

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA REPUBLICAN PARTY
and REPUBLICAN NATIONAL
COMMITTEE,

Plaintiffs,

v.

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

Defendants,

and

NORTH CAROLINA ASIAN
AMERICANS TOGETHER and
EL PUEBLO,

Intervenor-Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

NO. 24CV026820-910

**MOTION TO DISMISS, ANSWER, AND
AFFIRMATIVE DEFENSES BY
INTERVENOR-DEFENDANTS NORTH
CAROLINA ASIAN AMERICANS
TOGETHER AND EL PUEBLO**

Intervenor-Defendants North Carolina Asian Americans Together and El Pueblo
("Intervenor-Defendants"), by and through their attorneys, submit the following motion to dismiss
and answer to the allegations in the Complaint.

MOTION TO DISMISS

Intervenor-Defendants move to dismiss Plaintiffs' complaint for lack of subject-matter jurisdiction under 12(b)(1) of the North Carolina Rules of Civil Procedure and failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6). Dismissal is warranted here because (1) Plaintiffs lack standing, (2) Plaintiffs' claims are not ripe, (3) the State Board of Elections is complying with the requirements of Section 44, (4) Plaintiffs' requested relief is preempted by federal law, and (5) Plaintiffs have not adequately pled entitlement to declaratory or injunctive relief.

ANSWER TO COMPLAINT

1. Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. "Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006).

ANSWER: Paragraph 1 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the cited case contains the quoted text; Intervenor-Defendants otherwise deny the allegations.

2. North Carolina hosts some of the most closely competitive elections in the country. Whether at the local,¹ county,² or state-wide level,³ there are numerous examples in recent years where our election results have turned on only a handful of votes.

¹ See 2023 Mayor Race, Town of Mount Olive (15 vote difference); Cary Town Council, District D race (60 vote difference); High Point City Council, Ward 04 (18 vote difference) (available at https://er.ncsbe.gov/?election_dt=11/07/2023&county_id=0&office=CCL&contest=0).

² See 2022 District Attorney District 08 race (79 vote difference out of 76,685 cast); Superior Court Judge, District 26B Seat 1 race (77 vote difference out of 51,907 votes cast) (available at https://er.ncsbe.gov/?election_dt=11/08/2022&county_id=0&office=JUD&contest=0).

³ 2020 NC Supreme Court, Chief Justice race (401 vote difference out of 5,391,501 cast) (available at https://er.ncsbe.gov/?election_dt=11/03/2020&county_id=0&office=JUD&contest=0).

ANSWER: Intervenor-Defendants admit that North Carolina has competitive elections and has had close elections in recent years; Intervenor-Defendants otherwise deny the allegations.

3. In order to facilitate its citizens' participation in the election process, North Carolina law strives to make it easy to vote. Given its efforts to make it easy to vote, North Carolina (and federal) law contain safeguards to make sure that it is hard to cheat. This occurs both in the context of ensuring that only those who may lawfully cast a ballot do so, as well as ensuring that the manner in which the voter casts her or his ballot actually reflect the voter's intent.

ANSWER: Paragraph 3 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that North Carolina and federal law regulate North Carolina's elections; Intervenor-Defendants otherwise deny the allegations.

4. These safeguards range from laws allowing only United States citizens to vote, laws requiring elections officials to conduct regular voter list maintenance to remove from the voter rolls dead voters and voters who have moved out of the county, laws requiring voter registrant identification information being provided to elections officials prior to registration of the voter, and laws requiring elections officials to receive and review data regarding whether specific voters have self-identified as unqualified to vote and, if so, to remove those voters from the voter list.

ANSWER: Paragraph 4 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

5. Safeguards related to non-citizen voting are particularly salient during this election cycle given the unprecedented millions of people who have illegally immigrated into the United States – apparently relocating, in many cases, to North Carolina.

ANSWER: Paragraph 5 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

6. On February 27, 2024, North Carolina's Office of State Budget and Management reported that approximately 325,000 "unauthorized" immigrants were residing in the state.⁴ This is out of a total of 501,000 foreign-born non-citizens in North Carolina. *Id.*

ANSWER: The source cited in Paragraph 6 speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

7. Because these foreign-born individuals have not been naturalized, they are not qualified to vote.

ANSWER: Paragraph 7 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

8. Additionally, the NCSBE recently admitted that it failed to comply with the requirement in the federal Help America Vote Act that it collect identification information – driver's license or social security numbers – from people seeking to register to vote prior to processing their voter registration applications.

ANSWER: Intervenor-Defendants do not have sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

⁴ Available at <https://www.osbm.nc.gov/blog/2024/02/27/ncs-foreign-born-populationincreased-eightfold1990#:~:text=An%20estimated%2042%25%20of%20the,or%2065%25%20to%20be%20unauthorized.>

9. As a result, there may be significant numbers of non-citizens who have registered to vote in North Carolina, whether intentionally or due to the NCSBE's failure to require the HAVA identification information prior to processing their applications.

ANSWER: Paragraph 9 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

10. And yet, the NCSBE has expressed no desire to investigate whether those registrants are lawfully registered to vote.

ANSWER: Intervenor-Defendants do not have sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

11. There exist few ways to identify and prevent non-citizens from voting once they have filled out the voter registration paperwork. Neither documentary proof of citizenship nor a citizenship verification check by the state is required to register to vote.

ANSWER: Paragraph 11 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

12. Consequently, in circumstances where elections officials have access to information allowing them to verify if specific individuals have unlawfully registered to vote – whether intentionally or not – elections officials should promptly act on such information in order to prevent fraudulent votes from being cast and affecting the outcome of our elections.

ANSWER: Paragraph 12 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

13. This lawsuit concerns a common-sense safeguard against non-citizen voting, enacted by the General Assembly to go into effect on July 1, 2024, but which the NCSBE is refusing to enforce in time for the November 5, 2024 election. All North Carolina citizens are generally required to serve on juries.⁵ It has long been a tenet of North Carolina law, however, that non-citizens are not subject to being summoned for jury duty. As such, if a non-citizen receives a jury summons, she or he may assert lack of citizenship as a basis for refusing to serve on a jury.

ANSWER: Paragraph 13 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that all North Carolina citizens are generally required to serve on juries and that non-citizens may self-identify in response to a jury summons; Intervenor-Defendants otherwise deny the allegations.

14. The basis for a request for being excused from jury service is made under penalty of perjury.

ANSWER: Paragraph 14 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

15. Of course, if that person is not a citizen of the United States, that person also should not be on North Carolina's registered voter list and is not allowed to vote in our elections. *See* N.C. Const. art. VI sec. 1 (qualifications for who may vote); N.C. Gen. Stat. § 163-82.4(e)(1) (requiring voter registration forms to ask if the applicant is "a citizen of the United States of America" and, if the person check's "no", "do not submit this form.").

⁵ Master lists of prospective jurors are prepared by jury commissions by using the "list of registered voters and persons with drivers license records" pursuant to N.C. Gen. Stat. § 9- 2(b).

ANSWER: Paragraph 15 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that non-citizens are not eligible to vote in North Carolina's elections; Intervenor-Defendants otherwise deny the allegations.

16. Prior to this year, however, the NCSBE was not required to incorporate juror-excuse information, when people self-identify as non-citizens, into its efforts to ensure that only lawfully registered voters were on its voter list. Fortunately, commonsense spurred the General Assembly to require the NCSBE to do so.

ANSWER: Paragraph 16 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

17. Section 44 of North Carolina Session Law 2023-140 requires county Clerks of Superior Court to use forms to track the reasons people give when seeking to be excused from jury service. And, when a person indicates that she or he cannot serve on a jury because she or he is not a citizen, the Clerks of Superior Court are required to forward that information to the NCSBE. This is so that the NCSBE and respective county board of elections can go through the process of potentially removing that person from the list of registered voters, as non-citizens may not vote in North Carolina. *See* N.C. Gen. Stat. § 163-55.

ANSWER: Paragraph 17 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

18. Section 44 went into effect on July 1, 2024. Plaintiffs have sought assurances from the NCSBE that it would enforce Section 44 prior to the 2024 election and copies of public records

associated with the NCSBE's enforcement (or lack thereof) of Section 44. *See* Exhibit A – July 10, 2024 correspondence from John Branch to NCSBE Executive Director Bell (the “July 10, 2024 Correspondence”). Defendants have never responded to the July 10, 2024 Correspondence, nor have they produced any of the requested documents.

ANSWER: Intervenor-Defendants admit that Section 44 went into effect on July 1, 2024. Exhibit A speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

19. One of the common-sense safeguards against non-citizen voting provided by North Carolina law is requiring elections officials to conduct due diligence into the registration of voters who have self-identified as a non-citizen in response to a jury summons.

ANSWER: Paragraph 19 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

20. Section 44 went into effect on July 1, 2024 – more than four months before the November election. Defendants' failure to respond to the July 10, 2024 Correspondence or take the mandatory actions prescribed in Section 44 harms Plaintiffs and undermines the core purpose of the common-sense safeguards against non-citizen voting provided by North Carolina law.

ANSWER: Intervenor-Defendants admit that Section 44 went into effect on July 1, 2024. Intervenor-Defendants otherwise deny the allegations.

21. The NCSBE cannot ignore the requirements of Section 44 during this election cycle, and the Court should order Defendants to immediately implement Section 44.

ANSWER: Paragraph 21 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

PARTIES AND JURISDICTION

22. Plaintiff NCGOP, founded in 1867 is a political party as defined in Article 9 of Chapter 163 of the North Carolina General Statutes, and is the state political organization of the Republican Party. The NCGOP's headquarters are in Wake County, North Carolina.

ANSWER: Paragraph 22 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without information or knowledge with which to form a belief as to the truth or falsity of the allegations.

23. A significant part of the NCGOP's mission is organizing and registering lawful voters and encouraging voters to support Republican candidates at all levels of government.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

24. NCGOP's efforts include training on and advocacy for both lawfully registering voters and election security and voter integrity efforts to help ensure that only lawful votes are cast and counted. NCGOP expends significant time and resources fighting for these election security and voting integrity efforts, which are intended to ensure that the votes and voices of both its members, candidates, and the party are not silenced or diluted.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

25. These efforts include conducting training of volunteers on election security and voter integrity issues, seeking thousands of volunteers to serve as election observers, seeking

hundreds of attorney volunteers for election security and voter integrity issues, forming and administering a state-wide voter integrity hotline during early voting and election day, providing volunteers in all one hundred counties, and investigating reports of voter fraud and disenfranchisement.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

26. The NCGOP spends tremendous time and effort advocating for its members in all levels of state government, working to make sure they are heard both at the ballot box and beyond.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

27. Recent rises in non-citizens and other unqualified persons voting or seeking to vote in elections has forced the NCGOP to divert its efforts and funds in order to hold elections officials accountable to what both federal and state laws require.

ANSWER: Intervenor-Defendants deny the allegations.

28. Plaintiff RNC is the national committee of the Republican Party as defined by 52 U.S.C. § 30101(14). It manages the Republican Party's business at the national level, supports Republican candidates for public office at all levels (including in North Carolina), coordinates fundraising and election strategy, develops and promotes the national Republican platform, and communicates the Republican Party's positions and messages to voters.

ANSWER: Paragraph 28 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without information or knowledge with which to form a belief as to the truth or falsity of the allegations.

29. The RNC is a political party as defined in Article 9 of Chapter 163.

ANSWER: Paragraph 29 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without information or knowledge with which to form a belief as to the truth or falsity of the allegations.

30. The RNC makes considerable expenditures in North Carolina both directly and through its support of the NCGOP to organize and register lawful voters in North Carolina, elect Republican candidates running up and down the ballot in North Carolina elections, including by educating its voters and election observers on the applicable laws governing the voting process.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

31. The RNC assists the NCGOP and its county party chairs in conducting voter registration and election security and voter integrity efforts, including throughout the 2024 election cycle, and intends to continue its assistance through the end of the 2024 election.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

32. Plaintiffs have organizational standing to bring this action. NCSBE's actions and inaction directly impact Plaintiffs' core organizational missions of election security and providing services aimed at promoting Republican voter engagement and electing Republican candidates for office. NCSBE's violations of Section 44 and refusal to provide the requested public records associated related to Section 44 have forced Plaintiffs to divert significantly more of their resources into combatting election fraud in North Carolina. Plaintiffs' organizational and voter outreach efforts have been and will continue to be significantly stymied due to NCSBE's ongoing failures

to enforce Section 44. As a result, Plaintiffs will have no choice but to expend increased amounts of time and money, beyond what they would have already spent, in order to combat this unwarranted interference with their central activities.

ANSWER: Paragraph 32 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

33. For example, because of NCSBE's refusal to enforce Section 44 and to provide the requested public records associated with Section 44, Plaintiffs are committing and will need to continue to commit added time and resources into monitoring North Carolina's voter rolls and voter activity, and responding to instances of potential voter fraud in upcoming elections, tasks Section 44 requires the NCSBE to undertake.

ANSWER: Intervenor-Defendants deny the allegations.

34. Additionally, NCGOP has associational standing because its members have standing in their own right to challenge NCSBE's actions here. NCGOP represents millions of registered Republican voters across the state of North Carolina, including at least one registered Republican voter in every one of the state's one hundred counties, which is a matter of public record. NCGOP's members are harmed by inaccurate voter rolls due to the NCSBE's failure to enforce Section 44 prior to the November 5, 2024 election. These NCGOP members' votes are undoubtedly diluted as a result of ineligible voters participating in elections due to NCSBE's refusal to enforce Section 44 prior to the election. Additionally, these members' rights to participate in a fair and secure electoral process, free from voter fraud, will be significantly hindered. Ensuring such freedom and security in all elections throughout North Carolina is germane to the NCGOP's organizational mission.

ANSWER: Paragraph 34 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

35. Further, the RNC and NCGOP are harmed in their ability to compete in the electoral process. If the relief it is requesting is not granted, it will make the competitive environment worse for Plaintiffs and more difficult for their candidates (and voters) to win in the upcoming election. Plaintiffs should not be forced to compete in an illegally structured voting environment, in which people claiming noncitizenship are not investigated and potentially removed from voter rolls in accordance with the law. As described above, elections in North Carolina are often very competitive, and the allowance of even a relatively smaller number of illegal votes can turn even a statewide election.

ANSWER: Paragraph 35 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

36. Defendant North Carolina State Board of Elections is the agency created by the North Carolina General Assembly and which is responsible for the administration of the election laws of the State of North Carolina. N.C. Gen. Stat. § 163-22.

ANSWER: Paragraph 36 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that N.C. Gen. Stat. § 163-22 sets forth the powers and duties of the State Board of Elections; Intervenor-Defendants otherwise deny the allegations.

37. Defendant Alan Hirsch is the Chair of the North Carolina State Board of Elections. Mr. Hirsch is sued in his official capacity.

ANSWER: Intervenor-Defendants admit the allegations.

38. Defendant Siobhan Millen is a Member of the North Carolina State Board of Elections. Ms. Millen is sued in her official capacity.

ANSWER: Intervenor-Defendants admit the allegations.

39. Defendant Jeff Carmon III is a Member of the North Carolina State Board of Elections. Mr. Carmon is sued in his official capacity.

ANSWER: Intervenor-Defendants admit the allegations.

40. Defendant Stacy Eggers IV is a Member of the North Carolina State Board of Elections. Mr. Eggers is sued in his official capacity.

ANSWER: Intervenor-Defendants admit the allegations.

41. Defendant Kevin Lewis is a Member of the North Carolina State Board of Elections. Mr. Lewis is sued in his official capacity.

ANSWER: Intervenor-Defendants admit the allegations.

42. Defendant Karen Brinson-Bell is the Executive Director of the North Carolina State Board of Elections. Executive Director Bell is sued in her official capacity.

ANSWER: Intervenor-Defendants admit the allegations.

43. Jurisdiction is proper in this Court pursuant to N.C. Gen. Stat. § 1-253 et seq., N.C. Gen. Stat. § 132-1 et seq., and N.C. Gen. Stat. § 7A-245.

ANSWER: Paragraph 43 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

44. Venue is proper in this Court under N.C. Gen. Stat. § 163-22(1) and N.C. Gen. Stat. § 1-82.

ANSWER: Paragraph 44 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit the allegations.

FACTUAL ALLEGATIONS

45. North Carolina and federal law have made it easy to register to vote. Applicants can register online with the NC Department of Motor Vehicles (“NCDMV”), in person at any NCDMV office, download a form from the North Carolina State Board of Elections website and submit via mail, email, or facsimile, or even register when individuals early vote in person. N.C. Gen. Stat. § 163-82.6(a), 163-82.6B.

ANSWER: Paragraph 45 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

46. Registration usually involves the submission of voter registration application forms to the NCDMV (who sends them to the NCSBE) or to the NCSBE or appropriate county board of elections.

ANSWER: Paragraph 46 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit the allegations.

47. Upon receipt of the voter registration application forms, the NCSBE (if it is the recipient) sends it to the applicable county board of elections for processing.

ANSWER: Paragraph 47 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

48. Once it receives the voter registration application forms, county boards of election determine whether the applicant is qualified to vote at the address given in the form. N.C. Gen. Stat. § 163-82.7.

ANSWER: Paragraph 48 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

49. In order to vote in elections in North Carolina, an individual must be a United States citizen. *See* N.C. Const. art. VI sec. 1 (listing voter qualifications).

ANSWER: Paragraph 49 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit the allegations.

50. Consistent with N.C. Gen. Stat. § 163-82.4(e)(1), North Carolina voter registration forms now require that an applicant certify that he or she is a United States citizen and, if not, inform the applicant that “If you checked “no” in response to this question, do not submit this form. You are not qualified to vote.” (screenshot of top of form; available at: https://s3.amazonaws.com/dl.ncsbe.gov/Voter_Registration/NCVoterRegForm_06W.pdf).

ANSWER: Paragraph 50 contains mere characterizations, legal contentions, and conclusions to which no response is required. The included screenshot speaks for itself. To the extent a response is required, Intervenor-Defendants admit the allegations.

51. If, however, an applicant mistakenly or intentionally states that the applicant is a citizen of the United States of America even though the applicant is not, the voter registration form will be processed as if the applicant is a citizen.

ANSWER: Paragraph 51 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

52. North Carolina law provides that fraudulently or falsely completing voter registration forms is a Class I felony. *See generally* N.C. Gen. Stat. § 163-275(1), (4), (6), (7), (13), (14), (18), (19).

ANSWER: Paragraph 52 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

53. Because the threat of prosecution for falsely or fraudulently filling out voter registration forms is not, alone, sufficient to prevent election fraud, the North Carolina General Assembly has enacted some safeguards to help ensure that only individuals lawfully qualified to vote are registered, and those who are unlawfully registered to vote are removed from the voter list.

ANSWER: Paragraph 53 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

54. All North Carolina citizens are generally subject to jury summons to perform duties as members of a jury in our judicial process. *See* N.C. Gen. Stat. § 9- 3(a)(1) (effective July 1, 2024) (stating that one requirement for a person to be included on a master jury list is that the person “[i]s a citizen of the United States” as a requirement for a person to be included on the master jury list).

ANSWER: Paragraph 54 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

55. It has long been a tenet of North Carolina law that non-citizens are not subject to summonses for jury duty. *See generally* N.C. Gen. Stat. § 9-3 (effective until July 1, 2024) (“All persons are qualified to serve as jurors and to be included on the master jury list *who are citizens of the State....*” (emphasis added)).

ANSWER: Paragraph 55 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

56. As such, if a non-citizen receives a jury summons, she or he may assert lack of citizenship as a basis for refusing to serve on a jury. *See* N.C. Gen. Stat. § 9- 6(a1).

ANSWER: Paragraph 56 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

57. The North Carolina General Assembly realized that, through the jury selection process, local state officials gather information about people who had self-identified as non-citizens (and who would thus be ineligible to vote).

ANSWER: Paragraph 57 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge about the North Carolina General Assembly’s realization.

58. As in the case of many other states, when juries are needed in the judicial process, county clerks of court send summonses to citizens for jury service. *See* N.C. Gen. Stat. § 9-5.

ANSWER: Paragraph 58 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

59. Citizens are expected, by law, to serve on juries if called. *See* N.C. Gen. Stat. §§ 9-5, 9-6.

ANSWER: Paragraph 59 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

60. An excuse from serving on a jury, however, is if an individual who is called to serve is actually not a citizen of the United States. *See* N.C. Gen. Stat. §§ 9-6(a) and (a1), 9-6.2(b).

ANSWER: Paragraph 60 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

61. Upon information and belief, the county clerks of court and the NCSBE did not, prior to the enactment of Section 44, share information with each other about people self-identifying as non-citizens in order to be excused from jury duty.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

62. The General Assembly realized, however, that this information, where specific individuals are self-identifying as non-citizens, could be used by the NCSBE to conduct due diligence on whether the individuals who self-identified as noncitizens had also sought to register

to vote. The General Assembly also realized that the information could be used to require due diligence as to whether those people should be removed from the voter list.

ANSWER: Paragraph 62 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge about the North Carolina General Assembly's realization; Intervenor-Defendants otherwise deny the allegations.

63. Session Law 2023-1406 became law on October 10, 2023, after both the North Carolina House of Representatives and the North Carolina Senate overrode Governor Cooper's veto of the underlying bill, S747.

ANSWER: Intervenor-Defendants admit the allegations.

64. While many provisions of Session Law 2023-140 have been challenged in lawsuits, Section 44 has not.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

65. Section 44 amended sections of the following statutes to facilitate the sharing of information between the NCSBE and the county clerks of court regarding whether individuals who have received jury summons self-identified as non-citizens in order to avoid jury service: N.C. Gen. Stat. § 9-3 (qualifications of prospective jurors), § 9-6 (Jury service a public duty; excuses to be allowed in exceptional cases; procedure), § 9-6.1 (Requests to be excused), § 9-6.2 (Reports of excusals from jury duty based on disqualification) (new), 163-82.14 (List maintenance). Section 44(a) – (e).

ANSWER: Paragraph 65 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

66. Section 44 specifically provided that its requirements would go into effect on July 1, 2024. Section 44(f).

ANSWER: Paragraph 66 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

67. Section 44's amendments to Chapter 9 of the North Carolina General Statutes and N.C. Gen. Stat. § 163-82.14 generally accomplished the following:

- a. Section 44(a) amended N.C. Gen. Stat. § 9-3 to clarify that, among other things, a person must be a citizen of the United States to qualify for jury service;
- b. Section 44(b) amended N.C. Gen. Stat. § 9-6 to, among other things, add section (a1), which requires the Administrative Office of Courts to develop and furnish a form for the county Clerks of Superior Court to use for applications for excuses from jury duty, including due to lack of United States citizenship, and that, under section (e), the clerk of court must keep a record of excuses separate from the master list in accordance with section 9-6.2;
- c. Section 44(c) amended N.C. Gen. Stat. § 9-6.1 to generally provide additional authority for clerks of court in certain circumstances in the jury summons and excuse process;
- d. Section 44(d) added a new section to Chapter 9, § 9-6.2, which requires, among other things, that if a prospective juror requests that he or she be excused based

on the fact he or she is not a citizen of the United States, the clerks of court shall communicate the information⁷ on individuals who are self-identifying as non-citizens to the NCSBE on a schedule determined by the NCSBE;

- e. New section 9-6.2(b) also requires that the NCSBE “shall use this information to conduct list maintenance efforts in accordance with G.S. 163- 82.14[;]”
- f. Section 44(e) amended N.C. Gen. Stat § 163-82.14 (including adding in a new subsection, (c1)), governing maintenance of the list of registered voters, by, among other things, requiring that:
 - i. The NCSBE “shall” review the voter registration and citizenship status of each person identified in the information that the NCSBE receives from clerks of court pursuant to N.C. Gen. Stat. § 9-6.2(b);
 - ii. The NCSBE “shall” distribute to each county board of elections a report of any person identified who is registered to vote in that county, within 30 days of the NCSBE’s receipt of information from the respective county’s Clerk of Superior Court;
 - iii. The county boards of elections “shall”, within 30 days of the respective county board of elections’ receipt of the information from the NCSBE, send 30 days’ written notice to the voter that he or she has been reported as someone who identified him- or herself as a non-citizen to the Clerk of Superior Court in response to a jury summons;
 - iv. If the voter makes no objection, the county board of elections “shall” remove his or her name from its registration records and provide written notice of removal to the voter;

- v. If the voter objects to the removal within 30 days of when the notice was sent by the county board of elections, the chair of the county board of elections "shall" enter a challenge to the voter, and a hearing on the voter's registration status must be held under N.C. Gen. Stat. § 163-85 with the rebuttable presumption that the voter is not a citizen of the United States.

ANSWER: Paragraph 67 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

68. Thus, Section 44 contemplates a rolling process, summarized as follows: [image]

ANSWER: Paragraph 68 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

69. Accordingly, the process contemplated by Section 44, which contains a number of safeguards to prevent the removal of lawfully qualified voters, can take up to 90 days if the voter does not object to her or his removal and potentially longer if the voter objects to removal.

ANSWER: Paragraph 69 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit the allegations.

70. Section 44 went into effect on July 1, 2024.

ANSWER: Intervenor-Defendants admit the allegation.

71. On July 10, 2024, the RNC and NCGOP sent correspondence to the NCSBE, seeking assurances that it was complying with Section 44's requirements in connection with the November 5, 2024 election. *See* Exhibit A.

ANSWER: Exhibit A speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

72. The NCSBE has never substantively responded to any part of the July 10, 2024 correspondence, including but not limited to the concerns raised regarding the NCSBE's compliance with Section 44.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

73. Upon information and belief, the NCSBE is refusing to comply with Section 44 and refusing to comply with the process set forth in Section 44 to conduct due diligence on self-identified non-citizens prior to the November 5, 2024 election.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

74. On July 10, 2024, Plaintiffs sent correspondence to the NCSBE demanding a narrowly tailored production of public records related to, among other things, the NCSBE's compliance with Section 44. *See* Exhibit A p.8.

ANSWER: Exhibit A speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

75. The request sought the following records: In addition, we request, under Chapter 132 of the North Carolina General Statutes, as well as N.C. Gen. Stat. §§ 9-6.2(b) and 163-82.14(c1)(3), copies of:

5. Any guidance issued by the NCSBE to the county boards of elections regarding compliance with Section 44;

6. The “schedule as determined by the State Board of Elections” referenced in N.C. Gen. Stat. § 9-6.2(b);
7. Any “information regarding requests to be excused from jury duty on the basis that the person is not a citizen of the United States to the State Board of Elections” referenced in N.C. Gen. Stat. § 9-6.2(b);
8. Any guidance issued by the NCSBE regarding compliance with Section 44’s requirement that the information received thereunder be used for “list maintenance efforts in accordance with G.S. 163-82.14;”
9. “The list of persons requesting to be disqualified from jury duty due to lack of being a citizen of the United States,” as referenced in N.C. Gen. Stat. § 9-6.2(b);
10. Any reports distributed to county boards of elections of persons identified by the process set out in N.C. Gen. Stat. § 9-6.2 who are registered to vote in that county, as referenced in N.C. Gen. Stat. § 163-82.14(c1);
11. Any records retained pursuant to N.C. Gen. Stat. § 163-82.14(c1), see section 163-82.14(c1)(3).

ANSWER: Exhibit A speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

76. The July 10, 2024 correspondence also contained a narrowly tailored demand for production of public records related to the NCSBE’s list maintenance efforts and HAVA compliance efforts. *See* Exhibit A p.6.

ANSWER: Exhibit A speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

77. The request sought the following records: Pursuant to Chapter 132 of the North Carolina General Statutes, we also request copies of the following documents:

1. The most recent version of North Carolina's computerized registered voter list;
2. Any separate list of registered voters for whom the NCSBE has not collected driver's license and social security numbers;
3. NCSBE's currently in-effect list maintenance policy; and
4. Documents and correspondence related to NCSBE not requiring voters to fill in the driver's license and social security numbers on their voter registration form.

ANSWER: Exhibit A speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

78. Plaintiffs' requests for public records, described above, are hereinafter referred to in this Complaint as the "Public Records Requests".

ANSWER: Paragraph 78 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit the allegations.

79. In response to the requests for public records, the NCSBE opened two public request matters, Request 24-143 (regarding the HAVA-related documents) and Request 24-44 (regarding the Section 44-related documents). True and accurate copies of July 11, 2024 emails from the NCSBE reflecting the opening of those matters are attached hereto to this Complaint as Exhibit B.

ANSWER: Exhibit B speaks for itself. Intervenor-Defendants are otherwise without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

80. To date, other than the emails opening the two matters, Plaintiffs have received no communication, nor any production of documents, regarding the public records requests from the NCSBE.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

81. N.C. Gen. Stat. § 132-1(a) defines a “public record” as: (a) “Public record” or “public records” shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

ANSWER: Paragraph 81 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the cited statute contains the definition set forth in Paragraph 81.

82. The Public Records Act provides that, “[t]he public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people” and “[e]very custodian of public records shall permit any record in the custodian’s custody to be inspected and examined at reasonable times and under reasonable supervision by any person,

and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law.” *Id.* §§ 132-1(b), 132-6(a).

ANSWER: Paragraph 82 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the cited statutes contain the quoted text.

83. Section 44.(d) established that information about persons who have self-reported as noncitizens as an excuse from jury duty is a public record. *See* N.C. Gen. Stat. § 9-6.2(b) (“The list of persons requesting to be disqualified from jury duty due to lack of being a citizen of the United States shall be a public record subject to G.S. 163-82.10(a1).”).

ANSWER: Paragraph 83 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

84. The Public Records Act also provides that any person denied access to public records “may apply to the appropriate division of the General Court of Justice for an order compelling disclosure or copying, and the court shall have jurisdiction to issue such orders if the person has complied with G.S. 7A-38.3E.” *Id.* § 132-9(a).

ANSWER: Paragraph 84 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the cited statute contains the quoted text.

85. Additionally, the Act states that, “[i]n any action brought pursuant to this section in which a party successfully compels the disclosure of public records, the court shall allow a party seeking disclosure of public records who substantially prevails to recover its reasonable attorneys’ fees if attributed to those public records.” *Id.* § 132-9(c).

ANSWER: Paragraph 85 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the cited statute contains the quoted text.

86. The NCSBE is an agency of the North Carolina government.

ANSWER: Intervenor-Defendants admit the allegation.

87. Plaintiffs properly sought production of public records from the NCSBE through their July 10, 2024 correspondence to the NCSBE.

ANSWER: Paragraph 87 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

88. The NCSBE has produced no records in response to Plaintiff's July 10, 2024 correspondence.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

FIRST CLAIM FOR RELIEF

89. Plaintiffs hereby incorporate by reference all paragraphs of this Complaint and re-incorporate those paragraphs as if fully set forth herein.

ANSWER: Intervenor-Defendants incorporate by reference their responses in the preceding and following paragraphs as if fully set forth herein.

90. Plaintiffs bring this claim for declaratory judgment pursuant to N.C. Gen. Stat. § 1-253 et seq. as to the rights, status, or other legal relations between Plaintiffs and Defendants.

ANSWER: Paragraph 90 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

91. NCSBE is an agency created by statute that only has the authority expressly provided to it by the North Carolina General Assembly and the Constitution of the State of North Carolina.

ANSWER: Paragraph 91 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

92. Section 44 added a requirement to North Carolina law that the county clerks of court share with the NCSBE information by which persons who were summoned for jury service self-identified as non-citizens, for the NCSBE to use in determining whether such people were unlawfully registered to vote.

ANSWER: Paragraph 92 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

93. Section 44 took effect on July 1, 2024.

ANSWER: Intervenor-Defendants admit the allegation.

94. Section 44 does not contain an exception allowing the NCSBE to delay implementation until after the November 5, 2024 election.

ANSWER: Paragraph 94 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Intervenor-Defendants deny the allegations.

95. Upon information and belief, the county clerks of court have complied with Section 44 by sending the required information to the NCSBE or are ready, willing, and able to do so upon proper guidance from the NCSBE.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

96. Upon information and belief, the NCSBE is refusing to comply with and implement the requirements of Section 44 prior to the November 5, 2024 election.

ANSWER: Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

97. Plaintiffs believe that the NCSBE must comply with and implement Section 44 immediately – and should have done so starting on July 1, 2024 – so that the NCSBE and county boards of election could have sufficient time to ensure that the safeguards contained in Section 44, ensuring that only self-identified non-citizens are removed, are followed.

ANSWER: Paragraph 97 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

98. An actual, real, presently existing, concrete and justiciable controversy exists between Plaintiffs and Defendants in regard to, among other things, whether the NCSBE must enforce the provisions of Section 44 prior to the November 2024 election.

ANSWER: Paragraph 98 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

99. Further, the NCSBE's actions have harmed and will continue to harm Plaintiffs by improperly restricting statutory rights granted to Plaintiffs by the General Assembly as citizens, voters, participants in the electoral process, and political parties under Chapter 163 of the North Carolina General Statutes.

ANSWER: Paragraph 99 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations.

100. Specifically, Plaintiffs seek a declaratory judgment that:

- a. The NCSBE's failure to implement and comply with Section 44 is in violation of Section 44;
- b. The NCSBE must comply with the provisions of Section 44, in all respects, in conducting the November 2024 election;
- c. In order for Defendants to comply with the requirements of Section 44 prior to the November 5, 2024 election, they must transmit the reports required by N.C. Gen. Stat. § 163-82.14(c1)(b) to the respective county boards of election immediately; and
- d. The Defendants, and the county boards of election they supervise, must expedite compliance with Section 44 given Defendants' delayed compliance to date.

ANSWER: Paragraph 100 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

SECOND CLAIM FOR RELIEF

101. Plaintiffs hereby incorporate by reference all paragraphs of this Compliant and re-incorporate those paragraphs as if fully set forth herein.

ANSWER: Intervenor-Defendants incorporate by reference their responses in the preceding and following paragraphs as if fully set forth herein.

102. Under the North Carolina Public Records Act, “[a]ny person who is denied access to public records for purposes of inspection and examination, or who is denied copies of public records, may apply to the appropriate division of the General Court of Justice for an order compelling disclosure or copying.” N.C. Gen. Stat. § 132- 9(a).

ANSWER: Paragraph 102 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the cited statutes contain the quoted text.

103. Additionally, the court shall allow a party seeking disclosure of public records who substantially prevails to recover its reasonable attorneys’ fees if attributed to those public records.” *Id.* § 132-9(c).

ANSWER: Paragraph 103 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the cited statutes contain the quoted text.

104. Plaintiffs’ Public Records Requests clearly seek documents made or received in connection with the transaction of public business by an agency of North Carolina government.

ANSWER: Paragraph 104 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

105. Specifically, the Public Records Requests sought documents from the NCSBE, which is an agency of North Carolina government.

ANSWER: Paragraph 105 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

106. The Public Records Requests also sought documents concerning NCSBE's HAVA compliance efforts and Section 44 compliance efforts, both of which show efforts (or the lack thereof) by the NCSBE to comply with North Carolina and federal law, which comes under the definition of the "transaction of public business" in N.C. Gen. Stat. § 132-1(a).

ANSWER: Paragraph 106 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations.

107. Accordingly, Plaintiffs are entitled to a judgment compelling disclosure of the documents sought in the Public Records Requests.

ANSWER: Paragraph 107 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court:

1. Enter a Declaratory Judgment that Defendants must immediately comply with the requirements of Section 44 prior to the November 5, 2024 election;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

2. Enter a Declaratory Judgment that, in order for Defendants to comply with the requirements of Section 44 prior to the November 5, 2024 election, they must transmit the reports required by N.C. Gen. Stat. § 163-82.14(c1)(b) to the respective county boards of election immediately;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

3. Enter a Declaratory Judgment that Defendants, and the county boards of election they supervise, must expedite compliance with Section 44 given Defendants' delayed compliance to date;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

4. Set a prompt hearing for the declaratory judgment dispute pursuant to N.C. R Civ. P. 57;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

5. Set the public records dispute for immediate hearing pursuant to N.C. Gen. Stat. § 132-9(a);

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

6. Permit Plaintiffs to take expedited written and deposition discovery regarding Defendants' Section 44 compliance efforts (or lack thereof), the documents sought in the Public Records Requests, and the efforts by Defendants to respond to the Public Records Requests;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

7. Enter an Order requiring Defendants to fully respond to the Public Records Requests within five (5) days;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

8. Issue a preliminary and permanent injunction ordering Defendants to develop, implement, and enforce practices and policies to ensure compliance with Section 44 and the North Carolina Public Records Act;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

9. Issue and preliminary and permanent injunction directing Defendants, under a Court-approved plan including mandatory reporting and monitoring requirements, to take all actions necessary to remedy their violations of Section 44, specifically including expeditiously

seeking and processing the information required to be shared with them by the county clerks of court, sharing the reports with the county boards of election, and facilitating the process for determining whether self-identified non-citizens should remain on North Carolina's registered voter list;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

10. Issue a preliminary and permanent injunction directing Defendants, under a Court-approved plan including mandatory reporting and monitoring requirements, to take all actions necessary to comply with Section 44 going forward, including seeking and processing the information required to be shared with them by the county clerks of court, sharing the reports with the county boards of election, and facilitating the process for determining whether such people should remain on North Carolina's registered voter list;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

11. Enter an Order pursuant to N.C. Gen. Stat. § 132-9, or other applicable law, awarding Plaintiffs their reasonable attorney's fees;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

12. Retain jurisdiction over this matter to ensure Defendants comply with any orders issued by this Court;

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

13. Order a trial by jury on all issues that are triable by jury; and

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

14. Award such other and further relief in Plaintiffs' favor as the Court deems just and proper.

ANSWER: This paragraph constitutes Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to any of the requested relief or any other relief.

GENERAL DENIAL

Intervenor-Defendants deny every allegation in the Complaint that is not expressly admitted herein.

AFFIRMATIVE DEFENSES

Intervenor-Defendants set forth their defenses below. Intervenor-Defendants set forth their affirmative defenses without assuming the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Plaintiffs. Moreover, nothing stated here is intended or shall be construed as an admission that any particular issue or subject matter is relevant to the allegations in the Complaint. Intervenor-Defendants reserve the right to amend or supplement their affirmative defenses as additional facts concerning defenses become known. Intervenor-Defendants allege as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs lack standing to bring their claims.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are not yet ripe.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs fail to state a claim on which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' requested relief violates federal law.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs fail to demonstrate entitlement to equitable relief.

WHEREFORE, Intervenor-Defendants respectfully request that this Court:

1. Deny that Plaintiffs are entitled to any relief;
2. Dismiss the Complaint in its entirety, with prejudice; and
3. Grant such other and further relief as the Court may deem just and proper,

including, but not limited to, an award of Intervenor-Defendants' reasonable costs and attorneys' fees.

Dated: October 22, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the foregoing document on counsel for Plaintiffs and Defendants by electronic mail as follows:

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This the 22nd day of October, 2024.

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