IN THE SUPREME COURT	)	
	)	
Action No. 23-002	)	
	)	
Tanner Jacob Edwards	)	
PLAINTIFF	)	
	)	
Versus	)	RESPONSE IN
	)	OPPOSITION TO MOTION
Board of Elections	)	TO DISMISS
Sophie van Duin,	)	
Acting Chair of the Board of Elections	)	
DEFENDANTS	)	
	)	
	)	
	)	
	)	
	)	

DEFENDANTS the Board of Elections and Acting Chair of the Board of Elections Sophie van Duin by and through counsel, hereby submit this Response in Opposition to PLAINTIFF, Tanner Jacob Edwards, Motion to Dismiss.

STATEMENT OF THE CASE

PLAINTIFF has submitted to this Court a frivolous motion seeking to delay the Court from considering the matter at hand. The Court should deny PLAINTIFF's motion for dismissal as: (1) the motion is without basis in law (2) DEFENDANTS have complied with all provisions of the law and orders of the Court.

STATEMENT OF FACTS

On or about January 19th, PLAINTIFF sued in this Court, seeking that DEFENDANTS' determination be overruled and that precedent be issued allowing individuals to seek the office of the President of the Graduate and Professional Student Government if they are an undergraduate student returning in the following year as a graduate student. PLAINTIFF claims that the intent of the Constitution and Student Codes is not to restrict the ability of individuals to run for office. On or about January 23rd, DEFENDANT requested that this Court allow for an outside counsel to represent them before this Court in addition to counsel which had already been retained. On or about January 24th, this Court denied the request citing III J.C.S.G. §310(c), which states that entities may "choose any member of the UNC Student Body to serve as their counsel, assuming the latter accepts responsibility." See Order 1 *Edwards v. B.O.E.*, 23-002. On or about January 26th, PLAINTIFF filed with the Court a motion to dismiss DEFENDANTS' answer on the grounds that DEFENDANTS' Answer "is fundamentally in opposition with both the court's rulings as well as *The Joint Code of Student Government*". PLAINTIFF also asserted that DEFENDANTS' and their counsel have knowingly violated the orders of the Court.

ARGUMENTS

R.40 of the Bylaws of the Student Supreme Court provides that a party may move to dismiss an item if the opposing party fails to comply with "with the requirement of these Bylaws, the Student Constitution, or other Student Law, *and* shall serve to prevent the need of opposing parties to answer non-meritorious complaints." [Emphasis Added]. The fundamental purpose of a motion to dismiss is to prevent opposing parties from having to answer non-meritorious complaints. Here, PLAINTIFF seeks to abuse this key protection against frivolous complaints by filing a frivolous motion that has no basis in law.

I. PLAINTIFF's Motion is Without Basis in Law

PLAINTIFF's motion to dismiss fundamentally ignores the provisions of R.41. R.41 clearly states that "Before answering a complaint, a party may file a motion to dismiss based on failures of the opposing party to comply with the requirement of these Bylaws, the Student Constitution, or other Student Law, *and* shall serve to prevent the need of opposing parties to answer non-meritorious complaints." [Emphasis Added]. PLAINTIFF ignores that R.41 explicitly and clearly states that a motion to dismiss must be made to prevent an opposing party from responding to non-meritorious complaints. PLAINTIFF states in their motion that "is not in response to a complaint filed by DEFENDANT". PLAINTIFF's motion is frivolous its on face and must dismissed immediately. PLAINTIFF admits they are not responding to a complaint as DEFENDANTS has not filed a complaint nor is the Answer submitted by DEFENDANTS in violating of the law. As the Court noted in *Pearce v. RHA Executive Board* 2 S.S.C. ____ (2022), "Motions to Dismiss should be made after a plaintiff files a complaint and before a defendant answers." ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND GRANTING PLAINTIFFS LEAVE TO FILE AMENDED COMPLAINT PLAINTIFF, *22-007*. Here, PLAINTIFF is requesting a motion to dismiss an answer; the exact opposite of what a motion to dismiss is for. Given that PLAINTIFF has not satisfied any of the requirements of R.41 the motion should be dismissed immediately.

II. DEFENDANTS have Complied with all Provisions of the Law and Orders of the Court.

Though unnecessary, DEFENDANTS' will respond to PLAINTIFF's frivolous claims and accusations of misconduct. PLAINTIFF asserts that the term "consulting counsel" does not appear with the corpus of law and further asserts without evidence that such an individual would perform the same functions as a counsel. See PLAINTIFF'S MOTION FOR DISMISSAL at Paragraphs 3, 4, *Edwards v. B.O.E.*, 23-002. Counsel is not a title or position established in the law. It is simply the term used to recognize an individual that has been selected by a plaintiff or defendant as the individual representing them before the Court. Counsels have used various titles over the years such as Campaign Counsel, Co-Counsel, Deputy Counsel, Counsel, etc. What matters is whether defendants have informed the Court that the individual is their formal representative before the Court. Here, DEFENDANTS have made no such claim regarding Callie Stevens. Callie Stevens is not DEFENDANTS' counsel and makes no claim of being so. While DEFENDANTS were waiting for this Court to make a determination of Callie Stevens' eligibility to serve as Counsel, she provided limited advice and input on the Answer submitted by DEFENDANTS. DEFENDANTS' Counsel, Andrew Gary, believed that it would be disingenuous to not note such a contribution, however small. DEFENDATNS' Counsel

believed that using the title of "CONSULTING COUNSEL" would make this clear. If this Court believes that her name ought to be removed from the Answer, DEFENDANTS will provide an amended Answer. DEFENDANTS' will further note that no filings made after the filing of the Answer list Callie Stevens in any capacity.

Implicit in the argument made by PLAINTIFF is the claim that a party or their counsel before the Court ought to be barred from seeking outside opinion or even discussing a case with anyone who is not a duly authorized representative of a party or one of the parties. This claim is absurd and betrays the very foundations of a functional legal system. Counsels routinely consult with one another, colleagues discuss their work, and friends talk. To argue that it is the intent of the legal system of Student Government to penalize individuals for discussing and seeking consultation is to argue that the legal system itself ought not exist. This Court should not establish precedent that those engaged in cases before it are not allowed to seek the advice of others or discuss their cases. If the Court does establish such a precedent, then DEFENDANTS will have no choice but to pursue similar claims against PLAINTIFF.

CONCLUSION

For the foregoing reasons, DEFENDANTS respectfully request that this Court deny PLAINTIFF'S Motion for Dismissal.

/s/ Andrew H. Gary
COUNSEL
[redacted]