

No. 25-2180

In the United States Court of Appeals for the Fourth Circuit

RODNEY D. PIERCE and MOSES MATTHEWS,

Plaintiff-Appellants,

v.

THE NORTH CAROLINA STATE BOARD OF ELECTIONS, et al.,

Defendant-Appellees.

On Appeal from the United States District Court
for the Eastern District of North Carolina,
The Honorable James E. Dever, III, District Judge
No. 4:23-cv-193-D-RN

**STATE BOARD DEFENDANTS' MOTION FOR LEAVE TO FILE
A SEPARATE NOTICE OF NO POSITION**

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**Counsel of Record for
Defendant-Appellees State Board Defendants*

Defendant-Appellees The North Carolina State Board of Elections, and Francis X. De Luca, Stacy “Four” Eggers, Robert Rucho, Jeff Carmon, and Siobhan O’Duffy Millen, all in their official capacities (collectively “State Board Defendants”), file this motion pursuant to Federal Rule of Appellate Procedure 27 and respectfully request leave to file a notice of no position separately from any Response Brief. State Board Defendants’ Notice of No Position is attached as Exhibit 1. In support of this request, the State Board Defendants state as follows:

1. In its initial December 22, 2025 Order [D.E. 29], this Court established a briefing schedule and required that any Response Brief be filed by March 3, 2026. Following the grant of requests for additional time to file the Opening Brief, the Response brief is due on March 19, 2026. [D.E. 34]

2. Pursuant to Local Rules 28(a) and 28(d), the Court also required, “All parties to a side must join in a single brief, even in consolidated cases, unless the court has granted a motion for leave to file separate briefs.” [D.E. 29]

3. The State Board Defendants take no position on the merits of Plaintiff-Appellants' claims in this appeal. Accordingly, it does not intend to submit a brief in response to the Opening Brief [D.E. 37]

4. Instead, the State Board Defendants request leave to file the attached notice of no position. *See* Exhibit 1.

5. As required by Federal Rule of Appellate Procedure 27(a), undersigned counsel has informed the other parties that the State Board Defendants intend to file this motion. The other parties have indicated that they consent to the granting of this motion.

Respectfully submitted, this the 20th day of February, 2026.

NORTH CAROLINA
DEPARTMENT OF JUSTICE

/s/ Electronically Submitted
Mary L. Lucasse
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*Counsel of Record for Defendant-
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CERTIFICATE OF COMPLIANCE

I certify that this Motion complies with the length requirements of Fed. R. App. P. 27(d)(2)(A) because it contains fewer than 474 words. This Motion also complies with the typeface and type-style requirements of Fed. R. App. P. 32(a)(5) & (6) because it has been prepared in a proportionally spaced typeface: 14-point Century Schoolbook font.

Respectfully submitted, this the 20th day of February, 2026.

/s/ Electronically submitted
Mary L. Lucasse
Special Deputy Attorney General

EXHIBIT 1

Defendant-Appellees State Board Defendants' Notice of No Position

No. 25-2180

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Defendant-Appellees The North Carolina State Board of Elections, and Francis X. De Luca, Stacy “Four” Eggers, Robert Rucho, Jeff Carmon, and Siobhan O’Duffy Millen, all in their official capacities (collectively “State Board Defendants”), file this Notice of No Position in lieu of a Response Brief.

State Board Defendants took no position of the merits at the District Court below and do not intend to take a position on the merits in this appeal.

To the extent this panel requires any information regarding the election schedule, relevant deadlines, and administrative considerations, the State Board Defendants stand ready to provide such information upon request by the Court.

Respectfully submitted, this the 20th day of February, 2026.

NORTH CAROLINA
DEPARTMENT OF JUSTICE

/s/ Electronically Submitted

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*Counsel of Record for Defendant-
Appellees State Board Defendants*

CERTIFICATE OF COMPLIANCE

I certify that this Notice complies with the length requirements of Fed. R. App. P. 27(d)(2)(A) because it contains 105 words. This Notice also complies with the typeface and type-style requirements of Fed. R. App. P. 32(a)(5) & (6) because it has been prepared in a proportionally spaced typeface: 14-point Century Schoolbook font.

Respectfully submitted, this the 20th day of February, 2026.

/s/ Electronically submitted
Mary L. Lucasse
Special Deputy Attorney General