

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

POTTER COUNTY REPUBLICAN PARTY,
DANIEL ROGERS,

Plaintiffs,

v.

CHRISTY BENGGE, in her official capacity as the
POTTER COUNTY ELECTIONS
ADMINISTRATOR, and as proposed
representative of a defendant class of similarly
situated Texas county election officials,

Defendants,

Case No. 2:26-cv-00215-Z

**BRIEF IN SUPPORT OF MOTION TO INTERVENE BY PROPOSED INTERVENOR-
DEFENDANTS NAACP TEXAS STATE CONFERENCE, LEAGUE OF WOMEN
VOTERS OF TEXAS, MOVE TEXAS CIVIC FUND, AND COMMON CAUSE**

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INTRODUCTION AND BACKGROUND

Proposed Intervenor-Defendants (“Proposed Intervenors”) NAACP Texas State Conference, League of Women Voters of Texas, MOVE Texas Civic Fund, and Common Cause move to intervene as Defendants to protect significant interests not adequately represented by existing parties. Proposed Intervenors are civil rights groups with, collectively, tens of thousands of members who are Texas voters participating or working in the 2026 General Election. Proposed Intervenors are dedicated to eliminating barriers to voting and increasing civic engagement among their members, particularly for Black voters and other voters of color. Accordingly, Proposed Intervenors, on their own behalf and on behalf of their members, have a direct interest in the proper administration and certification of Texas’ federal election results that are not otherwise adequately represented in this action: ensuring that all lawfully cast votes are counted as required by law, especially for voters who are members of groups that have long faced barriers to casting ballots and having them counted. As such, Defendant-Intervenor Organizations seek intervention under Federal Rule of Civil Procedure (“Rule”) 24(a)(2), to intervene as of right as Defendants in this matter, or in the alternative, for permissive intervention under Rule 24(b).

Plaintiffs sued on October 27, 2026—exactly one week before Election Day and eight days after early voting began. They assert a single claim: that their constitutional right to vote will be violated if Texas election officials canvass and certify results for federal elections based on vote tabulations produced by machines that some Texas counties, and countless other jurisdictions across the country, have used without fault for years. Compl. ¶ 53. They request sweeping relief that would upend countless provisions of Texas’s election code: an order from this Court mandating a hand count of paper ballots across all Texas counties, the results of which the Court itself must confirm, before certification of the U.S. Senate race can proceed. *Id.* ¶¶ B–F. Plaintiffs’ eleventh-hour suit attempts to rewrite core provisions of the Texas Election Code and destabilize

the orderly administration of a statewide federal election without legitimate cause: Plaintiffs fail to allege *any* improper tabulations by these or similar electronic voting machines, either in this election cycle or indeed in Texas election history.

Proposed Intervenor the NAACP Texas State Conference (Texas NAACP) is a subsidiary organization of the National Association for Advancement of Colored People (NAACP), a national, non-partisan civil rights organization. App. 4. Texas NAACP is a nonpartisan organization that is not affiliated with any candidate. *See id.* at 6. Texas NAACP has more than 100 branches and chapters and more than 10,000 active members in the state. *Id.* at 5. Core to its mission of advancing political equality, Texas NAACP engages in a range of civic engagement activities, including voter education, registration, and mobilization. *Id.* at 4–5. In addition, Texas NAACP encourages members to serve as election workers, election judges, early voting ballot board members and poll watchers. *Id.* at 6–7. Many members, including those living in Potter County, have voted already in this election or plan to vote on November 3, 2026. *Id.* at 5. Some Texas NAACP members also serve as election workers and members of early voting ballot boards charged with tabulation duties. *Id.* at 6–7, 12.

A mandatory hand count would burden both Texas NAACP and its members who have voted or will vote in this election. The organization already has undertaken educational and outreach efforts to recruit election workers and early voting ballot board members. *Id.* at 7. A change at the eleventh hour would require the Texas NAACP to spend significant time and resources educating counties and its members about changes in the tabulation and certification process and responding to members questions and concerns in addition to last-minute recruitment of election workers to undertake a burdensome hand count. *Id.* at 7–8. For members who are early voting ballot board members charged and trained to carry out certain tabulation and certification

duties, these last-minute changes present significant burdens for their ability to carry out their work. *Id.* at 7–8, 12. All voters, including Texas NAACP members, rely on timely tabulation and certification to effectuate their vote. *Id.* at 7, 12. In addition to creating a diversion of resources by undermining Texas NAACP’s mission and business activities, widespread delays to this process would undermine members’ confidence in the election process. *Id.* at 7, 12.

Proposed Intervenor the League of Women Voters of Texas (LWVTX) is a nonpartisan, nonprofit, grassroots civic organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. *Id.* at 15. LWVTX’s mission is to empower voters and defend democracy. *Id.* LWVTX members pay annual dues and participate in LWVTX’s election-related programs, such as registering people to vote, participating in get out the vote events, canvassing or “doorknocking,” and assisting individual voters. *Id.* at 16. Many LWVTX members, including members in Potter County, are also longtime, regular voters. *Id.* at 17. They value secure, reliable elections, and the assurance that when they vote, their vote will be accurately counted. *Id.* at 18.

LWVTX also undertakes a number of activities related to recruiting poll workers and other temporary-workers for elections; indeed some LWVTX members have worked as poll workers in the 2026 election. *Id.* at 16. And most recently, LWVTX helped address the unexpected backlog of voter registrations various Texas counties needed to process on short notice: LWVTX members helped recruit temporary-workers to aid in such processing and reached out to county election officials to understand what other resources would be needed for the effort. *Id.*

Granting Plaintiffs’ request for a mandatory hand count of all ballots would affect LWVTX in myriad ways. Their members fear that such a never-before-attempted, large-scale hand count

would be a cumbersome and protracted process that risks an inaccurate count of their ballots. *Id.* at 17. The hand count would also harm LWVTX's mission. *Id.* at 18. The need to recruit a multitude of temporary-workers to assist counties with the hand count, in such a short period of time, would require LWVTX to expend a significant amount of money and resources. *Id.* at 18. LWVTX would also need to spend time fielding questions from their members and the public about the reliability of this dramatic, last-minute change to elections procedures and resources on developing education resources to assuage inevitable concerns and counteract disinformation about the election that a hand count of this scale would generate. *Id.* LWVTX has already received questions from some members about Plaintiffs' request for relief. *Id.*

Proposed Intervenor MOVE Texas Civic Fund (MOVE) is a non-partisan, nonprofit membership organization dedicated to building the power of young people in underrepresented communities through civic engagement, leadership development, and issues advocacy with respect to democracy in Texas and beyond. *Id.* at 21. MOVE has over 150 members throughout Texas, some of whom regularly vote and will vote in the upcoming November 3, 2026 election, including in counties with county elections administrators. *Id.* at 22. MOVE members fear that the last-minute introduction of a chaotic, unexpected hand count threatens the timely, accurate count of their votes. *Id.* And as an organization, MOVE is concerned that a hand count and certification delay would reduce voter confidence and turnout amongst its members, who are primarily young, often first-time voters that are already confused about the elections process. *Id.*

To fulfill its mission, MOVE regularly registers and mobilizes voters and recruits and trains poll workers. *Id.* at 21. This year, MOVE helped recruit poll workers for the November elections by paying for digital advertisements and conducting outreach at in-person events, and it distributed online training materials to poll workers. *Id.* at 22. A court order requiring a statewide hand count

of all ballots cast would harm MOVE's ability to pursue its mission because, like LWVTX, MOVE would need to devote significant resources to helping recruit temporary workers to staff the counting efforts and to developing and distributing training materials for those workers specific to the hand count effort. *Id.* at 23. MOVE would also spend resources educating its members and the public about the new hand count and certification process to counteract the harm to voter confidence Plaintiffs' requested relief would cause. *Id.* In these ways, responding to Plaintiffs' requests for relief would require a diversion of MOVE's resources, negatively affecting its usual and planned activities to pursue its mission. *Id.* at 24.

Proposed Intervenor Common Cause is a nonprofit, nonpartisan membership organization committed to, *inter alia*, ensuring that all Texas eligible voters can register and cast their ballots. *Id.* at 27–28. Common Cause has over 42,000 members in Texas, most of whom are registered voters. *Id.* at 27. Some of these members would lose confidence in the timely administration of Texas's elections if Plaintiffs' requests for a hand count are granted, and they would question whether their votes would ultimately be counted. *Id.* at 28. Common Cause has an interest in protecting its members from such uncertainty.

Common Cause's organizational mission would also be impacted by Plaintiffs' requested relief. Common Cause seeks to prevent conduct that could chill participation in the election process, and the drastic, last-minute change to Texas's election process Plaintiffs seek would undermine the success of these Common Cause programs. *Id.* Common Cause staff would have to expend resources to solicit volunteers to monitor the hand count and provide trainings to its members and partners on how the hand count will work and how it will impact their votes. *Id.* Engaging in such extensive, last-minute efforts would directly compromise Common Cause's core work and mission. *Id.*

Proposed Intervenorors satisfy each requirement for intervention as a matter of right under Rule 24(a)(2), and the Court should grant the motion to intervene. Alternatively, the motion should be granted on a permissive basis under Rule 24(b)(1).

ARGUMENT

I. PROPOSED INTERVENORS ARE ENTITLED TO INTERVENE AS OF RIGHT UNDER RULE 24(A)(2).

Proposed Intervenorors are entitled to intervene as of right. “Although the movant bears the burden of establishing its right to intervene, Rule 24 is to be liberally construed,” *Brumfield v. Dodd*, 749 F.3d 339, 341 (5th Cir. 2014), “with doubts resolved in favor of the proposed intervenor,” *Energy Gulf States La., L.L.C. v. EPA*, 817 F.3d 198, 203 (5th Cir. 2016) (internal quotation marks omitted). Pursuant to Rule 24(a)(2), a non-party is entitled to intervention if (1) the application is timely; (2) the applicant has an interest relating to the property or transaction that is the subject of the action; (3) the applicant is so situated that the disposition of the action may, as a practical matter, impair or impede its ability to protect its interest; and (4) the applicant’s interest is inadequately represented by the existing parties to the suit. *Sierra Club v. Espy*, 18 F.3d 1202, 1204–05 (5th Cir. 1994). “Federal courts should allow intervention ‘where no one would be hurt and greater justice could be attained.’” *Id.* at 1205 (quoting *McDonald v. E.J. Lavino Co.*, 430 F.2d 1065, 1074 (5th Cir. 1970)).

Proposed Intervenorors meet each of these requirements.

A. The Motion Is Timely.

Courts consider four factors when examining the timeliness of a motion to intervene. These are (1) the length of time during which the would-be intervenor actually knew or reasonably should have known of its interest in the case before it petitioned for leave to intervene; (2) the extent of the prejudice that the existing parties to the litigation may suffer as a result of the would-be

intervenor's failure to apply for intervention as soon as it knew or reasonably should have known of its interest in the case; (3) the extent of the prejudice that the would-be intervenor may suffer if intervention is denied; and (4) the existence of unusual circumstances militating either for or against a determination that the application is timely. *Sierra Club*, 18 F.3d at 1205 (citing *Stallworth v. Monsanto Co.*, 558 F.2d 257, 264–66 (5th Cir. 1977)).

Each of the timeliness factors favors Proposed Intervenors. *First*, Proposed Intervenors have not delayed their filing—they learned of this litigation shortly after its filing and are submitting this motion just four days after the case was filed, during the pleading stage, and before the defendant has made an appearance. *See, e.g., Swoboda v. Manders*, 665 F. App'x 312, 314 (5th Cir. 2016) (motion to intervene timely when filed 45 days after learning that original parties would not protect movant's interests and 625 days after complaint was filed); *Edwards v. City of Houston*, 78 F.3d 983, 1000 (5th Cir. 1996) (motion to intervene filed after “only 37 and 47 days . . . [was] not unreasonable”); *Sierra Club*, 18 F.3d at 1206 (motion to intervene filed two months after movants became aware that Forest Service would not protect their interests considered timely); *Labrew v. A&K Truckline, Inc.*, No. 2:23-CV-079-Z-BR, 2023WL 7420203, at *4 (N.D. Tex. Nov. 9, 2023) (intervention timely when “litigation has not progressed at all”); *La. State Conf. of the NAACP v. Louisiana*, No. CV 19-479-JWD-SDJ, 2022 WL 2663850, at *6 (M.D. La. July 11, 2022) (“The Fifth Circuit has found motions to intervene filed both close to and longer than two months were timely.”).

Second, intervention would not prejudice any existing party to the litigation because Proposed Intervenors filed the motion very shortly after initiation of this lawsuit. No scheduling order has been issued, no responsive pleadings or motions have been filed, and Defendant has not

made an appearance. *See Labrew*, 2023 WL 7420203, at *4 (no prejudice “when case is still in its infancy”). Intervention will thus not delay litigation proceedings.

Third, Proposed Intervenors will be prejudiced if they are unable to intervene and defend their interests, as discussed in detail below. *See Infra* Part I.C. Those interests include their members’ interests in avoiding the substantial delay in the counting of their votes and the inaccuracy a hand count could cause. Proposed Intervenors’ organizational interests in the resources they would need to expend to account for Plaintiffs’ last-gasp effort to drastically change Texas’s canvass and certification procedures.

Fourth, there are no unusual circumstances in this matter that bear on timeliness of intervention. Proposed Intervenors’ motion is therefore timely.

B. Proposed Intervenors Have Substantial Legal Interests Supporting Intervention.

A party is entitled to intervene as of right under Rule 24(a) if their interest in the subject matter of the litigation is “direct, substantial, [and] legally protectable.” *Sierra Club*, 18 F.3d at 1207 (quoting *Piambino v. Bailey*, 610 F.2d 1306, 1321 (5th Cir. 1980) (citations omitted)). “[A]n interest is sufficient if it is of the type that the law deems worthy of protection, even if the intervenor does not have an enforceable legal entitlement or would not have standing to pursue her own claim.” *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 305 (5th Cir. 2022) (quoting *Texas v. United States*, 805 F.3d 653, 659 (5th Cir. 2015)). Courts judge the intervenor’s interest “by a more lenient standard if the case involves a public interest question or is brought by a public interest group.” *Brumfield*, 749 F.3d at 344.¹

¹ Defendant-Intervenors need not establish Article III standing if they do not seek relief, through a counter-claim, cross-claim, or any other claim for relief, that is not sought by existing parties. *See Town of Chester, N.Y. v. Laroe Ests., Inc.*, 581 U.S. 433, 435 (2017) (intervenor must establish standing if they wish to “pursue relief” different from existing parties); *Texas v. U.S. Dep’t of the*

Proposed Intervenorors are all “public interest group[s]” with at least two significant interests at stake in this litigation that raise “public interest question[s],” *Brumfield*, 749 F.3d at 344. First, Proposed Intervenorors have an interest in ensuring the votes of their members, and of all Texans, are accurately and fairly counted across the state. Their members have an interest in securing their own confidence in the tabulation and certification process. Second, the chaos that Plaintiffs’ proposed remedy would inevitably inject at this late hour into the canvass and certification process would imperil Proposed Intervenorors’ core organizational missions and business activities.

As to Proposed Intervenorors’ members, the relief sought jeopardizes an accurate and timely tabulation of their votes in accordance with state law. *See generally League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 434 (5th Cir. 2011). As Proposed Intervenorors explain more in their concurrently filed motion to dismiss, contrary to Plaintiffs’ entirely conjectural fears about inaccuracies that have never materialized despite the use of the offending machines for years, there are real, empirical concerns about counties’ ability to suddenly conduct an accurate manual hand count while ensuring timely certification. With some of Proposed Intervenorors members participating in this tabulation and certification process on early voting ballot boards, *see* App. at 6, 12, these last-minute changes would be particularly onerous as their members imminently execute their duties.

This action also directly implicates Proposed Intervenorors’ interests in carrying out their core missions and business activities. Courts routinely find that organizations, including public

Interior, 2023 WL 11759736, at *2 (W.D. Tex. Aug. 29, 2023) (certain intervenor-defendants—those who do not raise counterclaim, cross-claim, or any other claim for relief—need not establish Article III standing to successfully intervene); *Franciscan All., Inc. v. Azar*, 414 F. Supp. 3d 928, 938 n.3 (N.D. Tex. 2019) (relying on *Town of Chester* and holding defendant intervenors do not “seek relief” and therefore need not demonstrate standing, in part because “‘relief’ is linked to affirmative claims, not defenses”).

interest organizations like Proposed Intervenors, should be granted intervention in voting cases when they demonstrate harm to their core missions and activities. *See, e.g., La Union*, 29 F.4th at 306 (Republican Party committees satisfied interest requirement under Rule 24(a) because they expend resources to recruit and train volunteers and poll watchers, whose conduct is regulated by challenged law); *Kobach v U.S. Election Assistance Comm’n*, No. 13-4095, 2013 WL 6511874, at *4 (D. Kan. Dec. 12, 2013) (advocacy groups allowed to intervene where organizational interests broadly articulated as “either increasing participation in the democratic process, or protecting voting rights, or both, particularly amongst minority and underprivileged communities”); *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 798–802 (E.D. Mich. 2020); *Issa v. Newsom*, No. 20-01055, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (civil rights organizations permitted to intervene on grounds that if plaintiffs won, then proposed intervenors would “have to devote their limited resources to educating their members on California’s current voting-by-mail system and assisting those members with the preparation of applications to vote by mail”).

Proposed Intervenors engage in various activities geared towards ensuring voter confidence in, and protecting the fairness of, the election process that would be significantly disrupted if Plaintiffs realize their goals in this litigation. A hand count of the scale that Plaintiffs demand—potentially more than 10 million ballots statewide—would leave election officials with no time to train the new temporary staff that would undoubtedly be needed to carry out such an effort. As they have done for poll workers in the past, LWVTX and MOVE will have to expend considerable time and resources developing trainings for these new temporary workers and conducting outreach to members and other county residents to encourage them to volunteer. App. at 18–19, 23. The Texas NAACP would similarly dedicate significant time to recruiting last-minute election workers for the hand count, as they have done for earlier parts of this election

cycle. *Id.* at 7–8. And all Proposed Intervenors would have to direct significant resources to fielding member questions about the hand-count, assuaging the public’s concerns, and combatting disinformation that would inevitably arise from Plaintiffs’ eleventh-hour attempt to reconstitute Texas’s canvass and certification processes wholesale. *Id.* at 6, 13, 18, 23, 28.

Between their members’ justifiable concerns and Proposed Intervenors’ interests in their organizational resources, Proposed Intervenors have multiple, significant protectible interests in intervention.

C. The Interests of Proposed Intervenors and Their Members Will Be Impaired If They Are Not Permitted to Intervene.

“The third requirement of [R]ule 24(a) is that the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect his interest.” *Sierra Club*, 18 F.3d at 1207 (5th Cir. 1994). Importantly, proposed intervenors need not “establish that their interests *will* be impaired.” *Brumfield*, 749 F.3d at 344. Proposed intervenors “need only show that if they cannot intervene, there is a possibility that their interest could be impaired or impeded.” *La Union*, 29 F.4th at 307. “It would indeed be a questionable rule that would require prospective intervenors to wait on the sidelines until after a court has already decided enough issues contrary to their interests. The very purpose of intervention is to allow interested parties to air their views so that a court may consider them before making potentially adverse decisions.” *Brumfield*, 749 F.3d at 344-45; *see also Mausolf v. Babbitt*, 85 F.3d 1295, 1303 (8th Cir. 1996) (“Usually, Rule 24(a)’s third criterion is easy to satisfy”).

As discussed in detail above, Proposed Intervenors’ interests and those of their members may be impaired if denied intervention. *See supra* Section I.B; *see also Ind. State Conf. of the NAACP v. Lawson*, 326 F. Supp. 3d 646, 650 (S.D. Ind. 2018), *aff’d sub nom, Common Cause Ind. v. Lawson*, 937 F.3d 944 (7th Cir. 2019) (“Historically. . . throughout the country, voter registration

and election practices have interfered with the ability of minority, low-income, and other traditionally disenfranchised communities to participate in democracy.”). If this Court were to grant some or all of Plaintiffs’ requested relief, Proposed Intervenor’s members and the constituents they serve would reasonably fear the denial of their rights to vote through inaccurate vote counts. *See supra* Section I.B. And Proposed Intervenor’s core missions and organizational interests would also be directly impaired by such a judgment, for it would force them to quickly engage in efforts to ensure their members, and all Texas voters, can remain confident that the election will conclude in a fair, reliable manner. *See supra* Section I.B.

D. Proposed Intervenor’s Interests Are Not Adequately Protected by the Proposed Defendant-Class.

Finally, the existing parties in this litigation do not adequately protect the interests of Proposed Intervenor. For the inadequacy-of-representation requirement, a proposed intervenor “need not show that the representation by existing parties will be, for certain, inadequate,” *Texas*, 805 F.3d at 661 (citation omitted), but only that it *may* be inadequate, *see id.* (quoting *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)). Although proposed intervenors must demonstrate potential inadequate representation, that burden is “minimal.” *Edwards*, 78 F.3d at 1005. And mere similarity of interests between the existing parties is “normally not enough” to support adequate representation which would defeat intervention as of right. *Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 196–97 (2022) (internal citations omitted).

Thus, while the Fifth Circuit recognizes certain “presumptions of adequate representation,” *Brumfield*, 749 F.3d at 345, such as where the existing defendant is “a governmental body or officer charged by law with representing the interests of the [intervenor],” *Texas*, 805 F.3d at 661–62 (citation omitted), this presumption can be and is often overcome when the interests or objectives of the proposed intervenor “diverge from the putative representative’s interests in a

manner germane to the case,” *La Union*, 29 F.4th at 308 (quoting *Edwards*, 78 F.3d at 662); *accord Texas*, 805 F.3d at 661–62 (citation omitted).

Here, Proposed Intervenor’s interests are different from the proposed Defendant-class as government entities. Even assuming that Defendants are generally interested in defending against Plaintiffs’ claims, they may have different reasons for taking the positions that they do. As elected and appointed officials, Defendants’ “interests and interpretation” of Texas election law “may not be aligned and [their] reasons for seeking dismissal” may very well be different from those of Proposed Intervenor. *See, e.g., Bellitto v. Snipes*, No. 16-CV-61474, 2016 WL 5118568, at *2 (S.D. Fla. Sept. 21, 2016); *La Union*, 29 F.4th at 308 (interests of intervenors diverged from that of State where State preferred not to resolve case on merits at all but dismiss on sovereign immunity grounds while intervenors wished to defend constitutionality of statutes).

As statewide organizations, Proposed Intervenor also have a strong interest in ensuring each of their members, and all Texas voters, are subject to the same ballot counting procedures, regardless of the Texas county in which they reside. *See Bush v. Gore*, 531 U.S. 98, 107 (2000) (finding the Florida State Supreme Court violated the Fourteenth Amendment’s Equal Protection Clause by “ratif[ying] . . . uneven treatment,” of voters’ ballots). But members of the proposed Defendant-class have responsibilities related to the administration of elections and incentives as elected officials specific only to the county they each oversee. *Cf. Meek v. Metro. Dade Cnty., Fla.*, 985 F.2d 1471, 1478 (11th Cir. 1993) (“The intervenors sought to advance their own interests in achieving the greatest possible participation in the political process. Dade County, on the other hand, was required to balance a range of interests likely to diverge from those of the intervenors.”), *abrogated on other grounds, Dillard v. Chilton Cnty. Comm’n*, 495 F.3d 1324 (11th Cir. 2007). Plaintiffs’ lawsuit, if successful, will subject a large swath of voters to an inevitably

unreliable, never-before-seen hand count regime while allowing other voters' ballots to proceed through the tried and trusted electronic machine tabulation systems Texas has used for years. That is because Plaintiffs' proposed Defendant-class only includes county elections administrators, Compl. ¶ 42, and many Texas counties rely on county clerks or county tax assessor-collectors, not county elections administrators, to carry out elections duties. *See* Tex. Elec. Code §§ 31.031(a), 31.043, 31.071(a). As statewide organizations, Proposed Intervenors have a vested interest in the vote-counting procedures in *all* Texas counties, and in particular are deeply concerned about how the proposed relief in this case would create non-uniform vote-counting practices in different counties across the State. County election administrators, by contrast, cannot be expected to adequately represent that statewide interest, because each county official by definition is tasked with representing the interests of their county alone.

Moreover, while not specifically in Potter County, Proposed Intervenors have often sued election officials in Texas for violations of voting laws. *See, e.g., Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193 (2012) (Texas NAACP intervening in case concerning Texas utility district seeking "bailout" under the Voting Rights Act (VRA)) *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016) (en banc) (Texas voter ID law violated Section 2 of the VRA); *Tex. League of United Latin Am. Citizens v. Abbott*, 493 F. Supp. 3d 548 (W.D. Tex. 2020) (challenge brought by LWVTX and others against state proclamation prohibiting counties from providing absentee voters the benefit of returning ballots to multiple drop box locations in person). These lawsuits show that Proposed Intervenors have frequently held opposing policy and litigation positions on core election administration and voting access issues to state and local election officials in Texas.

As such, Proposed Intervenor’s interests sufficiently diverge from the existing parties to satisfy Rule 24(a)(2). Because they meet every requirement of Rule 24(a)(2), the Court should grant Proposed Intervenor’s motion to intervene as of right.

II. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE INTERVENTION.

If the Court determines that Proposed Intervenor’s are not entitled to intervene as a matter of right, the Court should exercise its broad discretion to grant permissive intervention. “Permissive intervention under Rule 24(b) ‘is wholly discretionary with the [district] court . . . even though there is a common question of law or fact, or the requirements of Rule 24(b) are otherwise satisfied.’” *DeOtte v. Azar*, 332 F.R.D. 173, 178 (N.D. Tex. 2019) (quoting *Kneeland v. Nat’l Collegiate Athletic Ass’n*, 806 F.2d 1285, 1289 (5th Cir. 1987)).

Intervention under Rule 24(b) is appropriate 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.” *Id.* (citation omitted).

Proposed Intervenor’s satisfy these factors. As explained above, Proposed Intervenor’s motion is timely, and granting the motion at this early stage of the case will not delay or prejudice the adjudication of the original parties’ rights. *Supra* Section I.A. By contrast, refusing to permit intervention will deprive Proposed Intervenor’s of the chance to defend their significant and protectable interests in the litigation. *See Supra* Sections I.B–C. *See Stallworth*, 558 F.2d at 269 (“‘interest’ prong of Rule 24(b)(2) should be given ‘liberal construction’”).

As explained above, Proposed Intervenor’s members are Texas voters whose rights are at risk if the relief sought is granted. Proposed Intervenor’s also have particular knowledge about the risks to voters associated with upending election rules mere weeks before a general election of

great national interest. Ensuring that the interests of these voters are advanced is a critical perspective that would serve the interests of the Court. Moreover, Proposed Intervenors stand to divert significant resources that they have already budgeted and scheduled for election preparations and other programming if Plaintiffs win some or all the relief they seek. Further, Proposed Intervenors would likewise have to divert resources from preparing for future elections to deal with the aftermath of the relief sought here. As such, Proposed Intervenors should be permitted to intervene to defend their interests and those of their members.

CONCLUSION

For the reasons stated above, the Court should grant Proposed Intervenors' Motion to Intervene.

Dated: October 31, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2026, the undersigned filed the document, Brief in Support of Motion to Intervene by Proposed Intervenor-Defendants NAACP Texas State Conference, League of Women Voters of Texas, MOVE Texas Civic Fund, and Common Cause, via this Court's electronic filing system (CM/ECF), which sent notice of such filing to all counsel of record.

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