

Legislative Report

Pending Cases Seeking \$1,000,000 or more in Damages or Challenging the Constitutionality of an Act of the Legislature, G.S. §114-2.6, as of September 15, 2006

	Case Name	Case Number	Court/Agency	Claim Amount	Million Dollar Claim	Constitutionality Claim	Statute/Provision Challenged	Summary
	ACLU v. State of North Carolina et al.	COA06-62	NC Superior Court			X	NC Gen. Stat. §11-2	Declaratory judgment action that NC Gen. Stat. §11-2 (statute governing oaths for witnesses) allows for religious texts other than Christian Bible to be used to swear witnesses, or if statute does not allow for other texts a declaration that it is unconstitutional in that it violates the Establishment Clause of the U.S. Constitution.
*	Ali, Sharif Abdul v. Bennett, Boyd, et al	5:04 CT 948 FL	Federal District Court	\$5,000,000.00	X			Prisoner Litigation
*	Baker, Kendrick v. Fountian, Lieutenant, et al	5:06 CT 3038 BO	Federal District Court	\$3,000,000.00	X			Prisoner Litigation
	Beasley, Marion v. Wood, Don, et al	1:05 CV 00850	Federal District Court	\$5,800,000.00	X			Prisoner Litigation
*	Blythe Development Company v. NC DOT	06 CVS 8895	NC Superior Court	\$2,093,553.41	X			Highway Construction Contract Claim
*	Bowen, John v. Langley, Jennifer, et al	1:06-CV-00612	Federal District Court	\$10,000,000.00	X			Prisoner Litigation
*	Boyce v. NC Department of Commerce	04 OSP 0298	NC Administrative Agency	\$10,000,000.00	X			Employment case alleging discrimination and retaliation.
*	Boykin, Ronald v. Beck, Theodis, et al	5:05 CT 00741 BO	Federal District Court	\$8,000,000.00	X			Prisoner Litigation
	Britt v. North Carolina	05 CVS 12952	NC Superior Court			X	NC Gen. Stat. §14-415.1	Plaintiff is a convicted felon challenging the constitutionality of North Carolina's Felony Firearms Act. Awaiting determination by Court of Appeals on Plaintiff's appeal.
	Bryant-Bunch, June v. Beck, Theodis	2:02 CV 34 BO1	Federal District Court	\$7,000,000.00	X			Prisoner Litigation
	Bryant-Bunch, June v. Northampton County, et al	2:05 CV 00034	Federal District Court	\$8,800,000.00	X			Plaintiff, a spouse of an inmate, filed civil complaint arising out of detention of visitor to correctional facility for suspicion of smuggling.
	Burill v. James Long, Commissioner of Insurance, et al.	03 CVS 13415	NC Superior Court			X	NC Gen. Stat. §58-36-65	Claim that auto insurance point system is unconstitutional because of an alleged unconstitutional delegation of judicial power to insurance companies.
	Caldwell County Election Protest of Roger Lee Hutchings & William F. Wall	445 P 04	NC Supreme Court			X	NC Gen. Stat. §163-182.10(d) (2)e3, NC Gen. Stat. §7A-31	Plaintiffs protested election results and demanded new elections claiming votes had been sold near the Board of Elections office in Lenoir.
	Cape Hatteras v. Tolson	00 CVS 714	NC Superior Court	\$2,000,000.00	X	X	NC Gen. Stat. §105-164.4(4a) and §105-116	Taxpayer seeks refund of franchise and sales tax claiming exemption from tax.
	Carandola v. Bason	1:01 CV 115	Federal District Court			X	NC Gen. Stat. §18B-1005.1	Constitutional challenge to North Carolina's law prohibiting nude dancing in licensed ABC establishments. Scheduled to be heard before 4th Cir. Court of Appeals.
	Carandola v. Fulton	1:05 CV 2308	Federal Appellate Court			X	NC Gen. Stat. §18B-1005.1	Challenges the constitutionality of new NC Gen. Stat. §18B-1005.1 - Sexually explicit conduct on licensed premises

* indicates a newly reported case

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	Carillon Assisted Living, LLC v. NCDHHS	06 CVS 9739	NC Superior Court			X	NC Session Law 2001-234	Plaintiff claims statute placing adult care home under the certificate of need process is unconstitutional on its face and as applied to Carillon.
	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.
*	DaimlerChrysler v. Tolson	06 CVS 5110	NC Superior Court	\$18,581,000.00	X	X	Commerce Clause; Due process; NC Gen. Stat. §105-122	Taxpayer has filed suit in Superior Court to dispute its franchise tax liability.
	Dalton, Pinkey Richard, et al. and the class of those similarly situated	03 CVS 12287	NC Superior Court	\$1,000,000.00	X	X	NC Gen Stat. § 116B-64	Claim for payment of interest, earned by Treasurer, on refunds, made to owners of property held in the Escheat Fund.
	Davis, Willie J. v. Beck, Theodis	5:01 CT 909 F3	Federal District Court	\$1,500,000.00	X			Prisoner Litigation
	DOT v. B.T. and Betsy Henderson Family, LLC	05 CVS 04144	NC Superior Court	\$2,000,000.00	X			Highway Condemnation
	DOT v. Ballinger, Max, Trustee	98 CVS 10485	NC Superior Court	\$1,500,000.00	X			Highway Condemnation
	DOT v. Biltmore Commercial Properties, LLC	04 CVS 4833	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Biltmore Oil Co.	04 CVS 3631	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Burgess, Robert L.	05 CVS 0627	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Cameron, Bruce B., Trustee	06 CVS 0577	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. Chiotakis, Juanita M.	04 CVS 2120	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Columbia Enterprises, Inc.	04 CVS 0010	NC Superior Court	\$1,000,000.00	X			Highway Condemnation

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*	DOT v. J.B. Harrison Properties, LLC	06 CVS 1470	NC Superior Court	\$1,281,400.00	X			Highway Condemnation
	DOT v. Metrolina Properties Limited	04 CVS 12434	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. Quality Oil Company	06 CVS 0508	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Stagecoach Village	02 CVS 3344	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Trask, Raiford G., Jr., et al	04 CVS 0642	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
*	DOT v. Wolbert, Doris Elizabeth	06 CVS 5243	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	Dozier, Angela v. Fountain Correctional Center for Women, et al	5:05 CT 292 BO	Federal District Court	\$500,000,000.00	X			Prisoner Litigation
	Dunn, Lessie v. State of NC	COA05-1178	NC Court of Appeals			X	Commerce clause; NC Gen. Stat. §105-134.6(c)1	Plaintiffs argue that North Carolina unlawfully treats interest income from government bonds originating in North Carolina differently from bonds from other states
	Faircloth, James v. Lee, R.C., et al	5:04 CT 608 FL	Federal District Court	\$1,000,000.00	X			Prisoner Litigation
	Gatti, Benjamin v. NC State Board of Elections & Union County Board of Elections	04 CV 000920	NC Superior Court			X	NC Gen. Stat. § 163-274	Appellant arrested for removal of campaign signs.
	Glover Construction v. NCDOT	02 CVS 118	NC Court of Appeals	\$1,359,365.00	X			Highway Construction Contract Claim
	Goldston, et al. v. State of North Carolina and Easley	328 PA 04-2	NC Supreme Court			X	NC Session Laws 2001-424 and 2002-126 §2.2(g)	Plaintiffs challenge the constitutionality of actions by the Governor and the Legislature diverting highway trust funds.
	Gorham, William v. Kentworthy, George, et al	5:05 CT 42 H	Federal District Court	\$5,000,000.00	X			Prisoner Litigation
	Greenfield v. Dudley, et als.	5:05 CT 484 BO	Federal District Court	\$1,000,000.00	X			Plaintiff filed section 1983 action for violation of civil rights against assistant district attorney.

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*	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.
*	Hairston, Michael v. Barber, Brandon, et al.	5:06 CT 3027 H	Federal District Court	\$1,500,000.00	X			Prisoner Litigation
*	Hairston, Michael v. Taylor, C/O, et al	5:06 CT 3048 D	Federal District Court	\$6,000,000.00	X			Prisoner Litigation
	Hardy, Vicky v. Sutton, Ernest, et al	5:05 CT 491 FL	Federal District Court	\$2,500,000.00	X			Prisoner Litigation
	Head, Timothy Daniel v. State of North Carolina, Magistrate Putman, et al.	COA05-1015	NC Court of Appeals	\$9,036,900.00	X			Plaintiff seeks relief for claimed violation of due process of law.
	Hoke County Board of Education et al v. State of North Carolina	95 CVS 1158	NC Superior Court			X	Article I, Sec. 15 and Article IX, Sec. 2, Chapter 115C of NC General Statutes	Plaintiffs seek declaratory relief based on the public education on the public education provisions of the North Carolina Constitution.
*	Jackson, James v. Dr. Matkio, et al	5:06 CT 59 FL	Federal District Court	\$1,000,000.00	X			Prisoner Litigation
	James, Terrance v. Lightsey, Joseph	5:05 CT 210 H	Federal District Court	\$1,000,000.00	X			Prisoner Litigation
*	Jeffries, David v. Catawba Valley Hospital, et al	06 CVS 3143	NC Superior Court	\$1,101,000.00	X			Prisoner Litigation
	Jennings, Melissa v. UNC-CH	98 C 5261	Federal Appellate 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.
*	Johnson, Derrick v. C/O Griffin, et al	5:06 CT 3040 FL	Federal District Court	\$3,000,000.00	X			Prisoner Litigation
	Johnson, Steven Glenn v. NC State Board Of Elections	04 CV 006472	NC Superior Court			X	NC Gen. Stat. §123-5; 50 Op. Att'y. Gen. NC 107 (1981)	Plaintiff felt rights were violated because he was denied the right to be eligible to be elected to the North Carolina Court of Appeals.
	KFC Corp. v. Tolson	04 CVS 10447	NC Superior Court			X	Commerce clause and due process; NC Gen. Stat. §105-130.4	Plaintiff seeks corporate income tax refund.
	Kindley, Marcus D. v. Bartlett, Gary O., Leake, Larry, Cordle, Robert	5:05-CV-177-BO(1)	NC Superior Court			X	NC Gen. Stat. §163-166.11	Plaintiffs challenge NC provisional ballot requirements.
	Latta v. State of North Carolina, et al.	01 CVS 15577	NC Superior Court			X	Chapter 2 of the 1999 NC Session Laws	Plaintiffs challenge constitutionality of legislation and consent order directing that 50% of NC's payments from MSA be directed to non-profit corporation.

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*	Lorillard Tobacco Co. v. Tolson, E. Norris, et al.	06-CVS-9616	NC Superior Court	\$2,734,799.00	X	X	Commerce Clause and other constitutional challenges; NC Gen. Stat. §105-130.6	Taxpayer has filed suit in superior court to dispute its corporate income tax liability.
*	Mangum, C.C. v. NC DOT	06 CVS 6136	NC Superior Court	\$1,249,202.00	X			Highway Construction Contract Claim
*	McCoy, Anthony v. Wilt, George	5:06-CT-3093-BO	Federal District Court	\$1,000,000.00	X			Prisoner Litigation
	McKenzie, John v. Williams, Lisa, et al	5:04-CT-1002-H	Federal District Court	\$15,500,000.00	X			Prisoner Litigation
	McPherson, Stanford E.C. v. McCabe, Sherwood, et al	5:04-CT-990-FL	Federal District Court	\$12,000,000.00	X			Prisoner Litigation
*	Mealy, Calvin v. Officer Byrd, et al	5:05-CT-00566-D	Federal District Court	\$3,000,000.00	X			Prisoner Litigation
	Morton, Gary v. Delaport, Debbie & Brewer, Donna	1:04-CV-58	Federal District Court	\$3,000,000.00	X			Prisoner Litigation
	NC Right to Life, Inc. et.al. v. Larry Leake, et.	02-2052/2053	Federal District 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 Company v. NC DOT	06 CVS 2046	NC Superior Court	\$12,059,395.00	X			Highway Construction Contract Claim
	Nello L. Teer v. NCDOT	03 CVS 16710	NC Supreme Court	\$8,924,296.00	X			Highway Construction Contract Claim
	North Carolina Department of Health and Human Services	Docket No. A-05-80	Federal Administrative Agency	\$95,437,157.00	X			Administrative appeal of disallowance of claims for federal financial participation under the Title IV-E Foster Care Program.
	Odebrecht Construction Corp. v. NC DOT	05 CVS 12594	NC Superior Court	\$9,217,530.00	X			Highway Construction Contract Claim
	Patton, Kenneth v. Lancaster, Thomas, et al	1:05 CV 251 MU	Federal District Court	\$3,900,000.00	X			Prisoner Litigation
	Pender County v. Bartlett	04 CVS 6966	NC Supreme Court			X	NC Gen. Stat. §120-2	Challenge to the House districts in Pender County.
	Philip Morris v Tolson	COA05-340	NC Court of Appeals	\$30,000,000.00	X	X	Separation of powers; NC Gen. Stat. § 105-130.4	Plaintiff seeks refund of corporate income tax based on apportionment formula. COA ruled in favor of state; PDR filed.

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*	Pittman, Donnell v. Woods, Don, et al	1:05 CV 00383	Federal District Court	\$4,400,000.00	X			Prisoner Litigation
	Pucket v. Carter, et als.	1:05 CV 283	Federal District Court	\$1,000,000.00	X			Plaintiff filed section 1983 action claiming violation of due process against the District Attorney and Assistant District Attorney.
*	Reid, Joseph v. Polk, Gary, et al	5:05 CT 00459 D	Federal District Court	\$1,000,000.00	X			Prisoner Litigation
	Revels, Pearlean v. Robeson County Board of Elections & N.C. State Board	COA03-1687	NC Court of Appeals			X	NC Gen. Stat. §163-35	Plaintiff claims defendant denied due process of law by terminating employment without opportunity to be heard.
	Rowlette, Kevin Patrick et. al. v. Richard Moore, State Treasurer	05 CVS 2677	NC Superior Court	\$1,000,000.00	X	X	NC Gen. Stat. §116B-64	Claim for payment of interest, earned by the Treasurer, on refunds, made to owners of property held in the Escheat Fund.
	Royster, Jeremiah v. Pooley, Paul, et al	5:05 CT 43 FL	Federal District Court	\$1,500,000.00	X			Prisoner Litigation
	Sam's East, Inc. v. Tolson	06 CVS 3929	NC Superior Court	\$3,527,599.60	X	X	Commerce clause, due process and other constitutional challenges; NC Gen. Stat. §§105-130.6 and 105-130.16	Plaintiff seeks refund of corporate income tax.
	Sanders v. State Personnel Commission	COA 06-149	NC Court of Appeals	\$1,000,000.00	X			Plaintiffs request court to find that any temporary State employee of more than 12 months be considered permanent and accorded benefits.
	SEANC v. State	COA01-1568	NC Supreme 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.	1:02 CV 211 MU 1	Federal District Court	\$4,000,000.00	X			Prisoner Litigation
*	Sorto, Julio Zelaya v. Polk, Marvin, et al	5:06 CT 3028 H	Federal District Court	\$2,500,000.00	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; Defense contends statute unconstitutional as applied to invitation to collude.
	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.
	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.
	Sullivan v. State of North Carolina and Progress Energy	7:05 CV 132 BR	Federal District Court			X	NC Gen. Stat. §143-143.2	Challenges statute that prohibits providing electrical current to any building that has not first passed an electrical inspection.

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*	Sullivan, James v. Caledonia CI, et al	5:06 CT 3046 FL	Federal District Court	\$8,000,000.00	X			Prisoner Litigation
	Swears, Stephen v. Beck, Theodis, et al	5:04 CT 612 BO	Federal District Court	\$2,700,000.00	X			Prisoner Litigation
	Sylvia, Ronnie v. Maddox, Tommy, et al	5:05 CV 1302 MU	Federal District Court	\$1,300,000.00	X			Prisoner Litigation
	Tolbert, Eric v. Dr. Lightsey, et al	5:05 CT 428 BO	Federal District Court	\$1,500,000.00	X			Prisoner Litigation
	TRISM, Inc., d/b/a/ "Bedtime Stories" et. al. v. Cooper	1:06 CV 25 H	Federal District Court	\$1,000,000.00	X	X	NC Gen. Stat. §§14-202.10 and 14-202.12	Plaintiff seeks to declare statute as unconstitutional that prohibits any adult entertainment business to "contain multiple purposes" or to sell, display or exhibit sexually oriented devices on the basis that it violates due process and privacy rights.
	Wal-Mart Stores East, Inc. v. Tolson	06 CVS 3928	NC Superior Court	\$30,230,338.89	X	X	Due process; commerce clause; law of the land clause; NC Gen. Stat. §105-130.6	Plaintiff seeks refund for corporate income tax.
*	Williams, Stanley v. McLeod-Duncan, Debra	06 CVS 606	NC Superior Court	\$5,500,000.00	X			Prisoner Litigation
*	Williamson, Nathaniel v. Smith, Raymond, et al	1:06 CV 00484	Federal District Court	\$1,500,000.00	X			Prisoner Litigation
*	Willis v. Henderson	4:06 CV 143	Federal District Court	\$1,000,000.00	X			Plaintiff suing Jones County Clerk of Court claiming clerk has refused to give a document from the files of the Office of the Clerk.
	Wright Bros. Construction Co. v. NCDOT	04 CVS 1912	NC Superior Court	\$19,105,159.00	X			Highway Construction Contract Claim
	Young, Danny William v. Boyles, William, et al	5:04 CT 741 FL	Federal District Court	\$7,600,000.00	X			Prisoner Litigation