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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

**United States of America,**

*Plaintiff,*

v.

**Adrian Fontes**, in his official  
capacity as Secretary of State of  
Arizona,

*Defendant.*

No. 2:26-cv-00066-SMB

**AMICI CURIAE BRIEF OF THE  
BRENNAN CENTER FOR  
JUSTICE AND CAMPAIGN LEGAL  
CENTER**

(Assigned to the Hon. Susan M.  
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## INTRODUCTION

2           The Constitution delegates election administration primarily to the  
3 states, subject to regulation by Congress. *See* U.S. Const. art. I, § 4. Nonethe-  
4 less, President Trump began his current term by issuing an executive order on  
5 elections that claimed broad authority over elections that the executive branch  
6 does not have (and which courts have already enjoined). *See League of United*  
7 *Latin Am. Citizens v. Exec. Off. of the President*, 808 F. Supp. 3d 29, 41–42  
8 (D.D.C. 2025) (*LULAC I*) (permanently enjoining part of the executive order on  
9 elections); *id.*, Nos. 25-0946 (CKK), 25-0952 (CKK), 25-0955 (CKK), \_\_\_ F.  
10 Supp. 3d \_\_\_, 2026 WL 252420, at \*1 (D.D.C. Jan. 30, 2026) (*LULAC II*) (same);  
11 *Washington v. Trump*, No. 2:25-cv-00602-JHC, 2026 WL 73866 (W.D. Wash.  
12 Jan. 9, 2026) (same); *California v. Trump*, 786 F. Supp. 3d 359 (D. Mass. 2025)  
13 (granting preliminary injunction). President Trump recently announced his in-  
14 tention to “take over” and “nationalize” voting in the United States<sup>1</sup>. And the  
15 U.S. Department of Justice (DOJ) is leading the way on the administration’s  
16 attempt to upend the constitutional framework that governs elections. Since  
17 last May, DOJ has demanded full voter registration lists—including sensitive  
18 data like driver’s license and partial social security numbers—from at least 48  
19 states. Most have refused. Plaintiff has sued Arizona and 28 other states, plus

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<sup>1</sup> Reid J. Epstein & Nick Corasaniti, *Trump, in an Escalation, Calls for Republicans to ‘Nationalize’ Elections*, N.Y. Times (Feb. 2, 2026), <https://www.nytimes.com/2026/02/02/us/politics/trump-nationalize-elections.html>.

1 the District of Columbia, over their refusals. The three courts to address Plain-  
2 tiff's claims have dismissed the cases. *See United States v. Benson*, No. 1:25-  
3 cv-1148, 2026 WL 362789 (W.D. Mich. Feb. 10, 2026); *United States v. Oregon*,  
4 No. 6:25-cv-01666-MTK, 2026 WL 318402 (D. Or. Feb. 5, 2026); *United States*  
5 *v. Weber*, No. 2:25-cv-09149-DOC-ADS, 2026 WL 118807 (C.D. Cal. Jan. 15,  
6 2026).

7 Amici curiae Brennan Center for Justice and Campaign Legal Center,  
8 two nonpartisan nonprofit organizations dedicated to solving challenges facing  
9 American democracy, submit this brief to provide broader context for the ad-  
10 ministration's demand for Arizona's complete voter rolls. Plaintiff does not  
11 seek to assess any suspected violation of federal law—indeed, it has not iden-  
12 tified any such potential violation—but to amass an unprecedented amount of  
13 sensitive data about millions of voters across the country. Courts addressing  
14 this effort have concluded that Plaintiff's demands amount to an “overreach  
15 and misuse” of its role in election administration beyond constitutional limits.  
16 *Oregon*, 2026 WL 318402, at \*13; *see also Weber*, 2026 WL 118807, at \*20 (“The  
17 Executive may not unilaterally usurp the authority over elections. . . .”). If  
18 granted, Plaintiff's demand would make voters, whose information could be  
19 used “in unprecedented ways, including immigration enforcement efforts,” *Or-*  
20 *egon*, 2026 WL 318402, at \*13, less likely to register and turn out to vote, *We-*  
21 *ber*, 2026 WL 118807, at \*20. “This risk threatens the right to vote which is the  
22 cornerstone of American democracy.” *Id.*

23 Amici curiae urge this court to grant the motion to dismiss.

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**INTEREST OF *AMICI CURIAE***

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The Brennan Center for Justice at New York University School of Law<sup>2</sup> is a nonprofit, nonpartisan think tank and public-interest law institute that seeks to improve systems of democracy and justice. Since its founding in 1995, the Brennan Center’s work has focused extensively on protecting the right to vote using empirical, quantitative, historical, and legal research. It participates in voting rights and election law cases around the country, both as counsel and *amicus curiae*.

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Campaign Legal Center (“CLC”) is a leading nonpartisan, nonprofit organization that has been working for more than 20 years to advance democracy through law. CLC engages in litigation, policy development, and advocacy to protect voting rights and ensure broad and equal access to the ballot.

13

**ARGUMENT**

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This Court should reject Plaintiff’s demand for Arizona’s complete voter rolls, which is based on thin pretext. It is clear from public statements that Plaintiff does not seek to enforce federal law here, but, rather, to amass an unprecedented amount of confidential voter data and undercut the constitutional separation of powers.

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<sup>2</sup> This brief does not purport to convey the position of New York University School of Law.

1 **I. Plaintiff’s demand for Arizona’s voter data is part of an**  
2 **unprecedented effort to amass the sensitive data of every voter**  
3 **in America.**

4 Public actions and statements from federal officials reveal Plaintiff’s true  
5 purpose: “a nationwide quest to gather the sensitive, private information of  
6 millions of Americans for use in a centralized federal database.” *Weber*, 2026  
7 WL 118807, at \*10; *see also Oregon*, 2026 WL 318402, at \*11 (quoting *Weber*).  
8 This Court need not blindly accept Plaintiff’s claimed purpose in this case.

9 In reviewing federal agency action, the Supreme Court has emphasized  
10 that judicial review is “more than an empty ritual” and that “[a]ccepting con-  
11 trived reasons would defeat the purpose of the enterprise.” *Dep’t of Commerce*  
12 *v. New York*, 588 U.S. 752, 784–85 (2019) (refusing to accept the claim by the  
13 Department of Commerce that it attempted to add a citizenship question to the  
14 Census at the request of the DOJ when the record showed otherwise). Courts  
15 need not “ignore the disconnect between the decision made and the explanation  
16 given,” nor are they “required to exhibit a naiveté from which ordinary citizens  
17 are free.” *Id.* Judicial review of federal agency demands for information war-  
18 rants the same scrutiny. *See United States v. Morton Salt Co.*, 338 U.S. 632,  
19 640 (1950); *United States v. Markwood*, 48 F.3d 969, 978 (6th Cir. 1995). Like-  
20 wise, in the Plaintiff’s cases seeking unredacted voter rolls in California and  
21 Oregon, both district courts refused to accept pretextual justifications for uses  
22 of “the sensitive information of millions of Americans.” *Weber*, 2026 WL  
23 118807, at \*10; *see also Oregon*, 2026 WL 318402, at \*11 (“When Plaintiff, in  
24 this case, conveys assurances that any private and sensitive data will remain

1 private and used only for a declared and limited purpose, it must be thoroughly  
2 scrutinized and squared with its open and public statements to the contrary.”).

3 This Court should also refuse to accept Plaintiff’s pretextual justifica-  
4 tions. The executive orders, the administration’s broader efforts to amass cen-  
5 tralized information, and recent representations by the federal government  
6 concerning voter roll data demand a closer look.

7 **A. Executive Orders reveal the federal government’s day-one**  
8 **campaign to amass sensitive information.**

9 In his first three months in office, President Trump signed three execu-  
10 tive orders to enable an extraordinary consolidation of data by the federal gov-  
11 ernment. In January 2025, he issued Executive Order No. 14,158 (the DOGE  
12 EO), which claimed to “establish” a “Department of Government Efficiency”  
13 (DOGE or USDS) and provided that “Agency Heads shall take all necessary  
14 steps . . . to the maximum extent consistent with law, to ensure USDS has full  
15 and prompt access to all unclassified agency records, software systems, and IT  
16 systems.” 90 Fed. Reg. 8441–42 §§ 1, 4(b) (Jan. 20, 2025).

17 In March 2025, President Trump issued Executive Order No. 14,243 (the  
18 Information EO). It required federal agencies to “rescind or modify all agency  
19 guidance that serves as a barrier to the inter- or intra-agency sharing of un-  
20 classified information” and “ensure the Federal Government has unfettered  
21 access to comprehensive data from all State programs that receive Federal  
22 funding, including, as appropriate, data generated by those programs but  
23 maintained in third-party databases.” 90 Fed. Reg. 13681, §§ 3(b), (c) (Mar. 20,  
24 2025).

1 Days later, President Trump issued Executive Order No. 14,248 (the  
2 Elections EO). It directed the Department of Homeland Security (DHS) to pro-  
3 vide state and local officials access to government systems for verifying citizen-  
4 ship and to coordinate with DOGE to review various data sources “for con-  
5 sistency with Federal requirements” and to “identify unqualified voters regis-  
6 tered in the States.” 90 Fed. Reg. 14005, 14006–07 § 2(b)(iii) (Mar. 25, 2025).  
7 The DOGE EO, Information EO, and Elections EO marshaled federal re-  
8 sources toward a unified, unprecedented goal: giving federal agencies and  
9 DOGE broad access to federal and state data about ordinary Americans.

10 **B. The administration has engaged in systematic, reckless**  
11 **efforts to collect and centralize Americans’ data.**

12 Just as quickly as it promulgated the executive orders, the administra-  
13 tion established it would not use this information lawfully or appropriately.  
14 Instead, the federal government has engaged in unauthorized “secondary  
15 use[s]” of data, “where information that an individual has given to one agency  
16 for a specific purpose is later reused by that agency or by another agency or  
17 entity for an entirely different purpose without the individual’s consent.”<sup>3</sup> This  
18 has included directing the Internal Revenue Service (IRS) to provide confiden-  
19 tial tax information to Immigration and Customs Enforcement (ICE), over the  
20 objections of the IRS’s acting general counsel, who was subsequently “forced

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<sup>3</sup> Nicole Alvarez, *The Trump Administration Is Using Americans’ Sensitive Data to Build a Digital Watchtower*, Center for American Progress (Aug. 25, 2025), <https://www.americanprogress.org/article/the-trump-administration-is-using-americans-sensitive-data-to-build-a-digital-watchtower>.

1 out of his job.”<sup>4</sup> See *Ctr. for Taxpayer Rts. v. Internal Revenue Serv.*, No. 1:25-  
2 cv-00457-CKK, 2025 WL 3251044, at \*2 (D.D.C. Nov. 21, 2025) (IRS’s data-  
3 sharing was unlawful); *id.*, 2026 WL 551105, at \*3 (D.D.C. Feb. 26, 2026)  
4 (“[T]he IRS violated the [Internal Revenue Code] approximately 42,695 times  
5 by disclosing last known taxpayer addresses to ICE through TIN Matching  
6 without confirming that ICE’s request set forth the address of the taxpayer  
7 with respect to whom the requested return information related.”) (internal  
8 quotations omitted); *Cmty. Econ. Dev. Ctr. of Se. Mass. v. Bessent*, No. 1:25-cv-  
9 12822-IT, 2026 WL 309281 (D. Mass. Feb. 5, 2026) (enjoining IRS policy of  
10 sharing taxpayer addresses with ICE). The Transportation Security Admin-  
11 istration is likewise reported to be providing names and birthdates of travelers  
12 to ICE for use in immigration enforcement.<sup>5</sup> And the Centers for Medicare &  
13 Medicaid Services agreed to provide extraordinary levels of detail about Medi-  
14 caid recipients, including “social security number (SSN), date of birth, sex,

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<sup>4</sup> William Turton, Christopher Bing & Avi Asher-Shapiro, *The IRS Is Building a Vast System to Share Millions of Taxpayers’ Data With ICE*, ProPublica (July 15, 2025), <https://www.propublica.org/article/trump-irs-share-tax-records-ice-dhs-deportations>.

<sup>5</sup> Hamed Aleaziz, *Immigration Agents Are Using Air Passenger Data for Deportation Effort*, N.Y. Times (Dec. 12, 2025), <https://www.nytimes.com/2025/12/12/us/politics/immigration-tsa-passenger-data.html>.

1 phone number, locality, ethnicity and race,”<sup>6</sup> only to have that agreement nar-  
2 rowed following litigation. *See California v. U.S. Dep’t of Health & Hum.*  
3 *Servs.*, No. 25-cv-05536-VC, 2025 WL 3751931, \*3 (N.D. Cal. Dec. 29, 2025).

4 At the same time the administration has engaged in an unprecedented  
5 effort to gather Americans’ data, it has centralized data across the government.  
6 DHS and DOGE transformed the Systematic Alien Verification for Entitle-  
7 ments (SAVE) program from a relatively limited system into one which  
8 searches multiple databases, including SSA data—a notoriously unreliable  
9 source of citizenship information.<sup>7</sup> The administration apparently intends this  
10 expanded version of SAVE to be used to scrutinize state voter rolls. *League of*  
11 *Women Voters v. U.S. Dep’t of Homeland Sec.*, No. 25-3501 (SLS), 2025 WL  
12 3198970, at \*2–4 (D.D.C. Nov. 17, 2025); *but see* Pub. L. No. 100-503, § 9, 102  
13 Stat. 2507, 2514 (1988) (prohibiting “national data bank[s] that combine[],  
14 merge[], or link[] information on individuals”). But SAVE has made “persistent

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<sup>6</sup> Joseph Cox, *Here’s the document giving ICE 80 million Medicaid patients’ data*, Freedom of the Press Foundation (Jan. 5, 2026), <https://freedom.press/the-classifieds/heres-the-document-giving-ice-80-million-medicaid-patients-data/>.

<sup>7</sup> *See* Press Release, DHS, USCIS, DOGE Overhaul Systematic Alien Verification for Entitlements Database, Dep’t of Homeland Sec. (Apr. 22, 2025), <https://perma.cc/Y8A5-YX3M>; Jasleen Singh & Spencer Reynolds, *Homeland Security’s “SAVE” Program Exacerbates Risks to Voters*, Brennan Ctr. For Just. (July 21, 2025), <https://www.brennancenter.org/our-work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters>.

1 mistakes” where it has been used to review state voter rolls, erroneously iden-  
2 tifying eligible U.S. citizen voters as noncitizens.<sup>8</sup> SSA itself states that its data  
3 does not provide “definitive information about an individual’s citizenship sta-  
4 tus.”<sup>9</sup> Nor has DHS shown that it conducts proper data matching.<sup>10</sup> It is no  
5 wonder, then, that such a system creates a demonstrated risk of false matches.  
6 That is why both government agencies and nonprofits have warned against  
7 using SAVE, and its underlying USCIS data, for voter verification<sup>11</sup>: The  
8 demonstrated risks of false negatives and wrongful voter purges jeopardize  
9 voters’ rights and can be used by the administration to support debunked  
10 claims of noncitizen voting.

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<sup>8</sup> Jen Fifield & Zach Despart, “*Not Ready for Prime Time.*” *A Federal Tool to Check Voter Citizenship Keeps Making Mistakes*, ProPublica and Texas Tribune (Feb. 13, 2026), <https://www.propublica.org/article/save-voter-citizenship-tool-mistakes-confusion>. In one Texas county, more than half of the voters identified by SAVE as noncitizens were actually U.S. citizens. *Id.* DHS has also had to correct information provided to five states after SAVE misidentified U.S. citizen voters as noncitizens. *Id.*

<sup>9</sup> Letter from Nancy Morales Gonzalez, Assoc. Gen. Couns., SSA Off. of Gen. Couns. to John Sherman, Litig. Dir. & Senior Couns., Fair Elections Ctr. 2 (July 13, 2023), <https://fairelectionscenter.org/wp-content/uploads/2025/07/SSA-Touhy-Decision-letter.July-13-2023-signed.pdf> [https://perma.cc/Y5U9-UTU8].

<sup>10</sup> Protect Democracy, *DOGE and State Voter Rolls* (July 15, 2025), <https://protectdemocracy.org/work/doge-and-state-voter-rolls/>.

<sup>11</sup> *See, e.g.,* U.S. Comm’n on C.R., *An Assessment of Minority Voting Rights Access in the United States* 148–50 (2018), [https://www.usccr.gov/files/pubs/2018/Minority\\_Voting\\_Access\\_2018.pdf?inline=1](https://www.usccr.gov/files/pubs/2018/Minority_Voting_Access_2018.pdf?inline=1); Abby Vesoulis & Ari Berman, *New Docs Show DHS Gathering Driver’s License Data in Voter Fraud Crusade*, Mother Jones (Nov. 14, 2025), <https://www.motherjones.com/politics/2025/11/dhs-gathering-drivers-license-save-voter-fraud-crusade>.

1 As the administration improperly amasses sensitive data, it has failed to  
2 properly protect that data. While the United States claims that submitted  
3 voter rolls will be “subject to federal privacy protections,” Letter from Harmeet  
4 K. Dhillon to Adrian Fontes, Dkt. No. 8-3, at 3, the agreement DOJ has asked  
5 states to sign governing the transfer of their voter registration data lacks key  
6 security provisions and may violate federal law.<sup>12</sup> Under the Federal Infor-  
7 mation Security Modernization Act of 2014 (FISMA), federal agencies and  
8 their contractors must develop and implement information security programs  
9 to protect their computer systems and the information stored in them. *See* 44  
10 U.S.C. §§ 3554(a)(1)(A)(i)–(ii), (B)(i); 40 U.S.C. § 11331(b)(2)(A)(i). DOJ’s pro-  
11 posed agreement, however, reveals (1) inadequate data encryption, meaning  
12 hackers can easily access voters’ private data; (2) insufficient access and data  
13 minimization controls; and (3) no provisions for vetting contractors, despite ex-  
14 pressly providing that the voter files can be shared with contractors.<sup>13</sup> And  
15 DOJ plans to “archive”<sup>14</sup> and store data after its analysis rather than destroy  
16 it, creating a permanent federal registry of voters’ sensitive information.

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<sup>12</sup> Lisa J. Danetz, *The Justice Department’s Security Measures for Collecting Voter Rolls Are Inadequate*, Brennan Ctr. for Just. (Feb. 25, 2026), <https://www.brennancenter.org/our-work/analysis-opinion/justice-departments-security-measures-collecting-voter-rolls-are>.

<sup>13</sup> *See* Elec. Priv. Info. Ctr., *Analyzing DOJ’s MOU for Voter Registration List Data for FISMA Compliance* (Feb. 2026), <https://epic.org/documents/analyzing-doj-s-mou-for-voter-registration-list-data-for-fisma-compliance/>.

<sup>14</sup> *See, e.g.*, U.S. Dep’t of Just., Confidential Memorandum of Understanding at 7, <https://www.brennancenter.org/media/14806/download/2025-12-01-doj-mou-to-colorado.pdf>.

1           Recent examples of Plaintiff’s mishandling of sensitive information  
2 about Americans cast doubt on any assurances it may make about the security  
3 of these voter files. In ongoing litigation over SSA data—which includes private  
4 information about the health, income, and assets of millions of Americans—  
5 the United States disclosed that DOGE team members “were potentially out-  
6 side of SSA policy and/or noncompliant with the [court’s] temporary restrain-  
7 ing order.” Notice of Corrections to the R., *Am. Fed’n of State, Cnty., and Mun.*  
8 *Emps., AFL-CIO v. SSA*, No. 1:25-cv-00596-ELH (D. Md. Jan. 16, 2026), Dkt.  
9 No. 197 at 1. This included transferring personally identifiable information to  
10 DOGE employees and executing a “Voter Data Agreement” with a non-govern-  
11 mental group looking to “find evidence of voter fraud and to overturn election  
12 results in certain States.” *id.* at 2–3, 5. SSA’s disclosure confirmed previous  
13 whistleblower reports that DOGE employees had mishandled SSA data.<sup>15</sup> This  
14 was not an isolated incident. The IRS illegally and inadvertently shared tax-  
15 payer information with DHS—beyond even what DHS requested.<sup>16</sup> Despite its  
16 demonstrated inability to handle this information properly, the administration

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<sup>15</sup> Stephen Fowler & Jude Joffe-Block, *The Trump Administration Admits Even More Ways DOGE Accessed Sensitive Personal Data*, NPR (Jan. 30, 2026), <https://www.npr.org/2026/01/23/nx-s1-5684185/doge-data-social-security-privacy>.

<sup>16</sup> Jacob Bogage, Jeff Stein & Perry Stein, *IRS Improperly Disclosed Confidential Immigrant Tax Data to DHS*, Wash. Post (Feb. 11, 2026), <https://www.washingtonpost.com/business/2026/02/11/immigrants-irs-dhs-tax-data/>.

1 has sought to gather driver’s license,<sup>17</sup> Supplemental Nutrition Assistance Pro-  
2 gram (SNAP),<sup>18</sup> and Department of Housing and Urban Development<sup>19</sup> data  
3 from states, including social security numbers.

4 **C. The administration’s actions cast doubt on its justifications**  
5 **for sensitive voter information.**

6 This case is part of these efforts to accumulate and centralize massive  
7 troves of Americans’ private data. Plaintiff is also reported to be trying “to  
8 build the largest set of national voter roll data it has ever collected, raising  
9 concerns that the data could be used to cast doubt on future election results.”<sup>20</sup>

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<sup>17</sup> Jonathan Shorman, *Homeland Security Wants State Driver’s License Data for Sweeping Citizenship Program*, Stateline (Nov. 25, 2025), <https://stateline.org/2025/11/25/homeland-security-wants-state-drivers-license-data-for-sweeping-citizenship-program/>.

<sup>18</sup> Jude Joffe-Block, *The USDA Wants States to Hand Over Food Stamp Data by the End of July*, NPR (July 19, 2025), <https://www.npr.org/2025/07/19/nx-s1-5471553/usda-snap-privacy-lawsuit>.

<sup>19</sup> Rachel Siegel, Hannah Natanson & Laura Meckler, *DOGE Is Collecting Federal Data to Remove Immigrants from Housing, Jobs*, Wash. Post (Apr. 15, 2025), <https://www.washingtonpost.com/business/2025/04/15/doge-ssa-immigration-trump-housing/>.

<sup>20</sup> Nick Corasaniti, *Why Is the Trump Administration Demanding Minnesota’s Voter Rolls?*, N.Y. Times (Jan. 26, 2026), <https://www.nytimes.com/2026/01/26/us/politics/minnesota-trump-voter-rolls.html>.

1 And the Defense Department’s recent retaliation against Anthropic for main-  
2 taining safeguards against mass surveillance<sup>21</sup> suggests the administration in-  
3 tends to leverage aggregated data—including, potentially, the voter data at  
4 issue here—for domestic surveillance purposes too. This lawsuit, and the doz-  
5 ens of similar lawsuits playing out across the country, are not a good faith at-  
6 tempt to enforce the any federal election law. They are, rather, a profound  
7 threat to the right to vote and long-standing separation of powers principles.

8 The Attorney General made this pretext plain in her letter to Governor  
9 Walz, sent mere hours after federal agents killed Alex Pretti in Minnesota on  
10 January 23, 2026.<sup>22</sup> While eliding an explicit quid pro quo, her letter linked the  
11 DOJ’s demand to “access voter rolls” not with enforcement of federal statutes  
12 but, instead, with the massive presence of federal immigration agents in Min-  
13 neapolis. The letter also renewed demands for Minnesota’s SNAP and Medi-  
14 caid data. The Attorney General’s attempt to compel Minnesota to hand over  
15 its unredacted voter rolls out of court<sup>23</sup> raises a serious concern that Plaintiff  
16 is attempting to further its data-collection agenda through extrajudicial

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<sup>21</sup> Jared Perlo, Kevin Collier & David Ingram, *OpenAI Alters Deal with Pentagon As Critics Sound Alarm Over Surveillance*, NBC News (Mar. 3, 2026), <https://www.nbcnews.com/tech/tech-news/openai-alters-deal-pentagon-critics-sound-alarm-surveillance-rcna261357>.

<sup>22</sup> See Letter from U.S. Att’y Gen. Pamela Bondi to Minn. Gov. Tim Walz (Jan 24, 2026), <https://www.nytimes.com/interactive/2026/01/24/us/pam-bondi-walz-doc.html>.

<sup>23</sup> Plaintiff filed suit against Minnesota and its Secretary of State on September 25, 2025. Compl., *United States v. Simon*, No. 0:25-cv-03761-KMM-EMB (D. Minn. Sep. 25, 2025), Dkt. No. 1.

1 means.<sup>24</sup> “The context of this demand within a letter about immigration en-  
2 forcement casts serious doubt as to the true purposes for which Plaintiff is  
3 seeking voter registration lists in this and other cases, and what it intends to  
4 do with that data.” *Oregon*, 2026 WL 318402, at \*11.

5 Plaintiff’s claims in this case, and in cases like it, are far from a good-  
6 faith effort to investigate potential violations of federal law. Instead, they are  
7 a transparent effort to gather unprecedented amounts of voter data for political  
8 purposes—by any means at the executive’s disposal, including through unlaw-  
9 ful coercion. “The presumption of regularity that has been previously extended  
10 to Plaintiff that it could be taken at its word—with little doubt about its inten-  
11 tions and stated purposes—no longer holds.” *Id.*

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<sup>24</sup> As Judge Menendez, who is hearing both a challenge to ICE’s operations in Minneapolis and Plaintiff’s suit against Minnesota asked: “Is the executive trying to achieve a goal through force that it can’t achieve through the courts?” Josh Gerstein & Kyle Cheney, *Trump, Bondi statements fuel legal case against Minnesota surge*, Politico (Jan. 26, 2026), <https://www.politico.com/news/2026/01/26/minnesota-operation-metro-surge-case-00746755>. Only two days after Judge Menendez’s warning, and based on faulty information, the Federal Bureau of Investigation executed a search warrant on the Fulton County Election Hub and Operation Center for records related to the 2020 election, even as Plaintiff pursues CRA claims seeking the same records. Gowri Ramachandran, *Trump Administration Escalates Undermining Elections with Fulton County FBI Raid*, Brennan Ctr. for Just. (Feb. 24, 2026), <https://www.brennancenter.org/our-work/analysis-opinion/trump-administration-escalates-undermining-elections-fulton-county-fbi>; *United States v. Alexander*, No. 1:25-cv-07084-TWT (N.D. Ga. Dec. 11, 2025), Dkt. No. 1.

1 **II. Plaintiff’s demand undermines authority over elections that the**  
2 **Constitution reserves for Congress and the States.**

3 The administration has weaponized data to exert authority over election  
4 administration. Under the Constitution, the states and Congress share respon-  
5 sibilities for regulating election administration. *See* U.S. Const. art. I, § 2, cl.  
6 1; U.S. Const. art. I, § 4, cl. 1. The Constitution “assigned no role at all to the  
7 President” in election administration. *LULAC II*, 2026 WL 252420, at \*1. The  
8 notion that the executive would have the power to regulate federal elections  
9 “does not appear to have crossed the Framers’ minds.” *LULAC I*, 808 F. Supp.  
10 3d at 45 (citing *The Federalist* No. 59 (Alexander Hamilton)); *see also* Debate  
11 in Massachusetts Ratifying Convention, in *2 The Founders’ Constitution* 255  
12 (P. Kurland & R. Lerner eds., 1987) (“I know of but two bodies wherein [the  
13 power to regulate federal elections] can be lodged—the legislatures of the sev-  
14 eral states, and the general Congress.” (statement of Caleb Strong)). “Con-  
15 gress, not the President, has the ultimate constitutional authority over elec-  
16 tions.” *California*, 786 F. Supp. 3d at 381.

17 Although the president has no constitutional role in elections, Plaintiff’s  
18 first half-dozen complaints in these thirty cases seeking unredacted voter rolls  
19 began by identifying President Trump’s Elections EO as the catalyst for filing  
20 these suits. Notably, Plaintiff has ceased doing so, including in this action.  
21 *Compare, e.g.*, Compl. at 2–3, *United States v. Weber*, No. 25-cv-09149 (C.D.  
22 Cal. Sept. 25, 2025), Dkt. No. 1, Compl. at 1, *United States v. Pennsylvania*,  
23 No. 25-cv-01481 (W.D. Pa. Sept. 25, 2025), Dkt. No. 1, *and* Compl. at 1, *United*  
24 *States v. Simon*, No. 25-cv-03761 (D. Minn. Sept. 25, 2025), Dkt. No. 1, *with*  
25 Compl. at 2, Dkt. No. 1 (solely discussing CRA). That shift indicates the faulty

1 premise of these actions. Indeed, that is why courts have already stated that  
2 multiple provisions of the Elections EO “are inconsistent with the constitu-  
3 tional separation of powers and cannot lawfully be implemented.” *LULAC II*,  
4 2026 WL 252420, at \*1 (permanently enjoining provisions purporting to impose  
5 new requirements for verifying citizenship for people registering to vote or ap-  
6 plying for absentee ballots).

7         Nonetheless, in early February 2026, the President called for an uncon-  
8 stitutional “take over” of voting procedures in many states.<sup>25</sup> This is an escala-  
9 tion, but not a change in position for this President, who in August 2025 de-  
10 clared that states must do “what the Federal Government, as represented by  
11 the President of the United States, tells them” as related to elections.<sup>26</sup> By its  
12 own public accounts, the executive’s real purpose for collecting sensitive voter  
13 data from Arizona and other states is to disrupt and take over election pro-  
14 cesses, just as it has weaponized data in other contexts to pursue policy goals  
15 regardless of legal limitations. Specifically, Plaintiff seeks to supplant Ari-  
16 zona’s role in list maintenance by substituting its own judgment and process,  
17 which violates the Constitutional and statutory assignments of election admin-  
18 istration duties. *Weber*, 2026 WL 118807, at \*17–18. Plaintiff’s role in enforcing  
19 federal statutes does not permit it to engage in list maintenance, but only to

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<sup>25</sup> See Erica L. Green, Michael Gold & Robert Jimison, *Trump Repeats Call to ‘Nationalize’ Elections, as White House Walks It Back*, N.Y. Times, <https://www.nytimes.com/2026/02/03/us/politics/trump-save-act-elections.html>.

<sup>26</sup> See Donald J. Trump [@realDonaldTrump], Aug. 18, 2025, TruthSocial.com, <https://truthsocial.com/@realDonaldTrump/posts/115049485680941254>.

1 ensure the states comply with federal laws. But, as made clear by the agree-  
2 ments that the DOJ has asked states to sign,<sup>27</sup> the DOJ plans to conduct its  
3 own analyses to identify voters it deems should be removed from the rolls, and  
4 require states to do so.<sup>28</sup> As with its other unlawful uses of information, Plain-  
5 tiff's goal in obtaining and consolidating massive amounts of voter data is to  
6 encroach on the constitutionally mandated role of states in election admin-  
7 istration.

## 8 CONCLUSION

9 In exercising its authority to enact election laws, Congress respected the  
10 constitutional structure that grants authority over elections to the states in  
11 the first instance, while balancing transparency interests with the need to pro-  
12 tect individual citizens' right to vote. Plaintiff's unprecedented demands for  
13 sensitive voter data flout this careful scheme to consolidate data and power in  
14 the hands of the federal government. This Court should reject Plaintiff's pre-  
15 textual and statutorily deficient demand for Arizona's unredacted voter data  
16 and dismiss the Complaint.

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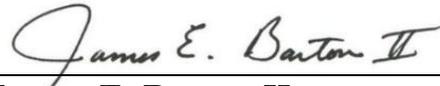
<sup>27</sup> Eileen O'Connor, *"Confidential" Agreements Show Trump Administration's Plans for States' Voter Data*, Brennan Ctr. for Just. (Feb. 5, 2026), <https://www.brennancenter.org/our-work/analysis-opinion/confidential-agreements-show-trump-administrations-plans-states-voter>.

<sup>28</sup> *See, e.g.*, Confidential Memorandum of Understanding between U.S. Dep't of Just. and Alaska Div. of Elections at 5 (Dec. 22, 2025), [https://www.brennancenter.org/media/15064/download/alaska\\_12.22.2025\\_executed-mou.pdf?inline=1](https://www.brennancenter.org/media/15064/download/alaska_12.22.2025_executed-mou.pdf?inline=1).

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