

IN THE UNITED STATES DISTRICT COURT
 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
 Case No. 1:22-CV-568



JULIETTE GRIMMETT, RALSTON LAPP)
 GUINN MEDIA GROUP, and the)
 JOSH STEIN FOR ATTORNEY GENERAL)
 CAMPAIGN,)

Plaintiffs,)

v.)

DAMON CIRCOSTA, in his official)
 capacity as Chair of the North Carolina State)
 Board of Elections, STELLA ANDERSON,)
 in her official capacity as Secretary of the)
 North Carolina State Board of Elections,)
 JEFF CARMON III, in his official)
 capacity as Member of the North Carolina State)
 Board of Elections STACY EGGERS IV,)
 in his official capacity as Member of the)
 North Carolina State Board of Elections,)
 TOMMY TUCKER, in his official capacity as)
 Member of the North Carolina State)
 Board of Elections, and N. LORRIN)
 FREEMAN in her official capacity as District)
 Attorney for the 10th Prosecutorial District)
 of the State of North Carolina,)

Defendants.)

**TEMPORARY RESTRAINING
 ORDER**

This matter is before the Court on Plaintiffs’ Motion for a Temporary Restraining Order. The Court has considered the record and arguments of counsel made in briefing and at a hearing on July 25, 2022, and finds and concludes that the plaintiffs have shown a likelihood of prevailing on the merits of their claim that N.C. Gen. Stat. § 163-274(a)(9) is unconstitutional under the First Amendment to the United States Constitution; that

irreparable injury will result to plaintiffs if a restraining order is not granted by very soon subjecting plaintiffs and other persons associated with the plaintiffs to potential criminal prosecution for violating an overbroad criminal libel statute before a hearing on a motion for preliminary injunction can be heard; that the balance of the equities favors an injunction protecting the First Amendment right of the plaintiffs and other political candidates to free speech; and that an injunction is in the public interest by preservation of the status quo until such time as this Court, with the benefit of further briefing from the parties, may more closely examine the constitutionality of this statute.

NOW THEREFORE, it is ORDERED that:

1. The motion for temporary restraining order, Doc. 5, is GRANTED in part as stated herein;
2. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Defendant N. Lorrin Freeman, in her official capacity as District Attorney for the 10th Prosecutorial District of the State of North Carolina, is restrained, enjoined, and forbidden from enforcing N.C. Gen. Stat. § 163-274(a)(9) against any person arising out of the Stein Committee's advertisement called "Survivor" related to the Attorney General election in the fall of 2020 and is specifically restrained, enjoined, and forbidden from seeking a presentment or charge against any person for violating N.C. Gen. Stat. § 163-274(a)(9) for actions related to the Stein Committee's advertisement called "Survivor" related to the Attorney General election in the fall of 2020.

3. This Order is binding upon Defendant Freeman's agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with them who receive actual notice in any manner of this Order by personal service or otherwise; and
4. The parties shall appear before the Court on the 4th day of August 2022, at 9:30 a.m. or as soon thereafter as counsel may be heard to show cause, if any they have, why this restraining order should not be continued as a preliminary injunction to the final adjudication of this cause;
5. The plaintiffs shall give security in the amount of one dollar for the payment of such costs and damages as may be incurred or suffered by any party who is found to be wrongfully restrained by this Order.
6. Any violation of this Order while the same remains in force and effect is a contempt of Court and is punishable by both the civil and criminal contempt powers of this Court upon a proper showing.
7. The motion for preliminary injunction remains under advisement.

This is the 25th day of July 2022.

*Entered in open court-
at 1:30pm
Signed 1:40pm*


UNITED STATES DISTRICT JUDGE