

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

MAXWELL KADEL, *et al.*,

Plaintiffs,

v.

DALE FOLWELL, *et al.*,

Defendants.

No. 1:19-cv-272-LCB-LPA

MOTION TO STRIKE:

(1) PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT ON THEIR CONSTITUTIONAL CLAIMS AND SUPPORTING MEMORANDUM / ATTACHMENTS (Doc. Nos. 138-144, 146-151); AND (2) PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT ON THEIR STATUTORY CLAIMS AND SUPPORTING MEMORANDUM / ATTACHMENTS (Doc. Nos. 152-158, 160-165)

Pursuant to Local Rules 7.3(d)(1), 56.1(c), 83.4(a) and (b), Defendants, the North Carolina State Health Plan for Teachers and State Employees, Dale Folwell (*in his official capacity as State Treasurer of North Carolina*), and Dee Jones (*in her official capacity as Executive Administrator of the State Health Plan*), by and through undersigned counsel, respectfully move the Court to enter an Order striking Document Nos. 138-144, 146-158, and 160-165.

The Plan Defendants' Motion is supported by the accompanying Memorandum, (Doc. No. 169), and an accompanying Motion to Expedite Consideration, (Doc. No. 170).

Respectfully submitted, this the 6th day of December, 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on 6th day of December, the foregoing Motion to Strike was filed electronically with the Clerk of Court using the CM/ECF electronic filing system which will send notification of such filing to all registered users.

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ORDER

THIS MATTER is before the Court on the Motion of the North Carolina State Health Plan for Teachers and State Employees, Dale Folwell (*in his official capacity as State Treasurer of North Carolina*), and Dee Jones (*in her official capacity as Executive Administrator of the State Health Plan*) (“the Plan Defendants”) to strike Plaintiffs’ multiple and simultaneous motions for summary judgment, their multiple accompanying briefs, and their multiple additional attachments for failure to comply with this Court’s prior Order, (Doc. No. 128), and the Local Rules of this Court. (Doc. No. 168.) The Plan Defendants have also filed a Motion seeking expedited consideration of this issue. (Doc. No. 170).

IT FIRST APPEARING TO THE COURT that the Plaintiffs previously sought—and were denied—prior permission to exceed the word-count limitation of Local Rules 7.3(d)(1) and 56.1(c).¹

IT FURTHER APPEARING TO THE COURT that the Plaintiffs subsequently filed multiple motions for summary judgment (Doc. Nos. 138 and 152), accompanied by multiple supporting memoranda/briefs (Doc. Nos. 139 and 153), and ten (10) additional attachments, (Doc. Nos. 140-144, 154-158). Plaintiffs also sought to file sealed versions of both supporting memoranda/briefs and all 10 additional attachments (totaling 24 submissions).

IT FURTHER APPEARING TO THE COURT that Local Rules 7.3(d)(1) and 56.1(c) limit Plaintiffs to no more than 6,250 words, and that Plaintiffs did not receive this Court's prior permission to exceed Local Rules 7.3(d)(1) and 56.1(c)'s 6,250 word-count limit.

IT FURTHER APPEARING that the Court has authority under Local Rule 83.4(a) and (b) to “make such orders as are just under the circumstances of the case, including” the issuance of “*an order striking out pleadings or parts thereof, or staying proceedings until the rule is complied with.*”

IT IS THEREFOR ORDERED that the Plan Defendants Motion to Expedite consideration, Doc. No. 170, is GRANTRED. The following

¹ In their request, Plaintiffs correctly observed that Local Rules 7.3(d)(1) and 56.1(c) establish a 6,250 word-count limit.

submissions of the Plaintiffs are HEREBY STRICKEN: Document Nos. 138, 139, 140, 141, 142, 143, 144, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 160, 161, 162, 163, 164, 165. Plaintiffs' Motions to Seal, Document Nos. 145 and 159, are HEREBY DENIED as moot.

SO ORDERED, this the ____ day of December.

Honorable Loretta Copeland Biggs
U.S. District Court Judge