

SUPREME COURT OF NORTH CAROLINA  
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JABARI HOLMES, FRED  
CULP, DANIEL E. SMITH,  
BRENDON JADEN PEAY,  
and PAUL KEARNEY, SR.,

*Plaintiffs-Appellees,*

v.

TIMOTHY K. MOORE *in his official  
capacity as Speaker of the North  
Car- olina House of Representatives;*  
PHILLIP E. BERGER *in his official  
capacity as President Pro Tempore of  
the North Carolina Senate;*  
DAVID R. LEWIS, *in his official  
ca- pacity as Chairman of the  
House Se- lect Committee on  
Elections for the 2018 Third Extra  
Session;*  
RALPH E. HISE, *in his official  
capac- ity as Chairman of the Senate  
Select Committee on Election for the  
2018 Third Extra Session;* THE  
STATE OF NORTH CAROLINA;  
*and* THE NORTH CAROLINA  
STATE BOARD OF ELECTIONS,

*Defendants-Appellants.*

From Wake County  
18-CVS-15292  
No. COA 22-16  
No. 342PA19-2

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AMICUS CURIAE BRIEF OF THE  
NORTH CAROLINA REPUBLICAN PARTY

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The North Carolina Republican Party (“NCGOP”) respectfully seeks leave pursuant to Appellate Rule 28(i) to file the attached amicus brief.

### **NATURE OF APPLICANT’S INTEREST**

The North Carolina Republican Party (“NCGOP”), founded in 1867, is the state political organization of the Republican Party. The NCGOP represents the interests of Republican voters, poll observers, and candidates at all levels throughout the State, including developing and promoting the NCGOP’s platform, supporting Republican candidates for public office at all levels of government throughout the state, educating freedom-minded voters, providing trainings, and raising funds to support NCGOP operations and candidates.

Additionally, the NCGOP has the statutory right to appoint 100 statewide poll observers who serve to further the interests of the NCGOP, Republican voters, and Republican candidates by ensuring the security and integrity of elections in the State of North Carolina. *See* Peter K. Schalestock, *Election Law: Monitoring of Election Processes by Private Actors*, 34 Wm. Mitchell L. Rev. 563, 590 (“Private monitoring and enforcement can help identify errors and misconduct in elections, increasing the level of integrity beyond what government resources can provide.”)

If the trial court’s decision is not overturned, at least in part, it will significantly undermine the NCGOP’s ability to exercise its statutorily granted rights and to ensure the integrity of elections in North Carolina. The NCGOP respectfully urges this Court to sever the challenged portions of Senate Bill 824 (“S.B. 824”) from the unrelated, unchallenged, and valid poll observer provisions found in Part III, Section 3.3 of S.B. 824.

## **REASONS WHY *AMICUS* SHOULD BE HEARD**

The NCGOP is one of only three state political parties whose rights are affected by the trial court’s decision to eliminate statewide observers. Section 3.3 of S.B. 824 provides that “[t]he chair of each political party in the State shall have the right to designate up to 100 additional at-large observers who are residents of the State who may attend any voting place in the State.” 2018 N.C. Sess. Law 144, § 3.3 (codified at N.C.G.S. § 163–45(a) (2019)). The NCGOP is thus directly affected by the case at bar—should Section 3.3 of S.B. 824 continued to be enjoined, the NCGOP loses its ability to appoint poll observers, which it considers an important part of its role in the electoral process. This section was not challenged by Plaintiffs. As an enactment of the General Assembly, Section 3.3 is presumed constitutional; therefore, this Court should uphold it. The trial court erred by failing to sever the challenged voter ID portions of S.B. 824. This Court failed to address the issue of severability in its opinion of 16 December 2022.

## **QUESTION OF LAW ADDRESSED IN THE *AMICUS* BRIEF**

The NCGOP will address the error of the trial court in its Order of September 17, 2021, wherein it failed to sever the voter ID portions from the unchallenged Section 3.3 of S.B. 824 and consequently, enjoined the bill in its entirety.

## **POSITION OF *AMICUS CURIAE* ON THE QUESTION OF LAW**

The trial court did not hold the statewide observer section to be unconstitutional. Further, the section is altogether unrelated to the voter ID portions under scrutiny; therefore, the voter ID provisions should be severed and Section 3.3 left intact.

## CONCLUSION

For the foregoing reasons, the North Carolina Republican Party respectfully requests the Court grant it leave to file the attached *amicus curiae* brief addressing the issue of severability.

Respectfully submitted this the 17th day of February 2023.



Philip R. Thomas (State Bar No. 53751)  
CHALMERS, ADAMS, BACKER & KAUFMAN, PLLC  
324 S. Wilmington St., #103  
Raleigh, NC 27601  
(678) 582-8900  
[pthomas@chalmersadams.com](mailto:pthomas@chalmersadams.com)



Kevin J. Cline (State Bar No. 57854)  
CHALMERS, ADAMS, BACKER & KAUFMAN, PLLC  
324 S. Wilmington St., #103  
Raleigh, NC 27601  
(678) 582-8900  
[kcline@chalmersadams.com](mailto:kcline@chalmersadams.com)

*Counsel for Amicus Curiae  
the North Carolina Republican Party*

## CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Motion of the North Carolina Republican Party for Leave to File *Amicus Curiae* Brief was served upon all parties by electronic mail addressed to the following:

Nicole J. Moss  
David H. Thompson\*  
Peter A. Patterson\*  
Haley N. Proctor\*  
Joseph O. Masterson\*  
John W. Tienken\*  
Nicholas A. Varone\*  
COOPER & KIRK, PLLC  
1523 New Hampshire Ave., N.W.  
Washington, DC 20036  
[nmoss@cooperkirk.com](mailto:nmoss@cooperkirk.com)  
[dthompson@cooperkirk.com](mailto:dthompson@cooperkirk.com)  
[ppatterson@cooperkirk.com](mailto:ppatterson@cooperkirk.com)  
[hproctor@cooperkirk.com](mailto:hproctor@cooperkirk.com)  
[jmasterman@cooperkirk.com](mailto:jmasterman@cooperkirk.com)  
[jtienken@cooperkirk.com](mailto:jtienken@cooperkirk.com)  
[nvarone@cooperkirk.com](mailto:nvarone@cooperkirk.com)

Nathan A. Huff  
K&L GATES  
430 Davis Drive, Suite 400  
Morrisville, NC 27560  
Telephone: (919) 314-5636  
Fax: (919) 516-2045  
[nate.huff@klgates.com](mailto:nate.huff@klgates.com)

*Counsel for the Legislative Defendants*

*\*Appearing pro hac vice*

Terence Steed  
Assistant Attorney General  
Laura H. McHenry  
Special Deputy Attorney General  
Mary Carla Babb  
Special Deputy Attorney General

NC DEPARTMENT OF JUSTICE  
P.O. Box 629 Raleigh,  
NC 27602  
[tsteed@ncdoj.gov](mailto:tsteed@ncdoj.gov)  
[lmchenry@ncdoj.gov](mailto:lmchenry@ncdoj.gov)  
[mcbabb@ncdoj.gov](mailto:mcbabb@ncdoj.gov)

*Counsel for the State Defendants*

Jeffrey Loperfido  
Hillary Harris Klein  
SOUTHERN COALITION FOR  
SOCIAL JUSTICE  
1415 Highway 54, Suite 101  
Durham, NC 27707  
[jeff@southerncoalition.org](mailto:jeff@southerncoalition.org)  
[hilaryhklein@scsj.org](mailto:hilaryhklein@scsj.org)

Andrew J. Ehrlich\*  
PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON, LLP  
1285 Avenue of the Americas New  
York, NY 10019-6064  
[aehrich@paulweiss.com](mailto:aehrich@paulweiss.com)

Paul D. Brachman\*  
Jane O'Brien\*  
PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON, LLP  
2001 K Street, NW Washington, DC  
20006-1047  
[pbrachman@paulweiss.com](mailto:pbrachman@paulweiss.com)  
[rien@paulweiss.com](mailto:rien@paulweiss.com)

*Counsel for the Plaintiffs*

*\*Appearing pro hac vice*

Respectfully submitted this the 17th day of February 2023.



Philip R. Thomas  
CHALMERS, ADAMS, BACKER & KAUFMAN, PLLC

*Counsel for Amicus Curiae  
the North Carolina Republican Party*