

No. 25-2180

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

RODNEY D. PIERCE and MOSES MATTHEWS,

Plaintiffs-Appellants,

v.

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

Defendants-Appellees.

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

**UNOPPOSED MOTION OF
LEGISLATIVE DEFENDANTS-APPELLEES
TO EXTEND THE TIME TO FILE RESPONSE BRIEF**

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**UNOPPOSED MOTION
OF LEGISLATIVE DEFENDANTS-APPELLEES
TO EXTEND THE TIME TO FILE RESPONSE BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and Local Rule 31(c), Legislative Defendants-Appellees respectfully move this Court for an order extending the deadline to file their response brief by thirty days, from March 19, 2026 up to and including April 20, 2026.¹ As shown below (¶ 10), no party opposes the relief requested in this motion. Good cause supports the requested extension. In support of this motion, Legislative Defendants-Appellees respectfully show the Court as follows:

1. This is an appeal from a final judgment issued after a five-day bench trial where more than a dozen witnesses testified and “numerous exhibits” were submitted. Dist. Ct. Dkt. 131 at 7 (order below). Appellants (who were plaintiffs below) brought a challenge to North Carolina state senate districts under Section 2 of the federal Voting Rights Act. That statute calls on trial courts to conduct a “searching practical evaluation of the past and present reality” of the state whose election method is challenged. *Thornburg v. Gingles*, 478 U.S. 30, 75–76 (1986) (quotation marks omitted). Courts must consider numerous “typical factors” that are “neither comprehensive nor exclusive.” *Id.* at 45. The ultimate determination under Section 2 is “a question of fact.” *Id.* at 79.

2. Faithful to this directive, the trial court issued a 126-page opinion making findings of fact and conclusions of law based on a considerable body of

¹ Because thirty days from the current deadline is Saturday, April 18, 2026, the proper proposed new deadline is Monday, April 20. *See* Fed. R. App. P. 26(a)(1)(C).

evidence concerning decades of history in North Carolina. The ruling rejected Appellants' Section 2 claim in full.

3. After obtaining two briefing extensions totaling 15 days, Appellants filed their opening brief and joint appendix on February 17, 2026.² By leave of Court, Appellants' opening brief exceeded the default word limit, containing nearly 16,000 words. The joint appendix spans nine volumes and more than 3,400 pages. Appellants are effectively attempting to relitigate their unsuccessful trial presentation in this Court, challenging numerous factual findings, credibility determinations, and legal conclusions by reference to expert opinions and lay testimony presented below. Appellants have also embedded challenges to interlocutory rulings of the trial court in this appeal, including a ruling excluding a portion of a presentation of one of their experts. *See* Plaintiffs-Appellants' Opening Br., Doc. 37, at 20–21.

4. Legislative Defendants-Appellees are the North Carolina legislative officers charged by state law to defend acts of the North Carolina General Assembly. *See* N. C. Gen. Stat. § 1-72.2; *Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 185 (2022). The other set of Appellees in this matter are the North Carolina State Board of Elections and its members (the Board Appellees), but the Board Appellees made no defense of the claim in the district court, and their counsel has indicated that they also intend to take no position in this appeal.

² Appellants were afforded many weeks of additional time to prepare their opening brief as this case lay dormant because of their petition for initial hearing en banc, which was filed in early October 2025 and denied in late December. *See* Doc. 3; Doc. 28.

Doc. 44. Accordingly, Legislative Defendants-Appellees will present the sole defense of the district court's judgment in this Court.

5. The current deadline for Legislative Defendants-Appellees' response brief is March 19, 2026. Counsel for Legislative Defendants-Appellees are working diligently to prepare a brief that will adequately inform the Court concerning the issues presented on this appeal. However, several factors will prejudice their ability to produce a presentation of the optimal quality to properly respond to Appellants' opening brief and advocate for their side of this case.

6. One factor is the complexity of this appeal. As explained, Appellants' enlarged opening brief raises numerous issues of fact and law claiming errors in a 126-page trial ruling issued after a five-day trial. This calls for a point-by-point rebuttal by reference to evidence in the nine volume joint appendix and complex legal argument by reference to issues closely related to those pending in an ongoing Supreme Court case. *See Louisiana v. Callais*, No. 24-109 (oral argument held Oct. 15, 2025). Moreover, Legislative Defendants-Appellees are governmental parties with significant obligations, and a draft brief must be prepared with sufficient time to enable proper review and revisions.

7. Additionally, counsel for Legislative Defendants-Appellees are engaged in substantial matters that will constrain their ability to prepare a response brief by the current deadline. These matters include, without limitation, *Precision Medicine Group, LLC v. Blue Matter, LLC*, No. 1:20-cv-02974-PGG-SLC (S.D.N.Y.) (jury trial scheduled to begin on March 9, 2026); *Bah v.*

Sampson Bladen Oil Company, Inc., No. 25-1877 (4th Cir.) (oral argument scheduled March 18, 2026); *Outsourcing Facilities Association v. Food and Drug Administration*, Nos. 25-10758 and 25-10600 (5th Cir.) (oral argument in two separate but related appeals tentatively calendared the week of March 30, 2026); *Desmond Banks v. CoStar Realty Information, Inc.*, No. 25-3320 (8th Cir.) (default briefing deadline late March 2026); *FTX Recovery Trust v. Binance Holdings Limited et al.*, No. 1:24-ap-50222 (Bankr. D. Del.) (oral argument on motion to dismiss April 8, 2026).

8. These factors amply warrant a modest extension of the deadline for responsive briefing. Legislative Defendants-Appellees propose an extension of thirty days.

9. This is Legislative Defendants-Appellees' first request for an extension of time.

10. Pursuant to Local Rule 27(a), counsel for Legislative Defendants-Appellees informed counsel for Appellants and the Board Appellees of this forthcoming motion and have been informed that no party opposes the relief requested in this motion.

For the foregoing reasons, Legislative Defendants-Appellees respectfully request that this Court extend the deadline to file their response brief by thirty days, up to and including April 20, 2026.

February 20, 2026

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CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitations of Federal Rule of Appellate Procedure 28(d)(2) because it contains 967 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

2. This motion complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) and 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Calisto MT font.

February 20, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2026, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

February 20, 2026

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