

No. \_\_\_\_\_

TENTH DISTRICT

NORTH CAROLINA COURT OF APPEALS

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REPUBLICAN NATIONAL )  
COMMITTEE and NORTH )  
CAROLINA REPUBLICAN )  
PARTY, )

Plaintiff )

v. )

NORTH CAROLINA STATE )  
BOARD OF ELECTIONS, )  
ALAN HIRSCH, JEFF )  
CARMON, KEVIN N. LEWIS, )  
SIOBHAN O'DUFFY MILLEN, )  
STACY "FOUR" EGGERS IV, in )  
Official Capacity as Members of )  
NCSBE, and KAREN BRINSON )  
BELL, in Official Capacity as )  
Executive Director of NCSBE, )  
Defendants )

From Wake County  
24CV028888-910

\*\*\*\*\*

**PETITION FOR WRIT OF SUPERSEDEAS  
AND MOTIONS FOR TEMPORARY STAY  
AND TEMPORARY INJUNCTION**

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TO THE HONORABLE NORTH CAROLINA COURT OF APPEALS:

Plaintiffs Republican National Committee and North Carolina Republican Party, pursuant to N.C. R. App. P. 23, respectfully petition this Court to issue its writ of supersedeas and, pursuant to N.C. R. App. P. 23(e), move the Court to enter a temporary stay during the pendency of Plaintiffs' appeal, including temporary injunctive relief pursuant to Court's inherent authority to supervise lower courts, as identified in N.C. R. Civ. P. 62(f).

### **INTRODUCTION**

The General Assembly enacted a detailed statute aimed at preventing electoral fraud by presentation of valid photo voter identification for in-person voting, as required by the Constitution. N.C. Gen. Stat. § 163-166.16(a). The law describes several physical photo voter identification items that a voter can produce to comply. Nowhere in that law, or related ones like N.C. Gen. Stat. §§ 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, or 20-7, did the General Assembly directly describe or indirectly permit the use of electronic forms of photo identification "to confirm the person presenting to vote

is the registered voter on the voter registration records." N.C. Gen. Stat. § 163-166.16(g). The NCSBE knew the law up until 20 August 2024. The NCSBE demonstrated its knowledge when it promulgated Numbered Memo 2023-03 ("NM23-03")<sup>1</sup> on 14 September 2023, and updated it on 23 February 2024. Indeed, the NCSBE stated the law simply:

#### Acceptable Forms of Photo ID

The types of photo ID that are acceptable for voting purposes are listed in N.C.G.S. § 163-166.16(a) and 08 NCAC 17 .0101(a)(1).

1 Is a photocopy of a voter's photo ID, or a picture of their photo ID stored electronically on a mobile device, an acceptable form of photo ID for in-person voting?

**No.** Under N.C.G.S. § 163-166.16, a voter presenting to vote in person must "produce" one of the listed "forms of identification." **An image of a photo ID, either as a photocopy or a photo on a mobile device, is not one of the permitted forms of photo ID when voting in person.** [emphasis added]

In spite of this obvious application of the law for almost a year, the three Democrat members of the NCSBE abruptly reversed course,

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<sup>1</sup> Numbered Memo 2023-03 Photo ID and In-Person Voting.pdf  
<https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numberrmemo/2023/Num>

less than three months before the November presidential election and in the middle of the 2024 election. On 20 August 2024, by a three-two Democrat majority vote, the NCSBE approved allowing precinct workers to rely upon the University of North Carolina's electronic student and employee identification.<sup>2</sup> This UNC electronic identification exists as an electronic record on a computer device. According to the NCSBE, on August 19, an image of a photo ID on a computer device did **NOT** satisfy the law, which requires "a voter shall produce any of the following forms of identification that contain a photograph" to satisfy the voting procedures. But on August 20, that electronic image somehow met the specific requirements of the law. The law never changed. This Court should, respectfully, enjoin the NCSBE from acting outside its statutory authority.

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[bered%20Memo%202023-03%20Photo%20ID%20and%20In-Person%20Voting.pdf](#) (Last visited 9 September 2024.)

<sup>2</sup> [s3.amazonaws.com/dl.ncsbe.gov/State Board Meeting Docs/2024-08-20/State Board of Elections Meeting-20240820.mp4](https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/2024-08-20/State_Board_of_Elections_Meeting-20240820.mp4) (seven to 23 minute. Last visited 9 September 2024.)

## **FACTUAL AND PROCEDURAL BACKGROUND**

The Republican National Committee ("RNC") is the national committee for the Republican Party, representing all registered Republicans across both the state and nation. It serves as the collective voice for the Republican Party's platform. *See* Verified Complaint ("Compl."), at ¶ 2. The RNC expends significant time and resources fighting for election security and voting integrity across the nation, including in North Carolina. Compl. at ¶ 3.

The NCGOP is a state committee of the Republican Party and a political party. Compl. at ¶ 4. The NCGOP represents the interests of registered Republican voters across North Carolina, residing in all 100 counties. *Id.*

The North Carolina State Board of Elections ("NCSBE") is the state agency tasked with "general supervision over primaries and elections of the state... **so long as they do not conflict with any provisions of this Chapter**". N.C. Gen. Stat. § 163-22(a) (emphasis added). NCSBE is supposed to ensure that North Carolina elections comply with all relevant state and federal laws and, in its own words,

“works in conjunction with county boards of elections offices to ensure that elections are conducted lawfully and fairly.”<sup>3</sup> Compl. at ¶ 10.

Defendant Karen Brinson Bell is Executive Director of NCSBE and Chief Election Official. She oversees every election in all 100 counties. Compl. at ¶ 11. Defendant Alan Hirsch is the Chairman of the NCSBE. Compl. at ¶ 12. Defendant Jeff Carmon is the Secretary of the NCSBE. Compl. at ¶ 13. Defendants Stacy Eggers, IV, Kevin Lewis, and Siobhan Millen are all members of NCSBE. Compl. at ¶¶ 14–16.

The General Assembly passes the laws in North Carolina. State agencies must follow, but not amend or deviate from those laws.

Since at least 2020, the laws of North Carolina have required that “[w]hen a registered voter presents to vote in person, the registered voter shall produce any of the following forms of identification that contain a photograph of the registered voter” and then describes several physical forms of identification that satisfy the requirement, including:

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<sup>3</sup> <https://www.ncsbe.gov/about> (Last visited 9 September 2024.)

- 1) Any of the following that is valid and unexpired, or has been expired for one year or less:
  - a. A North Carolina **drivers license**.
  - b. A special identification **card** for nonoperators issued under G.S. 20-37.7 or other form of nontemporary identification issued by the Division of Motor Vehicles of the Department of Transportation.
  - c. A United States **passport**.
  - d. A North Carolina voter photo identification **card** of the registered voter issued pursuant to G.S. 163-82.8A.
  - e. Recodified as sub-subdivision (a)(2)c. of this section by Session Laws 2019-22, s. 1, effective June 3, 2019.
  - f. Reserved.
  - g. A student identification **card** issued by a constituent institution of The University of North Carolina, a community college, as defined in G.S. 115D-2(2), or eligible private postsecondary institution as defined in G.S. 116-280(3), provided that card is issued in accordance with G.S. 163-166.17.
  - h. An employee identification **card** issued by a state or local government entity, including a charter school, provided that card is issued in accordance with G.S. 163-166.18.
  - i. A **drivers license** or special identification **card** for nonoperators issue by another state, the District



of Columbia, or a territory or commonwealth of the United States, but only if the voter's voter registration was within 90 days of the election.

(2) Any of the following, regardless of whether the identification contains a printed expiration or issuance date:

- a. A military identification card issued by the United States government.
- b. A Veterans Identification Card issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities.
- c. A tribal enrollment card issued by a State or federal recognized tribe.
- d. An identification card issued by a department, agency, or entity of the United States government or this State for a government program of public assistance.

(3) Any expired form of identification allowed in this subsection presented by a registered voter having attained the age of 65 years at the time of presentation at the voting place, provided that the identification was unexpired on the registered voter's sixty-fifth birthday.

N.C. Gen. Stat. § 163-166.16(a) (emphasis added). The purpose of the identification required "is to confirm the person presenting to vote is the registered voter on the voter registration records." *Id.* at § 163-166.16(g).

Each of the forms of photo identification permitted by N.C. Gen. Stat. §§ 163-166.16(a), 163-166.17, and 163-166.18—including the student identification cards and employee identification cards at issue in this case—are physical, tangible forms of identification that contain photographs of the person they were issued to. Compl. at ¶¶ 21–46.

In NM23-03, issued on 14 September 2023 and updated on 23 February 2024, NCSBE confirmed that "[u]nder N.C.G.S. § 163-166.16, a voter presenting to vote in person must 'produce' one of the listed 'forms of identification.' An image of a photo ID, either as a photocopy or a photo on a mobile device, is not one of the permitted forms of photo ID when voting in person." See NM23-03; Compl. at ¶ 1. This was the status quo in the 2024 primary election and at all times until one month ago.

On 20 August 2024, NCSBE abandoned its guidance issued in NM23-03, ignored the provisions of N.C. Gen. Stat. §§ 163-166.16, 163-166.17 and 163-166.18, and approved of the use of the University of North Carolina's digital student and employee identification, which

exists as an electronic record on a computer/mobile device, as a proper form of photo identification for in-person voting. Compl. at ¶ 1.

The UNC student or employee electronic photo identification is not one of the forms of photo identification that a registered voter may present when voting in person under N.C. Gen. Stat. § 163-166.16(a) and is far less secure than the forms of permissible photo identification listed in the statute. Compl. ¶¶ 65–91. The UNC student and employee electronic photo identification can be easily manipulated using publicly available mobile applications and is susceptible to being used to commit voter fraud. *See* Aff. of J. Moore. NCSBE has violated N.C. Gen. Stat. §§ 163-166.16, 163-166.17, and 163-166.18 by permitting the use of the UNC student or employee electronic photo identification for in-person voting. Plaintiffs, through this action, seek to enjoin NCSBE from their violations of North Carolina's election laws and to require NCSBE to take immediate action to rectify their violations.

### **Procedural Background**

On 12 September 2024, Plaintiffs filed their Complaint. On the same day, Plaintiffs filed a Motion for Temporary Restraining Order or, in the alternative, Expedited Preliminary Injunction. Thereafter, the Democratic National Committee and Affirmative Action Coalition moved to intervene. On 20 September 2024, the Democratic National Committee was permitted to intervene by order of the Court.

On 19 September 2024, the Motion for TRO was heard before the Honorable Keith Gregory and was denied orally. On 20 September 2024, Judge Gregory issued his written order denying the Motion for TRO ("Order").

Plaintiffs filed their Notice of Appeal with the trial court on 20 September 2024.<sup>4</sup> Given the looming start of early in-person

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<sup>4</sup> Plaintiffs have a right to an immediate, interlocutory appeal, as this appeal affects a substantial right under N.C. Gen. Stat. § 7A-27 that would be lost without immediate review. A substantial rights analysis includes determining whether injury will occur, or the right will be lost, if not immediately appealed. *Goldston v. American Motors Corp.*, 326 N.C. 723, 726, 392 S.E.2d 735, 736 (1990). Plaintiffs' rights to protect the integrity of voter identification and the 2024 general election will be lost without immediate review. Moreover, the North Carolina Supreme Court has recognized, "The right to vote is one of the most cherished rights in our system of government, enshrined in both our Federal and State Constitutions." *Blankenship v. Bartlett*, 363 N.C. 518, 522, 681 S.E.2d 759, 762 (2009) (citing N.C. Const. art. I, §§ 9, 10, 11); *see also Wesberry v. Sanders*, 376 U.S. 1, 17, 84 S.Ct. 526, 535, 11 L. Ed. 2d 481, 492 (1964) ("No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined."). The right to vote is jeopardized by the risk of election fraud, even if caused by one fraudulent voter manipulating an electronic ID. The right to protect the integrity of every North Carolinian's valid vote additionally makes this interlocutory appeal proper.

voting on 17 October 2024 (merely weeks away), and the need to train poll workers and other election officials on applicable law on voter identification before early in-person voting starts, Plaintiffs file this Petition to preserve the status quo that existed during the 2024 primary election and for more than a year – i.e., to halt NCSBE from further communicating to voters and election workers that the electronic UNC ID is an acceptable form of voter photo identification and to halt voters from using the electronic UNC ID to confirm their identity while voting in person – until this appeal can be heard. Accordingly, a writ of supersedeas should be issued.

### **REASONS WHY THIS WRIT SHOULD ISSUE**

#### **I. A STAY AND INJUNCTIVE RELIEF IS NECESSARY TO PRESERVE THE STATUS QUO, AVOID IRREPARABLE HARM TO PLAINTIFFS AND THE VOTERS WHO CAST BALLOTS CONSISTENT WITH NORTH CAROLINA LAW AND TO PROTECT PLAINTIFFS' RIGHT TO A MEANINGFUL APPEAL.**

The purpose of a writ of supersedeas is "to preserve the status quo pending the exercise of the appellate court's jurisdiction" and "is issued only to hold the matter in abeyance pending review." *City of New Bern v. Walker*, 255 N.C. 355, 356, 121 S.E.2d 544, 545-46

(1961). A writ of supersedeas is available "to stay the . . . enforcement of any . . . order, or other determination of a trial tribunal which is not automatically stayed by the taking of appeal when an appeal has been taken . . . ." N.C. R. App. P. 23(a)(1); *see also* N.C. Gen. Stat. § 1-269 (authorizing the writ of supersedeas). A petitioner may apply to the Court of Appeals for a writ of supersedeas after "a stay order or entry has been sought by the applicant . . . by motion in the trial tribunal and such order or entry has been denied . . . by the trial tribunal" or where "extraordinary circumstances make it impracticable to obtain a stay by deposit of security or by application to the trial tribunal for a stay order." N.C. R. App. P. 23(a). "The writ of supersedeas may issue in the exercise of, and as ancillary to, the revising power of an appellate court," and the writ's purpose "is to preserve the status quo pending the exercise of appellate jurisdiction." *Craver v. Craver*, 298 N.C. 231, 23738, 258 S.E.2d 357, 362 (1979); *see also City of New Bern v. Walker*, 255 N.C. 355, 121 S.E.2d 544, 545-46 (1961).

In this case, a writ of supersedeas is proper because (1) the trial court's denial of Plaintiff's Motion for TRO amounts to the denial of a motion to stay and, in addition, there are extraordinary circumstances that make it impracticable to further seek a stay and (2) it is in the interests of justice to preserve the status quo that existed throughout the 2024 election, including candidate filing and the primary, and prior to the NCSBE's abrupt 20 August 2024 decision to allow electronic voter identification, during the pendency of this appeal.

*First*, in the Motion for TRO or, in the alternative, Expedited Preliminary Injunction, Plaintiffs sought to restrain Defendants from permitting the use of the UNC student or employee electronic photo identification. The Court denied the Motion and made clear during the hearing that it did not believe NCSBE engaged in unlawful conduct by authorizing the use of the UNC student or employee electronic photo identification as a voter photo identification. Its decision amounts to a denial of a stay restraining NCSBE from engaging in the conduct Plaintiffs claim is unlawful. Moreover, given

the trial court's decision and comments from the bench, seeking a stay/further requesting that Defendants be enjoined would be futile, as it would be seeking the same relief. Further, given the exigencies of this election integrity issue, the need for poll workers and election officials to be trained on proper legal requirements, and the pending October 17 deadline for in-person voting, extraordinary circumstances make it impracticable to obtain a stay by other means.

*Second*, the issuance of the writ is proper to preserve the status quo that was in existence throughout the 2024 election, including candidate filing and primary, and at all times relevant prior to a few weeks ago, as to the voter identification that is acceptable for a ballot to be cast, which is a physical card. This status quo has been in existence since voter identification became effective in the State of North Carolina, and it was only changed within the past few weeks by the NCSBE voting to accept the UNC student or employee electronic photo identification as a proper form of voter identification. A physical card was required in the 2024 primary, so the status quo in this 2024 election has been that physical cards are required. In



fact, the status quo during the 2024 primary, and all times in the past, has been that no such forms of electronic identification have been accepted. Specifically, no ballots have been accepted or tabulated using the improper electronic voter identification at any time in the past, including the 2024 primary election. Because of the substantial rights implicated and the potential harm facing voters should this improper voter identification be allowed, the status quo of keeping the requirement for physical identification cards should remain while this Court reviews and addresses the Order. Unless a writ of supersedeas is issued, the NCSBE will continue to communicate that the electronic voter photo identification that Plaintiffs challenge is acceptable and will likely communicate this to poll workers and other election officials in advance of in-person voting. By refusing to grant the Petition and provide injunctive relief, the Order would upend the status quo for this 2024 election to allow an improper means of voter identification to be accepted, jeopardizing the validity of the 2024 election and disenfranchising voters throughout the State of North Carolina.

## II. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS.

Plaintiffs are likely to succeed on the merits of their claim that NCSBE has violated N.C. Gen. Stat. §§ 163-166.16, 163-166.17, and 163-166.18 by unlawfully authorizing the use of UNC student or employee electronic photo identification to confirm voter identity as (1) none of the aforementioned statutes allows the use of an electronic student or employee photo identification for the purpose of confirming voter identity and (2) NCSBE has no authority to enlarge or expand the types of voter photo ID that are acceptable under N.C. Gen. Stat. § 163-166.16.

### A. N.C. Gen. Stat. §§ 163-166.16, 163-166.17, and 163-166.18 Do Not Allow the Use of Electronic Student or Employee ID

The plain language of N.C. Gen. Stat. § 163-166.16(a)(1)g. permits that a "student identification card" issued by an approved institution is an acceptable form of photo identification to be used during in-person voting in North Carolina. N.C. Gen. Stat. § 163-166.17, itself entitled "Approval of student identification cards for voting identification," speaks of physical student identification

"cards" securely "produce[d]" using protected "equipment" and "issued" by qualifying universities, colleges, and postsecondary institutions. Likewise, N.C. Gen. Stat. § 163-166.18, entitled "Approval of employee identification cards for voting identification," speaks of physical employee identification cards "produc[ed]" using secure "equipment" and "issued" to qualifying employees. The need for equipment to produce the student and employee identification cards necessarily implies the production of a physical, tangible identification card. See N.C. Gen. Stat. § 163-166.17(a)(1)c.; N.C. Gen. Stat. § 163-166.18(a)(1)c. All of N.C. Gen. Stat. § 163-166.16, N.C. Gen. Stat. § 163-166.17, and N.C. Gen. Stat. § 163-166.18 speak only of physical student or employee identification "cards."

Card does not mean an electronically stored document accessed on a computer device using a computer system. Card means card. Card is commonly defined to mean a flat rectangular piece of material such as paper, cardboard, or plastic. *E.g.*, [www.merriam-webster.com/dictionary/card](http://www.merriam-webster.com/dictionary/card) (Last visited 9 September 2024); [www.dictionary.com/browse/card](http://www.dictionary.com/browse/card) (Last visited 9 September 2024);

<https://dictionary.cambridge.org/dictionary/english/card> (Last visited 9 September 2024). Nowhere in N.C. Gen. Stat. §§ 163-166.16(a), 163-166.17, 163-166.18 or in any related laws did the General Assembly permit the use of electronic forms of photo identification to be used "to confirm the person presenting to vote is the registered voter on the voter registration records." N.C. Gen. Stat. § 163-166.16(g). The definition of "card" in this section of the statute must have the same definition of "card" in other sections of the elections statute.

"Ordinarily it is reasonable to presume that words used in one place in the statute have the same meaning in every other place in the statute." *Campbell v. First Baptist Church of City of Durham*, 298 N.C. 476, 483 (1979). Thus, the requirement of a physical, tangible card applies to student identification cards.

NCSBE's approval of the use of the UNC student or employee electronic photo identification is thus contrary to law and exceeds NCSBE's legal authority.

**B. NCSBE Has No Power to Promulgate Rules or Regulations that Alter or Add to the Law**

"An administrative agency has no power to promulgate rules and regulations which alter or add to the law it was set up to administer or which have the effect of substantive law." *State ex rel. Com'r of Ins. v. Integon Life Ins. Co.*, 28 N.C. App. 7, 11, 220 S.E.2d 409, 412 (1975). Therefore, NCSBE has no authority to enlarge the types of acceptable voter photo identification under N.C. Gen. Stat. § 163-166.16 *et seq.* to include the UNC student or employee electronic photo identification. Its attempt to do so is unlawful and is likely to result in non-eligible voters voting in North Carolina and will call into question the integrity of the upcoming elections. The UNC student and employee electronic photo identification can be easily manipulated using publicly available mobile applications and is susceptible to being used to commit voter fraud. *See* Aff. of J. Moore. NCSBE's unilateral decision to act as a law maker and extend the scope of N.C. Gen. Stat. § 163-166.16 is unlawful, unprecedented, and dangerous, especially at a time when election integrity is being called into question nationwide.

The NCSBE should be prohibited from extending the scope of N.C. Gen. Stat. § 163-166.16(a) to permit the use of the UNC student or employee electronic photo identification for purposes of voter identification and should be required to rescind or delete all formal memos or communications that state or imply that a County Board of Elections or precinct official may accept a UNC student or employee electronic photo identification. This is the relief sought in the Complaint and that Plaintiffs have a likelihood of success to receive in this action, and this Petition should be granted until the treatment of those issues in the Order can be reviewed by this Court.

**C. The Trial Court Incorrectly Determined that Plaintiffs Lacked Standing.**

Contrary to the trial court's conclusion, Plaintiffs have standing to challenge the NCSBE's unlawful action. Relying on N.C. Gen. Stat. § 150B-46, the trial court determined that Plaintiffs were not "aggrieved parties" with standing to challenge an administrative decision, as that term is defined under § 150B-2.

Plaintiffs do not seek to challenge the NCSBE's decision in a contested case decision. Rather, Plaintiffs sought a declaratory judgment under N.C. Gen. Stat. § 1-253. A declaratory judgment "should issue (1) when [it] will serve a useful purpose in clarifying and settling the legal relations at issue, and (2) when it will terminate and afford relief from the uncertainty, insecurity and controversy giving rise to the proceeding." *Augur v. Augur*, 356 N.C. 582, 588, 573 S.E.2d 125, 130 (2002) (alteration in original). Plaintiffs sought a declaratory judgment to "clarify[]" and "settle[]" an "uncertain[]" legal issue: whether UNC's digital IDs are "cards," as that term is used in the relevant statutes.

Plaintiffs have standing to seek a declaratory judgment. "[W]here the Legislature has created a statutory cause of action, so long as the plaintiff falls in the class of persons on which the statute confers the right, the courts will hear her claim." *Comm. to Elect Dan Forest v. Employees Political Action Comm.*, 376 N.C. 558, 597, 853 S.E.2d 698, 726 (2021). The General Assembly has the power to "create . . . 'standingless' causes of action based upon purely public

rights." *Id.* The declaratory judgment act is such a cause of action. Plaintiffs and NCSBE have a concrete dispute about the use of digital identification that is ripe for adjudication.

Moreover, it is well-established that political parties and candidates suffer a cognizable legal injury when "forced to participate in an 'illegally structure[d] competitive environment.'" *Mecinas v. Hobbs*, 30 F.4th 890, 898 (9th Cir. 2022) (quoting *Shays v. FEC*, 414 F.3d 76, 87 (D.C. Cir. 2005)). Assuming Plaintiffs are correct on the merits, which this Court must do for purposes of assessing standing, they would be forced to compete in an illegal competitive environment in which voters may present unlawful identification to satisfy the state's voter ID law and thereby cast a ballot without presenting proper identification.

Plaintiffs thus have standing.

**MOTION FOR TEMPORARY STAY  
AND TEMPORARY INJUNCTION**

Pursuant to N.C. R. App. P. 23(e) and the Court's inherent authority to supervise lower courts, as identified in N.C. R. Civ. P. 62(f), Plaintiffs respectfully move this Court to (a) issue a temporary



stay of the trial court's 20 September 2024 Order, and (b) grant a temporary injunction halting all acceptance of any electronic voter identification for the purpose of casting a ballot. Plaintiffs further incorporate and rely on the arguments presented in the foregoing petition for writ of supersedeas in support of this Motion for Temporary Stay and Temporary Injunction.

### **CONCLUSION**

For the foregoing reasons, Plaintiffs respectfully pray that this Court:

1. Issue its Writ of Supersedeas to the Superior Court of Wake County staying enforcement of the 20 September 2024 Order and stopping the use of electronic photo identification in the 2024 general election pending this Court's review and determination of Plaintiffs' appeal of the Order.
2. Issue an Order granting Plaintiff's Motion for a Temporary Stay and Temporary Injunction pending this Court's consideration of the foregoing Petition for Writ of Supersedeas.
3. Grant Plaintiffs such other relief as this Court may deem proper.

This the 20th day of September, 2024.

/s/ W. Ellis Boyle

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing **PETITION FOR WRIT OF SUPERSEDEAS AND MOTIONS FOR TEMPORARY STAY AND TEMPORARY INJUNCTION** in accordance with Appellate Rule 26(c)::

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## ATTACHMENTS

Attached to this Petition for Writ of Supersedeas and Motions for Temporary Stay are copies of the following documents from the trial court record:

- Exhibit A      Verified Complaint, filed 12 September 2024
- Exhibit B      Motion for Temporary Restraining Order or, in the alternative, Expedited Preliminary Injunction, dated 12 September 2024
- Exhibit C      Summonses to (i) North Carolina State Board of Elections; (ii) Karen Brunson Bell, in her official capacity as Executive Director of the North Carolina State Board of Elections; (iii) Alan Hirsch, in his official capacity as Chair of the North Carolina State Board of Elections; (iv) Jeff Carmon, in his official capacity as Secretary of the North Carolina State Board of Elections; (v) Stacy Eggers IV, (vi) Kevin N. Lewis, and (vii) Siobhan O'Duffy Millen, in their official capacities as members of the North Carolina State Board of Elections, all issued 12 September 2024
- Exhibit D      Acceptance of Service, filed 18 September 2024
- Exhibit E      Unopposed Order on Motion to Intervene by Democratic National Committee, filed 20 September 2024
- Exhibit F      Certified copy of Order on Plaintiff's Motion for Temporary Restraining Order and, in the Alternative, an Expedited Preliminary Injunction, filed 20 September 2024

- Exhibit G      Plaintiff's Notice of Appeal, filed 20 September 2024  
(file-stamped version not available at time of filing of  
Petition)
- Exhibit H      Affidavit of Jeffrey Moore, submitted 19 September  
2024

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# EXHIBIT

A

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STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

WAKE COUNTY

NO. \_\_\_\_\_

REPUBLICAN NATIONAL COMMITTEE and  
NORTH CAROLINA REPUBLICAN PARTY,*Plaintiffs,*

v.

**VERIFIED COMPLAINT**NORTH CAROLINA STATE BOARD OF  
ELECTIONS, ALAN HIRSCH, JEFF  
CARMON, KEVIN N. LEWIS, SIOBHAN  
O'DUFFY MILLEN, STACY "FOUR" EGGERS  
IV, in Official Capacity as Members of NCSBE,  
and KAREN BRINSON BELL, in Official  
Capacity as Executive Director of NCSBE,*Defendants.*

Pursuant to Rules 3, 38, 57, and 65 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. §§ 1-253, et seq., 150B-43, et seq., and 163-166.16, et seq., Plaintiffs file this Complaint against Defendants seeking declaratory and injunctive relief as follows:

**INTRODUCTION**

1. The General Assembly enacted a detailed statute aimed at preventing electoral fraud by presentation of valid photo voter identification for in-person voting, as required by the Constitution. N.C. Gen. Stat. § 163-166.16(a). The law describes several physical photo voter identification items that a voter can produce to comply. Nowhere in that law, or related ones like N.C. Gen. Stat. §§ 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, or 20-7, did the General Assembly directly describe or indirectly permit the use of electronic forms of photo identification "to confirm the person presenting to vote is the registered voter on the voter registration records." N.C. Gen. Stat. § 163-166.16(g). The NCSBE knew the law up until August 19, 2024. It

promulgated Numbered Memo 2023-03 ("NM23-03")<sup>1</sup> on September 14, 2023, and updated it on February 23, 2024. Indeed, the NCSBE stated the law simply:

#### Acceptable Forms of Photo ID

The types of photo ID that are acceptable for voting purposes are listed in N.C.G.S. § 163-166.16(a) and 08 NCAC 17 .0101(a)(1).

1 Is a photocopy of a voter's photo ID, or a picture of their photo ID stored electronically on a mobile device, an acceptable form of photo ID for in-person voting?

**No.** Under N.C.G.S. § 163-166.16, a voter presenting to vote in person must "produce" one of the listed "forms of identification." **An image of a photo ID, either as a photocopy or a photo on a mobile device, is not one of the permitted forms of photo ID when voting in person.** [emphasis added]

In spite of this obvious application of the law for almost a year, the three Democrat members of the NCSBE abruptly reversed course, less than three months before the November presidential election. On August 20, 2024, by a three-two Democrat majority vote, the NCSBE approved allowing precinct workers to rely upon the University of North Carolina Chapel Hill's digital student and employee identification.<sup>2</sup> This UNC digital identification exists as an electronic record on a computer device. According to the NCSBE, on August 19, an image of a photo ID on a computer device did **NOT** satisfy the law requiring "a voter shall produce any of the following forms of identification that contain a photograph" to satisfy the voting procedures and vote. But on August 20, that somehow met the specific requirements of the law. The law never changed. The Court should, respectfully, curb the NCSBE from acting outside its statutory authority.

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<sup>1</sup> [Numbered Memo 2023-03 Photo ID and In-Person Voting.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2023/Numbered%20Memo%202023-03%20Photo%20ID%20and%20In-Person%20Voting.pdf)  
<https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2023/Numbered%20Memo%202023-03%20Photo%20ID%20and%20In-Person%20Voting.pdf> (Last visited September 9, 2024.)

<sup>2</sup> [s3.amazonaws.com/dl.ncsbe.gov/State\\_Board\\_Meeting\\_Docs/2024-08-20/State Board of Elections Meeting-20240820.mp4](https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/2024-08-20/State_Board_of_Elections_Meeting-20240820.mp4) (seven to 23 minute. Last visited September 9, 2024.)

## **PARTIES, JURISDICTION & VENUE**

2. The Republican National Committee (“RNC”) is the national committee for the Republican Party, representing all registered Republicans across both the state and nation. It serves as the collective voice for the Republican Party’s platform. It is the national committee of the Republican Party, as defined by 52 U.S.C. § 30101(14), and a political party, as defined in Article 9 of Chapter 163 of the North Carolina General Statutes, to include N.C. Gen. Stat. § 163-96.

3. Part of the RNC’s core mission involves organizing lawful voters and encouraging them to support Republican candidates at all levels of government, including throughout North Carolina. The RNC expends significant time and resources fighting for election security and voting integrity across the nation, including in North Carolina. These efforts are intended to ensure that the votes and voices of its members, its candidates, the party, and, truly, all eligible voters who vote regardless of party or affiliation, are not silenced or diluted in any way. Preventing unqualified persons from voting, or seeking to vote, in elections has forced the RNC to divert its efforts and funds in order to hold elections officials accountable to requirements of state law.

4. The NCGOP is a state committee of the Republican Party, as defined by 52 U.S.C. § 30101(15), and a political party, as defined in Article 9 of Chapter 163 of the North Carolina General Statutes to include by N.C. Gen. Stat. § 163-96. The NCGOP represents the interests of registered Republican voters across North Carolina, residing in all 100 counties. The NCGOP also advocates for the interests of thousands, if not millions, of non-affiliated voters who align with various aspects of the Republican Party platform.

5. The NCGOP’s mission and platform overlap with that of the RNC, including an emphasis on election integrity and security. The NCGOP’s core mission ranges from counseling interested voters and volunteers on election participation, hosting candidate and voter registration

events, staffing voting protection hotlines, investigating reports of voter fraud and disenfranchisement, and providing election day volunteers in all 100 counties across North Carolina. The NCGOP spends much time and effort advocating for its members throughout all levels of state government, working to ensure they are heard at the ballot box and beyond.

6. Plaintiffs RNC and NCGOP have organizational standing to bring this action. Defendants' actions and inaction directly impact their core organizational missions of election security and providing services aimed at promoting Republican voter engagement and electing Republican candidates to office. These Plaintiffs have a strong interest in a legally structured competitive campaign environment in which their candidates compete for votes and their voters cast ballots.

7. Defendants' violations of state law have forced these Plaintiffs to divert significant attention and resources into combatting election fraud in North Carolina. Plaintiffs' organizational and voter outreach efforts have been, and will continue to be, significantly frustrated by Defendants' ongoing violations. As a result, Plaintiffs have no choice but to expend otherwise focused time and money, beyond what they should need to spend under normal circumstances, to combat this unwarranted interference with their central activities. For example, because of Defendants' violations of state law, Plaintiffs will need to commit added time and resources into monitoring North Carolina's voter activity and responding to instances of potential voter fraud in upcoming elections, tasks Defendants should already perform under state and federal law.

8. Additionally, NCGOP has associational standing because its members have standing in their own right to challenge Defendants' actions here. NCGOP represents millions of registered Republican voters across North Carolina, including, as a matter of public record, at least one registered Republican voter in all 100 counties. These unlawful voter identification processes

and state law violations harm NCGOP's members. Defendants' statutory violations dilute these members' votes when any one ineligible voter votes illegally in an 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 central to the NCGOP's organizational mission.

9. Defendants' refusal to ensure legal voting procedures risks allowing fraudulent votes and inaccurate election results, causing Plaintiffs and their members harm in their ability to effectively compete in elections across the State. Considering the fact that North Carolina is a two party-based system, this harm is especially profound. Recently, a state-wide election came down to about 400 votes separating one party's candidate from the other. Many local elections have been even closer. Verifying the accuracy of each vote is crucial.

10. The North Carolina State Board of Elections ("NCSBE") is the state agency tasked with "general supervision over primaries and elections of the state... **so long as they do not conflict with any provisions of this Chapter.**" N.C. Gen. Stat. § 163-22(a)(emphasis added.). NCSBE should ensure that North Carolina elections comply with all relevant state and federal laws and, in its own words, "works in conjunction with county boards of elections offices to ensure that elections are conducted lawfully and fairly."<sup>3</sup>

11. Karen Brinson Bell is Executive Director of NCSBE and "Chief Election Official," as defined by N.C. Gen. Stat. § 163-82.2. She oversees every election in all 100 counties. *See* N.C. Gen. Stat. § 163-27(d). Director Bell resides in North Carolina and is sued in her official capacity.

12. Alan Hirsch is the Chairman of NCSBE, resides in Chapel Hill, North Carolina, and is sued in his official capacity.

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<sup>3</sup> <https://www.ncsbe.gov/about> (Last visited September 9, 2024.)

13. Jeff Carmon is the Secretary of NCSBE, resides in Snow Hill, North Carolina, and is sued in his official capacity.

14. Stacy Eggers, IV is a member of NCSBE, resides in Boone, North Carolina, and is sued in his official capacity.

15. Kevin Lewis is a member of NCSBE, resides in Rocky Mount, North Carolina, and is sued in his official capacity.

16. Siobhan Millen is a member of NCSBE, resides in Raleigh, North Carolina, and is sued in her official capacity.

### **JURISDICTION AND VENUE**

17. This Court has jurisdiction over the claims asserted pursuant to N.C. Gen. Stat. §§ 1-253, et seq., N.C. Gen. Stat. § 7A-245, and N.C. Gen. Stat. §§ 150B-43, et seq.

18. This Court has personal jurisdiction over NCSBE, as it is a state agency in North Carolina and over Director Bell, Chairman Hirsch, Secretary Carmon, Mr. Eggers, Mr. Lewis, and Mrs. Millen, as each is sued in their official capacities and are citizens residing in North Carolina.

19. Venue is proper in this court pursuant to N.C. Gen. Stat. §§ 163-22(l) and 1-82.

### **FACTUAL ALLEGATIONS**

20. The General Assembly passes the laws in North Carolina. State agencies must follow, but not amend or deviate from those laws.

#### **I. What the Law Actually Says.**

21. Since at least 2020, the laws of North Carolina have codified the Constitution to require that "When a registered voter presents to vote in person, the registered voter shall produce any of the following forms of identification that contain a photograph of the registered voter" and then describes several physical items that satisfy the requirement. N.C. Gen. Stat. § 163-166.16(a).

22. These physical, tangible items include passports, drivers licenses, photo identification cards for non drivers, registered voter identification cards, military identification cards, veterans identification cards, and tribal enrollment cards, amongst other items:

- 1) Any of the following that is valid and unexpired, or has been expired for one year or less:
  - a. A North Carolina **drivers license**.
  - b. A special identification **card** for nonoperators issued under G.S. 20-37.7 or other form of nontemporary identification issued by the Division of Motor Vehicles of the Department of Transportation.
  - c. A United States **passport**.
  - d. A North Carolina voter photo identification **card** of the registered voter issued pursuant to G.S. 163-82.8A.
  - e. Recodified as sub-subdivision (a)(2)c. of this section by Session Laws 2019-22, s. 1, effective June 3, 2019.
  - f. Reserved.
  - g. A student identification **card** issued by a constituent institution of The University of North Carolina, a community college, as defined in G.S. 115D-2(2), or eligible private postsecondary institution as defined in G.S. 116-280(3), provided that card is issued in accordance with G.S. 163-166.17.
  - h. An employee identification **card** issued by a state or local government entity, including a charter school, provided that card is issued in accordance with G.S. 163-166.18.
  - i. A **drivers license** or special identification **card** for nonoperators issue by another state, the District of Columbia, or a territory or commonwealth of the United States, but only if the voter's voter registration was within 90 days of the election.
- (2) Any of the following, regardless of whether the identification contains a printed expiration or issuance date:

- a. A military identification card issued by the United States government.
  - b. A Veterans Identification Card issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities.
  - c. A tribal enrollment card issued by a State or federal recognized tribe.
  - d. An identification card issued by a department, agency, or entity of the United States government or this State for a government program of public assistance.
- (3) Any expired form of identification allowed in this subsection presented by a registered voter having attained the age of 65 years at the time of presentation at the voting place, provided that the identification was unexpired on the registered voter's sixty-fifth birthday.

N.C. Gen. Stat. § 163-166.16(a) (emphasis added).

23. Defendants are required to enact rules and procedures that comply with this law. Every single item in subsections (a)(1-3) are physical, tangible cards, drivers licenses, or passports. All of them can be held in a person's hand and examined for what it is physically.

24. Another law requires a voter to present photo identification in accordance with N.C. Gen. Stat. § 163-166.16 when the voter enters the voting enclosure, and the precinct official examines the voter to ensure that the voter is registered and eligible to vote. N.C. Gen. Stat. § 163-166.7(a).

25. "After presentation of the required identification described in subsection (a) of this section, the precinct officials assigned to check registration shall compare the photograph contained on the required identification with the person presenting to vote. The precinct official shall verify that the photograph is that of the person seeking to vote." N.C. Gen. Stat. § 163-166.16(b).



26. "The purpose of the identification required pursuant to subsection (a) of this section is to confirm the person presenting to vote is the registered voter on the voter registration records." N.C. Gen. Stat. § 163-166.16(g). The law on this topic is not superfluous or subject to creative interpretation by the NCSBE. It is deliberate, comprehensive, and clear.

***A. Other Forms of Voter Photo Identification Under the Laws.***

27. A North Carolina drivers license, as described as an acceptable form of voter identification in N.C. Gen. Stat. § 163-166.16(a)(1)(a), is a physical object as described by law:

(n) Format. – A drivers license issued by the Division must be tamperproof and must contain all of the following information: (1) An identification of this State as the issuer of the license. (2) The license holder's full name. (3) The license holder's residence address. (4) A color photograph of the license holder applied to material that is measured by the industry standard of security and durability and is resistant to tampering and reproduction. (5) A physical description of the license holder, including sex, height, eye color, and hair color. (6) The license holder's date of birth. (7) An identifying number for the license holder assigned by the Division. The identifying number may not be the license holder's social security number (8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply. (9) The license holder's signature. (10) The date the license was issued and the date the license expires. The Commissioner shall ensure that applicants 21 years old or older are issued drivers licenses and special identification cards that are printed in a horizontal format. The Commissioner shall ensure that applicants under the age of 21 are issued drivers licenses and special identification cards that are printed in a vertical format, that distinguishes them from the horizontal format, for ease of identification of individuals under age 21 by members of industries that regulate controlled products that are sale restricted by age and law enforcement officers enforcing these laws. At the request of an applicant for a drivers license, a license issued to the applicant must contain the applicant's race, which shall be designated with the letters "AI" for an applicant who is American Indian.

NC Gen. Stat. s 20-7(n). It is produced as a physical card made of plastic in a centralized location and that actual piece of plastic is mailed out to the citizens:

License to be sent by mail. – The Division shall issue to the applicant a temporary driving certificate valid for 60 days, unless the applicant is applying for renewal by mail under subdivision (4) of this subsection. The

temporary driving certificate shall be valid for driving purposes and shall not be valid for identification purposes, except when conducting business with the Division and not otherwise prohibited by federal law. The Division shall produce the applicant's drivers license at a central location and send it to the applicant by first-class mail at the residence address provided by the applicant, unless the applicant is ineligible for mail delivery by the United States Postal Service at the applicant's residence. If the United States Postal Service documents that it does not deliver to the residential address provided by the applicant, and the Division has verified the applicant's residential address by other means, the Division may mail the drivers license to the post office box provided by the applicant. Applicants whose only mailing address prior to July 1, 2008, was a post office box in this State may continue to receive their license at that post office box, provided the applicant's residential address has been verified by the Division.

NC Gen. Stat. § 20-7(f)(3b)(5).

28. A United States passport, as described as an acceptable form of voter identification in N.C. Gen. Stat. § 163-166.16(c), is a physical object that can be held in a person's hands.

29. As defined in the relevant part by Merriam-Websters Dictionary, a "card" is: "a flat stiff usually small and rectangular piece of material (such as paper, cardboard, or plastic) usually bearing information." *See* [www.merriam-webster.com/dictionary/card](http://www.merriam-webster.com/dictionary/card) (Last visited September 9, 2024.)

30. The first definition of "card" on Dictionary.com is: "a usually rectangular piece of stiff paper, thin pasteboard, or plastic for various uses, as to write information on or printed as a means of identifying the holder." *See* [www.dictionary.com/browse/card](http://www.dictionary.com/browse/card) (Last visited September 9, 2024.)

31. The first definition of "card" on the Cambridge online dictionary is: "a small, rectangular piece of card or plastic, often with your signature, photograph, or other information proving who you are, that allows you to do something, such as make a payment, get money from a bank, or enter a particular place." *See* <https://dictionary.cambridge.org/dictionary/english/card> (Last visited September 9, 2024.)

32. By all appreciable normal definition and parlance of the day, a card means a physical, tangible item that can be held in a person's hands and inspected.

33. A special identification card, as described as an acceptable form of voter identification in N.C. Gen. Stat. § 163-166.16(b), is a physical object as described by law: "A special identification card shall include a color photograph of the special identification card holder and shall be similar in size, shape, and design to a drivers license, but shall clearly state that it does not entitle the person to whom it is issued to operate a motor vehicle. A special identification card issued to an applicant must have the same background color that a drivers license issued to the applicant would have." N.C. Gen. Stat. § 20-37.7(c). It is basically the same as a physical, tangible drivers license, just without the permission to drive a vehicle.

34. A voter photo identification card, as described as an acceptable form of voter identification in N.C. Gen. Stat. § 163-166.16(d), is a physical object as described by law: "The county board of elections shall,... issue without charge voter photo identification cards upon request to registered voters. The voter photo identification cards shall contain a photograph of the registered voter." N.C. Gen. Stat. § 163-82.8A(a).

35. The law specifically contemplates that these cards will be printed physically: "The State Board shall make available to county boards of elections the equipment necessary to print voter photo identification cards. County boards of elections shall operate and maintain the equipment necessary to print voter photo identification cards." N.C. Gen. Stat. § 163-82.8A(b). The General Assembly's intent is clear; an electronic identification photo that is stored on a computer device is not printed.

36. Indeed, the statute later describes instances where the voter can get a replacement card: "[i]f the registered voter loses or defaces the voter's photo identification card, the registered

voter may obtain a duplicate card without charge from his or her county board of elections upon request in person, or by telephone or mail." N.C. Gen. Stat. § 163-82.8A(d)(3). The General Assembly's intent is clear: nobody replaces a lost or defaced digitally stored electronic identification that is stored on a computer device. The General Assembly intended photo identification cards to be physical, tangible items.

37. A bit further along, the statute allows that "[i]f a registered voter has a change of name and has updated his or her voter registration to reflect the new name, the registered voter may request and obtain a replacement card from the registered voter's county board of elections." N.C. Gen. Stat. § 163-82.8A(d)(4). If that is handled electronically with the voter's online electronic profile, kept on file at any board of elections office, nobody needs to issue a replacement card. Instead, it would just reflect an updated electronic version on the computer device. Yet again, this shows that the General Assembly intended photo identification cards to be physical, tangible items.

38. Upon information and belief, all of the other forms of photo identification allowed by law under N.C. Gen. Stat. § 163-166.16(a) are physical, tangible items, too, including:

- a. A drivers license or special identification card for nonoperators issued by another state, N.C. Gen. Stat. § 163-166.16(a)(1)(i);
- b. A military identification card issued by the United States government, N.C. Gen. Stat. § 163-166.16(a)(2)(a);
- c. A Veterans Identification Card issued by the United States Department of Veterans Affairs, N.C. Gen. Stat. § 163-166.16(a)(2)(b);
- d. A tribal enrollment card issued by a State or federal recognized tribe, N.C. Gen. Stat. § 163-166.16(a)(2)(c); or
- e. An identification card issued by a department, agency, or entity of the United States government or this State for a government program of public assistance, N.C. Gen. Stat. § 163-166.16(a)(2)(d).

***B. UNC Student and Employee Electronic Identification Documents.***

39. That leaves the final two types of cards the General Assembly described as the only acceptable forms of photo identification: a student identification card, N.C. Gen. Stat. § 163-166.16(a)(2)(g), and an employee identification card, N.C. Gen. Stat. § 163-166.16(a)(2)(h).

40. "The State Board shall approve the use of student identification cards issued by a constituent institution of The University of North Carolina... The identification cards are issued after an enrollment or other process that includes one or more methods of confirming the identity of the student..." N.C. Gen. Stat. § 163-166.17(a)(1)(b).

41. The definition of "card" in this section of the statute must have the same definition of "card" in other sections of the statute. "Ordinarily it is reasonable to presume that words used in one place in the statute have the same meaning in every other place in the statute." Campbell v. First Baptist Church of City of Durham, 298 N.C. 476, 483 (1979). Thus, the requirement of a physical, tangible card applies to student identification cards.

42. Moreover, as with other permissible identification cards, the law contemplates that UNC will have equipment for printing the identification cards and will protect that equipment to prevent misuse of it. N.C. Gen. Stat. § 163-166.17(a)(1)(c, d, & e). Again, the need for equipment implies the production or creation of a physical, tangible identification card, handed or delivered to the student, rather than an electronic or digital image stored on a computer system.

43. Finally, the law requires UNC to provide students with either a hard "copy" or an "electronic link" to voting information. N.C. Gen. Stat. § 163-166.17(a)(1)(h). This shows how the General Assembly well knew how to distinguish between an electronic version versus a tangible, physical version of a document.

44. Accordingly, the law does not allow the NCSBE to expand the circumstances of what is an acceptable student identification card, beyond a tangible, physical item, to something only found on a computer system.

45. The same basic principles apply to the use of an electronic identification document for government employees. "The State Board shall approve the use of employee identification cards issued by a state or local government entity,... The identification cards are issued after an employment application or other process that includes one or more methods of confirming the identity of the employee using information..." N.C. Gen. Stat. § 163-166.18(a)(1)(b). The law requires that an employee identification card is issued, implying that there is a physical, tangible item created and sent to the employee, similar to a drivers license or voter photo identification card.

46. The law contemplates that the employer, in this instance UNC, will have equipment for producing the identification cards and will protect that equipment to prevent misuse of it. N.C. Gen. Stat. § 163-166.17(a)(1)(c, d, & e). Again, the need for equipment necessarily implies the production or creation of a physical, tangible identification card, handed or delivered by mail to the employee. Equipment does not produce a card if it is simply an electronic or digital image stored on a computer system.

#### ***C. NCSBE Administrative Code Regulations on Voter Identification.***

47. In the regulations promulgated by the NCSBE under the North Carolina Administrative Code about Verification of Photo Identification During In-Person Voting, the NCSBE required: "(1) The photo identification is of the type acceptable for voting purposes pursuant to G.S. 163-166.16(a). A valid United States passport book or passport card is acceptable

pursuant to G.S. 163-166.16(a)(1)(c). (2) The photograph appearing on the photo identification bears a reasonable resemblance to the person presenting to vote." 08 NCAC 17 .0101(a)(1, 2).

48. Again, the normal use of the words "photograph appearing *on* the photo identification" implies that it is a physical, tangible item that can be held in the precinct official's hands and inspected.

49. All of these statutory and regulatory definitions and word choices, read *in pari materia*, lead to the inescapable conclusion that electronically stored documents accessed on computer devices do not satisfy the statutory requirements of N.C. Gen. Stat. § 163-166.16(a).

50. Card does not mean an electronically stored document accessed on a computer device using a computer system. Card means card.

## II. What the NCSBE Used to Say.

51. For about a year, the NCSBE did not escape that conclusion. It understood and agreed with the plain language of the law and all of the different components when read together. When it first promulgated NM23-03 on September 14, 2023, and even when it updated NM23-03 on February 23, 2024, the NCSBE understood that electronic identification violated the law as stated on page three:

### Acceptable Forms of Photo ID

The types of photo ID that are acceptable for voting purposes are listed in N.C.G.S. § 163-166.16(a) and 08 NCAC 17 .0101(a)(1).

1 Is a photocopy of a voter's photo ID, or a picture of their photo ID stored electronically on a mobile device, an acceptable form of photo ID for in-person voting?

**No.** Under N.C.G.S. § 163-166.16, a voter presenting to vote in person must "produce" one of the listed "forms of identification." **An image of a photo ID, either as a photocopy or a photo on a mobile device, is not one of the permitted forms of photo ID when voting in person.** [emphasis added]

52. Director Bell promulgated that memo under the limited authority delegated by the NCSBE to the executive director pursuant to G.S. § 163-22(p).

53. Director Bell noted that on page one: "the voter will be asked to show a photo ID during the check-in process. The photo ID shown by the voter must meet certain legal requirements: (1) the ID must be an acceptable type of photo ID." As discussed above, no laws permit an electronic photo identification: card, license, passport, or otherwise.

54. Last modified in 2019, N.C. Gen. Stat. §§ 163-166.17 & 166.18 had been on the books for at least three, if not four, years before Director Bell promulgated NM23-03.

55. The NCSBE and Director Bell had specific knowledge about N.C. Gen. Stat. §§ 163-166.17 & 166.18 when they promulgated NM23-03. On page four, she wrote:

When a student or government-employee ID card is approved by the State Board, does that mean that only those ID cards that are identical to the one submitted with the institution's application for approval can be used for voting?

No. Once an institution's ID has been approved, that institution's ID is acceptable, including ID cards that were issued before the ID was approved, even if those previously issued ID cards differ from the latest version. **Both N.C.G.S. §§ 163-166.17 and 163-166.18 permit the State Board to approve "the use of . . . cards issued by" an institution** if "cards issued during the approval period" comply with the requirements outlined in the statute, including the requirement that the card contain an expiration date. In short, the legislature's intent was to permit an institution's ID card to be used for voting if that institution commits to issuing compliant cards during the approval period. The law is not meant to permit only those cards issued during the approval period to be accepted for voting, thus requiring an institution to replace the already issued ID cards in circulation, in order for their students or employees to be able to use their IDs to vote. Instead, once an institution's ID meets the requirement with respect to the IDs that are to be issued during the approval period, the institution's ID, including cards already issued, are acceptable.

56. Again, the words "ID cards," "issued," and "differing from latest versions" all show that the NCSBE understood it was talking about a physical, tangible item that a person could



hold in her hands and inspect. Indeed, NM23-03 never mentions anything about an electronic version of a photo identification "card" for students or government employees.

57. Later in NM23-03, the NCSBE repeatedly refers to "**the photo on the ID,**" the judge "**examining the photo ID presented,**" and the "**photo ID card issued.**" Again, this shows that Defendants understood the law precisely as it was unambiguously meant to be applied: a physical, tangible item that a person could hold in her hands and inspect.

### III. **The NCSBE's New Story, Two Months Away from a Presidential Election.**

58. While the North Carolina General Assembly delegated certain limited powers to the NCSBE in N.C. Gen. Stat. § 163-22(a), weakening or ignoring voter-fraud and photo identification laws contained in Chapter 163 of the General Statutes was not one of those powers:

The State Board shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable **so long as they do not conflict with any provisions of this Chapter.**

(Emphasis added.)

59. Despite that limited delegation to the NCSBE to enforce the laws as written, at the August 20, 2024, meeting, the NCSBE escaped from its prior, obvious conclusions about the law. The NCSBE voted to change their established position and accept electronic student and employee identification documents from UNC as saved on a computer system and produced to a precinct official on a computer device.

60. Upon information and belief, the NCSBE has taken no action to request or even attempted to have the General Assembly change any of these relevant laws to add an electronic version of photo identification as an acceptable method under N.C. Gen. Stat. §§ 163-166.16, 163-166.17, or 166.18. Nor has it tried to change or add any other law on point, for that matter.

61. Instead, three board members decided that, in their opinion, it would be a good policy to allow precinct officials to use UNC's student and employee electronic identification documents to satisfy the existing terms of N.C. Gen. Stat. §§ 163-166.16, 163-166.17, or 166.18. Those three board members stated, amongst other things, that this law is formalistic and that the dissenting board members raised merely technical issues.

62. Statutory mandates regarding voting processes are, quite literally, technical and meant to be strictly construed, formalistically. "Under no circumstances will the courts follow an administrative interpretation in direct conflict with the clear intent and purpose of the act under consideration." *High Rock Lake Partners, LLC v. N.C. Dep't of Transp.*, 366 N.C. 315, 319, 735 S.E.2d 300, 303 (2012)(citation, quotation marks, and alteration omitted); *see also Riddle v. Cumberland County*, 180 N.C. 321, 326 (1920).

63. Mr. Eggers and Mr. Lewis, the two dissenting board members in the minority, expressed their disagreement with the lawless acts of the NCSBE when it purported to change and expand the law, untethered to the unambiguous words enacted by the General Assembly.

64. While they both voted against the measure, the other three board members voted to enact their opinions about what the law should say, regardless of the existing statutes and the limitations on the NCSBE's statutory authority. Those three board members are welcome to their opinions, and even to take action to change these laws, as permitted by law. But they are not allowed to defy the law as it currently exists and substitute their opinions about what the law should be. If those three board members want to vote in a legislative body to change the laws, they should run for office, get elected, and serve in the General Assembly. However, until the General Assembly passes a law that is enacted and becomes effective, the NCSBE must limit itself to applying the existing law, as it is unambiguously written.

65. There exist many possibilities why using electronically stored voter photo identification may not be a good idea, such as:

- a. It may be easy, or at least easier, to alter an electronic document than a physical, tangible item that a precinct official can hold in her hands and inspect;
- b. It may be difficult for a precinct official to be able to see a screen;
- c. It may be difficult to use if there are network or hardware problems that preclude viewing the electronically stored document;
- d. Can a voter bring in an iPad or a laptop to show the precinct official?; or
- e. What happens if there is a dispute about the reliability or authenticity of the electronic document? Does the voter have to leave the device with precinct officials or elections workers to ensure security of it after it is implicated in potential voter irregularity?

66. The list of potential problems is vast, unknown, and yet to be explored. The answers are best left to the General Assembly to consider, deliberate, and enact.

#### IV. **By Defying the Law, Defendants Place Foundational Election Principles in Jeopardy.**

67. Many states, including North Carolina, confront issues relating to non-citizens and other ineligible persons attempting to register to vote. *See, e.g.,* N.C. Gen. Stat. § 163-82.14(c1).<sup>4</sup>

68. Defendants' unilateral expansion of photo identification before registering and accepting voters at in-person poll sites in contravention of the law could allow hundreds or thousands of ineligible voters to vote in the upcoming November 5, 2024, election and beyond.

69. Upon information and belief, Defendants' violations will allow non-eligible voters to vote in North Carolina, in direct contravention of both state law and the North Carolina Constitution. *See, e.g.,* N.C. Const. art. VI § 2(4) ( Photo identification for voting in person. Voters

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<sup>4</sup> On Wednesday, August 21, 2024, Ohio announced that it had identified at least 597 non-citizens who registered or voted in recent elections or both. A comprehensive statewide audit identified 154,995 ineligible registrants on Ohio's voter rolls. *See* <https://apnews.com/article/ohio-voters-citizenship-referrals-42799a379bdda8bca7201d6c42f99c65> (Last visited September 9, 2024.)

offering to vote in person shall present photographic identification before voting. The General Assembly shall enact general laws governing the requirements of such photographic identification, which may include exceptions.)

70. By allowing ineligible voters to vote, Defendants have brought the integrity and validity of the State's elections into question.

71. Even worse, by refusing to correct their errors, Defendants are willfully ignoring their statutory responsibilities.

72. If Defendants do not require all eligible voters to present statutorily required adequate photo identification pursuant to N.C. Gen. Stat. §§ 163-166(a) and 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, or 20-7, then the legitimate votes of qualified voters will be diluted and disenfranchised in upcoming elections.

73. This reality will, in turn, have a substantial chilling effect on North Carolinians' right to vote in free and fair elections with equal protection under the law. *See* N.C. Const. art. I §§ 10 & 19.

**V. Fixing this Will Not Harm the NCSBE.**

74. Defendants already maintain processes for seeking out additional information from voters who fail to provide necessary photo identification information.

75. Upon information and belief, Defendants' position in NM23-03 remains in effect.

76. Indeed, upon information and belief, no training on accepting a UNC student or employee electronic voter identification has occurred in any local precinct or county board of elections, less than two months away from a presidential election.

77. Thus, any burden on Defendants in terms of time required to correct the erroneous expansion beyond the statutory confines is mitigated by the fact that the NCSBE has done practically nothing to implement their changed position, beyond voting to abrogate the law.

78. Unlike the minimal burden Defendants would face when required to comply with state law, the burden placed on Plaintiffs is palpable. Absent immediate corrective action by Defendants, the significant harm faced by Plaintiffs will only increase. Not only will Plaintiffs' members, and all voters, votes be diluted and disenfranchised, but Plaintiffs' mission of advocating for Republican voters, causes, and candidates will be impeded by illegal votes of potentially ineligible voters.

79. With the November 5, 2024, election less than two months away, early voting starting in less than a month, and ballots soon to be mailed out for voting by mail, it is of utmost importance that Defendants take immediate actions to correct their wrongs, guarantee that only qualified voters vote, and prevent ineligible persons from voting.

### **CLAIM FOR RELIEF**

#### **COUNT ONE: VIOLATION OF N.C.G.S. §§ 163-116, 163-117, & 163-118 (DECLARATORY JUDGMENT, JUDICIAL REVIEW, WRIT OF MANDAMUS)**

80. Plaintiffs incorporate the paragraphs above by reference as if fully set forth again.

81. Plaintiffs bring this claim for declaratory judgment pursuant to N.C. R. Civ. P. 57 and N.C. Gen. Stat. §§ 1- 253, et seq., as to the rights, status, or other legal relations between Plaintiffs and Defendants and for judicial review and reversal of the NCSBE's ruling at the August 20, 2024, meeting pursuant to N.C. Gen. Stat. §§ 150B-43, et seq.

82. North Carolina law unambiguously forbids Defendants from accepting electronic voter photo identification to register and vote in-person. N.C. Gen. Stat. §§ 163-166(a), 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, & 20-7.

83. The NCSBE provided guidance at their August 20, 2024, board meeting that directly conflicts with those laws, the applicable regulations, and its own current NM23-03 which remains in effect.

84. Upon information and belief, Defendants intend to instruct and force local precinct officials and County Board of Elections to allow the use of unlawful electronic voter photo identification in the upcoming presidential election on November 5, 2024.

85. An actual, real, presently existing, concrete, and justiciable controversy exists between Plaintiffs and Defendants in regard to, among other things, the NCSBE's erroneous interpretation of the laws concerning electronic voter photo identification and the NCSBE's issuance of flawed guidance to the county boards of elections that directly conflicts with Chapter 163 of the General Statutes.

86. Defendants' actions have harmed Plaintiffs. Unless and until the Court enters declaratory and injunctive relief in Plaintiffs' favor, Defendants' actions will continue to irreparably harm Plaintiffs by improperly directing and forcing local precinct officials and County Board of Elections to allow the use of unlawful electronic voter photo identification in the upcoming presidential election on November 5, 2024.

87. Accordingly, Plaintiffs are entitled to a ruling from the Court reversing the NCSBE's decision and a declaratory judgment declaring that:

- a. The only type of voter photo identification that qualifies under North Carolina law is a voter photo identification that satisfies all of N.C. Gen. Stat. § 163-116(a)'s, and any related laws, requirements; and
- b. To be allowed to vote, a voter must produce acceptable voter photo identification which cannot, under the law, be a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118.

91. Plaintiffs are also entitled to preliminary and permanent injunctive relief requiring Defendants to:

- a. Immediately notify all County Boards of Elections in writing that:
  - i. The only type of voter photo identification that qualifies under North Carolina law is a voter photo identification that satisfies all of N.C. Gen. Stat. § 163-116(a)'s, and any related laws, requirements; and
  - ii. To be allowed to vote, a voter must produce acceptable voter photo identification which cannot, under the law, be a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118.
- b. Rescind or delete all parts of any Numbered Memo or board meeting that state or in any way imply that a County Board of Elections or precinct official may accept a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118 when a voter must produce acceptable voter photo identification.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Issue a declaratory judgment declaring that:
  - a. The only type of voter photo identification that qualifies under North Carolina law is a voter photo identification that satisfies all of N.C. Gen. Stat. § 163-116(a)'s, and any related laws, requirements; and
  - b. To be allowed to vote, a voter must produce acceptable voter photo identification which cannot, under the law, be a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118.
2. Issue an expedited writ of mandamus and preliminary and permanent injunction ordering Defendants to comply with North Carolina laws to include specifically N.C. Gen. Stat. §§ 163-166(a), 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, & 20-7, and requiring Defendants to:
  - a. Immediately notify all County Boards of Elections in writing that:

- i. The only type of voter photo identification that qualifies under North Carolina law is a voter photo identification that satisfies all of N.C. Gen. Stat. § 163-116(a)'s, and any related laws, requirements; and
    - ii. To be allowed to vote, a voter must produce acceptable voter photo identification which cannot, under the law, be a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118.
  - b. Rescind or delete all parts of any Numbered Memo or board meeting that state or in any way imply that a County Board of Elections or precinct official may accept a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118 when a voter must produce acceptable voter photo identification.
3. Promptly set a date for hearing this dispute pursuant to N.C. R. Civ. P. 57 and 65;
  4. Award Plaintiffs attorney's fees, expenses, and costs as permitted by law;
  5. Retain jurisdiction over this matter to ensure Defendants comply with any Orders issued by this Court; and
  6. Grant such additional relief as the Court deems just and proper.

Filed this the 12th day of September, 2024.

/s/ W. Ellis Boyle

W. Ellis Boyle

N.C. State Bar I.D. No. 33826

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*Attorney for Plaintiffs*



STATE OF NORTH CAROLINA

WAKE COUNTY

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.*

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

NO. \_\_\_\_\_

**VERIFIED COMPLAINT**

Kyle Offerman, Chief Counsel of the North Carolina Republican Party, Plaintiff in the above action, being duly sworn, deposes and says that he is authorized to make this verification; that he has read the COMPLAINT in this matter, and the same is true of my own knowledge, except as to those matters and

things stated on information and belief, and, as to those, he believes them to be true.

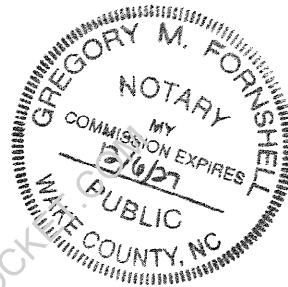
By: Kyle V. Offerman  
Kyle Offerman

Sworn to and subscribed before me  
this the 10<sup>TH</sup> day of September, 2024.

Gregory M. Fornshell

Notary Public

My commission expires: 12/6/27



RETRIEVED FROM DEMOCRACYDOCK

# EXHIBIT B

RETRIEVED FROM DEMOCRACYDOCKET.COM

STATE OF NORTH CAROLINA

WAKE COUNTY

REPUBLICAN NATIONAL COMMITTEE and  
NORTH CAROLINA REPUBLICAN PARTY,

*Plaintiffs,*

v.

NORTH CAROLINA STATE BOARD OF  
ELECTIONS, ALAN HIRSCH, JEFF  
CARMON, KEVIN N. LEWIS, SIOBHAN  
O'DUFFY MILLEN, STACY "FOUR" EGGERS  
IV, in Official Capacity as Members of NCSBE,  
and KAREN BRINSON BELL, in Official  
Capacity as Executive Director of NCSBE,

*Defendants.*

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
NO. 24CV028888-910

**MOTION FOR TEMPORARY  
RESTRAINING ORDER OR, IN THE  
ALTERNATIVE, EXPEDITED  
PRELIMINARY INJUNCTION**

N.C.R. Civ. P. 65

Plaintiffs, pursuant to Rule 65 of the North Carolina Rules of Civil Procedure, respectfully move for a temporary restraining order ("TRO") or, alternatively, expedited preliminary and permanent injunction ("PI") compelling Defendants to fulfill their duties set forth in N.C. Gen. Stat. § 163-166 and expressly forbidding the use of student or employee electronic ID from UNC under N.C. Gen. Stat. § 163-166.16(a), 163-160.17, and 163-166.18.

1. Plaintiffs seek immediate and permanent injunctive relief preventing Defendants from giving any guidance or instruction to local precinct officials or County Board of Elections allowing the use of UNC student or employee electronic identification; and instead, requiring Defendants to only allow the use of voter photo identification approved and permitted pursuant to N.C. Gen. Stat. § 163-166.16(a). Plaintiffs assert that they are likely to be successful on the merits of the underlying case. Plaintiffs will sustain irreparable harm unless a TRO or PI is issued. Plaintiffs request an expedited hearing. In support of this Motion, Plaintiffs state as follows:

## **INTRODUCTION**

2. The General Assembly enacted a series of detailed statutes aimed at preventing electoral fraud by presentation of valid photo voter identification for in-person voting as required by the North Carolina Constitution, art 6 § 2(4) . North Carolina Gen. Stat. § 163-166.16(a) describes several acceptable physical voter photo identification cards. Defendants ignored these statutes and actively plan to use electronic identification stored on a computer device in the upcoming election on November 5, 2024.

3. Plaintiffs filed a Verified Complaint on September 12, 2024, seeking immediate TRO or PI and permanent injunctive and declaratory relief requiring Defendants to follow the law. Plaintiffs assert that they likely to be successful on the merits of the underlying case. Plaintiffs will sustain irreparable harm unless a TRO or PI is issued.

4. Plaintiffs request an expedited hearing on the matter pursuant to Local Rules 14.2 and 14.4 and have provided notice to Defendants by email to the NCSBE general counsel and to the Attorney General lawyer represents these Defendants. The Attorney General lawyer and Plaintiffs' lawyer agreed to having this Motion scheduled for hearing on the afternoon of September 19 or at any time at the Court's convenience on September 20, 2024. Plaintiffs rely on the Verified Complaint in support of this Motion.

## **BACKGROUND**

5. The NCSBE is the state agency tasked with "general supervision over primaries and elections of the state." *See* N.C. Gen. Stat. § 163-22. Karen Brinson Bell is the Executive Director, Alan Hirsch is the Chairman, Jeff Carmon is the Secretary, and Stacy Eggers, IV, Kevin Lewis, and Siobhan Millen are members of the NCSBE. *Id.* at 9-15. Each is sued in their official capacity.

6. The laws of North Carolina require that "[w]hen a registered voter presents to vote in person, the registered voter shall produce any of the following forms of identification that contain a

photograph of the registered voter" and then describes several physical items that satisfy the requirement. N.C. Gen. Stat. § 163-166.16(a).

7. These physical items include passports, drivers licenses, photo identification cards for non-drivers, voter identification cards, military identification cards, veterans' identification cards, and tribal enrollment cards.

8. Defendants are required to enact rules and procedures that comply with this law. Every single item in subsections (a)(1-3) of N.C. Gen. Stat. § 163-166.16(a) are physical, tangible cards, drivers licenses, or passports. All of them can be held in a person's hand and examined for what it is, physically.

9. Two types of cards the General Assembly mentioned in the law describing the only acceptable forms of photo identification to verify voter eligibility are at issue in this Motion: the UNC student identification card from N.C. Gen. Stat. § 163-166.16(a)(2)(g) and the UNC employee identification card from N.C. Gen. Stat. § 163-166.16(a)(2)(h).

10. For about a year, the NCSBE understood and agreed with the plain language of the law, and all the different complimentary laws, read together. When it first promulgated Numbered Memo 2023-03 ("NM23-03")<sup>1</sup> on September 14, 2023, and even when it updated NM23-03 on February 23, 2024, the NCSBE went so far as to say:

#### Acceptable Forms of Photo ID

The types of photo ID that are acceptable for voting purposes are listed in N.C.G.S. § 163-166.16(a) and 08 NCAC 17 .0101(a)(1).

Is a photocopy of a voter's photo ID, or a picture of their photo ID stored electronically on a mobile device, an acceptable form of photo ID for in-person voting?

<sup>1</sup> Numbered Memo 2023-03 Photo ID and In-Person Voting.pdf  
<https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2023/Numbered%20Memo%202023-03%20Photo%20ID%20and%20In-Person%20Voting.pdf> (Last visited September 9, 2024.)

**No.** Under N.C.G.S. § 163-166.16, a voter presenting to vote in person must “produce” one of the listed “forms of identification.” **An image of a photo ID, either as a photocopy or a photo on a mobile device, is not one of the permitted forms of photo ID when voting in person.** [emphasis added]

11. Nowhere in N.C. Gen. Stat. § 163-166.16(a), or any related laws like N.C. Gen. Stat. §§ 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, or 20-7, did the General Assembly directly describe, or indirectly permit, electronic forms of photo identification to be used "to confirm the person presenting to vote is the registered voter on the voter registration records." N.C. Gen. Stat. § 163-166.16(g).

12. On August 20, 2024, less than three months before the November presidential election, the NCSBE abruptly reversed course. By a three-two Democrat majority vote, the NCSBE approved allowing precinct officials to rely upon UNC's student and employee electronic identification.<sup>2</sup> This UNC electronic identification is found as an electronic record on a computer device. Defendants' unilateral expansion to accept electronic photo identification contravenes the law and will likely allow hundreds, or thousands, of ineligible voters to vote in the upcoming November 5, 2024, election and beyond.

13. Upon information and belief, Defendants' position in NM23-03 remains in effect, despite the NCSBE reversing course at its August 20, 2024, meeting. Indeed, upon information and belief, no training on accepting UNC student or employee electronic identification has occurred in any local precinct or County Board of Elections, less than two months away from a presidential election. Thus, any burden on Defendants in terms of time required to correct the erroneous expansion of UNC student or employee electronic identification beyond the statutory confines is mitigated by the fact that the NCSBE has done nothing to implement their recent reversal.

<sup>2</sup> [s3.amazonaws.com/dl.ncsbe.gov/State Board Meeting Docs/2024-08-20/State Board of Elections Meeting-20240820.mp4](https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/2024-08-20/State_Board_of_Elections_Meeting-20240820.mp4) (The discussion occurs between the seven and 23 minute mark, with the vote occurring around that 23 minute mark. Last visited September 9, 2024.)

14. Unlike the minimal burden Defendants would face if required to comply with state law, the burden placed on Plaintiffs is palpable. Absent immediate corrective action by Defendants, the significant harm faced by Plaintiffs will only increase. Not only will Plaintiffs' members, and all qualified voters' legal votes, be diluted, but Plaintiffs' mission of advocating for Republican voters, causes, and candidates will be impeded by illegal votes of potentially ineligible voters.

15. With the November 5, 2024, election less than two months away, early voting starting in less than a month, and ballots soon to be mailed out, it is of utmost importance that Defendants take immediate actions to correct their wrongs, guarantee that only qualified voters vote, and prevent ineligible persons from voting.

### **ARGUMENT**

16. Plaintiffs seek a TRO because they will be seriously and irreparably harmed by Defendants' actions in allowing ineligible electronic photo voter identification to be used to obtain a ballot and vote. Such action not only ignores N.C. Gen. Stat. § 163-166.16, but it runs headlong into Plaintiffs' right to free and fair election and equal protection under N.C. Const. art. I §§ 10 & 19 and art. 6 § 2(4).

17. If Defendants do not require all eligible voters to present statutorily required adequate photo identification pursuant to N.C. Gen. Stat. §§ 163-166.16(a) and 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, or 20-7, then the legitimate votes of qualified voters will likely be diluted, and they will be disenfranchised in elections. This reality will, in turn, have a substantial chilling effect on North Carolinians' right to vote in free and fair elections. By allowing ineligible voters to use illegal electronic photo identification to vote, Defendants have brought the integrity and validity of the State's elections into question.



18. Unless the Court grants emergency, immediate preliminary and permanent relief, Plaintiffs will be subjected to diluted votes and disenfranchisement when potentially thousands of ineligible voters cast illegal votes.

**I. Standard**

19. This Court has the inherent authority to issue a TRO or a PI. *See A.E.P. Indus., Inc. v. McClure*, 308 N.C. 393, 402, 302 S.E.2d 754, 759 (1983).

20. A TRO is particularly appropriate where: (1) "it clearly appears from specific facts shown by affidavit or by verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition"; and (2) "the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required." N.C. R. Civ. P. 65(b).

21. "The issuance of a TRO is a matter of discretion to be exercised by the hearing judge after a careful balancing of the equities." *Nat'l Surgery Ctr. Holdings, Inc. v. Surgical Inst. of Viewmont, LLC*, No. 16 CVS 1003, 2016 WL 2757972, at \*3 (N.C. Super. May 12, 2016) (quoting *A.E.P. Indust., Inc.* at 759).

22. A PI is appropriate where (1) "a plaintiff is able to show likelihood of success on the merits of his case and (2) [where] a plaintiff is likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the Court, issuance is necessary for the protection of a plaintiffs rights during the course of litigation." *Ridge Cmty. Invs., Inc. v. Berry*, 293 N.C. 688, 701, 239 S.E.2d 566, 574 (1977).

## **II. Emergency Injunctive Relief is Proper and Necessary to Protect Valid Voter ID.**

23. Plaintiffs are likely to succeed on the merits. Nowhere in N.C. Gen. Stat. § 163-166.16(a), or any related laws like N.C. Gen. Stat. §§ 163-166.17, 163-166.18, 163-166.82.8A, 20-37.7, or 20-7, did the General Assembly directly describe, or indirectly permit, electronic forms of photo identification to be used "to confirm the person presenting to vote is the registered voter on the voter registration records." N.C. Gen. Stat. § 163-166.16(g).

24. Plaintiffs incorporate and rely on the Verified Complaint in support of this Motion.

25. Defendants' actions do not comply with the law.

26. Defendants have no excuse to justify their violations of North Carolina's statutory and constitutional provisions about voter photo identification.

27. In considering whether a plaintiff is likely to suffer irreparable harm absent an injunction, a court must balance the potential harm to the plaintiff if the injunction is not granted as against the harm to the defendant if the injunctive relief is granted. *Williams v. Greene*, 36 N.C. App. 80, 86 (1978). Here, the harms faced by Plaintiffs if Defendants force 100 County Boards of Elections and precinct officials to accept unlawful UNC student or employee electronic identification is palpable, especially insofar as it would violate fundamental principles of free election and dilute or annul every legal voters' clearly established statutory and constitutional rights.

28. In contrast, any potential harm faced by Defendants should the injunction be granted would be negligible. Upon information and belief, Defendants have taken no action to even change their existing centralized guidance, much less performed any training, on their inverted interpretation of existing law.

29. Considering that the harm Plaintiffs would face should a TRO or PI be denied substantially outweighs the harm Defendants would face if such relief were granted, the balance of equities favors Plaintiffs.

30. Finally, public interest favors granting injunctive relief because of the undeniable interest in avoiding confusion over proper voter photo identification, as well as having a free and fair election where each qualified voter has their vote counted equally. By allowing potentially unqualified voters to vote with illegal voter photo identification, Defendants put those foundational principles into jeopardy.

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Grant a TRO or, in the alternative, expedited PI requiring Defendants to:
  - a. Immediately notify all County Boards of Elections in writing that:
    - i. The only type of voter photo identification that qualifies under North Carolina law is a voter photo identification that satisfies all of N.C. Gen. Stat. § 163-116(a)'s, and any related laws, requirements; and
    - ii. To be allowed to vote, a voter must produce acceptable voter photo identification which cannot, under the law, be a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118.
  - b. Rescind or delete all parts of any Numbered Memo or board meeting that state, or in any way imply, that a County Board of Elections or precinct official may accept a UNC student or employee electronic photo identification under either N.C. Gen. Stat. §§ 163-117 or 163-118 when a voter must produce acceptable voter photo identification.
2. For all other relief deemed just and proper.

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

/s/ W. Ellis Boyle  
W. Ellis Boyle  
N.C. State Bar I.D. No. 33826  
email:doCKET@wardandsmith.com\*  
email:weboyle@wardandsmith.com\*\*  
For the Firm of  
Ward and Smith, P.A.  
Post Office Box 33009  
Raleigh, NC 27636-3009  
Telephone: 919.277.9100  
Fax: 919.277.0177  
*Attorney for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing to the following persons  
at the following addresses which are the last addresses known to me:

Paul Cox  
email: legal@ncsbe.gov

Terrence Steed  
email: tsteed@ncdoj.gov

This 12th day of September 2024.

/s/ W. Ellis Boyle  
W. Ellis Boyle  
*Attorney for Plaintiffs*

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# EXHIBIT

C

RETRIEVED FROM DEMOCRACYDOCKET.COM

**STATE OF NORTH CAROLINA**

File No.

**24CV028888-910**

WAKE County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Republican National Committee and NC Republican Party

Address

751 Corporate Center Drive, Suite 300

City, State, Zip

Raleigh, NC 27607

**VERSUS****CIVIL SUMMONS**☐ **ALIAS AND PLURIES SUMMONS (ASSESS FEE)**

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

North Carolina State Board of Elections, Alan Hirsch, Jeff Carmon, III, Stacy Eggers, IV, Kevin N. Lewis, Siobhan O'Duffy Millen, and Karen Brinson Bell

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1

North Carolina State Board of Elections  
430 N. Salisbury Street, Suite 3  
Raleigh, NC 27603

Name And Address Of Defendant 2

Alan Hirsch, in his official capacity as Chair of the  
North Carolina State Board of Elections  
430 N. Salisbury Street, Suite 3  
Raleigh, NC 27603**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!****¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!****Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!****A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

W. Ellis Boyle  
Ward and Smith, P.A.  
751 Corporate Center Drive, Suite 300  
Raleigh, NC 27607

Date Issued

9/12/2024

Time

2:00:58 pm

☐ AM☒ PM

Signature

/s/ Lillian Miller



Deputy CSC



Assistant CSC



Clerk Of Superior Court

☐ **ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature



Deputy CSC



Assistant CSC



Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 1. <input type="checkbox"/> Other: (type or print name)	Date Accepted	Signature
---	---------------	-----------

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 2. <input type="checkbox"/> Other: (type or print name)	Date Accepted	Signature
---	---------------	-----------

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

**STATE OF NORTH CAROLINA**

File No.

**24CV028888-910**

WAKE County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Republican National Committee and NC Republican Party

Address

751 Corporate Center Drive, Suite 300

City, State, Zip

Raleigh, NC 27606

**VERSUS****CIVIL SUMMONS**☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

North Carolina Board of Elections, Alan Hirsch, Jeff Carmon, III,  
Stacy Eggers, IV, Kevin N. Lewis, Siobhan O'Duffy Millen  
and Karen Brinson Bell

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1

Karen Brinson Bell  
North Carolina Board of Elections  
430 N. Salisbury Street, Suite 3  
Raleigh, NC 27603

Name And Address Of Defendant 2

**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!****¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!****Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!****A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

W. Ellis Boyle  
Ward and Smith, P.A.  
751 Corporate Center Drive, Suite 300  
Raleigh, NC 27607

Date Issued

9/12/2024

Time

2:00:58 pm

☐ AM☒ PM

Signature

/s/ Lillian Miller

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)



**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 1. <input type="checkbox"/> Other: (type or print name)	Date Accepted	Signature
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☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 2. <input type="checkbox"/> Other: (type or print name)	Date Accepted	Signature
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☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

**STATE OF NORTH CAROLINA**

File No.

**24CV028888-910**

WAKE County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Republican National Committee and NC Republican Party

Address

751 Corporate Center Drive, Suite 300

City, State, Zip

Raleigh, NC 27607

**VERSUS****CIVIL SUMMONS**☐ **ALIAS AND PLURIES SUMMONS (ASSESS FEE)**

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

North Carolina State Board of Elections, Alan Hirsch, Jeff Carmon, III, Stacy Eggers, IV, Kevin N. Lewis, Siobhan O'Duffy Millen, and Karen Brinson Bell

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1

Jeff Carmon, III

North Carolina State Board of Elections

430 N. Salisbury Street, Suite 3

Raleigh, NC 27603

Name And Address Of Defendant 2

Stacy Eggers, IV

North Carolina State Board of Elections

430 N. Salisbury Street, Suite 3

Raleigh, NC 27603



**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!**

**¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!**

**Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!**

**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

W. Ellis Boyle

Ward and Smith, P.A.

751 Corporate Center Drive, Suite 300

Raleigh, NC 27607

Date Issued

9/12/2024

Time

2:00:58 pm

☐ AM☒ PM

Signature

/s/ Lillian Miller

☒

Deputy CSC

☐ Assistant CSC☐ Clerk Of Superior Court☐ **ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐

Deputy CSC

☐ Assistant CSC☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 1. <input type="checkbox"/> Other: (type or print name)	Date Accepted	Signature
---	---------------	-----------

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
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---	---------------	-----------

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

**STATE OF NORTH CAROLINA**

File No.

**24CV028888-910**

WAKE County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Republican National Committee and NC Republican Party

Address

751 Corporate Center Drive, Suite 300

City, State, Zip

Raleigh, NC 27607

**VERSUS****CIVIL SUMMONS**☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

North Carolina State Board of Elections, Alan Hirsch, Jeff Carmon, III, Stacy Eggers, IV, Kevin N. Lewis, Siobhan O'Duffy Millen, and Karen Brinson Bell

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1

Kevin N. Lewis

North Carolina State Board of Elections

430 N. Salisbury Street, Suite 3

Raleigh, NC 27603

Name And Address Of Defendant 2

Siobhan O'Duffy Millen

North Carolina State Board of Elections

430 N. Salisbury Street, Suite 3

Raleigh, NC 27603



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**¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!**

**Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!**

**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

W. Ellis Boyle

Ward and Smith, P.A.

751 Corporate Center Drive, Suite 300

Raleigh, NC 27607

Date Issued

9/12/2024 2:00:58 pm

☐ AM☒ PM

Signature

/s/ Lillian Miller

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 1. <input type="checkbox"/> Other: (type or print name)	Date Accepted	Signature
---	---------------	-----------

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 2. <input type="checkbox"/> Other: (type or print name)	Date Accepted	Signature
---	---------------	-----------

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

# EXHIBIT D

RETRIEVED FROM DEMOCRACYDOCKET.COM

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 24CV028888-910

REPUBLICAN NATIONAL )  
COMMITTEE and NORTH CAROLINA )  
REPUBLICAN PARTY, )

Plaintiffs, )

v. )

NORTH CAROLINA STATE BOARD )  
OF ELECTIONS, ALAN HIRSCH, )  
JEFF CARMON, III, KEVIN N. )  
LEWIS, SIOBHAN O'DUFFY MILLEN, )  
STACY EGGERS, IV, and KAREN )  
BRINSON BELL, )

Defendants. )

**ACCEPTANCE OF SERVICE**

Pursuant to Rule 4 of the North Carolina Rules of Civil Procedure, the undersigned counsel is authorized to accept and does hereby accept service of process on behalf of North Carolina State Board of Elections, Alan Hirsch, Jeff Carmon, III, Kevin N. Lewis, Siobhan O'Duffy Millen, Stacy Eggers, IV, and Karen Brinson Bell (collectively, "Defendants"). This acceptance of service of the Summonses and Verified Complaint on behalf of Defendants shall have the same force and effect as if the same had been served upon them by the Sheriff of the county in which they reside or by any other lawful process agent on the 13th day of September 2024. This acceptance does not waive, but instead expressly reserves any and all defenses, except that any and all objections to service of process are hereby waived.

This the 13th day of September 2024.

*Terence Steed / by MEB*

---

Terence Steed  
Special Deputy Attorney General  
North Carolina Department of Justice  
Special Litigation Section  
114 W. Edenton Street  
Raleigh, NC 27603  
email: [tsteed@ncdoj.gov](mailto:tsteed@ncdoj.gov)  
*Attorney for Defendants*

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# EXHIBIT E

RETRIEVED FROM DEMOCRACYDOCKET.COM

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
24CV028888-910

COUNTY OF WAKE

REPUBLICAN NATIONAL  
COMMITTEE and NORTH CAROLINA  
REPUBLICAN PARTY,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD  
OF ELECTIONS, ALAN HIRSCH, JEFF  
CARMON, KEVIN N. LEWIS, SIOBHAN  
O'DUFFY MILLEN, STACY "FOUR"  
EGGERS IV, in Official Capacity as  
Members of NCSBE, and KAREN  
BRINSON BELL, in Official Capacity as  
Executive Director of NCSBE,

Defendants,

DEMOCRATIC NATIONAL  
COMMITTEE,

Defendant-Intervenor.

**UNOPPOSED ORDER ON MOTION TO  
INTERVENE BY THE DEMOCRATIC  
NATIONAL COMMITTEE**

THIS CAUSE comes before the undersigned Superior Court Judge on the Democratic National Committee's ("DNC") motion to intervene (filed September 16, 2024) (the "Motion"). The Court has reviewed the motion and proposed pleading, the file, and the relevant law. Furthermore, Plaintiffs and Defendants do not oppose the relief sought by the DNC in its motion. It appears to the Court that the DNC's Motion should be granted.

IT IS THEREFORE ORDERED that the DNC's Motion to Intervene is GRANTED. Within three days of the filing of this Order, the DNC shall file its answer in intervention on the docket.

SO ORDERED, this the 9/19/24 day of September, 2024.

Superior Court Judge Presiding

# EXHIBIT F

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NORTH CAROLINA

COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
24CV02888-910

REPUBLICAN NATIONAL COMMITTEE  
and NORTH CAROLINA REPUBLICAN  
PARTY,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF  
ELECTIONS, et al.,

Defendants,

and

DEMOCRATIC NATIONAL COMMITTEE,  
et al.,

Intervenor-  
Defendants.

***Proposed***

**ORDER ON PLAINTIFFS' MOTION FOR  
TEMPORARY RESTRAINING ORDER OR,  
IN THE  
ALTERNATIVE, EXPEDITED  
PRELIMINARY INJUNCTION**

THIS MATTER came on to be heard and was heard on September 19, 2024, before the undersigned upon Plaintiffs' Motion for Temporary Restraining Order and, in the Alternative, an Expedited Preliminary Injunction, filed on September 12, 2024. All adverse parties to this action received the notice required by Rule 65 of the North Carolina Rules of Civil Procedure. Plaintiffs were represented at the hearing by W. Ellis Boyle; Defendants by Special Deputy Attorney General Mary Carla Babb; Intervenor-Defendant the Democratic National Committee by Jim W. Phillips, Jr.; and Intervenor-Defendants Affirmative Action Coalition by Narendra K. Ghosh.

In this litigation, Plaintiffs contend that the State Board of Elections ("State Board") violated state law when it approved a digital identification card issued by the University of North Carolina at Chapel Hill as an authorized form of photo identification. In their view,

the state laws that identify acceptable forms of photo identification do not extend to digital identification cards.

Plaintiffs therefore seek an order requiring Defendants to notify the county boards of elections of the following in writing that: 1) the only acceptable forms of voter photo identification are those listed in N.C.G.S. § 163-166.16(a) and 2) to vote, a voter must provide acceptable voter photo identification, which does not include an electronic form of UNC student or employee photo identification. Plaintiffs also ask that the Court order Defendants to rescind or delete any guidance implying that county boards or precinct officials may accept the UNC Mobile One Card as student or employee photo identification for voting.

For the reasons stated below, Plaintiffs' motion is denied.

### **PROCEDURAL HISTORY**

On August 20, 2024, the State Board of Elections approved the UNC Mobile One Card as an authorized form of photo identification under the State's voter-ID laws.

Plaintiffs filed the Complaint and present Motion in this matter over three weeks later on September 12, 2024.

On September 19, 2024, the Court heard Plaintiffs' Motion after granting Intervenor-Defendants' motions to intervene in this matter. Prior to the hearing, counsel for Defendants and Intervenor-Defendants submitted a Response to the Motion setting forth their respective positions.

The Court has considered the pleadings, other materials submitted, the parties' arguments, pertinent case law, and the record established thus far. In making its findings of facts and conclusions of law for the purposes of this Order, the Court adopts and incorporates by reference the arguments presented by Defendants and Defendant-Intervenors in their Briefs in Opposition to Plaintiffs' TRO motion and during the

September 19, 2024 hearing. The Court summarizes its findings of fact and conclusions of law as follows:

### **INJUNCTIVE RELIEF**

A temporary restraining order is an “extraordinary remedy” and will issue “only (1) if a plaintiff is able to show *likelihood* of success on the merits of his case and (2) if a plaintiff is likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the Court, issuance is necessary for the protection of a plaintiff’s rights during the course of litigation.” *A.E.P. Industries, Inc. v. McClure*, 308 N.C. 393, 401, 302 S.E.2d 754, 759-60 (1983) (emphasis in original); *see also* N.C.G.S. § 1A-1, Rule 65(b). Injunctive relief “may not issue unless the movant carries the burden of persuasion as to each of these prerequisites.” *A.E.P. Industries*, 308 N.C. 393, at 413, 302 S.E.2d at 766. Its issuance is a matter of discretion to be exercised by the hearing judge after a careful balancing of the equities.” *State ex rel. Edmisten v. Fayetteville Street Christian School*, 299 N.C. 351, 357, 261 S.E.2d 908, 913 (1980). Even if the movant carries his burden, “it still remains in the trial court’s discretion whether to grant the motion” for injunctive relief. *Id.*

Injunctive relief “may be classified as ‘prohibitory’ and ‘mandatory.’ The former are preventive in character, and forbid the continuance of a wrongful act or the doing of some threatened or anticipated injury; the latter are affirmative in character, and require positive action involving a change of existing conditions—the doing or undoing of an act.” *Roberts v. Madison Cty. Realtors Ass’n*, 344 N.C. 394, 399-400, 474 S.E.2d 783, 787 (1996) (citations and quotation omitted). A mandatory injunction “will ordinarily be granted only where the injury is immediate, pressing, irreparable, and clearly established.” *Auto. Dealer Res., Inc. v. Occidental Life Ins. Co.*, 15 N.C. App. 634, 639, 190 S.E.2d 729, 732 (1972) (citing *Highway Com. v. Brown*, 238 N.C. 293, 77 S.E.2d 780 (1953)).

## **FINDINGS OF FACT & CONCLUSIONS OF LAW**

### **Plaintiffs Fail to Establish a Likelihood of Success on the Merits**

Plaintiffs fail to establish they are likely to succeed for two reasons. Their claim has no merit, and they are not aggrieved parties, as required by the Administrative Procedure Act.

*Plaintiffs' claim has no merit.*

The General Assembly has authorized an expansive and inclusive list of acceptable “forms of identification,” including driver’s licenses, military identification cards, tribal enrollment cards, and student and government employee identification cards approved by the State Board, among others, to serve as the “required identification” presented by a voter when voting. N.C.G.S. § 163-166.16(a).

State law requires the State Board to “approve the use of student identification cards issued by a constituent institution of The University of North Carolina” and “employee identification cards issued by a state or local government entity,” so long as certain criteria are met. N.C.G.S. §§ 163-166.17(a), -166.18(a).

Protected by sophisticated technology, the University of North Carolina at Chapel Hill’s Mobile One Card is the default identification card issued to UNC students and employees. As noted above, on August 20, 2024, the State Board approved the Mobile One Card as an authorized form of photo identification under the State’s voter-ID laws.

Plaintiffs’ contention that state law forbids approval of digital or electronic photo identification, like the UNC Mobile One Card, as a means of proving one’s identity for voting is incorrect.

UNC’s Mobile One Card satisfies all of the criteria for approval as a “student identification card” and “employee identification card” in N.C.G.S. §§ 163-166.17(a) and -166.18(a). Though Plaintiffs contend that state law requires an “identification card” to be a

physical, tangible object, the controlling statutes contain no such requirement. The State Board was therefore required to approve of the use of the Mobile One Card as an acceptable form of identification for voting under North Carolina's voter-ID law. *Id.*

*Plaintiffs are not aggrieved parties.*

In addition to asserting a meritless claim, Plaintiffs fail to establish that they are aggrieved parties as required by N.C.G.S. § 150B-43. A "person aggrieved" must be "directly or indirectly affected substantially in his, her, or its person, property, or employment by an administrative decision." N.C.G.S. § 150B-2(6). Plaintiffs have no such injury.

Plaintiffs contend that approval of the Mobile One Card may result in hundreds or thousands of ineligible voters casting ballots, threatening the security and integrity of our election. But Plaintiffs provide zero support for the notion that approval of the Mobile One Card will allow any unqualified voters to vote in this year's election. The Mobile One Card is useful only in verifying the identity of an already-registered voter who shows up to cast a ballot or mails in an absentee ballot. It cannot help an unqualified voter register to vote.

Moreover, Plaintiffs offer no support for the notion that students or employees will be able to secure fake Mobile One Cards. Nor do they provide any reason to believe that Mobile One Cards are any less secure or easier to falsify than any of the other forms of identification allowable under state law. To the contrary, in its application seeking approval of the One Card, UNC submitted substantial evidence of the ID's security and reliability.

Without any real injury caused by the State Board's approval of Mobile One Cards, Plaintiffs are not "persons aggrieved." And because they consequently have no right even to bring their claims, they have no likelihood of success on the merits.

For these reasons, the Court denies Plaintiffs' TRO motion.



### The Balancing of the Equities Weighs in Defendants' Favor

In addition to concluding that Plaintiffs have not established that they will succeed on the merits, the Court has balanced the equities, as required by law. After weighing the potential harm to Plaintiffs if injunctive relief is not issued against the potential harm to Defendants and voters if injunctive relief is granted, the Court concludes that the balance of the equities weighs substantially in Defendants' favor. For that reason, Plaintiffs have failed to meet their burden for the issuance of a TRO.

The Court finds that Plaintiffs have failed to explain how the State Board's approval of the Mobile One Card could possibly lead to the harms they assert, including voter fraud or vote dilution. Plaintiffs have not advanced any credible link between the State Board's approval of Mobile One Cards and a heightened risk of ineligible voters casting illegal votes. An unqualified voter cannot use a Mobile One Card to register to vote or vote. The Mobile One Card simply helps already registered voters prove their identity when they cast a ballot.

In contrast, if the Court were to disallow use of the Mobile One Card, the harm to voters and Defendants would be real, serious, and substantial. UNC has informed its students and employees that they can use the Mobile One Card for voting, and the State Board's approval of the Mobile One Card has been widely publicized. Reversing the State Board's decision at this point is likely to result in significant confusion among students and employees at UNC. Also, the State Board will have to spend time and incur the expense of revising its training materials and programs to ensure that elections officials are aware that they can no longer accept the Mobile One Card as a valid form of photo identification.

These harms are especially acute considering that voting is set to begin September 20, 2024. In considering whether to grant injunctive relief in an election case, "a court is entitled to and should consider the proximity of a forthcoming election . . . and should act

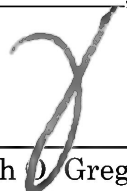
and rely upon general equitable principles.” *Pender Cty. v. Bartlett*, 361 N.C. 491, 510, 649 S.E.2d 364, 376 (2007) (quoting *Reynolds v. Sims*, 377 U.S. 533, 585 (1964)). This is a “bedrock tenet of election law: When an election is close at hand, the rules of the road must be clear and settled. Late judicial tinkering with election laws can lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others.” *Merrill v. Milligan*, 142 S. Ct. 879, 880–81 (2022) (Kavanaugh, J., concurring); see also *Purcell v. Gonzalez*, 549 U.S. 1, 4-6 (2006) (per curiam). In asking for relief, Plaintiffs are asking that this Court risk precisely those “unanticipated and unfair consequences” here. *Id.* This Court is unwilling to take that risk, especially when the State Board voted to approve the Mobile One Card on August 20, 2024, but Plaintiffs inexplicably waited more than three weeks to challenge that decision.

Together, the real harms that injunctive relief would cause to the voters and the State Board greatly outweigh the harm that Plaintiffs claim that they will suffer.

### Conclusion

For the foregoing reasons, Plaintiffs’ motion for a temporary restraining order is DENIED.

SO ORDERED, this the <sup>9/20/2024 10:11:45 AM</sup> \_\_\_\_ day of \_\_\_\_, 2024.

  
\_\_\_\_\_  
Keith D. Gregory, Superior Court Judge

# EXHIBIT G

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STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
NO. 24-CVS-02888-910

REPUBLICAN NATIONAL COMMITTEE  
and NORTH CAROLINA REPUBLICAN  
PARTY,

*Plaintiffs,*

v.

NORTH CAROLINA STATE BOARD OF  
ELECTIONS, ALAN HIRSCH, JEFF  
CARMON, KEVIN N. LEWIS, SIOBHAN  
O'DUFFY MILLEN, STACY "FOUR"  
EGGERS IV, in Official Capacity as  
Members of NCSBE, and KAREN  
BRINSON BELL, in Official Capacity as  
Executive Director of NCSBE,

*Defendants.*

**NOTICE OF APPEAL**

**To The Honorable North Carolina Court of Appeals:**

Pursuant to Rule 3 of the North Carolina Rules of Appellate Procedure, Plaintiffs Republican National Committee and North Carolina Republican Party hereby give Notice of Appeal to the North Carolina Court of Appeals from the "Order on Plaintiffs' Motion for Temporary Restraining Order or, in the alternative, Expedited Preliminary Injunction" entered on 20 September 2024 in Wake County Superior Court by the Honorable Keith Gregory, Superior Court Judge presiding.

Respectfully submitted, this the 20th of September 2024.

**WARD AND SMITH, P.A.**

/s/ W. Ellis Boyle

W. Ellis Boyle

N.C. State Bar I.D. No. 33826

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email: [weboyle@wardandsmith.com](mailto:weboyle@wardandsmith.com)\*\*

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Raleigh, NC 27636-3009

Telephone: 919.277.9100

Fax: 919.277.0177

*Attorney for Plaintiffs*

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served on the following counsel of record in accordance with Appellate Rule 26(c):

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*Attorneys for Defendants*

This the 20th of September 2024.

**WARD AND SMITH, P.A.**

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Telephone: 919.277.9100  
Fax: 919.277.0177  
*Attorney for Plaintiffs*

\*This email address must be used in order to effectuate service under Rule 5 of the North Carolina Rules of Civil Procedure.

\*\* Email address to be used for all communications other than service.

EXHIBIT

H

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STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
No. 24CV028888-910

REPUBLICAN NATIONAL  
COMMITTEE, and NORTH CAROLINA  
REPUBLICAN PARTY,  
*Plaintiffs,*

v.

NORTH CAROLINA STATE BOARD  
OF ELECTIONS, ALAN HIRSCH,  
JEFF CARMON, KEVIN N. LEWIS,  
SIOBHAN O'DUFFY MILLEN,  
STACY "FOUR" EGGERS IV,  
in Official Capacity as Members of NCSBE,  
and KAREN BRINSON BELL,  
in Official Capacity as  
Executive Director of NCSBE,  
*Defendants.*

**AFFIDAVIT OF  
JEFFREY MOORE**

---

I, Jeffrey Pearson Moore, being duly sworn, depose and say as follows:

1. I am 22 years old and suffer from no legal disability. I am competent to testify concerning the matters stated herein, and the statements contained in this Affidavit are based upon my personal knowledge.

2. I have no specialized background or expertise in digital photo editing.

3. For demonstrative purposes in relation to the above titled action and with no fraudulent intention, I used readily available and accessible mobile applications to alter a UNC student electronic identification.

4. For demonstrative purposes in relation to the above entitled action and with no fraudulent intention, I took the provided photograph of the UNC student

electronic identification found on [onecard.unc.edu](http://onecard.unc.edu) (see Exhibit 1) and used readily available and accessible mobile apps to alter the UNC student electronic identification.

5. I used an editing app called "Superimpose+: Background Eraser" (Version 3.8.5, Developer: KALEIDOSCOPE Inc.), (the "Editing App"). See Exhibit 2. The Editing App is publicly available on the Apple App Store. Many other similar mobile apps that allow for digital photo editing are publicly available on the Apple App Store.

6. Using the Editing App, I replaced the student's picture with a picture of myself. See Exhibit 3.

7. With a second publicly accessible mobile app from the Apple IOS App Store, entitled "Walletsmith - Wallet creator" (Version 1.4.15, Developer: Juan Rodriguez) (the "Wallet App") (see Exhibit 4), I created a new credential, with my picture and a fictitious name, and added it to the Apple Wallet app on my phone. See Exhibit 5.

8. The Editing App and Wallet App are fairly representative of standard, readily available photo editing technology available to anyone who can access Apple products.


9. The modified UNC student electronic identification that I added to my Apple Wallet app on my phone mirrors the original UNC student electronic identification.

10. I also took a screenshot of the UNC student electronic identification from my Apple Wallet on my phone and further edited the UNC student electronic identification. *See Exhibit 6.*

11. This process took approximately one (1) hour, but now that I know how to do it, I could accomplish the task much quicker.

12. I have a valid photo identification card that I intend to use to vote legally in November's election. I have no intention of using this modified UNC student electronic identification to vote illegally in any election.

This the 19th day of September, 2024.



---

Jeffrey P. Moore

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NORTH CAROLINA

WAKE COUNTY

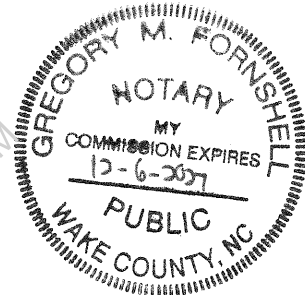
I, GREGORY M. FORNSHELL, a Notary Public of the County and State aforesaid, certify that Jeffrey Pearson Moore, as affiant, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 19TH day of SEPTEMBER 2020.

Gregory M. Fornshell

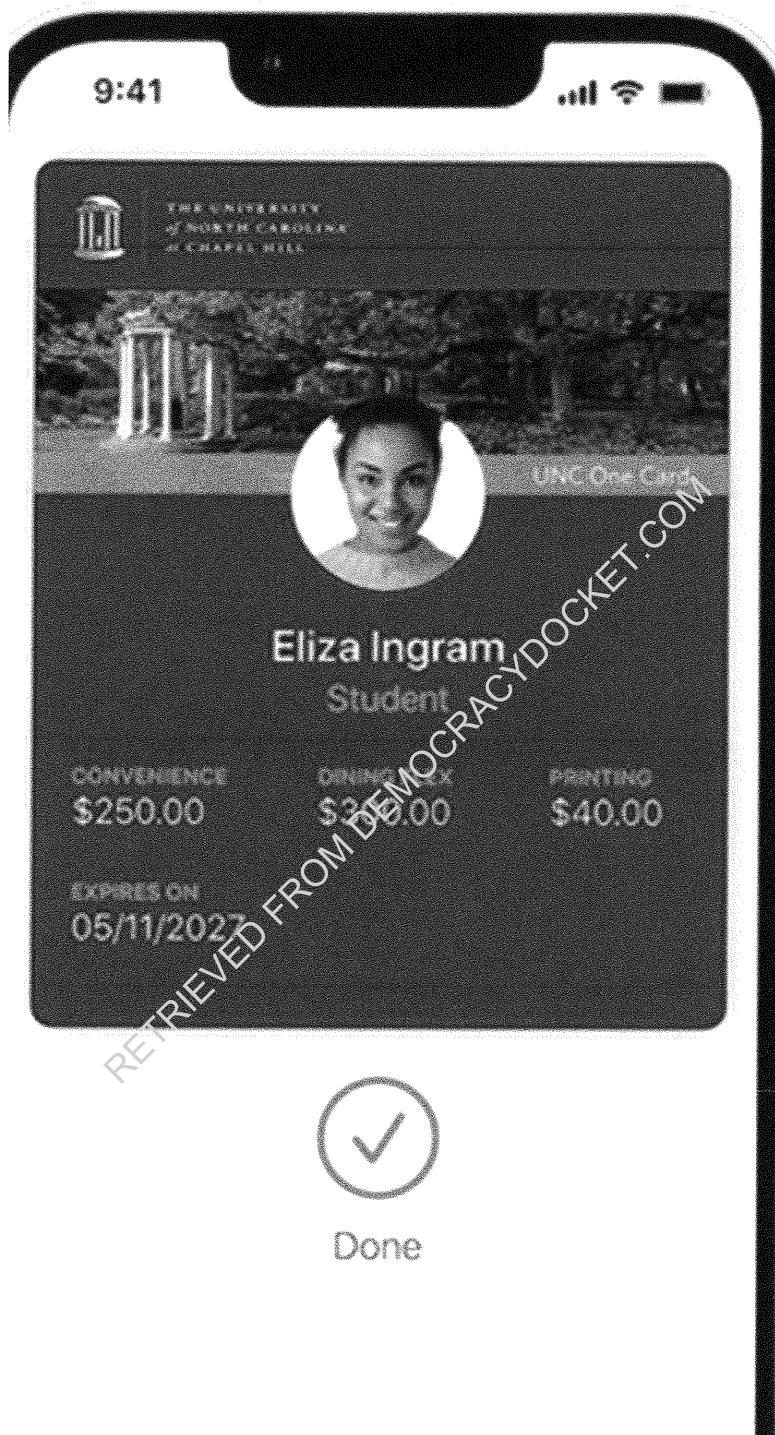
Notary Public

My commission expires: 12/6/27



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# Exhibit 1



## Exhibit 2

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### Superimpose+:Background Eraser

Background Remover/Transpa...

Get

In-App Purchases



11K RATINGS

4.8



AGE

4+

Years Old

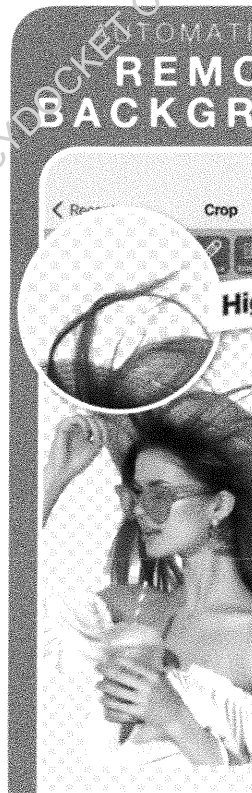
CATEGORY



Photo & Video

DEV

KALEIDOC



Today



Games



Apps

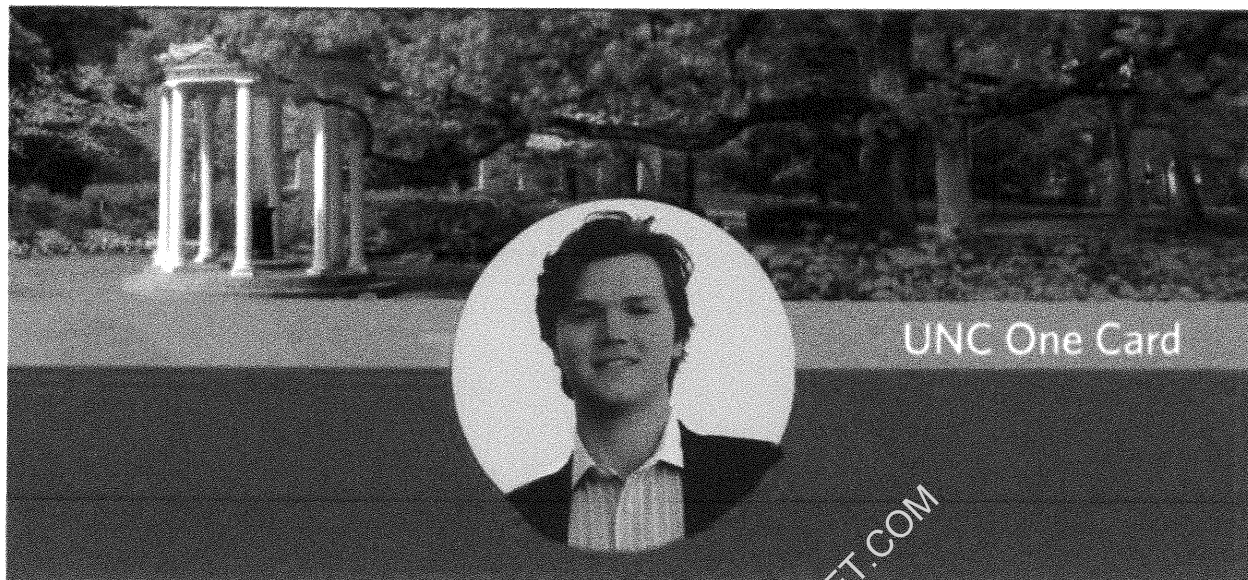


Arcade



Search

### Exhibit 3



## Exhibit 4

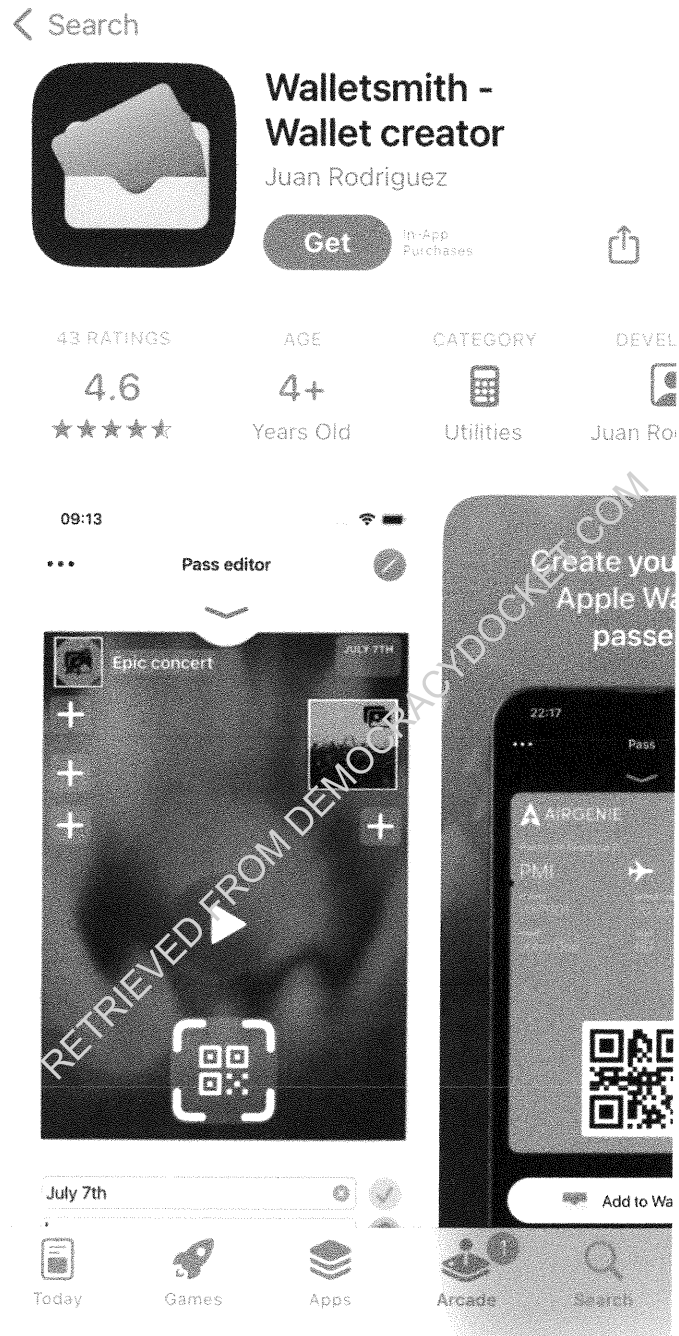




Exhibit 5

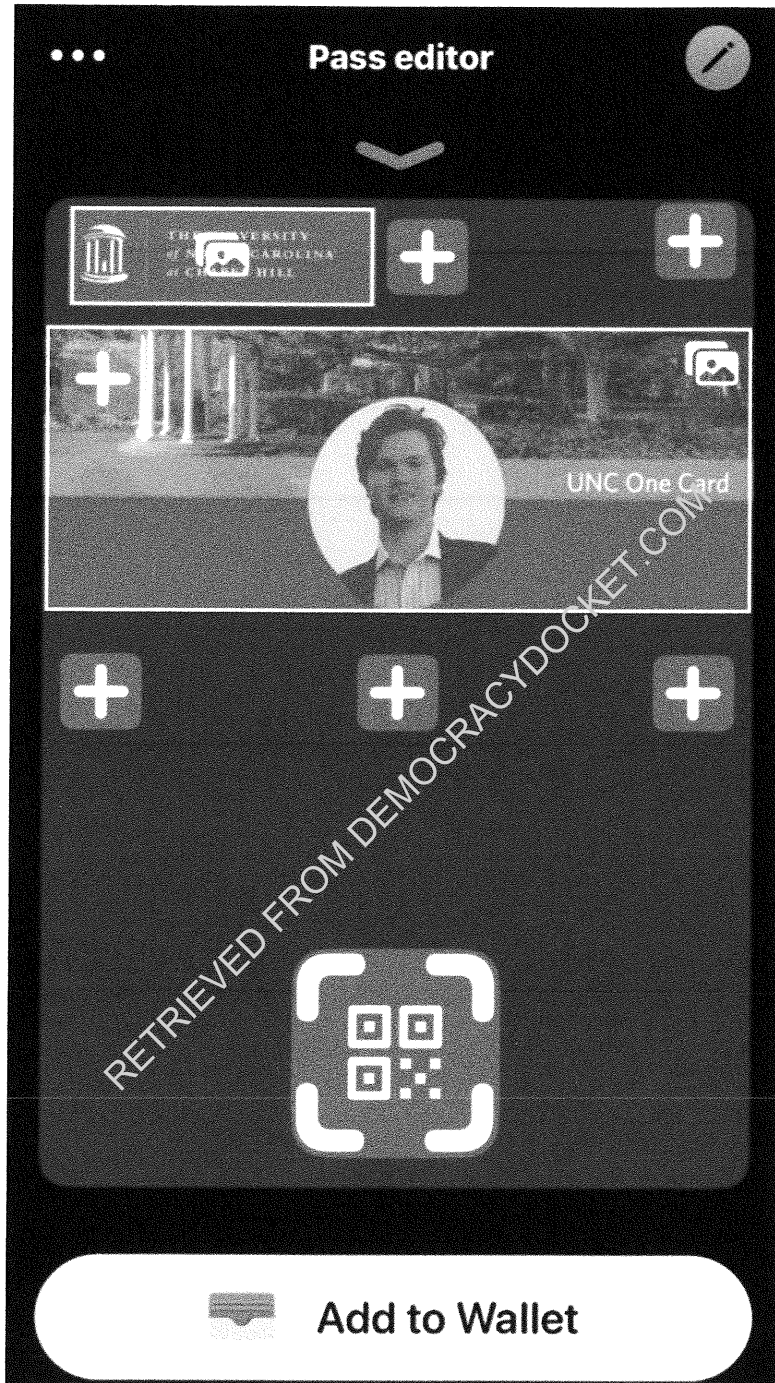
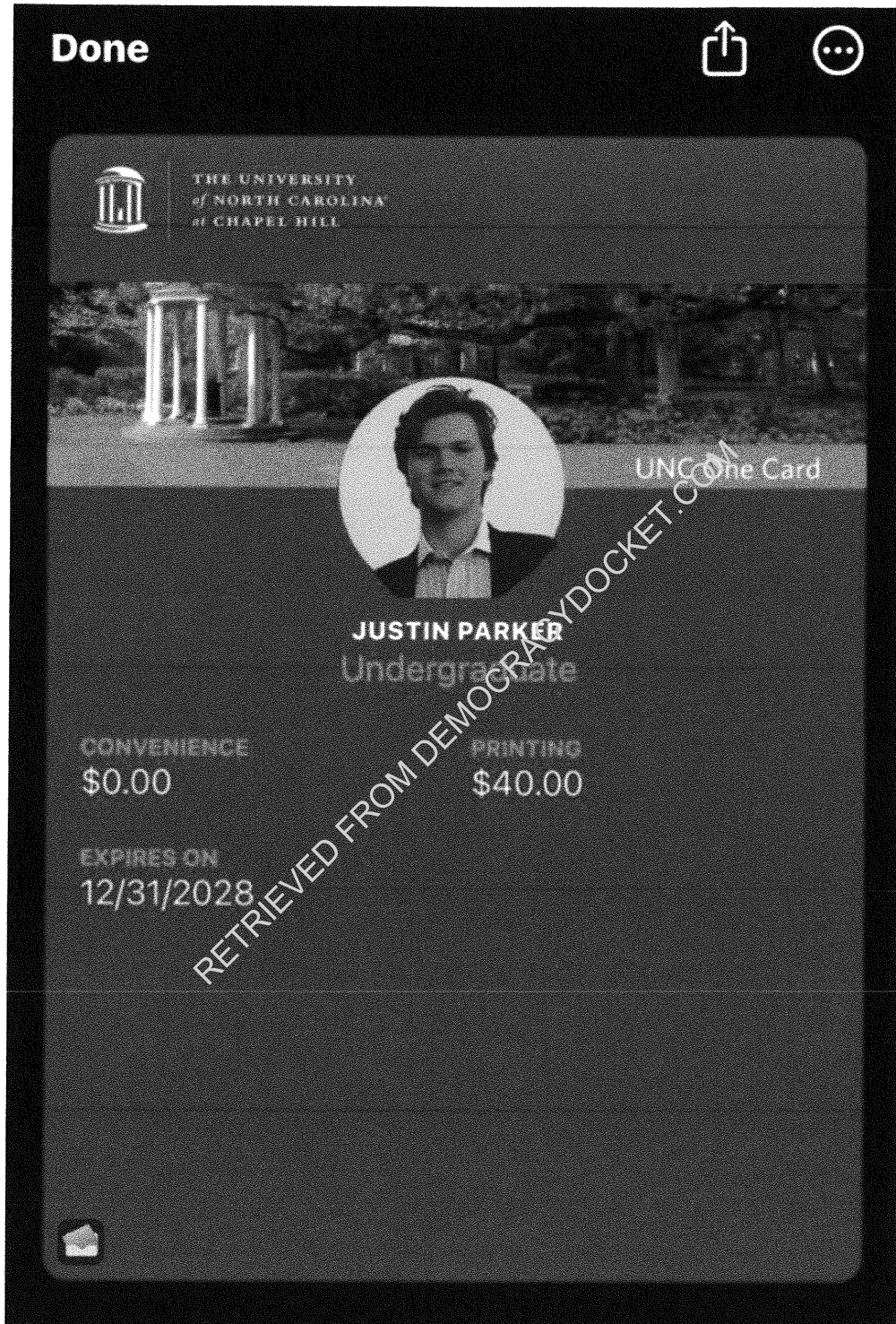


Exhibit 6

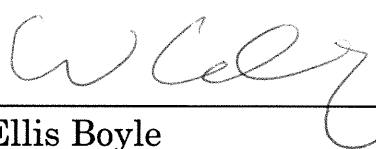


## VERIFICATION

The undersigned attorney for Plaintiffs, after being duly sworn, says:

The contents of the foregoing petition are true to my knowledge, except those matters stated upon information and belief and, as to those matters, I believe them to be true.

Pursuant to Appellate Rule 23, I also hereby certify that the documents attached to this Petition for Writ of Supersedeas are true and correct copies of the pleadings and other documents in the file in Wake County Superior Court, including documents that were served or submitted for consideration as contemplated by Appellate Rule 11.


  
\_\_\_\_\_  
W. Ellis Boyle  
Attorney for Plaintiffs

Wake COUNTY, NORTH CAROLINA

Sworn to (or affirmed) and subscribed before me this day by W. Ellis Boyle.

Date 9/20/24

(Official Seal)

  
\_\_\_\_\_  
Signature of Notary Public  
My commission expires: 3/6/28

