UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

COMMON CAUSE INDIANA, Plaintiff, v. CONNIE LAWSON, in her official capacity as Secretary of State of Indiana, J. BRADLEY KING, in his official capacity as Co-Director of the Indiana Election Division, and ANGELA M. NUSSMEYER, in her official capacity as Co-Director of the Indiana Election Division, Defendants.	Case No. 1:17-cv-3936

PLAINTIFF COMMON CAUSE INDIANA'S OPPOSITION TO PUBLIC INTEREST LEGAL FOUNDATION'S MOTION TO INTERVENE AS DEFENDANT

Common Cause Indiana ("Common Cause"), by and through undersigned counsel, respectfully submits the following opposition to Public Interest Legal Foundation's ("PILF") Motion to Intervene as Defendant.

I. INTRODUCTION

At issue in this action is whether a newly-enacted Indiana voter registration law violates the National Voter Registration Act of 1993 ("NVRA"). Defendants—the Indiana government officials charged with ensuring Indiana's compliance with the NVRA—vigorously defend Senate Enrolled Act 442 ("SEA 442") as lawful under the NVRA. The proposed intervenor—PILF—requests to join the suit and also defend SEA 442 as NVRA-compliant, for the same reasons advanced by Defendants. PILF seeks to intervene based on its academic interest in the "constitutional arrangement whereby states are able to structure their own election systems" and amorphous concerns with "election integrity," because it is more "enlightened" than Defendants

on the subject of election laws, and due to its speculation that Defendants might focus on some unspecified arguments that PILF would not.

PILF's request falls woefully shy of what the Seventh Circuit requires for intervention under Rule 24 of the Federal Rules of Civil Procedure. At the outset, PILF lacks the required Article III standing to join this suit; it has only a generalized interest in seeing SEA 442 survive this challenge. Further, PILF fails to meet multiple requirements for intervention as of right under Rule 24(a). This is because PILF has no direct, substantial interest in this lawsuit, and because it has not overcome the presumption that Defendants are adequately representing PILF's interest in upholding SEA 442. Finally, the Court should deny PILF's request for discretionary, permissive intervention for the same reasons, and also because PILF will only bog down an otherwise straightforward challenge by a party injured by a new law and the government officials charged with implementing it. PILF's involvement in this lawsuit, if any, should be as *amicus curiae*.

As set forth fully below, Plaintiff respectfully requests the Court deny PILF's motion.

II. PILF LACKS STANDING TO INTERVENE

In the Seventh Circuit, an intervenor – whether intervening as of right or by permission and whether as a plaintiff or defendant – must demonstrate Article III standing. *City of Chicago v. Fed. Emergency Mgmt. Agency*, 660 F.3d 980, 984 (7th Cir. 2011); *Flying J, Inc. v. Van Hollen*, 578 F.3d 569, 571, 573 (7th Cir. 2009); *Planned Parenthood of Wis. v. Doyle*, 162 F.3d 463, 465 (7th Cir. 1998); *see also Buquer v. City of Indianapolis*, No. 1:11-CV-00708-SEB, 2013 WL 1332137, at *2 (S.D. Ind. Mar. 28, 2013) (holding Rule 24(a)(2)'s interest requirement "incorporates the requirement that the party seeking intervention possess Article III standing"). A "generalized grievance, no matter how sincere, is insufficient to confer standing." *Hollingsworth v. Perry*, 133 S. Ct. 2652, 2662 (2013); *see also Diamond v. Charles*, 476 U.S. 54,

66 (1986) ("Article III requires more than a desire to vindicate value interests."); *Dillard v. Chilton Cty. Comm'n*, 495 F.3d 1324, 1333 (11th Cir. 2007) ("[G]eneralized grievances asserted by [individual] Intervenors . . . do not assert a concrete and personalized injury").[1]

To establish Article III standing, "a prospective intervenor must show: (1) he or she has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Buquer*, 2013 WL 1332137 at *2 (internal quotation marks and citation omitted); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). A party's "mere 'interest in a problem,' no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself" to establish standing. *Sierra Club v. Morton*, 405 U.S. 727, 739 (1972). Concreteness and particularity are separate requirements. *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548 (2016), *as revised* (May 24, 2016) ("Concreteness, therefore, is quite different from particularization."). For an injury to be particularized, "it must affect the [litigant] in a personal and individual way." *Id.* Meanwhile, a concrete injury "must be 'de facto'; that is, it must actually exist." *Id.* (citing Black's Law Dictionary 479 (9th ed. 2009)).

PILF has not alleged injury in fact; nor is any apparent from its brief. PILF describes itself as a "public interest law firm" with four attorneys. *See* PILF, *About Us*

[1] The U.S. Supreme Court, recognizing a circuit split on the issue, recently determined that where an intervenor seeks to pursue relief that is different from that which is sought by a party with standing, the intervenor itself must have Article III standing. *Town of Chester, N.Y. v. Laroe Estates, Inc.*, 137 S. Ct. 1645, 1651 (2017). Nothing in the Court's decision expressly or impliedly overruled the law of this Circuit, which requires Article III standing for all intervenors, regardless of the relief sought. *See, e.g., City of Chicago v. Sessions,* No. 17 C 5720, 2017 WL 5499167, at *4 (N.D. Ill. Nov. 16, 2017) (discussing *Laroe*, holding that even if intervenor did not seek "different" relief from the plaintiff, "in this Circuit an intervenor as of right must demonstrate Article III standing.").

(https://publicinterestlegal.org/about-us/ (last visited Nov. 28, 2017)). Unlike Common Cause, PILF has not alleged—nor does its website give any indication—that it has any members. Accordingly, it has not asserted (and cannot assert) any direct injury on behalf of a member as a basis for associational standing, *id.*; nor has it alleged any existing activities or programs that will be directly impaired by the law's invalidation (in contrast, for example, to the harm the law's enforcement has imposed and will continue to impose on Common Cause's regular, ongoing voter registration training programs and election protection activities). Rather, PILF asserts only an abstract interest in "preserving the constitutional balance between the states and the federal government regarding control of the electoral process" and "the advancement and protection of the integrity of American elections" and seeks to intervene because, as a matter of policy, it agrees with Indiana's voter list maintenance procedures, and does not want to see them invalidated under the NVRA. (*See* Memorandum of Points and Authorities Supporting [PILF's] Motion to Intervene as Defendants ["PILF Mem."] at 5-6, ECF No. 12.)

PILF's generalized interest in Indiana's election law does not create standing; "[o]therwise there would be universal standing: anyone could contest any public policy or action he disliked. There must be a concrete injury.'" *Ind. Democratic Party v. Rokita*, 458 F. Supp. 2d 775, 810 (S.D. Ind. 2006) (quoting *Books v. Elkhart Cty.*, 401 F.3d 857, 870 (7th Cir. 2005)), *aff'd sub nom. Crawford v. Marion Cty. Election Bd.*, 472 F.3d 949 (7th Cir. 2007). Instead, this is precisely the type of abstract, generalized interest that the U.S. Supreme Court has repeatedly held does not confer standing. *See, e.g.*, *Hollingsworth,* 133 S. Ct. at 2662 (intervenor's interest in "vindicat[ing] the validity of a generally applicable California law . . . insufficient to confer Article III standing"); *Diamond*, 476 U.S. at 66 (although individual physician's standing allegation "may be cloaked in the nomenclature of a special professional interest, it is simply the

expression of a desire that the Illinois Abortion Law as written be obeyed. Article III requires more than a desire to vindicate value interests.").

Because PILF alleges no concrete and particularized injury to itself as an organization, it lacks standing, and its Motion must be denied on this ground alone.

III. THE COURT SHOULD DENY INTERVENTION AS OF RIGHT

The Court should also deny PILF's request to intervene as a matter of right because PILF fails to meet Rule 24(a)(2)'s requirements.

A party applying for intervention bears burden of fulfilling Rule 24(a)(2)'s four elements: "(1) the application must be timely; (2) the applicant must have a direct and substantial interest in the subject matter of the litigation, (3) the applicant's interest must be impaired by disposition of the action without the applicant's involvement; and (4) the applicant's interest must not be represented adequately by one of the existing parties to the action." *Keith v. Daley*, 764 F.2d 1265, 1268 (7th Cir. 1985); *see* Fed. R. Civ. P. 24(a)(2). If PILF cannot meet even ***one*** of these four criteria, the Court "must deny intervention of right." *Reid L. v. Ill. State Bd. of Educ.*, 289 F.3d 1009, 1017 (7th Cir. 2002) (citing *Keith*, 764 F.2d at 1268; *United States v. 36.96 Acres of Land*, 754 F.2d 855, 858 (7th Cir. 1985)); *see also e.g., Nat'l Union Fire Ins. Co. of Pittsburgh v. Cont'l Ill. Corp.*, 113 F.R.D. 532, 534 (N.D. Ill. 1986) ("Any proposed intervenor must establish each of those requirements—intervention is a game in which ***one*** strike is out.") (emphasis in original). PILF cannot meet three of the four requirements of Rule 24(a)(2); it lacks a direct and substantial interest relating to the subject matter of this litigation, its purported interests will not be impaired without its involvement, and Defendants adequately represent any interest PILF contends it has in this case.

A. PILF Does Not Have A Direct And Substantial Interest In The Subject Matter Of This Action.

None of PILF's claimed interests in this case—"preserving the constitutional balance between the states and the federal government regarding control of the electoral process"; "bolster[ing] confidence in the integrity of the electoral process"; and "reinforc[ing] the integrity of each eligible citizen's right to vote," (PILF Mem. 6)—is a "direct, significant legally protectable interest," *Daley*, 764 F.2d at 1268, in the question at issue in the lawsuit sufficient to justify intervention as of right.

PILF has not established standing, but even if it did, Article III standing "does not suffice to establish the required Rule 24(a) 'interest.'" *FEMA*, 660 F.3d at 984. An intervenor must demonstrate an interest in the litigation that is "'significantly protectable.'" *Teague v. Bakker*, 931 F.2d 259, 261 (4th Cir. 1991) (quoting *Donaldson v. United States*, 400 U.S. 517, 531 (1971)). The necessary interest is "something more than a mere 'betting' interest, but less than a property right." *Sec. Ins. Co. of Hartford v. Schipporeit, Inc.*, 69 F.3d 1377, 1380-81 (7th Cir. 1995) (internal citations omitted). The central inquiry considers "the issues to be resolved by the litigation and whether the potential intervenor has an interest in those issues." *Reich v. ABC/York Estes Corp.*, 64 F.3d 316, 322 (7th Cir. 1995).

As discussed above, PILF's alleged interests are generalized interests and amorphous concerns in ensuring adherence to constitutional requirements and the integrity of the electoral process shared broadly by voters (although PILF itself is not a voter, nor does it have members who are voters). These concerns are not "unique to the proposed intervenor," *Wis. Educ. Ass'n Council v. Walker*, 705 F.3d 640, 658 (7th Cir. 2013), and are thus not "sufficiently specific . . . to be cognizable" for intervention. *Sokaogon Chippewa Cmty. v. Babbitt*, 214 F.3d 941, 948 (7th Cir. 2000) (observing that a generalized interest in ensuring that government agencies follow the

law "is insufficient to support standing, let alone intervention. If it did, the federal courts would be required to allow anyone with an interest—however broad or universal—to intervene in any lawsuit in which the government is a party."); *see also Keith*, 764 F.2d at 1269.

Indeed, courts specifically have held that generalized interests in election integrity like PILF claims here—even when asserted on behalf of an organization's member voters themselves (an interest PILF, which has no members, does not and cannot assert)—are too generalized to afford a right to intervene under Rule 24(a). *See, e.g.*, *United States v. Florida*, No. 4:12-cv-285, slip op. at 4 (N.D. Fla. Nov. 6, 2012) (concluding that interest of organizations and their members in ensuring confidence in the election process through accurate voting rolls are generalized interests that are "the same for the proposed intervenor . . . as for every other registered voter in the state" and thus "plainly do not afford a voter—or an organization with members who are voters—a *right* to intervene under Rule 24(a)") (attached as Exhibit 1); *Veasey v. Perry*, No. 2:13-cv-00193, slip op. at 2 (S.D. Tex. Dec. 11, 2013) (attached as Exhibit 2).

Further, PILF's alleged interests amount to nothing more than its disagreement with Plaintiff on the proper interpretation of the NVRA, and its agreement with Defendants' interpretation of that statute and with the policy underlying SEA 442. But an "[a]bstract agreement with the position of one side or another is not the type of 'direct, significant, and legally protectable' interest that gives rise to a right to intervene." *One Wisconsin Inst., Inc. v. Nichol*, 310 F.R.D. 394, 397 (W.D. Wis. 2015) (holding proposed intervenor's "asserted interest in fraud-free elections" insufficient to justify intervention as of right as it "is really just the proposed intervenors' agreement with the policy underlying the challenged legislation").

That PILF has failed to assert an interest sufficient to justify its intervention in this case is bolstered by the Seventh Circuit's decision in *Keith v. Daley*. In *Daley*, the Seventh Circuit

affirmed the denial of an interest group's effort to intervene in circumstances nearly identical to those here. 764 F.2d at 1267. The underlying lawsuit involved a challenge to a new Illinois law restricting access to abortions. The proposed intervenor in *Daley*—the Illinois Prolife Coalition, or IPC—had lobbied significantly for passage of the new law. *Id.* In holding that IPC lacked a direct and substantial interest in the case, the Seventh Circuit held that "IPC's interest as chief lobbyist in the Illinois legislature in favor of [the new law] is not a direct and substantial interest sufficient to support intervention in the instant lawsuit." *Id.* at 1269. IPC's purpose—like that of PILF—was "essentially communicative and persuasive," and while the court encouraged IPC's "priceless right to free expression," it held that "Rule 24(a) precludes a conception of lawsuits, even 'public law' suits, as necessary forums for such public policy debates." *Id.* at 1270.[2]

Due to PILF's lack of a direct and substantial interest in this lawsuit, the Court should deny intervention.

B. PILF's "Interest" Will Not Be Impaired By Disposition Of The Action Without PILF's Involvement.

An intervenor must also show that it will be foreclosed from vindicating its own rights in a subsequent action if not allowed to intervene. *See Meridian Homes Corp. v. Nicholas W.*

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[2] In contrast to PILF's position here, every single case relied on by PILF in which a court granted intervention included the intervenor that had either direct financial interests or personal rights at stake. *See, e.g., Platinum Fin. Tr. LLC v. Carter*, No. 1:17-cv-00075-JMS-MPB, 2017 U.S. Dist. LEXIS 91285 (S.D. Ind. June 14, 2017) (intervenor held security interest in repossessed vehicles that were subject of lawsuit); *Lake Inv'rs Dev. Grp., Inc. v. Egidi Dev. Grp.*, 715 F.2d 1256, 1257 (7th Cir. 1983) (intervenor held security interest in real estate contract that was subject of dispute); *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 530 (1972) (union members permitted to intervene in suit challenging union election); *Kobach v. U.S. Election Assistance Comm'n*, No. 13-CV-4095-EFM-DJW, 2013 WL 6511874, at *2 (D. Kan. Dec. 12, 2013) (intervenors all developed, funded, and conducted voter registration drives, primarily in the underrepresented communities that would be affected by the law being challenged); *Florida v. United States*, 820 F. Supp. 2d 85, 87 (D.D.C. 2011) (intervenors were individual and groups of "registered Florida voters who are members of racial and language minority groups" that were impacted by the challenged law).

Prassas & Co., 683 F.2d 201, 204 (7th Cir. 1982). PILF cannot meet this element because it has no concrete and cognizable interest or rights in SEA 442's viability, and it thus "follows that [PILF] also ha[s] no direct legally protectable interest that could be impaired or impeded." *Wade v. Goldschmidt*, 673 F.2d 182, 186 (7th Cir. 1982). PILF's "interest" here is simply a desire to see Defendants prevail. *See* Section III.A, *above.* Indeed, PILF has only identified ways in which the State of Indiana's interests—not its own—will be impaired if Plaintiff prevails. (*See* PILF Mem. 6 [arguing that judgment for plaintiff will "restrict Indiana's ability to maintain accurate and current registration lists" and "undo the progress Indiana has made in recent years in bringing its list- maintenance programs into compliance with its NVRA obligations"].) Because PILF has no distinct rights of its own that might be foreclosed, it cannot meet this element.

C. PILF Has Not Established that Defendants Will Not Adequately Represent Its Purported Interests.

PILF also has not demonstrated that its purported interests are inadequately represented by Defendants. While the burden to demonstrate inadequate representation normally is not significant, there is a presumption here that Defendants will adequately represent PILF's interests because PILF and Defendants have the same object in this litigation. PILF has not carried its burden of overcoming this presumption.

A "presumption [exists] that the representation in the suit is adequate" when a prospective intervenor and a named party have the same goal. *Wis. Educ. Ass'n Council*, 705 F.3d at 659 (quoting *Shea v. Angulo*, 19 F.3d 343, 347 (7th Cir. 1994)); *see also Solid Waste Agency v. U.S. Army Corps of Eng'rs*, 101 F.3d 503, 508 (7th Cir. 1996) ("Where the interests of the original party and of the intervenor are identical—where in other words there is no conflict of interest—adequacy of representation is presumed."). To successfully rebut that presumption,

PILF "must demonstrate, at the very least, that some conflict exists." *Meridian Homes Corp. v. Nicholas W. Prassas & Co.*, 683 F.2d 201, 205 (7th Cir. 1982) (denying motion to intervene as of right where prospective intervenor and state shared same goal of protecting statute against constitutional challenge); *see also Solid Waste Agency*, 101 F.3d at 508 (prospective intervenors had same primary goal as government—to "defeat [the plaintiff's] effort to invalidate" the government's action).

PILF freely admits that it shares the same goal as Defendants—a ruling that SEA 442 is compliant with the NVRA—but PILF fails to identify a conflict that would render Defendants' representation inadequate. Instead, PILF merely speculates in confusingly vague terms that it may have a different litigation strategy or may raise different arguments than Defendants:

- "Most of all, [PILF's] arguments are different in that they explain how Plaintiff's [*sic*] provide an incorrect interpretation of the list-maintenance provisions of the NVRA, within the context of other litigation exploring this question and the broader implications of Plaintiff's interpretation." (PILF Mem. 7);

- "Accordingly, Defendants will undoubtedly not make all of [PILF's] arguments. Nor are they capable and willing to make such arguments." (*Id.* at 8);

- "In particular, [PILF] will argue that Plaintiff's challenge to Indiana's list-maintenance procedures is flawed for several reasons unlikely to be echoed by the Defendants." (*Id.*)

- "Also, [PILF] will provide factual arguments regarding assertions in the Complaint which Defendants are unlikely to provide." (*Id.*); and

- "It is extremely unlikely that the Defendants will press arguments regarding the implications of Plaintiff's theories and interpretation of the NVRA's list-maintenance standard. As a result, [PILF] will offer a critically important position for the Court to consider that the other parties will not." (*Id.*)

The problem with PILF's position is twofold. First, PILF does not say what its arguments would be, other than assuring the Court that they will be different (most likely) than Defendants'. PILF's only semi-detailed assertion is that Defendants are "unlikely to fully reveal the extent of prior failures to conduct list maintenance and the reasonableness of legislative

changes to correct that failure." (PILF Mem. 8.) But Defendants are vigorously defending SEA 442—a law recently passed by their administration—and one need not look far to find Defendants making this same argument. In a two-page statement submitted to Congress last month, Defendant Lawson makes the exact same points:

- Indiana counties are "forced to spend more money" due to "bloated voter rolls,"
- "Allowing invalid registrations to remain on the rolls distorts the reality of actual voter participation and turnout,"
- "Voter List Maintenance also boosts voter confidence in our election system,"
- Indiana's legislative efforts have resulted in the cancellation of 481,235 voter registrations since 2014;
- In "Indiana, activists groups are suing to keep maintenance from being done."

(*See* Exhibit 3.)

The second and more fundamental problem with PILF's position is that the "failure of a party to raise a particular legal argument favored by the prospective intervenor" is insufficient to establish inadequate representation. *Verizon New England v. Maine Pub. Utilies Comm'n*, 229 F.R.D. 335, 338 (D. Me. 2005) (citing *Daggett v. Comm'n on Governmental Ethics & Election Practices*, 172 F.3d 104, 113 (1st Cir. 1999). PILF's superficial nitpicking of Defendants' largely boiler-plate answer in another case, and speculation about whether or why Defendants are "not capable and willing" to make some unspecified arguments, falls woefully shy of "provid[ing] the conflict of interest necessary to render [Defendants'] representation inadequate." *Wis. Educ. Ass'n Council*, 705 F.3d at 659.

In *Solid Waste Agency*, for example, the court acknowledged that the government likely had "additional interests" not shared by the prospective intervenors, but held that "diversity of . . . interests" was not enough to establish that the prospective intervenors were not adequately

represented. 101 F.3d at 508. Here, Defendants and PILF have the exact same goal—to obtain a declaration that SEA 442 complies with the NVRA. PILF's vague guesswork about what Defendants' underlying objectives might be, or what arguments Defendants are "likely" to make, is insufficient to overcome the presumption that Defendants are adequately representing PILF's interest. Defendants and PILF espouse the same positions, and even use the same rhetoric. There is no conflict between them.

Nor does it matter that PILF has, in its view, an "enlightened" understanding of election law "gained from litigation elsewhere involving the same statute." (PILF Mem. 8.) The Seventh Circuit rejected an identical argument in *Keith v. Daley*, where—like here—the defendants were the government officials charged with enforcing the state law at issue. *Daley*, 764 F.2d at 1270. Like PILF, the proposed intervenors in *Daley* argued that the government defendants could "not match the conviction and thorough knowledge of the subject area held by the proposed intervenors." *Id.* The Court held that this subjective assessment was not the test for intervention, and that nothing in the record overcame the presumption that the defendants were adequately defending the suit. *Id.* at 1269.

Neither PILF's speculation that it might make different (unspecified) arguments than Defendants, nor PILF's opinion that it understands election law better than the Indiana officials charged with ensuring Indiana's compliance with the NVRA, is sufficient to overcome the presumption that Defendants will adequately represent its interests in upholding SEA 442. Thus, PILF's request to intervene of right must also be denied for its failure to meet this requirement.

IV. THE COURT SHOULD DENY PERMISSIVE INTERVENTION

The Court likewise should deny PILF's request for permissive intervention under Rule 24(b).

Permissive intervention is wholly discretionary. *Daley*, 764 F.2d at 1272. Nothing in PILF's request warrants the Court's exercise of discretion to allow permissive intervention, particularly because it would cause delay and prejudice to the existing parties. *See id.* at 1272 (affirming district court's decision to deny permissive intervention "in order to 'avoid any possible undue delay or prejudice to the parties'").

Permissive intervention should be denied here for the reasons stated above. PILF's proposed defense of this action is ***identical*** to Defendants': as stated in its Proposed Answer, PILF intends to argue: (1) an Indiana voter's purported registration in another state amounts to that voter's confirmation "in writing that the registrant has changed residence" outside of Indiana; and (2) that the NVRA does not require Indiana to use a notice-and-mailing procedure for removing registrants under SEA 442. (*See* PILF's Proposed Answer 14-15, ECF No. 11-1.) That is ***exactly*** what Defendants have asserted in defense to Plaintiff's claims. (*See* Letter from Jerold A. Bonnet, General Counsel, Office of the Ind. Secretary of State, to Pls.' Counsel (June 13, 2017), ECF No. 1-1 at 4.)

PILF misleadingly cites to two cases involving election laws in which "organizations with a 'special interest in the administration of election laws' were granted leave to intervene permissively," but these two cases only highlight what little interest PILF has in joining this lawsuit as a party. (PILF Mem. 10.) In one suit (*Kobach v. U.S. Election Assistance Comm'n*), intervenors were groups that developed, funded, and conducted voter registration drives in the underrepresented communities affected by the lawsuit, a job that would have been made much more difficult and expensive if the plaintiff in that case prevailed, No. 13-CV-4095-EFM-DJW, 2013 WL 6511874, at *2 (D. Kan. Dec. 12, 2013); in the other suit, *Florida v. United States*, intervenors included registered Florida voters, Florida election officials, and groups who help

citizens register to vote and provide other voter assistance, all of whom were directly affected by the changes to the state election procedures at issue. 820 F. Supp. 2d 85, 87 (D.D.C. 2011).

Here, by contrast, PILF is not a voter, does not participate in voter registration drives, and does not (because it cannot) claim any real, tangible, and particularized effect on itself or its programs and activities from SEA 442 or a challenge to it. PILF's academic interest in the "constitutional arrangement whereby states are able to structure their own election systems," (PILF Mem. 10), and its desire to expound "on the broader jurisprudential implications of Plaintiff's challenge and its ramifications on the federalism balance of power, (*id.* at 8), are best suited for an *amicus curiae* submission. *See NBD Bank, N.A. v. Bennett*, 159 F.R.D. 505, 508 (S.D. Ind. 1994) ("When a nonparty presents no new questions, it 'can contribute usually most effectively and always most expeditiously by a brief *amicus curiae* and not by intervention."); *United States v. Florida*, No. 4:12-cv-285, slip op. at 6 (stating that court's denial of intervention to groups raising similar interests to the ones asserted by PILF here "does not mean that these proposed intervenors cannot be fully heard on the issues that this case presents. Any of these proposed intervenors will ordinarily be granted leave to file a legal memorandum as *amicus curiae* on legal issues that arise as the case progresses.")

The Court thus should deny permissive intervention, especially because adding a defendant like PILF—which shares the same objective as the existing defendants—will unnecessarily waste judicial resources by increasing the amount of discovery and court filings. *See Wisconsin Right to Life Political Action Comm. v. Brennan*, No. 09-CV-764-VIS, 2010 WL 933809, at *4 (W.D. Wis. Mar. 11, 2010) (denying permissive intervention to proposed intervenors who asserted only "generalized, public policy interests" in support of the challenged

law because "adding them as defendants makes this case unnecessarily more complicated and increases the likelihood of delay" and they "can adequately present their position as *amici*".)

V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court deny PILF's request to intervene in this action.

Dated: November 30, 2017

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the Court's filing system. Parties may access this filing through the Court's system.

/s/ Mendy Graves