

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
CIVIL ACTION FILE NO. 1:12-CV-589

MARCIE FISHER-BORNE, for herself and as )  
guardian *ad litem* for M.F.-B., a minor; )  
CHANTELLE FISHER-BORNE, for herself )  
and as guardian *ad litem* for E.F.-B., a minor; )  
TERRI BECK; LESLIE ZANAGLIO, for )  
herself and as guardian *ad litem* for T.B.Z. and )  
D.B.Z., both minors; SHANA CARIGNAN; )  
MEGAN PARKER, for herself and as guardian )  
*ad litem* for J.C., a minor; LEIGH SMITH; )  
CRYSTAL HENDRIX, for herself and as )  
guardian *ad litem* for J.H.-S., a minor; DANA )  
DRAA; LEE KNIGHT CAFFERY, for herself )  
and as guardian *ad litem* for M.M.C.D. and )  
M.L.C.D., both minors; SHAWN LONG; )  
CRAIG JOHNSON, for himself and as guardian )  
*ad litem* for I.J.-L., a minor; )

Plaintiffs,

vs.

JOHN W. SMITH, in his official capacity as the )  
Director of North Carolina Administrative )  
Office of the Courts; THE HONORABLE )  
DAVID L. CHURCHILL, in his official )  
capacity as Clerk of the Superior Court for )  
Guilford County; and THE HONORABLE )  
ARCHIE L. SMITH III, in his official capacity )  
as Clerk of the Superior Court for Durham )  
County; )

Defendants.

**MOTION TO DISMISS THE  
COMPLAINT**  
[Fed. R. Civ. P. 12(b)(1) and (6)]

PURSUANT to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure, now come Defendant John W. Smith, in his official capacity as the Director of North Carolina Administrative Office of the Courts; THE HONORABLE DAVID L. CHURCHILL, in his official capacity as Clerk of the Superior Court for Guilford County; and THE HONORABLE ARCHIE L. SMITH III, in his

official capacity as Clerk of the Superior Court for Durham County, by and through the undersigned attorneys, and respectfully move the Court to dismiss in its entirety the Plaintiffs' Complaint in the above-captioned matter.

Respectfully submitted, this the 6<sup>th</sup> day of August, 2012

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Attorney General

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*Counsel for Defendants*

## CERTIFICATE OF SERVICE

I hereby certify that on 6<sup>th</sup> of August, 2012, I electronically filed the foregoing **DEFENDANTS MOTION TO DISMISS THE COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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This the 6<sup>th</sup> day of August 2012.

/s/ Grady L. Balentine, Jr.  
Special Deputy Attorney General