

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Case No.: 1:20-cv-00876

NORTH CAROLINA A. PHILIP RANDOLPH)
INSTITUTE and ACTION NC,)

Plaintiffs,)

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; STACY "FOUR")
EGGERS IV, in his official capacity as)
MEMBER OF THE STATE BOARD OF)
ELECTIONS; TOMMY TUCKER, 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; VALERIE M. ASBELL, in her)
official capacity as DISTRICT ATTORNEY)
FOR PROSECUTORIAL DISTRICT 7;)
ROBERT S. BANKS, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 35; LOCKE)
BELL, in his official capacity as DISTRICT)
ATTORNEY FOR PROSECUTORIAL)
DISTRICT 38; TED BELL, in his official)
capacity as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 41; SEAN)
BOONE, in his official capacity as DISTRICT)

**MOTION TO DISMISS ON
BEHALF OF
DA DEFENDANTS**

(Fed. R. Civ. P. R. 12(b)(1) & (6))

ATTORNEY FOR PROSECUTORIAL)
DISTRICT 17; C. RICKY BOWMAN, in his)
official capacity as DISTRICT ATTORNEY)
FOR PROSECUTORIAL DISTRICT 23; T.)
LYNN CLODFELTER, in his official capacity)
as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 28; BRANDY)
L. COOK, in her official capacity as DISTRICT)
ATTORNEY FOR PROSECUTORIAL)
DISTRICT 27; AVERY M. CRUMP, in her)
official capacity as DISTRICT ATTORNEY)
FOR PROSECUTORIAL DISTRICT 24;)
BENJAMIN R. DAVID, in his official capacity)
as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 6;)
JONATHAN M. DAVID, in his official)
capacity as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 15; SATANA)
DEBERRY, in her official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 16;)
MATTHEW L. DELBRIDGE, in his official)
capacity as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 9; FARIS C.)
DIXON, in his official capacity as DISTRICT)
ATTORNEY FOR PROSECUTORIAL)
DISTRICT 3; SUSAN I. DOYLE, in her)
official capacity as DISTRICT ATTORNEY)
FOR PROSECUTORIAL DISTRICT 13;)
SETH H. EDWARDS, in his official capacity)
as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 2; ROBERT)
A. EVANS, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 8; GARRY W.)
FRANK, in his official capacity as DISTRICT)
ATTORNEY FOR PROSECUTORIAL)
DISTRICT 33; N. LORRIN FREEMAN, in her)
official capacity as DISTRICT ATTORNEY)
FOR PROSECUTORIAL DISTRICT 10;)

ANDREW M. GREGSON, in his official)
capacity as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 37; TOM E.)
HORNER, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 34; SARAH)
M. KIRKMAN, in her official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 32; MICHAEL)
K. HARDIN, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 29; ERNEST)
R. LEE, in his official capacity as DISTRICT)
ATTORNEY FOR PROSECUTORIAL)
DISTRICT 5; SUZANNE MATTHEWS, in her)
official capacity as DISTRICT ATTORNEY)
FOR PROSECUTORIAL DISTRICT 12;)
SPENCER MERRIWEATHER, in his official)
capacity as DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 26; MICHAEL)
W. MILLER, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 39; GREG A.)
NEWMAN, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 42; JAMES R.)
O'NEILL, in his official capacity as DISTRICT)
ATTORNEY FOR PROSECUTORIAL)
DISTRICT 31; JASON E. RAMEY, in his)
official capacity as DISTRICT ATTORNEY)
FOR PROSECUTORIAL DISTRICT 22;)
SCOTT REILLY, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 36; TREY)
ROBISON, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 30; W. REECE)
SAUNDERS, in his official capacity as)
DISTRICT ATTORNEY FOR)
PROSECUTORIAL DISTRICT 21;)

MATTHEW C. SCOTT, in his official capacity)
 as DISTRICT ATTORNEY FOR)
 PROSECUTORIAL DISTRICT 20; SCOTT)
 THOMAS, in his official capacity as)
 DISTRICT ATTORNEY FOR)
 PROSECUTORIAL DISTRICT 4; ROXANN)
 L. VANEKHOVEN, in her official capacity as)
 DISTRICT ATTORNEY FOR)
 PROSECUTORIAL DISTRICT 25; MICHAEL)
 D. WATERS, in his official capacity as)
 DISTRICT ATTORNEY FOR)
 PROSECUTORIAL DISTRICT 11; ASHLEY)
 HORNSBY WELCH, in her official capacity as)
 DISTRICT ATTORNEY FOR)
 PROSECUTORIAL DISTRICT 43; WILLIAM)
 R. WEST, in his official capacity as DISTRICT)
 ATTORNEY FOR PROSECUTORIAL)
 DISTRICT 14; TODD M. WILLIAMS, in his)
 official capacity as DISTRICT ATTORNEY)
 FOR PROSECUTORIAL DISTRICT 40;)
 ROBERT A. WOMBLE, in his official capacity)
 as DISTRICT ATTORNEY FOR)
 PROSECUTORIAL DISTRICT 1; and JAMES)
 R. WOODALL, in his official capacity as)
 DISTRICT ATTORNEY FOR)
 PROSECUTORIAL DISTRICT 18,)
)
)
 Defendants)

NOW COME Defendants Valerie M. Asbell, in her official capacity as District Attorney For Prosecutorial District 7; Robert S. Banks, in his official capacity as District Attorney For Prosecutorial District 35; Locke Bell, in his official capacity as District Attorney For Prosecutorial District 38; Ted Bell, in his official capacity as District Attorney For Prosecutorial District 41; Sean Boone, in his official capacity as District Attorney For Prosecutorial District 17; C. Ricky Bowman, in his official capacity as District Attorney

For Prosecutorial District 23; T. Lynn Clodfelter, in his official capacity as District Attorney For Prosecutorial District 28; Brandy L. Cook, in her official capacity as District Attorney For Prosecutorial District 27; Avery M. Crump, in her official capacity as District Attorney For Prosecutorial District 24; Benjamin R. David, in his official capacity as District Attorney For Prosecutorial District 6; Jonathan M. David, in his official capacity as District Attorney For Prosecutorial District 15; Satana Deberry, in her official capacity as District Attorney For Prosecutorial District 16; Matthew L. Delbridge, in his official capacity as District Attorney For Prosecutorial District 9; Faris C. Dixon, in his official capacity as District Attorney For Prosecutorial District 3; Susan I. Doyle, in her official capacity as District Attorney For Prosecutorial District 13; Seth H. Edwards, in his official capacity as District Attorney For Prosecutorial District 2; Robert A. Evans, in his official capacity as District Attorney For Prosecutorial District 8; Garry W. Frank, in his official capacity as District Attorney For Prosecutorial District 33; N. Lorrin Freeman, in her official capacity as District Attorney For Prosecutorial District 10; Andrew M. Gregson, in his official capacity as District Attorney For Prosecutorial District 37; Tom E. Horner, in his official capacity as District Attorney For Prosecutorial District 34; Sarah M. Kirkman, in her official capacity as District Attorney For Prosecutorial District 32; Michael K. Hardin, in his official capacity as District Attorney For Prosecutorial District 29; Ernest R. Lee, in his official capacity as District Attorney For Prosecutorial District 5; Suzanne Matthews, in her official capacity as District Attorney For Prosecutorial District 12; Spencer Merriweather, in his official capacity as District Attorney For Prosecutorial District 26; Michael W. Miller, in his official capacity as District Attorney For

Prosecutorial District 39; Greg A. Newman, in his official capacity as District Attorney For Prosecutorial District 42; James R. O'Neill, in his official capacity as District Attorney For Prosecutorial District 31; Jason E. Ramey, in his official capacity as District Attorney For Prosecutorial District 22; Scott Reilly, in his official capacity as District Attorney For Prosecutorial District 36; Trey Robison, in his official capacity as District Attorney For Prosecutorial District 30; W. Reece Saunders, in his official capacity as District Attorney For Prosecutorial District 21; Matthew C. Scott, in his official capacity as District Attorney For Prosecutorial District 20; Scott Thomas, in his official capacity as District Attorney For Prosecutorial District 4; Roxann L. Vaneekhoven, in her official capacity as District Attorney For Prosecutorial District 25; Michael D. Waters, in his official capacity as District Attorney For Prosecutorial District 11; Ashley Hornsby Welch, in her official capacity as District Attorney For Prosecutorial District 43; William R. West, in his official capacity as District Attorney For Prosecutorial District 14; Todd M. Williams, in his official capacity as District Attorney For Prosecutorial District 40; Robert A. Womble, in his official capacity as District Attorney For Prosecutorial District 1; and James R. Woodall, in his official capacity as District Attorney For Prosecutorial District 18 (hereinafter referred to collectively as the "DA Defendants"), by and through their undersigned counsel, Kathryn H. Shields and Elizabeth Curran O'Brien, Special Deputy Attorney Generals, for the purpose of moving this Court to dismiss the amended complaint against them, pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure, as more fully set forth in the memorandum of law filed herewith.

Respectfully, submitted, this the 19th day of April, 2021.

JOSHUA H. STEIN
Attorney General

/s/ Kathryn H. Shields
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/s/ Elizabeth Curran O'Brien
Elizabeth Curran O'Brien
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Counsel for DA Defendants

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day electronically filed the foregoing **MOTION TO DISMISS FILED ON BEHALF OF DA DEFENDANTS** using the CM/ECF system, which will send notification of such filing to all the counsel of record for the parties who participate in the CM/ECF system.

This the 19th day of April, 2021.

/s/ Elizabeth Curran O'Brien _____
Elizabeth Curran O'Brien
Special Deputy Attorney General
N.C. Department of Justice

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