NO. 109PA22-2 TENTH JUDICIAL DISTRICT

SUPREME COURT OF NORTH CAROLINA
****

DUSTIN MICHAEL MCKINNEY, GEORGE JERMEY MCKINNEY and JAMES ROBERT TATE,

Plaintiffs-Appellees,

STATE OF NORTH CAROLINA,

Intervenor-Appellee,

vs.

GASTON COUNTY BOARD OF EDUCATION,

Defendant-Appellant.

From Wake County
No. COA 22-261
No. 21 CVS 7438

****

DEFENDANT-APPELLANT'S NEW BRIEF

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TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

ISSUE PRESENTED

I. Did the Court of Appeals err by overruling binding precedent in order to resurrect plaintiffs' time-barred claims, when legislation retroactively reviving such claims is "inoperative and of no avail"

because it "takes away vested rights of defendants, and therefore is unconstitutional"? *Wilkes Cnty. v. Forester*, 204 N.C. 163, 170 (1933).

INTRODUCTION

Citizens of North Carolina hold inviolable vested rights, protected by North Carolina's Constitution since 1776. The Revival Window at issue in this dispute, which eliminated statutes of limitations and repose for any civil action for child sex abuse during a two-year period, strips the citizens of North Carolina of vested rights that they have held since the beginning of our State. If this Court accepts the reasoning of the Court of Appeals plurality, the General Assembly will be able to resurrect claims whenever it wants, for whatever reason it wants, depending on how the political winds are then blowing.

Reviving the instant claims will be only the beginning; today the claims are for child abuse, but future iterations of the General Assembly would be able to resurrect any claims that its members desire: products liability, construction defect, claims against law enforcement officers, legal malpractice, public officer liability, medical malpractice—the list is literally endless.

Given the drastic action that they demand of the Court, throughout this litigation plaintiffs have gone to great lengths to avoid admitting what the law is, or what they want this Court to do, or what the ramifications would be from taking away the vested rights belonging to the People of North Carolina.

Instead of acknowledging what the law is, plaintiffs argue that the law is unclear, or that the long string of cases that establish the law are actually just *dicta*, or that decisions of this Court are not entitled to respect because plaintiffs do not like the Court's reasoning.

To be clear:

1. The law in North Carolina has been consistent and straightforward since at least 1933: Once a claim is extinguished, it cannot be revived. Period. Citizens of North Carolina have a vested right in the expiration of limitations period.

2. The real issue before the Court is a request that the Court change the law and strip the People of their vested rights by finding that the Legislature can revive whatever claims it wants, whenever it wants. The repercussions of acceding to this demand would be devastating and wide-ranging; for example, such a fundamental change in the law would:

- Strip the citizens of North Carolina of vested rights that they have possessed—and affirmed—since the State's founding;
- Abandon *stare decisis* in favor of claims that are emotionally appealing but legally and constitutionally infirm;
- Destroy the stability and predictability that organizations of all types need in order to plan and conduct business, including

exposing the citizens of North Carolina to massive increases in insurance premiums;

- Foist on schools, churches, non-profits, and businesses across the State the burden and expense of defending claims as to which witnesses, records, and insurance policies were not preserved (because this Court has long told those entities that claims cannot be revived); and
- Flood the courts with hundreds of stale but emotionally-charged cases that are based on claims that could have been brought when timely but are now more than thirty, forty, or fifty years old. Added to this would be all the ancillary litigation, like fights over fifty-year-old insurance policies, copies of which are unlikely to still exist.

The reasons offered by the plaintiffs in the lower courts for this dramatic change in law are all illusory. Resuscitating decades-old civil claims will have *no* hope of preventing future child abuse. Such an argument defies basic common sense. The demanded changes also have nothing to do with bringing abusers to justice: Child abusers are already (and correctly) subject to harsh criminal punishments, and there is no statute of limitations for prosecuting such crimes. Upholding the Revival Window would shift the costs of addressing decades-old claims onto *today's* children, and the hard-working men and

women who are trying to help those children. The Court should resist such demands and continue to protect the vested rights of the People of North Carolina.

The Court should not allow hard facts to make bad law.

STATEMENT OF THE CASE

Pursuant to the Revival Window, plaintiffs filed a Complaint against defendants Gary Scott Goins ("Goins") and the Gaston County Board of Education (the "Board") on 2 November 2020. (R pp 3–21). The Board filed an Answer and Counterclaim seeking a declaration that the Revival Window was facially unconstitutional under the Law of the Land Clause (R pp 22–69). On 28 January 2021, the Board moved to dismiss plaintiffs' Complaint pursuant to Rule 12(b)(6) on the basis that the Revival Window was facially unconstitutional under the Law of the Land Clause. (R pp 70–74).

On 17 February 2021, the parties filed a joint motion to transfer the facial constitutional challenge to be heard by a three-judge panel pursuant to N.C.G.S. § 1-267.1 and N.C.G.S. § 1A-1, Rule 42(b)(4). (R pp 79–82). This motion was granted, and a three-judge panel was appointed to hear the Board's facial constitutional challenge. (R pp 83–86). The State moved to intervene in defense of the Revival Window on 27 September 2021 and was permitted to intervene on 11 October 2021. (R pp 87–95). After hearing oral argument on

the issue, the three-judge panel entered an order granting the Board's Motion to Dismiss. (R pp 96–115).

On 28 December 2021, plaintiffs and the State filed timely notices of appeal from the trial court level decision of the three-judge panel. (R pp 116–119). Plaintiffs subsequently dismissed all claims against the person who actually committed the abuse, Garry Scott Goins, on 25 March 2022. (R pp 125–26). On 12 April 2022, plaintiff and the State filed a petition for discretionary review prior to determination by the Court of Appeals, which petition was granted on 5 July 2022. On 3 March 2023, the Supreme Court rescinded its 5 July 2022 order and remanded the matter to the Court of Appeals.

The Court of Appeals heard oral argument and issued its decision on 12 September 2023. The Court of Appeals did not provide authoritative reasoning for the lower courts. Then-Judge Riggs wrote an opinion reversing the decision of the trial court level decision in which Judge Gore concurred in the result only but not the reasoning. Judge Carpenter issued a dissenting opinion. Judge Gore did not issue an opinion explaining his reasoning. The Board timely appealed.

STATEMENT OF THE GROUNDS FOR APPELLATE REVIEW

The three-judge panel's order at the trial court level dismissing plaintiffs' claims was a final judgment on all claims alleged in the complaint, as plaintiffs dismissed their claims against Goins without prejudice. Following the Court of Appeals' decision, the Board filed a timely notice of appeal as of right pursuant to N.C.G.S. § 7A-30 based upon (i) a dissent in the Court of Appeals and (ii) a substantial constitutional question. Accordingly, this Court has jurisdiction.

STATEMENT OF FACTS

A. Convictions of the perpetrator, Gary Scott Goins, in 2014.

According to the allegations in the Complaint (taken as true for purposes of the 12(b)(6) motion to dismiss), all three plaintiffs met Goins before each was old enough to join the East Gaston High School wrestling team—Dustin Michael McKinney at age 11 (R p 8); George Jermey McKinney at age 14 (R p 9); and James Robert Tate at age 13 (R p 10). All three plaintiffs allege that defendant Goins engaged in physical and sexual assaults of them as children, resulting in anxiety, depression, and post-traumatic stress disorder for all three, substance abuse for one plaintiff, and sex addiction and inability to trust for the other two plaintiffs. (R pp 9–11).

Though irrelevant to the question before the Court, the Board did answer and denied many of the allegations in the Complaint, particularly those alleging that the Board knew or should have known about Goins at some

earlier time or that the conduct occurred on school property or during school events. (R pp 24, 29–30, 32). The Board further asserted that the plaintiffs met Goins in a community wrestling program operated totally outside of the school setting. (R pp 23–28).

Goins was employed by the Board from August 1993 to June 2013; he was indicted in 2013. *State v. Goins*, 244 N.C. App. 499, 501, 508–09 (2015). Each of the plaintiffs testified at Goins' criminal trial that they met him and began spending time with him before starting at East Gaston High School where Goins taught. *Id.* at 501, 504, 508. Goins was tried and found guilty, and has been incarcerated since 2013. He is currently incarcerated and is not a threat to any child while he is in prison.

There is no dispute that Goins' conduct was abhorrent and damaging to his victims. However, this case is at the pleading stage and there has been no evidence produced (or that could be considered) indicating that the Board was responsible for this man's crimes.[1]

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[1] This makes plaintiffs' repeated reference in the lower courts to the Board and other organizations as "enablers" of child abuse particularly frustrating and inappropriate. Describing organizations (and therefore their volunteers and employees) that are dedicated to helping children by using the same label that is used to describe people who actually facilitated child sex abuse is deeply offensive. Such smears have no place in this forum or in this discussion.

B. Time bars imposed on plaintiffs' claims.

The claims alleged in the Complaint for all three of these plaintiffs had long-since been time-barred when the Governor signed S.L. 2019-245 on 7 November 2019. The allegations in the Complaint relate to conduct that occurred while plaintiffs were minors, and thus all of the claims accrued while plaintiffs were under a disability. *See* N.C.G.S. § 1-17(a)(1). Dustin McKinney turned eighteen on 20 August 2004. (R p 8). Jermey McKinney turned eighteen on 21 May 2000. (R p 9). Rob Tate turned eighteen on 24 July 2005. (R p 10).

Plaintiffs' claims for assault and battery, negligent hiring and supervision, negligent infliction of emotional distress, intentional infliction of emotional distress, and false imprisonment were subject to the three-year statute of limitations in N.C.G.S. § 1-52 (2018). Tolling the statute until each plaintiff reached the age of eighteen, these claims were barred in 2007 for Dustin McKinney, 2003 for Jermey McKinney, and 2008 for Rob Tate. Including any allegations that occurred while Rob Tate was 18 or 19 years old, the claims were barred at the latest on 24 July 2010.

The Complaint on its face shows that plaintiffs had ample opportunity to timely bring their claims. For whatever reason, plaintiffs chose not to pursue civil claims (although they were apparently willing and able to assist in the

criminal trial against Goins). The statute of limitations then ran[2] and, from the Board's perspective, the painful and unfortunate tale of Goins was in the past and the Board could devote its resources to helping today's youth.

C. The Revival Window.

SECTION 4.2 (b) of Session Law 2019-245 states:

> Effective from January 1, 2020, until December 31, 2021, this section **revives any civil action** for child sexual abuse otherwise time-barred under G.S. 1-52 as it existed immediately before the enactment of this act.

(emphasis added).

The Revival Window was not the primary purpose of S.L. 2019-245 (referred to as the "SAFE Child Act"). The SAFE Child Act contains many important statutory requirements to prevent child abuse in the future—including robust reporting requirements, mandatory training for school personnel, additional online protections, and extending the existing statute of limitations so that people can bring claims until they are 28 (as opposed to 21) years old. Nothing in this litigation challenges those provisions that make up the gravamen of the SAFE Child Act.

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[2] The last claim is the constructive fraud claim, which, if the allegations are deemed to make out a claim for constructive fraud, is subject to a ten-year statute of limitations. N.C.G.S. § 1-56; *Honeycutt v. Weaver*, 257 N.C. App. 599, 604 (2018). These claims are barred no later than 2015, ten years after the last plaintiff turned eighteen. The constructive fraud claim was not revived by the Revival Window because N.C.G.S. § 1-52 was not the statute that barred the claim.

The Senate never discussed the Revival Window. Neither chamber discussed the constitutionality of the Revival Window.

STANDARD OF REVIEW

The Board moved to dismiss plaintiffs' claims pursuant to N.C.G.S. § 1A-1, Rule 12(b)(6) as plaintiffs' claims were brought pursuant to the Revival Window, which the Board argued was facially unconstitutional. (R pp 70–74).

Appellate review for motions to dismiss and facial constitutional challenges is *de novo*. *See, e.g.*, *Bridges v. Parrish*, 366 N.C. 539, 541 (2013) (*de novo* standard of review for "the grant of a motion to dismiss under Rule 12(b)(6)); *State v. Berger*, 368 N.C. 633, 639 (2016) ("We review constitutional questions de novo."). A law must be declared invalid if the constitutional violation is "plain and clear" after considering "the text of the constitution, the historical context in which the people of North Carolina adopted the applicable constitutional provision, and our precedents." *Berger*, 368 N.C. at 639.

ARGUMENT

The North Carolina Constitution provides that:

> No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, **but by the law of the land.**

N.C. Const. art. I, § 19 (emphasis added). This "Law of the Land Clause" has appeared in every version of the North Carolina Constitution. *See* N.C. Const.

of 1776, Declaration of Rights, § 12; N.C. Const. of 1868, art. I, § 17; N.C. Const. art. I, § 19; *State v. Robinson*, 375 N.C. 173, 183–84 (2020).

The Law of the Land Clause incorporates the fundamental notions of fairness and due process from the Magna Carta, and sits at the heart of the State's system of government.[3] The prohibition on legislation that impairs a vested right is a constitutional first principle that has been acknowledged and ratified many times over the centuries.

The Law of the Land Clause need not mention time bars for this conclusion to be true. Protecting the vested rights of the People, regardless of what that vested right is, is a critical element of North Carolina's stable jurisprudence. The only thing that stands between the vested rights of the People and the destruction of those rights is this Court. The People need this Court's protection.

This brief proceeds as follows: (1) an explanation of the precedents that bound the Court of Appeals (and which were disregarded by the plurality

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[3] *See* John V. Orth & Paul Martin Newby, The North Carolina State Constitution 70 (2d ed. 2013) (referring to the Law of the Land clause) ("The law of the land has become the focus for judicial thinking concerning fundamental fairness. This can be clearly seen in cases elucidating the liberty protected by this section.").

opinion); (2) an explanation of the vested rights doctrine;[4] (3) an analysis of historical case law demonstrating that North Carolina's long-standing rule is consistent with first constitutional principles; (4) an analysis of the two time bars in N.C.G.S. § 1-52 and a discussion of how both the statute of limitations and the statute of repose establish vested rights in different ways; (5) a textual analysis of the Revival Window, which in fact only revives "civil *actions"* and not "claims"; and (6) a discussion of the impact of destroying these vested rights.

Modern institutions (particularly those operating under challenging financial restraints and balanced budget requirements, such as public schools, municipal governments, and community non-profits) must be able to rely on some period of time after which potential claims for monetary damages against them no longer exist. Institutions must be able to "close the book" on things that have happened in the past, particularly the distant past, if they are to be able to plan for the future. If the Legislature is permitted to revive decades old claims, the potential liability would not be limited to stale child abuse cases, but future versions of the General Assembly could revive whatever claims are

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[4] As discussed *infra*, the vested rights doctrine is different from, and more protective of the People than, the federal concept of fundamental rights. While a fundamental right *can* be destroyed or infringed, vested rights cannot. *Vested rights are inviolate*. This doctrine gives the citizens of North Carolina rights that are not provided by either the federal government or most other states.

politically popular at the time—no doubt ushering in a less stable legal system. Only this Court can prevent such a result by reversing the Court of Appeals plurality and finding that the Revival Window is facially invalid.

I. THE VESTED RIGHTS DOCTRINE CONTAINED IN THE LAW OF THE LAND CLAUSE PROHIBITS REVIVAL OF CIVIL TORT ACTIONS.

The Court has already, repeatedly, decided the issue before it. There is no reading of the Revival Window that is consistent with North Carolina's vested rights doctrine. Section 4.2(b) applies exclusively to claims that have expired, making it unconstitutional on its face. The Revival Window applies only to "any civil action" that is "otherwise time-barred under G.S. 1-52." Therefore, the Revival Window exclusively applies in situations where the statute of limitations has run and defendants have received a vested right in the resulting time bar.

Until the Court of Appeals' plurality opinion was issued, the law in North Carolina was clear: Once a claim is barred by the running of the applicable statute of limitations, it cannot be revived by a subsequent action of the Legislature because such an action would violate the Law of the Land provision of the State Constitution. *See Wilkes Cnty.*, 204 N.C. at 170; *Waldrop v. Hodges*, 230 N.C. 370, 373 (1949) ("A right or remedy, once barred by a statute of limitations, may not be revived by an Act of the General Assembly."). No exceptions. This Court has affirmatively applied this

principle in the context of, *inter alia,* tort claims. *Jewell v. Price*, 264 N.C. 459, 461 (1965); *Trs. of Rowan Tech. Coll. v. J. Hyatt Hammond Assocs., Inc.*, 313 N.C. 230, 234 (1985); *see also Braswell v. Colonial Pipeline Co.*, 395 F. Supp. 3d 641, 648 (M.D.N.C. 2019); *Bryant v. United States*, 768 F.3d 1378, 1385 (11th Cir. 2014) (applying North Carolina law and refusing to revive claims despite legislation); *Valleytown Twp. v. Women's Cath. Ord. of Foresters*, 115 F.2d 459, 461 (4th Cir. 1940) ("The instant case must be decided in accordance with the law of North Carolina. It is conceded that under this law a state statute which seeks to revive a claim, barred by a statute of limitation, against a vested right of property, violates Article 1 § 17 of the State Constitution which provides that 'no person ought to be . . . deprived of his life, liberty or property, but by the law of the land.' ").

A. *Wilkes County v. Forester* applied the vested rights doctrine to prevent the revival of an expired civil claim.

This Court addressed the question of whether statutes of limitations, once they have run, create a vested right in the defendant squarely in *Wilkes County v. Forester*, 204 N.C. 163 (1933), which remains the controlling decision in this area. In *Wilkes County*, the question was whether the County, which had failed to foreclose on tax liens on the defendants' property within the statutorily proscribed time, could nonetheless sue on those liens later; the

County sought to rely on a revival provision enacted by the Legislature to revive its claims against the defendants.

The Court reviewed all of the relevant cases, including but not limited to *Johnson*, *Hinton*, *Pearsall*, *Whitehurst*, and *Campbell* (each discussed below). *Id.* at 168–70. Then the Court reviewed other applicable cases from other jurisdictions and the McIntosh treatise. *Id.* After careful consideration, the Court held:

> Whatever may be the holdings in other jurisdictions, we think this jurisdiction is committed to the rule that an enabling statute to revive a cause of action barred by the statute of limitations is inoperative and of no avail. *Booth v. Hairston*, supra. It cannot be resuscitated. The sovereign permitted an old principle to be invaded in this matter, that no time runs against the commonwealth or state, and the General Assembly having passed the statute of limitations which defendants properly pleaded, the statute of 1931, which attempted to destroy defendants' defense of the statute of limitations, is inoperative and void as to them. It takes away vested rights of defendants, and therefore is unconstitutional.

Id. at 170. The Court carefully and thoughtfully reviewed the state of the law and the arguments on all sides, and then pronounced a clear rule: Without exception, the General Assembly cannot resurrect expired claims.

Citation to the Law of the Land Clause was not required for the opinion of this Court to have a binding effect, but it is also plain that the Court was referring to the Law of the Land Clause. The Court referred to the body of law holding that laws may be retrospective only to the extent they do not impair

"vested rights"—and the Court explicitly cited to the term "vested rights" in its holding—a concept, as explained below, that flows from the Law of the Land Clause and always has. Further, the Court took the time to distinguish its decision from federal jurisprudence, plainly showing it was not making a decision about the constitutionality of the legislation based on the federal Constitution.

The result from *Wilkes County* is a straightforward pronouncement that a statute of limitations defense is a vested right in North Carolina once the statutory period for bringing a claim has expired. In short, *Wilkes County* is clear, on-point, and well-reasoned. What the Court of Appeals' plurality opinion did—as observed by the dissent—was to attempt to overrule *Wilkes County*, the decisions that led up to it, and all of the decisions that followed it. As discussed further below, there is no basis for so doing.

B. *Jewell v. Price* applied the vested rights doctrine to prevent revival of tort claims.

In *Jewell v. Price*, this Court applied *Wilkes County*'s prohibition on reviving barred claims to claims for negligence that were barred by operation of N.C.G.S. § 1-52 (the same statute at issue in this dispute). 264 N.C. at 460–61. The court found *Wilkes County* to apply in the negligence context: "If this action was already barred when it was brought . . . it may not be revived by an act of the legislature, although that body may extend at will the time for

bringing actions not already barred by an existing statute." *Id.* at 461 (citing *Wilkes Cnty.*, 204 N.C. at 169). In other words, *Jewell* shows unequivocally that the prohibition on reviving barred claims applies to tort claims, too.

Judge Carpenter in his dissent correctly noted that, even if one read the *Wilkes County* decision as being limited to real property, subsequent Supreme Court decisions indicate plainly that the law is not so limited. "But our appellate courts have not read *Wilkes* that way, and neither should we." *McKinney v. Goins*, 892 S.E.2d 460, 483 (N.C. Ct. App. 2023) (Carpenter, J. dissenting) (citing *Waldrop*, 230 N.C. at 373; *Troy's Stereo Ctr., Inc. v. Hodson*, 39 N.C. App. 591, 595 (1979); *Congleton v. City of Asheboro*, 8 N.C. App. 571, 573 (1970)).

Jewel is consistent with the *Wilkes County* reasoning. The *Wilkes County* opinion squarely considered—and rejected—*Campbell v. Holt*, in which the United States Supreme Court held that the bar on reviving claims in the Fourteenth Amendment was in fact limited to real and personal property. 115 U.S. 620, 623–24 (1885). The Constitution of North Carolina has a Law of the Land Clause, which has always been read to preserve rights vested by operation of law from legislative interference, and this Court explicitly rejected the federal analysis in *Wilkes County*.

Limiting the *Wilkes County* decision to real property, as suggested by the Court of Appeals plurality opinion, is not a principled reading of the

jurisprudence. *See McKinney*, 892 S.E.2d at 472–75. The liberty and property interests of the defendant are no less because the claims being faced are in tort as opposed to property. In *Wilkes County*, for example, the matter was about being a few months late in foreclosing on a tax lien. The liability arising from negligence cases, particularly those resulting from child sexual abuse from not just a few months but decades past, is far more extensive than a tax lien. *See Trs. of Rowan Tech. Coll.*, 313 N.C. at 234 (again interpreting the prohibition in N.C.G.S. § 1-52 in the breach of contract and negligence contexts and finding that the "[p]laintiff's claim accrued, however, before the effective date of this statute. If plaintiff's claim was already barred when amended § 50(5) became effective, it could not be revived by the amendments").

C. The vested rights doctrine has been reaffirmed by the courts and the People over the last 90 years.

The law articulated in *Wilkes County* has been reaffirmed by this and other courts many times, and it has never been limited to claims involving real property. In fact, this Court has never found —or even hinted at—an exception to the no-revival rule. *See Sutton v. Davis*, 205 N.C. 464, 469 (1933) ("The defense of the statute of limitation being considered a vested right, which cannot be taken away by legislation, we see no good reason why the same principle is not applicable in the present case."); *Jewell*, 264 N.C. at 461; *Waldrop*, 230 N.C. at 373 ("A right or remedy, once barred by a statute of

limitations, may not be revived by an Act of the General Assembly."). The Court of Appeals has relied on the rule in *Wilkes County* and applied it repeatedly since that court was established in 1967. *See Congleton*, 8 N.C. App. at 573 ("It is equally clear that the statute of limitations operates to vest a defendant with the right to rely on the statute of limitations as a defense."); *Troy's Stereo Ctr., Inc.*, 39 N.C. App. at 595 ("While the General Assembly may extend at will the time within which a right may be asserted or a remedy invoked so long as it is not already barred by an existing statute, an action already barred by a statute of limitations may not be revived by an act of the legislature."); *Colony Hill Condo. I Ass'n v. Colony Co.*, 70 N.C. App. 390, 394 (1984) ("Failure to file within that period gives the defendant a vested right not to be sued. Such a vested right cannot be impaired by the retroactive effect of a later statute." (cleaned up)); *Olympic Prods. Co. v. Roof Sys., Inc.*, 79 N.C. App. 436, 438 (1986) ("If an action is not brought on an existing claim within the time prescribed by a statute of limitations the claim is barred and the defendant has a vested right not to be sued which the legislature may not take from him."). Federal courts likewise have employed the same rule when applying North Carolina law. *Braswell*, 395 F. Supp. 3d at 648; *Bryant*, 768 F.3d at 1385 (applying North Carolina law and refusing to revive claims despite legislation).

The People of North Carolina have affirmed this Court's interpretation of the Law of the Land. In 1970, the People ratified the current Constitution of North Carolina (effective 1971), which continued to contain the Law of the Land Clause in its original form. If the people were dissatisfied with the interpretation of this provision in the nearly four decades since *Wilkes County*, or generally dissatisfied with the holdings of this Court finding a vested right in the running of a limitations period, then the 1971 Constitution was the perfect opportunity to change course. The People's ratification in 1970 was itself a ratification of the courts' interpretation of the vested rights doctrine. *See, e.g.*, *Brannon v. N.C. State Bd. of Elections*, 331 N.C. 335, 345 (1992) ("[B]y ratifying changes in the State Constitution in 1962 and a new Constitution in 1970 without substantial changes in the [constitutional] provision, the people should be presumed to have accepted the interpretations given that provision since it was adopted in 1875."); *Williamson v. City of High Point*, 213 N.C. 96, 105 (1938) ("It is an established rule of construction that, where a constitutional provision has received a settled judicial construction, and is afterward incorporated into a new or revised Constitution, it will be presumed to have been retained with a knowledge of the previous construction, and the courts will feel bound to adhere to it." (cleaned up)).

The interpretations this Court has given to our State Constitution, and the recognition that those interpretations must be upheld, are critical to a

functioning rule of law. As this Court explained on the same day that it issued *Harper v. Hall*, 384 N.C. 292 (2023):

> If the text does not resolve the matter, we examine the available historical record in an effort to isolate the provision's meaning at the time of its ratification. See *Sneed v. Greensboro City Bd. of Educ.*, 299 N.C. 609, 613, 264 S.E.2d 106, 110 (1980) ("Inquiry must be had into the history of the questioned provision and its antecedents, the conditions that existed prior to its enactment, and the purposes sought to be accomplished by its promulgation."). We also seek guidance from any on-point precedents from this Court interpreting the provision. *Elliott v. State Bd. of Equalization*, 203 N.C. 749, 753, 166 S.E. 918, 921 (1932).

Cmty. Success Initiative v. Moore, 384 N.C. 194, 213 (2023). The Law of the Land Clause was clearly understood to prohibit revival of time-barred claims when the People ratified it in 1970 because there were several Supreme Court and Court of Appeals decisions precisely on point on the date of ratification.

Plaintiffs now want to take away the vested rights that both this Court and the People themselves have recognized and ratified. This Court should not countenance such demands. *See In re Martin*, 295 N.C. 291, 299 (1978) ("[I]t is a fundamental principle of constitutional construction that effect must be given to the intent of the people adopting the Constitution, or an amendment thereto, and that constitutional provisions should be construed in consonance with the objectives and purposes sought to be accomplished, giving due consideration to the conditions then existing." (citations omitted)). The role of the courts is to

protect the People through stable and uniform application of law, not to strip away their rights.

D. The vested rights doctrine is a core principle of the Law of the Land Clause in our State Constitution.

Wilkes County has set the law of the land since it was decided in 1933. The reason given by the Court of Appeals plurality for ignoring *Wilkes County* is that it is *dicta*, but that is simply incorrect.

A holding is "those utterances of a court which bear directly upon the specific and limited questions which are presented to it for solution in the proper course of judicial proceedings," while *dicta* are statements "[o]ver and above what is needed for the solution of these questions." *Hayes v. City of Wilmington*, 243 N.C. 525, 536–37 (1956). If a court is presented with two issues and addressed both, such a decision does not render the ruling on one of the issues *dicta*:

> [W]here a case actually presents two or more points, any one of which is sufficient to support the decision, but the reviewing Court decides all the points, the decision becomes a precedent in respect to every point decided . . . . In short, a point actually presented and expressly decided does not lose its value as a precedent . . . because decision may have been rested on some other ground.

Id. at 537. As articulated by *Hayes*, *dicta* are statements of law that address issues that were not presented to and "actually decided" by the court. That is, if an issue presented is ruled upon by the court, it is not *dicta*. *Compare Biggs v. Brickell*, 68 N.C. 239, 241 (1873) ("[T]he opinions relied on were *obiter dicta*,

and not upon the points actually decided in these cases[.]"), *with Aldridge v. Hasty*, 240 N.C. 353, 358 (1954) ("In the past this rule has received the sanction of this Court by direct decision as well as by way of obiter dicta."), and *Emry v. Raleigh & G.R. Co.*, 109 N.C. 589, 608–09 (1891) ("This was not said *obiter*, but bore directly on the point raised."), *overruled on other grounds by Hinshaw v. Raleigh & A.A.L.R. Co.*, 118 N.C. 1047, 1055 (1896).

The portion of the *Wilkes County* opinion holding that the statute at issue was unconstitutional is not *dicta*. The question of the statute's constitutionality was squarely presented to and addressed by the court and therefore the court's ruling on that issue is *per se* a holding:

> The second question involved: Public Laws 1931, c. 260, § 3, at page 320: "This section and extension shall include all certificates executed for the sales prior to and including sales for the tax levy of the year one thousand nine hundred twenty–eight." Is this provision, when the cause of actions is barred, constitutional? We think not.

Wilkes Cnty., 204 N.C. at 168. The court then proceeded to address the issue at length. *Id.* at 168–70. Because the court's statements regarding the constitutionality of the revival statute addresses one of the two issues presented to the court, it cannot be *dicta*.[5]

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[5] To find that the relevant portion of *Wilkes County* is *dicta* means that every court that looked at and relied on that portion of the opinion over the past nine decades somehow missed the fact that such portion was *dicta*. This is inconceivable.

This second holding in *Wilkes County* was also essential to the outcome. The Court had two statute of limitations problems to analyze: (1) the Court had to determine whether the claim was barred in the first instance; and (2) the Court had to determine whether, even if the claim was barred (which the Court determined it was), the claim was nonetheless revived by the change in intervening law. Thus, the Court had to answer the second question; otherwise, there was still a possibility that Wilkes County could proceed under the intervening change in law. If the Court had not reached this question, the case would not have been resolved.

As a holding of this Court, the decision and those that followed it have become part and parcel of the Law of the Land Clause and are controlling authority. As articulated by Judge Carpenter in his dissenting opinion:

> We are bound by the precedents of this Court and the North Carolina Supreme Court. Stare decisis is not limited to decisions this Court deems well-reasoned. Stare decisis is not limited to decisions that produce desirable results. And stare decisis is not limited to decisions tethered to textualism—indeed, stare decisis is often an exception to textualism. The stability and predictability of our justice system requires that we adhere to the precedents of our Court and the North Carolina Supreme Court. . . . *Wilkes County* and its progeny control this case.

McKinney, 892 S.E.2d at 481 (Carpenter, J., dissenting).

The law needs no clarification. Legislative power does not include the ability to take away the vested rights of the People. The Court of Appeals

plurality ignored the clear precedents of this Court, and that fact alone is sufficient grounds for this Court to reverse.

II. VESTED RIGHTS ARE INVIOLABLE RIGHTS UNDER THE STATE CONSTITUTION THAT ARE NOT SUBJECT TO FURTHER LEGAL METAMORPHOSIS OR FEDERAL BALANCING TESTS.

While the governing law is, and has been for at least ninety years, crystal clear, the Court of Appeals plurality opinion did not even acknowledge the vested rights doctrine as an existing principle beyond reference to real property. *See McKinney*, 892 S.E.2d at 468–80. Given that, it is important to understand the basic principles of the vested rights doctrine.

A. North Carolina's vested rights doctrine gives the People certain legal rights that the Legislature lacks the authority to infringe.

A vested right is one which is "secured, established, and immune from further legal metamorphosis." *Gardner v. Gardner*, 300 N.C. 715, 719 (1980); *see also State v. Johnson*, 169 N.C. App. 301, 311 (2005) (same); *Bowen v. Mabry*, 154 N.C. App. 734, 736 (2002) (same). Put differently, "a right is 'vested' when it is so far perfected as to permit no statutory interference." *Gardner*, 300 N.C. at 719; *see also Armstrong v. Armstrong*, 322 N.C. 396, 402, (1988) ("A vested right, entitled to protection from legislation, must be something more than a *mere expectation* based upon an anticipated continuance of the existing law; it *must have become a title*, legal or equitable, *to the present or future*

enjoyment of property, a demand, or legal exemption from a demand by another." (emphasis in original) (quoting *Godfrey v. State*, 84 Wash. 2d 959, 963, 530 P.2d 630, 632 (1975) (en banc))).

North Carolina has long recognized the vested rights doctrine as being rooted in the State Constitution's Law of the Land Clause. See*, e.g., Godfrey v. Zoning Bd. of Adjustment*, 317 N.C. 51, 62 (1986) ("The [vested rights] doctrine is rooted in the 'due process of law' and the 'law of the land' clauses of the federal and state constitutions."); *McKinney*, 892 S.E.2d at 482 (Carpenter, J. dissenting) ("The Law of the Land Clause protects vested rights against retroactive legislation.").

The vested rights doctrine has consistently been applied to rights that are not "tangible." The entire concept is that the right vests by operation of law to create *legal* rights. Therefore, insisting that the doctrine can only be applied to personal and/or real property is wholly inconsistent with case law in a variety of other contexts. For example, the Court has recognized that a vested right exists in a final judgment. *See, e.g.*, *Morrison v. McDonald*, 113 N.C. 327, 331 (1893) (recognizing that a final judgment is " 'property,' or a 'vested right,' and could not be disturbed by the legislature"); *Lexington Grocery Co. v. S. Ry. Co.*, 136 N.C. 396, 401 (1904) ("When the plaintiff has obtained a judgment for the penalty before the repeal of the statute, he has a vested right therein which cannot be taken away by the Legislature.").

Morrison and *Lexington Grocery* are illustrative of the problem that would be created if this Court were to adopt the position that only tangible property is subject to protection from retrospective laws under the vested rights doctrine. The result of such a rule would necessarily mean that there is no vested right in a final judgment, which would wreak havoc on the justice system and strip away another long-held right of the people.

B. The federal substantive due process framework is not the law in North Carolina.

As the Court of Appeals dissent noted, fundamental rights and vested rights are not the same. Under federal law, fundamental rights *can* be impaired or taken away by the government under certain circumstances. Not so with vested rights, which are immune to infringement by the Legislature. As Judge Carpenter explained so well:

> Adopting the Majority's view of this area would erase our vested-rights doctrine. Under the Majority's approach, fundamental rights would swallow vested rights, and our vested-rights doctrine would be consumed by the adopted federal framework. *See Affordable Care, Inc.*, 153 N.C. App. at 535, 571 S.E.2d at 59. But our vested-rights doctrine is distinct—predating any tiered scrutiny approach—and our courts have developed the doctrine for decades. *See, e.g., Wilkes Cnty.*, 204 N.C. at 170, 167 S.E. at 695; *Lester Bros.*, 250 N.C. at 568, 109 S.E.2d at 266.
>
> The vested-rights doctrine is ill-suited for the tiers-of-scrutiny approach. Indeed, if vested, a right is *beyond* legislative encroachment; if not vested, a right is only as protected as the level of scrutiny allows. *See Lester Bros.*, 250 N.C. at 568, 109 S.E.2d at 266; *Gardner*, 300 N.C. at 718–19, 268 S.E.2d at 471 (stating that a vested right is "a right which is otherwise secured, established,

> and immune from further legal metamorphosis") (emphasis added).

McKinney, 892 S.E.2d at 486 (Carpenter, J. dissenting).

North Carolina courts have repeatedly noted that state courts are not bound by Fourteenth Amendment jurisprudence when interpreting the Law of the Land Clause. *McNeill v. Harnett Cnty.*, 327 N.C. 552, 563 (1990) (citing *Bulova Watch Co. v. Brand Distribs.*, 285 N.C. 467 (1974)); *State v. Womble*, 277 N.C. App. 164, 185 (2021).

The balancing test framework of the 14th Amendment is particularly inappropriate in the context of North Carolina's vested rights doctrine, which imposes a categorical restraint on the Legislature. Adopting the federal balancing test would result in the reversal of hundreds of years of jurisprudence in this state.[6] Consider *Cardwell v. Smith*, 106 N.C. App. 187, 192, (1992), *cert. denied*, 332 N.C. 146 (1992), holding that the landowner had a vested right in a special use permit, which was not subject to any kind of balancing test when determining that a subsequent ordinance could not impair that right. Or, in *Mission Hospitals, Inc. v. North Carolina Department of Health & Human Services*, 205 N.C. App. 35, 46, (2010), this Court held that a

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[6] Because the vested rights doctrine is so deeply embedded in North Carolina jurisprudence, it is impossible at this stage to even comprehend the ripple effect, across all areas of the law, that would occur if this Court suddenly started paring back the vested rights of citizens.

certificate of need requirement was invalid because the equipment was purchased at a time when no certificate of need was required. There was no balancing test to determine whether a certificate of need requirement could be imposed; the right had vested and could not be impaired. *See also Fogleman v. D & J Equipment Rental, Inc.*, 111 N.C. App. 228, 232 (1993) ("We believe that applying the amended version of N.C.G.S. § 97–10.2 interfered with appellants' vested right in their subrogation lien and with their right to consent to, or withhold consent from, appellees' settlement.").

In sum, the Legislature lacks the power to enact legislation that impairs a right that has already vested by operation of law. *Lester Bros. Inc. v. Pope Realty & Ins. Co.*, 250 N.C. 565, 568 (1959) (providing a legislative act "affecting or changing vested rights, is founded on unconstitutional principles and consequently void"). This principle is fundamental to North Carolina law and needs no revision.

III. THE LAW OF THE LAND CLAUSE HAS HISTORICALLY PROHIBITED THE LEGISLATURE FROM IMPAIRING VESTED RIGHTS.

The prohibition on reviving time-barred claims is well-rooted in the concepts of due process and fundamental fairness that have guided this State and this Court throughout their shared history. As discussed below, the idea that the Legislature's power did not extend to impair a vested right that had accrued by operation of law was a fundamental principle at the time the first

Constitution was adopted and held true for each subsequent iteration of our Constitution. A time bar vests the defendant with a right to rely on it.

A. The vested right doctrine prohibition on reviving claims is consistent with constitutional doctrine as it existed at the time the 1776 State Constitution was adopted.

We start with the English common law's fundamental principles that existed when the Law of the Land Clause of the North Carolina Constitution was first adopted in 1776. *Harper v. Hall*, 384 N.C. at 297 ("As the courts apply the constitutional text, judicial interpretations of that text should consistently reflect what the people agreed the text meant when they adopted it."); *Comm. to Elect Dan Forest v. Emps. Pol. Action Comm.*, 376 N.C. 558, 566–67 (2021).

Some forms of statutes of limitations date back to ancient times.[7] The statute of limitations for claims related to injury of the person were specifically codified in England in the Statute of 1623 under King James I. This statute was part of the legal landscape at our country's founding. As William Blackstone wrote in 1803, "The use of these statutes of limitation is to preserve

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[7] *See* William Blackstone, Commentaries *307 ("Upon both these accounts the law, therefore, holds, that '*interest reipublicae ut sit finis litium*:' and, upon the same principle the Athenian laws in general prohibited all actions, where the injury was committed *five* years before the complaint was made."); Ausher M. B. Kofsky, *Because Forever Is Too Long*, 37 W. New Eng. L. Rev. 265, 278 (2015) (discussing fact that statutes of limitations date back to Roman law); Susan Lillian Holdsclaw, *Reviving A Double Standard in Statutes of Limitations & Repose*: Rowan Cnty. Bd. of Educ. v. United States Gypsum Co., 71 N.C. L. Rev. 879, 885 (1993) (same); *see also Deuteronomy* 15:1 (instructing to cancel debts after seven years).

the peace of the kingdom, and to prevent those innumerable perjuries which might ensue, if a man were allowed to bring an action for any injury committed at any distance of time." Blackstone, Commentaries *306 (1803).[8]

The Law of the Land Clause has its origins in the Magna Carta, which provides "[n]o free man is to be arrested, or imprisoned, or disseized, or outlawed, or exiled, or in any way destroyed . . . save by the lawful judgment of his peers [or/and] **by the law of the land**." John V. Orth, *North Carolina and the Genius of the Common Law,* 41 Campbell L. Rev. 435, 438 (2019) (emphasis added). Understanding that the statutes of limitations existed at common law to bar tort actions is relevant to the analysis today.

There is no serious question among legal historians that, among the many constraints envisioned by the "Law of the Land" fundamental principle

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[8] Excerpts from William Blackstone's Commentaries are provided to the Court in Exhibit B. Blackstone also lists the statutes of limitations for the different types of claims, noting that "actions of assault, menace, battery, mayhem, and imprisonment, must be brought within four years".

was that the sovereign was limited to making only prospective laws.[9] Just a few of the many examples can be found in writings before and around the time of the adoption of the original North Carolina Constitution:

- The following maxim appeared in early case law in the United States adopting English common law: "It is a principle of universal jurisprudence, that laws, civil or criminal, must be *prospective*, and cannot have a *retroactive* effect." *Dash v. Van Kleeck*, 7 Johns. 477, 477 (N.Y. Sup. Ct. 1811) (emphasis in original); see also *Merrill v. Sherburne*, 1 N.H. 199, 212 (1818) ("[T]he very nature and effect of a new law is a rule for future cases.").
- Justice Story wrote in *Society for the Propagation of the Gospel in Foreign Parts v. Wheeler*: "It would be a construction utterly subversive of all the objects of the provision, to adhere to the former definition. . . . Upon

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[9] Scholarly work discussing the general prohibition on retrospective legislation at the time of the founding of North Carolina in 1776 include but are by no means limited to: Elmer E. Smead, *The Rule Against Retroactive Legislation: A Basic Principle of Jurisprudence*, 20 Minn. L. Rev. 775 (1936); Bryant Smith, *Retroactive Laws and Vested Rights II*, 6 Tex. L. Rev. 409 (1928); Edward S. Corwin, *The Doctrine of Due Process of Law Before the Civil War*, 24 Harv. L. Rev. 366, 383–84 (1911); Charles Grove Haines, *Judicial Review of Legislation in the United States and the Doctrines of Vested Rights and of Implied Limitations on Legislatures*, 2 Tex. L. Rev. 257, 284 & n.62 (1924); Ann Woolhandler, *Public Rights, Private Rights, and Statutory Retroactivity*, 94 Geo. L.J. 1015, 1019–27 (2006); Jill E. Fisch, *Retroactivity and Legal Change: An Equilibrium Approach*, 110 Harv. L. Rev. 1055 (1997); Laura Ricciardi & Michael B. W. Sinclair, *Retroactive Civil Legislation*, 27 U. Tol. L. Rev. 301, 304–14 (1996).

> principle, every statute, which takes away or impairs vested rights acquired under existing law, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past, must be deemed retrospective . . . .” 2 Gall. 105, 22 F. Cas. 756, 767 (1814) (applying English common law to strike down any reading of a law that could be retrospective because the common law disfavored all retrospective laws).[10]

The concept of impacting rights retroactively was uniformly considered unfair. As Professor John Orth has explained:

> Where statutes, which after all have always been recognized as making new law, were concerned, the unfairness of retrospective application was obvious; so unanimous was its condemnation at the time of the formation of the federal union that the U.S. Constitution categorically prohibited both the national government and the states from adopting such legislation.

John V. Orth, *Due Process of Law: A Brief History* 32 (2003).

B. The prohibition on retroactive legislation is also a matter of separation of powers.

As explained in a more recent Yale Law Review article entitled *Due Process as Separation of Powers*, the concept that legislation could only be prospective is grounded in the separation of powers doctrine. Nathan S.

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[10] *See also* 2 Joseph Story, *Commentaries on the Constitution of the United States* 251 (Boston, Charles C. Little & James Brown 2d ed. 1851) (“[R]etrospective laws are . . . generally unjust; and . . . neither accord with sound legislation nor with the fundamental principles of the social compact.”).

Chapman & Michael W. McConnell, *Due Process as Separation of Powers*, 121 Yale L.J. 1672 (2012). In defining the roles of the branches, legislative acts were conceived of as different from judicial acts "by being prospective and for the general welfare," *Id.* at 1727, while the courts deal with pre-existing rights and existing disputes. The Legislature looks ahead; the Judiciary looks at the present and the past. Therefore, legislation that applied retrospectively "conflict[s] with the separation-of-powers notion that the power to make laws—the power to 'legislate'—is the power to establish general rules for the future, not to determine specific applications of law or to punish past acts." *Id.* at 1719. That legislatures "were limited to making general and prospective law" was the "central feature" of due process in the Nineteenth Century. *Id.* at 1739.

The Court of Appeals' plurality opinion confused the meaning of this early debate but a closer review of early cases makes clear that the principle that retroactivity violated the Law of the Land was widely accepted; the early question was simply whether the courts had authority to say so.

In the first such case, *Bayard v. Singleton*, 1 N.C. (Mart.) 5 (N.C. Super. L. & Eq. 1787), the Legislature directed courts to dismiss any suit seeking to reclaim property that had been confiscated from British loyalists without a trial. The judges discussed the fact that the Legislature's power was indeed limited by the Constitution. *Id* at 7. The judges emphasized the fact that the

Legislature cannot simply take property without any process, no matter how unpopular the group that is affected.

In *State v.* _____, 2 N.C. (1 Hayw.) 28 (N.C. Super. L. & E. 1794) some of the separate opinions suggested that the Law of the Land clause had no force or effect on the Legislature. The Law of the Land Clause was addressed in that case because the Legislature had deprived a person of notice and right to a trial by jury. *State*, 2 N.C. at 29–30. Judge Macay held that the Legislature could find a person criminally liable and the person had no right to notice or a trial by jury because whatever the Legislature said the law was constituted the "law of the land." Judge Williams in *State v.* ___ proposed an alternative view—that the Law of the Land Clause does indeed limit the Legislature. While Judge Williams lost the debate that day, his view was adopted soon thereafter. The Court of Appeals' plurality opinion treats *State v.* ___ as law. *See McKinney*, 892 S.E.2d at 469, 472. If that were true, the Legislature could send citizens to jail without notice or an opportunity to be heard under the Law of the Land Clause.

This of course is not the case, which became clear a few years later when the Court adopted Judge Williams' view in *Trustees of University of North Carolina v. Foy*, 5 N.C. (1 Mur.) 58 (N.C. Conf. 1805). In *Foy*, the Legislature had granted certain property to the University of North Carolina, then enacted a law taking back the same property. Even though the rights of the University

were granted by the Legislature, the judges held that once granted the property "is as completely beyond the control of the Legislature, as the property of individuals or that of any other corporation." *Id.* at 88.

Foy is particularly instructive on the issue before the Court today. Here too, a public education institution relied on the rights granted to it by the Legislature, in the present case by depending on statutes of limitations and repose in maintaining its records and its insurance policies and managing its financial affairs. And just as in *Foy*, the Legislature has purported to take that right away. Such caprice was unconstitutional in 1805 and is unconstitutional today.[11]

The concept was carried forward through the case law in the realm of not just rights to real property, but rights that had vested by operation of state law. Just as the Legislature could not give real property and take it away, it also was not permitted to give other legal rights and take them away. *See Hoke v. Henderson*, 15 N.C. 1, 16 (1833) (finding a vested right in a public office and stating that "in respect to every species of corporeal property, real and personal, the principle has been asserted and applied"), *overruled on other*

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[11] While it is true that the right at issue in *Foy* was a real property right as the plurality opinion points out, nothing in the opinion suggests that another vested right—the right to rely on statutory repose—is not also worthy of protection from legislative caprice. As discussed *supra,* subsequent cases make clear that vested rights are not limited to real property.

grounds by Mial v. Ellington, 134 N.C. 131, 162 (1903); *Pratt v. Kitterell*, 15 N.C. (4 Dev.) 168, 168–70 (1833) (finding a vested right in the administration of an estate to the next of kin). In 1821, this Court (having been formed in 1818) discussed the very point, making no mention that the Legislature's limitation on legislation impairing a vested right was somehow limited to tangible property: "A right, to be inviolable by the Legislature, should be one derived from the laws, or at least under a final judgment of a Court in a case decided." *Harrison v. Burgess*, 8 N.C. (1 Hawks) 384, 392 (1821). There is no basis in principle or case law to suggest that vested legal rights protected from legislative interference were, are, or should be limited to tangible property rights.

North Carolina cases are replete with articulations of the same rule—the Legislature cannot write laws that impair a right that has vested by operation of law, whatever that right is and whether that right sounds in property, liberty, or another legal right.[12] *See Scales v. Fewell*, 10 N.C. (3 Hawks) 18, 18–20 (1824) (holding that creditors who attached liens after the running of the then-applicable limitations period obtained a vested right that could not be defeated by legislation extending the registration period for the

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[12] The plurality opinion insists that the vested rights cases drew some kind of distinction, that "sound in corporeal or incorporeal property interests rather than procedure." *McKinney*, 892 S.E.2d at 473. This statement is inaccurate. None of the cases cited by the opinion draw such a distinction.

bill of sale); *Battle v. Speight*, 31 N.C. (9 Ired.) 288, 292 (1848) (holding that the law could not be read to change the meaning of what the law was when the will was made once rights were vested); *Stanmire v. Taylor*, 48 N.C. (3 Jones) 207, 212 (1855) ("[T]he Legislature, representing the sovereignty, have a right to transfer it to whom they please. Their right to grant it is not questioned; but they must be careful in doing so, not to trespass on the vested rights of others."); *Green v. Cole*, 35 N.C. (13 Ired.) 425, 428 (1852) ("The legislature cannot interfere with vested rights of property."); *Robinson v. Barfield*, 6 N.C. 391, 423 (1818) ("No principle in the law appears to be better supported by authority than this. The Legislature had no right or power to divest the lessors of the Plaintiff of their title to the lands in controversy, and vest them in *General Brown and his heirs*." (emphasis in original)).

C. The post-Civil War cases did not undo the constitutional first principle that the Legislature lacks authority to impair vested rights.

The early doctrine reflected the general prohibition on retroactivity through two concepts: (1) statutes will be construed so as not to operate retroactively and (2) any statute that must be read to operate retroactively is prohibited if such statute impairs a vested right. This was clearly the law when the 1868 Constitution was adopted.

It was without doubt in all cases that, if it were held to be a vested right, it could not be impaired by the Legislature. *See, e.g.*, *Tabor v. Ward*, 83 N.C.

291, 294 (1880) (discussing the authority of the Legislature to take away a "remedy" so long as it does not impair a "vested right"); *Miller v. Gibson*, 63 N.C. 635, 636 (1869) (voiding legislation because it directed the magistrate to destroy vested rights, namely the lien that was created "upon the debtor's property in favor of the creditor"); *McKeithan v. Terry*, 64 N.C. 25, 26 (1870) (finding that a homestead exemption could not interfere with a lien when the lien was "levied before the adoption of the Constitution" and thus created a vested right that could not be impaired by the homestead exemption); *Lowe v. Harris*, 112 N.C. 472, 479–86 (1893) (collecting cases discussing various vested rights including vested right in contracts; vested right in property obtained during marriage; vested right in a public office for the term prescribed by law).

i. *Johnson* and *Whitehurst*: cases finding a vested right in a statutory time bar.

In *Johnson v. Winslow*, the Court took for granted that the Legislature cannot revive a barred claim. 63 N.C. 552 (1869). The Court held explicitly:

> Although it were true that *the Legislature has no power to revive a right of action after it has been barred*, *i.e.* to suspend the operation of the Statute of Limitations retrospectively, after it has operated (Cooley on Con. Lim. 391, note), yet it is clear that the Legislature has the power to suspend the operation of the Statute prospectively, so as to prevent its barring rights. This does not impair the obligation of contracts, nor interfere with vested rights. "He who has satisfied a demand, cannot have it revived against him; and he who has been released from a demand by operation of the Statute of Limitations, is equally protected. In both cases the right is gone; and to restore it would be to create a new contract for the parties," *Ib.* 369.

Id. at 553–54 (emphasis added).

Later, in *Whitehurst v. Dey*, 90 N.C. 542, 545–46 (1884), the Court stated: "Statutes of limitation relate only to the remedy and may be altered or repealed before the statutory bar has become complete, but not after, so as to defeat the effect of the statute in extinguishing the rights of action." (quoting Wood *Lim.*, Ch. 1, § 11 and collecting cases from other jurisdictions in support of this principle).

As explained *supra*, the Justices who heard *Johnson* and *Whitehurst* were operating in a world where the first principle that the Legislature lacked authority to act retroactively to impair vested rights was well-established and did not require further discussion. As Professor Cooley noted, "[T]he term 'vested right' is not used in any narrow or technical sense, or as importing a power of legal control merely, but rather as implying a vested interest which it is right and equitable that the government should recognize and protect, and of which the individual could not be deprived arbitrarily without injustice." Thomas M. Cooley, *Treatise on the Constitutional Limitations* 357–58 (2d ed. 1871).

ii. *Hinton* allowed revival but was overruled by *Wilkes County* and is inapplicable to the present circumstance even if it had not been overruled.

The sole North Carolina case that finds that the Legislature can revive a barred claim dealt with a clash between two vested rights: The right of a widow to dower and the vested right to rely on time bars. *Hinton v. Hinton*, 61 N.C. (Phil.) 410 (1868). *Hinton* did not change the general law regarding revival of claims but found in favor of the right of dower when two vested rights collided. The *Hinton* court held that the 6-month limitations period on a widow's ability to claim her dower could be revived by the Legislature after it expired during the Civil War.:

> But we do not think this principle [that the Legislature cannot revive barred claims] applies to the right of dower, or that that right is *created* by the act of 1784, with a *condition precedent* that when a husband by his will makes a provision for his wife, she shall within six months, after probate of the will, enter her dissent to the provision made for her, and that a compliance with this condition is made a part of the essence of the right of dower.

Id. at 412 (emphasis in original).

The Court was faced with a situation in which one vested right had to trump the other. The Court decided that the vested right to dower won the day. *See, e.g.*, *Joyner v. Sugg*, 132 N.C. 580, 585 (1903) (collecting cases and stating that the "*jus disponendi* [or right of alienation] is a vested right, and protected by the Constitution, and is restricted only by provisions for dower and homestead, which restrictions must be so construed as to carry out the kindly purpose for which they were created, with no more restriction of the power of

alienation than is necessary to make them effectual" (quoting *Hughes v. Hodges*, 102 N.C. 236 (1889)).

The *Hinton* court was clear that it was making a decision based on the facts of that particular case—the defendant had taken property subject to the widow's vested right of dower: "It is said the Legislature has not the power to interfere with 'vested rights,' and take property from one and give it to another! That is true; but these devisees took the land *subject* to the widow's common law right of dower." *Hinton*, 61 N.C. at 415 (emphasis in original). Thus, the property right of the defendant already had the dower contingency on it, a situation entirely different from the defendant facing liability for a tort claim.

The Court of Appeals plurality overreads *Hinton* (and then ignores all subsequent decisions) as standing for the proposition that a person can never have a vested right in a statute of limitations defense. On the contrary, the Court in *Hinton*, against the backdrop that the Legislature is typically prevented from reviving claims barred by a statute of limitations, found dower to be an exceptional right, one which had run with the land taken by the defendant. In other words, there were two vested rights at issue, and the Court chose the right to dower over the right to rely on the statute in the post-war context. No such clash exists in the present case.

In *Pearsall v. Kenan*, 79 N.C. 472 (1878), the Court discussed the difference between *Johnson v. Winslow* and *Hinton v. Hinton*. Ultimately, the

Court did not reach the question of whether the bar of the statute of limitations confers a vested right, noting that the question before it was whether a statute of limitations could be repealed or suspended before it ran.[13] *Id.* at 473–74. Just as the right of dower was vested in *Hinton*, in *Pearsall* the right of the creditor was certain—the debt was owed. In claims revived for child sexual abuse, the liability has not been established when a complaint is filed; the plaintiffs do not have a vested right akin to a debt or a dower.

However *Hinton* might be read, its ruling was either superseded or overruled by *Wilkes County* sixty-five years later. As Judge Carpenter's dissent noted, there is no need to reconcile *Wilkes County* with *Hinton* because *Wilkes County* was later in time and therefore it controls. *See McKinney*, 892 S.E.2d at 485 (Carpenter, J. dissenting).

iii. *State v. Bell* is inapposite.

The Court of Appeals' plurality opinion makes much of *State v. Bell*, 61 N.C. (Phil.) 76 (1867), which held that a tax could be levied on business transacted in the months prior to the enactment of the legislation. However, there was no statute of limitations issue in that case. The Court also did not

[13] The law is clear that, while the legislature cannot revive expired claims, it can extend limitations periods that have not yet run. That is not in dispute.

address whether the Law of the Land Clause had any significance as to the question of retroactivity, and thus the case is not relevant.

To summarize, the history of the Law of the Land Clause in the first two constitutions points clearly to the conclusion that the Constitution of North Carolina restrains the legislative power—it cannot operate to impair a vested right, and a vested right is a right that accrues by operation of law. This principle and the interpretation of this Court in *Wilkes County* and its progeny were incorporated into the current Constitution by the People of North Carolina and serves as the backdrop against which the Legislature writes laws and the people conduct their business. This Court has never diverged from that principle and it should not opt to do so today.

IV. N.C.G.S § 1-52 ESTABLISHED VESTED RIGHTS THAT ARE UNCONSTITUTIONALLY IMPAIRED BY THE REVIVAL WINDOW IN EVERY APPLICATION.

Analysis of the two types of time bars impacted by the Revival Window (one that is typically referred to as a "statute of limitations" and the other as a "statute of repose") further demonstrate its facial invalidity. The Revival Window "revives any civil action for child sexual abuse otherwise time-barred under G.S. 1-52." This language incorporates the following two provisions in Paragraphs (5) and (16):

"Within three years, an action—

. . . .

> (5) For criminal conversation, or for any other injury to the person or rights of another, not arising on contract and not hereafter enumerated.
>
> . . . .
>
> (16) Unless otherwise provided by law, for personal injury or physical damage to claimant's property, the cause of action, except in causes of actions referred to in G.S. 1-15(c), shall not accrue until bodily harm to the claimant or physical damage to his property becomes apparent or ought reasonably to have become apparent to the claimant, whichever event first occurs. Except as provided in G.S. 130A–26.3, no cause of action shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action.

N.C.G.S. § 1-52 (2019).

The two provisions are read together, and both, in different ways, establish vested rights—the first through extinguishment of the plaintiff's claim and the second by preventing the accrual of plaintiff's claim in the first instance.

A. N.C.G.S. § 1-52(5) vests rights in the defendant by extinguishing the plaintiff's claim.

This Court has recognized the absolute barrier to suit established by N.C.G.S. § 1-52(5) once the time has run. *Shearin v. Lloyd*, 246 N.C. 363, 370 (1957) ("Statutes of limitations are inflexible and unyielding. They operate inexorably without reference to the merits of plaintiff's cause of action."), *superseded by statute*, N.C.G.S. § 1-15(b), *on other grounds as recognized in Black v. Littlejohn*, 312 N.C. 626, 630–31 (1985); *Pearce v. N.C. State Highway*

Patrol Voluntary Pledge Comm., 310 N.C. 445, 451 (1984) (same). Paragraph (5) is distinguishable from Paragraph (16) in that Paragraph (5) applies in cases where the injury is not latent. There may be equitable defenses and disabilities that ultimately extend the three-year period, but once it has run, it creates a definitive bar and extinguishes a plaintiff's claim.

In response to two medical malpractice cases in which the plaintiffs discovered their injuries after the three-year period in N.C.G.S. § 1-52(5) had run and were barred by the Supreme Court from bringing their claims, the Legislature enacted the "discovery rule." *Raftery v. Wm. C. Vick Constr. Co.*, 291 N.C. 180, 188–89 (1976). The fact that the Legislature enacted a discovery rule does not mean that N.C.G.S. § 1-52(5) ceased being an unyielding barrier once it runs. The discovery rule was not a court-made doctrine. The discovery rule had to be enacted by the Legislature, and could only operate prospectively once enacted. *Id.* The discovery rule separates out the substantive element of the claim (the injury) from the procedural requirement to bring suit within a set period of time. *See Wilder v. Amatex Corp.*, 314 N.C. 550, 555–56 (1985). While there has been a great deal of discussion about the differences established by the "discovery rule," the rule itself did not change the fact that once the three-year limitations period runs, it vests the defendant with a right not to be sued by eliminating the plaintiff's claim.

Thus, the vested right comes into existence when the time has run. There may, as here, be a disability provision that tolls the statute of limitations from running; or there may be a latent injury that delays the running of the three-year limitations period as described in N.C.G.S. § 1-52(16). Or, the time bar may simply occur three years after the injury. In all cases, when the statutory time period has run, the right of the defendant not to be sued vests and the right of the plaintiff to bring a claim is extinguished. Since the Revival Window only seeks to revive those claims that were actually time-barred, it applies only after the right of the defendant has vested.

None of the cases cited by the Court of Appeals plurality that reference statutes of limitations as being "merely procedural" address the question of whether, after the procedure operates and time passes, a right vests in the defendant. *See, e.g.*, *Williams v. Thompson*, 227 N.C. 166, 168 (1947) (holding that the statute of limitations cannot be asserted as a defense unless pleaded by the defendant—a rule that no longer applies and has nothing to do with the operation of the statute to create a bar to recovery); *Boudreau v. Baughman*, 322 N.C. 331, 340–41 (1988) (discussing the difference between statutes of limitations and repose for choice of law purposes, not for determining whether the time bar vests a right in the defendant); *Christie v. Hartley Const., Inc.*, 367 N.C. 534, 538 (2014) (discussing that equitable defenses are available, for conduct of the defendant during the limitations period, for a statute of

limitations as compared with a statute of repose—this holding does not state that once the limitations period has run and no equitable defense is asserted that would extend it, the bar imposed is merely procedural).

On the contrary, every case that discusses N.C.G.S. § 1-52 has found that, even though the limitations period imposes a procedural obligation on the plaintiff, it nonetheless provides the defendant with a legal, vested right once it runs. *See, e.g.*, *Jewell* 264 N.C. at 461; *Congleton*, 8 N.C. App. at 573; *Troy's Stereo Ctr, Inc.*, 39 N.C. App. at 594–95. Besides, procedures can nonetheless abridge a substantive "right" in violation of due process. See N.C. Const. art. IV, § 13(2) ("No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury.").

B. The discovery rule in N.C.G.S. § 1-52(16) eliminates any "right" of a putative plaintiff.

While the limitations period in N.C.G.S. § 1-52(5) extinguishes the plaintiff's claim, the discovery rule means that the claim simply never accrued. In this way, the two provisions differ, though they both vest a right in the defendant to rely on them. This concept is explained further in the case law applicable to the discovery rule in particular. Paragraph (16) creates an "an unyielding and absolute barrier that prevents a plaintiff's right of action even before his cause of action may accrue, which is generally recognized as the

point in time when the elements necessary for a legal wrong coalesce." *Black v. Littlejohn*, 312 N.C. 626, 633 (1985).

While this Court has never before made a distinction as to which types of claims the Legislature may revive (because *Wilkes County* made it clear that **no** revival of any claim is allowed), the operation of Paragraph (16) particularly precludes the Legislature from reviving any claims outside of the ten-year outer limit. If the Court were to allow the Legislature to revive claims that are barred by a statute of repose, the General Assembly would not be restoring a remedy; it would be *creating* a claim, after the fact, where none now exists.

The interest of a plaintiff to bring a claim in court is best understood as a "chose in action." A plaintiff who alleges a claim for child sexual abuse does not hold any particular right, unless and until the claim is brought in court, adjudicated, and then, if liability of the defendant is established, transformed into a judgment (as to which the courts find that a vested right exists). *Cf. Stedman v. Reddick*, 11 N.C. (4 Hawks) 29, 33 (1825) (describing a chose in action as any type of interest where "a suit in law is necessary to recover the possession, on account of an adversary claim"). The plaintiff holds a "contingent interest in property damages." *Peele v. Finch*, 284 N.C. 375, 383 (1973) (cleaned up); see also William Blackstone, Commentaries *116 (1803) (excerpt available in Exhibit B) ("[T]he party injured has acquired an incomplete or inchoate right, the instant he receives the injury a; though such

right be not fully ascertained till they are assessed by the intervention of the law."). The theory or principle upon which a vested cause of action sounding in damages is property, and prevented from "a taking" or destruction without due process of law, rests upon its classification as a chose in action. As is said by Judge Sharswood, in a note to a passage in 2 William Blackstone, Commentaries *396 (1902), "there is a very large class of choses in action which arise ex delicto. My claim for compensation for any injury done to my person, reputation, or property is as truly a chose in action, as where it is grounded on a breach of covenant or contract."

Yet, a chose in action does not exist for a plaintiff where the chose in action is barred by the statute of repose. That is, an element of the chose in action is that it was never blocked from existence by a statute of repose. As this Court has explained:

> Because it is a substantive change in the conditions precedent to a cause of action, we conclude that the legislature did not intend that G.S. 1–50(6) be retrospectively applied to causes of action that had accrued before its effective date of 1 October 1979. An accrued cause of action is a property interest. When a statute would have the effect of destroying a vested right if it were applied retroactively, it will be viewed as operating prospectively only. . . . The proper question for consideration is whether the act as applied will interfere with rights which had vested or liabilities which had accrued at the time it took effect.

Bolick v. Am. Barmag Corp., 306 N.C. 364, 371 (1982) (cleaned up).

In other words, a claim barred by a statute of repose cannot be revived because a plaintiff has no chose in action—no property interest whatsoever, whether contingent or not—once a statute of repose runs. There is nothing to revive. This concept has been reiterated on numerous occasions. *Christie*, 367 N.C. at 539; *Quality Built Homes Inc. v. Town of Carthage*, 371 N.C. 60, 69 (2018); *Olympic Prods. Co.*, 79 N.C. App. at 438 ("A statute of limitations bars a claim which has arisen. A statute of repose does not bar a claim but defines it. If an action is not brought on an existing claim within the time prescribed by a statute of limitations the claim is barred and the defendant has a vested right not to be sued which the legislature may not take away from him. In the case of a statute of repose which defines a claim the legislature can create claims based on matters that occur in the future."); *Boor v. Spectrum Homes, Inc.*, 196 N.C. App. 699, 705–06 (2009) (finding no cause of action existed for the plaintiff where it was not brought within the applicable statute of repose).

Importantly, the Revival Window does not pertain to claims where liability of the defendant is an established fact, such as a debt; instead it pertains exclusively to "any civil action for child sexual abuse" where inherently the liability of the defendant has not yet been established. In the present case, plaintiffs have no cognizable interest because any such interest was extinguished by the statute of repose. Accordingly, the only right at issue

is the vested right of the Board based on the statutes of limitations and repose, and the Revival Window impairs that right in violation of the Law of the Land.

C. The lack of latency in the present suit does not undo the 10-year outer bar on claims.

In Footnote 15, the Court of Appeals' plurality opinion states that a statute of repose in N.C.G.S. § 1-52(16) might be considered substantive but is inapplicable to the Board's case and is therefore irrelevant to the analysis. *McKinney*, 892 S.E.2d at 477. On the contrary, Paragraph (16) has always been read as an "outer limit" on claims, one that sets an outer bound on which a defendant can rely. *See, e.g.*, *Lamb v. Wedgewood S. Corp.*, 308 N.C. 419, 427 (1983) (discussing the concept of statutes of repose providing an outside limit and finding that they must be read in conjunction with the applicable statute of limitations). This Court has consistently read statutes of repose to set an outside bar to the claim, regardless of whether the injury was latent or not. *Hargett v. Holland*, 337 N.C. 651, 655 (1994) ("Regardless of when plaintiff's claim might have accrued, or when plaintiffs might have discovered their injury, because of the four-year statute of repose, their claim is not maintainable unless it was brought within four years of the last act of defendant giving rise to the claim.") (citing *Flippin v. Jarrell*, 301 N.C. 108, 112, (1980), *reh'g denied*, 301 N.C. 727 (1981)); *Trs. of Rowan Tech.*, 313 N.C. at 239.

In the case at bar, all claims were barred by the three-year limitations period as well as the outer limit established by N.C.G.S. § 1-52(16). The Revival Window purports to revive all claims time-barred under G.S. 1-52, which would include those subject to the ten-year outer limit establishing a definitive repose period on which defendants should have been able to rely. To read the Revival Window as constitutional with respect to claims barred by N.C.G.S. § 1-52(5) but not those claims where N.C.G.S. § 1-52(16) is also operating would lead to a bizarre result. The Revival Window would serve only to revive claims that were known to the plaintiff as opposed to those that were latent; a person who knowingly delayed bringing their claims (as here) could bring suit whereas a person who unknowingly failed to bring a claim could not.

In short, Paragraph (16) operates as an unyielding barrier to suit that vests the defendant with the right to rely on it in all cases.

D. Substantial case law supports a reading that the Revival Window is unconstitutional as to claims barred by a statute of repose.

The reasoning of the Court of Appeals plurality is premised on the idea that statutes of limitations are procedural rules that do not vest the defendant with a right, but that logic fails if one considers that the chose in action never accrued to the plaintiff. In *William Danzer & Co. v. Gulf & S.I.R. Co.*, 268 U.S. 633 (1925), the United States Supreme Court addressed this issue, describing the *Campbell v. Holt* decision as follows:

> That case belonged to the class where statutory provisions fixing the time within which suits must be brought to enforce an existing cause of action are held to apply to the remedy only. But such provisions sometimes constitute a part of the definition of a cause of action created by the same or another provision, and operate as a limitation upon liability. . . . This case belongs to the latter class. Section 206(f) will not be construed retroactively to create liability. To give it that effect would be to deprive defendant of its property without due process of law in contravention of the Fifth Amendment.

Id. at 637 (cleaned up). In other words, even the Supreme Court of the United States has recognized that a repose period establishes a substantive right for a defendant that the Legislature lacks the authority to destroy.

Likewise, the cases that predate *Wilkes County* and that form the crux of the Court of Appeals' plurality opinion are consistent with finding that the Revival Window is unconstitutional as to claims barred by the statute of repose. In *dicta* in *Phillips v. Cameron*, 48 N.C. 390, 392–93 (1856), the Court discussed the fact that a statute of repose "is always favored" and implied that the Legislature could revive claims that affect merely a remedy but not a "right." The remedy (the chose in action) simply does not exist after the bar of the repose period. In *Tabor*, 83 N.C. at 295, this Court stated "[r]etrospective laws would certainly be in violation of the spirit of the constitution, if they destroyed or impaired vested rights."

Even more than a statute of limitations, a statute of repose eliminates stale claims. In neither case cited by the Court of Appeals was a claim allowed

to be reinstated were the claims truly "stale"—in both cases, the passage of time between the expiration of the claim and subsequent revival was quite minimal: The same calendar year in *Bell*, 61 N.C. at 76–77, and one year in *Hinton*, 61 N.C. at 410 (the claim accrued in November 1864, had been barred in May 1865, and was revived in May 1866). These cases are a far cry from allowing plaintiffs to bring claims that are over ten years old, as here and as in the vast majority of the lawsuits filed under the Revival Window.

The instant plaintiffs allege that the Board is liable for actions that occurred while they were students. Consequently, N.C.G.S. § 1-52(16) established an unyielding outer limit to liability that began to run after a student graduated from high school. *See Black*, 312 N.C. at 633 ("[T]he period contained in the statute of repose begins when a specific event occurs, regardless of whether a cause of action has accrued or whether any injury has resulted."). That is, as opposed to the time period commencing to run from the date of accrual (i.e. the date the putative plaintiff knew of the injury), the repose period begins to run from the date of the last action giving rise to the claim. Therefore, for schools, the last date on which a cause of action might accrue is generally graduation from high school; i.e., the last day when an employee of the Board of Education could engage in inappropriate conduct with a student while in the scope of their employment.

In short, whether reading the time bar in Paragraph (5), which operates to extinguish a plaintiff's contingent interest and vest a right in the defendant, or Paragraph (16), which operates to prevent the plaintiff's contingent interest from ever accruing, N.C.G.S. § 1-52 provides a vested right to be free from suit in all cases.

V. THE REVIVAL WINDOW CANNOT BE CONSTRUED TO REVIVE CLAIMS BARRED BY A STATUTE OF REPOSE; SUCH A CONSTRUCTION IS A LOGICAL IMPOSSIBILITY.

As explained *supra*, this Court has held multiple times that not being barred by the statute of repose is a condition precedent to the very existence of a claim. "If the action is not brought within the specified period, the plaintiff 'literally has *no* cause of action. The harm that has been done is *damnum absque injuria*—a wrong for which the law affords no redress.' " *Boudreau*, 322 N.C. at 340–41 (cleaned up) (emphasis in original). Accordingly, as Chief Justice Exum articulated for a unanimous Court, a "statute of repose creates an additional element of the claim itself which must be satisfied in order for the claim to be maintained." *Hargett*, 337 N.C. at 654 (citing *Bolick*, 306 N.C. at 364).

Reading the Revival Window in this light, the only "civil actions that were otherwise time-barred under G.S. 1-52" that could have existed in the first place were those that had not been barred by the statute of repose. The repose period served to extinguish those causes of action, and so there was

nothing to "revive." Thus, the Revival Window can only be read to revive claims that were barred by the applicable statute of limitations in N.C.G.S. § 1-52, but not any claims that were barred by N.C.G.S. § 1-52(16). The elemental nature of the bar established by the repose period makes the time span imposed by a statute of repose "so tied up with the underlying right that . . . the limitation clause is treated as a substantive rule of law." *KB Aircraft Acquisition, LLC v. Berry*, 249 N.C. App. 74, 84 (2016) (quoting *Boudreau*, 322 N.C. at 341).

There are no equitable exceptions to a statute of repose. *Christie*, 367 N.C. at 539 ("Statutes of repose . . . are not subject to equitable doctrines." (cleaned up)); *Monson v. Paramount Homes, Inc.*, 133 N.C. App. 235, 240 (1999) ("While equitable doctrines may toll statutes of limitation, they do not toll substantive rights created by statutes of repose."). As such, a proper construction would serve to revive only claims that were not barred by N.C.G.S. § 1-52(16).

Interpreting the Revival Window is complicated by the fact that it is so poorly written. To the extent the Revival Window can be read to revive anything, it revived only "civil actions," not "claims." Section 4.2(b) "revives any civil action for child sexual abuse otherwise time-barred under G.S. 1-52 as it existed immediately before the enactment of this act." In contrast to the

phrase "civil action," the phrase "claim" means the legal right that is sought to be enforced.

The SAFE Child Act distinguishes between "civil actions" and "claims" in other parts of the statute. For example, the Act amended N.C.G.S. § 1-17 to include: "a plaintiff may **file a civil action** against a defendant **for claims** related to sexual abuse suffered while the plaintiff was under 18 years of age until the plaintiff attains 28 years of age." N.C. Sess. Laws 2019-245, § 4.1 (emphasis added); *see also id.* § 4.2(a). There the General Assembly drew a distinction between a "civil action" and a "claim"—a civil action is a legal proceeding in the judicial system whereas a claim could exist absent its enforcement in a legal proceeding.[14]

We must assume that the Legislature enacts legislation with the backdrop of other legal principles and other statutes in mind, and that the Legislature meant what it said when it referred to "civil actions" and not "claims." But the plain reading of the Revival Window is that either it does not apply to "claims" at all, or at the very least, does not apply to claims that ceased

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[14] "Civil action" is defined by statute: "An action is an ordinary proceeding in a court of justice, by which a party prosecutes another party for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment or prevention of a public offense." N.C.G.S. § 1-2; *see also id.* § 1-6; *Gillikin v. Gillikin*, 248 N.C. 710, 712 (1958). A civil action and a claim are not the same: "An 'action' refers to the whole of the lawsuit. Individual demands for relief within a lawsuit, by contrast, are 'claims.' " *Brownback v. King*, 141 S. Ct. 740, 751 (2021) (Sotomayor, J. concurring) (cleaned up); *cf. Wing v. Goldman Sachs Tr. Co.*, 382 N.C. 288, 299 (2022).

to exist prior to its enactment. "[T]he actual words of the legislature are the clearest manifestation of its intent." *N.C. Dep't of Corr. v. N.C. Med. Bd.*, 363 N.C. 189, 201 (2009). Accordingly, this Court gives "every word of the statute effect, presuming that the legislature carefully chose each word used." *Id.* "[I]t is reasonable to presume that words used in one place in the statute have the same meaning in every other place in the statute." *Campbell v. First Baptist Church*, 298 N.C. 476, 483 (1979).

The Revival Window seeks to overturn centuries of law and take away a right belonging to the people of North Carolina. The confusion between "civil actions" and "claims" indicates that perhaps the General Assembly was not fully engaged and aware of the actions they were taking. A sweeping deprivation of a long-held right of the people of North Carolina necessitates a careful deliberation.

The Revival Window cannot be read to undo the statute of repose as that is a logical impossibility; no civil action exists if it was substantively barred by N.C.G.S. § 1-52(16) so there is nothing to revive. Therefore, regardless of the constitutionality of the Revival Window, the dismissal of the Complaint against the Gaston County Board of Education was proper because the Revival Window did not revive any claims (all of which were barred by the statute of repose) against the Board.

VI. ELIMINATING THE VESTED RIGHTS DOCTRINE WOULD DESTROY A STATE CONSTITUTIONAL RIGHT BESTOWED ON THE PEOPLE OF NORTH CAROLINA THROUGHOUT OUR STATE'S HISTORY AND PRODUCE FUNDAMENTAL UNFAIRNESS AND UNCERTAINTY IN OUR LAW.

A time bar is not just a meaningless procedure as the Court of Appeals plurality suggests. It reflects "a delicate balance between the rights of the diligent plaintiff who should not be barred from pursuing a meritorious claim and the defendant who deserves protection from stale claims after a viable defense may be weakened because of dead witnesses or forgotten facts." *Black*, 312 N.C. at 635. That is, a time bar is itself a carefully considered public policy that balances competing interests. Once that balance is struck, defendants justifiably rely on it to determine how to plan for the future. No organization can plan for the future if the Legislature, at any time and for whatever reason, can revive claims that are decades old.

As Judge Carpenter correctly noted, "in my view, the effects of doing so [overruling *Wilkes*] would extend far beyond this case and would carry unintended consequences and undermine a hallmark of our justice system–stability in our jurisprudence." *McKinney*, 892 S.E.2d at 487. In fact, the impact of what plaintiffs are seeking is so sweeping that it is impossible to predict what those effects would be.

A. Litigation of stale claims which have been previously extinguished produces unfair results.

There is a reason that statutes of limitations on claims for personal injury have existed since 1623 or earlier: it is not possible for the courts to properly adjudicate old disputes and accurately determine the facts. While a plaintiff has the right to bring a claim, a defendant has a right to a fair adjudication of the allegations being made. A trial is an orderly search for the truth in the interest of justice. "This security must be jealously guarded, for with the passage of time, memories fade or fail altogether, witnesses die or move away, and evidence is lost or destroyed. It is for these reasons, and others, that statutes of limitations are inflexible and unyielding and operate without regard to the merits of a cause of action." *King ex rel. Small v. Albemarle Hosp. Auth.*, 370 N.C. 467, 470 (2018) (cleaned up).

Almost every possible iteration of the problem identified by this Court in *King* and other cases is presented with the avalanche of cases filed under the Revival Window. Attached to this Brief as Exhibit A is a chart of some of the hundreds of lawsuits that were filed under the Revival Window. This list is illustrative, not exhaustive.

As shown on Exhibit A, over 190 of the 250 listed cases involve abuse that allegedly occurred over *thirty* years ago and at least forty claims alleged to have occurred over *fifty* years ago. In many cases, the people who run these organizations today were not even alive when some of this abuse allegedly occurred. In many cases, the victim is deceased, the perpetrator has died,

and/or no perpetrator is identified at all. A good example of the challenges faced by organizations is shown in the Complaint filed in *John Doe v. Cape Fear Council*, 21-CVS-4769, in which the allegation of abuse of one plaintiff is as follows:

> Plaintiff John Doe #1 . . . was a minor participating in or entrusted to the care, custody and supervision of [defendants] when, in or around 1960's, was a victim of one or more criminal sex acts . . . by a scout leader and/or youth scout leader and/or boy scout camp personnel . . . .

Exhibit C, ¶ 4.

In other words, these defendants are left to defend against allegations of misconduct that occurred "in or about 1960's," with no allegations as to when, where, or by whom the alleged abuse occurred. The plaintiff will presumably testify that some abuse occurred and then the defendant will be left to defend a case with no specifics, no witnesses (other than the victim), and no documents. In many of these cases, the defendant is left to pay for the defense itself, since insurance policies have long since been discarded (because this Court and the General Assembly said that it was safe to do so).

Another example is *Flora Hancock v. Davie County Board of Education*, 21 CVS 610 (Exhibit D), in which the Complaint provides no details other than to allege that an assault occurred in the 1980's and that the perpetrator was a "man with thick glasses." The Davie County Board of Education is left conducting interviews of people who were employed forty years ago to

determine if they recall any male employees who wore thick glasses. The process is unfair to that board of education, which is now expending its limited resources to determine the veracity of the allegations. Such stale and vague claims also put any man who was associated with the defendant and wore thick glasses in the 1980's under suspicion of the most serious of crimes. Whether the plaintiff in question was indeed abused by a man with thick glasses is unknown; bringing suit this long after the events supposedly occurred makes it all but impossible for the truth to be adjudicated.

Or, consider the example of *Arnold Johnson v. St. Cyprian's Episcopal Church*, *et al.*, 21 CVS 1045 (Granville) in which a small Episcopal church in Oxford is defending a claim allegedly from 1971. The litigation itself jeopardizes the continued existence of the church. Or, the example of *Steven Jones v. The Young Men's Christian Association of High Point*, *et al.*, 22 CVS 41 (Davidson County), in which the local YMCA is defending a claim from 1968 in which the alleged abuser was known as "Jerry."

Or, *Jamice Norman v. Boys and Girls Clubs of Coastal Carolinas, Inc.*, *et al.*, 21 CVS 3650 (Pitt County), where the local boys and girls club is expending its resources, not on after-school programs for local children, but on defending a claim where the plaintiff cannot identify the name of the alleged perpetrator or even whether the alleged perpetrator was employed by the Boys and Girls Club.

> Upon information and belief, a man whose name Plaintiff does not recall (hereinafter, "John Doe") was employed by Defendant, and/or Defendant allowed John Doe to serve as an employee or in some other capacity that placed him in direct interaction with the youth of Defendant's Boys and Girls Clubs.

Exhibit E at ¶ 14.

Court files across the State contain hundreds of similarly filed Complaints, most filed in late December 2021. *See, e.g.*, *James Dockins v. Old Hickory Council, et al.*, 21 CVS 6402 (Forsyth County) (allegations from 1956); *Billy Vick v. East Carolina Council, et al.*, 21 CVS 1059 (Lenoir County) (allegations from 1961–63); *Norma Berry v. Governor Redmond Barnes, et al.*, 21 CVS 1377 (Rutherford County) (allegations from 1968); *Kathy Crider v. Iredell-Statesville Bd. of Educ.*, 21 CVS 3473 (Iredell County) (allegations from 1965-66); *John McDonald v. Bd. of Ed. of the Pub. Schs. of Robeson Cnty.*, 21 CVS 3250 (Robeson County) (allegations from 1967); *Teresa Blue v. Dundarrach Comty. Church, Inc., et al.*, 21 CVS 3251 (Robeson County) (no dates listed in complaint); *Misty Banther-Simon v. Walberg Baptist Church, et al.*, 21 CVS 42 (Davidson County) (no date); *Robert Rector v. McDowell Cnty. Bd. of Educ.*, 21 CVS 975 (McDowell County) (alleged perpetrator is deceased); *Bobby King v. McDowell Cnty. Bd. of Educ., et al.*, 21 CVS 977 (McDowell County) (alleged perpetrator is deceased); *Sarah S. Moore as Administratrix of the Estate of Stephen Robert Smith v. Presbyterian Church et al.*, 21 CVS 20598

(Mecklenburg County) (both alleged victim and alleged perpetrator are deceased).

Allowing the Revival Window to proceed will place hundreds of organizations in North Carolina in the position of having little or no ability to defend accusations of horrific conduct. Sitting in a courtroom will be a plaintiff testifying to an atrocious incident in their past, and a defendant organization (led by people who have no idea what actually happened and having few if any witnesses to ask), with the organization spending its limited dollars on lawyers rather than helping today's youth. Such a proceeding cannot find the truth. It should be repugnant to this Court and every other.

B. The Revival Window threatens fundamental notions of reliance and fairness vital to a functioning rule of law.

In 2014, this Court explained in detail the public policy reason that a statute of repose must be honored by the Legislature under all circumstances.

> [S]tatutes of repose are intended to mitigate the risk of inherently uncertain and potentially limitless legal exposure. . . . Because an applicable repose period begins to run automatically, statutes of repose give potential defendants a degree of certainty and control over their legal exposure that is not possible when such exposure hinges upon the possibility of an injury to a plaintiff that may never manifest.

Christie, 367 N.C. at 539.

The reasoning in *Christie* applies with particular acuity in the present circumstances. Entities like schools, summer camps, and after school

programs, as well as for-profit businesses, need a level of certainty about potential litigation in order to operate. While individuals may remember events, entities have no way to remember things of the past except through the employees who may still be employed and through information contained in records. Records get destroyed; witnesses move on; and that is the nature of the passage of time.

In order to manage their affairs in an orderly manner and not face sudden threats of bankruptcy, companies and school boards and other entities purchase insurance. If the book is never closed on an organization's potential liability, how can organizations plan for the future? How will contracts between entities be negotiated? How will insurance policies be obtained? A myriad of problems spring into the forefront when the back-drop of stable statutes of limitations and repose is removed. The scenario is one not contemplated by the parties when they contracted for insurance coverage. Many organizations have been left without insurance coverage at all, having been unable to locate the appropriate policies or convince the adjusters that the policy attaches.

The ancillary litigation (such as insurance coverage disputes) that will arise from the Revival Window (and any subsequent revival windows enacted by the Legislature) is likely to be yet another astronomical expenditure of resources. Questions must be litigated about whether insurance coverage

existed and what it covered—and the same challenges of finding witnesses and documents from decades ago to determine the rights and obligations of the parties will persist, this time between the insurer and insured.

In addition to all organizations building their insurance policies and document retention policies around the statute of limitations, public bodies in North Carolina are required to follow a records retention schedule set by the State of North Carolina. N.C.G.S. § 132-8.1. The records retention schedule in place from 1999 to 2019 (applicable in this suit) directed local education agencies such as the Gaston County Board of Education to dispose of documents, such as personnel records, that would now be necessary to defend the claims revived by the Revival Window. (The Records Retention Schedule applicable from 1999 to 2019 is attached hereto as Exhibit F). Now, after the local boards of education followed that records retention schedule and destroyed various documents, the State of North Carolina enacted the Revival Window and then intervened in this lawsuit to defend its constitutionality. This is the pinnacle of caprice and unfairness. It is another illustration of why the Law of the Land Clause exists: to protect North Carolinians from such drastically harmful changes in the rule of law.

It is problems such as these that make stare decisis such an important element of this analysis. *Wilkes County* should be upheld not simply because it is supported by significant precedent, but because it has afforded a stability in

the law on which people rely. *State v. Berger*, 368 N.C. 633 (2016) ("Adhering to this fixed standard ensures that we remain true to the rule of law, the consistent interpretation and application of the law."); *West v. Hoyle's Tire & Axle, LLC*, 383 N.C. 654, 659 (2022) (discussing the purpose of stare decisis to promote uniformity and consistency in the law); *Bulova Watch Co. v. Brand Distribs.*, 285 N.C. 467, 472 (1974) (observing that stare decisis "promotes stability in the law and uniformity in its application").

C. Eliminating the vested rights doctrine will open the floodgates to litigating the distant past.

If this Court determines that no claim is ever truly dead, a fundamental change will occur. The General Assembly will suddenly have the authority to unleash creative attorneys and aggrieved claimants to flood the courts with long-extinguished claims, whether arising from child abuse or whatever next issue the General Assembly decides to resurrect. Litigation is not the only way for society to move forward, and in the case of barred claims, this Court has held squarely that what the General Assembly has done here is not constitutional.

While, in plaintiffs' view, the Legislature should be free to resurrect whatever claims it wants, a few examples are illustrative. Workplace sexual harassment is currently largely subject to a three-year statute of limitations for tort claims. *Bryant v. Thalhimer Bros., Inc.*, 113 N.C. App. 1, 13 (1993);

Morrison-Tiffin v. Hampton, 117 N.C. App. 494, 499–500 (1995). Current conditions understand workplace sexual harassment and its harms far better than it was understood when women first entered the workplace in meaningful numbers. But the Legislature, under the Court of Appeals' analysis, is presently free to revive claims previously barred by time, and have employers today litigate the acts of their predecessors in front of juries that will by their very nature apply today's standards.

Another particularly problematic area of revival is in claims for reputational harm. Currently, the statute of limitations for defamation is one year from the date the defamatory words are published, regardless of when discovered by the Plaintiff. N.C.G.S. § 1-54(3); *Horne v. Cumberland Cnty. Hosp. Sys., Inc.*, 228 N.C. App. 142, 150 (2013). Suppose future members of the General Assembly discover years later something defamatory was said, that caused them reputational harm—under the Court of Appeals' plurality analysis, they could simply revive claims for defamation.

The possibilities of relitigating our shared history, and shifting the cost of the harms done in the past onto today's organizations, are endless. There is no way to manage that type of liability or risk. The Legislature has always been constrained by the Law of the Land Clause, and with good cause.

D. The benefits of eliminating the protections afforded by the vested rights doctrine, as offered by plaintiffs, are illusory.

In weighing the radical course change demanded by plaintiffs, the Court should consider the reasons offered by Plaintiffs for this radical reversal of the law and compare those against the harm to the Board and similar organizations caused by reviving expired claims. Below are the only reasons offered by plaintiffs to the Court of Appeals, in their own words, for allowing the Legislature to revive claims:

1. "[G]ive survivors long-overdue access to the court." Victims of child abuse have always had access to the courts, typically until at least age twenty-one for civil claims and twenty-eight depending on when the claim was discovered. As discussed below, survivors have the ability to press criminal charges because such crimes are felonies and have no statute of limitations.
2. "[E]nsure that abusers and their enablers pa[y] for some of the moral and financial costs of their abuse." To the extent plaintiffs refer to punishment, sexual abuse of minors is a felony in North Carolina for which there is no statute of limitations. *See, e.g.*, *State v. Johnson*, 275 N.C. 264, 271 (1969) ("In this State no statute of limitations bars the prosecution of a felony."). Therefore, victims of child abuse have always had an unlimited amount of time to identify and seek the prosecution of their abusers (and thereby prevent future abuse).

3. "[H]elp identify abusers to prevent them from harming more children." As demonstrated in Exhibit A and the discussion *supra*, many of the lawsuits that have been filed under the Revival Window failed to identify the alleged perpetrator of abuse by name. Further, there is no time limit on identifying and criminally prosecuting abusers. To the extent that child abusers can be dissuaded from misconduct, it is the current threat of long prison sentences, not the possibility of revived civil liability, that would have an effect.
4. The Revival Window "shifts the tremendous costs of abuse away from victims and their communities." It is unclear how reviving old claims "shifts . . . costs of abuse away from [the victims'] communities." Criminal sentences already frequently include orders of restitution. Civil claims would be brought on behalf of individual victims and the money would be paid by the people of Gaston County in this particular case to plaintiffs and their attorneys. The reality is the *opposite* of what Plaintiffs have offered: the flow of money will be *from* the organizations who are trying to help today's children to purported victims and their agents. Many of the organizations, including the Gaston County Board of Education, are funded by their "communities," so an award of damages will impose costs on the community for things that happened decades earlier.

5. Reviving expired claims will prevent *future* child abuse. This goal undergirds much of plaintiffs' arguments, yet there has never been any explanation as to how resurrecting decades-old claims will do anything to protect people in the future. If a person is not discouraged from child abuse by the threat of spending decades in prison, then imposing civil liability for abuse that occurred in the distant past will certainly not work. Instead, children will be protected in the future by the other requirements implemented in the SAFE Child Act.[15] These are good and important reforms that will impact all manner of organizations and the children those organizations serve; but arguing the revival of old claims will prevent future child abuse simply defies common sense.

In short, while the rest of the SAFE Child Act is an overdue, important piece of legislation to prevent child abuse in the future, nothing indicates that the Revival Window itself would have any of the positive effects offered by plaintiffs. Balanced against this is the flood of negative impacts from stripping citizens of their rights, discussed above.

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[15] For example, the SAFE Child Act increases the mandatory reporting obligations for all North Carolinians, provides for critical training of school personnel, adds protections from online sexual predators, and even expands the current statute of limitations from three years to ten years. The Board commends the Legislature for enacting these other provisions and none of them are in dispute in this litigation.

Child abuse is among the worst evils that can be perpetrated. Child abusers must be identified and future abuse must be prevented. But reviving claims against schools and other organizations that are decades old will not advance those aims. As explained by this Court in *Shearin v. Lloyd*, 246 N.C. 363 (1957), and the Three-Judge Panel in this case:

> The purpose of a statute of limitations is to afford security against stale demands, not deprive anyone of his just rights by lapse of time. In some instances, it may operate to bar the maintenance of meritorious causes of action. When confronted with such a cause, the urge is strong to write into the statute exceptions that do not appear therein. In such case, we must bear in mind Lord Campbell's caution: Hard Cases must not make bad law.

(R p 105 (quoting *Congleton*, 8 N.C. App. at 574 (cleaned up))). The Board of Education respectfully asks that this Court not allow the passions of the moment to override well-established law and good public policy.

CONCLUSION

In discussing the Law of the Land Clause, the successful advocate in *Foy* stated:

> The experience of ages evinces this truth, that the judiciary generally acts with coolness and reason; but it is known to all persons of political experience, that the best and most enlightened men when placed in large assemblies, will so far partake of the heats of the moment, as frequently to concur in measures, which in their calm and retired moments they find much cause to regret.

Foy, 5 N.C. at 75.

Here too, the desire to do something that is perceived to be a remedy for an awful wrong overcame the Legislature. But what the Legislature did in their haste was impose on entities that are dedicated to helping today's children the impossible task of defending claims from decades past, and they seek to accomplish this by stripping the People of rights that they have held for centuries. However well-intentioned the Legislature may have been, the attempt to revive long-barred claims plainly violates the North Carolina Constitution and would have devastating effects on the People and organizations in this state. For all of the reasons explained herein, the decision of the Court of Appeals should be reversed and the decision of the three-judge panel should be affirmed.

Respectfully submitted this the 20th day of November 2023.

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N.C. R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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CERTIFICATE OF SERVICE

This is to certify that the undersigned counsel has this day served the forgoing document, which was filed using the N.C. Appellate Court electronic filing system, on all parties to this case via e-mail as follows:

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This the 20th day of November 2023.

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CONTENTS OF APPENDIX

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
19cvs2745	7/23/2019	New Hanover	John Does 1-14	New Hanover County Board of Education; Michael Earl kelly; et al	1993-2018	
20cvs951	2/14/2020	Forsyth	1. Joseph Cryan 2. Samuel Cryan 3. Kerry Helton 4. Thomas Hole 5. Rickey Huffman 6. Joseph Perez 7. Joshua Sizemore 8. Dustin Sprinkle 9. Michael Taylor	National Counsel of Young Men's Christian Ass'ns of the USA; Young Men's Christian Association of Northwest North Carolina; Michael Todd Pegram	1. 1992-1993 2. 1996-2000 3. 2001 4. 1991-1995 5. Not stated 6. 1992 or 1993 7. 1992 8. Unknown 9. 1992	
20cvs5842	4/13/2020	Mecklenburg	John Doe	Roman Catholic Diocese of Charlotte	1982-1984	
20cvs5841	4/13/2020	Mecklenburg	John Doe 1K	Roman Catholic Diocese of Charlotte	1977-1978	alleged abuser has died
20cvs2510	10/19/2020	Rockingham	Mark Howell; Matthew Howell; Christopher Howell	Dan River Wesleyan Church; The Wesleyan Church Corp; Georga W. Seed	Early 1990s	
20cvs1204	11/9/2020	Orange	James Doe	Occoneechee Council of Boy Scouts of America Inc.	2011	
20cvs8408	11/16/2020	Guilford	Robert A. Coles	The General Greene Council Boy Scouts of America Inc.; Old North State Council; Boy Scouts of America Inc.; James Iredell; Carl Fenske	1976	
20cvs13787	11/30/2020	Wake	Dakota Gibson	McKinley Inc.; Will Owens Jr.		
20cvs16710	12/14/2020	Mecklenburg	A.I.	Roman Catholic Diocese of Charlotte, Capuchin Franciscan Friars Province of the Sacred Stigmata of St. Francis, and Robert H. Yurgel	1997-1999	
20cvs4488	12/15/2020	Buncombe	Walter Triplette	Asheville School Inc.	1960s	
21cvs205	1/15/2021	Buncombe	Rachel Howald	Ben Lippen School; Columbia International University; Pamela Kaye Herrington	1986-1988	
21cvs2209	2/17/2021	Wake	Joseph B. Chambliss Jr. for Jane Doe	Word of God Christian Academy Inc.	2013	
21cvs851	3/2/2021	Buncombe	Charles Wilton Guy Jr.	Asheville School Inc.	1990s	
21cvs1482	4/13/2021	Buncombe	William Paul Garten	Asheville School Inc.	1969	
21cvs10855	7/6/2021	Mecklenburg	Gregory Cohane	The Home Missioners of America; Al Behm; Roman Catholic Diocese of Charlotte	1980	
21cvs3531	8/27/2021	Buncombe	John Laine	Asheville School Inc.	1968	
21cvs17138	10/28/2021	Mecklenburg	John Doe 1B	Roman Catholic Diocese of Charlotte	1985-1989	
21cvs6687	11/5/2021	Cumberland	Arcadia Lopez Valerio for Kimberly Lopez Valerio	Sampson County Board of Education		
21cvs1071	11/12/2021	Vance	Ron'Tavious S. Spencer, minor; Nina Gal Spencer	Warren Durham, Deputy Sheriff; Vance County Board of Education		

EXHIBIT A

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs18487	11/17/2021	Mecklenburg	John Doe JC	Roman Catholic Diocese of Charlotte; Mecklenburg Area Catholic Schools; Maryland Province of Society of Jesus; USA East Province of the Society of Jesus; Father Francis P. Gillespie	1996-1997	
21cvs3305	11/22/2021	Union	Tiffany Scott	Grace Fellowship Church	2000-2005	
21cvs2062	11/29/2021	Wayne	1. Christopher Beck 2. Bradford Bradshaw 3. Kenneth Clark 4. Tharoy Davis 5. Paul B. Gillis, III 6. Keith Hunter 7. David Lambert 8. Douglas Martin 9. James Merriman 10. James Oliver 11. Michael Powell 12. Richard Pruitt	Tuscarora Council of Boy Scouts of America; Does	1. 1983 2. 1983 3. 1970 4. 1965 5. 1966 6. 1986 7. 1998 8. 1970 9. 1967 10. 1956 11. 1985 12. 1972	alleged abusers unknown
21cvs4724	11/29/2021	Buncombe	1. Tommy H. Call 2. Gary Cantrell 3. Milton Carpenter 4. Scott Childres 5. Christopher Cornette 6. Charles Cornwell 7. Danny Garner 8. Jason Green 9. Joseph McCool 10. Roger Moore 11. Richard O'Kelley 12. Thomas Prince 13. Christopher E. Smith 14. Gary Tilley 15. Cody Whitted	Daniel Boone Council Inc.; Boy Scouts of America; Does	1. 1964 2. 1976 3. 1997 4. 1983 5. 1976 6. 1991 7. 1965 8. 1961 9. 1989 10. 1963 11. 1970 12. 1990 13. 1970 14. 1984 15. 1954	alleged abusers are unknown identified only as John Does 1-10.

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs5899	11/29/2021	Forsyth	Christopher Alloways-Ramsey, Mary Sloan Gilliam, Elizabeth Johnson, Heidi Rayher, Terence Steiner, Elizabeth Wilson, Christopher Soderlund, Ryan Billia, Jennifer Brown, Melissa Cummings, Megan Dant, Shannon Dooley, Fadel Friedlander-Fulkerson, Rebecca Fuller, Talbot Hall, Eric Handsman, Amanda Irwin, Jinny Pearce, Margaret Price, Kerry Quakenbush, Lucius Romeo-Fromm, Katie Ryan, Blair Tindall, Amy Trost, Lisamarie Vana, Clifford Watkins, Brooks White, Vandy Martin, Page Borger, Louise Debreczeny, Frank Holliday, Susan	JANE ELIZABETH MILLEY, individually and in her official capacity, LARRY ALAN SMITH, individually and in his official capacity, PEGGY DODSON, individually and in her official capacity, WILLIAM TRIBBY, individually and in his official capacity, DIANNE MARKHAM, individually and in her official capacity, ALAN RUST, individually and in his official capacity, RICHARD GAIN, individually and in his official capacity, NIGEL BURLEY, individually and in his official capacity, KELLY PAUL MAXNER a/k/a Kelly Paul Parsley, individually and in his official capacity, STEPHEN SHIPPS, individually and in his official capacity, E. WADE HOBGOOD, individually and in his official capacity, GRETCHEN BATAILLE individually and in her official capacity, JOHN FRANCIS MAUCERI individually and in his official capacity, ROBERT YEKOVICH individually and in his official capacity, ROBERT FRANCESCONI individually and in his official capacity, SAM GROGG individually and in his official capacity, SUSAN McCULLOUGH individually and in his official capacity, ETHAN STIEFEL individually and in his official capacity, ROBERT MURRAY individually and in his official capacity, PHILLIP DUNIGAN individually and in his official capacity, GYULA PANDI individually and in his official capacity, ROBERT CARLTON	1980s	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs4457	11/29/2021	New Hanover	Johnny Beck, et al.	Cape Fear Council, Boy Scouts of America; Does	Beck (1981);Boatwright (1997); (Dohogn (1989); Eakins (1979);Fisher (1980); Goodwin (1996); Greene (1999); Hyatt (1970); Jacobs (1978); Jenrette (1953); Johnson (1975); Lewis (1977); G. Locklear (1994); K. Locklear (1974); Lowry (1973); Luckett (1973); McCollum (1977); Mitchell (1988); Oliver (1973); Riddick (1975); Russ (2000); Salisbaury 91975); Sasser (1974); R. Simmons (1989); V. Simmons (1986); Singletary (1948); Spicer(1980); Strickland (1975); Stukes (1972); Sullivan (1972); Thompson 91996)	alleged abuser not named

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs9551	11/29/2021	Guilford	Justin Auman, et al.	Old North State Council; Boy Scouts of America Inc.; et al.	1981 (Auman); 1981 (Beck); 1992 (Brewer); Brinker (1983);Burgess (1978); Caulberg (1960); Devin Clark (1997);Tyrone Clark (1983);Cox (1986); Edwards (1995);Godwin (1982);Goins (1964); Hair (1980); Hall (1973);Hargrave (1994); Herbin (1997); Jones, Jr. (1967); Joey Jones (1993); Jordan (1997);Laing (1978);Lee (1965);Linn (1998);Mabe (1998); Maloney (1979);Marshall (1966); Martin (1975);McCollum (1986);Michael (1989); Miles (1990); Moore (1963); Parks, Jr. (2000); Peacock (1995);Phillips (1978);Porter (1979);Quate (1963);Revels (1988); Richards (1990); Riley (1957);Sims (2005);Smith	alleged abuser not named
21cvs4738	12/2/2021	Gaston	Bobby Collins	Piedmont Council Boy Scouts of America, Inc.; Evangelical Lutheran Church in America; North Carolina Synod of the Evangelical Lutheran Church in America; Lutheran Church of the Redeemer	1983-1988	alleged abuser identified as "Bill."
21cvs4736	12/2/2021	Gaston	Douglas Arant	Piedmont Council Boy Scouts of America, Inc.; Evangelical Lutheran Church in America; North Carolina Synod of the Evangelical Lutheran Church in America; Lutheran Church of the Redeemer	1981-1984	
21cvs4737	12/2/2021	Gaston	Paul Lyman	Piedmont Council Boy Scouts of America, Inc.; Evangelical Lutheran Church in America; North Carolina Synod of the Evangelical Lutheran Church in America; Lutheran Church of the Redeemer	1979-1980	
21cvs4793	12/6/2021	Buncombe	Daniel Stevens	Biltmore Baptist Church, et al.	1997-2004	
21cvs4791	12/6/2021	Buncombe	David Roddy	Daniel Boone Council Inc.; Boy Scouts of America; Black Mountain Home for Children, Youth & Families Inc.	1968	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs4792	12/6/2021	Buncombe	James Parton	Piedmont Council Boy Scouts of America Inc.; Columbus Baptist Church	1963-1967	
21cvs16194	12/7/2021	Wake	Jennifer March	Patrick Joseph Ward; West Raleigh Presbyterian Church, Raleigh, North Carolina, Presbyterian Church (U.S.A.); The Presbytery of New Hope Corporation; New Hope Presbytery Inc.; The Synod of the Mid-Atlantic of the Presbyterian Church (U.S.A.), Inc.; Presbyterian Church (U.S.A.), A Corporation; and Presbyterian Church (U.S.A.) Foundation	1999-2000	
21cvs16525	12/8/2021	Wake	Barry Webb	Occoneechee Council of Boy Scouts of America Inc.	1980	Alleged Abuser was not named specifically but referenced as an adult Scout leader in Plaintiff's scouting unit.
21cvs19844	12/13/2021	Mecklenburg	Charles Adams	Roman Catholic Diocese of Charlotte	1981-1983	
21cvs4659	12/16/2021	New Hanover	Nancy Oglesby	Ernest Jeffrey Johnson; New Hanover County Board of Education	1982-1985	
21cvs16727	12/17/2021	Wake	Antonio Gamble	Occoneechee Council of Boy Scouts of America Inc.; The General Assembly of the Christian Disciples of Christ; Wendell Christian Church	1983	Alleged abuser is named, as volunteer, a man who assisted the Den Mothers of Cub Scout Troop named Jacob.
21cvs9931	12/17/2021	Guilford	Edward Catherwood	Old North State Council; Boy Scouts of America Inc.; et al.	1960-1964	alleged abuser not named
21cvs4197	12/17/2021	Durham	Elvin Council	Boy Scouts of America; Presbyterian Church (USA); Watts Street Baptist Church; et al.	1983-1984	alleged abuser is described as a Scout Leader approximately in his thirties, approximately over 6' with a slender build, and neatly cut brownish-blond hair. He often had stubble on his face and wore a Duke University alumni shirt.
21cvs16637	12/17/2021	Wake	George Harris	Occoneechee Council of Boy Scouts of America Inc.; First Presbyterian Church of Henderson North Carolina Inc; et al.	1979-1986	alleged abuser is only described as "the BSA Scout Leader," a volunteer with the organization.
21cvs9933	12/17/2021	Guilford	Jack Clapp	Old North State Council; Boy Scouts of America Inc. Bd of Trustees; et al.	1980	
21cvs9934	12/17/2021	Guilford	John Doe 4	Old North State Council; Boy Scouts of America Inc.; Saint Paul's Evangelical Lutheran Church Inc.	1964-1968	
21cvs16638	12/17/2021	Wake	Michael J. Pleasant	Tuscarora Council of Boy Scouts of America; Mount Zion Methodist Church; et al.		
21cvs6201	12/17/2021	Forsyth	Raymond Powers	Old Hickory Council of Boy Scouts of America, Inc.; Ashe County NC; Warrensville Fire and Rescue Dept. Inc.		
21cvs9932	12/17/2021	Guilford	Robert Waller Jr.	Old North State Council; Boy Scouts of America Inc.; et al.	1968-1972	no first names of alleged abusers provided

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs16639	12/17/2021	Wake	Samuel Wayne III	Occoneechee Council of Boy Scouts of America Inc.	1979	
21cvs16636	12/17/2021	Wake	Woodrow Sandlin	Occoneechee Council of Boy Scouts of America Inc.; Hayes Barton United Methodist Church; et al.	1957-59	alleged abuser is not named
21cvs4703	12/20/2021	New Hanover	Donald Blue	Cape Fear Council, Boy Scouts of America	1976	alleged abuser is not named
21cvs2167	12/20/2021	Wayne	H.S.	Tuscarora Council, Boy Scouts of America; Warsaw Presbyterian Church	1978-1970	Alleged abuser is described as man known as Mr. Lucas, a janitor at Edwards jJunior High.
21cvs4704	12/20/2021	New Hanover	J.D.	Cape Fear Council, Boy Scouts of America; Harvest Church of the Assemblies of God	1980	alleged abuser not named but listed as John Doe
21cvs4995	12/20/2021	Buncombe	J.M.M.	Daniel Boone Council Boy Scouts of America Inc; Etowah Lions Club	1980	
21cvs9954	12/20/2021	Guilford	John Doe 4	Old North State Council; Boys Scouts of America Inc.; Young Men's Christian Assn. of Greensboro Inc.	1978-1980	
21cvs4991	12/20/2021	Buncombe	R.L.S.	Greater Alabama Council Boy Scouts of America Inc; Parker Memorial Baptist Church	Complaint not available.	
21cvs4698	12/20/2021	New Hanover	W.H.	Cape Fear Council, Boy Scouts of America; Church of the Servant Episcopal Church	1978	alleged abuser not named
21cvs3617	12/21/2021	Pitt	Clifton Gay	Pitt County Board of Education; James Watford	1986-1987	
21cvs4987	12/21/2021	Gaston	D.L.D.	Piedmont Council Boy Scouts of America, Inc; Lutheran Church of the Redeemer	1987	
21cvs1036	12/21/2021	Lenoir	J.W.F.	East Carolina Council, Boy Scouts of America, Inc.; Trinity Episcopal Church aka Chocowinity Episcopal Church	1975	
21cvs4707	12/21/2021	New Hanover	Jane Doe	New Hanover County Board of Education; Peter Michael Frank; Does	2000-2003	
21cvs4709	12/21/2021	New Hanover	John Doe	Cape Fear Council, Boy Scouts of America; Does	1973	alleged abuser not named
21cvs1261	12/21/2021	Richmond	Marshall Allred	Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church		
21cvs16847	12/22/2021	Wake	B.K.	Occoneechee Council, Boy Scouts of America Inc.	1963-64	
21cvs16991	12/22/2021	Wake	D.W.	Occoneechee Council, Boy Scouts of America Inc.	1967	
21cvs6294	12/22/2021	Forsyth	Deanna Jobe	James Richardson; Winston-Salem/Forsyth Co Board of Education	1991-1996; 2000	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs6296	12/22/2021	Forsyth	Dee Wiles	Surry County Board of Education	1979	
21cvs6351	12/22/2021	Forsyth	Diane Weaver	Surry County Board of Education	1980-1981	
21cvs6293	12/22/2021	Forsyth	Glen Atkins	Surry Co Board of Education	1982-1983	
21cvs16845	12/22/2021	Wake	J.B.	Occoneechee Council, Boy Scouts of America Inc.; Snyder Memorial Baptist Church of Fayetteville, NC	1990	alleged abuser not named
21cvs6295	12/22/2021	Forsyth	John Doe	Robert Fulton; Winston-Salem/Forsyth County Board of Education	1992-1993	
21cvs16846	12/22/2021	Wake	K.C.	Occoneechee Council, Boy Scouts of America Inc.	1965 or 1966	
21cvs16848	12/22/2021	Wake	M.L.	Occoneechee Council, Boy Scouts of America Inc.; Cumberland County Board of Education		
21cvs6299	12/22/2021	Forsyth	Natalie Baker	Church of Jesus Christ of Latter-Day Saints; et al.	1986-1989	
21cvs6272	12/22/2021	Forsyth	RDC	Old Hickory Council of Boy Scouts of America Inc.; Winston Salem-Forsyth County Schools; Winston Salem-Forsyth County Board of Education		
21cvs16849	12/22/2021	Wake	T.M.	Occoneechee Council, Boy Scouts of America Inc.	2005-06	Alleged abuse committed unamed Jon Doe, an adult employee/volunteer.
21cvs16944	12/22/2021	Wake	Tony Harris	Occoneechee Council, Boy Scouts of America Inc.; St. Michael the Archangel Roman Catholic Church	1995-1997	
21cvs16990	12/22/2021	Wake	W.S.	Occoneechee Council, Boy Scouts of America Inc.	1973	
21cvs3624	12/23/2021	Union	Jonathan Bogart	Church of Jesus Christ of Latter-Day Saints; et al.	2012	
21cvs5055	12/28/2021	Buncombe	1. Dustin Carson 2. Donald Casner 3. Justin Evans 4. Tucker Holton 5. Sammy Ingle 6. Edward Jenkins 7. Oscar Long 8. Samuel Ragsdale 9. Clyde Roberts 10. Ricky Smith 11. Michael West 12. Epsy Willard 13. James Williamson	Daniel Boone Council Inc., Boy Scouts of America; Does	1. 1995-1997 2. 1977 3. 1994 4. 2003-2004 5. 1982 6. 1985 7. 1980 8. 1959 9. 1968 10. 1973-1974 11. 1967-1968 12. 2002 13. 1992	There are a number of unknown defendants identified only as John Does 1-10.
21cvs2427	12/28/2021	Brunswick	Aaron Michael Burke Sr.	Ronnie Wayne Benton II; Brunswick County Board of Education	1987	
21cvs17030	12/28/2021	Wake	Andrew Healey	The Fellowship of Christ; Thomas Greg Fisher	1999	
21cvs281	12/28/2021	Swain	Angelia Collins	Steven Charles Maennle; Swain County Board of Education	1987	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs2694	12/28/2021	Harnett	Ann Davis	Fuquay-Varina United Methodist Church Inc.; NC United Methodist Camp Retreat Ministries Inc.; et al.	1984	alleged abuser described only as man that went by the name "Spanky" who was "a tall and muscular African-American man in his 20s."
21cvs5019	12/28/2021	Gaston	Anne Long	Gaston County Board of Education	1978	
21cvs5045	12/28/2021	Buncombe	Anthony Carson	Daniel Boone Council Inc., Boy Scouts of America	1980	alleged abuser not named
21cvs20617	12/28/2021	Mecklenburg	Anthony Duron	Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church	1972, 1975	
21cvs5021	12/28/2021	Gaston	Anthony Wilson	Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church	1982	Plaintiff was 10 years old and does not remember the name of the man who assaulted him.
21cvs1045	12/28/2021	Granville	Arnold Johnson	St. Cyprian's Episcopal Church; St. Stephen's Episcopal Church; NC Episcopal Church Foundation Ltd.; et al.	1971	No first name for alleged abuser
21cvs3474	12/28/2021	Iredell	Ashley Fine	Charles Love; Iredell-Statesville School District Board of Education	2000	
21cvs17038	12/28/2021	Wake	Bernard Hedgepeth	Occoneechee Council, Boy Scouts of America Inc.; Greater Saint Paul Missionary Baptist Church	1977-1982	alleged abuser not named
21cvs977	12/28/2021	McDowell	Bobby King	Paul Martin Schooley; McDowell County Board of Education	2000	
21cvs1078	12/28/2021	Beaufort	Bobby Lewis	Beaufort County Board of Education	1973-1976	
21cvs5042	12/28/2021	Buncombe	Boyd Adams	Daniel Boone Council Inc., Boy Scouts of America	1968	
21cvs5046	12/28/2021	Buncombe	Brian Ledbetter	Daniel Boone Council Inc., Boy Scouts of America	1991-1993	
21cvs5052	12/28/2021	Buncombe	Brian Ledford	Canton First Baptist Church; et al.	1986	
21cvs5051	12/28/2021	Buncombe	Bryan Caldwell	Biltmore Baptist Church; Biltmore Baptist Holding LLC; et al.	1984	

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21cvs1079	12/28/2021	Beaufort	Calvin Edwards	Greenville South Congregation of Jehovah's Witnesses; Greenville, North Carolina, Inc.; Watchtower Bible and Tract Society of New York, Inc.; et al.	1991	
21cvs1331	12/28/2021	Haywood	Carol Clark	Roman Catholic Diocese of Charlotte; Catholic Diocese of Raleigh; St. John the Evangelist Catholic Church; St. John Academy; Father Zaumeyer	1969-1970	
21cvs4763	12/28/2021	New Hanover	Catherine Reaves	Brynn Marr Hospital Inc.	1990	
21cvs17027	12/28/2021	Wake	Cathy Williams	Nash-Rocky Mount Board of Education	1978-1980	alleged abuser identified only as janitor named "Mr. Lucas"
21cvs4267	12/28/2021	Durham	Chad Ferguson	Durham County Bd. Of Education	1997-1999	
21cvs1369	12/28/2021	Carteret	Charles Lindburg Gillikin	Catholic Charities of the Diocese of Raleigh Inc.; The Foundation of the Roman Catholic Diocese of Raleigh Inc.; Diocese of Raleigh/Catholic Schools; Roman Catholic Diocese of Raleigh; Roman Catholic Church	1962-1964	
21cvs1680	12/28/2021	Moore	Cheyenne Lunceford	Watauga County Board of Education	1995	
21cvs3652	12/28/2021	Pitt	Clifton Gay	James Clifton Watford; Pitt County Board of Education	1986 or 1987	
21cvs2584	12/28/2021	Rowan	Crystal Galloway	Charles Clayton Moore; Lake Toxaway Baptist Church; Transylvania Baptist Association; Baptist State Convention of North Carolina Inc.; Trustees of the Baptist State Convention of North Carolina Southern Baptist Convention; The Executive Committee of the Southern Baptist Convention	1998-2000	
21cvs2583	12/28/2021	Rowan	Crystal White	Rowan-Salisbury Board of Education; First Assembly of God of Salisbury; et al.	1979	
21cvs5018	12/28/2021	Gaston	Cynthia Brittain	Andrea Huffsteler Beason; Gaston County Board of Education	1973-1976	
21cvs10089	12/28/2021	Guilford	Darryl Montjoy	Old North State Council, Boy Scouts of America Incorporated; Davis Street United Methodist Church and North Carolina Conference, Southeastern Jurisdiction of the United Methodist Church, Inc.	1974	no first name for alleged abuser
21cvs5041	12/28/2021	Buncombe	David Allen	Daniel Boone Council Inc., Boy Scouts of America; Pee Dee Area Council Inc., Boy Scouts of America	1992	
21cvs3472	12/28/2021	Iredell	David Ingram	Iredell-Statesville School District Board of Education	1979-1980	
21cvs17072	12/28/2021	Wake	David Jackson	Occoneechee Council, Boy Scouts of America Inc.	1979-1981	no last name for alleged abuser

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21cvs4773	12/28/2021	New Hanover	Derrick Black	Cape Fear Council, Boy Scouts of America Inc.	1978	Alleged abuser referenced as Eagle Scouts doe 1 and doe 2 who supervised the cub scout group
21cvs20612	12/28/2021	Mecklenburg	Dominique Stewart	Charlotte-Mecklenburg Schools Board of Education; Bradley S. Gibson	No specific year is provided for the alleged sexual assault; it is described as having happened "during [Plaintiff's] senior year at Independence High School."	
21cvs2193	12/28/2021	Wayne	Doug Inscoe	Tuscarosa Council of Boy Scouts of America Inc.	1985-1989	Complaint does not identify or specify whether the alleged abuser was a scout leader, youth scout leader, or other boy scout personnel.
21cvs7501	12/28/2021	Cumberland	Durrell Lee McCormick	National Council of Young Men's Christian Associations of the United States of America; The Young Men's Christian Association of the Sandhills N.C. Inc.; YMCA of the Sandhills	1997-2001	no last name for alleged abuser
21cvs7496	12/28/2021	Cumberland	Evaleena Oxendine	Board of Education of the Public Schools of Robeson County	1991	
21cvs610	12/28/2021	Davie	Flora Hancock	Davie County Board of Education	1982	alleged abuser is not named but identified as "white, had dark hair, and wore thick glasses"
21cvs3651	12/28/2021	Pitt	Frederick Manning	Guilford County Board of Education	1982	
21cvs4767	12/28/2021	New Hanover	Grady W. Harvey	College Acres Baptist Church of Wilmington, Inc.; Baptist State Convention of North Carolina, Inc.; et al.	1991	
21cvs4764	12/28/2021	New Hanover	Gwendolyn Pellom	Board of Trustees of Cape Fear Community College; Cape Fear Community College Foundation Inc.	1981	Alleged abuser is janitor named, Samuel Davis, Jr.
21cvs4759	12/28/2021	New Hanover	Harry McCoy	Cape Fear Council, Boy Scouts of America	Occurred when plaintiff was under the age of 16	alleged abuser not named
21cvs1260	12/28/2021	Richmond	Honore R. Quick	County of Richmond Board of Education	1976	no first name of alleged abuser provided
21cvs7500	12/28/2021	Cumberland	Horace D. Tucker	Cumberland County; First Presbyterian Church of Spring Lake, NC; et al.	1971	
21cvs2312	12/28/2021	Henderson	Ingrid Sonne	Chadwick Hamby; Mountain Community School Inc.; Henderson County Alliance for Education Inc.	2006	
21cvs2188	12/28/2021	Wayne	JA-340 Doe	Tuscarosa Council of Boy Scouts of America Inc.; First Baptist Church	1969-1971	

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21cvs5050	12/28/2021	Buncombe	JA-341 Doe	Daniel Boone Council Inc., Boy Scouts of America; First United Methodist Church	1971-1972	
21cvs17033	12/28/2021	Wake	JA-342 Doe	Occoneechee Council, Boy Scouts of America Inc.; Christus Victor Lutheran Church	1977-1980	
21cvs17024	12/28/2021	Wake	JA-345 Doe	Occoneechee Council, Boy Scouts of America Inc.; Duke Memorial United Methodist Church	1953	
21cvs17025	12/28/2021	Wake	JA-346 Doe	Occoneechee Council, Boy Scouts of America Inc.; University of North Carolina United Methodist Church	1978-1981	
21cvs7497	12/28/2021	Cumberland	Jacqueline M. Williams-Kelly	Cumberland County Board of Education	1979-1980	alleged abuser is described only as "approximately 5'7" tall; dark skinned African American; with a beard; that always dressed in sweatpants and a t-shirt."
21cvs20619	12/28/2021	Mecklenburg	Jacqueline Maltba	Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church	1955-1959	no first name of alleged abuser provided
21cvs5064	12/28/2021	Buncombe	Jacqueline Smathers	Henderson County; Division of Adult Correction and Juvenile Safety; et al.	1991	alleged abuser identified only as "sue"
21cvs5047	12/28/2021	Buncombe	James Clark	Daniel Boone Council Inc., Boy Scouts of America; Trinity United Methodist Church of Asheville, North Carolina; et al.	1983	
21cvs17039	12/28/2021	Wake	James Hickmon	Occoneechee Council, Boy Scouts of America Inc.; Buies Creek First Baptist Church; Baptist State Convention of North Carolina Inc.; Southern Baptist Convention	1977-1979	
21cvs17015	12/28/2021	Wake	James Spell	Occoneechee Council, Boy Scouts of America Inc.	1968	alleged abuser not named
21cvs3650	12/28/2021	Pitt	Jamice Norman	Boys and Girls Clubs of Coastal Carolina Inc.; Boys Girls Clubs of the Coastal Plain; Boys Girls Clubs of the Coastal Plain Foundation		
21cvs2697	12/28/2021	Harnett	Jane Doe	Lillington Star Free Will Baptist Church; F.W.B. Corp.; et al.	1961-1962	

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21cvs4740	12/28/2021	New Hanover	Jeffery Oxendine, et al.	Cape Fear County, Boy Scouts of America Inc.; et al.	Oxendine (1975); Blackmon (1981);Capps (1977-78);Moody (2001); Cross (1980); Hundley (2000 or 2001); Wilson (1992-94); Burton (1980); Kimbro (1980-81); Hansen (1982); Lockhart (1979 and 1981); Coleman (1967 or 1968); Sipes (1984-1986); Maulden (1992); Reel (1990's); Spangler (1979); Goode (1970); Boggs (1980 or 81 and 1986 or 1987); Steed (1975-76); Massey (1969-70); Martinez (1967); Freuler (1993); Lewis (1983 and 1985); Lowry(1970); Baldwin (1988); Peddycord (1969-1975); Gillespie (1968); Edwards (1959); Murphy (1970); Williams (1989); Misenheimer (1993-96); Harris (1990); Mayfield (1967); Edwards (1962-	alleged abuser not named
21cvs17077	12/28/2021	Wake	Jerry Roberson	Occoneechee Council, Boy Scouts of America Inc.; The Methodist Home for Children Inc.	1971-72	Alleged abuser named as Scoutmaster Bob.
21cvs5017	12/28/2021	Gaston	Jessica Lukinoff	Sheila Barber; Gaston County Board of Education	2002	
21cvs17041	12/28/2021	Wake	Jessie Daniels	Diocese of Raleigh; Catholic Diocese of Raleigh; The Roman Catholic Diocese of Raleigh; et al.	1964-1968	
21cvs17062	12/28/2021	Wake	John Doe	Occoneechee Council, Boy Scouts of America Inc.	1967	
21cvs5058	12/28/2021	Buncombe	John Doe	Daniel Boone Council Inc., Boy Scouts of America; Does	Complaint not available.	

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21cvs10064	12/28/2021	Guilford	John Does #1-10	Old North State Council; Boy Scouts of America Inc.; Baptist Children's Home; Roman Catholic Diocese of Charlotte; et al.	Doe 1 (1987); Doe 2 (1983); Doe 3 (1984); Doe 4 (1998-2000); Doe 5 (1998); Doe 6 (1993-1995); Doe 7 (1981); Doe 8 (1967-1969); Doe 9 (1990-1995); Doe 10 (1979)	alleged abuser not named
21cvs10064	12/28/2021	Guilford	John Does #1-10	Old North State Council, Boy Scouts of America Inc., Baptist Children's Home, Congregational United Church of Christ Greensboro, United Church of Christ, First Presbyterian Church, Salem Presbyterian, Presbyterian Church (USA), Mebaine United Methodist Church, North Carolina Conference of the United Methodist Church, United Methodist Church a/k/a The People of the United Methodist Church, Church of Jesus Christ of Latter-Day Saints, The Corporation of the President of the Church of Jesus Christ of Latter Day Saints; Diocese of Charlotte	unclear from Complaint	

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21cvs5054	12/28/2021	Buncombe	John Does 1-30	Daniel Boone Council Inc., Boy Scouts of America; Does	1. 1980 2. 1958 3. 1988 4. 1960-1962 5. 1953 or 1954 6. 1942-1943 7. 1982 8. 1983 9. 1963 or 1964 10. 1977-1978 11. 1968 12. 1984 13. 2015 14. 1995-1996 15. 1989 16. 1966 17. 2012 18. "1984 to 1974" 19. 1975-1976 20. 1993-1996 21. 1961 22. 1995-1996 23. 1958-1960 24. 1993-1994 25. 1979-1981 26. 1943 27. 1983	There are a number of unknown defendants identified only as John Does 1-10.

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21cvs2191	12/28/2021	Wayne	John Does 1-41	Tuscarosa Council of Boy Scouts of America Inc.; Does	1. 1981 2. 1958 3. 1995-1996 4. 1986 5. 1979 or 1980 6. 1971 7. 1967-1972 8. 1961-1963 9. 1976 10. 1973-1977 11. 1969 or 1970 12. 1968-1970 13. 1981 14. 1979 or 1980 15. 1976 16. 1965 17. 1964 18. 1986-1987 19. 1969-1970 20. 2003 21. 2010	Case caption refers to John Does 1-41, but there are only 21 John Does identified in the body of the complaint. There are a number of unknown defendants identified only as John Does 1-10.
21cvs17014	12/28/2021	Wake	John KB Roe, et al.	Occoneechee Council, Boy Scouts of America Inc.; The North Carolina Conference of the United Methodist Church; et al.	John KB Roe (2010); John LH Roe (1982); John TH Roe (1975-77); John ER Rose (1975-77); John SR Roe (1982-86);	alleged abuser not named
21cvs3250	12/28/2021	Robeson	John McDonald	Board of Education of the Public Schools of Robeson County	1967	
21cvs17076	12/28/2021	Wake	John Swain	Occoneechee Council, Boy Scouts of America Inc.; Ridge Road Baptist Church	1966-1967	
21cvs5016	12/28/2021	Gaston	Joseph Bostic	Anthony Lapierre Phroneburger; Gaston County Board of Education	2013	
21cvs17029	12/28/2021	Wake	Joseph Stancil	Church of the Living God; Jonathan Wayne Ballard	1995	
21cvs17073	12/28/2021	Wake	Joshua Miller	Occoneechee Council, Boy Scouts of America Inc.	1991	
21cvs1387	12/28/2021	Wilkes	Judy A. Joya	Wilkes County Board of Education	1973-74	alleged abuser only identified as "an older man, with hair thinning on top, chubby, with black rimmed glasses."
21cvs5053	12/28/2021	Buncombe	Justin Calixte	Blue Ridge Council, Boy Scouts of America; First Presbyterian Church of Clinton, South Carolina; et al.	1994-2003	alleged abuser not named
21cvs5048	12/28/2021	Buncombe	K.W.	Daniel Boone Council Inc., Boy Scouts of America	1999-2004	alleged abuser not named

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21cvs3473	12/28/2021	Iredell	Kathy Crider	Iredell-Statesville School District Board of Education	1965-1966	
21cvs17045	12/28/2021	Wake	Kenneth Beasley	Occoneechee Council, Boy Scouts of America Inc.; Hope Mills United Methodist Church; The North Carolina Conference, Southeastern Jurisdiction, of the United Methodist Church		
21cvs20609	12/28/2021	Mecklenburg	Kiera Medley	Stephen Irvin; New Beginning Baptist Church	1998	
21cvs17031	12/28/2021	Wake	Leon Turner	Wake County Board of Education	1974-1975	first name of alleged abuser not identified
21cvs1668	12/28/2021	Craven	Lori Newkirk-Baker	James City Congregation of Jehovah's Witnesses; New Bern North Carolina Congregation of Jehovah's Witnesses Inc.; et al.	1972-1981	
21cvs4762	12/28/2021	New Hanover	Luther Stukes	Cape Fear Council, Boy Scouts of America; Does	1968	alleged abuser not named
21cvs17060	12/28/2021	Wake	LyCurtis Cuffee	Wake County Board of Education; Lorna Hanson	1992-1993	
21cvs1080	12/28/2021	Beaufort	Mary Coleman	Pitt County Board of Education	1968	
21cvs20615	12/28/2021	Mecklenburg	Maurice Johnson	Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church	1985-1986	alleged abuser is named as John Doe and described as approximately 60 years, white, of slim build, with dark brown hair.
21cvs2706	12/28/2021	Davidson	Meredith A. Beal	Walter Clark Rogers Jr.; Blainewood Inc. ; M and M Frame Co. Inc.; et al.	1988-1992	
	12/28/2021	Durham	Michael Mitchell	Durham County Bd. Of Education	1990-1993	
21cvs3477	12/28/2021	Iredell	Mikeal Campbell	Iredell-Statesville School District Board of Education; Pamela Winger	1996-1999	
21cvs3133	12/28/2021	Catawba	Misty Mumcuoglu	John Robert Jones; Connelly Springs First Baptist Church; et al.	1990	
21cvs1681	12/28/2021	Moore	Misty Willaimson-Sanders	Moore County Bd. Of Education	1978-1984	
21cvs2585	12/28/2021	Rowan	Natasha Jones	Rowan-Cabarrus Young Men's Christian Association; The Young Men's Christian Association of Rowan County, N.C. Inc.; National Council of Young Men's Christian Associations of the United States of America	2002	alleged abuser is identified as John Doe, a black man of approximately 20 years old, approximately 6'2", 180 lbs, with a goatee.
21cvs3653	12/28/2021	Pitt	Nicholas Haddock	Pitt County Board of Education	1987	
21cvs1377	12/28/2021	Rutherford	Norma Berry	Governor Redmond Barnes, Jr.; Sardis Baptist Church; Sardis Baptist Church, Inc.; et al.	1968	

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21cvs5049	12/28/2021	Buncombe	Olivia Wells	Richard Albert Ellis II; Thomas Ray Stevens; Rebecca C. Watkins; Rocky Mount Academy	Complaint not available.	
21cvs5020	12/28/2021	Gaston	Patricia Bell	Robert Yurgel, Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church	1998-1999	
21cvs3254	12/28/2021	Robeson	Percell Jones, Jr.	Catholic Charities of the Diocese of Raleigh, Inc.; The Foundation of the Roman Catholic Diocese of Raleigh, Inc.; Roman Catholic Diocese of Raleigh; Roman Catholic church	1967-1969	
21cvs5022	12/28/2021	Gaston	R.B.	Piedmont Council Boy Scouts of America, Inc.; Evangelical Lutheran Church in America; North Carolina Synod of the Evangelical Lutheran Church in America; Lutheran Church of the Redeemer	1984	
21cvs17066	12/28/2021	Wake	Ralph Saunders	Spring Forest Congregation of Jehovah's Witnesses; Watchtower Bible and Tract Society of New York Inc.; et al.	1992	
21cvs1840	12/28/2021	Burke	Rhonda Fox	Burke County Board of Education		
21cvs4761	12/28/2021	New Hanover	Robert Alley, et al.	Cape Fear Council, Boy Scouts of America; Does	Alley (1983-1991); Anthony (1978); Brayboy (1994-95); Mark Brown (1979-1980); Chavis (1977); Dempsey (1949-53); Elkins (1998); Goodwin (1997); Graham (1977); Jones (1985); Kelsay (1994); McKenzie (2000-01); Morgan (1980); Newsome (1986-1990): Novak (2006); Parker (1997); Perkins (1961); Peterson (1991-94); Rivenbark (1987); Salisbury (1974-75); Serrano (1995); Tolbert (1983); Walters (1958)	alleged abuser not named
21cvs4094	12/28/2021	Onslow	Robert Gonzalez	Roman Catholic Charities of the Diocese of Raleigh, Inc.; The Foundation of the Roman Catholic Diocese of Raleigh, Inc.; The roman Catholic Diocese of Raleigh; The Roman Catholic Church	1974-1976	
21cvs975	12/28/2021	McDowell	Robert Rector	McDowell County Board of Education	1976-1977	
21cvs4774	12/28/2021	New Hanover	Rodney Calhoun	Cape Fear Council, Boy Scouts of America Inc.	1976	
21cvs609	12/28/2021	Davie	Roseanna Luck	Davie County Board of Education	1993	

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21cvs17061	12/28/2021	Wake	Russell Willis Tarlton III	Athens Drive Baptist Church Inc. of Raleigh, North Carolina; Southern Baptist Convention; et al.	1981	
21cvs2194	12/28/2021	Wayne	Scottie Gray; Amber McCammon; James Powell; Richard Sherman; Lee Waddell	Tuscarosa Council of Boy Scouts of America Inc.; Does	1. 1986 2. 1991 3. 1974 4. 2002 5. 1988	Unknown defendants are identified as John Does 1-10.
21cvs1040	12/28/2021	Lenoir	Shawn Robinson; Stefon Robinson	Lenoir County Board of Education	1994	
21cvs3132	12/28/2021	Catawba	Shelley Whelchel	Catawba County Board of Education		
21cvs???	12/28/2021	Robeson	Shelly Romero	Cliffdale Congregation of Jehovah's Witnesses; Watchtower Bible and Tract Society of New York, Inc.; et al.	1982	
21cvs1665	12/28/2021	Caldwell	Stacey Sheppard	Caldwell County Board of Education	1988-1991	
21cvs17037	12/28/2021	Wake	Stephen Martin	Bethel United Methodist Church, et al.	1974-1982	
21cvs17043	12/28/2021	Wake	Steven Harris	Occoneechee Council, Boy Scouts of America Inc.	1968	
22cvs41	12/28/2021	Davidson	Steven Jones	The Young Men's Christian Association of High Point, Inc.; The YMCA of Greater High Point Foundation, Inc.; and National Council of Young Men's Christian Associations of the United States of America	1968	alleged abuser identified only as "jerry"
21cvs2187	12/28/2021	Wayne	Steven Rupert	Tuscarosa Council of Boy Scouts of America Inc.	1979	alleged abuser is described only as an "unknown Scout leader."
21cvs2704	12/28/2021	Davidson	Tammy McCollum: Wendy Grotelueschen	Davidson County; Baptist Children's Homes of NC Inc.; Baptist Children's Homes of NC Foundation Inc.	complaint does not provide a year or time period for the allegations.	
21cvs3251	12/28/2021	Robeson	Teresa Blue	Dundarrach Community Church, Inc.; Dundarrach Baptist Church; Baptist State Convention of North Carolina, Inc.; et al.	1977	
21cvs17051	12/28/2021	Wake	Terry Byrd	Occoneechee Council, Boy Scouts of America Inc.	1974 or 1975	Alleged abuse committed by scout leader named Tom.
21cvs5043	12/28/2021	Buncombe	Thomas Pleis	Daniel Boone Council Inc., Boy Scouts of America; Central Florida Council Boy Scouts of America Inc.; Blessed Sacrament Catholic Church, Diocese of Orlando	1995-1998/1999	The alleged abuse was carried out by a "Scoutmaster possibly named Don."
21cvs20622	12/28/2021	Mecklenburg	Timothy Baldwin	Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church	1982	
21cvs2695	12/28/2021	Harnett	Tomise Jones	Wake County Board of Education	1982	alleged abuser identified as "Mr. Murphy."

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21cvs20601	12/28/2021	Mecklenburg	Tracy Nivens	Carmelite Nuns of the Diocese of Charlotte; Catholic Charities Diocese of Charlotte; Catholic Diocese of Charlotte Advancement Corporation; Catholic Diocese of Charlotte Housing Corporation; the Foundation of the Roman Catholic Diocese of Charlotte; Roman Catholic Diocese of Charlotte; Roman Catholic Church	1996	alleged abuser identified as John Doe and described as a Caucasian male, about 6'0" tall, with blue eyes, approximately in his 40s. He "may have had salt and pepper hair" and drove a red Corvette.
21cvs5044	12/28/2021	Buncombe	William Evans	Daniel Boone Council Inc., Boy Scouts of America	1995	alleged abuser is described as "older boy from another troop at Camp Daniel Boone."
21cvs3623	12/28/2021	Union	William Goodman	Brunswick County Board of Education	1976	
21cvs17042	12/28/2021	Wake	William McCleary	Occoneechee Council, Boy Scouts of America Inc.; Carolina Pines Baptist Church; South Raleigh Civitan Club	1967 or 1968	
21cvs5065	12/28/2021	Buncombe	William Roberts	Young Men's Christian Association of Western North Carolina Inc.; National Council of Young Men's Christian Associations of the United States of America	Complaint not available.	
21cvs3252	12/28/2021	Robeson	Willie Carter	Catholic Charities of the Diocese of Raleigh, Inc.; The Foundation of the Roman Catholic Diocese of Raleigh, Inc.; Diocese of Raleigh/Catholic Schools; Diocese of Raleigh Virtual School, Inc.; Roman Catholic Diocese of Raleigh; Roman Catholic Church	1967-1969	
21cvs1056	12/29/2021	Lenoir	Alton Modlin	East Carolina Council; Boy Scouts of America, Inc.; First Baptist Church of Washington, N.C.; et al.	2002-2006	
21cvs17128	12/29/2021	Wake	Ben Wiley	Roman Catholic Diocese of Raleigh; Blessed Sacrament Catholic Parish of Graham	1984-1988	Plaintiff does not know the names of the priest and his relative that allegedly abused him.
21cvs1059	12/29/2021	Lenoir	Billy Vick	East Carolina Council; Boy Scouts of America, Inc.; First Baptist Church of Rocky Mount; et al.	1961-1963	
21cvs5095	12/29/2021	Buncombe	Brian Parra	Daniel Boone Council Inc., Boy Scouts of America; North Florida Council Inc., Boy Scouts of America; Holy Faith Catholic Church; Diocese of St. Augustine Inc.; Archdiocese of Miami Inc.		
21cvs4752	12/29/2021	New Hanover	Charles Roethlinger	Cape Fear Council, Boy Scouts of America; Cape Fear Presbyterian Church Inc.; The Presbytery of Coastal Carolina Inc.	1959-1965	
21cvs10117	12/29/2021	Guilford	Christopher Rogers	Todd Hall Godbey; Randolph County Board of Education	1989-1996	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs1683	12/29/2021	Craven	Cody Dawson	East Carolina Council of Boy Scouts of America Inc.	2006	The complaint identifies the persons who allegedly abused plaintiff as Youth Scout Doe 1, Youth Scout Doe 2, and Youth Scout Doe 3.
21cvs2647	12/29/2021	Alamance	David Knighten	Jose Luis Alegria; Alamance Burlington Board of Education	2000	
21cvs2199	12/29/2021	Wayne	David Williams	Tuscarosa Council of Boy Scouts of America Inc.	1984-1987	
21cvs2207	12/29/2021	Wayne	Eric Poirier	Tuscarosa Council of Boy Scouts of America Inc.	1981-1983	alleged abuser is described only as "the Scout Leader."
21cvs10109	12/29/2021	Guilford	JA-344 Doe	Old North State Council, Boy Scouts of america, Inc.; West Market Street United Methodist Church	1976-1977	
21cvs4753	12/29/2021	New Hanover	Jack Morris	Cape Fear Council, Boy Scouts of America; Boys and Girls Home of North Carolina Inc.	1985-1986	
21cvs5090	12/29/2021	Buncombe	Jacob McClintock	Daniel Boone Council Inc., Boy Scouts of America; Does	Complaint not available.	
21cvs6402	12/29/2021	Forsyth	James Dockins	Old Hickory Council; Boy Scouts of America, Inc.; et al.	1956	
21cvs2205	12/29/2021	Wayne	John Doe	Tuscarosa Council of Boy Scouts of America Inc.	1980-1982	alleged abuser not named
21cvs17131	12/29/2021	Wake	John Doe	Occoneechee Council of Boy Scouts of America Inc.; Christus Victor Lutheran Church; The American Association of Lutheran Churches	1968	
21cvs20565	12/29/2021	Mecklenburg	John Doe	Roman Catholic Diocese of Charlotte	1980	
21cvs17126	12/29/2021	Wake	John Doe J.B.	Roman Catholic Diocese of Raleigh; Immaculate Conception Catholic Parish of Wilmington	1982-1983	
21cvs17127	12/29/2021	Wake	John Doe N.S.	Roman Catholic Diocese of Raleigh; St. Mary's Catholic Church; St. Mary's Catholic School	1970-1972	
21cvs2208	12/29/2021	Wayne	John Does 1-2	Tuscarosa Council of Boy Scouts of America Inc.; First Baptist Church; 408 College Street, Clinton, North Carolina, Does	1. 1986-1988 2. 1991	There are a number of unknown defendants identified only as John Does 1-10.
21cvs4769	12/29/2021	New Hanover	John Does 1-5	Cape Fear Council, Boy Scouts of America; St. Andrews Presbyterian Church; et al.	Doe 1 (1960's); Doe 2 (1988); Doe3 (2002-04); Doe 4(1973-75); Doe 5(1970's)	alleged abuser not named
21cvs4755	12/29/2021	New Hanover	John McDonald	Cape Fear Council, Boy Scouts of America; Pleasant Grove Missionary Baptist Church of St. Pauls NC; Pleasant View Missionary Baptist Church	1966-1968	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs10087	12/29/2021	Guilford	Jonathan Lawson	Old North State Council; Boy Scouts of America, Inc.; First Presbyterian Church of Greensboro, NC, Inc.	1986	
21cvs6393	12/29/2021	Forsyth	Joseph W. Denny	Old Hickory Council of Boy Scouts of America, Inc.; Chris Moravian Church; et al.	1962-1970	
21cvs20325	12/29/2021	Mecklenburg	Kathleen Bourque	Roman Catholic Diocese of Charlotte and Bishop Peter J. Jugis	2013-2014	
21cvs2195	12/29/2021	Wayne	Kenneth Stanley	Tuscarosa Council of Boy Scouts of America Inc.	1981 or 1982	alleged abusers identified only as "two other older scouts, in leadership positions, approximately 16 years old."
21cvs4756	12/29/2021	New Hanover	Marico Best	Cape Fear Council, Boy Scouts of America; Whiteville American Legion Post 137 Inc.	1979 or 1980	Alleged abuse committed by unknown scoutleader
21cvs10111	12/29/2021	Guilford	Paul Jones	Old North State Council, Boy Scouts of America Inc.; Uwharrie Council, Boy Scouts of America, Inc.; et al.	1984-1986	
21cvs1392	12/29/2021	Wilkes	Rachel Goodrich-Wilkes	The Corporation of the Presidents of the Church of Jesus Christ of Latter-Day Saints; the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints; Frank Whitney	1988-1994	
21cvs10116	12/29/2021	Guilford	Raymond Wolford	Old North State Council, Boy Scouts of America, Inc.; Uwharrie Council (BSA); General Greene Council (BSA); Cherokee Council (BSA); Protestant Episcopal Church of the USA, Inc.; Episcopal Diocese of North Carolina; Episcopal Church of the Messiah	1979-1981	
21cvs10113	12/29/2021	Guilford	Richard Lewis	Baptist Children's Homes of North Carolina, Incorporated; Southern Baptist Convention; et al.	1973	
21cvs10098	12/29/2021	Guilford	Robert Duhart	Old North State Council; Boy Scouts of America, Inc.; First Missionary Bapitist Church of Thomasville, Inc.; et al.	2002	
21cvs10084	12/29/2021	Guilford	Robert Hackworth	The Corporation of the President of the Church of Jesus Christ of Latter-Day Saints; the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints; Bishop Fisher	1989-1991	
21cvs4754	12/29/2021	New Hanover	Stephen Brinkley	Cape Fear Council, Boy Scouts of America	1975 or 1976	
21cvs20671	12/29/2021	Mecklenburg	Thinh Tran	Diocese of Charlotte, Roman Catholic Diocese of Charlotte, St. Joseph Vietnamese Catholic Church, Saint Joseph Catholic Parish, St. Joseph Catholic Church	2001-2006	
21cvs20672	12/29/2021	Mecklenburg	William Robinson	Diocese of Charlotte, Roman Catholic Diocese of Charlotte, St. Margaret Mary, St. Margaret Mary's Catholic Church, St. Margaret Mary's Catholic School	1977-1978	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs5096	12/29/2021	Buncombe	William T. Williamson	Daniel Boone Council Inc., Boy Scouts of America; First Presbyterian Church of Asheville NC (USA) Inc. aka First Presbyterian Church of Asheville and FPCA; et al.	1992-1996	
21cvs5113	12/30/2021	Buncombe	1. Blue L. Bryan 2. Danny M. Cook 3. Franklin Curtis 4. Mel Edwards 5. Jeffery S. Goins 6. Frederick Hall 7. Donald Miller	Daniel Boone Council Inc., Boy Scouts of America	1. 1982-1988 2. 1962-1963 3. 1960 4. 1959 5. 1973 6. 1964 7. 1969	alleged abuser not named
21cvs2218	12/30/2021	Wayne	1. Frank Cox 2. Alvin Godwin 3. Kenneth E. Hobbs	Tuscarosa Council of Boy Scouts of America Inc.	1. 1982 2. 1974-1975 3. 1960-1962	alleged abuser not named
21cvs4780	12/30/2021	New Hanover	Atlas Jones; et al.	Cape Fear Council, Boy Scouts of America	Jones (1955-59); McCray (1969);Vereen (1981-83);Warren (1969); Peirce (1963-65); Robinson (2002); Deavers (1967)	alleged abusers names not provided
21cvs5112	12/30/2021	Buncombe	David A. Clapp; et al.	Cape Fear Council, Boy Scouts of America, Central North Carolina Council Inc.; et al.		
21cvs20755	12/30/2021	Mecklenburg	Douglas Dickerson	Roman Catholic Diocese of Charlotte, NC, St. Elizabeth of the Hill County Catholic Church, Catholic Campus Ministry, Maryland Province of the Society of Jesus, and USA East Province of the Society of Jesus	1991	
21cvs7538	12/30/2021	Cumberland	Durrell McCormick	National Council of Young Men's Christian Associations of the United States of America; YMCA of the Sandhills; The Young Men's Christian Association of the Sandhills N.C. Inc.	1989	alleged abuser not specifically named
21cvs17179	12/30/2021	Wake	Gary Brock; et al.	Occoneechee Council of Boy Scouts of America Inc.	Brock (1974-78); Freeman (1966); Harris (1969-74); Holt (1979-86); Painter (1934); Stevens (1972-73); Swinton (1964-66); Thomas (1985-89); Turner (1975); Whitley (1960);	alleged abusers not identified by names
21cvs17189	12/30/2021	Wake	J.C.	Occoneechee Council of Boy Scouts of America Inc.; Does	2004	alleged abusers not identified by names

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs20727	12/30/2021	Mecklenburg	J.W.	Roman Catholic Diocese of Charlotte; St Mary's Roman Catholic Church	1977-1980	
21cvs17193	12/30/2021	Wake	James D. Thomas	Occoneechee Council of Boy Scouts of America Inc.	1977	Alleged abuser is not named and referenced as Adult Scout Leader.
21cvs17191	12/30/2021	Wake	James E. Ferebee Sr.	East Carolina Council, Boy Scouts of America Inc.; Sherwood Forest Free Will Baptist Church; NC United Methodist Camp Retreat Ministries Inc.	Between 1977 or 1978 - 1982	
21cvs20591	12/30/2021	Mecklenburg	Jane Doe	Diocese of Raleigh; Catholic Diocese of Raleigh; Diocese of Raleigh; Basilica Shrine of Sait Mary-Wilmington; Roman Catholic Diocese of Charlotte a/k/a Diocese of Charlotte, NC a/k/a Dioecesis Carolinana; Our Lade of Assumption; Maryland province of the Society of Jesus; USA East Province of the Society of Jesus; Francis P. Gillespie	Early and mid-1990s	
21cvs20600	12/30/2021	Mecklenburg	Jeffrey Alan Smith, Melanie Jansen, Daniel Robinson, Dale Gilliland, Barbara Jo Gilliland Jones, and Susan Semons	SIM USA, INC.		
21cvs6437	12/30/2021	Forsyth	John Doe	General Council of the Assemblies of God; National Royal Rangers Ministries; Assembly of God Youth Ministries; Ronnie Brewer; et al.	1980-1981	
21cvs1081	12/30/2021	Lenoir	John Doe	East Carolina Council, Boy Scouts of America, Inc.; Disciples of Christ, Inc.; Christian Church (Disciples of Christ) in NC; Vanceboro Christian Church	1976-1986	
21cvs17163	12/30/2021	Wake	John Doe M.G.	Roman Catholic Diocese of Raleigh	Early and mid-1990s	
21cvs20752	12/30/2021	Mecklenburg	John Doe RJ	Roman Catholic Diocese of Charlotte and Our Lady of Consolation Church	1973-1976	
21cvs20751	12/30/2021	Mecklenburg	John Doe RT	Roman Catholic Diocese of Raleigh; Our Lade of the Assumption Church	It is not clear when the alleged abuse occurred. Plaintiff was born in 1943 and the abuse is said to have occurred "when he was a child."	
21cvs20753	12/30/2021	Mecklenburg	John Doe RT	Roman Catholic Diocese of Charlotte and Our Lady of Consolation Catholic Church	1973-1976	
21cvs5105	12/30/2021	Buncombe	John Does 1-3	Daniel Boone Council Inc., Boy Scouts of America	Complaint not available.	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs17145	12/30/2021	Wake	John Does 1-33	1. Occoneechee Council Inc Boy Scouts of America 421 2. Boy Scouts of America Central NC Council #416 3. East Carolina Council BSA 4. Mecklenburg County Council-Boy Scouts of America 5. Old Hickory Council Inc. 6. Old North State Council Inc. 7. Piedmont Council Inc BSA 8. Boy Scouts of America Council 596 Tidewater 9. Boy Scouts of America Tuscaroroa Council 10. Boy Scouts of America Council 438 Dan Beard 11. Greater Tampa Bay Area Council Inc. Boy Scouts of America 12. Gulf Stream Council of Boy Scouts of America 13. Palmetto Council 14. South Florida Council In Boy Scouts of America 15. Saint James Lutheran Church 16. Durham Lions Club 17. Garner United Methodist Church 18. St. Paul's in the Pines Episcopal Church 19. Westminster Presbyterian Church 20. First Baptist Church of New Bern 21. St. Christopher's Episcopal Church	1. 1951 2. 1979 3. 1998-1999 4. 1997 5. 1999 6. 1973 7. 1956 8. 1963-1964 9. 1979 10. 1979-1980 11. 1966 -1968 12. 2001-2002 13. 1972-1976 14. 1974 15. 1970-1971 16. 1954-1955 17. 1969-1971 18. 1977-1978 19. 1958 20. 1989 21. 1966 22. 1985-1986 23. 1980 24. 1989-1990 25. 1992-1994 26. 1976-1982 27. 2005	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cv017145	12/30/2021	Wake	John Does 1-33	Occoneechee Council Inc Boy Scouts Of America 421; Boy Scouts Of America Central Nc Council #416; East Carolina Council Bsa; Mecklenburg County Council – Boy Scouts Of America; Old Hickory Council Inc; Old North State Council Inc; Piedmont Council Inc Bsa; Boy Scouts Of America Council 596 Tidewater; Boy Scouts Of America Tuscarora Council; Boy Scouts Of America Council 438 Dan Beard; Greater Tampa Bay Area Council Inc Boy Scouts Of America; Gulf Stream Council Of Boy Scouts Of America Inc; Palmetto Council; South Florida Council Inc Boy Scouts' Of America; Saint James Lutheran Church; Durham Lions Club; Garner United Methodist Church; St. Paul's-in-the-pines Episcopal Church; Westminster Presbyterian Church-raleigh; First Baptist Church Of New Bern; St. Christopher's Episcopal Church; Cokesbury United Methodist Church; Myers Park United Methodist Church; Independent Order Of Odd Fellows; First Presbyterian Church; West Market Street United Methodist Church; Westminster Presbyterian Church-greensboro; Lutheran Church Of The Redeemer; The Church Of Jesus Christ Of Latter-day Saints; Graves Memorial Presbyterian Church; Archdiocese Of Cincinnati; South Tampa Fellowship, As Successor To Ballast Point Baptist	1. 1951-1952 2. 1979 3. 1998-1999 4. 1977 5. 1999 6. 1973-1974 7. 1956 or 1957 8. 1963-1964 9. 1979 10. 1979 to 1980 or 1981 11. 1966-1968 12. 2001-2002 13. 1972-1976 14. 1974 15. 1970-1971 16. 1954-1955 17. 1969-1971 18. 1977-1978 19. 1958 20. 1989, 1991 or 1992 21. 1996 22. 1985-1986 23. 1980 24. 1989-1990 25. 1992-1994 26. 1976-1982 27. 2005	11 of the 31 plaintiffs were not able to identify their alleged abusers by first and last name; 7 of them could not identify their alleged abusers by name at all.
21cvs1083	12/30/2021	Lenoir	John Does 1-5	East Carolina Council, Boy Scouts of America, Inc.; Trinity Free Will Baptist Church and Christian School (formerly known as Trinity Free Will Baptist Church, Inc.; et al.	1. 1971-1972 2. 1967-1969 3. 1961-1968 4. 1987 5. 1965-1970	There are a number of unknown defendants identified only as John Does 1-10.
21cvs6434	12/30/2021	Forsyth	Nicholas Lee Beck fka Merle Lee Fontana	Mecklenburg County; Davidson County; Alexander Children's Foundation Inc.; Alexander Youth Network; Baptist Children's Homes of North Carolina Inc.; The Baptist Children's Homes of North Carolina Foundations Inc.; Mills Home		
21cvs5082	12/30/2021	Gaston	Raymond Phillips	General Council of the Assemblies of God; North Carolina Assemblies of God; North Carolina District Council of the Assemblies of God, Inc.; John D. Hayden; et al.	1987-1990	
21cvs17192	12/30/2021	Wake	Samuel Wilson	Occoneechee Council of Boy Scouts of America Inc.	1967-69	

Case Number	Date Filed	County	Plaintiff(s)	Defendant(s)	Year(s) of Allegations	Difficulties in Identifying Alleged Abusers
21cvs20598	12/30/2021	Mecklenburg	Sarah S. Moore as Administratix of Estate of Stephen Robert Smith	Presbyterian Church, Corporation; Presbyterian Church, Foundation, Inc.; The Synod of the Mid-Atlantic; Presbytery of Charlotte, Inc.; Sharon Presbyterian Church, Charlotte, NC Pres. Church	1971	
21cvs20754	12/30/2021	Mecklenburg	Stephen Lee Nash	Roman Catholic Diocese of Charlotte, NC; Diocese of Raleigh; Bishop McGuinness Catholic High School; Oblates of St. Francis De Sales, Incorporated; OSFS Wilmington-Philadelphia Province, Inc.	1972-1974	
21cvs6435	12/30/2021	Forsyth	Toni Therrell	Woodland Baptist Church; Woodland Baptist Christian School	1985-1987	no first name for alleged abuser
21cvs____	12/30/2021	Columbus	Troy Roswell Brown	Columbus County; Boys and Girls Homes of North Carolina, Inc.	1982-1984	
21cvs42	1/7/2022	Davidson	Misty Banther-Simon	Wallburg Baptist Church, Wallburg, North Carolina, Inc.; Baptist State Convention of North Carolina, Inc.; et al.	1979-1980	alleged abuser is identified as "Jane Doe," along with her husband, "Mr. John."

ly considered hereafter, as the remedy, in such cases, is generally of a peculiar, and eccentrical nature.

Now, since all wrong may be considered as merely a privation of right, the plain natural remedy for every species of wrong is the being put in possession of that right, whereof, the party injured is deprived. This may either be effected by a specific delivery or restoration of the subject-matter in dispute to the legal owner; as when lands or personal chattels are unjustly withheld or invaded: or, where that is not a possible, or at least not an adequate remedy, by making the sufferer a pecuniary satisfaction in damages; as in case of assault, breach of contract, &c. to which damages the party injured has acquired an incomplete or inchoate right, the instant he receives the injury[a]; though such right be not fully ascertained till they are assessed by the intervention of the law. The instruments, whereby this remedy is obtained, (which are, sometimes, considered in the light of the remedy, itself,) are a diversity of suits and actions, which are defined by the Mirror[b], to be "the lawful demand of one's right:" or as Bracton and Flèta express it, in the words of Justinian[c], *jus prosequendi in judicio quod alicui debetur.*

The Romans introduced, pretty early, set forms for actions and suits in their law, after the example of the Greeks; and made it a rule, that each injury should be redressed by it's proper remedy only. "*Actiones*, say the pandects, "*compositae* "*sunt, quibus inter se homines disceptarent; quas actiones ne po-* "*pulus prout vellet instituerent, certas solennesque esse voluerunt*[d]." The forms of these actions were originally preserved in the books of the pontificial college, as choice and inestimable secrets; till one Cneius Flavius, the secretary of Appius Clau-
117 dius, stole a copy and published them to the people[e]. The concealment was ridiculous: but the establishment of some standard was undoubtedly necessary, to fix the true state of a question of right; lest in a long and arbitrary process it might be shifted

a See Book II, ch. 29. b c. 2, Sec. 1.
c Inst. 4, 6, *pr.* d *Ff.* 1, 2, 2, Sec. 6.
e *Cic. pro Muraena. Sec.* 11, *de orat. l.* 1, *c.* 41.

EXHIBIT B

continually, and be at length no longer discernible. Or, as Cicero expresses it[f], "*sunt jura, sunt formulae, de omnibus rebus constituta, ne quis aut in genere injuriae, aut in ratione actionis, errare possit. Expressae enim sunt ex uniuscujusque damno, dolore, incommodo, calamitate, injuria, publicae a praetore formulae, ad quas privata lis accommodatur.*" And in the same manner our Bracton, speaking of the original writs upon which all our actions are founded, declares them to be fixed and immutable, unless by authority of parliament[g]. And all the modern legislators of Europe have found it expedient, from the same reasons, to fall into the same or a similar method. With us in England the several suits, or remedial instruments of justice, are from the subject of them distinguished into three kinds; actions *personal*, *real*, and *mixed*.

Personal actions are such whereby a man claims a debt, or personal duty, or damages in lieu thereof: and, likewise, whereby a man claims a satisfaction in damages for some injury done to his person or property. The former are said to be founded on contracts, the latter upon *torts* or wrongs: and they are the same which the civil law calls "*actiones in personam, quae adversus eum intenduntur, qui ex contractu vel delicto obligatus est aliquid dare vel concedere*[h]." Of the former nature are all actions upon debt or promises; of the latter all actions for trespasses, nusances, assaults, defamatory words, and the like.

Real actions, (or, as they are called in the Mirror[i], *feodal* actions) which concern real property only, are such whereby the plaintiff, here called the demandant, claims title to have any lands or tenements, rents, commons, or other hereditaments, 118
in fee-simple, fee-tail, or for term of life. By these actions formerly all disputes concerning real estates were decided; but they are now pretty generally laid aside in practice, upon account of the great nicety required in their management, and the

f *Pro. Qu. Roscio. Sec.* 8.

g *Sunt quaedam brevia formata super certis casibus de cursu, et de communi consilio totius regni approbata et concessa, quae quidem nullatenus mutari poterint absque consensu et voluntate eorum. (l. 5, de exceptionibus. c. 17, Section 2.)*

h *Inst.* 4, 6, 15.

i c. 2. Sec. 6.

inconvenient length of their process: a much more expeditious method of trying titles being since introduced, by other actions personal and mixed.

Mixed actions are suits partaking of the nature of the other two, wherein some real property is demanded, and all personal damages for a wrong sustained. As, for instance, an action of waste: which is brought by him who hath the inheritance, in remainder or reversion, against the tenant for life, who hath committed waste therein, to recover not only the land wasted, which would make it merely a *real* action; and also treble damages [1], in pursuance of the statute of Glocester [k], which is a personal recompence; and so both being joined together, denominate it a *mixed* action.

Under these three heads may every species of remedy by suit or action in the courts of common law be comprised. But in order effectually to apply the remedy, it is first necessary to ascertain the complaint. I proceed, therefore, now to enumerate the several kinds, and to inquire into the respective natures of all private wrongs, or civil injuries, which may be offered to the rights of either a man's person or his property; recounting at the same time the respective remedies, which are furnished by the law for every infraction of right. But I must first beg leave to premise, that all civil injuries are of two kinds, the one *without force* or violence, as slander or breach of contract; the other coupled *with force* and violence, as batteries, or false imprisonment [l]. Which latter species savour something of the criminal kind, being always attended with some violation of the peace; for which, in strictness of law a fine ought to be paid to the king,
119 as well as private satisfaction to the party injured [m]. And this distinction of private wrongs, into injuries *with* and *without* force, we shall find to run through all the variety of which we are now to treat. In considering of which, I shall follow the same method that was pursued with regard to the distribution

k 6 Ed. I. c. 5. l Finch. L. 184.
m Finch. L. 198. Jenk. Cent. 185.

1. L. V. 1794, c. 139. Accordant.

2. Special pleas, *in bar* of the plaintiff's demand, are very various, according to the circumstances of the defendant's case. As, in real actions, a general release or a fine, both of which may destroy and bar the plaintiff's title. Or, in personal actions, an accord, arbitration, conditions performed, nonage of the defendant, or some other fact which precludes the plaintiff from his action [z]. A *justification* is, likewise, a special plea in bar; as in actions of assault and battery, *son assault demesne*, that it was the plaintiff's own original assault; in trespass, that the defendant did the thing complained of, in right of some office which warranted him so to do; or, in an action of slander, that the plaintiff is really as bad a man as the defendant said he was.

Also a man may plead the statutes of limitation [a] in bar; or the time limited by certain acts of parliament, beyond which, no plaintiff can lay his cause of action. This, by the statute of 32 Hen. VIII, c. 2, in a writ of right is *sixty* years [21]: in assises, writs of entry, or other possessory actions real, of the seisin of one's ancestors, in lands: and either of their seisin, or one's own, in rents, suits, and services; *fifty* years [22]: and in actions real for lands grounded upon one's own seisin or possession, such possession must have been within *thirty* years [23]. By statute 1 Mar. st. 2, c. 5, this limitation does not extend to any suit for advowsons [24], upon reasons given in a former chapter [b]. But, by the statute 21 Jac. I, c. 2, a time of limitation was extended to the case of the king: *viz. sixty* years precedent to 19 Feb. 1623 [c]; but, this becoming ineffectual by efflux 307

z Appendix, No. III, Sec. 6.
a See page 188, 196.
b See page 250.
c 3 Inst. 189.

21. Formerly the limitation in a writ of right was only thirty years. V. L. Edi. 1733, 1710, c. 13; but the act of 1748, c. 1. Edi. 1769, extended it to fifty years, which is the present limitation. V. L. 1794, c. 76.

22. Forty years. V. L. 1794, c. 76.

23. V. L. 1794, c. 76. Accordant.

24. This statute is obsolete in Virginia; or if it ever was in force it was repealed in 1792. V. L. 1794, c. 147.

of time, the same date of limitation was fixed by statute 9 Geo. III, c. 16, to commence and be reckoned backwards, from the time of bringing any suit or other process, to recover the thing in question; so that a possession for *sixty* years is now a bar even against the prerogative, in derogation of the antient maxim "*nullum tempus occurrit regi* [25]." By another statute, 21 Jac. I, c. 16, *twenty* years is the time of limitation in any writ of formedon: and, by a consequence, *twenty* years is also the limitation in every action of ejectment; for no ejectment can be brought, unless where the lessor of the plaintiff, is entitled to enter on the lands [d], and by the statute 21 Jac. I, c. 16, no entry can be made by any man, unless within twenty years after his right shall accrue[26]. Also, all actions of trespass, (*quare clausum fregit*, or otherwise) detinue, trover, replevin, account, and case, (except upon accounts between merchants) debt on simple contract, or for arrears of rent, are limited by the statute last mentioned to *six* years after the cause of action commenced [27]: and actions of assault, menace, battery, mayhem, and imprisonment, must be brought within *four* years [28], and actions for words within *two* years, after the injury committed [29]. And by the statute 31 Eliz. c. 5, all suits, indictments, and informations, upon any penal statutes, where any forfeiture is to the crown, alone, shall be sued within *two* years, and where the forfeiture is to a subject, or to the crown and a subject, within *one* year, after the offence committed; unless, where any other time is specially limited by the statute [30]. Lastly, by statute 10 W.

d See page 205.

25. Thirty years is now a bar against the claim of the commonwealth in *certain* cases. V. L. 1797, c. 10.

26. L. V. 1748, c. 1. 1794, c. 76. Accordant.

27. *Five* years. L. V. 1794, c. 76.

28. *Three* years. *Ibidem.*

29. *One* year. *Ibidem.* Actions upon store accounts must also be sued within *one* year; but in case of the creditor's death, *one* year more is allowed. *Ibidem.*

30. All actions, suits, bills, indictments, or informations, upon any penal statute, must be sued, or exhibited within one year. V. L. 1794, c. 74. §. 34. Offences against the L. U. S. not capital, must be pro-

III, c. 14, no writ of error, *scire facias*, or other suit, shall be brought to reverse any judgment, fine, or recovery, for error, unless it be prosecuted within *twenty* years [31]. The use of these statutes of limitation is to preserve the peace of the kingdom, and to prevent those innumerable perjuries which might ensue, if a man were allowed to bring an action for any injury committed at any distance of time. Upon both these accounts the law, therefore, holds, that "*interest reipublicae ut sit finis litium*:" and, upon the same principle the Athenian laws in general prohibited all actions, where the injury was committed *five* years before the complaint was made [e]. If, therefore, in any suit, the injury, or cause of action, happened earlier than the period, expressly limitted by law, the defendant may plead the statutes of limitations in bar: as upon an *assumpsit*, or promise to pay money to the plaintiff, the defendant may plead *non assumpsit infra sex annos*; he made no such promise within six years; which is an effectual bar to the complaint [32].

e Pott. Ant. b. 1, c. 21.

secuted within two years, unless the offender flies from justice. L. U. S. 1 Cong. 2 Sess. c. 9.

31. No writ of error, or supersedeas, shall be granted to reverse any judgment after five years, from the rendition thereof. Saving to infants, &c. two years after their respective disabilities be removed. V. L. 1794, c. 66. §. 52.

Judgments may be revived by *scire facias*, or an action of debt may be brought thereupon within *ten* years after the date. But infants, &c. are allowed five years after their respective disabilities are removed. V. L. 1794, c. 76. §. 5.

But no action of debt, or *scire facias*; grounded upon any judgment against a person deceased, shall be brought against an executor, after five years from the time of his qualification, saving to infants, &c. the term of three years after their respective disabilities removed. V. L. 1794, c. 92. §. 57.

These acts seem not to relate to any judgment obtained before the passing of them. Ibid. §. 47.

Writs of error must be sued out within five years, in the federal courts; saving to infants, &c. five years after their disabilities are removed, L. U. S. 1 Cong. 1 Sess. c. 20. §. 22.

32. The courts of justice having been shut up during a considerable part of the revolutionary war, several periods between the twelfth day of April, 1774, and the twentieth day of October, 1783, were from time to time excepted out of the acts of limitation; the whole time amounts to five years, and one hundred and seventy-four days. See V. L. 1794, c. 76. §. 11.

21 CVS 004769

STATE OF NORTH CAROLINA
NEW HANOVER COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 21-CVS-_____

2021 DEC 29 P 1:47
NEW HANOVER CO., C.S.C.
BY_____

JOHN DOES #1-5,

Plaintiff,

vs.

CAPE FEAR COUNCIL BOY SCOUTS OF AMERICA, ST. ANDREWS PRESBYTERIAN CHURCH, PRESBYTERY OF COASTAL CAROLINA, PRESBYTERIAN CHURCH (USA), FIRST BAPTIST CHURCH LUMBERTON, CLARKTON UNITED METHODIST CHURCH, NORTH CAROLINA CONFERENCE OF THE UNITED METHODIST CHURCH, UNITED METHODIST CHURCH, aka THE PEOPLE OF THE UNITED METHODIST CHURCH,

Defendant.

COMPLAINT

A TRUE COPY
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY
BY: Patricia M. Cherigo
Deputy Clerk of Superior Court

COME NOW Plaintiffs, each individually, all of whom were victims of sexual abuse and exploitation while involved in the CAPE FEAR COUNCIL BOY SCOUTS OF AMERICA, BOY SCOUTS OF AMERICA (hereinafter "BSA Local Council"), ST. ANDREWS PRESBYTERIAN CHURCH, PRESBYTERY OF COASTAL CAROLINA, PRESBYTERIAN CHURCH (USA) (hereinafter St. Andrews, Presbyterian Church and Presbytery are "Presbyterian Church"), CLARKTON UNITED METHODIST CHURCH, NORTH CAROLINA CONFERENCE OF THE UNITED METHODIST CHURCH, UNITED METHODIST CHURCH, aka THE PEOPLE OF THE UNITED METHODIST CHURCH, (hereinafter Clarkton, the Conference and The United Methodist Church are "Methodist Church"), and FIRST BAPTIST CHURCH

EXHIBIT C

LUMBERTON, collectively, BSA Local Council, Presbyterian Church, Methodist Church and First Baptist Church are the "Defendants", complaining of Defendants and upon knowledge and/or upon information and belief allege and says as follows:

JURISDICTION AND VENUE

1. This action is brought pursuant to the North Carolina SAFE Child Act (SL 2019-245) and alleges physical, psychological and emotional injuries and damages suffered from childhood sexual abuse and exploitation that Plaintiffs suffered at the hands of Defendants' leaders, volunteers and members.

2. Plaintiffs were sexually abused by an individual affiliated with Defendants when Plaintiffs were minors.

3. Plaintiffs bring this action against Defendants for compensatory and punitive damages as a result of Defendants' acts and omissions which directly led to this heinous child sexual abuse.

PARTIES

4. Plaintiff John Doe #1, an adult born in 1951 and current resident of Sarasota, Florida, was a minor participating in or entrusted to the care, custody and supervision of Defendants BSA Local Council and Presbyterian Church, when, in or around 1960's, was a victim of one or more criminal sex acts of the State of North Carolina, by a scout leader and/or youth scout leader and/or boy scout camp personnel, including sexual acts that would constitute a sexual offense that revives Plaintiff John Doe #1's claim as defined by North Carolina SAFE Child Act, when said abuser was under the supervision, control and/or authority of Defendant BSA Local Council and Presbyterian Church; and said abuse having occurred in the State of North Carolina.

Hereinafter when Defendants is referred to as to John Doe #1, it is Defendants BSA Local Council and Presbyterian Church. John Doe brings this claim under a pseudonym out of concern that using his real identity in this action. Defendants have information about the identity and more specific allegations of the abuse as this individual is Omni Claim Number 63637 in the BSA Bankruptcy. Defendants will be made aware of more details as to Plaintiff John Doe #1's identity through the discovery process.

5. Plaintiff John Doe #2, an adult born in 1974 and current resident of Currie, North Carolina, was a minor participating in or entrusted to the care, custody and supervision of Defendants BSA Local Council, when, in or around 1988, was a victim of one or more criminal sex acts of the State of North Carolina, by a scout leader and/or youth scout leader and/or boy scout camp personnel, including sexual acts that would constitute a sexual offense that revives Plaintiff John Doe #2's claim as defined by North Carolina SAFE Child Act, when said abuser was under the supervision, control and/or authority of Defendant BSA Local Council; and said abuse having occurred in the State of North Carolina. John Doe #2 brings this claim under a pseudonym out of concern that using his real identity in this action. Defendants have information about the identity and more specific allegations of the abuse as this individual is Omni Claim Number 109336 in the BSA Bankruptcy. Defendants will be made aware of more details as to Plaintiff John Doe #2's identity through the discovery process.

6. Plaintiff John Doe #3, an adult born in 1996 and current resident of Fort Worth, Texas, was a minor participating in or entrusted to the care, custody and supervision of Defendants BSA Local Council, when, in or around 2002-2004, was a victim of one or more criminal sex acts of the State of North Carolina, by a scout leader and/or youth scout leader and/or boy scout camp personnel, including sexual acts that would constitute a sexual offense that revives Plaintiff John

Doe #3's claim as defined by North Carolina SAFE Child Act, when said abuser was under the supervision, control and/or authority of Defendant BSA Local Council; and said abuse having occurred in the State of North Carolina. John Doe #3 brings this claim under a pseudonym out of concern that using his real identity in this action. Defendants have information about the identity and more specific allegations of the abuse as this individual is Omni Claim Number 121094 in the BSA Bankruptcy. Defendants will be made aware of more details as to Plaintiff John Doe #3's identity through the discovery process.

7. Plaintiff John Doe #4, an adult born in 1962 and current resident of Weaverville, North Carolina, was a minor participating in or entrusted to the care, custody and supervision of Defendants BSA Local Council and First Baptist Church Lumberton, when, in or around 1973-1975, was a victim of one or more criminal sex acts of the State of North Carolina, by a scout leader and/or youth scout leader and/or boy scout camp personnel, including sexual acts that would constitute a sexual offense that revives Plaintiff John Doe #4's claim as defined by North Carolina SAFE Child Act, when said abuser was under the supervision, control and/or authority of Defendants BSA Local Council and First Baptist Church Lumberton; and said abuse having occurred in the State of North Carolina. Hereinafter when Defendants is referred to as to John Doe #4, it is Defendants BSA Local Council and First Baptist Church Lumberton. John Doe #4 brings this claim under a pseudonym out of concern that using his real identity in this action. Defendants have information about the identity and more specific allegations of the abuse as this individual is Omni Claim Number 115002 in the BSA Bankruptcy. Defendants will be made aware of more details as to Plaintiff John Doe #4's identity through the discovery process.

8. Plaintiff John Doe #5, an adult born in 1964 and current resident of Bladenboro, North Carolina, was a minor participating in or entrusted to the care, custody and supervision of

Defendants BSA Local Council and Methodist Church, when, in or around the 1970's, was a victim of one or more criminal sex acts of the State of North Carolina, by a scout leader and/or youth scout leader and/or boy scout camp personnel, including sexual acts that would constitute a sexual offense that revives Plaintiff John Doe's claim as defined by North Carolina SAFE Child Act, when said abuser was under the supervision, control and/or authority of Defendants BSA Local Council and Methodist Church; and said abuse having occurred in the State of North Carolina. Hereinafter when Defendants is referred to as to John Doe #5, it is Defendants BSA Local Council and Methodist Church. John Doe #5 brings this claim under a pseudonym out of concern that using his real identity in this action. Defendants have information about the identity and more specific allegations of the abuse as this individual is Omni Claim Number 80288 in the BSA Bankruptcy. Defendants will be made aware of more details as to Plaintiff John Doe #5's identity through the discovery process.

9. At all relevant times Defendant BSA Local Council was and is a North Carolina not-for-profit corporation duly organized and existing by virtue of the laws of the State of North Carolina.

10. Defendant BSA Local Council maintains its principal place of business at 110 Longstreet Dr., Wilmington, NC 28412 with a mailing address of P.O. Box 7156, Wilmington, NC 28406.

11. At all relevant times, Defendant BSA Local Council was and is authorized to transact business in the State of North Carolina.

12. To the extent that Defendant BSA Local Council was a different entity, corporation, or organization during to period of time any of the Plaintiffs were abused, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named

in the caption and in this complaint as CAPE FEAR COUNCIL BOY SCOUTS OF AMERICA, BOY SCOUTS OF AMERICA.

13. To the extent that Defendant BSA Local Council is a successor to a different entity, corporation, or organization which existed during the period of time during which Plaintiffs were abused, including any entity, corporation, or organization that subsequently or eventually merged into Defendant BSA Local Council, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named in the caption and in this complaint as CAPE FEAR COUNCIL BOY SCOUTS OF AMERICA, BOY SCOUTS OF AMERICA or as a "John Doe" defendant.

14. All such Defendant BSA Local Council-related entities, corporations, or organizations are collectively identified and referred to herein as CAPE FEAR COUNCIL BOY SCOUTS OF AMERICA, BOY SCOUTS OF AMERICA.

15. Whenever reference is made to Defendant BSA Local Council, such reference includes the entity, its parent companies, subsidiaries, affiliates, predecessors, and successors. In addition, whenever reference is made to any act, deed, or transaction of any entity, the allegation is intended for the entity to have engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction or furtherance of the business interests of the entity's business affairs.[1]

16. Boy Scouts of America ("BSA") is not a party to this civil action and is currently a debtor in a bankruptcy proceeding in the United States Bankruptcy Court for the District of Delaware (Civil Action No. 20-10343).

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[1] Such reference does not include the Boy Scouts of America who have filed a petition for bankruptcy protection in the United States District Court for the District of Delaware, Civil Action No. 20-cv-10343.

17. BSA is not a named defendant in this civil action due to the automatic stay provisions of 11 U.S.C. § 362 *et seq*.

18. Notwithstanding, non-party BSA is a foreign non-profit corporation federally chartered pursuant to 36 U.S.C. § 30901 and was and is duly authorized to conduct and transact business in the State of North Carolina through various local and regional Boy Scout organizations and councils, including BSA Local Council.

19. Non-party BSA maintains its principal place of business in Irving, Texas.

20. At all relevant times Defendant St. Andrews Presbyterian Church operated a facility at 1416 Market St., Wilmington, NC 28401. At all relevant rimes, Defendant St. Andrews Presbyterian Church was a charter organization/sponsor for the BSA organization of which Plaintiff John Doe #1 attended at the time of the abuse which is the subject of the complaint herein.

21. At all relevant times, Defendant Presbytery of Coastal Carolina maintained its principal place of business at 807 W. King St., Elizabethtown, NC 28337 and was a parent organization which oversaw, managed and or controlled Defendant St. Andrews Presbyterian Church and its involvement in BSA.

22. Defendant St. Andrews Presbyterian Church is a congregation and church of Defendant Presbyterian Church (USA) which organization has its principal place of business at 100 Witherspoon Street, Louisville, Kentucky 40202 and was continues to conduct business in the State of North Carolina.

23. Together St. Andrews Presbyterian Church, Presbytery of Coastal Carolina and Presbyterian Church (USA) are hereinafter Presbyterian Defendants.

24. At all relevant times, Presbyterian Defendants were and are authorized to transact business in the State of North Carolina.

25. To the extent that Presbyterian Defendants were a different entity, corporation, or organization during to period of time any of the Plaintiffs were abused, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named in the caption and in this complaint as their respective Presbyterian Defendant or as a "John Doe" defendant.

26. To the extent that Presbyterian Defendants are a predecessor or successor to a different entity, corporation, or organization which existed during the period of time during which Plaintiffs were abused, including any entity, corporation, or organization that subsequently or eventually merged into Defendant Presbyterian organization, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named in the caption and in this complaint as their respective Presbyterian Defendant or as a "John Doe" defendant.

27. All such Presbyterian Defendant -related entities, corporations, or organizations are collectively identified and referred to herein as "Presbyterian Defendant."

28. At all times alleged herein, Defendant St. Andrews Presbyterian Church was under the authority and control of both Defendant Presbytery of Coastal Carolina and Defendant Presbyterian Church (USA).

29. At all times alleged herein, Defendant St. Andrews Presbyterian Church was owned, operated, managed and/or controlled by both Defendant Presbytery of Coastal Carolina and Defendant Presbyterian Church (USA).

30. At all relevant times Defendant Clarkton United Methodist Church operated a facility at 9072 US 701, Clarkton, NC 28433. At all relevant times, Defendant Clarkton United

Methodist Church was a charter organization/sponsor for the BSA organization of which Plaintiff John Doe #5 attended at the time of the abuse which is the subject of the complaint herein.

31. At all relevant times, Defendant North Carolina Conference of the United Methodist Church maintained its principal place of business at 700 Waterfield Ridge Pl, Garner, NC 27529 and was a parent organization which oversaw, managed and or controlled Defendant Clarkton United Methodist Church and its involvement in BSA.

32. Defendant Clarkton United Methodist Church is a congregation and church of the United Methodist Church, aka The People of the United Methodist Church (hereinafter "UMC") which organization has its primary offices in Nashville, Tennessee. UMC, which was formed in 1968 by a merger of the Evangelical United Brethren Church and the Methodist Church, was and continues to conduct business in the State of North Carolina.

33. Together, Defendant Clarkton United Methodist Church, Defendant North Carolina Conference of the United Methodist Church, and Defendant United Methodist Church, aka The People of the United Methodist Church are hereinafter Methodist Defendants.

34. At all relevant times, Methodist Defendants were and are authorized to transact business in the State of North Carolina.

35. To the extent that Methodist Defendants were a different entity, corporation, or organization during to period of time any of the Plaintiffs were abused, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named in the caption and in this complaint as their respective Methodist Defendant or as a "John Doe" defendant.

36. To the extent that Methodist Defendants are a predecessor or successor to a different entity, corporation, or organization which existed during the period of time during which

Plaintiffs were abused, including any entity, corporation, or organization that subsequently or eventually merged into Defendant Methodist organization, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named in the caption and in this complaint as their respective Methodist Defendant or as a "John Doe" defendant.

37. All such Methodist Defendant -related entities, corporations, or organizations are collectively identified and referred to herein as "Methodist Defendant."

38. At all times alleged herein, Defendant Clarkton United Methodist Church was under the authority and control of both Defendant North Carolina Conference of the United Methodist Church and Defendant United Methodist Church, aka The People of the United Methodist Church.

39. At all times alleged herein, Defendant Clarkton United Methodist Church was owned, operated, managed and/or controlled by both Defendant North Carolina Conference of the United Methodist Church and Defendant United Methodist Church, aka The People of the United Methodist Church.

40. At all relevant times Defendant First Baptist Church Lumberton operated a facility at 504 W. 2nd St., Lumberton, NC 28348. At all relevant times, Defendant First Baptist Church Lumberton was a charter organization/sponsor for the BSA organization of which Plaintiff John Doe #4 attended at the time of the abuse which is the subject of the complaint herein.

41. At all relevant times, Defendant First Baptist Church Lumberton was and is authorized to transact business in the State of North Carolina.

42. To the extent that First Baptist Church Lumberton was a different entity, corporation, or organization during to period of time any of the Plaintiffs were abused, such entity,

corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named in the caption and in this complaint as their respective First Baptist Church Lumberton Defendant or as a "John Doe" defendant.

43. To the extent that First Baptist Church Lumberton is a predecessor or successor to a different entity, corporation, or organization which existed during the period of time during which Plaintiffs were abused, including any entity, corporation, or organization that subsequently or eventually merged into Defendant First Baptist Church Lumberton organization, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit and is named in the caption and in this complaint as their respective First Baptist Church Lumberton Defendant or as a "John Doe" defendant.

JURISDICTION AND VENUE

44. Venue is proper in this County because one or more Defendants is a resident of this County at the time of commencement of the within action.

45. Specifically, this County is the principal place of business of Defendant BSA Local Council resides and/or because the unlawful conduct complained of herein occurred in North Carolina.

46. This Court has subject matter jurisdiction over Plaintiffs' claims in that the claims arose under the substantive law of North Carolina.

47. At all times relevant to the sexual abuse and exploitation alleged herein, Plaintiff John Doe was a minor and relied upon and was dependent upon the Defendants to provide for his care, safety and supervision. The negligent and other conduct alleged herein occurred in this venue.

48. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

BACKGROUND

49. Non-party BSA is one of the largest youth organizations in the United States of America. There are nearly 2 million youth members and more than 1 million adult volunteers currently participating in BSA and its local councils, including BSA Local Council.

50. BSA was started in 1910, to "prepare young people to make ethical and moral choices over their lifetimes by instilling them the values of the Scout Oath and Law." Since the inception of BSA, more than 130 million young men and women have participated. Moreover, 35 million adults have volunteered to help in the organization.

51. At the time of BSA's Charter, Congress recognized the "importance and magnitude" of BSA's work and observed BSA "tends to conserve the moral, intellectual, and physical life of the coming generation."[2]

52. Under the Charter, Congress granted BSA the exclusive right to BSA's name, emblems, badges, and descriptive works and markings.

53. As early as 1919, BSA maintained files (Ineligible Volunteer Files) intended to keep sexual abusers out of its program.

54. For more than 90 years, BSA has ignored these files while pedophiles sexually abused young boys. More than 8,000 scout leaders preying upon young boys were revealed publicly in these files for the first time in 2012. Additionally, more than 12,000 children reported being sexually abused.

55. The "Perversion" category of the Ineligible Volunteer Files contains the most files and comprises any type of sexual misconduct, including child sexual abuse. BSA was creating more than a dozen Perversion files each year.

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[2] *See* H.R. Rep No. 64-130, at 245 (1916).

56. In a 1935 *New York Times* article, BSA's Chief Scout Executive alluded to a "red-flag list" when stating "We have some very depressing and sad experiences over the years. We still have those who seek to enter Scouting and contact boys who are unbalanced morally and then again we have those who are soundly balanced, but who … by reason of psychological and … pathological sequences, when they get into boys' work, undertake to deal with sex matters and become morbid on the subject and something give way to temptation and develop practices which make them degenerates."

57. In 2020, only after filing for bankruptcy protection did BSA finally outright admit that "predators used the BSA organization to gain access to children, and volunteers or employees of the BSA or Local Councils did not effectively act on allegations and transgression as the BSA would have wanted them to and as the organization's policies mandate today."[3]

58. At all times relevant and material to the Complaint, Plaintiffs were sexually abused due to BSA and Defendants not effectively acting on allegations and transgressions.

59. As a result, Plaintiffs have suffered, and will continue to suffer, from severe and life-long physical and mental injuries, including depression, anxiety, suicidal thoughts, emotional distress, substance abuse, and feelings of worthlessness, shamefulness, and embarrassment, to name a few.

BOYS SCOUTS OF AMERICA BACKGROUND AND FACTS

60. BSA is a vertically integrated organization; the entity operating on top of the local organizations, that grants charters to the local organizations is, called "BSA National Council."

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[3] *In re: Boy Scouts of America and Delaware BSA, LLC*, No. 20-10343, Debtors' Informational Brief (2020) at pg. 4.

61. BSA grants charters to thousands of local organizations across the country, including faith-based institutions, clubs, civic associations, educational institutions, business, and groups of citizens.

62. BSA National Council is charged with developing educational programs, maintaining quality and standards of volunteer training, leadership selection, registration records, literature, and advancement requirements.

63. The programs developed at BSA National Council is administered through 272 local councils, with each council covering a geographic area varying from a single city to an entire state.

64. Each local council receives an annual charter from BSA National Council after agreeing to the curriculum of the program and certain financial/accounting standards.

65. The local councils are tasked, in part, to promote the scouting program, the registration of units (Boy Scout Troop or Cub Pack) within its territorial area, carry out the general principles of advancement in Scouting and council personnel, provide leadership and leadership training for the local units, to ensure the standards in Scout policies, and to ensure adequate financing exists for the support of the local units.

66. Local councils report to regional councils on finances, scouting membership, scout camp participation numbers, and other requirements set by regional councils and BSA National Council.

67. The unit is owned and run by a sponsoring organization called a charter organization. The leadership structure and makeup of each unit is spelled out in the *BSA Rules and Regulations*, which is provided by BSA National Council. The unit is directly chartered to the

sponsoring group by the Executive Board of the BSA based on a favorable recommendation from the local council.

68. Enrollment in BSA secures parents' and children's commitment to follow a system encouraging parents to entrust their children's health and safety to Defendants. This entrustment empowers Defendants to secure each child's oath to uphold the "Scout Law," to adopt the "Scout" identity, and to adhere to a system requiring children to engage in activities exposing them to adults and others. This system includes over-night outings, camping events, and trips away from the parents. The system is reward-based, obligating the child to purchase emblems, badges, and other Scouting paraphernalia, which in turn creates profit for the federally chartered organization.

69. From the beginning of their relationship with Plaintiffs, BSA and Defendants taught Plaintiffs to trust, obey, and respect their Scoutmaster.

70. BSA uses, among other things, overnight outdoor activities such as camping, aquatics, and hiking to (1) achieve the aims of character, citizenship, and physical fitness building, and (2) further its reward-based system ensuring an economic benefit to BSA and the other Defendants.

71. Plaintiffs are among more than 110 million American boys who have been BSA members or somehow affiliated with BSA.

72. Each of Plaintiffs' pedophiles sought and gained Plaintiffs' trust, confidence, and consent to participate in BSA activities and to otherwise spend considerable time with Plaintiffs.

73. BSA and the Defendants also gained Plaintiffs' parent(s)' directive to Plaintiffs that they respect the Scoutmaster's authority and guidance and comply with the Scoutmaster's instruction.

74. Each of Plaintiffs' pedophiles used the power, authority, and trust gained by their BSA positions to entice, induce, direct, and coerce Plaintiffs to engage in deviant sexual acts with them.

75. Defendants owned and/or possessed the land upon which it negligently allowed pedophiles to groom and sexually abuse children, including Plaintiffs.

76. The pedophiles, or Scoutmasters, Scout Leaders, and/or volunteers, were, at all times, under the direction and control of BSA Local Council and other Defendants.

77. From the top down, BSA Local Council had known for decades that sexual predators had infiltrated scouting, and desired positions around children, due in part to their sexual interest in children.

78. BSA Local Council and other Defendants knew or should have known of the dangers pedophiles presented to children participating in scouting long before Plaintiffs were sexually abused.

DEFENDANT BSA LOCAL COUNCIL BACKGROUND AND FACTS

79. Defendant BSA Local Council serves and has a geographical territory in New Hanover, Columbus, Bladen, Brunswick, Robeson, Scotland and Hoke Counties, State of North Carolina; and Defendant BSA Local Council coordinates with numerous camps to provide jamborees and overnight campouts.

80. The Local Councils, including Defendant BSA Local Council and other Defendants, selected, accepted, approved, trained, supervised, and maintained the right of control, actual control, and apparent control over adult volunteers and paid Scout employees. These volunteer and paid employees attended overnight stays, campouts, scouting events, jamborees, high adventure events, and other scout sanctioned activities.

81. The Local Councils, including BSA Local Council and other Defendants, recruited children to join Boy Scouts of America. They served as headhunters for boys to join the ranks of BSA. They promised parents the program would be safe, and they would take care of their children.

82. The Local Councils, including BSA Local Council and other Defendants, are responsible for the local oversight and control of the Boy Scouts of America's troops, and the implementation of the Boy Scouts' policies, procedures, rules, protocols, missions, and goals.

83. Through powers and duties granted by the Boy Scouts, BSA Local Council and other Defendants are responsible for screening hiring, training, appointing, supervising, disciplining, retention, discharge and the initial approval of the Boy Scouts leaders, including employees, agents, representatives, servants, volunteers and other third parties.

84. At all times relevant and material to the Complaint, the individuals committing the sexual abuse alleged herein were adult male leaders, volunteers, scoutmasters and/or members of Defendants who were assigned to supervise, mentor, and instruct youth who were involved in scouting activities of BSA. In this capacity, the individuals committing the sexual abuse alleged herein were under the supervision of BSA Local Council and the other Defendants.

85. The BSA and Defendants herein entice Scouts to intertwine scouting with their faith by offering religious emblems and badges which are earned by participating in faith-based scouting programs. There are many studies showing Scouts who earn a religious emblem stay registered in Scouting programs longer. Considering nearly three of every four units is chartered to a faith-based institution, this connection is even more important.

86. At all times relevant and material to the Complaint, the individuals committing the sexual abuse alleged herein were adult male leaders, volunteers, scoutmasters and/or other

administrators who were assigned to supervise, mentor, and instruct youth members who were involved in scouting activities of the Boy Scouts of America. In this capacity, the individuals committing the sexual abuse alleged herein were under the supervision of Defendants.

87. Plaintiffs received youth and educational instruction from BSA Local Council and other Defendants.

88. The scout leaders and/or youth scout leaders and/or boy scout camp personnel (collectively, "Abusers") who sexually abused Plaintiffs provided youth and educational instruction to Plaintiffs.

89. During and through these activities, Plaintiffs, as minors and vulnerable children, were dependent on Defendants and Abusers.

90. During and through these youth and educational activities, Defendants had custody of Plaintiffs and accepted the entrustment of Plaintiffs.

91. During and through these activities, Defendants had assumed the responsibility of caring for Plaintiffs and had authority over them.

92. Through Abusers' positions at, within, or for Defendants, Abusers were put in direct contact with Plaintiffs. It was under these circumstances Plaintiffs came to be under the direction, contact, and control of Abusers, who used their positions of authority and trust over Plaintiffs to sexually abuse and harass Plaintiffs.

93. While Plaintiffs were minors, Abusers, while acting as counselors, teachers, trustees, directors, officers, employees, agents, servants and/or volunteers of BSA Local Council and the other Defendants herein, sexually assaulted, sexually abused and/or had sexual contact with Plaintiffs.

94. Specifically, Abusers' abuse of then infant Plaintiffs included, but was not limited to, touching, fondling, and groping Plaintiffs' genitals, masturbation, oral sex, and anal penetration of Plaintiffs by Abusers.

95. Plaintiffs' relationship to Defendants, as vulnerable minors, members and scouts in BSA's youth and educational activities, was one in which Plaintiffs were subject to Defendants' ongoing influence. The dominating culture of Defendants over Plaintiffs pressured Plaintiffs not to report Abusers' sexual abuse of them.

96. At no time did BSA Local Council or any other Defendant ever send an official, troop leader, an investigator or any employee or independent contractor of BSA Local Council or any other Defendant to advise or provide any form of notice to the minors, members, scouts and/or their families, either verbally or in writing that there were credible allegations against Abusers and to request anyone who saw, suspected, or suffered sexual abuse to come forward and file a report with the police department. Rather, Defendants remained silent.

97. Plaintiffs were thrust into an organization that failed to warn about the risks of child molestation inherent to the Scouting program, failed to implement child sex abuse policies, and failed to change its process for selecting and monitoring Scout leaders.

98. In order to protect the wholesome image of BSA, Plaintiffs were not told about the nearly 10,000 pedophiles that were documented in the perversion files—reports that were kept at Nationals that document sexual abuse predators that volunteered in the BSA.

99. Plaintiffs were preyed upon because of their youth. BSA Local Council and the other Defendants failed to protect plaintiffs, despite having actual knowledge of widespread sexual abuse within the organization. An extensive database was maintained with countless reports of boys that were sexually abused while attending camping trips and troop meetings. As a result of

these failures, the following Plaintiffs were sexually abused, raped, and fondled as a result of Defendants' acts and omissions.

100. As a direct result of the Defendants' conduct described herein, Plaintiffs have and will continue to suffer personal physical and psychological injuries, including but not limited to great pain of mind and body; severe and permanent emotional distress; physical manifestations of emotional distress; problems sleeping and concentrating; low self-confidence, low self-respect, and low self-esteem; feeling of worthlessness, shamefulness, and embarrassment; feeling alone and isolated; suicide attempts; losing faith in authority figures; struggling with alcohol and substance problems and addiction; struggling with gainful employment and career advancement; feeling helpless and hopeless; problems with sexual intimacy and touch; relationship problems; trust issues; feeling confused and angry; depression; panic disorder; anxiety; feeling dirty, used, and damaged; having traumatic flashbacks; and feeling that his childhood and innocence was stolen. Plaintiffs were prevented and will continue to be prevented from performing Plaintiffs' normal daily activities; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling. As a victim of Defendants' misconduct, Plaintiffs are unable at this time to fully describe all the details of that abuse and the extent of the harm Plaintiffs suffered as a result.

101. The injuries and damages suffered by Plaintiffs are specific in kind to Plaintiffs, special, peculiar, and above and beyond those injuries and damages suffered by the public.

102. Plaintiffs have incurred and will incur future costs for counseling, psychiatric and psychological medical treatment.

CAUSES OF ACTION

FIRST COUNT

(Violation of North Carolina SAFE Child Act)

103. Plaintiffs repeat and reallege by reference each and every allegation set forth above and below as if fully set forth herein.

104. During the time each Abuser was working for and serving Defendants, said Abuser committed "sexual abuse" of each Plaintiff as defined by North Carolina SAFE Child Act.

105. Defendants knowingly permitted and/or acquiesced in the sexual abuse of Plaintiffs in violation of the North Carolina SAFE Child Act.

106. Defendants' actions constitute malice, vindictiveness, wanton and reckless disregard, and indifference to Plaintiffs' rights and safety.

107. At all relevant times, Abusers were employees or agents acting within the scope of said employment or agency. As such, in addition to being directly liable under this cause of action, the defendant is vicariously liable for the torts committed by each Abuser under the doctrine of *respondeat superior*.

108. As a direct and proximate result of the acts and omissions of Defendants, Plaintiffs each suffered and will continue to suffer physically, emotionally and otherwise.

WHEREFORE, each Plaintiff demands judgment against each Defendant, jointly and severally, for damages in an amount sufficient to compensate for compensatory damages, for both physical and emotional pain and suffering, for punitive damages, for costs of suit, attorney fees, and for such other relief as the Court finds equitable and just in an amount in excess of twenty-five thousand dollars ($25,000.00).

SECOND COUNT

(Negligence)

109. Plaintiffs repeat and reallege by reference each and every allegation set forth above and below as if fully set forth herein.

110. Defendants owed a duty to take reasonable steps to protect Plaintiffs from foreseeable harm when Plaintiffs were under Defendant's supervision, in their care, custody, and control, and when Plaintiffs were participating in scouting and/or scouting-related activities.

111. Defendants owed a duty of reasonable care to protect Plaintiffs from injury.

112. Defendants owed Plaintiffs a duty of reasonable care because they solicited youth and parents for participation in their Boy Scout programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children; promoted their facilities and programs as being safe for children; held their Scoutmasters, Scout Leaders, and/or volunteers as safe to work with children.

113. Defendants owed Plaintiffs a duty to protect Plaintiffs from sexual abuse committed by Defendant's employees, agents, representatives, servants, authorized volunteers, members, leaders, and scoutmasters, both prior to and/or subsequent to such acts of sexual abuse.

114. Defendants owed Plaintiffs a duty of reasonable care because Defendants solicited and encourage youth for participation in the Boy Scouts and its programs; undertook custody of minor children, including Plaintiffs; promoted its facilities, grounds and programs as being safe for children; held out its employees, agents, representatives, servants, leaders, members and scoutmasters, as safe to work with children; encouraged children to spend time with its employees, agents, representatives, servants, leaders, members and scoutmasters; and/or encouraged its employees, agents, representatives, servants, leaders, members and scoutmasters to spend time with, interact with, and recruit children to the Boy Scouts and to BSA Local Council's local council.

115. Defendants owed Plaintiffs a duty of care because it had a special relationship with Plaintiffs.

116. Defendants had a duty arising from the special relationship that existed with Plaintiff, Plaintiff's parent(s) and/or guardian(s), and other parent(s) and/or guardian(s) of young, innocent, vulnerable children in the BSA to properly train and supervise its scout leaders and/or youth scout leaders, boy scout camp personnel, employees and/or agents. This special relationship arose because of the high degree of vulnerability of those children, including Plaintiffs, entrusted to its care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendants had a duty to establish measures of protection not necessary for people who are older and better able to protect themselves.

117. Defendants owed Plaintiffs a duty to protect Plaintiffs from Abusers' sexual deviancy, both prior to and/or subsequent to Abusers' misconduct.

118. By accepting physical custody of minor Plaintiffs, Defendants established an *in loco parentis* relationship with Plaintiffs and, in so doing, owed Plaintiffs a heightened duty to protect Plaintiffs from harm and injury.

119. Defendants entered into a fiduciary relationship with Plaintiffs by undertaking the custody, supervision of, and/or care of infant Plaintiffs. As a result of Plaintiffs being an infant, and by Defendants undertaking the care and guidance of Plaintiffs, Defendants also held a position of empowerment over Plaintiffs. Further, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment.

120. Defendants, through their employees and/or agents, exploited this power over Plaintiffs and, thereby, put the infant Plaintiffs at risk for sexual abuse.

121. By establishing and/or operating Defendant BSA Local Council, accepting minor Plaintiffs as a participant in its programs, holding its facilities and programs out to be a safe environment for Plaintiffs, accepting custody of minor Plaintiffs *in loco parentis*, and by establishing a relationship with Plaintiffs, Defendants entered into an express and/or implied duty to properly supervise Plaintiffs and provide a reasonably safe environment for children, who participated in its programs. Defendants had the duty to exercise the same degree of care over minors under its control as a reasonably prudent person would have exercised under similar circumstances.

122. Defendants' actions and/or inactions created a foreseeable risk of harm to Plaintiffs. As a vulnerable child participating in the programs and activities Defendants offered to minors, Plaintiffs were foreseeable victims. Additionally, as vulnerable children who Abusers had access to through Defendants' facilities and programs, Plaintiffs were foreseeable victims.

123. While Plaintiffs were in Scouts, Defendants accommodated an environment that permitted harmful and offensive sexual conduct and contact with Plaintiffs.

124. Based upon the tens of thousands of prior incidents of BSA documented pedophilic abuse of scouts in Defendants' programs, Defendants were on notice of an extremely dangerous condition: sexual abuse of child scouts by adult scout leaders and members. Sexual abuse of child scouts by adult scout leaders was the precise cause of the injury sustained by each Plaintiff.

125. Prior to the sexual abuse of Plaintiffs, Defendants knew or should have known that Abusers were unfit to work with children. Defendants, by and through their agents, servants and/or employees knew, or should have known of Abusers' propensity to commit sexual abuse and of the risk to Plaintiffs' safety. At the very least, Defendants knew or should have known that it did not

have sufficient information about whether or not their adult scout leaders and people working at Defendants' council were safe.

126. Defendants knew, or in the exercise of reasonable care should have known, that their failure to erect reasonable barriers to pedophiles' entry into scouting or to timely adopt policies and practices addressing the problem of pedophilic infiltration and abuse of scouts would result in sexual abuse of innocent boy scouts, including each Plaintiff.

127. Defendants knew or reasonably should have known the heightened risks of sexual abuse in their programs and had a duty to warn or protect foreseeable victims, including each Plaintiff.

128. Defendants knew or reasonably should have known that Abusers posed a threat of sexual abuse to innocent boy scouts, including each Plaintiff.

129. Defendants had knowledge of sexual abuse in scouting for decades and this knowledge made the risk to Plaintiffs foreseeable.

130. Defendants had knowledge that sexual assaults, molestation of children, sexual conduct with minors, commercial sexual exploitation of minors, sexual exploitation of minors, sexual abuse, child sex trafficking, continuous sexual abuse of children, and luring minors for sexual exploitation, are serious felonies offenses carrying lengthy prison sentences. Defendant had a categorical duty to protect Plaintiffs.

131. Defendants breached a duty of care by designing, implementing, and promoting a program that attracted pedophiles to its program that sexually abused Plaintiffs.

132. Defendants breached a common law duty of reasonable care by failing to protect or warn each Plaintiff or each Plaintiffs' parents of the dangers of pedophilic sexual abuse within scouting.

133. But for Defendants' breaches of duty, acts, and omissions, each Plaintiff would not have been abused, because each Plaintiff would not have become a member of BSA and would not have participated in scouting activities that allowed him to come in contact with the pedophile that sexually abused him. Alternatively, but for Defendants' breaches of duty, acts, and omissions each Plaintiff would have been able to protect himself from the pedophile that sexually abused him and would not have been sexually abused by the pedophile.

134. The acts of Abusers described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with Defendants.

135. At all relevant times, Abusers were under the direct supervision, employ and/or control of Defendants.

136. As a direct and proximate result of Defendants' acts, and/or omissions, Plaintiffs suffered and continue to suffer serious injuries, including physical pain and discomfort, mental and emotional distress, anxiety, anger, loss of enjoyment of life, including being deprived of their childhood and adolescence, embarrassment, shame, humiliation, medical and/or counseling expenses and other damages in an amount in excess of twenty-five thousand dollars ($25,000.00)..

137. At all relevant times, Defendants' agents and/or employees were responsible and/or liable for each other's ***negligent*** actions and/or omissions, via including but not limited to *respondeat superior*.

138. As a direct and proximate result of the acts and omissions of the defendants, its Scout leaders and volunteers, said Abusers groomed and sexual abused Plaintiffs, which caused Plaintiff's to suffer general and special damages described herein.

WHEREFORE, each Plaintiff demands judgment against each Defendant, jointly and severally, for damages in an amount sufficient to compensate for compensatory damages, for both physical and emotional pain and suffering, for punitive damages, for costs of suit, attorney fees, and for such other relief as the Court finds equitable and just in an amount in excess of twenty-five thousand dollars ($25,000.00).

THIRD COUNT

(Negligent Hiring, Retention, Supervision and/or Direction)

139. Plaintiffs repeat and reallege by reference each and every allegation set forth above and below as if fully set forth herein.

140. Defendants hired Abusers.

141. Defendants hired Abusers for positions that required them to work closely with, mentor, and counsel young boys and girls.

142. Defendants retained Abusers in their positions as mentors and counselors to such children and thus left them in positions to continue such behavior.

143. Defendants were negligent in hiring Abusers because it knew or should have known, through the exercise of reasonable care, of Abusers' propensity to develop inappropriate relationships with children in its charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

144. Defendants were negligent in its direction and/or supervision of Abusers in that it knew or should have known, through the exercise of ordinary care, that Abusers' conduct would subject third parties to an unreasonable risk of harm, including Abusers' propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

145. Defendants were further negligent in its retention, supervision, and/or direction of Abusers in that Abusers sexually molested Plaintiffs within the geographical confines of BSA Local Council and/or elsewhere.

146. Defendants had a duty to exercise reasonable care in the authorization, selection, investigation, approval, hiring, training, supervision, retention, assignment and/or discharge of its employees, agents, representatives, servants, authorized volunteers, leaders, members, and scoutmasters.

147. Defendants owed a duty to train and educate leaders to establish adequate and effective policies and procedures calculated to detect, prevent, and address sexual abuse.

148. Defendants knew or, in the exercise of reasonable care, should have known, its failure to erect reasonable barriers to pedophiles' entry into scouting or to timely adopt policies and practices addressing the problem of pedophilic infiltration and abuse of scouts would result in sexual abuse of innocent Boy Scouts, including each Plaintiff.

149. Defendants failed to exercise reasonable care and breached their duties by not adequately investigating scoutmasters/leaders/volunteers before allowing them to participate in Boy Scouts.

150. Defendants failed to exercise reasonable care and breached their duties by allowing scoutmasters/leaders/volunteers to participate in Scouts that have a history of pedophilia and sexual abuse to minors.

151. Defendants failed to train and supervise its scout masters, scout leaders, and volunteers (1) in the proper implementation of their guidelines, policies, and procedures regarding the treatment of child sexual abuse victims; (2) to monitor and ensure compliance with their

guidelines, policies, and procedures, and (3) in treating child sexual abusers and reporting child sexual abuse.

152. Defendants failed to properly investigate allegations of abuse and failed to reach out and provide services to victims.

153. Defendants failed to take steps to prevent such conduct from occurring on premises owned or controlled by Defendants and/or elsewhere.

154. Defendants negligently and recklessly breached each of their foregoing duties by failing to exercise reasonable care and by failing to take any action of any kind to prevent Abusers from engaging in sexual contact with and/or sexually abusing and/or exploiting the Plaintiffs entrusted in their care and supervision.

155. Abusers continued to molest Plaintiffs while under the custody and control of Defendant.

156. The harm complained of herein was foreseeable.

157. Plaintiffs would not have suffered the foreseeable harms complained of herein but for the negligence of Defendants in having placed each Abuser, and/or allowed each Abuser to remain in his position.

158. At all times while Abusers were employed or appointed by Defendants, they were supervised by, under the direction of, and/or answerable to, Defendants and/or their agents and employees.

159. Abusers would not and could not have been in a position to sexually abuse Plaintiffs had Abusers not been retained or hired by Defendants to mentor and counsel children in Defendants' organization.

160. Abusers would not and could not have been in positions to sexually abuse Plaintiffs had they not been negligently retained, supervised, and/or directed by Defendants as mentors and counselors to minor scouts of Defendants, including Plaintiffs.

161. In breaching their duties, the Defendants failed to create a safe and secure environment Plaintiffs and other scouts entrusted to its supervision and in their care, custody and control, and instead created, allowed, ignored and/or perpetuated a dangerous culture and environment that ignored, condoned and/or encouraged sexual abuse and exploitation of scouts, such as Plaintiffs. In breaching these duties, the Defendants created a real and foreseeable risk that Plaintiffs and other scouts would be sexually abused and/or exploited.

162. As a direct and proximate result of Defendants' above describe willful and wanton negligent acts, Plaintiffs suffered and continue to suffer serious injuries, including physical pain and discomfort, mental and emotional distress, anxiety, anger loss of enjoyment of life, including being deprived of their childhood and adolescence, embarrassment, shame, humiliation, medical and/or counseling expenses and other damages in an amount in excess of twenty-five thousand dollars ($25,000.00)..

163. By reason of the foregoing, Defendants, severally and/or in the alternative, are liable to Plaintiffs for compensatory damages, and for punitive damages, together with interest and costs.

WHEREFORE, each Plaintiff demands judgment against each Defendant, jointly and severally, for damages in an amount sufficient to compensate for compensatory damages, for both physical and emotional pain and suffering, for punitive damages, for costs of suit, attorney fees, and for such other relief as the Court finds equitable and just in an amount in excess of twenty-five thousand dollars ($25,000.00).

FOURTH COUNT

(Intentional and Negligence Infliction of Emotional Harm)

164. Plaintiffs repeat and reallege by reference each and every allegation set forth above and below as if fully set forth herein.

165. As alleged above, Defendants' actions and/or failure to act related to Plaintiffs were negligent.

166. In committing the acts described above, the defendant and Abusers acted intentionally and/or recklessly in deliberate disregard of the high degree of probability of the emotional distress that Plaintiffs would suffer.

167. The conduct of Defendants and each Abuser was so outrageous and extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.

168. At all relevant times, each Abuser was an employee or agent of Defendants acting within the scope, or in furtherance, of his employment or agency. As such, Defendants are vicariously liable for the torts committed by each Abuser under the doctrine of *respondeat superior*.

169. In addition, Defendants are directly liable based on its own reckless, extreme, and outrageous conduct by providing each Abuser with access to children, including Plaintiffs, despite knowing that Abuser would likely use his position to groom and to sexually abuse them, including Plaintiffs. Defendants' misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by Defendants of the consequences that would follow.

170. Defendants engaged in reckless, extreme, and outrageous conduct by representing to Plaintiffs and Plaintiffs' families that the Abusers were safe and trustworthy, and that all of Plaintiffs' Scout leaders, employees and volunteers were safe and trustworthy, despite the fact that Defendants knew that sexual predators, like Abusers herein, were using their positions in the program to groom and to sexually abuse children. Defendants' misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by Defendants of the consequences that would follow. As a result of this reckless, extreme and outrageous conduct, each Abuser used his position with Defendants to gain access to each Plaintiff and to sexually abuse him.

171. Defendants knew that the foregoing reckless, extreme and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Plaintiffs did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

172. The conduct of the Defendants was intentional and outrageous as it pertains to the oversight, knowledge and/or acquiescence of the sexual abuse of Plaintiffs and other children by Abusers while within the scope of employment or agency with the Defendants and the services Abusers provided to the Defendants.

173. These negligent acts or failures to act did, in fact, cause Plaintiffs severe emotional distress.

174. Defendants knew or should have known, and it was reasonably foreseeable that, the Defendants' acts and/or failures to act would cause Plaintiffs severe emotional distress.

175. The Defendants knew or should have known, and it was reasonably foreseeable that their failure to properly supervise and to intervene and stop the sexual abuse and exploitation of its students, including Plaintiffs, when it was or should have been clear that such harmful conduct was occurring and would cause Plaintiffs severe emotional distress.

176. As a result of the Defendants' negligent acts and/or failures to act, Plaintiffs have suffered greatly and most have required and/or sought professional medical treatment.

177. As a proximate and foreseeable result of the negligence of the Defendants as alleged herein, Plaintiffs endured pain, suffering, mental anguish, and suffered from severe emotional distress and will continue to endure pain, suffering, mental anguish, and suffer from severe emotional distress in the future.

178. As a direct and proximate result of the above-described negligence of the Defendants, Plaintiffs have suffered and continue to suffer physical, mental and emotional injuries and have incurred and continue to incur medical and other expenses and Plaintiffs have incurred a loss of wages and income and suffered a loss of earning capacity causing them to continue to incur lost earnings in the future and the inability to earn wages at his full potential all damages in an amount in excess of twenty-five thousand dollars ($25,000.00).

WHEREFORE, each Plaintiff demands judgment against each of the Defendants, jointly and severally, for damages in an amount sufficient to compensate for compensatory damages, for both physical and emotional pain and suffering, for punitive damages, for costs of suit, attorney fees and for such other relief as the Court finds equitable and just.

FIFTH COUNT

(Punitive Damages)

179. Plaintiffs repeat and reallege by reference each and every allegation set forth above and below as if fully set forth herein.

180. The acts and omissions by Defendants constitute a willful, wanton and/or reckless and done in conscious and flagrant disregard of and indifference to the rights and safety of the minors under the care and supervision of Defendants, specifically including the rights and safety of Plaintiffs.

181. As a result of this willful, wanton and/or reckless conduct and misconduct by the Defendants, the Defendants are liable to Plaintiffs for punitive damages.

182. The amount of punitive damages to be assessed by the jury against each Defendant should be an amount sufficient to deter each Defendant from such willful and wanton conduct in the future and to deter others similarly situated from engaging in such willful, wanton and reckless behavior.

JURY DEMAND

Please be advised that each Plaintiff in the above-captioned matter demands a trial by jury on all issues so triable.

WHEREFORE, Plaintiffs respectfully pray the Court as follows:

1. That the Plaintiffs individually each have and recover from Defendants, jointly and severally when applicable, an amount to be determined by a jury and in excess of the jurisdictional of this Court as provided by law;
2. That the Plaintiffs individually each have and recover from the Defendants punitive damages as allowed by law and determined by a jury;
3. That the Plaintiff individually each be awarded pre-judgment interest as by law allowed beginning from the date of the filing of this action;

4. That Plaintiffs individually each have and be awarded attorney's fees and costs as allowed by law; and

5. For all such other and further relief as the Court may deem just and proper.

This the 27th day of December, 2021.

WARD BLACK LAW

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NORTH CAROLINA

DAVIE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21-CVS-_____

FLORA HANCOCK,

Plaintiff

v.

DAVIE COUNTY BOARD OF EDUCATION,

Defendant

COMPLAINT

NOW COMES Plaintiff, complaining of Defendant and alleges and says as follows:

1. Plaintiff is a citizen and resident of Salisbury, Rowan County, in the State of North Carolina.

2. Upon information and belief, Defendant Davie County Board of Education was at all time relevant hereto the governing body of Davie County School, including, but not limited to Coleemee Elementary.

3. Defendant Board is a governmental entity organized and existing pursuant to the laws of the State of North Carolina.

4. Defendant Board is not entitled to governmental immunity for the conduct alleged herein. However, upon information and belief, at all times relevant hereto, Defendant Board waived any immunity because they purchased and maintained liability insurance coverage applicable to the acts alleged herein.

FACTUAL BACKGROUND

5. Plaintiff incorporates all previous paragraphs by reference.

EXHIBIT
D

6. Upon information and belief, in or about the year 1982, Defendant owned and operated a public school known as Cooleemee Elementary School, located at 136 Marginal Street, Cooleemee, North Carolina.

7. Upon information and belief, in or about the year 1982, Defendant employed a man whose name Plaintiff does not remember, hereafter "John Doe," who was white, had dark hair, and wore thick glasses. Upon information and belief, John Doe was employed as a bus monitor, handiman, janitor, and/or groundskeeper.

8. In or about the year 1982, Plaintiff was enrolled at Cooleemee Elementary School, and she recalls encountering John Doe repeatedly throughout the school day during that year, including on the school bus.

9. In or about the year 1982, when Plaintiff was approximately five (5) years old, John Doe sexually assaulted Plaintiff for the first time.

10. Plaintiff's class that year had a daily "nap time," during which John Doe would remove Plaintiff from the classroom, take her to the bathroom, fondle her genitals, dititally penetrate her, and force her to perform oral sex on him.

11. John Doe continued to sexually assault Plaintiff repeatedly over the course of the following two years.

12. Plaintiff's classmates teased her for how much attention John Doe paid to her, calling her his girlfriend.

13. Plaintiff never consented or wanted John Doe's sexual advances.

14. As a direct result of John Doe's sexual assaults, Plaintiff has struggled with anxiety, depression, suicide attempts, and substance abuse.

FIRST CLAIM FOR RELIEF
(Assault/Battery)

15. Plaintiff incorporates all previous paragraphs by reference.

16. In the event John Doe intended to touch Plaintiff inappropriately in a sexual nature, he engaged in conduct rising to the level of battery and assault upon Plaintiff, in that he:

a. intentionally and in wanton disregard for the safety and well-being of Plaintiff, assaulted and battered her over the course of several years, multiple times. John Doe sexually assaulted the Plaintiff and forced many actions opon her. This behavior continued which and ultimetly ended with the physical sexual assault upon Plaintiff multiple times;

b. acted in a manner meant to cause a reasonable person to suffer apprehension or fear of imminent harmful or offensive contact;

c. engaged in conduct which a reasonable person would consider to be harmful or offensive contact;

d. engaged in other wrongful conduct not set out herein but which may be revealed in discovery; and

e. engaged in conduct rising to the level of battery and assault in other and further ways as the evidence will show and to be proven at trial.

17. The willful and wanton conduct of John Doe, as specifically alleged above, constitutes battery and assault or otherwise indicates a reckless indifference to the likelihood that such conduct would cause serious harm or apprehension of serious harm to Plaintiff.

18. Upon information and belief, at all times relevant herein, John Doe was under the employment of Defendant Board and was operating under said employment when the alleged incidents occurred.

19. The aforesaid actions and omissions by John Doe are imputed to Defendant Board pursuant to the doctrines of agency and/or *respondeat superior*.

20. As a direct and proximate result of the conduct of John Doe, Plaintiff suffered severe physical and mental injuries arising from the sexual assaults/batteries committed by John Doe over the years. As a result of John Doe's assaults/batteries Plaintiff has incurred medical and other expenses.

21. As a direct and proximate result of the conduct of John Doe, Plaintiff is entitled to recover from Defendant compensatory damages and punitive damages in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

SECOND CLAIM FOR RELIEF
(Negligent Hiring, Retention and Supervision)

22. Plaintiff incorporates all previous paragraphs by reference.

23. Upon information and belief, Defendant Board breached its duty in hiring, retaining and supervising John Doe in the following respects:

a. Defendant Board failed to properly train John Doe regarding appropriate interaction with children and boundaries;

b. Defendant Board failed to properly supervise John Doe and ensure he was doing his job properly;

c. Defendant Board failed to properly supervise John Doe during his employment at Cooleemee Elementary School;

d. Defendant Board failed to properly supervise John Doe with young students whose parents had entrusted their children to the Board and its employees;

e. Defendant Board failed to properly supervise John Doe and his interactions with the young students whose parents had entrusted their children to the Board and its employees;

f. Defendant Board failed to intervene when there was clear and convincing evidence of the inappropriate relationship between John Doe, also noticed by other students

g. In other respects to be established through discovery and proved at trial.

24. As a direct and proximate result of the acts and omission of the Board, Plaintiff is entitled to recover from Defendant Board compensatory and punitive damages in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

THIRD CLAIM FOR RELIEF
(Negligent Infliction of Emotional Distress)

25. Plaintiff incorporates all previous paragraphs by reference.

26. As alleged above, Defendant's conduct related to Plaintiff was negligent.

27. The negligent conduct did, in fact, cause Plaintiff severe emotional distress.

28. Defendant knew or should have known, and it was reasonably foreseeable that, John Doe's conduct would cause Plaintiff severe emotional distress.

29. Defendant knew or should have known and it was reasonably foreseeable that the failure of the employees and administrators of the Board to intervene and stop the harmful conduct of John Doe when it was or should have been clear that such harmful conduct was occurring would cause Plaintiff severe emotional distress.

30. As a proximate and foreseeable result of the negligence of Defendant as alleged herein, Plaintiff endured pain, suffering, mental anguish, and severe emotional distress and will continue to endure pain, suffering, mental anguish, and severe emotional distress in the future.

31. As a direct, proximate and foreseeable result of the negligence of Defendant, Plaintiff is entitled to recover from Defendant compensatory and punitive damages in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

FOURTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)

32. Plaintiff incorporates all previous paragraphs by reference.

33. John Doe engaged in conduct rising to the level of intentional infliction of emotional distress of Plaintiff, in that he:

a. engaged in conduct which a reasonable prudent person would find extreme and outrageous;

b. engaged in conduct amounting to extreme and outrageous conduct with the specific intent to cause severe emotional distress to another person;

c. engaged in conduct amounting to extreme and outrageous conduct which he knew or should have known would cause another person severe emotional distress;

d. engaged in conduct amounting to extreme and outrageous conduct that caused another person to suffer severe and emotional distress;

e. engaged in conduct not set out herein which may be revealed in discovery; and engaged in conduct rising to the level of severe infliction of emotional distress in other and further ways as the evidence will show and to be proven at trial.

34. The conduct of John Doe, as specifically alleged above, constitutes extreme and outrageous conduct which caused Plaintiff severe emotional distress or otherwise indicated a reckless indifference to the likelihood that such conduct would cause severe emotional distress to Plaintiff.

35. Upon information and belief and at all times relevant herein, John Doe was an employee

of Defendant Board, and was operating under said employment when the alleged incidents occurred.

36. Upon information and belief, Defendant Board knew, or should have known, that John Doe was predisposed to commit and/or was committing the type of act alleged herein, or in the alternative, condoned and ratified the activity in ways to be further proven at trial.

37. The aforesaid actions and omissions by John Doe are imputed to Defendant Board pursuant to the doctrines of agency and/or *respondeat superior*.

38. In the alternative, Defendant Board gained knowledge of the material facts concerning John Doe's harmful conduct as alleged herein, and by their unreasonable inaction, condoned and ratified the misconduct of John Doe.

39. Defendant is jointly and severally liable to Plaintiff for injuries and damages proximately caused by the negligence of John Doe.

40. As a direct and proximate result of the conduct of John Doe and Defendant Board, Plaintiff has suffered severe emotional distress arising from the sexual offense, sexual battery, and other acts committed by John Doe upon Plaintiff.

FIFTH CLAIM FOR RELIEF
(Constructive Fraud)

41. Plaintiff incorporates all previous paragraphs by reference.

42. Plaintiff was minor child placed in the care and supervision of the Defendant, who owed her fiduciary duties and the duties of loyalty and of good faith and fair dealing, as her care giver.

43. John Doe utilized his position of employment and trust and confidence as Plaintiff's superior to molest and commit sexual assault and battery upon Plaintiff for his own personal benefit and gratification, and to Plaintiff's detriment.

44. John Doe, in fact, benefitted from this abuse of Plaintiff's trust and confidence and the fiduciary relationship then existing.

45. Plaintiff was minor and could not consent to John Doe's wrongful conduct described herein, nor did she comprehend John Doe's actions.

46. Plaintiff's parents did not consent to John Doe's wrongful conduct described herein.

47. John Doe's actions described herein are imputed to Defendant Board, under the doctrine of agency and/or *respondeat superior* because at all pertinent times, John Doe was acting in the course and scope of his employment with, or as an apparent or ostensible agent of Defendant Board.

48. As stated above, Plaintiff has suffered extreme harm as a result of Defendant's actions and failures to act.

49. As a direct and proximate result of Defendant's constructive fraud, Plaintiff suffered compensatory and punitive damages in excess of the jurisdictional limit of this Court.

SIXTH CLAIM FOR RELIEF
(Violation of Article I, Section 15 and Article IX, Section 2 of the North Carolina Constitution)

46. Plaintiff incorporates all previous paragraphs by reference.

47. Article I, Section 15 and Article IX, Section 2 of the North Carolina State Constitution jointly guarantee every child the right to a "sound basic education." *Leandro v. North Carolina*, 346 N.C. 336 (1997).

48. Article I, Section 15 of the North Carolina Constitution placed an affirmative duty on Defendant Board "to guard and maintain that right." N.C. Const. art. I, § 15.

49. Taken together, Article I, Section 15 and Article IX, Section 2 of the North Carolina Constitution required that Defendant Board to provide the students under its care and supervision an opportunity to learn that was free from sexual intimidation, abuse, exploitation and/or harassment.

50. Due to its willful and deliberate indifference to the sexual intimidation, abuse, exploitation and harassment being perpetrated upon Plaintiff, Defendant Board failed in its constitutional duty and obligation to provide a safe environment where Plaintiff could learn and grow.

51. Due to its willful and deliberate indifference to the sexual intimidation, abuse, exploitation and/or harassment being perpetrated upon Plaintiff, Defendant Board failed in its constitutional duty and obligation to prepare Plaintiff to participate and compete in the society in which he/she would live and work.

52. Defendant Board knew or should have known about the sexual intimidation, abuse, exploitation and/or harassment being perpetrated upon Plaintiff and that was infringing Plaintiff's constitutional right and failed to take reasonable action to this prevent this egregious conduct.

53. Plaintiff was denied her individual right to a sound basic education as guaranteed by the North Carolina Constitution as a result of being in a hostile environment where sexual abuse and exploitation was ignored and where Defendant Board knew or should have known of this harmful conduct and should have taken steps to prevent it.

54. Plaintiff was subjected to sexual harassment and exploitation while under the purported trust, care and supervision of Defendant Board.

55. Defendant Board had substantial control over the abusive and exploitative sexual conduct.

56. The abusive and exploitative sexual conduct was severe and discriminatory.

Defendant Board, by and through its employees, agents and administrators knew or should have known the abusive conduct alleged herein.

57. Defendant Board exhibited willful and deliberate indifference to the sexually abusive, exploitative and/or harassing conduct.

58. The academic performance of and the personal life of Plaintiff suffered greatly as a result of the perpetually chaotic school environment created by the sexual abuse and exploitation that Defendant Board permitted and condoned and Plaintiff suffered substantially adverse educational consequences.

59. Despite the fact that its employees and/or agents knew or should have known of the sexual abuse and exploitation of Plaintiff, Defendant Board exhibited deliberate indifference to the abusive and exploitative conduct and the horrible impact it would have on Plaintiff.

60. As a direct and proximate result of the above-described actions and/or failures to act of Defendant Board, Plaintiff has suffered and continue to suffer physical, mental and emotional injuries and have incurred and continues to incur medical and other expenses and have incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

DAMAGES

50. Plaintiff incorporates all previous paragraphs by reference.

51. As a proximate and foreseeable result of the negligence of Defendant as described herein,

Plaintiff has endured pain and suffering, mental anguish, and emotional distress and will continue to endure pain and suffering in the future.

52. As a direct, proximate and foreseeable result of the negligence of Defendant as alleged herein, Plaintiff has incurred medical expenses for medical care and treatment, such treatment and expenses to continue for an undetermined amount of time.

53. As a direct and proximate result of the intentional infliction of emotional distress inflicted on Plaintiff by Defendant, Plaintiff has suffered serious injuries and damages and is entitled to relief in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

54. As a proximate and foreseeable result of the negligence and the intentional infliction of emotional distress of Defendant as described herein, Plaintiff incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential.

55. The conduct of Defendant as alleged herein was willful and/or wanton and was done with the conscious disregard of and/or indifference to the rights and safety of Plaintiff, and Plaintiff is entitled to recover punitive damages from Defendant under Chapter 1D of the North Carolina General Statutes in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

56. As a proximate and foreseeable result of the negligent and wrongful conduct of Defendant as alleged herein, Plaintiff has sustained damages and is entitled to recover from Defendant, jointly and severally, in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully pray the Court as follows:

(a) That Plaintiff have and recover of Defendant jointly and severally an amount to be determined by a jury and in excess of the jurisdictional limit of this Court as provided by law,

(b) That Plaintiff be awarded pre-judgment interest as by law allowed beginning from the date of the filing of this action;

(c) That Plaintiff have and recover from Defendant punitive damages as by law allowed;

(d) That Plaintiff be awarded attorney's fees and costs as allowed by law;

(e) For a trial by jury of this action; and

(f) For all such other and further relief as the Court may deem just and proper.

This the 17th day of December, 2021.

LANIER LAW GROUP, P.A.

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NORTH CAROLINA

PITT COUNTY

FILED
2021 DEC 28 P 1:40
PITT CO., C.S.C.
BY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 3650

JAMICE NORMAN,

Plaintiff

v.

BOYS AND GIRLS CLUBS OF COASTAL CAROLINA, INC., BOYS & GIRLS CLUBS OF THE COASTAL PLAIN, and BOYS & GIRLS CLUBS OF THE COASTAL PLAIN FOUNDATION,

Defendant

COMPLAINT

NOW COMES the Plaintiff, complaining of Defendants and demanding a trial by jury, and alleges and says as follows:

1. Plaintiff is a citizen and resident of Essex County, New Jersey.

2. Upon information and belief, Defendant Boys and Girls Clubs of Coastal Carolina, Inc., (hereinafter, "Defendant Coastal" or collectively as "Defendants") is a North Carolina non-profit corporation with its principal place of business in Morehead City, North Carolina, and with a registered agent in Morehead City, North Carolina.

3. Upon information and belief, Defendant Boys & Girls Club of the Coastal Plain (hereafter, "Defendant Plain" or collectively as "Defendants") is a North Carolina non-profit corporation with its principal place of business in Winterville, North Carolina, and with a registered agent in Winterville, North Carolina.

4. Upon information and belief, Defendant Boys and Girls Clubs of the Coastal Plain Foundation (hereinafter, "Defendant Foundation" or collectively as "Defendants") is a North Carolina non-profit corporation with its principal place of business in Winterville, North

EXHIBIT E

Carolina, and with a registered agent in Winterville, North Carolina.

5. This court has personal jurisdiction over Defendant in that at all times relevant hereto Defendant conducted its business and activities in the state of North Carolina, including Pitt County.

6. This court has subject matter jurisdiction over Plaintiff's claims in that the claims arose under the substantive law of North Carolina.

7. This court is the proper venue for this action pursuant to N.C. Gen. Stat. § 1-80.

8. Defendant Boys and Girls Clubs of Coastal Carolina, Inc., has been properly served with the Summons and Complaint in this matter pursuant to the applicable provisions of the North Carolina General Statutes and the North Carolina Rules of Civil Procedure, and there are no outstanding issues of process, service of process, or jurisdiction.

9. Defendant Boys & Girls Club of the Coastal Plain has been properly served with the Summons and Complaint in this matter pursuant to the applicable provisions of the North Carolina General Statutes and the North Carolina Rules of Civil Procedure, and there are no outstanding issues of process, service of process, or jurisdiction.

10. Defendant Boys and Girls Clubs of the Coastal Plain Foundation has been properly served with the Summons and Complaint in this matter pursuant to the applicable provisions of the North Carolina General Statutes and the North Carolina Rules of Civil Procedure, and there are no outstanding issues of process, service of process, or jurisdiction.

FACTUAL BACKGROUND

11. Upon information and belief, in or about the year 1999, Defendants owned and/or operated a Boys and Girls Clubs located at 621 W. Fire Tower Road, Winterville, North Carolina 28590 (hereafter known as the "Defendant.").

12. In or about the year 1999, Plaintiff was a minor at the Defendants' Boys and Girls Clubs.

13. Upon information and belief, in or about the year 1994, the Plaintiff began attending the then named Boys and Girls Club of America.

14. Upon information and belief, a man whose name Plaintiff does not recall (hereinafter, "John Doe") was employed by Defendant, and/or Defendant allowed John Doe to serve as an employee or in some other capacity that placed him in direct interaction with the youth of Defendant's Boys and Girls Clubs.

15. John Doe was a slender white male in his early twenties.

16. Plaintiff attended her first overnight sleepover at the Boys and Girls Clubs.

17. Plaintiff woke to use the restroom.

18. John Doe followed Plaintiff into the restroom and touched Plaintiff inappropriately on her chest and genitals.

19. Plaintiff fled the bathroom and ran back to her sleeping bag.

20. Plaintiff could not and did not consent to John Doe's sexual assaults.

21. As a result of John Doe's sexual assault on Plaintiff, Plaintiff began to experience significant and ongoing emotional turmoil, resulting in shame/guilt; being over-protective of children; trust issues; and social issues.

22. Plaintiff's significant and ongoing emotional turmoil, resulting in shame/guilt; being over-protective of children; trust issues; and social issues were directly caused by John Doe's sexual assault.

FIRST CLAIM FOR RELIEF:
ASSAULT/BATTERY AGAINST DEFENDANTS

1. Plaintiff incorporates all previous paragraphs by reference.

2. In the event John intended to touch Plaintiff inappropriately in a sexual nature, he engaged in conduct rising to the level of battery and assault upon Plaintiff, in that he:

a. intentionally and in wanton disregard for the safety and well-being of Plaintiff, assaulted and battered her, touching Plaintiff inappropriately on her chest and genitals, and sexually assaulted Plaintiff;

b. acted in a manner meant to cause a reasonable person to suffer apprehension or fear of imminent harmful or offensive contact;

c. engaged in conduct which a reasonable person would consider to be harmful or offensive contact;

d. engaged in other wrongful conduct not set out herein, but which may be revealed in discovery; and

e. engaged in conduct rising to the level of battery and assault in other and further ways as the evidence will show and to be proven at trial.

3. The willful and wanton conduct of John Doe, as specifically alleged above, constitutes battery and assault or otherwise indicates a reckless indifference to the likelihood that such conduct would cause serious harm or apprehension of serious harm to Plaintiff.

4. Upon information and belief, at all times relevant herein, John Doe was under the employment of Defendants and was operating under said employment when the alleged incidents occurred.

5. The aforesaid actions and omissions by John Doe are imputed to Defendants pursuant to

the doctrines of agency and/or *respondeat superior*.

6. As a direct and proximate result of the conduct of John Doe, Plaintiff suffered severe physical and mental injuries arising from the sexual assaults/batteries committed by John Doe. As a result of John Doe assaults/batteries Plaintiff has incurred medical and other expenses.

7. As a direct and proximate result of the conduct of John Doe, Plaintiff is entitled to recover from Defendants compensatory damages and punitive damages in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

SECOND CLAIM FOR RELIEF: NEGLIGENT HIRING AGAINST DEFENDANTS

23. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

24. When hiring and retaining employees, Defendants owed Plaintiff a duty to act as an ordinary, prudent and reasonable employer of employees, and similarly situated staff and volunteers who would be interacting with and supposedly leading youth and adolescents.

25. Defendants hired John Doe.

26. Upon information and belief, before John Doe began to serve as an employee, Defendants knew or should have known of John Doe's tendencies to enter into overly controlling, improper and sexualized relationships with youth under his care and supervision. Once John Doe was employed at Defendants and continuing forward, Defendants knew or should have known of his overly controlling, improper and sexualized relationship with Plaintiff and other youth under his care and supervision.

27. Although Defendants knew or should have known of John Doe's tendencies to enter into overly controlling, improper and sexualized relationships with youth under his care

and supervision, including Plaintiff, Defendants breached their duty to Plaintiff and negligently continued to employ John Doe thereby allowing him to continue his duties as an employee.

28. While employed at Defendants, John Doe engaged in the wrongful conduct described herein, proximately causing the harm and damages to Plaintiff described herein.

29. As a direct and proximate result of the above-described negligent actions and/or omissions of Defendants, Plaintiff has suffered and continues to suffer physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

30. The acts and/or omissions of Defendants as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of its duties to her.

THIRD CLAIM FOR RELIEF:
NEGLIGENT RETENTION AND SUPERVISION
AGAINST DEFENDANTS

31. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

32. When hiring and/or retaining and/or utilizing employees, agents and/or volunteers, Defendants owed Plaintiff a duty to act as an ordinary, prudent and reasonable employer, supervisor and/or principal of employees who would be interacting with and supposedly leading youth and adolescents.

33. Defendants hired, allowed, permitted and/or authorized John Doe to act as its agent and on its behalf and to serve at Defendants' as an employee.

34. Upon information and belief, Defendants breached their duty to Plaintiff in retaining and supervising John Doe in the following respects:

a. Failed to perform a proper background check of John Doe prior to allowing him to serve as a youth leader;

b. Failed to exercise due diligence in determining whether John Doe would be a proper and safe employee;

c. Failed to properly train John Doe regarding appropriate interaction with children;

d. Defendants failed to properly supervise John Doe;

e. Defendants failed to properly supervise John Doe during Boys and Girls Clubs related events with young females;

f. Defendants failed to properly supervise John Doe and his interactions with young females whose parents had entrusted their sons to the Boys and Girls Clubs and the adults associated with the Boys and Girls Clubs who interacted with them;

g. Defendants failed to intervene when they knew or should have known of the inappropriate relationship between John Doe and young girls who participated in the youth programs and activities sponsored by the Boys and Girls Clubs; and

h. In other respects to be established through discovery and proved at trial.

35. As a direct and proximate result of the above-described negligent actions and/or omissions of Defendants, Plaintiff has suffered and continues to suffer physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the

Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

36. The acts and/or omissions of Defendants as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of its duty to her.

37. The acts and/or omissions of Defendants as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of its duties to her.

FOURTH CLAIM FOR RELIEF:
CONSTRUCTIVE FRAUD AGAINST DEFENDANT

38. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

39. Plaintiff was a minor child placed in the care and supervision of the Defendants, who owed her fiduciary duties and the duties of loyalty and of good faith and fair dealing, as providing for Plaintiff's safety, supervision and care.

40. John Doe utilized his position of trust and confidence as Plaintiff's appointed and/or authorized care giver to molest and commit sexual assault and battery upon Plaintiff for his own personal benefit and gratification, and to Plaintiff's extreme detriment.

41. John Doe, in fact, benefitted from this abuse of the Plaintiff's trust and confidence and the fiduciary relationship then existing.

42. The Plaintiff was a minor and could not consent to John Doe's wrongful conduct described herein, nor could Plaintiff comprehend that John Doe would utilize the fiduciary relationship between Plaintiff and Defendants to take advantage of her.

43. The Plaintiff's parents did not consent to John Doe's wrongful conduct described herein, nor did they have knowledge that John Doe would utilize the fiduciary relationship between Plaintiff and Defendants to take advantage of the Plaintiff.

44. John Doe's actions described herein are imputed to Defendants under the doctrines of agency and/or *respondeat superior* because at all pertinent times, John Doe was acting in the course and scope of his association with, or as an apparent or ostensible agent of Defendants. Further, the acts and/or omissions of Defendants as alleged herein constitute ratification of the heinous acts of John Doe as alleged herein.

45. The acts and/or omissions of Defendants and John Doe as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of their duty to him.

46. As a direct and proximate result of the above-described constructive fraud, Plaintiff has suffered and continues to suffer physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing him to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

FIFTH CLAIM FOR RELIEF:
FALSE IMPRISONMENT AGAINST DEFENDANT

47. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

48. John Doe engaged in conduct rising to the level of false imprisonment of Plaintiff, in that he:

a. unlawfully confined, restrained or removed from one place to another minor Plaintiff who could not consent;

b. unlawfully confined, restrained or removed from one place to another minor Plaintiff without their parents' consent;

c. engaged in the above-mentioned conduct for the purpose of facilitating the commission of a felony;

d. restrained Plaintiff by force, threat or fraud;

e. engaged in conduct not set out herein which may be revealed in discovery; and

f. engaged in conduct rising to the level of false imprisonment in other and further ways as the evidence will show and to be proven at trial.

49. The conduct of John Doe, as specifically alleged above, constitutes false imprisonment which caused Plaintiff severe emotional distress and physical harm or otherwise indicated a reckless indifference to the likelihood that such conduct would cause severe emotional distress and physical harm to Plaintiff.

50. Upon information and belief, at all times relevant herein, John Doe was associated with and acting as an actual and/or apparent agent of and under the supervision of Defendants and was operating under said association when the alleged incidents occurred.

51. Upon information and belief, Defendants knew, or should have known, that John Doe was predisposed to commit the type of act alleged herein, or in the alternative, condoned the activity in ways to be further proven at trial.

52. John Doe's actions described herein are imputed to Defendants under the doctrines of agency and/or *respondeat superior* because at all pertinent times, John Doe was acting in the course and scope of his employment with, or as an apparent or ostensible agent of Defendants.

53. In the alternative, Defendants gained knowledge of the material facts concerning John Doe's conduct, and by its unreasonable inaction, ratified the misconduct by John Doe.

54. Defendants are jointly and severally liable to the Plaintiff for injuries and damages proximately caused by the actions of John Doe.

55. The acts and/or omissions of Defendants as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of its duties to him.

56. As a direct and proximate result of the conduct of John Doe, Plaintiff has suffered severe emotional distress and physical harm arising from the intentional detainment without consent and other acts committed by John Doe upon Plaintiff.

57. As a direct and proximate result of the above-described false imprisonment, Plaintiff has suffered and continues to suffer physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an

amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

SIXTH CLAIM FOR RELIEF:
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST DEFENDANTS

58. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

59. As alleged above, Defendants's conduct related to Plaintiff was negligent.

60. The negligent conduct did, in fact, cause Plaintiff severe emotional distress.

61. Defendants knew or should have known, and it was reasonably foreseeable that John Doe's conduct would cause the Plaintiff severe emotional distress.

62. Defendants knew of should have known and it was reasonably foreseeable that the failure of the employees, administrators and/or agents of Defendants to properly supervise and to intervene and stop the harmful conduct of John Doe when it was or should have been clear that such harmful conduct was occurring would cause the Plaintiff severe emotional distress.

63. As a result of Defendants' negligent conduct, Plaintiff has sought professional medical treatment.

64. The acts and/or omissions of Defendants as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of its duties to her.

65. As a proximate and foreseeable result of the negligence of Defendants as alleged herein, Plaintiff endured pain, suffering, mental anguish, and suffered from severe emotional distress and will continue to endure pain, suffering, mental anguish, and suffer from severe emotional distress in the future.

66. As a direct and proximate result of the above-described negligence of Defendants, Plaintiff has suffered and continues to suffer physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

SEVENTH CLAIM FOR RELIEF:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST DEFENDANTS

67. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

68. John Doe engaged in conduct rising to the level of intentional infliction of emotional distress against Plaintiff, in that he:

a. engaged in conduct which a reasonable prudent person would find extreme and outrageous;

b. engaged in conduct amounting to extreme and outrageous conduct with the specific intent to cause severe emotional distress to another person;

c. engaged in conduct amounting to extreme and outrageous conduct which he knew or should have known would cause another person severe emotional distress;

d. engaged in conduct amounting to extreme and outrageous conduct that caused another person to suffer severe and emotional distress;

e. engaged in conduct not set out herein which may be revealed in discovery; and engaged in conduct rising to the level of severe infliction of emotional distress in other and further ways as the evidence will show and to be proven at trial.

69. The conduct of John Doe, as specifically alleged above, constitutes extreme and outrageous conduct which caused Plaintiff severe emotional distress or otherwise indicated a reckless indifference to the likelihood that such conduct would cause severe emotional distress to Plaintiff.

70. Upon information and belief and at all times relevant herein, John Doe was knowingly associated with and acting as an agent of Defendants and was operating under said association and/or agency when the alleged incidents occurred.

71. Upon information and belief, Defendants knew, or should have known, that John Doe was predisposed to commit and/or was committing the type of act alleged herein.

72. The aforesaid actions and omissions by John Doe are imputed to Defendants pursuant to the doctrines of agency and/or *respondeat superior*.

73. In the alternative, Defendants gained knowledge of the material facts concerning John Doe's harmful conduct as alleged herein, and by their unreasonable inaction, condoned and ratified the misconduct of John Doe.

74. The acts and/or omissions of Defendants as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of its duties to her.

75. Defendants are jointly and severally liable to Plaintiff for injuries and damages proximately caused by the actions of John Doe.

76. As a result, Plaintiff has sought professional medical treatment as a result of John Doe's conduct.

77. As a direct and proximate result of the above-described conduct, Plaintiff has suffered and continues to suffer serious physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

EIGHTH CLAIM FOR RELIEF:
BREACH OF FIDUCIARY DUTY AGAINST DEFENDANTS

78. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

79. There existed a confidential, fiduciary relationship between Plaintiff, as a minor, student and parishioner, and John Doe, who stood *in loco parentis* and had a duty to act as Plaintiff's minister, teacher, leader and/or spiritual mentor.

80. There existed a confidential, fiduciary relationship between Plaintiff and Defendants, as the supervisor and enabler of John Doe; as the entity responsible for the Boys and Girls Clubs' youth, and students, including Plaintiff, who were placed under the care, control and supervision of John Doe and Defendants, with Defendants being the entity responsible for the care and safety of the Boys and Girls Clubs' youth, students and parishioners.

81. As a result of the confidential, fiduciary relationship that existed between Plaintiff and Defendants, Defendants owed Plaintiff the duties of honesty and fidelity, to do no harm to

him, to uphold his trust, to treat him with the utmost good faith and to act for his benefit.

82. In engaging in the conduct described herein, John Doe breached his fiduciary duties to Plaintiff by violating his trust, by causing him harm, by acting in bad faith, by failing to act in Plaintiff's best interest and for Plaintiff's benefit and instead acted in service of his own prurient interests and desires.

83. In failing to supervise and control John Doe as alleged and described herein, and by condoning and/or ratifying the conduct of John Doe, Defendants breached their fiduciary duties to Plaintiff by violating his trust, by causing him harm, by failing to act in Plaintiff's best interest and for Plaintiff's.

84. As a direct and proximate result of the above-described breach of fiduciary duty, Plaintiff has suffered and continues to suffer serious physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

85. The acts and/or omissions of Defendants as alleged herein were willful and wanton and exhibited a conscious disregard of and indifference to the rights and safety of Plaintiff and of its duties to him.

86. The conduct of John Doe as described herein was committed within the course and scope of his agency with Defendants and is thus imputed to Defendants under the doctrine of agency and/or *respondeat superior.* Defendants are thus liable to the Plaintiff for all the damages described herein.

87. As a direct and proximate result of the above-described assaults, Plaintiff has suffered and continues to suffer serious physical, mental and emotional injuries and has incurred and continues to incur medical and other expenses and the Plaintiff has incurred a loss of wages and income and suffered a loss of earning capacity causing her to continue to incur lost earnings in the future and the inability to earn wages at her full potential all damages in an amount to be determined by a jury, but in any event, in an amount in excess of twenty-five thousand dollars ($25,000.00).

NINTH CLAIM FOR RELIEF:
PUNITIVE DAMAGES AGAINST DEFENDANT

88. Plaintiff refers to and hereby realleges and incorporates by reference all previous paragraphs of this Complaint.

89. The conduct of the Defendants fully set forth herein was willful, wanton and/or reckless and done in conscious and flagrant disregard of and indifference to the rights and safety of others, specifically including the rights and safety of the Plaintiff.

90. The officers, directors, and/or managers of Defendants participated in and/or condoned the conduct constituting the aggravating factors giving rise to punitive damages.

91. As a result of this willful, wanton and/or reckless conduct and misconduct by the Defendants, Defendants are liable to Plaintiff for punitive damages.

92. The amount of punitive damages to be assessed by the jury against each Defendant should be an amount sufficient to deter Defendants from such willful and wanton conduct in the future and to deter others similarly situated from engaging in such willful, wanton and reckless behavior.

WHEREFORE, Plaintiff respectfully prays the Court as follows:

1. That Plaintiff have and recover of Defendants, jointly and severally, an amount to be determined by a jury and in excess of the jurisdictional limit of this Court as provided by law;

2. That Plaintiff be awarded pre-judgment interest as by law allowed beginning from the date of the filing of this action;

3. That Plaintiff have and recover from Defendants punitive damages as allowed by law;

4. That Plaintiff be awarded attorney's fees and costs as allowed by law;

5. For a trial by jury of this action; and

6. For all such other and further relief as the Court may deem just and proper.

This the 23rd day of December, 2021.

LANIER LAW GROUP, P.A.

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Attorneys for Plaintiff

RECORDS RETENTION

AND

DISPOSITION SCHEDULE

LOCAL EDUCATION AGENCIES

Issued By:

North Carolina Department of Cultural Resources
Division of Archives and History
Archives and Records Section
Records Services Branch

February 19, 1999

EXHIBIT
F

750 copies of this public document were printed at a total cost of $1,510.50, or $2.01 per copy.

CONTENTS

LOCAL EDUCATION AGENCIES RECORDS RETENTION AND DISPOSITION SCHEDULE

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provisions of Chapters 121 and 132 of the *General Statutes of North Carolina*, it is agreed that the records of each

Local Education Agency

do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein. The North Carolina Department of Cultural Resources consents to the destruction or other disposition of these records in accordance with the retention and disposition instructions specified in this schedule and the

Superintendent of Public Instruction

agrees to the provisions of this schedule as stated and endorses its use. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

APPROVAL RECOMMENDED

Jeffrey J. Crow, Director
Division of Archives and History

APPROVED

Michael E. Ward
Superintendent of Public Instruction

Betty Ray McCain, Secretary
Department of Cultural Resources

February 19, 1999

ABOUT THIS PUBLIC RECORDS SCHEDULE

This records schedule identifies and provides retention and disposition instructions for many records that are produced and maintained in the offices of the local education agency. These records are defined under Chapter 132 of the *General Statutes of North Carolina* as "public records." Chapter 121-5 mandates that these public records may be disposed of only in accordance with an official records retention schedule. Such schedules are written by the North Carolina Department of Cultural Resources in cooperation with the agency or governing body and include the official approval of these bodies, as required by law, for records disposition actions.

INTERNET ACCESS TO PUBLIC RECORDS INFORMATION. The Records Services Branch offers valuable information on the Internet at its Web site, which may be accessed at http://archives.ncdcr.gov. Local government agencies are encouraged to reference the site and its links to other data. The Web site offers much of the introductory information and many of the forms contained in this schedule, full text of G.S. §121 and §132, and contact information for the Records Services Branch.

WHAT THE SCHEDULE IS. This records retention and disposition schedule supersedes and replaces a similar schedule for offices of the superintendent of schools and board of education issued in 1982, which in turn superseded *The County Records Manual* published in 1970. The schedule contains a listing and brief description of the records maintained in school system offices and identifies the minimum period of time each record series shall be retained. Records normally should be disposed of at the end of the stated retention period. In effect, the schedule provides a comprehensive records disposition plan which, when followed, ensures compliance with G.S. §121 and §132. All provisions of this schedule remain in effect until the schedule is officially amended. Errors and omissions do not invalidate this schedule as a whole or render it obsolete. As long as the schedule remains in effect, destruction or disposal of records in accordance with its provisions shall be deemed to meet the provisions of G.S. §121-5(b) and be evidence of compliance of the law. **However, in the event that a legal requirement, statute, local ordinance, or federal program requires that a record be kept longer than specified in this schedule, the longer retention period shall be applied. All questions concerning the legal requirements for retaining a record should be referred to the county attorney.**

PUBLIC RECORDS DEFINED. Chapter 132-1 of the *General Statutes of North Carolina* states:

> "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction or public business by any agency or North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the state or of any county, unit, special district or other political subdivision of government.

NOT ALL PUBLIC RECORDS ARE OPEN TO THE PUBLIC. Public records belong to the people. However, not all official public records are open to the public. Many records are protected from general access or casual reference by "need to know" restrictions, by federal or state laws, or by legal precedent and can be seen only by court order. Therefore, even though G.S. §132-6 and §132-9 provide for public access to most records, certain records should be considered confidential in order to protect the privacy rights of agency personnel and the public. It is the responsibility of each records custodian to be familiar with G.S. §115C and §153A, agency policy, and all other pertinent state and federal legislation and regulations in order to ensure the proper protection of restricted information. If in doubt, consult the Division of Archives and History or your agency's attorney.

DATA PROCESSING AND OTHER ELECTRONIC AND MACHINE READABLE RECORDS. Many paper records are being eliminated when the information they provide has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in this schedule. For more information on the retention and disposition of records in machine readable form, see Standard-4 (page 19) of this schedule. Also see *Electronic Mail as a Public Record in North Carolina* on page x.

CHANGING THE SCHEDULE. You may request an addition, deletion, or change in a retention period by completing and sending Form RC-3C to the Division of Archives and History (copy of form included on page 51). See the instructions on the form for more information.

EARLY DISPOSAL OR DISPOSAL OF UNSCHEDULED RECORDS. Custodians desiring to dispose of records earlier than specified in this schedule or to dispose of records not listed in the schedule may use Form RSB-RC5 to obtain the concurrence of the Department of Cultural Resources (copy of form included on page 52 or available on the Internet). Permission must also be obtained from the governing body and included in its minutes.

PERMANENT RECORDS. Records scheduled for permanent preservation, even after being microfilmed, may not be destroyed without specific written permission of the Department of Cultural Resources.

PROTECTING PUBLIC RECORDS. Public records are public property. They should remain in the care of the government agency in which they were created or collected in the course of public business and then be disposed of only when and as specified in this records schedule.

DESTRUCTION OF PUBLIC RECORDS

1. **AUTHORIZED PROCEDURES**. One of the following procedures shall be followed prior to the destruction of public records.

a) Records listed in this schedule, or added later by amendment, may be destroyed after the specified retention periods without further approval of the Department of Cultural Resources or the governing body providing:

(1) The Superintendent of Public Instruction has authorized the records listed herein for destruction to be destroyed by blanket approval of this retention and disposition schedule.

(2) The Director, Division of Archives and History, and Secretary, Department of Cultural Resources, have certified that such records in the retention and disposition schedule have no further use or value for research or reference by signing the same agreement sheet of this schedule.

b) One-time destruction of an accumulation of an unscheduled or a discontinued record series should be referred to the Department of Cultural Resources and the governing body for authorization.

c) In accordance with G.S. §121-5(b), it is recommended that the governing board of each school system approve the retention and disposition schedule and include a copy in the minutes of the meeting during which the guidelines are approved.

2. **DESTRUCTION OF ORIGINAL RECORDS THAT HAVE BEEN DUPLICATED.** Original records that have been duplicated on microfilm, microfiche, data processing or word processing equipment, or other form may be destroyed prior to the retention period specified in the records schedule without further approval from the Department of Cultural Resources, provided the following conditions are met:

a) The duplicate copy of the information contained in the original record is maintained for the specified time.

b) The original record has not been scheduled for permanent preservation.

c) The governing body has agreed to the destruction of the original paper records and the destruction is recorded in a permanent record, such as the minutes of the governing body.

3. **DESTRUCTION OF DATA PROCESSING RECORDS.** Computer printouts and other data processing input/output may be destroyed without specific authorization and recording, provided the following conditions apply:

a) The information is maintained on magnetic media (e.g., magnetic tape, diskettes, etc.), and the media are scheduled in a records retention and disposition schedule.

b) The output copy is not specifically listed and scheduled in this records retention and disposition schedule.

For more information on the retention and disposition of records in machine readable form, see Standard-4 (page 19) of the schedule. You may request the disposal of electronic data processing public records by submitting Form RC-MRR-1 to the Records Services Branch (copy of form included on page 53).

4. METHODS OF DESTRUCTION. Local government records provide documentation of the actions and processes of government at its most direct level. These records should remain in the custody and control of the agency that created them or received them pursuant to law until such time as they are eligible for disposition. When authorized by an approved records retention and disposition schedule, records should be destroyed in one of the following ways:

a) Burned, shredded, or torn up so as to destroy the record content of the documents or materials concerned;

b) placed in acid vats so as to reduce the paper to pulp and to terminate the existence of the documents or materials concerned;

c) buried under such conditions that the record nature of the documents or materials will be terminated; or

d) sold as waste paper, provided that the purchaser agrees in writing that the documents or materials concerned will not be resold as documents or records.

5. DISPOSITION OF RECORDS NOT AUTHORIZED FOR DESTRUCTION BY THIS SCHEDULE. Custodians with records <u>not</u> authorized for destruction or other disposition by this schedule may discard these records by following one of the procedures listed below:

a) Address correspondence using Form RSB-RC-5 to the address indicated on the form (copy of form included on page 52 or available on the Internet)

b) Custodians with records no longer in current use that are identified as permanent and not authorized for destruction by this schedule, or with paper records that have been microfilmed, are authorized and empowered to turn over such records to the Department of Cultural Resources. The Department of Cultural Resources is authorized, at its discretion, to accept custody of those records providing it has adequate space and staff in the State Archives. A written offer of the records should be made to the Assistant State Records Administrator, Records Services Branch, 109 E. Jones Street, Raleigh, North Carolina 27601-2807.

RECORDS MANAGEMENT WORKSHOPS

TECHNICAL AND PROFESSIONAL TRAINING. Staff training helps to make a good agency records management program better. The records management workshops listed below are available to all governmental agencies and can be presented at your office. They are also available at periodic intervals in the State Records Center building in Raleigh.

An agency outside the Raleigh area may request a workshop held on its premises by telephoning (919) 814-6900. Although fifteen is an optimal number of participants for workshops, they are provided for any interested agency personnel.

MICROGRAPHICS AND GOVERNMENT RECORDS. The workshop presents the various microforms available in the industry today; micrographic principles, technology and production; state technical standards and procedures to ensure the legal admissibility of microforms; and micrographic systems and equipment. Also included are a basic introduction to micrographics, the advantages and limitations of microfilm, quality controls, suggested specifications for vendor services, state technical standards for in-house operations or micrographic services provided by vendors, and choosing and implementing a micrographic system. Normally this workshop is conducted in the State Records Center building in Raleigh. The workshop is shortened for presentation outside of our classroom.

State, county, and municipal government agencies with existing in-house systems, microfilm operators and supervisors who perform or supervise source document microfilming, and those interested in developing or maintaining micrographic systems would benefit from this training course designed to present the overall picture. The Raleigh workshop includes equipment demonstrations and operator maintenance tips on how to keep a microfilm system operating with a minimum of equipment failures.

RECORDS AND INFORMATION MANAGEMENT FUNDAMENTALS. Management methods and procedures for controlling active and inactive records in state, county, and municipal government offices through the use of records retention and disposition schedules are presented in the workshop. Included in the training session are pertinent laws, protecting essential records, determining historical and other record values, disposition procedures, and the relationship of disposition to other records management activities.

The training course is designed for all management, staff, and clerical levels in county, municipal, and state government agencies engaged in controlling records and information of all types.

FILES AND FILING. Step-by-step procedures for organizing and maintaining subject files in an efficient, easy-to-use system are presented in this workshop. The workshop includes: ordering and using the correct supplies; organizing files by their function; color coding files to increase retrieval speed and reduce misfiles; a single-point reference system with everything about a particular case, subject, person or location in one folder (case filing); eliminating "General" and "Miscellaneous" files; and creating a filing system in which anyone can locate a folder. The training course is designed for personnel who perform or supervise filing operations and are looking for something better than a straight alphabetical filing system.

MANAGING ELECTRONIC PUBLIC RECORDS. Electronic files in state, county, and municipal agencies include records stored in desktop computers. The workshop covers public access to electronic files; legal acceptance of electronic records; managing, storing, and retrieving electronic records; electronic mail; security of electronic files; and system backups.

MICROFILM

ADVANTAGES. Microfilm is an economical and practical means of preserving a security copy of essential records, and it can be used by government agencies to eliminate the problem of excess paper.

LEGAL AUTHORITY AND ACCEPTANCE. Legal authority for microfilming county records is contained in **G.S. §153A-436**. This statute provides that the method of reproduction must give legible and permanent copies and the reproduction of the public records must be kept in a fire-resistant file, vault, or similar container.

G.S. §8-45 and §153A-436 provide that microfilm copies of public records shall be admissible as evidence in any judicial or administrative proceeding.

To ensure uniformity and legal acceptability in microfilmed records, certain forms, targets, and procedures should be used when microfilming public records. The Division of Archives and History has published *Micrographics: Technical and Legal Procedures* to aid state, county, and municipal agencies in producing good-quality microfilm that meets all legal requirements.

TECHNICAL STANDARDS. Specific technical standards are required to assure quality microforms that are readily reproducible and, where necessary, capable of permanent preservation. There are four basic groups of standards that establish criteria for microfilm to be of archival or permanent quality: standards for the manufacture of raw film; standards affecting the method of filming in order to produce good overall results; standards involved in processing (developing) microfilm; and standards for the storage of processed microfilm. Those standards are listed and explained in the Division of Archives and History's publication, *Micrographics: Technical and Legal Procedures*. The standards were compiled from national associations such as the American National Standards Institute (ANSI) and the Association for Information and Image Management (AIIM).

SERVICES AVAILABLE. The Division of Archives and History offers microfilming of minutes and other selected permanent records. An appointment to microfilm the records is necessary and may be made by calling (919) 814-6900. The records scheduled to be microfilmed must be delivered to Raleigh for filming. The silver original reel is stored for security in the State Archives' environmentally controlled vault. Duplicate reels may be obtained from the Records Services Branch for a small fee.

Micrographic feasibility studies are provided, on request, to help agencies determine the most cost- effective micrographic system to meet their needs. Evaluations of existing micrographic applications are performed to ensure that microfilm meets state technical standards and is of archival quality.

Agencies microfilming their own *permanent* records should send the silver (camera) film to the Division of Archives and History for storage in the vault, or to an off-site facility that meets microfilm storage criteria outlined in *Micrographics: Technical and Legal Procedures*. Duplicate film can be used in the office as the working copy.

DISASTER ASSISTANCE IS AVAILABLE

Throughout our state's history, county and municipal records have been vulnerable to man-made and natural disasters. Even with modern facilities and improved security and protective measures, public records are still susceptible to fire and water damage, and several disasters involving public records have occurred in this state during recent years. One of the most common forms of disaster has been a fire (usually at night or during a weekend). In those instances, valuable and often irreplaceable records that escaped the flames were ruined by water and mud resulting from fire fighting. In most cases, records that were irreparably damaged might have been saved if state and local officials had known what to do with damaged records and acted promptly.

In order to help state, county, and municipal agencies cope with fires, floods, and other disasters involving records, the North Carolina Division of Archives and History has formed a Disaster Preparedness Team. Upon request, members of this team will advise local officials in the retrieval of damaged records. When possible, they will also provide further assistance upon request.

What should you do when a disaster occurs? The first and most important step to take is to notify the Division of Archives and History at (919) 814-6900 immediately. [During nights or weekends, call the local emergency management office.] Next, secure the area containing the damaged records as soon as possible. Until firefighters or other safety personnel confirm the safety of the area, no one should enter the facility. In the case of water-damaged records, the first step is to ventilate the area as much as possible to delay the growth of mold and facilitate later records-salvage efforts. Finally, and most important---**NO ONE SHOULD REMOVE OR ATTEMPT TO CLEAN RECORDS**. Damaged records are fragile, and attempts to move or clean them may cause unnecessary destruction. Trained personnel normally will be on the scene within hours, and they will direct recovery of the damaged records.

Information about disaster response is available on the Internet, on the Division of Archives and History's Web site, at http://www.spr.dcr.state.nc.us.

ELECTRONIC MAIL AS A PUBLIC RECORD IN NORTH CAROLINA
Guidelines for Its Retention, Disposition, and Destruction

Department of Cultural Resources
Division of Archives and History

The Division of Archives and History assumes that every state agency or other political unit in the state of North Carolina sends and receives electronic mail ("e-mail") or will shortly have the capability of doing so. E-mail (unless it is personal in nature) contains information of value concerning, or evidence of, the administration, management, operations, activities, and business of an office. Like paper records--such as the memoranda, correspondence, reports, and the hundreds of other types of records received traditionally, for example, through interoffice or U.S. mail or other avenues---e-mail has administrative, legal, reference, and/or archival values. *The content of electronic mail is a public record* (according to G.S. 121.8 and 132.1) *and may not be disposed of, erased, or destroyed without specific guidance from the Department of Cultural Resources*. This regulation, along with a current records retention and disposition schedule, is intended to provide for that guidance.

Accordingly, agencies and their offices which use e-mail should normally retain or destroy e-mail by following the provisions of a current, valid records retention and disposition schedule listing the records maintained by a particular office, filing e-mail (whether in paper or electronic format) within existing records series on their schedules and handling it according to the disposition instructions assigned to each such records series. Because of the characteristics of the medium, however, electronic mail also possesses a dual identity. E-mail is also used to transmit and receive messages that may have reference or administrative value but which are simultaneously of an ephemeral, temporary, or transient nature. As such, e-mail of this kind functions in some ways like telephone calls or telephone messages. Such messages remain public records but may be treated as having a reference or administrative value that ends when the user no longer needs the information such a record contains. E-mail of ephemeral or rapidly diminishing value may be erased or destroyed when the user has determined that its reference value has ended.

Agencies and offices need, however, to pay particular attention to the sometimes complex requirements for the retention of e-mail for longer periods of time, i.e., e-mail of more than transient value. E-mail in this category may be retained in electronic or paper form (the latter may in some cases be the only means of providing for archival retention, for example through microfilming of paper copies), but must be retained for as long as the period specified in a valid records schedule. If retained in paper form, the copies must retain transmission and receipt data. If electronic mail is retained in electronic form, office administrators need to insure that their electronic environment (client server, mainframe computer in or outside their agency, or office personal computer) assures the retention of e-mail for the required period of time. Office administrators may need to contact relevant personnel at SIPS (State Information Processing Services), at their own agency computer systems unit, or any other personnel who operate computer units or systems immediately or remotely, to ensure that such systems process e-mail in accordance with records retention schedules and provide for backups, disaster recovery, physical and electronic security, and the general integrity of the system, its components, and the records it generates and maintains. Office administrators may also need to assure that office filing systems adequately provide for the proper classification of electronic files (including e-mail) in the same manner as currently provided for paper-based files.

Office administrators, department or unit heads, and all other state employees who use e-mail should regularly and consistently retain or delete e-mail in accord with the records series and disposition instructions, and other instructions, provided above. Retention of e-mail or any other records, whether in electronic or paper format, for longer than provided in a valid records retention and disposition schedule leads to inefficiency and waste and may subject the affected unit to legal vulnerabilities.

As of March 1, 2019, all local government agencies in North Carolina will use the General Records Schedule for Local Government Agencies to find the appropriate disposition instructions for records that fall under these standards:

- Administration and Management Records
- Budget, Fiscal, and Payroll Records
- Geographic Information Systems Records
- Information Technology Records
- Legal Records
- Personnel Records
- Public Relations Records
- Risk Management Records
- Workforce Development Records

More information about this transition can be found on our blog at https://ncrecords.wordpress.com/2019/01/14/new-retention-schedule-model-for-north-carolina-local-governments/.

This new Local Government General Records Schedule can be found on our website at https://archives.ncdcr.gov/government/retention-schedules/local-government-schedules and supersedes the correlating standards that were a part of previously approved local government agency schedules, so we have deleted those standards from the published version of this schedule.

If you have any questions, please contact a records management analyst in the Government Records Section of the State Archives of North Carolina.

STANDARD-7. PROGRAM OPERATIONAL RECORDS. Records created or received in the offices of the local education agency and used to manage and monitor all federal, state, and local school programs.

A. EDUCATIONAL PROGRAM RECORDS. Records used for the administration of various educational programs.

1. ACADEMICALLY OR INTELLECTUALLY GIFTED CHILDREN'S PROGRAMS. Records concerning educational programs for academically or intellectually gifted children.

a) CLASSES AND LISTS FILE. Lists of classes available to gifted children and due process lists of academically or intellectually gifted children's programs.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years.

b) GROUP EDUCATION PLAN FILE. Consent for evaluation form, summary of evaluation results, student information sheet, consent for placement form, aptitude and achievement tests, performance records and reports, and records describing a student's interest and degree of motivation.

DISPOSITION INSTRUCTIONS: Destroy in office 5 years after student leaves the educational program for a academically or intellectually gifted children.

2. DRIVER EDUCATION PROGRAMS. Records concerning driver education programs.

a) APPLICATION FOR APPROVAL TO TEACH DRIVER EDUCATION FILE. Applications and approvals to teach driver education. File also includes Division of Motor Vehicles or Department of Public Instruction certifications.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years.

b) AUTO LOAN OR LEASE AGREEMENTS FILE. Auto loans or lease agreements.

DISPOSITION INSTRUCTIONS: Destroy in office 3 years after termination or expiration if no litigation, claim, audit, or other official action involving the records has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.

c) CAR RECORDS FILE. Daily checklist showing condition of car and record of car repair expenditures prepared by teachers.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years and when released from all audits, whichever occurs later.

d) DRIVER ELIGIBILITY FILE. Records concerning students' eligibility to obtain learner's permits or provisional drivers licenses. Files includes driving eligibility certificates, driving eligibility hardship request forms and supporting documents, permit or license revocation letters, driver education completion certificate, and other related records.

DISPOSITION INSTRUCTIONS:

a) Transfer driver education completion certificate to student's North Carolina cumulative record when issued.

b) Destroy in office remaining records when student reaches 18 years of age or obtains a high school diploma or its equivalent, whichever occurs first.

e) **MONTHLY REPORTS ON DRIVER TRAINING AND SAFETY EDUCATION FILE**. Monthly reports listing numbers of students participating in driver training and safety education programs and other statistical information.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years.

f) **PERSONAL SERVICE AND GENERAL EXPENSE AND SUMMARY VOUCHER REGISTERS FILE**. Records concerning payment for contract driver education instructors and expenditures made by instructors. File includes general expense and summary voucher registers, payment records for instructors, and other related records.

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years and when released from all audits, whichever occurs later.

g) **PROPOSED PLANS OF OPERATION AND BUDGETS FILE**. Proposed operational and budgetary plans for driver education programs.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years.

h) **STUDENT AND CLASS RECORDS FILE**. Students' class attendance and driving grade records.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

i) **TIME SHEETS FILE**. Records summarizing students' time behind the wheel.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

3. **EDUCATIONAL PROGRAMS FOR CHILDREN WITH DISABILITIES**. Records concerning educational programs for children with disabilities.

a) **CONFIDENTIAL RECORDS OF CHILDREN WITH DISABILITIES FILE**. Records concerning children with disabilities who are in educational programs. File includes achievement results; intelligence, eligibility, and physical test results; medical reports if the student is physically or mentally impaired; individual education plans (IEPs) and forms; multidisciplinary team reports; and screening, placement, referral, and parental consent and notification forms. (Comply with applicable provisions of G.S. §115C-114 and 115C-402 regarding confidentiality and expunction of records of students with special needs.)

DISPOSITION INSTRUCTIONS: Destroy in office 5 years after student leaves the education program for children with disabilities if no litigation, claim, audit, or other official action involving the records has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.

*The parent, guardian, surrogate parent, or eligible student must be notified prior to destruction of personally identifiable information so copies of records can be provided if desired. Information must also be destroyed at the request of the parents if no longer needed to provide educational services to the child. This does not apply to such information as the student's name, address and phone number, grades, attendance records, classes attended, grade level completed, and year

completed. This information may be maintained permanently. (See Appendix I on page 45 regarding federal legislation affecting the destruction and amendment of student records.)

b) **PROGRAMMATIC PLANS OF OPERATION FILE.** Operating plans for educational programs for children with disabilities.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years.

c) **TEXTBOOKS AND OTHER EQUIPMENT FILE**. Inventories of textbooks and special equipment needed for students participating in educational programs for children with disabilities.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years.

4. **VOCATIONAL EDUCATION RECORDS**. Records concerning vocational education programs.

a) **ACTIVITY, CLASS, AND WORK SCHEDULES FILE**. Activity, class, and work schedules.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

b) **COOPERATIVE AND PREPARATORY TRAINING FORMS**. Cooperative agreements between local education agency and businesses that outline program rules and policies, expectations for students, and other related information.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

c) **INSTRUCTIONAL PERSONNEL FILE (RECORDS AND REPORTS OF)**. Certificates, board appointments, and other related records concerning instructional personnel.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

d) **INVENTORIES OF EQUIPMENT FILE**. Inventories of supplies and equipment used in vocational education programs.

DISPOSITION INSTRUCTIONS: Destroy in office when superseded or obsolete.

e) **NORTH CAROLINA BOARD OF EDUCATION ALLOTMENTS OF TEACHING POSITIONS FILE**. Records indicating the allotment of instructional personnel for vocational education programs as determined by the state board of education. File also includes waivers and allotment adjustments.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 year.

f) **STUDENT ENROLLMENT AND FOLLOW-UP RECORDS FILE**. Follow-up studies of former students of vocational education programs.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

g) **VOCATIONAL COMPETENCY ACHIEVEMENT TRACKING SYSTEM (VOCATS) (ELECTRONIC) FILE**. VOCATS is an electronic data processing record used by the local education agency to manage statistics and generate reports concerning vocational education students' pre-test, post-test, mastery, and gain for skills and performance standards established by the North Carolina Board of Education.

DISPOSITION INSTRUCTIONS: General guidelines for disposing of machine readable and electronic data processing records may be found in **STANDARD-4. MACHINE READABLE AND ELECTRONIC RECORDS**.

VOCATS data and statistics should be retained in electronic form for 5 years after applicable statistical reports are produced and then erased or deleted.

h) **VOCATIONAL EDUCATION INFORMATION SYSTEM (VEIS) (ELECTRONIC) FILE**. VEIS is an electronic data processing record used by the local education agency to manage statistics and produce reports concerning student enrollment in vocational education programs. It is also used to track performance standards established by the North Carolina Board of Education.

DISPOSITION INSTRUCTIONS: General guidelines for disposing of machine readable and electronic data processing records may be found in **STANDARD-4. MACHINE READABLE AND ELECTRONIC RECORDS**.

VEIS data and statistics should be retained in electronic form for 5 years after applicable statistical reports are produced and then erased or deleted.

i) **VOCATIONAL PLACEMENT RECORDS FILE**. Records concerning the placement of students enrolled in a local education agency's vocational and technical programs. File includes apprenticeship and cooperative placement records and reports showing name of student, company by whom employed, job title, percentage of students placed, and other related information.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

j) **VOCATIONAL PLANS FILE**. Plans and records concerning the development of a local education agency's vocational and technical programs. File includes comprehensive descriptions of programs which list courses taught, levels of enrollment by program and school, funds spent, comparative testing data, placement data, outlines of objectives for future improvement, requests for funds and teaching positions for upcoming academic year, and other related information.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years and when administrative value ends, whichever occurs first.

k) **VOCATIONAL PROGRAMS OF STUDY GUIDES FILE**. Guides published by the Department of Public Instruction to assist the local education agency in planning effective and comprehensive vocational education programs. Guides list information concerning planning, required resources, program curricula, instructional guidelines, and specific program area offerings such as agricultural, business, health occupations, marketing, and technology education.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

l) **VOCATIONAL STATISTICAL REPORTS FILE**. Reports produced by the Vocational Education Information System (VEIS) (Electronic) and Vocational Competency Achievement Tracking System (VOCATS) (Electronic) files. File includes reports and similar records showing student enrollment in vocational programs at each school within a local education agency by course, gender, race, and future educational or employment goals. Information found in reports is used to develop a local education agency's vocational plan.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

B. **FOOD SERVICE RECORDS**. Records used to manage food service programs.

1. **FOOD SERVICE PROGRAMS FILE.** Records concerning food service programs. File includes daily, weekly, and monthly reconciliation reports; daily meal production records; commodity inventory reports; receipt reports; analysis reimbursement/claim reports; verification reports; and other related records created according to U.S. Department of Agriculture regulations. (Records may be maintained at the individual school or at the central office.)

   DISPOSITION INSTRUCTION: Destroy in office after 3 years and when released from all audits, whichever occurs later.

2. **FOOD SERVICE REPORTS FILE**. Quarterly report sent to the Department of Public Instruction listing total receipts and expenditures from food service programs. Reports list debits, credits, account numbers, account descriptions, and other related information.

   DISPOSITION INSTRUCTIONS: Destroy in office after 3 years and when released from all audits, whichever occurs later.

3. **FREE AND REDUCED MEALS APPLICATIONS FILE**. Applications for free and reduced price meals completed by sponsor of applying student(s). Applications list names of household members, monthly income statements, signature and social security number of sponsor, and other related information.

   DISPOSITION INSTRUCTIONS: Destroy in office after 3 years and when released from all audits, whichever occurs later.

C. INDIVIDUAL SCHOOLS' AND CENTRAL OFFICE ADMINISTRATIVE RECORDS. Records created and maintained by teachers, guidance counselors, principals, and central office staff in the performance of job-related activities.

1. **ANNUAL DROPOUT REPORTS FILE**. Annual reports concerning students who have dropped out of school and their demographic information.

   DISPOSITION INSTRUCTIONS: Destroy in office after 3 years.

2. **ATHLETIC PROGRAM RECORDS FILE.** Records concerning athletics programs. File includes student eligibility records, physical exams, parental consent forms, waivers, application forms, entry forms, schedules, participation requirement forms, and related records. File also includes handbooks and forms produced by the North Carolina High School Athletic Association.

   DISPOSITION INSTRUCTIONS: Destroy in office after 2 years if no litigation, claim, audit, or other official action involving the records has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.

3. **CURRICULUM RECORDS FILE**. Records used to establish course requirements in the various areas of study such as vocational and technical programs, English, foreign language, mathematics, social sciences, fine and performing arts, and healthful living. File includes records concerning philosophy and scope of programs and courses, approved instructional resources, objectives, methods of evaluation, handbooks, curriculum course guides, assessment guides, and testing guides.

   DISPOSITION INSTRUCTIONS: Destroy in office when superseded or obsolete.

4. **DATA ENTRY RECORDS FILE**. Records used by data managers to input information into the Student Information Access System, Transportation Information Management System, Vocational

Education Information System, Vocational Competency Tracking System, or similar computer system.

DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends.

5. **EXCEPTIONAL CHILDREN HEADCOUNT REPORTS FILE**. Biannual reports listing statistics concerning exceptional children. Reports are used as a basis for federal funding and individualized student funding.

   DISPOSITION INSTRUCTIONS: Destroy in office after 3 years.

6. **FIELD TRIP AUTHORIZATIONS FILE**. Records concerning the approval or disapproval for students to leave school on field trips. Authorizations list date of trip, purpose of trip, trip destination, trip itinerary, and other related information. File may also include parental consent forms.

   DISPOSITION INSTRUCTIONS: Destroy in office after 1 year.

7. **FIRE DRILL AND INSPECTION REPORTS FILE**. Fire drill and facility inspection reports (G.S. §115C-288(d)) prepared by five marshals or inspectors and sent to the central office.

   DISPOSITION INSTRUCTIONS: Destroy in office after 1 year.

8. **GUIDANCE RECORDS FILE**. Records concerning counseling sessions held with students. File includes guidance and counseling records, parental consent forms to release information, scholarship and award information, records concerning student's grades and course selection, and other related records.

   DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

9. **ONCE A YEAR REPORTS ON GRADE, RACE, AND SEX FILE**. Annual reports concerning the race and sex of students in each grade.

   DISPOSITION INSTRUCTIONS: Destroy in office after 3 years.

10. **PARENT CONFERENCE RECORDS FILE**. Records concerning conferences between parents, teachers, and/or other school officials. File includes correspondence, parent conference forms outlining reason(s) for conference and actions, if any, taken, and other related records.

    DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends.

11. **PRINCIPAL'S MONTHLY REPORTS FILE**. Monthly report prepared by each school's principal and sent to the central office. Monthly reports list total number of student enrollments and withdrawals for given month; date and time report was run; and school's name, address, and phone number.

    DISPOSITION SCHEDULE: Destroy in office after 5 years or when administrative value ends, whichever occurs later.

12. **REGIONAL ARTICULATION PLACEMENT RECORDS FILE**. Records used to report a student's completion of course work, which could be used for credit at an area college or university. Reports list student's name, address, phone number, social security number, high school attended, description of course(s) taken along with final grade, and other related information.

    DISPOSITION INSTRUCTIONS: Destroy in office 2 years after graduation.

13. **RESIDENCE VERIFICATION FILE**. Completed forms and supporting documents verifying students residence.

DISPOSITION INSTRUCTIONS: Destroy in office after 8 years.

14. **SCHOLARSHIP PROGRAM RECORDS FILE**. Records concerning student scholarships and honor societies. Files include scholarship applications, lists of eligible students, lists of winners and alternates, teacher evaluations and comments, and lists of students selected for National Honor Society membership.

DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends.

15. **SCHOOL ACTIVITY REPORTS FILE**. Annual reports concerning students and their classroom assignments, students' classroom settings, and other related information.

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years.

16. **SCHOOL LIBRARY/MEDIA CENTER RECORDS FILE**. Records concerning the management of school libraries. File includes library material accession records, circulation records; holding catalogs; patron assistance, request, and complaint procedures; collection shelf lists; and records concerning payments made for late, damaged, or lost library materials.

DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends.

17. **SCHOOL REPORTS AND STUDENT LISTS FILE**. Reports and lists prepared by various programs. File includes school activity reports, principal's and teacher's monthly reports, membership by grade/ethnic/sex code reports, individual pupil reports, academic progress reports, homeroom lists, counselor lists, study hall lists, student rosters, exceptional children rosters, class lists, grade point average ranking lists, honor roll lists, and similar records.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years or when superseded, obsolete, or administrative value ends, whichever occurs first.

18. **SCHOOL SANITATION MONTHLY REPORTS FILE**. Reports outlining sanitation grades at schools.

DISPOSITION INSTRUCTIONS: Destroy in office after 2 years.

19. **SCHOOL VIOLENCE REPORTS FILE**. Reports on school violence completed by each principal and sent to the Department of Public Instruction in accordance with G.S. §115C-12(21) and §115C-47(36). Reports list name of school, type of school, number of incidents reported, number of offenders and victims, actions taken by number and type, and other related information.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years and when administrative value ends, whichever occurs later.

20. **SECOND MONTH REPORTS FILE**. Reports filed with the North Carolina Board of Education at the end of the second month of each school year (G.S. §115C-301(f)). Reports list the organization for each school, teachers' duty loads, class sizes, and other related information.

DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends.

21. **STATISTICAL REPORTS FILE**. Reports prepared by the Department of Public Instruction and used by a local education agency for planning and long range tracking of programs. Reports include state of the state, SAT, ABC's of public education, block schedule achievement, report card, alternative learning evaluation, student performance, behavior survey, testing results reports, and other related records.

DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends, but within 5 years.

22. **STUDENT HANDBOOK FILE**. Handbooks or similar records supplied to students at the beginning of each school year. Handbooks list attendance policy, disciplinary policies and procedures, graduation requirements, academic policies, and general school rules and regulations.

DISPOSITION INSTRUCTIONS:

a) Retain 1 copy in office permanently.

b) Destroy remaining copies when administrative value ends.

23. **TEACHER LESSON PLANS FILE**. Records used by teachers for the classes or subjects they are instructing. File includes worksheets, discussion notes, problem-solving materials, and other related records used to obtain an instructional objective.

DISPOSITION INSTRUCTIONS: Destroy in office when superseded or obsolete.

24. **TEACHER SCHEDULING RECORDS FILE**. Records and reports documenting teachers' course schedules and timetables. File includes teacher timetables reports, room timetables reports, course load by teacher reports, teacher directories and similar records.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years or when superseded, obsolete, or administrative value ends, whichever occurs first.

D. **STUDENT RECORDS**. Records concerning students in the schools administered by the local education agency.

Custodians of records containing student identifiable information should be familiar with **20 USCA 1232g**, the **Family Educational and Privacy Rights Act**. Provisions of this act governing access to students' records and release of information from them should be applied along with applicable state statutes. Other legislation may exist that affects the maintenance, amendment, and/or disposition of student records. Custodians should educate themselves about such legislation in order to protect against unauthorized or improper disclosure.

1. **EXAMINATION MATERIALS FILE**. Records used to administer local or state standardized examinations and tests that measure students' performance or level of acquired knowledge. File includes all testing materials and student answer documents. (Comply with applicable provisions of G.S. §115C-174.13 regarding the confidentiality of records containing the identifiable scores of individual students.)

DISPOSITION INSTRUCTIONS: Destroy in office student answer documents for all tests containing responses and modified versions six months after the return of a student's test scores.

*Test coordinators should contact the Department of Public Instruction, Division of Accountability Services, Testing Section for procedures for recycling and destroying all other test materials.

2. **EXAMINATION REPORTS FILE**. Records concerning the administration of a standardized examination. File includes class record sheets, summary goal reports, individual reports and class roster reports, and other related records. (Comply with applicable provisions of G.S. §115C-174.13 regarding the confidentiality of records containing the identifiable scores of individual students.)

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years provided test scores are posted to student's North Carolina cumulative record.

3. **HEALTH RECORDS FILE**. Health-related records for students.

a) **DIAGNOSTIC AND SUMMARY REPORTS**. Reports from physicians documenting a student's chronic health condition. (Records may be retained as part of student's cumulative record or separately. If retained separately records should be merged with student's cumulative record upon student's departure from school system but prior to microfilming.)

DISPOSITION INSTRUCTIONS: Retain permanently in student's cumulative records file.

b) **INJURY REPORT FORMS**. Injury report forms describing medical attention provided to a student on campus by school officials for injuries deemed serious.

DISPOSITION INSTRUCTIONS: Destroy in office when student reaches 29 years of age and has not received services within the last 10 years, if no litigation, claim, audit, or other official action involving the records has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.

c) **KINDERGARTEN HEALTH ASSESSMENT FORMS**. Initial immunization records and results of physical examinations necessary for a student to enter kindergarten. (Comply with applicable provisions of G.S. §130A-441 regarding confidentiality of records.)

DISPOSITION INSTRUCTIONS: Retain in cumulative records file until elementary school is completed, then destroy in office, or retain permanently if the form contains the only doctor-signed, clinic-stamped immunization record.

d) **MEDICATION AND PROCEDURES LOG**. Yearly log documenting medication administration and performance of skilled procedures provided to student by school nurses and/or designated school staff.

DISPOSITION INSTRUCTIONS: Destroy in office when student reaches 29 years of age and has not received services within the last 10 years, if no litigation, claim, audit, or other official action involving the records has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.

e) **PERMANENT HEALTH RECORD CARDS FILE**. Card providing information on student's medical history/status while in the public school system. Card includes immunization information, vision/hearing screening results, health status including chronic illness, seizures, allergies, etc., special health considerations, and narrative notes entered by the nurses or other school officials.

DISPOSITION INSTRUCTIONS: Retain permanently in student's cumulative records file.

f) **PHYSICIAN'S AUTHORIZATION FORMS FILE**. Authorization forms including physician's orders to administer prescribed medicine, physician's orders for medical treatment and/or invasive health care procedures to be performed on the student, and physician's order for "do not resuscitate." Parent signs each type of form. (G.S. §115C-307)

DISPOSITION INSTRUCTIONS: Destroy in office when student reaches 29 years of age and has not received services within the last 10 years, if no litigation, claim, audit, or other official action involving the records has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.

g) **STANDARD ACTION PLANS OR INDIVIDUALIZED ACTION PLANS FILE**. Plans for students with life-threatening and/or chronic health conditions that describe procedures to be performed by school staff on the student throughout the year. The plan should be attached to the

student's permanent health record card while in use.

DISPOSITION INSTRUCTIONS: Retain in student's cumulative file until superseded or obsolete and then destroy. Note on permanent health record card when plan is discontinued.

4. **NORTH CAROLINA CUMULATIVE RECORDS FILE**. Cumulative record of students' elementary and secondary educational career. File includes personal and family data; health and immunization information; attendance reports; standardized test dates and results; elementary, middle, and high school inserts or grade sheets; copies of birth certificates; and driver education certificates. File may also include photographs, correspondence to and from parents and/or guardians and school personnel, and court order documents such as birth date and name change verification. File also includes references to dates of separation due to graduation, withdrawal, or expulsion. (Comply with applicable provisions of G.S. §115C-402 regarding confidentiality of student records.)

   DISPOSITION INSTRUCTIONS: Destroy in office worksheets when administrative value ends. Destroy in office suspension or expulsion notices in accordance with G.S. §115C-402. Retain in office remaining records permanently. [It is recommended that permanent records be microfilmed 2 years after the student graduates or otherwise leaves the school system. Records should be microfilmed to state standards established by the Division of Archives and History. Paper records that have been microfilmed may be destroyed if the microfilm has been verified and quality control procedures completed. Retain microfilm copy of records permanently.]

5. **STUDENT ABSENTEE REPORTS FILE**. Daily reports or bulletins listing names of students absent from school the previous day, reason for absence, whether absence is excused or unexcused. File includes student's name grade, sex, homeroom number, teacher's name, and reason for absence. File may also include student's social security number.

   DISPOSITION INSTRUCTIONS: Destroy in office after 1 year or when administrative value ends, whichever occurs first.

6. **STUDENT ATTENDANCE (CLASSROOM) FILE**. Records completed by teachers showing each student's daily, weekly and monthly class attendance. File includes attendance sheets, books, and/or cards listing student's name and whether absent, present, or tardy.

   DISPOSITION INSTRUCTIONS: Destroy in office after 1 year. (See also **STUDENT ATTENDANCE (SCHOOL) FILE**).

7. **STUDENT ATTENDANCE (SCHOOL) FILE**. Records showing each student's daily, weekly, monthly, and/or yearly school attendance. File includes individual pupil reports compiled from student's classroom attendance records. Reports list student's name, address, school attended, homeroom code, grade, sex, race, birth date, and total number of absences by day. (Files may be maintained in addition to a student's cumulative record.)

   DISPOSITION INSTRUCTION: Destroy in office after 5 years provided appropriate information has been posted to student's cumulative record.

8. **STUDENT CHECK IN/OUT LOGS FILE**. Daily logs or records showing when students arrived late or left school early. Logs list student's arrival, departure, and re-admit times; student's name; teacher's name; and other related information.

   DISPOSITION INSTRUCTIONS: Destroy in office after 2 years and when administrative value ends, whichever occurs later.

9. **STUDENT CLASSWORK RECORDS FILE**. Records created and/or used by teachers and students in the classroom. File includes non-standardized test materials, term papers, completed homework assignments, assignment books, notebooks, and other class work or tutoring-related records.

DISPOSITION INSTRUCTIONS: Destroy in office after 1 year and when administrative value ends, whichever occurs later, if not returned to student.

10. **STUDENT DISCIPLINE RECORDS FILE**. Records used to report and review adverse student behavior. File includes violent incident reports; discipline profile reports; disciplinary action plans; classroom detention notices; in-school and out-of-school suspension records; correspondence between parents and/or guardians and school personnel; supporting records describing student's behavior, facts and circumstances surrounding incident, and actions taken by school officials and/or law enforcement officers. File also includes school violence reports and suspension reports when used as required by G.S. §115C-391.

DISPOSITION INSTRUCITONS: Destroy in office after 5 years and when administrative value ends, whichever occurs later.

11. **STUDENT DROPOUT RECORDS FILE**. Records used to track student withdrawals from school. File includes student data forms showing age, race, gender, grade level, date of withdrawal, reason for withdrawal, suspension data, family data, intervention/prevention profiles, and monthly summaries of all dropouts.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

12. **STUDENT ENTRY/WITHDRAWAL RECORDS FILE**. Records and/or logs showing when students enter or withdraw from school. File includes student information sheets and withdrawal forms listing student's name, family data, identification numbers, entry/withdrawal codes, reason for withdrawal or transfer, current grade level, grades and absences to date, and signatures of school personnel. (Records are often maintained only at the school level).

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years and when administrative value ends, whichever occurs later.

13. **STUDENT GRADE RECORDS (CLASSROOM) FILE**. Teachers' records showing individual student's grades. File includes teacher grade books, progress reports, bubble sheets, and/or grade reports for each six or nine week grading period for the school year. (Grades are used to compute semester and yearly averages for each student by subject.)

DISPOSITION INSTRUCTIONS: Destroy in office after 1 year provided appropriate information has been posted to student's cumulative record. (See also **STUDENT GRADE RECORDS (SCHOOL) FILE**.)

14. **STUDENT GRADE RECORDS (SCHOOL) FILE**. Schools' records showing individual student's grades. Records list grades by subject for each six or nine week grading period, semester or midterm averages, student's final grades, and whether promoted or held back. File also includes student report cards and marks gathering forms.

DISPOSITION INSTRUCTION: Destroy in office after 5 years provided appropriate information has been posted to student's cumulative record.

15. **STUDENT INFORMATION ACCOUNTABILITY SYSTEM (SIAS) (ELECTRONIC) FILE**. SIAS is an electronic data processing record used by the local education agency to manage various types of student records and generate reports. Students' names, dates of birth, parents' names, grade level, students' status as academically gifted or exceptional, attendance data, course selection and verification, academic progress information and grades, honor roll designations, and other related data are entered into this electronic file. Programs within SIAS enable the local education agency to generate reports concerning vocational education programs, student demographics, annual dropouts, exceptional students, human resource management, transportation activities, and other related subjects. [Individual schools within the local education agency enter data into SIAS. That data is transmitted to the central office where it is compiled and transmitted as countywide data to the Department of Public Instruction. (While a local education agency is not required to use the system provided by the Department of Public Instruction, it should follow the same disposition instructions as those listed in this schedule for any electronic data processing system used.)]

DISPOSITION INSTRUCTIONS: General guidelines for disposing of machine readable and electronic data processing records may be found in STANDARD-4. MACHINE READABLE AND ELECTRONIC RECORDS.

a) Back-up by copying all electronic files to magnetic tape, disk, or other machine readable medium and storing the copy at a secure, protected, off-site location. Update those back-up files periodically by erasing and/or exchanging them with media containing more current data.

b) Erase or delete in office student specific information when administrative value ends, but within 5 years, provided it has been posted to student's cumulative record.

c) Erase or delete in office information used to generate reports according to disposition instructions for those specific reports. For reports not specifically listed in this standard, erase or delete in office information used to generate those reports according to guidelines in STANDARD-4. MACHINE READABLE AND ELECTRONIC RECORDS.

16. **STUDENT ORGANIZATION RECORDS FILE**. Records concerning student organizations at each school. File includes membership lists, records of activities, scrapbooks, student newspapers, minutes (when kept), and other related records.

DISPOSITON INSTRUCTIONS:

a) Transfer records with obvious historical value to the Histories File (Standard – 1, item 19).

b) Destroy in office remaining records when superseded, obsolete, or reference value ends.

17. **STUDENT SCHEDULING RECORDS FILE**. Records and reports documenting a student's course selection and timetables. File includes course load by student reports, timetable reports, course selection and verification reports and slips, student scheduling reports and similar records.

DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends, but within 5 years.

18. **STUDENT TRANSFER RECORDS FILE**. Records concerning the transfer of students within or out of district schools. File includes transfer forms listing students' and parents' names, addresses, grade level, school names, and reason for transfer; correspondence; tuition receipts; statement of board approval or denial; and other related records.

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years and when released from all audits, whichever occurs later.

E. **TEXTBOOK RECORDS**. Records concerning the selection and purchase of textbooks.

1. **ROUTINE REPORTS (TEACHERS, PRINCIPALS, AND SUPERINTENDENTS) FILE**. Reports summarizing inventories from individual schools or the central office, invoices for books, and requests from schools to order books.

DISPOSITION INSTRUCTIONS: Destroy in office after 5 years.

2. **SUMMARY SHEETS FILE**. Records concerning specific books compiled from the individual school inventories.

DISPOSITION INSTRUCTIONS**:** Destroy in office after 2 years or when superseded and obsolete.

F. **TRANSPORTATION RECORDS**. Records concerning the transportation of students.

1. **ACCIDENT REPORTS AND TORT CLAIMS FILE**. Copies of accident reports, plaintiff's affidavits, and notices of tort claims. (See G.S. §143-300.1)

DISPOSITION INSTRUCTIONS: Destroy in office 7 years after settlement of claim.

2. **ANNUAL TRANSPORTATION REPORTS FILE**. Summary reports listing the activities of a local education agency's transportation department. Reports include number of days fleet was in operation, total number of miles buses were driven, number of buses operated, salaries paid to drivers and other transportation personnel, number of personnel employed, list of local expenditures, transportation policy questionnaires, inventory data, and other related information. Copies of report are sent to the central office and the Department of Public Instruction.

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years.

3. **BUS INSPECTION REPORTS FILE**. Inspection reports of school buses or school transportation service vehicles.

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years.

4. **CONTRACT TRANSPORTATION FOR CHILDREN WITH DISABILITIES AND OTHER CONTRACTED SERVICES FILE**. Records concerning contracted transportation services for children with disabilities or other pupils, or other groups. File includes contracts, bus driver routes, salary schedules, refund reports, school bus passenger reports, annual transportation reports, inspection reports, and other related records.

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years if no litigation, claim, audit, or other official action involving the records has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.

5. **COST OF TRANSPORTATION FILE**. Records concerning the operation, maintenance, replacement, and insurance of school buses or other school transportation service vehicles. File includes requisitions, expenditure reports, and other related records.

DISPOSITION INSTRUCTIONS: Destroy in office after 3 years and when released from all audits, whichever occurs later.

6. **SCHOOL BUS INVENTORY AND MAINTENANCE FILE**. Records compiled from the State Vehicle Fleet Management System (SVFMS) file that concern the maintenance of school buses or school transportation service vehicles. File includes 30-day inspection worksheets, oil filter reports, fuel receipts, preventative maintenance charge tickets, bus fleet inventories, and other related records.

   DISPOSITION INSTRUCTIONS: Destroy in office after 3 years if no litigation, claim, audit, or other official action involving the records has been initiated.

7. **SCHOOL BUS ROUTES FILE**. Records concerning routes taken by school buses. File includes descriptions of routes, passenger lists, bus run reports, and other related records.

   DISPOSITION INSTRUCTIONS: Destroy in office after 3 years.

8. **SELT BELT FILE**. Records concerning the use and installation of seat belts and other restraint systems in school buses. File includes consent forms and similar records showing student's name, bus number, date system requested, type of system requested, and signatures of school's principal and student's parent and/or guardian.

   DISPOSITION INSTRUCTIONS: Destroy in office when superseded or obsolete.

9. **STATE VEHICLE FLEET MANAGEMENT SYSTEM (SVFMS) (ELECTRONIC) FILE**. SVFMS is a electronic data processing record used by the local education agency to track inventory and maintenance of school buses or school transportation service vehicles. Preventative maintenance information and inventories of buses are entered into this electronic file.

   DISPOSITION INSTRUCTION: General guidelines for disposing of machine readable and electronic data processing records may be found in STANDARD-4. MACHINE READABLE AND ELECTRONIC RECORDS.

   SVFMS inventory and maintenance information should be retained in electronic form for 3 years after applicable inventories and maintenance reports are produced and then erased or deleted.

10. **TRANSPORTATION INFORMATION MANAGEMENT SYSTEM (TIMS) (ELECTRONIC) FILE**. TIMS is an electronic data processing record concerning the management of school transportation services. Bus scheduling and routing information, students' addresses, bus maintenance schedules, mileage of buses, and other related data are entered into this electronic file.

    DISPOSITION INSTRUCTIONS: General guidelines for disposing of machine readable and electronic data processing records may be found in STANDARD-4. MACHINE READABLE AND ELECTRONIC RECORDS.

    TIMS data and statistics should be retained in electronic form for 3 years after applicable statistical reports are produced and then erased or deleted.

11. **TRANSPORTATION RECORDS FILE**. Records documenting school bus maintenance and use. File includes number of hours driven, refund and materials received report, and transportation charge. File also includes summaries, reports, transportation audits, and similar records generated by the Transportation Management System (TIMS) and/or received from the N.C. Department of Public Instruction.

    DISPOSITION INSTRUCTIONS: Destroy in office after 3 years or when superseded, obsolete, or administrative value ends, whichever occurs first.

12. **VEHICLE INSPECTIONS FILE**. Records concerning inspections as required by the Department of Transportation, Division of Motor Vehicles, Enforcement Section. File includes inspection certificates, monthly summary lists, and receipts and statements for vehicle inspection certificates.

DISPOSITION INSTRUCTIONS: Transfer original records to the Department of Transportation, Division of Motor Vehicles, Enforcement Section when generated. Destroy duplicates in office after 18 months and when released from all audits, whichever occurs later.

APPENDIX I: STUDENT EDUCATION RECORDS

The following federal legislation contains requirements that may affect the retention periods of student educational records. They are provided to assist record custodians in the maintenance of student educational records. "Records" as defined in Section 99.3 of the Family Educational Rights and Privacy Act (34 CFR 99.3) regulations means any information or data recorded in any medium, including but not limited to, handwriting, print, tapes, film, microfilm, and microfiche. Educational records means records which (1) are directly related to the student and are maintained by an agency or institution or (2) by a party acting for the party or institution.

I. Section 99.20 *The Family Educational Rights and Privacy Act of 1974* (34 CFR 99.20)

REQUEST TO AMEND RECORDS

(a) The parent of a student or an eligible student who believes that information contained in the educational records of the student is inaccurate or misleading or violates the privacy or other rights of the student may request that the educational agency or institution that maintains the records amend them.

(b) The educational agency or institution shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the educational agency or institution decides to refuse to amend the education records of the student in accordance with the request, it shall so inform the parent of the student or the eligible student of the refusal and advise the parent or the eligible student of the right to a hearing under Section 99.21 (34 CFR 99.21).

II. Section 300.573 *Education of Individuals With Disabilities Education Act* (34 CFR 300.573)

DESTRUCTION OF INFORMATION

(a) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provided educational services to the child.

(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Comment: Under Section 300.573, the personally identifiable information of a handicapped child may be retained permanently unless the parents request it be destroyed. Destruction of records in accordance with an approved retention schedule is the best protection against improper and unauthorized disclosure. However, the records may be needed for other purposes. When informing parents of their rights under this section, educational agencies should remind them the information contained in the records may be needed by the child or the parents to qualify for future services or benefits. If the parents still request the information be destroyed, the educational agency may retain information described in (b).

STATE ARCHIVES of NORTH CAROLINA

GOVERNMENT RECORDS SECTION
STATE RECORDS CENTER

www.ncdcr.gov/archives 4615 Mail Service Drive, Raleigh, NC 27699 919-807-7350

REQUEST FOR CHANGE IN RECORDS SCHEDULE

TO Assistant Records Administrator
Division of Archives and Records
Government Records Section
4615 Mail Service Center
Raleigh, NC 27699-4615

FROM
Name _____
County _____
Agency or department _____
Mailing address _____
Phone or email _____

INSTRUCTIONS

Use this form to request a change in the records retention and disposition schedule governing the records of your agency. Submit the signed original, and keep a copy for your file. A proposed amendment will be prepared and submitted to the appropriate state and local officials for their approval and signature. Copies of the signed amendment will be sent to you for insertion in your copy of the schedule.

CHANGE REQUESTED

☐ Add a new item
☐ Delete an existing item — Standard Number ____ Page ____ Item Number ____
☐ Change an retention period — Standard Number ____ Page ____ Item Number ____

TITLE OF RECORDS SERIES IN SCHEDULE OR PROPOSED TITLE

INCLUSIVE DATES OF RECORDS _____ **APPROXIMATE VOLUME OF RECORDS** _____

DESCRIPTION OF RECORDS

PROPOSED RETENTION PERIOD

Requested by: _____, _____, _____
Signature Title Date

Physical Address:
215 N Blount Street
Raleigh, N.C. 27601

State Courier 51-81-20
Facsimile (919) 715-3627
records@ncdcr.gov

STATE ARCHIVES of NORTH CAROLINA

GOVERNMENT RECORDS SECTION
STATE RECORDS CENTER

www.ncdcr.gov/archives 4615 Mail Service Drive, Raleigh, NC 27699 919-814-6900

REQUEST FOR DISPOSAL OF UNSCHEDULED RECORDS

TO Assistant Records Administrator
Division of Archives and Records
Government Records Section
4615 Mail Service Center
Raleigh, NC 27699-4615

FROM
Name _____
County _____
Agency or department _____
Mailing address _____
Phone or email _____

In accordance with the provisions of G.S. 121 and 132, approval is requested for the destruction of records listed below. These records have no further use or value for official or administrative purposes.

Records Title	Description	Inclusive Dates	Quantity	Microfilmed? (Yes or No)	Retention Period

Requested by: _____, _____, _____
Signature Title Date

Approved by: _____, _____, _____
Signature (Requestor's supervisor) Date

Concurred by: _____, _____, _____
(except as indicated) Signature Assistant Records Administrator
State Archives of North Carolina Date

Physical Address:
215 N Blount Street
Raleigh, N.C. 27601

State Courier 51-81-20
Facsimile (919) 715-3627
records@ncdcr.gov

STATE ARCHIVES of NORTH CAROLINA

GOVERNMENT RECORDS SECTION
STATE RECORDS CENTER

www.ncdcr.gov/archives 4615 Mail Service Drive, Raleigh, NC 27699 919-814-6900

Request for Disposal of Original Records Duplicated by Electronic Means

If you have questions, call (919) 814-6900 and ask for the Records Management Analyst assigned to your agency.

This form is used to request approval from the Department of Cultural Resources to dispose of non-permanent paper records which have been scanned, entered into databases, or otherwise duplicated through digital imaging or other conversion to a digital environment. This form does not apply to records which have been microfilmed or photocopied, or to records with a permanent retention.

Agency Contact Name:	**Date (MM-DD-YYYY):**
Phone (area code):	**Email:**
County/Municipality:	**Office:**
Mailing address:	

Record Series Title A group of records as listed in records retention schedule	**Description of Records** Specific records as referred to in-office	**Inclusive Dates** (1987-1989; 2005-present)	**Approx. Volume of Records** (e.g. "1 file cabinet," "5 boxes")	**Retention Period** As listed in records retention schedule

Requested by: _____, _____, _____
Signature Requestor Date

Approved by: _____, _____, _____
Signature Requestor's Supervisor Date

Concurred by: _____, _____, _____
Signature Assistant Records Administrator, State Archives of North Carolina Date

Physical Address
215 N Blount St
Raleigh, NC 27601

State Courier 51-81-20
Facsimile (919) 715-3627
records@ncdcr.gov

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