

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION**

**MIKE URBEN; ANDRAE DEHAAN; and
ARYN SCHLOEMER,**

Plaintiffs,

v.

**THE NORTH CAROLINA REPUBLICAN
PARTY,**

Defendant.

Case No. _____

COMPLAINT

Jury Trial Demanded

INTRODUCTION

1. “A free society demands an honest and accurate election process,” the North Carolina Republican Party (the “NCGOP” or “Party”) recognizes in its 2022 platform. (Ex. A attached at 8.) “Our laws and policies at every level of government should ensure that elections are conducted with absolute fairness and integrity, regardless of party registration, race, or socio-economic resources.” (*Id.*) According to purported NCGOP Chair Michael Whatley, “there are few issues more important than election integrity and the need to restore trust in our elections.” Michael Whatley, *NC voters deserve the confidence of basic ballot protections*, North State Journal, June 30, 2022, <https://nsjonline.com/article/2022/06/whatley-nc-voters-deserve-the-confidence-of-basic-ballot-protections/>.

2. On March 17, 2022, in an address to the Hoke County Republican Party Convention, Chair Whatley explained precisely what he meant by election integrity. Describing the Party’s efforts in the run-up to the 2022 election cycle, Mr. Whatley proclaimed that “in North Carolina [and] around the country we have to protect the ballot, we have got to make sure

that the votes are legal and that they are counted correctly.” *NC GOP Chairman Michael Whatley speaks at Hoke GOP Convention*, Hoke County Republican Party, <https://www.youtube.com/watch?v=4Jg22hJWmW8> (beginning at 9:21 mark). Mr. Whatley recognized that “there are two key components to election integrity that you just have to have—90 percent of election integrity comes down to having machines that do not and cannot connect with the internet, that have a paper ballot so that you can go back and do audits, and are made in the USA, and you have to have the Republican attorneys and observers in the room.” *Id.*

3. For four days in June 2023, the North Carolina Republican Party held its 2023 State Convention (the “Convention”) in Greensboro. The Convention is where top party officials are supposed to be elected. The Party previously established rules and guardrails for voting at the Convention. The NCGOP violated those rules, launching a mobile phone application which allowed votes to be cast from outside the Convention floor in the contested Chair election. The Chair election and the app failed both of Mr. Whatley’s “key components for election integrity”—the Party conducted the vote over the Internet and failed to use paper ballots making an audit impossible. The Chair election votes, to use Mr. Whatley’s words, were neither “legal” in that they didn’t comply with the Party’s own voting rules, nor were they “counted correctly.” To make matters even worse, the Party improperly adjourned without holding an election for Vice Chair, re-installing the incumbent for an additional two-year term. Plaintiffs—loyal Republicans all—and others have asked for answers regarding what happened in Greensboro but have only been stonewalled.

4. Faced with no other choice, Plaintiffs bring this lawsuit to get the NCGOP to follow its own rules. The record is clear—the Party repeatedly violated its own Plan of Organization and Convention Rules during the 2023 Convention. The NCGOP is not *The*

Sisterhood of the Traveling Pants. North Carolina courts have consistently required private associations of less public significance than the NCGOP to follow their own rules and governing policies. This case is not about substantive policy questions, but rather whether the Party met its election integrity commitments in its own operations. Under North Carolina's Uniform Unincorporated Associations Act, this Court has authority to grant the relief Plaintiffs are seeking here.

5. With a presidential primary election less than one year away, ensuring the legitimacy of the NCGOP's leadership is important not just to Plaintiffs or North Carolina Republicans, but all North Carolinians and even all Americans. The Party Chair has a significant role to play in the primary, as the person responsible for submitting candidate lists and receiving vote certifications. It is in everyone's interest, including the NCGOP's, to address what happened in Greensboro at the 2023 Convention. A new leadership election, which the NCGOP's Plan of Organization contemplates, is the only path forward.

PARTIES, JURISDICTION, AND VENUE

6. Plaintiff Mike Urben is a resident of Wake County. He is a member of the NCGOP and was a delegate to the 2023 NCGOP Convention who paid \$75 to participate.

7. Plaintiff Andrae DeHaan is a resident of Surry County. She is a member of the NCGOP and was a delegate to the 2023 NCGOP Convention who paid \$75 to participate.

8. Plaintiff Aryn Schloemer is a resident of Guilford County. She is a member of the NCGOP and was a delegate to the 2023 NCGOP Convention who paid \$75 to participate.

9. Defendant North Carolina Republican Party or NCGOP is an unincorporated nonprofit association subject to North Carolina's enactment of the Uniform Unincorporated Nonprofit Association Act, N.C. Gen. Stat. §§ 59B-1 to 59B-15. The NCGOP maintains an

office at 1506 Hillsborough Street, Raleigh, North Carolina 27605, making the party a resident of Wake County. *See* N.C. Gen. Stat. § 59B-13.

10. This is an action for a declaratory judgment and injunctive relief pursuant to North Carolina’s enactment of the Declaratory Judgment Act, N.C. Gen. Stat. §§ 1-253 to 1-267.

11. This Court has subject matter jurisdiction over this case under N.C. Gen. Stat. § 7A-243 because the value of the nonmonetary relief sought exceeds \$25,000.

12. Venue is proper in this Court under N.C. Gen. Stat. § 1-82 because the NCGOP is a resident of Wake County.

FACTUAL BACKGROUND

I. The North Carolina Republican Party’s Plan of Organization and Governance of Political Conventions

13. According to the NCGOP’s Plan of Organization (the “Plan”), adopted in 2022 and amended on March 5, 2023, the party exists “for the purpose of uniting and coordinating our efforts for maximum power and efficiency.” (Ex. B attached at 6.) The party is a creation of its members, who made it “conscious of our civic responsibilities and rights.” (*Id.*) Further, “[a]ll citizens of North Carolina who are registered Republicans are members of the Republican Party of North Carolina and shall have the right to participate in the official affairs of the Republican Party in accordance with these rules.” (*Id.*)

14. The NCGOP’s State Executive Committee sets the Party’s agenda. The Executive Committee “shall formulate and provide for the execution of such plans and measures as it may deem conducive to the best interests of the Republican Party” and has “supreme management of all affairs of the Party within the State.” (*Id.* at 17.) The Executive Committee includes, among other officials, the party Chair, Vice Chair, and Treasurer. (*See id.* at 14, 16.)

15. The Plan of Organization addresses the NCGOP's annual convention, which is where the Party's State Chair and Vice Chair are elected. In this regard, the Plan provides that "[i]n every odd-numbered year, the State Convention shall elect a State Chairman and a Vice Chairman who shall serve for a term of 2 years or *until their successors are elected.*" (*Id.* at 25 (emphasis added).) The Plan authorizes additional rules regarding the operation of the Party's various conventions. (*See id.* at 41.) The State Convention is to be run according to Robert's Rules of Order, Newly Revised. (*Id.*)

16. The Plan creates an Arbitration Committee, which exists to hear "[c]ontroversies in any County or District with respect to the organizations set up therein under this Plan." (*Id.*) Relevant here, under the plain language of the Plan, the Arbitration Committee's oversight does not include disputes arising out of the State Convention.

17. Just prior to the State Convention, the Rules Committee for the 2023 NCGOP State Convention released the Convention Rules (the "Rules"), which were later adopted on June 9, 2023, at the State Convention. The Rules exist "to provide for a fair and open Convention in a manner that facilitates the business of the Convention, respects the rights of the majority and minority, and encourages full participation by all Republican Delegates." (Ex. C attached at 2.)

18. The Rules specifically address voting. For a quorum to exist to conduct business and elect officers, "a majority of the accredited and registered Delegates as certified by the Committee on Credentials" and must be "present on the floor of the Convention." (*Id.*) Related, though the Rules allow for voting by "electronic ballot," they bar proxy voting and require "Delegates casting a vote [to] be present on the floor of the Convention at the time such vote is cast." (*Id.*)

II. Marked by irregularities, the NCGOP Convention ends without electing a Vice Chair, shattering Plaintiffs' confidence in the Party's leadership.

19. The 2023 NCGOP Convention was held for four days at the Koury Convention Center in Greensboro, North Carolina, from Thursday, June 8, through Sunday, June 11. (Ex. D attached.) Rule 6 of the Convention provides that “[t]he order of business of the Convention shall be published as in the Convention Agenda.” (Ex. C attached at 4.) Consistent with Rule 6, the meeting agenda included three business sessions, a session starting at 2 PM ET on Friday, June 9, and two other sessions on Saturday, June 10, a morning session starting at 9 AM ET and an afternoon session beginning at 2 PM ET. (Ex. D at 2-3.)

20. During the June 10 morning business session, the State Convention was supposed to receive a “Report from the Platform Committee” and a “Report from the Plan of Organization Committee.” (*Id.* at 2.) Neither of these items were taken up during that session and they were carried over to the afternoon session. However, at the 2 PM ET afternoon session, a motion was made to move forward with the election of the NCGOP’s Officers, and neither of these items were ever addressed. Under Rule 14 of the Convention Rules, a departure from the Convention agenda required a “two-thirds vote,” but no such vote took place. (Ex. C at 6.)

21. In defiance of Rule 14 and the Party’s published agenda, the NCGOP moved forward with officer elections anyway—at least for some positions. Again, the Party’s Plan of Organization requires that “[i]n every odd-numbered year, the State Convention *shall elect* a State Chairman and a Vice-Chairman who shall serve for a term of 2 years *or until their successors are elected.*” (Ex. B attached at 25 (emphasis added).)

22. But the Convention never voted on the Vice Chair. The NCGOP adjourned the June 10 afternoon business session on the grounds that no quorum existed without any vote on the Vice Chair. Rule 7 of the Convention Rules provides that “[a] quorum for all business transactions *and the election of officers* shall consist of a majority of the accredited and

registered Delegates as certified by the Committee on Credentials *and present on the floor of the Convention.*” (Ex. C attached at 4 (emphasis added).) This provision could be read in one of two ways.

23. *First*, because only delegates present on the floor have the right to vote under Convention Rule 9.D, a quorum would exist to the extent *any* accredited and registered Delegate was on the Convention floor. Under this interpretation, the Convention Chair had no basis to adjourn the June 10 afternoon business session.

24. The *second* way to read this language is that there is a quorum, provided “a majority” of the “accredited and registered Delegates” attending the Convention are on the Convention Floor. But even this interpretation does not support the NCGOP’s conduct in this case.

25. Relevant here, the NCGOP Committee on Credentials has represented that 1,696 delegates registered for the Convention and picked up their credentials. This 1,696 delegate count is likely a substantial overcount of the delegates present during the entirety of the Convention.

26. Even under this interpretation of Convention Rule 7, if there were more than 849 delegates on the Convention floor, then a quorum existed, and the Convention should have elected the Party’s Vice Chair. According to the NCGOP’s own figures, there were 901 delegates present on the Convention Floor, more than enough for a quorum. To support his decision to adjourn the session, the Convention Chair must have used 1,864 as the denominator for his quorum calculation, the total number of delegates accredited and registered in the entire State, not the “accredited and registered Delegates certified by the Committee on Credentials *and present on the floor of the Convention,*” as Rule 7 requires. The June 10 afternoon business

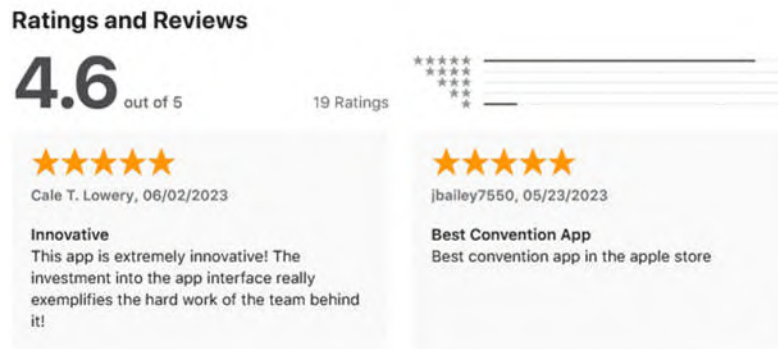
session should have moved forward, and the Vice Chair election should have proceeded, but the NCGOP violated its own Convention Rules. The Party also violated Robert's Rules of Order by departing from the published agenda and failing to order a recess with the possibility of reconvening later.

27. The primary challenger for the NCGOP Vice Chair position dropped out of the race the following day, Sunday, June 11. With the afternoon business session improperly closed, grassroots Plaintiffs lacked any ability to propose an alternate candidate for Vice Chair, which Plaintiffs had the right to do under Convention Rule 10. (*Id.* at 6.)

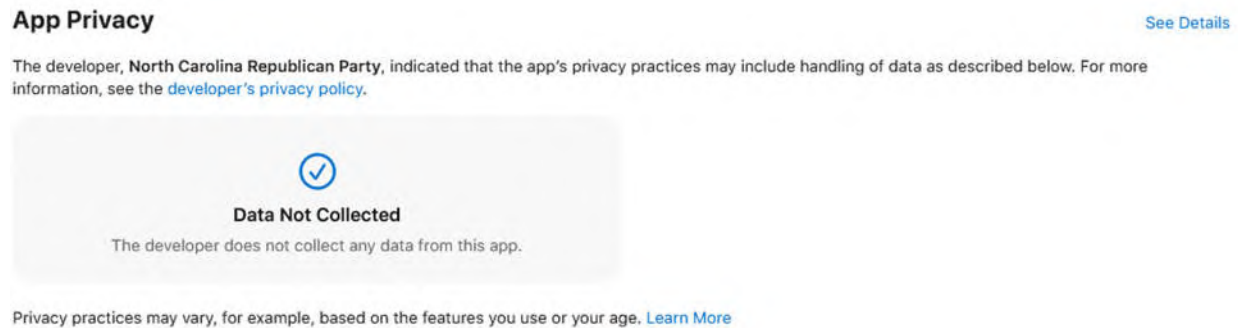
28. On June 15, the Party's Plan of Organization Committee met and considered whether to order a special election because the Party's Vice Chair was not elected at the State Convention. Instead of allowing Party members to vote on their Vice Chair in accordance with the Plan of Organization, the NCGOP decided to reinstall Susan Mills for an additional two-year term. That is a blatant violation of the Party's Plan of Organization, which limits Ms. Mills' term to two years "or until [her] successor[] [is] elected." (Ex. B at 25 (emphasis added).) The Party's website contains outdated language regarding Ms. Mills, proclaiming that she "is the newly elected Vice Chairwoman of the North Carolina Republican Party." (Ex. E attached). To the contrary, NCGOP insiders selected Ms. Mills to serve an additional two years, behind closed doors, without debate on the Convention floor, and without a vote.

29. The selection, rather than the election, of a Vice Chair is but one failing in the 2023 NCGOP Convention. Convention Rule 9C bars proxy voting. (Ex. C at 5.) Convention Rule 9D provides that "[d]elegates casting a vote must on the floor of the Convention at the time such vote is cast." (*Id.*) Convention Rule 11 bars guests from the Convention floor and from "attempt[ing] to vote on or speak to any matter before the Convention." (*Id.* at 6.)

30. For the 2023 NCGOP Convention, the Party’s leadership commissioned the creation of an online app, which Convention attendees could download from, amongst other platforms, Apple’s App Store. The app would be the mechanism through which delegates like Plaintiffs would vote for the NCGOP’s leadership. Before the application was ever even put to the test for voting in an actual Convention, positive reviews were already rolling in. On May 23, 2023, one reviewer wrote that the NCGOP’s app was the “[b]est convention app in the apple store.” (Ex. F attached at 2.) Another five-star reviewer called the app “extremely innovative.” (*Id.*) The two reviews which, upon information and belief, were created by NCGOP employees, are shown below.



31. As shown below, the NCGOP “does not collect any data from this app.” (*Id.*) With this label, the NCGOP was necessarily admitting the app did not track user location.



Given this, how could the app detect whether a delegate was on the floor? Answer: the app could not and did not track a delegate's location. The "developer's privacy policy" referenced above contains a hyperlink to www.ncgopconvention.org/pages/privacy, but that link redirects users to the www.ncgopconvention.org website which shows a picture of Greensboro's skyline with an announcement that "The convention is over!"

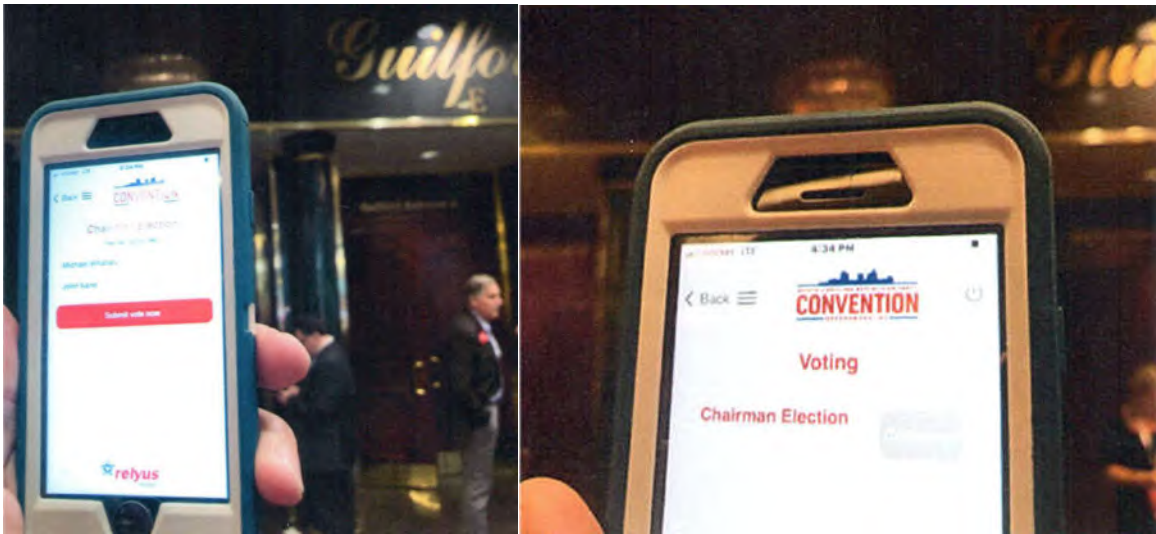
32. The NCGOP's Credentials Committee knew of the app's limitations. The morning of June 10, the same day as the NCGOP Officer election, the Committee met for one hour behind closed doors at the Koury Center. During the meeting, the NCGOP's Joshua Bailey confirmed that the app could not prevent delegates from voting outside the Convention Floor. Upon information and belief, Mr. Bailey is jbailey7550, one of the app's five-star reviewers. Far from allowing the Party's members to engage in a transparent vote, the design flaw in the NCGOP's app allowed users to end-run the Convention Rules on in-person, on-floor voting.

33. Unsurprisingly, multiple voters exploited this design flaw, evidenced by the following:

a. During the June 10 afternoon session, Courtney Geels, a delegate from Durham County, alerted the Convention Chair that she had evidence of two delegates who had voted from Wisconsin and Wilmington, North Carolina. The Convention Chair told Ms. Geels to take the evidence to the Convention "help desk."

b. Convention guest Alison Dunlap cast a vote using the app off the Convention floor, from the lobby of the Koury Center. Even though she was a Convention guest barred from voting, and she was not on the Convention floor when she cast a ballot, Ms. Dunlap received a confirmation from the app that she had successfully voted in the NCGOP Chair race.

c. Jay DeLancy, a Convention guest who was locked out of the Convention floor during voting, witnessed two registered delegates who were also locked out of the Convention Floor, vote from the mobile app from the lobby of the Koury Center. One of the delegates who voted remotely received the following confirmation:



34. Upon information and belief, other delegates cast votes who were not present on the Convention Floor or who were not present at the Koury Center entirely. At a minimum, these represent serial, material violations of Convention Rule 9.D.

35. Convention Rule 13 provides that Robert's Rules of Order, Newly Revised apply to the conduct of the Convention. Robert's Rules of Order provide for electronic voting to facilitate roll-call voting, not to facilitate remote voting. So not only did the NCGOP violate Convention Rule 9.D, the Party also violated Robert's Rules.

36. The Convention's commitment to the app was selective. Convention Rule 9.A provides that "[v]oting shall be conducted, at the discretion of the Convention Chair, by electronic ballot, voice vote or by the standing of the Delegates." (Ex. C at 5.) The use of the disjunctive "or" in this manner means the Convention Chair was obligated to choose one and

only one of these three voting methods. Instead, the Convention Chair used the app for the Chair race while employing other voting methods for less consequential votes.

37. Other irregularities emerged. One delegate, North Carolina House of Representatives Member Ben Moss, from Richmond County, voted for John Kane for NCGOP Chair, but all votes cast from Richmond County were reported for Mr. Whatley. Delegations from three other counties, Alexander, Avery, and Durham, all reported casting more votes than those counties had delegated. While the Convention Chair disallowed those votes, the reporting raises additional questions regarding the integrity of the vote.

38. Despite the many noted irregularities, and a delegate on the Convention Floor even moving to overturn the Party Chair election results, this motion was quickly determined to be out of order by the Convention Chairman, and Mr. Whatley emerged victorious.

39. These are not academic issues for Plaintiffs, all of whom “have the right to participate in the official affairs of the Republican Party.” (Ex. B at 6.) At the very least, the NCGOP’s Vice Chair is sitting in a position of power having not been elected in accordance with the Party’s Plan of Organization and the State Convention Rules. The current NCGOP Chair was elected through a process that defied the on-floor, in-person voting requirements set out in the State Convention Rules, calling the Party leadership’s legitimacy into question, much less the NCGOP’s own public pronouncements regarding election integrity.

40. When Plaintiffs and others asked for answers, the NCGOP avoided providing transparency and accountability. Left with no other choice, Plaintiffs are bringing this action to get answers and to set the house of the Party they love in order.

CLAIMS FOR RELIEF

COUNT I DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

41. Plaintiffs reallege the foregoing paragraphs.
42. Plaintiffs have the right to participate in the official affairs of the NCGOP.
43. There is an actual controversy regarding the conduct of the 2023 NCGOP Convention.
44. During the 2023 NCGOP Convention, the Party violated its Plan of Organization and Convention Rules in at least the following ways:
 - a. Failing to conduct all the business provided for in the NCGOP Convention agenda;
 - b. Adjourning the June 10 afternoon business session even though a quorum existed;
 - c. Failing to elect, and then effectively reinstalling the NCGOP Vice Chair for an additional two years;
 - d. Designing and deploying an online application that would allow voters to circumvent the Convention Rules;
 - e. Allowing and counting votes cast for NCGOP Chair by delegates who were not present on the floor of the Convention;
 - f. Disregarding valid votes in counties that registered more votes than delegates present on the floor of the Convention; and
 - g. Using multiple methods of tabulating votes in defiance of the Convention Rules.

45. Because of the NCGOP's multiple, material failures to follow the Party's Plan of Organization and Convention Rules, the results of the 2023 NCGOP Convention are null and void.

46. Plaintiffs suffered and continue to suffer injury on account of the NCGOP's violation of its own rules.

47. The issues raised herein are justiciable.

**COUNT II
BREACH OF CONTRACT**

48. Plaintiffs reallege the foregoing paragraphs.

49. Plaintiffs each paid \$75 to attend and participate in the 2023 NCGOP convention as delegates.

50. The NCGOP's Plan of Organization, Convention Rules, and Robert's Rules of Order, Newly Revised, form the terms of a contract between the NCGOP and Plaintiffs.

51. Plaintiffs abided by their obligations under the terms of its contract with the NCGOP.

52. As alleged above, the NCGOP violated the terms of its contract with Plaintiffs in the conduct of the 2023 NCGOP Convention.

53. Plaintiffs suffered damages.

JURY TRIAL

Plaintiffs demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

A. Enters a declaration that the election results of the 2023 NCGOP Convention are null and void given the Party's violations of its Plan of Organization, Convention Rules, and Robert's Rules of Order, Newly Revised;

B. Enters a declaration that the NCGOP violated its Plan of Organization and Convention Rules by not completing all the business on its published agenda;

C. Enters a declaration that the NCGOP's de facto appointment of Susan Mills to the position as Vice Chair is null and void;

D. Enters a declaration that the results of the election for NCGOP Chair are null and void given that the NCGOP's app allowed for off-the-Convention-floor voting in violation of the Convention Rules and that such voting did take place;

E. Enters a declaration that the use of multiple voting methods during the 2023 GOP Convention violated the Party's Plan of Organization, Convention Rules, and Robert's Rules of Order, Newly Revised;

F. Orders the NCGOP to conduct a special election regarding all matters on which this Court finds the Party did not abide by its Plan of Organization, Convention Rules, and Robert's Rules of Order, Newly Revised;

G. Award any other relief to Plaintiffs which this Court deems necessary and proper.

Respectfully submitted this 17th day of July, 2023.

/s/ James R. Lawrence, III
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EXHIBIT A



2022 Platform

**North Carolina
Republican Party**

EXHIBIT A

2022 PLATFORM COMMITTEE MEMBERS

Julie Scott Emmons, Chair

Beth Capillary, 1st District

Don Payne, 2nd District

Steven Rader, 3rd District

Evelyn Poole-Kober, 4th District

Heather Ward, 5th District

Connie Baker, 6th District

Kathryn Lawler, 7th District

Jennifer Dunbar, 8th District

Harold Mendelson, 9th District

Leisa Rowe (Secretary), 10th District

John Anglin, 11th District

Ashley Bookout, 12th District

Brandon Tucker, 13th District

Julie Scott Emmons, At Large

Kevin Austin, At Large

Addul Ali, At Large

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EXHIBIT A

