

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No: 5:23-cv-00489-D-BM**

CHRISTOPHER CAUDILL; RACHEL)		
NIKETOPOULOS; and DAVID)		
FRIEDLANDER, A/K/A DOVID)		
FRIEDLANDER)		
)		
Plaintiff(s))		
)		
v.)		NORTH CAROLINA DEPARTMENT
)		OF NATURAL AND CULTURAL
)		RESOURCES MOTION TO DISMISS
THE NORTH CAROLINA)		PLAINTIFFS’ COMPLAINT
SYMPHONY SOCIETY, INC.; THE)		
NORTH CAROLINA DEPARTMENT)		[Fed. R. Civ. P. 12(b)(1), (2) and (6)]
OF NATURAL AND CULTURAL)		
RESOURCES; and SANDI)		
MACDONALD)		
)		
Defendant(s))		

Now comes Defendant the North Carolina Department of Natural and Cultural Resources (“NCDNCR”), and respectfully submits this motion to dismiss Plaintiffs’ Complaint in the above-captioned action against NCDNCR pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(2) and 12(b)(6). Plaintiffs’ Complaint should be dismissed for lack of personal and/or subject matter jurisdiction and Plaintiffs’ failure to state a claim upon which relief can be granted. Defendant NCDNCR moves the Court to dismiss this matter because Plaintiffs were not, at any time alleged in the Complaint and particularly, at the time of the employment separation, employees of NCDNCR or, the State of North

Carolina. This Court lacks personal and/or subject matter jurisdiction to adjudicate this cause of action and Plaintiffs' have failed to state a claim upon which relief can be granted due to Plaintiffs' failure to exhaust administrative remedies. In support of this motion, State Defendants rely on the factual grounds, arguments and legal authorities set forth in the accompanying brief.

Respectfully submitted, this the 3rd day of November, 2023.

JOSHUA H. STEIN
ATTORNEY GENERAL

Electronically Submitted
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