

STATE OF NORTH CAROLINA
COUNTY OF WAKE

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 24-CVS-003534-910

BEVERLY BARD, RICHARD LEVY, SUSAN
KING COPE, ALLEN WELLONS, LINDA
MINOR, THOMAS W. ROSS, SR., MARIE
GORDON, SARAH KATHERINE SCHULTZ,
JOSEPH J. OCCIA, TIMOTHY S. EMRY,
and JAMES G. ROWE,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS, ALAN HIRSCH, in his official
capacity as Chair of the North Carolina State
Board of Elections, JEFF CARMON III in his
official capacity as Secretary of the North
Carolina State Board of Elections, STACY
“FOUR” EGGERS in his official capacity as a
member of the North Carolina State Board of
Elections, SIOBHAN O’DUFFY MILLEN in
her official capacity as a member of the North
Carolina State Board of Elections, KEVIN N.
LEWIS in his official capacity as a Member of
the North Carolina State Board of Elections,
PHILLIP E. BERGER in his official capacity as
President Pro Tem of the North Carolina
Senate, and TIMOTHY K. MOORE in his
official capacity as Speaker of the North
Carolina House of Representatives,

Defendants.

**LEGISLATIVE DEFENDANTS’
MOTION TO DISMISS**

NOW COME Defendants Philip E. Berger, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and Timothy K. Moore, in his official capacity as Speaker of the North Carolina House (“Legislative Defendants”), by and through the undersigned counsel, and without waiving any motions or defenses not set out herein, respectfully move the Court to dismiss Plaintiffs’ Complaint in the above-captioned matter pursuant to Rule 12(b)(1) and 12(b)(6)

of the North Carolina Rules of Civil Procedure. Plaintiffs' Complaint should be dismissed with prejudice for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted as Plaintiffs' Claim for Relief is non-justiciable.

Respectfully submitted, this the 6th day of March, 2024.

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

By: /s/ Phillip J. Strach

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Counsel for Legislative Defendants
** Motion for pro hac vice forthcoming*

CERTIFICATE OF SERVICE

I, Phillip J. Strach, hereby certify that I have served a copy of the foregoing document upon counsel of record by depositing a copy thereof in the United States Mail, postage prepaid and addressed as follows:

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This the 6th day of March, 2024.

**NELSON MULLINS RILEY &
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