UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

PATRICK L. MCCRORY, in his official capacity as Governor of the State of North Carolina, and FRANK PERRY, in his official capacity as Secretary, North Carolina Department of Public Safety,	)	
Plaintiffs,	)	CASE NO. _____
vs.	)	
UNITED STATES OF AMERICA, UNITED STATES DEPARTMENT OF JUSTICE, LORETTA E. LYNCH, in her official capacity as United States Attorney General, and VANITA GUPTA, in her official capacity as Principal Deputy Assistant Attorney General,	)	
Defendants.	)	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs Patrick L. McCrory, in his official capacity as Governor of the State of North Carolina ("Governor McCrory"), and Frank Perry, in his official capacity as Secretary, North Carolina Department of Public Safety ("Secretary Perry"), (collectively "plaintiffs") seek declaratory and injunctive relief against the United States of America ("United States"), the United States Department of Justice, Loretta Lynch, in her official capacity as United States Attorney General, and Vanita Gupta, in her official capacity as Principal Deputy Assistant Attorney General, for their radical reinterpretation of Title VII of the Civil Rights Act of 1964 which would prevent plaintiffs from protecting the bodily privacy rights of state employees while accommodating the needs of transgendered state employees. The United States, through its Department of Justice ("Department"), by letters dated May 4, 2016, threatened legal action

against Governor McCrory, Secretary Perry, and others, because plaintiffs intend to follow North Carolina law requiring public agencies to generally limit use of multiple occupancy bathroom and changing facilities to persons of the same biological sex. The Department contends that North Carolina's common sense privacy policy constitutes a pattern or practice of discriminating against transgender employees in the terms and conditions of their employment because it does not give employees an unfettered right to use the bathroom or changing facility of their choice based on gender identity. The Department's position is a baseless and blatant overreach. This is an attempt to unilaterally rewrite long-established federal civil rights laws in a manner that is wholly inconsistent with the intent of Congress and disregards decades of statutory interpretation by the Courts. The overwhelming weight of legal authority recognizes that transgender status is not a protected class under Title VII. If the United States desires a new protected class under Title VII, it must seek such action by the United States Congress. In any event, North Carolina law allows plaintiffs to accommodate transgender employees while protecting the bodily privacy rights of other state employees, and nothing in Title VII prohibits such conduct or constitutes discrimination in the terms and conditions of employment of transgender employees. Moreover, the Department has similarly overreached in its interpretation of the Violence Against Women Reauthorization Act of 2013 ("VAWA"). Even if VAWA specifically includes gender identity as a protected class, the North Carolina law is not discriminatory because it allows accommodations based on special circumstances, including but not limited to transgender individuals.

PARTIES

1. Plaintiff Patrick L. McCrory is the Governor of North Carolina. Under North Carolina law, Governor McCrory is the chief executive authority for executive branch agencies

within state government. Complying with the demands made in defendants' letter of May 4, 2016, would prevent Governor McCrory from discharging his obligations under the North Carolina Constitution.

2. Plaintiff Frank Perry is the Secretary of the North Carolina Department of Public Safety ("DPS"). Secretary Perry is the chief executive authority for DPS, which is an executive branch agency reporting to Governor McCrory. Complying with the demands made in defendants' letter of May 4, 2016, would prevent Secretary Perry from discharging his obligations under North Carolina law.

3. Defendant the United States, through its co-defendant the Department of Justice, has the authority to bring enforcement actions pursuant to Title VII and VAWA. The Department has threatened to bring such an enforcement action against the State of North Carolina and its officials.

4. Defendant United States Department of Justice is a federal executive agency and possesses responsibility for enforcement of Title VII and VAWA.

5. Defendant Loretta E. Lynch is the current Attorney General of the United States and head of the United States Department of Justice. She is sued in her official capacity only.

6. Defendant Venita Gupta is a Principal Deputy Assistant Attorney General at the United States Department of Justice and head of the Civil Rights Division of the United States Department of Justice. She has been delegated the responsibility to bring an enforcement action under Title VII against the State of North Carolina. She has been sued in her official capacity only.

JURISDICTION AND VENUE

7. In this action, plaintiffs seek a declaratory judgment pursuant to 28 U.S.C. § 2201, et seq., the Federal Declaratory Judgment Act, and Rule 57 of the Federal Rules of Civil Procedure. The parties dispute whether plaintiffs' implementation of North Carolina's common sense bodily privacy law constitutes a violation of Title VII and VAWA.

8. The Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.

9. Venue is proper in this District under 28 U.S.C. § 1391(e) because the plaintiffs in their official capacities are residents of this District, specifically Raleigh, North Carolina, plaintiffs have employees in this District, and substantially all of the events creating the dispute between the parties occurred in this District.

FACTS

10. On March 23, 2016, the North Carolina General Assembly enacted the Public Facilities Privacy and Security Act ("the Act"). The Act created common sense bodily privacy protections for, among others, state employees, by requiring public agencies to require multiple occupancy bathroom or changing facilities to be designated for and only used by persons based on their biological sex. Biological sex is the physical condition of being male or female, and the Act notes that such condition is "stated on a person's birth certificate." The Act also allows accommodations based on special circumstances.

11. On April 12, 2016, Governor McCrory issued "Executive Order 93 to Protect Privacy and Equality" ("EO 93"). EO 93 expanded discrimination protections to state employees on the basis of sexual orientation and gender identity, among others. EO 93 also affirmed North Carolina law that cabinet agencies should require multiple occupancy bathroom or changing facilities to be designated for and only used by persons based on their biological sex. EO 93 also

reaffirmed North Carolina law that agencies may make a reasonable accommodation upon request due to special circumstances and directed all agencies to make a reasonable accommodation of a single occupancy restroom, locker room, or shower facility when readily available and when practicable.

12. Upon information and belief, no transgender employee of the State of North Carolina has advanced a claim that the state employment policy as outlined above is discriminatory under Title VII.

13. Upon information and belief, no person has advanced a claim that the law is discriminatory under VAWA.

14. Nonetheless, on May 4, 2016, the Department asserted in letters to Governor McCrory and Secretary Perry that state law as outlined above constitutes a "pattern or practice" of discriminating against transgender state employees by denying such employees access to the bathroom or other changing facility of their chosen gender identity.

15. In addition, the Department asserted that the North Carolina Department of Public Safety has violated the non-discrimination provision of VAWA.

16. The Department further threatened to "apply to [an] appropriate court for an order that will ensure compliance with" the Department's misguided interpretations of Title VII and VAWA.

17. The Department's threat is real but misplaced. North Carolina does not treat transgender employees differently from non-transgender employees. All state employees are required to use the bathroom and changing facilities assigned to persons of their same biological sex, regardless of gender identity, or transgender status.

18. Moreover, the overwhelming weight of authority has refused to expand Title VII protections to transgender status absent Congressional action. Courts consistently find that Title VII does not protect transgender or transsexuality *per se*. See Etsitty v. Utah Transit Auth., 502 F.3d 1215, 1224 (10th Cir. 2007) ("Etsitty may not claim protection under Title VII based upon her transsexuality *per se*."); Lopez v. River Oaks Imaging & Diagnostic Grp., Inc., 542 F. Supp. 2d 653, 658 (S.D. Tex. April 3, 2008) (Atlas, J.) (acknowledging that "[c]ourts consistently find that transgendered persons are not a protected class under Title VII per se"); Spearman v. Ford Motor Co., 231 F.3d 1080 (7th Cir. 2000) ("Congress intended the term 'sex' to mean 'biological male or biological female,' and not one's sexuality or sexual orientation."); Oiler v. Winn-Dixie Louisiana, Inc., 2002 WL 31098541, at *6 (E.D. La. Sept. 16, 2002) ("[T]he phrase 'sex' has not been interpreted to include sexual identity or gender identity disorders."); Ulane v. E. Airlines, Inc., 742 F.2d 1081, 1084 (7th Cir. 1984) ("The words of Title VII do not outlaw discrimination against a person who has a sexual identity disorder…."); Sommers v. Budget Mktg., Inc., 667 F.2d 748, 750 (8th Cir. 1982) ("Because Congress has not shown an intention to protect transsexuals, we hold that discrimination based on one's transsexualism does not fall within the protective purview of [Title VII].")

19. In any event, even if transgender employees were covered by Title VII, plaintiffs intend, and are authorized under North Carolina law, to accommodate such individuals in the terms and conditions of their employment. Title VII does not prohibit employers, including state employers, from balancing the special circumstances posed by transgender employees with the right to bodily privacy held by non-transgender employees in the workplace. Title VII allows gender specific regulations in the workplace. See Finnie v. Lee Cnty., Miss., 907 F. Supp. 2d 750, 772 (N.D. Miss. Jan. 17, 2012) (Title VII "was never intended to interfere in the

promulgation and enforcement of personal appearance regulations by private employers."); Jackson v. Houston Gen. Ins. Co., 122 F.3d 1066, 1066 (5th Cir. 1997) (an employer does not violate Title VII by imposing different grooming and dress standards for male and female employees); Nichols v. Azteca Rest. Enterprises, Inc., 256 F.3d 864, 878 n.7 (9th Cir. 2001) ("We do not imply that all gender-based distinctions are actionable under Title VII. For example, our decision does not imply that there is any violation of Title VII occasioned by reasonable regulations that require male and female employees to conform to different dress and grooming standards"); Jespersen v. Harrah's Operating Co., Inc., 444 F.3d 1104, 1109-10 (9th Cir.2006) (en banc) (holding that Harrah's grooming standards requiring women to wear makeup and styled hair and men to dress conservatively was not discriminatory because the policy did not impose unequal burdens on either sex); Willingham v. Macon Tel. Pub. Co., 507 F.2d 1084, 1091-92 (5th Cir. 1975) (concluding that a grooming policy concerning hair length differences for males and females did not constitute sex discrimination and noting that such a policy relates "more closely to the employer's choice of how to run his business than to equality of employment opportunity").

20. Plaintiffs desire to implement state employment policies that protect the bodily privacy rights of state employees in bathroom and changing facilities. Plaintiffs also desire to accommodate the needs of state employees based on special circumstances, including but not limited to transgender employees. Defendants instead threaten to force plaintiffs to implement their reinterpretation of Title VII and VAWA while ignoring the bodily privacy of plaintiffs' employees. Such action by defendants threaten to expose plaintiffs to actual liability under Title VII, VAWA, and other provisions protecting the bodily privacy rights of employees in the workplace.

21. There is an actual controversy between the parties concerning whether plaintiffs may follow North Carolina law regarding bathroom and changing facility use.

22. A declaratory judgment will serve a useful purpose in clarifying and settling the legal issues, and will afford relief from uncertainty, insecurity, and controversy giving rise to the proceeding.

23. Plaintiffs and the State of North Carolina will suffer significant and irreparable harm unless this Court intervenes.

COUNT ONE:
DECLARATION THAT PLAINTIFFS
ARE IN COMPLIANCE WITH TITLE VII

24. The allegations of paragraphs 1 through 23 are re-alleged and incorporated herein by reference.

25. North Carolina does not treat transgender employees differently from non-transgender employees. All state employees are required to use the bathroom and changing facilities assigned to persons of their same biological sex, regardless of gender identity, or transgendered status.

26. Therefore, Plaintiffs respectfully request a declaration that they are not violating Title VII by following state law regarding bathroom and changing facility use by state employees.

COUNT TWO:
DECLARATION THAT PLAINTIFFS
ARE IN COMPLIANCE WITH VAWA

27. The allegations of paragraphs 1 through 26 are re-alleged and incorporated herein by reference.

28. Even if VAWA specifically includes gender identity as a protected class, North Carolina law is not discriminatory because it allows accommodations based on special circumstances, including but not limited to transgender individuals.

29. Therefore, Plaintiffs respectfully request a declaration that they are not violating VAWA by following state law regarding bathroom and changing facility use.

DECLARATORY RELIEF

WHEREFORE, plaintiffs pray for judgment pursuant to 28 U.S.C. § 2201 declaring that:

1. Plaintiffs are not violating Title VII or VAWA by following state law regarding bathroom and changing facility use by state employees;

2. Plaintiffs are not violating Title VII or VAWA by following state law allowing accommodations under special circumstances for employees who need exceptions to state policy regarding bathroom and changing facility use by state employees;

3. Plaintiffs are not in violation of Title VII or VAWA;

4. That this dispute be resolved in favor of plaintiffs such that plaintiffs do not have to incur damages in the form of back pay, front pay, benefits, liability, and other associated costs;

5. That plaintiffs recover their fees and costs in this matter; and

6. Such other further relief as the Court deems just and proper.

Respectfully submitted,

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Counsel for Governor Patrick L. McCrory

Dated: May 9, 2016
Raleigh, North Carolina

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Patrick L. McCrory, in his official capacity as Governor of the State of North Carolina, and Frank Perry, in his official capacity as Secretary, North Carolina Department of Public Safety

(b) County of Residence of First Listed Plaintiff Wake
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
See Attachment

DEFENDANTS
United States of America, U.S. Dept. of Justice, Loretta A. Lynch, in her official capacity as U.S. Attorney General, and Vanita Gupta, in her official capacity as Principal Deputy Assistant Atty General

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☒ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 USC Sec. 2201
Brief description of cause:
Action for Declatory Relief

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*: JUDGE DOCKET NUMBER

DATE 05/09/2014 SIGNATURE OF ATTORNEY OF RECORD /s/ William W. Stewart, Jr.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

Patrick L. McCrory, in his official capacity as Governor of the State of North Carolina, and Frank Perry, in his official capacity as Secretary, North Carolina Department of Public Safety *Plaintiff(s)* v. United States of America, U.S. Dept. of Justice, Loretta E. Lynch, in her official capacity as U.S. Attorney General, and Vanita Gupta, in her official capacity as Principal Deputy Assistant Atty General *Defendant(s)*	)	Civil Action No. 5:16-cv-238

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* United States of America, c/o Civil Process Clerk, Office of the United States Attorney, Eastern District of North Carolina, 310 New Bern Avenue, Federal Building, Suite 800 Raleigh, North Carolina 27601-1461; and

c/o Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: 1) Karl S. Bowers, Jr., P.O. Box 50549, Columbia, SC 29250;

2)Robert C. Stephens, General Counsel, Office of the Governor of North Carolina, 20301 Mail Service Center, Raleigh, NC 27699;

3) William W. Stewart, Jr., Frank J. Gordon, B. Tyler Brooks, Millberg Gordon Stewart PLLC, 1101 Haynes Street, Suite 104, Raleigh, NC 27604

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No. 5:16-cv-238

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____ , a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is

designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____

Server's signature

_____

Printed name and title

_____

Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

Patrick L. McCrory, in his official capacity as Governor of the State of North Carolina, and Frank Perry, in his official capacity as Secretary, North Carolina Department of Public Safety *Plaintiff(s)* v. United States of America, U.S. Dept. of Justice, Loretta E. Lynch, in her official capacity as U.S. Attorney General, and Vanita Gupta, in her official capacity as Principal Deputy Assistant Atty General *Defendant(s)*	)	Civil Action No. 5:16-cv-238

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* United States Department of Justice, 950 Pennsylvania Avenue, NW, Washington DC 20530-0001; and
c/o United States of America c/o Civil Process Clerk, Office of the United States Attorney, Eastern District of North Carolina, 310 New Bern Ave., Federal Building, Suite 800, Raleigh, NC 27601-1461; and
c/o Attorney General of United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: 1) Karl S. Bowers, Jr., P.O. Box 50549, Columbia, SC 29250;

2)Robert C. Stephens, General Counsel, Office of the Governor of North Carolina, 20301 Mail Service Center, Raleigh, NC 27699;

3) William W. Stewart, Jr., Frank J. Gordon, B. Tyler Brooks, Millberg Gordon Stewart PLLC, 1101 Haynes Street, Suite 104, Raleigh, NC 27604

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No. 5:16-cv-238

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

Patrick L. McCrory, in his official capacity as Governor of the State of North Carolina, and Frank Perry, in his official capacity as Secretary, North Carolina Department of Public Safety *Plaintiff(s)* v. United States of America, U.S. Dept. of Justice, Loretta E. Lynch, in her official capacity as U.S. Attorney General, and Vanita Gupta, in her official capacity as Principal Deputy Assistant Atty General *Defendant(s)*	)	Civil Action No. 5:16-cv-238

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Loretta E. Lynch, in her official capacity as United States Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001; and
c/o United States of America c/o Civil Process Clerk, Office of the United States Attorney, Eastern District of North Carolina, 310 New Bern Avenue, Federal Building, Suite 800, Raleigh, NC 27601-1461; and c/o Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington DC 20530-0001

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2)Robert C. Stephens, General Counsel, Office of the Governor of North Carolina, 20301 Mail Service Center, Raleigh, NC 27699;

3) William W. Stewart, Jr., Frank J. Gordon, B. Tyler Brooks, Millberg Gordon Stewart PLLC, 1101 Haynes Street, Suite 104, Raleigh, NC 27604

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UNITED STATES DISTRICT COURT

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SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Vanita Gupta, in her official capacity as Principal Deputy Assistant Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001; and
c/o United States of America c/o Civil Process Clerk, Office of the United States Attorney, Eastern District of North Carolina, 310 New Bern Avenue, Federal Building, Suite 800, Raleigh, NC 27601-1461; and c/o Attorney General of the United States, U.S. Department of Justice, NW, Washington, DC 20530-0001

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