

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:25-cv-00003-M**

TELIA KIVETT, et al.,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS, et al.,

Defendants.

**REPLY TO PLAINTIFFS'
RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTION TO
MODIFY FINAL ORDER AND
REQUEST FOR INDICATIVE
RULING ON THAT SAME MOTION**

Defendants the North Carolina State Board of Elections, its executive director, and its members in their official capacities provide this reply to Plaintiffs' response in opposition to Defendants' motion pursuant to Fed. R. Civ. P. 60(b) for this Court to modify its January 6, 2025 order remanding this case to state court and request for indicative ruling of that same motion pursuant to Fed. R. Civ. P. 62.1.

Defendants submitted their motion in a good faith attempt to reach an efficient and mutually agreeable resolution to this preliminary phase of this lawsuit. Granting the motion, as already shown, will not prejudice Plaintiffs or otherwise interfere with the proceedings pending in state court. *See* Mem. in Support of Defs.' Mot. (D.E. 25) at 10. Rather, because "the factual and legal subject matter of this action is substantially identical to that in" *Griffin v. N.C. State Bd. of Elections*, No. 24-cv-724, D.E. 50 (E.D.N.C.) (*Griffin I*), and *Griffin v. N.C. State Bd. of Elections*, No. 24-cv-731, D.E. 24 (E.D.N.C.) (*Griffin II*), granting this motion would save time and preserve finite judicial resources.¹

¹ *Kivett v. N.C. State Bd. of Elections*, No. 5:25-cv-3, D.E. 19 (E.D.N.C. Jan. 6, 2025).

Defendants believe that it would best serve the interests of judicial economy for this Court to grant the motion for an indicative ruling under Rule 60(b) and Rule 62.1, as it has the potential to moot the appeal. *See* D.E. 25 at 5-10. Nonetheless, if this Court is disinclined to grant the motion, Defendants will continue to pursue their appeal from this Court's January 6, 2025 order before the Fourth Circuit.

CONCLUSION

For the foregoing reasons, Defendants respectfully reaffirm their request that the Court enter a ruling on their Rule 60(b) motion pursuant to Rule 62.1(a)(3) indicating that, if the Fourth Circuit remands the instant case to this Court, it would modify the January 6, 2025 remand order in light of the circuit court's decision in *Griffin II* and retain jurisdiction over the federal issues that this case presents.

This the 11th day of March, 2025.

/s/ Terence Steed

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.2(f)(3)

Undersigned counsel certifies that this reply memorandum complies with Local Rule 7.2(f)(3) in that the reply, including headings, footnotes, citations, and quotations, contains no more than 2,800 words as indicated by Word, the program used to prepare the brief.

This the 11th day of March, 2025.

/s/ Terence Steed
Terence Steed
Special Deputy Attorney General

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CERIFICATE OF SERVICE

I certify that the foregoing was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to the below listed attorneys:

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This the 11th day of March, 2025.

/s/ Terence Steed
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