

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA

VOTO LATINO, et al.,

Plaintiffs,

v.

ALAN HIRSCH, in his official capacity as  
Chair of the State Board of Elections, et al.,

Defendants.

Case No. 1:23-cv-861-TDS-JEP

**ORIGINAL ANSWER OF INTERVENORS**

Intervenors, the Republican National Committee, North Carolina Republican Party, Brenda Eldridge, and Virginia Wasserberg (“Intervenors”) file their Original Answer to Plaintiffs’ Complaint for Declaratory and Injunctive Relief (Doc. 1) (“Complaint”) filed by Plaintiffs Voto Latino, the Watauga County Voting Rights Task Force, Down Home North Carolina, Sophie Jae Mead, and Christina Barrow (“Plaintiffs”). Unless specifically admitted herein, Intervenors deny each factual allegation of the Complaint and respectfully shows the following:

**NATURE OF THE CASE**<sup>1</sup>

1. The allegations contained in paragraph 1 of the Complaint contain quoted case law that does not require a response. However, to the extent a response is required, Intervenors deny any allegation, inference, or suggestion that the Defendants or North

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<sup>1</sup> Intervenors incorporate headings for the convenience of the Court. Intervenors do not admit any allegation made in, or inferences suggested by such headings, and instead, deny them.

Carolina Senate Bill 747 (“SB 747”) are attempting to undermine North Carolinians’ right to vote. Further, the relief sought by Plaintiffs similarly does not require a response. The remaining allegations in paragraph 1 are denied.

2. Intervenor deny the allegations in paragraph 2 of the Complaint.

3. Intervenor admit that SB 747 speaks for itself. The remainder of the allegations in paragraph 3 of the Complaint are denied.

4. Intervenor deny the allegations in paragraph 4 of the Complaint.

5. Intervenor deny the allegations in paragraph 5 of the Complaint.

6. The allegations contained in paragraph 6 of the Complaint contain quoted case law that does not require a response. However, to the extent a response is required, the Intervenor deny any allegation, inference, or suggestion that Defendants or SB 747 are attempting to undermine North Carolinians’ right to vote. The remainder of the allegations in paragraph 6 of the Complaint are denied.

7. Intervenor deny the allegation in paragraph 7 of the Complaint.

8. Intervenor deny the allegation in paragraph 8 of the Complaint.

9. Intervenor deny the allegation in paragraph 9 of the Complaint.

10. Intervenor admit that Governor Cooper’s veto message speaks for itself. The remainder of the allegations in paragraph 10 of the Complaint are denied.

11. Paragraph 11 of the Complaint seeks relief from the Court to which no response is required. However, to the extent a response is required, Intervenor deny any allegation, inference, or suggestion that Defendants or SB 747 are attempting to undermine North Carolinians’ right to vote.

## **JURISDICTION AND VENUE**

12. Paragraph 12 states a legal conclusion to which no response is required. Intervenor specifically deny that Plaintiffs are entitled to any relief or that SB 747 violates any constitutional amendment or law.

13. Intervenor admit the allegations in paragraph 13 of the Complaint.

14. Intervenor admit the allegations in paragraph 14 of the Complaint.

15. Intervenor deny the allegation in paragraph 15 of the Complaint.

16. Intervenor admit that the cited statutes and Rules of Civil Procedure speak for themselves. Intervenor specifically deny that Plaintiffs are entitled to any relief or that SB 747 violates any constitutional amendment or law.

## **PARTIES**

17. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 17 of the Complaint and therefore deny them.

18. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 18 of the Complaint and therefore deny them.

19. Intervenor deny the allegations in paragraph 19 of the Complaint.

20. Intervenor deny the allegations in paragraph 20 of the Complaint.

21. Intervenor deny the allegations in paragraph 21 of the Complaint.

22. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 22 of the Complaint and therefore deny them.

23. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 23 of the Complaint and therefore deny them.

24. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 24 of the Complaint and therefore deny them.

25. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 25 of the Complaint and therefore deny them.

26. Intervenor deny the allegations in paragraph 26 of the Complaint.

27. Intervenor deny the allegations in paragraph 27 of the Complaint.

28. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 28 of the Complaint and therefore deny them.

29. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 29 of the Complaint and therefore deny them.

30. Intervenor deny the allegations in paragraph 30 of the Complaint.

31. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 31 of the Complaint and therefore deny them.

32. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 32 of the Complaint and therefore deny them.

33. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 33 of the Complaint and therefore deny them.

34. Intervenor admit that the cited statutes and regulations speak for themselves. Intervenor also admit that Alan Hirsch, Jeff Carmon, Stacy Eggers IV, Kevin Lewis, and Siobhan Millen are Members of the North Carolina State Board of Elections (“NCSBE”) The remainder of the allegations in paragraph 34 are denied.

35. Intervenor admits that the cited statutes and regulations speak for themselves. Intervenor also admits that Karen Bell is Executive Director of the NCSBE. The remainder of the allegations in paragraph 35 of the Complaint are denied.

36. Intervenor admits that the cited statutes and regulations speak for themselves. Intervenor also admits that Dawn Y. Baxton is the Chair of Durham County Board of Elections, that David K. Boone is the Secretary of the Durham County Board of Elections, and that Dr. James P. Weaver, Pamela A. Oxendine, and Donald H. Beskind are members of the Durham County Board of Elections. The remainder of the allegations in paragraph 36 are denied.

37. Intervenor admits that the cited statutes and regulations speak for themselves. Intervenor also admits that Michael Behrent is the Chair of Watauga County Board of Elections, and that Leta Councill, Eric Eller, Matt Walpole, and Elaine Rothenberg are members of the Watauga County Board of Elections. The remainder of the allegations in paragraph 37 of the Complaint are denied.

#### **STATEMENT OF FACTS AND LAW**

38. Intervenor admits that the cited statute speaks for itself. The remainder of the allegations in paragraph 38 of the Complaint are denied.

39. Intervenor admits that the cited statute speaks for itself. The remainder of the allegations in paragraph 39 of the Complaint are denied.

40. Intervenor admits that same day registration is secure with the enactment of SB 747. The remainder of the allegations in paragraph 40 of the Complaint are denied.

41. Intervenor admits that the cited statutes speak for themselves. In all other respects, denied.

42. Intervenor admits that the cited statutes speak for themselves. In all other respects, denied.

43. Intervenor admits that the cited statutes speak for themselves. In all other respects, denied.

44. Intervenor admits that the cited statutes speak for themselves. In all other respects, denied.

45. Intervenor admits that the cited statutes speak for themselves. In all other respects, denied.

46. Intervenor admits that the cited statute speak for itself. In all other respects, denied.

47. The allegations in paragraph 47 of the Complaint are legal conclusions to which no response is required. However, to the extent a response is required, the allegations are denied.

48. The allegations in paragraph 48 of the Complaint are legal conclusions to which no response is required. However, to the extent a response is required, the allegations are denied.

49. The allegations in paragraph 49 of the Complaint are legal conclusions to which no response is required. However, to the extent a response is required, the allegations are denied.

50. Intervenors admit that SB 747 speaks for itself. deny the allegation in paragraph 50 of the Complaint. The remainder of the allegations in paragraph 50 of the Complaint are denied.

51. The allegations in paragraph 51 of the Complaint are legal conclusions to which no response is required. The remainder of the allegations in paragraph 51 of the Complaint are denied.

52. The allegations in paragraph 52 of the Complaint are legal conclusions to which no response is required. However, to the extent a response is required, the allegations are denied.

53. Intervenors deny the allegation in paragraph 53 of the Complaint.

54. Intervenors deny the allegation in paragraph 54 of the Complaint.

55. Intervenors deny the allegation in paragraph 55 of the Complaint.

56. Intervenors lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 56 of the Complaint and therefore deny them.

57. The allegations contained in paragraph 57 of the Complaint contain case law that does not require a response. The remainder of the allegations in paragraph 57 of the Complaint are denied.

58. The allegations contained in paragraph 58 of the Complaint contain case law that does not require a response. The remainder of the allegations in paragraph 58 of the Complaint are denied.

59. Intervenors deny the allegation in paragraph 59 of the Complaint.

60. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 60 of the Complaint and therefore deny them.

61. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 61 of the Complaint and therefore deny them.

62. Intervenor lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 62 of the Complaint and therefore deny them.

63. Intervenor deny the allegation in paragraph 63 of the Complaint.

64. Intervenor deny the allegation in paragraph 64 of the Complaint.

65. Intervenor deny the allegation in paragraph 65 of the Complaint.

66. Intervenor deny the allegation in paragraph 66 of the Complaint.

67. Intervenor admit that SB 747 speaks for itself. The remainder of the allegations in paragraph 67 of the Complaint are denied.

68. Intervenor deny the allegation in paragraph 68 of the Complaint.

69. Intervenor deny the allegation in paragraph 69 of the Complaint.

70. Intervenor deny the allegation in paragraph 70 of the Complaint.

71. Intervenor deny the allegation in paragraph 71 of the Complaint.

72. Intervenor admit that the cited source speaks for itself. The remainder of the allegations in paragraph 72 of the Complaint are denied.

73. Intervenor admit that SB 747 speaks for itself. The remainder of the allegations in paragraph 73 of the Complaint are denied.

74. Intervenor deny the allegation in paragraph 74 of the Complaint.



75. Intervenors admit that SB 747 speaks for itself. The remainder of the allegations in paragraph 75 of the Complaint are denied.

76. Intervenors admit that SB 747 speaks for itself. The remainder of the allegations in paragraph 76 of the Complaint are denied.

77. Intervenors admit that SB 747 speaks for itself. The remainder of the allegations in paragraph 77 of the Complaint are denied.

78. Intervenors admit that SB 747 speaks for itself. The remainder of the allegations in paragraph 78 of the Complaint are denied.

79. Intervenors deny the allegation in paragraph 79 of the Complaint.

80. Intervenors deny the allegation in paragraph 80 of the Complaint.

81. Intervenors deny the allegation in paragraph 81 of the Complaint.

82. Intervenors deny the allegations in paragraph 82 of the Complaint.

### **CLAIMS FOR RELIEF**

#### **COUNT I**

83. No response is required by Intervenors to paragraph 83 of the Complaint. However, to the extent a response is required, Intervenors fully incorporate herein their responses to the preceding paragraphs and deny the allegations.

84. The allegations in paragraph 84 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Intervenors deny that SB 747 violates any statute, law, or constitutional provision and further deny that Plaintiffs are entitled to any relief whatsoever.

85. The allegations in paragraph 85 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Intervenors deny that SB 747 violates any statute, law, or constitutional provision and further deny that Plaintiffs are entitled to any relief whatsoever.

86. The allegations in paragraph 86 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Intervenors deny that SB 747 violates any statute, law, or constitutional provision and further deny that Plaintiffs are entitled to any relief whatsoever.

87. The allegations in paragraph 87 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Intervenors deny that SB 747 violates any statute, law, or constitutional provision and further deny that Plaintiffs are entitled to any relief whatsoever.

88. Intervenors deny the allegations in paragraph 88 of the Complaint.

89. Intervenors deny the allegation in paragraph 89 of the Complaint.

90. Intervenors admit that SB 747 speaks for itself. Intervenors deny the remainder of the allegations in paragraph 90 of the Complaint.

91. Intervenors deny the allegations in paragraph 91 of the Complaint.

92. Intervenors deny the allegations in paragraph 92 of the Complaint.

## **COUNT II**

93. No response is required by Intervenors to paragraph 93 of the Complaint. However, to the extent a response is required, Intervenors fully incorporate herein their responses to the preceding paragraphs and deny the allegations.

94. The allegations in paragraph 94 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Intervenor deny that SB 747 violates any statute, law, or constitutional provision and further deny that Plaintiffs are entitled to any relief whatsoever.

95. The allegations in paragraph 95 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Intervenor deny that SB 747 violates any statute, law, or constitutional provision and further deny that Plaintiffs are entitled to any relief whatsoever.

96. Intervenor deny the allegations in paragraph 96 of the Complaint.

97. Intervenor deny the allegation in paragraph 97 of the Complaint.

98. Intervenor deny the allegation in paragraph 98 of the Complaint.

#### **PRAYER FOR RELIEF**

No response is required to the allegations in the Prayer for Relief. To the extent this Court requires a response, Intervenor deny the allegations in the Prayer for Relief and deny Plaintiffs are entitled to any of the relief sought in the Complaint, including those items listed in paragraphs a-e of the Prayer for Relief.

#### **DEFENSES AND AFFIRMATIVE DEFENSES**

Without assuming the burden of proof other than as required by law, Intervenor assert the following defenses and affirmative defenses to Plaintiffs' claims. All of the following defenses are pled in the alternative, and none constitutes an admission that Intervenor are liable to Plaintiffs, that Plaintiffs have or will be injured or damaged in any way, or that Plaintiffs are entitled to any relief whatsoever. Intervenor reserve the right to

(i) rely upon any other defenses that may become apparent during fact or expert discovery in this matter, and (ii) to amend this Answer to assert any such defenses.

1. Intervenor further plead, if such be necessary, and pleading in the alternative, that the Complaint fails to state facts sufficient to constitute a claim upon which relief may be granted.

2. Intervenor further plead, if such be necessary, and pleading in the alternative, that Plaintiffs' claims are barred or limited for lack of standing.

3. Intervenor further plead, if such be necessary, and pleading in the alternative, that Plaintiffs' claims are barred because Plaintiffs are not the real party in interest.

4. Intervenor further plead, if such be necessary, and pleading in the alternative, that Plaintiffs' claims are not ripe and/or have been mooted.

5. Intervenor further plead, if such be necessary, and pleading in the alternative, that Plaintiffs' claims are barred, in whole or in part, by the political question and separation of powers doctrine and because their claims implicate issues of statewide importance that are reserved for state regulation.

6. Intervenor further plead, if such be necessary, and pleading in the alternative, that Plaintiffs may be barred by the doctrines of estoppel, quasi-estoppel, equitable estoppel, and/or waiver from all forms of relief sought in the Complaint.

7. Intervenor further plead, if such be necessary, and pleading in the alternative, that Plaintiffs' claims may be barred by the doctrines of res judicata and collateral estoppel from all forms of relief sought in the Complaint.

8. Intervenor further plead, if such be necessary, and pleading in the alternative, that to the extent Plaintiffs attempt to seek equitable relief, Plaintiffs are not entitled to such relief because Plaintiffs have an adequate remedy at law.

9. Intervenor further plead, if such be necessary, and pleading in the alternative, that Defendants appropriately, completely, and fully performed and discharged any and all obligations and legal duties arising out of the matters alleged in the Complaint.

10. Intervenor further plead, if such be necessary, the Complaint merits the Court's abstention, including under *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496 (1941), insofar as it raises unresolved questions of North Carolina law, including as to the interpretation of SB 747, that should be resolved in the first instance by North Carolina courts.

11. Intervenor hereby give notice that they may rely upon any other applicable affirmative defense(s) of which it may become aware during discovery in this action and reserve the right to amend this answer to assert any such defenses.

WHEREFORE, Intervenor move the Court:

1. Dismiss Plaintiffs' Complaint with prejudice and that judgment be entered for the Defendants on all claims;
2. Award Defendants attorneys' fees and costs; and
3. Award Defendants such other and further relief as the Court may deem just and proper.

Respectfully submitted, this the 16th day of April, 2024.

**Chalmers, Adams, Backer & Kaufman, PLLC**

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