

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

Court File Number:

2014 JUN 11 P 4:39

NORTH CAROLINA STATE  
CONFERENCE OF BRANCHES OF THE COUNTY, C.S.C.  
NAACP, STELLA ADAMS, VICKI  
RYDER, DOUGLAS RYDER, OLINDA  
GILLIS, SYLVIA BARNES,  
Plaintiffs,

v.

NOTICE OF HEARING

NORTH CAROLINA LEGISLATIVE  
SERVICES COMMISSION, THOM  
TILLIS, in his official capacity as Speaker  
of the North Carolina House of  
Representatives and member of the  
Legislative Services Commission, PHILIP  
BERGER, in his official capacity as North  
Carolina President Pro Tempore of the  
North Carolina Senate and member of the  
Legislative Services Commission,  
GEORGE HALL, Legislative Services  
Officer in his official capacity, WAYLON  
JEFFREY WEAVER, in his official  
capacity as Chief of the General Assembly  
Police, STATE OF NORTH CAROLINA,  
Defendants.

To:

Roy Cooper  
c/o Chief Deputy Attorney General Grayson G. Kelly  
Attorney General  
State of North Carolina  
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Raleigh, North Carolina 27602  
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**PLEASE TAKE NOTICE** that the undersigned will bring the above matter on for Plaintiff's  
Emergency Motion for Temporary Restraining Order at 11:30 a.m.. on the Friday June 13, 2014

in Courtroom 10C of the Wake County Courthouse, located at 316 Fayetteville Street Mall,  
Raleigh, NC 27602.

This the 10<sup>th</sup> day of June 2014  
11/14

By: Irving Joyner / [Signature]  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of NOTICE OF HEARING has been duly served by facsimile, email, and United States Mail, placing it in a depository for that purpose, postage prepaid, and addressed as followed:

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c/o Chief Deputy Attorney General Grayson G. Kelly  
Attorney General  
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Respectfully submitted this day 11<sup>th</sup> of June 2014

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WAKE COUNTY, N.C.  
BY

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NORTH CAROLINA LEGISLATIVE  
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of the North Carolina House of  
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North Carolina Senate and member of the  
Legislative Services Commission,  
GEORGE HALL, Legislative Services  
Officer in his official capacity, WAYLON  
JEFFREY WEAVER, in his official  
capacity as Chief of the General Assembly  
Police, STATE OF NORTH CAROLINA,  
Defendants.

VERIFIED COMPLAINT  
(Jury Trial Requested)

Now Come Plaintiffs, by and through their undersigned counsel, and complaining of the above  
named Defendants, aver and state as follows:

**PRELIMINARY STATEMENT**

1. This action arises out of the **Rules of the State Legislative Building and Legislative  
Services Building** (hereinafter "Building Rules") which criminalize constitutionally  
protected conduct in the North Carolina General Assembly. The Building Rules were  
adopted by the **Legislative Service Commission on December 19, 1984, amended  
November 18, 1987, and "Restated" on May 15, 2014.** The Legislative Services

Commission is an unconstitutional entity promulgating unconstitutionally vague and overbroad restraints on free speech. The Building Rules are unconstitutional because they infringe upon Plaintiffs' Constitutional Rights in that they are vague, overbroad, and confer unbridled and unfettered discretion upon the Legislative Services Officer, Defendant **George Hall** (hereinafter **LSO Hall**), the General Assembly chief of police, Defendant **Waylon Jeffrey Weaver** (hereinafter "Chief Weaver"), Defendant **Thom Tillis**, (hereinafter "Speaker Tillis"), and Defendant **Phillip Berger** (hereinafter "President pro tempore Berger"). Furthermore, the **Legislative Services Commission** is itself an unlawful and unconstitutional agency in that Defendants Tillis and Berger are members of legislature serving on the Legislative Services Commission in an executive role, in violation of the North Carolina Constitutional separation of powers. The statute purportedly authorizing the **Legislative Services Commission** to adopt the Building Rules is an unconstitutional delegation of legislative authority. The Building Rules, which confer the authority to LSO Hall to adopt additional restrictions on freedom of speech and assembly is an unconstitutional delegation of power and confers unfettered discretion upon LSO Hall in the regulation of free speech. Finally, even if the Legislative Services Commission is a lawful agency, it has not been exempted from the formal rules making process adopted by the North Carolina Administrative Procedures Act, N.C. Gen. Stat. §150B-1, and accordingly the Building Rules were adopted in violation of the North Carolina Administrative Procedures Act.

2. Plaintiffs plan to return to the Legislative Building at the General Assembly and protest on Monday June 16, 2014, and on each Monday thereafter when the General Assembly is in session. Plaintiffs seek a judgment declaring the Legislative Services Commission an

unconstitutional entity and the Building Rules unconstitutionally vague and overbroad. They also seek an emergency temporary restraining order, preliminary and permanent injunction prohibiting enforcement of the Building Rules as currently promulgated and enforced by LSO Hall and Chief Weaver. Unless this Court issues immediate equitable relief, Defendants will deprive Plaintiffs are subject to criminal prosecution and arrest for practicing the core rights to free speech and peaceful demonstration in a traditional public forum, pursuant to the North Carolina Constitution and the U.S. Constitution.

### PARTIES AND JURISDICTION

3. Plaintiffs **Vicki and Douglas Ryder** are residents and citizens of Durham, North Carolina.
4. Plaintiff **Stella Adams** is a resident and citizen of Durham, North Carolina.
5. Plaintiff, **Olinda Gillis**, is a resident of Moore County, North Carolina. She is President of the Moore County NAACP Branch
6. Plaintiff **Sylvia Barnes** is a resident of Wayne County, and is the President of the Wayne County NAACP Branch.
7. Plaintiff the **North Carolina State Conference of Branches of the NAACP** (hereinafter referred to as "NC NAACP") is a nonpartisan, nonprofit organization composed of over 100 branches and 20,000 individual members throughout the state of North Carolina. The fundamental mission of the NC NAACP is the advancement and improvement of the political, educational, social, and economic status of minority groups; the elimination of racial prejudice; the publicizing of adverse effects of racial discrimination; and the initiation of lawful action to secure the elimination of racial bias. In furtherance of this mission, the NC NAACP advocates to ensure that the interests of the African-American community are represented on the local, state and national legislative bodies by representatives who share

the community's interests, values and beliefs and who will be accountable to the community. The NC NAACP encourages and facilitates nonpartisan voter registration drives by its chapters to promote civic participation.

8. Defendant, **The State of North Carolina** is a sovereign entity and acted through the **North Carolina Legislative Services Commission** (hereinafter referred to as "LSC") in adoption and promulgation of the "Building Rules." Defendant LSC is and was at all relevant times a political subdivision of the State of North Carolina. The LSC is the commission and agency responsible for adopting rules governing the use of the Legislative Building pursuant to N.C. Gen. Stat. §120-31 et. al. For the purposes of this complaint, a reference to the "State" shall be deemed to include both the State of North Carolina and the Legislative Services Commission.
9. Defendant **Thom Tillis** is the duly elected Speaker of the North Carolina House of Representatives and is a member, *ex officio*, of the Legislative Services Commission pursuant to N.C. Gen. Stat. §120-31(a). He is sued in his official capacity as a member of the General Assembly and a member of the Legislative Services Commission.
10. Defendant **Philip Berger** is the duly elected President Pro Tempore of the North Carolina Senate and is a member, *ex officio*, of the Legislative Services Commission pursuant to N.C. Gen. Stat. §120-31(a). He is sued in his official capacity as a member of the General Assembly and a member of the Legislative Services Commission.
11. Defendant **George Hall** is the Legislative Services Officer with the duty and obligation of enforcing and promulgating additional time, manner, place restrictions on speech according to the Building Rules. He is sued in his official capacity as the Legislative Services Officer in the North Carolina General Assembly.

12. Defendant **Waylon Jeffrey Weaver** is the Chief of the General Assembly Police with the duty and obligation of enforcing the rules and laws inside the Legislative Building of the North Carolina General Assembly. He arrested the Ryder Plaintiffs, Plaintiffs Gillis and Barnes, along with 939 other peaceful protesters, for violating the Building Rules, and is currently in charge of enforcing the building rules at the Legislative Building of the North Carolina General Assembly.
13. This Court has jurisdiction of this action pursuant to Articles 26 and 26A of Chapter 1 of the North Carolina General Statutes.
14. This Court has jurisdiction of the federal claims pursuant to 42 U.S.C. § 1983.
15. This Court has jurisdiction over the subject matter of this action under the common law of North Carolina and pursuant to the judicial power vested in the General Court of Justice by N.C. Gen. Stat. §§ 7A-3, 7A-240, and 7A-243.
16. Venue is proper pursuant to N.C. Gen. Stat. § 1-77, since the Defendant is located in Wake County, North Carolina.

#### LEGISLATIVE SERVICES COMMISSION

17. The allegations above are hereby incorporated herein by reference.
18. N.C. Gen. Stat. §120-32.1(a) provides that “The Legislative Services Commission shall: (1) establish policy for the use of the State legislative buildings and grounds; (2) maintain and care for the State legislative buildings and grounds, but the Commission may delegate the actual work of the maintenance of those buildings and grounds to the Department of Administration, which shall perform the work as delegated; (3) provide security for the State legislative buildings and grounds; (4) allocate space within the State legislative buildings and



grounds; and (5) have the exclusive authority to assign parking space in the State legislative buildings and grounds.”

19. Pursuant to N.C. Gen. Stat. §120-32, “the Legislative Services Commission is authorized to determine the number, titles, classification, functions, compensation, and other conditions of employment of the joint legislative service employees of the General Assembly.”

20. N.C. Gen. Stat. §120-31(a) provides “The Legislative Services Commission shall consist of the President pro tempore of the Senate or a Senator designated by the President Pro Tempore, four Senators appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives or a member of the House of Representatives designated by the Speaker, and four Representatives appointed by the Speaker of the House of Representatives.”

#### **THE BUILDING RULES**

21. N.C. Gen. Stat. §120-32.1(b) provides that: “The Legislative Services Officer shall have posted the rules adopted by the Legislative Services Commission under the authority of this section in a conspicuous place in the State Legislative Building and the Legislative Office Building. The Legislative Services Officer shall have filed a copy of the rules, certified by the chairman of the Legislative Services Commission, in the office of the Secretary of State and in the office of the Clerk of the Superior Court of Wake County. When so posted and filed, these rules shall constitute notice to all persons of the existence and text of the rules. Any person, whether on his own behalf or for another, or acting as an agent or representative of any person, firm, corporation, partnership or association, who knowingly violates any of the rules adopted, posted and filed under the authority of this section is guilty of a Class 1 misdemeanor”

22. Defendants Speaker Tillis and President Pro Tempore Berger have the unfettered and unbridled discretion to **waive the application of the Building Rules** pursuant to N.C. Gen. Stat. §120-32.1(b) which provides: “The President Pro Tempore of the Senate and the Speaker of the House of Representatives may waive, in writing, the application of any rule adopted by the Legislative Services Commission to either or both of the House and Senate Sergeants-at-Arms of the General Assembly, and such a jointly-executed waiver shall be a defense against any prosecution for violation of such rule. Such a waiver shall extend no longer than the expiration of their then current term of office. A copy of such waiver shall be delivered to the Chief of the General Assembly Special Police.”

23. The Building Rules are attached and incorporated herein by reference as Exhibit 1. They state in pertinent part:

a. Preamble: *“To make visitors feel welcome and at the same time to make it possible for the General Assembly to function effectively, the Legislative Services Commission adopted these rules and regulations.”*

b. Section III.C.2. provides in part: *“Visitors to the Complex may not disturb or act in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. Visitors who disturb or act in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties will be asked to stop the behavior for the remainder of their visit to the Complex. Visitors who do not stop the behavior for the remainder of their visit to the Complex will be asked to leave immediately. Knowing failure to comply with these requests is a violation of these Rules. The following are nonexclusive examples of behaviors that*

*may disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties:*

*a. Making noise that is loud enough to impair others' ability to conduct a conversation in a normal tone of voice while in the general vicinity and may include singing, clapping, shouting, playing instruments, or using sound amplification equipment while inside either the State Legislative Building or the Legislative Office Building.*

*b. Creating any impediment to others' free movement around the grounds, impeding access to and from offices, committee rooms, elevators, stairwells, hallways, public areas, the chambers, or creating an impediment to others' ability to observe the proceedings in either house or in a committee meeting.”*

*c. Section III.C.4 provides: “Signs. - Signs on handsticks are prohibited. Signs may not be affixed to any structure or any equipment in the Legislative Complex. A sign that is used to disturb or used in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties will be confiscated. Nothing in this Rule limits the authority of the presiding officer or the chair of a committee from maintaining order in the chamber, the galleries, or a committee meeting.”*

*d. Section V.A.1 provides: “Individuals, agencies, or groups using any part of the Legislative Complex may not disturb, or create an imminent disturbance of, the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. Nonexclusive examples of behaviors that may disturb the*

*General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties are set out in Rule III.C.2. of these Rules.”*

- e. Section V.A.2 provides: *“No request to use the Legislative Complex may be denied based on the content of the speech that is or may be expressed during the proposed use.”*
- f. Section V.A.3 provides: *“The Legislative Services Officer may deny any future use of the Legislative Complex to individuals, agencies, or groups who do not comply with these Rules or any additional restrictions adopted under these Rules”*
- g. Section V.A.4 provides: *“Consistent with the provisions of these Rules, the Legislative Services Officer may adopt reasonable time, place, and manner restrictions regarding the use of the Legislative Complex, including a process for equitable allocation and timely approval of requests for space made under Rule V.D. of these Rules. The additional restrictions shall be published on the General Assembly Web site.”*
- h. Section V.D.3 provides: *“A person or group who wishes to reserve space for exhibits, booths, informational displays, conferences, festivities, contests, or other activities used to educate or engage participants or attract onlookers may apply to the Legislative Services Officer to use one or more of the first floor quadrants of the State Legislative Building, the Auditorium of the State Legislative Building, or the area between the North entrance to the State Legislative Building and the end of the bridge that joins the State Legislative Building and the Halifax Mall. No other locations in the Legislative Complex may be used or reserved for these purposes.”*
- i. Section V.D.4 provides: *“A person or group who wishes to reserve space for coordinated activities that the person or group reasonably expects will involve more than 25 but less than 200 participants to engage in making a speech, or holding a rally, protest, vigil, or press conference may apply to the Legislative Services Officer*

*to use the area between Jones Street and the South entrance to the State Legislative Building. No other location in the Legislative Complex may be used or reserved for this purpose. Only one reservation may be issued for this location on a given day at a given time. This location may not be reserved for coordinated activities the person or group reasonably expects will involve 200 or more participants.”*

- j. Section V.D.5. provides: *“It is not a violation of these Rules for a person or group to use the areas designated in Rules V.D.3. and 4. of these Rules without requesting a reservation in advance. However, the use may not interfere with a previously reserved use and may not disturb, or create an imminent disturbance of, the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. The Legislative Services Officer may impose reasonable time, place, and manner restrictions on the use.”*
- k. Section VI provides: *“Unless otherwise provided by law, a knowing violation of these rules is a Class 1 misdemeanor under G.S. 120-32.1(b).”*

**AUTHORITY FOR ADOPTION OF THE BUILDING RULES**

- 24. No rulemaking powers are granted to the Legislative Services Commission by the terms of N.C. Gen. Stat. § 120-32 or N.C. Gen. Stat. § 120-32.1.
- 25. Under, N.C. Gen. Stat. § 120-32.1, the Legislative Services Commission is directed to establish policy for use of buildings and provide security for the complex, and does not authorize the making of any rules.
- 26. The General Assembly has enacted statutes which give specific rulemaking authority to the Governor and the Council of State regarding the use of state buildings and grounds under N.C. Gen. Stat. § 143-345.1 which provides: “The Governor, with the approval of the

Council of State, shall adopt reasonable rules and regulations governing the use, care, protection, and maintenance of the public buildings and grounds (other than parking). Any person who violates a rule or regulation adopted by the Governor with the approval of the Council of State is guilty of a Class 1 misdemeanor.”

27. The Council of State could enact rules pursuant to the N.C. Administrative Procedures Act governing the use of the Legislative Building, but the Council of State has not done so.
28. The General Assembly has not amended the provisions of Chapter 120 to give the Legislative Services Commission the power to enact rules governing the use of public spaces, such as the rotunda.
29. The Governor and the Council of State have not enacted any rules regarding the “use, care, protection, and maintenance of the public buildings and grounds” for the use of the Legislative Building.”
30. The North Carolina General Assembly enacted an Administrative Procedures Act, which sets forth procedural requirements for rulemaking on all state agencies, except those exempted by specific exemption in N.C. Gen. Stat. § 150B-1.
31. Most State agencies must follow the provisions of N.C. Administrative Procedures Act whenever they enact any rules.
32. Under the N.C. Administrative Procedures Act: ““Rule” means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency.” See N.C. Gen. Stat. § 150B-2(8a).

33. Procedures which govern the internal management of an agency, such as building office assignments, are exempted from rulemaking, but any rule imposing duties on others outside the agency must be done by rulemaking, a point emphasized by the General Assembly's amendments to the "Scope and Effect" section of the Rulemaking provisions of the Act in 2012 states, which now reads: "An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this Article." See N.C. Gen. Stat. § 150B-18.
34. A number of state agencies are exempted from some or all of the provisions of the N.C. Administrative Procedures Act, with those exemptions being listed in N.C. Gen. Stat. § 150B-1.
35. The Legislative Services Commission is not among the agencies exempted from the APA pursuant to N.C. Gen. Stat. § 150B-1.
36. The Legislative Services Commission is subject to the rulemaking provisions of the APA
37. The Legislative Services Commission did not follow the procedures set forth by the N.C. Administrative Procedures Act to enact the Legislative Building Rules.
38. Unlike Building Rules which criminalize behavior of the public and visitors, the Legislative Services Commission did not have to follow the procedures set forth by the N.C. Administrative Procedures Act in order to assign offices among members of the General Assembly or otherwise manage the internal affairs of conduct between elected officials.
39. The N.C. Administrative Procedures Act forbids any state agency from seeking to enforce against any person a policy such as the Legislative Building Rules, unless that state agency

has followed the provisions of the N.C. Administrative Procedures Act to enact the rules in question.

40. The N.C. Council of State is subject to the N.C. Administrative Procedures Act and has promulgated rules which are codified in the N.C. Administrative Code and possesses the power to make rules governing the use of the legislative building.
41. The Legislative Services Commission could have petitioned the Council of State to adopt rules regarding the use, care, protection and maintenance of the Legislative Building, but it failed to do so.
42. The Legislative Building Rules are being enforced as criminal statutes and used to base decisions to arrest, detain, and criminally charge people.
43. Rulemaking under the N.C. Administrative Procedures Act is time-consuming and complicated. This is by design as rules limit the liberty of our citizens. The rulemaking process usually requires notice to the public be published, a public hearing for public comments, an analysis of the legal authority for the rule as well as a review process.

#### **PLAINTIFFS' CHARGE FOR VIOLATING BUILDING RULES**

44. The "Moral Monday Movement" began Monday, April 29, 2013 when a number of people gathered at the General Assembly to protest political actions taken by their legislators. Seventeen people were arrested at the first protest called "Moral Monday."
45. For the next thirteen (13) Mondays until July 29, 2013, protesters gathered peacefully to speak, sing, and advise their legislators.
46. During the large majority of the protests, neither the State, the House, nor any of its committees were in session or engaged in any public interactions.



47. Each week Moral Monday protesters gathered in the second and third floor rotunda areas outside the chambers of the Senate and House and engaged in peaceful and political speech, singing, and the display political signs.
48. Protesters raised a variety of issues including, but not limited to: the loss of health care benefits; the loss of unemployment benefits; the sales tax increase on poor people; the tax decreases on wealthy individuals and corporations; restrictions on the ability to vote with voter identification requirements and a reduction in the amount of time people are allowed to vote; repeal of the racial justice act which addressed well documented racial disparities in the imposition of the death penalty; cuts in funding to education and teachers; and restrictions on the provision of health care to women.
49. On May 6, 2013, the Ryder Plaintiff entered the Legislative Building of the North Carolina General Assembly as a part of a group of protesters associated with the NC NAACP and the "Moral Monday Movement."
50. Plaintiff Gillis was arrested during a protest on April 29, 2013 after refusing an unlawful order to leave pursuant to the previous Building Rules.
51. Plaintiff Barnes was arrested during a protest on June 1, 2013 after refusing an unlawful order to leave pursuant to the previous Building Rules.
52. During the course of all Moral Monday protests in 2013, more than nine hundred persons were arrested in this largest act of civil disobedience in North Carolina history.
53. During the course of the protest on May 6, 2013, Chief Weaver determined that the assembly was unlawful and ordered all protesters to leave the General Assembly.
54. At all times the protesters were peaceful, non-violent and orderly.
55. The sole basis for his order to leave the premises was the violation of the Building Rules.

56. Chief Weaver determined that each and every one of the protesters violated legislative rules by chanting, singing, and praying, blocking free ingress and egress in the area, and holding unauthorized signs prohibited by the Building Rules.
57. The Ryder Plaintiffs refused, on May 6, 2013, to leave when ordered and they were charged with trespass, failure to disperse upon command, and violation of the legislative building rules. (See Ryder Arrest Warrants, Exhibit 2)
58. Every person arrested in at the General Assembly that day was charged with the identical three charges as the Ryder Plaintiffs.
59. The Ryder Plaintiffs were acquitted at trial in Wake County District Court.
60. Plaintiff Douglas and Vicki Ryder were wrongfully arrested in violation of the Constitutional rights. As a result of this unlawful arrest, they suffered the following damages:
- a. They were handcuffed and removed from the General Assembly;
  - b. They were subjected to pat down, fingerprinting, body searches, and metal detection;
  - c. They were detained for about eight hours without access to food;
  - d. Their mug shots were taken and shared with politically motivated websites who reposted their pictures wrongfully characterizing them as criminals;
  - e. They had to spend time and money for repeated trips to court;
  - f. The unlawful arrest impacted their ability to travel, and volunteer in schools;
  - g. They were trespassed from the premises and prevented from returning to the General Assembly for several months prior to trial in deprivation of the constitutional right to meet with elected legislators and engage in protected free speech and assembly.
61. The Building Rules were revised and “restated” on May 15, 2014, just before Moral Monday protests were to resume May 19, 2014.

62. Plaintiff Adams was arrested May 28, 2014 after being unlawfully ordered to leave pursuant to the newly restated Building Rules. At the time of her arrest, Plaintiff Adams was exercising her constitutional right to assemble in the General Assembly to meet with her legislator.

#### **ADOPTION OF NEWLY “RESTATED” BUILDING RULES**

63. The Building Rules were initially adopted December 19, 1984, and amended November 18, 1987.

64. Fifteen years later, and one day prior to the first Moral Monday protest scheduled for 2014 legislative session, the Legislative Services Commission reconvened May 15, 2014 to adopt the newly “restated” Building Rules.

65. The newly “Restated” Building Rules were designed to specifically limit the singing and clapping which were a regular part of the Moral Monday protests. See Section III.C.2.a of the Building Rules.

66. The newly “Restated” Building rules were modified as a result of rulings during the Moral Monday Criminal Trials in Wake County District Court that portions of the former Building Rules were unconstitutional.

67. Moral Monday protests resumed the day after the Building Rules were “restated.”

68. On May 19, 2014, and protesters placed tape over their mouths to protest the new Restated Rules promulgated to restrict their ability to peacefully protest inside the North Carolina General Assembly. (See Exhibit 3, Picture of Protesters)

#### **CHIEF WEAVER’S ENFORCEMENT OF THE BUILDING RULES**

69. Chief Weaver is the official in charge of interpreting and enforcing the Building Rules.

70. During each previous Moral Monday protest, Chief Weaver allowed protesters to gather on the second and third floor rotunda where some protesters chanted, sang, prayed, and held signs, exercising their freedom of speech and assembly pursuant to the United States and North Carolina Constitutions. Other protesters bore silent witness.
71. General Assembly officers were posted at the entrance to the Legislative Building, on the first floor, second floor, and third floor.
72. Protesters walked by General Assembly officers as they gathered on the second and third floor rotunda areas to chant, sing, pray, hold signs, or bear silent witness.
73. The second and third floor rotunda areas outside the Senate and House chamber are places where lobbyists and members of the public can meet with the members of the General Assembly.
74. The second and third floor rotunda area is open to the public for the purpose of political discussion.
75. After allowing them to protest for a brief period of time, Chief Weaver declared the assembly on the second floor of the rotunda to be unlawful in violation of the Building Rules and ordered the protesters to leave.
76. Protesters, like Plaintiffs, who refused to leave, were arrested.
77. During the protests, Chief Weaver never asked protesters to relocate or lessen the noise of their protest.
78. During the protests, Chief Weaver made no distinction between protesters who were singing, chanting praying, carrying signs or bearing silent witness.
79. Selected protestors on the second floor were arrested, without regard to any specific actions or conduct of any individual protestor.

80. No protestors on the third floor of the rotunda were arrested during any Moral Monday protests.

***The Previous "Disturb" Building Rule***

81. The previous Building Rule, Amended November 18, 1987, Section II.4 allowed visitors to "move freely about the Legislative Complex, so long as they do not disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties." (See Exhibit 4)

82. In the enforcement of the "Disturb Rule", Chief Weaver has previously testified that:

- a. In determining what constitutes a "disturbance," Chief Weaver makes his own assessment of the facts, exercises his own judgment, and forms his own opinion as to whether the political protest constitutes a "disturbance" in violation of the Building Rule.
- b. In Chief Weaver's opinion if members or staff are made "uncomfortable" or "annoyed" by the peaceful protest, that is sufficient to violate the Building Rule and "disturb a member in the performance of their duties."
- c. On May 6, 2013, Chief Weaver received no complaints from staff or members that they were disturbed in the performance of their duties prior to arresting Plaintiffs.
- d. On May 6, 2013, Chief Weaver had no information that any specific member or staff was disrupted, delayed, or prevented from performing their duties.
- e. On May 6, 2013, The House and Senate were not in session when Plaintiffs gathered to protest.

f. On May 6, 2013, protesters did not prevent anyone from moving freely through the second and third floor rotunda area or from entering the chambers if they choose to do so.

83. According to Chief Weaver, peaceful protesters singing and gathering and displaying signs constitutes a “disturbance” even though no performance of work was actually interfered with, disrupted, or delayed.

84. Chief Weaver’s interpretation of “disturb” extends to speech and conduct protected by both the North Carolina State and Federal Constitutions.

85. Chief Weaver has testified that he is the person in authority who has to determine whether in his opinion the behavior constitutes a “disturbance.”

### *The Sign Rule*

86. Chief Weaver also enforces the rule set forth in III.C.4 which prohibits signs which “disturb” or “will imminently disturb” the General Assembly.

87. As set forth above, Chief Weaver makes his own assessment of facts, and develops his own opinion about which signs “disturb” or “will imminently disturb” and which signs are lawful.

88. The Plaintiffs plan to assemble in public areas of the Legislative Building of the General Assembly, a traditional and designated public forum, on June 16, 2014 and on each subsequent Monday and on other days in a continuing effort to engage in political speech and the instruction of legislators.

89. The General Assembly is a traditional and designated public forum.

90. NC NAACP organizes around sincerely-held political and social beliefs mandating that they share their message by verbal means by speaking, preaching, picketing, walking together and

gathering or assembling on the streets, sidewalks, public squares, public parks, public grounds and other public areas.

91. Plaintiffs Stella Adams, Vicki and Douglas Ryder, Olinda Gillis, and Sylvia Barnes intend to return to the second and third floor Rotunda area and assemble with others to engage in political speech and carry political signs.

**FIRST CAUSE OF ACTION**  
**VIOLATION OF NORTH CAROLINA CONSTITUTION**

92. The above allegations of this Complaint are hereby incorporated by reference as if fully set forth herein

93. The actions described above violate Article I Section 12 of the North Carolina Constitution which provides: "The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances."

94. The actions described above violate Article I Section 14 of the North Carolina Constitution which provides: "Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse."

95. The actions described above violate Article I Section 19 of the North Carolina Constitution which provides: "Sec. 19. Law of the land; equal protection of the laws. No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin"

96. The vagueness of the provisions limiting speech violate the law of the land, lack due process, and confer unfettered discretion upon officials to deprive Plaintiffs of valuable constitutional rights under the North Carolina Constitution.

97. A direct cause of action under the North Carolina Constitution is provided pursuant to Corum v. University of North Carolina, 330 N.C. 761, 413 S.E.2d 276 (1992).

**SECOND CAUSE OF ACTION**  
**FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION**  
**FREEDOM OF SPEECH**

98. The above allegations are hereby incorporated by reference and re-alleged as if fully set forth herein.

99. Plaintiffs enjoy the First Amendment right to freedom of speech, applicable to state and local governments through the Fourteenth Amendment.

100. The Defendants are acting under color of law in their promulgation and enforcement of the Building Rules in the arrest of protesters resulting in the deprivation of the individual Plaintiffs and NC NAACP's Constitutional rights to assemble and engage in political speech.

101. The Building Rules are unconstitutional, facially and as applied to individual Plaintiffs and the NC NAACP, under the First and Fourteenth Amendments of the United States Constitutions, because they effectively acted as a ban on core political and social speech in traditional public fora, restricting the right to assemble.

102. The Building Rules burden the most constitutionally protected form of communication -- political and social activism.

103. The Building Rules are not motivated by compelling governmental interests, nor are they narrowly tailored to serve such interests.



104. Defendants' policies and actions against Plaintiffs' speech are unconstitutional prior restraints on speech and afford nearly unbridled enforcement discretion to LSO Hall, Chief Weaver and the General Assembly Police.
105. The power of Defendants Berger and Tillis to waive the application of the Building Rules also constitutes unbridled discretion and enforcement in the regulation of free speech and assembly.
106. Defendants' policies and actions against Plaintiffs' speech are unconstitutionally overbroad and have a substantial chilling effect on the free speech rights of Plaintiffs and others not before the Court.
107. The standard for limiting speech under the Building Rules is unconstitutionally vague, overbroad, and vests unfettered discretion in LSO Hall and Chief Weaver in their enforcement.
108. Chief Weaver has previously admitted under oath that he interprets the meaning of the word "disturb" to include actions which may "annoy" legislators or make them "uncomfortable." Such interpretations of the Building Rules are overbroad and include speech and conduct protected by the First Amendment of the United States Constitution.
109. The Building Rules are not founded upon a compelling state interest nor are they narrowly tailored to protect any state interest without unnecessarily restricting free speech and assembly.
110. As a result of the Defendants' present Building Rules and their current enforcement and interpretation by LSO Hall and Chief Weaver, Plaintiffs risk criminal arrest for the exercise of their political and social speech rights in the designated public area of the second and third floor rotunda.

111. Plaintiffs are suffering irreparable harm for which there is no adequate remedy at law.

112. As a legal consequence of Defendants' violation of Plaintiffs' First and Fourteenth Amendment rights, as alleged above, Plaintiffs are entitled to a declaration that the Building Rules are unconstitutional and an emergency temporary restraining order and preliminary injunction prohibiting enforcement of these rules pending hearing on this matter.

**THIRD CAUSE OF ACTION**  
**VAGUENESS**

113. The above allegations are hereby incorporated by reference and re-alleged as if fully set forth herein.

114. The Building Rules are unconstitutionally vague, in that they neither define sufficiently the standards utilized in governing citizens' speech in public fora, nor do they protect against arbitrary and discriminatory enforcement.

115. The vagueness of the Building Rules described above confers unfettered discretion in LSO Hall, Chief Weaver and other members of the General Assembly police, allowing for the unilateral and unreviewable alteration and modification of the site requested for assembly and free speech.

116. As a result of the Defendants' policies and actions, Plaintiffs are suffering irreparable harm for which there is no adequate remedy at law.

117. As a legal consequence of Defendants' violation of Plaintiff's Fourteenth Amendment rights, as alleged above, Plaintiffs are entitled to a declaration that the Building Rules are unconstitutional, an emergency temporary restraining order, and a preliminary and permanent injunction pending a final determination of this matter.

**FOURTH CAUSE OF ACTION**  
**DEPRIVATION OF CONSTITUTIONAL RIGHTS UNDER COLOR OF LAW**

118. The above allegations of this Complaint are hereby incorporated by reference as if fully set forth herein.

119. The actions of the Defendants set forth in this complaint were taken under color of law including the North Carolina Building rules alleged above.

120. The actions of the Defendants set forth in this complaint have deprived and continue to deprive Plaintiffs of their rights and liberty interests; and rights to free speech, peaceful assembly, due process and equal protection secured by the First and Fourteenth Amendments to the Constitution of the United States in violation of 42 U.S.C. §§ 1983 and 1988.

**FIFTH CAUSE OF ACTION**  
**VIOLATION OF CONSTITUTIONAL SEPARATION OF POWERS**

121. The above allegations of this Complaint are hereby incorporated by reference as if fully set forth herein.

122. The statutory scheme creating the Legislative Services Commission violates the constitutionally required separation of powers, See N.C. Const. Art. I, § 6., which provides that “The legislative, executive and supreme judicial powers of the State government shall be forever separate and distinct from each other.”

123. Members of the General Assembly, Defendants Berger and Tillis, and others, are concurrently serving on a commission exercising executive authority to promulgate rules for criminal enforcement against members of the public.

124. Our Supreme Court has held that under that provision, members of the General Assembly could not concurrently serve on a commission exercising executive powers without violating N.C. Const. Art. I, § 6. See State ex rel. Wallace v. Bone, 304 N.C. 591, 591-92, 595, 286 S.E.2d 79, 79-80, 81 (1982) (invalidating a statute allowing the Speaker of the House to

appoint members of the House of Representative to the Environmental Management Commission).

125. The State has violated the principle of separation of powers by attempting to constitute an unlawful commission. As a result, the Building Rules promulgated by the Legislative Services Commission are unlawful and unconstitutional.

**SIXTH CAUSE OF ACTION**  
**UNCONSTITUTIONAL DELEGATION OF LEGISLATIVE AUTHORITY**

126. The above allegations of this Complaint are hereby incorporated by reference as if fully set forth herein.
127. Article II section 1 of the North Carolina Constitution provides that “The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.”
128. In the creation and functioning of the North Carolina Legislative Services Commission, the State has engaged in an unconstitutional delegation of legislative authority. The General Assembly has delegated its authority to legislate criminal statutes to the Legislative Services Commission, which can promulgate criminally enforceable rules without the approval of the full General Assembly.
129. The Statute authorizing the creation of the Legislative Services Commission does not provide adequate administrative or constitutional procedures and safeguards for the promulgation of criminal statutes.
130. Further, the Building Rules have authorized the LSO to promulgate additional unspecified time, manner and place restrictions on speech and assembly, and a violation of these additional unspecified restrictions would constitute a class 1 misdemeanor.

131. As a result the Building Rules promulgated by the Legislative Services Commission are unlawful and unconstitutional.

**SEVENTH CAUSE OF ACTION**  
**VIOLATION OF NORTH CAROLINA ADMINISTRATIVE PROCEDURES ACT**

132. The above allegations of this Complaint are hereby incorporated by reference as if fully set forth herein.

133. The Legislative Services Commission is not exempt from the rule-making procedures set forth in the North Carolina Administrative Procedures Act.

134. The Legislative Services Commission did not follow the formal rule-making procedures in the adoption of the Building Rules.

135. The Building Rules are unlawfully adopted and unenforceable.

**EIGHTH CAUSE OF ACTION**  
**DECLARATORY RELIEF**

136. The above allegations of this Complaint are hereby incorporated by reference as if fully set forth herein.

137. Plaintiffs seek a declaration that the Building Rules are unconstitutional and the Legislative Services Commission is an unlawfully constituted state agency both facially and as applied to Plaintiffs.

138. A real and actual controversy exists in that the Plaintiffs have suffered from and continue to suffer from a loss of their constitutional right to freedom of speech and assembly as stated herein. The Plaintiffs have no adequate remedy at law other than this action.

139. Individual Plaintiffs risk further deprivation when they return to the second and third floor rotunda areas to engage in political speech and assembly.

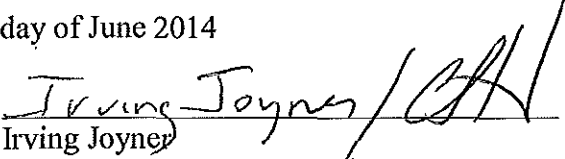
**RELIEF REQUESTED**

WHEREFORE, having fully complained of the Defendants, Plaintiffs respectfully pray the Court for the following relief:

1. Adjudge, decree and declare the rights and other legal relations of the parties to the subject matter in controversy in order that such declarations shall have the force and effect of final judgment and that the Court retain jurisdiction of this matter for the purpose of enforcing the Court's Orders;
2. Pursuant to Chapter 1 Articles 26 and 26A declare that the Defendants' laws, policies and practices, as alleged above, violate Article I Sections 12, 14, and 19 of the North Carolina Constitution, and the First and Fourteenth Amendments to the United States Constitution;
3. Pursuant to N.C. R. Civ. P. 65, temporarily, preliminarily and permanently enjoin Defendants from enforcing the unconstitutional policies against Plaintiffs and award damages, nominal and/or compensatory, to Plaintiffs;
4. Enter an order enjoining the criminal enforcement of the Building Rules against people gathering peacefully in the North Carolina General Assembly for political speech.
5. Pursuant to 42 U.S.C. §1988 and other applicable law, award Plaintiffs their costs and expenses incurred in bringing this action, including their reasonable attorneys' fees; and
6. Grant such other and further relief as the Court deems equitable, just and proper.

Respectfully submitted this day, 11<sup>th</sup> day of June 2014

By:

  
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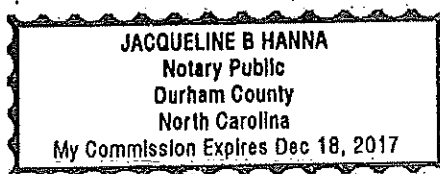
VERIFICATION

My name is Sylvia Barnes. I have personal knowledge of the information alleged in this complaint. I have reviewed allegations in the verified complaint set out in this document. I declare under penalty of perjury of the laws of the United States that these allegations are true and correct to the best of my knowledge.

Sylvia Barnes (SEAL)

Sworn to and subscribed before me  
this 11 day of June 2014

Jacqueline B Hanna  
Notary Public  
My commission expires: 12-18-2017





VERIFICATION

My name is Rosalyn Pelles and I am Interim Executive Director of the North Carolina NAACP.

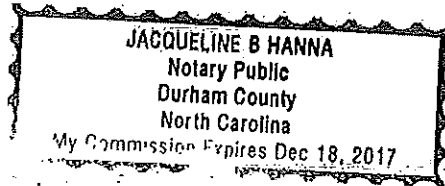
I have personal knowledge of the information alleged in this complaint. I have reviewed allegations in the verified complaint set out in this document. I declare under penalty of perjury of the laws of the United States that these allegations are true and correct to the best of my

knowledge.

Rosalyn W. Pelles (SEAL)

Sworn to and subscribed before me  
this 11 day of June 2014

Jacqueline B Hanna  
Notary Public  
My commission expires: 12-18-2017

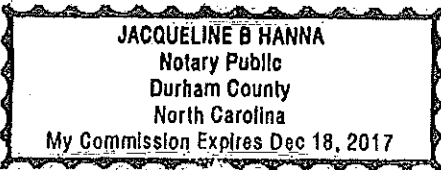


VERIFICATION

My name is Olinda Gillis. I have personal knowledge of the information alleged in this complaint. I have reviewed allegations in the verified complaint set out in this document. I declare under penalty of perjury of the laws of the United States that these allegations are true and correct to the best of my knowledge.

Olinda Gillis (SEAL)

Sworn to and subscribed before me  
this 11 day of June 2014  
Jacqueline B Hanna  
Notary Public  
My commission expires: 12-18-2017



VERIFICATION

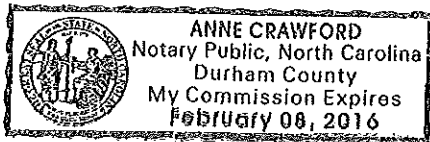
My name is Vicki Ryder. I have personal knowledge of the information alleged in this complaint. I have reviewed allegations in the verified complaint set out in this document. I declare under penalty of perjury of the laws of the United States that these allegations are true and correct to the best of my knowledge.

Vicki Ryder (SEAL)

Sworn to and subscribed before me  
this 11 day of June 2014

Anne Crawford  
Notary Public

My commission expires: 28, 2016

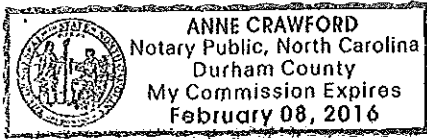


VERIFICATION

My name is Douglas H. Ryder. I have personal knowledge of the information alleged in this complaint. I have reviewed allegations in the verified complaint set out in this document. I declare under penalty of perjury of the laws of the United States that these allegations are true and correct to the best of my knowledge.

Douglas H. Ryder (SEAL)

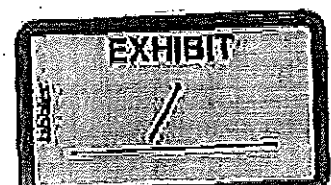
Sworn to and subscribed before me  
this 11 day of June 2014  
Anne Crawford  
Notary Public  
My commission expires: 2-8-2016



RULES OF STATE LEGISLATIVE BUILDING AND LEGISLATIVE OFFICE BUILDING  
ADOPTED BY THE LEGISLATIVE SERVICES COMMISSION

Adopted December 19, 1984  
Amended November 18, 1987  
Restated May 15, 2014

- I. The primary function of the State Legislative Building and Legislative Office Building is to house the legislative branch of state government. The State Legislative Building is also a center of interest to visitors to the State government headquarters in Raleigh. To make visitors feel welcome and at the same time to make it possible for the General Assembly to function effectively, the Legislative Services Commission adopts these rules and regulations.
  
- II. **DEFINITIONS.** - As used in these rules and except where specifically otherwise provided, the term "Legislative Complex" means the State Legislative Building and its grounds and the State Legislative Office Building and its grounds consistent with G.S. 120-32.1. Any reference to the Legislative Services Officer includes the Legislative Services Officer's designee.
  
- III. **VISITORS TO LEGISLATIVE COMPLEX.**
  - A. **Public Hours.**
    1. **General hours.** - The Legislative Complex is open to the general public any day when there is a daily session of the General Assembly or of either house, when a legislative committee meets pursuant to notice, and Monday through Friday from 8:00 a.m. to 5:00 p.m. The Legislative Complex is not open to the general public on New Year's Day, Easter Sunday, and the days designated by the Office of State Human Resources as the Thanksgiving and Christmas holidays. The State Legislative Building is open to the general public on Saturdays from 9:00 a.m. to 5:00 p.m., on Sundays from 1:00 p.m. to 5:00 p.m., and from 9:00 a.m. to 5:00 p.m. on the following State holidays: Martin Luther King, Jr. Day, Good Friday, Memorial Day, Independence Day, Labor Day, and Veterans Day.
    2. **Extended hours.** - When a daily session of the General Assembly or of either house, or a meeting of a legislative committee, extends beyond 5:00 p.m. or convenes after 5:00 p.m., the Legislative Complex remains open to the general public until 30 minutes after the last house adjourns or the last committee meeting adjourns.
  - B. **Unaccompanied Children in Legislative Complex.** - Unaccompanied children are not permitted in the Legislative Complex. Parents or other adults shall accompany children at



all times while in the Legislative Complex and shall supervise the children's activities. Running, horseplay, entrance into or presence in non-public areas are strictly prohibited. The State assumes no liability for unaccompanied children.

C. General Rules Governing Visitors.

1. Visitors may enter the Legislative Complex at any time the buildings are open to the general public and may move freely about the Legislative Complex. No person or group of persons may congregate on, assemble on, camp on, park on, or otherwise use the grassy areas surrounding the State Legislative Building except either as permitted under Rule V.D.4. of these Rules or for the purposes of maintenance, repair, and servicing of the building.
2. Visitors to the Complex may not disturb or act in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. Visitors who disturb or act in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties will be asked to stop the behavior for the remainder of their visit to the Complex. Visitors who do not stop the behavior for the remainder of their visit to the Complex will be asked to leave immediately. Knowing failure to comply with these requests is a violation of these Rules. The following are nonexclusive examples of behaviors that may disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties:
  - a. Making noise that is loud enough to impair others' ability to conduct a conversation in a normal tone of voice while in the general vicinity and may include singing, clapping, shouting, playing instruments, or using sound amplification equipment while inside either the State Legislative Building or the Legislative Office Building.
  - b. Creating any impediment to others' free movement around the grounds, impeding access to and from offices, committee rooms, elevators, stairwells, hallways, public areas, the chambers, or creating an impediment to others' ability to observe the proceedings in either house or in a committee meeting.
3. The following acts are prohibited:
  - a. Littering - Placing or throwing trash, debris, waste matter or any other material on the floors, furnishings, or equipment, or in the pools in the Legislative Complex.
  - b. Damaging or Defacing - Marking, scarring, tearing, breaking, removing, or otherwise damaging walls, floors, ceilings, windows, signs, or any structure, plants, or equipment of the Legislative Complex.
4. Signs. - Signs on handsticks are prohibited. Signs may not be affixed to any structure or any equipment in the Legislative Complex. A sign that is used to disturb or used in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties will be confiscated.

Nothing in this Rule limits the authority of the presiding officer or the chair of a committee from maintaining order in the chamber, the galleries, or a committee meeting.

IV. POSSESSION OF WEAPONS IN LEGISLATIVE COMPLEX. Except as provided by State or federal law, possession of deadly weapons is prohibited in the Legislative Complex. This rule shall not apply to:

- A. Officers and enlisted personnel of the Armed Forces of the United States when in the discharge of their official duties as such and acting under orders requiring them to carry arms and weapons.
- B. Civil officers of the United States while in the discharge of their official duties.
- C. Officers and soldiers of the North Carolina National Guard when on duty or called into service.
- D. Officers or employees of the State, or any county, city, or town charged with the execution of the laws of the State, when acting in the discharge of their official duties if authorized by law to carry weapons.

V. USE OF LEGISLATIVE COMPLEX.

A. General. – The following shall apply to any use of the Legislative Complex:

- 1. Individuals, agencies, or groups using any part of the Legislative Complex may not disturb, or create an imminent disturbance of, the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. Nonexclusive examples of behaviors that may disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties are set out in Rule III.C.2. of these Rules.
- 2. No request to use the Legislative Complex may be denied based on the content of the speech that is or may be expressed during the proposed use.
- 3. Persons authorized to use the Legislative Complex must remove any materials and must return the area to its original state. The Legislative Services Officer may deny any future use of the Legislative Complex to individuals, agencies, or groups who do not comply with these Rules or any additional restrictions adopted under these Rules.
- 4. Consistent with the provisions of these Rules, the Legislative Services Officer may adopt reasonable time, place, and manner restrictions regarding the use of the Legislative Complex, including a process for equitable allocation and timely approval of requests for space made under Rule V.D. of these Rules. The additional restrictions shall be published on the General Assembly Web site.

B. Legislative Business. - The following officers, individuals, groups or public bodies, and no others, are authorized to meet in and use the Legislative Complex for legislative business or the coverage of legislative business:

1. The General Assembly; its two houses, members, and staffs.
  2. Committees and subcommittees of the General Assembly or either of its houses, and their staffs.
  3. The Legislative Services Commission, its committees, subcommittees, and staff.
  4. The Legislative Research Commission, its committees, subcommittees, and staff.
  5. Special study commissions or committees authorized by law or resolution to meet in and use the Complex and, between legislative sessions and as determined by the Legislative Services Officer, all commissions and committees established by the General Assembly and whose membership, whether public or legislative, is composed in some portion of members of the General Assembly appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate.
  6. Party and other recognized caucuses and committees of legislators.
  7. The President of the Senate and the President's legislative staff.
  8. The School of Government's Legislative Reporting Staff.
- C. Press or News Conferences. - No person, other than officers and members of the General Assembly, may have a press or news conference in the State Legislative Building or the Legislative Office Building. An interview among two individuals shall not be considered a press conference.
- During the legislative session, the rules committee chairmen of each house shall jointly schedule the use of the Press Room. Between legislative sessions, the Legislative Services Officer shall schedule the use of the Press Room.
- D. Use of Legislative Complex by Non-Legislative Groups and Individuals. - The Commission recognizes that the design and functions of the Legislative Complex limit the extent to which non-legislative groups and individuals may use the Complex without disturbing, or creating an imminent disturbance of, the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. The purpose of the following restrictions is to ensure that the use of the Legislative Complex by non-legislative groups and individuals occurs in an orderly and equitable manner, that provisions can be made for the safety of participants and others, and that the use does not interfere with the primary function of the Complex.
1. Groups of students who wish to study the General Assembly as a part of a continuing program or special project or groups of students who wish to exhibit their academic or extracurricular achievements or activities may be sponsored by one or more members of the General Assembly. The Legislative Services Officer may assign space in the Legislative Complex where a student group may assemble for briefings, critiques, or presentations.



2. In individual cases, and upon a showing of compelling need, the Legislative Services Officer may grant special permission to any of the non-legislative agencies of State government to make temporary use of the facilities of the Legislative Complex. Requests for this permission shall be made to the Legislative Services Officer.
3. A person or group who wishes to reserve space for exhibits, booths, informational displays, conferences, festivities, contests, or other activities used to educate or engage participants or attract onlookers may apply to the Legislative Services Officer to use one or more of the first floor quadrants of the State Legislative Building, the Auditorium of the State Legislative Building, or the area between the North entrance to the State Legislative Building and the end of the bridge that joins the State Legislative Building and the Halifax Mall. No other locations in the Legislative Complex may be used or reserved for these purposes.
4. A person or group who wishes to reserve space for coordinated activities that the person or group reasonably expects will involve more than 25 but less than 200 participants to engage in making a speech, or holding a rally, protest, vigil, or press conference may apply to the Legislative Services Officer to use the area between Jones Street and the South entrance to the State Legislative Building. No other location in the Legislative Complex may be used or reserved for this purpose. Only one reservation may be issued for this location on a given day at a given time. This location may not be reserved for coordinated activities the person or group reasonably expects will involve 200 or more participants.
5. It is not a violation of these Rules for a person or group to use the areas designated in Rules V.D.3. and 4. of these Rules without requesting a reservation in advance. However, the use may not interfere with a previously reserved use and may not disturb, or create an imminent disturbance of, the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. The Legislative Services Officer may impose reasonable time, place, and manner restrictions on the use.

E. Parking.

1. General. - Except as otherwise provided in these Rules, the following persons, and no others, are authorized to park on the grounds of the State Legislative Complex:
  - a. Members of the General Assembly.
  - b. The President of the Senate.
  - c. Elected officers of each house of the General Assembly.
  - d. The Legislative Services Officer.
  - e. Authorized legislative employees.
2. Driveway and Grounds. - As UNC Center for Public Television is a non-commercial telecast service of the University of North Carolina, the Legislative Services Officer

may designate a space in the driveway or on the grounds of the State Legislative Building where the control vehicle for the Center for Public Television station may be parked during sessions of the General Assembly. The Legislative Services Officer may designate a space in the driveway or on the grounds of the State Legislative Building where a nonprofit organization may park a mobile blood donation vehicle and where emergency or law enforcement vehicles may park.

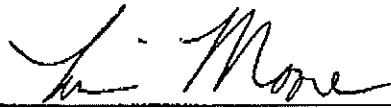
3. Loading Docks. - Only persons making deliveries or persons engaged in maintenance, repair, or servicing to the Legislative Complex, while making the deliveries or providing the services, may park at the loading docks or at any other place that the Legislative Services Officer or the Legislative Services Officer's designee may direct.
4. Chaplain Parking. - The Chaplain of each house, or the Chaplain's officially designated substitute for any daily session, may park on the grounds at the State Legislative Building during the time necessary to perform the Chaplain's duties in opening the sessions only.
5. Parking at Special Times. - On Mondays when sessions are not being held during the day, and on nights when sessions are not scheduled, and when the General Assembly is in recess or has adjourned sine die, the Legislative Services Officer, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives may authorize legislative employees to park on the grounds of the State Legislative Building, so long as this parking does not inconvenience members of the General Assembly.
6. Removal of Unauthorized Vehicles. - In addition to the authority of the Legislative Services Commission under G.S. 120-32.1(c), the Legislative Services Officer is directed to tow any vehicle parked without authority on the grounds of the State Legislative Building.

## VI. VIOLATION OF RULES.

Unless otherwise provided by law, a knowing violation of these rules is a Class 1 misdemeanor under G.S. 120-32.1(b). Nothing in these Rules limit the authority of the General Assembly Police to maintain order and provide adequate security in the Legislative Complex.

**CERTIFICATION**

The above Rules governing the use of the Legislative Complex were adopted pursuant to North Carolina General Statute 120-32.1(a) by the Legislative Services Commission on the 19th Day of December, 1984, amended on the 18th day of November, 1987, and restated on the 15th day of May, 2014. The restated Rules were ordered to be filed in the office of the Secretary of State and in the office of the Clerk of the Superior Court of Wake County and to be posted in a conspicuous place in the State Legislative Building and the Legislative Office Building.



Representative Tim Moore  
Chairman and Designee for the  
Speaker of the House of Representatives



Senator Phil Berger  
President Pro Tempore of the Senate

Legislative Services Commission

File No. <b>13CR 210504</b>  <b>MAGISTRATE'S ORDER</b>  <i>Offense</i> I SECOND DEGREE TRESPASS II POSTING OR DISPLAY OF SIGNS OR PLACARDS III FAIL TO DISPERSE ON COMMAND  <b>THE STATE OF NORTH CAROLINA VS.</b>  <i>Name And Address Of Defendant</i> VICKI ROSALIE RYDER  15 GLENMORE DR  DURHAM NC 27707 DURHAM COUNTY	Law Enforcement Case No.  LID No.  SID No.  FBI No.	<b>STATE OF NORTH CAROLINA</b>  _____ County In The General Court Of Justice. District Court Division																																																																							
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Race</td> <td style="width:15%;">Sex</td> <td style="width:25%;">Date Of Birth</td> <td style="width:45%;">Age</td> </tr> <tr> <td style="text-align: center;">W</td> <td style="text-align: center;">F</td> <td style="text-align: center;">[REDACTED]</td> <td style="text-align: center;">[REDACTED]</td> </tr> <tr> <td colspan="2">Social Security No.</td> <td colspan="2">Drivers License No. &amp; State</td> </tr> <tr> <td colspan="2">[REDACTED]</td> <td colspan="2">[REDACTED]</td> </tr> <tr> <td colspan="4">Name Of Defendant's Employer</td> </tr> <tr> <td colspan="4"> </td> </tr> <tr> <td colspan="2">Offense Code(s)</td> <td colspan="2">Offense In Violation Of G.S.</td> </tr> <tr> <td colspan="2">I 5709</td> <td colspan="2">I 14-159.13</td> </tr> <tr> <td colspan="2">II 9999</td> <td colspan="2">II 120-32.1 (B)</td> </tr> <tr> <td colspan="2">III 5312</td> <td colspan="2">III 14-288.5</td> </tr> <tr> <td colspan="4">Date Of Offense</td> </tr> <tr> <td colspan="4" style="text-align: center;">05/06/2013 through 05/06/2013</td> </tr> <tr> <td colspan="4">Date Of Arrest &amp; Check Digit No. (As Shown On Fingerprint Card)</td> </tr> <tr> <td colspan="4"> </td> </tr> <tr> <td colspan="4">Arresting Officer (Name, Address Or Department)</td> </tr> <tr> <td colspan="4">P M WALTERS NORTH CAROLINA GENERAL ASSEMBLY POLICE</td> </tr> <tr> <td colspan="4">Names &amp; Addresses Of Witnesses (Including Counties &amp; Telephone Nos.)</td> </tr> <tr> <td colspan="4"> </td> </tr> </table>	Race	Sex	Date Of Birth	Age	W	F	[REDACTED]	[REDACTED]	Social Security No.		Drivers License No. & State		[REDACTED]		[REDACTED]		Name Of Defendant's Employer								Offense Code(s)		Offense In Violation Of G.S.		I 5709		I 14-159.13		II 9999		II 120-32.1 (B)		III 5312		III 14-288.5		Date Of Offense				05/06/2013 through 05/06/2013				Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)								Arresting Officer (Name, Address Or Department)				P M WALTERS NORTH CAROLINA GENERAL ASSEMBLY POLICE				Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)								<p>I, the undersigned, find that the defendant named above has been arrested without a warrant and the defendant's detention is justified because there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did without authorization remains on premises of NORTH CAROLINA GENERAL ASSEMBLY, located at 16 WEST JONES ST., RALEIGH, NC, after having been notified not to enter or remain there by a person in charge of the premises, JEFF WEAVER, CHEIF OF POLICE.</p> <p>I, the undersigned, find that the defendant named above has been arrested without a warrant and the defendant's detention is justified because there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did CREATE A DISTURBANCE IN THE NORTH CAROLINA STATE LEGISLATIVE BUILDING WITH LOUD SINGING AND YELLING, AND DISPLAYING UNAUTHORIZED SIGNS IN VIOLATION OF G.S. 120-32.1(B).</p> <p>I, the undersigned, find that the defendant named above has been arrested without a warrant and the defendant's detention is justified because there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did ASSEMBLE WITH AT LEAST THREE OR MORE PERSONS ENGAGED IN DISORDERLY CONDUCT AND UPON THE COMMAND OF OFFICER JEFF WEAVER, CHIEF OF POLICE, OF THE NORTH CAROLINA GENERAL ASSEMBLY POLICE DEPARTMENT, FAILED TO DISPERSE AND REMAINED AT THE SCENE.</p> <p>This act was in violation of the law referred to in this Magistrate's Order. This Magistrate's Order is issued upon information furnished under oath by the arresting officer(s) shown. A copy of this Order has been delivered to the defendant.</p>
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EXHIBIT
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<i>File No.</i> <b>13CR 210505</b>	<i>Law Enforcement Case No.</i>	<i>LID No.</i>	<i>SID No.</i>	<i>FBI No.</i>				
<b>MAGISTRATE'S ORDER</b>		<b>STATE OF NORTH CAROLINA</b>						
<i>Offense</i> I SECOND DEGREE TRESPASS II POSTING OR DISPLAY OF SIGNS OR PLACARDS III FAIL TO DISPERSE ON COMMAND		<u>WAKE</u> County In The General Court Of Justice District Court Division						
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<i>Name And Address Of Defendant</i> DOUGLAS HUGH RYDER  15 GLENMORE DR  DURHAM NC 27707  DURHAM COUNTY								
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		<i>Signature</i> S. A. JONES	<i>Location Of Court</i> Wake County Courthouse; 001A 316 FAYETTEVILLE STREET RALEIGH, NC 27601	<i>Court Date</i> 07/01/2013  <i>Court Time</i> 09:00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM				



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EXHIBIT  
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FULL SITE SEARCH:	type search criteria	Go
SEARCH BILL TEXT:	2013-2014 Session <input checked="" type="checkbox"/> type search criteria	Go
FIND A BILL:	2013-2014 Session <input checked="" type="checkbox"/> enter bill # (e.g., S253)	Go
VIEW MEMBER INFO:	Select a member...	<input type="checkbox"/> Go

HOME	HOUSE	SENATE	ABOUT NCGA	AUDIO	CALENDARS	COMMITTEES	LEGISLATION/BILLS	REDISTRICTING	WHO REPRESENTS ME?	CITIZEN GUIDE
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## Rules For Use Of State Legislative Building

Legislative Services Commission

Amended 11/18/87

### RULES OF STATE LEGISLATIVE BUILDING AND LEGISLATIVE OFFICE BUILDING ADOPTED BY THE LEGISLATIVE SERVICES COMMISSION

The State Legislative Building and Legislative Office Building were designed to be a center of interest to visitors to the State government headquarters in Raleigh. The legislative branch of state government performs its function in these buildings. To make visitors feel welcome and at the same time to make it possible for the General Assembly to function effectively, the Legislative Services Commission adopted these rules and regulations.

#### I. DEFINITIONS.

As used in these rules and except where specifically otherwise provided, the term "Legislative Complex" means the State Legislative Building and its grounds and the State Legislative Office Building and its grounds.

#### II. VISITORS TO LEGISLATIVE COMPLEX.

1. **Public Hours.** The Legislative Complex is open to the general public from 8:00 a.m. to 5:00 p.m. daily, except holidays, Saturdays and Sundays. On Saturdays and government holidays, the State Legislative Building is open from 9:00 a.m. to 5:00 p.m. On Sundays, the State Legislative Building is open from 1:00 p.m. to 5:00 p.m. When a daily session of the General Assembly or of either house thereof extends beyond 5:00 p.m. or convenes after 5:00 p.m., the buildings remain open to the public until the session adjourns.

2. **Unaccompanied Children in Legislative Complex.** Unaccompanied children are not permitted in the Legislative Complex. Parents or other adults shall accompany children at all times while in the Legislative Complex and shall supervise the children's activities. Running, horseplay, entrance into or presence in non-public areas are strictly prohibited. The State assumes no liability for unaccompanied children.

3. **Visiting on Second Floor of State Legislative Building.** Individuals and groups of visitors who come to the State Legislative Building for the purpose of viewing the building and observing the sessions of either or both houses shall not visit the second floor of the building. Legislative staff guides shall conduct groups of visitors so as to comply with this rule. Visitors on the second floor shall, at the request of the legislative staff, state the nature of their business on that floor, and shall immediately leave that floor at the request of legislative staff.

4. **General Rules Governing Visitors.** Visitors may enter the Legislative Complex at any time the buildings are open to the public, and with the exceptions limiting visits on the second floor of the State Legislative Building, may move freely about the Legislative Complex, so long as they do not disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties.

The following acts are prohibited:

(a) **Littering** - Placing or throwing trash, debris, waste matter or any other material on the floors, furnishings, or equipment, or in the pools in the Legislative Complex.

(b) **Defacing** - Marking, scarring, tearing, breaking, removing, or otherwise damaging walls, floors, ceilings, windows, signs, or any other part of the structure or equipment of the Legislative Complex.

(c) **Damaging Plants** - Breaking or otherwise damaging the plants in the Legislative Complex.

5. **Posting or Display of Signs or Placards.** No sign or placard shall be posted or displayed in the Legislative Complex, other than those posted by the General Assembly, one of its houses or committees, or by the Legislative Services Office pursuant to authority granted by the Legislative Services Commission.

Individuals or groups who enter the buildings for the purpose of expressing support for or opposition to an issue shall not carry signs or placards into the Legislative Complex or display signs or placards, except when the signs or placards are worn as badges or are otherwise attached to the dress, do not exceed twenty-five square inches in surface area, and are not libelous or vulgar.

#### III. POSSESSION OF WEAPONS IN LEGISLATIVE COMPLEX.

1. **Possession of deadly weapons** is prohibited in the Legislative Complex. This rule shall not apply to:

(a) Officers and enlisted personnel of the armed forces when in the discharge of their official duties as such and acting under orders requiring them to carry arms and weapons.

(b) Civil officers of the United States while in the discharge of their official duties.

(c) Officers and soldiers of the militia and the State guard when on duty or called into service.

(d) Officers or employees of the State, or any county, city, or town charged with the execution of the laws of the State, when acting in the discharge of their official duties if authorized by law to carry weapons.

#### IV. USE OF LEGISLATIVE COMPLEX.

1. **General.** The following organizations, groups or agencies, and no others, are authorized to meet in and use the Legislative Complex:

(a) The General Assembly; its two houses, members and staffs, for official legislative business.

(b) Committees and subcommittees of the General Assembly or either of its houses, and their staffs.

(c) The Legislative Services Commission, its committees, subcommittees and staff.

(d) The Legislative Research Commission, its committees, subcommittees and staff.

#### NCGA DIVISION LINKS

- Legislative Office
- Public Guide
- First Research Division
- Legislative History Division
- Legislative Information Division
- Research Division
- Legislative Publications
- NCGA Career Opportunities

#### SHORTCUTS

- General Rules
- Visitors to Complex
- Legislation
- Staff Contact Info
- NCGA House Website
- Help







STATE OF NORTH CAROLINA  
COUNTY OF WAKE

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2014 JUN 11

Court File Number:

NORTH CAROLINA STATE  
CONFERENCE OF BRANCHES OF THE  
NAACP, STELLA ADAMS, VICKI  
RYDER, DOUGLAS RYDER, OLINDA  
GILLIS, SYLVIA BARNES,  
Plaintiffs,

v.

NORTH CAROLINA LEGISLATIVE  
SERVICES COMMISSION, THOM  
TILLIS, in his official capacity as Speaker  
of the North Carolina House of  
Representatives and member of the  
Legislative Services Commission, PHILIP  
BERGER, in his official capacity as North  
Carolina President Pro Tempore of the  
North Carolina Senate and member of the  
Legislative Services Commission,  
GEORGE HALL, Legislative Services  
Officer in his official capacity, WAYLON  
JEFFREY WEAVER, in his official  
capacity as Chief of the General Assembly  
Police, STATE OF NORTH CAROLINA,  
Defendants.

MOTION FOR EMERGENCY  
TEMPORARY RESTRAINING  
ORDER and  
MEMORANDUM OF LAW

Now Comes Plaintiffs, by and through its undersigned counsel, and respectfully moves the Court for the issuance of an Emergency Temporary Restraining Order against the Defendants pursuant to Rule 65 of the North Carolina Rules of Civil Procedure. In support of this motion, Plaintiffs have filed, contemporaneously, a Verified Complaint which is incorporated herein by reference. In support of the motion, Plaintiffs show the Court as follows:

**PRELIMINARY STATEMENT**

1. This action arises out of the **Rules of the State Legislative Building and Legislative Services Building** (hereinafter "Building Rules") which criminalize constitutionally

protected conduct in the North Carolina General Assembly. The Building Rules were adopted by the **Legislative Service Commission on December 19, 1984, amended November 18, 1987, and “Restated” on May 15, 2014.** The Legislative Services Commission is an unconstitutional entity promulgating unconstitutionally vague and overbroad restraints on free speech. The Building Rules are unconstitutional because they infringe upon Plaintiffs’ Constitutional Rights because they are vague, overbroad, and confer unbridled and unfettered discretion upon the Legislative Services Officer, Defendant **George Hall** (hereinafter **LSO Hall**), the General Assembly chief of police, Defendant **Waylon Jeffrey Weaver** (hereinafter “Chief Weaver”), Defendant **Thom Tillis**, (hereinafter “Speaker Tillis”), and Defendant **Phillip Berger** (hereinafter “President pro tempore Berger”). Furthermore, the **Legislative Services Commission** is itself an unlawful and unconstitutional agency in that Defendants Tillis and Berger are members of the legislature serving on the Legislative Services Commission in an executive role, in violation of the North Carolina Constitutional separation of powers. The statute purportedly authorizing the **Legislative Services Commission** to adopt the Building Rules is an unconstitutional delegation of legislative authority. The Building Rules, which confer the authority to LSO Hall to adopt additional restrictions on freedom of speech and assembly is an unconstitutional delegation of power and confers unfettered discretion upon LSO Hall and Chief Weaver in the regulation of free speech. Finally, even if the Legislative Services Commission is a lawful agency, it has not been exempted from the formal rules making process adopted by the North Carolina Administrative Procedures Act, N.C. Gen. Stat. §150B-1. The Building Rules were adopted without following the formal rules making

processes and accordingly were adopted in violation of the North Carolina Administrative Procedures Act.

Plaintiffs plan to return to the Legislative Building at the General Assembly and protest on Monday June 16, 2014, and on each Monday thereafter when the General Assembly is in session. Plaintiffs seek a judgment declaring the Legislative Services Commission an unconstitutional entity and the Building Rules unconstitutionally vague and overbroad. They also seek an emergency temporary restraining order, preliminary and permanent injunction prohibiting enforcement of the Building Rules as currently promulgated and enforced by LSO Hall and Chief Weaver. Unless this Court issues immediate equitable relief in the form of an emergency temporary restraining order, Defendants will deprive Plaintiffs of the core rights to free speech and to peacefully demonstrate in a traditional public forum, pursuant to the North Carolina Constitution and the U.S. Constitution.

### **QUESTIONS PRESENTED**

- I. LEGISLATIVE SERVICES COMMISSION IS AN AGENCY WITH AUTHORITY TO PROMULGATE CRIMINALLY ENFORCEABLE BUILDING RULES RESTRICTING SPEECH IN THE GENERAL ASSEMBLY. DOES THE MEMBERSHIP OF ELECTED LEGISLATORS ON THIS COMMISSION VIOLATE THE SEPARATION OF POWERS DOCTRINE?
- II. EVEN IF THE LEGISLATIVE SERVICES COMMISSION IS A LAWFUL ENTITY, DID IT VIOLATE THE NORTH CAROLINA ADMINISTRATIVE PROCEDURES ACT WHEN PROMULGATING THE CRIMINALLY ENFORCEABLE BUILDING RULES AND FAILING TO FOLLOW STATUTORY REQUIREMENTS FOR THE LAWFUL PROMULGATION OF REGULATIONS?
- III. THE SPEAKER OF THE HOUSE AND THE PRESIDENT PRO TEMPORE OF THE SENATE HAVE THE UNRESTRICTED AUTHORITY TO WAIVE APPLICATION OF THE BUILDING RULES. THE LEGISLATIVE SERVICES OFFICER HAS THE AUTHORITY TO MAKE UP HIS OWN REGULATIONS ABOUT SPEECH. ARE THESE OFFICIALS VESTED WITH UNCONSTITUTIONAL UNFETTERED DISCRETION IN THE REGULATION OF FREE SPEECH?

IV. THE BUILDING RULES PROHIBIT SPEECH AND CONDUCT WHICH "DISTURBS OR IMMINENTLY DISTURBS" MEMBERS OF THE GENERAL ASSEMBLY. IS THIS RULE UNCONSTITUTIONALLY VAGUE AND OVERBROAD WHEN APPLIED AGAINST SPEECH AND CONDUCT WHICH MAY "ANNOY" MEMBERS OR MAKE THEM "UNCOMFORTABLE?"

## FACTUAL BACKGROUND

### *Moral Monday Protests*

The "Moral Monday Movement" began Monday, April 29, 2013 when a number of people gathered at the General Assembly to protest political actions taken by their legislators. Seventeen people were arrested at the first protest called "Moral Monday." For the next thirteen (13) Mondays until July 29, 2013, protesters gathered peacefully to speak, sing, and advise their legislators. During the large majority of the protests neither the State, the House, nor any of its committees, were in session or engaged in any public interactions. More than nine hundred persons were arrested in this largest act of civil disobedience in North Carolina history. Each week Moral Monday protesters gathered in the second and third floor rotunda areas outside the chambers of the Senate and House and engaged in peace and political speech, singing, and displaying political signs.

Protesters raised a variety of issues including, but not limited to: the loss of health care benefits; the loss of unemployment benefits; the sales tax increase on poor people; the tax decreases on wealthy individuals and corporations; restrictions on the ability to vote with voter identification requirements and a reduction in the amount of time people are allowed to vote; repeal of the racial justice act which addressed well documented racial disparities in the imposition of the death penalty; cuts in funding to education and teachers; and restrictions on the provision of health care to women.

### *Arrest of Individual Plaintiffs*

On May 6, 2013, the Ryder Plaintiffs entered the Legislative Building of the North Carolina General Assembly as a part of a group of protesters associated with the NC NAACP and the "Moral Monday Movement." During the course of the protest on May 6, 2013, Chief Weaver determined that the assembly was unlawful and ordered all protesters to leave the General Assembly. Plaintiff Gillis was arrested during a protest on April 29, 2013 after refusing an unlawful order to leave pursuant to the previous Building Rules. Plaintiff Barnes was arrested during a protest on June 1, 2013 after refusing an unlawful order to leave pursuant to the previous Building Rules. At all times the protesters were peaceful, non-violent and orderly.

The sole basis for his order to leave the premises was the violation of the Building Rules. Chief Weaver determined that each and every one of the protesters violated legislative rules by chanting, singing, and praying, blocking free ingress and egress in the area, and holding unauthorized signs prohibited by the Building Rules. The Ryder Plaintiffs refused, on May 6, 2013, to leave when ordered and they were charged with trespass, failure to disperse upon command, and violation of the legislative building rules. (See Ryder Arrest Warrants, Exhibit 2) Every person arrested in at the General Assembly that day was charged with the identical three charges as the Ryder Plaintiffs. The Ryder Plaintiffs were acquitted at trial in Wake County District Court.

Plaintiff Adams was arrested May 28, 2014 after being unlawfully ordered to leave pursuant to the newly restated Building Rules. At the time of her arrest, Plaintiff Adams was exercising her constitutional right to assemble in the General Assembly to meet with her legislator.

### *Adoption of the Newly "Restated" Building Rules*

The Legislative Services Commission is a state entity created by statute with the purported authority to enact criminally enforceable building rules. N.C. Gen. Stat. §120-32.1(a) provides that “The Legislative Services Commission shall: (1) establish policy for the use of the State legislative buildings and grounds; (2) maintain and care for the State legislative buildings and grounds, but the Commission may delegate the actual work of the maintenance of those buildings and grounds to the Department of Administration, which shall perform the work as delegated; (3) provide security for the State legislative buildings and grounds; (4) allocate space within the State legislative buildings and grounds; and (5) have the exclusive authority to assign parking space in the State legislative buildings and grounds.”

By Statute, the LSC is composed of duly elected legislators sitting in the General Assembly. N.C. Gen. Stat. §120-31(a) provides “The Legislative Services Commission shall consist of the President pro tempore of the Senate or a Senator designated by the President Pro Tempore, four Senators appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives or a member of the House of Representatives designated by the Speaker, and four Representatives appointed by the Speaker of the House of Representatives.”

The LSC is supposed to enact building rules, and the Defendant Legislative Services Officer (LSO) George Hall is supposed to file and post the rules. The N.C. Gen. Stat. §120-32.1(b) provides that: “The Legislative Services Officer shall have posted the rules adopted by the Legislative Services Commission under the authority of this section in a conspicuous place in the State Legislative Building and the Legislative Office Building. The Legislative Services Officer shall have filed a copy of the rules, certified by the chairman of the Legislative Services Commission, in the office of the Secretary of State and in the office of the Clerk of the Superior Court of Wake County. When so posted and filed, these rules shall constitute notice to all

persons of the existence and text of the rules. Any person, whether on his own behalf or for another, or acting as an agent or representative of any person, firm, corporation, partnership or association, who knowingly violates any of the rules adopted, posted and filed under the authority of this section is guilty of a Class 1 misdemeanor”

The Building Rules were initially adopted by the Legislative Services Commission (LSC) December 19, 1984, and amended November 18, 1987. Fifteen years later, and four days prior to the first resumed Moral Monday protest scheduled for May 19, 2014 legislative session, the Legislative Services Commission reconvened May 15, 2014 to adopt the newly “restated” Building Rules. The newly “Restated” Building Rules were designed to specifically limit the singing and clapping which were a regular part of the Moral Monday protests. See Section III.C.2.a of the Building Rules. The newly “Restated” Building rules were modified as a result of rulings during the Moral Monday Criminal Trials in Wake County District Court that portions of the former Building Rules were unconstitutional.

When the Legislative Services Commission met it did not follow the North Carolina Administrative Procedures Act when promulgating the criminally enforceable Building Rules..

### *The Newly Restated Building Rules*

All of the Building Rules are unenforceable because they were promulgated by the LSC in violation of the separation of powers. Furthermore, the LSC did not comply with the North Carolina Administrative Procedures Act. In addition, certain Building Rules are vague, overbroad, and vest unfettered discretion in officials. The specific Building Rules which are unconstitutional prohibit persons from engaging in conduct that “disturbs” or poses a threat of “imminently disturbing.” One rule restricts signs with speech which “disturb” or “imminently

disturb.” Other specific Building Rules vest authority in the Legislative Services Officer to make up his own rules regulating speech.

1) The Disturb Rule; Section III.C.2. provides in part: “*Visitors to the Complex may not disturb or act in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. Visitors who disturb or act in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties will be asked to stop the behavior for the remainder of their visit to the Complex. Visitors who do not stop the behavior for the remainder of their visit to the Complex will be asked to leave immediately. Knowing failure to comply with these requests is a violation of these Rules. The following are nonexclusive examples of behaviors that may disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties:*

- a. *Making noise that is loud enough to impair others' ability to conduct a conversation in a normal tone of voice while in the general vicinity and may include singing, clapping, shouting, playing instruments, or using sound amplification equipment while inside either the State Legislative Building or the Legislative Office Building.*
- b. *Creating any impediment to others' free movement around the grounds, impeding access to and from offices, committee rooms, elevators, stairwells, hallways, public areas, the chambers, or creating an impediment to others' ability to observe the proceedings in either house or in a committee meeting.”*



- 2) The Sign Rule: Section III.C.4 provides: “*Signs. - Signs on handsticks are prohibited. Signs may not be affixed to any structure or any equipment in the Legislative Complex. A sign that is used to disturb or used in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties will be confiscated. Nothing in this Rule limits the authority of the presiding officer or the chair of a committee from maintaining order in the chamber, the galleries, or a committee meeting.*”
- 3) The LSO Rule: Section V.A.4 provides: “*Consistent with the provisions of these Rules, the Legislative Services Officer may adopt reasonable time, place, and manner restrictions regarding the use of the Legislative Complex, including a process for equitable allocation and timely approval of requests for space made under Rule V.D. of these Rules. The additional restrictions shall be published on the General Assembly Web site.*”
- a. Section V.D.5. provides: “*It is not a violation of these Rules for a person or group to use the areas designated in Rules V.D.3. and 4. of these Rules without requesting a reservation in advance. However, the use may not interfere with a previously reserved use and may not disturb, or create an imminent disturbance of, the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties. The Legislative Services Officer may impose reasonable time, place, and manner restrictions on the use.*”
- 4) Section VI provides: “*Unless otherwise provided by law, a knowing violation of these rules is a Class 1 misdemeanor under G.S. 120-32.1(b).*”

#### ***Previous Enforcement and Application of the Building Rules***

The Disturb Rule found in the newly restate Building Rules has its origins in the previous version of the Building Rules. The previous Building Rules, Amended November 18, 1987,

Section II.4 allowed visitors to “move freely about the Legislative Complex, so long as they do not disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties.” (See Exhibit 4)

In the enforcement of the “Disturb Rule”, Chief Weaver has previously testified that:

- a. In determining what constitutes a “disturbance,” he makes his own assessment of the facts, exercises his own judgment, and forms his own opinion as to whether the political protest constitutes a “disturbance” in violation of the Building Rule.
- b. In his opinion, if members or staff are made “uncomfortable” or “annoyed” by the peaceful protest, that is sufficient to violate the Building Rule and “disturb a member in the performance of their duties.”
- c. Speech and conduct can constitute a “disturbance” even if he has received no complaints from staff or members that they were disturbed in the performance of their duties prior to arresting members of the public.
- d. Speech and conduct can constitute a disturbance of the General Assembly even if the House and Senate are not in session when the public gathers to protest.
- e. According to him, peaceful protesters singing, gathering and displaying signs constitutes a “disturbance” even though no performance of work was actually interfered with, disrupted, or delayed.

#### **STANDARD OF REVIEW**

This Court should grant an Emergency Temporary Restraining Order enjoining enforcement of the Building Rules because they were unlawfully promulgated and are unconstitutionally restrictive of speech and assembly.

Pursuant to Rule 65 of the North Carolina Rules of Civil Procedure, a Temporary Restraining Order may be granted without written or oral notice to the adverse party or that party's attorney only if (i) it clearly appears from specific facts shown by affidavit or by verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (ii) the applicant's attorney certifies to the Court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 10 days, as the judge fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice and a motion for a preliminary injunction is made, it shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character; and when the motion comes on for hearing, the party who obtained the temporary restraining order shall proceed with a motion for a preliminary injunction, and, if he does not do so, the judge shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the judge may prescribe, the adverse party may appear and move its dissolution or modification in that event the judge shall proceed to hear and determine such motion as expeditiously as the

ends of justice require. Damages may be awarded in an order for dissolution or as provided in section (e).

As a general rule, a Temporary Restraining Order: "will be issued only (1) if a plaintiff is able to show likelihood of success on the merits of his case and (2) if a plaintiff is likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the Court, issuance is necessary for the protection of a plaintiffs rights during the course of litigation." *Investors Inc. v. Berry*, 293 N.C. 688, 701, 239 S.E.2d 566, 574 (1977).

### **SUBSTANTIAL THREAT OF IRREPARABLE HARM**

The Supreme Court has repeatedly held that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347,373 (1976); *see also Wallace v. Jaffree*, 472 U.S. 38, 44 n.22 (1985); *New York Times Co. v. United States*, 403 U.S. 713(1971); *Cate v. Oldham*, 707 F.2d 1176, 1188 (11th Cir. 1983). The deprivation of such protected rights constitutes, *a priori*, irreparable harm and injury.

Any harm to Defendants resulting from granting a Temporary Restraining Order is minimal, or nonexistent. When weighing actual harm against mere speculative allegations of harm, the pendulum swings in favor of granting relief. Absent a Temporary Restraining Order, Plaintiffs will continue to be harmed. Plaintiffs cannot engage in constitutionally protected activities at the North Carolina General Assembly on Monday, June 16, 2014 without fear of arrest and incarceration. Therefore, the clear and present harm to Plaintiffs outweighs any harm to Defendants and the Temporary Restraining Order should be granted.

The protection of constitutional rights is of the highest public interest. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976). Protecting constitutional rights is ipso/acto in the interest of the general public. *See Machesky v. Bizzell*, 414 F.2d 283, 288-90 (5th Cir. 1969) ("First

Amendment rights are not private rights ... so much as they are rights of the general public.").

The public interest factor tips solidly in favor of Plaintiffs.

### **LIKELIHOOD OF SUCCESS ON THE MERITS**

There is a great likelihood of success on the merits because the inclusion of legislators on the Legislative Services Commission violates the constitutional separation of powers. Elected state legislators sit on the Commission, which is a state agency performing the executive function of enacting criminally enforceable rules. Furthermore, the General Assembly has unconstitutionally delegated legislative power to this Commission and its members without adequate procedural safeguards.

Most importantly, this Legislative Services Commission purports to regulate protected free speech and assembly at the heart of our State Government, within the General Assembly building.

#### **I. LEGISLATIVE SERVICES COMMISSION IS AN AGENCY WITH AUTHORITY TO PROMULGATE CRIMINALLY ENFORCEABLE BUILDING RULES RESTRICTING SPEECH IN THE GENERAL ASSEMBLY. DOES THE MEMBERSHIP OF ELECTED LEGISLATORS ON THIS COMMISSION VIOLATE THE SEPARATION OF POWERS DOCTRINE?**

Our Supreme Court has held that under Article I Section 6, members of the General Assembly could not concurrently serve on a commission exercising executive powers without violating N.C. Const. Art. I, § 6. See State ex rel. Wallace v. Bone, 304 N.C. 591, 591-92, 595, 286 S.E.2d 79, 79-80, 81 (1982) (invalidating a statute allowing the Speaker of the House to appoint members of the House of Representative to the Environmental Management Commission).

"The people of North Carolina have ordained in their Constitution (Art. I, sec. 6) that the

legislative, executive, and supreme judicial powers of the Government should be and ought to remain forever separate and distinct from each other. Such is their expressed will, and from the earliest period in our history they have endeavored with sedulous care to guard this great principle of the separation of the powers. In this country, those who make the laws determine their expediency and wisdom, but they do not administer them.” State ex rel. Wallace v. Bone, 304 N.C. 591, 591-92, 595, 286 S.E.2d 79, 79-80, 81 (1982).

In *Wallace v. Bone*, the Supreme Court cited the cases of Book v. State Office Building Commission, 238 Ind. 120, 149 N.E.2d 273 (1958) (“It is not necessary to constitute a violation of the Article, that a person should hold an office in two departments of Government. It is sufficient if he is an officer in one department and at the same time is performing functions belonging to another.”) and State ex rel. State Building Commission of West Virginia v. Bailey, 151 W.Va. 79, 150 S.E.2d 449 (1966) (“For the reasons above stated no member of the Legislature, including those presently serving as members of the State Budget Committee, is eligible to serve as a member of the Commission.”). In both of these cases, it violated separation of powers for legislators to serve on commissions which promulgated binding administrative rules. Both cases also explicitly struck down commissions on the grounds of separation of powers where elected legislators were sitting as members of building rule commissions.

In the present case, the Legislative Services Commission is an entity created by statute to promulgate criminally enforceable rules regulating the behavior of the public. Rule-making authority by an agency or commission is an executive function. The legislators could have passed the Building Rules through the House and Senate and made the Building Rules into General Statutes of North Carolina. Instead, the legislators created a committee of legislators called the Legislative Services Commission to pass a criminal law. By appointing members of

the Commission who also serve as legislators, the General Assembly violated the doctrine of separation of powers. State ex rel. Wallace v. Bone, 304 N.C. 591, 591-92, 595, 286 S.E.2d 79, 79-80, 81 (1982).

Furthermore, this process constituted an unconstitutional delegation of legislative authority. When the Legislature vests authority to regulate in a state agency without adequate guidelines and standards, this constitutes an unconstitutional delegation of legislative authority. State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); Board of Trade v. Tobacco Co., 235 N.C. 737, 71 S.E.2d 21 (1952), Harvell v. Scheidt, Com'r of Motor Vehicles, 249 N.C. 699, 107 S.E.2d 549 (1959); Revco Southeast Drug centers, Inc., North Carolina Board of Pharmacy, 21 N.C. App. 156, 204 S.E.2d 38 (1974).

In the case of State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940), our Supreme Court held that legislative standards must be the guides for administrative agencies in setting forth rules and regulations. There, a dry cleaning board was established to promulgate whatever rules and regulations it decided to be related to public health, safety, and welfare of the people. In that case, at page 754, 6 S.E.2d at page 860, it was held that:

In licensing those who desire to engage in professions or occupations such as may be proper subjects of such regulation, the Legislature may confer upon executive officers or bodies the power of granting or refusing to license persons to enter such trades or professions only when it has prescribed a sufficient standard for their guidance. . . . Where such a power is left to the limited discretion of a board, to be exercised without the guide of legislative standards, the statute is not only discriminatory, but must be regarded as an attempted delegation of the legislative function offensive both to the State and the Federal Constitution.

Similar results were reached in the Board of Trade v. Tobacco Co., 235 N.C. 737, 71 S.E.2d 21 (1952), where the Kinston Tobacco Board of Trade had been set up to make 'reasonable rules and regulations' for the economic and efficient handling of leaf tobacco sales. While pointing out that the legislature has the authority to regulate within constitutional limits the sale of leaf

tobacco, the court held that this is a non-delegable power and that the power to regulate may be delegated to an administrative agency only to the extent of filling in the details within the general scope and express purposes of the statutes prescribing the standards.

A similar result was reached in the case of Harvell v. Scheidt, Com'r of Motor Vehicles, 249 N.C. 699, 107 S.E.2d 549 (1959), where the legislature purported to give power to the Department of Motor Vehicles to suspend the license of anyone who was an habitual offender of the traffic laws. Since no guidelines were provided to interpret the words 'habitual violator', it was held that this was an unconstitutional delegation of legislative authority.

In the present case, the General Assembly vested in the Legislative Services Commission the authority to regulate speech with no guidance on the limits of this authority. The LSC in turn, vested in the Legislative Services Officer the authority to make his own rules governing speech. This delegation within delegation within delegation essentially authorizes one person, Defendant George Hall, the unfettered authority to regulate speech without any guidance or restriction. It constitutes an unconstitutional delegation of power and violates the doctrine of separation of powers to allow the General Assembly to give such broad legislative and executive authority to a small group of select persons.

**II. EVEN IF THE LEGISLATIVE SERVICES COMMISSION IS A LAWFUL ENTITY, DID IT VIOLATE THE NORTH CAROLINA ADMINISTRATIVE PROCEDURES ACT WHEN PROMULGATING THE CRIMINALLY ENFORCEABLE BUILDING RULES AND FAILING TO FOLLOW STATUTORY REQUIREMENTS FOR THE LAWFUL PROMULGATION OF REGULATIONS?**

The North Carolina General Assembly enacted an Administrative Procedures Act, which sets forth procedural requirements for rulemaking on all state agencies, except those exempted by specific exemption in N.C. Gen. Stat. § 150B-1. Most State agencies must follow the provisions of N.C. Administrative Procedures Act whenever they enact any rules. Under the N.C.



Administrative Procedures Act: “Rule” means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency.” See N.C. Gen. Stat. § 150B-2(8a).

Procedures which govern the internal management of an agency, such as building office assignments, are exempted from rulemaking, but any rule imposing duties on others outside the agency must be done by rulemaking, a point emphasized by the General Assembly’s amendments to the “Scope and Effect” section of the Rulemaking provisions of the Act in 2012 states, which now reads: “An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this Article.” See N.C. Gen. Stat. § 150B-18.

A number of state agencies are exempted from some or all of the provisions of the N.C. Administrative Procedures Act, with those exemptions being listed in N.C. Gen. Stat. § 150B-1. The Legislative Services Commission is not among the agencies exempted from the APA pursuant to N.C. Gen. Stat. § 150B-1. The Legislative Services Commission is subject to the rulemaking provisions of the Administrative Procedures Act. The Legislative Services Commission did not follow the procedures set forth by the N.C. Administrative Procedures Act to enact the Legislative Building Rules.

The Legislative Services Commission did not have to follow the procedures set forth by the N.C. Administrative Procedures Act in order to assign offices among members of the General Assembly or otherwise manage the internal affairs of conduct between elected officials. The N.C. Administrative Procedures Act forbids any state agency from seeking to enforce against

any person a policy such as the Legislative Building Rules, unless that state agency has followed the provisions of the N.C. Administrative Procedures Act to enact the rules in question.

The N.C. Council of State is subject to the N.C. Administrative Procedures Act and has promulgated rules which are codified in the N.C. Administrative Code and possesses the power to make rules governing the use of the legislative building. The Legislative Services Commission could have petitioned the Council of State to adopt rules regarding the use, care, protection and maintenance of the Legislative Building, but it failed to do so. The Legislative Building Rules are being enforced as criminal statutes and used to base decisions to arrest, detain, and criminally charge people. Rulemaking under the N.C. Administrative Procedures Act is time-consuming and complicated. This is by design as rules limit the liberty of our citizens. The rulemaking process usually requires notice to the public be published, a public hearing for public comments, an analysis of the legal authority for the rule as well as a review process. The criminally enforceable building rules regulating speech in the General Assembly were not promulgated in accordance with the North Carolina Administrative Procedures Act

**III. THE SPEAKER OF THE HOUSE AND THE PRESIDENT PRO TEMPORE OF THE SENATE HAVE THE UNRESTRICTED AUTHORITY TO WAIVE APPLICATION OF THE BUILDING RULES. THE LEGISLATIVE SERVICES OFFICER HAS THE AUTHORITY TO MAKE UP HIS OWN REGULATIONS ABOUT SPEECH. ARE THESE OFFICIALS VESTED WITH UNCONSTITUTIONAL UNFETTERED DISCRETION IN THE REGULATION OF FREE SPEECH?**

*Applicable Constitutional Provisions*

The First Amendment states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievance." U.S. Const., Amend. I. The Fifth Amendment states in part: "No person

shall be ... deprived of life, liberty, or property, without due process of law." U.S. Const., amend. V. The Fourteenth Amendment states in part: "No State shall make or enforce any law which shall ... deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., amend. XIV, Section 1.

The North Carolina Constitution likewise protects the freedom of speech and Assembly. Article I Section 14 of the North Carolina Constitution: "Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse." Article I Section 12 provides: "The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances."

#### *Facial Attack on Unfettered Discretion*

When First Amendment rights are implicated, Plaintiffs may mount a "facial" attack by demonstrating that the ordinance violates the First Amendment rights of others not presently before the court. *NAACP v. Button*, 371 U.S. 415, 432 (1963). Facial challenges are decided "in the First Amendment context where the licensing scheme vests unbridled discretion in the decision maker and where the regulation is challenged as overbroad." *FWIPBS v. City of Dallas*, 493 U.S. 215, 223 (1990). It is well settled that facial challenges are appropriate in two distinct circumstances: (1) where the licensing scheme vests unbridled discretion in the decision maker, and (2) where the regulation is challenged as overbroad.

The Supreme Court has consistently ruled that any law is unconstitutional which allows discretion in enforcement. *Kolender v. Lawson*, 461 U.S. 566, 575 (1974) (holding all laws must provide "minimum guidelines to govern law enforcement" to prevent the possibility of

discretionary enforcement). *American Jewish Congress v. City of Beverly Hills*, 90 F.3d 379, 385 (9th Cir. 1996) (en banc), struck down a similar permitting scheme, holding: "The ad hoc and structureless nature of the City's permitting process leaves open the possibility of improper discrimination by the City."

[A] law or policy permitting communication in a certain manner for some but not for others raises the specter of content and viewpoint censorship. This danger is at its zenith when the determination of who may speak and who may not is left to the unbridled discretion of a government official... [W]e have often and uniformly held that such statutes or policies impose censorship on the public or the press, and hence are unconstitutional, because without standards governing the exercise of discretion, a government official may decide who may speak and who may not based upon the content of the speech or viewpoint of the speaker. *Id.*, (citing *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 763-64 (1988)). It is not necessary that Defendants have discriminated against Plaintiffs by refusing to allow protest on grounds of the General Assembly. The Supreme Court has clearly and consistently ruled that it is absolutely unnecessary for a law that allows unconstitutional discretion to also have resulted in a policy of actual discrimination for that law to be found unconstitutional. *See Thornhill v. Alabama*, 310 U.S. 88, 97 (1940). Proof of an abuse of power has never been a requisite for an attack of a statute that licenses the dissemination of ideas. *See Schneider v. State*, 308 U.S. 147, 162-165 (1939) (citing *Lovell v. Griffin*, 303 U.S. 444, 451 (1938)).

In the present case, the Building Rules confer unbridled and unfettered discretion upon the George Hall, the Legislative Services Officer who has the authority to unilaterally enact his own "time, manner, place restrictions." The Speaker of the House and President Pro Tempore of the Senate have the statutory authority to waive criminal application of the Building Rules at will.

And the General Police officers have the discretion to interpret the “disturb rule” overbroadly to include protected speech and conduct.

It is a fundamental tenet of First Amendment principles that restrictions on the right to free speech or assembly must not afford unbridled discretion to the government authority seeking to abridge those rights. Shuttlesworth v. City of Birmingham, 394 U.S. 147, 151, 89 S.Ct. 935, 22 L.Ed.2d 162 (1969). The Supreme Court has observed that “[a] government regulation that allows arbitrary application is inherently inconsistent with a valid time, place, and manner regulation because such discretion has the potential for becoming a means of supporting a particular point of view.” Forsyth County v. Nationalist Movement, 505 U.S. 123, 130–31, 112 S.Ct. 2395, 120 L.Ed.2d 101 (1992) (citation and internal quotation marks omitted).

Consequently, reasonable time, place, and manner restrictions on public speech “must contain narrow, objective, and definite standards to guide” the appropriate authority. Id. at 130 (citation and internal quotation marks omitted). Absent such a scheme, “the danger of censorship and of abridgement of our precious First Amendment freedoms is too great.” Id. (citation omitted).

It is well established that in the area of freedom of expression a regulation vesting authorities with unfettered discretion may be subject to facial review and invalidation, “even though its application in the case under consideration may be constitutionally unobjectionable.” Forsyth County v. Nationalist Movement, 505 U.S. 123, 129, 112 S.Ct. 2395, 2401 (1992) (emphasis added). This exception from general standing rules is based on an appreciation that the very existence of some broadly written laws has the potential to chill the expressive activity of others not before the court. Id. (citing New York v. Ferber, 458 U.S. 747, 772, 73 L. Ed. 2d 1113, 102 S. Ct. 3348 (1982))

Thus, the Court has permitted a party to challenge an ordinance under the over breadth

doctrine in cases where every application creates an impermissible risk of suppression of ideas, such as an ordinance that delegates overly broad discretion to the decision maker. *Id.* (citing Thornhill v. Alabama, 310 U.S. 88, 97, 60 S. Ct. 736, 84 L. Ed. 1093 (1940)). This means that even if this Court were to agree with the way administrators exercised their discretion in this particular case, the Legislative Building Rules are still be unconstitutional if they leave the door open to administrative interpretation that could restrict protected speech and assembly in other cases.

*Speaker of the House and President Pro Tempore may waive application of rules*

In the present case, the Statute authorizing the promulgation of the Legislative Building Rules vests unfettered authority in the Speaker of the House and the President Pro Tempore of the Senate to waive application of the Legislative Building Rules. N.C. Gen. Stat. §120-32.1(b) provides:

The President Pro Tempore of the Senate and the Speaker of the House of Representatives may waive in writing the application of any rule adopted by the Legislative Services Commission to either or both of the House and Senate Sergeants-at-Arms of the General Assembly, and such a jointly-executed waiver shall be a defense against any prosecution for violation of such rule. Such a waiver shall extend no longer than the expiration of their then current term of office. A copy of such waiver shall be delivered to the Chief of the General Assembly Special Police.

Chief Weaver has testified that if the Speaker and President Pro Tempore had issued such a waiver of the rules for the Defendants in this case he would have had no authority to order them to leave. There is nothing guiding or limiting the authority vested by this statute to limit or allow speech in the General Assembly.

Because the statute vests unfettered discretion in the Speaker of the House and President Pro Tempore with respect to the application of the Legislative Building Rules, the order of Chief Weaver limiting speech and assembly under these rules is unconstitutional.

The Ninth Circuit Court of Appeals reached a similar conclusion when reviewing a law which vested the authority in the City Council to waive a 20 day notice requirement in the issuance of permits for speech. N.A.A.C.P. Western Region v. City of Richmond, 743 F.2d 1346, 1357 (9th Cir. 1984). The Ninth Circuit noted that “unfettered discretion to license speech cannot be left to administrative bodies.” (citing Hague v. CIO, 307 U.S. 496, 59 S.Ct. 954, 83 L.Ed. 1423 (1939)). “Such discretion grants officials the power to discriminate and raises the spectre of selective enforcement on the basis of the content of speech.” Id. (citing Cox v. Louisiana, 379 U.S. 536, 557–58, 85 S.Ct. 453, 465–66, 13 L.Ed.2d 471 (1965)). The dangers of discretion are particularly evident when “political and social pressures” are most likely to affect decision-making. In these circumstances involving political speech, it is paramount and essential that objective standards govern the discretion. Id.

The Court noted that there were no limits or objective standards to guide the City Council in the exercise of the waiver authority, and struck scheme down as unconstitutional. Id. (“Both parties acknowledge that the language of the Richmond ordinance is constitutionally objectionable on its face, since it grants officials unfettered discretion to restrict speech”).

The same principles apply in the present case. N.C. Gen. Stat. §120-32.1 vests the power in the Speaker of the House and the President Pro Tempore to waive the application of rules which limit speech. Such a waiver is an absolute defense to the criminal charge of violating the rules. There are no limits or objective standards to guide the Speaker or President’s exercise of this waiver authority. Therefore the Legislative Building Rules are unconstitutional on their face and unenforceable against the Defendants.

Likewise, the Ninth Circuit considered the unbridled discretion of a City Council to waive a permit fee requirement in Long Beach Area Peace Network v. City of Long Beach, 574 F.3d

1011, 1042-43 (9<sup>th</sup> Cir. 2008). The Ninth Circuit pointed out that there were no limits on restrictions on the authority of the City Council to waive the fee requirement, and therefore the scheme was unconstitutional. *Id.* (“The City has pointed to no provision of the Ordinance, or to any implementing regulation, that guides the City Council’s decision whether to fund or waive fees and charges.”)

The lack of specific articulated bases for making this decision compels the conclusion that the City Council has unconstitutional unbridled discretion.”); See City of Richmond, 743 F.2d at 1357 (9<sup>th</sup> Cir. 1984) (“The dangers of discretion are particularly evident in parade permit schemes, where waivers will often be sought for politically controversial causes. It is precisely when political and social pressures are most likely to affect decision-making that objective standards to govern discretion are most essential.”) In its analysis, the Ninth Circuit noted that it does not matter whether the unbridled discretion is exercised by the police, a Commission, an agency, or Council. Long Beach Area Peace Network v. City of Long Beach, 574 F.3d 1011, 1042-43 (9<sup>th</sup> Cir. 2008) Unbridled discretion challenges typically arise when discretion is delegated to an administrator, police officer, or other executive official. *Id.* (Citing Thomas v. Chicago Park Dist., 534 U.S. 316, 318, 122 S.Ct. 775, 151 L.Ed.2d 783 (2002) (Chicago Park District); Forsyth County v. Nationalist Movement, 505 U.S. 123, 132, 112 S.Ct. 2395, 2401 (1992) (county administrator); Cox v. New Hampshire, 312 U.S. 569, 575–77, 61 S.Ct. 762, 85 L.Ed. 1049 (1941) (licensing board); Menotti v. City of Seattle, 409 F.3d 1113, 1144 (9<sup>th</sup> Cir.2005)). The Court discussed the policies which underlie the doctrine of unfettered discretion: (1) lack of accountability of the decision maker, (2) inability to obtain effective judicial review of the decision maker’s decision, (3) the need for narrow tailoring of decisions, and (4) the elimination of opportunities for content based discrimination. Long Beach Area Peace Network



v. City of Long Beach, 574 F.3d 1011, 1042-43 (9<sup>th</sup> Cir. 2008).

In the First Amendment context, some of the delegation of authority concerns are the same, such as lack of accountability and inability to obtain effective judicial review. *Id.* (citing Freedman v. Maryland, 380 U.S. 51, 57, 85 S.Ct. 734, 13 L.Ed.2d 649 (1965)). Those concerns are relevant to a First Amendment analysis even if the discretion remains with a legislative body and has not been delegated to an administrative official.

Each of those concerns is present in the Moral Monday cases, where the power to allow protests and waive the building rules vests in the very political authorities who are the critical focus of the protests themselves. The Leaders of a specific political party, the Speaker of the House and the President Pro Tempore, have the authority to legalize or criminalize the behavior of these protesters at their whim. This arrangement is unconstitutional on its face. The Protesters therefore have the protection of the United States Constitution from criminal prosecution.

***Legislative Services Officer George Hall may make up his own Rules***

The new Building Rules also vest too much discretion in the Legislative Services Officer, George Hall who has the power under the rules to make up his own “time, manner, place restriction.” Section V.A.4 provides: “*Consistent with the provisions of these Rules, the Legislative Services Officer may adopt reasonable time, place, and manner restrictions regarding the use of the Legislative Complex, including a process for equitable allocation and timely approval of requests for space made under Rule V.D. of these Rules. The additional restrictions shall be published on the General Assembly Web site.*”

Section V.D.5. provides: “*It is not a violation of these Rules for a person or group to use the areas designated in Rules V.D.3. and 4. of these Rules without requesting a reservation in advance. However, the use may not interfere with a previously reserved use and may not disturb, or create an imminent disturbance of, the General Assembly, one of its houses, or its committees,*

*members, or staff in the performance of their duties. The Legislative Services Officer may impose reasonable time, place, and manner restrictions on the use.*

Allowing one officer to make up his own restrictions is the most extreme form and example of unfettered discretion to limit speech vested in an enforcement officer. Because the leaders of the majority political party have the authority to regulate speech in the enforcement of the Building Rules, these rules are unconstitutional.

**IV. THE BUILDING RULES PROHIBIT SPEECH AND CONDUCT WHICH  
“DISTURBS OR IMMINENTLY DISTURBS” MEMBERS OF THE  
GENERAL ASSEMBLY. IS THIS RULE UNCONSTITUTIONALLY VAGUE  
AND OVERBROAD WHEN APPLIED AGAINST SPEECH AND CONDUCT  
WHICH MAY “ANNOY” MEMBERS OR MAKE THEM  
“UNCOMFORTABLE?”**

The Building Rules allow authorities to restrict speech which “disturbs” or will “imminently disturb.” The Building Rules give as examples of disturbing behavior, “*singing, clapping, shouting*” which are traditionally protected forms of free speech. Section III.C.2. The Building Rules prohibit speech on signs which disturb or imminently disturb. Section III.C.4. These rules are unconstitutionally vague, overbroad, and vest unfettered discretion in Chief Weaver and his enforcement.

In *Grayned v. City of Rockford*, the United States Supreme Court considered an ordinance which provided:

‘(N)o person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order of such school session or class thereof. . . .’

Grayned v. City of Rockford, 408 U.S. 104, 107-08, 92 S.Ct. 2294, 2298 (1972). The Supreme Court “extrapolated the allowable meaning” of this ordinance to prohibit only “actual or imminent interference with the ‘peace or good order’ of the school which had a measurable

“impact on the normal activities of the school.” *Id.* at 11-12, 92 S.Ct. at 2301. The Court gave as examples of behavior that interfered and disrupted normal activities: noise audible in the school which distracted from their school activities; students lined the classroom windows to watch the demonstration; that some demonstrators successfully yelled to their friends to leave the school building and join the demonstration; that uncontrolled latenesses after period changes in the school were far greater than usual, with late students admitting that they had been watching the demonstration. *Id.*

The Court contrasted the interference and disruption of normal activities with the case of *Coates v. Cincinnati*, 402 U.S. 611, 91 S.Ct. 1686, 29 L.Ed.2d 214 (1971). In *Coates*, the ordinance punished the sidewalk assembly of three or more persons who ‘conduct themselves in a manner annoying to persons passing by.’ The Supreme Court held, in part, that the ordinance was impermissibly vague because enforcement depended on the completely subjective standard of ‘annoyance.’ *Id.*

Similarly in the present case, the only allowable interpretation of the “disturb rule” in the Building Rules requires actual or imminent disruption or interference with normal activities, and not annoyance. Chief Weaver has previously testified that it is up to him to determine what constitutes a “disturbance,” and that activity which may annoy a member or make them uncomfortable would qualify as a rules violation. As previously applied and stated, the “disturb” rule is unconstitutionally vague.

In *State v. Wiggins*, our North Carolina Supreme Court took up a similar provision preventing behavior that “disturbed” a school. 272 N.C. 147, 158 S.E.2d 37 (1967). The allegations in *Wiggins* were that the Defendants “did knowingly, willfully and unlawfully interrupt and disturb the Southwestern High School, a public school in Bertie County, N.C., by

picketing in front of the Southwestern High School, ‘ which picketing interfered with classes at the school in violation of G.S. § 14—273” Id. Our North Carolina Supreme Court interpreted the word “disturb” as to require “an actual, material interference with, frustration of or confusion in, part or all of the program of a public or private school for the instruction or training of students enrolled therein and in attendance thereon, resulting from such act or conduct; and the purpose or intent on the part of the defendant that his act or conduct have that effect” Id. at 154, 158 S.E.2d at 43.

Similarly, the enforcement of the “disturb rule” in the new Building Requires must be constitutionally limited to behavior that actually interferes with and disrupts the normal work of the General Assembly. To extend its application to speech that annoys, bothers, or makes members uncomfortable is constitutionally overbroad.

This is particularly troublesome when the whole purpose of free speech is to challenge views:

**Accordingly a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech, though not absolute, ... is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest. ... There is no room under our Constitution for a more restrictive view. For the alternative would lead to standardization of ideas either by legislatures, courts, or dominant political or community groups.**

Terminiello v. City of Chicago, 337 U.S. 1, 4-5, 69 S. Ct. 894, 895-96 (1949)(citations omitted) (reversing the conviction for disorderly conduct and breach of peace of a speaker at a demonstration in Chicago).

Even more constitutionally troublesome is the rule which prohibits disturbing signs.

Section III.C.4 provides: “*Signs. - Signs on handsticks are prohibited. Signs may not be affixed to any structure or any equipment in the Legislative Complex. A sign that is used to disturb or used in a manner that will imminently disturb the General Assembly, one of its houses, or its committees, members, or staff in the performance of their duties will be confiscated. Nothing in this Rule limits the authority of the presiding officer or the chair of a committee from maintaining order in the chamber, the galleries, or a committee meeting.*”

It is hard to imagine the words on a sign that could meet the constitutional requirement of an actual interference with the normal activities of the legislature. Because signs include only pure speech, the Constitutional protections for signs are even greater than speech associated with conduct.

In *Boos v. Berry*, the United States Supreme Court considered the constitutionality on a ban on signs near embassies in the District of Columbia that would bring the embassies into disrepute. *Boos v. Barry*, 485 U.S. 312, 320, 99 L. Ed. 2d 333, 108 S. Ct. 1157 (1988). The first portion of this statute, the “display” clause, applied to signs tending to bring a foreign government into public odium or public disrepute, such as signs critical of a foreign government or its policies. The display clause applies only to the display of signs, not to the spoken word. *Id.* (citing *Zaimi v. United States*, 155 U.S.App.D.C. 66, 82, 476 F.2d 511, 527 (1973)).

The Supreme Court began its analysis by noting that regulating the display of speech on signs “operates at the core of the First Amendment by prohibiting petitioners from engaging in classically political speech.” *Id.* “This has led us to scrutinize carefully any restrictions on public issue picketing.” *Id.* (Citing *United States v. Grace*, 461 U.S. 171, 103 S.Ct. 1702, 75 L.Ed.2d 736 (1983); *Police Department of Chicago v. Mosley*, 408 U.S. 92, 92 S.Ct. 2286, 33 L.Ed.2d 212 (1972)).

The Supreme Court then noted that regulating speech on signs in public places “such speech on public streets and sidewalks, traditional public fora that ‘time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.’” *Id.* (Citing Hague v. CIO, 307 U.S. 496, 515, 59 S.Ct. 954, 964, 83 L.Ed. 1423 (1939)) In such places, which occupy a “special position in terms of First Amendment protection,” United States v. Grace, 461 U.S., at 180, 103 S.Ct., at 1708, the government’s ability to restrict expressive activity “is very limited.” *Id.*, at 177, 103 S.Ct., at 1707.

Finally, the provision was content based. Whether individuals may picket in front of a foreign embassy depends entirely upon whether their picket signs are critical of the foreign government or not. One category of speech has been completely prohibited within 500 feet of embassies. Other categories of speech, however, such as favorable speech about a foreign government or speech concerning a labor dispute with a foreign government, are permitted. The Court concluded that because the lawfulness of the speech is measured by its direct impact on the person hearing or observing the speech it is an unconstitutional content-based restriction.

Similarly in the present case, the Building Rules prohibit signs that disturb or imminently disturb members of the General Assembly. Because the lawfulness of the speech is judged by the effect upon the audience, the restriction is unconstitutionally content based. There is no compelling state interest restricting “disturbing signs” from the General Assembly. Furthermore, as discussed above, the definition of what constitutes a “disturbance” is vague, overbroad, and vests unfettered discretion in the officers in charge of regulating speech.

### CONCLUSION

The Building Rules are unconstitutional because they infringe upon Plaintiffs’ Constitutional Rights in that they are vague, overbroad, and confer unbridled and unfettered discretion upon the

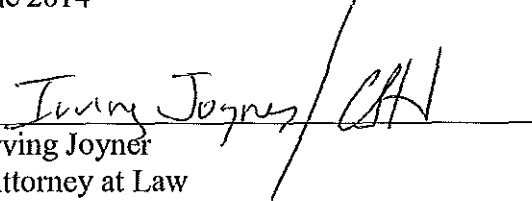
Legislative Services Officer (LSO), Defendant **George Hall** (hereinafter **LSO Hall**), the General Assembly chief of police, Defendant **Waylon Jeffrey Weaver** (hereinafter “Chief Weaver”), Defendant **Thom Tillis**, (hereinafter “Speaker Tillis”), and Defendant **Phillip Berger** (hereinafter “President pro tempore Berger”). Furthermore, the **Legislative Services Commission** is itself an unlawful and unconstitutional agency in that there are members of legislature serving on the Commission in an executive role, in violation of the Constitutional separation of powers. The statute purportedly authorizing the **Legislative Services Commission** to adopt the Building Rules is an unconstitutional delegation of legislative authority. The Building Rules, which confer the authority to LSO Hall to adopt additional restrictions on freedom of speech and assembly is an unconstitutional delegation of power and confers unfettered discretion upon LSO Hall in the regulation of free speech. Finally, even if the Legislative Services Commission is a lawful agency, it has not been exempted from the formal rules making process adopted by the North Carolina Administrative Procedures Act, N.C. Gen. Stat. §150B-1, and accordingly the Building Rules were adopted in violation of the North Carolina Administrative Procedures Act.

Plaintiffs plan to return to the Legislative Building at the General Assembly and protest the Monday June 16, 2014, and on each Monday thereafter when the General Assembly is in session. Plaintiffs seek a judgment declaring the Legislative Services Commission an unconstitutional entity and the Building Rules unconstitutionally vague and overbroad. They also seek an emergency temporary restraining order, preliminary and permanent injunction prohibiting enforcement of the Building Rules as currently promulgated and enforced by LSO Hall and Chief Weaver. Unless this Court issues immediate equitable relief, Defendants will deprive

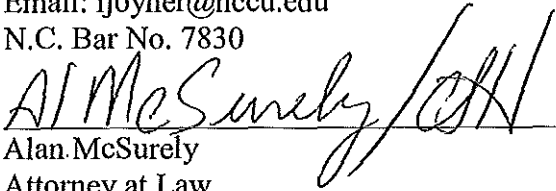
Plaintiffs of the core rights to free speech and to peacefully demonstrate in a traditional public forum, pursuant to the North Carolina Constitution and the U.S. Constitution.

Respectfully submitted this day, <sup>JK</sup> ~~10~~ June 2014

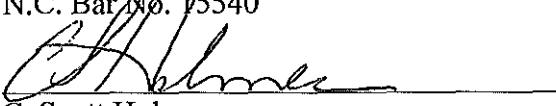
By:

  
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Attorney at Law  
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Phone: (919) 319-8353  
Email: ijoyner@ncsu.edu  
N.C. Bar No. 7830

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By:

  
C. Scott Holmes  
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Facsimile: (919) 419-1018  
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N.C. Bar No. 25569



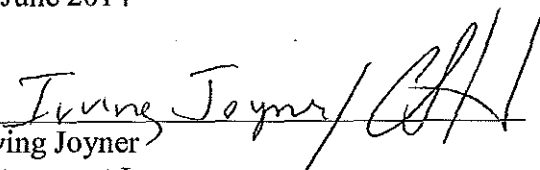
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of MOTION FOR EMERGENCY TEMPORARY RESTRAINING ORDER has been duly served by facsimile, email, and United States Mail, placing it in a depository for that purpose, postage prepaid, and addressed as followed:

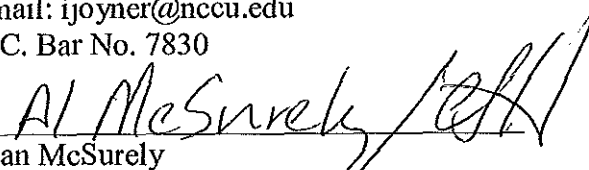
Roy Cooper  
c/o Chief Deputy Attorney General Grayson G. Kelly  
Attorney General  
State of North Carolina  
Post Office Box 629  
Raleigh, North Carolina 27602  
Telephone: (919) 716-6400  
Facsimile: (919) 716-0135

Respectfully submitted this day <sup>11<sup>th</sup></sup> 10<sup>th</sup> of June 2014

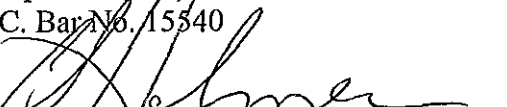
By:

  
Irving Joyner  
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Post Office Box 374  
Cary, North Carolina 27512  
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N.C. Bar No. 7830

By:

  
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By:

  
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Office: (919) 401-5913  
Facsimile: (919) 419-1018  
Email: Scott.Holmes@bpm-law.com  
N.C. Bar No. 25569

File No.

STATE OF NORTH CAROLINA

WAKE County

In The General Court Of Justice
District Superior Court Division

Name Of Plaintiff: NC Conference of Branches of NAACP, Stella Adams, et al
Address: PO Box 335
City, State, Zip: Durham NC 27702

CIVIL SUMMONS
ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s): NC Legislative Services Commission, Thom Tillis, Phillip Berger, George Hall, Waylon Jeffrey Weaver, State of North Carolina

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1: Phillip Berger, c/o Grayson G. Kelley, Chief Deputy Attorney General, PO Box 629, Raleigh NC 27602

Name And Address Of Defendant 2: George Hall, c/o Grayson G. Kelley, Chief Deputy Attorney General, PO Box 629, Raleigh NC 27602

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served.
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff): C. Scott Holmes, 3130 Hope Valley Rd, Durham NC 27707

Date Issued: JUN 11 2014 Time: 4:00 PM

Signature: [Handwritten Signature]

Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement Time AM PM

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial.

STATE OF NORTH CAROLINA

File No. 13CV007770

WAKE County

In The General Court Of Justice
District Superior Court Division

Name Of Plaintiff: NC Conference of Branches of NAACP, Stella Adams, et al
Address: PO Box 335
City, State, Zip: Durham NC 27702

CIVIL SUMMONS
ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s): NC Legislative Services Commission, Thom Tillis, Phillip Berger, George Hall, Waylon Jeffrey Weaver, State of North Carolina

Date Original Summons Issued
Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1: Phillip Berger, c/o Grayson G. Kelley, Chief Deputy Attorney General, PO Box 629, Raleigh NC 27602

Name And Address Of Defendant 2: George Hall, c/o Grayson G. Kelley, Chief Deputy Attorney General, PO Box 629, Raleigh NC 27602

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff): C. Scott Holmes, 3130 Hope Valley Rd, Durham NC 27707

Date Issued: JUN 11 2014, Time: 4 PM, Signature: [Handwritten Signature], Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement, Time, Signature, Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

File No.

**STATE OF NORTH CAROLINA**

WAKE County

In The General Court Of Justice  
 District  Superior Court Division

Name Of Plaintiff  
 NC Conference of Branches of NAACP, Stella Adams, et al  
 Address  
 PO Box 335  
 City, State, Zip  
 Durham NC 27702

**CIVIL SUMMONS**  
 ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

**VERSUS**  
 Name Of Defendant(s)  
 NC Legislative Services Commission, Thom Tillis, Phillip Berger,  
 George Hall, Waylon Jeffrey Weaver, State of North Carolina

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1  
 NC Legislative Services Commission  
 c/o Grayson G. Kelley, Chief Deputy Attorney General  
 PO Box 629  
 Raleigh NC 27602

Name And Address Of Defendant 2  
 Thom Tillis  
 c/o Grayson G. Kelley, Chief Deputy Attorney General  
 PO Box 629  
 Raleigh NC 27602

**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)  
 C. Scott Holmes  
 3130 Hope Valley Rd  
 Durham NC 27707

Date Issued  
 JUN 11 2014  
 Time  
 4 PM  
 Signature  
 Deputy CSC  Assistant CSC  Clerk Of Superior Court

**ENDORSEMENT (ASSESS FEE)**  
 This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement  
 Time  
 Signature  
 Deputy CSC  Assistant CSC  Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

File No.

**STATE OF NORTH CAROLINA**

WAKE County

In The General Court Of Justice  
 District  Superior Court Division

Name Of Plaintiff  
 NC Conference of Branches of NAACP, Stella Adams, et al  
 Address  
 PO Box 335  
 City, State, Zip  
 Durham NC 27702

**CIVIL SUMMONS**  
 ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

**VERSUS**

Name Of Defendant(s)  
 NC Legislative Services Commission, Thom Tillis, Phillip Berger,  
 George Hall, Waylon Jeffrey Weaver, State of North Carolina

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1  
 NC Legislative Services Commission  
 c/o Grayson G. Kelley, Chief Deputy Attorney General  
 PO Box 629  
 Raleigh NC 27602

Name And Address Of Defendant 2 ✓  
 Thom Tillis  
 c/o Grayson G. Kelley, Chief Deputy Attorney General  
 PO Box 629  
 Raleigh NC 27602

**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)  
 C. Scott Holmes  
 3130 Hope Valley Rd  
 Durham NC 27707

Date Issued JUN 11 2014 Time 4  AM  PM  
 Signature   
 Deputy CSC  Assistant CSC  Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)  
 This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement Time  AM  PM  
 Signature  
 Deputy CSC  Assistant CSC  Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

14CV007770

STATE OF NORTH CAROLINA

File No.

WAKE County

In The General Court Of Justice
District Superior Court Division

Name Of Plaintiff
NC Conference of Branches of NAACP, Stella Adams, et al
Address
PO Box 335
City, State, Zip
Durham NC 27702

CIVIL SUMMONS
ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s)
NC Legislative Services Commission, Thom Tillis, Phillip Berger,
George Hall, Waylon Jeffrey Weaver, State of North Carolina

Date Original Summons Issued
Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1
Waylon Jeffrey Weaver
c/o Grayson G. Kelley, Chief Deputy Attorney General
PO Box 629
Raleigh NC 27602

Name And Address Of Defendant 2
State of North Carolina
c/o Grayson G. Kelley, Chief Deputy Attorney General
PO Box 629
Raleigh NC 27602

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)
C. Scott Holmes
3130 Hope Valley Rd
Durham NC 27707

Date Issued JUN 11 2014
Time 4
Signature [Handwritten Signature]
Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement
Time
Signature
Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

16CV007770

STATE OF NORTH CAROLINA

File No.

WAKE County

In The General Court Of Justice

District  Superior Court Division

Name Of Plaintiff

NC Conference of Branches of NAACP, Stella Adams, et al

Address

PO Box 335

City, State, Zip

Durham NC 27702

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s)

NC Legislative Services Commission, Thom Tillis, Phillip Berger,

George Hall, Waylon Jeffrey Weaver, State of North Carolina

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Waylon Jeffrey Weaver  
c/o Grayson G. Kelley, Chief Deputy Attorney General  
PO Box 629  
Raleigh NC 27602

Name And Address Of Defendant 2

State of North Carolina ✓  
c/o Grayson G. Kelley, Chief Deputy Attorney General  
PO Box 629  
Raleigh NC 27602

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

C. Scott Holmes

3130 Hope Valley Rd

Durham NC 27707

Date Issued

JUN 11 2016

Time

4

AM

PM

Signature

*C. Scott Holmes*

Deputy CSC  Assistant CSC  Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

AM

PM

Signature

Deputy CSC  Assistant CSC  Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.