

January 11, 2024

The Honorable Kristen Clarke  
Assistant Attorney General, Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Nicole M. Argentieri  
Acting Assistant Attorney General, Criminal Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Re: *Unlawful Harassment and Extortion of No Labels and its Supporters, Staff, Vendors, and Potential Candidates*

Dear Assistant Attorney General Clarke and Acting Assistant Attorney General Argentieri:

We are the national leaders of No Labels, Inc., a 501(c)(4) organization that has worked since 2009 to give a voice to America's commonsense majority. No Labels has historically focused on building bipartisan coalitions in Congress and bridging the political divide in communities across America. But in late 2021, we embarked on an effort to secure nationwide ballot access for the 2024 presidential election, which would enable us to offer our ballot line to a Unity presidential ticket.

No Labels launched this 2024 project in response to the clear demand of American voters – most of whom report in public polls that they are unhappy with the presidential candidates likely to be nominated by the Democratic or Republican parties in the forthcoming election – to expand their choices.

Unfortunately, No Labels' nonpartisan ballot access effort has spurred the creation of a highly coordinated, conspiratorial, partisan, and often unlawful conspiracy – involving individuals both inside and outside government – to deny Americans their constitutional right to choose the leaders who represent them. The activists, operatives, and party officials behind this conspiracy claim to be protecting American democracy but they are in fact actively subverting it by threatening Americans' equal access to the ballot and limiting their choices. These activities violate federal criminal law, including the RICO statute and a number of criminal civil rights provisions, not to mention the freedom of association rights that No Labels and all Americans enjoy under the U.S. Constitution. We respectfully ask for your assistance in enforcing these laws and safeguarding these critical civil rights.

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Although the pattern of unlawful behavior traces back nearly a year, the most recent (and most disturbing) example occurred just weeks ago. On December 19, 2023, the *Semafor* online news site reported on audio it obtained of an 80-minute call organized by Matt Bennett, co-founder of Third Way, a left-of-center think tank. During that call, which Mr. Bennett convened with the assistance of other organizations including Move On Political Action, End Citizens United, Lincoln Project, American Bridge, Public Citizen, and Reproductive Freedom for All, attendees laid out their plans to harass, extort, and intimidate No Labels supporters and potential candidates, and to take any steps necessary to prevent the formation and success of a No Labels Unity presidential ticket.<sup>1</sup> In addition to Mr. Bennett, the meeting was attended by such prominent individuals and campaign operatives as Sarah Longwell, Bill Kristol, former Senator Doug Jones, and Dmitri Mehlhorn.

Mr. Bennett stated during the private meeting, “What we want to do with [No Labels’] donors is continue to build the idea in the minds of the political elites and the people that they talk to . . . [is] that if you get involved with this, you are throwing, you’re really risking your entire reputation and your legacy.” The intended actions agreed to during the meeting – which included harassment of No Labels staff, donors, vendors, and potential candidates, and the filing of baseless IRS complaints with the intention of inflicting “a huge hit to [No Labels] entire operation,” – crossed all lines of acceptable conduct into a conspiracy to commit extortion, voter intimidation, and other criminal behavior. As the article quoted one attendee in explaining how they would dissuade candidates from running on the No Labels Unity ticket: “Through every channel we have, to their donors, their friends, the press, everyone — everyone — should send the message: If you have one fingernail clipping of a skeleton in your closet, we will find it. If you think you were vetted when you ran for governor, you’re insane. That was nothing. We are going to come at you with every gun we can possibly find.”

These statements demonstrate that the attendees were participating in a conspiracy to use retaliation, fear, intimidation, and even threats of violence to obtain benefits (more specifically, the elimination of political adversaries) for themselves and those they represent. This conduct violates the federal extortion statute, 18 U.S.C. § 1951, and represents a RICO predicate act.

These activities also go far beyond those protected by the First Amendment and instead seek to extinguish the First Amendment rights of both No Labels and anyone who would seek to utilize the ballot access being facilitated by No Labels. The groups declared, despite their mostly nonprofit status, that they were working to ensure the election of a single candidate (President Joe Biden) and would stop at nothing to prevent any additional presidential candidates from emerging to challenge their preferred candidate. They went through a list of candidates they planned to intimidate from running, naming people such as former Governor Jon Huntsman and others; and made clear that if they are unsuccessful at stopping No Labels from securing a ballot, they would attempt to prevent any candidate from utilizing it. Ballot access and running for office are constitutionally protected activities and just like voting drives, open polling places, and other basic activities that are preconditions to fair elections, these conspiratorial actions run afoul of numerous statutes designed to protect our democracy. What use is a vote if the voters can’t have choices?

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<sup>1</sup> See <https://www.semafor.com/article/12/19/2023/the-plot-against-no-labels>.

It's one thing to oppose candidates who are running; it's another to use intimidation tactics to prevent them from even getting in front of the voters.

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As noted, the events referenced in the *Semafor* news article were in no way isolated. They represent the culmination of a much more extensive pattern of increasingly aggressive behavior by No Labels' adversaries that began soon after No Labels announced its intention to potentially run a Unity candidate in the 2024 General Election:

- No Labels believes this organized conspiracy began in April 2023 when Matt Bennett, of Third Way met with (an ironically bipartisan group of) Senate chiefs of staff and implored them to do everything in their power to “kill” No Labels.
- Meanwhile, Rick Wilson, co-founder of the Lincoln Project, another organization actively working to prevent No Labels from exercising its constitutional rights, posted a tweet with an accompanying video on April 6, 2023, urging that No Labels and its leaders “need to be burned to the fucking ground politically.” See <https://x.com/ProjectLincoln/status/1644145691252457473?s=20>. As of December 21, 2023, that tweet has been viewed 664,900 times, liked 2,600 times, and shared 1,600 times. Such inflammatory rhetoric crosses the line into calls for violence. We know all too well from experiences with other contemporary politicians how fighting words like that can trigger chaos in the electorate.
- Other members of the coalition working to undermine No Labels have sought to impede our organizing activities and efforts to access the ballot in individual states. On March 30, 2023, for example, the Democratic Party of Arizona filed a lawsuit against the No Labels Party of Arizona (an affiliate of No Labels) claiming that the Secretary of State had improperly approved its petition for party recognition and demanding that the party's recognition be revoked. The Maricopa County Superior Court dismissed the suit for failure to state a claim on August 7, 2023. See *Ariz. Democratic Party v. No Labels, Inc.*, Civil Case No. 2023-004832 (Maricopa Cnty. Super. Ct. Aug. 8, 2023).
- On April 29, 2023, Melissa Byrne, executive director of “We, the 45 Million,” an organization working with the White House to promote the cancellation of student debt, posted a tweet on Twitter promoting a mobile billboard that had been dispatched to the Washington, DC neighborhood of No Labels CEO Nancy Jacobson. The billboard included photos of Ms. Jacobson, her husband, and Donald Trump, with the message: “Nancy and Mark need to stop playing around with America's future to make rich donors happy.” Ms. Byrne wrote: “Spotted: At #gardenbrunch calling out @NoLabelsOrg for bringing MAGA HATE to Georgetown by helping Trump.”<sup>2</sup>
- In May 2023, Maine's Secretary of State, Shenna Bellows, sent a letter to more than 6,500 Maine citizens who had registered to join the No Labels Party of Maine (another

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<sup>2</sup> <https://x.com/mcbyrne/status/1652317562221338624?s=20>

affiliate of No Labels), claiming that organizers had confused voters by not telling them they were registering with the No Labels Party of Maine. The Secretary then invited voters to switch their registration back to some other party. This was despite the fact that No Labels used the State's own registration form, which unambiguously explained that by signing the form, the voter was changing his/her party registration to the No Labels Party of Maine. No other party in Maine had ever been subjected to such treatment, and the false accusations were highly damaging to the party. Ms. Bellows also leaked her letter to the press before even informing No Labels of any purported reports of voter confusion.<sup>3</sup>

- On June 6, 2023, Matt Bennett from Third Way hosted another meeting with more than forty top Democratic groups and “anti-Trump Republicans” to strategize over how to stop No Labels.<sup>4</sup> Several attendees, until recently, were top officials in the current presidential administration. One attendee was Ron Klain, President Biden's former Chief of Staff.
- On June 23, 2023, Melissa Moss, former finance director for the Democratic Party and representative of the Lincoln Project, asked to meet with Holly Page, a No Labels co-founder and Board of Advisors member, for breakfast in Washington. At the time, Ms. Page was working as a business consultant for Constance Milstein, the current U.S. Ambassador to Malta, a role Ms. Page had performed for more than two decades. During the breakfast, Ms. Moss explicitly threatened Ms. Page's financial future based on her affiliation with No Labels. In particular, Ms. Moss stated, “You have no idea of the forces aligned against you. You will never be able to work in Democratic politics again.” She later added, “You are going to get it with both barrels.” Most eerily of all, she remarked, “I wonder what Connie Milstein thinks about what you are doing, this can't be good for her.” Ms. Page was startled and disturbed, particularly at with the last comment. It turns out, for good reason. Within weeks, Ms. Milstein's attorney contacted Ms. Page and advised her that, because Ms. Page was a *persona non grata* with the White House, Ms. Milstein was terminating her relationship with Ms. Page.
- On June 28, 2023, MoveOn Political Action sent letters to 49 secretaries of state encouraging them to follow the lead of the Maine Secretary of State and investigate No Labels. The organization noted on its website: “MoveOn Political Action is sending a letter to all secretaries of state to urge election officials to investigate No Labels' electoral activities as the dark-money group attempts to qualify to appear on the ballot in all 50 states.”<sup>5</sup> The letter cited no evidence whatsoever of any wrongdoing by No Labels.<sup>6</sup>

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<sup>3</sup> <https://thehill.com/homenews/state-watch/4037186-maine-elections-head-says-no-labels-misleading-voters/>

<sup>4</sup> <https://www.washingtonpost.com/politics/2023/06/14/biden-no-labels-opposition/>

<sup>5</sup> <https://front.moveon.org/moveon-sends-letter-to-secretaries-of-state-to-investigate-no-labels-for-misleading-voters/>. See also <https://front.moveon.org/wp-content/uploads/2023/06/Illinois-Letter-to-Secretary-of-State.pdf> (Illinois letter).

<sup>6</sup> <https://docquery.fec.gov/cgi-bin/forms/C00845776/1737790/se>

- On July 18, 2023, David Jackson from *USA Today* reported that officials in the White House had been calling reporters to “dump on No Labels” and attempt to find out who No Labels donors are so that they can be contacted and intimidated.<sup>7</sup>
- On July 27, 2023, Matt Bennett and Rahna Epting, the executive director of MoveOn, spoke to several dozen House and Senate chiefs of staff in two separate briefings to lay out the implications of No Labels’ possible third-party presidential effort. During the meetings, Bennett expressed, “What we told [No Labels] is what we’re telling you and everyone: This is a dangerous and bad idea, and Democratic officials should be on the record saying it’s a bad and dangerous idea.”<sup>8</sup>
- On August 1, 2023, Matt Bennett held a private briefing with Bill Kristol and other Third Way supporters at which Mr. Bennett encouraged all participants in the meeting to identify any No Labels staff, donors, vendors, and potential candidates to pressure them into withdrawing their support and/or severing their relationship with No Labels. During the meeting, Mr. Bennett exclaimed, “There are plenty of things that you can do, everyone knows a lot of people and you can activate people in your world that can really have an impact on the No Labels staff and people around them, on their donors . . . and on the candidates that they’re going to try to recruit to run.”<sup>9</sup>
- On October 8, 2023, the *New York Times*, in a comprehensive article by Reid Epstein and Lisa Lerer titled, “*Fearing Third-Party Spoilers vs. Trump, Biden Allies Try to Squash Them*,” detailed the orchestrated campaign by the White House, Democratic National Committee, and a coalition of advocacy organizations supporting President Biden to undermine No Labels’ ballot access efforts. The article noted that the coalition to prevent No Labels from accessing the ballot in states across the country had been expressly “blessed” by President Biden’s top aides at the White House, and the “multimillion-dollar offensive . . . cut[] across the party, tapping the resources of the Democratic National Committee, labor unions, abortion rights groups, top donors and advocacy groups backing moderate and liberal Democrats.”<sup>10</sup>
- In or around late November 2023, nefarious actors created and actively promoted a website—hosted at the URL <nolabels.com>—designed to mimic No Labels’ legitimate website for the purpose of deceiving the public, including voters, and sowing confusion about what No Labels stands for and which political leaders No Labels supports. These actors also purchased advertisements on Google in certain states with the goal of steering individuals who are seeking information about No Labels on the

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<sup>7</sup> <https://x.com/AstroTerry/status/1737893915397628011?s=20>

<sup>8</sup> <https://www.nbcnews.com/meet-the-press/meetthepressblog/democratic-groups-lawmakers-frustrated-no-labels-third-party-push-rcna96981>

<sup>9</sup> <https://www.youtube.com/watch?v=KejKzca-ZmI>; and <https://jewishjournal.com/commentary/opinion/361414/whos-afraid-of-democracy/>

<sup>10</sup> <https://www.nytimes.com/2023/10/08/us/politics/biden-trump-third-parties-no-labels.html#:~:text=Fearing%20Third%2DParty%20Spoilers%20vs,of%20cash%20and%20ballot%20access>

Internet to the infringing website. The fraudulent website represented a blatant attempt to trade on No Labels' goodwill and was clearly intended to deceive individuals about the platform and advocacy of No Labels. It was also designed to discourage individuals from supporting No Labels' mission, including dissuading individuals from providing No Labels financial support. After No Labels filed a lawsuit to enforce its rights, the U.S. District Court for the District of Delaware issued a TRO against the infringing website on December 15, 2023. Discovery is now ongoing to ascertain the identify of the individuals involved in this unlawful behavior. *See No Labels, Inc. v. NoLabels.com*, Case No. 1:23-cv-01384-GBW (D. Del.).

- Most recently, as detailed at the outset of this letter, the *Semafor* news site reported on how the coalition has crossed the line further into racketeering conduct. Of course, the threats are not just to individuals associated with No Labels, but to the millions of voters who desire the additional choice that No Labels is providing on the ballot.
- Finally, on the December 27, 2023 episode of *The Bulwark Podcast*, editor Jonathan V. Last, urged that “anybody who participates in this No Labels malarkey should have their lives ruined.” While at least conceding that they should not “have violence visited upon them,” he called for anyone affiliated with No Labels to “become social pariahs.” He added, “They should lose whatever jobs they might have. They should be kicked off corporate boards. . . . And if people are going to act irresponsibly like this, they should be absolutely shamed to our society’s utmost ability to shame.”<sup>11</sup>

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Although there is no question that the entities and individuals harassing No Labels and its donors and potential candidates have a First Amendment right to engage in political speech, the law does not give them the right to intimidate, threaten, coerce, and/or extort any person who may be inclined to promote the No Labels cause in general, support its effort to secure ballot access for the 2024 election in particular, or run on its ticket. Yet in their zealous campaign to discover the identity of No Labels' donors in order to harass them – a disclosure the law unequivocally does not require as long as No Labels is merely working to obtain access to the ballot line and not campaigning on behalf of any particular candidates, *see Unity08 v. FEC*, 596 F.3d 861 (D.C. Cir. 2010) – and otherwise block No Labels' activities, these individuals and organizations have contravened a vast array of federal criminal statutes. The threats of fear, for example, that these wrongful actors deploy in their effort to shut down the No Labels operation amount to racketeering in violation of 18 U.S.C. § 1951 and, depending on how the threat is communicated, implicate the extortion prohibitions in 18 U.S.C. §§ 875-876 as well.

Federal laws originally adopted to target the Ku Klux Klan likewise proscribe individuals from conspiring to oppress, threaten, or intimidate any person “in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same.” 18 U.S.C. § 241. In a similar vein, it is a federal criminal offense to intimidate or interfere (or attempt to intimidate or interfere) with any person from,

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<sup>11</sup> <https://plus.thebulwark.com/p/lets-brace-for-2024-together>

among other things, voting or “participating in or enjoying any benefit, service, privilege, program . . . or activity provided or administered by the United States.” 18 U.S.C. § 245(b). Harassing, intimidating, threatening, and extorting the donors and supporters of the No Labels movement clearly violates these criminal provisions. The criminal prohibition in 18 U.S.C. § 594 that calls for imprisonment of any individual who intimidates, threatens, or coerces (or attempts to do so) of any other person for the purpose of interfering with the right of such other person to vote as he may choose is also triggered by the outrageous conduct identified in this letter. To the extent that government officials are involved in these efforts to intimidate and harass No Labels and its supporters – as appears to be the case – they may also be violating 18 U.S.C. § 595. Threats of employment and financial retaliation – as many No Labels staff members, donors, and vendors have been experiencing already – further contravenes 18 U.S.C. § 601.

The individuals and organizations who have brazenly targeted No Labels with their illegal activities are breaching numerous federal civil statutes under the Justice Department’s jurisdiction as well. Their conduct, for example, is prohibited by Section 11(b) of the federal Voting Rights Act (codified at 52 U.S.C. § 10307(b), and Section 12 of the National Voter Registration Act (codified at 52 U.S.C. § 20511). *See Nat’l Coal. on Black Participation v. Wohl*, 512 F. Supp. 3d 500, 509-512 (S.D.N.Y. 2021); *League of United Latin Am. Citizens v. Pub. Interest Legal Found.*, No. 18-cv-423, 2018 WL 3848404, at \*3-6 (E.D. Va. Aug. 13, 2018). And many of the criminal statutes addressed above can also be enforced civilly under 42 U.S.C. § 1985(3). *See id.*

Further, numerous individuals involved in the campaign to prevent No Labels from gaining ballot access have been assisted by governmental officials at both the state and federal levels acting under color of law. Such actions violate the First Amendment freedom of association and speech rights of No Labels and its supporters, not to mention the voting rights of No Labels supporters. The Supreme Court case law on these issues is clear and long-established. As the Court noted in *Williams v. Rhodes*, 393 U.S. 23, 31 (1968), “[t]he right to vote is heavily burdened if that vote may be cast only for major party candidates at a time when other parties or other candidates are clamoring for a place on the ballot. The exclusion of candidates also burdens voters’ freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.”

These exclusionary actions also contravene the procedural and substantive due process rights of No Labels and its supporters. As the Supreme Court held more than sixty-five years ago in the landmark case of *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958), “[i]t is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the liberty assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech.” The Court explained that it was immaterial that the intimidation and harassment was ultimately committed by private actors. “The crucial factor,” the Court noted, was “the interplay of governmental and private action, for it is only after the initial exertion of state power . . . that private action takes hold.” *Id.* at 463. By singling out No Labels for this treatment, these governmental actors are also undermining our equal protection rights under the Fifth and Fourteenth Amendments.

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No matter one's party or political affiliation, there should be no dispute that Americans have a right to choose – free from fear, intimidation, or harassment – which candidates appear on their voting ballots as well as which candidates they cast their vote for. No one should ever interfere with this right.

But that is precisely what the partisan operatives behind the campaign against No Labels are doing. Their actions are blatantly illegal, and it is imperative that the Department of Justice – whose mission is to uphold the rule of law and to protect civil rights – act expeditiously to put a stop to them. The leaders of this anti-democratic coalition are brazenly bragging about their past and planned activities to curtail the rights and choices of American voters. It's chilling. Only when individuals understand that there will be accountability for such unlawful behavior (as there must be) will the rule of law be respected. Accordingly, we respectfully request that the Department investigate this matter fully and take all appropriate measures, including whatever civil or criminal legal steps may be necessary, to ensure No Labels and its staff, supporters, vendors, and potential candidates are free of intimidation, harassment, and extortion throughout the 2024 election season. We look forward to, and thank you in advance for, your prompt response.

If you have any additional questions, please feel free to reach us through our counsel, Dan Webb, at (312) 558-5856.

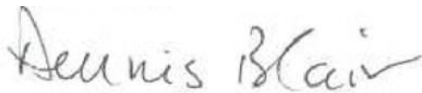
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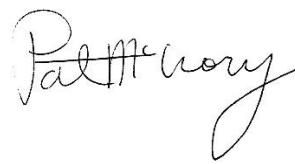
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