

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC INTEREST LEGAL FOUNDATION, INC.,

Plaintiff,

v.

MONICA HOLMAN EVANS, in her official capacity
as Executive Director of the District of Columbia Board
of Elections,

Defendant.

Case No. 1:21-cv-03180-FYP

**PLAINTIFF PUBLIC INTEREST LEGAL FOUNDATION’S SUR-REPLY IN
RESPONSE TO DEFENDANT’S MOTION TO DISMISS**

Defendant Monica Holman Evans (“Executive Director”) has moved to dismiss the Foundation’s complaint on the grounds that that the requested ERIC Deceased Reports are generally not public records under the National Voter Registration Act and specifically that the Foundation’s claim conflicts with (1) the Driver’s Privacy Protection Act (“DPPA”) (Doc. 9-1 at 23-24) and (2) federal laws governing the Limited Access Death Master File (“LADMF”) (Doc. 9-1 at 23-27; Doc. 12 at 12).

Documents the Foundation obtained via a public records request after the filing of its response to the Secretary’s Motion to Dismiss (Doc. 10) call the Executive Director’s arguments into question. These documents, true and correct copies of which are attached to this memorandum, apparently reveal that ERIC and its member states are sharing data with an outside organization called the Center for Election Innovation and Research or CEIR. <https://electioninnovation.org/> (last accessed July 21, 2022).

In a January 12, 2021 email, ERIC Executive Director Shane Hamlin wrote the following to Rhode Island Director of Elections Rob Rock:

Yes, you're good to continue working with CEIR.

CEIR signed an NDA with ERIC for the purpose of assisting ERIC and ERIC members with independent research of ERIC's effectiveness. The NDA applies to **ERIC data and information that CEIR receives from ERIC or a member state of ERIC.** It includes detailed requirements and restrictions to protect your data/ERIC data.

Exhibit A at 2 (emphasis added). While the details of this information-sharing agreement are presently unknown to the Foundation, this email minimally indicates that ERIC and its member states are sharing data with CEIR. The Foundation brings this email to the Court's attention in light of the Executive Director's position that the DPPA and LADMF regulations preclude disclosure of voter list maintenance records to the Foundation.

Date: July 22, 2022.

Respectfully submitted,

/s/ Noel H. Johnson

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* *Motion for admission pro hac vice granted*

*Attorneys for Plaintiff Public Interest Legal
Foundation*

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2022, I electronically filed the foregoing using the Court's ECF system, which will serve notice on all parties.

/s/ Noel H. Johnson
Noel H. Johnson
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