

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

MAXWELL KADEL, *et al.*,

Plaintiffs,

v.

NORTH CAROLINA STATE HEALTH
PLAN FOR TEACHERS AND STATE
EMPLOYEES

Defendant.

No. 1:19-cv-272-LCB

NOTICE OF INTERLOCUTORY APPEAL

Notice is hereby given that Defendant North Carolina State Health Plan for Teachers and State Employees (“State Health Plan”), hereby appeals to the United States Court of Appeals for the Fourth Circuit. This appeal pursuant to Title 28, United States Code, Section 1292(a)(1) is taken from the Memorandum Opinion and Order, (Doc. No. 234), entered June 10, 2022, in the U.S. District Court for the Middle District of North Carolina.

In parts, the Memorandum Opinion and Order suggests that the State Health Plan is subject to the injunction issued therein, presumably based upon the claims asserted by Plaintiffs against the state official co-defendants, pursuant to Title 42, United States Code, Section 1983, *et seq.*, but not asserted against the State Health Plan. Defendants Dale Folwell (*in his official capacity*

as State Treasurer of North Carolina) and Dee Jones (*in her official capacity as Executive Administrator of the State Health Plan*) have separately and previously appealed the Memorandum Opinion and Order, (Doc. No. 245). Their interlocutory appeal is No. 22-1721. This appeal by the State Health Plan is expressly limited to portions of the Memorandum Opinion and Order that, without correction as explained below, purport to enjoin the State Health Plan, an agency of the State of North Carolina, under Title 42, United States Code, Section 1983, *et seq.*

The State Health Plan has timely moved the district court, pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, to correct the clerical errors in the Memorandum Opinion and Order that suggest the State Health Plan is subject to the injunction issued therein. (Doc. No. 247). Although that motion has been submitted to the district court, no ruling has been made as of the filing of this notice of appeal. 1:19-cv-272-LCB, Docket Entries as of July 11, 2022. Further, today is the deadline for such appeal to be filed under Rule 4 of the Federal Rules of Appellate Procedure, to the extent the district court intended for the Memorandum Opinion and Order to enjoin the State Health Plan.

The State Health Plan would intend to seek this Court's leave to allow the district court to correct the Memorandum Opinion and Order, pursuant to Rule 60(a) of the Federal Rules of Civil Procedure and Rule 12.1 of the Federal Rules of Appellate Procedure, should the district court grant (or state that it would grant) the State Health Plan's correction motion.

Respectfully submitted this the 11th day of July, 2022.

/s/ John G. Knepper
John G. Knepper
Wyo. Bar No. 7-4608
Law Office of John G. Knepper, LLC
1720 Carey Ave. Suite 590
Cheyenne, WY 82001
Telephone: (307) 632-2842
john@knepperllc.com

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

/s/ Mark A. Jones
N.C. Bar No. 36215
BELL, DAVIS & PITT, P.A.
100 N. Cherry St. Suite 600
Winston-Salem, NC 27101
Telephone: (336) 722-3700
Facsimile: (336) 722-8153
kwilliams@belldavispitt.com
mjones@belldavispitt.com

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of July, 2022, the foregoing Notice of Interlocutory Appeal was filed electronically with the Clerk of Court using the CM/ECF electronic filing system, which will send notification of such filing to all registered users.

/s/ John G. Knepper
John G. Knepper
Wyo. Bar No. 7-4608
Law Office of John G. Knepper, LLC
1720 Carey Ave. Suite 590
Cheyenne, WY 82001
Telephone: (307) 632-2842
john@knepperllc.com

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

/s/ Mark A. Jones
N.C. Bar No. 36215
BELL, DAVIS & PITT, P.A.
100 N. Cherry St. Suite 600
Winston-Salem, NC 27101
Telephone: (336) 722-3700
Facsimile: (336) 722-8153
kwilliams@belldavispitt.com
mjones@belldavispitt.com