IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF FLORIDA, Plaintiff, v. UNITED STATES OF AMERICA and ERIC H. HOLDER, JR., in his official capacity as Attorney General, Defendants, and NATIONAL COUNCIL OF LA RAZA and LEAGUE OF WOMEN VOTERS OF FLORIDA, Proposed Defendant-Intervenors.	No. 1:11-cv-1428-CKK-MG-ESH Judges Kollar-Kotelly, Garland & Huvelle

MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE AS DEFENDANTS

The National Council of La Raza and the League of Women Voters of Florida ("Applicants") respectfully submit this memorandum in support of their motion to intervene as defendants in this lawsuit brought by the State of Florida under Section 5 of the Voting Rights Act ("VRA"), 42 U.S.C. § 1973c. Applicants seek to intervene as of right and, alternatively, seek permissive intervention, pursuant to Rule 24 of the Federal Rules of Civil Procedure. It is well established that "[p]rivate parties may intervene in § 5 actions" under Rule 24. *Georgia v. Ashcroft*, 539 U.S. 461, 477 (2003).

I. Background

A. Instant Lawsuit

On August 1, 2011, the State of Florida filed the instant declaratory judgment action seeking Section 5 preclearance for certain voting changes enacted by Florida on May 19, 2011, and codified at Chapter 2011-40, Laws of Florida. Five of Florida's 67 counties are covered by Section 5 of the VRA (Collier, Hardee, Hendry, Hillsborough, and Monroe). 28 C.F.R. Pt. 51 App.

Under Section 5, whenever a covered State or county "shall enact or seek to administer" a change in a voting practice or procedure, that jurisdiction must obtain federal preclearance by demonstrating to this Court (via declaratory judgment action), or to the Attorney General (via administrative proceeding), that the voting change "neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color, or [membership in a language minority group]." 42 U.S.C. § 1973c(a). As to the five covered counties in Florida, the voting changes for which Section 5 preclearance must be obtained include any and all voting changes enacted by the State of Florida. *Lopez v. Monterey County*, 525 U.S. 266, 278 (1999) (holding that covered counties in a non-covered State must obtain preclearance for all state laws that effect voting changes in the counties). Furthermore, a Section 5 jurisdiction may not implement a voting change unless and until preclearance is obtained. *Clark v. Roemer*, 500 U.S. 646, 652 (1991) ("A voting change in a covered jurisdiction will not be effective as law until and unless cleared pursuant to [either a judicial or administration preclearance proceeding].") (internal quotation marks and citations omitted).

The voting changes at issue in this Section 5 action are contained in four sections of the Chapter 2011-40. The changes include:

- the imposition of new detailed, onerous, and unnecessary restrictions on the ability of individuals and organizations in Florida to ask residents of the State whether they wish to register to vote, provide voter registration applications to interested unregistered citizens, and collect completed applications and forward them to county supervisors of elections for entry in the registration rolls (section 4 of Chapter 2011-40);
- revised procedures governing the initiative process for petitioning the State to conduct an election on a proposed constitutional amendment, including a reduction in the time period during which petition signatures are considered valid, from four years to two years (section 23 of Chapter 2011-40);
- a change eliminating the right of registered voters in Florida who change residence from one Florida county to another prior to an election, and who do not notify the supervisor of elections in their new county of their new residence before the election, to cast a regular election ballot, rather than a provisional ballot (section 26 of Chapter 2011-40); and
- changes to the time period and hours during which voters may cast a ballot pursuant to "early" voting (*i.e.*, in-person voting prior to election day), including provisions that shorten the early-voting period (starting early voting ten days before an election rather than fifteen, and ending early voting three days before an election rather than two; the new ending date would eliminate counties' authority to offer early voting on the Sunday before election day) (section 39 of Chapter 2011-40).

Florida initially submitted these changes to the Attorney General for administrative preclearance. *See* Procedures for Administration of Section 5, 28 C.F.R. Pt. 51. The National Council of La Raza, through its Democracia project, and the League of Women Voters, (together with the organizations that represent them in this litigation, the Lawyers' Committee for Civil

Rights Under Law and the Brennan Center for Justice), submitted a lengthy comment letter to the Attorney General advocating that the Attorney General not grant Section 5 preclearance to the voting changes regarding voter registration, early voting, and registered voters who change residences between counties. This comment letter is attached to this memorandum as Exhibit A. Before the Attorney General responded, however, Florida withdrew its preclearance request and filed the instant lawsuit instead. ECF No. 1, ¶ 10; *see also* 28 C.F.R. 51.25.[1]

B. Applicants for Intervention

Founded in 1968, Applicant National Council of La Raza ("NCLR") is the largest national Hispanic civil rights and advocacy organization in the United States. Through its network of nearly 300 affiliated community-based organizations, NCLR reaches millions of Hispanics each year in 41 states, Puerto Rico, and the District of Columbia. To achieve its mission, NCLR conducts applied research, policy analysis, and advocacy, providing a Hispanic perspective in five key areas —civil rights and immigration; education; employment and economic status; assets and investments; and health. Democracia is a NCLR project, and until recently was an independent non-profit known as Democracia USA. Democracia focuses on nonpartisan civic engagement, and seeks to increase the prominence and participation of Hispanics in the American democratic process, in Florida and in other States.[2]

A central feature of Democracia's civic engagement efforts in Florida has been a large-scale voter registration program aimed at the State's Hispanic residents, including Hispanic residents of the covered counties. Since 2004, Democracia has registered over 200,000

[1] Florida also requested preclearance, in the same administrative submission, of other voting changes enacted by Chapter 2011-40. These voting changes were not withdrawn from administrative review, and it is Applicants' understanding that the Attorney General precleared them on August 8, 2011.

[2] Additional information about NCLR and Democracia is available at http://www.nclr.org/ and http://www.mydemocracia.org/ (last visited on September 2, 2011).

individuals in Florida, including several thousand in Hillsborough County, one of the Florida counties covered by Section 5.

The third-party voter registration provisions of Chapter 2011-40 already are having a direct and substantial impact on Democracia's voter registration efforts. Based on its review of these provisions, Democracia has suspended its registration activities in Florida, which thus is resulting in a significant diminution in the opportunity of the State's Hispanic citizens to register to vote. Democracia generally relies on paid staff to conduct and supervise its voter registration drives. The new requirements of Chapter 2011-40, including the provision that completed registration applications generally must be returned within 48 hours of the voter completing the form and the provisions requiring a precise accounting of all blank and completed registration forms, will impose new staffing requirements on Democracia, which, in turn, will require additional funding in order for Democracia to comply.

Democracia also engages in extensive outreach efforts to educate Hispanic voters about early voting, and voting by registered voters who change their residence within Florida, and has a robust Get Out The Vote (GOTV) program. The organization canvasses neighborhoods door-to-door and contacts voters by telephone to educate Hispanic voters regarding the early-voting process, and to encourage use of the early-voting procedure. By reducing the number of early-voting days, Chapter 2011-40 will decrease Democracia's ability to notify voters about early voting and get voters to the early-voting sites, since these efforts largely occur during the early-voting period. The organization also deploys monitors at polling places in Florida on Election Day, who provide information and support to voters who encounter problems at the polls, including problems relating to a change of address.

Applicant League of Women Voters of Florida (the "League") is a volunteer-based, non-partisan organization that has been dedicated to registering Floridians to vote and engaging them in the political process for over 70 years.[3] The League is a membership organization that represents over 2,500 dues-paying members in Florida, including hundreds of members in the five Section 5 covered counties. The League has a statewide office in Tallahassee, and 29 local leagues throughout the state, including league affiliates in two of the Section 5 counties, Collier County (established in 1975) and Hillsborough County (established in 1949). Both are active county leagues with numerous public education and civic engagement events at which volunteers offer voter registration opportunities.

As reflected in its mission statement, the League encourages all citizens to be active and informed participants in their democracy. The League therefore has included a voter registration component alongside virtually every other educational and political event that its members organize or attend. County leagues rely entirely on volunteers to obtain and distribute voter registration forms to prospective voters, and then to collect and return completed forms to election officials. The League has an outstanding record of registering thousands of Floridians to vote.

Due to the passage of Chapter 2011-40, the League's board of directors has voted to cease all voter registration efforts by the League and its affiliates in all Florida counties, including the covered jurisdictions. On May 26, 2011, the League board issued a moratorium to all members and affiliates directing them to cease voter registration activity. As the Collier

[3] Additional information about the League of Women Voters of Florida, including the organization's mission and key issues, also is available at http://www.lwvfla.org/ (last visited on September 2, 2011).

County League indicates on its website, the new law "imposes an undue burden on groups such as ours that work to register voters."[4]

Chapter 2011-40 will particularly burden the League affiliates' volunteer-based operations. Chapter 2011-40 creates a host of new restrictions on third-party registration drives which will be difficult for a volunteer-based organization to comply with. For example, the new requirements regarding the electronic submission and updating of numerous reporting forms will impose a massive stress on the League's county affiliates, which lack office space, electronic equipment, or the staff to manage the new multiple submissions. If the League were to continue with its voter registration efforts, the inability to satisfy these requirements likely would result in state-imposed fines which would drain the League's non-profit budget. Moreover, because Chapter 2011-40 will permit Florida to levy a fine or institute a civil proceeding against individual registration agents in addition to the organizations they volunteer with, League leaders believe the new restrictions, in conjunction with these enforcement provisions, will chill their individual members' participation in volunteer voter registration drives.

In addition to its voter registration activity, the League also serves as a voting rights advocate and as a clearinghouse for election information. The state and local Leagues have strong relationships with many of Florida's county election supervisors, and routinely work in tandem with supervisors of elections to assist with voter education, registration, and outreach. This includes providing information about early voting and voting by persons who move within the State of Florida. Chapter 2011-40's reduction of voting opportunities – fewer early-voting days and restrictions on casting a regular ballot – are directly at odds with the League's mission to increase civic participation.

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[4] Website of the League of Women Voters of Collier County, available at http://www.lwvcolliercounty.org/ (last visited on September 2, 2011).

II. Applicants Should Be Granted Intervention to Oppose Section 5 Preclearance

A. Intervention is Routinely Granted in Section 5 Declaratory Judgment Actions

The District Court for the District of Columbia has regularly and routinely granted Rule 24 intervention in Section 5 declaratory judgment actions, such as the instant case, to individuals and organizations who are directly impacted by the voting changes for which Section 5 preclearance is being sought, and who seek to intervene as defendants to oppose preclearance, so long as the intervention application is timely. Most recently, intervention was granted both this and last month in another Section 5 declaratory judgment action pending in this District. *See Texas v. United States*, No. 1:11-cv-1303 (D.D.C. Aug. 16, 2011, and Sept. 8, 2011, ECF Nos. 11 & 32). *See also Georgia v. Ashcroft*, 539 U.S. at 477; *Bossier Parish Sch. Bd. v. Reno*, 157 F.R.D. 133, 135 (D.D.C. 1994); *Texas v. United States*, 802 F. Supp. 481, 482 n.1 (D.D.C. 1992); *County Council of Sumter County, SC v. United States*, 555 F. Supp. 694, 697 (D.D.C. 1983); *City of Lockhart v. United States*, 460 U.S. 125, 129 (1983); *Busbee v. Smith*, 549 F. Supp. 494 (D.D.C. 1982); *City of Port Arthur, Texas v. United States*, 517 F. Supp. 987, 991 n.2 (D.D.C. 1981); *City of Richmond, Virginia v. United States*, 376 F. Supp. 1344, 1349 n.23 (D.D.C. 1974), *remanded on other grounds*, 422 U.S. 358 (1975); *Beer v. United States*, 374 F. Supp. 363, 367 n.5 (D.D.C. 1974), *remanded on other grounds*, 425 U.S. 130, 133 n.3 (1976).[5]

[5] *See also Shelby v. Holder*, No. 1:10-cv-651 (D.D.C. Aug. 25, 2010, ECF No. 29) (granting intervention to individuals and organizations to oppose suit challenging constitutionality of Section 5); *Laroque v. Holder*, No. 1:10-cv-561 (D.D.C. Aug. 25, 2010, Doc. 24) (same); *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 573 F. Supp. 2d 221, 230 (D.D.C. 2008) (granting intervention to individuals and organizations to oppose suit challenging constitutionality of Section 5 and seeking bailout from Section 5 coverage), *reversed on other grounds*, 129 S. Ct. 2504, 174 L. Ed. 2d 140 (2009).

B. Applicants Should Be Granted Intervention as of Right

The standards for intervention as of right are set forth in Federal Rule of Civil Procedure 24(a). In relevant part, Rule 24(a) provides:

> On timely motion, the court must permit anyone to intervene who: . . . (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Thus, in order to rule on Applicants' motion, this Court must consider the four factors enumerated in Rule 24(a)(2): (1) timeliness; (2) Applicants' interest in the transaction which is the subject of the action; (3) whether Applicants are so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) whether Applicants' interest is adequately represented by the existing parties. As demonstrated below, the Applicants satisfy all four factors required to intervene under Rule 24(a)(2).

In addition, the D.C. Circuit has held that a party seeking to intervene as of right as a defendant must satisfy the basic standing requirements of Article III of the Constitution. *Fund For Animals Inc. v. Norton*, 322 F.3d 728, 732-33 (D.C. Cir. 2003). *But see Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003) (questioning whether an applicant to intervene as a defendant need establish standing since "the standing inquiry is directed at those who invoke the court's jurisdiction," and holding that "any person who satisfies Rule 24(a) will also meet Article III's standing requirement."). To the extent that a separate standing inquiry is relevant here, Applicants satisfy this as well.

1. Applicants' motion is timely

Applicants' motion to intervene in the instant Section 5 declaratory judgment action is timely. Defendants have not yet filed an Answer. No scheduling order has been entered or

requested, no discovery has been undertaken, no dispositive motions have been filed, no dispositive orders have been entered, and no trial date has been set. Granting intervention would not, therefore, cause any delay in the trial of the case nor prejudice the rights of any existing party. Indeed, the District of Columbia Court has permitted intervention much later in the litigation process on multiple occasions. *See, e.g.*, *Nationwide Mut. Ins. Co. v. Nat'l REO Mgmt., Inc.*, 205 F.R.D. 1, 6 (D.D.C. 2000) (holding applicants' motion timely where six months had elapsed since filing of lawsuit); *Bossier Parish Sch. Bd.*, 157 F.R.D. at 135 (permitting intervention in a Section 5 declaratory judgment action on the same day that the court held the first scheduling conference); *Council of Sumter County, SC*, 555 F. Supp. at 697 (permitting applicants to intervene in a Section 5 preclearance lawsuit at the close of discovery and on the eve of argument on motions for summary judgment).

2. Applicants have a substantial interest in the underlying litigation

In determining the sufficiency of a proposed intervenor's interest under Rule 24(a), courts apply a "liberal approach" by permitting the involvement of "as many apparently concerned persons as is compatible with efficiency and due process." *S. Utah Wilderness v. Norton*, No. 01-2518, 2002 WL 32617198, *5 (D.D.C. June 28, 2002) (citation omitted). To demonstrate a sufficient "interest" in the litigation, prospective intervenors must show a "direct and concrete interest that is accorded some degree of legal protection." *Diamond v. Charles*, 476 U.S. 54, 75 (1986).

As indicated, the highly intrusive, burdensome, and unnecessary restrictions imposed by Chapter 2011-40 on voter registration activities already are causing substantial injury to NCLR and the League. A denial of preclearance will redress these injuries insofar as the organizations' voter registration activities in the covered counties are concerned. It is important to note that

Florida's minority citizens disproportionately rely on third-party registration drives to register to vote. African-American and Hispanic citizens in Florida are more than twice as likely to register to vote through private drives as white voters.[6]

NCLR and the League also have an interest in this litigation because of their respective roles in promoting and educating voters about early voting, and their interest in protecting the opportunity to vote of registered voters who move between Florida counties. In addition, the League's hundreds of members in Florida's preclearance counties are impacted by the voting changes at issue in this lawsuit, both as an associated constituency concerned with voting rights and individually as Florida voters of all races. The membership of the League includes hundreds of individuals in the covered counties who wish to register other citizens to vote, educate fellow citizens about the registration and voting processes, engage in early voting, and cast a regular ballot as registered voters despite a cross-county change of residence.

There is also no question that the interests impaired by Chapter 2011-40 are legally protected by the nondiscrimination requirements of the Voting Rights Act, as well as by the Fourteenth and Fifteenth Amendments. In addition, Applicants' voter registration activity is fully protected by the First Amendment, *see, e.g.*, *League of Women Voters of Florida v. Cobb,* 447 F. Supp. 2d 1314, 1333-34 (S.D. Fla. 2006), and voter registration drives by third-party organizations are protected by the National Voter Registration Act, which places a "particular emphasis on making [voter registration forms] available for organized voter registration programs." 42 U.S.C. §. 1973gg-4(b).

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[6] For example, in 2008, 6.3 percent of non-Hispanic white registered voters were registered through drives versus 12.7 percent of black voters and 12.1 percent of Hispanic voters. U.S. Census Bureau, Current Population Survey 2008, *available at* http://www.census.gov/apsd/techdoc/cps/cpsnov08.pdf (last visited on September 1, 2011).

3. Disposition of this case may impair Applicants' interests

Beyond demonstrating an interest in the underlying litigation, Applicants must show that its interest "*may*" be impaired or impeded by the disposition of the action. Fed. R. Civ. P. 24(a)(2) (emphasis added). In interpreting this requirement, the D.C. Circuit has held that this factor "look[s] to the practical consequences of denying intervention, even where the possibility of future challenge to the regulation remains available." *Nat. Res. Def. Council*, 561 F.2d 904, 909 (D.C. Cir. 1977) (internal quotation marks omitted).

As noted, the five Florida counties subject to Section 5 are, as of now, legally precluded by Section 5 from administering the voting changes at issue in this litigation. But, if preclearance is granted by this Court, the counties will be legally obligated to administer the changes by state law. Applicants do not have any other recourse to prevent the implementation of voting changes that violate Section 5. Indeed, as provided by Section 5 itself, this Court is the only court that may decide whether a voting change violates Section 5. Applicants are therefore precluded from filing an affirmative suit in Florida alleging that the voting changes are discriminatory within the meaning of Section 5.

Thus, Applicants' interests with regard to the newly-enacted voter registration changes, and the other changes for which Florida is seeking preclearance, will clearly be impaired or impeded by this action should preclearance be granted.

4. The existing parties do not adequately represent the interests of the Applicants

The final prong of Rule 24(a)(2)'s test requires Applicants to meet the minimal burden of showing that existing representation "may be" inadequate to protect their interest. *Nat. Res. Def. Council*, 561 F.2d at 911 (quoting *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)).

The Attorney General – the statutory defendant in a Section 5 declaratory judgment action – represents the interests of the federal government and the public at large. However, courts in this Circuit have "often concluded that governmental entities do not adequately represent the interests of aspiring intervenors." *Fund for Animals*, 322 F.3d at 736 & n.9 (citing cases); *Dimond v. Dist. of Columbia*, 792 F.2d 179, 193 (D.C. Cir. 1986); *Smuck v. Hobson*, 408 F.2d 175, 181 (D.C. Cir. 1969).[7]

The same rationale undoubtedly applies here. Applicants may well have a different perspective than the initial Defendants regarding the application of Section 5 to the voting changes at issue. *See Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 72-73 (permitting defendant-intervenors to challenge preclearance of statewide redistricting plans notwithstanding the Attorney General's non-opposition to preclearance), *affirmed in relevant part*, 539 U.S. at 476-77.[8] Moreover, even to the extent that Applicants' interests and Defendants' interests may be

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[7] For instance, in *Costle*, the D.C. Circuit held that the Environmental Protection Agency ("EPA") could not be found to represent adequately a private advocacy organization's interests despite the fact that both shared a "general agreement . . . that the [challenged] regulations should be lawful." 561 F.2d at 912. That general agreement, the court held:

> does not necessarily ensure agreement in all particular respects about what the law requires. Without calling the good faith of EPA into question in any way, appellants may well have honest disagreements with EPA on legal and factual matters. . . . Good faith disagreement, such as this, may understandably arise out of the differing scope of EPA and appellants' interests: EPA is broadly concerned with implementation and enforcement of the settlement agreement, appellants are more narrowly focused on the proceedings that may affect their industries. Particular interests, then, always "*may* not coincide," thus justifying separate representation.

Id. (quoting *Nuesse v. Camp*, 385 F.2d 694, 703 (D.C. Cir. 1967) (emphasis added; footnote omitted)).

[8] There are multiple additional instances in which intervention by private citizens in cases brought under the Voting Rights Act have been particularly valuable because of different legal positions taken by the United States and the intervening minority voters. *See*, e.*g.*, *Young v. Fordice*, 520 U.S. 273, 281 (1997) (private plaintiffs challenged certain changes to Mississippi's voter registration procedures and won reversal of lower court's decision, although United States opted not to appeal); *Blanding v. DuBose*, 454 U.S. 393, 398 (1982) (minority plaintiffs appealed and prevailed in the Supreme Court in voting rights suit after United States dropped out); *City of Lockhart v. United States*, 460 U.S. 125, 129-30

expected to coincide, Applicants would contribute to this litigation an intensely local perspective regarding the purpose and effect of the instant election law changes in a manner that the Attorney General may not be able to set forth. For example, they would speak directly to the real world impact of the voter registration restrictions that Florida is seeking to impose. *See, e.g., Georgia v. Ashcroft*, 539 U.S. at 477 (upholding this Court's grant of private parties' motion to intervene where intervenors' interests were not adequately represented by the existing parties); *County Council of Sumter County*, 555 F. Supp. at 696-97 & n.2 (permitting intervention in light of African-American intervenors' local perspective and noting possibility of inadequate representation by the United States). *See also Nat. Res. Def. Council*, 561 F.2d at 912-13 (intervention as of right granted to the environmental group Natural Resources Defense Council (NRDC); NRDC's "more narrow and focussed [*sic*]" interest would "serve as a vigorous and helpful supplement to EPA's defense" and, "on the basis of their experience and expertise in their relevant fields, appellants can reasonably be expected to contribute to the informed resolutions of . . . questions when, and if, they arise.").

5. Applicant satisfies the requirements of Article III standing

Because Applicants satisfy the requirements for intervention of right under of Rule 24(a), they satisfy any applicable standing requirements as well. As previously noted, the D.C. Circuit has held that "any person who satisfies Rule 24(a) will also meet Article III's standing requirement." *Roeder v. Islamic Republic of Iran*, 333 F.3d at 233. Moreover, as discussed

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(1983) (defendant-intervenor presented sole argument in the Supreme Court regarding the scope of Section 5 of the VRA while the United States stood in support of appellant); *County Council of Sumter County*, 555 F. Supp. at 696 (minority intervenors and United States took conflicting positions regarding application of Section 2 to Section 5 preclearance process).

above, Applicants face direct injury resulting from Florida's pending voting changes, which would be redressed in the covered counties by a denial of preclearance.[9]

C. In the Alternative, This Court Should Grant Permissive Intervention Under Rule 24(b)(1)

Even if Applicants are not granted intervention as of right, this Court should exercise its discretion to grant permissive intervention pursuant to Fed. R. Civ. P. 24(b)(1), which permits intervention "upon timely application" when an applicant "has a claim or defense that shares with the main action a common question of law or fact."

Applicants satisfy the requirements of Rule 24(b)(1). Applicants' perspective on certain factual and legal issues will assuredly be distinct, but the fundamental questions of law and fact that Applicants seek to litigate in this action are no different from the questions already presented by Florida's lawsuit. Applicants contend that the voting changes that Florida has put at issue in this case do not satisfy the Section 5 standards for preclearance, the precise issues presented by Florida's Complaint. *See, e.g.*, *Miller v. Silbermann*, 832 F. Supp. 663, 673-74 (S.D.N.Y. 1993) (allowing permissive intervention where intervenors' defense "raises the same legal questions as the defense of the named defendants").

Permissive intervention is particularly warranted where, as here, Applicants' unique knowledge and experiences may help contribute to the proper development of the factual issues in the litigation. *See, e.g.*, *Johnson v. Mortham*, 915 F. Supp. 1529, 1538-39 (N.D. Fla. 1995) (holding that the NAACP should be permitted to intervene because the organization's unique

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[9] The League also has Article III standing to represent the interests of its members under *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992) (requiring showing of injury-in-fact, causation, and redressibility), and *Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977) (organization has standing to sue on behalf of its members when "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.")

perspective and expertise would aid the court's constitutional inquiry); *Miller*, 832 F. Supp. at 674 (permitting intervention where applicant's "knowledge and concern" would "greatly contribute to the Court's understanding").

Finally, granting Applicants' motion to intervene at this stage would not delay or prejudice the adjudication of the rights of the original parties. Fed. R. Civ. P. 24(b). As noted, Defendants have not yet filed their Answer, and this Court has not conducted or scheduled a hearing, or issued a case management order. Consequently, granting Applicants' motion would not delay this litigation. Moreover, neither Plaintiff nor Defendants can plausibly claim prejudice as a result of this Court's permitting intervention; Applicants do not propose to add a counterclaim, expand the questions presented by the Complaint, or raise any additional affirmative defenses. Rather, Applicants' participation will enhance the Court's understanding of the factual and legal context necessary to properly dispose of the merits of this case.

Conclusion

For the above and foregoing reasons, the Court should permit Applicants to intervene in this action as party defendants.

Dated: September 9, 2011

Respectfully submitted,

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