

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No. 7 CVS 6365

SEAN HAUGH, ET AL.,  
Plaintiffs, )  
)  
)

v. )  
)  
)

COUNTY OF DURHAM, ET AL.,  
Defendants. )  
)  
)

BRIEF IN SUPPORT OF  
MOTION FOR  
SUMMARY JUDGMENT

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The Defendants, Michael M. Ruffin, Ellen W. Reckhow, Michael D. Page, Lewis A. Cheek, Philip R. Cousin, Jr., Becky M. Heron, and County of Durham, moved to dismiss the Complaint of the Plaintiffs pursuant to Rules 12(b)(1), (2), and (6) and Rule 17(a) of the North Carolina Rules of Civil Procedure, and pursuant to N.C. Gen. Stat. § 1-57 on the grounds that the Court lacks subject matter jurisdiction due to the lack of standing of the Plaintiffs to bring this action, lacks personal jurisdiction as to the individual county commissioners due to legislative immunity, lacks subject matter jurisdiction due to the Political Question Doctrine, that the Plaintiffs are not taxpayers in the County of Durham, that the individual county commissioners and the County Manager are not the real parties in interest, that the Plaintiffs are not the real parties in interest, and that the Plaintiffs have failed to state a claim under existing North Carolina jurisprudence. The Court granted the motions of the individual Defendants and dismissed them by Order dated April 21, 2008. By separate Order, the Court ordered depositions of officers of the County of Durham and Nitronex Corporation, and indicated that it would convert the Motions to Dismiss to Motions for Summary Judgment.

**STATEMENT OF THE NATURE OF THE CASE AND FACTS**

Plaintiffs filed this declaratory judgment action to challenge the constitutionality of