

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA

No. 1:22-CV-568

JULIETTE GRIMMETT,  
RALSTON LAPP GUINN  
MEDIA GROUP, the JOSH  
STEIN FOR ATTORNEY  
GENERAL CAMPAIGN, JOSH  
STEIN, SETH DEARMIN, and  
ERIC STERN,

Plaintiffs,

v.

N. LORRIN FREEMAN, in her  
official capacity as District  
Attorney for the 10<sup>th</sup>  
Prosecutorial District of the State  
of North Carolina,

Defendant.

**RESPONSE IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT**

NOW COMES Defendant N. LORRIN FREEMAN, in her official capacity as District Attorney for the 10<sup>th</sup> Prosecutorial District of the State of North Carolina, and respectfully submits this Response in Opposition to Plaintiffs' Motion for Summary Judgment.

**NATURE OF THE MATTER BEFORE THE COURT**

Plaintiffs filed this action seeking injunctive relief preventing them from being prosecuted by Defendant for any violation of N.C.G.S. §163-274(a)(9) (the "Statute") arising from a specific political advertisement in which Plaintiffs were involved. On 23 March 2023, the statute of limitations period expired for any prosecution of Plaintiffs under the Statute for any violation arising from the advertisement. The

case is therefore moot, and Defendant on 26 March 2023 filed a motion to dismiss for lack of subject matter jurisdiction. *See* DE-57.

### **STATEMENT OF FACTS**

Plaintiffs filed their motion for summary judgment on 2 March 2023, contending that the decision of the Fourth Circuit Court of Appeals filed on 8 February 2023 entitles them to summary judgment. However, the limitations period for any prosecution of Plaintiffs for any violation of the Statute arising from the specific political advertisement that is the basis of their Amended Complaint expired on 23 March 2023, thereby making this case moot. Defendant filed a motion to dismiss on 26 March 2023 on that basis, that is currently pending before the Court.

### **QUESTION PRESENTED**

Is this case moot as a result of the expiration of the limitations period for any prosecution of Plaintiffs for any violation of the Statute arising from the specific political advertisement that is the basis of Plaintiffs' Amended Complaint?

### **ARGUMENT**

As explained above and in the motion to dismiss, Plaintiffs' motion for summary judgment should be denied because the case is now moot. Defendant incorporates by reference the arguments made in her motion to dismiss and supporting memorandum of law filed on 26 March 2023 at DE-57 and DE-58.

### **CONCLUSION**

For the reasons set out herein, Defendant N. Lorrin Freeman respectfully requests that Plaintiffs' motion for summary judgment be denied.

This the 3<sup>rd</sup> day of April, 2023.

**GAMMON, HOWARD &  
ZESZOTARSKI, PLLC**

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**CERTIFICATE OF WORD COUNT  
PURSUANT TO LOCAL RULE 7.3(d)**

Undersigned counsel certifies that this Response complies with Local Rule 7.3(d), in that the word count function of Microsoft Word shows the brief to contain less than 6,250 words, excluding those portions of the brief permitted to be excluded by the Rule.

This the 3<sup>rd</sup> day of April, 2023.

/s/ Joseph E. Zeszotarski, Jr.  
Counsel for Defendant