

NORTH CAROLINA

WAKE COUNTY

TAMIKA WALKER KELLY, KRISTY )  
MOORE, AMANDA HOWELL, KATE )  
MEININGER, ELIZABETH )  
MEININGER, JOHN SHERRY, and )  
RIVCA RACHEL SANOGUEIRA, )

Plaintiffs, )

v. )

STATE OF NORTH CAROLINA and )  
NORTH CAROLINA STATE )  
EDUCATION ASSISTANCE )  
AUTHORITY, )

Defendants, )

and )

PHILIP E. BERGER in his official )  
capacity as President Pro Tempore of the )  
North Carolina Senate, and TIMOTHY K. )  
MOORE in his official capacity as Speaker )  
of the North Carolina House of )  
Representatives, )

Intervenor-Defendants, )

and )

JANET NUNN, )  
CHRISTOPHER AND NICHOLE PEEDIN, )  
and KATRINA POWERS, )

Parent-Intervenors. )

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 20 CVS 8346

**PARENT-INTERVENORS'  
MOTION FOR DISMISSAL/  
JUDGMENT ON THE PLEADINGS**

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Parent-Intervenors Janet Nunn, Christopher and Nichole Peedin, and Katrina Powers respectfully move this Court to dismiss Plaintiffs' Complaint under North Carolina Rule of Civil Procedure 12(b)(1) and/or for judgment on the pleadings under Rule 12(c).

This Court should dismiss the Plaintiffs' claims under Rule 12(b) for the following reason:  
The Plaintiffs' claims fail, in whole or in part, because Plaintiffs lack standing and thus the Court lacks jurisdiction over the subject matter.

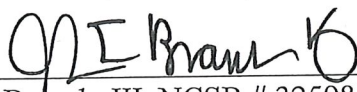
Even if this Court determines Plaintiffs have standing in whole or in part, judgment on the pleadings against Plaintiffs is nevertheless warranted under Rule 12(c) for the following reasons:

1. Plaintiffs' claims fail, in whole or in part, because they have failed to state a claim upon which relief can be granted.
2. Plaintiffs' claims fail, in whole or in part, because they seek a judicial decision that would violate the Establishment and Free Exercise Clauses of the First Amendment.
3. Plaintiffs' claims, in whole or in part, are barred by *res judicata*.

**WHEREFORE**, Parent-Intervenors Janet Nunn, Christopher and Nichole Peedin, and Katrina Powers respectfully request that this Court dismiss Plaintiffs' Complaint and/or issue judgment on the pleadings against Plaintiffs.

This 1st day of April 2021.

**NELSON MULLINS RILEY &  
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*\*Admitted Pro Hac Vice*

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date listed below a copy of the foregoing Parent-Intervenor's Motion for Dismissal/Judgment on the Pleadings was served upon all parties to this matter via electronic mail and by placing a copy in the United States Mail, First Class, postage prepaid and addressed as follows:

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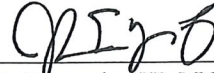
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Dated: April 1, 2021.

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