

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

BEVERLY BARD; *et al.*,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS; *et al.*,

Defendants.

**LEGISLATIVE DEFENDANTS’
MOTION TO CONTINUE HEARING
AND EXTEND BRIEFING DEADLINE**

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 respectfully move the Court pursuant to North Carolina Rule of Civil Procedure 6 and Local Rule 8 to continue the hearing for Legislative Defendants’ Motion to Dismiss set to occur on May 22, 2024 at 10:00 a.m. in Wake County Superior Court, and to extend the corresponding briefing deadline. In support of this Motion, Legislative Defendants state as follows:

1. Plaintiffs filed their Complaint on or about January 31, 2024, alleging only one claim for relief: “Violation of the Right to Fair Elections” under Article I, Section 36 of the North Carolina Constitution. (Compl. p. 24).

2. On February 6, 2024, and pursuant to N.C. Gen. Stat. § 1-267.1, the Honorable Judge Paul C. Ridgeway requested a three-judge panel of the Superior Court of Wake County to preside over the action. On February 19, 2024, the Honorable Chief Justice Paul Newby assigned

the Honorables Jeffrey B. Foster, Angela B. Puckett, and C. Ashley Gore, Judges of the Superior Court of North Carolina, to preside over this action.

3. On March 6, 2024, Legislative Defendants timely filed their Motion to Dismiss. Defendants the North Carolina State Board of Elections (“NCSBE”), its members in their official capacities, Executive Director Karen Brinson Bell, and the State of North Carolina (collectively, the “State Defendants”) filed their Answer on March 12, 2024.

4. On April 2, 2024, a hearing on Legislative Defendants’ Motion to Dismiss was scheduled for May 22, 2024 at 10:00 a.m. in Wake County Superior Court, with a simultaneous briefing deadline of 11:59 p.m. on April 26, 2024 for all parties.

5. In the interim of indicating availability for a hearing to the three-judge panel and this matter being set for hearing, Legislative Defendants, represented by the same counsel, were set for an in-person hearing on May 22, 2024, in a federal redistricting matter before a three-judge panel.

6. Additionally, Mr. Thomas A. Farr, counsel for Legislative Defendants, passed away unexpectedly on April 1, 2024. Due to this tragic and unexpected event, counsel for Legislative Defendants are reorganizing their schedules and balancing various matters, including those that Mr. Farr was handling.

7. On April 3, 2024, counsel for Legislative Defendants asked all counsel associated with this matter for their position on a two-week extension of time on the motion to dismiss briefing deadline and the hearing set for May 22, 2024.

8. Counsel for State Defendants consented to a two-week extension for the briefing deadline and a two- week continuance for the hearing. Counsel for Plaintiffs consented to a two-

week extension for the briefing deadline, but oppose a two-week continuance for the hearing. Instead, Plaintiffs would prefer a hearing on a different date the week of May 20, 2024.

9. Legislative Defendants therefore respectfully request that the Court grant the parties up to and until May 10, 2024, by which to submit briefing on Legislative Defendants' Motion to Dismiss. Legislative Defendants also respectfully request that the hearing on Legislative Defendants' Motion to Dismiss is conducted on an alternate date of the Court's choosing.

10. This Motion is made in good faith and not for the purposes of delay.

11. Legislative Defendants have not previously requested an extension or continuance of any deadline in this matter.

Respectfully submitted, this the 8th day of April, 2024.

**NELSON MULLINS RILEY &
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By: /s/ Alyssa M. Riggins

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CERTIFICATE OF SERVICE

I, Alyssa M. Riggins, hereby certify that I have used e-file and serve to file a copy of the forgoing, and have served a copy on counsel of record via email at the addresses below:

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This the 8th day of April, 2024.

**NELSON MULLINS RILEY &
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