UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,

Plaintiff,

v.

JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; REMI GARZA, in his official capacity as the Cameron County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator,

Defendants.

Civil Action

Case No. 5:21-cv-00649-JKP-HJB

PLAINTIFF'S OPPOSITION TO MOTION TO INTERVENE AS DEFENDANTS BY MEDINA COUNTY ELECTIONS ADMINISTRATOR LUPE C. TORRES AND REAL COUNTY TAX ASSESSOR-COLLECTOR TERRIE PENDLEY

TO THE HONORABLE JASON PULLIAM:

Plaintiff Vote.org, by and through its undersigned counsel, files this Opposition to the Partially Opposed Motion to Intervene as Defendants filed by Medina County Elections Administrator Lupe C. Torres, in his official capacity, and Real County Tax Assessor-Collector Terrie Pendley, in her official capacity (together, "Proposed Intervenors").

INTRODUCTION

The State of Texas regularly recognizes what anyone who has used a credit card keypad or signed an online form knows to be true: electronic signatures are just as good as wet-ink signatures. That is why the Texas Business and Commerce Code makes clear that electronic signatures carry the force of law, and why voter registration applications submitted through the State's agencies use imaged—not wet-ink—signatures.

The intuitiveness of electronic signatures and their acceptance under Texas law notwithstanding, the Secretary of State (the "Secretary") previously issued a rule requiring that Texans who complete voter registration applications sign with original, wet signatures (the "Wet Signature Rule")—a rule that lacked basis in either Texas law or common sense, since the method by which a voter enters their signature has absolutely nothing to do with their eligibility to register. Nevertheless, the Texas Legislature has codified the Wet Signature Rule into law: House Bill 3107 ("HB 3107"), which otherwise modernizes and updates the Election Code, includes a requirement that voters provide copies of their registration applications with wet signatures. This requirement not only unjustifiably burdens Texas voters, but also violates the Civil Rights Act by denying voters the ability to register based on an immaterial requirement.

During the 2018 election cycle, Plaintiff Vote.org invested significant resources developing and launching a web application that allowed Texans in Bexar, Travis, Cameron, and Dallas Counties to complete their registration applications electronically. The Wet Signature Rule, as originally promulgated by the Secretary and now codified by HB 3107, has stymied those efforts and prevented Vote.org from effectively and efficiently achieving its voter registration goals in the Lone Star State. Recognizing that the Wet Signature Rule makes voting harder in violation of federal law, Vote.org filed suit against and seeks relief from those counties—and *only* those counties—where it has implemented the e-signature function of its web application. Notably, neither Medina County nor Real County is on that list.

The limited scope of this case confirms that Proposed Intervenors lack even the most basic requirement for intervention under Federal Rule of Civil Procedure 24: a cognizable interest in this litigation. Vote.org's suit has nothing to do with the enforcement of the Wet Signature Rule in Medina and Real Counties; if it did, Proposed Intervenors would be named defendants. Beyond

vague, unsupported assertions, Proposed Intervenors fail to explain precisely how this lawsuit could have even the slightest effect on their ability to register voters in their own jurisdictions. Their motion offers nothing more than a general desire to enforce the Wet Signature Rule statewide—an interest that is more than adequately represented by both the counties named as defendants and the Attorney General, who has moved to intervene to represent the interests of the State of Texas and defend the Wet Signature Rule's constitutionality.

Rather than streamline or otherwise contribute to this Court's efficient disposition of Vote.org's claims, Proposed Intervenors' entrance into this matter would serve only to confound the proceedings and inhibit Vote.org's ability to seek timely relief ahead of the 2022 elections. For these reasons and those that follow, Proposed Intervenors' motion should be denied.

BACKGROUND

I. The Wet Signature Rule unnecessarily and unjustifiably burdens voters and disrupts Vote.org's voter registration efforts.

Registering to vote in Texas is already a cumbersome process. Rather than modernize this critical component of the voting experience, the State continues to embrace and reinforce antiquated rules that serve no purpose other than making registration harder. It does not provide online registration, and for years the Secretary ignored federal laws that allow voters to simultaneously update their driver's licenses and voter registration information. The Wet Signature Rule is yet another manifestation of the State's outdated—and often unlawful—approach to voter registration.

The Election Code provides several avenues through which eligible citizens may submit their voter registration applications to their county registrars: by personal delivery, mail, or fax. *See* Tex. Elec. Code § 13.002(a). Prior to the enactment of the Wet Signature Rule, none of these options required a wet signature on a voter's registration application.

In preparation for the 2018 elections, Vote.org launched a web application to help Texans register to vote. *See* Compl. for Declaratory & Injunctive Relief ("Compl.") ¶¶ 3, 18–19, 27, ECF No. 1. The e-signature function of the web application allowed potential registrants in four counties—Bexar, Cameron, Dallas, and Travis—to enter information into a virtual voter registration application; sign the form by uploading an image of their signature into the web application; review their signed voter registration application; fax the completed application to their county registrar; and generate a hard copy to be mailed to the county registrar, as required by Texas law. *Id.* ¶ 18. Between late September and early October of 2018, more than 2,400 voters in Texas used Vote.org's web application, including its e-signature function, to complete their voter registration applications. *Id.* ¶ 19.

Even as Vote.org's web application ensured that eligible Texans could register and exercise their right to vote, the Secretary called the validity of those 2,400 voter registrations into question. *Id.* Just five days before the registration deadline for the 2020 general election, the Secretary claimed, without any basis in the law, that registration forms prepared using Vote.org's web application were invalid because they did not contain original, wet signatures. *Id.* His announcement—and the decision of Texas counties to abide by it—effectively ended Vote.org's use of the e-signature function. *Id.*

During its 2021 regular session, the Legislature enacted HB 3107. *See* HB 3107, 87th Leg., Reg. Sess. (Tex. 2021). Among other provisions, the bill provides that in order "[f]or a registration application submitted by telephonic facsimile machine to be effective, a copy of the *original* registration application *containing the voter's original signature* must be submitted." *Id.* § 14 (amending Tex. Elec. Code § 13.143(d-2)). HB 3107 thus codifies the Wet Signature Rule and further burdens both Texas voters and Vote.org.

Significantly, the Wet Signature Rule contradicts well-established laws that recognize the validity of electronic and other non-ink signatures. For example, the Texas Administrative Code authorizes election officials to capture voters' signatures using electronic devices for election day signature rosters, and specifically defines "Electronic Signature" as "a digitized image of a handwritten signature." 1 Tex. Admin. Code § 81.58(a)–(b). The Texas Business and Commerce Code recognizes that a signature "may not be denied legal effect . . . solely because it is in electronic form" and expressly states that "[i]f a law requires a signature, an electronic signature satisfies the law." Tex. Bus. & Com. Code § 322.007(a), (d). And if a person completes a voter registration application through the Department of Public Safety, the agency must "inform the applicant that the applicant's electronic signature provided to the department will be used for submitting the applicant's voter registration application." Tex. Elec. Code § 20.066(a)(2). The inconsistency between these practices and the Wet Signature Rule demonstrates that the latter serves no legitimate governmental interest—let alone an interest sufficiently weighty to justify the added burdens on voting—and is entirely unrelated to any determination of an individual's eligibility to register.

II. Vote.org's lawsuit seeks relief against the counties where it launched its e-signature function—and *not* against Medina County or Real County.

Following the enactment of HB 3107, Vote.org filed suit to challenge the Wet Signature Rule. Count I of its complaint alleges that the Wet Signature Rules violates Section 1971 of the Civil Rights Act—which prohibits denying the right to vote "because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified," 52 U.S.C. § 10101(a)(2)—because the rule is immaterial to determining whether a Texas voter is qualified to cast a ballot. *See* Compl. ¶¶ 37–40. Count II alleges that the Wet Signature Rule violates the

right to vote under the First and Fourteenth Amendments to the U.S. Constitution because it imposes a logistical burden on voters that is not justified by any legitimate state interest. *See id.* ¶¶ 41–47.

Vote.org's complaint named as defendants the voter registrars of Bexar, Travis, Cameron, and Dallas Counties, the jurisdictions where Vote.org introduced the e-signature function of its web application in 2018. *See id.* ¶¶ 18, 21–24.[1] Proposed Intervenors are the voter registrars for Medina County and Real County, *see* Mot. to Intervene as Defs. ("Mot.") 2–3, ECF No. 26—neither of which is an area where Vote.org has either implemented or attempted to introduce its e-signature function. Notably, neither county claims to have received even a single voter registration application that was prepared using Vote.org's e-signature function, and yet they nevertheless seek to join this lawsuit as defendants for the purpose of "protect[ing] their important and unique interests as election officials responsible for voter registrations in their [] rural counties." *Id.* at 2.

LEGAL STANDARD

Intervention as of right under Federal Rule of Civil Procedure 24(a)(2) is permitted when

> (1) the motion to intervene is timely; (2) the potential intervener asserts an interest that is related to the property or transaction that forms the basis of the controversy in the case into which she seeks to intervene; (3) the disposition of that case may impair or impede the potential intervener's ability to protect her interest; and (4) the existing parties do not adequately represent the potential intervener's interest.

Saldano v. Roach, 363 F.3d 545, 551 (5th Cir. 2004) (quoting *Doe v. Glickman*, 256 F.3d 371, 375 (5th Cir. 2001)). "Not any interest, however, is sufficient" to satisfy the second requirement;

[1] Notably, the option of securing statewide relief from the Secretary was foreclosed by recent decisions of the Fifth Circuit, which has concluded that county registrars are solely responsible for reviewing and accepting voter registration applications and thus "the Secretary lacks sufficient connection to enforcement of the [] wet signature rule for the *Ex parte Young* exception to state sovereign immunity to apply." *Tex. Democratic Party v. Hughs*, No. 20-50667, 2021 WL 2310010, at *1 (5th Cir. June 4, 2021) (per curiam).

instead, "the interest must be direct, substantial, and legally protectable," "one which the *substantive* law recognizes as belonging to or being owned by the applicant." *Id.* (cleaned up). As for the fourth requirement, if "the would-be intervenor has the same ultimate objective as a party to the lawsuit," then "the applicant for intervention must show adversity of interest, collusion, or nonfeasance on the part of the existing party to overcome the presumption" of adequacy. *Texas v. United States*, 805 F.3d 653, 661–62 (5th Cir. 2015) (cleaned up). "Failure to satisfy any one requirement precludes intervention of right." *Haspel & Davis Milling & Planting Co. v. Bd. of Levee Comm'rs*, 493 F.3d 570, 578 (5th Cir. 2007).

Rule 24(b) generally "provides for permissive intervention when (1) timely application is made by the intervenor, (2) the intervenor's claim or defense and the main action have a question of law or fact in common, and (3) intervention will not unduly delay or prejudice the adjudication of the rights of the original parties." *League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 884 F.2d 185, 189 n.2 (5th Cir. 1989). More specifically, Rule 24(b)(2) "permit[s] a federal or state governmental officer or agency to intervene if a party's claim or defense is based on . . . a statute or executive order administered by the officer or agency; or . . . any regulation, order, requirement, or agreement issued or made under the statute or executive order." Fed. R. Civ. P. 24(b)(2). Under either provision, "[p]ermissive intervention is at the discretion of the court even if the potential intervenor satisfies the requirements of Rule 24(b)." *Walker v. Alta Colls., Inc.*, No. A-09-CA-894-LY, 2011 WL 13269547, at *2 (W.D. Tex. Aug. 10, 2011).

ARGUMENT

Proposed Intervenors serve counties that are wholly unaffected by Vote.org's suit and can identify no legally protectable interest that will be impaired by this action. They do not administer the Wet Signature Rule in Defendants' counties, nor do they possess any interest in dictating how other counties implement voter registration rules. At most, Proposed Intervenors advance a

generalized desire to see the law enforced—an interest shared by all Texans, including the existing defendants and the Attorney General, who also seeks intervention—all but confirming that their participation in this case would duplicate arguments, multiply filings, and prolong these proceedings to Vote.org's prejudice. The Federal Rules of Civil Procedure, case law, principles of judicial economy, and the strong public interest in ensuring an efficient, timely resolution of this dispute over voter registration rules all point in one direction: intervention should be denied.

I. Proposed Intervenors should not be granted intervention as of right under Rule 24(a)(2).

A. Proposed Intervenors lack a legally protectable interest that will be impaired by this action.

None of the purported interests described by Proposed Intervenors in their motion comes close to constituting a "direct" and "substantial" interest in the limited subject of Vote.org's suit, *Saldano*, 363 F.3d at 551, let alone one that risks impairment.

Proposed Intervenors first suggest that the outcome of this lawsuit will impact their ability to administer voter registration rules in Medina and Real Counties, *see* Mot. 9, but as election officials "responsible for voter registrations in their respective rural counties" only, *id.* at 2, those interests are unrelated to this lawsuit. Registrars Torres and Pendley have not been named as defendants; Vote.org has not sought injunctive relief against them; and their motion makes no serious attempt to explain how any of their election administration efforts could be impaired by this case. *See id.* at 9–10.

What Proposed Intervenors identify as protectable legal interests are simply misunderstandings of the law. An injunction against the named defendants would not bind all 254 counties in the State. Despite Proposed Intervenors' assertion that "it is arguably likely that [they] will be bound by a determination of this Court," *id.* at 9, they cite no authority for the proposition that a court may order injunctive relief against nonparties under these circumstances. *Cf.*

Waffenschmidt v. MacKay, 763 F.2d 711, 717 (5th Cir. 1985) (exploring limited situations when injunctions can bind nonparties). Nor do they explain how future claims would be "jeopardized or impaired . . . by the outcome of the current litigation" or otherwise demonstrate how this lawsuit poses any threat to their legally protected interests. *Am. Stewards of Liberty v. Dep't of Interior*, No. 1:15-CV-1174-LY, 2016 WL 11272149, at *1 (W.D. Tex. Apr. 26, 2016) (denying intervention as of right). In fact, the opposite is true: the *only* way this case could impair the interests of the voter registrars of Medina and Real Counties is if they joined it. *See Parklane Hosiery, Inc. v. Shore*, 439 U.S. 322, 326 n.5 (1979) ("Under the doctrine of res judicata, a judgment on the merits in a prior suit bars a second suit *involving the same parties* or their privies based on the same cause of action." (emphasis added)).[2]

Proposed Intervenors are simply wrong when they claim that "an unfavorable judgment against the named defendants could be binding as precedent within the Western District," and thus they would "not be able to address the consequence of Plaintiff['s] claims on their counties unless allowed to intervene." Mot. 8. A ruling from this Court would not bind other judges in the U.S. District Court for the Western District of Texas or anywhere else. *See Camreta v. Greene*, 563 U.S. 692, 709 n.7 (2011) ("A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case." (quoting 18 J. Moore et al., *Moore's Federal Practice* § 134.02(1)(d) (3d ed.

[2] For this reason, Proposed Intervenors' reliance on *Sierra Club v. Espy*, 18 F.3d 1202 (5th Cir. 1994), is wholly misplaced. As they observe, in that case "the court held that the association's interest would be impaired if not allowed to intervene because, as a practical matter, the interpretation of the regulation would affect the association's ability to collect timber." Mot. 9; *see also Sierra Club*, 18 F.3d at 1207 (finding this requirement satisfied where proposed intervenors "have *legally protectable property interests* in existing timber contracts that are threatened by" outcome of lawsuit (emphasis added)). Here, by contrast, Proposed Intervenors have no analogous legally protectable interest, and they do not adequately explain how a ruling from this Court could implicate their enforcement of the Wet Signature Rule in their own counties.

2011))). And even if it did, Proposed Intervenors cite no authority suggesting that the mere prospect of binding legal precedent that might be used against them at some point in the future constitutes an interest sufficient to warrant intervention; in fact, the Fifth Circuit decision on which they rely emphasizes that its "holding does not presage one requiring intervention of right in every conceivable circumstance where under the operation of the Circuit's stare decisis practice, the formidable nature of an en banc rehearing or the successful grant of a writ of certiorari, an earlier decision might afford a substantial obstacle" to a potential intervenor. *Atlantis Dev. Corp. v. United States*, 379 F.2d 818, 829 (5th Cir. 1967).[3] Mere "[s]peculation that granting relief in this case might affect" Proposed Intervenors in future litigation is not a "direct, substantial, legally protectable interest" in *these* proceedings. *Russell v. Harris County*, Civil Action No. H-19-226, 2020 WL 6784238, at *3 (S.D. Tex. Nov. 18, 2020) (quoting *Texas v. U.S. Dep't of Energy*, 754 F.2d 550, 552 (5th Cir. 1985)) (denying intervention as of right).

Without a stake in this lawsuit, Proposed Intervenors resort to a generic appeal for uniformity across counties. *See* Mot. 8. But Real and Medina Counties lack a cognizable interest in the enforcement or administration of the Election Code in other jurisdictions. *Cf., e.g.*, *KERM, Inc. v. FCC*, 353 F.3d 57, 58 (D.C. Cir. 2004) (explaining that "a generalized interest in the faithful enforcement of the law" is not particularized injury that confers Article III standing). And because

[3] Even if the Fifth Circuit had not included this explicit limiting language in its opinion, the factual distinction between that case and this one illustrate why intervention was proper there but not here. In *Atlantic Development Corp.*, the proposed intervenor "claim[ed] ownership to the very [coral] reefs in suit" and, having "a claim to and interest in the very property and the very transaction which [was] the subject of the main action," would have been practically bound by a decision in the underlying litigation. 379 F.2d at 825, 828–29. Here, by contrast, Proposed Intervenors have no direct interest in the enforcement of the Wet Signature Rule in Bexar, Travis, Cameron, and Dallas Counties.

it is not a cognizable right, the generalized desire to see laws enforced elsewhere is not a permissible ground for intervention.

Indeed, uniformity is not even required under Texas law in many instances—including the administration of elections. As Proposed Intervenors themselves acknowledge, the Texas Election Code "recognizes the differences between large counties and small counties" and imposes different rules and procedures on different counties depending on their size. Mot. 5. To the extent the Election Code does require uniformity, the Secretary is charged with obtaining it, *see* Tex. Elec. Code § 31.003, and the Attorney General—who has also moved to intervene in this matter on behalf of the State, *see infra* Part I.B—is tasked with ensuring that criminal penalties are enforced, *see* Tex. Elec. Code § 273.021. Thus, denying intervention will not prejudice Real and Medina Counties no matter the outcome of this suit, since their enforcement of the Wet Signature Rule will be unaffected either way. And it certainly will not result in the "chaos" they allege or even a significant departure from the State's intentionally decentralized election system. *See, e.g.*, *Lightbourn v. County of El Paso*, 118 F.3d 421, 428 n.7 (5th Cir. 1997) (describing "the decentralized nature of the Texas election system"); Brief for Defendant-Appellant at 3–4, *Tex. Democratic Party v. Hughs*, No. 20-50667 (5th Cir. Oct. 26, 2020) (brief of Secretary emphasizing that "[v]oter registration in Texas is handled at the county level").

In sum, this lawsuit will have no effect on Proposed Intervenors' enforcement of the Wet Signature Rule in their own counties. They are not persons concerned with the outcome of this litigation in any legally cognizable sense; inviting them into this case would certainly not serve the interest of efficiency; and they have not demonstrated that any of their legally protectable interests could be impaired or impeded by this litigation.

B. Proposed Intervenors' purported interests are adequately represented by the existing parties.

Even if Proposed Intervenors' interest in enforcing election laws were implicated in this case, that interest is shared with and adequately represented by not only Defendants, but also the Attorney General, who has moved to intervene for the exact same reason as Proposed Intervenors: to defend the constitutionality of the Wet Signature Rule.

"[W]hen the party seeking to intervene has the same ultimate objective as a party to the suit, the existing party is presumed to adequately represent the party seeking to intervene unless that party demonstrates adversity of interest, collusion, or nonfeasance." *Kneeland v. NCAA*, 806 F.2d 1285, 1288 (5th Cir. 1987). Proposed Intervenors have identified no such collusion or nonfeasance. They suggest that "[w]hile all counties desire accurate voter rolls, the smaller [] counties [they] administer have a unique interest in maintaining their accuracy," Mot. 11, but never explain why Defendants would have any less of an interest in the accuracy of their counties' voter rolls.[4] Nor, for that matter, do Proposed Intervenors explain why "the vast size difference between the current named Defendants and" themselves, Mot. 3; *see also id.* at 10, or the fewer resources they have to administer elections, *see id.* at 10–11, has any impact on the enforcement of the Wet Signature Rule in Defendants' counties or Defendants' ability to represent these interests.

Moreover, Proposed Intervenors' desire to "defend[] the constitutionality of HB 3107," *id.* at 8, is not the type of interest that warrants their intervention. Federal law expressly authorizes *the State itself*, and not merely any concerned bystander, to fulfill that role and intervene where,

[4] Proposed Intervenors suggest only that "[a]n incorrectly registered voter in Real County is much more likely to decide an election than an incorrectly registered voter in Harris County because the single voter in Real is a much larger percentage of the electorate," and thus that larger counties will tolerate a greater degree of inaccuracy. Mot. 11. But presumably Defendants, charged with safeguarding their respective voter rolls, take their official responsibilities no less seriously than Proposed Intervenors—regardless of the sizes of their counties.

as here, the constitutionality of a state law is challenged and "the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity." Fed. R. Civ. P. 5.1(a)(1)(B); *see also* 28 U.S.C. § 2403(b). Consistent with these rules, the Attorney General has moved to intervene in this matter, and Proposed Intervenors' motion makes plain that their interest in defending the Wet Signature Rule is materially indistinguishable from that of the State and its top law enforcement officer. *See generally* Tex. Att'y Gen. Ken Paxton's Mot. to Intervene, ECF No. 27; *see also Del Bosque v. AT&T Advert. L.P.*, No. A-08-CA-402-LY, 2010 WL 55962, at *2 (W.D. Tex. Jan. 4, 2010) (report and recommendation finding that "the 'inadequacy of representation' requirement is not met" where existing party to litigation "has at least as strong an interest, if not a stronger one, than" proposed intervenor in outcome of case). Having failed to identify a single interest that is not shared or adequately represented by existing litigants, Proposed Intervenors are not entitled to intervene as of right.

II. Proposed Intervenors should not be granted permissive intervention under Rule 24(b).

Proposed Intervenors' participation in this matter would unnecessarily duplicate arguments, multiply filings and discovery, and prolong litigation proceedings without aiding the Court's disposition of Vote.org's claims.

Proposed Intervenors rely on Rule 24(b)(2), which authorizes intervention "by a government officer or agency when the 'party's claim or defense is based on a statute or executive order administered by the officer or agency.'" Mot. 11 (quoting Fed. R. Civ. P. 24(b)(2)). Setting aside the fact that, again, they administer the Wet Signature Rule in only Medina and Real Counties and not any of the four counties in which Vote.org actually seeks relief, the Court may exercise its discretion to deny permissive intervention, *see* Fed. R. Civ. P. 24(b)(3)—particularly where, as here, the intervenors' interests are adequately represented and adding more parties to the case will

unnecessarily duplicate efforts. *See Walker*, 2011 WL 13269547, at *2 (denying permissive intervention where it would "require the taking of additional discovery" and "result in a further delay in these proceedings and prejudice to Defendants, including additional attorney's fees and legal expenses"). That is precisely the risk posed by expanding this lawsuit to include Proposed Intervenors and any counties that attempt to follow suit.

Vote.org must balance its institutional needs with the towering burden of litigating against individual counties to enforce constitutional and statutory rights. *See Tex. Democratic Party*, 2021 WL 2310010, at *2–4 (concluding that Secretary "lacks sufficient connection to the enforcement of" voter registration rule to seek statewide relief against her); *Mi Familia Vota v. Abbott*, 977 F.3d 461, 467–69 (5th Cir. 2020) (explaining that "an injunction must be directed to those who have the authority to enforce those statutes," who, in context of election rules, "would be county or other local officials"). Accordingly, Vote.org, as the master of its complaint, chose to seek relief against election officials from the four counties where it launched the e-signature function for its web application. *See Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 91 (2005) ("In general, the plaintiff is the master of the complaint and has the option of naming only those parties the plaintiff chooses to sue." (quoting 16 J. Moore et al., *Moore's Federal Practice* § 107.14(2)(c) (3d ed. 2005))). With the crowding of additional parties, litigation becomes more complex, expensive—in some cases, even cost prohibitive—and takes longer at every step. Briefing schedules become more complicated, the number of pages that the parties and the Court must contend with in filings become multiplied, scheduling becomes more difficult, and negotiating even basic stipulations becomes even more time-consuming. During discovery, additional intervenors result in duplicative depositions, discovery requests, and document productions. In a case involving the right to vote and engage in political activity, where time is of the essence and the existing litigants already

represent the pertinent interests, intervention by unnamed counties is not appropriate and should be denied. *See, e.g.*, *Resolution Tr. Corp. v. City of Boston*, 150 F.R.D. 449, 455 (D. Mass. 1993) (concluding that "[e]ven if the Commonwealth does qualify for permissive intervention under" earlier version of Rule 24(b)(2), "it has presented no creditable argument that its status as an intervenor-defendant would in any way reshape the issues in this case or contribute to its just resolution" and thus "has not shown any justification for the delay and added demands on resources of the court and the parties that its intervention would be likely to cause").

CONCLUSION

For the foregoing reasons, Proposed Intervenors' motion should be denied.

Dated: September 13, 2021.

Respectfully submitted,

/s/ Uzoma N. Nkwonta

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule CV-7(D)(3), counsel for Plaintiff Vote.org certifies that this opposition brief does not exceed 20 pages, exclusive of the caption, the signature block, any certificate, and any accompanying documents.

/s/ Uzoma N. Nkwonta
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