IN THE SUPREME COURT OF THE STATE OF IOWA

Supreme Court No. 23–1414
Polk County District Court No. CVCV062715

LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF IOWA,

Appellee,

v.

IOWA SECRETARY OF STATE PAUL PATE, IOWA VOTER REGISTRATION COMMISSION, and MONTGOMERY COUNTY AUDITOR JILL OZUNA,

Appellants.

Appeal from the Iowa District Court for Polk County
Hon. Michael D. Huppert, (Motions to Dismiss and Reconsider)
Hon. Scott D. Rosenberg, (Motion for Summary Judgment)

BRIEF FOR APPELLEE

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II. Did LULAC establish standing to bring its declaratory judgment claim?

III. Did the district court abuse its discretion in dissolving the *King* injunction?

ROUTING STATEMENT

The Court should retain and decide this case. It presents questions of statutory interpretation that are substantial issues of first impression. *See* Iowa R. App. P. 6.1101(2)(c). In addition, the case presents fundamental issues of broad public importance concerning the equitable powers of courts to modify or dissolve permanent injunctions. *See* Iowa R. App. P. 6.1101(2)(d). Last term, the Court issued nonprecedential opinions on related questions. *See Planned Parenthood of the Heartland, Inc. v. Reynolds*, No. 22-2036, 2023 WL 4635932 (Iowa June 16, 2023). Precedential guidance on procedure and legal standards for modifying or dissolving permanent injunctions and the proper interpretation of Iowa's English-Only Law would clarify the state of the law. *See* Iowa R. App. P. 6.1101(2)(f).

NATURE OF THE CASE

At its core, this is a statutory interpretation case. Iowa's English-Only Law establishes a baseline requirement that "all official documents … or actions taken or issued … shall be in the English language." Iowa Code § 1.18(3). However, the Law exempts several categories of language usage, including "[a]ny language usage required by or necessary to secure the rights guaranteed by the Constitution and Laws of the United States of America or the Constitution of the State of Iowa." *Id.* § 1.18(5)(h) (the "Rights Exception"). This case concerns the scope of that exception.

Petitioner League of United Latin American Citizens of Iowa ("LULAC") brought two claims invoking the Rights Exception. First, LULAC brought a declaratory judgment claim seeking a declaration that voting materials fall within the Rights Exception and are therefore exempt from the English-Only Law. D0037, Amended Petition ¶ 45 (Jan. 18, 2022). Specifically, LULAC contends that official voting documents and communications are a form of "language usage" that is "necessary to secure" the constitutionally protected right to vote and therefore falls within

the Rights Exception. *Id*. Second, LULAC brought an injunctive relief claim seeking dissolution of the permanent injunction issued in *King v. Mauro*, Polk Cnty. No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008, corrected Apr. 8, 2008), which prohibits the translation of voter registration forms based on the English-Only Law.[1] *Id*. ¶¶ 49–50. In *King v. Mauro*, the district court did not consider the Rights Exception, and LULAC contends that the permanent injunction is unlawful given that exception. *Id*.

The district court granted summary judgment in LULAC's favor, holding that voting materials are exempt from the requirements of the English-Only Law because they fall within the terms of the Rights Exception. *See* D0110, Order on MSJ at 7–10 (June 28, 2023). Based on that holding, the district court determined that LULAC was entitled to two forms of relief: a declaratory judgment declaring that voting materials are exempt from the English-Only Law and an order dissolving the permanent

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[1] A copy of the *King v. Mauro* decision is available in the record. *See* Attachment 1 to D0037, *King v. Mauro* slip opinion, as corrected (filed Jan. 18, 2022). Citations to *King* are based on the pagination in the district court's order.

injunction issued in *King*. *See id.* at 10–11 (dissolving injunction); *see also* D0119, Order on Relief at 1–2 (Aug. 18, 2023) (issuing declaratory judgment).

Three Respondents, led by the Secretary of State, have appealed the grant of summary judgment and accompanying relief. *See* D0120, Notice of Appeal (Aug. 30, 2023). Three county Respondents did not appeal the district court's decision. *Id.* On appeal, the Secretary disputes the district court's interpretation of the Rights Exception, LULAC's standing to seek a declaratory judgment, and whether dissolution of the *King* injunction was proper. *See* Appellants' Brief at 5 (Feb. 28, 2024) ("Br.").

STATEMENT OF THE FACTS

The English-Only Law

In 2002, the Iowa English Language Reaffirmation Act was signed into law. *See* Iowa English Language Reaffirmation Act of 2001, ch. 1007, 2002 Iowa Acts 16 (codified as Iowa Code §§ 1.18 & 4.14 (2024)). The Act includes the English-Only Law, which "declared [English] to be the official language of the state." Iowa Code § 1.18(2). The English-Only Law also established a baseline requirement that "[a]ll official documents … or actions taken or issued … shall be in the English language." *Id.* § 1.18(3).

However, this English-only requirement is subject to an enumerated list of categorical exemptions. *Id.* § 1.18(5). Specifically, the Law's requirements do not apply to:

a. The teaching of languages.

b. Requirements under the federal Individuals with Disabilities Education Act.

c. Actions, documents, or policies necessary for trade, tourism, or commerce.

d. Actions or documents that protect the public health and safety.

e. Actions or documents that facilitate activities pertaining to compiling any census of populations.

f. Actions or documents that protect the rights of victims of crimes or criminal defendants.

g. Use of proper names, terms of art, or phrases from languages other than English.

h. Any language usage required by or necessary to secure the rights guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa.

i. Any oral or written communications, examinations, or publications produced or utilized by a driver's license station, provided public safety is not jeopardized.

Id. § 1.18(5) (emphasis added).

The Law further clarifies in subsection 6 that it does not prohibit government officials from communicating in other languages if that official "deems it necessary or desirable to do so," nor does the law "[l]imit the preservation or use of Native American languages," or "discourage any person from learning or using a language other than English." *Id*. § 1.18(6).

The *King v. Mauro* Case and its Aftermath

Since 1983, county auditors and the Secretary of State had been authorized to translate "any approved voter registration form" into languages other than English if the official "determines that such a form would be of value." *King*, No. CV006739 at 3 (quoting

Iowa Admin. Code r. 821-2.11 (the "Registration Translation Rule")). In 2003, then-Secretary Chet Culver invoked the Registration Translation Rule and began making voting forms in languages other than English available on the Secretary's website. *King*, No. CV006739 at 3. Because of this practice, which continued under Secretary Culver's successor Michael Mauro, voter registration forms were made available in Spanish, Vietnamese, Laotian, and Bosnian. *Id.* at 4.

In 2007, a group of plaintiffs filed suit seeking an injunction prohibiting the translation of official voter registration forms and a declaration that the Registration Translation Rule conflicts with the English-Only Law. *King*, No. CV006739 at 4, 29–30. At the outset, the district court determined that only the four county auditor plaintiffs had standing to bring this challenge. *Id.* at 16. On the merits, the district court held that the English-Only Law requires the exclusive use of the English language in official documents, unless one of the statutory exceptions applies. *Id.* at 20. In applying the Law to voter registration forms, the district court evaluated only one statutory exception: the contextual exception for

individual communications when an official "deems it necessary or desirable to do so." *Id.* (quoting Iowa Code § 1.18(6)(a)).[2] The district court determined that this generic exception could not apply, otherwise it would allow government officials to disregard the English-only requirement "anytime for any reason." *Id.* at 21.

The parties in *King* did not raise the Rights Exception. *See King*, No. CV006739 at 29–30. The district court noted that the Rights Exception "might justify the use of non-English voter registration forms," but expressly declined to consider it because the issue was not raised or discussed by the parties. *Id.* Because the court rejected the only exception advanced in that case, the district court determined that the English-Only Law applies to voter registration forms. *Id*. In turn, the court permanently enjoined the Secretary of State and the Iowa Voter Registration Commission from "using languages other than English in the official voter registration forms." *Id.* at 31. In response to the *King* injunction,

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[2] After the *King* decision, some subsections of the English-Only Law were renumbered. *See* ch. 1032, 2008 Iowa Acts 109. All citations in this brief, including those summarizing the *King* decision, refer to the current numbering.

the Commission rescinded the Registration Translation Rule. *See* D0098, Pet.'s Statement of Undisputed Material Facts ¶ 22 (Feb. 1, 2023).

In the years since *King*, the English-Only Law has operated as a barrier to obtaining any voting materials in Spanish. *See* D0098 ¶¶ 5–6. Even though the *King* decision only concerned voter registration forms, the Secretary adopted the position that the English-Only Law applies to all voting materials. *Id.* ¶¶ 23–24. All four county Respondents admitted that they did not provide voting materials in other languages because of the English-Only Law and/or the *King* decision. *Id.* ¶ 39. If it were not for the *King* injunction, Respondent Buena Vista County Auditor would have continued to provide some Spanish-language voting materials. *Id.* ¶¶ 42–43. Similarly, Linn County has not provided voting materials in other languages due to concerns about complying with the English-Only Law but would provide some materials in Spanish if the Law were interpreted to permit them. *Id.* ¶ 56. Even LULAC's modest requests for assistance with translation were rejected by county auditors in Polk and Muscatine Counties because the

auditors were concerned that assistance with translating those materials was prohibited by the English-Only Law. *Id.* ¶ 7.

Since *King*, the only jurisdiction to provide any non-English voting materials was Buena Vista County. D0098 ¶¶ 46–47. On December 5, 2016, the county was designated by the U.S. Census Bureau as a covered jurisdiction under Section 203 of the Voting Rights Act because it satisfied the demographic requirements of Section 203's coverage formula. *See* Determinations Under Section 203, 81 Fed. Reg. 87532, 87535 (Dec. 5, 2016). As a result, the county was obligated under federal law to provide all voting materials in both English and Spanish. 52 U.S.C. § 10503. Buena Vista County provided Spanish-language voting materials for the duration of its time as a covered jurisdiction. D0098 ¶ 47. During the 2020 election cycle, another county auditor requested copies of Buena Vista County's translated voting materials, but the Buena Vista County Auditor did not share them because of the auditor's concern that use of the translated materials in any other county would violate the *King* decision. *Id.* ¶ 50. On December 8, 2021, the U.S. Census Bureau determined that Buena Vista County no longer

met the demographic requirements for a covered jurisdiction. *See* Determinations Under Section 203, 86 Fed. Reg. 69611, 69614 (Dec. 8, 2021). As a result, Buena Vista County stopped providing Spanish-language voting materials. D0098 ¶ 52.

In the absence of officially translated voting materials, LULAC has undertaken the resource-intensive task of providing them. *Id.* ¶¶ 6, 8–11. There are over 25,000 citizens of voting age in Iowa with limited English-language proficiency, and most of them are Spanish speakers. *Id.* ¶ 12. Nearly 20 percent of eligible Latino voters in Iowa have limited English-language proficiency. *Id.* ¶ 13. Because voting forms and instructions are only available in English, LULAC devotes substantial resources and volunteer time to answering questions and guiding Spanish speakers through the voting process. *Id.* ¶ 10. For example, shortly before the 2022 election, voters in Muscatine County were sent an English-language postcard regarding *changes* in voting precincts. *Id.* ¶ 9. LULAC worked to produce and distribute a translated version to convey the updated information in Spanish to its affected members. *Id.* The time and money LULAC devotes to providing this language

assistance is diverted from its other efforts, including get-out-the-vote work, hosting community events, and placing advertisements to encourage Latino political participation. *Id.* ¶ 11.

The Procedural History of *LULAC v. Pate*

On July 28, 2021, LULAC submitted a Petition for Declaratory Order to the Secretary under Iowa Code § 17A.9 and Iowa Administrative Code r. 721-9.1(17A) (the "Administrative Petition"). *See* Attach. 2 to D0037, Admin. Petition (filed Jan. 18, 2022). The Administrative Petition sought clarification from the Secretary regarding the permissible use and acceptance of certain Spanish-language voting materials. *Id.* at 6–9. As pertinent here, the Administrative Petition raised the Rights Exception and asked whether it permits county auditors outside of Buena Vista County to use the official Spanish-language versions of the state voter registration form and absentee ballot request form. *Id.* at 6–8. On September 27, 2021, the Secretary responded to the Administrative Petition with a single sentence: "The Iowa Secretary of State's Office is still under an injunction stemming from *King* […], which prevents the dissemination of official voter registration forms for

this state in languages other than English." Attach. 3 to D0037, Secretary's Resp. to Admin. Pet. (filed Jan. 18, 2022).

On October 27, 2021, LULAC filed this action in the District Court for Polk County. D0001, Petition (filed Oct. 27, 2021). As Respondents, LULAC named the Secretary, the Iowa Voter Registration Commission, and the four county auditors who were found to have standing in *King*. *Id.*; *see also King,* No. CV006739 at 16. LULAC subsequently filed its Amended Petition on January 18, 2022. *See* D0037. LULAC brought two claims which raise the scope of the Rights Exception. *Id.* First, LULAC brought a declaratory judgment claim seeking a declaration that voting materials fall within the Rights Exception and are therefore exempt from the English-Only Law. *Id*. ¶ 45. Second, LULAC brought an injunctive relief claim seeking dissolution of the permanent injunction issued in *King*, because it cannot be reconciled with the terms of the Rights Exception. *Id*. ¶¶ 49–50.

Respondents moved to dismiss LULAC's Petition and, later, LULAC's Amended Petition. *See* D0030, Resps.' Mot. to Dismiss (Dec. 22, 2021); *see also* D0039, Resps.' Mot. to Dismiss Am. Pet.

(Jan. 28, 2022). Respondents challenged LULAC's standing for its declaratory judgment claim and the procedural propriety of LULAC's injunctive relief claim. D0030 ¶¶ 4–5.

On March 7, 2022, the district court issued an order granting Respondents' motion, in part. *See* D0042, Ruling on Resps.' Mot. to Dismiss at 13 (Mar. 7, 2022). On LULAC's injunctive relief claim, the district court rejected the Secretary's argument that the suit was an improper collateral attack and held that the claim complied with the Iowa Rules of Civil Procedure. *Id.* at 5–6. However, the district court separately determined that LULAC's injunctive relief claim was barred by *res judicata* and dismissed the claim. *Id.* at 7–9. As for LULAC's declaratory judgment claim, the district court held that LULAC's allegations satisfied the modest burden of demonstrating sufficient redress. *Id.* at 12–13. Specifically, the district court held that because LULAC had sought clarification on the English-Only Law from the Secretary in its Administrative Petition, LULAC had standing to claim that the Secretary's response was "based upon an incorrect (or heretofore unexamined) legal position." *Id.* at 13. As a result, the district court denied

Respondents' motion with respect to LULAC's declaratory judgment claim.

LULAC moved for reconsideration of the district court's dismissal of the injunctive relief claim. D0044, Pet.'s Mot. to Reconsider (Mar. 22, 2022). LULAC's motion contested the application of *res judicata* to LULAC—a stranger to the *King* litigation raising new issues which were not addressed in *King*. *Id.* at 3–5. On April 23, 2022, the district court granted LULAC's motion and vacated the prior order dismissing LULAC's injunctive relief claim. D0051, Ruling on Mot. to Reconsider at 5 (Apr. 23, 2022). The district court's order addressed two aspects of the *res judicata* doctrine. First, it held that LULAC could not be barred by claim preclusion because LULAC was not a party to the *King* litigation. *Id.* at 2. Second, it held that LULAC could not be barred by issue preclusion because the Rights Exception was "never submitted for determination" and, therefore, the necessary elements of issue preclusion had not been established. *Id*. at 3. Further, the district court reaffirmed that LULAC may seek dissolution of the *King* injunction based on a claim that the

injunction is no longer equitable. *Id.* at 4.

LULAC and Respondents cross-moved for summary judgment. *See* D0067, Resps.' MSJ (Oct. 19, 2022); D0096, Pet.'s MSJ (Feb. 1, 2023). Respondents "did not respond, dispute, or otherwise resist LULAC's [Statement of Undisputed Material Facts]." D0110 at 4. On June 28, 2023, the district court granted LULAC's motion and denied Respondents' motion. *See* D0110 at 11. The district court's decision centered on three issues. *First*, the district court held that LULAC had established standing to pursue its declaratory judgment claim because it had shown that a favorable court ruling would likely redress its injury. *Id.* at 5–6. Specifically, the district court found that the undisputed facts showed a favorable ruling would "result in some number of counties providing and accepting voting materials in languages other than English." *Id.* at 6. *Second*, the district court held that voting materials fall within the Rights Exception because they "are a use of language that is 'necessary to secure [the right to vote].'" *Id.* at 10 (quoting Iowa Code § 1.18(5)(h)). Further, the district court found that participation in elections "is dependent on effective

communication … between the electorate and the state." *Id.* at 8. *Third,* the district court held that "it would be inequitable to allow the injunction from *King* to persist" given the meaning of the Rights Exception. *Id.* at 11.

In terms of relief, the district court dissolved the *King* injunction as part of its summary judgment order and set a later hearing on final relief. *Id.* at 11–12. On August 18, 2023, the district court heard argument and issued a final order on relief, including a judgment declaring that "voting materials, including ballots registration and voting notices, forms, instructions, and other materials and information related to the electoral process," fall within the Rights Exception and are thus exempt from the English-Only Law. D0119 at 1–2.

On August 30, 2023, three Respondents, led by the Secretary of State, appealed the grant of summary judgment and accompanying relief. *See* D0120. Three Respondents elected not to appeal the district court's decision: Buena Vista County Auditor Sue Lloyd, Calhoun County Auditor Robin Batz, and Jefferson County Auditor Scott Reneker. *Id.*

ARGUMENT

The English-Only Law contains an express exemption for "[a]ny language usage … necessary to secure [constitutional or federal rights]." Iowa Code § 1.18(5)(h). The district court determined that "official materials related to voting are a use of language that is 'necessary to secure [the right to vote].'" D0110 at 10 (quoting Iowa Code § 1.18(5)(h)). This straightforward application of the statute's unambiguous terms should be affirmed.

In the face of clear statutory language, the Secretary endeavors to make this case about anything but the text of the Law. *First,* on the statutory interpretation question, the Secretary effectively asks this Court to rewrite the text of the Rights Exception so that it applies only when "*non-English* language usage is necessary to secure a constitutional right." Br. at 22 (emphasis original). Not only is that invitation to usurp the legislature unjustified, but even under the Secretary's narrower reading the district court's order should be affirmed because the record established that non-English voting materials are, in fact, necessary to secure the right to vote for voters with limited English-

language proficiency.

Second, the Secretary advances a scattershot of procedural objections: disputing LULAC's standing to pursue a declaratory judgment, Br. at 18, labeling LULAC's injunctive relief claim a "collateral attack," *id*. at 16, and invoking the doctrine of issue preclusion, *id*. None of these arguments have merit—LULAC established its standing in a myriad of ways, and it followed the proper procedure in challenging the *King* injunction.

Finally, on the merits of dissolving of the *King* injunction, the Secretary's effort to avoid the Rights Exception reaches new heights by insisting that the district court was *compelled* to ignore the Rights Exception merely because the statute had not changed since *King*. Br. at 15. But the Secretery identifies no case or rule requiring the district court to maintain an incomplete view of the English-Only Law in perpetuity. Because the district court was not required to continually exercise its equitable powers to maintain an inequitable injunction, the district court did not abuse its discretion and should be affirmed on all counts.

I. The Rights Exception exempts voting materials from the requirements of the English-Only Law.

The Rights Exception clarifies that the requirements of the English-Only Law do not apply to any language usage required by or necessary to secure rights guaranteed by federal law, the Iowa Constitution, or the U.S. Constitution. *See* Iowa Code § 1.18(5)(h). All parties agree that the right to vote is protected by both the Iowa and U.S. Constitutions. Br. at 21. Nevertheless, the Secretary disputes whether voting materials fall within the Rights Exception. *Id*. LULAC agrees that error was preserved on this issue because it was raised to and ruled on by the district court. D0110 at 10. Questions of statutory interpretation are reviewed for correction of errors at law. *Noll v. Iowa Dist. Ct. for Muscatine Cnty.*, 919 N.W.2d 232, 234 (Iowa 2018).

The district court held that "official materials related to voting are a use of language that is 'necessary to secure [the right to vote].'" D0110 at 10 (quoting Iowa Code § 1.18(5)(h)). The Secretary does not dispute that voting materials are a use of language, nor does the Secretary dispute that those materials are necessary to secure the right to vote. Instead, the Secretary asks

the Court to re-write the text of the Rights Exception to better serve "the purpose and policy of the statute." Br. at 22. But neither the district court nor this Court is empowered to amend the statute for policy reasons. *See State v. Wedelstedt*, 213 N.W.2d 652, 656–57 (Iowa 1973) ("If changes in the law are desirable from a policy, administrative, or practical standpoint, it is for the legislature to enact them, not for the court to incorporate them by interpretation." (quotation omitted)). And even under the Secretary's atextual reading, the undisputed factual record demonstrates that non-English voting materials are, in fact, necessary to secure the right to vote for Iowans with limited English-language proficiency. Under either reading, the district court's decision should be affirmed.

A. The plain text of the Rights Exception excludes voting materials from the English-Only Law

The English-Only Law establishes a baseline requirement that "[a]ll official documents … or actions taken or issued … shall be in the English language." Iowa Code § 1.18(3). However, this requirement does not apply to several categories of language usage, including "[a]ny language usage required by or necessary to secure [constitutional or federal rights]." *Id.* § 1.18(5)(h).

Ballots are a form of language usage. Voter registration forms, too, are language usage. Notices, mailings, and instructions given to voters are also language usage. If these documents and communications are "necessary to secure" the right to vote, then they fall within the Rights Exception and are exempt from the English-Only Law. Put another way, if an instance of government language usage is required or necessary to secure the right to vote, then the government can conduct that instance in languages other than English pursuant to the Rights Exception.

Notably, the Secretary has never disputed that these official voting materials—including ballots and registration forms—are necessary to secure the right to vote. Instead, the Secretary contests the meaning of the statutory phrase: "Any language usage." Br. at 22. But such voting documents are plainly a usage of language. The terms of the Rights Exception and the surrounding provisions do not permit any other reading.

Only LULAC's reading of the Rights Exception is consistent with the structure of the surrounding exceptions. Nearly all the categorical exceptions to the English-Only Law follow the same

structure: the legislature identifies forms of language usage that relate to a particular subject matter and declares them exempt. These categorical exceptions include:

> (c) Actions, documents, or policies necessary for trade, tourism, or commerce.
>
> (d) Actions or documents that protect the public health and safety.
>
> […]
>
> (h) Any language usage required by or necessary to secure the rights guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa.
>
> (i) Any oral or written communications, examinations, or publications produced or utilized by a driver's license station, provided public safety is not jeopardized.

Iowa Code § 1.18(5).

In creating the Rights Exception, the legislature cast a wide net by using the phrase, "[a]ny language usage." In context, the broad term "any" includes all the forms of language usage "of like kind with the specifics which preceded it," such as documents, communications, policies, publications, and actions. *Hartman v. Merged Area VI Cmty. Coll.*, 270 N.W.2d 822, 826 (Iowa 1978). Indeed, the choice of the word "any" communicates a clear intent to

"enlarge rather than limit" the scope of the Rights Exception relative to comparable exceptions. *State v. Prybil*, 211 N.W.2d 308, 312 (Iowa 1973).

While the scope of the term "language usage" is broad, the Legislature confines the exception to situations where those government documents or actions are "required by or necessary to secure [constitutional or federal rights]." Iowa Code § 1.18(5)(h). This does not "swallow the rule," as the Secretary suggests, because there are innumerable instances of government language usage where constitutional rights are not implicated. Br. at 22. And while the Secretary invokes the specter of a slippery slope, it is notable that the Secretary does not provide a single example of another circumstance that would fall within the Rights Exception. Br. at 21–22. This is to be expected because most constitutional rights operate "as a defense or negative check on the government," and those rights are secured by government *restraint* rather than by its affirmative actions. *Burnett v. Smith*, 990 N.W.2d 289, 296 (Iowa 2023). The right to vote uniquely requires the government to act affirmatively and provide for its exercise—often through the use of

language. *See Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (explaining "government must play an active role in structuring elections").

B. The Secretary's interpretation of the Rights Exception conflicts with fundamental principles of statutory interpretation.

The Secretary's interpretation of the Rights Exception self-evidently deviates from the text of the statute: "that *non-English* language usage is exempted when *non-English* language usage is necessary to secure a constitutional right." Br. at 22 (emphasis original). But the term "non-English" does not appear in the Rights Exception, and this Court must apply "the language the legislature chose to use, not the language it might have used." *Noll*, 919 N.W.2d at 235; *see also id.* ("[W]e cannot change the meaning of a statute, as expressed by the words the legislature used, if the words used by the legislature do not allow for such a meaning.").

The omission of the term "non-English" is particularly conspicuous because the English-Only Law contains several express references to non-English languages. *See, e.g.*, Iowa Code § 1.18(6)(a) (permitting communication "in a language other than

English" in certain circumstances); *id.* § 1.18(6)(c) (denying intent to "[d]isparage any language other than English"). Indeed, the statutory exception that immediately precedes the Rights Exception concerns the use of "proper names, terms of art, or phrases from *languages other than English*." *Id.* § 1.18(5)(g) (emphasis added). Because the legislature "knows how to" focus solely on non-English language usage, it would have included similar terms in the Rights Exception "if it had intended to do so." *Des Moines Flying Serv., Inc. v. Aerial Servs. Inc.*, 880 N.W.2d 212, 221 (Iowa 2016).

The Secretary's interpretation would also render the Rights Exception wholly superfluous. Under the Secretary's reading, the Rights Exception would only apply if federal law or the Constitution *required* the provision of voting materials in other languages. Br. at 24. But, even without the Rights Exception, the English-Only Law must yield to the U.S. Constitution and federal law under the Supremacy Clause. *See* U.S. Const. Art. VI, cl. 2; *see also* Iowa Code § 4.4 (2024) ("In enacting a statute, it is presumed that … [c]ompliance with the Constitutions of the state and of the United

States is intended."). The Secretary's reading would render the Rights Exception an unnecessary and meaningless addition to the English-Only Law, which is untenable "unless no other construction is reasonably possible." *Civ. Serv. Comm'n v. Iowa C.R. Comm'n*, 522 N.W.2d 82, 86 (Iowa 1994).

The Secretary's interpretation also misapprehends the balanced policy objectives of the English-Only Law. The statute's express goal is to "facilitat[e] participation in the economic, political, and cultural activities of this state." Iowa Code § 1.18(2). To achieve that end, the law requires that all government actions and documents be in English to "encourage every citizen of this state to become more proficient in the English language." *Id.* But the statute also made a policy choice to exempt categories of language usage which, if restricted by the English-only requirement, could either jeopardize the desired economic and political participation or cause other problems. *Id.* § 1.18(5). These include exceptions for "documents that protect the public health and safety," "documents, or policies necessary for trade, tourism, or

commerce," and "documents that facilitate activities pertaining to compiling any census of populations." *Id.*

In the same way that the legislature did not want to interfere with public health, commerce, tourism, or compiling the census, it also did not want to interfere with constitutional rights. *Id.* § 1.18(5)(h). The English-only requirement is not the "sole purpose" of the Law; it "must be read in conjunction" with the intended exceptions—which, together, constitute the legislature's policy choice. *Miller v. Westfield Ins. Co.*, 606 N.W.2d 301, 305 (Iowa 2000). Under the Secretary's reading, the legislature would have made a policy choice to create broader protections for tourism than for fundamental constitutional rights—this Court should reject the Secretary's invitation to reach such an "absurd result." *Teamsters Loc. Union No. 421 v. City of Dubuque*, 706 N.W.2d 709, 717 (Iowa 2005).

By contrast, LULAC's interpretation heeds the legislature's solicitude for constitutional rights, which is evidenced by both the broad terms of the Rights Exception and the instructions for statutory interpretation that were enacted alongside the

English-Only Law. *See* Iowa Code § 4.14 (instructing that "the English language text of the laws of Iowa shall be resolved […] not to deny or disparage rights retained by the people").

C. Even under the Secretary's interpretation, non-English voting materials are exempt because they are necessary to secure the right to vote.

Even if one accepts the Secretary's reading—wherein voting materials are only exempt if "*non-English* language usage is necessary to secure [the right to vote]," Br. at 22—the district court's decision should nevertheless be affirmed because non-English voting materials are, in fact, necessary for voters with limited English-language proficiency. Both the factual record below and Congress's findings from decades ago establish the necessity of native language voting materials.

Rather than dispute the practical necessity of these materials, the Secretary effaces the distinction between what is "required" and what is "necessary" by insisting that the Rights Exception cannot apply "when the federal government does not *require* providing non-English voting materials." Br. at 24 (emphasis added). But the terms of the statute are clear: the Rights Exemption applies when

materials are "required by *or* necessary to secure [constitutional rights]." Iowa Code § 1.18(5)(h) (emphasis added). Any judicial interpretation of that provision must give independent effect to each of those terms. *Ramirez-Trujillo v. Quality Egg, L.L.C.*, 878 N.W.2d 759, 770 (Iowa 2016) ("[W]e presume the legislature included every part of the statute for a purpose").

The distinction between what is necessary to secure a constitutional right and what is required by the constitution follows from the simple premise that constitutional rights are not absolute. In other words, state law is not always *required* to yield to constitutional rights. Even our most "jealously guarded" rights, such as freedom of speech, are neither "absolute" nor wholly "free from any regulation or restriction." *Cent. States Theatre Corp. v. Sar*, 66 N.W.2d 450, 457 (Iowa 1954). Instead, this Court recognizes that the Iowa and U.S. Constitutions only *require* the state to yield when its infringement of a fundamental right is not "narrowly drawn to serve a compelling state interest." *AFSCME Iowa Council 61 v. State*, 928 N.W.2d 21, 41 (Iowa 2019) (quotation omitted). In that way, the legislature's inclusion of the phrase "necessary to

secure [constitutional rights]" effectuates a broader and more absolute solicitude for constitutional rights—which avoids the difficult line-drawing that comes with balancing the state's interest against a fundamental right to determine what is constitutionally required. Indeed, the legislature's decision to exempt both what is *necessary* to secure rights and what is constitutionally *required* deliberately creates breathing room to avoid any constitutional friction in the English-Only Law.

The distinction between "necessary" and "required" can also be illustrated by Section 203 of the Voting Rights Act. *See* 52 U.S.C. § 10503. Section 203 *requires* the provision of native language voting materials if a language minority is of sufficient size and has an above-average rate of illiteracy. *Id.* § 10503(b)(2). From December 2016 to December 2021, Buena Vista County satisfied the demographic requirements of Section 203 and was required to provide Spanish-language voting materials. D0098 ¶¶ 44, 52. While those materials were only *required* in one county for a five-year period, those materials were no less *necessary* in other counties for Spanish speaking voters with limited English-language proficiency.

Put another way, the difficulty in securing the right to vote is the same for all voters with limited-English proficiency, regardless of jurisdiction; but in certain jurisdictions, Congress has balanced the state's interest against the right to vote and drawn a line declaring that native language voting materials are *required* if a demographic threshold is met.

The necessity of native language voting materials is also borne out by the undisputed factual record. LULAC's unrebutted expert witness established that the lack of access to native language voting materials results in decreased registration and turnout among citizens with limited English-language proficiency. *Id.* ¶ 20. This phenomenon is verified by multiple peer reviewed studies. *Id.* ¶ 15. For example, one study found that voters with limited English-language proficiency had only a 13% probability of voting without native language voting materials; but if those materials were provided, those voters' probability of voting increased to 60%. *Id.* ¶ 17. Similarly, LULAC's experience on the ground was that the lack of Spanish-language voting materials

significantly harmed their voter registration and turnout efforts. *Id.* ¶ 5.

LULAC has never argued, and the district court did not hold, that constitutional law *requires* the provision of native language voting materials. The complex constitutional question of whether and under what circumstances the state may be *required* to translate voting materials is not raised by this case; nor is it raised by the English-Only Law, which deliberately included the Rights Exception to avoid putting this complicated question before courts and government officials across the state. Instead, the Rights Exception—even when confined to "*non-English* language usage," Br. at 22—excludes native language voting materials from the English-Only Law because they are *necessary* for citizens with limited English-language proficiency to secure their right to vote.

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II. LULAC established standing to pursue its declaratory judgment claim.

The Secretary only challenges LULAC's standing to bring its declaratory judgment claim.[3] Br. at 18. Notably, the Secretary has never contested that LULAC was injured by the English-Only Law and its interpretation in the wake of the *King* decision. *See* D0110 at 5; D0042 at 10. But LULAC agrees that the Secretary preserved error on the issue of whether a declaratory judgment would provide sufficient redress for standing purposes, which was ruled on by the district court. *See* D0110 at 5–6. Decisions on standing are reviewed for errors at law, and the district court's findings of fact are binding if supported by substantial evidence. *Iowa Beta Chapter of Phi Delta Theta Fraternity v. State*, 763 N.W.2d 250, 257 (Iowa 2009); *see also Elview Constr. Co. v. N. Scott Cmty. Sch. Dist.*, 373 N.W.2d 138, 142 (Iowa 1985) (affirming grant of standing where supported by substantial evidence).

The Secretary only makes *one* argument contesting LULAC's standing: that LULAC cannot base its redress on the anticipated impact that the requested relief will have on Linn County because this action was brought in Polk County. Br. at 20. But this

argument is misplaced. Most importantly, it ignores LULAC's several bases for standing which do not involve Linn County, including the judgment's legal effect on the Secretary and its consequences for LULAC's translation efforts *within* Polk County. Nor is it a speculative leap to expect that some non-English voting materials will be available after a court declares they are not prohibited; and the undisputed factual record confirms this expectation in several counties across the state—including, but not limited to, Linn County.

A. The legal effect of LULAC's declaratory judgment provides sufficient redress.

The standing doctrine exists to ensure that parties "have sufficient stake in an otherwise justiciable controversy." *Sanchez v. State*, 692 N.W.2d 812, 821 (Iowa 2005) (cleaned up). In the context of a declaratory judgment, the inquiry becomes whether "there is a substantial controversy between parties having adverse legal interests of sufficient immediacy and reality to warrant a declaratory judgment." *Bechtel v. City of Des Moines*, 225 N.W.2d 326, 330–31 (Iowa 1975) (quotation omitted). Here, that standard is met: LULAC and the Secretary presently disagree over the reach

of the English-Only Law, it is undisputed that the Secretary's interpretation has harmed LULAC, and LULAC sought a declaration that the Secretary's interpretation is wrong and cannot be reconciled with the text of the Rights Exception.

There can be no doubt that LULAC's declaratory judgment claim concerns a live controversy because, before filing suit, LULAC sought a declaratory order from the Secretary to clarify the availability of certain non-English voting materials. *See* Attach. 2 to D0037. Specifically, LULAC's Administrative Petition raised the Rights Exception and sought clarification on whether it permits county auditors outside of Buena Vista County to use the official Spanish-language versions of the state voter registration form and absentee ballot request form. *Id.* at 6–8. The Secretary's response was one sentence and relied entirely on the *King* injunction's enforcement of the English-Only Law. *See* Attach. 3 to D0037.

LULAC's declaratory judgment claim, in essence, seeks to repudiate the Secretary's response to LULAC's Administrative Petition—which relies on an erroneous interpretation of the English-Only Law. This "antagonistic assertion and denial of right"

presents the proper circumstances for courts to entertain a declaratory judgment claim under Iowa law. *Bechtel*, 225 N.W.2d at 330–31. Put another way, repudiating the Secretary's interpretation of the English-Only Law "cut[s] off the source of [LULAC's] injury and allow[s] it to return to the field of play" before the erroneous interpretation of the English-Only Law. *LS Power Midcontinent, LLC v. State*, 988 N.W.2d 316, 332 (Iowa 2023).

Even "under the more demanding federal standing jurisprudence," the legal effect of LULAC's declaratory judgement provides sufficient redress. *LS Power Midcontinent, LLC*, 988 N.W.2d at 331. Because the Secretary's interpretation of the English-Only Law serves as an "absolute barrier" to Spanish-language materials, the removal of that barrier is sufficient redress—even if the subsequent outcome is not certain. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 261–62 (1977). Specifically, when challenging an agency's interpretation of a statute, the U.S. Supreme Court has found that repudiating the agency's interpretation provides sufficient redress even if the agency could use an alternate rationale to arrive at the same

substantive outcome. *FEC v. Akins*, 524 U.S. 11, 25 (1998); *see also Larson v. Valente*, 456 U.S. 228, 243, (1982) (holding that, on its own, putting "the State to the task of demonstrating" an alternate rationale constitutes "substantial and meaningful relief"). In that sense, it does not matter whether the Secretary finds other justifications for refusing to provide non-English voting materials.

The Secretary completely ignores this dimension to LULAC's standing. On its own, a declaratory judgment repudiating the Secretary's view of the English-Only Law provides meaningful relief because it binds the Secretary. *See Dubuque Policemen's Protective Ass'n v. City of Dubuque*, 553 N.W.2d 603, 606 (Iowa 1996). As a result, the Secretary can no longer take the position that the English-Only Law prohibits non-English voting materials; nor can it provide binding guidance to county auditors to that effect. *See* Iowa Code § 47.2(1) (2024) ("The county commissioner of elections does not possess home rule powers with respect to … the conduct of elections prescribed by … guidance issued [by the Secretary]"). This Court has previously held that binding state officials in this way constitutes a "practical legal effect upon the existing controversy"

and, therefore, creates a justiciable controversy. *Junkins v. Branstad*, 421 N.W.2d 130, 134 (Iowa 1988).

B. The undisputed factual record establishes that LULAC's declaratory judgment provides sufficient redress.

The redressability element of standing—which is drawn from federal standing cases—is a modest burden: a plaintiff need only show that its injury "is likely to be remedied by a favorable decision." *LS Power Midcontinent*, 988 N.W.2d at 329–30 (citing *Iowa Citizens for Cmty. Improvement v. State*, 962 N.W.2d 780, 790 (Iowa 2021)). Further, a favorable decision need not redress the entire injury. *See Junkins*, 421 N.W.2d at 134 ("Our rules governing declaratory judgment do not allow the court to refuse relief simply because such relief would not terminate the entire controversy"). The district court determined that this modest burden had been met because a judgment in LULAC's favor "would likely result in some number of counties providing and accepting voting materials in languages other than English." D0110 at 6. That holding was consistent with the redressability standards under both Iowa and

federal law; and it was supported by substantial, undisputed evidence.

At the summary judgment stage, the Secretary "did not respond, dispute, or otherwise resist LULAC's [Statement of Undisputed Material Facts]." *Id.* at 4. It went undisputed that Buena Vista, Calhoun, Jefferson, and Montgomery Counties did not provide voting materials in other languages because of the English-Only Law and/or the *King* decision. D0098 ¶ 39. It went undisputed that Buena Vista County would have continued providing Spanish-language materials if not for the *King* decision. *Id.* ¶¶ 42–43. It went undisputed that Polk and Muscatine Counties had refused to work with LULAC on its translation efforts because of the English-Only Law. *Id.* ¶ 7. And it went undisputed that Linn County had not provided Spanish-language voting materials because of the English-Only Law—but would provide them if the scope of the law were clarified to exclude voting materials. *Id.* ¶ 56. This is more than sufficient to establish a likelihood of at least some redress.

As noted above, the Secretary makes only *one* argument contesting LULAC's standing: that LULAC cannot base its redress on how the "Linn County Auditor sees his rights or duties" because this action was brought in Polk County. Br. at 20. This wholly ignores LULAC's several bases for standing which do not involve Linn County, including the judgment's legal effect on the Secretary and its consequences for LULAC's translation efforts *within* Polk County.

Even concerning Linn County, the Secretary's argument is founded on the misapprehension that a court can only consider the direct, legal effect of a ruling on the parties. But courts can consider the broader impact of LULAC's declaratory judgment so long as those consequences are more than "merely speculative." *Iowa Citizens for Cmty. Improvement*, 962 N.W.2d at 792 (denying standing for broad declarations which could "only be accomplished through [subsequent] legislation"). Here, no speculation is necessary to determine how Linn County would be impacted: it is part of the undisputed factual record.

Even federal courts—which apply a stricter standard—recognize that it is appropriate to base standing on the decisions of third parties who are not before the court; in such cases, "it becomes the burden of the plaintiff to adduce facts showing that those choices have been or will be made in such manner as to produce causation and permit redressability." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 562 (1992). Here, LULAC has done just that. The robust, undisputed factual record shows how several third parties—including the Linn County auditor—would react to its declaratory judgment. The Secretary cannot relitigate those undisputed facts on appeal.

III. The district court did not abuse its discretion when it dissolved the *King* injunction.

The Secretary's position is that, even if the district court determines that the English-Only Law does not apply to voter registration forms, it must nonetheless continue to exercise its equitable powers to enforce a knowingly wrong application of the English-Only Law. Br. at 14. To justify this untenable conclusion, the Secretary constructs an artificial threshold for dissolving an injunction, then argues it has not been met. *Id.* at 13. Perhaps

recognizing the holes in this argument, the Secretary alternatively argues that even if LULAC satisfied this contrived benchmark for dissolving an injunction, LULAC's claim is an improper "collateral attack" and is otherwise barred by issue preclusion. *Id*. at 16–17. LULAC agrees that error was preserved on these issues because they were presented to and ruled on by the district court. *See* D0110 at 4–11. A district court's decision to vacate an injunction is reviewed for abuse of discretion. *Den Hartog v. City of Waterloo*, 926 N.W.2d 764, 769–70 (Iowa 2019).

Here, the simpler position is the right one: the *King* injunction was appropriately dissolved because it directly conflicts with the terms of the Rights Exception. The Secretary's overly narrow view—that the district court could only consider "substantial changes in the facts or law," Br. at 13—is unsupported and, ultimately, conflates *res judicata* with the standards for exercising equitable powers. In any event, the district court's interpretation of the Rights Exception, which had not been previously interpreted by any court, constitutes a substantial change in the law. Finally, the Secretary's procedural objections have no merit: LULAC's action is

a direct attack on the *King* injunction and LULAC cannot be precluded from raising the Rights Exception because that issue has never been litigated and LULAC has never had its day in court.

Because no statute, rule of procedure, or precedent of this Court requires the perpetual imposition of an unlawful injunction, the district court did not abuse its discretion, and the dissolution of the *King* injunction should be affirmed.

A. The district court has inherent power to dissolve an unlawful injunction.

The Polk County District Court has inherent, common-law power to dissolve its own injunction if prospective enforcement would be inequitable. *Spiker v. Spiker*, 708 N.W.2d 347, 360 (Iowa 2006). In this case, the district court determined that continued enforcement of the *King* injunction was inequitable because that mandate could not be reconciled with the clear text of the Rights Exception. D0110 at 11. Nothing under Iowa law requires the district court to knowingly and permanently exercise its powers of equity to maintain an inequitable injunction. Therefore, the district court did not abuse its discretion, and the dissolution of the *King* injunction should be affirmed.

Iowa common law has long recognized that "a court of equity may at any time modify, amend, or vacate its decree." *Denby v. Fie*, 76 N.W. 702, 703 (Iowa 1898). If a district court's injunction "has turned into 'an instrument of wrong,' a court should have the power to modify it." *Spiker*, 708 N.W.2d at 358 (quoting *Sys. Fed'n No. 91, Ry. Emp. Dep't, AFL-CIO v. Wright*, 364 U.S. 642, 647 (1961)). Indeed, when an ongoing injunction is found to be unlawful, the court has not only the power but the *duty* to modify its previous holding. *See Wilcox v. Miner*, 205 N.W. 847, 848 (1925).

This is not just a longstanding tenet of Iowa law; it is a fundamental premise of American jurisprudence. "Anglo-American courts have always had the inherent equitable power" to modify or dissolve injunctive relief. *Sweeton v. Brown*, 27 F.3d 1162, 1166 (6th Cir. 1994). The U.S. Supreme Court has described the inherent power of a court to modify its own injunction as beyond dispute. *See System Federation No. 91*, 364 U.S. at 646. Specifically, courts have "the inherent power to modify or vacate an injunction when the law upon which that injunction was based has been changed by subsequent judicial interpretation." *Jefferson v. Big Horn Cnty.*,

2000 MT 163, ¶ 28, 300 Mont. 284, 4 P.3d 26.

Several neighboring jurisdictions have also recognized this principle—that courts have inherent power to modify or dissolve an injunction it previously issued. *See, e.g.*, *Condura Constr. Co. v. Milwaukee Bldg. & Const. Trades Council AFL*, 8 Wis. 2d 541, 547 (1959) ("The trial court has the inherent power of inquiry to ascertain whether present conditions of fact or law, or both, permit or require the court to continue the executory effect of the injunction"); *Material Serv. Corp. v. Hollingsworth*, 415 Ill. 284, 288 (1953) ("The power to modify is essential, for without it an injunction awarded by a court of equity might itself become an instrument of inequity."); *Larson v. Minn. Nw. Elec. Ry. Co.*, 136 Minn. 423, 425 (1917); *Killingsworth v. Dickinson Theatres, Inc.*, 83 S.W.3d 656, 658 (Mo. Ct. App. 2002).

Permanent injunctions are uniquely subject to subsequent modification or dissolution because of their continuing nature: "A court's continuing jurisdiction to modify a permanent injunction is an exception to the general final judgment rule." 42 Am. Jur. 2d *Injunctions* § 284 (2024); *see also Ladner v. Siegel*, 298 Pa. 487, 494–

95 (1930) ("[W]here the proceedings are of a continuing nature, it is not final"). Because the court is imposing its equitable powers on a continuing basis, the court "necessarily retains jurisdiction" so that if "equity no longer justifies the continuance of the injunction," the court may dissolve it. *Santa Rita Oil Co. v. State Bd. of Equalization*, 116 P.2d 1012, 1017 (Mont. 1941).

Against this backdrop of broad, longstanding, inherent authority, the Secretary's claim that courts are restricted to only considering substantial changes in facts or law when overseeing their own equitable decrees is unsound. Br. at 18. The Secretary misreads this Court's cases and imperils the judiciary's duty to ensure that its equitable powers are exercised lawfully. Instead, this Court has consistently only used permissive language when describing what courts *may* do when reevaluating their own injunctions. *Compare Ferguson v. Exide Techs., Inc.*, 936 N.W.2d 429, 433 (Iowa 2019) (explaining that the word "may" is understood as permissive rather than exclusive language in the statutory interpretation context).

The Secretary has not identified a single case where this Court rejected the dissolution of an injunction because the district court exceeded a purported limit on the proper equitable considerations. Br. at 13–14. In *Den Hartog*, this Court affirmed the dissolution of an injunction and, in doing so, used permissive language to describe the district court's authority: "A court *may* vacate an injunction when it 'no longer [has] a factual basis.'" 926 N.W.2d at 769 (quoting *Helmkamp v. Clark Ready Mix Co.*, 249 N.W.2d 655, 656 (Iowa 1977)) (emphasis added). In *Bear v. Iowa District Court of Tama County,* this Court affirmed the district court's finding of contempt after a party violated a permanent injunction. 540 N.W.2d 439, 442 (Iowa 1995). In dictum, the Court stated the permissive standard for dissolving an injunction: "The court which rendered the injunction *may* modify or vacate the injunction if, over time, there has been a substantial change in the facts or law." *Id.* at 441 (emphasis added). Indeed, the closest the Court came to limiting what a court may consider is when it stated that the "mere passage of time, however, does not invalidate a permanent injunction." *Id.*

The opinions issued in *Planned Parenthood of the Heartland, Inc. v. Reynolds*, No. 22-2036, 2023 WL 4635932 (Iowa June 16, 2023) ("*PPH 2023*"), are consistent with this permissive framing. The Secretary's claim that "all six participating justices agreed that a substantial change in the facts or law is a prerequisite to the modification of a permanent injunction" is an overstatement. Br. at 14. In *PPH 2023*, the State argued that dissolution of a prior injunction was justified by an intervening change in the law. 2023 WL 4635932 at *14 (McDonald, J.). All six participating justices agreed that a change in the law *could be a sufficient condition* to justify dissolving an injunction, but the justices diverged on whether that intervening change in the law had occurred. *Id.* at *6 (Waterman, J.) ("[A]fter an intervening change in the law, a judgment *may*, under some circumstances, be modified") (emphasis added); *id.* at *17 (McDonald, J.) ("Controlling and long-established law in this state holds that courts have inherent and common-law authority to dissolve permanent injunctions ... where there has been a substantial change in law or facts rendering continued injunctive relief inequitable."). No justice claimed that an

intervening change of facts or law would be the only possible basis for dissolving a preliminary injunction.

When this Court has emphasized the necessity of an intervening change of circumstances, it has done so because the doctrine of *res judicata* limits the issues a party can raise. This reasoning is clear in two cases that the Secretary's Brief does not acknowledge: *Spiker* and *Helmkamp*. In *Helmkamp*, this Court affirmed the dissolution of an injunction because of changed conditions. 249 N.W.2d at 657. In doing so, the Court again framed the legal standard with permissive language, stating that "a court *may* so modify or vacate an injunction." *Id.* at 656. But the Court also expressly addressed the role of *res judicata* in these questions when it explained the significance of finding a change in facts: "The original injunction decree is *res judicata* as to conditions then existing; it is not *res judicata* as to events thereafter occurring and conditions thereafter coming into being." *Id.*

Similarly, in *Spiker*, this Court explained that the importance of an intervening change in circumstances arises out of the necessity to "determine whether an order granting continuing relief

has preclusive effect in a later action (i.e., is a 'final judgment' for res judicata purposes)." 708 N.W.2d at 355. The Court compared it to similar federal cases where courts strove to strike the appropriate balance "between the policies of res judicata and the right of the court to apply modified measures to changed circumstances." *Id.* at 357 (quoting *System Federation No. 91*, 364 U.S. at 647–48). But here, no such balance needs to be struck because *res judicata*—as either claim preclusion or issue preclusion—has no application to LULAC because it was not a party to *King* and raises new issues. *Id.* at 353. Therefore, under the established permissive standards of this Court, the district court was free to evaluate any and all equitable considerations to ensure that its own injunction had not become "an instrument of wrong." *Id.* at 358 (quotation omitted).

B. LULAC established a lawful basis to dissolve the *King* injunction.

Even under the Secretary's narrower standard, the dissolution of the *King* injunction should be affirmed because there has been a substantial change in the law. Specifically, LULAC's completely independent declaratory judgment claim is the first

time any court has interpreted the Rights Exception. The district court is empowered and, indeed, obligated to consider that novel statutory interpretation decision in assessing whether maintaining the *King* injunction is equitable. Here, the district court did not abuse its discretion when it appropriately considered the Rights Exception and dissolved the *King* injunction accordingly.

The Secretary conveniently mischaracterizes the district court's decision as holding "that the law has not changed since the entry of the *King* injunction." Br. at 13–14. But what the district court *actually* said was that "there have not been substantive changes to the *text* of the Act." D0110 at 11 (emphasis added). The district court's careful and precise language illustrates the simple premise overlooked by the Secretary's argument: amendments to statutory text are not the only conceivable change in the law.

It is elementary that changes in "law" can mean "changes in either statutory *or* decisional law." *Agostini v. Felton*, 521 U.S. 203, 215 (1997) (emphasis added). Courts have specifically recognized the "inherent power to modify or vacate an injunction when the law upon which that injunction was based has been changed by

subsequent judicial interpretation." *Jefferson*, 2000 MT 163, ¶ 28. For example, this Court found a substantial change in circumstances when the statute that served as the basis for a prior visitation order had been declared unconstitutional. *Spiker*, 708 N.W.2d at 358. No statutory or constitutional provisions had been amended in the interim. Similarly, in *Sweeton*, the Sixth Circuit permitted the dissolution of a consent decree because it was "based on an earlier misunderstanding of the governing law" which had subsequently been clarified. 27 F.3d at 1163. Put simply, any "shift in the legal landscape that removes the basis for an order warrants modification of an injunction." *Becerra v. U.S. Env't Prot. Agency*, 978 F.3d 708, 715 (9th Cir. 2020).

The opinions issued as part of *PPH 2023* also illustrate how changes in decisional law affect continuing injunctions. While the six participating justices disagreed over whether the undue burden standard persisted, all agreed that replacing the undue burden standard with rational basis review would constitute a substantial change in the law. *Compare* 2023 WL 4635932 at *6 (Waterman, J.) ("[N]o court majority has changed the law to remove the obstacle to

enforcing the fetal heartbeat bill: the undue burden standard, which remains in place"), *with id.* at *19 (McDonald, J.) ("[T]he controlling standard under the Iowa Constitution, if coextensive with the federal standard, is now rational basis review"). No justice suggested that the injunction could only be dissolved if the underlying text of the Constitutional provisions were amended.

The Secretary's comparison between LULAC's claim and the circumstances in *PPH 2023* overlooks two key differences. Br. at 15. *First*, it was the defendant in *PPH 2023* who moved to dissolve the injunction. As a party to the prior suit, that defendant was fully subject to its preclusive effects, and the Court's analysis would need to strike the same balance between *res judicata* and equity as in *Spiker*. *Compare Spiker*, 708 N.W.2d at 357–58. *Second*, in *PPH 2023*, the dissolution of the injunction was raised via motion, and there were no other claims or proceedings. *See* 2023 WL 4635932 at *1 (Waterman, J.). By contrast, LULAC brought a completely independent declaratory judgment claim, which separately raises the scope of the Rights Exception. D0037 ¶¶ 43–46. In that way, LULAC only seeks to "change the law and then vacate the

injunction in the same case" in the sense that LULAC has combined two cases that accomplish each step of that process together for the sake of efficiency. Br. at 15.

Under the Secretary's view, LULAC would have to pursue its declaratory judgment claim alone and then subsequently file a separate action (or intervene in *King*) to address the injunction after receiving the declaratory judgment. But no rule requires this kind of "unnecessary and undesirable clog on the proceedings." *Standard Oil Co. of Cal. v. United States*, 429 U.S. 17, 18–19 (1976) (holding district courts may dissolve injunctions that had previously been entered pursuant to an appellate mandate without leave from appellate courts). Instead, LULAC's claim for injunctive relief can be considered a claim for supplementary, auxiliary relief that comes secondary to its declaratory judgment claim within the same proceeding. *See* Iowa R. Civ. P. 1.1501 (permitting auxiliary injunctive relief); *see also id.* 1.1106 (permitting further supplementary relief attendant to declaratory judgments).

The Secretary's core objection is that "the theory advanced by LULAC and accepted by the district court existed at the time of the

original judgment." Br. at 15. But this argument sounds in *res judicata* rather than the standard for dissolving a preliminary injunction. *See, e.g.*, *Spiker*, 708 N.W.2d at 353 (explaining claim preclusion bars any "matter which could have been offered" in the prior litigation) (quotation omitted). As explained above, claim preclusion could have no application to LULAC because it was not a participant in the *King* litigation. *Id.* at 353 (holding claim preclusion requires "the parties in the first and second action [to be] the same"). But even so, this Court in *Spiker* recognized that claim preclusion yields "when the judgment in the first action was plainly inconsistent with the fair and equitable implementation of a statutory or constitutional scheme." *Id*. at 356 (quotation omitted).

Finally, the Secretary and Amici raise the inter-related doctrines of *stare decisis* and legislative acquiescence. Br. at 15; Amicus Br. at 7–9 (Mar. 6, 2024). Of course, no holding by the district court could have a *stare decisis* effect on this Court. *See Iowa Dep't of Transp. v. Iowa Dist. Ct. for Linn Cnty.*, 586 N.W.2d 374, 378 (Iowa 1998) ("[A] court's decision has stare decisis effect upon a lower court but not upon a higher court") (summarizing 20

Am. Jur. 2d *Courts* § 165, at 446 (1995)). And the only concrete evidence of the legislature's intent is the text of the Rights Exception—which has never been interpreted by an Iowa court, so there is no prior interpretation which could either generate reliance by the legislature or have *stare decisis* effect. In any event, "stare decisis should not be invoked to maintain a clearly erroneous result." *Miller v. Westfield Ins. Co.*, 606 N.W.2d 301, 306 (Iowa 2000) (quotation omitted).

* * *

Whether speaking in terms of *res judicata*, preclusion, *stare decisis*, or the standard for modifying injunctions, the fundamental principle is consistent across contexts and across jurisdictions: courts of equity are not forced to perpetually impose their equitable powers in an unlawful or inequitable manner.

C. LULAC's injunctive relief claim is not a collateral attack on *King*.

The Secretary repeatedly asserts that LULAC's claim for injunctive relief is a "collateral attack" on the *King* injunction. Br. at 7, 13, 16. But at no point does the Secretary cite a case, rule, or other legal authority to support this assertion or explain its

consequences. *Id.* Therefore, any such argument is waived. Iowa R. App. P. 6.903(2)(a)(8)(3). In any event, LULAC's claim is a direct attack on the *King* injunction because it was properly "'brought in the county and court where … such judgment or order was obtained.'" *Democratic Senatorial Campaign Comm. v. Pate*, 950 N.W.2d 1, 8 (Iowa 2020) (quoting Iowa R. Civ. P. 1.1510) ("*DSCC*").

The Secretary's use of the term "collateral attack" to describe LULAC's action is a misnomer—a collateral attack is a challenge "[in] *another* district court to try to undo what one district court has already done." *DSCC*, 950 N.W.2d at 8 (emphasis added). By contrast, a "direct attack" would have the "issuing court modify or vacate the injunction." *Alley v. U.S. Dep't of Health & Hum. Servs.*, 590 F.3d 1195, 1204 (11th Cir. 2009). That is precisely what LULAC has done: gone to the same court that issued the *King* injunction and "join[ed] all necessary parties" from *King* in its action for injunctive relief. *Id.* at 1209.

While the Secretary suggests that LULAC could have intervened in *King* to seek dissolution of the injunction, Br. 16, the Secretary has not identified any authority to support its proposed

intervention procedure; nor has the Secretary identified an authority that prohibits relief through an independent action. To the contrary, this Court has long recognized the propriety of an independent equitable action to contest a final judgment. *See Manning v. Nelson*, 77 N.W. 503, 504 (Iowa 1898) (distinguishing an independent equitable action from a statutory motion challenging a judgment). And today, the Iowa Rules of Civil Procedure expressly contemplate independent actions to seek relief from injunctions: Rule 1.1510 provides that "[a]n action seeking to enjoin proceedings in a civil action, or on a judgment or final order, must be brought in the county and court where … such judgment or order was obtained." *See, e.g.*, *In re Schrock*, 746 N.W.2d 279 (Iowa Ct. App. 2008) ("[W]hen a petitioner is directly attacking a judgment as void, proper venue lies in the same county that issued the judgment") (citing Iowa R. Civ. P. 1.1510). If intervention were the exclusive mechanism for dissolving an injunction, Rule 1.1510's venue requirement would be wholly unnecessary because intervening parties have no choice over the venue.

More importantly, there is no substantive difference between intervening and filing an independent action. So long as the prior parties are joined and the independent action is brought before the same court, it does not "implicate the potential problems and prejudice that can arise when plaintiffs are permitted to challenge relief entered by one court through a wholly independent action commenced in a different court." *Wilson v. Minor*, 220 F.3d 1297, 1302–03 (11th Cir. 2000) (affirming the dissolution of an injunction via an independent action). It is unsurprising, then, that federal courts and neighboring jurisdictions expressly recognize the propriety of dissolving an injunction through an independent action. *See, e.g.*, Fed. R. Civ. P. 60(d) ("This rule does not limit a court's power to … entertain an independent action to relieve a party from judgment"); Wis. Stat. § 806.07(2) ("This section does not limit the power of a court to entertain an independent action to

relieve a party from a judgment"); *see also* Minn. R. Civ. P. 60.02 (similar text); Mo. Sup. Ct. R. 74.06 (similar text).[4]

While the Secretary complains about the change in case number, Br. at 16, there is no other consequence to allowing LULAC to seek injunctive relief through an independent action rather than intervention. In fact, LULAC's approach promotes judicial efficiency because it permits the resolution of both its declaratory judgment claim and the injunctive relief claim in a single proceeding. Otherwise, LULAC would have to separately pursue its declaratory relief claim and then subsequently seek intervention and relief in the *King* case—litigating once again with all the same parties. No rule, policy, or precedent requires such unnecessary expenditure of the court's or parties' resources.

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[4] Though the Iowa Rules lack an express parallel to these provisions, this Court has previously held that the silence of the Iowa Rules is not a barrier to courts exercising their "common-law power to modify judgments granting continuing relief." *Spiker*, 708 N.W.2d at 360.

D. LULAC's invocation of the Rights Exception is not barred by the doctrine of issue preclusion.

LULAC's claim for injunctive relief is not barred by issue preclusion for two reasons. First, the Secretary has failed to establish the necessary elements for invoking issue preclusion. Second, even if the elements were satisfied, issue preclusion *cannot* be used against LULAC because it was neither a party nor in privity with a party in *King*.

To employ issue preclusion, the Secretary must show that LULAC raises an issue identical to one that was previously raised and litigated in *King*, was material to the disposition of *King*, and was decided as a necessary part of the resulting judgment. *See Clark v. State*, 955 N.W.2d 459, 465–66 (Iowa 2021) (quotation omitted). But the issue raised by LULAC—whether the Rights Exception encompasses voting materials—was never raised, litigated, or decided in *King*. Indeed, the district court's order in *King* could not have been clearer on this point:

> "Without engaging in an extensive discussion of the matter because *the issue has not been raised*, the court takes note of the [Rights Exception]. This exception might justify the use of non-English voter registration forms. […] However, the Respondents have not argued

> … that the Respondents' challenged activities were undertaken as a result of the determination that they were necessary or required to secure the right to vote."

King, No. CV006739 at 29–30 (emphasis added).

The Secretary does not dispute that the scope of the Rights Exception was never raised, litigated, or decided in *King*. Instead, the Secretary effectively argues that the district court's *holding* in *King* should preclude any issue related to the question of whether the English-Only Law applies to voter registration forms.[5] Br. at 18. But this is a mistake in the "proper level of generality to be applied in determining the scope of an 'issue' for preclusion purposes." *Lemartec Eng'g & Constr. v. Advance Conveying Techs.*, LLC, 940 N.W.2d 775, 786–87 (Iowa 2020) (rejecting the application of issue preclusion to other claims of breach under a previously

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[5] The Secretary inaccurately characterizes the question in *King* as "whether the Act prohibits *voting materials* in languages other than English." Br. at 17 (emphasis added). However, *King* did not concern voting materials writ large; it only concerned whether the "voter registration forms of this state" can be translated into other languages. *King*, No. CV006739 at 31. Indeed, because LULAC's claim concerns voting materials beyond voter registration forms—such as ballots and voting instructions—it clearly raises distinct issues that have never been previously litigated.

litigated contract). The scope of the Rights Exception is a discrete question of statutory interpretation that has never previously been addressed—in *King* or in any other case.

The Secretary's overly broad understanding of an "issue" is untenable because it would imperil fundamental doctrines of equitable power and judicial restraint. For example, while the Secretary recognizes that permanent injunctions can be modified, it is difficult to conceive of a change in the facts or law that would not be precluded by a prior holding on the ultimate "issue" as the Secretary conceives of it. Similarly, the "[t]raditional notions of judicial restraint," which counsel courts to "avoid answering important questions without the benefit of meaningful adversarial briefing," would be undermined if those unanswered questions could be forever barred by issue preclusion. *State v. Patterson*, 984 N.W.2d 449, 454 (Iowa 2023) (quotation omitted).

Even if the elements of issue preclusion were satisfied, that doctrine still cannot be invoked against LULAC because it was neither a party nor in privity with a party to *King*. In applying issue preclusion, this Court "generally restrict[s] its use only against a

party, or one in privity with a party, to the prior suit." *Clark*, 955 N.W.2d at 465. The Secretary's claim that LULAC can be precluded because "this Court abandoned the strict doctrine of mutuality," Br. at 17, is an overstatement that has been *expressly* repudiated by this Court:

> "While we have said we no longer require mutuality or privity, that just means we have come to allow strangers to the prior proceeding to use issue preclusion against a party, or one in privity with that party, who has already litigated the same issue in a prior proceeding. We nonetheless remain mindful that it is a due process violation for a litigant to be bound by a judgment when the litigant was not a party or a privy in the first action and therefore never had an opportunity to be heard. Thus, issue preclusion should be applied only when the party against whom preclusion is asserted had a full and fair opportunity to litigate."

Clark, 955 N.W.2d at 465 n.5 (quotations omitted); *see also Jordan v. Stuart Creamery, Inc.*, 137 N.W.2d 259, 264 (Iowa 1965) (describing this expansion of issue preclusion as merely "a re-definition of the term 'privy'"). Simply put, issue preclusion cannot apply to LULAC because it was a stranger to the parties in *King* and, until this case, has not had a full and fair opportunity to be heard.

Absent direct participation in *King*, issue preclusion can only apply to LULAC if it is "so connected in interest with one of the parties in the former action as to have had a full and fair opportunity to litigate the relevant … issue and be properly bound by its resolution." *Clark*, 955 N.W.2d at 465 (quotation omitted). This examination of LULAC's connection to *King* is not just necessary under Iowa law, but also operates as a "significant safeguard" against due process violations under the U.S. Constitution. *Blonder-Tongue Laboratories, Inc. v. Univ. of Ill. Found.*, 402 U.S. 313, 329 (1971) (holding that due process prohibits estopping parties who "never had a chance to present their evidence and arguments").

But the Secretary does not even attempt to argue that LULAC had a full and fair opportunity to litigate in *King*. Instead, the Secretary relies on *Barker v. Iowa Department of Public Safety*, where issue preclusion was invoked against the Department of Public Safety ("DPS"). 922 N.W.2d 581 (Iowa 2019). But applying issue preclusion to a state agency does not raise the same due process concerns as compared to depriving a private party of their

day in court. *See, e.g.*, *Bd. of Water Works Trs. of City of Des Moines v. SAC Cnty. Bd. of Supervisors*, 890 N.W.2d 50, 71 (Iowa 2017) (rejecting due process claim "in a dispute between public entities"). Even so, the *Barker* Court applied issue preclusion only after determining that the DPS had been adequately represented in the prior preceding by the State because neither proceeding "require[d] special agency expertise or representation." *Barker*, 922 N.W.2d at 589.

Here, LULAC is a private party entitled to its own day in Court because it was neither in common interest with nor adequately represented by any of the parties in *King*. Though the *King* suit was ostensibly defended by the Secretary and the Commission, those government entities do not share LULAC's particularized interest in the provision of Spanish-language voting materials. *Compare Opheim v. Am. Interinsurance Exch.*, 430 N.W.2d 118, 121 (Iowa 1988) (allowing issue preclusion against non-party whose interest was "identical" to participant in prior litigation). The Secretary's "representation of the public interest generally cannot be assumed to be identical to the individual

parochial interest of a particular member of the public." *Utah Ass'n of Cntys. v. Clinton*, 255 F.3d 1246, 1255–56 (10th Cir. 2001). Indeed, this Court has held that the state cannot even be considered in privity with its own employee acting in an official capacity because their interests and priorities differ. *Clark*, 955 N.W.2d at 469–70 (denying application of issue preclusion to public defender in malpractice suit based on state's prior litigation of an ineffective assistance of counsel claim).

Even if government entities *could* adequately represent private interests in some circumstances, that is demonstrably not true here. When litigating *King*, the Secretary failed to raise the on-point Rights Exception—a glaring omission. *See King*, No. CV006739 at 29–30. This sharply contrasts with the facts of *Opheim*, the rare situation where this Court has applied issue preclusion to a stranger to the prior litigation. 430 N.W.2d at 121. There, the Court only found adequate representation in the prior suit because it determined that the underlying issue *could not* have been litigated in a "materially different" manner. *Opheim*, 430 N.W.2d at 121. Not only could *King* have been litigated differently,

but the fact that the Secretary now affirmatively seeks to be returned to the strictures of a permanent injunction only further illustrates the marked differences in the parties' respective interests.

Finally, the Secretary's warnings of "relitigat[ing] the same issue ad nauseum" ignore the unique circumstances of this case and do not justify depriving LULAC of its day in court. Br. at 17. This case only concerns ongoing, permanent injunctions—where the interest in finality is lower and, indeed, secondary to ensuring that the ongoing injunction is equitable. *Spiker*, 708 N.W.2d at 360 (distinguishing rule for modifying final judgments from "common-law power to modify judgments granting continuing relief"). Moreover, it bears repeating that the issue LULAC raises—the scope of the Rights Exception—has never been litigated before and so cannot be "relitigated." Br. at 17. Because LULAC's case arises from the unique situation where an on-point statutory exception was never raised—in a case LULAC did not participate in—the district court's dissolution of the *King* injunction does not risk broader ramifications for repeat litigation.

CONCLUSION

For the forgoing reasons, the Court should affirm the district court's grant of summary judgment on both counts.

REQUEST FOR ORAL SUBMISSION

LULAC requests to be heard in oral argument.

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Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface and type-volume limitation of Iowa Rules of Appellate Procedure 6.903(1)(e) and 6.903(1)(i)(1), effective April 1, 2024, because this brief has been prepared in a proportionally spaced typeface using Century Schoolbook in 14-point font and contains 12,744 words, excluding the parts of the brief exempted by Rule 6.903(1)(i)(1).

/s/ *Shayla McCormally*
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CERTIFICATE OF FILING AND SERVICE

I certify that on April 4, 2024 this brief was electronically filed with the Clerk of Court and served on all counsel of record to this appeal using EDMS.

/s/ *Shayla McCormally*
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