

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
10 CVS 10416

NORTH CAROLINA INSTITUTE FOR )  
CONSTITUTIONAL LAW, )

Plaintiff, )

v. )

STATE OF NORTH CAROLINA; NORTH )  
CAROLINA DEPARTMENT OF THE )  
SECRETARY OF STATE; and ELAINE F. )  
MARSHALL, North Carolina Secretary of )  
State, in her official capacity, )

Defendants. )

**MOTION FOR JUDGMENT ON THE  
PLEADINGS**

BY \_\_\_\_\_

WAKE COUNTY, C.S.C.

2010 SEP 14 PM 1:06

FILED

NOW COMES Plaintiff North Carolina Institute for Constitutional Law (hereinafter referred to as "NCICL"), by and through its undersigned counsel, and hereby moves the Court for Judgment on the Pleadings pursuant to N.C.G.S. §1A-1, Rule 12(c) of the North Carolina Rules of Civil Procedure. As grounds for its Motion for Judgment on the Pleadings, NCICL respectfully shows the Court the following:

1. Plaintiff NCICL is entitled to judgment as a matter of law pursuant to Rule 12(c) as the State has admitted the material allegations of fact in NCICL's Complaint and only questions of law remain.

2. This action was commenced on 21 June 2010 by the filing of a Verified Complaint and Petition for Declaratory Judgment.

2. In its Answer, filed 23 August 2010, the State has admitted the following salient facts:

a. Over the course of several months, Plaintiff received no communication from Defendants regarding its complaint dated 16 July 2009. (Answer ¶11)

b. On or about 23 November 2009, Joal Broun, Lobbying Compliance Division Director, on behalf of the Department of the Secretary of State refused to provide any information to Plaintiff about the status of its complaint or any action taken by the Department in regard to it. Broun maintained that N.C. Gen. Stat. § 120C-600(c) precluded release of the requested documents and information on the grounds that the same are considered “confidential records and may be released only by order of a court of competent jurisdiction.” (Answer ¶14)

c. Defendants relied in part on an advisory letter dated 16 June 2009 from the Department of Justice regarding the confidentiality requirements under N.C. Gen. Stat. § 120C-600(c) when denying Plaintiff’s public records request. (Answer ¶15)

d. Defendants have not provided records to Plaintiff in response to Plaintiff’s public records requests. (Answer ¶19)

3. The interpretation of N.C. Gen. Stat. § 120C-600(c) is a question of law for the Court.

4. As a matter of law, NCICL is entitled to a declaration that N.C. Gen. Stat. § 120C-600(c) does not prohibit Defendants from satisfying NCICL’s public records requests.

5. As a matter of law, NCICL is entitled to an order compelling Defendants to satisfy Plaintiff’s public records requests, including all public records and information concerning what action or actions, if any, were taken in response to the formal lobbying law violation complaint filed by Plaintiff.

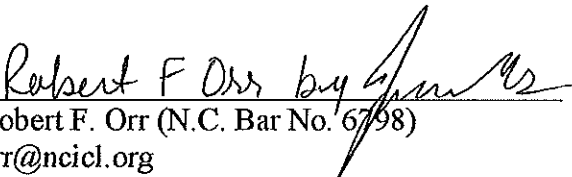
NOW WHEREFORE, Plaintiff NCICL respectfully prays the Court for an order granting Judgment on the Pleadings pursuant to N.C.G.S. §1A-1, Rule 12(c) of the North Carolina Rules

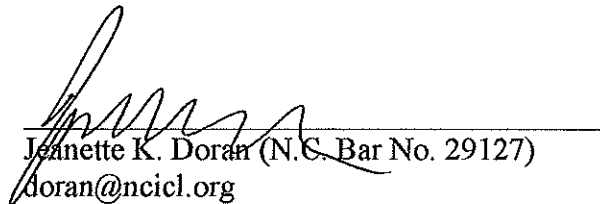
of Civil Procedure. Plaintiff NCICL also respectfully requests that this matter be accorded priority and set down for hearing as immediately as possible, pursuant to N.C. Gen. Stat. § 132-9(a).

Respectfully submitted, this the 14<sup>th</sup> day of September 2010.

Respectfully Submitted,

NORTH CAROLINA INSTITUTE FOR  
CONSTITUTIONAL LAW  
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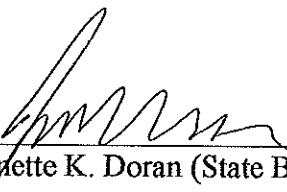
  
Jeanette K. Doran (N.C. Bar No. 29127)  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS was served on all parties by depositing true copies thereof with the United States Postal Service, first class postage prepaid, addressed to the following:

Brandon L Truman  
Melissa H. Taylor  
Assistants Attorney General  
NC Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27601-0629

This the 14<sup>th</sup> day of September, 2010.

  
\_\_\_\_\_  
Jeanette K. Doran (State Bar No.29127)

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*Pro Bono Counsel for the Plaintiff*