

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
COUNTY OF WAKE SUPERIOR COURT DIVISION
07 CV 020487 P 3:57

WAKE COUNTY, CSC

EVELYN RICHARDS; JANE)
JOHNSON; BERNARD)
HARRELL; and WAKE COUNTY)
TAXPAYERS ASSOCIATION,)

Plaintiffs,)

v.)

STATE OF NORTH CAROLINA;)
and JAMES T. FAIN, III, Secretary)
of the N.C. Department of)
Commerce, in his official capacity;)
ROY COOPER, Attorney General of)
North Carolina, in his official)
capacity,)
Defendants.)

MOTION TO DISMISS
(Rules 12(b)(1) and (6))
[DISM]

NOW COME the State of North Carolina, James T. Fain, III, and Roy Cooper, by and through their undersigned counsel, and file this motion pursuant to Rules 12(b)(1) and (6) of the North Carolina Rules of Civil Procedure and move the Court to dismiss Plaintiffs' Complaint in its entirety. Defendants make this motion pursuant to N.C.G.S. § 1A-1, Rule 12(b)(1), for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to state a claim upon which relief may be granted. In particular, Defendants submit that the Complaint should be dismissed for the following reasons:

1. Plaintiffs have failed to state a claim upon which relief may be granted in that, even if all the factual allegations of their Complaint were true, each and every