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IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

COMMON CAUSE and DAWN ESSINK,

Plaintiffs,

v.

ROBERT B. EVNEN, in his official capacity as the Secretary of State of Nebraska,

Defendant.

Case No. CI 25-3301

DISMISSAL WITHOUT PREJUDICE

On January 29, 2026, this matter came before the Court on three motions: (1) the Plaintiffs' Amended Motion for Temporary Injunction (Filing No. 4); (2) the Plaintiffs' Motion for Summary Judgment (Filing No. 5); and (3) the Defendant's Motion to Dismiss (Filing No. 6). Daniel Gutman and Alex Arkfeld appeared for the Plaintiffs Common Cause and Dawn Essink. Jennifer Huxoll and Cody Barnett appeared for the Defendant Robert B. Evnen, in his official capacity as the Secretary of State of Nebraska ("Secretary"). Being fully advised on the premises, the Court overrules the Plaintiffs' Amended Motion for Temporary Injunction and Motion for Summary Judgment. The Court sustains the Secretary's Motion to Dismiss. The Court dismisses the action without prejudice.

I. BACKGROUND

In a letter dated September 8, 2025, the U.S. Department of Justice (DOJ) directed the Secretary to "provide a copy of Nebraska's statewide voter registration list . . . ." (Compl., Ex. A). The DOJ's letter continued:

> The electronic copy of the statewide [voter registration list] should contain *all fields*, which means, your state's [voter registration list] must include the registrant's full name, date of birth, residential address, his or her state driver's license number or the last four digits of the registrant's social security number as required under [the Help America Vote Act] to register individuals for federal elections.
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> (Compl., Ex. A, citing, 52 U.S.C. § 21083(a)(5)(A)(i) (emphasis in original)).

The DOJ said that it was entitled to the list under three federal laws: (1) the National Voter Registration Act; (2) the Help America Vote Act; and (3) Title III of the Civil Rights Act of 1960. (Compl., Ex. A). The DOJ did not demand the list under Nebraska law.

According to the letter, the purpose of the DOJ's request is to "ascertain Nebraska's compliance with the list maintenance requirements" under federal law." (Compl., Ex. A). The DOJ told the Secretary that "all data received from you will be kept securely and treated consistently with the Privacy Act . . . ." (*Id.*).

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On September 22, 2025, the Plaintiffs sued the Secretary for a declaration that complying with the DOJ's request would violate Nebraska law. The Plaintiffs are Dawn Essink and Common Cause. Essink is a registered Nebraska voter. (Compl., ¶ 4). The Complaint alleges: "By registering to vote in Nebraska, Essink has provided to the state private, sensitive information. She registered to vote with the expectation that her sensitive information will remain private." (*Id.*).

Common Cause is a "membership organization" organized under the laws of the District of Columbia. (Compl., ¶ 5). Common Cause sues the Secretary in a "representative capacity" on behalf of its members who are registered to vote in Nebraska. (*Id.*, ¶¶ 5–6). Common Cause's members include anyone who has donated money within the last two years or "taken meaningful action in support of Common Cause's advocacy work," like signing a petition. (*Id.*, ¶ 7).

Regarding its authority to represent its members in this action, Common Cause alleges the following:

> In September 2025, Common Cause communicated with its Nebraska membership regarding the DOJ's demand for voter registration data and Common Cause's consideration of filing this lawsuit. Members were informed that Common Cause was considering legal action in this matter on members' behalf and provided the opportunity to express their views or support for this litigation. To date, no Nebraska-based member has objected to Common Cause's associational role in this case.
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> (Compl., ¶ 9).

The Plaintiffs assert a single cause of action under the Uniform Declaratory Judgments Act (UDJA). (Compl., ¶¶ 20–26). They allege:

> Nebraska law—namely, Neb. Rev. Stat. § 32-330—affects Plaintiffs' legal rights and relations vis-à-vis voter registration. That statute guarantees that certain information, including birthdates, voter signatures, social security numbers, and driver's license information, will not be shared by state or local election officials with any third parties, including the federal government.
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> (*Id.*, ¶ 23).

The Plaintiffs pray for three different declarations: (1) a declaration that fulfilling the DOJ's demand will violate Nebraska law; (2) a declaration that Nebraska law prohibits the Secretary from giving the voter registration list to the DOJ; and, (3) alternatively, a declaration that Nebraska law limits the information that the Secretary can give to the DOJ. The Complaint asks the Court to temporarily enjoin the Secretary from complying with the DOJ's demand until this lawsuit is finally resolved. The Complaint also includes a catch-all request for "[s]uch other and further relief as the Court deems just and equitable."

II. DISCUSSION

A. Nebraska's voter registration laws.

The Court will begin by summarizing the most relevant sections of Nebraska's voter registration statutes. Under Neb. Rev. Stat. § 32-312 (Supp. 2025), a voter registration application shall request the following information:

- **Citizenship**: Whether the applicant is a citizen.
- **Name**: The applicant's first name, last name, middle name or initial, and maiden name, if applicable.
- **Residence**: The applicant's residential address.
- **Postal address**: The applicant's postal address, if different from their residential address.
- **Telephone number**: The applicant's telephone number, unless the applicant says that their number is unlisted, in which case it will not be included in the register.
- **Email address**: The applicant's email address, unless the applicant says that their email address is private, in which case it will not be included in the register.
- **Driver's license number or last four digits of social security number**: The applicant's driver's license number. If the applicant does not have a driver's license number, then the last four digits of the applicant's social security number.
- **Place of birth**: The state, country, kingdom, empire, or dominion where the applicant was born.
- **Date of birth**: The applicant's date of birth.
- **Applicant's signature**: The applicant must sign their application.

Although the application must request all this information, an applicant might be registered to vote even if they do not complete every field. See Neb. Rev. Stat. § 32-312.02 (Reissue 2016). Even if an applicant fails to provide their driver's license number or last four digits of their social security number, for example, they can still be registered to vote and assigned a unique identifying number. See Neb. Rev. Stat. § 32-312.03 (Reissue 2016).

The public availability of the voter registration list is controlled by Neb. Rev. Stat. §§ 32-330 and 32-331 (Cum. Supp. 2024). Under § 32-330(1), the entire voter registration list (except digital signatures) is open for public inspection (but not copying) at the local election office. Section 32-330(1) provides:

> Except [for digital signatures], the voter registration register shall be a public record. Any person may examine the register at the office of the election commissioner or county clerk, but no person other than the Secretary of State, the election commissioner, the county clerk, or law enforcement shall be allowed to make copies of the register. Copies of the register shall only be used for list maintenance as provided in section 32-329 or law enforcement purposes. . . . The Secretary of State, election commissioner, or county

clerk shall withhold information in the register designated as confidential under section 32-331. . . .

Although the public cannot make copies of the full register, they may purchase copies of a list with certain information omitted. See § 32-330(2). Such lists may only be used for certain purposes, including elections, voter registration, and law enforcement. *Id.* Unless a voter designates certain information as confidential under § 32-331, the information in the distributable list under § 32-330(2) includes the registrant's name, residential address, telephone number, and birth year. It does not include, notably, the registrant's full birth date, driver's license number, or the last four digits of their social security number. § 32-330(3).

As noted, a registrant may designate certain information in their registration record as confidential. See § 32-331. Specifically, "[a] registered voter may file an affidavit with the election commissioner or county clerk to have the information relating to his or her name, residence address, and telephone number remain confidential. . . ." *Id.*

B. Standing.

Having summarized Nebraska's voter registration statutes, the Court is now ready to consider the jurisdictional arguments raised by the Secretary, i.e., standing and indispensable parties. The Court will begin with standing. The Secretary argues that the Plaintiffs lack standing because they have not alleged an injury in fact under Nebraska's common law standing doctrine.

(1) Standing for declaratory relief.

The Plaintiffs respond that they have standing under the terms of the UDJA. Specifically, they point to Neb. Rev. Stat. § 25-21,150 (Reissue 2016), which provides:

> Any person . . . whose rights, status or other legal relations are affected by a statute . . . may have determined any question of construction or validity arising under the . . . statute . . . and obtain a declaration of rights, status or other legal relations thereunder.

As the Court understands it, the Plaintiffs argue that the UDJA supplants the traditional injury-in-fact rule. Unlike the federal constitution, the Nebraska Constitution does not limit the judicial power to "Cases" or "Controversies." Thus, as the Plaintiffs observe, the Legislature is free to override the injury-in-fact requirement for a particular cause of action. See, e.g., *Griffith v. Neb. Dep't of Corr. Servs.*, 304 Neb. 287 (2019).

But the Court disagrees that the Legislature did so in the UDJA. In *Mullendore v. Nuernberger*, 230 Neb. 921 (1989), the Nebraska Supreme Court held that the usual justiciability rules apply to declaratory judgment actions. Quoting § 25-21,150, the Supreme Court explained:

> The "case or controversy" prerequisite to maintain litigation applies with equal, if not stronger, force to an action for a declaratory judgment, since the right to maintain the

action is expressly granted only to those "person[s] . . . whose rights, status or other legal relations are affected by a statute."

Mullendore, supra, 230 Neb. at 926.

More recently, the Supreme Court has reiterated that the "requirements for a justiciable controversy and a direct and legal interest in the controversy by the parties are no less exacting in a case brought under the declaratory judgment statute than in any other type of suit." *Harleysville Ins. Group v. Omaha Gas Appliance Co.*, 278 Neb. 547, 553 (2009). This is also the rule in other jurisdictions. See 22A Am. Jur. 2d *Declaratory Judgments* § 16 ("The requisite justiciability for declaratory relief includes the element of standing in the constitutional sense.").

Thus, this Court believes that the usual standing rules apply here. The Nebraska Supreme Court has recently described those rules (in a case involving declaratory and injunctive relief) as follows:

> Standing refers to whether a party had, at the commencement of the litigation, a personal stake in the outcome of the litigation that would warrant a court's exercise of its subject matter jurisdiction and remedial powers on that party's behalf. To have standing, the plaintiff must have some legal or equitable right, title, or interest in the subject matter of the controversy. To show standing, it is generally insufficient for a plaintiff to have merely a general interest common to all members of the public. Further, a plaintiff does not generally have standing to bring a case on behalf of a third party.
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> *Neb. Firearms Owners Ass'n v. City of Lincoln*, 319 Neb. 723, 730 (2025).

Regarding the injury-in-fact rule, the Supreme Court said:

> An injury is sufficient for standing purposes when it is concrete in both a qualitative and temporal sense, and it must be distinct and palpable, as opposed to merely abstract. Further, the alleged harm from such an injury must be actual or imminent, not conjectural or hypothetical. Additionally, a person seeking to restrain the action of a governmental body must show some special injury peculiar to himself or herself aside from, and independent of, the general injury to the public unless it involves an illegal expenditure of public funds or an increase in the burden of taxation.
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> *Id.* at 731.

(2) Intangible injuries in fact.

An injury-in-fact can be tangible (physical, monetary, etc.) or intangible. *TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021). The Plaintiffs allege an intangible harm in this case. To determine whether an intangible harm is sufficiently concrete for standing purposes, the U.S. Supreme Court considers whether the harm has a "close relationship to harms traditionally recognized as providing a basis for lawsuits in American courts." *Id.* at 425. "That inquiry asks whether plaintiffs have identified a close historical or common-law analogue for their asserted

injury." *Id.* at 424. Intangible harms that meet this standard include "reputational harms, disclosure of private information, and intrusion upon seclusion." *Id.* at 425.

The Plaintiffs argue that *TransUnion* and other federal cases are not helpful because Nebraska's standing doctrine is based on the common law, not a constitution. Again, the Court disagrees. Nebraska's injury-in-fact rule is based on federal caselaw. See *State v. Baltimore*, 242 Neb. 562 (1993), citing *Whitmore v. Arkansas*, 495 U.S. 149 (1990). And it is perfectly natural for the standing rules to be similar in state and federal courts. Although the federal standing rules are constitutional, they are also based on our common law traditions. See, e.g., *United States v. Texas*, 599 U.S. 670 (2023) (standing requires that the "dispute is traditionally thought to be capable of resolution through the judicial process . . . .").

As mentioned, a plaintiff alleging an intangible harm must show that the harm is similar to injuries that courts have traditionally redressed. See *TransUnion*, *supra*. Such traditional harms include "disclosure of private information." *Id.*, 594 U.S. at 425. Several courts have considered this standard in the context of driver's license numbers and similar information. Of these opinions, the most thorough and persuasive is the Fourth Circuit's decision in *Holmes v. Elephant Insurance Co.*, 156 F.4th 413 (4th Cir. 2025). This Court will therefore discuss the *Holmes* decision in some detail.

In *Holmes*, an insurance company scraped information from state motor vehicle departments and other sources to auto-populate insurance quotes. The information that the insurer collected included driver's license numbers. Hackers breached the insurer's network, compromising the driver's license numbers of almost 3 million people. Four such persons filed a class action against the insurer. All four of the lead plaintiffs alleged that they faced an increased risk of identity theft. Two of them (Cardenas and Holmes) had already found their driver's license numbers on the dark web. The lead plaintiffs prayed for declaratory and injunctive relief, in addition to damages. But the district court dismissed the lawsuit for lack of standing.

On appeal, the plaintiffs argued that their alleged harm was close enough to the tort of public disclosure of private information. That is one of the four invasion-of-privacy torts recognized at common law. *Holmes*, *supra*, citing William L. Prosser, *Privacy*, 48 Calif. L. Rev. 383, 389 (1960). Such tort "requires that the defendant (1) disclose (2) to the public (3) true but private information that would be highly offensive to a reasonable person and (4) is otherwise of no legitimate concern to the public." *Holmes*, *supra*, 156 F.4th at 423.

The Fourth Circuit in *Holmes* considered the requirements of this tort in some detail, summarizing:

> A closer look at the elements of the public disclosure of private information allows us to refine our understanding of its harm. While the tort covers a wide range of information, two of its elements—that the information be highly offensive to a reasonable

person if shared, and that it not be of legitimate public concern—tell us that only sensitive personal information falls within the scope of the tort. . . .

> And the publicity element makes clear that even when sensitive personal information is at issue, actionable harm does not occur any time that information is shared without permission. The tort is only implicated when the sharing is so broad that it reaches, or is sure to reach, the public. . . . Overall, the public disclosure of private information is aimed at the harm that occurs when sensitive personal information is released into the open.

Id. at 423–24 (internal punctuation and citations omitted).

The Fourth Circuit emphasized that the harm, for standing purposes, does not have to exactly match the common law tort. For example, standing extends to private information that, while not "salacious," is of a type that one "may justifiably wish to control . . . ." *Id.* at 424–25, citing *Davis v. FEC*, 554 U.S. 724 (2008) (holding that a candidate had standing to challenge a law requiring him to publicly report how much money he spent on his own campaign).

But standing does not extend to the **non-public** disclosure of private information. The Fourth Circuit explained:

> [P]ublicity cannot be broadened under *TransUnion* to include disclosures that would be considered private at common law. Sensitive personal information and justifiably withheld information, like false statements and misleading statements, differ in degree. But public disclosure and private disclosure strike us as differing in kind. Private disclosure is not just a less extreme form of public disclosure. Publicity causes a qualitatively different harm. An announcement to a crowd is not simply a more efficient way of conducting a series of one-on-one conversations; it is a different way of communicating altogether. So harms that analogize to the harm of the public disclosure of private information must still involve publicity.

Id. at 425 (citations and internal punctuation omitted).

Returning to the facts in *Holmes*, the Fourth Circuit held that a driver's license number was information that the plaintiffs justifiably wanted to control. On that point, the Fourth Circuit disagreed with a Seventh Circuit case that had reached the opposite conclusion. See *Baysal v. Midvale Indem. Co.*, 78 F.4th 976 (7th Cir. 2023) ("[A] driver's-license number is not potentially embarrassing or an intrusion on seclusion. It is a neutral fact derived from a public records system, a fact legitimately known to many private actors and freely revealed to banks, insurers, hotels, and others.").

But the plaintiffs still had to show that their driver's license numbers had been made public. Two of the plaintiffs, Cardenas and Holmes, met this standard by alleging that their numbers were on the dark web. Although not a traditional public forum, the dark web was a "forum accessible to all—or at least to those with some degree of proficiency with computers." *Holmes*, *supra*, 156 F.4th at 426. The driver's license numbers of these two plaintiffs had been "released into the open." *Id.* Thus, Cardenas and Holmes had standing to sue for damages.

But the other two lead plaintiffs, Bias and Shaw, had not alleged public disclosure. Although hackers now had Bias and Shaw's driver's license numbers, these plaintiffs did not allege that the "unnamed hackers are so numerous as to constitute the public on their own." *Id.* at 425. Nor did they allege that the hackers had shared their numbers with anyone else. Thus, Bias and Shaw did not have standing to sue for damages.

The Fourth Circuit held that none of the lead plaintiffs had standing to sue for declaratory or injunctive relief. The plaintiffs argued that their driver's license numbers, which were now in the hands of hackers, were at risk of being misused in the future. But the Fourth Circuit held that without any allegations that such misuse was imminent, the alleged harm was speculative.

(3) The Plaintiffs do not have standing.

Now that the Court has reviewed the rules, it is ready to decide whether the Plaintiffs have sufficiently alleged standing. The Court will begin with Essink. She alleges that she registered to vote in Nebraska "with the expectation that her sensitive information [would] remain private." (Compl., ¶ 4). Because the Secretary makes a facial challenge to standing, the Court must accept the Plaintiffs' allegations as true and draw all reasonable inferences in their favor. See *Jacobs Eng'g Grp. Inc. v. ConAgra Foods, Inc.*, 301 Neb. 38 (2018).

To have standing to challenge the release of her "sensitive information," Essink must allege that (1) information that she justifiably wishes to tightly control (2) will be released into the open. See *Holmes v. Elephant Ins. Co.*, 156 F.4th 413 (4th Cir. 2025). Except for digital signatures, the voter register is a public record under Nebraska law. See § 32-330(1). Any person may examine it at the election commissioner or county clerk's office. *Id.* It is therefore hard to understand why Essink thought that her information would remain private. Although a voter may file an affidavit to keep certain information confidential, see § 32-331, Essink does not allege that she did so.

On the other hand, while the register (except for digital signatures) is open for public inspection, the public may not copy it. They may purchase a list of registered voters from the Secretary. See § 32-330(2). But this list does not include a registrant's full birth date, driver's license number, or the last four digits of their social security number. § 32-330(3). Further, the list cannot be used for commercial purposes or published on the internet. *Id.* So while Essink could not reasonably have believed that her information would remain private, she might have reasonably expected that its release would be tightly controlled.

Also, as noted, Essink's digital signature is not part of the public record. People often sign things without further thought about whether their signature could be copied. For example, yearbooks or wedding guest books. But a person's signature is still a unique identifier used in a wide variety of important documents. Essink might justifiably wish to prevent the public disclosure of her digital signature.

Essink has therefore alleged that she justifiably wishes to tightly control the information demanded by the DOJ. But she has not alleged the other requirement, i.e., that her information will be released into the open. Essink alleges only that the Secretary will share her information with the DOJ. That is not analogous to releasing her information to the public.

In her briefs to this Court, Essink argued that the DOJ will use third-party contractors to review her information. But Essink did not allege this fact in the Complaint. Regardless, alleging that the DOJ will use third-party contractors would not be analogous to public disclosure. It is speculative that hackers or other bad actors will gain access to Essink's information and publicly release it.

Common Cause sues in a "representative capacity" on behalf of its members who are registered to vote in Nebraska. (Compl., ¶¶ 5–6). Common Cause's standing therefore has the same flaws as Essink's standing. Further, Common Cause has not sufficiently alleged associational standing under Nebraska law. When an association sues on behalf of its members, it must allege its membership, its representative capacity, and its authority to act on behalf of its members. See *Neb. Firearms Owners Ass'n v. City of Lincoln*, 319 Neb. 723 (2025).

Regarding its authority to sue on behalf of its members, Common Cause alleges that it informed its members in September 2025 that it was "considering legal action." (Compl., ¶ 9). No one objected. (*Id.*). Admittedly, Nebraska caselaw does not clearly establish what kind of "authority" an association must have. But surely more is required than this.

In sum, the Court concludes that both Plaintiffs lack standing. This Court therefore lacks subject matter jurisdiction. *Neb. Firearms Owners Ass'n*, *supra* ("Standing is a jurisdictional component of a party's case . . . .").

C. Indispensable party.

The Secretary argues that the Court also lacks subject matter jurisdiction because the Plaintiffs have not joined an indispensable party, i.e., the DOJ. Nebraska law generally tracks the traditional distinction between necessary and indispensable parties. See *Midwest Renewable Energy, LLC v. Am. Eng'g Testing, Inc.*, 296 Neb. 73 (2017), citing Neb. Rev. Stat. § 25-323 (Reissue 2016). Under this rule:

> An indispensable . . . party to a suit is one whose interest in the subject matter of the controversy is such that the controversy cannot be finally adjudicated without affecting the indispensable party's interest, or which is such that not to address the interest of the indispensable party would leave the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience.
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> *Midwest Renewable Energy*, *supra*, 296 Neb. at 90–91 (quotation omitted).

If a party is interested in the controversy but the controversy is "severable from their rights," then the party is merely "necessary." *Id.* at 90. Courts have the discretion to join necessary parties, but the absence of an indispensable party deprives them of jurisdiction. *Id.*

The Plaintiffs note that the UDJA has its own indispensable-party rule. See Neb. Rev. Stat. § 25-21,159 (Reissue 2016). The Nebraska Supreme Court has defined an indispensable party under the UDJA in a similar way to the general definition. See *SID No. 2 of Knox Cnty. v. Fischer*, 308 Neb. 791 (2021). But the UDJA's indispensable-party statute specifically applies to "persons." See § 25-21,159. The Plaintiffs argue that the DOJ is not a "person" and therefore not an indispensable party under the UDJA.

The UDJA defines "person" to include, among other things, a "person." Neb. Rev. Stat. § 25-21,161 (Reissue 2016). Under Nebraska law, unless the context indicates otherwise, the statutory term "person" does not include a sovereign. See Neb. Rev. Stat. § 49-801 (Supp. 2025) (general definition of "person"); *Wiseman v. Keller*, 218 Neb. 717 (1984) (indicating that the State of Nebraska was not a "person" under § 49-801). The U.S. Supreme Court follows the same rule. See *Return Mail, Inc. v. U.S. Postal Serv.*, 587 U.S. 618 (2019); *Will v. Mich. Dep't of State Police*, 491 U.S. 58 (1989).

So the Court agrees with the Plaintiffs that the federal government is not a "person" under the UDJA's indispensable-party statute. But the Court also believes that the Plaintiffs mistake who would be the appropriate defendant. The Nebraska Supreme Court discussed this issue in *Concerned Citizens, Inc. v. Department of Environmental Control*, 244 Neb. 152 (1993). There, the plaintiff sued for a declaratory judgment that a permit to build a hazardous waste facility was void. The plaintiff named the permit-holder and the Department of Environmental Control as defendants. The Supreme Court held that the Department was immune from suit because suing a state agency is the same as suing the State. The UDJA does not waive the State's sovereign immunity.

The next question in *Concerned Citizens* was whether the lawsuit could continue against the permit-holder alone. The Supreme Court held that it could not. Citing the UDJA's indispensable party statute, i.e., § 25-21,159, the Supreme Court held that the Department's director had to be joined: "Since the director's actions are being questioned, the director is an interested and necessary party in this declaratory judgment action." *Concerned Citizens*, *supra*, 244 Neb. at 159. The Supreme Court explained that suing a state officer in their official capacity for declaratory or injunctive relief was not a suit against the State and, therefore, was not barred by sovereign immunity. *Id.*, citing *Ex parte Young*, 209 U.S. 123 (1908).

Following *Concerned Citizens*, the question here is whether the U.S. Attorney General, in her official capacity, is an indispensable party. See 28 U.S.C. § 503 ("The Attorney General is the head of the Department of Justice."). That depends on the relief sought in this case. The Complaint prays for a declaration that the Secretary will violate state law if he complies with the

DOJ's request. Although the Complaint requests temporary injunctive relief, it does not ask the Court to permanently enjoin the Secretary from giving the information to the DOJ.

The Plaintiffs argue that the Secretary is the only indispensable party because the Plaintiffs only pray for a declaration under state law:

> The actual dispute centers on *state law* and whether the Secretary can lawfully disclose sensitive voter data to third parties under certain delineated circumstances. In other words, the question is not whether the federal government has a right to *obtain* sensitive voter data from state officials. Rather, it is whether the Secretary has a right to *release* it under Nebraska law. The Court can answer this question without the DOJ's involvement.
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> (Plaintiffs' Brief in Opposition to Secretary Evnen's Motion to Dismiss, pp. 5–6 (emphasis in original)).

The Plaintiffs reiterate that this case does not "involve the federal government's alleged right to *receive* sensitive information under federal law." (*Id.*, p. 6 (emphasis in original)).

The Court agrees with the Plaintiffs. A declaratory judgment that the Secretary cannot give the DOJ the information under state law would not prevent the Secretary from giving the DOJ the information under federal law. The DOJ only requests the information under federal law. Thus, so understood, the judgment in this case would not affect the DOJ's rights. The U.S. Attorney General in her official capacity is therefore not an indispensable party.

D. Discretion.

In some cases, courts should let plaintiffs try to fix jurisdictional defects by amending their complaint. See, e.g., *Concerned Citizens, Inc. v. Dep't of Envtl. Control*, 244 Neb. 152 (1993). But that is not appropriate here because there is another reason to dismiss the case. Namely, the declaratory judgment sought by the Plaintiffs would not end the controversy.

It is well established that declaratory relief is discretionary: "Whether to entertain an action for declaratory judgment is within the discretion of the trial court." *Mueller v. Peetz*, 313 Neb. 173, 180 (2023). This means that courts do not have to enter a declaratory judgment in every case in which they may do so. *Millard Sch. Dist. v. State Dep't of Educ.*, 202 Neb. 707 (1979); see 22A Am. Jur. 2d *Declaratory Judgments* § 12 (noting that declaratory judgment actions are an exception to the rule that courts cannot decline jurisdiction).

Most relevant here, "a district court need not become involved in a piecemeal process for disposition of the controversy." *Riley v. State*, 244 Neb. 250, 261 (1993). The UDJA expressly provides: "The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding." Neb. Rev. Stat. § 25-21,154 (Reissue 2016).

A judgment in this case would not end the uncertainty or controversy regarding the DOJ's demand for voter information. The Secretary argues that (1) he may give copies of the voter register to the DOJ under state law, and (2) regardless of what state law says, federal law requires the Secretary to comply with the DOJ's demand. A declaratory judgment in this case would resolve the first question, but not the second. It would not terminate the uncertainty or controversy that gave rise to this proceeding, i.e., whether the DOJ is entitled to all fields of Nebraska's voter registration list.

III. CONCLUSION

The Plaintiffs lack standing. Even if the Plaintiffs had standing, the declaratory judgment that they seek would not end the controversy. The Court therefore makes the following rulings on the pending motions:

- Plaintiffs' Amended Motion for Temporary Injunction (Filing No. 4) is overruled.
- Plaintiffs' Motion for Summary Judgment (Filing No. 5) is overruled.
- Defendant's Motion to Dismiss (Filing No. 6) is sustained.

The action is dismissed without prejudice.

SO ORDERED.

DATED this 6th day of February, 2026.

BY THE COURT:

Lori A. Maret
District Court Judge

CERTIFICATE OF SERVICE

I, the undersigned, certify that on February 9, 2026 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

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Date: February 9, 2026 BY THE COURT: _____

CLERK