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STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
05 CVS 17197

CHARLES HEATHERLY; THOMAS  
SPAMPINATO; W. EDWARD  
GOODALL, JR.; PAUL STAM; WAKE  
COUNTY TAXPAYERS  
ASSOCIATION; and THE NORTH  
CAROLINA FAMILY POLICY COUNCIL

Plaintiffs,

WILLIS WILLIAMS; NORTH  
CAROLINA FIAR SHARE; and NORTH  
CAROLINA COMMON SENSE  
FOUNDATION,

Plaintiff-Intervenors

vs

STATE OF NORTH CAROLINA;  
CHARLES A. SANDERS, BRYAN E.  
BEATTY, LINDA CARLISLE, ROBERT  
A. FARRIS, JR., JOHN R.  
MCARTHUR, JIM WOODWARD, and  
ROBERT W. APPLETON, Members of  
the North Carolina Lottery Commission,  
in their official capacity; NORTH  
CAROLINA LOTTERY COMMISSION;  
THOMAS N. SHAHEEN, Executive  
Director of the North Carolina Education  
Lottery, in his official capacity;  
MICHAEL F. EASLEY, Governor of the  
State of North Carolina, in his official  
capacity; RICHARD H. MOORE,  
Treasurer of the State of North  
Carolina, in his official capacity,

Defendants.

**ORDER DENYING**  
**ISSUANCE OF**  
**PRELIMINARY INJUNCTION**

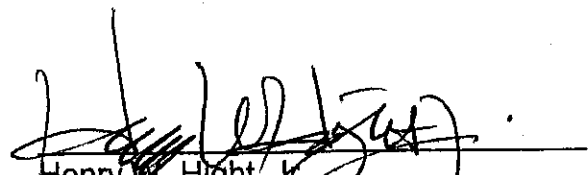
THIS CAUSE coming on to be heard and being heard before the undersigned Superior Court Judge presiding at the 13 February 2006 Wake County Civil Session of Superior Court on plaintiffs' motion for preliminary injunction pursuant to Rule 65 of the North Carolina Rules of Civil Procedure; that this Court, after consideration of the pleadings filed herein, the briefs before the Court, affidavits submitted by plaintiffs and defendants, and arguments of counsel, makes the following:

1. That all parties are before this Court and are represented by counsel.
2. That the plaintiffs, Charles Heatherly; Thomas Spampinato; W. Edward Goodall, Jr.; Paul Stam; Wake County Taxpayers Association; and the North Carolina Family Policy Council, are represented by Robert F. Orr, Pamela B. Cashwell and Jeanette Doran Brooks.
3. That the intervenor-plaintiffs, Willis Williams; North Carolina Fair Share; and North Carolina Common Sense Foundation, are represented by Jack Holtzman.
4. That the defendants, State of North Carolina; Charles A. Sanders, Bryan E. Beatty, Linda Carlisle, Robert A. Farris, Jr., John R. McArthur, Jim Woodward, and Robert W. Appleton, Members of the North Carolina Lottery Commission, in their official capacity; North Carolina Lottery Commission; Thomas N. Shaheen, Executive Director of the North Carolina Education Lottery, in his official capacity; Michael F. Easley, Governor of the State of North Carolina, in his official capacity; Richard H. Moore, Treasurer of the State of North Carolina, in his official capacity, are represented by Norma S. Harrell, Special Deputy Attorney General, and Ronald M. Marquette, Special Deputy Attorney General.
5. That this Court provided opportunity for counsel for all parties to be heard and to address this Court on the question of whether a preliminary injunction should issue.

6. That the plaintiffs and plaintiff-intervenors have failed to show that any of the plaintiffs or plaintiff-intervenors are likely to sustain irreparable loss unless the prayed for injunction is issued.
7. That the denial of issuing a preliminary injunction will not inconvenience any of the plaintiffs or plaintiff-intervenors prior to a final ruling in this matter.
8. That the issuance of a preliminary injunction at this point in this litigation is not necessary for the protection of the plaintiffs' rights or of the plaintiff-intervenors' rights during the brief course of this litigation until a ruling on the merits.
9. That the defendants have shown that granting the preliminary injunction will cause significant harm and would constitute grave inconveniences to defendants and others.
10. That the harm and inconvenience to the defendants and others far outweighs any harm to plaintiffs or plaintiff-intervenors.
11. That the equities of the situation support defendants' contention that the harm to defendants from the issuance of a preliminary injunction outweighs the purported harm to plaintiffs or plaintiff-intervenors if the preliminary injunction does not issue.
12. That motion of the plaintiff and the motion of the plaintiff-intervenors for preliminary injunction should be denied.

IT IS THEREFORE ORDERED that plaintiffs' motion for preliminary injunction is hereby **DENIED**.

This is the 15<sup>th</sup> day of February, 2006.

  
Henry W. Hight, Jr.  
Superior Court Judge Presiding