No. 25-437

In the Supreme Court of the United States

PUBLIC INTEREST LEGAL FOUNDATION, PETITIONER

v.

JOCELYN BENSON, IN HER OFFICIAL CAPACITY AS MICHIGAN SECRETARY OF STATE, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the National Voter Registration Act of 1993's requirement that a state must conduct a list maintenance program that makes a "reasonable effort" to remove ineligible voters should be interpreted according to the ordinary and common meaning of the words.

2. Whether the Petitioner lacks Article III standing to raise a claim under the record-production requirements of the National Voter Registration Act of 1993 where it failed to show any "downstream consequence" arising from the failure to produce the requested records.

PARTIES TO THE PROCEEDING

Petitioner Public Interest Legal Foundation, Inc., was plaintiff-appellant below.

Respondent Jocelyn Benson, in her official capacity as Michigan Secretary of State, was defendant-appellee below. Respondent Electronic Registration Information Center was movant-appellee below. This petition does not concern the discovery disputes involving the Electronic Registration Information Center.

RELATED CASES

- *Public Interest Legal Foundation* v. *Jocelyn Benson*, United States Court of Appeals for the Sixth Circuit, Opinion issued May 6, 2025 (holding that the NVRA's "reasonable effort" requires a serious attempt that is rational and sensible but need not be optimal, that Michigan's program met this requirement, and that the Foundation lacked standing for the record production claim where it failed to identify any "downstream" harm).

- *Public Interest Legal Foundation* v. *Jocelyn Benson*, United States District Court for the Western District of Michigan, Opinion and Order issued Mar. 1, 2024 (holding that the NVRA's "reasonable effort" did not require a perfect effort, that Michigan's multilateral process meets statutory requirements, and that the Foundation's claim for record production was moot).

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The Sixth Circuit Court of Appeals' order denying the Petitioner's en banc petition, App. 37a, is not reported, but is available at 2025 WL 2214199. The Sixth Circuit Court of Appeals' opinion, App. 1a–35a, is reported at 136 F.4th 613 (2025).

The district court's opinion granting Secretary Benson's motion for summary judgment, App 38a–77a, is reported at 721 F. Supp. 3d 580 (2024).

JURISDICTION

The district court had jurisdiction over Petitioner's federal claims under 28 U.S.C. § 1331. The Sixth Circuit Court of Appeals had jurisdiction under 28 U.S.C. § 1291. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. art. III, § 2 provides:

> The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies

> between two or more states;—between a state and citizens of another state;--between citizens of different states;—between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

The National Voter Registration Act of 1993, 52 U.S.C. § 20507 provides, in pertinent part:

> (a) In general. In the administration of voter registration for elections for Federal office, each State shall—
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> * * *
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> (4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—
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> (A) the death of the registrant; or
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> (B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);
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> * * *
>
> (i) Public disclosure of voter registration activities.
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> (1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where

available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

INTRODUCTION

This case is about the National Voter Registration Act's (NVRA) requirement that states conduct a "general program that makes a reasonable effort to remove the names of ineligible voters" from their voter registration lists. In 2021, Petitioner produced a list allegedly containing over 25,000 "potentially deceased" voters in Michigan. Despite specific requests from the State for the data supporting its list, Petitioner refused to produce information substantiating how the lists were created or validating the accuracy of its contents. Instead, Petitioner brought suit alleging that Michigan's program for the removal of deceased voters failed to meet the NVRA's "reasonable effort" requirement.

After two years of litigation, Petitioner failed to validate the methodology used to create its lists and was ultimately unable to verifiably identify even a single voter who was deceased but had not already been removed from Michigan's qualified voter file (QVF) before the suit had been filed. Michigan retained two experts, neither of whom was able to verify Petitioner's methods or replicate its results.

Michigan moved for summary judgment, arguing that—even assuming Petitioner's list was accurate—Michigan's program still satisfied the modest statutory requirement of a "reasonable effort" because the state's multifaceted program continually compared voter lists against information obtained from the Social Security Administration death index, official state death records, and information provided by local city

and township clerks. The district court agreed and ruled in favor of Michigan. The Sixth Circuit affirmed, and in so doing articulated a clear definition for "reasonable effort" under the NVRA: "a serious attempt that is rational and sensible; the attempt need not be perfect, or even optimal, so long as it remains within the bounds of rationality." App. 21a.

Petitioner seeks to demolish that definition and replace it with unspecified "quantifiable standards." But the petition fails to reconcile its alternative approach with the language of the statute or support it with any other apt legal authority. Petitioner offers no split of authority among the two courts of appeals regarding the meaning of "reasonable efforts"—indeed, in either of those two circuits, Petitioner's claims would fail.

The petition also disputes the Sixth Circuit's determination that Petitioner lacked Article III standing to raise a claim under the NVRA's public records disclosure provision. The Sixth Circuit concluded that, because Petitioner failed to demonstrate any "downstream consequence" from the failure to obtain records, it had failed to articulate a concrete injury that would support standing under this Court's decision in *TransUnion LLC* v. *Ramirez*. But the petition fails to identify any split of authority regarding whether this Court's *TransUnion* decision should apply here. Nor does it show how the Sixth Circuit's decision was erroneous—especially where Petitioner's allegations of informational injury were vague, non-specific, and speculative.

STATEMENT OF THE CASE

A. Legal and factual components of Michigan's voter list maintenance program

1. The NVRA's requirements to maintain voter lists

The NVRA was enacted "to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office," "to make it possible for Federal, State and local governments to implement this chapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office," "to protect the integrity of the electoral process," and "to ensure that accurate and current voter registration rolls are maintained." 52 U.S.C. § 20501(b). Section 8 of the NVRA, 52 U.S.C. § 20507, provides several procedures that must be carried out by participating states for the administration of voter registration. These procedures help ensure that "each eligible applicant" is registered to vote in an election and prevent hasty removals of registrants from voter rolls.

Section 8 prohibits the removal of a registrant's name except in narrow circumstances, i.e., at the registrant's request, "by reason of criminal conviction or mental incapacity," or through a "general program that makes a reasonable effort to remove" the names of voters rendered ineligible by death or upon a change of address, 52 U.S.C. § 20507(a)(3), (4).

The NVRA does not require states to comply with any particular program or immediately remove every voter who may have become ineligible. Rather, a state must "conduct a general program that makes a *reasonable effort* to remove the names of ineligible voters from the official lists of eligible voters by reason of: (A) the death of the registrant; or (B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d) [of]" § 20507(a)(4)(A)–(B) (emphasis added).

Subsection (b) requires that the program "shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote," except where the state complies with certain requirements for removal under § 20507(b)(2).

In addition to the NVRA, the Help America Vote Act (HAVA) of 2002 provides that "each State . . . shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, . . . computerized statewide voter registration list . . . that contains the name and registration information of every legally registered voter in the State." 52 U.S.C. § 21083(a)(1)(A). Moreover, § 21083(a)(1)(A)(viii) states that "the computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State." Michigan complied by creating the QVF as the state's computerized statewide voter registration list. Mich. Comp. Laws §§ 168.509m(1)(a), 168.509o, 168.509p, 168.509q, 168.509r.

In 2024, Michigan had over 8.3 million registered voters in the QVF, of which approximately 600,000 were inactive registrations slated for cancellation in 2025 or 2027. (R. 149, Def's MSJ, PageID.3032.) While this 2024 data is no longer publicly available, currently there are 8.2 million registered voters in the QVF, of which approximately 377,000 are inactive registrations slated for cancellation in 2027 or 2029.[1] HAVA further requires that "the list maintenance performed . . . shall be conducted in a manner that ensures that . . . only voters who are not registered or who are not eligible to vote are removed from the computerized list." 52 U.S.C. § 21083(a)(2)(B)(ii). It also provides that "the State election system shall include provisions to ensure that voter registration records are accurate and are updated regularly, including . . . safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters." 52 U.S.C. § 21083(a)(4)(B). These provisions essentially parallel or incorporate the NVRA.

2. Michigan's legal structure for list-maintenance practices with respect to deceased voters

After the NVRA was enacted, Michigan amended the Michigan Election Law, Michigan Compiled Laws § 168.1 *et seq*., to incorporate or come into compliance with its requirements. Most of these changes

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[1] See Mich. Dep't of State, Bureau of Elections, *Voter registration statistics*, https://mvic.sos.state.mi.us/VoterCount/Index (last accessed January 23, 2026).

originated in 1994 P.A. 441.[2] Section 509n makes the Secretary of State responsible for coordinating the requirements under the NVRA. Mich. Comp. Laws § 168.509n.

As to the deaths of registered voters, § 509o requires the Secretary to "develop and utilize a process by which information obtained through the United States Social Security Administration's death master file that is used to cancel an operator's or chauffeur's license . . . or an official state personal identification card . . . of a deceased resident of this state is also used at least once a month to update the qualified voter file to cancel the voter registration of any elector determined to be deceased." Mich. Comp. Laws § 168.509o(4). The Secretary must also "make the canceled voter registration information . . . available to the clerk of each county, city, or township to assist with the clerk's obligations under section 510." *Id*. See also Mich. Comp. Laws § 168.509z(c) ("The secretary of state shall notify each clerk of the following information regarding residents or former residents of the clerk's city or township . . . death notices received by the secretary of state."). Maintenance of the voter registration list is carried out in strict accordance with all relevant state and federal laws by the Michigan Bureau of Elections and the more than 1,600 election clerks in the State.[3]

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[2] See generally Mich. Comp. Laws §§ 168.509m, 509n, 509o, 509p, 509q, 509r, 509t, 509u, 509v, 509w, 509x, 509z, 509aa, 509bb, 509cc, 509dd, 509ee, 509ff, and 509gg.

[3] See Mich. Dep't of State, *Fact Checks*, Michigan's list of registered voters is maintained in accordance with federal law,

Based on these laws, each week the Michigan Department of State uses information from the Social Security Administration's death index (SSDI) to cancel the records of individuals in the QVF who have died.[4]

Under § 510, "[a]t least once a month, the county clerk shall forward a list of the last known address and birth date of all persons over 17-1/2 years of age who have died within the county to the clerk of each city or township within the county." Mich. Comp. Laws § 168.510(1). The city or township clerk then must "compare this list with the registration records and cancel the registration of all deceased electors." *Id*.

Section 509r(5) further provides that the Secretary must maintain "an inactive voter file." Mich. Comp. Laws § 168.509r(5). Section 509r(6) provides that voters who fail to vote for 6 years or confirm residency information must be placed in the inactive file:

> If an elector is sent a notice under section 509aa to confirm the elector's residence information or if an elector does not vote for 6 consecutive years, the secretary of state shall place the registration record of that elector in the inactive voter file. The registration record of that elector must remain in the inactive voter file until the elector votes in an election,

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https://www.michigan.gov/sos/faqs/elections-and-campaign-finance/election-fact-center. (Last accessed January 23, 2026.)

[4] See Mich. Dep't of State, *Voter registration cancellation procedures*, https://www.michigan.gov/sos/elections/voting/voters/ voter-registration-cancellation-procedures. (Last accessed January 23, 2026.)

> responds to the notice sent under section 509aa, or another registration transaction involving that elector occurs.

Mich. Comp. Laws § 168.509r(6).

However, "[w]hile the registration record of an elector is in the inactive voter file, the elector remains eligible to vote and his or her name must appear on the precinct voter registration list." Mich. Comp. Laws § 168.509r(7). If a voter on the inactive voter file "votes at an election by absent voter ballot, that absent voter ballot must be marked in the same manner as a challenged ballot[.]" Mich. Comp. Laws § 168.509r(8).

Local clerks are also authorized to conduct programs to remove names from the QVF. See Mich. Comp. Laws § 168.509dd(1). Such a program must be uniformly administered and comply with the NVRA. Mich. Comp. Laws § 168.509dd(1), (2)(a)–(c). To conduct a removal program, a local clerk may perform a house-to-house canvass, send a general mailing to voters for address verifications, participate "in the national change of address program established by the postal service," or use "other means the clerk considers appropriate." Mich. Comp. Laws § 168.509dd(3).

3. Operation and practice of Michigan's program for list maintenance with respect to deceased voters

Within the above legal structure, Michigan's program is administered through automated processes and individual review, depending on the reliability of

the information provided. But there will always be some number of deceased registrants on the voter rolls because there is a delay between when someone dies and when that information is received for use in canceling the registration; also, it is not practically possible to identify every single person who has died in a state with millions of people. (R. 149-2, Def's MSJ, Ex. A, Brater Dep, PageID.3075.) From 2019 to March 2023, between 400,000 and 450,000 registrations were cancelled because the voter was deceased. (*Id.*, PageID.3077.)[5]

Michigan's program includes automated removal based on SSDI and Michigan Department of Health and Human Services (MDHHS) records, manual review of "close matches" from the SSDI and MDHHS records, manual review of death reports received from the Electronic Registration Information Center (ERIC),[6] and cancellations entered by local clerks based on information they receive. (R. 149-3, Def's MSJ, Ex. B, PageID.3085–3087.)

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[5] See also Mich. Dep't of State, *Voter registration cancellation procedures*, https://www.michigan.gov/sos/~/link.aspx?_ id=0CA77C36E2D44E0DBCAB875DE164507F &_z=z (last accessed January 22, 2026). The data cited in Director Brater's April 2023 deposition were from March 2023; this figure increases each week.

[6] Michigan Compiled Laws § 168.509o(5) requires the Secretary to participate in multistate programs that assist in the verification of voter registration status.

4. Automated removal based on matches to federal and state death records

The Michigan Department of State (MDOS) receives—on more or less a weekly basis—from the Social Security Administration (SSA) and from the MDHHS files containing persons who have been identified by those agencies as deceased since the time of the last most recent file. (*Id.*; R. 149-4, Def's MSJ, Ex. C, Harris Dep, p 44 ln 15–20, PageID.3098; R. 149-5, Def's MSJ, Ex. D, MDOS Dep, PageID.3110–3111, 3117.) The SSA reports also include the names of individuals who have died outside Michigan. (R. 149-5, PageID.3113.) These reports are compared weekly to the list of active drivers in Michigan contained in the Customer and Automotive Records System (CARS), the software system that Michigan uses to maintain its driver file. (R. 149-4, PageID.3101.) If the records from SSA or MDHHS are a 100% match to the name, date of birth, and social security number in CARS, CARS automatically updates the person's record to mark them as deceased and sends a notification through the QVF system and automatically updates the voter's status to "Cancelled – Deceased." (R. 149-3, PageID.3085–3087; R. 149-4, PageID.3098.) If none of these data elements match a record in CARS, it will be considered "no match" and CARS will disregard it. (R. 149-4, PageID.3098.)

Changes to a person's information in CARS are imported to the QVF on a nightly basis. (R. 149-5, PageID.3114.) The entire QVF is also reconciled with the CARS driver file on a quarterly basis. (R. 149-8, Def's MSJ, Ex. G, Talsma Dep, PageID.3145–3146.) This reconciliation confirms that the data is in sync so

that if—for whatever reason—some data had not been synchronized on a daily reconciliation, it would be caught by the quarterly process. (R. 149-2, PageID.3074.) The quarterly reconciliation process began in 2021. (*Id*., PageID.3076.)

5. Review of close or partial matches to death records

If information received from SSA or MDHHS is only a partial match—meaning that it matches some, but not all, of the data fields for a voter—then it is placed in a queue for manual review by staff in the Driver Records Activity Unit to determine if there is enough information available for a match. (R. 149-3, PageID.3085–3087; R. 149-4, PageID.3099–3100.) The Unit's process has been summarized in a procedure describing how staff identify possible matches. (R. 149-4, PageID.3103–3104.) If at least three data points match, the record will be considered a match and the person will be marked as deceased in CARS, which will cause QVF to be updated automatically. (R. 149-3, PageID.3085–3087.) Generally, partial matches are reviewed within 7 to 10 days, although occasional backlogs have occurred resulting in review taking up to four weeks. (R. 149-4, PageID.3101–3102.) The Unit may also receive information—such as a death certificate—from family members of a deceased person. (R. 149-5, PageID.3116.)

6. Reports of deceased individuals provided by ERIC

Michigan joined the Electronic Registration Information Center (ERIC) in 2020. (R. 149-5, PageID.3108.) Every two months, the Michigan Bureau of Elections (Bureau) receives a report from ERIC that identifies individuals registered in Michigan who may be deceased. (R. 149-7, Def's MSJ, Ex. F, Clone Dep, PageID.3136–3137.) These bi-monthly reports are not lengthy and generally include about 10 or fewer individuals. (*Id.*, PageID.3138.) Often, by the time the ERIC reports arrive, the individuals have already been marked deceased through other means. (R. 149-8, PageID.3144.) ERIC reports, however, contain information about individuals who are not in the driver's file—for example, because the individual does not have a driver's license or state ID card. (R. 149-5, PageID.3109.) Because not every voter has a driver's license or state ID, the ERIC reports are a way to identify those deceased individuals. (R. 149-2, PageID.3078.) The ERIC deceased reports are created by comparing Michigan's QVF to the SSDI, and ERIC then provides a list of potential matches to Michigan. (R. 149-2, PageID.3080.)

The ERIC reports are manually reviewed by Bureau staff within a week of receiving them. (R. 149-7, PageID.3137.) If there is an exact match of a person's first and last name, date of birth, and social security number and that person has not already been cancelled in the QVF, the person would be cancelled based on the ERIC report. (*Id.*, PageID.3138.) If there is not an exact match, staff may attempt to confirm the match through outside sources, such as published

obituaries. (*Id.*, PageID.3138.) If there is enough information to support a match, then the voter registration can be cancelled. (*Id.*) This staff review is double-checked by a manager. (*Id.*, PageID.3139.)

7. Removal of deceased individuals by local clerks

Cancellation of voter registrations by local clerks is described in the Election Officials' Manual. (R. 149-9, Def's MSJ, Ex. H, Election Officials' Manual, PageID.3168.) Outside of specific functions assigned by law to the Secretary, local clerks have primary responsibility for maintaining voter rolls for their jurisdictions, including cancelling registrations for deceased persons. (R. 149-7, PageID.3140.) If a local clerk has personal knowledge of a voter's death, say, if the clerk attended a funeral or received county death records, the clerk can cancel that voter's registration. (*Id.*, PageID.3140.) From 2019 through 2022, between 20% and 30% of "deceased" cancellations were entered by local clerks. (R. 149-10, Def's MSJ, Ex. I, Talmsa Aff., PageID.3174–3175.)

County clerks are required to provide death notices to city and township clerks, who cancel voter registrations on that basis. (R. 149-2, PageID.3079.) They may also use death information in newspapers, such as obituaries or personal knowledge that an individual has died, to cancel the registration. (*Id.*, PageID.3079.)

Lastly, if election mail is returned as undeliverable, the registration is made inactive, and the voter is sent a notice of cancellation. (*Id.*, PageID.3081.) If the voter does not respond and does not vote for two consecutive federal elections, the registration is cancelled. (*Id.*)

B. Petitioner's lists of "potentially deceased" voters

On September 18, 2020, Petitioner sent a letter to Secretary Benson in which it claimed to have compared a 2019 version of Michigan's QVF to the SSDI and determined that there were "potentially more than 34,000 deceased individuals" with active voter registrations at that time. (R. 1-4, PageID.48–50.)

On September 30, 2020, Bureau staff responded to Petitioner and requested more information about Petitioner's matching process and how the list was created. (R. 149-5, PageID.3119; *Id.*, Ex. 4, PageID.3128; R. 149-14, Def's MSJ, Ex. M, 09/29/2020 letter, PageID.3197.)

On October 5, 2020, Petitioner sent another letter and attached a spreadsheet with voter ID numbers, which Petitioner claimed to show over 27,000 "records of concern" that matched names, dates of birth, social security numbers, and credit address information. (R. 1-6, PageID.52–53.) Petitioner provided little detail about how it matched the voters to "credit address information" or determined that the voters were deceased. (*Id.*)

Bureau staff reviewed Petitioner's information and determined that each of the first ten individuals had already been cancelled in QVF. (R. 149-5, PageID.3119; *Id.*, PageID.3128.) Each of those ten had already had their registrations cancelled between October and December of 2019—a year before Petitioner's letter. (*Id.*, PageID.3128.) Also, Petitioner's apparent reluctance to provide details about its matching process lowered MDOS's confidence that the information Petitioner provided was accurate or that Petitioner's review could be recreated. (R. 149-2, PageID.3082.) Staff concluded that Petitioner's claims were "dubious." (*Id.*, PageID.3128.)

On November 25, 2020, Petitioner sent another letter to the Secretary in which it claimed to have purchased a new copy of the QVF and performed a "sample match of the voter file against the [SSDI]." (R. 1-8, PageID.61–62.) Again, no details of the matching process were provided, but this time Petitioner claimed that "over 27,500 registrants" in the QVF were indicated by the SSDI as deceased. On December 17, 2020, the Bureau responded, saying that the Bureau was still waiting to receive Petitioner's matching criteria. (R. 1-10, PageID.65–66.)

On January 13, 2021, Petitioner sent another letter claiming that Michigan was in violation of the NVRA and attached a copy of the spreadsheet it referenced in its November 25, 2020 letter. (R. 1-13, PageID.72–73.)

1. Creation of Petitioner's lists

In his report, Petitioner's expert Kenneth Block described the process he used to create Petitioner's lists of "potentially deceased" voters. (R. 121-2, Block Report, PageID.2197–2200, ¶¶ 28–32.) Block's description explicitly stated that the voter information from Michigan's QVF was first reviewed and extracted data from the QVF, which was then exported to a vendor, Virtual DBS, who "applied filters." (*Id.*) Block admitted that he does not know what filters were applied for the 2020 list. (*Id.*, ¶ 25.) The filtering reduced the number of voter records sent through the matching process. (R. 121-2, PageID.2197–2200, ¶ 28.)

Another vendor, Red Violet, performed a matching process to attempt to associate a voter record with a social security number obtained from credit bureau databases or Graham-Leach-Bliley Act (GLBA) databases. (*Id.*, ¶¶ 28–29.) If a social security number was obtained, that number was searched in the SSDI. (*Id.*, ¶ 29.) Red Violet transmitted the results to Virtual DBS, who then transmitted those results to Block's company. (*Id.*, ¶ 29.) Lastly, Block's company performed what Block calls a "sanity check," which checked that all names, addresses, and year of birth information in Red Violet's results matched the information from the original file. (*Id.*, ¶ 29.)

Block admitted that he has no degree in political science or statistics, and no education in the fields of probabilistic record linkage or entity resolution. (R. 121-3, PageID.2224–2225.) The process he used to create the lists has not been peer reviewed or subject to a third-party audit. (*Id.*, PageID.2309.)

When asked what standards govern the methodology of his process, Block was initially unclear about what that meant, but he ultimately stated that the only standard he applied was the "sanity check" described in his report. (*Id.*, PageID.2311, PageID.2313.) However, Block also stated that his "sanity check" procedure is not written down. (*Id.*, PageID.2314–2315.) Block also admitted that he has not performed any audit of Red Violet's processes or code, and that neither he nor anyone working with him supervised or watched Red Violet perform the matching. (*Id.*, PageID.2338–2339.) He also did not know what specific GLBA databases Red Violet used to perform the matching. (*Id.*, PageID.2347.) Neither Block nor anyone working with him has seen the social security numbers that were matched to Michigan voters in the QVF by Red Violet. (*Id.*, PageID.2340.)

2. The Secretary's experts' inability to replicate Block's results

Secretary Benson retained two experts to analyze the methodology described in Block's report. Jonathan Katz is a Professor of Social Sciences and Statistics at the California Institute of Technology. (R. 121-4, PageID.2377, Katz Report.) Michael Herron is a Professor of Quantitative Social Science at Dartmouth College. (R. 121-5, PageID.2398, Herron Report.) Professors Katz and Herron independently concluded that Block's methodology *could not be replicated* because the report did not provide sufficient information about how the process was performed. (R. 121-4, PageID.2378–2382; R. 121-5, PageID.2397, 2435–2437.)

C. Actual status of persons on Petitioner's October 5, 2020 list

On September 13, 2023, MDOS Analyst Stuart Talsma compared the original October 5, 2020 list provided by Petitioner to the QVF. (R. 149-10, PageID.3172–3175.) 7,749 of the voters identified by Petitioner in its original list had already been removed. (*Id*.) Of those cancelled registrations, 5,766 were cancelled before this lawsuit was filed on November 3, 2021. (*Id*., PageID.3174.) And 4,407 had been coded as "verify," meaning that the voter's eligibility has been questioned and the voter would need to provide additional information to confirm the voter's eligibility before being allowed to vote. (*Id*. PageID.3173–3174.) Another 4,654 were identified as "challenged," meaning that their eligibility to vote has been formally challenged or their registration has advanced to the next step in the verification process; for example, after a confirmation notice was returned as "undeliverable." (*Id*.) Regardless, voters with either a "challenged" or "verify" status *cannot vote* before taking some action or providing information confirming their eligibility to vote. (R. 149-10, PageID.3174.) Out of the 27,275 voter ID numbers provided in Petitioner's list, only 10,409 remained active and without qualification. (*Id*., PageID.3173.)

D. Election Administration and Voting Survey (EAVS) and Census data

Federal data shows that Michigan is consistently among the most active states in cancelling the registrations of deceased individuals.[7]

E. Petitioner's requests to review the NVRA records

On December 11, 2020, Petitioner sent a letter to Secretary Benson requesting that it be permitted to inspect four broad categories of records:

> 1. Data files your office has received from the federal Social Security Administration listing deceased individuals.

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[7] See U.S. Election Assistance Comm'n, *Election Administration and Voting Survey (2016)*, p 97 (Table 4b), https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf (last accessed January 23, 2026); U.S. Election Assistance Comm'n, *Election Administration and Voting Survey (2018)*, p 82 (Table 3b), https://www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report.pdf (last accessed January 23, 2026); U.S. Election Assistance Comm'n, *Election Administration and Voting Survey (2020)*, p 165 (Voter Registration Table 5), https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf (last accessed January 23, 2026); U.S. Election Assistance Comm'n, *Election Administration and Voting Survey (2022)*, p 188 (Voter Registration Table 5), https://www.eac.gov/sites/default/files/2023-06/2022_EAVS_Report_508c.pdf (last accessed January 23, 2026).

> 2. Any records relating to the cancellation of deceased registrants from the Qualified Voter File (QVF), including but not limited to reports that have or can be generated from Michigan's QVF.
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> 3. Any records relating to the investigation of potentially deceased registrants who are listed on the QVF, including but not limited to correspondence between your office and local election officials.
>
> 4. All records and correspondence regarding your use of the Electronic Registration Information Center to conduct voter roll list maintenance.

(R. 1-9, PageID.63–64.) Petitioner cited 52 U.S.C. § 20507(i)(1), which provides for inspection of records pertaining to "the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters."

On December 16, 2020, Petitioner sent an e-mail declaring that its representative would visit MDOS offices on December 18, 2020—*two days later*—to inspect "voter roll maintenance records." (R. 1-10, PageID.65–66.) On December 17, 2020, Bureau staff responded, stating that MDOS had not agreed to that date, and that the building was closed to the public due to the then-ongoing pandemic. (*Id*.) On December 18, 2020, Petitioner sent a letter asserting that the Secretary was in "violation" of the NVRA for failing to permit the inspection. (R. 1-11, PageID.67–68.) On January 13, 2021, Petitioner sent another letter stating

that Michigan had violated the NVRA by failing to allow Petitioner to inspect documents. (R. 1-13, PageID.72–73.)

The QVF can be queried to run a list of voter registration information that contains the voter's name, year of birth, and date of registration. (R. 149-5, PageID.3123.) In addition, there is a "voter history file," which has general information about each individual voter, including whether the voter has voted in an election, whether the voter has voted absentee, and the address history of that voter. (*Id.*) Concerning cancellations, QVF can also create reports that detail the voter's status, such as whether the voter is active, whether the voter is in verify or challenge status, or whether the voter is already cancelled for some reason, such as being deceased. (*Id.*) The Secretary produced all reports from the QVF showing registrants who were cancelled as deceased from 2016 to the time of the request. (R. 149-12, Def's MSJ, Ex. K, PageID.3183.)

Additionally, MDOS issues guidance on its website and through correspondence regarding procedures for list maintenance such as cancellations. (R. 149-5, PageID.3124.) The Secretary also produced these kinds of documents. (R. 149-13, Def's MSJ, Ex. L, PageID.3189–3195; R. 149-12, PageID.3180–3187.)

F. Procedural history of the case

Petitioner filed its complaint against Secretary Benson on November 3, 2021. (R. 1, PageID.1.) Count I alleged that the Secretary had failed to maintain a

program to remove ineligible voters from the state's voter rolls in violation of the NVRA. (*Id.*, PageID.17–18.) Count II alleged that the Secretary had failed to permit the inspection of records as required by the NVRA. (*Id.*, PageID.18–19.)

1. Cross-motions for summary judgment

On October 3, 2023, Petitioner and Secretary Benson filed motions for summary judgment. The Secretary filed her motion seeking judgment as a matter of law on both counts. (R. 148, Def's MSJ, PageID.3018–3021; R. 149, Def's MSJ Brief, PageID.3023–3197.) Petitioner sought judgment only as to the records request alleged in Count II of its complaint. (R. 153, Petitioner MSJ, PageID.3204–3206; R. 154, Petitioner Br., PageID.3207–3270.)

Petitioner also filed a "Motion for Discovery Under Federal Rule of Civil Procedure 56(d)," in which it argued that the Secretary's motion should be denied or deferred because Petitioner "ha[d] not been permitted to conduct all relevant discovery." (R. 170, Mot. Discovery, PageID.3517–3518; R. 172, Mot Discovery Br., PageID.3527–3532.) Petitioner argued that it had been denied the ability to take the Secretary's deposition, it had been denied discovery from ERIC, and it had been denied the ability to take a second deposition of Talsma. (R. 172, PageID.3528–3530.)

The Secretary opposed Petitioner's motion, arguing that Rule 56(d) should not be used to deny or delay summary judgment based upon requests for discovery that had already been denied, and where—for two of

the requests—Petitioner had not sought to appeal the magistrate's decision. (R. 174, Br. Opp., PageID.3535–3566.)

On March 1, 2024, the district court granted summary judgment to the Secretary. (R. 180, MSJ Op. & Order, PageID.3636–3666.) The court also denied Petitioner's motion for discovery under Rule 56(d). (*Id.*, PageID.3653–3654, 3659–3660.)

2. Petitioner's appeal and the Sixth Circuit's decision

Petitioner filed its notice of appeal on March 26, 2024. (R.182, PageID.3668.) The Sixth Circuit did not hear oral arguments. On May 6, 2025, the Sixth Circuit affirmed the district court in part. App. 15a–36a. The Sixth Circuit rejected Petitioner's argument that the statute's "reasonable effort" requirement imposed a "quantifiable, objective standard," and started its analysis instead with the language of the statute itself. App. 20a. Because the NVRA did not include a definition of "reasonable effort," the court turned to ordinary dictionary definitions for the words. *Id.* After reviewing those definitions, the Sixth Circuit constructed what it considered a straightforward definition of "reasonable effort": a serious attempt that is rational and sensible; the attempt need not be perfect, or even optimal, so long as it remains within the bounds of rationality. App. 21a. Applying that definition to the NVRA, the Sixth Circuit concluded that the statute required states to "establish a program that makes a rational and sensible attempt to remove dead registrants; a state need not, however, go to 'extravagant or

excessive' lengths in creating and maintaining such a program." App. 21a.

The Sixth Circuit noted that the Circuit had not previously opined on what efforts were sufficient to be considered reasonable, and that it found the Eleventh Circuit's decision in *Bellitto* to be instructive. App. 25a. There, the Eleventh Circuit found that Florida's "reliance on reliable death records, such as state health department records and the Social Security Death Index, to identify and remove deceased voters constitutes a reasonable effort." App. 25a–26a. The Sixth Circuit concluded that the Eleventh Circuit's reading of the statute was in line with its definition of "reasonable effort" and that "Michigan not only undertakes the kind of effort described in *Bellitto*, but it also adopts additional standards as well." App. 26a. The Sixth Circuit further concluded that Michigan's reasonable effort can be demonstrated through basic statistical evidence showing that Petitioner's list of "potentially deceased" voters encompassed only a "vanishingly small percentage" of the total number of registered voters in Michigan. App. 26a.

The Sixth Circuit also rejected Petitioner's argument that reasonableness was a fact question for a jury, holding that the district court was making a legal conclusion about the requirements of the NVRA. App. 28a. "Where, as here, a district court has wide-ranging, undisputed facts concerning a state's registrant removal program, the court is well within its discretion to make a legal finding and grant summary judgment." App. 28a.

Next, the Sixth Circuit concluded that it did not need to reach the district court's determination that the document disclosure claim in Petitioner's count II was moot, because it concluded that Petitioner did not have standing to raise that claim. App. 28a–29a.

To demonstrate standing under Article III, "a plaintiff must have suffered some actual or threatened injury due to the alleged illegal conduct of the defendant; the injury must be 'fairly traceable' to the challenged action; and there must be a substantial likelihood that the relief requested will redress or prevent the plaintiff's injury." App. 29a. The Sixth Circuit, citing *TransUnion LLC* v. *Ramirez*, 594 U.S. 413, 442 (2021), concluded that "[a] plaintiff may allege an 'informational injury,' but it must identify concrete 'downstream consequences' from failing to receive the required information." App. 29a (internal quotation omitted).

The Sixth Circuit found the Fifth Circuit's holding in *Campaign Legal Center* v. *Scott*, 49 F.4th 931 (5th Cir. 2022) to be instructive. App. 30a. The Sixth Circuit cited approvingly to the Fifth Circuit's conclusion that under this Court's *TransUnion* doctrine, a plaintiff does not "automatically satisf[y] the injury-in-fact requirement whenever a statute grants a person a statutory right and purports to authorize that person to sue to vindicate that right." App. 30a.

The Sixth Circuit found the Fifth Circuit's opinion in *Campaign Legal Center* to be analogous to this case. App. 32a. The Sixth Circuit also concluded that Petitioner's allegations that the failure to produce the

records "prevents [Petitioner] from engaging in its research, educational, and remedial activities" were vague and unspecific. App. 33a–34a. As a result, the Petitioner's allegations of injury were speculative and failed to demonstrate a "certainly impending" injury. App. 34a. "Neither the complaint nor PILF's briefs identify, for example, specific projects, research papers, or educational outreach efforts that were directly impacted by Secretary Benson's failure to produce relevant records." App. 34a. The Sixth Circuit also took notice of the Third Circuit's consideration of nearly identical injuries claimed by this Petitioner—including the inability to "study and analyze" list maintenance "to promote the integrity of elections," as well as the "inability to publish 'educational materials' "—which faulted Petitioner for "submit[ting] no evidence of any specific plans for the records it sought." *Pub. Int. Legal Found.* v. *Sec'y Commonwealth of Pennsylvania*, 136 F.4th 456, 468 (3d Cir. 2025). App. 35a. The Sixth Circuit concluded that the combination of analogous case law from the Fifth and Third Circuits and Petitioner's failure to articulate specific downstream consequences demonstrates that Petitioner failed to show a sufficient injury to confer Article III standing. App. 35a

On July 9, 2025, the Sixth Circuit unanimously denied rehearing *en banc*. App. 37a.

REASONS FOR DENYING THE PETITION

I. There is no split among the circuits about the interpretation of the NVRA, and the Sixth Circuit's interpretation does not present a significant issue that this Court needs to resolve.

Petitioner's principal argument is its contention that the question of what constitutes a "reasonable effort" under the NVRA is "important." But the petition does little to explain why this question is important enough to warrant this Court's intervention. The petition concedes that there is "scant authority" concerning what constitutes a violation of Section 8 of the NVRA, Pet. 7, and that lack of authority weighs heavily against the necessity of this Court's involvement. The NVRA was enacted in 1993, and no federal court even tangentially addressed the meaning of what constitutes a "reasonable effort" until the Eleventh Circuit's 2019 opinion in *Bellitto* v. *Snipes*, 935 F.3d 1192, 1207 (11th Cir. 2019).

In *Bellitto*, the plaintiff argued (as Petitioner does here) that Florida's program was unreasonable—even though Florida used SSDI and state health department records—because additional tools (such as the social security cumulative death index) were available to identify more deceased voters. 935 F.3d at 1207. The Eleventh Circuit rejected that argument, holding that "a jurisdiction's reliance on reliable death records, such as state health department records and the [SSDI], to identify and remove deceased voters constitutes a reasonable effort," and that "[t]he state is not required to exhaust all available methods for

identifying deceased voters; it need only use reasonably reliable information to identify and remove such voters." *Id*. at 1205. Michigan already goes beyond what the Eleventh Circuit in *Bellitto* held to be a "reasonable effort." While Petitioner argues that more deceased registrants might be identified through additional means, that does not make Michigan's effort unreasonable. In fact, the Eleventh Circuit rejected arguments that a state was required to adopt more extensive procedures in order to meet the "reasonable effort" standard under the NVRA, holding that the NVRA requires only a reasonable effort, "not an exhaustive one." *Id*. at 1207.

The decision below is consistent with *Bellitto*, and no other circuit has addressed this question, so there is no split of authority. In an attempt to create one, Petitioner asserts that *Bellitto* and this case are differently situated. See Pet. at 13–14. Petitioner contends that it "does not rely on the sort of evidence in *Bellitto*," Pet. at 13, and highlights the different "procedural posture" in that case, *id*., which led the Eleventh Circuit to apply a different standard of review to the district court's factual findings. Petitioner effectively concedes that *Bellitto* does not create a split of authority.

For over twenty-five years following the enactment of the statute, there has been no apparent dispute over its interpretation, and the few federal courts that have reached this issue are consistent in their reading of the statute. And, in the seven months since the Sixth Circuit's decision, no federal court has issued a conflicting opinion or expressed reservations about the Sixth Circuit's analysis. The interpretation of this

part of the NVRA does not present a contested matter of significant national controversy.

This dearth of authority regarding the interpretation of the "reasonable effort" standard authored by Congress supports the need for percolation in the courts of appeals as a precondition to this Court's review. See *California* v. *Carney*, 471 U.S. 386, 401 n.11 (1985) (Stevens, J., dissenting) ("The process of percolation allows a period of exploratory consideration and experimentation by lower courts before the Supreme Court ends the process with a nationally binding rule. The Supreme Court, when it decides a fully percolated issue, had the benefit of the experience of those lower courts.") (quoting Estreicher & Sexton, New York University Supreme Court Project, *A Managerial Theory of the Supreme Court's Responsibilities*, 59 N.Y.U.L. Rev. 677, 716, 719 (1984)). Before this Court "ends the process with a nationally binding rule," *id.*, it should await the wisdom and judgment of other courts of appeals squarely analyzing the issue.

The petition also highlights purported factual questions that remain. Petitioner presses "multiple genuine issues of material fact concerning whether the Secretary has a reasonable list maintenance program." Pet. at 14. This focus on several perceived questions of fact only confirms that this petition is a poor vehicle to address the questions presented. Also, while Respondent disagrees that any questions of fact remain, even assuming some do exist, their existence would confirm that certiorari should be denied.

The petition also does not demonstrate any mistake or error in the Sixth Circuit's decision warranting correction. In the lower courts, Petitioner did not dispute any facts concerning the composition of Michigan's list maintenance program or how it operates. Instead, it sought only to dispute whether that program constitutes a "reasonable effort" under Section 8 of the NVRA. Petitioner only ever raised arguments for how Michigan's program could be improved or expanded, and it contends that anything short of maximal efficiency renders a list maintenance program unreasonable. Indeed, the district court below *assumed that Petitioner's suggestions may have merit*, but it concluded that the NVRA "requires only a 'reasonable effort,' not a perfect effort," and that the Petitioner's identification of areas for improvement "does not serve to demonstrate that Michigan's multilateral process for the removal of deceased registrants from the QVF does not meet the threshold of a 'reasonable effort.' " App. 68a.

Ultimately, the petition seeks to interpret the NVRA's requirement for a "reasonable effort" into a "quantifiable, objective standard." Pet. at 9. But the petition never provides any legal authority for its effort to add new standards to the NVRA. Nor does it articulate exactly what that "quantifiable standard" should be (or, for that matter, how states could know whether they achieved it). Regardless, such a construction would require this Court to impose requirements that are simply not present in the statute itself. The NVRA provides that a state must "conduct a general program that makes a *reasonable effort* to remove the names of ineligible voters from the official lists of

eligible voters[.]" 52 U.S.C. § 20507(a)(4)(A)–(B) (emphasis added). The NVRA does not, and need not, define what constitutes a "reasonable effort," or include any specific metrics or measurements that must be met in order for a state program to meet that threshold.

The Sixth Circuit correctly relied on the common meaning of the words "reasonable effort," and concluded that the NVRA required, "a serious attempt that is rational and sensible; the attempt need not be perfect, or even optimal, so long as it remains within the bounds of rationality." App. 20a–21a. The Sixth Circuit's conclusion is rational, restrained, consistent with the language of the statute, and has not since been contradicted by any other federal court. The petition offers no legal authority—and no citation to this Court's own jurisprudence—that shows the Sixth's Circuit's approach or result to be erroneous. Petitioner is free to disagree with whether a "reasonable effort" is sufficient to accomplish the goals of the statute, but such arguments are more appropriately directed to Congress.

II. The Sixth Circuit's decision on the Petitioner's standing does not conflict with prior decisions of this Court or other circuits' resolution of this issue.

Petitioner next argues that the Sixth Circuit's conclusion that it lacked Article III standing to sue under the NVRA's record production provision was contrary to this Court's precedent, and then also argues that it

"deepens" an existing split among the circuits. Neither argument withstands inspection.

Petitioner's argument regarding this Court's precedents relies entirely on its reading of two decisions: *Pub. Citizen* v. *United States Dep't of Just.*, 491 U.S. 440 (1989) and *FEC* v. *Akins*, 524 U.S. 11 (1998). Pet. at 15–17. But neither case concerns—or even mentions—the NVRA. Instead, *Public Citizen* concerned the Federal Advisory Committee Act, and *Akins* addressed the scope and application of the Federal Election Campaign Act. Petitioner urges that the NVRA be treated under a similar rubric as a "public disclosure" statute, but it offers nothing to even suggest that this Court would, or should, agree. So, it is not accurate to say that the Sixth Circuit's decision here conflicts with any decision of this Court. Rather, the only conflict raised by Petitioner is its own argument about how past decisions should best be understood.

Notably, *Public Citizen* and *Akins* predate this Court's more recent decision in *TransUnion LLC* v. *Ramirez*, 594 U.S. 413 (2021). *TransUnion* was a landmark decision that has already been cited in thousands of opinions in the five years since its issuance. Petitioner nevertheless argues that *TransUnion* does not apply to public record cases.

But this Court has rejected a violation of a statutory right as sufficient to meet Article III's injury requirement—and so already has resolved the question Petitioner hopes to present. Congress may create statutory rights and causes of action for violating them, but an alleged infringement of a statutory right does

not suffice for Article III standing. *TransUnion*, 594 U.S. at 425–26; see also *Spokeo*, *Inc.* v. *Robins*, 578 U.S. 330, 341 (2016) ("Article III standing requires a concrete injury even in the context of a statutory violation"). An "information deficit" without "adverse effects cannot satisfy Article III." *TransUnion*, 594 U.S. at 442 (quoting *Trichell* v. *Midland Credit Mgmt.*, *Inc.*, 964 F.3d 990, 1004 (11th Cir. 2020)). "Congress's say-so" is not enough to treat an injury as concrete for purposes of federal jurisdiction. *Id.* at 426 (quoting *Trichell*, 964 F.3d at 999 n.2). Granting Article III standing to any alleged violation of a statutory right "would flout constitutional text, history, and precedent." *Id.* at 428. It would also muddy the province of the courts "solely to decide on the rights of individuals.' " *Id.* at 423 (quoting *Marbury* v. *Madison*, 5 U.S. 137 (1803)); see also *id.* at 429. This Court's repeated citation of *Trichell* in *TransUnion* is also notable, because that case described both *Public Citizen* and *Akins* as cases in which the plaintiff "identified consequential harms from the failure to disclose the contested information." *Trichell*, 964 F.3d at 1004. Accordingly, those cases do not conflict with *TransUnion*, as Petitioner's argument suggests.

In an attempt to bolster its argument, the petition on pages 18 and 19 raises district court cases finding standing for public disclosure claims, citing *Project Vote/Voting for Am.*, *Inc.* v. *Long*, 752 F. Supp. 2d 697, 702 (E.D. Va. 2010); *Pub. Int. Legal Found.* v. *Bennett*, No. H-18-0981, 2019 U.S. Dist. LEXIS 39723, at *8–10 (S.D. Tex. Feb. 6, 2019) (denying motion to dismiss), adopted by *Pub. Int. Legal Found.*, *Inc.* v. *Bennett*, No. 4:18-CV-00981, 2019 U.S. Dist. LEXIS 38686 (S.D.

Tex. Mar. 11, 2019); and *Judicial Watch, Inc.* v. *King*, 993 F. Supp. 19 2d 919, 923 (S.D. Ind. 2012). But all these cases predate *TransUnion*, so they cannot be read to distinguish the application of that opinion.

Ultimately, Petitioner's position that *TransUnion* does not apply to its public records claim rests chiefly on a brief observation in the Court's *TransUnion* opinion that the case before it did not *involve* public disclosure laws, and so *Public Citizen* and *Akins* did not control. Pet. at 19. But *TransUnion* went no further.

It is also unclear that the Court's passing reference to public disclosure laws could override the Court's more forceful statements regarding informational injuries and standing. Immediately following the reference to public disclosure laws, the Court discusses the necessity for "downstream consequences" for claims based on informational injuries before concluding that "[a]n 'asserted informational injury that causes no adverse effects cannot satisfy Article III.' " 594 U.S. at 442 (internal citation omitted). If any doubt remained, the Court then succinctly summarized its point: "No concrete harm, no standing." *Id.*

This is significant because the Sixth Circuit's decision here—citing *TransUnion*—held that Petitioner was required to identify concrete "downstream consequences" from failing to receive the required information. App. 29a–30a. Thus, the Sixth Circuit's opinion does not conflict with the Court's precedent—to the contrary, it follows it.

Petitioner similarly fails to demonstrate any actual existing split among the circuits on this issue. Petitioner first points to the First Circuit decision in *Pub. Int. Legal Found., Inc.* v. *Bellows*, 92 F.4th 36, 49 (1st Cir. 2024), but it acknowledges that the decision did not even evaluate standing under the NVRA's public disclosure provision. Pet. at 21. An opinion that does not address an issue does not demonstrate a "split" between the circuits on that issue.

Petitioner next cites to district court decisions in other cases Petitioner filed in Wisconsin and Minnesota. See *Pub. Int. Legal Found., Inc.* v. *Wolfe*, No. 24-cv-285-jdp, 2024 U.S. Dist. LEXIS 216250, at *10 (W.D. Wis. Nov. 26, 2024) and *Pub. Int. Legal Found., Inc.* v. *Simon*, 774 F. Supp. 3d 1037, 1042 (D. Minn. 2025). Both district court opinions refer to *Akins* and *Public Citizen*, apparently relying on the same arguments Petitioner raises here. But neither of these cases has yet been reviewed by the circuit courts of appeals (the Wisconsin case is currently on appeal to the Seventh Circuit, and no appeal appears to have been taken in the Minnesota case). In the absence of a conflicting decision, there is no "split" for this Court to resolve.

Petitioner then observes that the Sixth Circuit decision followed the Fifth Circuit's decision in a similar case involving the NVRA. *Campaign Legal Ctr.* v. *Scott*, 49 F.4th 931, 932–33 (5th Cir. 2022). While Petitioner is critical of the Fifth Circuit's conclusion, Petitioner fails to identify any distinction between the decisions of the Fifth and Sixth Circuits that could be described as a "split." Indeed, the Sixth Circuit found

that "*Campaign Legal Center* is directly analogous to this case." App. 32a. Further, while not squarely addressed by the Petitioner, the Third Circuit similarly concluded—citing *TransUnion*—that a plaintiff raising a record disclosure claim under the NVRA lacked standing where it failed to establish any concrete injury from not receiving certain records. *Pub. Int. Legal Found.*, 136 F.4th at 468–69. Thus, the question presented here finds no split of authority, as the only three circuits to address the issue faithfully followed *TransUnion*.[8]

[8] Petitioner also raises a spate of Americans with Disabilities Act cases filed in the Second, Fourth, Fifth, and Tenth Circuits. Petitioner notes that the Second, Fifth, and Tenth Circuits all concluded that the plaintiff (Ms. Laufer) lacked standing under *TransUnion*, but that the First, Fourth, and Eleventh Circuits concluded that the same plaintiff had standing and that she had "singlehandedly generated a circuit split." See *Acheson Hotels, LLC* v. *Laufer*, 601 U.S. 1, 3 (2023). This Court dismissed that case on grounds of mootness before it could reach the standing issue. *Id.* Regardless, none of these cases concerned the NVRA, and Petitioner does not explain why a one-time failure to timely provide voter list-maintenance records otherwise presents an especially apt vehicle in which to analyze standing for alleged informational injuries.

CONCLUSION

For these reasons, this Court should deny the petition.

Respectfully submitted,

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