

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

DEMOCRACY NORTH CAROLINA )  
*et al.*, )  
 )  
 Plaintiffs, )  
 )  
v. ) Case No. 1:23-cv-878-TDS-JEP  
 )  
ALAN HIRSCH *et al.*, )  
 )  
 Defendants. )  
\_\_\_\_\_ )

**MOTION OF NON-PARTY  
CLETA MITCHELL FOR ENTRY OF PROTECTIVE ORDER**

Pursuant to Rules 26(c), 30, and 45(d) of the Federal Rules of Civil Procedure and M.D.N.C. Local Civil Rule 37.1, non-party Cleta Mitchell hereby moves for entry of a protective order limiting the areas of examination in her deposition currently set for September 25, 2024, or alternatively limiting the dissemination and use of any such testimony she may be required to give on the areas at issue, and awarding reasonable costs and attorneys' fees in relation to bringing this motion.

In support of her motion, Ms. Mitchell respectfully shows the Court as follows:

1. Plaintiffs' lawsuit challenges only one provision of a single piece of legislation, SB 747, which was recently enacted by the North Carolina General Assembly. The provision at issue concerns so-

called “same day [voter] registration.” (See D.E. #1: Pls.’ Compl.) Ms. Mitchell is a prominent attorney, who did not engage in advocacy with the General Assembly or State Board of Elections about same day registration as to SB 747. Instead, she had only a tangential role regarding SB 747, having addressed legislators only *once* about a litany of potential election law changes and did not include SDR in her remarks. Nevertheless, plaintiffs seek to depose Ms. Mitchell about *any* of her advocacy work engaged in *anywhere* in the United States.

2. While Ms. Mitchell has agreed to be deposed in this matter, the breadth of examination sought by plaintiffs exceeds that allowed by the Federal Rules of Civil Procedure for a non-party, like Ms. Mitchell. Therefore, she asks the Court a protective order reasonably limiting the areas about which she may be deposed or, in the alternative, reasonably limiting the dissemination and use of her testimony.
3. For support, Ms. Mitchell relies on her accompanying memorandum of law, her declaration, and the declaration of her counsel authenticating correspondence among counsel.

WHEREFORE, non-party Cleeta Mitchell respectfully asks the Court for entry of a protective order precluding counsel for the parties from deposing Ms. Mitchell about any of the following:

- Ms. Mitchell's prior or current representation, as a lawyer, of any client;
- Ms. Mitchell's advocacy before or with any governmental body, *other than* the North Carolina General Assembly and North Carolina State Board of Elections, specifically related to the subject of this litigation during the time period thereof, namely SB 747 and its provisions regarding Same Day Registration adopted by the North Carolina General Assembly in 2023 (*i.e.*, from Oct. 1, 2022, to Oct. 10, 2023);
- Any of Ms. Mitchell's work, especially her election integrity work, that does not specifically concern the subject of this litigation during the time period related to this litigation, namely SB 747 and its provisions regarding same day registration adopted by the General Assembly in 2023 (*i.e.*, from Oct. 1, 2022, to Oct. 10, 2023); and
- Ms. Mitchell's legal opinions or conclusions about any matter.

In the alternative, Ms. Mitchell asks that the answers to any such questions that the Court allows be made subject to a protective order reasonably limiting their dissemination and use.

Ms. Mitchell also respectfully requests that she be awarded reasonable expenses, including attorney's fees, in relation to this motion.

Finally, Ms. Mitchell asks for such other and further relief as the Court may deem just and proper.

Respectfully submitted, this 24th day of September, 2024.

/s/B. Tyler Brooks

B. Tyler Brooks (N.C. Bar. No. 37604)

Attorney for Cleta Mitchell

LAW OFFICE OF B. TYLER BROOKS, PLLC

P.O. Box 10767

Greensboro, NC 27404

Telephone: (336) 707-8855

Fax: (336) 900-6535

Email: btb@btylerbrookslawyer.com

*Counsel for Non-Party Cleta Mitchell*

## CERTIFICATE OF SERVICE

It is hereby certified that on September 24, 2024, the foregoing document was served on counsel of record for all parties via CM/ECF.

Date: September 24, 2024

/s/B. Tyler Brooks  
B. Tyler Brooks  
N.C. Bar No. 37604

*Counsel for Non-Party  
Cleta Mitchell*

### **SERVED:**

Michael Dockterman, Esq.  
Jamie Witte, Esq.  
Maria O’Keeffe, Esq.  
Geneva Ramirez, Esq.  
STEPTOE LLP  
227 West Monroe St., Suite 4700  
Chicago, Illinois 60606  
mdockterman@steptoe.com  
jwitte@steptoe.com  
gramirez@steptoe.com  
mokeeffe@steptoe.com

Jeffrey Loperfido, Esq.  
Christopher Shenton, Esq.  
Katelin Kaiser, Esq.  
Hilary H. Klein, Esq.  
Mitchell D. Brown, Esq.  
Lily A. Talerman, Esq.  
SOUTHERN COALITION FOR SOCIAL JUSTICE  
5517 Durham-Chapel Hill Blvd.  
Durham, North Carolina 27707  
jeffloperfido@scsj.org  
chrishshenton@scsj.org  
katelin@scsj.org  
hilaryhklein@scsj.org

mitchellbrown@scsj.org  
lily@scsj.org

*Counsel for Plaintiffs*

Terence Steed, Esq.  
Mary Carla Babb, Esq.  
NORTH CAROLINA DEPARTMENT OF JUSTICE  
P.O. Box 629  
Raleigh, North Carolina 27602  
tsteed@ncdoj.gov  
mcbabb@ncdoj.gov

*Counsel for State Board Defendants*

Thomas A. Farr, Esq.  
Phillip Strach, Esq.  
Alyssa M. Riggins, Esq.  
Alexandra M. Bradley, Esq.  
Cassie A. Holt, Esq.  
NELSON MULLINS RILEY & SCARBOROUGH LLP  
301 Hillsborough St., Suite 1400  
Raleigh, North Carolina 27603  
tom.farr@nelsonmullins.com  
phil.strach@nelsonmullins.com  
alyssa.riggins@nelsonmullins.com  
alex.bradley@nelsonmullins.com  
cassie.holt@nelsonmullins.com

*Counsel for Legislative Intervenor Defendants*