UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

FRANCIS X. DELUCA,)))
Plaintiff,))
v. NORTH CAROLINA STATE BOARD OF ELECTIONS; KIM WESTBROOK STRACH, in her official capacity as))))))
Executive Director of the State Board; and A. GRANT WHITNEY, RHONDA K. AMOROSO, JOSHUA D. MALCOLM, JAMES BAKER, and MAJA KRICKER, in their official capacities as members of) NO. 5:16-CV-913)))
the State Board of Elections, Defendants.	,))))

MOTION TO INTERVENE AS A DEFENDANT

Pursuant to Federal Rule of Civil Procedure 24, proposed Defendant-Intervenor, the North Carolina State Conference of the National Association for the Advancement of Colored People ("NC NAACP"), respectfully submits this Motion to Intervene as a Defendant in this action as of right or, in the alternative, with permission of the Court. A proposed order is attached to this Motion as Exhibit 1.

As set forth in the accompanying Memorandum in Support of Motion to Intervene as a Defendant, NC NAACP seeks to dismiss Plaintiff's Complaint and to oppose any requested court-ordered injunction relating to North Carolina's same-day registration processes. For the reasons stated in the Memorandum, intervention by the NC NAACP is proper because the relief sought by plaintiff will irreparably harm NC NAACP members and voters the organization's members assist. NC

NAACP believes that a significant number of same-day registrants are African-American, and that they will make up a substantial proportion of those voters whose correspondence from county boards of election will have been returned as non-deliverable.

Moreover, the relief sought by Plaintiff will also directly harm the NC NAACP as an organization because it seeks to undermine the rulings of the Fourth Circuit in North Carolina State Conference of NAACP v. McCrory, 831 F.3d 204, 237 (4th Cir. 2016) (reinstating North Carolina's same-day registration based on the Voting Rights Act and on equal protection grounds) and the District Court's decision in North Carolina State Conference of the NAACP v. The North Carolina State Board of Elections, __ F. Supp. 3d __, 2016 WL 6581284 (M.D.N.C. Nov. 4, 2016). The NC NAACP was a plaintiff in each of these actions and should have an opportunity to be heard in a proceeding that could impact the effect of those decisions. The NC NAACP has spent valuable time and resources pursuing the relief obtained in those proceedings and is harmed when parties continue to relitigate issues raised and already decided in those cases.

Further, the interests of the NC NAACP will not be protected by the current Defendants. The State Board of Elections and its members were defendants in both cases because of their unwillingness to protect the rights of NC NAACP's membership and the rights of the voters that the organization's members assist. The State Board of Elections' interests in the litigation are not synonymous with those of the NC NAACP, and the NC NAACP cannot be assured that the Board will vigorously argue to protect voters from disenfranchisement.

The NC NAACP additionally requests that the Court accept as properly filed the Declaration of Rev. Dr. William J. Barber II, President of the NC NAACP, attached to this Motion as Exhibit 2.

On November 28, 2016, counsel for NC NAACP conferred with Plaintiff's counsel who indicated that Plaintiff opposes this motion to intervene. Counsel for NC NAACP attempted to confer with Defendants' counsel, but did not receive a response. Counsel for proposed Defendant-Intervenors the League of Women Voters of North Carolina et al. does not object to this motion to intervene.

November 29, 2016

Respectfully submitted,

/s/ Irving Joyner

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Attorneys for North Carolina State Conference of the National Association for the Advancement of Colored People

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2016, I electronically filed the *Motion to Intervene* as a Defendant with the Clerk of the Court using the ECF, who in turn sent notice to the following:

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Dated: November 29, 2016 /s/ Irving Joyner

Irving Joyner