

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
5:24-CV-481

SUSAN JANE HOGARTH, )  
)  
Plaintiff, )  
)  
v. )  
)  
KAREN BRINSON BELL, in her )  
official capacity as Executive Director of )  
the North Carolina State Board of )  
Elections; et al., )  
)  
Defendants. )

**MOTION TO DISMISS IN LIEU OF ANSWER**  
*(Fed.R.Civ.P. 12(b)(1))*

NOW COME the defendants Olivia McCall, in her official capacity as Director of the Wake County Board of Elections (“WCBOE”) (hereinafter “Defendant Director McCall”); Erica Porter, in her official capacity as Chair of the WCBOE (hereinafter “Defendant Chair Porter”); Angela Hawkins, in her official capacity as Secretary of the WCBOE (hereinafter “Defendant Secretary Hawkins”); and Greg Flynn, Gerry Cohen and Keith Weatherly (hereinafter “Defendant Member Flynn” “Defendant Member Cohen” and “Defendant Member Weatherly”), in their official capacities as Members of the WCBOE, (hereinafter collectively referred to as “WCBOE Defendants”), by and through undersigned counsel, and pursuant to Fed.R.Civ.P. 12(b)(1), hereby move the court to dismiss the plaintiff’s Complaint on the grounds that this Court does not have subject matter jurisdiction to hear this matter against the WCBOE Defendants and for the reasons as more particularly set forth in the accompanying Memorandum in Support of Motion to Dismiss in Lieu of Answer filed contemporaneously with this motion.

WHEREFORE, the WCBOE Defendants pray the Court dismiss this action and for such other relief that the Court may deem just.

Respectfully submitted this the 18<sup>th</sup> day of October, 2024.

/s/ Roger A. Askew

Roger A. Askew, NCSB # 18081  
Senior Deputy County Attorney

/s/ Allison P. Cooper

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing **MOTION TO DISMISS IN LIEU OF ANSWER** was electronically filed with the Clerk of Court using the CM/ECF filing system and served via electronic transmission through the Court's CM/ECF system in accordance with Rule 5(b)(2)(D) of the Federal Rules of Civil Procedure and applicable local rules upon the parties of record who participate in the CM/ECF system.

This the 18<sup>th</sup> day of October, 2024.

/s/ Roger A. Askew

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