

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO, *et al.*,

Plaintiffs,

v.

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

Defendants,

and

PHIL BERGER, *et al.*,

Intervenor-Defendants.

No. 1:16-cv-00236-TDS-JEP

NOTICE OF RESPONSE

Defendants Roy A. Cooper III, Joshua H. Stein, Machel Sanders, Mandy K. Cohen, and James H. Trogon III (collectively, “Executive Branch Defendants”), respectfully submit this notice of response.

On September 6, 2017, this Court ordered the Executive Branch Defendants and the Intervenor-Defendants to file an answer, move against, or otherwise respond to Plaintiffs’ Fourth Amended Complaint on or before October 23, 2017. (D.E. 209). On October 18, the Executive Branch Defendants responded to the Fourth Amended Complaint by filing a joint motion with the plaintiffs for entry of a consent decree. (D.E. 216). In doing so, the Executive Branch Defendants preserved all “protections offered to them through federal or

state law” and made no “representation[s] regarding the merits of Plaintiffs’ claims or potential defenses which could be raised in court.” *Id.* at 3. The consent decree, if so ordered, would resolve all claims against the Executive Branch Defendants and dispose of all claims for attorneys’ fees and costs against these Defendants. *Id.* at 4.

On October 19, the Executive Branch Defendants filed a motion to extend time to answer or otherwise respond to the Fourth Amended Complaint. (D.E. 219). This Court has not yet ruled on this motion.

In the event that the Court declines to grant the Executive Branch Defendants’ motion for an extension of time to file a responsive pleading and further declines to grant the joint motion for entry of a consent order, the Executive Branch Defendants respectfully request the opportunity to make an appropriate filing as expeditiously as possible thereafter, without waiving any applicable defenses.

Dated: October 23, 2017

Respectfully submitted,

JOSHUA H. STEIN
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Counsel for Defendants GOV. ROYA. COOPER, III in his Official Capacity as Governor of North Carolina; JOSHUA 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 23, 2017, I electronically filed the foregoing NOTICE OF RESPONSE, 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