

**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-00272-LCB-LPA

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
OVERLENGTH REPLY**

Pursuant to Federal Rule of Civil Procedure 7(b)(1) and Local Civil Rule 7.3, and for the reasons discussed below, Plaintiffs, through undersigned counsel, respectfully move for leave to file to an overlength reply in support of their Motion for Summary Judgment, proportionate to the increase the Court already permitted for the parties' motions for summary judgment. (ECF Nos. 176, 178).

In support of this Motion, Plaintiffs state that:

1. On December 10, 2021, this Court ordered that Plaintiffs were permitted to file a single dispositive Motion for Summary Judgment and an accompanying memorandum/brief with an enlarged word count not to exceed 9,000 words. (ECF No. 176).
2. In that same Order, this Court also granted Dale Folwell, Dee Jones, and the North Carolina State Health Plan for Teachers and State Employees ("the State Health Plan") Defendants leave to file a responsive brief with the same 9,000-word limit.

(ECF No. 176).

3. Plaintiffs filed a Motion for Summary Judgment complying with this word limit on December 20, 2021. (ECF No. 178).
4. The State Health Plan Defendants filed a 39-page response, which made use of the expanded word limit allowed by this Court. (ECF No. 197).
5. The North Carolina Department of Public Safety (“DPS”) filed a separate response. (ECF No. 196).

Plaintiffs now seek leave to file to file a reply brief with a 1,500 word increase from the 3,125-word limit set for replies by the local rules, resulting in a total word count of 4,625 words. Local Civil Rule 7.3(d)(1).

Good cause exists for this enlargement of the word limit as Plaintiffs will be filing a single, consolidated reply in which they will address the arguments in the responses filed by the State Health Plan and DPS. Further, the State Health Plan’s response was an overlength brief, as allowed by the Court. Plaintiffs’ request is narrowly tailored to include only the most minimal increase in word count necessary to respond effectively. Plaintiffs must address three distinct federal laws and a bevy of arguments raised by the Defendants in their two separate responses. The requested expansion is proportionally similar to the prior expansion that the Court granted Plaintiffs when it enlarged the word limit from 6,250 words to 9,000 words—a 2,750-word increase. (ECF No. 176). Without this expansion, Plaintiffs do not believe they will be able to adequately rebut all of the arguments Defendants raised in their two responses.

Counsel for Plaintiffs consulted with counsel for all Defendants. Defendant DPS stated “no objection.” Defendants Folwell, Jones, and NCSHP stated that, “in light of the Court’s previously word-limit rulings, the State Health Plan defendant’s take no position on the request.”

Dated: January 25, 2022

/s/ Amy E. Richardson

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* Appearing by special appearance pursuant to L.R. 83.1(d).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to all registered users.

Dated: January 25, 2022

/s/ Amy E. Richardson

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ORDER

Upon consideration of the Plaintiffs' Motion for Leave to File Overlength Reply, it is hereby

ORDERED that the motion is **GRANTED**. Plaintiffs may file a reply brief limited to 4,625 words.

This, the ___ day of January, 2022.

U.S. District Court Judge for the
Middle District of North Carolina