

UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:23-cv-00837-UA-JLW

NORTH CAROLINA ALLIANCE FOR)
RETIRED AMERICANS,)
)
Plaintiffs,)
v.)
)
ALAN HIRSCH, et al.,)
)
Defendants.)
)

**ANSWER
TO PLAINTIFF’S
AMENDED COMPLAINT**

Defendants Alan Hirsch, Jeff Carmon, Stacy Eggers, IV, Kevin N. Lewis, Siobhan O’Duffy Millen, and Karen Brinson Bell (collectively, the “State Board Defendants”) hereby answer Plaintiff’s Amended Complaint [D.E. 32] as follows:

NATURE OF THE CASES

1. Neither admitted nor denied, as the allegation is a legal conclusion about the laws referenced therein, which are matters of public record, speak for themselves, and are the best evidence of their content.
2. Neither admitted nor denied, as the quoted law is a matter of public record, speaks for itself, and is the best evidence of its content.
3. Neither admitted nor denied, as the allegation references, quotes, and contains legal conclusions about legal authority, which is a matter of public record, speaks for itself and is the best evidence of its content.
4. Neither admitted nor denied, as the allegation references, quotes, and contains legal conclusions about laws and other legal authority, which are matters of public record,

speaks for themselves, and are the best evidence of their content.

5. Neither admitted nor denied, as the allegation references and contains legal conclusions about laws and other legal authority, which are matters of public record, speaks for themselves, and are the best evidence of their content.

6. Neither admitted nor denied, as the allegation is vague and contains legal argument. To the extent a response is required, it is denied that the North Carolina laws referenced violate federal laws.

7. Neither admitted nor denied, to the extent that the allegation, including the footnote, references and contains legal conclusions about legal authorities and resources, which are matters of public record, speaks for themselves, and are the best evidence of their content. Admitted to the extent that the allegation cites laws, which are matters of public record, speak for themselves, and are the best evidence of their contents. Admitted to the extent it is alleged in footnote one of the Amended Complaint that North Carolina does not enforce the one-year residency requirement provided for in Article VI, § 2(1), of the North Carolina Constitution. Denied to the extent it is alleged that any other North Carolina constitutional provision or law cited violates federal law.

8. Neither admitted nor denied, to the extent that the allegation contains legal conclusions about a law, which is matter of public record, speaks for itself, and is the best evidence of the law's content. Admitted to the extent that the law cited, contains express requirements for the contents of voter registration form, including an attestation section. Otherwise, it is denied that the North Carolina laws cited violate federal law.

9. Neither admitted nor denied, as the allegation contains a legal conclusion. To the extent a response is required, it is denied that North Carolina laws violate federal law.

10. Neither admitted nor denied to the extent the allegation states Plaintiffs' request for relief. State Board Defendants deny that Plaintiffs are entitled to the relief requested. Neither admitted nor denied to the extent the allegation contains legal argument. To the extent a response is otherwise required, it is denied that North Carolina laws violate federal law.

JURISDICTION AND VENUE

11. Neither admitted nor denied, as the allegation contains legal argument. To the extent a response is required, State Board Defendants deny the allegation.

12. Neither admitted nor denied, as the allegation contains legal conclusions.

13. Admitted.

14. Denied to the extent Plaintiff alleges venue is proper in this Court based upon the residency of official capacity State Board Defendants. Otherwise, admitted.

15. Neither admitted nor denied, as the allegation contains legal conclusions.

PARTIES

16. State Defendants lack sufficient information to admit or deny the allegation.

17. State Defendants lack sufficient information to admit or deny the allegation.

18. State Defendants lack sufficient information to admit or deny the allegation.

19. It is admitted that each of the State Board Defendants listed in this allegation

are state government officials in North Carolina sued in their official capacities. It is further admitted to the extent that the allegation contains references to laws cited and quoted, which are matters of public record, speak for themselves, and are the best evidence of their content.

20. It is admitted that each of the State Board Defendant listed in this allegation is a state government official in North Carolina sued in her official capacity. It is further admitted to the extent that the allegation contains references to laws cited and quoted, which are matters of public record, speak for themselves, and are the best evidence of their content.

STATEMENT OF FACTS AND LAW

21. Neither admitted nor denied, to the extent this allegation is vague. Admitted to the extent that North Carolina law requires a person to be a resident for 30-days prior to election day in order to be qualified to register and vote in that election, among other qualifications.

22. Admitted that qualifications to vote come from the cited laws, which are matters of public record, speak for themselves, and are the best evidence of their content.

23. Admitted to the extent that North Carolina law requires a person to be a resident for 30-days prior to election day in order to be qualified, among other qualifications, which are matters of public record, speak for themselves, and are the best evidence of their content.

24. Admitted to the extent that the registration form is required by North Carolina law, is a matter of public record, speaks for itself, and is the best evidence of its content.

25. Admitted to the extent that the registration form and the laws referenced and quoted are matters of public record, speaks for themselves, and are the best evidence of their

content.

26. Neither admitted nor denied, as the allegation is vague and contains a legal conclusion. To the extent that conclusion is drawn from any laws, such laws are matters of public record, speak for themselves and is the best evidence of their content.

27. Admitted to the extent that the laws referenced and quoted, along with their legislative history are matters of public record, speak for themselves, and are the best evidence of their content.

28. Neither admitted nor denied, to the extent that this allegation contains a legal conclusion regarding the first sentence addressing the 30-day residency qualification. To the extent a response is required to the first sentence, it is denied that North Carolina law violates federal law. Neither admitted nor denied, to the extent this allegation references a statute which is a matter of public record, speaks for itself, and is the best evidence of its content.

29. Neither admitted nor denied to the extent the allegation references a statute, which is a matter of public record, speaks for itself and is the best evidence of its content.

30. Admitted to the extent that this allegation references statutes or the registration form, which are matters of public record, speak for themselves and are the best evidence of their content. To the extent relevant, State Board Defendants incorporates their responses to paragraphs 24-26 above.

31. Neither admitted nor denied to the extent the allegation contains a legal conclusion. To the extent that conclusion is drawn from the laws cited, such laws are matters of public record, speak for themselves and are the best evidence of their content. To

the extent relevant, State Board Defendants incorporates their responses to paragraphs 24-26 above.

32. Admitted to the extent that, pursuant to North Carolina law, a person is not qualified to vote unless they are a resident of this state for 30-days before election day. To the extent this allegation is based on cited laws, such laws are a matter of public record, speak for themselves and are the best evidence of their content. It is denied that North Carolina law violates federal law.

33. Neither admitted nor denied, as this allegation references and quotes a law, which is a matter of public record, speaks for itself and is the best evidence of its content.

34. Neither admitted nor denied, as the allegation contains legal argument. To the extent a response is required, it is denied that North Carolina law violates federal law.

35. Neither admitted nor denied, as this allegation references, quotes, and contains a legal conclusion about laws of other states, which are matters of public record, speaks for themselves and are the best evidence of their content.

36. Neither admitted nor denied, as the allegation quotes, references, and contains a legal conclusion about a law, which is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

37. Neither admitted nor denied, as the allegation contains legal argument, and references, contains legal conclusions, and references, quotes, or cites laws, which are a matter of public record, speak for themselves and are the best evidence of their content. To the extent a response is required, it is denied that North Carolina law violates federal law.

38. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

39. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

40. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the legal authority and statute quoted are matters of public record, speak for themselves and are the best evidence of their content. To the extent a response is required, it is denied that North Carolina law violates federal law.

41. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

42. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

43. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

44. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

CLAIM FOR RELIEF

COUNT I

Voting Rights Act Section 202

52 U.S.C. § 10502; 42 U.S.C. § 1983; 28 U.S.C. §§ 2201, 2202

45. State Board Defendants incorporate their previous responses.

46. Neither admitted nor denied, as the referenced and quoted law and its legislative history is a matter of public record, speaks for itself, and is the best evidence of their content.

47. Neither admitted nor denied, as the referenced and quoted law and its legislative history is a matter of public record, speaks for itself, and is the best evidence of their content.

48. Neither admitted nor denied, as the referenced and quoted law and its legislative history is a matter of public record, speaks for itself, and is the best evidence of their content.

49. Neither admitted nor denied, as the law quoted is a matter of public record, speaks for itself, and is the best evidence of their content.

50. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the laws cited are matters of public record, speak for themselves and are the best evidence of their content. To the extent a response is required, it is denied that North Carolina law violates federal law.

51. Neither admitted nor denied, as the allegation contains legal argument, a legal conclusion, and the laws cited are matters of public record, speak for themselves and are the best evidence of their content. To the extent a response is required, it is denied that North Carolina law violates federal law.

52. Neither admitted nor denied, as the allegation contains legal argument, legal conclusions, and seeks a particular remedy based upon those conclusions. To the extent a response is required, it is denied that North Carolina law violates federal law.

COUNT II

First and Fourteenth Amendments

U.S. Const. Amend. I and XIV; 42 U.S.C. § 1983, 28 U.S.C. §§ 2201, 2202

53. State Board Defendants incorporate their previous responses.

54. Neither admitted nor denied, as the legal authority referenced and quoted is a matter of public record, speaks for itself, and is the best evidence of their content. To the extent a response is required, it is denied that North Carolina law violates federal law.

55. Neither admitted nor denied, as the allegation contains legal argument, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

56. Neither admitted nor denied, as the allegation contains legal argument, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

57. Neither admitted nor denied, as the allegation contains legal argument, and the legal authority quoted is a matter of public record, speaks for itself and is the best evidence of its content.

58. Neither admitted nor denied, as the allegation contains legal argument, and the legal authority cited is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

59. Neither admitted nor denied, as the allegation contains legal argument and a legal conclusion based upon a legal authority, which is a matter of public record, speaks for itself and is the best evidence of its content. To the extent a response is required, it is denied that North Carolina law violates federal law.

ANY AND ALL OTHER ALLEGATIONS MADE IN PLAINTIFFS' COMPLAINT, INCLUDING THE RELIEF REQUESTED, EXCEPT AS SPECIFICALLY ADMITTED ABOVE, ARE HEREBY DENIED.

FURTHER ANSWERING THE COMPLAINT AND AS FURTHER DEFENSES THERETO, DEFENDANTS ASSERT THE FOLLOWING:

FIRST DEFENSE

Plaintiff fails to state sufficient factual allegations to support the exercise of subject matter jurisdiction by this Court over State Board Defendants and, pursuant to Rule 12(b)(1)

of the Federal Rules of Civil Procedure, the Complaint should be dismissed.

SECOND DEFENSE

Plaintiff fails, in whole or in part, to state a claim upon which relief can be granted against State Board Defendants and, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Complaint should be dismissed in whole or in part.

THIRD DEFENSE

Plaintiff fails to state sufficient factual allegations to support their assertion that venue is proper.

FOURTH DEFENSE

State Board Defendants reserve the right to assert further defenses against Plaintiff that may become apparent during the course of litigation and discovery.

WHEREFORE, State Board Defendants request the following:

1. That Plaintiff's first Amended Complaint be dismissed with prejudice;
2. That Plaintiff's request for relief be denied;
3. That costs of this action, including reasonable attorneys' fees, be taxed to Plaintiff; and
4. For such other relief and further relief to the State Board Defendants as the Court deems just and proper.

Respectfully submitted this the 11th day of January, 2023.

NORTH CAROLINA
DEPARTMENT OF JUSTICE

/s/ Terence Steed

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