

STATE OF NORTH CAROLINA

WAKE COUNTY

REPUBLICAN NATIONAL COMMITTEE;
and NORTH CAROLINA REPUBLICAN
PARTY,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS; KAREN BRINSON BELL, in
her official capacity as Executive Director of
the North Carolina State Board of Elections;
ALAN HIRSCH, in his official capacity as
Chair of the North Carolina State Board of
Elections; JEFF CARMON, in his official
capacity as Secretary of the North Carolina
State Board of Elections; STACY EGGERS
IV, KEVIN N. LEWIS, and SIOBHAN
O'DUFFY MILLEN, in their official
capacities as members of the North Carolina
State Board of Elections,

Defendants,

and

DEMOCRATIC NATIONAL COMMITTEE,
Intervenor-Defendant.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 24cv026995-910

**MOTION TO DISMISS, ANSWER AND
AFFIRMATIVE DEFENSES BY
INTERVENOR-DEFENDANT
THE DEMOCRATIC NATIONAL
COMMITTEE**

(JURY TRIAL DEMANDED)

Intervenor-Defendant the Democratic National Committee (“DNC”), pursuant to Rules 8 and 12 of the North Carolina Rules of Civil Procedure, respectfully submits the following motion to dismiss, answer, and affirmative defenses to the complaint of plaintiffs the Republican National Committee (“RNC”) and the North Carolina Republican Party (“NCRP”).

MOTION TO DISMISS

The DNC moves to dismiss plaintiffs' complaint for failure to state a claim pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure and for failure to join necessary parties pursuant to Rule 12(b)(7) of the North Carolina Rules of Civil Procedure.

ANSWER TO COMPLAINT

The DNC answers each of the numbered paragraphs in the complaint as follows:

1. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

2. Denied.

3. Denied.

4. Denied.

5. Denied on information and belief.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. It is admitted that the RNC is the national committee for the Republican Party as defined by 52 U.S.C. § 30101(14) and a political party as defined by N.C. Gen. Stat. § 163-96, and that its principal place of business is 310 First Street SE, Washington, D.C. Except as explicitly admitted, the allegations of this paragraph are denied.

12. Denied. On information and belief, there is no recent rise in non-citizens and other unqualified persons voting. On information and belief, the RNC's efforts are not intended to

“ensure that the votes and voices of its members, its candidates, and the party are not silenced or diluted,” but rather to undermine the public’s confidence in our nation’s safe and secure elections.

13. It is admitted that the NCRP is a state committee of the Republican Party as defined by 52 U.S.C. § 30101(15) and a political party as defined by N.C. Gen. Stat. § 163-96, and that its principal place of business is 1506 Hillsborough St, Raleigh, N.C. 27605. Except as explicitly admitted, the allegations of this paragraph are denied.

14. Denied on information and belief.

15. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

16. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

17. Denied.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

26. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

27. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

28. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

29. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

30. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

31. Denied.

32. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

33. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

34. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

35. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

36. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

37. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

38. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

39. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

40. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

41. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

42. Denied on information and belief.

43. Denied on information and belief.

44. Denied.

45. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

46. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

47. Denied.

48. It is admitted that Carol Snow filed a complaint with the State Board on October 6, 2023 (“Snow complaint”). Except as expressly admitted, the allegations of this paragraph are denied.

49. It is admitted that the Snow complaint is a written document, the content of which speaks for itself. The DNC denies all allegations that are inconsistent with the referenced document. Except as expressly admitted, the allegations of this paragraph are denied.

50. It is admitted that the Snow complaint is a written document, the content of which speaks for itself. The DNC denies all allegations that are inconsistent with the referenced document. Except as expressly admitted, the allegations of this paragraph are denied.

51. It is admitted that the State Board met on November 28, 2023 and issued an order on December 6, 2023. It is further admitted that State Board's order is a written document, the content of which speaks for itself. The DNC denies all allegations that are inconsistent with the referenced document. Except as expressly admitted, the allegations of this paragraph are denied.

52. Denied.

53. Denied.

54. This paragraph characterizes the State Board's December 6, 2023, order. That written document speaks for itself, and the DNC denies all allegations that are inconsistent with the referenced document. Except as expressly admitted, the allegations of this paragraph are denied.

55. This paragraph characterizes the State Board's December 6, 2023, order. That written document speaks for itself, and the DNC denies all allegations that are inconsistent with the referenced document. The allegations of this paragraph state legal conclusions to which no answer is required. Except as expressly admitted, the allegations of this paragraph are denied.

56. It is admitted, upon information and belief, that Ms. Snow attended and spoke at the State Board's meetings on March 11 and April 11, 2024. Except as expressly admitted, the allegations of this paragraph are denied.

57. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

58. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

59. Denied on information and belief.

60. Denied.

61. Denied.

62. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

63. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

64. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

65. Denied.

66. Denied.

67. Denied on information and belief.

68. Denied on information and belief.

69. Denied.

70. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

71. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

72. Admitted.

73. It is admitted that North Carolina county boards of elections collect additional information from some voters who vote provisional ballots on election day. Except as expressly admitted, the allegations of this paragraph are denied.

74. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

75. Denied.

76. Denied.
77. The foregoing paragraphs are incorporated by reference as if fully set forth herein.
78. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.
79. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.
80. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied.
81. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that federal law permits the State Board to systematically remove registered voters from the voter-registration list within 90 days of any federal election.
82. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.
83. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied.
84. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied.
85. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that federal law permits the State Board to systematically remove registered voters from the voter-registration list within 90 days of any federal election.

86. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that federal law permits the State Board to systematically remove registered voters from the voter-registration list within 90 days of any federal election.

87. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that plaintiffs lacked alternative remedies.

88. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that federal law permits the State Board to systematically remove registered voters from the voter-registration list within 90 days of any federal election.

89. The foregoing paragraphs are incorporated by reference as if fully set forth herein.

90. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that federal law permits the State Board to systematically remove registered voters from the voter-registration list within 90 days of any federal election.

91. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that federal law permits the State Board to systematically remove registered voters from the voter-registration list within 90 days of any federal election.

92. Denied on information and belief.

93. Denied on information and belief.

94. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent a response is required, the allegations in this paragraph are denied. It is expressly denied that the conduct alleged in the complaint allowed ineligible voters to remain on voter rolls or that the mere presence of ineligible voters on voter rolls dilutes legitimate votes.

95. Denied.

96. Denied.

Except as expressly admitted herein, the DNC generally denies all the allegations of the complaint in their entirety and demands strict proof of the same.

AFFIRMATIVE OR ADDITIONAL DEFENSES

Having fully answered the complaint, the DNC pleads the following defenses and/or affirmative defenses without waiving any arguments that it may be entitled to assert regarding the burden of proof, legal presumptions, or other legal characterizations. The DNC expressly reserves the right to plead additional defenses and other matters of defense to the complaint by way of amendment after further discovery and investigation is complete.

FIRST DEFENSE

Plaintiffs are not entitled to relief under the Help America Vote Act, 52 U.S.C. § 20501 et seq.

SECOND DEFENSE

Plaintiffs' claims are barred by the National Voter Registration Act, 52 U.S.C. § 20507(c)(2)(A).

THIRD DEFENSE

Plaintiffs' claims are barred by the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B).

FOURTH DEFENSE

Plaintiffs' claims are barred by the Fourteenth Amendment to the United States Constitution and Article I, §§ 1 and 19 of the North Carolina Constitution.

FIFTH DEFENSE

Plaintiffs' claims are barred because N.C. Gen. Stat. § 163-82.11(c) does not impose a mandatory non-discretionary duty, rendering mandamus unavailable as a remedy.

SIXTH DEFENSE

Plaintiffs' claims are barred they do not meet any of the factors necessary for issuance of an injunction.

SEVENTH DEFENSE

Plaintiffs' claims fail to comply with the requirements of state law regarding challenges to voter registrations. Among other things, plaintiffs have failed to use the prescribed statutory process for challenging voter registrations in an effort to circumvent the State Board's authority under N.C. Gen. Stat. § 163-22 and failed to join the voters they seek to disenfranchise in this lawsuit.

EIGHTH DEFENSE

Plaintiffs' claims are barred in whole or in part by the doctrines of claim preclusion and issue preclusion.

NINTH DEFENSE

Plaintiffs' requested relief is barred by the doctrines of estoppel, laches, waiver, ratification, and the doctrine of unclean hands.

PRAYER FOR RELIEF

Wherefore, the DNC, having moved to dismiss, answered, and otherwise responded to the Complaint, respectfully prays unto the Court:

1. That plaintiffs' claims be dismissed with prejudice;
2. For a trial by jury on all issues so triable;
3. To tax the costs of this action against plaintiffs; and
4. For such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 12th day of September, 2024.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served by electronic mail upon the following:

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This the 12th day of September, 2024.

/s/ William A. Robertson
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