

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
09 CVS 006655

COUNTY OF WAKE

JUNE ST. CLAIR ATKINSON, individually )  
and in her official capacity as )  
Superintendent of Public Instruction of the )  
State of North Carolina; B and C, )  
 )  
Plaintiffs, )

v. )

**MOTION FOR SUMMARY  
JUDGMENT**

STATE OF NORTH CAROLINA; )  
BEVERLY PERDUE, Governor of the State )  
of North Carolina, in her official capacity; )  
NORTH CAROLINA STATE BOARD OF )  
EDUCATION; WALTER DALTON, )  
Lieutenant Governor of the State of North )  
Carolina, in his official capacity; JANET )  
COWELL, State Treasurer of the State of )  
North Carolina, in her official capacity; )  
KATHY TAFT, RAY DURHAM, KEVIN )  
HOWELL, SHIRLEY E. HARRIS, )  
MELISSA E. BARTLETT, ROBERT )  
THOMAS SPEED, WAYNE MCDEVITT, )  
PATRICIA N. WILLOUGHBY, and JOHN )  
A. TATE, III, Members of the North )  
Carolina State Board of Education, in their )  
official capacities; and WILLIAM C. )  
HARRISON, Chief Executive Officer and )  
Chairperson of the North Carolina State )  
Board of Education, )  
 )  
Defendants. )

NOW COME Defendants, through counsel, and move for summary judgment as to all claims asserted in this action pursuant to Rule 56 of the North Carolina Rules of Civil Procedure on the ground that there is no genuine issue of material fact and that Defendants are entitled to judgment

as a matter of law in that all of the actions taken by Defendants as referenced in the Complaint are constitutional in all respects. In support of this motion, Defendants rely upon the following:

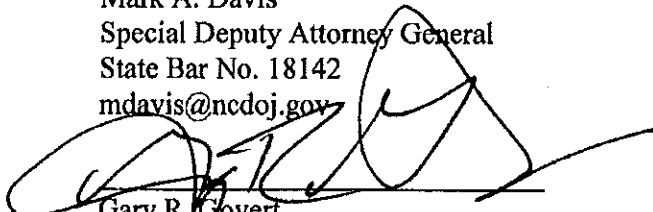
1. All pleadings in this matter (and all documents attached thereto);
2. Affidavits of John Sanders and Betsy West (and all documents attached thereto); and
3. All documents relied upon by Plaintiff.

Respectfully submitted, this the 19<sup>th</sup> day of June, 2009.

ROY COOPER  
Attorney General



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**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day served the foregoing **MOTION FOR SUMMARY JUDGMENT** in the above titled action upon all other parties to this cause by:

- Hand delivering a copy hereof to each said party or to the attorney thereof;
- Transmitting a copy hereof to each said party via electronic mail; or
- Depositing a copy hereof, first class postage pre-paid in the United States mail, properly addressed to:

Robert F. Orr  
Jeannette K. Doran  
N.C. Institute for Constitutional Law  
333 East Six Forks Road, Suite 180  
Raleigh, NC 27609

This the 19<sup>th</sup> day of June, 2009.



\_\_\_\_\_  
Mark A. Davis  
Special Deputy Attorney General