

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:16-cv-00236-TDS-JEP**

JOAQUÍN CARCAÑO, *et al.*,

Plaintiffs,

v.

ROY A. COOPER, III, *et al.*,

Defendants,

and

PHIL BERGER, *et al.*,

Intervenor-Defendants.

**EXECUTIVE BRANCH
DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO ANSWER
OR OTHERWISE RESPOND TO
PLAINTIFFS' FOURTH AMENDED
COMPLAINT**

[Fed. R. Civ. P. 6(b)]

(Expedited Review Requested)

PURSUANT to Rule 6(b) of the Federal Rules of Civil Procedure and Local Rule 6.1, now come Defendants Roy A. Cooper III, Joshua H. Stein, Mabelle Sanders, Mandy K. Cohen, and James H. Trogdon III (collectively, "Executive Branch Defendants") by and through the undersigned attorneys, and respectfully move the Court to enlarge the time in which to serve an answer or otherwise respond to Plaintiffs' Fourth Amended Complaint in the above-captioned matter. In support of this motion, Defendants show the Court the following:

1. The Fourth Amended Complaint was filed on September 7, 2017.

2. The current deadline to respond to the Fourth Amended Complaint, October 23, 2017, has not yet expired.

3. Since the filing date of the Fourth Amended Complaint, Plaintiffs and the Executive Branch Defendants engaged in good faith negotiations regarding a possible resolution of Plaintiffs' claims against the Executive Branch Defendants.

4. On October 18, 2017, Plaintiffs and the Executive Branch Defendants were able to agree on the text of the Consent Decree that resolves all issues pending before this Court against the Executive Branch Defendants.

5. On the same date, October 18, 2017, Plaintiffs and the Executive Branch Defendants submitted the proposed Consent Decree, Joint Motion for Entry of a Consent Decree, and their Respective Briefs for consideration of this Court. (D.E. 216, 216-1, 217 and 218)

6. If this Court approves the submitted Consent Decree, all claims against the Executive Branch Defendants will be resolved in their entirety. The Executive Branch Defendants will therefore no longer be required to file an answer and/or another responsive pleading to the Fourth Amended Complaint.

7. Alternatively, if this Court declines to approve the submitted Consent Decree, the Executive Branch Defendants will require additional 30 days, after the Court issues such an Order, to prepare and file the appropriate responsive pleading to the Plaintiffs' Fourth Amended Complaint.

8. Pursuant to L.R. 6.1, the undersigned counsel contacted opposing counsel regarding the requested extension of time. Counsel for Plaintiffs consented to the requested extension.

9. The undersigned counsel also contacted counsel for UNC Defendants and Legislative Intervenor-Defendants. UNC Defendants consented to the requested extension of time. Counsel for Legislative Intervenor-Defendants indicated that Intervenor-Defendants oppose the extension request and will file a short response noting their objection on October 20, 2017.

WHEREFORE, the Executive Branch Defendants respectfully move the Court to grant a thirty (30) day extension of time, following the date of the Court's disposition of the pending Joint Motion for Entry of a Consent Decree (D.E. 216), in which to serve an answer or other response to the Complaint.

Given the impending deadline for an answer or other responsive pleading, the Executive Branch Defendants respectfully request the Court to review this Motion for Extension on an expedited basis.

Respectfully submitted, this the 19th day of October, 2017.

Dated: October 19, 2017

Respectfully submitted,

JOSHUA H. STEIN
ATTORNEY GENERAL
STATE OF NORTH CAROLINA

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Counsel for Defendants GOV. ROY A. COOPER, III in his Official Capacity as Governor of North Carolina; JOSHUA H. STEIN, in his official capacity as Attorney General of North Carolina; MACHELLE SANDERS, in her official capacity as Secretary of the North Carolina Department of Administration; MANDY K. COHEN, in her official capacity as Secretary of the North Carolina Department of Health and Human Services; and JAMES H. TROGDON III, in his official capacity as Secretary of the North Carolina Department of Transportation.

CERTIFICATE OF SERVICE

I, Olga E. Vysotskaya de Brito, hereby certify that on October 19, 2017, I electronically filed the foregoing MOTION FOR EXTENSION OF TIME (Expedited Review Requested) and a PROPOSED ORDER attached hereto, using the CM/ECF system, and have verified that such filing was sent electronically using the CM/ECF system to all parties who have appeared with an email address of record.

/s/Olga E. Vysotskaya de Brito
Olga E. Vysotskaya de Brito

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ORDER

[Fed. R. Civ. P. 6(b)]

Upon motion of the Defendants Roy A. Cooper III, Joshua H. Stein, Mabelle Sanders, Mandy K. Cohen, and James H. Trogdon III (collectively, “Executive Branch Defendants”) and for good cause shown, it is hereby ORDERED that Executive Branch Defendants shall have thirty (30) days, following the date of the Court’s disposition of the pending Joint Motion for Entry of a Consent Decree (D.E. 216), in which to serve an answer or other responsive pleading to the Plaintiffs’ Fourth Amended Complaint.

Dated: _____

The Honorable Thomas D. Schroeder
United States District Judge