

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY

18 CVS 15292

2019 FEB 21 P 4:45

JABARI HOLMES, FRED CULP, DANIEL)
E. SMITH, BRENDON JADEN PEAY,)
SHAKOYA CARRIE BROWN, and PAUL)
KEARNEY, SR.,)

Plaintiffs,)

v.)

TIMOTHY K. MOORE in his official capacity)
as Speaker of the North Carolina House of)
Representatives; PHILLIP E. BERGER in his)
official capacity as President Pro Tempore of)
the North Carolina Senate; DAVID R. LEWIS,)
in his official capacity as Chairman of the)
House Select Committee on Elections for the)
2018 Third Extra Session; RALPH E. HISE, in)
his official capacity as Chairman of the Senate)
Select Committee on Election for the 2018)
Third Extra Session; THE STATE OF NORTH)
CAROLINA; and THE NORTH CAROLINA)
STATE BOARD OF ELECTIONS,)

Defendants.)

**STATE DEFENDANTS' MOTION
TO DISMISS AND ANSWER**

NOW COME Defendants THE STATE OF NORTH CAROLINA AND NORTH
CAROLINA STATE BOARD OF ELECTIONS, ("State Defendants"), by and through the
undersigned counsel, and hereby submit the following motion and answer to Plaintiffs' Complaint:

MOTION TO DISMISS
N.C. R. Civ. P. 12(b)(6)

The State Defendants move this Court pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure to dismiss this action, in whole or in part, for failure to state a claim upon which relief can be granted.

The State Defendants respond to the allegations in the numbered paragraphs of the Complaint as follows:

ANSWER

1. It is admitted that the right to vote is both important and fundamental in North Carolina. The North Carolina Supreme Court's opinion in *Blankenship v. Bartlett*, 363 N.C. 518 (2009) speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph contain Plaintiffs' legal conclusions and their general description of the cause of action, to which no response is required from the State Defendants.

2. N.C. Const. Art. VI §§ 2-3 speak for themselves and serve as the best evidence of their own contents, however, it is admitted that the language quoted in this Paragraph is contained in N.C. Const. Art. VI §§ 2-3. The remaining allegations of this Paragraph contain Plaintiffs' legal conclusions and their general description of the cause of action, to which no response is required from the State Defendants.

3. It is admitted, upon information and belief, that the North Carolina General Assembly ratified and enacted Session Law 2018-144, Senate Bill 824 ("SB 824") after a veto override on or about the dates referenced in this Paragraph. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph contain Plaintiffs' legal conclusions and their general description of the cause of action, to which no response is required from the State Defendants.

4. Voter Information Verification Act, Session Law 2013-381 and Session Law 2015-103 (“VIVA”) speak for themselves and serve as the best evidence of their own contents. Further, the Fourth Circuit’s opinion in *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016), *cert. denied* 137 S. Ct. 1399 (May 15, 2017) speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

5. It is admitted that a majority of North Carolina voters endorsed a constitutional amendment requiring photographic identification to vote. That constitutional amendment speaks for itself and serves as the best evidence of its own contents. Additionally, it is admitted, upon information and belief, that the Governor vetoed SB 824, and the North Carolina General Assembly overrode the veto. The remaining allegations of this Paragraph contain Plaintiffs’ legal conclusions and their general description of the cause of action, to which no response is required from the State Defendants.

6. Allegations of this Paragraph contain Plaintiffs’ legal conclusions and their general description of the cause of action, to which no response is required from the State Defendants.

I. JURISDICTION AND VENUE

7.-9. It is admitted that the venue is proper in the Wake County. The remaining allegations of Paragraphs 7-9 call for legal conclusions, and require no response from the State Defendants.

II. THE PARTIES

10.-26. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraphs 10-26, and the same are therefore denied.

Allegations of these Paragraphs additionally contain Plaintiffs' legal conclusions, to which no response is required from the State Defendants.

27. It is admitted that Defendant Timothy K. Moore is being sued in his official capacity as Speaker of the North Carolina House of Representatives.

28. It is admitted that Defendant Phillip E. Berger is being sued in his official capacity as President Pro Tempore of the North Carolina Senate.

29. It is admitted that Defendant David R. Lewis is being sued in his official capacity as Chairman of the House Select Committee on Elections for the 2018 Third Extra Session.

30. It is admitted that Defendant Ralph E. Rise is being sued in his official capacity as Chairman of the Senate Select Committee on Elections for the 2018 Third Extra Session.

31. It is admitted that Defendant State of North Carolina is a sovereign state in the United States.

32. It is admitted that Defendant North Carolina State Board of Elections is the agency responsible for the administration of the election laws of the State of North Carolina.

III. FACTUAL ALLEGATIONS

A. Photo ID Requirements for Voting in North Carolina

33. Upon information and belief, it is admitted that Governor Bev Perdue vetoed HB 351, a voter identification bill, in 2011. HB 351 and Governor Perdue's veto message speak for themselves and serve as the best evidence of their own contents. The State Defendants lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

34. Upon information and belief, it is admitted that the North Carolina General Assembly enacted a voter identification requirement in 2013, and amended the same in 2015.

Those enactments speak for themselves and serve as the best evidence of their own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

35. The Fourth Circuit's opinion in *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016), *cert. denied*, 137 S. Ct. 1399 (May 15, 2017) speaks for itself and serves as the best evidence of its own contents. It is admitted that since 2016 North Carolina has not had a photo identification requirement for voting short of certain identification requirements imposed by the Help America Vote Act ("HAVA"). The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

36. Paragraph 36 is admitted.

37. It is admitted that a ballot measure requiring a photographic identification passed with approximately 55.49% of the vote.

38. It is admitted that in 2018 some incumbent legislators failed to secure re-election. It is further admitted that a special session to pass legislation implementing the new constitutional photo identification requirement was called in 2018. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

39. It is admitted, upon information and belief, that approximately nine days passed from the filing of the enabling legislation to the date of passage and presentment of SB 824 to the Governor. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

40. It is admitted that SB 824 implements the photographic identification requirements of the 2018 constitutional amendment to Article VI of the North Carolina Constitution.

41. SB 824 speaks for itself and serves as the best evidence of its own contents.

42. SB 824 speaks for itself and serves as the best evidence of its own contents.

43. SB 824 speaks for itself and serves as the best evidence of its own contents.

44. SB 824 speaks for itself and serves as the best evidence of its own contents.

45. SB 824 speaks for itself and serves as the best evidence of its own contents.

46. SB 824 speaks for itself and serves as the best evidence of its own contents.

47. SB 824 speaks for itself and serves as the best evidence of its own contents.

48. SB 824 speaks for itself and serves as the best evidence of its own contents.

49. SB 824 speaks for itself and serves as the best evidence of its own contents.

50. SB 824 speaks for itself and serves as the best evidence of its own contents.

51. SB 824 speaks for itself and serves as the best evidence of its own contents.

52. SB 824 speaks for itself and serves as the best evidence of its own contents.

53. SB 824 speaks for itself and serves as the best evidence of its own contents.

54. SB 824 speaks for itself and serves as the best evidence of its own contents, but it is specifically admitted that the quoted language is contained in SB 824.

55. SB 824 speaks for itself and serves as the best evidence of its own contents, but it is specifically admitted that the quoted language is contained in SB 824.

56. SB 824 speaks for itself and serves as the best evidence of its own contents.

57. It is admitted that a voter may cast a provisional ballot under certain circumstances.

As to the remaining allegations, SB 824 speaks for itself and serves as the best evidence of its own contents.

58. It is admitted that SB 824 contains a number of exemptions from the photographic identification requirements. As to the remaining allegations, SB 824 speaks for itself and serves as the best evidence of its own contents.

59. It is admitted that SB 824 contains provisions outlining reasonable impediment declaration process. As to the remaining allegations, SB 824 speaks for itself and serves as the best evidence of its own contents.

B. The Process by Which the Challenged Law Was Enacted Is Deeply Troubling

60. The allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

61. SB 824 speaks for itself and serves as the best evidence of its own contents, but it is specifically admitted that the quoted language is contained in SB 824. Upon information and belief, it is further admitted that certain proposed amendments to SB 824 were rejected during 2018 Third Extra Session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

62. SB 824 speaks for itself and serves as the best evidence of its own contents, but it is specifically admitted that the quoted language is contained in SB 824. Upon information and belief, it is admitted that certain proposed amendments to SB 824 were rejected during 2018 Third Extra Session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

63. SB 824 speaks for itself and serves as the best evidence of its own contents, but it is specifically admitted that the quoted language is contained in SB 824. Upon information and belief, it is admitted that certain proposed amendments to SB 824 were rejected during 2018 third special session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

64. SB 824 speaks for itself and serves as the best evidence of its own contents, but it is specifically admitted that the quoted language is contained in SB 824. Upon information and belief, it is admitted that certain proposed amendments to SB 824 were rejected or tabled during 2018 Third Extra Session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

65. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied. Additionally, some allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

66. September 30, 2016 Memorandum Order in federal case *Carcaño v. McCrory*, 1:16-cv-236 speaks for itself and serves as the best evidence of its own contents.

67. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

68. Upon information and belief, Paragraph 68 is admitted.

69. Upon information and belief, Paragraph 69 is admitted.

70. Upon information and belief, Paragraph 70 is admitted.

71. Upon information and belief, Paragraph 71 is admitted.

C. Thousands of North Carolina's Registered or Eligible Voters Lack a Photo ID Acceptable Under the New Law

72. It is admitted that the State Board of Elections conducted database matching comparisons in prior years to identify voters possibly lacking photo identifications. The remaining allegations of this Paragraph call for legal conclusions, and require no further response from the answering State Defendants.

73. The allegations of this Paragraph call for legal conclusions, and otherwise require no response from the answering State Defendants.

74. It is admitted that the Board of Elections' final analysis in February 2015 resulted in a list of 254,391 registrations who could not be matched to a DMV identification card. To the extent that an additional factual response is required, the remaining allegations of Paragraphs 74 are denied.

75. Upon information and belief, it is admitted that experts for VIVA litigants identified additional potential voters who could possibly lack a photographic identification. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

76. It is admitted, upon information and belief, that the figures from the State Board of Elections were presented by the Board's Executive Director Kim Strach to a legislative committee. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

77. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

78. SB 824 speaks for itself and serves as the best evidence of its own contents. It is admitted, upon information and belief, that municipal elections are expected to begin in the fall of 2019, with the first absentee voting period for municipal election expected to commence in August 2019.

D. The Challenged Law Will Impose Serious Costs On Eligible Voters in Order to Exercise their Fundamental Rights

79. SB 824 speaks for itself and serves as the best evidence of its own contents.

80. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

81. SB 824 speaks for itself and serves as the best evidence of its own contents.

82. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

83. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

84. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

85. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

86. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

87. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

88. SB 824 speaks for itself and serves as the best evidence of its own contents. It is, however, specifically admitted that SB 824 empowers the State Board of Elections with the specified rule-making authority.

89. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and the same are therefore denied.

90. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

91. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

92. SB 824 speaks for itself and serves as the best evidence of its own contents. Upon information and belief, it is admitted that certain proposed amendments to SB 824 were rejected, ruled out or tabled during 2018 Third Extra Session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

93. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

94. SB 824 speaks for itself and serves as the best evidence of its own contents. Upon information and belief, it is admitted that certain proposed amendments to SB 824 were rejected, ruled out or tabled during 2018 Third Extra Session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

95. Some allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

E. The Challenged Law Creates Substantial Burdens on Discrete Groups of Voters

96. The allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

1. African-American Voters

97. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

98. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

99. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

100. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

101. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

102. The Fourth Circuit's opinion in *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016), *cert. denied* 137 S. Ct. 1399 (May 15, 2017) speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

103. The allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

2. Voters with Disabilities

104. The allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

105. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

106. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

107. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

108. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

3. Elderly Voters

109. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

110. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

111. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

4. College Student Voters

112. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

113. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

114. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

115. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

5. American-Indian Voters, Particularly Members of the Lumbee Tribe

116. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

117. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

118. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

119. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

F. The Rushed and Inadequately Funded Implementation of the Photo ID Law Will Disenfranchise Thousands of Eligible North Carolina Voters

120. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

121. It is admitted that the State Board of Elections previously engaged in a voter outreach and education campaign regarding a photographic identification requirement of VIVA. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

122. It is admitted that the State Board of Elections previously engaged in a voter outreach and education campaign regarding a photographic identification requirement of VIVA. It is further admitted, upon information and belief, that Executive Director Kim Strach made a presentation on November 26, 2018, to the Joint Legislative Elections Oversight Committee summarizing, among other issues, the Board's extensive outreach and education efforts on voter identification requirements. That presentation file speaks for itself, and serves as the best evidence

of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

123. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

124. It is admitted that the State Board of Elections previously engaged in a voter identification and assistance campaign regarding photographic identification requirements of VIVA. It is further admitted, upon information and belief, that Executive Director Kim Strach made a presentation on November 26, 2018, to the Joint Legislative Elections Oversight Committee summarizing, among other issues, the Board's extensive voter identification and assistance efforts. That presentation file speaks for itself, and serves as the best evidence of its own contents, but it is nevertheless admitted that in 2014, 10,743 individuals signed a self-identifying acknowledgment form. It is also admitted that of these voters who signed a self-identifying acknowledgment form, the total of 2,353 individuals responded to a mailing sent by the voter outreach team. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

125. It is admitted, upon information and belief, that the State Board of Elections sent a mailing to over 250,000 unmatched voters. Of these unmatched voters, over 20,000 returned a response card with 91% of responders indicating that they possessed the required identification. The Board provided assistance to each voter of the 633 voters who requested assistance with identification. The State Defendants lack knowledge or information sufficient to form a belief as

to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

126. It is admitted that the State Board of Elections previously engaged in a voter identification and assistance campaign regarding a photographic identification requirement of VIVA. It is further admitted, upon information and belief, that Executive Director Kim Strach made a presentation on November 26, 2018, to the Joint Legislative Elections Oversight Committee summarizing, among other issues, the Board's extensive voter identification and assistance efforts. That presentation file speaks for itself, and serves as the best evidence of its own contents, but it is nevertheless admitted that Voter Outreach Team helped voters obtain DMV identifications. Upon information and belief, it is further admitted that DMV issued 7,841 photo identifications for voting purposes at no cost to the voter as of November 2018. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

127. SB 824 speaks for itself and serves as the best evidence of its own contents. It is admitted that the first municipal elections are expected to take place in September 2019. The remaining allegations of this Paragraph are denied.

128. The Fourth Circuit's opinion in *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016), *cert. denied*, 137 S. Ct. 1399 (May 15, 2017) speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

129. The allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

130. The allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

131. HB 1029 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions or are addressed to parties other than the answering State Defendants, and require no response from the State Defendants.

132. SB 824 and the accompanying fiscal note speak for themselves and serve as the best evidence of their own contents.

133. SB 824 and the accompanying fiscal note speak for themselves and serve as the best evidence of their own contents.

134. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

135. SB 824 and the accompanying fiscal note speak for themselves and serve as the best evidence of their own contents. The remaining allegations of this Paragraph call for legal conclusions or are addressed to parties other than the answering State Defendants, and require no response from the State Defendants.

136. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph are addressed to parties other than the answering State Defendants, and require no response from the State Defendants.

G. The Reasonable Impediment Declaration and Provisional Ballot, Used in the 2016 Primaries, Did Not Act as an Adequate Failsafe to Protect the Constitutionally Recognized Fundamental Right to Vote of Eligible Voters

137. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

138. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

139. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

140. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

141. The allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

142. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

143. It is admitted, upon information and belief, that Executive Director Kim Strach made a presentation on November 26, 2018, to the Joint Legislative Elections Oversight Committee outlining, among other issues, the 2016 declaration of reasonable impediment process. That presentation file speaks for itself, and serves as the best evidence of its own contents, but it is nevertheless admitted that Kim Strach relayed that 1,048 voters completed a declaration of reasonable impediment during the 2016 Primary. Kim Strach additionally reported that of these Reasonable Impediment voters, 864 ultimately counted. The remaining allegations of this Paragraph call for legal conclusions, and require no response from the State Defendants.

144. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

145. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

146. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

147. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

148. SB 824 speaks for itself and serves as the best evidence of its own contents.

149. SB 824 speaks for itself and serves as the best evidence of its own contents.

150. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph, and the same are therefore denied.

151. SB 824 speaks for itself and serves as the best evidence of its own contents. Upon information and belief, it is admitted that certain proposed amendments to SB 824 were rejected, ruled out or tabled during 2018 Third Extra Session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

152. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

153. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

154. SB 824 speaks for itself and serves as the best evidence of its own contents.

155. SB 824 speaks for itself and serves as the best evidence of its own contents.

156. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

157. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

H. Disenfranchising Eligible Voters Constitutes a Ban on Political Speech, and Making it Harder to Vote Constitutes a Barrier to Political Speech

158. It is admitted that the North Carolina Supreme Court recognized freedom of speech as one of the bulwarks of liberty. It is further admitted that the right to vote is important and fundamental. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

159. The allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

160. The North Carolina Supreme Court's opinion in *Hest Techs., Inc. v. State ex rel. Perdue*, 366 N.C. 289, 749 S.E.2d 429 (2012) speaks for itself and serves as the best evidence of its own contents, but it is admitted that the quoted language is contained in the text of that opinion.

161. The allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

162. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

I. Given the Burden it Places on the Right to Vote and Free Speech, Senate Bill 824 Is Not Narrowly Tailored to Advancing a Compelling Governmental Interest

163. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

164. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

165. SB 824 speaks for itself and serves as the best evidence of its own contents. Upon information and belief, it is admitted that certain proposed amendments to SB 824 were rejected, ruled out or tabled during 2018 Third Extra Session. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

166. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

167. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

168. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

169. SB 824 speaks for itself and serves as the best evidence of its own contents. The State Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, and the same are therefore denied.

170. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

171. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

172. SB 824 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

PLAINTIFFS' FIRST CLAIM FOR RELIEF

(Violation of Article I, § 19 of the North Carolina Constitution in the enactment of an intentionally racially discriminatory law)

173. State Defendants incorporate by reference and reassert their responses to Plaintiffs' allegations in all of the Paragraphs of this Answer, as though fully set forth herein.

174. Denied.

175. N.C. Const. Art. I § 19 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

176. Denied.

177. Denied.

178. The United States Supreme Court opinion in *Vill. Of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252 (1977) speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

PLAINTIFFS' SECOND CLAIM FOR RELIEF

(Violation of Article 1, § 19 of the North Carolina Constitution in the enactment of a law that unjustifiably and significantly burdens the fundamental right to vote)

179. State Defendants incorporate by reference and reassert their responses to Plaintiffs' allegations in all of the Paragraphs of this Answer, as though fully set forth herein.

180. N.C. Const. Art. I § 19 and cases cited in this Paragraph speak for themselves and serve as the best evidence of their own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

181. Denied.

182. Denied.

183. Denied.

PLAINTIFFS' THIRD CLAIM FOR RELIEF

(Violation of Article I, § 19 of the North Carolina Constitution in the enactment of a law that creates different classes of voters who will be treated disparately in their access to their fundamental right to vote)

184. State Defendants incorporate by reference and reassert their responses to Plaintiffs' allegations in all of the Paragraphs of this Answer, as though fully set forth herein.

185. Denied.

186. Denied.

187. Denied.

188. N.C. Const. Art. I § 19 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

PLAINTIFFS' FOURTH CLAIM FOR RELIEF

(Violation of Article I, § 10 of the North Carolina Constitution in the enactment of a law that infringes upon the right of North Carolina voters to participate in free elections)

189. State Defendants incorporate by reference and reassert their responses to Plaintiffs' allegations in all of the Paragraphs of this Answer, as though fully set forth herein.

190. Denied.

191. N.C. Const. Art. I § 10 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

192. Denied.

PLAINTIFFS' FIFTH CLAIM FOR RELIEF

(Violation of Article I, § 10 of the North Carolina Constitution in the enactment of a law that conditions the fundamental right to vote on the possession of property)

193. State Defendants incorporate by reference and reassert their responses to Plaintiffs' allegations in all of the Paragraphs of this Answer, as though fully set forth herein.

194. N.C. Const. Art. I § 10 speaks for itself and serves as the best evidence of its own contents. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

195. Denied.

196. Denied.

PLAINTIFFS' SIXTH CLAIM OF RELIEF

(Violation of Article I, §§ 12 and 14 of the North Carolina Constitution in the enactment of a law that infringes upon the right of North Carolina voters to participate in free elections)

197. State Defendants incorporate by reference and reassert their responses to Plaintiffs' allegations in all of the Paragraphs of this Answer, as though fully set forth herein.

198. Denied.

199. It is admitted that the North Carolina Supreme Court recognized the importance of free speech. The remaining allegations of this Paragraph call for legal conclusions, and otherwise require no response from the State Defendants.

200. Denied.

201. Denied.

PRAYER FOR RELIEF

The State Defendants admits that Plaintiffs seek the relief described in the prayer's Paragraphs 1 through 5. The specific requests in Plaintiffs' prayer for relief require no factual response from the State Defendants. To the extent a response is deemed necessary, the State Defendants deny the allegations in Plaintiffs' prayer for relief and further aver that Plaintiffs are not entitled to any relief from the answering State Defendants.

THE STATE DEFENDANTS DENY, GENERALLY, EACH AND EVERY ALLEGATION OF THE COMPLAINT NOT HEREINBEFORE SPECIFICALLY ADMITTED, DENIED OR OTHERWISE QUALIFIED.

FURTHER DEFENSES

The State Defendants plead and reserve the right to assert any further defenses against Plaintiffs that may become apparent during the course of litigation and discovery.

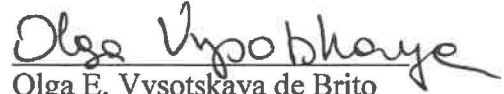
WHEREFORE, the State Defendants pray for the following relief:

1. That Plaintiffs' action against the State Defendants be dismissed, in its entirety or in part;
2. That Plaintiffs have and recover nothing from the State Defendants in this action;
3. That the costs, expenses and fees in this action be taxed against Plaintiffs;
4. For trial by jury on all issues so triable; and
5. For such other and further relief to the State Defendants as the Court deems just

and proper.

Respectfully submitted, this 21st day of February, 2018.

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Counsel for the State Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the forgoing STATE DEFENDANTS' MOTION TO DISMISS AND ANSWER was served on the parties to this action by depositing a copy of same on the date shown below with the United States Mail, first-class postage prepaid, and addressed as follows:

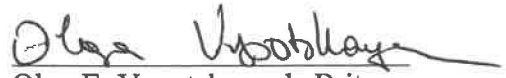
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This the 21st day of February, 2019.


Olga E. Vysotskaya de Brito
Special Deputy Attorney General