

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 3:22-cv-630-MOC-DSC

SARA BETH WILLIAMS, BRUCE)
KANE, JASON YEPKO, GUN OWNERS)
OF AMERICA, INC., GUN OWNERS)
FOUNDATION, GRASS ROOTS NORTH)
CAROLINA, and RIGHTS WATCH)
INTERNATIONAL,)

Plaintiffs,)

v.)

SHERIFF GARRY MCFADDEN,)
in his official capacity as Sheriff of)
Mecklenburg County and the)
MECKLENBURG COUNTY)
SHERIFF'S OFFICE)

Defendants.)

**JOINT STIPULATION TO
REMOVE ATTORNEY
GENERAL JOSH STEIN AS
A NAMED DEFENDANT**

NOW COME Sara Beth Williams, Bruce Kane, Jason Yepko, Gun Owners of America, Inc., Gun Owners Foundation, Grass Roots North Carolina, and Rights Watch International (collectively "Plaintiffs"), and North Carolina Attorney General Josh Stein, by and through undersigned counsel, hereby file this Joint Stipulation to Remove Attorney General Josh Stein as a Named Defendant in the above-captioned matter.

On November 28, 2022, Plaintiffs filed this action against Sheriff Garry McFadden in his official capacity as Sheriff of Mecklenburg County, and the Mecklenburg County Sheriff's Office.

The Complaint [D.E. 1] identifies North Carolina Attorney General Josh Stein as a defendant "in his official capacity as the Attorney General of North Carolina Pursuant to

Rule 5.1 of the Federal Rules of Civil Procedure.” [D.E. 1, ¶ 15] The Complaint further alleges that “[b]y granting Sheriff McFadden unbridled discretion to violate Plaintiffs’ rights through use of the Mental Health Provisions, Defendant Stein is liable to Plaintiffs pursuant to 42 U.S.C. § 1983.” [D.E. 1, ¶ 109] Pursuant to Rule 5.1, a party that files a pleading questioning the constitutionality of a state statute must promptly provide notice of the constitutional question to the state attorney general. “Unless the court sets a later time, the attorney general may intervene within 60 days after the notice is filed or after the court certifies the challenge, whichever is earlier.” Fed. R. Civ. P. 5.1(c). The Complaint seeks declaratory and injunctive relief declaring certain portions of N.C.G.S. § 14-415.13 through N.C.G.S. § 14-415.15 unconstitutional. [D.E. 1, p 2]

As of the time of filing this document, the docket in this matter lists as a defendant “Josh Stein in his official capacity as Attorney General of North Carolina.” Plaintiffs did not intend to name Attorney General Stein as a defendant in the Complaint, and he is not a defendant in this matter. To resolve any ambiguity as to Attorney General Stein’s status as a defendant in this action, Plaintiffs and Attorney General Stein have met and conferred and now agree to the following stipulation.

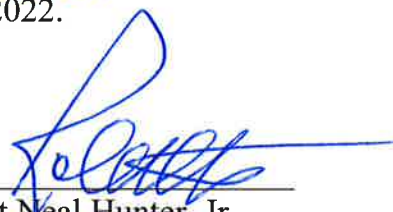
IT IS HEREBY STIPULATED AND AGREED THAT:

1. Plaintiffs will, upon the filing of this Joint Stipulation, amend the complaint to remove Attorney General Stein as a defendant.

2. To the extent Paragraph 109 of the Complaint is an allegation against or a claim for relief from Attorney General Stein, Plaintiffs will amend the Complaint to remove any such allegation or claim for relief.

3. Attorney General Stein has 60 days from the date notice of the constitutional question was received, up to and including February 7, 2023, to intervene in this matter as provided by Rule 5.1.

Respectfully submitted, this 6 day of January, 2023.



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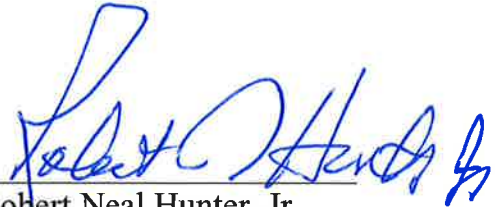
JOSHUA H. STEIN
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CERTIFICATE OF SERVICE

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

This 6 day of January, 2023
~~December 2022.~~


Robert Neal Hunter, Jr.