

Angelo J. Genova, Esq.
Rajiv D. Parikh, Esq.
Michael C. McQueeney, Esq.
Michael Mondelli III, Esq.
agenova@genovaburns.com
rparikh@genovaburns.com
mmcqueeney@genovaburns.com
mmondelli@genovaburns.com
GENOVA BURNS LLC
494 Broad Street
Newark, New Jersey 07102-3230
Telephone: (973) 533-0777

Marc E. Elias*
Emily R. Brailey*
Sarah R. Gonski*
Mary N. Beall*
MElias@perkinscoie.com
EBrailey@perkinscoie.com
SGonski@perkinscoie.com
MBeall@perkinscoie.com
PERKINS COIE LLP
700 Thirteenth St., N.W., Suite 800
Washington, D.C. 20005-3960
Telephone: 202.654.6200

Counsel for DCCC

** Motion for admission pro hac forthcoming*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DONALD J. TRUMP FOR
PRESIDENT, INC., REPUBLICAN
NATIONAL COMMITTEE, NEW
JERSEY REPUBLICAN STATE
COMMITTEE,

Case No. 3:20-cv-10753-MAS-ZNQ

Plaintiffs,

**NOTICE OF MOTION TO
INTERVENE**

v.

PHILIP D. MURPHY, in his official
capacity as Governor of New Jersey,
TAHESHA WAY, in her official
capacity as Secretary of State of New
Jersey,

Defendants.

TO: Thomas R. McCarthy
Bryan Weir
Cameron T. Norris
CONSOVOY MCCARTHY PLLC
1600 Wilson Boulevard, Suite 700
Arlington, VA 22209
Ph.: (703) 243-9423
Email: tom@consovoymccarthy.com

Michael L. Testa Jr.
TESTA HECK TESTA & WHITE P.A.
424 W. Landis Avenue
Vineland, NJ 08360
Ph.: (856) 691-2300
Email: mtestajr@testalawyers.com

COUNSEL:

PLEASE TAKE NOTICE that on September 21, 2020, at 9:00 a.m., or as soon thereafter as counsel may be heard, the undersigned attorneys for Proposed Intervenor DCCC will apply to the Honorable Michael A. Shipp, U.S.D.J., United State District Court, Clarkson S. Fisher Federal Building & U.S. Courthouse, 402

East State Street, Trenton, New Jersey 08608, for an Order granting DCCC's Motion to Intervene.

PLEASE TAKE FURTHER NOTICE that in support of said Motion, DCCC will rely upon the Brief in support thereof, and the Certification of Rajiv D. Parikh, Esq., with Attachment, submitted herewith.

PLASE TAKE FURTHER NOTICE that DCCC requests oral argument if this Motion is contested.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith in accordance with Local Civil Rule 7.1(e)(1).

DATED: August 24, 2020

By: /s/ *Rajiv D. Parikh*
RAJIV D. PARIKH

GENOVA BURNS LLC

Angelo J. Genova, Esq.

Rajiv D. Parikh, Esq.

Michael C. McQueeney, Esq.

Michael Mondelli III, Esq.

agenova@genovaburns.com

rparikh@genovaburns.com

mmcqueeney@genovaburns.com

mmondelli@genovaburns.com

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EBrailey@perkinscoie.com
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Washington, D.C. 20005-3960
Telephone: 202.654.6200
Fax: 202.654.6211

Sarah R. Gonski*
SGonski@perkinscoie.com
Perkins Coie LLP
2901 North Central Avenue, Suite
2000
Phoenix, AZ 85012-2788
Telephone: 602.351.8000
Fax: 602.648.7037

Mary N. Beall*
MBeall@perkinscoie.com
Perkins Coie LLP
33 E. Main St., Ste 201
Madison, WI 53703-3095
Telephone: 606.294.4001
Fax: 608.663.7499
Attorneys for DCCC

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AGenova@genovaburns.com
RParikh@genovaburns.com
mmcqueeney@genovaburns.com
mmondelli@genovaburns.com
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Newark, New Jersey 07102
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Fax: 973-533-1112

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MBeall@perkinscoie.com
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[additional counsel listed on signature page]

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COMMITTEE,

Plaintiffs,

v.

PHILIP D. MURPHY, in his official
capacity as Governor of New Jersey;
TAHESHA WAY, in her official
capacity as Secretary of State of New
Jersey,

Defendants,

and

DCCC,

Proposed Intervenor-Defendants.

Case No. 3:20-cv-10753-MAS-ZNQ

BRIEF IN SUPPORT OF DCCC'S MOTION TO INTERVENE

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INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 24, DCCC moves to intervene as a defendant in this case.

Plaintiffs Donald J. Trump for President, Inc., Republican National Committee, and the New Jersey Republican State Committee (collectively, the “Republican Party”) challenge the elections plans instituted by Defendants Philip Murphy, the Governor of New Jersey, and Tahesha Way, the Secretary of State of New Jersey (together, “the State”), for the November 3, 2020 general election. The State’s decision to implement a primarily all-mail system for the election is both reasonable and constitutionally required, in light of the otherwise severe impediments to voting posed by the COVID-19 global pandemic. The Republican Party alleges a slew of claims in an attempt to undermine the State’s effort to protect New Jersey voters during an unprecedented public health crisis. In so doing, they pose a clear and direct threat to DCCC’s rights and legal interests.

For the reasons set forth below, DCCC is entitled to intervene in this case as a matter of right under Rule 24(a)(2). DCCC must be permitted to participate to safeguard its substantial and distinct legal interests, which otherwise will not be represented in this litigation. In the alternative, DCCC should be granted permissive intervention under Rule 24(b). In compliance with Rule 24(c), a proposed Answer is attached as Exhibit 1.

BACKGROUND

In response to the unprecedented health crisis dominating headlines and impacting daily lives across the globe, the Governor proclaimed a state of emergency on March 9, 2020. *See* Compl., ECF No. 1 (“Compl.”). Five months later, in an effort to both protect and assist voters during the pandemic, the Governor issued Executive Order 177 (“EO 177”) on August 14. *Id.* at ¶ 66. Among other provisions, EO 177 requires that “The November General Election shall be conducted primarily via vote-by-mail ballots, which will be sent to all ‘Active’ registered voters without the need for an application to receive a vote-by-mail ballot.” *Id.* at 6. The distribution of mail ballots will be accompanied by meaningful opportunities to vote in person. *See* Exec. Order No. 177 (Aug. 14, 2020), available at <https://bit.ly/30ZjBaj> (last visited Aug. 21, 2020).

On August 18, the Republican Party filed this action seeking to invalidate EO 177 and block the Governor’s entirely appropriate and prudent efforts to safeguard the right to vote of New Jersey voters in this unprecedented pandemic.

ARGUMENT

Under the Federal Rules of Civil Procedure, there are two bases for intervention: intervention as of right pursuant to Rule 24(a) or permissive intervention pursuant to Rule 24(b). DCCC’s intervention in this litigation is supported under both grounds.

I. DCCC is entitled to intervene as of right.

DCCC satisfies each of the four requirements under Federal Rule of Civil Procedure 24(a) to intervene as a matter of right. Under that rule, a proposed party must demonstrate that: (1) the application for intervention is timely; (2) the applicant has a sufficient interest in the litigation; (3) the interest may be affected or impaired, as a practical matter by the disposition of the action; and (4) the interest is not adequately represented by an existing party in the litigation.” *Mountain Top Condo. Ass’n v. Dave Stabbert Master Builder, Inc.*, 72 F.3d 361, 366 (3d Cir. 1995) (citation omitted). Courts “liberally construe Rule 24(a) in favor of intervention.” *ACR Energy Partners, LLC v. Polo N. Country Club, Inc.*, 309 F.R.D. 191, 192 (D.N.J. 2015) (quotations and alterations omitted). DCCC satisfies all four elements here and should be granted intervention as of right.

A. The motion to intervene is timely.

DCCC’s motion is timely. Courts in the Third Circuit weigh three factors in determining timeliness: “(1) the stage of the proceeding; (2) the prejudice that delay may cause the parties; and (3) the reason for the delay.” *Mountain Top Condo.*, 72 F.3d at 369. The Republican Party initiated this action on August 18, and DCCC files this motion just days later, before any significant action in the case. There has been no delay, and there is no possible risk of prejudice to the other parties. *See id.* at 370 (finding intervention was timely despite four-year delay because no

significant action had occurred on case).

B. DCCC has significant protectible interests in this action that will be impaired without intervention.

DCCC has significant protectible interests in this lawsuit that will be impaired by the Republican Party's causes of action, should it be successful. In examining whether a proposed intervenor's interests are sufficient to support intervention, courts in the Third Circuit take a pragmatic approach, observing that the "central purpose" of the requirement is "to allow intervention by those who might be practically disadvantaged by the disposition of the action." *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 970 (3d Cir. 1998). Noting that the outcomes plaintiffs seek in suits against government entities can "have an immediate and deleterious effect on other individuals and entities," the Court has emphasized that "[r]ather than barring access to these parties, Rule 24 allows the court to give them the opportunity to present their positions." *Id.* at 971. "Evenhandedness is of paramount importance." *Id.*

The Republican Party's challenges to the State's plan to conduct the general election primarily by mail compromises DCCC's legally protectible interests. Without the State's actions to ensure that New Jersey voters are not disenfranchised as a result of the pandemic, many will be forced to choose between risking their health to vote and exercising their right to the franchise. If the Republican Party succeeds and the State's plans to mail ballots to registered voters are thwarted, many

of those voters—including significant numbers who would have supported Democratic candidates—will effectively lose their ability to vote in the coming election. As the official congressional committee of the national Democratic Party dedicated to ensuring the election of Democrats to U.S. Congress (including specifically in New Jersey), this directly, severely, and irreparably harms DCCC in at least two ways: first, it will make it more difficult for DCCC to elect their candidates to office, because it will suppress the vote of countless voters who would have otherwise cast ballots in support of those candidates; and second, it will cause DCCC to have to divert resources that it otherwise could have expended on other mission-critical efforts, but will now have to expend to address the lack of readily available mail ballots. DCCC also has a cognizable interest in asserting the rights of their members and the voters who associate with the Party who will lose or have their ability to cast ballots unduly burdened, as well as the interests of the candidates who they support, who will suffer similar injuries to their electoral prospects.

Each of these injuries independently constitutes a sufficient injury to confer Article III standing on intervenors, which goes beyond the requirement needed for intervention under Rule 24(a)(2) in this case. *See, e.g., Town of Chester v. Laroe Ests., Inc.*, 137 S. Ct. 1645, 1651 (2017) (noting an intervenor by right only needs “Article III standing in order to pursue relief that is different from that which is sought by a party with standing”); *see also Crawford v. Marion Cnty. Election Bd.*,

472 F.3d 949, 951 (7th Cir. 2007) (“The Democratic Party [] has standing to assert the rights of those of its members who will be prevented from voting by the new law” and that the law “injures the Democratic Party by compelling the party to devote resources to getting to the polls those of its supporters who would otherwise be discouraged by the new law from bothering to vote”), *aff’d*, 553 U.S. 181 (2008); *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586–87 (5th Cir. 2006) (recognizing “harm to [] election prospects” constitutes “a concrete and particularized injury”); *Owen v. Mulligan*, 640 F.2d 1130, 1132 (9th Cir. 1981) (holding “the potential loss of an election” is sufficient injury to confer Article III standing); *Democratic Nat’l Comm. v. Reagan*, 329 F. Supp. 3d 824, 841 (D. Ariz. 2018) (finding standing where law “require[d] Democratic organizations...to retool their [get-out-the-vote] strategies and divert [] resources”), *rev’d on other grounds sub nom. Democratic Nat’l Comm. v. Hobbs*, 948 F.3d 989 (9th Cir. 2020) (en banc); *Ohio Org. Collaborative v. Husted*, 189 F. Supp. 3d 708, 726 (S.D. Ohio 2016) (political party “established an injury in fact” where “the challenged provisions will make it more difficult for its members and constituents to vote”), *rev’d on other grounds sub nom. Ohio Democratic Party v. Husted*, 834 F.3d 620 (6th Cir. 2016); *N.C. State Conf. of NAACP v. McCrory*, 997 F. Supp. 2d 322, 342 (M.D.N.C. 2014) (political party has “direct, particularized interest in the outcome of an election”), *aff’d in part, rev’d in part on other grounds sub nom. League of Women Voters of*

N.C. v. North Carolina, 769 F.3d 224 (4th Cir. 2014).

C. Intervenor’s interests are not adequately represented by the existing parties.

DCCC cannot rely on the State to adequately represent their interests. DCCC’s burden to show inadequate representation is minimal; it need only show that representation of its interests “may be” inadequate. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *Mountain Top Condo*, 72 F.3d at 323. When making its determination, the Court compares DCCC’s interests to the interests of the State. *Mountain Top*, 72 F.3d at 323. To be sure, DCCC shares some of the State’s interests in this litigation—namely, in ensuring that New Jersey preserves its ability to enact and implement much-needed changes to its election structure in light of unprecedented global chaos.

But DCCC has other significant interests not shared by any other party in this litigation. It is crucial to DCCC’s core mission to ensure that each of its affiliated candidates has a robust base of support and that their members in New Jersey have a meaningful opportunity to cast a ballot. If the Republican Party successfully obstructs the State’s efforts to expand access to mail voting in light of the COVID-19 pandemic, then DCCC will have to spend more money on voter education and get out the vote campaigns in New Jersey in order to boost turnout to make up for the voters disenfranchised as a result of the Republican Party’s efforts here and attempt to ameliorate that harm in ways that DCCC would not otherwise have to do

if EO 177 were in force.

Additionally, DCCC can offer particular insight into the Republican Party's national strategy, because this lawsuit is only one of many cases that it has recently brought to obstruct states' efforts to ensure a fair and equal election during a global pandemic. *See, e.g., Donald J. Trump for President, et al., v. Cegavske*, No. 2:20-cv-01445-JCM-VCF (D. Nev. Aug. 4, 2020) (ECF No. 1); *Republican Nat'l Comm., et al., v. Newsom, et al.*, No. 2:20-cv-01055-MCE-CDK (E.D. Cal. May 24, 2020) (ECF No. 1); *Donald J. Trump for President, Inc., et al., v. Boockvar, et al.*, No. 2:20-cv-966-NR (W.D. Pa. June 29, 2020) (ECF No. 4); *The Republican State Comm. of Del., et al., v. Del., et al.*, (Del. Ch. Aug. 19, 2020); *Daunt v. Benson, et al.*, No. 1:20-cv-522-RJJ-RSK (W.D. Mich. June 9, 2020) (ECF No. 1). DCCC has successfully intervened in many of these cases and has experience defending against the Republican Party.

No other party to this litigation can defend against the Republican Party's national litigation strategy like DCCC can. As government actors who are only participating in a single case, the State lacks the national perspective and cannot adequately represent DCCC's interests here. *See Kleissler*, 157 F.3d at 972-74; *see also Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003); *accord Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 899 (9th Cir. 2011) (“[T]he government's representation of the public interest may not be

‘identical to the individual parochial interest’ of a particular group just because ‘both entities occupy the same posture in the litigation.’” (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009)); cf. *Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2042365, at *3 (D. Nev. Apr. 28, 2020) (concluding “Proposed Intervenors . . . have demonstrated entitlement to intervene as a matter of right” where they “may present arguments about the need to safeguard [the] right to vote that are distinct from Defendants’ arguments”). And although the Atlantic County Democratic Committee has moved to intervene, it likewise does not adequately represent the DCCC’s interests; DCCC’s interests are statewide and not limited to the specific circumstances of Atlantic County voters.¹

II. DCCC is also entitled to permissive intervention.

Even if this Court were to find DCCC ineligible for intervention as of right, DCCC readily satisfies the requirements for permissive intervention under Rule 24(b). Permissive intervention is appropriate where a party “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(B). “In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P. 24(b)(3).

¹ The Atlantic County Democratic Committee sought intervention as amicus on August 20, 2020. ECF No. 9.

For the reasons discussed above, this motion is timely, and DCCC cannot rely on the State or other proposed intervenors to adequately protect its interests. DCCC also has defenses to the Republican Party's claims that share common questions of law and fact. For example, DCCC contends that the State acted lawfully when it issued plans to make voting easier for New Jersey voters in light of the pandemic. And significantly, intervention will result in neither prejudice nor undue delay. DCCC has an undeniable interest in a swift resolution of this action, to ensure that the State has sufficient time to allow every New Jersey voter to cast a ballot in the election, and to allow it time to conduct its own voter education and turnout efforts. Given the legal and factual shortcomings of the Republican Party's claims, DCCC is confident that their intervention in this case, and the filings that will follow, will result in expeditious resolution of this litigation.

CONCLUSION

For the reasons stated above, DCCC respectfully requests that the Court grant its motion to intervene as a matter of right under Rule 24(a)(2) or, in the alternative, permit it to intervene under Rule 24(b).

DATED: August 24, 2020

By: s/ Rajiv D. Parikh

GENOVA BURNS LLC
Angelo J. Genova
Rajiv D. Parikh
Michael C. McQueeney
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AGenova@genovaburns.com
RParikh@genovaburns.com
mmcqueeney@genovaburns.com
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PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, AZ 85012-2788
Telephone: 602.351.8000
Fax: 602.648.7037

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v.

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as Governor of New Jersey, TAHESHA
WAY, in her official capacity as Secretary of
State of New Jersey,

Defendants.

Case No. 3:20-cv-10753-MAS-ZNQ

**CERTIFICATION OF RAJIV D. PARIKH,
ESQ. IN SUPPORT OF PROPOSED
INTERVENOR DCCC'S MOTION TO
INTERVENE**

RAJIV D. PARIKH, of full age certifies as follows:

1. I am an attorney at law of the State of New Jersey and Partner with the law firm of Genova Burns LLC, located at 494 Broad Street, Newark, New Jersey, attorneys for Proposed Intervenor DCCC in this matter. As such, I have personal knowledge of the facts herein.
2. This Certification is submitted in support of DCCC's Motion to Intervene pursuant to Federal Rules of Civil Procedure 24 filed with the Court on August 24, 2020.
3. Attached hereto pursuant to Fed. R. Civ. P. 24(c) as **Exhibit A** is a Proposed Answer to Plaintiffs', Donald J. Trump for President, Inc., Republican National Committee, and New Jersey Republican State Committee, Complaint for Declaratory Judgment and Interlocutory Relief.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

s/ Rajiv D. Parikh

RAJIV D. PARIKH

Dated: August 24, 2020

Angelo J. Genova
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Michael Mondelli
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**[PROPOSED] ANSWER OF
INTERVENOR-DEFENDANT**

Plaintiffs,

DCCC

v.

PHILIP D. MURPHY, in his official capacity as Governor of New Jersey;
TAHESHA WAY, in her official capacity as Secretary of State of New Jersey,

Defendants.

The Intervenor-Defendant DCCC, through its undersigned counsel, answer Plaintiffs' Complaint as follows:

1. DCCC affirmatively states that the allegations in Paragraph 1 are legal contentions and conclusions to which no response is required.
2. DCCC admits that Governor Murphy issued Executive Order 177 ("EO 177"). DCCC affirmatively states that the remaining allegations in Paragraph 2 are legal contentions and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.
3. DCCC affirmatively states that the allegations in Paragraph 3 are Plaintiffs' characterizations of the basis of its purported action and legal contentions and conclusions, to which no response is required. To the extent a response is required, DCCC denies the allegations contained in Paragraph 3.

4. DCCC affirmatively states that the allegations in Paragraph 4 are Plaintiffs' characterizations of the basis of its purported action and legal contentions and conclusions, to which no response is required. To the extent a response is required, DCCC denies the allegations contained in Paragraph 4.

5. DCCC affirmatively states that the allegations in Paragraph 5 are legal contentions and conclusions to which no response is required. To the extent that a response to this allegation is required, DCCC denies the same.

JURISDICTION AND VENUE

6. DCCC affirmatively states that the allegations in Paragraph 6 are legal contentions and conclusions to which no response is required.

7. DCCC admits that EO 177 is effective in the District of New Jersey. DCCC affirmatively states that the remaining allegations in Paragraph 7 are legal contentions and conclusions to which no response is required.

PARTIES

8. DCCC lacks sufficient information to confirm or deny the allegations in Paragraph 8 and therefore denies the same.

9. DCCC lacks sufficient information to confirm or deny the allegations in Paragraph 9 and therefore denies the same.

10. DCCC lacks sufficient information to confirm or deny the allegations in Paragraph 10 and therefore denies the same.

11. DCCC lacks sufficient information or knowledge to confirm or deny the allegations in Paragraph 11 and therefore denies the same.

12. DCCC lacks sufficient information or knowledge to confirm or deny the allegations in Paragraph 12 and therefore denies the same.

13. DCCC lacks sufficient information or knowledge to confirm or deny the allegations in Paragraph 13. DCCC affirmatively states that Paragraph 13 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations contained in Paragraph 13

14. DCCC affirmatively states that Paragraph 14 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

15. DCCC lacks sufficient information or knowledge to confirm or deny the allegations in Paragraph 15 and therefore denies the same.

16. DCCC lacks sufficient information or knowledge to confirm or deny the allegations in Paragraph 16 and therefore denies the same.

17. DCCC lacks sufficient information or knowledge to confirm or deny the allegations in Paragraph 17 and therefore denies the same.

18. DCCC admits the allegations in the first sentence of Paragraph 18. The remaining allegations in Paragraph 18 are characterizations of Plaintiffs' cause of action and legal contentions and conclusions, to which no response is required. To the extent a response is required, DCCC denies the same.

19. DCCC admits the allegations in the first sentence of Paragraph 19. The remaining allegations in Paragraph 19 are characterizations of Plaintiffs' cause of action and legal contentions and conclusions, to which no response is required. To the extent a response is required, DCCC denies the same.

BACKGROUND

20. DCCC affirmatively states that the allegations in Paragraph 20 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

21. DCCC affirmatively states that the allegations in Paragraph 21 are characterizations and legal contentions, to which no response is required. DCCC affirmatively states that the statements of the Commission on Federal Election Reform and Michael T. Morely speak for themselves and denies any

inconsistent allegations. To the extent a response is required, DCCC denies the allegations contained in Paragraph 21.

22. DCCC affirmatively states that the allegations in Paragraph 22 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations in Paragraph 22.

23. DCCC affirmatively states that the *Carter-Baker Report* speaks for itself and denies any allegations in Paragraph 23 that are inconsistent with that report. To the extent a response is required, DCCC denies the allegations in Paragraph 23.

24. DCCC affirmatively states that Paragraph 24 contains characterizations to which no response is required. DCCC affirmatively states that the statements of Michael T. Morley speak for themselves and denies any inconsistent allegations. To the extent a response is required, DCCC denies the same.

25. DCCC affirmatively states that the document quoted in Paragraph 25 speaks for itself and denies any inconsistent allegations. As to the remaining allegations, DCCC lacks sufficient information to confirm or deny the allegations contained in Paragraph 25 and denies the same.

26. DCCC affirmatively states that the document quoted in Paragraph 26 speaks for itself and denies any inconsistent allegations. As to the remaining allegations, DCCC lacks sufficient information to confirm or deny the allegations contained in Paragraph 25 and denies the same.

27. DCCC affirmatively states that Paragraph 27 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

28. DCCC affirmatively states that Paragraph 28 contains characterizations, legal contentions, and conclusions to which no response is required. DCCC affirmatively states that the document quoted in the second sentence of Paragraph 28 speaks for itself and denies any inconsistent allegations. As to the remaining allegations, DCCC denies the same.

29. DCCC affirmatively states that the Paragraph 29 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information sufficient to confirm or deny the allegations contained in Paragraph 29, and denies the same.

30. DCCC affirmatively states that Paragraph 30 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information to

confirm or deny the allegations contained in Paragraph 30, and denies the same.

31. DCCC affirmatively states that the document quoted in Paragraph 31 speaks for itself and denies any inconsistent allegations. To the extent a response is required, DCCC denies the same.

32. DCCC affirmatively states that Paragraph 32 contains characterizations, legal contentions, and conclusions, to which no response is required. DCCC affirmatively states that the document quoted in the second sentence of Paragraph 32 speaks for itself and denies any inconsistent allegations. To the extent a response is required, DCCC denies the same

33. DCCC affirmatively states that application-based mail-in ballots are a legitimate feature of a state's election process. As to the remaining allegations in Paragraph 33, DCCC affirmatively states that Paragraph 33 contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, DCCC denies the same.

34. DCCC affirmatively states that the allegations in Paragraph 34 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

35. DCCC affirmatively states that the allegations in Paragraph 35 are characterizations, to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

36. DCCC affirmatively states that the allegations in Paragraph 36 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

37. DCCC affirmatively states that the document quoted in sentences two through four of Paragraph 37 speaks for itself and denies any inconsistent allegations. As to the remaining allegations, DCCC affirmatively states that the allegations are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

38. DCCC affirmatively states that the document quoted in the last sentence of Paragraph 38 speaks for itself and denies any inconsistent allegations. As to the remaining allegations, DCCC affirmatively states that the allegations are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

39. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 39 and therefore denies the same.

40. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 40 and therefore denies the same.

41. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 41 and therefore denies the same.

42. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 42 and therefore denies the same.

43. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 43 and therefore denies the same.

44. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 44 and therefore denies the same.

45. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 45 and therefore denies the same.

46. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 46 and therefore denies the same.

47. DCCC affirmatively states that Paragraph 47 contains mere characterizations to which no response is required. To the extent a response is required, DCCC is without sufficient information or knowledge to confirm or deny the allegations in Paragraph 47.

48. DCCC affirmatively states that Paragraph 48 contains characterizations and legal conclusions to which no response is required. As to the remaining allegations, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 48 and therefore denies the same.

49. DCCC affirmatively states that Paragraph 49 contains characterizations and legal conclusions to which no response is required. As to the remaining allegations, DCCC is lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 49 and therefore denies the same.

50. DCCC affirmatively states that Paragraph 50 contains characterizations to which no response is required. To the extent a response is required, DCCC denies the same.

51. DCCC affirmatively states that Paragraph 51 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

52. DCCC affirmatively states that Paragraph 52 contains characterizations and legal conclusions to which no response is required.

53. DCCC affirmatively states that Paragraph 53 contains characterizations and legal conclusions to which no response is required.

54. DCCC affirmatively states that Paragraph 54 contains characterizations and legal conclusions to which no response is required.

55. DCCC affirmatively states that Paragraph 55 contains characterizations and legal conclusions to which no response is required.

56. DCCC affirmatively states that Paragraph 56 contains characterizations and legal conclusions to which no response is required.

57. DCCC affirmatively states that Paragraph 57 contains characterizations to which no response is required. As to the remaining allegations, DCCC affirmatively states that Executive Order Nos. 103 and 104 speak for themselves and are the best evidence of their contents and denies all allegations in Paragraph 57 that deviate from the language of those Executive Orders.

58. DCCC affirmatively states that Paragraph 58 contains characterizations to which no response is required. As to the remaining allegations, DCCC affirmatively states that Executive Order No. 107 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 58 that deviate from the language of Executive Order 107.

59. DCCC affirmatively states that Paragraph 59 contains characterizations to which no response is required. As to the remaining allegations, DCCC affirmatively states that Executive Order No. 133 speaks

for itself and is the best evidence of its contents and denies all allegations in Paragraph 59 that deviate from the language of Executive Order 133.

60. DCCC affirmatively states that Paragraph 60 contains characterizations to which no response is required. As to the remaining allegations, DCCC affirmatively states that Executive Order No. 142 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 60 that deviate from the language of Executive Order 142.

61. DCCC affirmatively states that Paragraph 61 contains characterizations to which no response is required. As to the remaining allegations, DCCC affirmatively states that Executive Order No. 145 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 61 that deviate from the language of Executive Order 145.

62. DCCC admits the allegations in Paragraph 62.

63. DCCC admits the allegations in Paragraph 63.

64. DCCC affirmatively states that Paragraph 64 contains characterizations to which no response is required. To the extent a response is required, DCCC lacks information sufficient to confirm or deny the remaining allegations in Paragraph 64 and therefore denies the same.

65. DCCC affirmatively states that Paragraph 65 contains characterizations to which no response is required. As to the remaining

allegations, DCCC affirmatively states that Executive Order No. 175 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 65 that deviate from the language of Executive Order 175.

66. DCCC affirmatively states that Paragraph 66 contains characterizations to which no response is required. DCCC affirmatively states that Executive Order No. 177 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 66 that deviate from the language of Executive Order 177. As to the remaining allegations, DCCC denies the same.

67. DCCC affirmatively states that Paragraph 67 contains characterizations and legal conclusions to which no response is required. DCCC affirmatively states that Executive Order No. 177 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 67 that deviate from the language of Executive Order 177. As to the remaining allegations, DCCC denies the same.

68. DCCC affirmatively states that Paragraph 68 contains characterizations and legal conclusions to which no response is required. DCCC affirmatively states that Executive Order No. 177 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 68

that deviate from the language of Executive Order 177. As to the remaining allegations, DCCC denies the same.

69. DCCC affirmatively states that Paragraph 69 contains characterizations to which no response is required. DCCC affirmatively states that Executive Order No. 177 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 69 that deviate from the language of Executive Order 177. As to the remaining allegations, DCCC denies the same.

70. DCCC affirmatively states that Paragraph 70 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 70.

71. DCCC affirmatively states that Paragraph 71 contains characterizations to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 71.

72. DCCC affirmatively states that Paragraph 72 contains characterizations to which no response is required. To the extent a response

is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 72.

73. DCCC affirmatively states that Paragraph 73 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 73. To the extent a response is required, DCCC denies the allegations contained in Paragraph 73.

74. DCCC affirmatively states that Paragraph 74 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

75. DCCC affirmatively states that Paragraph 75 contains characterizations, legal contentions, and conclusions to which no response is required. DCCC affirmatively states that Executive Order No. 105 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 75 that deviate from the language of Executive Order 105.

76. DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 76 and therefore denies the same.

77. DCCC affirmatively states that Paragraph 77 contains characterizations, legal contentions, and conclusions to which no response is

required. As to the remaining of the allegations, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 77.

78. DCCC affirmatively states that Paragraph 78 contains characterizations, legal contentions, and conclusions to which no response is required. As to the remaining allegations, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 78 and therefore denies the same.

79. DCCC affirmatively states that Paragraph 79 contains characterizations to which no response is required. As to the remaining allegations, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in 79 and therefore denies the same.

80. DCCC affirmatively states that Paragraph 80 contains characterizations to which no response is required. DCCC affirmatively states that the New Jersey Attorney General's lawsuit speaks for itself and is the best evidence of its contents and denies any allegations in Paragraph 80 that are inconsistent with those filings. As to any remaining allegations, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 80 and therefore denies the same.

81. DCCC affirmatively states that Paragraph 81 contains characterizations to which no response is required. DCCC affirmatively states that the New Jersey Attorney General's lawsuit speaks for itself and is the best evidence of its contents and denies any allegations in Paragraph 81 that are inconsistent with those filings. As to any remaining allegations, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 81 and therefore denies the same.

82. DCCC affirmatively states that Paragraph 82 contains legal contentions to which no response is required. DCCC affirmatively states that the New Jersey Attorney General's lawsuit speaks for itself and is the best evidence of its contents and denies any allegations in Paragraph 82 that are inconsistent with those filings.

83. DCCC affirmatively states that Paragraph 83 contains legal contentions to which no response is required. DCCC affirmatively states that any injunction relating to the New Jersey Attorney General's lawsuit speaks for itself and is the best evidence of its contents and denies any allegations in Paragraph 83 that are inconsistent with that order.

84. DCCC affirmatively states that Paragraph 84 contains characterizations to which no response is required. DCCC lacks information

or knowledge sufficient to confirm or deny the allegations contained in Paragraph 83 and therefore denies the same.

85. DCCC affirmatively states that Paragraph 85 contains characterizations, legal contentions, and conclusions to which no response is required. DCCC affirmatively states that Executive Order No. 144 speaks for itself and is the best evidence of its contents and denies all allegations in Paragraph 85 that deviate from the language of Executive Order 144. As to the remaining allegations, DCCC denies the same.

86. DCCC affirmatively states that Paragraph 86 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 86 and therefore denies the same.

87. DCCC affirmatively states that Paragraph 87 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 87 and therefore denies the same.

88. DCCC affirmatively states that Paragraph 88 contains characterizations, legal contentions, and conclusions to which no response is

required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations contained in Paragraph 88.

89. DCCC affirmatively states that Paragraph 89 contains legal contentions to which no response is required.

90. DCCC affirmatively states that Paragraph 90 contains characterizations to which no response is required. To the extent a response is required, DCCC denies the same.

91. DCCC affirmatively states that Paragraph 91 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

92. DCCC affirmatively states that Paragraph 92 contains characterizations, legal contentions, and conclusions to which no response is required.

93. DCCC affirmatively states that Paragraph 93 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the same.

94. DCCC affirmatively states that Paragraph 94 contains characterizations, legal contentions, and conclusions to which no response is required.

95. DCCC affirmatively states that Paragraph 95 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

96. DCCC affirmatively states that Paragraph 96 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

97. DCCC lacks information or knowledge to confirm or deny the allegations contained in Paragraph 97.

98. DCCC affirmatively states that Paragraph 98 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

99. DCCC affirmatively states that Paragraph 99 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

100. DCCC affirmatively states that Paragraph 100 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

101. DCCC affirmatively states that Paragraph 101 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

102. DCCC affirmatively states that Paragraph 102 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

103. DCCC affirmatively states that Paragraph 103 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

104. DCCC affirmatively states that Paragraph 104 contains characterizations and legal conclusions to which no response is required. To the extent a response is required, DCCC affirmatively states that New Jersey Stat. § 19:63-3 and the “Executive Order” Plaintiffs refer to, presumably Executive Order 144, speak for themselves and are the best evidence of their contents and denies any allegations in Paragraph 104 that are inconsistent with that statute and executive order.

105. DCCC affirmatively states Paragraph 105 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 105 and therefore denies the allegations.

106. DCCC affirmatively states that Paragraph 106 contains characterizations, legal contentions, and conclusions to which no response is

required. To the extent a response is required, DCCC affirmatively states that the “Executive Order” Plaintiffs refer to, presumably Executive Order 144, speaks for itself and is the best evidence of its contents and denies any allegations in Paragraph 106 that are inconsistent with that executive order. To the extent a response is required, DCCC denies the allegations.

107. DCCC affirmatively states that Paragraph 107 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

108. DCCC affirmatively states that Paragraph 108 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

109. DCCC affirmatively states that Paragraph 109 contains legal contentions and conclusions to which no response is required.

110. DCCC affirmatively states that Paragraph 110 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC deny the allegations.

111. DCCC affirmatively states that Paragraph 111 contains legal contentions and conclusions to which no response is required.

112. DCCC affirmatively states that Paragraph 112 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

113. DCCC affirmatively states that Paragraph 113 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

114. DCCC affirmatively states that Paragraph 114 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 114 and therefore denies the allegations.

115. DCCC affirmatively states that Paragraph 115 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 115 and therefore denies the allegations.

116. DCCC affirmatively states that Paragraph 116 contains characterizations, legal contentions, and conclusions to which no response is required.

117. DCCC affirmatively states that Paragraph 117 contains characterizations, legal contentions, and conclusions to which no response is required.

118. DCCC affirmatively states that Paragraph 118 contains characterizations, legal contentions, and conclusions to which no response is required.

119. DCCC affirmatively states that Paragraph 119 contains characterizations, legal contentions, and conclusions to which no response is required.

120. DCCC affirmatively states that Paragraph 120 contains characterizations, legal contentions, and conclusions to which no response is required.

121. DCCC affirmatively states that Paragraph 121 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

122. DCCC affirmatively states that Paragraph 122 contains characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC denies the allegations.

123. DCCC affirmatively states that Paragraph 123 contains characterizations, legal contentions, and conclusions to which no response is required.

124. DCCC affirmatively states that Paragraph 124 contains characterizations, legal contentions, and conclusions to which no response is required.

125. DCCC affirmatively states that the language of the “Order,” purportedly Executive Order 144, speaks for itself and is the best evidence of its contents and denies any allegations in Paragraph 125 that are inconsistent with that executive order. DCCC denies any remaining allegations contained in Paragraph 125.

126. DCCC incorporates by reference the answers to Paragraphs 1 through 125 as fully set forth herein.

127. DCCC affirmatively states that the allegations in Paragraph 127 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

128. DCCC affirmatively states that the allegations in Paragraph 128 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

129. DCCC affirmatively states that the allegations in Paragraph 129 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

130. DCCC affirmatively states that the allegations in Paragraph 130 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

131. DCCC denies the allegations in Paragraph 131.

132. DCCC affirmatively states that the allegations in Paragraph 132 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations, and therefore denies the same.

133. DCCC denies the allegations in Paragraph 133.

134. DCCC incorporates by reference the answers to Paragraphs 1 through 133 as fully set forth herein.

135. DCCC affirmatively states that the allegations in Paragraph 135 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

136. DCCC affirmatively states that the allegations in Paragraph 136 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

137. DCCC affirmatively states that the allegations in Paragraph 137 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

138. DCCC affirmatively states that the allegations in Paragraph 138 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

139. DCCC denies the allegations in Paragraph 139.

140. DCCC affirmatively states that the allegations in Paragraph 140 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations, and therefore denies the same.

141. DCCC denies the allegations in Paragraph 141.

142. DCCC incorporates by reference the Answers to Paragraphs 1 through 142.

143. DCCC affirmatively states that the allegations in Paragraph 143 are characterizations, legal contentions, and conclusions to which no

response is required. To the extent a response to these allegations is required, DCCC denies the same.

144. DCCC affirmatively states that the allegations in Paragraph 144 are characterizations, legal contentions, and conclusions to which no response is required.

145. DCCC affirmatively states that the allegations in Paragraph 145 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

146. DCCC affirmatively states that the allegations in Paragraph 146 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations, and therefore denies the same.

147. DCCC denies the allegations in Paragraph 147.

148. DCCC incorporates by reference the Answers to Paragraphs 1 through 147.

149. DCCC affirmatively states that the allegations in Paragraph 149 are characterizations, legal contentions, and conclusions to which no

response is required. To the extent a response to these allegations is required, DCCC denies the same.

150. DCCC admits the allegations in Paragraph 150.

151. DCCC affirmatively states it lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 151 and therefore denies the same.

152. DCCC affirmatively states that the allegations in Paragraph 152 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC denies the same.

153. DCCC denies the allegations in Paragraph 153.

154. DCCC incorporates by reference the Answers to Paragraphs 1 through 153.

155. DCCC affirmatively states that the allegations in Paragraph 155 are legal contentions and conclusions to which no response is required.

156. DCCC affirmatively states that the allegations in Paragraph 156 are characterizations, legal contentions, and conclusions to which no response is required.

157. DCCC affirmatively states that the allegations in Paragraph 157 are characterizations, legal contentions, and conclusions to which no response is required.

158. DCCC affirmatively states that the allegations in Paragraph 158 are characterizations, legal contentions, and conclusions to which no response is required.

159. DCCC affirmatively states that the allegations in Paragraph 159 are characterizations, legal contentions, and conclusions to which no response is required.

160. DCCC affirmatively states that the allegations in Paragraph 160 are characterizations, legal contentions, and conclusions to which no response is required.

161. DCCC affirmatively states that the allegations in Paragraph 161 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 161 and therefore denies the same.

162. DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 162 and therefore denies the same.

163. DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 162 and therefore denies the same.

164. DCCC affirmatively states that the allegations in Paragraph 164 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 164 and therefore denies the same.

165. DCCC affirmatively states that the allegations in Paragraph 165 are characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations in Paragraph 165 and therefore denies the same.

166. DCCC affirmatively states that the allegations in Paragraph 166 are legal contentions and conclusions to which no response is required. To the extent a response to these allegations is required, DCCC lacks information or knowledge sufficient to confirm or deny the allegations, and therefore denies the same.

167. DCCC denies the allegations in Paragraph 167.

REQUESTED RELIEF

The remaining paragraphs in Plaintiffs' Complaint constitute Plaintiffs' prayer for relief to which no response is required. To the extent a response is required, DCCC denies the allegations in Plaintiffs' prayer for relief, and therefore denies that Plaintiffs are entitled to any relief in this case.

AFFIRMATIVE DEFENSES

1. The Plaintiffs have failed to show that the Government's Executive Order 144 deprives them of any federally protected constitutional right.
2. The Plaintiffs fail to state a claim upon which relief can be granted.
3. DCCC designates all denials to the Complaint set forth above as defenses to the extent necessary for its full defense of this matter.
4. DCCC reserves the right to raise additional affirmative defenses as those become known and available in this action.

WHEREFORE, DCCC requests:

1. That the Complaint be dismissed in its entirety, on the merits and with prejudice;
2. Its costs and fees in defending this matter; and
3. Such other relief as the Court deems appropriate.

DATED: August 24, 2020

By: s/ Rajiv D. Parikh

GENOVA BURNS LLC

Angelo J. Genova

Rajiv D. Parikh

Michael C. McQueeney

Michael Mondelli

AGenova@genovaburns.com

RParikh@genovaburns.com

mmcqueeney@genovaburns.com

mmondelli@genovaburns.com

494 Broad Street

Newark, New Jersey 07102

Telephone: 973-533-0777

Fax: 973-533-1112

Marc E. Elias*

Emily R. Brailey*

MElias@perkinscoie.com

EBrailey@perkinscoie.com

PERKINS COIE LLP

700 Thirteenth St., N.W., Suite 800

Washington, D.C. 20005-3960

Telephone: 202.654.6200

Fax: 202.654.6211

Sarah R. Gonski*

SGonski@perkinscoie.com

PERKINS COIE LLP

2901 North Central Avenue, Suite 2000

Phoenix, AZ 85012-2788

Telephone: 602.351.8000

Fax: 602.648.7037

Mary N. Beall*

MBeall@perkinscoie.com

PERKINS COIE LLP
33 E. Main St., Ste 201
Madison, WI 53703-3095
Telephone: 606.294.4001
Fax: 608.663.7499

Attorneys for DCCC

**Application for pro hac vice forthcoming*