

Legislative Report - October, 2007

N.C. Gen. Stat. §114-2.6

	Case Name	Case Number	Court/Agency	Claim Amount	Million \$ Claim	Constitutionality Claim	Statute/Provision Challenged	Summary
*	Adams, Michael S. v. Board of Trustees et al	7:07-CV-00064-H	Federal District Court			X	First and Fourteenth Amendments	Plaintiff alleges violation of First and Fourteenth Amendments and Title VII for failure to promote to full professor.
	Amusements, Inc. v. State	06 CVS 13961	NC Superior Court			X	NC Session Law 2006-06	Plaintiff challenges the constitutionality of SL 2006-06 which phases out video poker machines.
*	Animal Legal Defense Fund v. Woodley, Barbara and Woodley, Robert	127P07	NC Supreme Court			X	NC Gen. Stat. § 19A-1 to 4	Plaintiffs challenge animal cruelty statute allowing any person, regardless of having a possessory or ownership right in the animal, to bring an action to enjoin the cruel treatment of an animal and for termination of defendant's ownership of the animal.
	Beasley, Marion v. Wood, Don, et al	1:05CV00850	Federal District Court	\$5,800,000.00	X			Prisoner Litigation
	Belk, Ronnie v. Saunders, Sorrell, et al	5:06-CT-3071-H	Federal District Court	\$25,000,000.00	X			Prisoner Litigation
	Bishop v. Bartlett	5:06-CV-00462-FL	Federal Appellate Court			X	NC Session Law 2003-403	Plaintiff challenges the constitutionality of SL 2003-403 which allows project development financing by local governments without a referendum.
	Blake, Shawn v. Walden, Marva	5:06-CT-3105-BO	Federal District Court	\$1,000,000.00	X			Prisoner Litigation
	Blankenship v. Bartlett	05 CVS 16827	NC Supreme Court			X	NC Session Law 1993-321	Plaintiff challenges the constitutionality of the superior court districts in Wake County and that districts violate the Equal Protection Clause.
	Blinson v. State of North Carolina	06 CVS 1012	NC Court of Appeals			X	NC Session Law 2004-204	Multiple State and federal constitutional claims challenging validity of incentives given by State and local governmental entities to Dell Manufacturing.
	Blythe Development Co. v. NC DOT	06 CVS 8895	NC Superior Court	\$2,093,553.41	X			Highway Construction Contract Claim; NC Gen. Stat. §136-29
	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 Supreme Court			X	NC Gen. Stat. § 14-415.1	Plaintiff is a convicted felon challenging the constitutionality of NC's Felony Firearms Act.
	Bryant-Bunch, June v. Beck, Theodis	2:02-CV-34-BO1	Federal District Court	\$7,000,000.00	X			Prisoner Litigation
*	Buck v. State of North Carolina	4:07 CV 122	NC Superior Court	\$1,000,000.00	X			Plaintiffs allege damages arising out of an alleged incident that occurred on State owned ferry.

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*	Burnfam Limited Partnership v. Tippet	02 CVS 584	NC Superior Court	\$1,000,000.00	X			Plaintiff alleges unconstitutional exactions and taking.
	Burrill v. James Long, Commissioner of Insurance, et al.	COA06-955	NC Court of Appeals			X	NC Gen. Stat. § 58-36-65	Plaintiffs claim that auto insurance point system is unconstitutional because of an alleged unconstitutional delegation of judicial power to insurance companies.
	Cape Hatteras v. Tolson	00-CVS-714	NC Superior Court	\$2,000,000.00	X		NC Gen. Stat. §105-164.4(4a) and §105-116	Taxpayer seeks refund of franchise and sales tax claiming exempt from tax.
*	Carl & Eilber v. State of NC, NC State Health Plan & MedAmerica Insurance	06 CVS 13617	NC Superior Court	\$1,000,000.00	X			Claim involving long term care insurance and increase in premiums after transfer of policy from MedAmerica to Prudential.
	City of Asheville v. State of North Carolina	05 CVS 10743	NC Superior Court			X	NC Session Law 2005-139; NC Gen. Stat. §§160A-31(a), 160A-58.1(c) and 160A-312	Plaintiff seeks to declare statutes unconstitutional that prohibit charging customers outside its municipal limits more for services than those inside limits.
	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.
*	Cushman v. Graham	07 CVS 198	NC Superior Court			X	NC Gen. Stat. §§ 7A-109.4; 7A-346.3; 20-138.4	Declaratory judgment action challenging constitutionality of DUI reporting requirements.
	DIRECTV, et al. v. Tolson, et al.	05:05-cv-784	Federal Appellate Court			X	Commerce clause; Supremacy clause; NC Session Law 2006-151, Sections. 8-15	Satellite TV companies seek declaratory judgment that SL 2006-151, sections 8-15, violate Federal Constitution and an injunction prohibiting distribution of tax proceeds.
	DOT v. Ballinger, Max, Trustee	98 CVS 10485	NC Superior Court	\$2,000,000.00	X			Highway Condemnation
	DOT v. Biltmore Commercial Properties, LLC	04 CVS 4833	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
*	DOT v. Bullard Trailer Sales, Inc.	07 CVS 2848	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 Springs Autospa, Inc., et al	07 CVS 0859	NC Superior Court	\$1,000,000.00	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. Dale, E.G.	06 CVS 1987	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Gurley, Malcolm Z.	06 CVS 2751	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. Hill, Carole G.	06 CVS 1528; 06 CVS 1530	NC Superior Court	\$1,000,000.00	X			Highway Condemnation

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	DOT v. J.B. Harrison Properties, LLC	06 CVS 1470; 06 CVS 0700	NC Superior Court	\$1,281,400.00	X			Highway Condemnation
*	DOT v. Ledford, James T., et ux, et al.	07 CVS 0180	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
*	DOT v. Mooresville Pharmacy, LLC, et al	07 CVS 0860	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
*	DOT v. NOCOR, LLC, et al	07 CVS 0861	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. Salem Brass, Inc.	06 CVS 02845	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
*	DOT v. Smith, Ronnie L., et ux	07 CVS 1970	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
	DOT v. South Shore Real Estate, LLC et al	07 CVS 1987	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. Stone, Richard B., et ux, et al.	07 CVS 0443	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
*	DOT v. Two Charleston Plaza Condominium Assoc., Inc. et al	07 CVS 2175	NC Superior Court	\$1,000,000.00	X			Highway Condemnation
*	DOT v. Williamson, Ladane, et al.	07 CVS 465	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. Champion, Anna, et al	5:06-CT-3041-H	Federal District Court	\$1,000,000.00	X			Prisoner Litigation
	Duke University and Durham Regional V. NCDHHS, DFS, Con Section	06 COA 13481	NC Court of Appeals			X	NC Session Law 2005-346	Plaintiffs are challenging the constitutionality of the certificate of need sections application of Session Law 2005-346.
*	Duke v. Leake	5:06-CV-324-BR	Federal Appellate Court			X	NC Public Campaign Financing Fund	Plaintiffs seeking to have various statutes related to NC Public Campaign Financing Fund declared unconstitutional.
	Dunn, Lessie v. State of NC	605PA06	NC Supreme Court			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.
*	DuPont Pharma Inc. v. Hinton	07 CVS 13980	NC Superior Court	\$2,197,542.00	X	X	Due process; Commerce clause; NC Gen. Stat. §§ 105-130 (4)(a)(1), 105-130.4 and 105.236(5)	Plaintiff seeks refund for corporate income tax.

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*	Eaker, James v. Overturf, CO, et al	1:07CV608	Federal District Court	\$10,100,000.00	X			Prisoner Litigation
*	Estate of Esther Brown v. Attorney General	2:07-CV-7	Federal District Court	\$10,000,000.00	X			Plaintiff alleges a Section 1983 civil rights violation allegation for failing to investigate a local death in Halifax County.
	Faulkner v. Medical Board	07 CVS 3306	NC Superior Court			X	NC Gen. Stat. §90-2	Plaintiffs challenge the constitutionality of the statutory scheme providing for the appointment of Medical Board members.
	Forsyth Medical Center and Community Gen. Health Partners v. NCDHHS, DFS et	06 COA 1572	NC Court of Appeals			X	NC Gen. Stat. § 131E-188; NC Gen. Stat. Article 9	Plaintiff is raising constitutional claim that Article 9 (certificate of need law) is unconstitutional as applied, resulting in denial of due process.
	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.
	Grand River Enterprises Six Nations, Ltd. Et al v. Pryor, Cooper, et al	1157121	Federal District Court			X	NC Gen. Stat. §66-290 and Tobacco Master Settlement Agreement	Plaintiffs challenge that the Master Settlement Agreement and the State Escrow Statute violate the antitrust provisions and Dormant Commerce Clause of U.S. Constitution.
	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.
	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.
	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.
	Heatherly v. State of North Carolina	317 P 06	NC Supreme Court			X	NC Session Law 2005-344 as amended by NC Session Law 2005-276 §31.1	Challenge the Lottery Act on the grounds that it imposes a tax and thereby pledges the faith and credit of the State without being enacted by Constitutional Amendment.
	High Rock Lake Partners, LLC v. NC DOT, Ivey, Pat, and Corriher, Chris T.	06 CVS 2434	NC Superior Court	\$1,000,000.00	X	X	NC Gen. Stat. §136-18	Highway Construction Contract Claim
	Hoke County Board of Education et al v. State of North Carolina	95 CVS 1158	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.
*	In the matter of: The Denial of NC IDEA's (MCNC) Refund of Sales & Use Tax	06-CVS-17524	NC Superior Court			X	Equal Protection clause; challenge to sales and use tax refund for non-profits	Taxpayer seeks refund of sales and use tax for non-profits.
	Jackson, James v. Dr. Matkio, et al	5:06-CT-59-FL	Federal District Court	\$1,000,000.00	X			Prisoner Litigation

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	Jennings, Melissa v. UNC-CH	98 C 5261	NC Superior 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.
	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.
	Libertarians v. State Board of Elections	05 CVS 13073	NC Superior Court			X	NC Gen. Stat. §§ 163-96 through 163-99	Plaintiffs challenge how alternative political parties and their candidates are listed on State ballots.
	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.
*	Massey, Rethea C. v. Hoffman, Douglas A.	04 SP 3546	NC Court of Appeals			X	NC Gen. Stat. §65-74	Plaintiffs challenge the constitutionality of the statute authorizing access to a property containing a burial site.
	McCoy, Anthony v. Wilt, George	5:06-CT-3093-BO	Federal District Court	\$1,000,000.00	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
*	Med Trans Corp. v. Odom, et al.	5:07-CV-222(FL)	Federal District Court			X	NC Gen. Stat. §§131E-176(1a); 131E-176(16(f1))(1); 131E-176(16)(s); 131E-178(a); 131E-155(6b); 131E-155.1(a); 131E-157; 131E-158(a)(2)	Plaintiffs challenging portion of Certificate of Need law and several EMS licensure laws and rules dealing with air ambulances as being preempted by the Airline Deregulation Act.
	NC Right to Life, Inc., et. al. v. Larry Leake, et. al.	5:99-CV-798-BO(3)	Federal Appellate Court			X	NC Gen. Stat. §§ 163-278.6(14), 163-278.13, and 163-278.14A(a)(2)	Plaintiffs assert three campaign finance statutes violate their rights under the First Amendment.
	North Carolina Department of Health and Human Services	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.
	Patton, Kenneth v. Lancaster, Thomas, et al	1:05-CV251-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	Plaintiffs challenge the House districts in Pender County.
	Petroleum Traders Corp v. State of North Carolina et al	06-CVS-10405	NC Superior Court	\$13,000,000.00	X	X	NC Constitution Article II, §23	Plaintiffs challenge e-procurement charges. Plaintiffs claim it violates NC and US Constitutions taking clauses.

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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
*	Proctor v. LGERS	07 CVS 11806	NC Superior Court			X	NC Gen. Stat. § 128-27(d4)	Class action suit where plaintiff claims that a change in statute to Local Retirement System deprived class of disability/retirement benefits.
	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.
	Pulliam, Timothy John v. Lt Jacob	1:05-CV-01000	Federal District Court	\$5,100,000.00	X			Prisoner Litigation
*	Robinson v. Butler, et. al.	5:07-CT-3021-FL	Federal District Court	\$1,000,000.00	X			Plaintiff alleges a Section 1983 Civil Rights violation by claiming he was improperly listed on sex offender registry.
*	Robinson, Barry v. Walser, Tarquintus	5:07-CT-3039-D	Federal District Court	\$1,500,000.00	X			Prisoner Litigation
	Row, Rodney R. v. Row, Leigh A. (Deese)	COA06-1692	NC Court of Appeals			X	NC Gen. Stat. §50-13.4	Plaintiff challenges the current child support guidelines as unconstitutional. Trial Court ruled that the guidelines were constitutional.
	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.
*	Savage, Bobby v. NC DOC	5:06-CV-171-FL	Federal District Court	\$2,000,000.00	X			Personnel Litigation
	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.
	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 v. StoresOnline, Inc.	07 CVS 7381	NC Superior Court			X	NC Gen. Stat. §66-94	Defendant contends that the Business Opportunity Sales Act is unconstitutional.
	State of Alabama, et al. v. State of North Carolina	US Sup Ct ORIG 132	US Supreme Court	\$1,000,000.00	X			Southeast Interstate Low-Level Waste Management Commission filed claims against NC for failure to construct a low-level radioactive waste facility.

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	Stone v. State	02 CVS 7931	NC Superior Court	\$129,000,000.00	X			Challenge to the withholding of retirement contribution by the Governor to balance the budget.
	Sylvia, Ronnie v. Maddox, Tommy, et al	5:05-CV13-02-MU	Federal District Court	\$1,300,000.00	X			Prisoner Litigation
*	Thaggard, James v. Lt Strickland, et al	5:07-CT-3064-FL	Federal District Court	\$12,000,000.00	X			Prisoner Litigation
*	Thaggard, James v. Sgt Carr, et al	5:07-CT-3008-D	Federal District Court	\$7,000,000.00	X			Prisoner Litigation
*	Theodore, Adrea v. UNC et al.	07 CVS 02139	Federal District Court			X	28 U.S.C. § 2601	Wrongful discharge claim (discrimination, pregnancy, family leave). Case has been removed to federal court.
	Tolbert, Eric v. Burke, Lt, et al	5:06-CT-3077-FL	Federal District Court	\$5,500,000.00	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 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.
	Tyson, Noel John v. Matthews, Jon	5:07-CT-3009-D	Federal District Court	\$100,000,000.00	X			Prisoner Litigation
*	United States v. Flowers, Daniel A.	2:06CR30	Federal District Court			X	NC Gen. Stat. § 14-197	Plaintiff challenges the constitutionality of statute for criminal conviction under §14-197 for use of indecent and profane language while on federal property.
*	United States v. University of North Carolina	1:07 CV 00592	Federal District Court			X	Title VII Section 703(a); Civil Rights Act of 1964; 42 USC §2000e et seq.	Action brought by US as result of charges of discrimination by employees of NC A&T University. Sexual Discrimination.
	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.
*	Whisnant v. TSERS	07 CVS 3105	NC Superior Court			X	NC Gen. Stat. §§ 135-5; 135-106	Class action claiming change in statute deprived plaintiffs of disability/retirement benefits.
	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.
	Willis v. NC DOT	4:07 CV 46	Federal District Court	\$160,000,000.00	X			Plaintiff contends agency violated Titles VI and VII of the Civil Rights Act of 1964 and his rights under the 1st and 14th Amendments.

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