

FILED: August 2, 2022

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 22-1721  
(1:19-cv-00272-LCB-LPA)

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MAXWELL KADEL; JASON FLECK; CONNOR THONEN-FLECK; JULIA  
MCKEOWN; MICHAEL D. BUNTING, JR.; C.B., by his next friends and  
parents; SAM SILVAINE; DANA CARAWAY

Plaintiffs - Appellees

v.

DALE FOLWELL, in his official capacity as State Treasurer of North Carolina;  
DEE JONES, in her official capacity as Executive Administrator of the North  
Carolina State Health Plan for Teachers and State Employees

Defendants - Appellants

and

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

Defendants

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No. 22-1730  
(1:19-cv-00272-LCB-LPA)

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MAXWELL KADEL; JASON FLECK; CONNOR THONEN-FLECK; JULIA MCKEOWN; MICHAEL D. BUNTING, JR.; C.B., by his next friends and parents; SAM SILVAINE; DANA CARAWAY

Plaintiffs - Appellees

v.

NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES

Defendant - Appellant

and

DALE FOLWELL, in his official capacity as State Treasurer of North Carolina; DEE JONES, in her official capacity as Executive Administrator of the North Carolina State Health Plan for Teachers and State Employees; STATE OF NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

Defendants

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ORDER

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Upon consideration of appellant North Carolina State Health Plan for Teachers' motion to deconsolidate and for limited remand, the court grants the motion, deconsolidates case No. 22-1721, *Maxwell Kadel v. Dale Folwell* from No. 22-1730, *Maxwell Kadel v. North Carolina State Health Plan for Teachers*, and

remands No. 22-1730, *Maxwell Kadel v. North Carolina State Health Plan for Teachers*, to the district court for the limited purpose of correcting portions of its Memorandum Opinion and Order.

The clerk shall forward a copy of this order, accompanied by a copy of the motion to remand, to the district court. This appeal shall remain on the active docket of this court and the parties shall file a status report on October 31, 2022, and every 90 days thereafter, and shall immediately notify this court when the district court proceedings have concluded.

For the Court

/s/ Patricia S. Connor, Clerk

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

MAXWELL KADEL, *et al.*,

*Plaintiffs,*

*v.*

NORTH CAROLINA  
STATE HEALTH PLAN FOR  
TEACHERS AND STATE  
EMPLOYEES,

*Defendant.*

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

**NOTICE OF INTENT TO CORRECT MEMORANDUM OPINION AND ORDER  
MOTION TO CONSOLIDATE AND FOR LIMITED REMAND**

Pursuant to [Federal Rule of Appellate Procedure 12.1\(a\)](#) (and related [Federal Rules of Civil Procedure 60\(a\)](#) and [62.1\(b\)](#)), Appellant/Defendant North Carolina State Health Plan for Teachers and State Employees (“State Health Plan”) respectfully provides Notice to this Court of the district court’s stated intention to correct portions of its Memorandum Opinion and Order. (Doc. No. 234). A copy of the district court’s July 18, 2022, *Notice of Intent to Correct and Clarify Memorandum Opinion and Order*, (Doc. No. 255), is attached hereto as Exhibit 1.

Appellant/Defendant State Health Plan further 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*. (Doc. No. 255). 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\(b\)](#).

Respectfully submitted this the 18th day of July, 2022.

/s/ John G. Knepper  
John G. Knepper  
Wyo. Bar No. 7-4608  
Law Office of John G. Knepper, LLC  
1720 Carey Ave. Suite 590  
Cheyenne, WY 82001  
Telephone: (307) 632-2842  
john@knepperllc.com

/s/ Kevin G. Williams  
Kevin G. Williams  
N.C. Bar No. 25760

/s/ Mark A. Jones  
N.C. Bar No. 36215  
BELL, DAVIS & PITT, P.A.  
100 N. Cherry St. Suite 600  
Winston-Salem, NC 27101  
Telephone: (336) 722-3700  
Facsimile: (336) 722-8153  
kwilliams@belldavispitt.com  
mjones@belldavispitt.com

**CERTIFICATE OF SERVICE**

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

This the 18<sup>th</sup> day of July, 2022.

/s/ John G. Knepper

John G. Knepper  
Wyo. Bar No. 7-4608  
Law Office of John G. Knepper, LLC  
1720 Carey Ave. Suite 590  
Cheyenne, WY 82001  
Telephone: (307) 632-2842  
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Facsimile: (336) 722-8153  
kwilliams@belldavispitt.com  
mjones@belldavispitt.com