

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
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.

**MOTION TO INTERVENE BY THE
DEMOCRATIC NATIONAL
COMMITTEE**

AND

***EX PARTE* APPLICATION FOR
ORDER ALLOWING SHORTENED
NOTICE OF HEARING**

The Democratic National Committee ("DNC" or "Movant") is a national organization whose purposes and functions are to communicate the Democratic Party's position and messages on issues; protect voters' rights; and aid and encourage the election of Democratic candidates at the national, state, and local levels, including by persuading and organizing citizens not only to register to vote as Democrats but also to cast their ballots for Democratic nominees and candidates.

The Republican National Committee ("RNC") and North Carolina Republican Party ("NCRP") threaten those purposes with this lawsuit, as well as the flood of other meritless lawsuits they have filed in North Carolina courts (and elsewhere) in recent weeks. Here, they seek to disenfranchise students and employees at the

University of North Carolina at Chapel Hill (“UNC”), not because those voters are ineligible or did anything wrong, but because—according to Plaintiffs—the student identification cards given to students by UNC are insufficient. Plaintiffs’ claims are unsupported by, and in fact violate, state and federal law.

Many of UNC’s 20,681 undergraduate students, 11,553 graduate and professional students, and 12,772 employees targeted by the RNC and the NCRP belong to the broad coalition of Democrats, Republicans, independents, and third-party voters who intend to cast votes for Democratic candidates this fall.

The DNC therefore respectfully moves to intervene in this lawsuit pursuant to North Carolina Rule of Civil Procedure 24. It moves to intervene as a matter of right, or in the alternative by permission, to protect its unique interest in having North Carolina’s 2024 general election conducted in accordance with North Carolina and federal law. Movant also respectfully applies for an order, pursuant to North Carolina Rule of Civil Procedure Rule 6(d), noticing hearing on this motion for the September 16, 2024 civil session of Wake County Superior Court.

1. Rule 24(a)(2) allows a timely movant that makes a sufficient showing to intervene in a civil action as of right. N.C. Gen. Stat. § 1A-1, Rule 24(a)(2).

2. Specifically, intervention as of right requires the movant to show that “(1) it has a direct and immediate interest relating to the property or transaction, (2) denying intervention would result in a practical impairment of ... that interest, and (3) there is inadequate representation of that interest by existing parties.” *Virmani v. Presbyterian Health Servs. Corp.*, 350 N.C. 449, 459 (1999). These three

requirements are satisfied in this case, so intervention of right should (indeed must) be allowed.

3. This motion, filed and served just four days after Plaintiffs filed their Complaint, is timely.

4. The DNC—the oldest continuing party committee in the United States—is the Democratic Party’s national committee as defined by 52 U.S.C. § 30101(14). The DNC’s leadership is composed of the chair, vice chairs, and over 200 members elected by Democrats in every U.S. state and territory and the District of Columbia, including North Carolina.

5. As a political organization representing and campaigning for candidates standing for office in the upcoming election, the DNC has a clear and direct interest in the upcoming election and its proper administration. *See James v. Bartlett*, 359 N.C. 260, 263 n.2 (2005); *cf. Libertarian Party of N.C. v. State*, 200 N.C. App. 323, 324 (2009), *aff’d as modified*, 365 N.C. 41 (2011). The DNC has dedicated significant resources to encouraging its supporters and constituents in North Carolina to register and vote in the upcoming election and obtain sufficient photo identification to do so, including through door knocking, text messaging, phone banking, mailed advertising, and digital advertising targeting counties across North Carolina. The DNC has a substantial interest in protecting the right of its members who do choose to vote (and of others who will support Democratic candidates) to have those votes counted in accordance with federal and North Carolina law. These members include individuals qualified to vote in (and candidates for offices in) every county in this state.

6. The complaint challenges the administration of the election by seeking to invalidate the photo IDs (and, by extension, the lawful votes) of tens of thousands of students and employees of UNC. Such a challenge is a practical impairment to the DNC's interests in running successful campaigns to elect its candidates to public office. It is also contrary to "the object of elections," which is "to ascertain the popular will, and not to thwart it." *Owens v. Chaplin*, 228 N.C. 705, 711 (1948). And it is contrary to another "object of election laws," which is "to secure the rights of duly-qualified electors, and not to defeat them." *Id.*

7. The relief the complaint seeks would require the DNC to expend and divert funds and resources that it would otherwise spend on voter outreach and mobilization efforts toward informing and educating voters about their rights under federal and North Carolina law, in order to ensure that those voters are not prevented from voting based upon the presentation of UNC student identification cards. The likely erroneous denial of Democratic voters' right to cast a ballot and to have it counted further injures the DNC by reducing the number of registered Democrats able to cast a ballot in North Carolina that will be counted.

8. The RNC and NCRP allege that disenfranchising North Carolina voters who are students and employees at UNC will give it a competitive advantage in this year's general election. The DNC has a mirror-image interest in ensuring that eligible voters can cast votes for Democratic candidates.

9. The parties in this action do not adequately represent the DNC's interest in seeing Democratic candidates elected. Respondents are public

officeholders focused on efficient administration of elections. They do not share the DNC's particularized interest in helping Democratic candidates win elections or its members' particularized interest in ensuring that their votes are each counted. Movant thus should be allowed to represent its interests as of right in this action.

10. In recognition of the DNC's substantial interests in the outcome of cases affecting the electoral rights of Democratic voters, courts across the country routinely grant intervention to political party committees such as the DNC in cases like this—particularly cases that threaten to undermine the ability of one party's voters to vote or harm the electoral prospects of the party's candidates. For example, this Court recently granted the DNC's motion to intervene in *RNC v. NCSBE*, 24CV026995-910, #17 (N.C. Super. Ct. Sep. 12, 2024). Similarly, the U.S. Court of Appeals for the Third Circuit granted the motion of the DNC and other Democratic Party committees late last year to intervene in a lawsuit challenging a Pennsylvania state voting requirement as violating the federal Voting Rights Act. Order Granting Motion To Proceed As Intervenor, *Pennsylvania State Conference of NAACP Branches v. Northampton County Board of Elections*, No. 23-03166 (3d Cir. Dec. 7, 2023). Other such cases are legion.¹

¹ *E.g.*, *Paher v. Cegavske*, 2020 WL 2042365, at *4 (D. Nev. Apr. 28, 2020) (granting the DNC intervention in an election-law case brought by a conservative interest group); Order (ECF No. 35), *Donald J. Trump for President v. Bullock*, No. 6:20-cv-66 (D. Mont. Sept. 8, 2020) (granting the Democratic Congressional Campaign Committee (“DCCC”), the Democratic Senatorial Campaign Committee, and the Montana Democratic Party intervention in a lawsuit brought by four Republican party entities); *Donald J. Trump for President, Inc. v. Murphy*, 2020 WL 5229209, at *1 (D.N.J. Sept. 1, 2020) (granting the DCCC intervention in a lawsuit by a Republican candidate and party entities); Minute Entry (ECF No. 37), *Cook County*

11. In the alternative, Movant should be granted permissive intervention. N.C. Gen. Stat. § 1A-1, Rule 24(b)(2). For the reasons stated above, Movant's defenses raise common questions of law and fact as those presently in this case. And Movant will abide by whatever schedules and deadlines this Court has set for the original parties. Intervention therefore will not delay or prejudice the adjudication of the rights of those parties.

12. Pursuant to Rule 24(c) of the North Carolina Rules of Civil Procedure, attached as Exhibit 1 is an answer that Movant will file if intervention is granted.

13. Counsel for the DNC has conferred with counsel for Defendants, who do not oppose the DNC's Motion. Counsel for the DNC has conferred with Plaintiffs' counsel, but have not yet received a response regarding Plaintiffs' position on the Motion as of the time of service.

14. Rule 6(d) of the North Carolina Rules of Civil Procedure generally requires a motion and notice of hearing be served not later than five days before the time specified for hearing, unless a different period is fixed by the Court. The Court may, on ex parte application, and for good cause shown, order a matter be noticed for hearing within five days.

15. Good cause supports noticing this motion for hearing fewer than five days from filing on September 16, 2024. Plaintiffs have filed a motion for temporary

Republican Party v. Pritzker, No. 20-cv-4676 (N.D. Ill. Aug. 28, 2020) (granting the DCCC intervention in a lawsuit by a Republican party entity); *Issa v. Newsom*, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (granting the DCCC and the California Democratic Party intervention in a lawsuit by a Republican congressional candidate).

restraining order or motion for expedited preliminary injunction based upon the claims in their verified complaint. The motion for temporary restraining order has been set for hearing in Wake County Superior Court for the civil session beginning on September 16, 2024. Noticing this motion for hearing at the same time will ensure the Court can address the threshold procedural issue of whether leave to intervene has been granted, such that Movant may be heard on plaintiffs' motion for preliminary relief.

WHEREFORE, Movant prays

1. That the Court enter an order allowing hearing on this motion to be noticed concurrently with Plaintiffs' motion for temporary restraining order or, in the alternative, expedited preliminary injunction, currently set for hearing at the Wake County Superior Court's September 16, 2024 civil term;
2. That the Court enter an order allowing Movant to intervene as of right pursuant to Rule 24(a)(2) of the North Carolina Rules of Civil Procedure;
3. In the alternative, that the Court enter an order permitting Movant to intervene pursuant to Rule 24(b)(2) of the North Carolina Rules of Civil Procedure; and
4. Granting such other relief as the Court deems just and proper.

Respectfully submitted, this 16th day of September, 2024.

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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 16th day of September, 2024.

/s/ William A. Robertson
William A. Robertson

EXHIBIT 1
PROPOSED ANSWER IN
INTERVENTION

STATE OF NORTH CAROLINA
WAKE COUNTY

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
the NCSBE; and KAREN BRINSON
BELL, in official capacity as
Executive Director of the NCSBE,

Defendants,

and

DEMOCRATIC NATIONAL
COMMITTEE,

Intervenor-Defendant.

**[PROPOSED] 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 and 12 of the North Carolina Rules of Civil Procedure, submits the following motion to dismiss, answer to, and affirmative defenses to the complaint in this case.

MOTION TO DISMISS

The DNC moves to dismiss plaintiffs' complaint for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure. Dismissal is warranted here because, among other reasons, (1) UNC's One Card meets the requirements of North Carolina's voter ID statutes, (2) the relief plaintiffs seek is preempted by federal law and barred by the North Carolina's Constitution, and (3) plaintiffs have not adequately pled any entitlement to declaratory or injunctive relief, let alone the extraordinary remedy of mandamus.

ANSWER TO COMPLAINT

The DNC answers each of the numbered paragraphs in the complaint as follows:

1. The allegations of this paragraph state a legal argument to which no answer is required. To the extent an answer is required, the DNC admits that the language quoted in the paragraph appears in the sources cited but denies that the sources provide any support for any of plaintiffs' claims, and otherwise denies the paragraph's allegations.

2. It is admitted that the RNC is the national committee for the Republican Party as defined by 52 U.S.C. § 30101(14) and a political party as defined by N.C. Gen. Stat. § 163-96. Except as expressly admitted, the allegations of this paragraph are denied.

3. Denied. On information and belief, there is no recent rise in non-citizens or other unqualified persons voting. On information and belief, the RNC's efforts are

not intended to “ensure that the votes and voices of its members, its candidates, the party,” and “all eligible voter ... are not silenced or diluted,” nor to “ensure election security and voting integrity,” but rather to use false claims to undermine the public’s confidence in our nation’s safe and secure elections.

4. It is admitted that 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 by N.C. Gen. Stat. § 163-96. Except as expressly admitted, the allegations of this paragraph are denied.

5. Denied on information and belief.

6. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

7. Denied. Among other things, there is no evidence or sound reason to believe that verifying students’ identities using their digital identification cards would lead to “instances of potential voter fraud.”

8. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

9. It is admitted that a state-wide election in 2020 “came down to about 400 votes separating one party’s candidate from the other.” The other allegations of this paragraph are denied.

10. It is admitted that the language quoted in this paragraph appears in the sources cited, but denied that any of those sources provides any support for any of plaintiffs’ claims. It is further admitted that the North Carolina State Board of

Elections should work to ensure that this state's elections and conducted in compliance with applicable federal and North Carolina laws. Except as expressly admitted, the allegations in this paragraph are denied.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

18. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

19. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

20. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

21. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. The remaining allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied. Except as expressly admitted, the allegations of this paragraph are denied.

22. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

23. Denied.

24. This paragraph purports to describe a statute, which speaks for itself.

25. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

26. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. The remaining allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied. Except as expressly admitted, the allegations of this paragraph are denied.

27. It is admitted that the language quoted in this paragraph appears in the sources cited, but denied that any of the sources provides any support for any of plaintiffs' claims. The remaining allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

28. Denied on information and belief.

29. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs'

claims. Denied that the definition of “card” cited is the “relevant” or only definition. Except as expressly admitted, the allegations of this paragraph are denied.

30. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs’ claims. To the extent that this paragraph implies this is the relevant or only definition of “card,” that allegation is denied. Except as expressly admitted, the allegations of this paragraph are denied.

31. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs’ claims. To the extent that this paragraph implies this is the relevant or only definition of “card,” that allegation is denied. Except as expressly admitted, the allegations of this paragraph are denied.

32. Denied on information and belief.

33. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs’ claims. Except as expressly admitted, the allegations of this paragraph are denied.

34. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the

source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

35. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

36. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

37. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

38. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

39. It is admitted that student identification cards and employee identification cards are acceptable forms of photo identification. Except as expressly admitted, the allegations of this paragraph are denied.

40. It is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

41. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

42. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

43. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

44. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

45. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

46. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

47. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

48. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

49. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

50. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

51. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, it is admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

52. Admitted save for plaintiffs' characterization of the authority described.

53. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

54. Admitted.

55. It is admitted that this paragraph contains an accurate but partial quotation of Numbered Memo 23-03, which speaks for itself. It is denied that any emphasis appears in the source text, and denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

56. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

57. The allegations of this paragraph state a legal conclusion to which no answer is required. It is denied that any emphasis appears in the source text and denied that the source provides any support for any of plaintiffs' claims. To the extent an answer is required, the allegations are denied.

58. It is admitted that this paragraph contains an accurate quotation of N.C. Gen. Stat. § 163-22(a). It is denied that any emphasis appears in the source text and denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

59. It is admitted that on August 20, 2024, the Board voted to authorize certain digital student and employee identification cards. The remaining allegations of this paragraph state a legal conclusion to which no answer is required. Except as expressly admitted, the allegations of this paragraph are denied.

60. Intervenor-defendants lack specific knowledge to admit or deny the allegations in this paragraph, and therefore deny them. To the extent this paragraph

suggests that existing law does not already allow for electronic voter identification, that states a legal conclusion to which no answer is required.

61. Intervenor-defendants lack specific knowledge to admit or deny the allegations in this paragraph, and therefore deny them.

62. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, admitted that the language quoted in this paragraph appears in the source cited, but denied that the source provides any support for any of plaintiffs' claims. Except as expressly admitted, the allegations of this paragraph are denied.

63. Denied.

64. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

65. Denied.

66. Denied.

67. Denied. Among other reasons, upon information and belief, there is little to no evidence of ineligible persons attempting to vote in North Carolina.

68. Denied.

69. Denied. Among other reasons, the conduct alleged will not "allow non-eligible voters to vote in North Carolina."

70. Denied.

71. Denied.

72. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

73. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

74. Intervenor-defendants lack specific knowledge to accept or deny this allegation, and therefore deny it.

75. Admitted on information and belief.

76. Intervenor-Defendants lack specific knowledge to accept or deny this allegation, and therefore deny it.

77. Denied.

78. Denied. Among other reasons, accepting North Carolina students' digital, university-issued student identification cards will not lead to "illegal votes."

79. It is admitted that the election is less than two months away and that early and mail-in voting will begin soon. The remaining allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

80. The foregoing paragraphs are incorporated by reference as if fully set forth herein.

81. It is admitted that plaintiffs bring their claims pursuant to the cited authority, but denied that plaintiffs are entitled to any relief on any of their claims.

82. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

83. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

84. Denied.

85. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

86. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

87. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

88. Plaintiffs' complaint contains no paragraph 88.

89. Plaintiffs' complaint contains no paragraph 89.

90. Plaintiffs' complaint contains no paragraph 90.

91. The allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the allegations are denied.

* * *

Except as expressly admitted herein, the DNC generally deny all the allegations of the complaint in their entirety and demands strict proof of the same.

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 a declaratory judgment that North Carolina law prohibits voters from presenting a UNC student or employee digital identification card.

SECOND DEFENSE

Plaintiffs' claims are barred by the Fourteenth Amendment to the United States Constitution and Article I, §§ 1, 10, and 19 of the North Carolina Constitution.

THIRD DEFENSE

Plaintiffs' claims are barred because N.C. Gen. Stat. §§ 163-117 and 163-118 impose no non-discretionary duty on defendants, to which the extraordinary relief of mandamus could apply, to bar digital identification cards.

FOURTH DEFENSE

Plaintiffs' claims do not meet any of the requirements for the issuance of an injunction.

FIFTH DEFENSE

Plaintiffs' requested relief is barred, in whole or in part, by the doctrine of waiver. Assuming that N.C. Gen. Stat. §§ 163-166.17 and 163-166.18 do not allow digital student and employee identification cards, the State waived enforcement of that requirement by (1) promulgating Numbered Memo 2023-03, and (2) voting to

accept UNC's mobile One Card as a valid form of voter identification through the 2024 general election.

SIXTH DEFENSE

Plaintiffs' requested relief is barred, in whole or in part, by the doctrine of estoppel. UNC, a state agency, represented to students and employees that if they obtained a digital student or employee identification card, their digital ID card could be used for all the same purposes as a physical card, including voter identification. *See* "Mobile UNC One Card for Apple Wallet Approved for Voter ID Use," <https://onecard.unc.edu/news/2024/08/23/mobile-unc-one-card-for-apple-wallet-approved-for-voter-id-use/> (visited Sept. 15, 2024). Students and, upon information and belief, employees, relied upon the state's representations and asked UNC to issue them digital identification cards instead of a physical one. Additionally, UNC will now only issue physical student identification cards on a "case by case" basis and charges a fee for the same.

SEVENTH DEFENSE

Plaintiffs' requests for preliminary injunctive relief are barred, in whole or in part, by the doctrine of laches. UNC submitted its applications for approval of its Mobile UNC One Card on June 7, 2024 (employees) and June 12, 2024 (students). Plaintiff North Carolina Republican Party had actual notice of the State Board's decision to allow the applications on August 20, 2024, as evidenced by its public posts on X (formerly twitter) that day. Plaintiffs' 23-day delay in filing suit is unreasonable.

Plaintiffs' request for relief so close to the 2024 general election will disenfranchise UNC students and employees who are eligible voters.

EIGHTH DEFENSE

Plaintiffs' requested relief is barred by the doctrines of ratification and unclean hands.

NINTH DEFENSE

Plaintiffs' claims are barred by the Civil Rights Act of 1964, 52 U.S.C. § 10101 (a)(2)(B). As applied here, the "tangibility" of the identification card is not material in determining whether such individual is qualified under State law to vote in such election. The express purpose of voter identification is to confirm the person presenting to vote is the registered voter on the voter registration records by comparing the likeness of the photo to the person offering to vote and comparing the name on the voter identification to the name in the voter registration records. N.C. Gen. Stat. § 163-166.16(b), (g). UNC's digital identification cards fulfill this purpose. Additionally, N.C. Gen. Stat. §§ 163-166.17 and 163-166.18 require security measures that apply to all student- and employee-identification cards accepted as voter IDs.

PRAYER FOR RELIEF

The DNC, having moved to dismiss, answered, and otherwise responded to the complaint, 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 16th day of September, 2024.

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This 16th day of September, 2024.

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