



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J.R. "JOEY" HOPKINS
SECRETARY

April 12, 2024

Joint Legislative Transportation Oversight Committee
North Carolina General Assembly
State Legislative Building
Raleigh, North Carolina 27603

Attn: Co-Chairs

Reply sent via email to Michael.Lazzara@ncleg.gov, Frank.Iler@ncleg.gov,
Tom.McInnis@ncleg.gov, Brendan.Jones@ncleg.gov, Vickie.Sawyer@ncleg.gov,
Phil.Shepard@ncleg.gov

Re: JLTOC April 4, 2024 Letter to NCDOT Senior Deputy General Counsel

Dear Committee Co-Chairs,

Thank you for your letter to me of April 4, 2024 (received on April 9th). As your letter acknowledges, I represent the North Carolina Department of Transportation and specifically in this instance, the Division of Motor Vehicles and its employees, particularly the Commissioner in his official capacity. The letter requested the basis of authority for Commissioner Goodwin's objections to some of the questions posed during the hearing of February 29, 2024, by the Joint Legislative Transportation Oversight Committee ("The Committee"). While there is no formal statute or rule as a basis for an attorney's advice to a client in this instance apart from the Rules of Ethics of the North Carolina State Bar, the usual courtesies contemplate deferral to a witness's assertion of responding pursuant to legal advice.

As you may know, a legal action was filed prior to the February 29th Committee hearing by Idemia Identity & Security USA LLC against the North Carolina Department of Transportation, North Carolina Division of Motor Vehicles, Wayne Goodwin, individually and in his official capacity as Commissioner of the North Carolina Division of Motor Vehicles, et. al. in Wake County Superior Court, 24 CVS005971-910.

Some of the questions posed directly by Committee members called for legal conclusions which may be the subject of dispute within the action cited. Therefore, since one possible unfavorable resolution of those disputed inquiries could theoretically result in liability and consequent costs to the state, I certainly as an attorney for the agency and as a North Carolina citizen appreciate a client not putting favorable resolution of these issues *at risk* by creating an unintended record before the *legal* tribunal has made a determination.

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Location:
DMV HEADQUARTERS BUILDING
1417 N. CHURCH STREET
ROCKY MOUNT, NC 27804

Meantime, what has changed since the February 29th committee hearing and testimony is that there was an April 2nd hearing in Wake County Superior Court. The fact that there has been a hearing in open court with comments by legal counsel places DMV and Commissioner Goodwin in a different legal posture than on February 29th, and thereby helps assuage the concerns and objections expressed at the February 29th legislative hearing.

Given the Committee's important work of oversight, the Division of Motor Vehicles has with the attached document made sincere efforts to address the questions included in your letter of April 4, 2024. It is in the spirit of cooperation with the Committee that these responses are being submitted. The Department of Transportation and its Division of Motor Vehicles stands willing to respond to your stated inquiries.

I thank you for your attention to this matter.

Respectfully,

DocuSigned by:



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William A. Marsh, III

Senior Deputy General Counsel

North Carolina Department of Transportation

Cc: Wayne Goodwin, Commissioner, NCDMV
Joey Hopkins, Secretary, NCDOT
Leigh Jackson, Legislative Affairs Director, NCDOT