STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20CVS006358-910

NORTH CAROLINA BAR AND TAVERN ASSOCIATION, *et al.*,

Plaintiffs,

v.

GOVERNOR JOSHUA H. STEIN, in his official capacity as Governor of North Carolina,

Defendant.

MOTION TO STAY PROCEEDINGS, MOTION TO CONTINUE, IN THE ALTERNATIVE, and MOTION TO SHORTEN THE TIME FOR NOTICE OF HEARING THEREON PURSUANT TO RULE 6(d)

NOW COME all Plaintiffs, except unrepresented Plaintiff James Rochford, by and through counsel, and respectfully request the Court stay or, in the alternative, continue hearings scheduled in this action pending resolution of Plaintiffs' Petition for Writ of Certiorari filed with the North Carolina Court of Appeals. Pursuant to Rule 6(d), Plaintiffs request the Court enter an order shortening the time for notice of hearing on these motions given the circumstances. In support of their motions, Plaintiffs show the Court as follows:

1. This case was originally filed as a Verified Complaint on 4 June 2020. The original Defendant, then-Gov. Cooper, was thereafter served with the Summons and Complaint.

2. After service, an Amended Complaint was filed on 10 June 2020 and again on 25 October 2021 at the direction of Judge Gale.

3. This case involves claims challenging the constitutionality of a series of Executive Orders entered by former Gov. Cooper, over a period of just over one year.

4. On 29 March 2021, Judge Gale entered an order granting the Defendant's motion and denying the Plaintiffs' motion, dismissing the case in its entirety.

5. Plaintiffs appealed to the North Carolina Court of Appeals.

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6. On 16 April 2024, the Court of Appeals unanimously held that the trial court had erred in dismissing the Plaintiffs' claims for violation of their rights to equal protection and the fruits of their labor under the N.C. Constitution, and that the trial court should have instead granted summary judgment as to liability on those claims in favor of the Plaintiffs. *N.C. Bar & Tavern Ass'n v. Stein*, 293 N.C. App. 402, 421-24, 426-27, 901 S.E.2d 355, 369-74 (2024), *modified and affirmed in part, reversed in part*, 388 N.C. 149, 919 S.E.2d 684.

7. The Defendant appealed the case to the North Carolina Supreme Court.

8. On 22 August 2025, the Supreme Court held that the trial court had erred by dismissing Plaintiffs' claim for violation of the rights to the fruits of their labor, but that the case should be remanded to the trial court to allow discovery to proceed as to the sole issue on the question of liability: Whether former Gov. Cooper's executive orders were reasonable, as applied to the Plaintiffs. According to the Supreme Court, "the Governor's actions will be judged on the information available at the time, not on what we know in hindsight." *N.C. Bar & Tavern Ass'n v. Stein*, 388 N.C. 149, 162, 919 S.E.2d 684, 695 (2025). Should the Plaintiffs prevail on the liability question, the Court held that the trial court would then address the appropriate remedy for the violation. *Id.* at 159, 919 S.E.2d 684 (explaining that the "least-intrusive remedy analysis 'arises after the claimant provides a constitutional violation.'" *Ace Speedway*, 386 N.C. at 429 (emphasis removed). Thus, the issue [raised by Defendant regarding the least-intrusive remedy in this case] is 'not ripe' for adjudication. *Id.* at 430"). The Supreme Court held that Plaintiffs' remaining claims had been properly dismissed.

9. Upon remand, Defendant, through counsel, propounded voluminous discovery on each and every plaintiff seeking copious financial and other records from Plaintiffs despite this Court not having determined liability or fashioned a remedy.

10. On 29 May 2026, Plaintiffs moved to bifurcate and stay discovery on the issues of damages. After a hearing, this Court denied Plaintiffs' motion on 10 July 2026.

11. Plaintiffs, through counsel, attempted to subpoena former Governor Cooper and former DHHS Secretary Mandy Cohen, MD for depositions on the issue of reasonableness and liability. Those efforts were rebuffed repeatedly.

12. On 25 June 2026, Plaintiffs moved to compel nonparty deposition attendance of former Governor Cooper and former Secretary Cohen. After a hearing on 18 August 2026, this Court entered an order denying Plaintiffs' motion to compel on 25 August 2026.

13. On 17 September 2026, Plaintiffs filed a Petition for Writ of Certiorari with the North Carolina Court of Appeals. A true and accurate copy of Plaintiffs' Petition can be found at this link.[1]

14. Defendant filed his response to the Petition on 30 September 2026.

15. Counsel for Plaintiffs confirmed with the Clerk of the Court of the Appeals that the Petition and Response were assigned to the Court of Appeals' Petition Panel and that no action has yet been taken.

16. This Court is well-aware that owing to the sheer volume of "damages" related discovery propounded by Defendant, many Plaintiffs have entered voluntary dismissals without prejudice because they are being asked to locate and produce years of information, despite the Court not having decided on liability or fashioned a remedy. Many others similarly frustrated with the process have failed to assist or respond to counsel in preparing responses, necessitating motions to withdraw and subsequent dismissals of those parties with prejudice.

[1] File size limitations for eCourts render a PDF of the Petition too large to include as an exhibit.

17. Forcing plaintiffs, who were involuntarily thrust into complete and prolonged closure for the good of all of North Carolina, to abandon their claims for repeated violations of their Constitutional rights owing to the Defendant's voluminous discovery demands is unnecessary. This is particularly true when there has been no ruling as to liability (and, therefore, no determination of the need for damages discovery at all) and no ruling as to the appropriate remedy in this case, including what of the copious financial data requested by the Defendant is relevant to determining that yet-to-be-decided remedy.

18. Owing to these circumstances, Plaintiffs respectfully move that the Court enter a stay of these proceedings until the Appellate Courts of North Carolina have ruled on Plaintiffs' pending Petition for Writ of Certiorari.

19. Alternatively, Plaintiffs respectfully move the Court to continue hearings on Defendant's "Motion to Compel," currently set for hearing via WebEx on 2 November 2026, until after the Appellate Courts of North Carolina have ruled on Plaintiffs' pending Petition for Writ of Certiorari.

20. Regarding previous continuances in this case, the Court previously continued Plaintiffs' Motion to Compel the depositions of former Governor Cooper and former NCDHHS Secretary Mandy Cohen. No continuances have been granted regarding Defendant's Motion to Compel. Plaintiffs objected to calendaring Defendant's Motion to Compel for hearing on 18 September 2026, when the parties last appeared in Court for this matter.

21. Wake County Local Rule 8.2(f) requires that any motion to continue contain a proposed session within 90 days for rescheduling. Thus, in the event that the Court grants the Motion to Continue, Plaintiffs propose that Defendant's Motion to Compel be rescheduled for hearing on or around 25 January 2027 to allow the Court of Appeals additional time to rule on Plaintiffs' pending Petition for Certiorari.

22. Pursuant to Wake County Local Rule 8.2(d), undersigned counsel certifies that counsel for moving Plaintiffs attempted, in good faith, to confer with counsel for the Defendant and Plaintiff James Rochford prior to the filing of the Motion to Continue, In the Alternative, via email but that no responses – other than an automated out-of-office email from Mr. Bulleri's account – were received.

23. Given the circumstances and the pending Petition, Plaintiffs respectfully request that the Court enter an order shortening the notice for hearing on these motions pursuant to Rule 6(d).

24. Plaintiffs do not interpose these motions for the purposes of unwarranted delay or to otherwise improperly disrupt the proceedings.

WHEREFORE, Plaintiffs respectfully requests that the Court:

1. Enter an order shortening the time for notice of hearing on these motions pursuant to Rule 6(d);

2. Enter an order staying this matter pending the Appellate Courts' resolution of the Petition for Writ of Certiorari; or, in the alternative,

3. Enter an order continuing hearings on Defendant's "Motion to Compel" and Plaintiffs' counsel's Motions to Withdraw until after the Appellate Courts of North Carolina have ruled on Plaintiffs' pending Petition for Writ of Certiorari; and

Respectfully submitted, this the 29th day of October 2026.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Fourth Partial Motion to Withdraw was served upon all parties by email and by depositing a copy with the United States Postal Service, first-class postage prepaid, addressed to:

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This the 29th day of October 2026.

/s/ Michael J. Tadych