

STATE OF NORTH CAROLINA  
COUNTY OF DUPLIN

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2020 OCT 10 A 9 16  
ADRAIN ARNETT, in his individual capacity,  
and in his capacity as Chairman of the Duplin  
County Republican Party, and NORTH  
CAROLINA REPUBLICAN PARTY

C.C.S.  
N.C. C.S.C. 20-CVS-570

Plaintiffs,

**NORTH CAROLINA  
DEMOCRATIC PARTY'S MOTION  
TO INTERVENE AS DEFENDANT**

v.

THE NORTH CAROLINA STATE BOARD  
OF ELECTIONS; DAMON CIRCOSTA, in his  
official capacity as CHAIR OF THE STATE  
BOARD OF ELECTIONS; STELLA  
ANDERSON, in her official capacity as  
SECRETARY OF THE STATE BOARD OF  
ELECTIONS; JEFF CARMON III, in his  
official capacity as MEMBER OF THE STATE  
BOARD OF ELECTIONS; KAREN  
BRINSON BELL, in her official capacity as  
EXECUTIVE DIRECTOR OF THE STATE  
BOARD OF ELECTIONS,

Defendants,

The North Carolina Democratic Party ("NCDP") seeks to participate as an intervening defendant in the above-captioned action to defend its interests in protecting votes cast by Democratic voters and in support of Democratic candidates against the unlawful expansion of mail ballot challenges requested by Plaintiffs Adrain Arnett and the North Carolina Republican Party (collectively, the "NCGOP").

For the reasons discussed in the memorandum in support, filed concurrently herewith, the NCDP is entitled to intervene in this case as a matter of right under N.C. R. Civ. P. 24(a). In the alternative, NCDP requests permissive intervention pursuant to N.C. R. Civ. P. 24(b). In accordance with N.C. R. Civ. P. 24(c), the NCDP's Proposed Answer is attached herewith.

WHEREFORE, the NCDP requests that the Court grant it leave to intervene in the above-captioned matter and to file its proposed Answer.

Dated: October 12, 2020

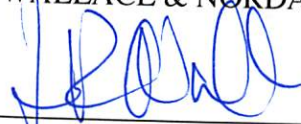
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*Attorneys for Proposed Intervenor Defendants*  
\*Motion for admission *pro hac vice* pending

Respectfully submitted,

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## CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing document in the above-titled action via electronic mail upon all parties to the following:

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A handwritten signature in blue ink, appearing to be "Paul Cox", is written over the text of the certificate.

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Defendants,

IN THE GENERAL COURT OF  
JUSTICE  
SUPERIOR COURT DIVISION

DOCKET NO. 20-CV-570

**AFFIDAVIT OF WAYNE GOODWIN**

I, Wayne Goodwin, having been duly sworn, do hereby swear and affirm as follows:

1. I am the Chairman of the North Carolina Democratic Party ("NCDP"). I am over the age of 18, have personal knowledge of the matters stated herein, and I am competent to make this affidavit.
2. The NCDP is a North Carolina state political party organization as defined in N.C. Gen. Stat. § 163-96.
3. Its purposes are: (i) to bring people together to develop public policies and positions favorable to NCDP members and the public generally, (ii) to identify candidates who will support

and defend those policies and positions, and (iii) to persuade to cast their ballots for those candidates.

4. The NCDP has members in every county in North Carolina.

5. The NCDP currently invests significant resources in educating voters about the absentee by mail voting process and assisting voters whom county elections officials list as having an issue with their absentee ballot. This includes organizing phone banks to call voters who public records list as having an issue with their absentee ballot, and walking them through the steps they need to take to ensure that their ballot is counted.

6. The North Carolina Republican Party (“NCGOP”) proposal to alter the challenge process for absentee by mail ballots directly impacts the NCDP’s core mission to turn out voters for Democratic candidates, and the NCDP will have to dedicate significantly more resources (diverting them from other mission critical efforts) towards this altered challenge process.

7. NCDP will have to educate voters in greater detail on the potential reasons for challenging absentee ballots, and follow up with voters whose challenged ballots are rejected to guide them through the process of contesting, curing, or re-submitting their ballots. NCDP will also have to provide additional training to staff and volunteers attending twice-weekly absentee meetings in all 100 counties for the purpose of monitoring NCGOP challenges, alerting voters of those challenges, and assisting voters with appeals of challenges.

8. The NCGOP’s proposal also injures NCDP’s members who will be denied the right to cast a ballot due to a frivolous or erroneous challenge.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER, AFFIANT SAYETH NOT.

Executed this 11<sup>th</sup> day of October 2020, in Raleigh, North Carolina.

Wayne Goodwin  
Wayne Goodwin

Sworn to and subscribed before me  
This 11<sup>th</sup> day of October, 2020.

L. Junt Nq  
Notary Public

My commission expires: 5/29/23



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DIRECTOR OF THE STATE BOARD OF  
ELECTIONS,

Defendants,

*and*

NORTH CAROLINA DEMOCRATIC PARTY,

[Proposed] Intervenor-Defendant.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

20-CV-570

**[PROPOSED] ANSWER**

Proposed Intervenor-Defendant North Carolina Democratic Party file this Answer to the Verified Complaint; Motion for Temporary, Preliminary, and Permanent Injunction; and Motion for Expedited Discovery of Plaintiffs Adrain Arnett and North Carolina Republican Party.<sup>1</sup>

Titles or headings contained in Plaintiffs' Verified Complaint and Motion (the "Complaint") are reproduced in this Answer for organizational purposes only, and Intervenor-Defendant does not admit any matter contained therein.

The unnumbered paragraph on page one of the Complaint contains legal conclusions to which no response is required. To the extent the allegations must be admitted or denied, they are denied.

The unnumbered paragraph beginning on page one of the Complaint and ending on page two of the Complaint describes the contents of the Complaint, which speaks for itself.

#### **Background**

1. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
2. Intervenor-Defendant admits that a surge in absentee by mail voting is occurring in the November 2020 election. Intervenor-Defendant admits that the website for the North Carolina State Board of Elections contains statistics regarding absentee by mail ballots, the contents of which speak for themselves. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.

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<sup>1</sup> The Proposed Intervenor-Defendant respectfully requests leave from the Court to file this Answer, which shall be deemed to have been filed as of this date.



3. Intervenor-Defendant admits that beginning September 29, 2020, members of county board of election began meeting to approve or disapprove absentee by mail ballots. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same. Intervenor-Defendant denies that Plaintiffs are entitled to relief. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
4. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
5. Intervenor-Defendant admits that one-stop absentee voting will take place over more than one week in the November 2020 election. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
6. Intervenor-Defendant denies that Plaintiffs' purported concerns are warranted. The allegations in this paragraph purport to interpret statements from the "Carter-Baker Report," which speaks for itself. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations.
7. Intervenor-Defendant admits that the United States Supreme Court issued an opinion in *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008). No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
8. Intervenor-Defendant denies that Plaintiffs are entitled to relief.

#### **Jurisdiction and Venue**

9. Intervenor-Defendant denies the allegations in this paragraph.
10. Intervenor-Defendant denies the allegations in this paragraph.

#### **Parties**

11. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same.
12. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same.
13. Intervenor-Defendant admits the allegations in this paragraph.
14. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same.  
No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
15. Intervenor-Defendant admits the allegations in this paragraph.
16. Intervenor-Defendant admits the allegations in this paragraph.
17. Intervenor-Defendant admits the allegations in this paragraph.
18. Intervenor-Defendant admits the allegations in this paragraph.
19. Intervenor-Defendant admits the allegations in this paragraph.

#### **Statement of Facts**

20. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same.  
No response is required to the remaining allegations in this paragraph as they assert

legal conclusions. To the extent the allegations must be admitted or denied, they are denied.

21. The allegations in this paragraph attempt to interpret North Carolina statutes. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
22. Intervenor-Defendant admits that on August 21, 2020 Executive Director Bell issued Numbered Memo 2020-19. The allegations in this paragraph attempt to interpret August Memo 2020-19. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations.
23. The allegations in this paragraph attempt to interpret August Memo 2020-19. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations.
24. Intervenor-Defendant admits that on September 22, 2020 Executive Director Bell issued Numbered Memo 2020-25. The allegations in this paragraph attempt to interpret Memo 2020-25. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations.
25. The allegations in this paragraph attempt to interpret Memo 2020-25. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations.

26. Intervenor-Defendant admits that the website for the North Carolina State Board of Elections contains statistics regarding absentee by mail ballots, the contents of which speak for themselves. The allegations in this paragraph attempt to interpret North Carolina statutes. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the remaining factual allegations in this paragraph and therefore denies the same. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
27. Intervenor-Defendant denies the allegations in this paragraph.
28. Intervenor-Defendant denies that Plaintiffs are entitled to the relief they request. The allegations in this paragraph attempt to interpret North Carolina statutes. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the remaining factual allegations in this paragraph and therefore denies the same. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
29. Intervenor-Defendant admits that on September 22, 2020, Executive Director Bell issued a revised version of Memo 2020-19. Intervenor-Defendant admits that on October 3, 2020, a United States District Court judge issued a Temporary Restraining Order against the Defendants in the case styled *Moore v. Circosta*, No. 5:20-CV-507-D (E.D.N.C. Oct. 3, 2020). No response is required to the remaining allegations in this

paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.

30. The allegations in this paragraph attempt to interpret a letter from Donald J. Trump for President, Inc. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the remaining factual allegations in this paragraph and therefore denies the same.
31. Intervenor-Defendant admits that on September 29, 2020, the State Board sent a letter to Donald J. Trump for President, Inc. The allegations in this paragraph attempt to interpret that letter. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the remaining factual allegations in this paragraph and therefore denies the same. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
32. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in the first sentence of this paragraph and therefore denies the same. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
33. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same.
34. Intervenor-Defendant admits this action was filed on a date after October 2, 2020.

**Claims  
Count One**

35. Intervenor-Defendant refers to and incorporates Paragraphs 1 through 34 of this Answer as though the same were repeated at length herein.
36. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
37. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
38. The allegations in this paragraph attempt to interpret the Public Records Act. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. No response is required to the remaining allegations in this paragraph as they assert legal conclusions.
39. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same.
40. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.

**Count Two**

41. Intervenor-Defendant refers to and incorporates Paragraphs 1 through 40 of this Answer as though the same were repeated at length herein.
42. The allegations in this paragraph attempt to interpret the North Constitution. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. No response is required to the remaining allegations in this paragraph as they assert legal conclusions.

43. The allegations in this paragraph attempt to interpret North Carolina Supreme Court caselaw. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. No response is required to the remaining allegations in this paragraph as they assert legal conclusions.
44. The allegations in this paragraph attempt to interpret United States Supreme Court caselaw. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. No response is required to the remaining allegations in this paragraph as they assert legal conclusions.
45. The allegations in this paragraph attempt to interpret United States Supreme Court caselaw. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. No response is required to the remaining allegations in this paragraph as they assert legal conclusions.
46. The allegations in this paragraph attempt to interpret United States Supreme Court and Ninth Circuit caselaw. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. No response is required to the remaining allegations in this paragraph as they assert legal conclusions.
47. The allegations in this paragraph attempt to interpret United States Supreme Court and Ninth Circuit caselaw. To the extent Plaintiffs' interpretation differs from the text of the cited materials, Intervenor-Defendant denies the allegations. No response is required to the remaining allegations in this paragraph as they assert legal conclusions.
48. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied. Intervenor-Defendant denies the allegations in this paragraph.

49. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
50. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.

### **Count Three**

51. Intervenor-Defendant refers to and incorporates Paragraphs 1 through 50 of this Answer as though the same were repeated at length herein.
52. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same.
53. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same. No response is required to the remaining allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
54. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
55. Intervenor-Defendant is without knowledge or information sufficient to form a belief about the truth of the factual allegations in this paragraph and therefore denies the same. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.
56. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.



57. No response is required to the allegations in this paragraph as they assert legal conclusions. To the extent the allegations must be admitted or denied, they are denied.

WHEREFORE, Intervenor-Defendant denies that Plaintiffs are entitled to a declaratory judgment; temporary, preliminary, or permanent injunction; or any other relief they seek.

Intervenor-Defendant respectfully request that this Court:

- A. Deny that Plaintiffs are entitled to any relief;
- B. Dismiss the Plaintiffs' Complaint in its entirety, with prejudice;
- C. Tax costs and fees of this action, including attorneys' fees, against Plaintiffs; and
- D. Grant such other and further relief as the Court may deem just and proper.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

Plaintiffs fail to state a claim upon which relief may be granted.

#### **Second Affirmative Defense**

The Court lacks subject matter jurisdiction over Plaintiffs' claims.

#### **Third Affirmative Defense**

The Court is an improper venue for Plaintiffs' claims.

#### **Fourth Affirmative Defense**

Plaintiffs' claims are barred by the doctrines of laches, waiver and estoppel.

Dated: October 12, 2020

PERKINS COIE LLP


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*Attorneys for Proposed Intervenor Defendants*

\*Motion for admission *pro hac vice* pending

Respectfully submitted,

WALLACE & NORDAN, LLP



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**[PROPOSED] ORDER GRANTING  
MOTION TO INTERVENE**

**[PROPOSED] ORDER GRANTING MOTION TO INTERVENE**

AND NOW, this \_\_\_ day of October, 2020, upon consideration of the Motion to Intervene by Intervenor-Defendant the North Carolina Democratic Party, the Court having considered the Motion, the Memorandum of Law in support thereof, and any opposition thereto, it his hereby ORDERED that the Motion is GRANTED. It is further ORDERED that the proposed pleading attached to the Memorandum in Support of the Motion to Intervene shall constitute the initial pleading of the Proposed Intervenor, and shall be deemed to have been filed this date.

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JUDGE A. GRAHAM SHIRLEY II  
North Carolina Superior Court