic and Republican members were represented by separate counsel and took different positions, demonstrates that the partisan composition of state election bodies can materially influence their approach to election related disputes, raising a substantial possibility that the Board's litigation posture will not adequately protect LWFVNY's interests. *See Amedure v. State*, 83 Misc. 3d 628, 214 N.Y.S.3d 893 (N.Y. Sup. Ct. 2024) (Board's Democratic and Republican members did not agree and appeared by separate counsel); *see also United States v. N.C. State Board of Elections*, No. 5:25-cv-00283 (E.D.N.C. Sept. 8, 2025) (consent judgment) (Change in partisan control of a bipartisan state elections board coincided with a shift in its litigation posture); *Hoffmann v. New York State Indep.*

Redistricting Comm’n, 41 N.Y.3d 341 (2023) (Commission’s Democratic and Republican members submitted separate briefs advancing opposing opinions).

Even assuming that some or all Defendants and LWVNYS share the same ultimate objective, LWVNYS overcomes the presumption of adequate representation because Defendants do not have the same incentive to raise factual and legal arguments necessary for LWVNYS’s adequate representation. Defendants’ and LWVNYS’s incentives differ in two ways. *First*, LWVNYS is comprised of individual members whose sensitive data could be turned over to USDOJ without their consent as a result of this litigation. As such, LWVNYS and its members have a personal stake in the litigation that is sufficient to justify intervention alongside Defendants because the State’s interest, while important, is qualitatively different. *See Palermino*, 238 F.R.D. at 123 (intervenors’ interests differed from interests of “neutral state-established adjudicative body seeking to clarify the outer boundaries of its authority and to exercise such authority accordingly,” while intervenors sought “to protect individuals and consumers generally from any improper disclosure of their personal telecommunications activities.”).

Second, Defendants have statutorily imposed objectives and obligations that diverge from those of LWVNYS and its members. *See Berger*, 597 U.S. at 195. In this case, Defendants have an obligation to enforce HAVA and state laws governing list maintenance. And the NVRA instructs that Defendants must “balance competing objectives,” including maintaining accurate voter rolls by removing ineligible voters, subject to procedural safeguards. *Bellitto v. Snipes*, 935 F.3d 1192, 1201 (11th Cir. 2019). LWVNYS does not have to balance these objectives. Rather, LWVNYS is interested in protecting New York voters and encouraging eligible New Yorkers to participate in the political process. *See supra* Part I(B). In this way, Defendants face “legal or practical constraints preventing [them] from asserting the arguments” that LWVNYS can put forth.

SEC v. Ripple Labs, Inc., No. 20-CV-10832, 2021 WL 4555352, at *4 (S.D.N.Y. Oct. 4, 2021); *see also Great Atl. & Pac. Tea Co. v. Town of E. Hampton*, 178 F.R.D. 39, 43 (E.D.N.Y. 1998) (holding that intervenor can show inadequate representation when it has a legal interest “that not only differs from the [original party’s] interest, but would permit the [intervenor] to assert a justification for the law that could not be equally asserted by the [original party].”). Because LWVNYS’s interests are not adequately represented by the existing parties, LWVNYS should be permitted to intervene as of right so that it can protect the interests of itself and its members.¹²

II. In the alternative, LWVNYS should be permitted to intervene under Rule 24(b).

Even if the Court finds that LWVNYS does not have a right to intervene under Rule 24(a), it should nonetheless permit intervention under Rule 24(b) because LWVNYS has “a claim or defense that shares with the main action a common question of law or fact,” and the intervention will not “unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P. 24(b). In analyzing permissive intervention under Rule 24(b), the Court may weigh additional factors, all of which weigh in favor of LWVNYS’s intervention, including “the nature and extent of the intervenors interests, the degree to which those interests are adequately represented by other parties, 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.” *Sw. Payroll Serv., Inc. v. Pioneer Bancorp, Inc.*, 1:19-CV-01349, 2020 WL 12675945, at *7 (N.D.N.Y. Aug. 4, 2020).

¹² LWVNYS is aware that the National Association for the Advancement of Colored People and the NAACP New York State Conference have sought to intervene as defendants. ECF No. 7. As these organizations are not yet parties, they cannot adequately represent LWVNYS’s interests. The League respectfully submits, however, that if the Court were to find that intervention is warranted under either Rule 24(a) or (b) for the NAACP intervenors, intervention is likewise appropriate for the League.

The standard for permissive intervention “is satisfied ‘where a single common question of law or fact is involved, despite factual differences between the parties,’” and LWFVNY clearly meets this bar. *Id.* (quoting *Commack Self-Serv. Kosher Meats, Inc. v. Rubin*, 170 F.R.D. 93, 106 (E.D.N.Y. 1996)). At issue in this litigation is USDOJ’s unsubstantiated efforts to gain sensitive data regarding millions of New York voters, despite state law safeguarding that precise information. Determining whether LWFVNY’s statutory defenses apply will require examining the same facts as determining whether USDOJ can lawfully have unfettered access.

Nor will LWFVNY’s participation delay or prejudice the adjudication of the existing parties’ rights because “[t]he proposed intervention comes at a time when this action remains in its formative stage.” *Sw. Payroll Serv.*, 2020 WL 12675945, at *8. Not only has the case barely begun, but all deadlines are currently stayed, ensuring that the instant motion (and the League’s entrance into the case) will not be disruptive. Further, as a longtime stakeholder in New York, LWFVNY has previously participated in a variety of litigation and understands the importance of abiding by the Court’s schedule. LWFVNY is prepared to participate on the same schedule as the other parties in this matter, as it has in previous litigation.

The additional factors that the Court can consider also weigh in favor of intervention. As explained, “the nature and extent of the intervenors interests” are significant. *Sw. Payroll Serv.*, 2020 WL 12675945, at *7; *see supra* Part I(B). And other parties fail to adequately represent those interests. *See supra* Part I(D). Moreover, LWFVNY “will significantly contribute to full development of the underlying factual issues in the suit[.]” *Sw. Payroll Serv.*, 2020 WL 12675945, at *7. Through its decades of experience working to safeguard New York’s democracy, previous work concerning elections and data privacy, and connection to hundreds of individual members

impacted by this litigation, LWVNYS can help develop the factual record in a way that is unlike any existing party.

CONCLUSION

For the reasons stated, this Court should grant the League of Women Voters of New York State's motion to intervene as a matter of right under Federal Rule of Civil Procedure 24(a) or, in the alternative, should grant permissive intervention under Rule 24(b).¹³

Dated: October 24, 2025

Respectfully submitted,

/s/Patrick Berry

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¹³ Should this Court determine intervention is not warranted, LWVNYS respectfully requests permission to participate as a nonparty *amicus curiae*, including leave to file a brief in opposition to any motion for interim or final relief any party may file and the opportunity to argue before the Court in any dispositive hearings.

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**Pro Hac Vice Applications Forthcoming*

Counsel for Proposed Intervenor League of
Women Voters of New York State

CERTIFICATE OF SERVICE

I, Patrick Berry, do hereby certify that on this 24th day of October 2025, I caused a true and correct copy of the foregoing document to be served upon all counsel of record registered with the Court's ECF system, by electronic service via the Court's ECF transmission facilities.

Date: October 24, 2025

Signature : /s/Patrick Berry