

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO, *et al.*,

*Plaintiffs,*

v.

ROY A. COOPER, III, *et al.*,

*Defendants,*

and

PHIL BERGER, *et al.*,

*Intervenor-Defendants.*

No. 1:16-cv-00236-TDS-JEP

**PLAINTIFFS’ AND EXECUTIVE BRANCH DEFENDANTS’  
JOINT MOTION FOR ENTRY OF A CONSENT DECREE**

NOW COME Plaintiffs Joaquín Carcaño, Payton Grey McGarry, Hunter Schafer, Quinton Harper, Angela Gilmore, Madeline Goss, and American Civil Liberties Union of North Carolina (collectively, “Plaintiffs”); and Defendants Roy A. Cooper III, Joshua Stein, Machel Sanders, Mandy K. Cohen, and James H. Trogdon III (collectively, “Executive Branch Defendants”) (Plaintiffs and Executive Branch Defendants are collectively referred to herein as “the Parties”), by and through their attorneys, and move the Court pursuant to Local Rule 7.1 for entry of a Consent Judgment and Decree, filed concurrently with this motion. In support thereof the Parties state as follows:

1. On September 7, 2017, Plaintiffs filed their Fourth Amended Complaint, seeking declaratory and injunctive relief and nominal damages (D.E. 210), alleging that Plaintiffs are entitled to relief from this Court for violations of their rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution, pursuant to 42 U.S.C. § 1983; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.*; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*

2. Since Plaintiffs moved the Court, with consent of all parties, to file their Fourth Amended Complaint, Plaintiffs and the Executive Branch Defendants have engaged in substantial good faith negotiations about a potential settlement of Plaintiffs' claims against the Executive Branch Defendants.

3. The Parties request that the Court enter the Consent Judgment and Decree, filed concurrently with this joint motion.

4. As set forth in the Consent Decree, with respect to public facilities that are subject to the Executive Branch Defendants' control or supervision, House Bill 142, codified as Session Law 2017-4 ("H.B. 142"), does not prevent transgender people from the use of public facilities in accordance with their gender identity. *See* Consent Judgment and Decree at 5 ¶ 1.

5. The Consent Decree also permanently enjoins the Executive Branch Defendants, in their official capacities, and all successors, officers, and employees, from taking certain specified actions under Section 2 of H.B. 142. *See* Consent Judgment and Decree at 5 ¶ 2.

6. Pursuant to the Consent Decree, the Parties agree to each bear their own fees, expenses, and costs with respect to all claims raised by Plaintiffs against the Executive Branch Defendants, and all remaining claims Plaintiffs allege against the Executive Branch Defendants in this action would be dismissed.

7. In support of this motion, the Parties submit Memoranda of Law, addressing all necessary elements for this Court's entry of a consent decree.

8. The Parties seek leave to present oral argument in support of this Motion pursuant to Local Rule 7.3(c)(1).

WHEREFORE, for the foregoing reasons, and for those set forth in the Parties' supporting memoranda of law, the Parties respectfully move the Court to enter the Consent Judgment and Decree, filed concurrently with this joint motion, as a full and final resolution of Plaintiffs' claims against the Executive Branch Defendants.

\* \* \*

Dated: October 18, 2017

Respectfully submitted,

/s/ Christopher A. Brook

Christopher A. Brook (NC Bar No. 33838)

Irena Como\*

AMERICAN CIVIL LIBERTIES UNION OF  
NORTH CAROLINA LEGAL FOUNDATION

Post Office Box 28004

Raleigh, North Carolina 27611

Telephone: 919-834-3466

Facsimile: 866-511-1344

cbrook@acluofnc.org

icomo@acluofnc.org

James D. Esseks\*

Leslie Cooper\*

Elizabeth O. Gill\*

Chase B. Strangio\*

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

125 Broad St., 18th Fl.

New York, NY 10004

Telephone: 212-549-2627

Facsimile: 212-549-2650

jesseks@aclu.org

lcooper@aclu.org

egill@aclunc.org

cstrangio@aclu.org

Jon W. Davidson\*

Tara L. Borelli\*

Peter C. Renn\*

LAMBDA LEGAL DEFENSE AND  
EDUCATION FUND, INC.

730 Peachtree Street NE, Suite 1070

Atlanta, GA 30308-1210

Telephone: 404-897-1880

Facsimile: 404-897-1884

jdavidson@lambdalegal.org

tborelli@lambdalegal.org

prenn@lambdalegal.org

Scott B. Wilkens\*

Luke C. Platzer\*

JENNER & BLOCK LLP

1099 New York Avenue, NW Suite 900

Washington, DC 20001-4412

Telephone: 202-639-6000

Facsimile: 202-639-6066

swilkens@jenner.com

lplatzer@jenner.com

\*Appearing by special appearance pursuant to L.R. 83.1(d)

*Counsel for Plaintiffs*

JOSHUA H. STEIN

ATTORNEY GENERAL

STATE OF NORTH CAROLINA

/s/ Amar Majmundar

Amar Majmundar

NC Bar No. 24668

SPECIAL DEPUTY ATTORNEY GENERAL

/s/ Olga E. Vysotskaya de Brito

Olga E. Vysotskaya de Brito

NC Bar No. 31846

SPECIAL DEPUTY ATTORNEY GENERAL

NORTH CAROLINA DEPARTMENT OF  
JUSTICE

Post Office Box 629

Raleigh, NC 27602

Telephone: (919) 716-6821

Facsimile: (919) 716-6759

amajmundar@ncdoj.gov

NORTH CAROLINA DEPARTMENT OF  
JUSTICE

Post Office Box 629

Raleigh, NC 27602

Telephone: (919) 716-0185

Facsimile: (919) 716-6759

ovysotskaya@ncdoj.gov

*Counsel for Defendants GOV. ROY A. COOPER, III in his Official Capacity as Governor of North Carolina; JOSHUA STEIN, in his official capacity as Attorney General of North Carolina; MACHELLE SANDERS, in her official capacity as Secretary of the North Carolina Department of Administration; MANDY K. COHEN, in her official capacity as Secretary of the North Carolina Department of Health and Human Services; and JAMES H. TROGDON III, in his official capacity as Secretary of the North Carolina Department of Transportation.*

**CERTIFICATE OF SERVICE**

I, Christopher A. Brook, hereby certify that on October 18, 2017, I electronically filed the foregoing PLAINTIFFS' AND EXECUTIVE BRANCH DEFENDANTS' JOINT MOTION FOR ENTRY OF A CONSENT DECREE, as well as Plaintiffs' Memorandum of Law in support and the Consent Judgment and Decree, using the CM/ECF system, and have verified that such filing was sent electronically using the CM/ECF system to all parties who have appeared with an email address of record.

/s/ Christopher A. Brook

*Counsel for Plaintiffs*