

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

New Hampshire Youth Movement,

*Plaintiff,*

v.

David M. Scanlan, in his official capacity as  
New Hampshire Secretary of State,

*Defendant.*

Case No. 1:24-cv-00291-SE-TSM

**PLAINTIFF'S OPPOSITION TO REPUBLICAN NATIONAL COMMITTEE AND NEW  
HAMPSHIRE REPUBLICAN STATE COMMITTEE'S MOTION FOR LEAVE TO  
FILE REPLY MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

The Court should deny Proposed Intervenors the Republican National Committee and New Hampshire Republican State Committee's Motion for Leave to File a Reply Memorandum as unnecessary. The Court's local rules do not allow for reply briefs as a matter of course in support of non-dispositive motions, and there is no exceptional justification for allowing a reply brief here.

*First*, Proposed Intervenors provide no justification for granting them leave to file a reply brief. The local rules prohibit replies in support of non-dispositive motions by default, LR 7.1(e)(2), and Proposed Intervenors offer no explanation of why that default rule should not be enforced here. Their Motion for Leave to File merely reiterates Proposed Intervenors' arguments for intervention—it says nothing at all to justify the filing of a reply. ECF No. 21. Moreover, the motion was filed late: it was due within seven days of the opposition, but Proposed Intervenors did not file it until ten days later. LR 7.1(e)(2).

*Second*, the proposed reply is improper because it attempts to introduce a new argument that Proposed Intervenors could have, but did not, raise in their opening brief. *See Hypertherm, Inc. v. Am. Torch Tip Co.*, No. 05-cv-373-JD, 2007 WL 2695323, at \*2 (D.N.H. Sept. 11, 2007).

In particular, the proposed reply argues for the first time that Proposed Intervenor’s members have a statutory right to challenge voters’ eligibility that Plaintiff’s lawsuit threatens. Proposed Reply at 3, ECF No. 21-1. Proposed Intervenor offer no justification for why they did not raise this argument in their opening brief. The argument is without merit, because, while New Hampshire law sets forth statutory procedures and requirements for voter challenges, RSA 659:27, :27-a, it nowhere uses the type of “‘rights-creating’, individual-centric language with an ‘unmistakable focus on the benefited class’” that is necessary to create a statutory right as a matter of federal law. *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 183 (2023) (quoting *Gonzaga Univ. v. Doe*, 536 U.S. 273, 284, 287 (2002)). To the contrary, New Hampshire’s challenge statutes focus on the voter, refer to the challengers only in the passive voice, and are framed in terms of *limitations* on challenges rather than rights to bring them. *See* RSA 659:27, :27-a.

For these reasons, the Court should deny Proposed Intervenor’s Motion for Leave to File a Reply Memorandum in Support of the Motion to Intervene.

Dated: December 19, 2024

Respectfully submitted,

/s/ Steven J. Dutton

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**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing were forwarded to all counsel of record on this 19<sup>th</sup> day of December 2024 via the Court's e-filing system.

/s/ Steven J. Dutton  
Steven J. Dutton

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