

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CASE NO. 22-CVS-011290

BARBARA DEAS, THE NORTH
CAROLINA REPUBLICAN PARTY,
AND THE REPUBLICAN NATIONAL
COMMITTEE,

Plaintiffs,

v.

THE NORTH CAROLINA STATE
BOARD OF ELECTIONS, *et al.*,

Defendants.

NORTH CAROLINA ALLIANCE OF RETIRED AMERICANS'
MOTION TO INTERVENE AS DEFENDANTS AND MEMORANDUM IN SUPPORT

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INTRODUCTION

With the November 2022 midterm elections less than two months away, the North Carolina Republican Party, the Republican National Committee, and the Chairwoman of the Clay County Republican Committee (“Plaintiffs”) seek to upend two rules meant, respectively, to ensure that lawfully cast absentee ballots are counted and that good order is maintained at polling locations.

Granting Plaintiffs relief as to either of these rules would harm older voters, who rely on absentee voting to access the ballot box and who, when they do choose to vote in person, often encounter obstacles that make it more difficult for them cast a ballot. For that reason, the North Carolina Alliance for Retired Americans (“Alliance”) seeks to intervene to protect the rights and interests of its 65,000 members in North Carolina. The Alliance’s members are primarily older, retired Americans who are uniquely at risk of being harmed should the Plaintiffs prevail in disrupting the rules governing North Carolina’s elections so soon before the upcoming midterms. The Alliance should therefore be allowed to intervene as a matter of right under North Carolina Rule of Civil Procedure 24(a)(2) or, alternatively, permissively under Rule 24(b)(2).

BACKGROUND

Two election rules are at issue in this case. The first rule concerns the presence of partisan poll observers at voting sites. North Carolina permits the chair of each county political party to designate two precinct-specific poll observers for each polling site, along with ten additional “at-large” observers. *See generally* N.C. Gen. Stat. § 163-45(a). The state chair of each political party may also appoint an additional one hundred observers. *Id.* The Board adopted a rule in 2018 that “[a]ll observers, whether precinct-specific or at-large, may be relieved after serving no less than four hours.” 08 N.C. Admin. Code. § 20.0101 (the “Four-Hour Rule”). The State Board Chairman recently explained that the Four-Hour Rule promotes “good order” and avoids “circulating people

in and out” of polling sites which puts a “burden on [] precinct officials to keep track of who is observing.” *See* Exhibit A at 6 (State Board August 16, 2022 meeting minutes). As the complaint acknowledges, the Four-Hour Rule was first issued as guidance in 2016 when the Board published Numbered Memo 2016-21. *See* Compl. ¶ 46.¹ The Board reissued guidance about the Four-Hour Rule in 2018, 2020, 2021, and 2022. *See generally id.* ¶¶ 49-62. Despite the longstanding nature of the Four-Hour Rule, under which several statewide elections have been held, Plaintiffs now seek to enjoin the rule just two months before an upcoming election. *Id.*, Prayer for Relief ¶ 8.

Plaintiffs’ second challenge is to the State Board’s recent guidance to county officials about the absentee ballot return date for the November 2022 election. *See* Compl., Exhibit B (“Absentee Ballot Return Date Guidance”). Under North Carolina law, an absentee ballot postmarked by election day will be counted if it is received not later than three days after the election day. *See generally* N.C. Gen. Stat. § 163-231(b)(2). Three days after the November 2022 election is Veterans Day, a state and federal holiday during which public offices in North Carolina will be closed and no mail delivered. *See* Compl. ¶ 78; N.C. Gen. Stat. § 103-4 (defining Veterans Day as a state holiday). State law provides that when “any act required or permitted by law to be performed in a public office” falls on a “Saturday, Sunday, or legal holiday when the public office . . . is closed for transactions, the act may be performed on the next day that the public office” is open. N.C. Gen. Stat. § 103-5(a). Accordingly, the Board has advised county officials that absentee ballots postmarked by election day may still be counted provided they are received by Monday, November 14. *See* Compl., Exhibit B. Plaintiffs seek to enjoin this guidance, despite

¹ Numbered Memos are “issued by the State Board of Elections executive director” and “provide guidance and updates about elections administration to the county boards of election.” *See generally* <https://www.ncsbe.gov/about-elections/legal-resources/numbered-memos>.

acknowledging that absentee ballots cannot be delivered on the Friday after the election due to the holiday. *See id.* ¶¶ 20, 78; *id.*, Prayer for Relief ¶ 9.

The Alliance has a strong interest in preserving the election rules that Plaintiffs challenge in this litigation. The Alliance is a 501(c)(4) nonprofit social welfare organization incorporated in North Carolina. It is a chartered state affiliate of the Alliance for Retired Americans, a nationwide grassroots organization with more than 4.3 million members. *See* Affidavit of William Dworkin (“Dworkin Aff.”) ¶ 1. The Alliance has approximately 65,000 members across North Carolina and seeks to ensure social and economic justice and full civil rights for retirees, with particular emphasis on safeguarding their right to vote. *Id.* ¶¶ 1, 2. Because the Alliance’s members tend to be older, retired voters, they often face greater barriers than other voters, making it more difficult for the Alliance and its members to further their shared associational and political goals. *Id.* ¶¶ 3-4. In view of these barriers, and given the obstacles associated with in-person voting, the Alliance’s members regularly vote via absentee ballot. *Id.* ¶ 3. The Alliance considers it imperative to ensure both that its members can vote via absentee ballot and that those ballots get counted. At the same time, many Alliance members continue to vote in-person, despite the obstacles in-person voting oftentimes presents to older voters. *Id.* ¶ 4. For example, older voters who choose to vote in person often confront long lines at in-person polling sites; intimidation from partisan election observers; difficulty navigating disruptive and unorganized polling places; and still present risks from diseases like COVID-19. *Id.* While all voters who cast ballots in person confront these obstacles, they are particularly likely to discourage or prevent older citizens from voting. *Id.*

In furtherance of its mission to protect its members’ ability to effectively cast a ballot, the Alliance has previously filed litigation in North Carolina courts to ensure access to both absentee and in-person voting. *Id.* ¶¶ 3-4. Before the 2020 general election, the Alliance filed suit against

the Board challenging, *inter alia*, the Board's enforcement of the absentee ballot receipt deadline as the COVID-19 pandemic and the accompanying postal service delays threatened to disenfranchise countless North Carolina voters. *See N.C. Alliance of Retired Americans, et al. v. North Carolina State Board of Elections, et al.*, Case No. 20-CVS-881 (N.C. Super. Sept. 22, 2020). The parties agreed to a consent judgment that provided for an extension of the deadline for receipt of absentee ballots that were postmarked on or before election day. This Court approved that consent judgment, finding that the extension was reasonable to accommodate the exigencies of the COVID-19 pandemic, and that the Alliance was likely to succeed on the merits of its constitutional claims. *See generally* Exhibit B (Consent Judgment)

Here, too, the Alliance's members will be injured if Plaintiffs are permitted to enjoin either the Four-Hour Rule or the Board's Absentee Ballot Return Date Guidance. Striking down the latter will mean that many North Carolina voters who postmark their absentee ballots by election day will nonetheless have their ballots spoiled because they do not arrive in time, even though North Carolina law specifically grants time after election day for those ballots to arrive (and extends that time when it ends on a holiday). That harm will fall heavily on Alliance members who rely on absentee ballots to exercise their right to vote. *Dworkin Aff.* ¶¶ 3, 5.

Enjoining the Four-Hour Rule will also harm Alliance members by limiting the Board's ability to ensure "good order" at polling sites. Without any limitation on how often at-large observers may be relieved, partisan observers will be allowed to cycle through voting locations at leisure. That would be burdensome to election officials in any event, as they are required to track which observers are present at any time. But it will prove particularly disruptive this year—North Carolina saw significant harassment from partisan observers during its May 2022 primaries. County election officials reported "tales of verbal abuse from observers and instances of observers

demanding access to voting machines, filming poll workers, blocking voters from tabulators and following precinct officials in their cars.”² Conspiracy groups within North Carolina, including those who worked to subvert the 2020 presidential election results, are actively training partisan observers for the forthcoming November 2022 election.³ One group within the state that “promote[s] misinformation and espouse[s] wild theories about the 2020 election, including the fiction that President Biden’s victory could still be decertified and Mr. Trump reinstated,” has already recruited over 1,000 volunteers to serve as poll observers in North Carolina in November.⁴ Upsetting the Board’s longstanding Four-Hour Rule therefore invites the risk of chaos at polling places and greater disruption to orderly election administration. As explained, the Alliance’s members are particularly likely to be discouraged—or simply prevented—from voting if election officials cannot maintain good order at polling sites. *See* Dworkin Aff. ¶¶ 4, 6. The Alliance should be permitted to intervene to protect the interests of its members and the organization as a whole. *Id.* ¶ 7.

ARGUMENT

I. The Alliance is entitled to intervene as of right under Rule 24(a).

Rule 24(a) permits intervention, upon “timely application,” when an “applicant claims an

² Paul Specht & Laura Leslie, *NC Elections Board Oks Stricter Rules for Observers*, WRAL (August 16, 2022), <https://www.wral.com/nc-elections-board-oks-stricter-rules-for-observers/20420022/>.

³ *See, e.g.*, Maydha Devarajan, *N.C. Group Connected to Election Deniers Trains Poll Observers Ahead of Midterms*, Chatham News and Record (August 31, 2022), <https://www.chathamnewsrecord.com/stories/nc-group-connected-to-election-deniers,14234>.

⁴ Will Doran, *Republicans Fight New NC Election Results, Led By Trump Lawyer Central to 2020 Conspiracy Theories*, The News & Observer (August 27, 2022), <https://www.newsobserver.com/news/politics-government/election/article264905839.html>.

interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties." N.C.G.S. § 1A-1, Rule 24(a). The Alliance may intervene as of right because it meets the requirements of Rule 24(a)(2).

1. The motion to intervene is timely.

There can be no serious dispute that the Alliance's motion is timely, as it was filed just over a week after Plaintiffs filed suit. While the Proposed Intervenor is aware that Plaintiffs filed a motion for a preliminary injunction one business day before the instant motion, no responses have yet been filed to that motion and the Court has not yet set a deadline to respond to it. Accordingly, no prejudice will accrue to Plaintiffs or the Board if the Alliance is permitted to join at this stage. Because there has been no delay at all, the Alliance has clearly met the timeliness requirement. *See State Employees' Credit Union, Inc. v. Gentry*, 330 S.E.2d 645, 648 (N.C. App. 1985) (noting "motions to intervene made prior to trial are seldom denied" due to lack of timeliness); *see also Moore v. Circosta*, Nos. 1:20CV911, 1:20CV912, 2020 WL 6597291, at *1 (M.D.N.C. Oct. 8, 2020) (finding the Alliance's motion timely when filed "between four and six days after Plaintiffs filed their Complaints"); *Carcano v. McCrory*, 315 F.R.D. 176, 178 (M.D.N.C. 2016) (finding motion timely when made "just nine days after Plaintiffs" filed preliminary injunction motion and "before any of the original Defendants made any filings").⁵

⁵ While these federal court decisions do not control proceedings here, it is well-established that North Carolina's Rule 24 "is virtually identical to Rule 24 of the Federal Rules of Civil Procedure," and that North Carolina courts "look to the federal court decisions for guidance." *Nicholson v. F. Hoffmann Laroche, Ltd.*, 576 S.E.2d 363, 365 (N.C. App. 2003) (quotations omitted). These decisions therefore offer persuasive authority under North Carolina Rule 24.

2. The Alliance has a direct and immediate interest in the State Board's rules protecting lawfully-cast absentee ballots and maintaining "good order" at polling sites.

To intervene as of right, an intervenor must have an interest of "such direct and immediate character that he will either gain or lose by the direct operation and effect of the judgment." *Virmani v. Presbyterian Health Serv. Corp.*, 515 S.E.2d 675, 682–83 (N.C. 1999) (quoting *Strickland v. Hughes*, 160 S.E.2d 313, 316 (N.C. 1968)).

The Alliance and its members have such "direct and immediate" interests in preserving both election administration rules at issue here. The Alliance's members are older citizens who often face greater obstacles in casting a ballot and having their voices heard. *See Dworkin Aff.* ¶¶ 3-4. Accordingly, many Alliance members choose to vote via absentee ballot to avoid obstacles and inconveniences associated with voting in person. *Id.* ¶ 3. Preserving the ability of its members to vote via absentee ballot is a fundamental aspect of the Alliance's mission as an organization. *Id.* To that end, the Alliance has in recent years participated in litigation in North Carolina regarding absentee balloting rules—and the ballot receipt deadlines specifically—to protect the rights of its members. *Id.*

Plaintiffs' demand that North Carolina reject timely postmarked ballots not received by Friday, November 11—a federal and state holiday on which no mail is delivered—would directly and immediately harm Alliance members. Because Alliance members are particularly likely to rely upon absentee voting to make their voices heard, granting the Plaintiffs' requested relief would put Alliance members at a heightened risk of having their ballots rejected. *See Dworkin Aff.* ¶ 5. In other words, the Alliance's members have much to "gain or lose" based on the outcome of these proceedings, which will have a direct and immediate impact on their ability to reliably vote via absentee ballot. *Virmani*, 515 S.E.2d at 683 (quotation omitted); *Dworkin Aff.* ¶ 5.

The Alliance's members likewise have a "direct and immediate" interest in preserving the State Board's rule requiring all election observers serve "no less than four hours" before being relieved by a new observer. *See* Compl., Exhibit A. While many Alliance members choose to vote absentee, many others continue to vote in person at their local polling site. *Dworkin Aff.* ¶ 4. Alliance members who choose to vote in person face additional age- and health-related hurdles that make it more difficult to cast a ballot and sometimes discourage individuals from voting at all. These include obstacles like long lines at in-person polling sites; intimidation from partisan election observers; difficulty navigating disruptive and unorganized polling places; and still lingering risks from COVID-19. *Id.* The State Board's election observer rules, including its Four-Hour Rule, help to alleviate these issues by maintaining decorum at polling sites. As State Board Chairman Circosta explained, the four-hour requirement promotes "good order" at polling sites and avoids observers rapidly circulating in and out of polling sites, straining the time and resources of precinct officials who are required to track observers. *See* Exhibit A at 6.

Eliminating this six-year-old rule, particularly just weeks ahead of an upcoming election, threatens to disrupt election administration at polling sites, both by changing a longstanding rule at the last minute, but also by permitting a greater number of partisan observers to cycle through polling sites. These are not idle concerns. During the May 2022 primary elections, county election officials reported "tales of verbal abuse from observers and instances of observers demanding access to voting machines, filming poll workers, blocking voters from tabulators and following precinct officials in their cars." *See* Specht & Leslie, *supra* n.2. The State Board recently enacted certain temporary rules for partisan election observers in response to these complaints. *See* Exhibit A at 4-5. Conspiracy groups within North Carolina are now training poll observers for the November 2022 election, meaning election officials will have "to deal with the growing presence

of partisan poll watchers, including some trained by a group with ties to 2020 election conspiracies.” Devarajan, *supra* n.3. The prospect of hyper-partisan observers disrupting election proceedings has even caused “some poll workers [to] express[] safety concerns to election officials,” resulting in some poll workers choosing not to work due to safety concerns. *Id.* Alliance members therefore again stand to “gain or lose” based on whether the Board can enforce rules meant to ensure decorum and good order at polling sites, particularly in view of the specific hurdles Alliance members face when voting in person. *Virmani*, 515 S.E.2d at 683 (quotation omitted); *Dworkin Aff.* ¶ 6.

The Alliance, as an organization, likewise stands to gain or lose from the judgment here—reversing either the Board’s Absentee Ballot Return Date guidance or its longstanding Four-Hour Rule for poll observers will require the Alliance to divert limited resources from other policy objectives to educate its members about any new requirements for voting absentee, and what to expect at in-person polling sites across the state. *Dworkin Aff.* ¶ 7. The Alliance therefore must be permitted to intervene as of right to protect the ability of its members to reliably vote via absentee ballot, and to vote safely in person. *Cf. Crawford v. Marion Cnty. Election Bd.*, 472 F.3d 949, 951 (7th Cir. 2007) (“The Democratic Party [] has standing to assert the rights of those of its members who will be prevented from voting by the new law.”); *Ohio Org. Collaborative v. Husted*, 189 F. Supp. 3d 708, 726 (S.D. Ohio 2016) (political party “established an injury in fact” where “the challenged provisions will make it more difficult for its members and constituents to vote”), *rev’d on other grounds sub nom. Ohio Democratic Party v. Husted*, 834 F.3d 620 (6th Cir. 2016).

3. Denying the Alliance intervention will impair its ability to protect its interests in this litigation.

The Alliance meets the third requirement under Rule 24(a)(2) because “a favorable

decision for plaintiffs could impede or impair the intervenors' protectable interests." *N. Carolina Green Party v. N.C. State Bd. of Elections*, No. 5:22-CV-276-D, 2022 WL 3142606, at *10 (E.D.N.C. Aug. 5, 2022) (granting intervention). Plaintiffs' complaint and their subsequent motion for a preliminary injunction reflect that they are seeking preliminary relief ahead of the November 2022 election, *see* Compl., Prayer for Relief ¶¶ 8-9, and this litigation therefore is likely to resolve critical disputes regarding the election rules that will apply when the Alliance's members seek to vote this November. If the Alliance is not permitted to intervene, it will lose the opportunity to advocate on behalf of its membership ahead of the forthcoming election and, potentially, subsequent elections. It will further lose the opportunity to preserve election rules that, if enjoined as Plaintiffs seek, will require the Alliance to spend its limited resources to educate and protect its members. *Dworkin Aff.* ¶ 7. That, "as a practical matter," impairs the Alliance's "ability to protect" its interest and its members' interests in the declaratory ruling and North Carolina's rules for absentee voting. *Wichnoski v. Piedmont Fire Prot. Sys., LLC*, 796 S.E.2d 29, 38 (N.C. App. 2016); *see also Thomas v. Andino*, 335 F.R.D. 364, 370 (D.S.C. 2020) (finding political party would be impaired in defending statute absent intervention).

4. The Board does not adequately represent the Alliance's interests.

The Alliance's interests are not adequately represented by the Board, its members, or its staff, the named defendants in the complaint. Simply stated, as a public body, the Board's "sole litigation interests are to protect the public welfare and the interests of [the] general citizenry." *Letendre v. Currituck Cty.*, 261 N.C. App. 537, 817 S.E.2d 920 (Table), 2018 WL 4440587, *4 (2018) (unpublished). Accordingly, "there are many decisions it might make which would not be aligned with the interests" of the Alliance, whose interest is to further its mission and protect the rights of its members. *Id.* (concluding county did "not have the same interests" as private parties).

The United States Supreme Court's recent decision in *Berger v. North Carolina State Conference of the NAACP*, 142 S. Ct. 2191, 2203 (2022), confirms the point. That case, like this one, involved the North Carolina State Board of Elections as a defendant. *Id.* at 2198. Several civil rights groups sued the Board to challenge a voter-identification law adopted by the legislature and adopted over the Governor's veto. *Id.* Although the Board was represented by the North Carolina Attorney General's office, several state legislators sought to intervene alongside the Board to defend the law. *Id.* The Fourth Circuit concluded *en banc* that the legislators could not intervene because their interests were adequately represented by the State Board. *Id.* at 2200.

The Supreme Court reversed. It explained at the outset that this requirement "presents proposed intervenors with only a minimal challenge." *Id.* at 2195; *see also Teague v. Bakker*, 931 F.2d 259, 262 (4th Cir. 1991) (explaining the Supreme Court has held that "the burden on the applicant of demonstrating a lack of adequate representation 'should be treated as minimal.'" (quoting *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972))). The Supreme Court explained that while state agents may pursue "related" interests to political actors, those interests are not "identical." *Berger*, 142 S. Ct. at 2204 (quoting *Trbovich*, 404 U.S. at 538). In particular, the Court noted that state agencies like the State Board must "bear in mind broader public-policy implications" than those with more partisan or private interests. *Id.*

The same is true here. While the State Board and the Alliance both believe North Carolina law neither prohibits the Board's Four-Hour Rule, nor prevents the Board from clarifying that when the deadline for receipt of absentee ballots falls on a holiday, the ballots may be delivered (and accepted) on the next business day, their interests are not "identical." *Id.* The Board's "position is defined by the public interest." *Feller v. Brock*, 802 F.2d 722, 730 (4th Cir. 1986); *accord Letendre*, 817 S.E.2d at *4. But the Alliance's interests are defined by its mission and the

interests of its members alone, which includes promoting their ability to vote to the greatest extent possible. *Dworkin Aff.* ¶¶ 2-4. These divergent interests have at times resulted in litigation between the Board and the Alliance, see *N.C. All. for Retired Am. v. N.C. State Bd. of Elections*, No. 20-CVS-8881, 2020 WL 10758667 (N.C. Super. Ct. Oct. 2, 2020) (unpublished), illustrating their distinct interests. Cf. *Maxum Indem. Co. v. Biddle L. Firm, PA*, 329 F.R.D. 550, 556 (D.S.C. 2019) (finding intervenors' interests were not adequately represented where parties seeking intervention were adverse to defendants in a related state-court action brought by the intervenors). The Board's interests, at bottom, concern their "responsibility to properly administer election laws," whereas the Alliance is "concerned with ensuring their [] members . . . have the opportunity to vote in the upcoming federal [and state] election." *Issa v. Newsom*, No. 2:20-CV-01044-MCE-CKD, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (granting intervention, and further noting intervenors' distinct interest in "allocating their limited resources to inform voters about the election procedure").

Accordingly, the Board does not adequately represent the Alliance's significant interests at stake in this litigation and the Alliance must be permitted to intervene to ensure its interests are protected. See *Texas v. United States*, 805 F.3d 653, 662 (5th Cir. 2015) (discussing why an intervenor's interests may not be protected by a "governmental party"); *N.C. Green Party*, 2022 WL 3142606, at *10 (granting intervention as defendant alongside the State Board because even where public body and private party "shared a closely aligned interest," such parties "did not share identical interests"); cf. *Democratic Party of Va. v. Brink*, No. 3:21-cv-756-HEH, 2022 WL 330183, at *2 (E.D. Va. Feb. 3, 2022) ("[The State's] interests are to defend [the State's] voting laws no matter the political repercussions while [the state political party's] interest is to defend the voting laws when doing so would benefit its candidates and voters.").

II. In the alternative, the Alliance is entitled to permissive intervention under Rule 24(b).

Even if the Court finds that the Alliance is not entitled to intervention as of right, the Alliance still satisfies the requirements for permissive intervention under Rule 24(b). “Upon timely application anyone may be permitted to intervene in an action . . . [w]hen an applicant’s claim or defense and the main action have a question of law or fact in common.” N.C.G.S. § 1A–1, Rule 24(b)(2); *Koenig v. Town of Kure Beach*, 178 N.C. App. 500, 506, 631 S.E.2d 884, 889 (2006). “Permissive intervention under the rule ‘rests within the discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion.’” *Alford*, 505 S.E.2d at 921 (quoting *State ex rel. Long v. Interstate Cas. Ins. Co.*, 106 N.C. App. 470, 474, 417 S.E.2d 296, 299 (N.C. App. 1992)). When employing that discretion, the court must “consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” N.C. Gen. Stat. § 1A–1, Rule 24(b)(2) (cl. 3). Under the related Federal Rule 24(b), permissive intervention is liberally construed in favor of intervention. *Thomas*, 335 F.R.D. at 369.

As explained above, this motion is timely and will not unduly delay or prejudice the adjudication of the rights of the original parties. The Alliance has moved expeditiously to intervene before any case schedule has been set. While Plaintiffs filed a preliminary injunction motion just one business day before this motion was filed, no response date has yet been set by the Court on that motion. Further, because this case largely raises questions of law, allowing the Alliance to intervene will not result in additional or burdensome discovery proceedings for the Court or the other parties. The Alliance also agrees to abide by any schedule the Court sets in this matter, including with respect to the Plaintiffs’ preliminary injunction motion.

The Alliance’s position—that the Board has correctly applied North Carolina law in issuing

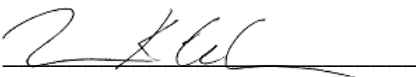
its rules and guidance challenged here, and that reversing those guidelines would harm the Alliance's members—also raises common questions of law and fact with the issues presented in the complaint. The disposition of the complaint will—one way or another—significantly impact the Alliance's political activities, as well as its members' ability to vote in an upcoming statewide election. The Alliance's interests are also constitutional in nature and extend to the most fundamental rights protected by the North Carolina Constitution—the right to vote, the right to free elections, and the right to equal protection under the law. *Dworkin Aff.* ¶¶ 2, 3. The Alliance's participation in this suit will ensure the full development of the important factual and legal issues in this suit and will aid the Court in adjudicating this matter. *See Moore*, 2022 WL 6597291, at *2 (permitting Alliance to permissively intervene in litigation involving absentee ballot and in-person voting rules).

CONCLUSION

For the reasons stated above, the Alliance respectfully requests that this Court grant its motion to intervene as a matter of right under North Carolina Rule of Civil Procedure 24(a)(2) or, alternatively, permissively grant its intervention under Rule 24(b)(2).

Dated: September 19, 2022

Respectfully submitted,

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STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
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Barbara Deas, the North Carolina
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Elections, *et al.*,

Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the MOTION TO INTERVENE in the above captioned matter (filed September 19, 2022) on counsel for Petitioners and the North Carolina State Board of Elections by mail at:

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RESPECTFULLY SUBMITTED, the 19th day of September, 2022.



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