

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:19-cv-272

MAXWELL KADEL; JASON FLECK;
CONNOR THONEN-FLECK, by his
next friends and parents, JASON FLECK
and ALEXIS THONEN; JULIA
MCKEOWN; MICHAEL D. BUNTING,
JR.; C.B., by his next friends and parents,
MICHAEL D. BUNTING, JR. and
SHELLEY K. BUNTING; and SAM
SILVAINE,

Plaintiffs,

v.

DALE FOLWELL, in his official
capacity as State Treasurer of North
Carolina; DEE JONES, in her official
capacity as Executive Administrator of
the North Carolina State Health Plan for
Teachers and State Employees;
UNIVERSITY OF NORTH CAROLINA
AT CHAPEL HILL; NORTH
CAROLINA STATE UNIVERSITY;
UNIVERSITY OF NORTH CAROLINA
AT GREENSBORO; and NORTH
CAROLINA STATE HEALTH PLAN
FOR TEACHERS AND STATE
EMPLOYEES,

Defendants.

MOTION TO DISMISS

Defendants Dale Folwell (“Folwell”), Dee Jones (“Jones”), and the North Carolina State Health Plan for Teachers and State Employees (the “Health Plan”) (collectively,

“Defendants”) move this court for entry of an Order dismissing the Plaintiffs’ first claim for relief against Folwell and Jones and the Plaintiffs’ third claim for relief against the State Health Plan, pursuant to Rules 12(b)(1), 12(b)(6), and 12(b)(7) of the Federal Rules of Civil Procedure on the bases of lack of subject matter jurisdiction, failure to state a claim upon which relief can be granted, and failure to join a party under Rule 19. The grounds for this motion are more fully set forth in the memorandum filed contemporaneously herewith.

Respectfully submitted this 8th day of July, 2019.

/s/ Sam M. Hayes

Sam M. Hayes
N.C. Bar No. 25552
General Counsel
North Carolina Department of
the State Treasurer
3200 Atlantic Avenue
Raleigh, North Carolina 27604
Telephone: (919) 814-4000
Facsimile: (919) 855-5805
Sam.Hayes@nctreasurer.com

/s/ John G. Knepper

John G. Knepper
Wyo. Bar No. 7-4608
LAW OFFICE OF JOHN G. KNEPPER, LLC
Post Office Box 1512
Cheyenne, WY 82003-1512
Telephone: (307) 632-2842
Facsimile: (307) 432-0310
John@KnepperLLC.com

/s/ Kevin G. Williams

Kevin G. Williams
N.C. Bar No. 25760

/s/ Mark A. Jones

Mark A. Jones
N.C. Bar No. 36215
BELL, DAVIS & PITT, P.A.
100 North Cherry St., Suite 600
Winston-Salem, NC 27120-1029
Telephone: (336) 722-3700
Facsimile: (336) 722-8153
kwilliams@belldavispitt.com
mjones@belldavispitt.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

This the 8th day of July, 2019.

/s/ Kevin G. Williams