

STATE OF NORTH CAROLINA

WAKE COUNTY

TELIA KIVETT; KARYN MULLIGAN;
WAKE COUNTY REPUBLICAN
PARTY; REPUBLICAN NATIONAL
COMMITTEE; and NORTH CAROLINA
REPUBLICAN PARTY,

Plaintiffs,

v.

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

Defendants,

DEMOCRATIC NATIONAL
COMMITTEE,

Intervenor-Defendant.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

No. 24CV041789-910

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

(JURY TRIAL DEMANDED)

Intervenor-Defendant the Democratic National Committee (“DNC”), pursuant to Rules 8, 12, and 24 of the North Carolina Rules of Civil Procedure, respectfully submits the following motion to dismiss, answer, and affirmative defenses to the complaint in the above captioned matter.

MOTION TO DISMISS

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

ANSWER TO COMPLAINT (GENERAL DENIAL)

Pursuant to N.C. Gen. Stat. § 1A-1, Rule 8(b), the DNC generally denies the allegations contained in the Complaint except as follows: The DNC admits on information and belief the allegations in paragraphs 8–12, 14, and 21–25. The DNC admits the factual allegations contained in paragraphs 19 and 20. The DNC admits that the time for the county canvasses has passed as alleged in paragraph 56. The remainder of Plaintiffs' allegations are legal conclusions that do not require a response. To the extent that a response is required, the DNC denies all factual allegations not expressly admitted herein.

AFFIRMATIVE OR ADDITIONAL DEFENSES

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

FIRST DEFENSE

Plaintiffs are not entitled to relief under the Help America Vote Act, 52 U.S.C. § 20501 et seq. and state law implementing the same, *see, e.g.*, N.C. Gen. Stat. § 163-82.11(c).

SECOND DEFENSE

Plaintiffs' claims are barred by the National Voter Registration Act, 52 U.S.C. § 20507 and state law implementing the same, *see, e.g.*, N.C. Gen. Stat. § 163-82.14(a1).

THIRD DEFENSE

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

FOURTH DEFENSE

Plaintiffs' claims are barred by the Voting Rights Act of 1965, 52 U.S.C. § 10307.

FIFTH DEFENSE

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

SIXTH DEFENSE

Plaintiffs are not entitled to relief because N.C. Gen. Stat. § 163-82.4 does not create a private cause of action.

SEVENTH DEFENSE

Plaintiffs' claims are barred because N.C. Gen. Stat. § 163-82.4 does not impose a mandatory non-discretionary duty, rendering mandamus unavailable as a remedy. The county boards must exercise their discretion in determining the sufficiency of voter registration forms.

EIGHTH DEFENSE

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

NINTH DEFENSE

Plaintiffs' claims fail to comply with the requirements of state law regarding challenges to voter registrations. Among other things, Plaintiffs have failed to use the prescribed statutory

process for challenging voter registrations in an effort to circumvent the State Board's authority under N.C. Gen. Stat. § 163-22 and failed to join the voters they seek to disenfranchise in this lawsuit.

TENTH DEFENSE

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

ELEVENTH DEFENSE

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

PRAYER FOR RELIEF

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

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

Respectfully submitted, this 14th day of January, 2025.

/s/ Shana L. Fulton

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CERTIFICATE OF SERVICE

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

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This the 14th day of January, 2025.

/s/ Shana L. Fulton
Shana L. Fulton