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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

REPUBLICAN NATIONAL COMMITTEE;  
et al.,

Plaintiffs,

v.

GAVIN NEWSOM, in his official capacity as  
Governor of California, et al.,

Defendants.

DEMOCRATIC CONGRESSIONAL  
CAMPAIGN COMMITTEE, et al.,

Intervenor-Defendants.

No. 2:20-cv-01055-MCE-CKD

**ORDER**

On May 8, 2020, California Governor Gavin Newsom issued Executive Order N-64-20, which requires all California counties to implement all-mail ballot elections for the November 3, 2020, federal elections (“Executive Order”). By way of the above-captioned related actions, Plaintiffs seek to enjoin enforcement of that Executive Order by Defendants, Governor Newsom and California’s Secretary of State Alex Padilla. Plaintiffs are the Republican National Committee, the National Republican Congressional Committee, and the California Republican Party. The Democratic Congressional Campaign Committee and the Democratic Party of California intervened as a matter of right as Intervenor-Defendants. ECF No. 38.

1 Presently before the Court are three additional Motions to Intervene as  
2 Defendants by three sets of proposed intervenors: (1) California Common Cause, the  
3 League of Women Voters of California, and Community Coalition (collectively, “Common  
4 Cause”) seek permissive intervention under Federal Rule of Civil Procedure 24(b), ECF  
5 No. 40;<sup>1</sup> (2) League of United Latin American Citizens and California League of United  
6 Latin American Citizens (collectively, “LULAC”) seek permissive intervention under  
7 Rule 24(b), ECF No. 46; and (3) California League of Conservation Voters and California  
8 League of Conservation Voters Education Fund (collectively, “CLCV”) move to intervene  
9 as a matter of right under Rule 24(a)(2), or, alternatively, seek permissive intervention  
10 under Rule 24(b), ECF No. 48. Plaintiffs oppose all three Motions. ECF Nos. 53, 56.  
11 For the reasons set forth below, those Motions are DENIED.<sup>2</sup>

## 12 ANALYSIS

### 13 A. Common Cause and LULAC’s Motions to Intervene

14  
15 Under Rule 24(b)(1), a party may be given permission by the court to intervene if  
16 that party shows “(1) independent grounds for jurisdiction; (2) the motion is timely filed;  
17 and (3) the applicant’s claim or defense, and the main action, have a common question  
18 of law or a question of fact in common.” Northwest Forest Res. Council v. Glickman,  
19 82 F.3d 825, 839 (9th Cir. 1996). “Even if an applicant satisfies those threshold  
20 requirements, the district court has discretion to deny permissive intervention.”  
21 Donnelly v. Glickman, 159 F.3d 405, 412 (9th Cir. 1998); see Spangler v. Pasadena City  
22 Bd. of Educ., 552 F.2d 1326, 1329 (9th Cir. 1977) (providing list of discretionary factors  
23 the district court may consider in deciding whether to grant permissive intervention).  
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26 <sup>1</sup> All further references to “Rule” or “Rules” are to the Federal Rules of Civil Procedure, unless  
27 otherwise noted.

28 <sup>2</sup> Because oral argument would not have been of material assistance, the Court ordered these  
matters submitted on the briefs. See E.D. Local Rule 230(g).

1 The Court finds that both Common Cause and LULAC have met the threshold  
2 requirements under Rule 24(b)(1). First, both Motions to Intervene are timely because  
3 they were filed before any substantive proceedings have occurred. Second, the  
4 jurisdictional requirement is met because this case arises under federal question  
5 jurisdiction and both Common Cause and LULAC do not assert any new claims. See  
6 Freedom from Religion Found., Inc. v. Geithner, 644 F.3d 836, 844 (9th Cir. 2011).  
7 Finally, there are common questions of law and fact because Common Cause and  
8 LULAC seek to defend the constitutionality of the Executive Order.

9 Although the threshold requirements have been met, the Court finds the  
10 discretionary factors weigh against intervention. Both Common Cause and LULAC  
11 assert that they are non-partisan organizations that represent a broad range of voters  
12 and have experience in advocating for voting rights, thus they can assist the Court in its  
13 decision as to whether the Executive Order is constitutional and whether it impedes on  
14 the right to vote. However, neither group demonstrates what new evidence or  
15 arguments they will present that differ from those of the existing Defendants. See  
16 Spangler, 552 F.2d at 1329 (considering “whether parties seeking intervention will  
17 significantly contribute to the full development of the underlying factual issues in the suit  
18 and to the just and equitable adjudication of the legal questions presented”). The  
19 specific issue before the Court is whether the Executive Order violates the Elections and  
20 Electors Clauses, but neither Common Cause nor LULAC have identified any arguments  
21 that Defendants or Intervenor-Defendants will fail to assert on this issue.

22 Furthermore, Common Cause and LULAC fail to show how the existing  
23 Defendants and Intervenor-Defendants will not adequately represent their interests given  
24 that they share the same objective and interests, including the health risks surrounding  
25 in-person voting and the allocation of limited resources to inform voters about the  
26 election procedures. See Spangler, 552 F.2d at 1329 (considering “whether the  
27 intervenors’ interests are adequately represented by other parties”). The fact that  
28 Common Cause and LULAC represent a broader range of voters is insufficient to

1 overcome the fact that they raise the same concerns and arguments as the existing  
2 Defendants. Therefore, Common Cause and LULAC's Motions to Intervene are  
3 DENIED. However, given their knowledge and experience in these matters, the Court  
4 finds that both groups can still contribute to this case through the filing of amicus briefs.

5 **B. CLCV's Motion to Intervene**

6 An intervenor as a matter of right must meet all requirements of Rule 24(a)(2) by  
7 showing:

8 (1) it has a significant protectable interest relating to the  
9 property or transaction that is the subject of the action; (2) the  
10 disposition of the action may, as a practical matter, impair or  
11 impede the applicant's ability to protect its interest; (3) the  
12 application is timely; and (4) the existing parties may not  
13 adequately represent the applicant's interest.

14 In evaluating whether these requirements are met, courts are  
15 guided primarily by practical and equitable considerations.  
16 Further, courts generally construe [the Rule] broadly in favor  
17 of proposed intervenors. A liberal policy in favor of intervention  
18 serves both efficient resolution of issues and broadened  
19 access to the courts. By allowing parties with a practical  
20 interest in the outcome of a particular case to intervene, we  
21 often prevent or simplify future litigation involving related  
22 issues; at the same time, we allow an additional interested  
23 party to express its views before the court.

24 United States v. City of Los Angeles, 288 F.3d 391, 397–98 (9th Cir. 2002) (citations and  
25 internal quotation marks omitted).

26 First, the Court finds CLCV's Motion is timely for the same reasons as Common  
27 Cause and LULAC's Motions. Next, CLCV cites three protectable interests as the basis  
28 for intervention: (1) "ensuring all eligible persons have equal opportunity to register to  
vote, vote for the candidate of their choice, and ensure that their vote has been  
counted"; (2) "ensuring that all registered voters have easy access to mail ballots"; and  
(3) "resisting the flawed interpretation of 'legislature' under the Elections Clause and  
Electors Clause that Plaintiffs pursue." Mem. ISO Mot. Intervene, ECF No. 48-1, at 7–9.  
These are routinely found to constitute significant protectable interests.

Similar to Common Cause and LULAC above, however, the Court is not  
convinced that CLCV's interests will not be adequately represented. Regarding its

1 interest in the proper interpretation of “legislature” under the Elections and Electors  
2 Clauses, CLCV contends that a flawed interpretation could negatively impact California’s  
3 ballot initiative and referendum process. However, there is no indication at this stage in  
4 the litigation that Plaintiffs are challenging this process and instead, Plaintiffs argue that  
5 the focus is on the whether the Executive Order issued by the Governor alone  
6 constitutes a law promulgated by the legislature. See Pls.’ Opp., ECF No. 56, at 1.  
7 Aside from this distinction, the remaining interests advanced by CLCV have already  
8 been addressed by Defendants and Intervenor-Defendants and, like Common Cause  
9 and LULAC above, CLCV fails to show what new evidence and arguments it will provide  
10 on those interests. Therefore, CLVC’s Motion to Intervene as a matter of right under  
11 Rule 24(a)(2) is DENIED.<sup>3</sup> Again, given its knowledge and experience on these matters,  
12 the Court finds that CLCV can still contribute to this case through an amicus brief.

### 13 14 CONCLUSION

15  
16 For the reasons set forth above, Common Cause, LULAC, and CLCV’s Motions to  
17 Intervene, ECF Nos. 40, 46, and 48, are all DENIED. Common Cause, LULAC, and  
18 CLCV may, but are not required to, file amicus briefs within fourteen (14) days following  
19 the date this Order is electronically filed and shall not exceed ten (10) pages. The  
20 parties’ responses, if any, to the amicus briefs shall be filed not later than seven (7) days  
21 after the amicus briefs are filed and shall not exceed ten (10) pages. No reply will be  
22 permitted.

23 IT IS SO ORDERED.

24 Dated: June 22, 2020

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MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE

27 <sup>3</sup> Alternatively, CLCV seeks permissive intervention under Rule 24(b). For the same reasons  
28 discussed above in relation to Common Cause and LULAC’s Motions, CLVC’s Motion to Intervene under  
Rule 24(b) is also DENIED.