

# Legislative Final Report - April, 2004

## N.C. Gen. Stat. §114-2.6

Case Name	Case Number	Court/Agency	Claim Amt	Million \$ Claim	Constitutionality Claim	Statutes/Provision Challenged	Summary
A & F Trademark v. Tolson	COA03-1203	NC Court of Appeals	1,200,000.00	X			Refund of corporate income taxes
A. H. Beck, Contractor	00 CVS 1082	NC Superior Court	7,000,000.00	X			Highway Construction Contract Claim
ALAMAC Knit Fabrics, Inc. v. Tolson	03-CVS-1753	NC Superior Court	2,095,567.00	X			Refund of corporate income tax
Albemarle Area Mental Health v. DHHS	441A03	NC Supreme Court	1,500,000.00	X			Challenge to certain reimbursement rates for mental health services.
Alford, Lee Odis v. Easley, Mike	5:02-CT-607-H	Federal District Court	10,000,000.00	X			Prisoner Litigation
Azam, Abdul G. v. Fort, Edward B.; Martin, Harold	1:00 CV 01112	NC Superior Court			X	Corrum claim pursuant to NC Constitution	Azam was denied tenure at A&T. He claims it was due to discrimination based on national origin.
Barnett, Jr., Lester v. John Hamlin, et.al.	03-CV-1069	Federal District Court	1,000,000.00	X			Prisoner Litigation
Battle Ridge, Contractor	99 CVS 08414	NC Superior Court	2,680,641.00	X			Highway Construction Contract Claim
Beatty v. Governor Mark Warner, Governor Mike Easley, et al.	CV03 00338	Federal District Court			X	NC Gen. Stat. §50-13.2	Challenges child custody laws
Beskind v. Easley	3:00-CV-258	Federal District Court			X	NC Gen. Stat. §18B-102.1	Constitutional challenge to NC's law prohibiting out of state direct shipment of alcoholic beverages. Pending order from District Court.
Big Jungle, LLC v. Cooper	02 CVS 13820	NC Superior Court			X	NC Gen. Stat. §§ 14-291.2 and 66- 131 et seq.	Action seeks declaration that pyramid and discount buying club statutes are unconstitutionally vague, consolidated with enforcement action.
Blake, Headson O., Sr. v. NC Dept. Juvenile Justice	1:02-CV108-T	Federal District Court	1,000,000.00	X			Prisoner Litigation
Blundell, Paul J. v. UNCG	1:03 CV 998	Federal District Court	6,000,000.00	X			Nurse at UNCG nursing school was released from clinical program at Baptist Hospital. UNCG in return terminated his enrollment in nursing program.
Bryant-Bunch, June v. Beck, Theodis	2:02-CV-34-BO1	Federal District Court	7,000,000.00	X			Prisoner Litigation
Burrill v. Commissioner of Insurance, et al.	03 CVS 982	NC Superior Court			X	NC Gen. Stat. §58-36-65	Claim that auto insurance point system is unconstitutional.
Cabarrus County, et al. v. Tolson	02 CVS 12518	NC Court of Appeals	200,000,000.00	X			Six counties and three municipalities demand that the State release local tax reimbursements and shared revenue payments withheld by Governor.
Carandola v. Bason	1:01-CV-115	Federal District Court			X	NC Gen. Stat. §18B-1005.1	Constitutional challenge to NC's law prohibiting nude dancing in licensed ABC establishments. Pending hearing in the District Court.
Carandola v. Fulton	1:01 CV 115	Federal District Court			X	NC Gen. Stat. §18B-1005.1	Challenges the constitutionality of new N.C.G.S. 18B-1005.1 - Sexually explicit conduct on licensed premises
Carillon Assisted Living, LLC v. NCDHHS, DFS, Adult Care Licensure Section	03 DHR 1308	NC Administrative Agency			X	S.L. 1997-443 § 11.69; S.L. 1998- 212 §§ 12.16C, 30.6; S.L. 1999- 135; S.L. 2000-67, §§ 11.9(a), 23.5; S.L. 2001-234	Appeal of agency action enforcing deadlines for development of adult care homes allowed under exemptions to various moratoria.

**N. C. Department of Justice - Attorney General's Office**

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Carolina Farm Credit, ACA v. Tolson	00-CVS-11290	NC Superior Court			X	NC Gen. Stat. §105-164.4	Sales and corporate tax refund
Central Telephone Company	95-CVS-6955	NC Superior Court	4,000,000.00	X			Refund of corporate income tax
City of Raleigh v. Tolson	03 CVS 016956	NC Superior Court	2,000,000.00	X			Six counties and three municipalities demand that the State release local tax reimbursements and shared revenue payments withheld by Governor.
Clegg, Jeffrey v. Hinds, David M.	5:02-CT-752-H	Federal District Court	5,015,000.00	X			Prisoner Litigation
CONOCO INC.	00 EHR 1428	NC Administrative Agency	157,000.00	X			Denial of reimbursement from the State Trust Fund.
Cummings, John D. v. The State of North Carolina, et.al.	03 CVS 12655	NC Superior Court	1,010,000.00	X			Prisoner Litigation
Dalton & Crowe v. Moore, Richard H., Treasurer	03 CVS 02465	NC Superior Court			X	NC Gen. Stat. § 116B-64	Plaintiffs allege retention of benefits and profits from Escheat Fund is an unconstitutional taking of property
Dammons, Michael A. v. Mays, Nurse ' Jane Doe'	5:02-CT-445-F3	Federal District Court	2,000,000.00	X			Prisoner Litigation
Davis, Willie J. v. Beck, Theodis	5:01-CT-909-F3	Federal District Court	1,500,000.00	X			Prisoner Litigation
Delaney, Paul; Mary Elizabeth Boyd; Cynthia Wyatt	1:02-CV-00741	Federal District Court			X	NC Gen. Stat. §163-122	Challenges deadline for submission of signed petition & # of signatures required for US Senate candidate name to be on general election ballot
DIRECTV, Inc. & EchoStar Satellite Corp v State of NC; E Norris Tolson	03-CVS-13324	NC Superior Court	50,000,000.00	X	X	NC Gen. Stat. §§105-267 & 164.4(a)(6); Art. I Sec. 19 NC Const; & Art. V, Sec. 2 NC Const.	Sales taxes
DOT v. Ballinger, Max, Trustee	98 CVS 10485	NC Superior Court	1,500,000.00	X			Highway Condemnation
DOT v. Blankenship, Malcolm	02 CVS 3452	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. BRE/MAAC Woodstream, LLC	02 CVS 5321	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Bridger, Edith	00 CVS 1590	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Buffalo Associates	02 CVS 12853	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Byerly, Joe	98 CVS 3991	NC Superior Court	2,000,000.00	X			Highway Condemnation
DOT v. Carolina Tractor and Equipment	01 CVS 8978	NC Superior Court	2,000,000.00	X			Highway Condemnation
DOT v. Dean, Margaret S.	02 CVS 7975	NC Superior Court	1,625,000.00	X			Highway Condemnation
DOT v. Doris C. Forbes Family Ltd. P' ship	04 CVS 0891	NC Superior Court	1,400,000.00	X			Highway Condemnation
DOT v. Edward A. Johnson Family Ltd Pship	03 CVS 6682	NC Superior Court	3,500,000.00	X			Highway Condemnation
DOT v. F. K. Borden Farm, LLC	03 CVS 0489	NC Superior Court	1,000,000.00	X			Highway Condemnation

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DOT v. Garmon, David A.	02 CVS 2814	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Hansley, Brigham S.	02 CVS 2753	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Hart, Cynthia	03 CVS 2005	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Hendrickson, C. Thomas, Trustee	03 CVS 8233	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Huffman Oil Company	03 CVS 0108	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Keene, John Calvin	02 CVS 3693	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Kilpatrick Associates	02 CVS 1102	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Lane Farms, Inc.	02 CVS 114	NC Superior Court	11,000,000.00	X			Highway Condemnation
DOT v. Lowe' s Home Centers Inc.	04 CVS 0890	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Lutheran Retirement Ministries	03 CVS 0306	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Marshall C. Collins Family LP	01 CVS 218	NC Superior Court	1,600,000.00	X			Highway Condemnation
DOT v. Martin Marietta Materials	02 CVS 1251	NC Superior Court	10,000,000.00	X			Highway Condemnation
DOT v. McLean, Ed Williams	02 CVS 2283	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Meng, Lewis A.	00 CVS 1707	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Molamphy, Patrick D.	03 CVS 1293	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Olinger, Linda	02 CVS 7543	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Overton, Charles Allen	04 CVS 1929	NC Superior Court	8,000,000.00	X			Highway Condemnation
DOT v. Penney, Horace D.	03 CVS 8548	NC Superior Court	1,000,000.00	X			Highway condemnation
DOT v. Puckett, Joe Lee	02 CVS 2813	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Roymac Partnership	00 CVS 985	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. T. H. Turner Farms	03 CVS 10794	NC Superior Court	11,000,000.00	X			Highway Condemnation
DOT v. Trask, Raiford	00 CVS 3984	NC Superior Court	1,000,000.00	X			Highway Condemnation
DOT v. Triangle Brick Company	04 CVS 3559	NC Superior Court	2,089,650.00	X			Highway Condemnation
DOT v. Wendover South Associates Limited	02 CVS 9837	NC Superior Court	1,000,000.00	X			Highway Condemnation

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DOT v. Williams, John A. & Riddle, William	01 CVS 879	NC Superior Court	2,000,000.00	X			Highway Condemnation
Downs v. State, et al.	01 CVS 014638	NC Supreme Court			X	NC Gen. Stat. §105-195	Challenge to statutory methodology for valuing conditional gifts.
Doyle, Benjamin L., Sr v. NCDOC	5:03-CT-64-H	Federal District Court	2,500,000.00	X			Prisoner Litigation
Dunn, Lessie v. State of NC	04-CVS-844	NC Superior Court			X	NC Gen. Stat. §105-134.6 c 1	Plaintiffs allege taxation of interest income received from non North Carolina state and municipal bonds violates commerce clause of US Constitution.
Eaddy, Lawrence v. Officer Downey, et.al.	5:03-CT-797-FL	Federal District Court	8,000,000.00	X			Prisoner Litigation
Edmonson v. UNC-CH	03 CVS 1420	NC Superior Court			X	NC Const., Art. I, Sec. 19	Plaintiff' s admission into UNC-CH was revoked/ failure to perform at the UNC-CH level of acceptance.
English Construction, Contractor	02 CVS 7761	NC Superior Court	2,658,799.00	X			Highway Construction Contract Claim
Floyd, Jacques v. Boyd Bennett, et.al.	5:03-CT-736-FL	Federal District Court	9,110,000.00	X			Prisoner Litigation
Ghaffar, Shafeeq Abdul v. Bennett, Boyd	1:02CV00944	Federal District Court	1,500,000.00	X			Prisoner Litigation
GIAMPA, RICHARD L. ET AL V. CURRITUCK COUNTY, ET AL	98 CVS 0153	NC Superior Court			X	NCGS §77-20(d) and (e)	Plaintiffs contest public right to use dry sand beach, and seek damages in inverse compensation from such use.
Glover Construction, Contractor	02 CVS 118	NC Superior Court	1,359,365.00	X			Highway Construction Contract Claim
Goldston, et al. v. State of North Carolina and Easley	02 CVS 015253	NC Court of Appeals			X	NC Session Laws 2001-424 and 2002-126	Plaintiffs challenge the constitutionality of actions by the Governor and the Legislature diverting highway trust funds.
Googerdy, Ashgar v. NCA&T	2003 CVS 10981	NC Superior Court			X	Deprived of right under state constitution due to national origin	Plaintiff was non-renewed to adjunct assistant professor. He claims due to his being Iranian.
H. B. Rowe & Co., Inc. v. Lyndo Tippet, et al.	5:03-CV-278-BO(3)	Federal District Court			X	NC Gen. Stat. §136-28.4	Contests DOT' s policy regarding participation of disadvantaged business in specific highway construction contracts as violation of Equal Protection.
Helton v. Good	02-1853	Federal Appellate Court			X	NC Gen. Stat. §§14-306.1 and 14-298	Constitutional challenge to NC video poker machine registration statutes. Petition for cert to US by Plaintiffs. Petition was denied. Case is closed
Hoke County Board of Education v. State of North Carolina, et al.	95 CVS 1158	NC Superior Court			X	Challenge is to the system of public education, not any specific statute.	Plaintiffs allege that defendants are violating their constitutional right to the opportunity to receive a sound basic education.
Hoke County Board of Education et al v. State of North Carolina	530PA02	NC Supreme Court			X	Article I, Sec. 15 and Article IX, Sec. 2, Chapter 115C of NC Gen. Statutes	Plaintiffs seek declaratory relief based on the public education provisions of the NC Constitution
Hoke County Board of Education et al v. State of North Carolina et al	COA02-1181	NC Court of Appeals			X	N. C. Constitution Article I, Sec. 15 and Article IX Sec. 2	Plaintiffs seek declaratory relief based on the public education provisions of the N. C. Constitution Article I, Sec. 15 and Article IX, Sec. 2
JA Jones Construction Co.	02 CVS 14107	NC Superior Court	1,000,000.00	X			State construction claim; Avery Mitchell Prisons
Jennings, Melissa & Keller, Debbie v. UNC-CH	98 C 5261	Federal District Court	12,000,000.00	X			Discrimination and sexual harassment; Debbie Keller settled her claim for \$70,000.00. The law suit of Melissa Jennings remains open.
King, Darrick L. v. Baker, Juanita	5:01-CT-825-BR2	Federal District Court	107,000,000.00	X			Prisoner Litigation

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Latta v. State of North Carolina, et al.	01 CVS 15577	NC Superior Court			X	Chapter 2 of the 1999 Session Laws	Plaintiffs challenge constitutionality of legislation and consent order directing that 50% of NC' s payments from MSA be directed to non-profit corp.
Malloy v. Cooper, et al	COA 00-898	NC Supreme Court			X	NC Gen. Stat. §14-360	Constitutional challenge to NC cruelty to animals statute. Adverse decision from Ct. of Appeals has been appealed to the NC Supreme Court.
Mandsager, Naomia A. v. UNCG	00 CVS 10241	NC Superior Court			X	State claims of IIED and NIED	Plaintiff files sexual harassment & retaliation claim v. UNCG and two individual defendants further claims are equal protection violations and state l
Maultsby, Larry Junior v. Boyd Bennett, et.al.	5:03-CT-744-H	Federal District Court	6,750,000.00	X			Prisoner Litigation
Maynor v. USA and NC	1:03-CV-01559RWR	Federal District Court	500,000,000.00	X			Indian Tribal Lands and Artifacts
MCGIBBON, GARY/CHAIRMAN WAKE COUNTY COMMUNITY LLP EMERGENCY TASK FORCE	TA-15365	NC Administrative Agency	500,000.00	X			Part of a consolidation of 205 tort claims for negligence in 1985 issuance of permits for low-pressure pipe systems in 10 different subdivisions.
Medical Mutual Insurance Company of North America v Bd Of Governors and ECU	03 CV 003622	NC Superior Court	26,700,000.00	X			Breach of contract to provide malpractice insurance for doctors at medical school.
Morgan v. Stephenson	94PA02-03	NC Supreme Court			X	2003 Session Laws §§7-11 (Extra Session)	State filed action seeking declaratory judgment that the session law is constitutional.
Moses, Edward L. v. Evans, Ronnie	3:02CV433-1-MU	Federal District Court	1,000,000.00	X			Prisoner Litigation
NC Right to Life, Inc. et.al. v. Larry Leake, et.	02-2052/2053	Federal Appellate Court			X	NC Gen. Stat. §§ 163-278.6(14), 163-278.13, and 163-278.14A(a)(2)	Plaintiffs' challenged all three provisions regulating campaign finance under the First Amendment.
Nello L. Teer, Contractor	02 CVS 4863	NC Superior Court	2,268,885.00	X			Highway Construction Contract Claim
Nello L. Teer, Contractor	03 CVS 16710	NC Superior Court	8,924,296.00	X			Highway Construction Contract Claim
Philip Morris v Tolson	00-CVS-6663	NC Superior Court	25,000,000.00	X			Refund of corporate income tax
PMLH, Inc. v. Dept. of Commerce, Crime Control and Public Safety	None Provided	NC Superior Court	1,500,000.00	X			Breach of implied contract
Price , Anthony B. v. Sutton, Ernest	1:03CV01634-JDB	Federal District Court	25,000,000.00	X			Prisoner Litigation
Price, Arvil Leon v. USA	03-03138	US Bankruptcy Court			X	NC Gen. Stat. §105-113.108	Debtor seeks determination of dischargeability of unauthorized substance tax and penalties assessed and due more than 3 yrs prior to filing petition
Rankins, Michael v. Bennett, Boyd	5:02-CT-784-H	Federal District Court	1,620,000,000.00	X			Prisoner Litigation
Rea Construction, Contractor	02 CVS 14905	NC Superior Court	1,320,000.00	X			Highway Construction Contract Claim
Reep, Jamie v. Beck, Theodis	02 CVS 16880	NC Superior Court			X	NC Gen. Stat. §15A-1340.13(d)	Prisoner Litigation
Rice, Donald Lee v. Michael F. Easley, Ricky Anderson, Supt., Foothills CI	1:03CV317-MU5	Federal District Court	14,000,000.00	X			Prisoner Litigation

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Rodman, Edward N. v. Tolson, Norris	03-CVS-5581	NC Superior Court			X	NC Gen. Stat. §105-134.2; NC Const. Art. I, sec. 16	Purported class action filed claiming refund of individual income tax paid at 8.25% for 2001
RPR & Associates v. UNC-CH	98 CVS 0551	NC Superior Court	1,000,000.00	X			Breach of Contract
School Boards Association, et al. v. Moore, et al.	569A03	NC Supreme Court	85,000,000.00	X			Suit by local school boards claiming that various payments are fines or penalties required under the Constitution to be paid to local boards.
SEANC v. State	COA01-1568	NC Superior Court	129,000,000.00	X			SEANC seeks repayment of employer retirement contribution funds withheld by the Governor to balance the budget.
Simba, Jelani Husani v. Walker, Dean R.	1:02CV211-MU-1	Federal District Court	4,000,000.00	X			Prisoner Litigation
Skwerer, Robert Gordon v. NC Department of Revenue & Unauthorized Substance	03-CVS-12609	NC Superior Court			X	Double Jeopardy; Due Process; Equal Protection clauses	Dr. unlawfully prescribed controlled substances to himself using various aliases;sought judicial review but failed to pay tax or post bond as required
Spencer, Glenn W. v. Chester , David	5:03-CT-493-H	Federal District Court	6,400,000.00	X			Prisoner Litigation
State ex rel. Cooper and DENR v. McClure, et al.	03 CVS 5617	NC Superior Court			X	NC Gen. Stat. §75-1.1	Antitrust and unfair trade enforcement action against environmental consulting firms;Def. contend statute unconst. as applied to invitation to collude
State ex rel. Cooper v. Carpet Dryclean, Inc., et al.	02 CVS 13473	NC Superior Court			X	NC Gen. Stat. §75-29 (repealed and replaced by NC Gen. Stat. §75-104)	Enforcement action in which defendant challenges the constitutionality of restrictions on use of autodialer equipment.
State ex rel. Cooper v. Debt Management Foundation Services, Inc.	03 CVS 15751	NC Superior Court			X	NC Gen. Stat. §75-100 et seq.	Enforcement action in which defendant challenges the constitutionality of Telephone Solicitations Act of 2003.
State ex rel. Cooper v. F.G.H. International Corp., et al.	03 CVS 9832	NC Superior Court			X	NC Gen. Stat. §66-260 et seq.	Enforcement action in which defendant challenges the constitutionality of the Telephonic Seller Registration and Bond Requirement Act.
State ex rel. Cooper v. The Big Jungle, LLC, et al.,	03 CVS 761	NC Superior Court			X	NC Gen. Stat. §§ 14-291.2 and 66-131 et seq.	Enforcement action in which defendants contend that pyramid and discount buying club statutes are unconst. vague, consolidated with discovery action
State of Alabama, et al. v. State of North Carolina	US Sup Ct ORIG 132	US Supreme Court	190,000,000.00	X			Southeast Interstate Low-Level Waste Management Commission filed claims against NC for failure to construct a low-level radioactive waste facility.
State v. Bryant	COA 02-1706	NC Court of Appeals			X	NC Gen. Stat. §§14-208.5 et seq	Constitutional challenge to NC sex offender registration laws. Pending a decision.
State v. White	COA 02-1641	NC Court of Appeals			X	NC Gen. Stat. §§14-208.5 et seq	Constitutional challenge to NC' s sex offender registration laws. Pending a decision.
Stephenson et al. v. Bartlett	94 PA 02-02	NC Supreme Court			X	Session Law 2001-459	Challenges the constitutionality of the North Carolina Senate Redistricting Plan
Stephenson, Ashley v. Bartlett, Gary	94PA02-03	NC Supreme Court			X	SL 2003-434(Extra Session), Sections 7-11	Plaintiffs challenged venue and 3-judge panel provisions governing redistricting challenges.
Stone v. State	02 CVS 7931	NC Superior Court	129,000,000.00	X			Challenge to the withholding of retirement contribution withheld by the Governor to balance the budget.
Thorne, Marcella v. NC Department of Correction	03 CVS 2324	NC Superior Court			X	NC Const. Art. I, Sec. 19	Prisoner Litigation
TILLEY, THOMAS TRUSTEE	00 EHR 1668	NC Administrative Agency			X	NCGS §150B-49	Administrative appeal of issuance of NPDES permit to Riverview Mobile Home Park.

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TILLEY, THOMAS TRUSTEE	02 CVS 7037	NC Superior Court			X	NCGS §150B-49	Judicial review of administrative appeal of issuance of NPDES permit to Riverview Mobile Home Park.
Wambach, Freddy Ludwig v. Beck, Theodis	1:02CV205	Federal District Court	1,010,000.00	X			Prisoner Litigation
Welch Contracting, Contractor	04 CVS 46	NC Superior Court	6,000,000.00	X			Highway Construction Contract Claim
Western Invention Submission Corp. v. State of North Carolina	03 CVS 16213	NC Superior Court			X	NC Gen. Stat. §§66-211(a)(2), 66-212(d) and 66-212(e)	Declaratory judgment action seeking declaration that provisions of invention marketing act violate the North Carolina Constitution.
White, Maurice v. Unknown Urologist (Wake Medical Center), et.al.	1:03CV735	Federal District Court	50,000,000.00	X			Prisoner Litigation

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