

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. \_\_\_\_\_

NORTH CAROLINA )  
DEMOCRATIC PARTY, )  
 )  
Plaintiff )  
 )  
v. )  
 )  
KIM STRACH, in her official )  
capacity as the Executive Director )  
of the North Carolina State Board )  
of Elections )  
 )  
Defendant )

**COMPLAINT**

NOW COMES the Plaintiff, the North Carolina Democratic Party (“NCDP”),  
complaining of the Defendant, Kim Strach, in her official capacity as the Executive Director of  
the North Carolina State Board of Elections, and allege and say as follows:

**NATURE OF THE ACTION**

1. “No right is more precious in a free country than that of having a voice in the  
election of those who make the laws under which, as good citizens, we must live. Other rights,  
even the most basic, are illusory if the right to vote is undermined.” *Wesberry v. Sanders*, 376  
U.S. 1, 17 (1964).

2. North Carolina voters face a daunting obstacle to registering to vote in the  
aftermath of Hurricane Matthew, a massive storm that continues to wreak havoc throughout  
North Carolina.

3. On October 12, 2016, Kim Strach, the Executive Director of the State Board of Elections sent Memo 2016-19 to the County Boards of Election directing local election officials to accept voter registration applications sent by mail until October 19, 2016, so long as they were completed by the voter on October 14, 2016. Ms. Strach took no action to address the thousands of North Carolinians who are unable to complete and submit registration applications by October 14, 2016.

4. On October 13, 2016, Plaintiff called on Defendant Strach to extend the voter registration deadline to ensure that residents struggling in the aftermath of Hurricane Matthew were not deprived of their fundamental right to vote. Defendant has thus far refused to extend the deadline.

5. Defendant's refusal to extend the registration deadline will prevent thousands of North Carolina residents in the areas affected by Hurricane Matthew from registering and voting in the upcoming general election and African American residents will be disproportionately unable to register to vote if the State Board does not extend the deadline.

6. This action presents an actual controversy because Defendant's present and ongoing refusal to allow North Carolinians an opportunity to register to vote in the general election subjects Plaintiff NCDP and its members and constituents to serious and immediate harms, warranting the issuance of a declaratory judgment.

7. This action seeks preliminary and/or permanent injunctive relief to protect its statutory and constitutional rights and avoid the injuries. A favorable decision enjoining Defendant from enforcing the October 14 voter registration deadline, would redress and prevent the irreparable injuries to Plaintiff NCDP and its members and constituents identified herein, for which Plaintiff NCDP has no adequate remedy at law or in equity.

8. The Defendant will incur little to no burden in if the relief sought here is granted. Any administrative burden imposed on Defendant pales in comparison to the fundamental constitutional injury of denial of the right to vote that Plaintiff NCDP and its members and constituents will suffer in the absence of the relief requested.

9. The public interest weighs strongly in favor of extending the October 14 voter registration deadline to permit every lawful, eligible citizen who wishes to vote to vote in the upcoming general election. The balance of hardships thus tips strongly in favor of Plaintiff NCDP.

### PARTIES

10. Plaintiff NCDP is a political party recognized by North Carolina law. *See* N.C. Gen. Stat. § 163-96. Plaintiff NCDP is the statewide organization representing Democratic candidates and voters throughout the State of North Carolina within the meaning of North Carolina General Statute § 163-96 and all other applicable provisions of the election laws. Plaintiff NCDP's purpose is to elect Democratic Party candidates to public office throughout North Carolina. To accomplish its purpose, Plaintiff NCDP engages in vitally important activities, including supporting Democratic Party candidates in national, state, and local elections through fundraising and organizing efforts; protecting the legal rights of voters; and ensuring that all voters have a meaningful ability to cast ballots in North Carolina. Plaintiff NCDP has millions of members and constituents across North Carolina and in storm-affected areas, including millions of North Carolinians who are registered with the North Carolina State Board of Elections as Democrats, and many other North Carolinians who regularly support and vote for candidates affiliated with the Democratic Party.

11. Defendant's refusal to extend the voter registration deadline in the face of a catastrophic emergency that has made it impossible for many North Carolinians to register by the October 14 deadline directly harms Plaintiff NCDP, its members, and constituents. Prior to the voter registration deadline, Plaintiff NCDP has devoted substantial resources to assisting North Carolinians to register to vote. Plaintiff NCDP's efforts to register voters are fundamental to its ability to advance its core activities. From its experience in prior election years, Plaintiff NCDP is aware that a substantial number of citizens do not register until the final days before the registration deadline. Hurricane Matthew has substantially impaired these efforts. Plaintiff NCDP's employees and volunteers have been unable to travel to many parts of the state because of unsafe conditions to conduct registration efforts. And many citizens who would otherwise register as Democrats prior to the registration deadline will not be able to do so, thereby decreasing the overall likelihood that Plaintiff NCDP will be successful in its efforts to help elect Democratic candidates to public office.

12. Defendant Kim Strach is sued in her official capacity as Executive Director of the North Carolina State Board of Elections. Ms. Strach is a person within the meaning of 42 U.S.C. § 1983 and acts under color of state law. Pursuant to N.C. Gen. Stat. § 163-82.2, the Executive Director is the chief elections officer of the State and is responsible for the administration of state laws affecting voting, including those pertaining to voter registration. As Executive Director, Strach is responsible for staffing, administration, execution of the Board's decisions and orders, and must perform all duties imposed upon her by statute and any duties assigned to her by the State Board of Elections. *See id.* §§ 163-26, 163-27. In her capacity as Executive Director, Strach may exercise emergency powers to conduct an election in a district where the normal

schedule for the election has been disrupted by a natural disaster or “extremely inclement weather.” *Id.* § 163-27.1.

13. Defendant North Carolina State Board of Elections is the state agency charged with the overall responsibility for the administration of the elections process in North Carolina, and has authority to implement rules and regulations with respect to the conduct of elections. *See id.* § 163-22.

14. Plaintiff brings this action because Defendant has refused to take action to protect the voting rights of North Carolina citizens who, due to Hurricane Matthew, cannot register to vote by the upcoming registration deadline.

#### **JURISDICTION AND VENUE**

15. Plaintiff brings this action under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation under color of state law of rights secured by the United States Constitution.

16. This Court has original jurisdiction over the subject matter of this action and personal jurisdiction over Defendant, sued in their official capacity only.

17. Venue is proper in this Court under N.C. Gen. Stat. § 1-81-1.

18. This Court has the authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the North Carolina Rules of Civil Procedure.

#### **STATEMENT OF FACTS AND LAW**

19. On October 6, 2016, Governor McCrory declared a state of emergency in all 100 counties in North Carolina. *See* Office of Patrick McCrory, *Governor McCrory Declares State of Emergency for All 100 North Carolina Counties* (Oct. 6, 2016), <https://governor.nc.gov/press->

release/governor-mccrory-declares-state-emergency-all-100-north-carolina-counties. Hurricane Matthew struck two days later.

20. Large swaths of Eastern and Coastal North Carolina remain flooded, residents are experiencing major outages, including internet outages, and evacuations continue to take place. Governor McCrory has unambiguously ordered North Carolinians in evacuation zones to “Get out!” because there have been “too many deaths” and “[o]nce that water flows it’s too late.” *See* ABC News Channel 11 WTVD, McCrory: 20 Storm-Related Deaths in NC After Matthew, ABC WTVD (Oct. 13, 2016), <http://abc11.com/weather/mccrory-20-storm-related-deaths-in-nc-after-matthew/1535987/> (last visited Oct. 13, 2016).

21. Many North Carolina residents have heeded the Governor’s warning. Many unable to escape on their own have been airlifted to safety. Thousands of North Carolinians have been displaced or are living in temporary shelters. And in some places, waters continue to rise.

22. After claiming nearly 900 lives in Haiti and the Caribbean and devastating Florida, Hurricane Matthew hit North Carolina on the morning of Saturday, October 8, 2016. The largest storm to hit the eastern seaboard in a decade, Hurricane Matthew tore through eastern and central North Carolina with up to 86-mile-per-hour winds and over 18 inches of rainfall in many areas, shutting down major stretches of Interstates 95 and 40 and other roads and killing at least 22 people. To date, more than 2,000 people have been rescued from flooded areas of North Carolina, including nearly 100 air rescues by the U.S. Coast Guard. On Wednesday, Governor McCrory reported that more than 300,000 North Carolinians were still without power, and 3,800 were in shelters. Thirty-four schools systems in the state have closed, and according to the Governor McCrory, “our whole court system is paralyzed.” President Obama has signed a

federal disaster declaration for 33 North Carolina counties, a number that has risen along with the state's flood waters. See Emily Shapiro, *North Carolina's Death Toll Plateaus, But Flooding and Evacuations Continue*, ABC News (Oct. 13, 2016) <http://abcnews.go.com/US/north-carolinas-death-toll-plateaus-flooding-evacuations/story?id=42775580> (last visited Oct. 13, 2016) (hereinafter "Shapiro, ABC News"); Mark Price, *NC hurricane death toll rises to 20; tens of thousands lack power*, Charlotte Observer (Oct. 12, 2016) <http://www.charlotteobserver.com/news/local/article107678022.html> (last visited Oct. 13, 2016); WBTV staff & Associated Press, *Gov. McCrory: 14 storm-related deaths in NC following Matthew, 3 still missing*, CBS North Carolina (Oct. 11, 2016) <http://wsps.com/2016/10/11/north-carolina-gov-mccrory-to-update-storm-status/> (last visited October 13, 2016). John Bacon, *Blue Skies in N.C.—but the worst flooding is yet to come*, USA Today, (Oct. 12, 2106) <http://www.usatoday.com/story/news/nation/2016/10/12/despite-blue-skies-nc-death-toll-matthew-rises/91939664/> (last visited Oct. 13, 2016).

23. The devastation in Eastern and Central North Carolina is far from over. Rivers have continued to rise all week and flooding continues to destroy homes and apartments throughout the area as local rivers overflow. On Wednesday October 12, Governor McCrory ordered more residents to evacuate—this time in Moore and Lenoir Counties, and the towns of Lumberton, Princeville, Kinston, Vass, and Goldsboro. Other counties where floodwaters are expected to peak on Thursday and Friday have also been ordered to evacuate, including Edgecombe, Pitt, Bladen, Wayne counties. See Shapiro, ABC News. To residents who have refused to evacuate, Governor McCrory insisted in a press conference on Tuesday, October 11, "We've had too many deaths. Get out!" See ABC News Channel 11 WTVD, *McCrory: 20 Storm-Related Deaths in NC After Matthew*, ABC WTVD (Oct. 13, 2016),

<http://abc11.com/weather/mccrory-20-storm-related-deaths-in-nc-after-matthew/1535987/> (last visited Oct. 13, 2016). Some officials in the state fear a repeat of Hurricane Floyd, which caused 35 deaths in North Carolina, the majority of which were from inland drowning in the days *after* the rain stopped. Chico Harlan & Angela Fritz, *In North Carolina, some flood waters crest while others remain on rise*, *The Washington Post* (Oct. 13, 2016),

<https://www.washingtonpost.com/news/capital-weather-gang/wp/2016/10/10/thousands-of-people-are-stranded-in-north-carolina-city-as-flood-waters-rise/> (last visited Oct. 13, 2016).

24. As of Thursday October 13, Interstate 95, a major throughway, remains closed from Lumberton to Fayetteville. Likewise, Interstate 40, near Newton Grove, and U.S. 70 in Kinston also remain closed. *See* Shapiro, ABC News. Road conditions are dangerously unpredictable given the rising flood waters. Two drivers—one in Cumberland County and another in Wilson County—died when their vehicles were submerged by rushing flood waters along US-301 and Hwy-51. *See* ABC News Channel 11 WTVD, *McCrorry: 20 Storm-Related Deaths in NC After Matthew*, ABC WTVD (Oct. 13, 2016) <http://abc11.com/weather/mccrory-20-storm-related-deaths-in-nc-after-matthew/1535987/> (last visited Oct. 13, 2016).

25. The U.S. Postal Service has closed numerous post offices throughout North Carolina due to a lack of road access. *See* United States Postal Service, *Is my Post Office Open? Hurricane Matthew*, (last updated Oct. 12, 2016), [http://about.usps.com/news/service-alerts/resident-open.htm#toggle\\_hur](http://about.usps.com/news/service-alerts/resident-open.htm#toggle_hur).

26. As evacuations continue, many residents have already lost their homes to flooding and were forced to flee with scant warning. One resident explained that she and her daughter had just fifteen minutes to evacuate their home, leaving nearly everything behind. “I don’t know if I have a house to go back to,” she said. CBS News & Associated Press, *North Carolina floods*



*from Hurricane Matthew force residents to keep vigil on homes*, CBS News, (Oct. 13, 2016) <http://www.cbsnews.com/news/north-carolina-floods-hurricane-matthew-force-residents-keep-vigil-homes/> (last visited Oct. 13, 2016) (hereinafter “CBS News & Associated Press”).

27. North Carolinians must complete a Voter Registration Application and deliver it, either in person, facsimile, or by mail, to the County Board of Elections. N.C. Gen Stat. § 163-82.6. Friday, October 14 is the voter registration deadline for the upcoming general election on November 8, 2016. *See id.* § 163-82.6(c). Completed registration applications that are submitted in person (or by facsimile) must be delivered no later than 5:00 p.m. on the registration deadline. *See id.* Applications delivered by mail are considered delivered as of the date they are postmarked, if a clear postmark is present on the mailing envelope. *See id.* If no clear postmark is present, then the application may be accepted no later than 20 days before the election. *See id.* Eligible United States citizens who fail to register by October 14 are unable to cast ballots on Election Day or to vote by absentee ballot.

28. In 2013, the North Carolina General Assembly passed an omnibus bill, SL 2013–381, imposing various voting restrictions, which included elimination of same-day registration during an early voting period. In *N.C. State Conference of NAACP v. McCrory*, the Fourth Circuit held that “race constituted a but-for cause of SL 2013–381, in violation of the Constitutional and statutory prohibitions on intentional discrimination.” 831 F.3d 204, 238 (4th Cir. July 29, 2016). As a result of this ruling, North Carolina has restored “same day” registration at early voting sites during an early voting period commencing on October 20, 2016.

29. Although North Carolinians can register to vote during the early voting period, there are significant differences between such registration and registration done prior to the October 14, 2016, deadline. A citizen cannot register to vote during the early voting period

unless (a) he or she is physically able to make it to an early voting site and (b) can present requisite proof of residence. A citizen is not required to do either of these things to register in advance of the October 14, 2016, deadline. Accordingly, this registration option is far less accessible to voters who have difficulty traveling (whether as a result of age, infirmity, or lack of access to transportation), or who lack ready access to required proof of residence. These barriers have been heightened by the ongoing and catastrophic flooding resulting from Hurricane Matthew.

30. On October 12, 2016, Kim Strach, the Executive Director of the State Board of Elections sent Memo 2016-19 to the County Boards of Election regarding the “aftermath of Hurricane Matthew.” Ms. Strach explained that many post offices were closed, resulting in interrupted pick up and delivery in those areas. Accordingly, Ms. Strach directed local election officials to accept voter registration applications sent by mail until October 19, 2016, so long as they were completed by the voter on October 14, 2016. Ms. Strach took no action to address the thousands of North Carolinians who are unable to complete and submit registration applications by October 14, 2016.

31. On October 13, 2016, Plaintiff, and several community leaders and organizations, including the North Carolina Conference of Branches of the NAACP, called on Defendant Strach to extend the voter registration deadline to ensure that residents struggling in the aftermath of Hurricane Matthew were not deprived of their fundamental right to vote. Defendant has thus far refused to extend the deadline. Under N.C. Gen. Stat. § 163-27.1, the Executive Director of the North Carolina State Board of Elections “may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by . . . [a] natural disaster

[or] . . . [e]xtremely inclement weather.” As of the filing of this lawsuit, Ms. Strach has taken no action to extend the October 14, 2016, voter registration deadline.

32. In contrast to Ms. Strach’s refusal to extend the voter registration deadline, other government agencies have waived deadlines in recognition of the consequences of Hurricane Matthew. For example, the North Carolina Department of Revenue has announced that it will waive penalties for individuals and businesses that cannot file tax returns or pay tax due between Oct. 4, 2016 and March 15, 2017 due to the effects of Hurricane Matthew. North Carolina Department of Revenue, *NCDOR Provides Update Regarding Effect of Hurricane Matthew* (Oct. 12, 2016), <http://www.dor.state.nc.us/press/2016/hurricanematthew101216.html>.

33. Defendant’s refusal to extend the registration deadline will prevent thousands of North Carolina residents in the areas affected by Hurricane Matthew from registering and voting in the upcoming general election. In the week prior to the voter registration deadline preceding the 2012 election, for example, roughly 72,000 North Carolinians registered to vote. According to registration data listed in the state voter file, there were almost twice as many forms submitted in the week before the voter registration deadline in 2012 (71,852) as there were in the previous week that year (37,460). African American residents will be disproportionately unable to register to vote if the State Board does not extend the deadline. During the last week of voter registration in 2012, 29.7% of registrations submitted came from African Americans, constituting a 32% increase in the last week relative to the composition of the electorate. Currently, 22.5% of registered voters are African American.

34. In addition, some of the counties facing the worst damage in North Carolina—including Edgecombe, Cumberland, Robeson, and Bladen counties—have significant populations of people of color and are home to large numbers of low-income residents.

Governor McCrory has acknowledged “The poorest of the poor are the ones that are being hurt the most by the floods,” noting conditions in Lumberton and smaller communities of Pembroke and St. Pauls. *See* CBS News & the Associated Press.

35. Defendant’s refusal to extend the voter registration deadline will have a substantial effect on the upcoming general election and will unfairly and arbitrarily favor some North Carolina voters over others. The Eastern and Coastal regions of the State have borne the brunt of the storm and have been affected by the severest flooding. Unlucky North Carolinians who happen to live in the counties stricken by Hurricane Matthew who have not yet registered will be unable to register by the October 14 deadline. Voters who would have been able to take advantage of Election Day voting or absentee voting may be unable to register at all—either before October 14 or during early voting—because of the impacts of the storm. Meanwhile, their neighbors to the west, who by happy geographic accident will not have to contend with the devastation of Hurricane Matthew, will have no difficulty registering timely and casting their vote in the general election.

36. Moreover, Defendant’s refusal to extend the voter registration deadline will have a decidedly partisan effect because Democratic-leaning communities, including minority voters register at higher percentages shortly before the registration deadline.

37. Meanwhile, other states directly impacted by Hurricane Matthew have taken action to protect voters. South Carolina extended its mail-in voter registration deadline. *See How to Register to Vote in South Carolina*, Heavy (Oct. 7, 2016), <http://heavy.com/news/2016/10/how-can-i-register-to-vote-in-south-carolina-online-person-by-mail-hurricane-matthew-when-is-deadline/> (last visited Oct. 13, 2016).

38. Moreover, where states failed to take necessary and appropriate action to mitigate the consequences of Hurricane Matthew, courts have stepped in. Just two days ago, after the State of Florida refused to extend its October 11, 2016, voter registration, the District Court for the Northern District of Florida entered a preliminary injunction ordering the State to extend the voter registration deadline to October 18, 2016. *See Order Granting Preliminary Injunction, Florida Democratic Party v. Scott*, No. 4:16cv626-MW/CAS (N.D. Fla. Oct. 12, 2016).

**FIRST CLAIM FOR RELIEF**

**(Undue Burden on the Right to Vote in Violation of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment)**

39. Plaintiff NCDP repeats, realleges, and incorporates by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

40. Under the First Amendment and the Equal Protection Clause of the Fourteenth Amendment, a court considering a challenge to a state election law must carefully balance the character and magnitude of the injury to First and Fourteenth Amendment rights that the Plaintiff seeks to vindicate against the justifications put forward by the state for the burdens imposed by the rule. *See Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983).

41. The court “must weigh ‘the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the Plaintiff seeks to vindicate’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the Plaintiff’s rights.’” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789).

42. Unless Plaintiff NCDP is granted the relief requested, there is a strong likelihood that the right to vote of thousands of North Carolinians, including Plaintiff NCDP's members and constituents, will be severely burdened (if not eliminated entirely) in the 2016 general election.

43. Because of Hurricane Matthew, many North Carolinians who would have registered to vote prior to the October 14 registration deadline have been displaced or otherwise prevented from registering, and thus cannot register to vote by the October 14 deadline. Moreover, many offices at which voters could register in person and U.S. Postal Offices where voters could submit registration applications have been closed, preventing North Carolinians in areas impacted by Hurricane Matthew from timely submitting registration materials. Moreover, because many North Carolinians have been forced to evacuate, floodwaters have damaged many homes, and some residents are and will be physically unable to travel to early voting sites, many North Carolinians will not be able to register after the October 14, 2016, deadline. As a result, enforcing the October 14 voter registration deadline unfairly, severely, and disproportionately burdens the voting rights of North Carolinians in storm-affected areas.

44. The burdens imposed by the October 14 voter registration deadline are especially severe for certain voter populations, including minority voters and poor voters. The burdens imposed by the October 14 voter registration deadline, individually and collectively, outweigh any conceivable benefits of that deadline.

45. The State has not provided any colorable justification for its refusal to extend the voter registration deadline notwithstanding the consequences of Hurricane Matthew. In North Carolina, elections supervisors usually see a surge in voter registration shortly before the registration deadline. In the last presidential election year, nearly 72,000 people registered

during the week before the registration deadline—a nearly twofold increase over the previous week. Nonetheless, the State of North Carolina has refused to extend the voter registration deadline. Other than vague references to the administrative convenience of maintaining the October 14, 2016, deadline, the State has provided no explanation.

46. That it is possible for North Carolina to extend the registration deadline cannot be disputed. Other states impacted by Hurricane Matthew, including South Carolina and Florida, have extended—or been ordered to extend—voter registration deadlines to mitigate the consequences of the hurricane and afford voters a viable opportunity to register.

**SECOND CLAIM FOR RELIEF**  
**(Disparate Treatment in Violation of the Equal Protection Clause of the Fourteenth Amendment and 42 U.S.C. § 1983)**

47. Plaintiff NCDP repeats, realleges, and incorporates by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

48. The Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution guarantees qualified voters a substantive right to participate equally with other qualified voters in the electoral process. Further, the equal right to vote that is protected by the Equal Protection Clause is protected in more than the initial allocation of the franchise; equal protection applies to the manner of its exercise as well. *See Bush v. Gore*, 531 U.S. 98, 104 (2000). Thus, a state may not arbitrarily impose disparate treatment on similarly situated voters.

49. As set forth above, the effect of the State's refusal to extend the voter registration deadline is to treat similarly situated North Carolinians differently.

50. Specifically, North Carolinians in inland areas not affected severely by Hurricane Matthew may register to vote until the October 14 deadline without impediment, because (among

other reasons) they have not been ordered to evacuate, they reside in areas where local government services have remained available, and they have not been subjected to heavy flooding. In contrast, many North Carolinians in storm-affected areas have either been displaced or otherwise prevented from registering to vote as a result of Hurricane Matthew.

51. There is no rational basis for favoring voters in inland areas over voters in storm-affected areas with respect to the right to cast a ballot in the upcoming general election. This disparate treatment of North Carolina residents based solely upon the area in which they live is unfair and arbitrary, and the State has not and cannot set forth any valid justification for its disparate treatment of members of the electorate.

52. Based on the foregoing, Defendant, acting under color of state law, have deprived and will continue to deprive Plaintiff NCDP and North Carolina voters of equal protection under the law secured to them by the Fourteenth Amendment to the United States Constitution and protected by 42 U.S.C. § 1983.

**THIRD CLAIM FOR RELIEF**  
**(Violation of Section 2 of the Voting Rights Act)**

53. Plaintiff NCDP repeats, realleges, and incorporates by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

54. Section 2 of the Voting Rights Act of 1965 provides in relevant part that “[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State . . . in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a).



55. The State's refusal to extend the voter registration deadline notwithstanding the effects of Hurricane Matthew has abridged and/or denied, and will continue to abridge and/or deny, the voting rights of minority voters in North Carolina on account of race.

56. The areas affected by Hurricane Matthew include substantial populations of voters of color. Minorities in storm-affected areas are disproportionately likely to register to vote in the days immediately preceding the registration deadline. As a result, the effective elimination of the final days preceding the registration deadline will have a disparate impact on minority voters.

57. Minority voters in North Carolina, including African Americans, have suffered from, and continue to suffer from, discrimination on the basis of race, including discrimination touching on the rights to register, to vote, or to otherwise participate in the democratic process.

58. The ongoing effects of this discrimination include significant and continuing disparities between minorities and other members of the electorate, including disparities in socioeconomic conditions, employment and health, education, access to transportation, and access to government services.

59. Those disparities, in turn, mean that minority voters in storm-affected areas will have more difficulty overcoming the barriers to voter registration caused by Hurricane Matthew than other members of the electorate in the storm-affected areas.

60. As a result, the challenged voter registration deadline will impose a disproportionate burden on the voting rights of minority voters in the storm-affected areas. That disproportionate burden will be caused by and is linked to the social and historical conditions that have produced discrimination against minorities, and the State's insistence that it will not

modestly extend the voter registration deadline has, at best, a tenuous connection to any legitimate government policy underlying the registration deadline.

61. The voter registration deadline challenged under Section 2 has had and, if not declared illegal and enjoined, will continue to have a disparate adverse impact on minority voters in North Carolina, including African Americans.

62. Under the totality of the circumstances, the voter registration deadline has resulted and will result in less opportunity for minorities than for other members of the electorate in North Carolina to participate in the political process and to elect candidates of their choice, and therefore violates Section 2 of the Voting Rights Act.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that the Court for the following relief:

1. That the Court enter its Judgment finding that the Defendant committed significant and substantial violations of the First Amendment, the Fourteenth Amendment, and 42 U.S.C. § 1983 Violation of Section 2 of the Voting Rights Act by the refusal of the Defendant to extend the voter registration deadline.

2. That the Court orders the Defendant to extend North Carolina's voter registration deadline by at least five days (from October 14, 2016 up to and including October 19, 2016).

3. That the Court temporarily, preliminarily and permanently enjoins Defendant from enforcing the current October 14, 2016 voter registration deadline.

4. That the Court awarding Plaintiff NCDP its costs, expenses, and reasonable attorneys' fees pursuant to, *inter alia*, 42 U.S.C. § 1988 and other applicable laws.

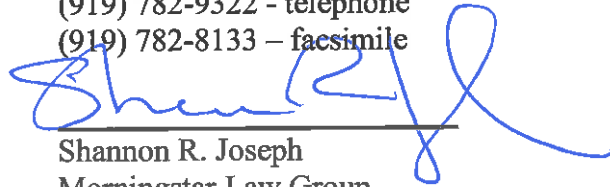
5. For such other and further relief as the Court deems just and proper.

This the 14th day of October, 2016.



---

John R. Wallace  
N.C. Bar No. 7374  
Dawn E.H. Lee  
N.C. Bar No. 49258  
Post Office Box 12065  
Raleigh, North Carolina 27605  
(919) 782-9322 - telephone  
(919) 782-8133 - facsimile



---

Shannon R. Joseph  
Morningstar Law Group  
N.C. State Bar No. 22144  
1330 St. Mary's Street, Suite 460  
Raleigh, NC 27605  
Telephone: (919) 590-0360  
sjoseph@morningstarlawgroup.com

and

Marc E. Elias  
D.C. Bar No. 44207  
MElias@perkinscoie.com  
Kevin J. Hamilton  
Wash. Bar No. 15648  
KHamilton@perkinscoie.com  
**PERKINS COIE LLP**  
700 Thirteenth Street, N.W., Suite 600  
Washington, D.C. 20005-3960  
Telephone: (202) 654-6200  
Facsimile: (202) 654-6211  
(*Pro Hac Vice* Application Pending)

*Counsel for Plaintiff*