

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA**

NORTH CAROLINA ALLIANCE FOR
RETIRED AMERICANS,

Plaintiff,

v.

ALAN HIRSCH, in his official capacity as
Chair of the North Carolina State Board of
Elections; JEFF CARMON, in his official
capacity as Secretary of the North Carolina
State Board of Elections; STACY EGGERS
IV, KEVIN N. LEWIS, and SIOBHAN
O'DUFFY MILLEN, in their official
capacities as members of the North Carolina
State Board of Elections; KAREN BRINSON
BELL in her official capacity as Executive
Director of the State Board of Elections,

Defendants,

and

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 of Representatives,

Intervenors.

CASE NO. 5:24-cv-275-D-RJ

JOINT STATUS REPORT

Intervenor Defendants Philip E. Berger and Timothy K. Moore (“Intervenors”); Alan Hirsch, Jeff Carmon, Stacy Eggers IV, Kevin N. Lewis, Siobhan O’Duffy Millen, and Karen Brinson Bell (“State Board Defendants”); and North Carolina Alliance for Retired Americans (“Plaintiff”) jointly file this status report following the Middle District of North Carolina granting Intervenors’ request to transfer the case to this Court. *See* Order Granting

Transfer, Doc. 54. The parties understand the following three motions as fully briefed and ripe for decision by this Court:

(1) Plaintiff’s Motion for Preliminary Injunction

On January 2, 2024, Plaintiff moved for a preliminary injunction. *See* Mot. for Prelim. Inj., Doc. 33; Pl.’s Br. in Support of Mot. for Prelim. Inj., Doc. 34. Intervenors responded in opposition to that motion on January 23, 2024, Doc. 40. State Board Defendants responded in opposition to the preliminary injunction motion on February 6, 2024, Doc. 43. Plaintiff filed a reply in support of its motion for preliminary injunction on February 20, 2024, Doc. 48.

The Middle District of North Carolina “defer[red] ruling on th[is] motion[] . . . to the transferee court.” Order Granting Transfer 2. The parties understand this motion as fully briefed and ripe for this Court’s decision.

(2) Intervenors’ Motion to Dismiss the Amended Complaint

On January 16, 2024, Intervenors moved to dismiss the amended complaint or, alternatively, to transfer the case to the Eastern District of North Carolina. *See* Mot. to Dismiss Am. Compl. or, Alternatively, to Transfer, Doc. 37; Intervenors’ Memo. in Support of Mot. to Dismiss Am. Compl. or, Alternatively, to Transfer, Doc. 38. Intervenors requested dismissal on the following grounds: (1) failure to establish subject-matter jurisdiction; (2) improper venue; (3) laches; (4) failure to plausibly allege a violation of rights under 52 U.S.C. §1502, part of the 1970 amendment to the Voting Rights Act; and (5) failure to plausibly allege a violation of rights under the U.S. Constitution. *See* Mot. to Dismiss Am. Compl. or, Alternatively, to Transfer 2–3. Alternatively, Intervenors

requested transfer to the Eastern District of North Carolina, where venue would be proper. *Id.* at 2. Plaintiff responded in opposition to Intervenor’s motion on February 6, 2024, Doc. 45. Intervenor filed a reply in support of their motion on February 20, 2024, Doc. 47.

The Middle District of North Carolina granted Intervenor’s motion by transferring the case to this Court because, per Judge Osteen’s ruling, venue was improper in the Middle District of North Carolina but is proper in the Eastern District of North Carolina. Order Granting Transfer 11–12. The Middle District of North Carolina “granted” Intervenor’s motion, *id.* at 12, but did “not reach the merits of” Intervenor’s arguments for dismissal on grounds other than improper venue, *id.* at 5 n.1; *see also id.* at 2 (“defer[ring] ruling on . . . the merits of Intervenor Defendants’ Motion to Dismiss to the transferee court”). The parties understand this motion as fully briefed and ripe for this Court’s decision regarding: (1) failure to establish subject-matter jurisdiction; (2) laches; (3) failure to plausibly allege a violation of rights under 52 U.S.C. §1502, part of the 1970 amendment to the Voting Rights Act; and (4) failure to plausibly allege a violation of rights under the U.S. Constitution.

(3) Plaintiff’s Rule 65 Motion to Consolidate

On February 20, 2024, Plaintiff moved under Federal Rule of Civil Procedure 65(a)(2) to consolidate the preliminary injunction hearing with the trial on the merits, Doc. 49. State Board Defendants did not oppose the motion. Intervenor responded in opposition to Plaintiff’s Rule 65 motion on March 12, 2024, Doc. 50. Plaintiff replied in support of its Rule 65 motion on March 26, 2024, Doc. 52.

The Middle District of North Carolina “defer[red] ruling on th[is] motion[] . . . to the transferee court.” Order Granting Transfer 2. The parties understand this motion as fully briefed and ripe for this Court’s decision.

In conclusion, the parties incorporate their prior briefing for and against the motions described in this report and, unless the Court rules otherwise, will not engage in new briefing on these motions.

Dated: May 23, 2024

Respectfully submitted,

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