

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF WAKE

SUPERIOR COURT DIVISION

**PLANNED PARENTHOOD SOUTH ATLANTIC, A WOMAN'S CHOICE OF CHARLOTTE, INC., A WOMAN'S CHOICE OF GREENSBORO, INC., and A WOMAN'S CHOICE OF RALEIGH, INC.,** on behalf of themselves, their physicians and staff, and their patients; **KATHERINE FARRIS, M.D., ANNE LOGAN BASS, F.N.P., SISTERSONG WOMEN OF COLOR REPRODUCTIVE JUSTICE COLLECTIVE,** on behalf of its members; **ELIZABETH DEANS, M.D., and JONAS SWARTZ, M.D.,** on behalf of themselves and their patients,

*Plaintiffs,*

v.

**TIMOTHY K. MOORE,** as Speaker of the North Carolina House of Representatives, in his official capacity; **PHILIP E. BERGER,** as President Pro Tempore of the North Carolina Senate, in his official capacity; **JOSH STEIN,** as Attorney General of North Carolina, in his official capacity; **SATANA DEBERRY,** as District Attorney ("DA") for Prosecutorial District ("PD") 16, in her official capacity; **BENJAMIN R. DAVID,** as DA for PD 6, in his official capacity; **LORRIN FREEMAN,** as DA for PD 10, in her official capacity; **WILLIAM R. WEST,** as DA for PD 14, in his official capacity; **JAMES R. WOODALL,** as DA for PD 18, in his official capacity; **AVERY M. CRUMP,** as DA for PD 24, in her official capacity; **SPENCER B. MERRIWEATHER III,** as DA for PD 26, in his official capacity; **JAMES R. O'NEILL,** as DA for PD 31, in his official capacity; **TODD M. WILLIAMS,** as DA for PD 40, in his official capacity; **MANDY K. COHEN, M.D., M.P.H.,** as Secretary of the North Carolina Department of Health and Human Services, in her official capacity; **BRYANT A. MURPHY, M.D., M.B.A.,** as President of the North Carolina Medical Board, in his official capacity, on behalf of himself, the board, and its members; **MARTHA ANN HARRELL,** as Chair of the North Carolina Board of Nursing, in her official

**MOTION TO DISMISS BY  
DEFENDANTS SPEAKER MOORE  
AND PRESIDENT PRO TEMPORE  
BERGER**

**Case No. 20-cvs-500147**

capacity, on behalf of herself, the Board, and its members,

*Defendants.*

NOW COME Defendants Speaker of the North Carolina House of Representatives, Timothy K. Moore, and President Pro Tempore of the North Carolina Senate, Philip E. Berger, in their official capacities, by and through the undersigned counsel, and without waiving any motions or defenses not set out herein, respectfully move the Court to dismiss Plaintiffs' Complaint pursuant to N.C. R. Civ. P. 12(b)(1) and 12(b)(6) for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.

Respectfully submitted this the 16th day of November, 2020.

/s/ Nathan A. Huff

Nathan A. Huff

NC Bar No.: 40626

Jared M. Burtner

NC Bar No.: 51583

Phelps Dunbar LLP

4140 Parklake Avenue, Suite 100

Raleigh, North Carolina 27612

[nathan.huff@phelps.com](mailto:nathan.huff@phelps.com)

[jared.burtner@phelps.com](mailto:jared.burtner@phelps.com)

Tel.: (919) 789-5307

Fax: (919) 789-5301

Kevin H. Theriot (AZ Bar #030446)\*

[ktheriot@adfllegal.org](mailto:ktheriot@adfllegal.org)

Elissa Graves (AZ Bar #030670)\*

[egraves@adfllegal.org](mailto:egraves@adfllegal.org)

Alliance Defending Freedom

15100 N. 90th Street

Scottsdale, AZ 85260

(480) 444-0020; (480) 444-0028 (Fax)

Denise M. Harle (GA Bar #176758)\*  
[dkharle@adflegal.org](mailto:dkharle@adflegal.org)  
Alliance Defending Freedom  
1000 Hurricane Shoals Rd. NE  
Ste D-1100  
Lawrenceville, GA 30043  
(770) 339-0774; (480) 444-0028 (Fax)

\* Motions *pro hac vice* to be filed

*Attorneys for Defendants Moore and  
Berger*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of November, 2020, I electronically filed the **Legislative Defendants TIMOTHY K. MOORE, and PHILIP E. BERGER's Answer to the Complaint** using the Court's electronic system, which will send notification to all users who are registered with that system, and that additionally the document will be transmitted by electronic email and U.S. mail to the following addresses:

Jaclyn Maffetore  
jmaffetore@acluofnc.org  
Kristi Garunke  
kgraunke@acluofnc.org  
Elizabeth Barber  
ebarber@acluofnc.org  
ACLU of North Carolina Legal  
Foundation  
P.O. Box 28004  
Raleigh, NC 27611-8004

*Attorneys for All Plaintiffs*

Susan Lambiase\*  
susan.lambiase@ppfa.org  
Hana Bajramovic\*  
hana.bajramovic@ppfa.org  
Planned Parenthood Federation  
of America  
123 William St., 9th Floor  
New York, NY 10038

*Attorneys for Planned  
Parenthood South Atlantic,  
Katherine Farris, M.D., and Anne  
Logan Bass, F.N.P.*

Caroline Sacerdote\*  
csacerdote@reprorights.org  
Autumn Katz\*  
akatz@reprorights.org

Brigitte Amiri\*  
bamiri@aclu.org  
Clara Spera\*  
cspera@aclu.org  
Alexa Kolbi-Molinas\*  
akolbi-molinas@aclu.org  
American Civil Liberties Union  
Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004

*Attorneys for Plaintiffs Dr.  
Elizabeth Deans, Dr. Jonas  
Swartz, and SisterSong Women of  
Color Reproductive Justice  
Collective*

Michael T. Wood  
mwood@ncdoj.gov  
Kathryn H. Shields  
kshields@ncdog.gov  
Special Deputy Attorney General  
North Carolina Department of  
Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

*Counsel to Defendants AG Stein,  
DeBerry, David, Freeman, West,  
Woodall, Crump, Merriweather,  
O'Neill, Williams, DHHS Sec.*

Center for Reproductive Rights  
199 Water St., 22nd Floor  
New York, NY 10038

*Attorneys for A Woman's Choice  
of Charlotte, Inc.; A Woman's  
Choice of Greensboro, Inc.; and A  
Woman's Choice of Raleigh, Inc.*

*Cohen, NC Medical Board  
President Murphy, and NC  
Nursing Board Chair Harrell, all  
in his or her official capacities*

*\*pro hac vice admission pending*

DATED: November 16, 2020

/s/ Nathan A. Huff  
Nathan A. Huff  
NC Bar No.: 40626  
Jared M. Burtner  
NC Bar No.: 51583  
Phelps Dunbar LLP  
4140 Parklake Avenue, Suite 100  
Raleigh, North Carolina 27612  
[nathan.huff@phelps.com](mailto:nathan.huff@phelps.com)  
[jared.burtner@phelps.com](mailto:jared.burtner@phelps.com)  
Tel.: (919) 789-5307  
Fax: (919) 789-5301

*Attorneys for Defendants Timothy K.  
Moore and Philip E. Berger*