

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 CVS 8346

TAMIKA WALKER KELLY, KRISTY
MOORE, AMANDA HOWELL, KATE
MEININGER, ELIZABETH MEININGER,
JOHN SHERRY, and RIVCA RACHEL
SANOGUEIRA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA and
NORTH CAROLINA STATE
EDUCATION ASSISTANCE
AUTHORITY,
Defendants,

PHILIP E. BERGER, in his official capacity
as President Pro Tempore of the North
Carolina Senate, and TIMOTHY K.
MOORE, in his official capacity as Speaker
of the North Carolina House of
Representatives,
Intervenor-Legislative Defendants,

JANET NUNN, CHRISTOPHER and
NICHOLE PEEDIN, and KATRINIA
POWERS,
Intervenor-Defendants.

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**STATE DEFENDANTS'
MOTION TO DISMISS**

COME NOW Defendants, State of North Carolina and North Carolina State Education Assistance Authority, and respectfully move this Court to dismiss Plaintiffs' Complaint in this action pursuant to Rules 12(b)(1) and 12(b)(6) of the North Carolina Rules of Civil Procedure. This Court should dismiss Plaintiffs' claims for the following reasons:

1. Plaintiffs do not have standing to raise the claims for relief asserted, in whole or in part, and thus the Court lacks subject matter jurisdiction over the claims raised in Plaintiffs'


Complaint;

2. Plaintiffs' Complaint fails to state a claim upon which relief can be granted;
3. Plaintiffs' claims, in whole or in part, are barred by the doctrine of res judicata; and
4. Plaintiffs' claims, in whole or in part, are barred by the doctrine of collateral estoppel.

WHEREFORE, Plaintiffs' Complaint should be dismissed pursuant to Rules 12(b)(1) and 12(b)(6) of the North Carolina Rules of Civil Procedure.

Respectfully submitted, this the 30th day of March 2021.

JOSHUA H. STEIN
North Carolina Attorney General



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Carolina and North Carolina State
Education Assistance Authority*

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing **STATE DEFENDANTS' MOTION TO DISMISS** in the above titled action upon all parties to this cause by email addressed as follows:

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This the 30th day of March, 2021.



Laura H. McHenry
Special Deputy Attorney General