

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

MAXWELL KADEL, et al.,

Plaintiffs-Appellees,

v.

Nos. 22-1721 (L); 22-1730 (Cons.)

DALE FOLWELL, et al.,

Defendants-Appellants,

and

NORTH CAROLINA STATE HEALTH
PLAN FOR TEACHERS AND STATE
EMPLOYEES; STATE OF NORTH
CAROLINA DEPARTMENT OF PUBLIC
SAFETY,

Defendants.

**PLAINTIFFS-APPELLEES' RESPONSE TO NOTICE OF INTENT TO
CORRECT MEMORANDUM OPINION AND ORDER AND
MOTION TO CONSOLIDATE AND FOR LIMITED REMAND**

In accordance with the Court's July 19, 2022 order (Dkt. 17), Plaintiffs-Appellees hereby submit the following response to Defendants-Appellants' Notice of Intent to Correct Memorandum Opinion and Order and Motion to Consolidate and for Limited Remand (Dkt. 16, "Motion"):

Appellants' Motion requests that this Court "deconsolidate Appeal No. 22-

1730 from Appeal No. 22-1721 and then remand 22-1730 to the district court for the limited purpose of correcting portions of its Memorandum Opinion and Order, as explained in its Notice of Intent to Correct and Clarify Memorandum Opinion and Order.” (*Id.* at 22, citing Dkt. 255.) Appellants also clarify that it “is fully expected that upon correction and clarification of the Memorandum Opinion and Order (Doc. No. 234), Appellant State Health Plan will be positioned to then move this Court to dismiss its interlocutory appeal pursuant to Federal Rule of Appellate Procedure 42(b).” (*Id.*) Based on Appellants’ representations, Appellees do not oppose the relief sought.

Dated: July 22, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will provide electronic notification to all counsel of record in this matter.

Dated: July 22, 2022

/s/ Tara L. Borelli

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