

STATE OF NORTH CAROLINA  
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
09 CVS 23289

SUGAR CREEK CHARTER )  
SCHOOL, INC.; THE COMMUNITY )  
CHARTER SCHOOL; THE METROLINA )  
REGIONAL SCHOLARS' ACADEMY, INC.; )  
ROCKY MOUNT PREPARATORY )  
SCHOOL, INC.; SOCRATES )  
ACADEMY, INC.; THOMAS JEFFERSON )  
CLASSICAL ACADEMY; AND UNION )  
ACADEMY; DEBORAH HOPKINS, )  
INDIVIDUALLY AND AS GUARDIAN )  
AD LITEM OF SLOANE HOPKINS, )  
KILLIAN HOPKINS, AND SKYLAR HOPKINS; )  
GILBERT BAILEY, INDIVIDUALLY AND )  
AS GUARDIAN AD LITEM OF )  
VIRGINIA L. BAILEY; )  
CHERYL DRAKE-BOWERS, INDIVIDUALLY )  
AND AS GUARDIAN AD LITEM OF )  
ANNIKA BOWERS; JAMES BARNHILL )  
AND SHARON BARNHILL, INDIVIDUALLY )  
AND AS GUARDIANS AD LITEM OF )  
AUSTIN BARNHILL AND )  
JAMES CODY BARNHILL, ANGELA HALE, )  
INDIVIDUALLY AND AS GUARDIAN )  
AD LITEM OF MATHEW PERRY, )  
ZACHARY PERRY, AND DUSTIN LEE; )  
KAY CRICKMORE AND DAVID CRICKMORE, )  
INDIVIDUALLY AND AS GUARDIANS )  
AD LITEM OF EMILY CRICKMORE, )  
REBECCA CRICKMORE, )  
RACHEL CRICKMORE, AND )  
KATHERINE CRICKMORE; )  
PANSY FLANAGAN, INDIVIDUALLY AND )  
AS GUARDIAN AD LITEM OF )  
WILLIAM L. OVERTON; )  
WILLIAM E. DAVIS, III AND )  
APHRODITE DAVIS, INDIVIDUALLY AND )  
AS GUARDIANS AD LITEM OF )  
ELIANA M. DAVIS; SHAWN L. JONES, )  
INDIVIDUALLY AND AS GUARDIAN )  
AD LITEM OF KATHERINE JONES; )  
PATRICIA SEGUINE AND DANIEL SEGUINE, )

**MOTION TO DISMISS  
(DISM)**

INDIVIDUALLY AND AS GUARDIANS )  
AD LITEM OF COURTNEY SEGUINE, )  
CARTER SEGUINE, AND JONAH SEGUINE; )  
TAWANDA D. BLOUNT, INDIVIDUALLY )  
AND AS GUARDIAN AD LITEM OF )  
BRYSON BLOUNT; TODD BENNET AND )  
WENDY BENNETT, INDIVIDUALLY AND )  
AS GUARDIANS AD LITEM OF )  
HANNAH BENNETT, VICTORIA BENNETT, )  
AND OLIVIA BENNETT; JAMES SMITH AND )  
SUSAN SOULE-SMITH, INDIVIDUALLY AND )  
AS GUARDIANS AD LITEM OF EVAN SMITH )  
AND MOLLY SMITH; LYNN KROEGER )  
AND KEN KROEGER, INDIVIDUALLY AND )  
AS GUARDIANS AD LITEM OF )  
PETER KROEGER, CHRISTINA KROEGER, )  
AND JOSEPH KROEGER; TODD HAVICAN, )  
INDIVIDUALLY AND AS GUARDIAN )  
AD LITEM OF KAITLYN HAVICAN AND )  
KELSEY HAVICAN; RON L. BROWN, )  
INDIVIDUALLY AND AS GUARDIAN AD )  
LITEM OF VICTORIA A. BROWN AND )  
DANIEL S. BROWN; )

Plaintiffs, )

v. )

STATE OF NORTH CAROLINA; )  
COUNTY OF MECKLENBURG; )  
CHARLOTTE-MECKLENBURG COUNTY )  
BOARD OF EDUCATION; COUNTY OF )  
UNION; UNION COUNTY BOARD OF )  
EDUCATION; COUNTY OF NASH; )  
NASH-ROCKY MOUNT BOARD OF )  
EDUCATION; COUNTY OF HALIFAX; )  
HALIFAX COUNTY BOARD OF )  
EDUCATION; COUNTY OF EDGEcombe; )  
EDGEcombe COUNTY BOARD OF )  
EDUCATION; COUNTY OF RUTHERFORD; )  
RUTHERFORD COUNTY BOARD OF )  
EDUCATION; COUNTY OF CLEVELAND; )  
CLEVELAND COUNTY BOARD OF )  
EDUCATION )

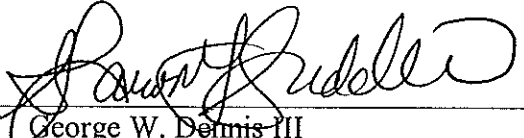
Defendants. )

**MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)**

Defendants Cleveland, Edgecombe, Halifax, Nash, Mecklenburg, Rutherford and Union Counties respectfully move the court to dismiss Plaintiffs' Complaint for failure to state a claim upon which relief can be granted, as Plaintiffs have not alleged any violation of the rights 1) afforded to them under the terms of the General Statutes of North Carolina or 2) to which they are entitled under the State and Federal Constitutions. As such, all of Plaintiffs' claims for relief must be dismissed pursuant to the provisions of Rule 12 (b)(6) of the North Carolina Rules of Civil Procedure.

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

TEAGUE CAMPBELL DENNIS & GORHAM, L.L.P.

By:   
George W. Dennis III  
N.C. Bar No.6589  
J. Matthew Little  
N.C. Bar No. 20032  
Sharon G. Scudder  
N.C. Bar No. 37038  
Attorneys for Defendants Cleveland,  
Edgecombe, Halifax, Nash,  
Mecklenburg, Rutherford and Union  
Counties  
Post Office Box 19207  
Raleigh, North Carolina 27619-9207  
(919) 873-0166 telephone  
(919) 873-1814 facsimile

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this date served this **MOTION TO DISMISS** upon all other parties in this cause by depositing a copy hereof, postage paid, in the United States mail, addressed to the parties or attorneys for said parties as follows:

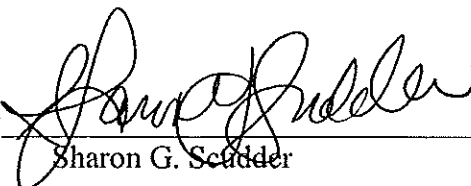
Robert Orr  
Jason Kay  
Attorneys for Plaintiffs  
333 Six Forks Road – Suite 180  
Raleigh, NC 27609

Mark A. Davis, Special Deputy Attorney General  
Attorney for the State of North Carolina  
N.C. Department of Justice  
Post Office Box 629  
Raleigh, NC 27602-0629

Robert J. King III  
Jill Wilson  
Julia C. Ambrose  
Attorneys for Charlotte-Mecklenburg Board of Education,  
Halifax County Board of Education, Edgecombe County  
Board of Education, Nash-Rocky Mount Board of Education,  
Union County Board of Education, Rutherford County Board of  
Education, and Cleveland County Board of Education.  
BROOKS PIERCE MCLENDON HUMPHREY & LEONARD, LLP  
2000 Renaissance Plaza  
230 North Elm Street  
Post Office Box 26000  
Greensboro, North Carolina 27420

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

TEAGUE CAMPBELL DENNIS & GORHAM, L.L.P.

By:   
Sharon G. Scudder