

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS & ETHICS ENFORCEMENT

IN THE MATTER OF: PETITION FOR)
BOARD RULING REGARDING)
PARTISAN LABEL)

ORDER

THIS MATTER CAME BEFORE THE STATE BOARD OF ELECTIONS & ETHICS ENFORCEMENT (“State Board”) during a hearing held August 16, 2018, upon the Petition for Board Ruling Regarding Partisan Label (“Petition”) of Michael J. Stading, a judicial candidate for judge on the Superior Court in District 26A (“Petitioner”).

The State Board heard argument from Petitioner’s counsel, Joshua B. Howard. Having considered the Petition, arguments from counsel, and all relevant statutes, the State Board by unanimous vote, hereby finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On August 13, 2018, the Superior Court in Wake County entered preliminary injunctions in *Anglin v. Berger et al.*, 18-CVS-9748, and *Edwards v. Berger et al.*, 18-CVS-9749, suspending the enforcement of certain provisions of S.L. 2018-130.
2. Petitioner is similarly situated in all relevant respects to the plaintiffs in the above-referenced actions, and his candidacy is indistinguishable from that of Rebecca Edwards, who is also a candidate for judge on the Superior Court.
3. Section 3 of S.L. 2018-130 and requires the State Board to print the following disclaimer “immediately prior to the placement of the judicial offices . . . on the ballot”:

No primaries for judicial office were held in 2018. The party information by each of the following candidates' names is shown only if the candidates' party affiliation or unaffiliated status is the same as on their voter registration at the time they filed to run for office and 90 days prior to that filing.

Placement of the disclaimer as in the manner prescribed, above the ballot section displaying all judicial offices, would violate injunctions entered in both *Anglin* and *Edwards*.

4. The disclaimer language is exclusive: A candidate's affiliation is shown "only if" he or she was registered with that party 90 days prior to filing for office. Complying with the injunctions in *Anglin* and *Edwards* in a manner that prints the disclaimer for some judicial contests but not for all judicial contests unduly risks voter confusion, because it is no longer true that affiliation is shown "only if" the candidate was affiliated for the required period.
5. Printing ballots that alternate between the disclaimer contained in S.L. 2018-130 and the prior disclaimer contained in S.L. 2018-13 creates an impossibility of complying simultaneously with both session laws and risks voter confusion based on the printing of duplicative text throughout the ballot. In both enactments, the General Assembly indicated that the disclaimer was to be printed only once "immediately prior to the placement of the judicial offices listed . . . on the ballot." S.L. 2018-130 § 3 and S.L. 2018-13 § 2.(c).

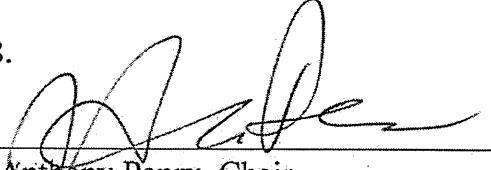
CONCLUSIONS OF LAW

1. The State Board possesses general supervisory authority over the administration of elections. G.S. § 163A-741(a). The State Board is responsible to ensure ballots throughout the State are readily understandable, allow voters to cast their vote in every ballot item without difficulty, and reflect uniform content. G.S. § 163A-1108.
2. The State Board is bound to adhere to the injunctions entered by the Superior Court in Wake County on *Anglin v. Berger et al.*, 18-CVS-9748, and *Edwards v. Berger et al.*, 18-CVS-9749.

IT IS THEREFORE ORDERED that:

1. The Petition for Board Ruling Regarding Partisan Label is **GRANTED**.
2. The State Board and all county boards of election shall prepare ballots, including affiliation and disclaimer language, in the manner prescribed by law prior to the enactment of S.L. 2018-130.
3. The Order in this matter will expire if the preliminary injunction is dissolved or any contrary order is entered in *Edwards v. Berger et al.*, 18-CVS-9749.

This the seventeenth day of August, 2018.



J. Anthony Penry, Chair
STATE BOARD OF ELECTIONS
& ETHICS ENFORCEMENT

CERTIFICATE OF SERVICE

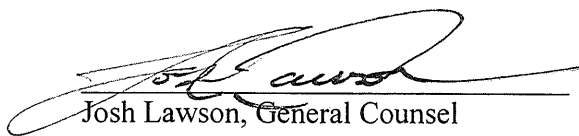
I, Josh Lawson, general counsel to the North Carolina State Board of Elections & Ethics Enforcement, do hereby certify that I have this day served the foregoing document upon the below by electronic mail:

Joshua B. Howard
for Michael J. Stading
bradhill@bradhill.esq

Copy to the following:

Michael Dickerson
for Mecklenburg County Board of Elections
pfswinborne@dixonandthompsonlaw.com

This the seventeenth day of August, 2018.

A handwritten signature in black ink, appearing to read "J. Lawson", written over a horizontal line.

Josh Lawson, General Counsel
N.C. State Board of Elections &
Ethics Enforcement