

STATE OF INDIANA) LAKE CIRCUIT/SUPERIOR COURT
) SS.
COUNTY OF LAKE) _____ , INDIANA

LEAGUE OF WOMEN VOTERS OF)
INDIANA, INDIANA STATE)
CONFERENCE OF THE NATIONAL)
ASSOCIATION FOR THE)
ADVANCEMENT OF COLORED)
PEOPLE (NAACP), and JOSELYN)
WHITTICKER,)

 Plaintiffs)

 v.)

Cause No.)

CONNIE LAWSON, Secretary of)
State for the State of Indiana; J.)
BRADLEY KING, Co-Director,)
Indiana Election Division; and)
ANGELA M. NUSSMEYER, Co-)
Director, Indiana Election Division,)

 Defendants.)

COMPLAINT FOR DECLARATORY RELIEF

COME NOW the Plaintiffs, LEAGUE OF WOMEN VOTERS OF INDIANA, INDIANA STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP), and JOSELYN WHITTICKER, by counsel, Trent A. McCain of McCAIN LAW OFFICES, P.C., and for their cause of action against the Defendants, CONNIE LAWSON, Secretary of State for the State of Indiana; J. BRADLEY KING, Co-Director, Indiana Election Division; and ANGELA M. NUSSMEYER, Co-Director, Indiana Election Division, allege:

INTRODUCTION

1. This lawsuit seeks to prevent the Indiana Secretary of State from producing information from the state's computerized voter registration files to the Presidential Advisory Commission on Election Integrity (the "PACEI" or "Commission"), or any member or officer thereof, in a manner that does not comply with State law and that can harm millions of registered Indiana voters.

2. In the aftermath of his unsubstantiated claim that "millions of people . . . voted illegally" in the 2016 presidential election, President Donald Trump signed Executive Order No. 13,799, which established the Commission. The Commission's stated mission is to "study the registration and voting processes used in Federal elections," and to issue a report that addresses "those laws, rules, policies, activities, strategies, and practices" that either "enhance" or "undermine the American people's confidence in the integrity of the voting processes used in Federal elections," and "vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting." Exec. Order No. 13,799, 82 Fed. Reg. 22,389 (May 16, 2017).

3. On June 28, 2017, the Commission sent letters to all 50 states (and the District of Columbia), including Indiana, seeking a wide range of information pertaining to each state's voters, including name, address, demographic information, partial social security numbers, party affiliations, criminal felony convictions, registration and voting histories, and more. In doing so, the

Commission clearly stated that any information sent to it would become public. The Commission requested that Indiana and the other states respond by July 14, 2017.

4. The information sought by the Commission is not widely available in Indiana, but instead may be released only under certain limited circumstances and conditions imposed by Indiana's election laws. Ind. Code § 3-7-26.4-2. Access to the vast majority of the information contained in Indiana's computerized voter registration files is generally available only to a limited and enumerated set of individuals and entities, of which the Commission is not one. Ind. Code § 3-7-26.4-6. Other individuals and entities, like the Commission, seeking large-scale voter information are only permitted to access a small portion of the data contained in Indiana's computerized voter registration files. Ind. Code § 3-7-26.4-8.

5. Such individuals and entities may obtain the limited, redacted information from the voter files only after they execute a written agreement with the Election Division of the Secretary of State's Office ("Election Division") stating that they will not use the data in certain enumerated, proscribed ways. Ind. Code § 3-7-26.4-9. Specifically, the agreement between the Election Division and the requesting party "must state that the person receiving a compilation of information under this chapter may not: (1) use the compilation to solicit for the sale of merchandise, goods, services, or subscriptions; or (2) sell, loan, give away, or otherwise deliver the information obtained by the request to any other person . . . ; for a purpose other than political activities or political fundraising activities." Ind. Code § 3-7-26.4-10.

6. On June 30, 2017, Indiana Secretary of State Connie Lawson (the “Secretary of State” or “Secretary”)—who is also a member of the Commission—issued a public statement regarding the Commission’s request, stating:

Indiana law doesn’t permit the Secretary of State to provide the personal information requested by Secretary Kobach. Under Indiana public records laws, certain voter info is available to the public, the media and any other person who requested the information for non-commercial purposes. The information publicly available is name, address and congressional district assignment.

In doing so, she indicated that she will provide the Commission with the computerized voter file fields containing voters’ names, addresses, and congressional districts.

7. The Secretary’s provision of the data requested by the Commission, even if cabined to the three discrete categories of information described in her public statement, would undermine, and run afoul of, the State’s carefully-crafted limitations on the use of voter data.

8. First, based on the Secretary’s public statement—including her failure to mention the legal requirement for the Commission to first execute an agreement with the Election Division not to transmit the information “to any other person” and her inaccurate description of the information as “publicly available”—it appears that the Secretary intends to disclose information from the state’s computerized voter list without a prior executed agreement limiting further transmission or dissemination. Such disclosure would directly contravene the requirements of Ind. Code §§ 3-7-26.4-9 and 26.4-10.

9. Second, even if the Commission were to enter into an agreement with the Election Division stating it would not loan, give away, or otherwise deliver the information obtained by the request to any other person—and there is no indication that the Commission has done so or is willing to do so—the Commission’s stated intention of publishing otherwise private voter data would directly violate Indiana law and enable widespread abuse of that information to the detriment of Indiana citizens. Moreover, the Secretary’s provision of the data requested by the Commission—even with an executed agreement with the Election Division—would also directly violate Ind. Code § 3-14-6-1.1, which expressly prohibits a government official from granting a request for voter registration information with knowledge that the information will be used in a prohibited manner.

10. Providing the requested information to the Commission would make an end-run around Indiana’s important restrictions on any secondary dissemination of received voter information. Once the information requested by the Commission is made publicly available (which the Commission admits it will do), the genie cannot be put back in the bottle.

11. As a result, Plaintiffs request that the Court enter declaratory and injunctive relief preventing the Secretary of State from releasing the voter registration information sought by the Commission absent the execution of a written agreement and a guarantee that the information will not be further disseminated.

PARTIES

12. Plaintiff, the League of Women Voters of Indiana (the “League”), is a nonpartisan, nonprofit organization founded in 1920 and based in Indianapolis, Indiana. The vast majority of the approximately 1,100 members of the League are residents of Indiana who are registered to vote in Indiana and whose information is contained in Indiana’s Computerized Voter Registration List (the “Voter List”) which will be released by the Secretary of State to the Commission.

13. The League has standing to challenge the Secretary’s release of the Voter List on behalf of its members. The League has members who will be directly impacted and harmed by the release of the Voter List information to the Commission. The Voter List contains personal information regarding Indiana voters’ identities, which may be used to solicit, harass, or otherwise infringe upon the privacy of Indiana voters, including the League’s members.

14. The League also has standing to challenge the Secretary’s release of the Voter List on its own behalf. By producing information to the Commission—which has publicly stated it will make any documents that are submitted to the Commission available to the public—the Secretary will impair the privacy of the League’s members, including members that the League assisted in registering to vote. It will also make it substantially more difficult for the League to engage in voter-registration and get-out-the-vote activities, which they regularly perform in support of their civic-engagement mission. Voters and prospective voters will be more reluctant to participate in elections or register to vote in the future if they

understand that the Secretary is willing to provide information on the Voter List to entities who openly admit that they intend to make such information public. The public disclosure of such personal information will chill League members' as well as other voters' and prospective voters' exercise of First Amendment rights including the right to vote and freedom of association.

15. Last year, the League, through its twenty-one local chapters, conducted at least one hundred voter registration drives. The League also encouraged and assisted individuals in voting and conducted other activities to boost civic engagement, which has been essential to its mission since its founding. If the Secretary of State provides the Commission with the Voter List, some portion of the League's funds that would have gone to voter registration, get-out-the-vote, and civic engagement will be redirected to ameliorating the consequences of the Secretary's action. Furthermore, additional expenses may be incurred by the League as it responds to fallout from the release of Indianans' personal information, including (but not limited to) voter education efforts, political activism, and litigation. Thus, the League will be forced to divert time, money, and resources from their other activities in order to expend more time and attention educating and assisting Indiana citizens with regard to the protection (or, in this case, non-protection) of their personal information.

16. Plaintiff, the Indiana State Conference of the National Association for the Advancement of Colored People (the "NAACP"), is a nonpartisan, nonprofit organization chartered in 1940 and currently based in Gary, Indiana. The majority

of the approximately 5,000 members of the NAACP are residents of Indiana who are registered to vote in Indiana and whose information is contained in the Voter List which will be released by the Secretary of State to the Commission.

17. The NAACP has standing to challenge the Secretary's release of the Voter List on behalf of its members. The NAACP has members who will be directly impacted and harmed by the release of the Voter List information to the Commission. The Voter List contains personal information regarding Indiana voters' identities, which may be used to solicit, harass, or otherwise infringe upon the privacy of Indiana voters, including the NAACP's members.

18. The NAACP also has standing to challenge the Secretary's release of the Voter List on its own behalf. By producing information to the Commission—which has publicly stated it will make any documents that are submitted to the Commission available to the public—the Secretary will impair the privacy of the NAACP's members, including members that the NAACP assisted in registering to vote. It will also make it substantially more difficult for the NAACP to engage in voter-registration and get-out-the-vote activities, which they regularly perform in support of their civic-engagement mission. Voters and prospective voters will be more reluctant to participate in elections or register to vote in the future if they understand that the Secretary is willing to provide information on the Voter List to entities who openly admit that they intend to make such information public. The public disclosure of such personal information will chill NAACP members' as well as

other voters' and prospective voters' exercise of First Amendment rights including the right to vote and freedom of association.

19. Last year, the NAACP, through its more than twenty-five local branches and college chapters, conducted at least seventy-five voter registration drives. Following the voter registration deadline, the NAACP helped get voters to the polls, including by providing rides to voting locations. If the Secretary of State provides the Commission with the Voter List, some portion of the NAACP's funds that would have gone to voter registration, get-out-the-vote, and civic engagement will be redirected to ameliorating the consequences of the Secretary's action. Furthermore, additional expenses may be incurred by the NAACP as it responds to fallout from the release of Indianans' personal information, including (but not limited to) voter education efforts, political activism, and litigation. Thus, the NAACP will be forced to divert time, money, and resources from their other activities in order to expend more time and attention educating and assisting Indiana citizens with regard to the protection (or, in this case, non-protection) of their personal information.

20. Plaintiff, Joselyn Whitticker, is a resident of Marion, Indiana. She serves as president of the Marion NAACP branch in a volunteer capacity, and also volunteers at the Marion Senior Center. Ms. Whitticker is also a former member of the City Council in Marion. Ms. Whitticker is active in voter registration efforts, including registration of seniors. She is a registered voter and has consistently participated in Indiana elections. On information and belief, Ms. Whitticker's name

and information appears in Indiana's Voter List. As such, her personal information will be released by the Secretary of State to the Commission. The release of such personal information will infringe on Ms. Whitticker's privacy rights. Furthermore, the public disclosure of such personal information could expose Ms. Whitticker to intimidation or harassment for merely exercising her right to vote, and may chill her exercise of First Amendment rights including the right to vote and freedom of association. As a result, Ms. Whitticker has standing to bring this action individually.

21. Defendant Connie Lawson is the duly elected Secretary of State of Indiana. She is sued only in her official capacity, and not personally. As Secretary of State, the defendant has responsibilities over a number of areas, including oversight of elections and the maintenance of state records. *See About the Office, Indiana Secretary of State*, <http://www.in.gov/sos/2362.htm> (last visited July 11, 2017). With regard to elections, the defendant is Indiana's Chief Elections official and she oversees the Election Division which is responsible for maintaining and overseeing appropriate requests for access to the Voter List. Ind. Code §§ 3-7-26.3-3 and 26.3-4; *see* <http://www.in.gov/sos/2362.htm>. Defendant Lawson is also a member of the Presidential Commission on Election Integrity.

22. Defendant J. Bradley King is the Co-Director of the Indiana Election Division, appointed by the Governor of Indiana. He is sued only in his official capacity, and not personally. With regard to elections, the defendant jointly oversees the Election Division which is responsible for maintaining and overseeing

appropriate requests for access to the Voter List. Ind. Code §§ 3-7-26.3-3 and 26.3-4.

23. Defendant Angela M. Nussmeyer is the Co-Director of the Indiana Election Division, appointed by the Governor of Indiana. She is sued only in her official capacity, and not personally. With regard to elections, the defendant jointly oversees the Election Division which is responsible for maintaining and overseeing appropriate requests for access to the Voter List. Ind. Code §§ 3-7-26.3-3 and 26.3-4.

JURISDICTION AND VENUE

24. This Court has jurisdiction over this action and the requested relief sought under Ind. Code §§ 34-14-1-1, 34-26-1-3, and 34-26-1-5.

25. This Court has personal jurisdiction over the defendants, who are elected officials in Indiana. The defendants also work and reside in Indiana. On information and belief, the defendants' office is located at 200 W. Washington St., Room 201, Indianapolis, IN 46204.

26. Venue in this Court is proper under Ind. R. Trial P. 75 which provides that "[a]ny case may be venued, commenced and decided in any court in any county."

PLAINTIFFS' CLAIM

27. Plaintiffs reallege and incorporate all prior paragraphs of this Complaint.

The Commission and Its Request

28. The Presidential Advisory Commission on Election Integrity was established on May 11, 2017 by Executive Order ("Commission Order"). *See* Exec. Order. No. 13,799, 82 Fed. Reg. 22,389 (May 16, 2017).

29. Although the Commission has the stated task of “study[ing] the registration and voting processes used in Federal elections,” *see id.*, the Commission does not have any authority to subpoena records, to undertake investigations, or to demand the production of state voter records from state election officials, including in Indiana or anywhere else.

30. Nonetheless, on June 28, 2017, the Vice Chair of the Commission, Kansas Secretary of State Kris Kobach, sent a letter to all fifty states and the District of Columbia seeking detailed voter data from each jurisdiction. *See* Readout of the Vice President’s Call with the PACEI (“Vice Chair of the Commission and Kansas Secretary of State Kris Kobach told members a letter will be sent today to the 50 states and District of Columbia on behalf of the Commission requesting publicly-available data from state voter rolls and feedback on how to improve election integrity.”).

31. On information and belief, one of the Commission’s letters was sent to the defendant (the “Letter”). The Letter sought, *inter alia*, the following data from the Voter List:

[T]he full first and last names of all [Indiana voter] registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your state), last four digits of social security number if available, voter history (elections voted in) from 2006 onward,

active/inactive status, cancelled status, information regarding any felony convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information.

The Letter also asked the Secretary to provide “evidence or information . . . regarding instances of voter fraud or registration fraud” and information on in-state “convictions for election-related crimes . . . since the November 2000 federal election.”

32. The Letter stated that “any documents that are submitted to the full Commission will also be made available to the public.”

33. By the plain terms of the Letter, the Commission requested that the Secretary provide the aforementioned Indiana data by July 14, 2017.

34. On information and belief, in connection with a separate lawsuit filed on July 5, a federal officer sent an e-mail on July 10 to election officials on behalf of the Commission requesting a temporary hold on submitting data to the Commission. Plaintiffs are unaware of whether Defendants or any entity in Indiana received this e-mail.

Indiana’s Voter List and Distribution of Voter Data

35. Indiana requires citizens to register to vote in order to participate in state and federal elections within the state. Ind. Code § 3-7-13-1.

36. The Indiana voter registration form instructs prospective voters to provide at least the following information: name; gender; residence and postal address, any previous voter registration address, Indiana county of residence, citizenship; date of birth; telephone number; email address; previous name (if

applicable), driver's license number (if applicant possesses one) or last four digits of social security number (if no driver's license); date of application for registration; and proof of residence. The state's voter registration application can be located through a link on the Secretary's website. *See Voter Registration*, Indiana Secretary of State, <http://www.in.gov/sos/elections/2403.htm> (last visited July 11, 2017).

37. The Secretary, with the consent of the Co-Directors of the Election Division, is charged with implementing "in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration list." Ind. Code § 3-7-26.3-3.

38. Under Indiana and federal law "the computerized list must: (1) be defined, maintained, and administered at the state level; (2) contain the name and registration information of every voter in Indiana; and (3) assign a unique identifier to each voter in Indiana." Ind. Code § 3-7-26.3-4(a).

39. Indiana further provides that "[t]he computerized list must contain at least the following information for each voter: (1) The voter's voting history for at least the previous ten (10) years, if available, including the political party ballot requested by the voter at any primary election during the period. (2) The source of the voter's registration application. (3) A listing of all previous addresses at which the voter was registered to vote during at least the previous ten (10) years, if available. (4) Information concerning the documentation submitted by the voter to comply with the requirements of HAVA. (5) Documentation of all changes to the

registration made by the voter. (6) Documentation concerning all notices sent to the voter by the county voter registration office.” Ind. Code § 3-7-26.3-22.

40. Under Indiana law, “the computerized list serves as: (1) the single system for storing and managing the official list of voters throughout Indiana; and (2) the official voter registration list for the conduct of all elections in Indiana.” Ind. Code § 3-7-26.3-5.

41. Further, Indiana law provides that “[t]o ensure the proper maintenance and administration of the list . . . the secretary of state and the election division are the owners of all property comprising the computerized list. Except as expressly provided by statute, the computerized list and each of its components must be used exclusively for voter registration and election administration and for no other purpose.” Ind. Code § 3-7-26.3-4(b).

42. Under Indiana law, “[t]he election division may not provide any part of the compilation of the voter registration information contained in the computerized list except” as expressly permitted under Indiana law. Ind. Code § 3-7-26.4-2.

43. Indiana law provides only limited exceptions to this general rule prohibiting disclosure of information contained in the Voter List. The provisions creating the most relevant of these exceptions are described below.

44. First, an individual may request and receive limited “information from the computerized list . . . to permit the individual to confirm the voter registration status of the individual and the location of the polling place for the individual's

precinct.” Ind. Code § 3-7-26.4-3. The Commission does not qualify to request data under this provision of Indiana law.

45. Second, a limited and enumerated list of entities may request and receive a “complete compilation of the voter registration information contained in the computerized list,” including the state committee of a major or other bona fide political party; the chief justice of the supreme court and the clerks of the Indiana federal district courts for purposes of state administration of a jury management system; a member of the media; and the majority and minority leaders of the state legislature. Ind. Code § 3-7-26.4-6. The Commission is not one of the entities specified in this provision and accordingly is not permitted to request data under this provision of Indiana law. These entities are sharply limited in how they can use the Voter List.

46. Third, any other person may request and receive only very limited information compiled from the Voter List, with the majority of voter information redacted. The information required to be redacted includes: (1) date of birth, (2) gender, (3) telephone number or email address, (4) voting history, (5) voter identification number or another unique field established to identify a voter, and (6) the date of registration of the voter. Ind. Code § 3-7-26.4-8.

47. In addition, before receiving *any* information contained in the Voter List, any requesting party (with limited exceptions not relevant here) “must execute an agreement with the election division on a form prescribed under” Indiana law, Ind. Code § 3-7-26.4-9, which “must state that the person receiving a compilation of

information [from the Voter List] may not: (1) use the compilation to solicit for the sale of merchandise, goods, services, or subscriptions; or (2) sell, loan, give away, or otherwise deliver the information obtained by the request to any other person . . . ; for a purpose other than political activities or political fundraising activities,” Ind. Code § 3-7-26.4-10.

48. Any person “who grants a request for voter registration information . . . with knowledge that the information will be used in a manner prohibited by IC 3-7-26.3 or IC 3-7-27 commits a Class B infraction.” Ind. Code § 3-14-6-1.1(a).

49. On information and belief, neither the Commission nor any of its members has executed an agreement with the Election Division as required by Ind. Code § 3-7-26.4-10.

50. On information and belief, neither the Indiana Secretary of State nor members of the Election Division have indicated that they will require the Commission or any of its members to execute an agreement with the Election Division as required by Ind. Code § 3-7-26.4-10 prior to the disclosure of any information from the Voter List.

51. On information and belief, neither the Indiana Secretary of State nor members of the Election Division have provided a formal public response to the Commission’s Letter apart from Secretary of State Connie Lawson’s June 30, 2017 public statement.

The Commission's Improper Use of the Voter List

52. On information and belief, the Secretary of State has not yet released the Voter List (or any other data) to the Commission. In fact, on information and belief, on July 10 the Commission asked states to hold off on responding to the Commission's Letter pending the resolution of an emergency lawsuit in D.C. However, on information and belief, once that lawsuit is resolved, unless restrained by this Court's injunction, the Secretary of State will imminently release the Voter List or information from the Voter List to the Commission.

53. The Commission's intended use of the Voter List, as confirmed in the Commission's Letter itself, would violate Indiana law and the rights of Indiana citizens.

54. The Commission's Letter stated that "any documents that are submitted to the full Commission will also be made available to the public." The Commission therefore apparently intends to make information received from the Indiana Voter List fully available to the public (in every state).

55. In a July 5 filing in a case in the District of Columbia, Mr. Kobach, the Vice Chair of the Commission, reaffirmed that there would be a "public release of documents," but asserted, without any explanation, that the voter roll data would be "de-identified." This assertion did not indicate which information from voter rolls would be made available to the public and which would not. He proceeded with the wholly unclear obfuscation that the "voter rolls themselves will not be released to the public by the Commission." Decl. of Kris W. Kobach at 3, *Elec.*

Privacy Info. Ctr. v. Presidential Advisory Comm'n on Election Integrity, No. 1:17-cv-01320-CKK (D.D.C. July 5, 2017), ECF No. 8-1.

56. On information and belief, the Commission has not issued a formal communication to Indiana state officials (or to the officials in any other state) that contradicts the express language in the June 28 letter that the information received from that request would be public.

57. Moreover, as an advisory committee covered under the Federal Advisory Committee Act (FACA), it is not clear that the Commission has the authority to prevent the dissemination of information provided to it. FACA requires the Commission to make available for public inspection all the “records, reports, ... or other documents which were made available” to it unless those records fall within one of the enumerated exceptions. 5 U.S.C. App. 2 § 10(b). There is thus still a serious risk that any information provided to the Commission will be made public, irrespective of any post-hoc assertions from Mr. Kobach.

58. The public dissemination of information contained in the Voter List by the Commission, without regard for the requirements of Indiana law, will undermine Indiana’s use and disclosure restrictions and harm Indiana voters.

59. The Commission’s intended publicization of the information provided by Indiana (and other states) would eviscerate the limitations set forth in Ind. Code § 3-7-26.4-10, including its restriction on a party’s ability to “give away, or otherwise deliver the information obtained by the request to any other person” which may improperly result in the secondary “use [of] the compilation to solicit for

the sale of merchandise, goods, services, or subscriptions,” Ind. Code § 3-7-26.4-10. Once Indiana’s Voter List is made public, neither the Commission nor the Secretary of State of Indiana can effectively monitor or police the use of the Voter List or its information, including to determine whether the list is being used “to solicit for the sale of merchandise, goods, services, or subscriptions” or any other illicit purpose. Thus, by turning the Voter List or its information over to the Commission (who then intends to make it publicly available), the Secretary would be sanctioning the disclosure of information regarding hundreds of thousands of Indiana voters to private firms, who could use such data without limitation and to the detriment of the privacy rights of Indiana voters.

COUNT I:
Violation of Ind. Code § 3-7-26.4-1 *et seq.*

60. Plaintiffs reallege and incorporate all prior paragraphs of this Complaint.

61. The Secretary’s release of the Voter List or information from the Voter List without adhering to the requirements and protections of the Indiana Election Code, Ind. Code § 3-7-26.4-1 *et seq.*, violates Indiana law.

62. Neither the Indiana Secretary of State nor members of the Election Division are permitted to simply release the information to the Commission. The Secretary must follow the procedures outlined in Ind. Code § 3-7-26.4-1 *et seq.* in order to release the Voter List or information from the Voter List.

63. Specifically, before being entitled to receive even the limited information permitted under Ind. Code § 3-7-26.4-8, the Commission and/or its

members must first execute an agreement with the Election Division stating the Commission and/or its members “may not: (1) use the compilation to solicit for the sale of merchandise, goods, services, or subscriptions; or (2) sell, loan, give away, or otherwise deliver the information obtained by the request to any other person . . . ; for a purpose other than political activities or political fundraising activities.” Ind. Code §§ 3-7-26.4-9 and 26.4-10.

64. The Secretary cannot sidestep Indiana law simply because the Commission has requested the data. Rather, the Secretary must treat the Commission like every other entity requesting the Voter List—that is, requiring execution of an agreement under Ind. Code §§ 3-7-26.4-9 and 26.4-10. Otherwise, Indiana election law, which limits the use of the Voter List and information contained in it, can be easily circumvented once the Commission releases the Voter List to the general public.

65. These statutory protections are especially important in this case, as the Commission has stated that the information it receives will be shared with the public in violation of Ind. Code § 3-7-26.4-10(2). The Secretary’s provision of the data requested by the Commission would therefore directly violate Ind. Code § 3-14-6-1.1 which expressly prohibits a government official from granting a request for voter registration information with knowledge that the information will be used in a prohibited manner.

66. This dissemination could lead to Indiana voters’ information being used by others for commercial purposes in violation of Ind. Code §§ 3-7-26.4-10 and

3-14-6-1.2. And the dissemination of voters' identifying information in combination with their physical addresses, mailing addresses, email addresses, and telephone numbers creates a further risk of harassment and intimidation.

67. If the Commission follows through on its stated plan to disseminate the information it receives to the public, then the Commission necessarily cannot guarantee that it will not "sell, loan, give away, or otherwise deliver the information obtained by the request to any other person" as required by Ind. Code §§ 3-7-26.4-10. Once voters' information becomes publicly available, the uses and purposes other entities have for it will be beyond the control of both the Secretary and the Commission.

68. Unless enjoined by this Court, Plaintiffs will suffer irreparable harm from the exposure of personal voter information, with no alternative adequate remedy at law.

69. Given the clear limitations imposed on the Secretary under Indiana law and the rights of Indiana voters, the irreparable nature of the harm that would follow of the release of the Voter List or information from the Voter List, and the fact that other remedies would not prevent a failure of justice, injunctive relief should be granted.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs request the following relief and judgment:

- A. A judgment in favor of Plaintiffs and against the Defendants, and under the authority of Ind. Code §§ 34-26-1-3 and 1-5 and Ind. R. Trial. P. 65, entry of a preliminary injunction, and after trial, a permanent injunction enjoining the Defendants, Secretary of State Connie

Lawson, J. Bradley King, Co-Director, Indiana Election Division, and Angela M. Nussmeyer, Co-Director, Indiana Election Division, from providing the Voter List or any part thereof to the Commission.

- B. A declaratory judgment in favor of the Plaintiffs pursuant to Ind. Code § 34-14-1-1, finding and determining that:
1. the release of the Voter List or any part thereof to the Commission would violate Ind. Code § 3-7-26.4-1 et seq.;
 2. no part of the Voter List may be released to the Commission absent the Commission and/or its members' execution of an agreement with the Election Division consistent with Ind. Code §§ 3-7-26.4-9 and 26.4-10.
 3. the Commission's intended use of the Voter List, as set forth in its June 28, 2017 letter, does not constitute a permissible use under Ind. Code § 3-7-26.4-10.
 4. Plaintiffs' rights will be irreparably harmed without injunctive or declaratory relief from this court; and
 5. the Secretary and the Co-Directors are under no obligation to provide the Voter List or any part thereof to the Commission in response to its June 28, 2017 request, or any other similar request.
- C. An order and judgment that Plaintiffs recover the costs of this action.
- D. Such other and further relief as the Court deems just in the premises.

**LEAGUE OF WOMEN VOTERS OF
INDIANA, INDIANA STATE
CONFERENCE OF THE NAACP,
and JOSELYN WHITTICKER**


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