

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
No. 3:21-cv-00493

JERRY GREEN and LINDA PETROU,

*Plaintiffs,*

v.

KAREN BRINSON BELL, in her official  
capacity as Executive Director of the North  
Carolina Board of Elections,

*Defendant, and*

THE LEAGUE OF WOMEN VOTERS OF  
NORTH CAROLINA AND THE NORTH  
CAROLINA A. PHILIP RANDOLPH  
INSTITUTE,

*Proposed Defendant-Intervenors.*

**THE LEAGUE OF WOMEN VOTERS OF NORTH CAROLINA AND THE NORTH  
CAROLINA A. PHILIP RANDOLPH'S MOTION TO INTERVENE AS DEFENDANTS**

Pursuant to Federal Rule of Civil Procedure 24, the League of Women Voters of North Carolina and the North Carolina A. Philip Randolph Institute (“Defendant-Intervenors”) respectfully submit this motion, by and through undersigned counsel, to intervene as Defendants in the above-captioned case as of right or, in the alternative, with the Court’s permission.

As set forth in the accompanying memorandum in support of the motion to intervene, Defendant-Intervenors oppose any requested court-ordered purging of voting rolls in North Carolina, including the 40 North Carolina counties referenced in the Complaint, and will seek a judgment on the pleadings in favor of Defendants. As required by Federal Rule of Civil Procedure 24(c), a proposed Answer setting forth this defense is attached hereto as Exhibit 1. No such court-

ordered “list maintenance” is appropriate under – much less required by – the National Voter Registration Act of 1993 (“NVRA”), a federal statute designed to make it easier for citizens to become and remain registered to vote.

In further support of this Motion, Defendant-Intervenors file the Declaration of Jo Nicholas, sworn to November 12, 2021 (attached hereto as Exhibit 2) and the Declaration of Melvin Montford, sworn to November 12, 2021 (attached hereto as Exhibit 3).

Proposed Defendant-Intervenors inquired of counsel for Plaintiff and Defendant on November 11, 2021 concerning their position regarding this Motion. Counsel for Plaintiff indicated that it would provide its position upon review of the grounds for intervention articulated in the motion. Counsel for Defendant has not yet responded to the inquiry.

This the 12th day of November, 2021.

Respectfully submitted,

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*Attorneys for Defendant-Intervenors  
the League of Women Voters of North  
Carolina and the North Carolina A. Philip  
Randolph Institute*

# **EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
No. 3:21-CV-493

JERRY GREEN and LINDA PETROU,

*Plaintiffs,*

v.

KAREN BRINSON BELL, in her official  
capacity as Executive Director of the North  
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THE LEAGUE OF WOMEN VOTERS OF  
NORTH CAROLINA AND THE NORTH  
CAROLINA A. PHILIP RANDOLPH  
INSTITUTE,

*Proposed Defendant-Intervenors.*

**[Proposed] ANSWER  
OF THE LEAGUE OF WOMEN  
VOTERS OF NORTH CAROLINA AND  
THE NORTH CAROLINA A. PHILIP  
RANDOLPH INSTITUTE**

The League of Women Voters of North Carolina and the North Carolina A. Philip Randolph Institute (“Defendant-Intervenors”), by and through counsel, respectfully file this Answer in response to Plaintiffs’ Complaint (Dkt. No. 1).

**FIRST DEFENSE  
(Failure to State a Claim)**

For and as a first defense, Plaintiffs’ Complaint fails to state a claim upon which relief can be granted under Section 8 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20507. Specifically, Plaintiffs’ Complaint fails to establish that Defendant has failed to comply in any way with Section 8 of the NVRA pertaining to list maintenance.

**SECOND DEFENSE  
(Standing)**

For and as a second defense, Plaintiffs' Complaint fails to establish Article III standing to bring an action under Section 8 of the NVRA. Specifically, Plaintiffs' Complaint fails to establish the Defendants violated prohibitions outlined under Section 8 of the NVRA in a manner that caused injury to Plaintiffs that may be remedied by a favorable decision.

**ANSWER TO COMPLAINT**

Answering the specific allegations in Plaintiffs' Complaint, Defendant-Intervenors allege as follows:

1. Paragraph 1 of the Complaint contains legal conclusions as to which no response is required. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 1 of the Complaint.

2-4. Deny the allegations of paragraphs 2 through 4 of the Complaint.

5. It is admitted that the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331.

6. It is admitted the venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

7-10. Deny knowledge or information sufficient to form a belief as to the truth or falsity of paragraphs 7 through 10 of the Complaint.

11-12. Deny the allegations of paragraphs 11 and 12 of the Complaint.

13. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 13 of the Complaint, except admit that Defendant is the Executive Director of the North Carolina State Board of Elections.

14. Paragraph 14 of the Complaint contains legal conclusions as to which no response is required, specifically a selective quotation from a federal statute. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 14 of the Complaint.

15. Paragraph 15 of the Complaint contains legal conclusions as to which no response is required, specifically a selective quotation from caselaw. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 15 of the Complaint.

16. Paragraph 16 of the Complaint contains legal conclusions as to which no response is required, specifically quotations from a federal statute and from caselaw. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 16 of the Complaint.

17-21. Paragraphs 17 through 21 of the Complaint contain legal conclusions as to which no response is required, specifically selective quotations from federal statutes. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraphs 17 through 21 of the Complaint.

22. Deny the allegations of paragraph 22 of the Complaint, except admit that the allegations refer to a statement of a commission and refer to that statement for a complete and accurate statement of its contents. Further, paragraph 22 of the Complaint contains legal conclusions as to which no response is required, specifically a selective quotation from a federal statute. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 22 of the Complaint.

23. Paragraph 23 of the Complaint contains legal conclusions as to which no response is required, specifically selective quotations from caselaw and a law professor. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 23 of the Complaint.

24. Admit the allegations of paragraph 24 of the Complaint, but specifically deny that any known cases of voter fraud in North Carolina relate to the relief sought by Plaintiffs in this case.

25. Deny the allegations of paragraph 25 of the Complaint, except admit that North Carolina does not participate in the voluntary program of the Electronic Registration Information Center.

26-29. Paragraphs 26 through 29 of the Complaint contain legal conclusions as to which no response is required, specifically selective quotations from federal and state statutes. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraphs 26 through 29 of the Complaint.

30-32. Paragraphs 30 through 32 of the Complaint contain legal conclusions as to which no response is required, specifically selective quotations from caselaw. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraphs 30 through 32 of the Complaint.

33-40. Deny the allegations of paragraphs 33 through 40 of the Complaint, except admit that Plaintiffs make certain allegations concerning U.S. Census Bureau data and refer to that data for a complete and accurate statement of its contents.

41. Deny the allegations of paragraph 41 of the Complaint.

42. Paragraph 42 of the Complaint contains legal conclusions as to which no response is required, specifically selective quotations from caselaw. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 42 of the Complaint.

43. Paragraph 43 contains a statement about an unrelated case and an unidentified quotation. For that reason, Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 43 of the Complaint.

44-47. Paragraphs 44 through 47 contain statements about unrelated cases and various unidentified quotations. For that reason, Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 44 through 47 of the Complaint.

48-49. Deny the allegations of paragraphs 48 and 49 of the Complaint.

50. Paragraph 50 of the Complaint contains legal conclusions as to which no response is required. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 50 of the Complaint.

51. Paragraph 51 of the Complaint contains legal conclusions as to which no response is required, specifically selective quotations from a federal statute and caselaw. To the extent any response is required, Defendant-Intervenors deny the allegations of paragraph 51 of the Complaint.

52. Deny the allegations of paragraph 52 of the Complaint, except admit that the letter attached to the Complaint as Exhibit A was purportedly sent and refer to that letter for a complete and accurate statement of its contents.

53. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 53 of the Complaint.

54-59. Deny the allegations of paragraphs 54 through 59 of the Complaint, except admit that the letter attached to the Complaint as Exhibit A was purportedly sent and refer to that letter for a complete and accurate statement of its contents.

60. Deny the allegations of paragraph 60 of the Complaint, except admit that a response was purportedly received to Exhibit A and refer to that letter for a complete and accurate statement of its contents.

61. Repeat and reallege their responses to paragraph 1 through 60 above.

62-65. Deny the allegations of paragraphs 62 through 65 of the Complaint.

WHEREFORE, Defendant-Intervenors the League of Women Voters of North Carolina and the North Carolina A. Philip Randolph Institute prays as follows:

1. That Plaintiffs be denied all relief requested by them;
2. That Defendant-Intervenors be awarded their costs and attorneys' fees incurred in defense of this action; and
3. For such other relief as this Court deems just and proper.

This the \_\_\_ day of November, 2021.

Respectfully submitted,

/s/ Pressly M. Millen  
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*Attorneys for Defendant-Intervenors*

*The League of Women Voters of North  
Carolina and the North Carolina A. Philip  
Randolph Institute*

# **EXHIBIT 2**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

JERRY GREEN and LINDA PETROU,

*Plaintiffs,*

v.

KAREN BRINSON BELL, in her capacity  
as the Executive Director of the North  
Carolina State Board of Elections,

Defendant, and

THE LEAGUE OF WOMEN VOTERS OF  
NORTH CAROLINA AND THE NORTH  
CAROLINA A. PHILIP RANDOLPH  
INSTITUTE,

Proposed Defendant-Intervenors.

Civil Action No. 3:21-cv-493

**DECLARATION OF JO NICHOLAS**

I, Jo Nicholas, hereby declare as follows:

1. I am a U.S. citizen and a resident of North Carolina. I am a registered voter in Moore County and have resided in Moore County since 2003.

2. I have served as President of the League of Women Voters of North Carolina (“LWVNC”) since July 2019. In this role, I preside at all meetings of the organization and board of directors and represent the organization to the public at an assembly. In the absence of the

treasurer, I may sign or endorse checks, drafts and notes. I am an ex officio member of all committees except the nominating committee, and I manage and supervise the overall organization and perform other duties as may be designated by the Board. I first became involved with the LWFVNC in 2011 and since then have served as Past President and Board Director in addition to my current role.

3. The LWFVNC is a state affiliate of the League of Women Voters of the United States (“the League”). The League is a nonpartisan, community-based organization that encourages Americans to participate actively in government and the electoral process. Founded in 1920 as an outgrowth of the struggle to win voting rights for women, the League now has more than 140,000 members and supporters and is organized in approximately 750 communities and in every state.

4. For over ninety years, the League has led efforts to remove barriers that Americans face in registering to vote and casting a ballot. The League was also deeply involved in crafting the National Voter Registration Act of 1993 (“NVRA”), having provided substantial testimony and input over the course of the NVRA’s legislative history, specifically on the topic of purges for failure to vote. *See, e.g.*, Voter Registration: Hearing Before the Subcomm. on Elections of the Comm. on H. Admin., 101st Cong. 149 (1989) (testimony of Nancy M. Neuman, President, League of Women Voters); Voter Registration: Hearing Before the Subcomm. on Elections of the Comm. on H. Admin., 103d Cong. 140 (1993) (testimony of Becky Cain, President, League of Women Voters).

5. The LWFVNC is a nonpartisan political grassroots organization with nineteen local chapters throughout North Carolina, covering 18 of the 40 counties mentioned in the complaint. The LWFVNC currently has approximately 1900 members.

*The League of Women Voters' Work to Register Voters*

6. The LWFVNC conducts voter registration and education initiatives throughout North Carolina, including voter registration drives, distribution of voter education materials, and voting-day assistance to help individuals exercise their right to vote. For example, in presidential election cycles, the LWFVNC regularly can assist as many as thousands of voters to register and hundreds of voters to enroll to receive absentee or by-mail ballots. In our Piedmont Triad chapter alone, which operates in Guilford County, we held 46 voter registration events as well as voter registration drives following Naturalization Ceremonies and registered over 550 voters between July 1, 2016 and June 30, 2017. We have engaged in similar efforts in Mecklenburg County, Durham County, Wake County, Orange County, and many others through our local leagues.

7. The LWFVNC has expended significant resources to conduct these voter registration and education initiatives, including the time and effort of our members. We expect to engage in similar efforts for the upcoming general election cycle, and have already started our voter education initiatives, ahead of the 2022 elections.

8. The removal of eligible voters from North Carolina's voter registration rolls this close to a general election and outside the normal process implemented in North Carolina will seriously undermine LWFVNC's voter registration efforts. For example, if Plaintiffs succeed in compelling unwarranted and unreasonable "list maintenance" procedures, LWFVNC would need to devote significant resources to both educate eligible voters about their potential removal from voter rolls with sufficient time for them to prevent such removal, and fund and staff initiatives to reach and reregister eligible and previously registered voters who have been wrongfully removed.

9. If LWFVNC is required to undertake these initiatives following a voter roll purge, it will necessarily require us to divert resources that we would normally use for other voter registration efforts throughout the state.

10. In light of the volume of voter registration activities the LWFVNC undertakes in North Carolina, I also believe there is a significant risk that voters who we have helped to register to vote in our voter registration efforts could be wrongfully removed if the North Carolina Board of Elections is forced to remove thousands of voters from registration lists, especially if they are made to use new, untested, or unwarranted methods outside of their normal processes based on incorrect data supplied by Plaintiffs.

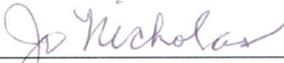
*The Effect of COVID-19 On the League of Women Voters of North Carolina's Work*

11. The COVID-19 pandemic has already significantly hindered the LWFVNC's work, requiring us to modify in-person initiatives and meetings to remote platforms. The LWFVNC is becoming increasingly concerned that the COVID-19 pandemic is likely to interfere with the upcoming 2022 election, just as it did with the 2020 election. I anticipate that without additional voter registration and support initiatives we may experience a significantly lower voter turnout.

12. As a result, the LWFVNC's is currently working on initiatives to facilitate voter registration, including voting by mail efforts, to continue to mitigate the effects of the COVID-19 pandemic on voter turnout next year. If LWFVNC is required to undertake these additional efforts following a voter roll purge, it will necessarily require us to divert resources that we intend to use for these efforts throughout the state.

13. Finally, the activities of individuals to compel unnecessary voter registration list purging has required LWFVNC to divert resources away from its other activities, to the detriment of its voter registration initiatives.

I declare under penalty of perjury under the laws of the United States of America that the foregoing Declaration is true and correct to the best of my knowledge. Executed on the 11th day of November, 2021.

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Jo Nicholas

# **EXHIBIT 3**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

JERRY GREEN and LINDA PETRO,

*Plaintiffs,*

v.

KAREN BRINSON BELL, in her capacity  
as the Executive Director of the North  
Carolina State Board of Elections,

Civil Action No. 3:21-cv-00493

Defendants, and

THE LEAGUE OF WOMEN VOTERS OF  
NORTH CAROLINA AND THE NORTH  
CAROLINA A. PHILIP RANDOLPH  
INSTITUTE,

Proposed Defendant-Intervenors.

**DECLARATION OF MELVIN MONTFORD**

I, Melvin Montford, hereby declare as follows:

1. I am a U.S. citizen and a resident of North Carolina. I am a registered voter in Wake County, and have resided in Wake County since 1998.
2. I have served as Executive Director of the North Carolina A. Philip Randolph Institute (“APRI”) since 2009. In this role, I implement the policies and program plans established by the Executive Board. I first became involved with APRI in 1998, and since then have served as Vice President and President.

3. APRI is a non-partisan state affiliate of the National A. Philip Randolph Institute (the “Institute”). The Institute is a non-partisan “[o]rganization of Black trade unionist[s] and community activists [united] to fight for racial equality and economic justice.” Founded in 1965, the Institute was founded “to continue the struggle for social, political, and economic justice for all working Americans.” The Institute has chapters across the United States.

4. The Institute was instrumental in the passage of the Voting Rights Act of 1965, which removed some of the largest barriers to Black political participation and ushered in a new era of Black political participation.

5. Nationally, the Institute’s chapters have been involved in litigation protecting the rights of voters under the National Voter Registration Act of 1993 (“NVRA”), including APRI who was a plaintiff in a 2015 case in the United States District Court for the Middle District of North Carolina, *Action NC, et al. v. Strach*, CA No.1:15-cv-1063, which ended in a settlement requiring stronger state compliance with the NVRA.

6. APRI is a senior constituency group of the American Federation of Labor and Congress of Industrial Organizations (“AFL-CIO”), and has thirteen local chapters across North Carolina, including Guilford County and Mecklenburg County. While APRI devotes considerable time and resources to efforts supporting charitable ventures, such as feeding the hungry and providing clothing to those in need, much of APRI’s work is focused on voter education, registration, and outreach efforts. Its chapters are located in places where APRI seeks to participate in “get-out-the-vote work.”

#### *APRI’s Voter Registration Efforts*

7. APRI’s voter registration activities include “canvassing, letter writing, and the use of new information technology such as the Voter Activation Network (VAN) to reach out and

educate other voters in their communities, register voters, and increase voter participation.” APRI’s “voter education and voter registration programs are carried out primarily by those that are currently or historically disenfranchised.”

8. APRI expends significant resources in doing so, including the time and effort of our more than 1340 members and an annual budget of approximately \$2,600,000. We do voter registration work in 16 of the 40 counties listed in the complaint in this case.

9. The removal of eligible voters from North Carolina’s voter registration rolls in contravention of the normal list maintenance processes in North Carolina—a likely result if Plaintiffs succeed in compelling the North Carolina State Board of Elections to engage in unwarranted and unreasonable “list maintenance” procedures—would significantly undermine APRI’s voter registration efforts. These efforts include educating eligible voters about their potential removal from voter rolls in enough time to prevent such removal, and also funding initiatives to canvass communities to re-register eligible and previously registered voters who have been wrongfully removed.

10. If APRI is required to undertake these initiatives following a voter roll purge, it will necessarily require us to divert resources that we would normally use for other voter registration and voter education efforts throughout the state.

11. I also believe that, given the volume of voter registration activities APRI undertakes in North Carolina, there is a significant risk that the voters we have worked to help register to vote could be wrongfully removed if the State Board of Elections is compelled to remove thousands of voters from the voter rolls using unwarranted list maintenance procedures based on incorrect data.

12. The COVID-19 pandemic has already forced APRI to adapt to the requirements of, at various times, stay at home orders, social distancing directives, and limitations on public gatherings, requiring us to modify in-person initiatives and meetings to remote platforms. We have also had to adapt our planned voter registration efforts given that we believe that the COVID-19 pandemic is likely to continue to interfere with the upcoming 2022 election, just as it did with the 2020 and 2021 elections, and without additional voter registration efforts and educational outreach, turnout could be detrimentally affected.

13. As a result, APRI is currently working on initiatives to facilitate voter registration, including voting by mail efforts, in order to preempt any decrease in voter turnout which we hope will continue to mitigate the effects of the COVID-19 pandemic on voter turnout next year.

14. The activities of Plaintiffs to compel the state to engage in unnecessary voter registration list maintenance has been detrimental to APRI's voter registration efforts as we have had to divert resources away from these crucial new voter registration initiatives in this time of unprecedented uncertainty for our elections.

I declare under penalty of perjury under the laws of the United States of America that the foregoing Declaration is true and correct to the best of my knowledge. Executed on the 12th day of November, 2021.

  
Melvin Montford