

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF WAKE

NORTH CAROLINA REPUBLICAN PARTY,)
THE JEFFERSON GRIFFIN COMMITTEE,)
and JEFFERSON GRIFFIN)

Plaintiffs,)

v.)

NORTH CAROLINA STATE BOARD OF)
ELECTIONS; ALAN HIRSCH, in his official)
capacity as Chair of the State Board of Elections;)
JEFF CARMON, in his official capacity;)
STACY EGGERS IV, in his official capacity;)
KEVIN N. LEWIS, in his official capacity;)
SIOBHAN O'DUFFY MILLEN, in her official)
capacity; and KAREN BRINSON BELL, in her)
official capacity as Executive Director of the)
State Board of Elections,)

Defendants.)

VERIFIED COMPLAINT

INTRODUCTION

NOW COMES, Plaintiffs the North Carolina Republican Party (“NCGOP”), The Jefferson Griffin Committee, a North Carolina unincorporated state campaign committee, and Jefferson Griffin, candidate for Associate Justice on the North Carolina Supreme Court, Seat 06

(collectively “Plaintiffs”), hereby seek enforcement of the right to inspect public records pursuant to North Carolina’s Public Records Law, N.C.G.S. § 132 *et seq.* In support thereof, Plaintiffs hereby state as follows:

PARTIES

1. Plaintiff NCGOP is a North Carolina state political party organization recognized under state and federal law. *See* 11 C.F.R. 100.15; N.C.G.S. § 163-96.

2. Plaintiff The Jefferson Griffin Committee is a North Carolina state campaign committee as defined under state law. *See* N.C.G.S. § 163-278.6(74)(a).

3. Plaintiff Jefferson Griffin is the authorizing candidate of The Jefferson Griffin Committee, seeking election as Associate Justice on the North Carolina Supreme Court, Seat 06. *See* N.C.G.S. § 163-96.

4. Defendant North Carolina State Board of Elections is the state agency responsible for overseeing and managing many of the election processes in North Carolina, including the collection of data related to North Carolina elections and the issuance of guidance and information to the county boards of elections throughout the state. Defendant is also the legal custodian of the public records at issue in this action.

5. Defendant Alan Hirsch is the Chair of the North Carolina State Board of Elections. Mr. Hirsch is sued in his official capacity.

6. Defendant Jeff Carmon is the Secretary of the North Carolina State Board of Elections. He is sued in his official capacity.

7. Defendant Stacy “Four” Eggers IV is a Member of the North Carolina State Board of Elections. He is sued in his official capacity.

8. Defendant Kevin N. Lewis is a Member of the North Carolina State Board of Elections. He is sued in his official capacity.

9. Defendant Siobhan O’Duffy Millen is a Member of the North Carolina State Board of Elections. She is sued in her official capacity.

10. Defendant Karen Brinson Bell is the Executive Director of the North Carolina State Board of Elections. She is sued in her official capacity.

JURISDICTION AND VENUE

11. This Court has jurisdiction over the action pursuant to N.C.G.S. § 132-9.

12. Venue is proper in this Court pursuant to N.C.G.S. § 1-82.

BACKGROUND

13. Plaintiff Griffin is a candidate in the 2024 General Election seeking to serve as an Associate Justice on the North Carolina Supreme Court, Seat 06.

14. Defendants collectively are an agency of the State of North Carolina, and, as such, are governed by the public disclosure requirements of the North Carolina Public Records Act, N.C.G.S. Chapter 132.

15. Pursuant to N.C.G.S. § 163-182.5(b), the county boards of elections “shall meet at 11:00 AM on the tenth day after every election to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly.” For purposes of the 2024 General Election, county canvasses began on November 15, 2024.

16. To date, many but not all of the one hundred (100) counties in North Carolina have completed the canvass process. North Carolina State Board of Elections, *Several Counties to Certify Election Early Next Week* (Nov. 15, 2024) <https://www.ncsbe.gov/news/press-releases/2024/11/15/several-counties-certify-election-early-next-week>.

17. Candidates are permitted to file Protests with the county boards of elections “concerning the conduct of an election” by “5:00 PM on the second business day after the county

board of elections has completed its canvass and declared the results” if the subject matter of these Protests “concern[] an irregularity other than vote counting or result tabulation.” N.C.G.S. § 163-182.9(a) and (b)(4)(c). Protests related to the 2024 General Election are therefore due no later than 5:00 PM on November 19, 2024 for those counties that have completed canvass.

18. The vote tallies available through Defendants’ website indicate that the margin for the Supreme Court race is currently twenty-four (24) votes out of more than 5,500,000 votes cast.

19. Since the conclusion of voting on November 5, 2024, Plaintiffs, through counsel, have issued numerous public records requests to various state and local government agencies seeking data and information related to the 2024 General Election.

20. Defendants are one of the agencies from which Plaintiffs seek data and information, as Defendants maintain possession, custody, and/or control of the public records that are directly related to the election processes and procedures that occurred during the 2024 General Election.

21. As of this filing, there are four (4) significant requests relevant to the 2024 General Election that remain incomplete and outstanding from Defendant. These requests relate to: (1) lists of conflict voters (i.e. those voters who are suspected to have cast ballot both absentee and in-person); (2) those voters who utilized the curbside Election Day voting processes to complete their ballot; (3) full and complete lists of felony convictions, including full and complete replicas of datasets and guidance provided to each county board of elections related to felony convictions and treatment of votes cast by those convicted of a felony; and (4) full and complete lists of deceased persons, including full and complete replicas of datasets and guidance provided to each county board of elections related to deceased persons and treatment of votes cast by deceased persons. Exhibit A.

22. Almost all the records requested by Plaintiffs would not have been available prior

to Election Day, as those data sets continue to change and update through Election Day. In some cases, those records are not available until after Election Day as county boards of elections conduct their canvasses.

23. While Defendants have provided some data in response to submitted public records requests, review of the provided data and responses from county boards of elections suggest that the information is either incomplete or a non-identical copy of the information that was provided to the county boards of elections. Exhibit B. The material differences between data received from Defendants and other agencies and county boards of elections necessitate additional productions from Defendants to enable Plaintiffs to reconcile apparent disparities.

24. Having identified issues with Defendants' data and information, counsel for Plaintiffs sent a formal follow-up request to Defendants on Saturday, November 16, 2024, specifying the incomplete and outstanding requests and emphasizing the urgent need for additional production given the impending Protest filing deadline. Exhibit C.

25. As of filing this action, Defendants have failed to meaningfully respond to Plaintiffs' request and provide complete records of the requested information.

26. Defendants' failures have impeded Plaintiffs' efforts to meaningfully examine the 2024 General Election processes and unlawfully interfered with Plaintiffs' ability to evaluate the potential need to file any protests in relation to the 2024 General Election.

27. Defendants' document production to date remains incomplete, and, upon information and belief, it does not encompass all documents in Defendants' possession, custody, or control that are subject to disclosure under North Carolina's Public Records Act.

28. This Court's intervention is required to compel Defendants' disclosure of public records in compliance with the law.

FIRST CLAIM FOR RELIEF
(Violation of the North Carolina Public Records Act)

29. The allegations stated in the preceding paragraphs are incorporated herein by reference as if fully set forth herein.

30. The North Carolina Public Records Act, N.C.G.S. § 132-1(b), states that all “public records and public information compiled by the agencies of North Carolina government . . . are the property of the people.”

31. Under the Public Records Act, N.C.G.S. § 132-6(a), the custodian must furnish requested public records “as promptly as possible” in response to a request for such records.

32. Defendant, as the official agency charged with managing and overseeing North Carolina elections, is well aware of the tight timelines under which campaigns must examine election processes and procedures and prepare Protests for filing.

33. The records requested from Defendants are readily accessible and available, as they have been recently provided to county boards of elections in conjunction with the 2024 General Election for use in the county canvass.

34. Under these circumstances, “as promptly as possible” does not contemplate failing to provide Plaintiffs with records less than forty-eight hours before a filing deadline. This is particularly the case when Defendants have been in possession of the requests since November 9, 2024, November 11, 2024, and November 12, 2024.

35. Defendants’ failure to provide the requested information as required by the Public Records Act is, in effect, a denial of Plaintiffs’ request, and will cause Plaintiffs irreparable harm.

36. By Defendants’ continuing willful refusal to provide documents responsive to

Plaintiffs' requests, and by Defendants' production of only a partial subset of the documents in Defendants' possession, custody, and/or control, Defendants have violated the North Carolina Public Records Act, N.C.G.S. § 132 *et seq.*, and thereby caused Plaintiffs to suffer damages, including attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Assume jurisdiction over this action;
2. Enter an order compelling Defendants to comply fully and without further delay with the North Carolina Public Records Act and to furnish Plaintiffs all public records satisfying the described requests;
3. Award Plaintiffs reasonable attorneys' fees and costs, as authorized by N.C.G.S. § 132-9(c) and to the extent otherwise permitted by law; and
4. Grant Plaintiffs such other and further relief as the Court deems just and proper.

This the 18th day of November 2024.

Respectfully submitted,



Philip R. Thomas
NC State Bar No. 53751
Caitlin P. Contestable
NC State Bar No. 59096
Daniel Krchnavek
NC State Bar No. 54197
Chalmers, Adams, Backer
& Kaufman, PLLC
204 N Person St.
Raleigh, NC 27601
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ccontestable@chalmersadams.com
dkrchnavek@chalmersadams.com

Attorneys for Plaintiffs

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF WAKE

NORTH CAROLINA REPUBLICAN PARTY,)
et al.,)

Plaintiffs,)

v.)

NORTH CAROLINA STATE BOARD OF)
ELECTIONS, *et al.*,)

Defendants.)

AFFIDAVIT


I, Philip Thomas, first being duly sworn, deposes and says:

1. I am legal counsel for Plaintiffs.

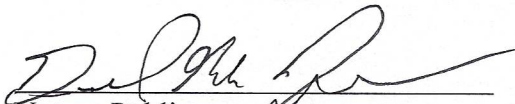
2. I have read the Complaint and that the same is true of my personal knowledge, expect

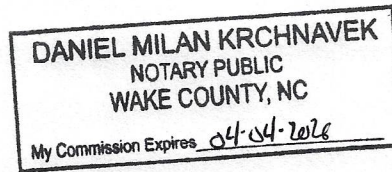
as to any matters and thing therein stated on information and belief, and as to those, he believes them to be true.

This the 19th day of November, 2024.


Philip Thomas

Sworn to and subscribed before me
this 18th day of November, 2024.


Notary Public



Commission Expires: 04/04/2026



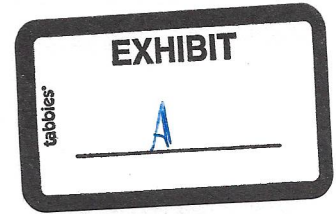
Chalmers, Adams, Backer
& Kaufman, PLLC

204 N. PERSON ST.

RALEIGH, NC 27601

(919) 701-0125

jmarx@chalmersadams.com



November 9, 2024

Patrick Gannon, Communications Director
Paul Cox, General Counsel
North Carolina State Board of Elections
430 N. Salisbury St.
Raleigh, N.C., 27603-1362
Paul.cox@ncsbe.gov

Mr. Gannon and Mr. Cox:

Pursuant to Chapter 132 of the North Carolina General Statutes, I respectfully request the opportunity to inspect and obtain copies of the following public records:

1. Any list compiled by the Executive Director of the NCSBE of individuals against whom a final judgment of conviction of a felony within this State has been entered as required by North Carolina General Statutes § 163-82.14(c)(1).
2. Any list of individuals against whom a federal conviction has been reported based on a notice of conviction received by the NCSBE from a United States Attorney or United States District Court, including any member, employee, agent, or independent contractor thereof, pursuant to section 8(g) of the National Voter Registration Act.
3. Any list of individuals against whom a felony conviction has been entered, compiled by any government agency (state or federal), and received by NCSBE from the start of absentee by mail voting on September 24, 2024, to present.
4. Any list of individuals against whom a final judgment of conviction of a felony has been entered sent by any member, employee, agent, or independent contractor of the NCSBE pursuant to North Carolina General Statutes § 163-82.14(c) to any member, employee, agent, or independent contractor of any county board of elections from October 1, 2024 up until the date of this request is fulfilled.
5. Any guidance NCSBE has provided to county Boards of Election regarding (i) removal of convicted felons from lists of eligible voters, and (ii) removal of such individuals' ballots from the November 2024 general election results.

I respectfully request that the production be made in electronic form, if possible. As records become available, please provide them on a rolling basis. If any record is withheld on any basis, please include that reason in your response. The law requires that you respond to and fulfill this request "as promptly as possible." The public's access to this information is critical to ensuring confidence in the outcome of the election. Please confirm receipt of this request as soon as

November 9, 2024

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practicable, and provide the requested record no later than 5:00 PM on Tuesday, November 12, 2024 via email to legal@ncgop.org.

Thank you for your assistance in this matter.

Sincerely,

Jonathan Marx



Chalmers, Adams, Backer
& Kaufman, PLLC

204 N. PERSON ST.

RALEIGH, NC 27601

(919) 701-0125

jmarx@chalmersadams.com

November 9, 2024

Patrick Gannon, Communications Director
Paul Cox, General Counsel
North Carolina State Board of Elections
430 N. Salisbury St.
Raleigh, N.C., 27603-1362
Paul.cox@ncsbe.gov

Mr. Gannon and Mr. Cox:

Pursuant to Chapter 132 of the North Carolina General Statutes, I respectfully request the opportunity to inspect and obtain copies of the following public records:

1. Any list of names of deceased persons received by the NCSBE from the North Carolina Department of Health and Human Services, including any member, employee, agent, or independent contractor thereof, pursuant to North Carolina General Statutes § 163-82.14(b).
2. Any list of names of deceased persons sent by any member, employee, agent, or independent contractor of the NCSBE pursuant to North Carolina General Statutes § 163-82.14(b) to any member, employee, agent, or independent contractor of any county board of elections from October 1, 2024 up until the date of this request is fulfilled.
3. Any guidance NCSBE has provided to county Boards of Election regarding (i) removal of convicted deceased individuals from lists of eligible voters, and (ii) removal of such individuals' ballots from the November 2024 general election results.

I respectfully request that the production be made in electronic form, if possible. As records become available, please provide them on a rolling basis. If any record is withheld on any basis, please include that reason in your response.

The law requires that you respond to and fulfill this request "as promptly as possible." The public's access to this information is critical to ensuring confidence in the outcome of the election. Please confirm receipt of this request as soon as practicable, and please provide the requested records no later than 5:00 PM on Tuesday, November 12, 2024 via email to legal@ncgop.org.

Thank you for your attention to this matter.

Sincerely,

Jonathan Marx

Subject: Re: Your North Carolina State Board of Elections public records request #24-218 has been closed.
Date: Monday, November 11, 2024 at 8:49:35 AM Eastern Standard Time
From: Phil Thomas
To: ncsbe-nc_24-218-requester-notes@inbound.nextrequest.com, Gannon, Patrick
Attachments: image001.jpg

Not sure if you have this yet, but if so, can you please provide the list of curbside voters from Election Day 2024?

Thanks,

Phil

Philip R. Thomas

Member

C|A | Chalmers, Adams, Backer
B|K | & Kaufman, PLLC

204 N. Person St.
Raleigh, NC 27601
(919) 670-5185

pthomas@chalmersadams.com
chalmersadams.com

From: North Carolina State Board of Elections <messages@nextrequest.com>
Date: Monday, November 11, 2024 at 8:16 AM
To: Phil Thomas <pthomas@chalmersadams.com>
Subject: Your North Carolina State Board of Elections public records request #24-218 has been closed.

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

North Carolina State Board of Elections Public Records

Record request #24-218 has been closed. The closure reason supplied

was:

We have provided all records responsive to your request.

View Request 24-218



Questions about your request? Reply to this email or sign in to contact staff at North Carolina State Board of Elections.

Technical support: See our [help page](#)

Public Records Request

VIA Electronic Mail

November 12, 2024

Pat and Paul,

Pursuant to Chapter 132 of the North Carolina General Statutes, I respectfully request the opportunity to inspect and obtain copies of the following public records for the 2024 General Election:

1. The report provided to each county of duplicate votes cast by voters via absentee ballot and in-person during the 2024 General Election that have been identified as "conflict" in SEIMS.
2. The guidance provided to the counties to administratively remove said duplicate votes cast by voters.

I respectfully request that the production be made in electronic form **via email to legal@ncgop.org**. As records become available, please provide them on a rolling basis. If any record is withheld on any basis, please include that reason in your response. If you are not the custodian of any of the records described above, I respectfully ask that you promptly forward this request to the correct individual. If costs are going to be assessed against the requestor in excess of \$25, please let me know before proceeding.

The law requires that you respond to and fulfill this request "as promptly as possible." If you expect a significant delay in responding to and fulfilling this request, please contact me with information about when I might expect the copies or the ability to inspect the requested records.

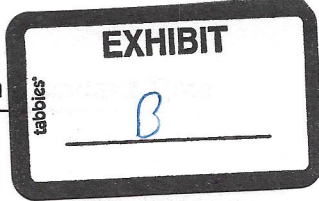
If you deny any or all of this request, please provide in writing a citation for each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available under the law.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Philip R. Thomas



Subject: Re: Confirmation of Removal of Deceased and Felon Voters
Date: Monday, November 11, 2024 at 6:38:33 PM Eastern Standard Time
From: Tsujii, Tim
To: Phil Thomas
CC: Caitlin Contestable, Daniel Krchnavek, Jonathan Marx
Attachments: Outlook-oei54rdz.png, Outlook-0dqj50mx.png, Outlook-52fclzqr.png, Outlook-vlflk2jx.png, image002.jpg

I'm not sure what the EC signifies, it's a coding that was included in the State Board's data audit that they sent to us. The "removed only" includes a combination of "Moved Out of County," "Deceased," and "Felony" voters. Again, it was how it was sent to us from the State Board.

Tim

From: Phil Thomas <pthomas@chalmersadams.com>
Sent: Monday, November 11, 2024 6:27 PM
To: Tsujii, Tim <tsujiidt@forsyth.cc>
Cc: Caitlin Contestable <ccontestable@chalmersadams.com>; Daniel Krchnavek <dkrchnavek@chalmersadams.com>; Jonathan Marx <jmarx@chalmersadams.com>
Subject: Re: Confirmation of Removal of Deceased and Felon Voters

Thank you, Tim!

Can you clarify what the "removed only" tab relates to? Also, what does "EC" mean in the voting method column on the "removed only" tab?

Appreciate ya, sir.

Phil

Philip R. Thomas

Member

C A	Chalmers, Adams, Backer & Kaufman, PLLC
B K	

204 N. Person St.
Raleigh, NC 27601
(919) 670-5185
pthomas@chalmersadams.com
chalmersadams.com

From: Tsujii, Tim <tsujiidt@forsyth.cc>
Date: Monday, November 11, 2024 at 5:58 PM
To: Phil Thomas <pthomas@chalmersadams.com>
Cc: Caitlin Contestable <ccontestable@chalmersadams.com>, Daniel Krchnavek <dkrchnavek@chalmersadams.com>, Jonathan Marx <jmarx@chalmersadams.com>
Subject: Re: Confirmation of Removal of Deceased and Felon Voters

Hi Phil,

See the attachment for the list from Forsyth County that you've requested.

Thanks,
Tim

Tim Tsujii

Director of Elections | Forsyth County Board of Elections
201 N. Chestnut Street | Winston-Salem, NC 27101
(336) 703-2801 desk | (336) 727-2893 fax
www.fcvotes.com

connect with us on   @fcvotes



From: Phil Thomas <pthomas@chalmersadams.com>
Sent: Monday, November 11, 2024 5:11 PM
To: Phil Thomas <pthomas@chalmersadams.com>
Cc: Caitlin Contestable <ccontestable@chalmersadams.com>; Daniel Krchnavek <dkrchnavek@chalmersadams.com>; Jonathan Marx <jmarx@chalmersadams.com>
Subject: Re: Confirmation of Removal of Deceased and Felon Voters

Thank you for the responses we have already received confirming your intent to remove those ineligible voters.

In addition to that confirmation, please see the attached records request regarding the same issues.

Thanks,

Phil

Philip R. Thomas
Member

C|A | Chalmers, Adams, Backer
B|K | & Kaufman, PLLC

204 N. Person St.
Raleigh, NC 27601
(919) 670-5185
pthomas@chalmersadams.com
chalmersadams.com

From: Phil Thomas <pthomas@chalmersadams.com>
Date: Monday, November 11, 2024 at 4:54 PM
To:
Cc: Caitlin Contestable <ccontestable@chalmersadams.com>, Daniel Krchnavek <dkrchnavek@chalmersadams.com>, Jonathan Marx <jmarx@chalmersadams.com>
Subject: Confirmation of Removal of Deceased and Felon Voters

Directors,

I hope your pre-canvass activities are going well. Please see the attached letter regarding removal of voters (and votes) who are deceased or convicted of a felony. In short, we are asking the following:

Please confirm, by noon on November 12, 2024, that your County Board will be following the NCSBE's guidance regarding dead voters and felon voters, and will be timely updating its records to incorporate death and felony conviction information it receives from NCSBE and other pertinent sources to ensure that all ballots cast by eligible voters, and only ballots cast by such voters, will be counted in the canvass.

Thank you for your attention to this matter, and for your service as an elections official.

Phil

—
Philip R. Thomas

Member

C|A | Chalmers, Adams, Backer
B|K | & Kaufman, PLLC

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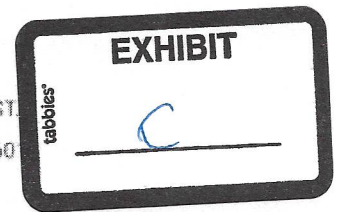
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RALEIGH, NC 2760

(919) 670-5185

pthomas@chalmersadams.com



November 16, 2024

VIA EMAIL

North Carolina State Board of Elections

Attn: Paul Cox

430 N. Salisbury St.

Raleigh, North Carolina 27603-1362

paul.cox@ncsbe.gov

RE: Outstanding Public Records Requests

Mr. Cox,

Our firm serves as counsel to The Jefferson Griffin Committee and Jefferson Griffin. We have at least four (4) public records requests that are outstanding or incomplete with the State Board of Elections. These requests include:

1. Double Voters: A full and complete production of those lists provided to each county of duplicate votes cast by voters via absentee ballot and in-person during the 2024 General Election that have been identified as "conflict" in SEIMS. The production should also include any guidance provided to the counties by the State Board of Elections to administratively remove said duplicate votes cast by voters.
2. Curbside Election Day Voters: A full and complete list of those voters who voted on election day utilizing the curbside voting processes to complete their ballot.
3. Felony Convictions: A full and complete production of those lists identified in the Public Records Request sent on November 9, 2024, and subsequent email correspondence to Paul Cox on November 14, 2024, concerning felony convictions. Specifically, the data produced thus far appears to be an incomplete or non-identical copy of the data transmitted to the individual county boards of elections. Please provide complete and identical copies of all referenced lists in the form as provided to the counties and all guidance from the NCSBE to the counties concerning felony convictions as outlined in the Public Records Request.
4. Deceased Persons: A full and complete production of those lists identified in the Public Records Request sent on November 9, 2024 concerning deceased persons. Specifically, the data produced thus far appears to be an incomplete or non-identical copy of the data transmitted to the individual county boards of elections. Please provide complete and identical copies of all referenced lists in the

November 16, 2024

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form as provided to the counties and all guidance from the NCSBE to the counties concerning deceased persons as outlined in the Public Records Request.

As you know, a candidate has two business days following the conclusion of county canvasses to file Protests identifying election irregularities that could impact the outcome of the race. The information requested is critical to determine whether there were certain irregularities.

The custodian of public records "shall, as promptly as possible, furnish copies" of public records. N.C. Gen. Stat. § 132-6(a). Given the pending protest deadlines, we ask that the requested public records be provided no later than **7:00 AM on Monday, November 18, 2024.**

Should the Board of Elections fail to provide the records by this deadline, we will deem the failure to be a denial of the outstanding requests, and we will file an action on Monday seeking emergency relief and an order compelling the production of the requested information. *See* N.C. Gen. Stat. § 132-9(a). We hope such action will be unnecessary.

If you have any questions concerning the outstanding requests or the production, please contact me. We look forward to promptly receiving the records.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip R. Thomas". The signature is written in a cursive style with a long, sweeping tail on the last name.

Philip R. Thomas

cc: Craig Schauer (via email)