IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA ALLIANCE FOR RETIRED AMERICANS et al.,	)	
Plaintiffs,	)	
v.	)	1:26cv965
NORTH CAROLINA STATE BOARD OF ELECTIONS et al.,	)	
Defendants.	)	

MEMORANDUM ORDER

THOMAS D. SCHROEDER, District Judge.

Before the court is the motion to intervene as Defendants by the Republican National Committee and the North Carolina Republican Party ("Movants"). (Doc. 47.) Movants seek to intervene as a matter of right, or in the alternative, permissively. (Doc. 48 at 8, 13.) They represent that Plaintiffs oppose intervention in advance of the preliminary injunction hearing set for October 14, 2026, but take no position on intervention thereafter. (Id. at 3.) Movants have further indicated that Defendant Durham County Board of Elections and its members do not object to intervention, while Defendants North Carolina Board of Elections and its members and Guildford County Board of Elections and its members take no position on the motion. (Id.)

On October 7, 2026, this court issued a text order directing

the parties to respond with any objection to the motion to intervene. Plaintiffs North Carolina Alliance for Retired Americans, North Carolina Asian Americans Together, Down Home North Carolina, Vaeme Afokpa, and Raquel Nelson have responded in opposition to the motion. (Doc. 51.) None of the Defendants responded. For the reasons set forth below, the motion to intervene will be granted.

I. BACKGROUND

This action was filed on September 22, 2026, bringing (1) a claim under 42 U.S.C. § 1983 for violation of the "Materiality Provision" of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B); (2) a claim under 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201, 2202 for denial of Procedural Due Process under the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. XIV; (3) a claim under 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201, 2202 for denial of Equal Protection under the Fourteenth Amendment, U.S. Const. amend. XIV; and (4) a claim under 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201, 2202 for undue burden on the right to vote under the First and Fourteenth Amendments, U.S. Const. amends. I & XIV. (Doc. 1.) Plaintiffs seek injunctive relief against two provisions of the updated Numbered Memo 2021-03 issued by the North Carolina Board of Elections on September 4, 2026.

Plaintiffs have moved to preliminarily enjoin Defendants from enforcing the challenged provisions of Numbered Memo 2021-03.

(Doc. 5.) Plaintiffs have sued the North Carolina State Board of Elections and its members in their official capacity, the Durham County Board of Elections and its members in their official capacity, and the Guilford County Board of Elections and its members in their official capacity.

On October 6, 2026, the Republican National Committee and the North Carolina Republican Party moved to intervene in this action. (Doc. 47.) The Republican National Committee "is the national committee of the Republican Party" that "manages the Republican Party's business at the national level." (Doc. 48 at 4-5.) The North Carolina Republican Party "is the state-level political organization of the Republican Party." (Id. at 5.) Movants disagreed with and challenged the predecessor to the current Numbered Memo 2021-03, ultimately leading to the State Board of Elections adopting the current Numbered Memo 2021-03. (Id. at 5-7.)

II. ANALYSIS

On timely motion, "[u]nder Rule 24(a)(2), a district court must permit intervention as a matter of right if the movant can demonstrate '(1) an interest in the subject matter of the action; (2) that the protection of this interest would be impaired because of the action; and (3) that the applicant's interest is not adequately represented by existing parties to the litigation.'" Stuart v. Huff, 706 F.3d 345, 349 (4th Cir. 2013) (quoting Teague

v. Bakker, 931 F.2d 259, 260–61 (4th Cir. 1991)). To overcome the "minimal challenge" of showing inadequate representation, an intervenor who has the "same ultimate objective" as the present party must demonstrate "adversity of interest, collusion, or nonfeasance" to undo a presumption in favor of adequacy. Virginia v. Westinghouse Elec. Corp., 542 F.2d 214, 216 (4th Cir. 1976). Where the proposed intervenors' interests do not "overla[p] fully" with the existing party, there is no presumption of adequacy. Berger v. N.C. State Conf. NAACP, 597 U.S. 179, 197 (2022).

When assessing the timeliness of a motion to intervene under Rule 24(a), courts in this circuit are "obliged to assess three factors: first, how far the underlying suit has progressed; second, the prejudice any resulting delay might cause the other parties; and third, [if the movant was tardy in bringing their motion,] why the movant was tardy in filing its motion." Alt v. U.S. E.P.A., 758 F.3d 588, 591 (4th Cir. 2014). Movants argue that their motion to intervene is timely because they "expeditiously sought intervention before the [preliminary injunction] response deadlines," and no named defendants have filed responsive pleadings in this action. (Doc. 48 at 9.) Plaintiffs respond that the motion is not timely because "[t]he parties are just days away from completing briefing on Plaintiffs' motion for preliminary injunction." (Doc. 51 at 4.)

The court finds that the motion to intervene was timely.

Movants have sought to intervene just fourteen days after the commencement of this action, eight days after Plaintiffs filed their motion for preliminary injunction, and before any responsive pleadings have been filed. See Democratic Nat'l Comm. v. N.C. State Bd. of Elections, No. 1:23CV862, 2023 WL 12218247, at *2 (M.D.N.C. Nov. 6, 2023) (finding motion to intervene filed sixteen days after commencement of the action sufficiently timely); United States v. Virginia, 282 F.R.D. 403, 405 (E.D. Va. 2012) (holding that motion to intervene is timely where a case has not progressed past the pleadings stage); cf. MacGregor v. Farmers Ins. Exch., No. 2:10-cv-03088, 2012 WL 5380631, at *2 (D.S.C. Oct. 31, 2012) (motion to intervene untimely when filed more than five months after the passage of the court's deadline to join parties and amend the pleadings).[1]

[1]The cases cited by Plaintiffs where courts denied intervention "to avoid prejudice to the parties in early emergency proceedings" (Doc. 51 at 4) are readily distinguishable. In Doe v. Duncanville Indep. Sch. Dist., 994 F.2d 160, 168 (5th Cir. 1993), the Fifth Circuit ultimately concluded that intervention was properly denied because the proposed intervenor's interests were adequately represented in the litigation, rather than on timeliness grounds. In Acrisure of California, LLC v. Papazyan, No. 1:26-CV-1213, 2026 WL 2065811, *5 (W.D. Mich. May 26, 2026), the court had entered a temporary restraining order in the case and allowed limited discovery before movants sought to intervene. Here, no temporary restraining order was sought and no discovery has been taken. In Pharm. Rsch. & Mfrs. of Am. v. Comm'r, Dep't of Hum. Servs., 201 F.R.D. 12, 14 (D. Me. 2001), the preliminary injunction had already been "fully briefed and argued orally" in a prior iteration before the proposed intervenor sought intervention. Finally, in Harlem Val. Transp. Ass'n v. Stafford, 360 F. Supp. 1057, 1066 n.11 (S.D.N.Y. 1973), aff'd, 500 F.2d 328 (2d Cir. 1974), the movant did not attach a "proposed pleading that sets forth [their] defense" in their motion. Here, Movants have attached a proposed answer. (Doc. 47-1.)

Next, Movants contend that they "have a clear, significant, protectible interest in the subject matter of this litigation." (Doc. 48 at 10.) First, Movants point out that they "are currently training thousands of voters to serve as observers for, among other things, county board of elections' absentee ballot meetings." (Id.) Movants contend that the outcome in this litigation "will necessarily affect . . . [Movants'] strategic decisions on how they will deploy their limited resources" before the election, and "will impact [Movants'] guidance and advocacy to the Republican Party's Candidates, potential absentee by mail voters, and members at large." (Id. at 10-11.) Additionally, Movants note that they "initiated [the] legal process in 2024 to protect their view of how North Carolina absentee ballot law should be interpreted (including the sealing requirement at issue here)." (Id. at 11.) Accordingly, Movants have demonstrated a significant interest in the litigation. See Democratic Nat'l Comm., 2023 WL 12218247, at *2 (concluding movants had significant interest in litigation when they had made "significant resource expenditures" related to challenged conduct); cf. Thomas v. Andino, 335 F.R.D. 364, 370 (D.S.C. 2020) (noting political party's significant interest where party's candidates would be affected by change in election law).

Regarding whether the existing Defendants adequately represent their interests, Movants observe that Defendants, the state and county boards of elections and their members, "cannot

adequately represent the interest of any political party, including the Republican Party, which is advocating for its candidates and members" because the boards of elections's "purpose is to administer the state's elections pursuant to the laws established by the North Carolina General Assembly." (Doc. 48 at 12.) Plaintiffs counter that "three separate Defendant groups are 'zealously pursing the same ultimate objectives' as the [] Movants". (Doc. 51 at 6 (quoting Green v. Bell, No. 3:21-CV-00493-RJC-DCK, 2023 WL 2572210 (W.D.N.C. Mar. 20, 2023)).)

The need not resolve whether intervention as of right is demonstrated here because Movants satisfy the standards for permissive intervention.

Movants argue in the alternative that the court should grant permissive intervention pursuant to Federal Rule of Civil Procedure 24(b). Rule 24(b)(1)(B) permits intervention for anyone who "has a claim or defense that shares with the main action a common question of law or fact." "In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). Thus, where a movant seeks permissive intervention, it must satisfy three requirements: (1) the motion must be timely; (2) the claims must have a question of law or fact in common with the main action; and (3) intervention must not result in undue delay or prejudice to the existing parties. See

Wright v. Krispy Kreme Doughnuts, Inc., 231 F.R.D. 475, 479 (M.D.N.C. 2005); Solo Cup Operating Corp. v. GGCV Energy LLC, Civil No. WDQ-12-3194, 2013 WL 2151503, at *2 (D. Md. May 15, 2013); Shanghai Meihao Elec., Inc. v. Leviton Mfg. Co., 223 F.R.D. 386, 387 (D. Md. 2004). Trial courts are directed to construe Rule 24 liberally to allow intervention where appropriate. Feller v. Brock, 802 F.2d 722, 729 (4th Cir. 1986) (noting that "liberal intervention is desirable to dispose of as much of a controversy involving as many apparently concerned persons as is compatible with efficiency and due process" (cleaned up)); Capacchione v. Charlotte-Mecklenburg Bd. of Educ., 179 F.R.D. 505, 507 (W.D.N.C. 1998) (same).

As discussed above, Movants are timely. They further contend that their proposed defense shares common questions of fact and law with the main action. (Doc. 48 at 14.) The court agrees. Movants have submitted a proposed answer responding to the complaint's allegations and denying that Numbered Memo 2021-03 violates federal law. (See Doc. 47-1.) Accordingly, the proposed defenses "share common questions of law and fact with the main action in this case," and their proposed answer "raises . . . legal arguments arising out of the same subject matter" – namely, the challenged provisions of Numbered Memo 2021-03 – as the main action in this case. Carcano v. McCrory, 315 F.R.D. 176, 179 (M.D.N.C. 2016).

As for prejudice, Plaintiffs contend that they will be prejudiced because they "have limited time and briefing space to address three sets of Defendants' arguments as to multiple claims under federal statutory and constitutional law." (Doc. 51 at 6.) Having to respond to another brief on the expedited briefing schedule, according to Plaintiffs, will "inflict serious prejudice." (Id. at 5.) However, Plaintiffs sought this expedited briefing schedule and only sought two days to file a reply to the Defendants' briefs. (Doc. 26 at 2.) They now have three days to file a reply (Doc. 34) and have been granted an enlarged word count for their reply brief. The court cannot discern any undue prejudice.

Moreover, Movants have stated that they "will respond to Plaintiffs' Motion for Preliminary Injunction on the schedule the [c]ourt has set for Defendants" and "will not seek to extend any current deadline." (Doc. 48 at 15.) Movants have filed a proposed answer well before the deadline for doing so. (Doc. 47-1.) It is also difficult to conclude that Plaintiffs cannot anticipate Movants' position on the merits of the motion for preliminary injunction in that Plaintiffs have prior litigation experience with these issues. Accordingly, the addition of the proposed intervenors should not delay proceedings in this case. See Carcano, 315 F.R.D. at 179 (finding no undue delay or prejudice when the deadline for responses to plaintiff's motion for

preliminary injunction had not passed, and proposed intervenor had already filed a proposed answer).

III. CONCLUSION

For these reasons,

IT IS THEREFORE ORDERED that Movants' motion to intervene (Doc. 47) is GRANTED.

IT IS FURTHER ORDERED that Movants shall respond to Plaintiffs' motion for preliminary injunction (Doc. 5) by close of business today.

/s/ Thomas D. Schroeder
United States District Judge

October 9, 2026