

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Civil Action No. 1:16-cv-1274-LCB-JLW

N.C. STATE CONFERENCE OF THE	)	
NAACP, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
N.C. STATE BD. OF ELECTIONS, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**MOTION TO DISMISS THE BEAUFORT COUNTY DEFENDANTS**

NOW COME the Defendants Beaufort County Board of Elections, Jay McRoy, in his official capacity as Chairman of the Beaufort County Board of Elections, John B. Tate, III, in his official capacity as Secretary of the Beaufort County Board of Elections, Thomas S. Payne II, in his official capacity as Member of the Beaufort County Board of Elections, and Kellie Harris Hopkins, in her official capacity as Director of the Beaufort County Board of Elections (collectively “the Beaufort County Defendants”), and move to dismiss these Defendants on the grounds that all injunctive relief requested against the Beaufort County Defendants has already been granted by this Court, and the allegedly wrongful activities by these Defendants cannot reasonably be expected to recur. Further, the Beaufort County Defendants have no control over the declaratory relief sought by the Plaintiffs. Therefore, the Plaintiffs’ claims as to the Beaufort County Defendants are moot and should be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, because this Court lacks subject matter jurisdiction over this lawsuit as to

these Defendants, as further shown in these Defendants' accompanying Brief along with Exhibits A and B, attached to this Motion.

**WHEREFORE**, the Beaufort County Defendants respectfully request that this Court dismiss Plaintiffs' claims against them pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

Respectfully submitted, this the 26<sup>th</sup> day of January, 2017.

By: /s/ Joshua H. Bennett  
Joshua H. Bennett  
N.C. State Bar No. 32576  
Bennett & Guthrie, P.L.L.C.  
1560 Westbrook Plaza Drive  
Winston-Salem, North Carolina 27103  
Tel: (336) 765-3121  
Fax: (336) 765-8622  
[jbennett@bennett-guthrie.com](mailto:jbennett@bennett-guthrie.com)

By: /s/ Donald M. Wright  
Donald M. Wright, Esq.  
N.C. State Bar No. 7410  
4804 Holly Brook Drive  
Apex, NC 27539  
Tel: (919) 618-3601  
[ncelectionattorney@gmail.com](mailto:ncelectionattorney@gmail.com)  
*Special Appearance Counsel*  
*Local Civil Rule 83.1(d)*

*Attorneys for Beaufort County Defendants*

### **CERTIFICATE OF SERVICE**

I hereby certify that on January 26, 2017, I electronically filed the foregoing with the clerk of Court using the CM/ECF system which will send notification of such to all counsel of record in this matter.

/s/ Joshua H. Bennett

Joshua H. Bennett

N.C. State Bar No. 32576

Bennett & Guthrie, P.L.L.C.

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Winston-Salem, North Carolina 27103

Tel: (336) 765-3121

Fax: (336) 765-8622

[jbennett@bennett-guthrie.com](mailto:jbennett@bennett-guthrie.com)