

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CASE NO. 1:23-CV-862-TDS-JEP**

Democratic National Committee; North
Carolina Democratic Party,

Plaintiffs,

v.

North Carolina State Board of Elections;
Karen Brinson Bell, *in her official capacity
as Executive Director of the North
Carolina State Board of Elections*; Alan
Hirsch, *in his official capacity as Chair of
the North Carolina State Board of
Elections*; Jeff Carmon, *in his official
capacity as Secretary of the North Carolina
State Board of Elections*; Stacy Eggers IV,
Kevin N. Lewis, and Siobhan O'Duffy
Millen, *in their official capacities as
members of the North Carolina State
Board of Elections*,

Defendants,

and

Philip E. Berger, *in his official capacity as
President Pro Tempore of the North
Carolina Senate*; Timothy K. Moore, *in his
official capacity as Speaker of the North
Carolina House of Representatives*;
Republican National Committee; North
Carolina Republican Party; Virginia A.
Wasserberg; Brenda M. Eldridge,

Intervenors.

JOINT MOTION TO STAY

All parties to this action jointly move the Court to stay all claims in this case. In light of the Court’s ruling on plaintiffs’ preliminary-injunction motion, steps the State Board of Elections has taken in the wake of that ruling, and the possibility of further legal developments in the coming months, the interests of judicial economy warrant a stay.

This case, which plaintiffs originally filed on October 10, 2023, challenges provisions of North Carolina Senate Bill 747 (“S.B. 747”). On January 21, 2024, this Court enjoined Defendants from “utilizing the procedures of N.C. Gen. Stat. §163-82.6B(d) to remove from the official count the votes of the ballot of any voter who has provided contact information in the registration process and whose first notice required under N.C. Gen. Stat. § 163-82.7(c) is returned by the Postal Service as undeliverable before the close of business on the business day before the canvass, without first providing such voter notice and an opportunity to be heard.”. In response to the Court’s preliminary injunction, the State Board then issued updated guidance, in Numbered Memo 2023-05, about the implementation of S.B. 747. Under state law, the new guidance will expire on March 9, 2025, 60 days after the next regular legislative session begins. N.C. Gen. Stat. §§163-22.2, 120-11.1. The State Board also recently promulgated new temporary rules governing poll-observer conduct. 08 NCAC 20.0101, 08 NCAC 20.0102, 08 NCAC 20.0103. Those rules will expire on February 8, 2025 at the latest. *See* N.C. Gen. Stat. §150B-21.1(d).

Given all this, and given the concomitant possibility of further legislative action regarding same-day registration, the parties submit that a stay will appropriately conserve judicial resources by avoiding litigation over issues that could soon become moot.

The parties further agree that a lifting of the stay could be warranted, upon a party's motion, if the General Assembly passes new legislation regarding same-day registration or the State Board of Elections meaningfully alters or fails to enforce those portions of Numbered Memo 2023-05 that were updated based upon this Court's preliminary injunction. Also, Plaintiffs notify the Court that they expect to move the Court to lift the stay if they have reason to believe that poll observers are intimidating voters. In either instance the parties agree that absent some time urgency, they will meet and confer prior to moving to lift the stay.

A proposed order is attached.

Respectfully submitted, this the 9th day of April, 2024.

NORTH CAROLINA DEPARTMENT OF
JUSTICE

NELSON MULLINS RILEY &
SCARBOROUGH LLP

/s/ Terence Steed (with permission)

TERENCE STEED
N.C. BAR NO. 52809
MARY CARLA BABB
N.C. BAR NO. 25713
Post Office Box 629
Raleigh, NC 27602
Phone: (919) 716-6900
Fax: (919) 716-6763
Tsteed@ncdoj.com
MCBabb@ncdoj.com

*Counsel for Defendants North Carolina State
Board of Elections, Karen Brinson Bell, Alan
Hirsch, Jeff Carmon, Stacy Eggers IV, Kevin
N. Lewis, and Siobhan O'Duffy Millen*

/s/ Phillip J. Strach (with permission)

PHILLIP J. STRACH
N.C. BAR NO. 29456
THOMAS A. FARR
N.C. BAR NO. 10871
ALYSSA M. RIGGINS
N.C. BAR NO. 52366
CASSIE A. HOLT
N.C. Bar No. 56505
301 Hillsborough Street, Suite 1400
Raleigh, NC 27603
Phone: (919) 329-3800
Fax: (919) 329-3779
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
cassie.holt@nelsonmullins.com

*Counsel for Intervenors Philip E. Berger
and Timothy K. Moore*

BROOKS, PIERCE, MCLENDON
HUMPHREY & LEONARD, LLP

/s/ Jim W. Phillips, Jr.
JIM W. PHILLIPS, JR.
N.C. BAR NO. 12516
SHANA L. FULTON
N.C. BAR NO. 27836
WILLIAM A. ROBERTSON
N.C. BAR NO. 53589
JAMES W. WHALEN
N.C. Bar No. 58477
150 Fayetteville Street
1700 Wells Fargo Capitol Center
Raleigh, N.C. 27601
Phone: (919) 839-0300
jphillips@brookspierce.com
sfulton@brookspierce.com
wrobertson@brookspierce.com
jwhalen@brookspierce.com

WILMER CUTLER PICKERING
HALE AND DORR LLP

SETH P. WAXMAN*
DANIEL S. VOLCHOK*
CHRISTOPHER E. BABBITT*
GARY M. FOX*
JOSEPH M. MEYER*
2100 Pennsylvania Avenue N.W.
Washington, D.C. 20037
Phone: (202) 663-6000
seth.waxman@wilmerhale.com
daniel.volchok@wilmerhale.com
christopher.babbitt@wilmerhale.com
gary.fox@wilmerhale.com
joseph.meyer@wilmerhale.com
* Local Rule 83.1(d) special appearance

*Counsel for Plaintiffs Democratic National
Committee and North Carolina
Democratic Party*

BAKER & HOSTETLER LLP

/s/ Rachel Hooper (with permission)
RACHEL HOOPER*
TYLER G. DOYLE*
TREVOR M. STANLEY*
RICHARD RAILE*
811 Main St., Suite 1100
Houston, TX 77002
Phone: (713) 751-1600
Fax: (713) 751-1717
rhooper@bakerlaw.com
tgdoyle@bakerlaw.com
tstanley@bakerlaw.com
rraile@bakerlaw.com
* Local Rule 83.1(d) special appearance

CHALMERS, ADAMS, BACKER &
KAUFMAN, PLLC

PHILIP R. THOMAS
N.C. BAR NO. 53571
204 N. Person St.
Raleigh, NC 27601
Phone: (919) 670-5185
Fax: (678) 582-8910
pthomas@chalmersadams.com

*Counsel for Intervenors Republican
National Committee, North Carolina
Republican Party, Virginia A. Wasserberg,
and Brenda M. Eldridge*