

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
WAKE COUNTY, NORTH CAROLINA

TAMIKA WALTER KELLY, KRISTY MOORE,
AMANDA HOWELL, KATE MEININGER,
ELIZABETH MEININGER, JOHN SHERRY, and
RIVCA RACHEL SANOGUEIRA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA and
NORTH CAROLINA STATE EDUCATION
ASSISTANCE AUTHORITY,

Defendants,

and

No. 20 CVS 8346

JANET NUNN, CHRISTOPHER AND NICHOLE
PEEDIN, AND KATRINIA POWERS,

Proposed Intervenor-Defendants,

and

THALES ACADEMY, VICTORY CHRISTIAN
CENTER SCHOOL, CRYSTAL PITTMAN, and
JILLYN CASHEL,

Proposed Intervenor-Defendants.

THALES ACADEMY, VICTORY CHRISTIAN CENTER SCHOOL,
CRYSTAL PITTMAN, AND JILLYN CASHEL
MOTION TO INTERVENE

FILED
2020 SEP 18 P 4:03
WAKE CO., C.S.C.

COME NOW Thales Academy, Victory Christian Center School, Crystal Pittman, and Jillyn Cashel (the “Thales Intervenor-Defendants”), by counsel and pursuant to Rule 24 of the North Carolina Rules of Civil Procedure, and respectfully move this Court to intervene as Defendants in the above-captioned case. As grounds for this motion and as more fully set forth in their forthcoming memorandum of law and facts in support hereof, the Thales Intervenor-Defendants state as follows.

1. The Thales Intervenor-Defendants meet the standard for intervention by right, pursuant to N.C. R. Civ. P. 24(a), because they claim an interest relating to the property or transaction which is the subject of the action, and they are so situated that the disposition of the action may, as a practical matter, impair or impede their ability to protect that interest. In the alternative, the Thales Intervenor-Defendants meet the standard for intervention by permission, pursuant to N.C. R. Civ. P. 24(b), because their defense and the main action have a question of law or fact in common.

2. Proposed Intervenor-Defendant Thales Academy (“Thales”) is a school with eight campuses in North Carolina in the Raleigh and Charlotte areas, serving roughly 3,550 students in grades Kindergarten through Twelve. *See* Affidavit of Robert L. Luddy at ¶ 3, attached as Exhibit A. Thales provides its students a high quality, affordable education. *Id.* at ¶ 6. The average Scholastic Aptitude Test (SAT) score of Thales students exceeds 1200. *Id.* at ¶ 7. The tuition ranges from only \$4,800 to \$6,200 per year. *Id.* at ¶ 15. Yet some Thales parents cannot afford this tuition, and Thales is able to serve children from these low-income families by participating in the North Carolina Opportunity Scholarship Program (the “Program”). *Id.* at ¶¶ 17-19. Thales provides over 190 of these students with excellent educational opportunities that would not otherwise be available to them. *Id.* at ¶¶ 17, 21. Thales is not a religious school, does

not discriminate on the basis of religion, and currently educates children from a diverse variety of faiths. *Id.* ¶ 12, 14. Thales has specific policies prohibiting discrimination on the basis of, *inter alia*, race, color, national or ethnic origin, sex, sexual orientation, and gender identity. *Id.* at ¶¶ 11, 13. Thales is not mentioned by name in the Complaint, yet Thales' participation in the Program would be curtailed if this Court were to enjoin the entire Program, as Plaintiffs seek. Thales would lose students and revenue and has a direct interest in the outcome of the case. *Id.* at ¶ 20.

3. Proposed Intervenor-Defendant Victory Christian Center School ("VCCS") a private, nonprofit, Christian school in Charlotte, North Carolina. *See* Affidavit of Cheryl Riley at ¶ 2, attached as Exhibit B. VCCS serves approximately 216 students from a diverse array of backgrounds, in grades Kindergarten through Twelve. *Id.* at ¶ 5. VCCS offers its students a variety of educational services, including Science, Technology, Engineering, and Math (STEM); mock trial; volunteerism; athletics; and fine arts, and it produces well-rounded students that contribute to the public good of the State of North Carolina. *Id.* at ¶ 5. VCCS full tuition ranges from \$7,351 to \$8,439 per year. *Id.* at ¶ 14. Roughly 30-35% of students at VCCS receive tuition assistance through the Program. *Id.* at ¶ 16. Without the Program, many VCCS families would not be able to afford to pay the necessary tuition for their children's education. *Id.* at ¶ 17. While VCCS is a Christian school, it accepts and educates students of all faiths. *Id.* at ¶. VCCS does not discriminate on the basis of race, color, religion, or national origin. *Id.* at ¶ 7. VCCS does not require students or their families to hold a particular belief about homosexuality, bisexuality, or gender non-conformity *Id.* at ¶ 12. VCCS does not require students or their families to affirm any particular statement of faith. *Id.* VCCS does not require students or their families to attend a particular church or belong to a particular denomination. *Id.* It does not require its students or

their families to follow a particular religion. *Id.* VCCS is not mentioned in the Complaint,¹ yet its participation in the Program would be curtailed if this Court were to enjoin the entire Program, as Plaintiffs seek. It would lose students and revenue and has a direct interest in the outcome of the case. *Id.* at ¶¶ 17-18.

4. Therefore, if the Opportunity Scholarship Program were enjoined or found unconstitutional, as requested in this lawsuit, Thales and VCCS (collectively, “the Schools”) would have their substantial interest in the funding provided by the Program impaired. This funding supports the schools in their mission to educate the children of North Carolina from all economic backgrounds. The Schools claim an interest in the Program that is the subject of the action, and they are so situated that the disposition of the action would impede their ability to protect their interest in this funding. In the alternative, their defense and the main action have a question of law in common, i.e. the constitutionality of the Program.

5. Proposed Intervenor-Defendants Crystal Pittman and Jillyn Cashel (the “Parents”) are residents of North Carolina who have taken advantage of the Program and wish to continue doing so. *See* Affidavit of Crystal Pittman, attached as Exhibit C; *See* Affidavit of Jillyn Cashel, attached as Exhibit D. Their household annual income qualifies them for the scholarships, and each currently has at least one child receiving a scholarship through the Program. Pittman Aff. at ¶¶ 4-5; Cashel Aff. at ¶¶ 4-5. Pittman’s daughters were awarded full scholarships through the Program, which they use to attend Scholars Academy for the Gifted and Artistically Elite (“Scholars Academy”), a secular private school located in Cary, North Carolina, that provides instruction online via its Virtual Classroom program. Pittman Aff. at ¶¶ 5, 8. Scholars Academy

¹ Plaintiffs’ Complaint at ¶ 49 (g) quotes a policy statement from Victory Christian School in Elizabeth City, North Carolina. VCCS is not affiliated with Victory Christian School, a separate institution in a different part of North Carolina that happens to have a similar name.

is not a religious school and does not impose religious requirements or discriminate on the basis of religion. *Id.* at ¶ 8. Cashel's daughter was awarded a scholarship through the Program to attend Kindergarten at St. John's Lutheran School in Winston-Salem, North Carolina. Cashel Aff. at ¶ 5. While St. John's is a religious school, it admits students of any race, gender, and religion, and it does not require its parents or students adhere to a specific creed. Cashel Aff. at ¶¶ 8-10.

6. If the Program were enjoined or found unconstitutional, as requested in this lawsuit, the Parents would suffer financial and educational harm. They claim an interest in the scholarship funds that will support their children's education and the transaction of sending their children to a private school through the Program that is the subject of the action, and they are so situated that the disposition of the action would impede their ability to protect their substantial interests. Their children are very happy at their schools, and an improper disposition of this case would rip them from the educational services, extracurricular activities, and friends they have developed. In the alternative, their defense and the main action have a question of law in common, *i.e.* the constitutionality of the Program.

7. The Thales Intervenor-Defendants claim a direct and concrete interest in the scholarships made available by the Program. *See Northland Family Planning Clinic, Inc. v. Cox*, 487 F.3d 323, 345 (6th Cir. 2007) (persons and organizations "affected by the law may likely have an ongoing legal interest in its enforcement after it is enacted," such that intervention by right is appropriate). The Schools can serve more students because they receive more revenue through the Program. The Parents use the Program to direct financial resources that allow their children to enroll in private schools that better serve their children's' needs.

8. This Court should follow the rule in North Carolina that motions to intervene are

normally granted: as “a general rule, motions to intervene made prior to trial are seldom denied.” *State Employees’ Credit Union, Inc. v. Gentry*, 75 N.C. App. 260, 264 (1985). Intervention for Thales Academy, Victory Christian Center School, Crystal Pittman, and Jillyn Cashel is appropriate as of right and by permission. *See Hart v. State*, 386 N.C. 122, 130 (parents allowed to intervene in previous attack on the Opportunity Scholarship Program); *Leandro v. State*, 346 N.C. 336, 488 (1997) (in suit brought by rural school districts and the parents of their students, wealthy school districts and the students of their parents intervened to bring separate arguments specific to their situation and funding); *N.C. State Bd. of Educ. v. N.C. Learns, Inc.*, 231 N.C. App. 270, 273 (2013) (public school boards intervene in case brought by state board of education against charter school because they would lose revenue).

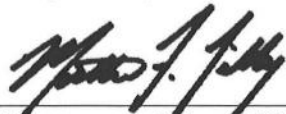
9. Having been filed before any discovery or motions practice in this case, the motion of the Thales Academy Intervenor-Defendants is timely. *Taylor v. Abernethy*, 149 N.C. App. 263, 267-68 (2002) (“A motion to intervene is rarely denied as untimely prior to the entry of judgment. . .”).

10. Pursuant to N.C. R. Civ. P. 24(c), a copy of the Thales Intervenor-Defendants’ proposed answer is being submitted with this motion and is attached hereto as Exhibit E.

WHEREFORE, the Thales Intervenor-Defendants pray that the Court enter an order allowing them to intervene as Defendants in this action.

This the 18th day of September 18, 2020.

Respectfully submitted,



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**Pro Hac Vice Motion to Be Filed*

*Attorneys for Proposed Intervenor-Defendants
Thales Academy, Victory Christian Center School,
Crystal Pittman, and Jillyn Cashel*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been sent to the attorneys listed below by depositing the same in the First Class mail, postage prepaid, at the following addresses on this 18th day of September, 2020.

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Attorneys for the Plaintiffs.

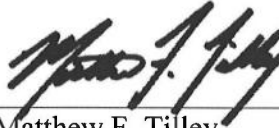
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Attorneys for the Nunn Intervenor- Defendants



Matthew F. Tilley

Exhibit

A

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
WAKE COUNTY, NORTH CAROLINA

TAMIKA WALTER KELLY, KRISTY MOORE,
AMANDA HOWELL, KATE MEININGER,
ELIZABETH MEININGER, JOHN SHERRY, and
RIVCA RACHEL SANOGUEIRA,

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STATE OF NORTH CAROLINA and
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Proposed Intervenor-Defendants,

and

THALES ACADEMY, VICTORY CHRISTIAN
CENTER SCHOOL, CRYSTAL PITTMAN, and
JILLYN CASHEL,

Proposed Intervenor-Defendants.

AFFIDAVIT OF ROBERT L. LUDDY

AFFIDAVIT OF ROBERT L. LUDDY

STATE OF NORTH CAROLINA)

COUNTY OF WAKE COUNTY)

I, Robert L. Luddy, appearing before the undersigned notary and being duly sworn, state the following:

1. I am a resident and citizen of Wake County, North Carolina. I am over 18 years old and of sound mind. I have personal knowledge of each of the statements herein and, if called for deposition or trial, would testify as stated below.

2. I am the Founder and Chairman of the Board of Thales Academy ("Thales"), a private, nonprofit school with several locations in North Carolina. As Founder and Chairman of the Board, I am the person responsible for general management of school operations at Thales.

3. Thales serves roughly 3,550 students across 8 schools in North Carolina. Thales currently operates schools in the metropolitan areas of Raleigh and Charlotte. These schools include Thales Academy Apex K-5, Thales Academy Apex JH/SH, Thales Academy Holly Springs Pre-K-5, Thales Academy Knightdale Pre-K-7, Thales Academy Raleigh Pre-K-7, Thales Academy Rolesville JH/SH, Thales Academy Wake Forest Pre-K-5, and Thales Academy Waxhaw K-6.

4. Thales also operates Thales Academy Franklin K-3 in Tennessee and Thales Academy Glen Allen K-2 in Virginia.

5. I have more than 22 years of experience working in education. Over 22 years ago, I founded Franklin Academy Public Charter School in Wake Forest, North Carolina. I have served as Founder and Chairman of the Board of Thales for more than 13 years.

6. In 2007, I founded Thales with a simple vision: Provide a high quality, affordable education.

7. Thales has grown rapidly based on parental satisfaction with excellent academic outcomes. The average score of our students on the nationally-normed Iowa Test of Basic Skills (ITBS) is consistently in the 90th percentile of schools. The average Scholastic Aptitude Test (SAT) score of Thales students exceeds 1200. The first three graduates of Thales all attended the University of North Carolina at Chapel Hill and were graduated. Thales provides its students an excellent academic education at half the price spent by many public schools in North Carolina.

8. Students come to Thales from a variety of educational backgrounds, including public schools, private schools, and home schools.

9. Thales follows all North Carolina laws, including those administered by the Division of Non-Public Education. Thales sends the state the end-of-year test scores from its students participating in the North Carolina Opportunity Scholarship Program (the "Program").

10. Thales does not discriminate on the basis of race, color, religion, or national origin.

11. In its Handbook, Thales maintains the following non-discrimination statement, by which we abide. Thales Academy admits students of any race, color, national and ethnic origin, religion, and sex to all rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin, religion, sex, age, or mental or physical disability in the school. It does not discriminate on the basis of race, color, national and ethnic origin, religion, sex, age, or physical or mental disability in administration of its educational policies, and athletic and other school administered programs.

12. Thales does not require our students or their families to hold any belief in violation of their rights of conscience.

13. Thales does not require our students or their families to hold a particular belief about homosexuality, bisexuality, or gender non-conformity. In our Handbook, Thales maintains the following prohibition of harassment and bullying, by which we abide. Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by an actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, sex, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation or mental, physical, developmental or sensory disability or by association with a person who has or is perceived to have one or more of these characteristics. Similarly, we understand that our families approach issues such as sexual orientation, identity, and expression through a variety of social, religious, and philosophical perspectives and believe discussions around these subjects most appropriately occur, if at all, at home rather than in the classroom or school environment.

14. Thales is not a religious school. Thales accepts students and families from all religions. Thales does not ask its parents or students their religion but, based on information and belief, has students who are agnostic, atheist, Christian, Hindu, Muslim, Sikh, and Jewish. All are welcome, and we are proud that children from so many different faiths choose to be educated at our school.

15. For the 2020-2021 school year, Thales charges full tuition between \$4,800 and \$6,200 per year, depending on the grade level and school location.

16. The North Carolina Opportunity Scholarship Program pays Thales up to \$4,200 per student enrolled in the Program.

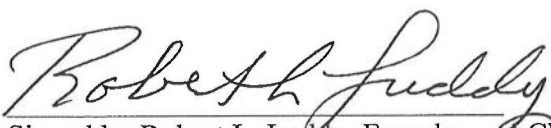
17. Over 190 children at Thales receive tuition assistance through the North Carolina Opportunity Scholarship Program. This constitutes roughly 5% of our students who are in the Program. Thales has accepted scholarship money from the Program since it began in 2015. The Program has allowed hundreds of children at Thales to receive what was not otherwise available to them: a high quality education at a school with an excellent academic record.

18. Without the Program, many Thales families would not be able to afford to pay the necessary tuition for their children's education.

19. Without the Program, Thales could not afford to educate the low-income students we serve.


20. Any court order in this case enjoining the North Carolina Opportunity Scholarship Program would cause financial harm to Thales, would decrease our tuition revenue, and would cause harm to us and the students we serve by preventing us from serving many students who cannot afford our tuition.

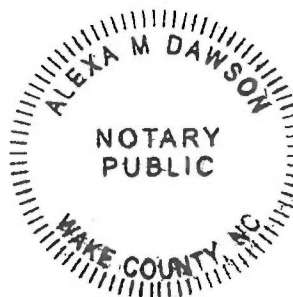
21. The North Carolina Opportunity Scholarship Program furthers the public purpose of providing many of our students with excellent educational opportunities that would not otherwise be available to them through their neighborhood public school.



Signed by Robert L. Luddy, Founder and Chairman of the Board, Thales Academy

Subscribed to and sworn or affirmed before me this 16th day of September, 2020.


Notary Public
my comm exp 4-28-24



Exhibit

B

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
WAKE COUNTY, NORTH CAROLINA

TAMIKA WALTER KELLY, KRISTY MOORE,
AMANDA HOWELL, KATE MEININGER,
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CENTER SCHOOL, CRYSTAL PITTMAN, and
JILLYN CASHEL,

Proposed Intervenor-Defendants.

AFFIDAVIT OF CHERYL RILEY

AFFIDAVIT OF CHERYL RILEY

STATE OF NORTH CAROLINA)

COUNTY OF MECKLENBURG)

I, Cheryl Riley, appearing before the undersigned notary and being duly sworn, state the following:

1. I am a citizen of Mecklenburg County, North Carolina. I am over 18 years old and of sound mind. I have personal knowledge of each of the statements herein and, if called for deposition or trial, would testify as stated below.

2. I am the Principal and Chief Administrator at Victory Christian Center School ("VCCS"), a private, nonprofit, Christian school in Charlotte, North Carolina. As head of school, I am the full-time employee responsible for the day-to-day administration of VCCS, under the guidance of Victory Christian Center Pastor Robyn Gool.

3. VCCS is an extension of the Victory Christian Center, a non-denominational full-gospel ministry, which has been impacting the Charlotte area for the cause of Christ since 1980. VCCS has operated continuously since 1989.

4. I have more than 31 years of experience working in education. I am serving in my fifth year as Principal at VCCS.

5. VCCS currently serves approximately 216 students from a diverse array of backgrounds, in grades kindergarten through twelfth grade. VCCS offers its students an extensive and successful Science, Technology, Engineering, and Math (STEM) program, which includes a rocket-building team, a bridge-building team, and several six sigma junior green belts. VCCS offers students a successful mock trial program whose teams have competed at the local,

state, and national level. VCCS instills its students with a sense of public service through its community volunteer program. VCCS offers its students a successful athletic program with state championships in football, baseball, basketball, and track. VCCS offers its students an active Fine Arts Program with performances in drama, dance, music, and the visual arts. VCCS offers its students a variety of educational services and produces well-rounded students that contribute to the public good of the State of North Carolina.

6. VCCS is registered and licensed by the North Carolina Department of Non-Public instruction. VCCS sends the state the scores from its students participating in the North Carolina Opportunity Scholarship Program (the "Program"). North Carolina monitors VCCS records annually. VCCS is accredited by Advanced ED and by the International Christian Accrediting Association.

7. VCCS does not discriminate on the basis of race, color, religion, or national origin in its admissions, provision of education, extracurricular activities, or any of the many other services we provide our families. Ninety-nine percent of VCCS students are students of color.

8. VCCS provides a quality education to hundreds of children, most of whom are African-American and roughly a third of whom are low-income.

9. VCCS is a Christian School. We believe God expects us to be good stewards of our children. The Lord gave us biblical guidelines on how to train, nurture, and educate them. Psalm 127:3 says, "Children are a gift from the Lord... and our special reward." Our Bible emphasis is designed to help students develop a Christian worldview.

10. At VCCS it is our belief that education in America should be based upon biblical principles and the Christian spirit which made this country great. It should offer equity of opportunity for all students and should give complete freedom to the Spirit of God in meeting the

needs of each child's spirit, soul, and body.

11. At VCCS we believe that the Bible is paramount to one's development. It is our mission to introduce all students to the saving grace of our Lord and Savior Jesus Christ. Knowing Him is foundational to every aspect of a child's developing strong character. Therefore, we offer a strong academic program with subjects taught from a biblical perspective.

12. VCCS accepts students from all walks of life. We do not require our students or their families to hold any belief in violation of their rights of conscience. We do not require our students or their families to hold a particular belief about homosexuality, bisexuality, or gender non-conformity. We do not require our students or their families to affirm any particular statement of faith. We do not require our students or their families to attend a particular church or belong to a particular denomination. We do not require our students or their families to follow a particular religion. We have served several students at our Christian school whom I know to be Muslim.

13. We teach integrity, maintain an honor code, and do not condone foul language, but we know that our students are children, and we do not expect them to be perfect.

14. For the 2020-2021 school year, VCCS charges full tuition between \$7,351 (kindergarten) and \$8,439 (6th-12th grade) for the year.

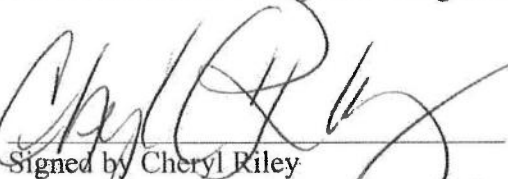
15. The North Carolina Opportunity Scholarship Program pays VCCS \$4,200 per student enrolled in the Program.

16. Roughly 30-35% of students at VCCS receive tuition assistance through the North Carolina Opportunity Scholarship Program. VCCS has accepted scholarship money from the Program since it began in 2014-2015. In that time, the Program has allowed over 100 children at VCCS to receive a quality education that we strongly believe has enriched their lives.

17. Without the Program, many VCCS families would not be able to afford to pay the necessary tuition for their children's education.

18. Any court order in this case enjoining the North Carolina Opportunity Scholarship Program or limiting funding through the Program would cause a decrease in VCCS' tuition revenue and prevent us from serving many students who cannot afford our tuition without the Program.

19. The North Carolina Opportunity Scholarship Program furthers the public purpose of providing many of our students with educational opportunities that would not otherwise be available to them through their neighborhood public school.



Signed by Cheryl Riley

Principal and Chief Administrator, Victory Christian Center School

Subscribed to and sworn or affirmed before me this 17th day of September, 2020.



Notary Public

Notary Public Expiration Date
6-18-2023

Exhibit

C

IN THE GENERAL COURT OF JUSTICE
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WAKE COUNTY, NORTH CAROLINA

TAMIKA WALTER KELLY, KRISTY MOORE,
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JILLYN CASHEL,

Proposed Intervenor-Defendants.

AFFIDAVIT OF CRYSTAL PITTMAN

AFFIDAVIT OF CRYSTAL PITTMAN

STATE OF NORTH CAROLINA)

COUNTY OF MECKLENBURG)

I, Crystal Pittman, appearing before the undersigned notary and being duly sworn, state the following:

1. I am a citizen of Mecklenburg County, North Carolina. I am over 18 years old and of sound mind. I have personal knowledge of each of the statements herein and, if called for deposition or trial, would testify as stated below.

2. I am the parent and legal guardian of two daughters: M.F., who is 7 years old, and A.F., who is 5 years old.

3. M.F., A.F., and I reside together in Charlotte, Mecklenburg County, North Carolina.

4. Our household annual income last year was less than 133% of the federal income eligibility guidelines for free lunch.

5. M.F. and A.F. were awarded full scholarships through the North Carolina Opportunity Scholarship Program (the "Program"). They are using the scholarships to attend Scholars Academy for the Gifted and Artistically Elite ("Scholars Academy"), where M.F. is in the second grade and A.F. is in kindergarten in the Virtual Classroom 2020-2021 program.

6. When I visited to the homepage website of Scholars Academy, it stated: The Scholars Academy for the Gifted and Artistically Elite admits students of any race, color, national and ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It doesn't discriminate on

the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarships, or other school-administered programs.

7. Neither I nor my daughters have ever felt discriminated against in any way by Scholars Academy, nor have we witnessed others receive discrimination from the school.

8. My daughters use the Opportunity Scholarship Program to attend a private school that is not religious and does not discriminate against anyone based on religion. In addition, it is offered online and is available to anyone in the state, including my daughters, who live in Charlotte, hours away from the school's physical location in Cary.

9. I intend to continue to apply for and receive funding from the Program to help fund the education of M.F. and A.F. in future years.

10. Last year, M.F. attended first grade at our local public school, and A.F. attended a public pre-school, but both my daughters struggled academically because the public school system did not provide the resources and support they needed to succeed in their education.

11. The public purpose of educating my daughters was not being met by the public school system, but it is being met through the Opportunity Scholarship Program.

12. I am seriously concerned about sending my children to school in-person during a pandemic, but the online instruction provided by the public school system last year failed to educate them, and the Opportunity Scholarship Program allows my children to attend an online school that teaches to their individual needs.

13. I am a music teacher, and the Scholars Academy for the Gifted and Artistically Elite at Cary Ballet Conservatory offers my daughters opportunities to learn fine arts that were not available to them in their local public schools.

14. The Opportunity Scholarship Program is a win-win: my daughters receive a better education than they were receiving, and the public pays less.

15. M.F. and A.F. receive \$4,200 each through the Program and use it to attend Scholars Academy.

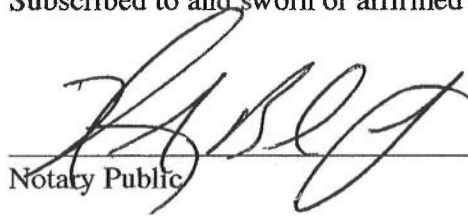
16. Without the Program, I would not be able to afford to send my two daughters to Scholars Academy.

17. Any court order in this case enjoining the North Carolina Opportunity Scholarship Program or limiting funding through the Program would prevent M.F. and A.F. from attending Scholars Academy, where they receive a quality education that is preparing them to be good citizens of North Carolina, and it would cause financial harm to me and to M.F. and A.F. by depriving us of our substantial interests in receiving the Opportunity Scholarship.

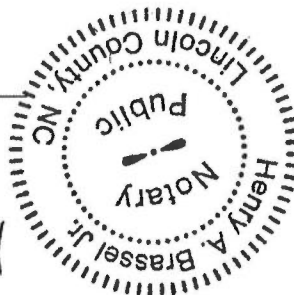
18. The North Carolina Opportunity Scholarship Program furthers the public purpose of providing my daughters with educational opportunities that would not otherwise be available to them through their neighborhood public school.


Signed by Crystal Pittman

Subscribed to and sworn or affirmed before me this 9 day of September, 2020.


Notary Public

MY COMMISSION EXPIRES 05/06/2024



IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
WAKE COUNTY, NORTH CAROLINA

TAMIKA WALTER KELLY, KRISTY MOORE,
AMANDA HOWELL, KATE MEININGER,
ELIZABETH MEININGER, JOHN SHERRY, and
RIVCA RACHEL SANOGUEIRA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA and
NORTH CAROLINA STATE EDUCATION
ASSISTANCE AUTHORITY,

Defendants,

and

No. 20 CVS 8346

JANET NUNN, CHRISTOPHER AND NICHOLE
PEEDIN, AND KATRINIA POWERS,

Proposed Intervenor-Defendants,

and

THALES ACADEMY, VICTORY CHRISTIAN
CENTER SCHOOL, CRYSTAL PITTMAN, and
JILLYN CASHEL,

Proposed Intervenor-Defendants.

AFFIDAVIT OF JILLYN CASHEL

AFFIDAVIT OF JILLYN CASHEL

STATE OF NORTH CAROLINA)

COUNTY OF FORSYTH)

I, Jillyn Cashel, appearing before the undersigned notary and being duly sworn, state the following:

1. I am a citizen of Forsyth County, North Carolina. I am over 18 years old and of sound mind. I have personal knowledge of each of the statements herein and, if called for deposition or trial, would testify as stated below.
2. I am the parent and legal guardian of my daughter, G.L., who is 5 years old.
3. G.L. and I reside together in Walkertown, Forsyth County, North Carolina.
4. I am self-employed as a nail technician. My household annual income last year was less than 133% of the federal income eligibility guidelines for free lunch.
5. G.L. was awarded a scholarship through the North Carolina Opportunity Scholarship Program (the "Program"). She is using the scholarship to attend kindergarten at St. John's Lutheran School ("St. John's") in Winston-Salem, North Carolina. Last year, G.L. attended Pre-Kindergarten at a different childcare facility with funding from a different program, NC Pre-K, which specifically provides funding for four-year-old children.
6. I also have a son who previously attended St. John's on an Opportunity Scholarship for grades Six through Eight. Before enrolling at St. John's my son struggled in public school, which failed to provide him the support and resources he needed to learn, instead treating him like a number, rather than an individual child. I enrolled him in St. John's because I

hoped the Christian school environment, with its focus on family and community, would give him the support as a student and a person to grow and learn. I was very to happy to see the results, and my son now attends a public high school, where he is succeeding in large part because of the preparation St. John's provided him.

7. I enrolled my daughter at St. John's because my experience with my son taught me that the school provides a supportive, family-centered environment that I feel is best for my childrens' education.

8. The Parent Handbook St. John's provided me upon enrollment, which is available on their website, states:

St. John's Lutheran School admits students of any race, gender, religion, and national and ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, gender, national or ethnic origin in its administration of its education policies, admissions, scholarship and loan programs, and athletic and other school-administered programs.

9. The Statement of Faith in the Parent Handbook states that, while "the church's theological beliefs guide both church and school," St. John's affirms that "[r]egardless of any disagreements members of our school community may have on these issues, the staff and faculty of St. John's are committed to loving and accepting each child and his or her family. We are here to serve our families and to love them to the best of our abilities."

10. Neither I nor my daughter have ever felt discriminated against in any way by St. John's, nor have we witnessed others receive discrimination from the school. I am personally aware that St. John's admits students of multiple faiths.

11. I intend to continue to apply for and receive funding from the Program to help fund the education of G.L. in future years.

12. I strongly believe that the public purpose of educating my daughter would not be met by the public school system, but it is being met through the Opportunity Scholarship Program.

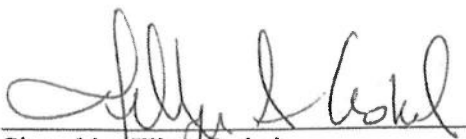
13. The Opportunity Scholarship Program is a win-win: my daughter receives a better education than is offered by our local public schools, and the public pays less.

14. G.L. receives \$4,200 through the Program and uses it to attend St. John's.

15. Without the Program, I would not be able to afford to send my daughter to St. John's.

16. Any court order in this case enjoining the North Carolina Opportunity Scholarship Program or limiting funding through the Program would prevent G.L. from attending St. John's, where she receives a quality education that is preparing her to be a good citizen of North Carolina, and it would cause financial harm to me and to G.L. by depriving us of our substantial interests in receiving the Opportunity Scholarship.

17. The North Carolina Opportunity Scholarship Program furthers the public purpose of providing my daughter with educational opportunities that would not otherwise be available to her through our neighborhood public school.


Signed by Jillyn Cashel

Subscribed to and sworn or affirmed before me this 9 day of September, 2020.



Notary Public



EXHIBIT E

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
WAKE COUNTY, NORTH CAROLINA

TAMIKA WALTER KELLY, KRISTY MOORE,
AMANDA HOWELL, KATE MEININGER,
ELIZABETH MEININGER, JOHN SHERRY, and
RIVCA RACHEL SANOGUEIRA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA and
NORTH CAROLINA STATE EDUCATION
ASSISTANCE AUTHORITY,

Defendants,

and

No. 20 CVS 8346

JANET NUNN, CHRISTOPHER AND NICHOLE
PEEDIN, AND KATRINIA POWERS,

Proposed Intervenor-Defendants,

and

THALES ACADEMY, VICTORY CHRISTIAN
CENTER SCHOOL, CRYSTAL PITTMAN, and
JILLYN CASHEL,

Proposed Intervenor-Defendants.

THALES ACADEMY, VICTORY CHRISTIAN CENTER SCHOOL,
CRYSTAL PITTMAN, AND JILLYN CASHEL
PROPOSED ANSWER

COME NOW Intervenor-Defendants Thales Academy, Victory Christian Center School, Crystal Pittman, and Jillyn Cashel, by and through undersigned counsel, and file this Answer to Plaintiffs' Complaint, as follows:

INTRODUCTION

1. Intervenor-Defendants admit that the General Assembly enacted the Opportunity Scholarship Program in 2013 but deny the characterization that this is a "private school voucher program" and deny the legal conclusion that this is an as-applied challenge.

2. Intervenor-Defendants deny the allegations in Paragraph 2 of the Complaint.

3. Intervenor-Defendants deny the allegations in Paragraph 3 of the Complaint.

4. Intervenor-Defendants deny the allegations in Paragraph 4 of the Complaint.

5. Intervenor-Defendants submit that the North Carolina Constitution is plain on its face and should be read in full and deny Plaintiffs' accompanying legal conclusion.

PARTIES

6. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 6 of the Complaint.

7. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 7 of the Complaint.

8. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 8 of the Complaint.

9. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 9 of the Complaint.

10. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 10 of the Complaint.

11. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 11 of the Complaint.

12. Intervenor-Defendants admit the allegations in Paragraph 12 of the Complaint.

13. Intervenor-Defendants admit the allegations in Paragraph 13 of the Complaint.

JURISDICTION AND VENUE

14. Paragraph 14 of the Complaint is a legal conclusion to which no response is necessary.

15. Paragraph 15 of the Complaint is a legal conclusion to which no response is necessary.

FACTS

16. Intervenor-Defendants submit that the North Carolina law is plain on its face and should be read in full and deny Plaintiffs' accompanying characterizations.

17. Intervenor-Defendants submit that the North Carolina law is plain on its face and should be read in full and deny Plaintiffs' accompanying characterizations.

18. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 18 of the Complaint.

19. Intervenor-Defendants admit the allegations in Paragraph 19 of the Complaint.

20. Intervenor-Defendants admit the allegations in Paragraph 20 of the Complaint.

21. Intervenor-Defendants admit that parents who meet this criteria are eligible for scholarships but deny Plaintiffs' characterizations.

22. Intervenor-Defendants admit that the program transfers money to schools of parent's choosing but deny Plaintiffs' legal conclusions.

23. Intervenor-Defendants admit the allegations in Paragraph 23 of the Complaint.

24. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 24 of the Complaint.

25. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 25 of the Complaint.

26. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 26 of the Complaint.

27. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 27 of the Complaint.

28. Intervenor-Defendants deny the allegations in Paragraph 28 of the Complaint.

29. Intervenor-Defendants deny the allegations in Paragraph 29 of the Complaint.

30. Paragraph 30 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

31. Paragraph 31 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

32. Paragraph 32 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

33. Paragraph 33 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

34. Paragraph 34 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

35. Paragraph 35 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

36. Paragraph 36 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

37. Intervenor-Defendants deny the allegations in Paragraph 37 of the Complaint.

38. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 38 of the Complaint.

39. Intervenor-Defendants submit that the North Carolina law is plain on its face and should be read in full and deny Plaintiffs' accompanying characterizations.

40. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 40 of the Complaint.

41. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 41 of the Complaint.

42. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 42 of the Complaint.

43. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 43 of the Complaint.

44. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 44 of the Complaint, including its subsections.

45. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 45 of the Complaint, including its subsections.

46. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 46 of the Complaint, including its subsections.

47. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 47 of the Complaint, including its subsections.

48. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 48 of the Complaint, including its subsections.

49. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 49 of the Complaint, including its subsections.

50. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 50 of the Complaint.

51. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 51 of the Complaint.

52. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 52 of the Complaint.

53. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 53 of the Complaint, including its subsections.

54. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 54 of the Complaint.

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59. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 59 of the Complaint.

60. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 60 of the Complaint.

61. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 61 of the Complaint.

62. Intervenor-Defendants deny the allegations in Paragraph 62 of the Complaint.

63. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 63 of the Complaint.

64. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 64 of the Complaint.

65. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 65 of the Complaint.

66. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 66 of the Complaint, including its subsections.

67. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 67 of the Complaint.

68. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 68 of the Complaint.

69. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 69 of the Complaint.

70. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 70 of the Complaint.

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72. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 72 of the Complaint.

73. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 73 of the Complaint.

74. Intervenor-Defendants deny the allegations in Paragraph 74 of the Complaint.

75. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 75 of the Complaint.

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77. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 77 of the Complaint.

78. Intervenor-Defendants deny the allegations in Paragraph 78 of the Complaint.

79. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 79 of the Complaint.

80. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 80 of the Complaint.

81. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 81 of the Complaint.

82. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 82 of the Complaint, including its subsections.

83. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 83 of the Complaint.

84. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 84 of the Complaint.

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88. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 88 of the Complaint.

89. Intervenor-Defendants deny the allegations in Paragraph 89 of the Complaint.

90. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 90 of the Complaint.

91. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 91 of the Complaint.

92. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 92 of the Complaint.

93. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 93 of the Complaint, including its subsections.

94. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 94 of the Complaint.

95. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 95 of the Complaint.

96. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 96 of the Complaint.

97. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 97 of the Complaint.

98. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 98 of the Complaint, including its subsections.

99. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 99 of the Complaint.

100. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 100 of the Complaint.

101. Intervenor-Defendants lack knowledge or information sufficient to admit or deny the truth of the allegations in Paragraph 101 of the Complaint.

102. Intervenor-Defendants deny the allegations in Paragraph 102 of the Complaint.

FIRST CLAIM FOR RELIEF

103. Intervenor-Defendants acknowledge the incorporation by reference.

104. Intervenor-Defendants submit that the North Carolina Constitution is plain on its face and should be read in full.

105. Intervenor-Defendants submit that the North Carolina Constitution is plain on its face and should be read in full.

106. Paragraph 106 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

107. Paragraph 107 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

108. Paragraph 108 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

109. Paragraph 109 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

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111. Paragraph 111 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

112. Paragraph 112 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

113. Paragraph 113 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

114. Paragraph 114 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

115. Paragraph 115 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

SECOND CLAIM FOR RELIEF

116. Intervenor-Defendants acknowledge the incorporation by reference.

117. Intervenor-Defendants submit that the North Carolina Constitution is plain on its face and should be read in full.

118. Intervenor-Defendants submit that the North Carolina Constitution is plain on its face and should be read in full.

119. Intervenor-Defendants submit that the North Carolina Constitution is plain on its face and should be read in full.

120. Paragraph 120 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

121. Paragraph 121 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

122. Paragraph 120 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

123. Paragraph 123 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

124. Paragraph 124 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

125. Paragraph 125 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

SECOND CLAIM FOR RELIEF

126. Intervenor-Defendants acknowledge the incorporation by reference.

127. Paragraph 127 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

128. Paragraph 128 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

129. Paragraph 129 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

130. Paragraph 130 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

131. Paragraph 131 of the Complaint presents characterizations and legal conclusions to which no response is necessary.

PRAYER FOR RELIEF

1. The prayers in paragraph 1 are legal conclusions to which no response is necessary.

2. The prayers in paragraph 2 are legal conclusions to which no response is necessary

3. The prayers in paragraph 3 are legal conclusions to which no response is necessary

4. The prayers in paragraph 4 are legal conclusions to which no response is necessary

AFFIRMATIVE DEFENSES

1. The Plaintiffs' claims fail, in whole or in part, because they lack standing.

2. The Plaintiffs' claims fail, in whole or in part, for failure to state a claim upon which relief can be granted.

3. The Plaintiffs' claims fail, in whole or in part, because they are barred by res judicata.

4. The Plaintiffs' claims fail, in whole or in part, because Intervenor-Defendants have a right to practice the free exercise of their religion, as protected in the First Amendment to the United States Constitution and N.C. Const. Art. I, Sec. 13.

5. The Plaintiffs' claims may also fail for other reasons that become clear over the course of discovery, and Intervenor-Defendants reserve the right to assert additional affirmative defenses on this basis.

WHEREFORE Intervenor-Defendants request that this Court enter a final judgment in favor of Defendants and Intervenor-Defendants that:

- a. Dismisses the Plaintiffs' claims with prejudice;
 - b. Denies the Plaintiffs' requests for injunctive relief; and
 - c. Awards Defendant-Intervenors all other relief to which they are entitled,
- including attorneys' fees and costs as permitted by law.

This the ____ day of _____, 2020.

Respectfully submitted,

Matthew F. Tilley (NC No. 40125)
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Reilly Stephens (MD admitted Dec. 2017)*

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**Pro Hac Vice Motion to Be Filed*

Attorneys for Proposed Intervenor-Defendants

Thales Academy, Victory Christian Center School,

Crystal Pittman, and Jillyn Cashel