



CRIMINAL DEFENSE  
DIVORCE & FAMILY LAW  
EDUCATION LAW  
CIVIL LITIGATION  
APPEALS

December 16, 2021

**VIA FEDERAL EXPRESS**

New Hanover County Courthouse  
Clerk of Superior Court  
316 Princess Street  
Wilmington, NC 28401

Re: *David A. Perry v. New Hanover County Board of Education, et al.*  
File No. 21 CVS 003915

Dear Clerk:

Enclosed you will find the original and two copies of Defendants' Answer to Complaint for filing in the above-referenced matter. Please return file-stamped copies of the Answer in the enclosed pre-addressed stamped envelopes to myself and David A. Perry that I have enclosed for your convenience.

If you have any questions, please feel free to contact Colin Shive or Maya Weinstein. I appreciate your assistance with this matter.

Sincerely,

THARRINGTON SMITH, L.L.P.

*/s/ Connor McDowell*

Connor McDowell

Enclosures as stated

C: David A. Perry (via U.S. Mail)

STATE OF NORTH CAROLINA  
NEW HANOVER COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 21 CVS 3915

DAVID A. PERRY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
NEW HANOVER COUNTY BOARD OF )  
EDUCATION; and )  
 )  
NEW HANOVER COUNTY SHERIFF'S )  
OFFICE, )  
 )  
 )  
Defendants. )

**ANSWER TO COMPLAINT**

Defendant New Hanover County Board of Education (“Board”), by and through counsel, responds to Plaintiff’s Complaint in this matter as follows:

**FIRST DEFENSE**  
**(Mootness)**

Plaintiff’s claims are moot and must be dismissed for lack of subject matter jurisdiction. The Board is no longer requiring that meeting attendees wear masks, which was the basis for Plaintiff’s claims; therefore, there is no issue in controversy.

**SECOND DEFENSE**  
**(Objection to Form of Plaintiff’s Complaint)**

N.C. Gen. Stat. § 1A-1, Rule 10(b) requires that the pleader state its claims or defenses in separately numbered paragraphs. Plaintiff’s Complaint is defective in that it contains paragraphs with allegations that are not numbered.

These pleadings defects render it difficult and confusing to respond to Plaintiff’s allegations. The Board has responded to Plaintiff’s Complaint as clearly as it could. To the extent

any allegation of Plaintiff's Complaint could be deemed not specifically or expressly responded to, that Paragraph is denied.

**THIRD DEFENSE**  
**(Answer)**

**INTRODUCTION**

The Board objects to the "Introduction" of the Complaint because it is not stated in a separately numbered paragraphs, in violation of N.C. Gen. Stat. § 1A-1, Rule 10(b). In further response to the "Introduction" of the Complaint, it is admitted that Plaintiff contends that he seeks a declaratory judgment, injunctive relief, and retrospective relief. Plaintiff's request for a preliminary injunction was denied by the Court. Except as herein specifically admitted, the allegations of the "Introduction" of the Complaint are denied.

**JURISDICTION**

The Board objects to the "Jurisdiction" allegations of the Complaint because they are not stated in separately numbered paragraphs, in violation of N.C. Gen. Stat. § 1A-1, Rule 10(b). In response to the allegations of the "Jurisdiction" section of the Complaint, it is admitted that the New Hanover County Board of Education and New Hanover County Sheriff's Office are located in New Hanover County, North Carolina. Except as herein specifically admitted, the Board lacks sufficient knowledge or information to form a belief as to the truth of the allegations relating to Plaintiff's residency; therefore, these allegations are denied. Except as herein specifically admitted or denied for lack of knowledge or information, the allegations of the "Jurisdiction" section of the Complaint are denied.

**STANDING**

The Board objects to the "Standing" allegations of the Complaint because they are not stated in separately numbered paragraphs, in violation of N.C. Gen. Stat. § 1A-1, Rule 10(b). In

response to the allegations of the “Standing” section of the Complaint, the allegations of this section amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of this section are denied.

### **PARTIES**

The Board admits that at the time of the filing of the Complaint, Stephanie Adams was the Board Chairperson, Nelson Beaulieu was the Board Vice-Chairperson, and Judy Justice, Stephanie Kraybill, Hugh McManus, Stephanie Walker, and Peter Wildeboar were all members of the New Hanover County Board of Education. The Board is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in this section; therefore, except as herein specifically admitted, the allegations of the “Parties” section of the Complaint are denied.

### **FACTS**

The Board objects to the “Facts” allegations of the Complaint because they are not stated in separately numbered paragraphs, in violation of N.C. Gen. Stat. § 1A-1, Rule 10(b). The Board lacks sufficient knowledge or information to form a belief as to the truth of the allegations in this section; therefore, the allegations of the “Facts” section of the Complaint are denied.

### **ALLEGATIONS**

1. It is admitted that the Board previously required people physically attending in-person meetings of the Board to wear masks. Speakers were allowed to remove their masks while delivering public comment. Board meetings are broadcast live on the school system’s YouTube page. Except as specifically admitted, this allegation is denied.

2. It is admitted the Board Chair has in certain instances asked Sheriff’s deputies to remove individuals who were not complying with the Board’s mask requirement. Allegations of

paragraph 2 relate to individuals other than the Board and therefore do not require a response.

To the extent a response is required, the allegations are denied. Except as specifically admitted herein, the allegations of paragraph 2 are denied.

3. The allegations of paragraph 3 amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 3 are denied.

4. The allegations of paragraph 4 amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 4 are denied.

5. The allegations of paragraph 5 amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 5 are denied.

6. The allegations of paragraph 6 are legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 6 are denied.

7. The allegations of paragraph 7 are legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 7 are denied.

8. The allegations of paragraph 8 are legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 8 are denied.

9. The Board lacks sufficient knowledge or information to form a belief as to the truth of the allegations of the first sentence of paragraph 9; therefore, the allegations of the first sentence of paragraph 9 are denied. The allegations of the second part of paragraph 9 amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of the second part of paragraph 9 are denied.

10. The allegations of paragraph 10 amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 10 are denied.

11. The allegations of paragraph 11 and its subparts amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 11 and its subparts are denied.

12. The allegations of paragraph 12 amount to legal conclusions to which no response is required. To the extent a response is required, the allegations of paragraph 12 are denied.

Each and every other allegation contained in the Complaint not specifically admitted, including in the introductory and unnumbered paragraphs, Conclusion, and Prayer for Relief, is denied.

**FOURTH DEFENSE**  
**(standing)**

Plaintiff's Complaint is subject to dismissal to the extent he lacks standing to assert any of his claims.

**FIFTH DEFENSE**  
**(statute of limitations)**

The Board pleads as an affirmative defense all statutes of limitation and repose applicable to Plaintiff's claims, including those set forth in § 143-318.16A.

**ADDITIONAL DEFENSES**

The Board reserves the right to amend its Answer and to assert any additional defenses as the claims of Plaintiff are more fully disclosed and additional evidence is discovered during the course of this litigation.

**DEFENDANT'S PRAYER FOR RELIEF**

WHEREFORE, defendant the New Hanover County Board of Education respectfully prays the Court that:

1. Each and every remaining cause of action be dismissed with prejudice;

2. Plaintiff have and recover nothing of the Board;
3. Plaintiff's prayer for relief be denied in its entirety;
4. The costs of this action be taxed against Plaintiff; and
5. For such other relief as the Court may deem just and proper.

This the 15th day of December, 2021.

THARRINGTON SMITH, L.L.P.



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Attorneys for School Board Defendants

**CERTIFICATE OF SERVICE**

I certify that a copy of the attached **ANSWER** was served upon plaintiff this date via Federal Express and electronic mail addressed to:

David A. Perry  
4709 Cornus Drive  
Wilmington, NC 28412  
[dperrync@icloud.com](mailto:dperrync@icloud.com)  
*Pro Se Plaintiff*

This the 16<sup>th</sup> day of December 2021.

  
THARRINGTON SMITH, L.L.P.