



Terri Lee Tolley
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December 27, 2016

VIA FEDERAL EXPRESS

Honorable David J.P. Barber
Clerk of Court
Alamance County Courthouse
212 West Elm Street
Graham, NC 27253

Re: Janice Thompson, et al. v. State of North Carolina, et al.

Dear Honorable Barber:

In regards to the above referenced matter, enclosed please find the following

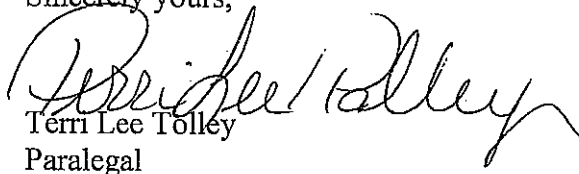
- 1) An original and one copy of the initial filing cover sheet;
- 2) An original and one copy of the above referenced complaint;
- 3) Multiple copies of the summonses to State of North Carolina to be issued by your office;
- 4) Multiple copies of the summonses to Patrick McCrory to be issued by your office;
- 5) Multiple copies of the summonses to North Carolina State Lottery Commission to be issued by your office;
- 6) Multiple copies of the summonses to Alice Garland to be issued by your office;
- 7) Multiple copies of the summonses to North Carolina Alcohol Law Enforcement Division c/o Roy Cooper, Attorney General to be issued by your office;
- 8) Multiple copies of the summonses to North Carolina Alcohol Law Enforcement Division c/o Deborah L. McSwain, General Counsel for North Carolina Department of Public Safety to be issued by your office;

- 9) Multiple copies of the summonses to North Carolina Alcohol Law Enforcement Division c/o Angel Gray, Legal Counsel for State Bureau of Investigation to be issued by your office;
- 10) Multiple copies of the summonses to Mark Senter c/o Roy Cooper, Attorney General to be issued by your office;
- 11) Multiple copies of the summonses to Mark Senter c/o Deborah L. McSwain, General Counsel for North Carolina Department of Public Safety to be issued by your office;
- 12) Multiple copies of the summonses to Mark Senter c/o Angel Gray, Legal Counsel for State Bureau of Investigation to be issued by your office;
- 13) Our filing fee for \$200.00

Please file the original documents and return the file-stamped copies and issued summonses to me in the enclosed Federal Express return envelope.

Thank you for your assistance this matter. Should you have any questions or concerns, please do not hesitate to contact us.

Sincerely yours,


Terri Lee Tolley
Paralegal

Enclosures

STATE OF NORTH CAROLINA

File No.

16CV52324

ALAMANCE

County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

VERSUS

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark J. Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

PATRICK MCCRORY, Governor of the State of North Carolina
Office of the Governor c/o Robert C. Stephens, General Counsel
20301 Mail Service Center

Raleigh, NC

27699-0301

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

12-29-16

Time

2:07

☐ AM

☒ PM

Signature

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served

Time Served

☐ AM ☐ PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served

Time Served

☐ AM ☐ PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid
\$

Signature Of Deputy Sheriff Making Return

Date Received

Name Of Sheriff (type or print)

Date Of Return

County Of Sheriff

STATE OF NORTH CAROLINA

File No.

16CVS 2324

ALAMANCE County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

VERSUS

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

NORTH CAROLINA ALCOHOL LAW ENFORCEMENT DIV.
c/o Roy Cooper, Attorney General
9001 Mail Service Center
Raleigh NC 27699-9001

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

12-29-16

Time

8:07

☐ AM

☒ PM

Signature

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served

Time Served

☐ AM ☐ PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served

Time Served

☐ AM ☐ PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return

Date Received

Name Of Sheriff (type or print)

Date Of Return

County Of Sheriff

STATE OF NORTH CAROLINA

File No.

16CVS2324

ALAMANCE

County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

NORTH CAROLINA ALCOHOL LAW ENFORCEMENT DIV.
c/o Angel E. Gray, Legal Counsel for State Bureau of Investigation
P.O. Box 29500

Raleigh

NC

27626

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

12-29-16

Time

2:07

☐ AM☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ **ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA

File No.

16CVS2324

ALAMANCE

County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State
Lottery Commission; Alice Garland; North Carolina Alcohol Law
Enforcement Division; Mark J. Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

STATE OF NORTH CAROLINA
c/o Roy Cooper, Attorney General
9001 Mail Service Center
Raleigh NC 27699-9001

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

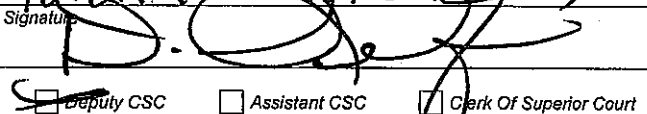
12-29-16

Time

2:07

☐ AM☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ **ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA

ALAMANCE County

File No. 16CV52324

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff Janice Thompson, et al.
Address
City, State, Zip
VERSUS
Name Of Defendant(s) State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark Senter

CIVIL SUMMONS	
<input type="checkbox"/> ALIAS AND PLURIES SUMMONS (ASSESS FEE)	
G.S. 1A-1, Rules 3 and 4	
Date Original Summons Issued	
Date(s) Subsequent Summons(es) Issued	

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1 NORTH CAROLINA ALCOHOL LAW ENFORCEMENT DIV. c/o Deborah L. McSwain, General Counsel for NCDPS 4201 Mail Service Center Raleigh NC 27699-4201	Name And Address Of Defendant 2
--	---------------------------------

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff) William J. Brian, Jr. / Keith P. Anthony Morningstar Law Group 112 West Main Street, Second Floor Durham, NC 27701	Date Issued 12-29-16	Time 2:07	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM
	Signature 		
<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court			

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM
Signature		
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1**Date Served****Time Served**☐ AM ☐ PM**Name Of Defendant**

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2**Date Served****Time Served**☐ AM ☐ PM**Name Of Defendant**

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return**Date Received****Name Of Sheriff (type or print)****Date Of Return****County Of Sheriff**

STATE OF NORTH CAROLINA

ALAMANCE County

File No.

16CVS 2324

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

VERSUS**CIVIL SUMMONS**☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

MARK SENTER, Branch Head Alcohol Law Enforcement Div.
c/o Roy Cooper, Attorney General
9001 Mail Service Center
Raleigh NC 27699-9001

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

Signature

Time

☐ AM☒ PM☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ **ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
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Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA

ALAMANCE County

File No.

16CVS2324

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

NORTH CAROLINA STATE LOTTERY COMMISSION
c/o Roy Cooper, Attorney General
9001 Mail Service Center
Raleigh NC 27699-9001

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

12-29-16

Time

8:07

☐ AM☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ **ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1**Date Served****Time Served**☐ AM ☐ PM**Name Of Defendant**

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2**Date Served****Time Served**☐ AM ☐ PM**Name Of Defendant**

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
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Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return**Date Received****Name Of Sheriff (type or print)****Date Of Return****County Of Sheriff**

STATE OF NORTH CAROLINA

File No.

100CVS 2324

ALAMANCE County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

VERSUS

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

MARK SENTER, Branch Head Alcohol Law Enforcement Div.
 c/o Deborah L. McSwain, General Counsel for NCDPS
 4201 Mail Service Center
 Raleigh NC 27699-4201

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
 Morningstar Law Group
 112 West Main Street, Second Floor
 Durham, NC 27701

Date Issued

Signature

Time

☐ AM ☒ PM

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served

Time Served

☐

AM

☐

PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
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- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served

Time Served

☐

AM

☐

PM

Name Of Defendant

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- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return

Date Received

Name Of Sheriff (type or print)

Date Of Return

County Of Sheriff

STATE OF NORTH CAROLINA

File No.

16CVS2324

ALAMANCE County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

VERSUS**CIVIL SUMMONS**☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State
Lottery Commission; Alice Garland; North Carolina Alcohol Law
Enforcement Division; Mark Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

MARK SENTER, Branch Head Alcohol Law Enforcement Div.
c/o Angel E. Gray, Legal Counsel for State Bureau of Investigation
P.O. Box 29500
Raleigh NC 27626

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

Signature

Time

☐ AM ☒ PM☒ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court☐ **ENDORSEMENT (ASSESS FEE)**This Summons was originally issued on the date indicated
above and returned not served. At the request of the plaintiff,
the time within which this Summons must be served is
extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1*Date Served**Time Served*☐

AM

☐

PM

Name Of Defendant

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Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2*Date Served**Time Served*☐

AM

☐

PM

Name Of Defendant

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Service Fee Paid

\$

*Signature Of Deputy Sheriff Making Return**Date Received**Name Of Sheriff (type or print)**Date Of Return**County Of Sheriff*

STATE OF NORTH CAROLINA

File No.

16CVS 2324

ALAMANCE County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

Janice Thompson, et al.

Address

City, State, Zip

CIVIL SUMMONS☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

VERSUS

Name Of Defendant(s)

State of North Carolina; Patrick McCrory; North Carolina State Lottery Commission; Alice Garland; North Carolina Alcohol Law Enforcement Division; Mark Senter

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Alice Garland, Executive Director of the NC Education Lottery
c/o Roy Cooper, Attorney General
9001 Mail Service Center
Raleigh NC 27699-9001

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

William J. Brian, Jr. / Keith P. Anthony
Morningstar Law Group
112 West Main Street, Second Floor
Durham, NC 27701

Date Issued

Time

Signature

☐ AM ☒ PM☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ **ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
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- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
<i>Date Of Return</i>	<i>County Of Sheriff</i>

STATE OF NORTH CAROLINA

COUNTY OF ALAMANCE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

16-CVS-2324


JANICE THOMPSON; N.C. CITIZENS FOR
FREE ENTERPRISE, INC.; MOORE'S
COUNTRY STORE, LLC; PIRATES LOOT
HEADQUARTERS, LLC; CRAZIE
OVERSTOCK PROMOTIONS LLC;
ARTIFICIAL GRAVITY, INC., and DENNIS
STINNES

Plaintiffs,

v.

STATE OF NORTH CAROLINA; PATRICK
McCRORY, in his official capacity as the
Governor of the State of North Carolina;
NORTH CAROLINA STATE LOTTERY
COMMISSION; ALICE GARLAND, in her
official capacity as Executive Director of the
North Carolina Education Lottery; NORTH
CAROLINA ALCOHOL LAW
ENFORCEMENT DIVISION; MARK J.
SENDER, in his official capacity as Branch
Head of the Alcohol Law Enforcement
Division;

Defendants.

FILED
2016 DEC 29 PM 2:07
ALAMANCE COUNTY, C.S.C.
BY 

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF, AND
ATTORNEYS' FEES**
(Jury Trial Demanded)

NOW COME Plaintiffs Janice Thompson, N.C. Citizens for Free Enterprise, Inc.,
Moore's County Store, LLC, Pirates Loot Headquarters, LLC, Crazie Overstock Promotions
LLC, Artificial Gravity, Inc., and Dennis Stinnes ("collectively, Plaintiffs"), by and through
counsel and hereby complain of the Defendants as follows:

NATURE OF ACTION

This lawsuit concerns the Defendants' wrongful use of the State's police power to create
and enforce an unlawful State-owned gaming monopoly. Through the operation of the North

Carolina Education Lottery ("the Lottery"), the Defendants have fully committed to operating a gaming business within the State for purposes of raising revenue -- the very type of business that the State once claimed was evil and corrupted society. As the State has become increasingly dependent upon revenue raised from the Lottery, it has sought aggressively to increase revenue by enticing new customers to play the Lottery, and enticing existing customers to play the Lottery more frequently. Additionally, in furtherance of their monopoly, Defendants have used the police power of the State (through the North Carolina Alcohol Law Enforcement agency) to close down, through the use of force and other forms of coercion, all businesses offered by the Plaintiffs and others, which offer lawful electronic sweepstakes and rewards promotions, because Defendants believe such promotions compete with the Lottery and thereby reduce the Lottery's potential revenue. In doing so, the State has acted without regard to whether the electronic sweepstakes or rewards promotions offered by such businesses comply with the law.

Long ago the North Carolina Supreme Court worried about the inherent harm and potential abuse of police power when the government raises revenue through gaming operations:

Suffice it to say that one of the evil and demoralizing influences of organized gambling, legalized or unlawful, is its insidious tendency to infiltrate and to control those agencies of government charged with the duty either of controlling or of suppressing its operations. When revenues from gambling operations become a substantial part of the public revenues of a county, the task of cutting loose requires a major and difficult operation. No idea of controlling gambling is apparent from a reading of the 1949 Currituck Act. The reverse is true. The more extensive the gambling operations become, the greater the revenues to Currituck County and the greater the revenues to the holder of the franchise. Neither an individual nor a community can gamble his or its way to an enduring prosperity.

State v. Felton, 239 N.C. 575, 588, 80 S.E.2d 625, 635 (1954). As shown in this Complaint, Defendants have fallen into the same trap of dependence upon the revenue generated by the Lottery, which has resulted in the abuse of the State's police power in order to create and protect a State-owned monopoly for the purpose of increasing Lottery revenue.

Plaintiffs seek declaratory and injunctive relief validating that they may offer lawful electronic sweepstakes and reward promotions in connection with the sale of lawful products and restraining the State from interfering with those lawful businesses, and in the alternative, a declaration that the State's adoption of a Lottery and enforcement of its gaming monopoly through its police powers has rendered all of its anti-gaming and gambling laws ineffective, and an injunction restraining the State from enforcing any of those laws under any circumstances. Plaintiffs also seek recovery of their attorneys' fees and costs.

PARTIES

1. Plaintiff Janice Thompson ("Thompson") is an individual citizen and resident of Edgecombe County, North Carolina.
2. Plaintiff Dennis Stinnes ("Stinnes"), is an individual citizen and resident of Rockingham County, North Carolina.
3. Plaintiff Moore's Country Store, LLC ("Country Store") is a North Carolina limited liability company with a principal place of business in Scotland County, North Carolina.
4. Plaintiff Pirates Loot Headquarters, LLC ("Pirates Loot") is a North Carolina limited liability company with a principal place of business in Carteret County, North Carolina.
5. Plaintiff N.C. Citizens For Free Enterprise, Inc. is a North Carolina non-profit corporation which was formed for the purpose of representing the interests of businesses which offer electronic promotions and sweepstakes to promote the sale of lawful products, and also the interests of companies and individuals doing business in North Carolina which develop games, promotions and electronic sweepstakes software, and also the companies and individuals which distribute software for promotions and electronic sweepstakes to the businesses that offer those promotions to the public.

6. N.C. Citizens For Free Enterprise, Inc. maintains its principal offices in Alamance County, North Carolina.

7. N.C. Citizens For Free Enterprise, Inc.'s role as a Plaintiff in this lawsuit is to represent the interests of hundreds of individuals and businesses in North Carolina which offer electronic promotions and sweepstakes to advance their lawful businesses, develop and supply the software which operates such electronic promotions and sweepstakes, or distribute that software to the businesses which offer it to the general public.

8. Plaintiff Artificial Gravity, Inc. ("Artificial Gravity") is a corporation organized and existing under the laws of the State of North Carolina, and operates a business located in Lenoir County, North Carolina.

9. Plaintiff Crazie Overstock is limited liability company organized and existing under the laws of the State of Delaware. Crazie Overstock is duly authorized to do business in the state of North Carolina, and has conducted business throughout the State of North Carolina, including in Alamance where it was subjected to the wrongs complained of herein by the Defendants.

10. Defendant State of North Carolina is one of the sovereign states of the United States of America in which all of the law enforcement authority permitted by the United States Constitution and the Constitution of the State of North Carolina is vested, subject to the enactments of the North Carolina General Assembly as duly ratified. All law enforcement agencies which purport to enforce enactments of the North Carolina General Assembly do so in the name of the State of North Carolina. All prosecutors who purport to prosecute violations of North Carolina laws, do so in the name of the State of North Carolina.

11. Defendant Governor Patrick McCrory ("the Governor") is the Governor of the State of North Carolina, and is responsible for overseeing all State agencies. Pursuant to N.C. Gen. Stat. § 143B-919, the Governor is authorized to direct the North Carolina State Bureau of Investigation and the North Carolina Alcohol Law Enforcement Division to investigate "violations of the gaming laws, and lottery laws, and matters of similar kind."

12. Upon information and belief, the Governor has exercised oversight and direction of the North Carolina Alcohol Law Enforcement Division with regard to its enforcement of the State's lottery and gambling laws, as alleged in this Complaint.

13. Defendant Alice Garland ("Garland") is the Executive Director of the North Carolina Education Lottery. Upon information and belief, Garland coordinates and collaborates with law enforcement authorities, including ALE, regarding investigations related to the Lottery, the enforcement of the North Carolina criminal statutes related to the Lottery, gambling, video sweepstakes, and the like, and the actions alleged in this Complaint.

14. Defendant North Carolina State Lottery Commission ("Lottery Commission") is an independent, self-supporting and revenue-raising entity, created pursuant to N.C. Gen. Stat. § 118C-110. The Lottery Commission is responsible for specifying the types of lottery games and gaming technology to be used in the Lottery. It also is responsible for determining the number and value of prizes for winning tickets or shares in lottery games, the rules for the lottery games, the method of determining winners, and the sales price for tickets.

15. The Governor is responsible for the appointment of a majority of the members of the Lottery Commission. The Governor also selects the chair of the Commission, who serves at the pleasure of the Governor.

16. Upon information and belief, through his appointment powers and control over the Chair, the Governor has substantial control, authority and influence over the Lottery Commission, and in fact has exercised such control, authority and influence with regard to the actions of the Lottery Commission.

17. Defendant Alcohol Law Enforcement Division ("ALE") is a branch of the North Carolina State Bureau of Investigation, which is a division of the North Carolina Department of Public Safety, and an agency of the State of North Carolina. ALE is a statewide police force operated by the State, which enforces the State's laws related to gambling and the Lottery, among other things.

18. Defendant Mark J. Senter is the Branch Head of ALE.

JURISDICTION AND VENUE

19. This Court has jurisdiction over the parties to this action and the subject matter of this action pursuant to the North Carolina Declaratory Judgment Act, N.C. Gen. Stat. § 1-253, *et seq.*

20. Venue is proper in Alamance County pursuant to North Carolina General Statute § 1-77 because some of the causes of action alleged arose in Alamance County.

FACTUAL BACKGROUND

Sales Promotions

21. Plaintiffs operate lawful businesses which use lawful sweepstakes and rewards promotions to market and promote the sale of legitimate business and consumer products.

22. Sweepstakes promotions and other types of cash-back rewards programs help retailers create a competitive edge, increase repeat business, attract customers, and increase

brand awareness, and are utilized by many respected national companies which operate in North Carolina, such as, Coca-Cola, Best Buy, Sears, Kohl's, Staples, CVS, and Harris Teeter.

23. Products sold by Plaintiffs include items such as gift certificates, pre-paid long distance telephone cards, and internet time.

24. The products sold by Plaintiffs are legitimate products sold at competitive market prices.

25. Plaintiffs use sales promotions, which include electronic sweepstakes and other types of electronic reward promotions to market the sale of their products (collectively, the "Sales Promotions").

26. Plaintiffs have made good faith efforts to develop or use Sales Promotions that comply with the law and do not otherwise violate any criminal law.

27. The specific Sales Promotions offered or promoted by Plaintiffs vary in their operation, but have the following components in common:

- a. a simulated electronic reel game;
- b. a skill or dexterity based test, in which the customer must carefully exercise skill and/or dexterity in order to successfully complete a test before any reward can be obtained.

28. Customers who are successful at the Sale Promotions typically are eligible to win cash prizes or other things of value as rewards upon the successful completion of the dexterity and skill based portions of the Sales Promotion.

29. Entry into the Sales Promotions is always free. Customers receive free entries into the Sales Promotion with the purchase of products, but always can obtain free entries without purchase simply by requesting free entries. Customers do not pay any additional

consideration beyond the purchase price of the products being sold for the right to participate in the Sales Promotions.

30. Participation in the Sales Promotions also is entirely voluntary. A customer is not required to participate in the Sales Promotion.

Thompson Sales Promotions

31. At all times relevant to this matter Thompson operated an internet café in Kinston, North Carolina called Clover City.

32. At all times relevant to this matter Thompson also operated an internet café in Farmville, North Carolina which also was called Clover City.

33. The two cafes operated by Thompson are referred to herein as the Thompson Cafes.

34. The Thompson Cafes both sold internet time, which is a legitimate product sold by many other types of businesses, including hotels, airports, copy centers, commercial printers and independent internet cafes.

35. Both Thompson Café's offered a Sales Promotion that depended upon the skill and dexterity of the player to award a prize of any kind.

36. The Sales Promotions offered at the Thompson Cafés were offered for the purpose of attracting customers to purchase internet time.

Stinnes Sales Promotions

37. At all times relevant to this matter Stinnes, through a wholly-owned limited liability company operated an internet café in Madison, North Carolina, called Lucky Duck Internet Café (the "Stinnes Café").

38. The Stinnes Café sold internet time to customers.

39. The internet time sold by the Stinnes Café was a legitimate business product.

40. The Stinnes Café offered Sales Promotions that depended upon the skill and dexterity of the player to award a prize of any kind.

41. The Sales Promotions offered at the Stinnes Café were offered for the purpose of attracting customers to purchase internet time.

County Store Sales Promotion

42. The Country Store operated an internet café in Laurel Hill, North Carolina, which sold internet time to customers.

43. The internet time sold by the County Store was a legitimate business product.

44. The Country Store offered Sales Promotions that depended upon the skill and dexterity of the player to award a prize of any kind.

45. The Sales Promotions offered at the County Store were offered for the purpose of attracting customers to purchase internet time.

46. The Country Store temporarily shut down its internet café as a result of raids conducted by local law enforcement under the direction of ALE. Although the internet café is temporarily closed, the Country Store plans on reopening the café as soon as its right to reopen has been established through the course of this lawsuit.

Pirates Loot Sales Promotion

47. Pirates Loot owns and operates a retail store in Beaufort, North Carolina.

48. Pirate Loot sells gift certificates to certificate-deals.com, which may be used to purchase various consumer products through an on-line store operated by certificate-deals.com. These gift certificates are legitimate products.

49. Pirates Loot offers Sales Promotions that depend upon the skill and dexterity of the player to award a prize of any kind.

50. The Sales Promotions offered by the Pirates Loot are offered for the purpose of attracting customers to purchase their gift certificates.

Artificial Gravity Sales Promotion

51. Artificial Gravity operates an internet café in Lenoir County under the trade name Emerald City Internet Café.

52. Artificial Gravity sells internet time at the Emerald City Internet Cafe, which is a legitimate product.

53. Artificial Gravity offers Sales Promotions at the Emerald City Internet Café that depends upon the skill and dexterity of the player to award a prize of any kind.

54. The Sales Promotions offered at Emerald City Internet Café are offered for the purpose of attracting customers to purchase internet time.

Crazie Overstock Sales Promotion

55. Crazie Overstock is a retail merchandise business that sells discount goods, such as furniture, jewelry, kitchen goods, movies, music and electronics on its website (crazieoverstock.com) and licenses retail establishments to promote the sale of its goods. Customers may view goods offered by Crazie Overstock both in retail showrooms and on Crazie Overstock's website, but goods (other than floor models which occasionally are sold in retail showrooms) generally must be purchased through Crazie Overstock's website.

56. Retail showrooms, which are operated by independent owners, promote the goods sold by Crazie Overstock ("Retail Establishments").

57. Each Retail Establishment features a showroom displaying sample goods that are available through the Crazie Overstock website. In addition, Retail Establishments have computers connected to the Internet, through which customers may order products from Crazie Overstock's website. These computers are known as "Order Stations."

58. The price for each item sold by Crazie Overstock varies, but is competitive with the prices charged by other vendors that sell the same or similar goods. Crazie Overstock's shipping and handling charges also are competitive with the rates charged by other on-line retailers of similar goods. The total price of each item sold, including the shipping and handling charges, is competitive with the total prices charged by other vendors that sell the same or similar goods.

59. Customers either may order goods through the Crazie Overstock website and pay for them using a credit card, or they may purchase electronic gift certificates at Retail Establishments, which then can be redeemed through the Crazie Overstock website to purchase goods.

60. Customers who purchase electronic gift certificates at Retail Establishments pay \$1 for each \$1 of credit on a gift certificate, (i.e. \$20 worth of gift certificates costs \$20.00). Each customer who buys an electronic gift certificate is issued a receipt with a gift certificate number.

61. Customers may transfer gift certificates freely to others. Any holder of a gift certificate may redeem it for credit on the Crazie Overstock website. Therefore, gift certificates may be purchased and given to others as gifts like any other gift certificate of the kind commonly sold at many retail establishments, including restaurants, grocery stores, department stores, drug stores, bookstores and hard good stores.

62. Customers may use their gift certificates to purchase goods through the Crazie Overstock website.

63. Consistent with North Carolina law, Crazie Overstock has developed a Sales Promotion for the purpose of marketing and promoting the sale of the electronic gift certificates that are used to purchase products from its website (the "CO Rewards Program").

64. The CO Rewards Program has two components: (a) reward games; and (b) a dexterity test. Customers who successfully complete the dexterity test may receive cash back rewards. No aspect of the CO Rewards Program constitutes a "sweepstakes" under the Video Sweepstakes Law or otherwise violates the Gambling Statutes.

65. Crazie Overstock developed the software for the CO Rewards Program and licenses the software to its Retail Establishments for a fee. Crazie Overstock also supplies its Retail Establishments with the electronic gift certificates that are sold to customers as the Retail Establishments.

66. The operations of each of Plaintiffs' Sales Promotions require the use of computers, servers, software and other electronic equipment, which are installed at retail stores located throughout the State (collectively, the "Sales Promotion Equipment").

67. Plaintiffs have invested substantial resources to develop, acquire and sell the Sales Promotion Equipment and other property.

68. Retail operators, such as Janice Thompson, Moore's Country Store, LLC, Pirates Loot Headquarters, LLC, Artificial Gravity, and Dennis Stinnes, either purchase Sales Promotion Equipment directly at their own expense or license the equipment from a supplier or software company and pay a monthly license fee.

69. Suppliers or software companies, such as Crazie Overstock, provide the products that are being sold by the retail operators, and typically develop the software for the Sales Promotions Equipment, which they license to retailers.

70. In addition to retail operators and supplies, distributors assist suppliers and retail operators by distributing the software developed by suppliers to operators, helping to troubleshoot problems with that software, and selling out new customers for that software.

71. Through their actions and efforts, including among other things, their efforts to develop, utilize and offer Sales Promotions that comply with the law, Plaintiffs, including the businesses represented by N.C. Citizens for Free Enterprise, Inc., have developed good will, which is highly valuable for expanding its business, including by attracting and maintaining customers, among other things.

72. Plaintiffs have a property right in their good will, their Sales Promotions Equipment, their right to use lawful marketing techniques, and their right to operate a lawful business.

Legality of Sales Promotions in North Carolina

73. North Carolina common law does not prohibit the operation or use of sweepstakes or rewards promotions, lotteries, or any other form of gaming.

74. The Sales Promotions are lawful in North Carolina unless they violate North Carolina General Statutes §§ 14-289, 14-292, 14-306, 14-306.1A or 14-306.3 ("NC Gambling Statutes") or North Carolina General Statute § 14-306.4 (the "Video Sweepstakes Law").

75. The Gambling Statutes and the Video Sweepstakes Law do not make all electronic sweepstakes or rewards promotions, including the Sales Promotions, illegal.

76. If the General Assembly wanted to make all electronic sweepstakes and rewards promotions, including the Sales Promotions, illegal, it easily could have done so by drafting a simple statute or set of statutes prohibiting all electronic sweepstakes and rewards promotions.

77. Instead, the North Carolina General Assembly carefully crafted the Gambling Statutes and the Video Sweepstakes Law to prohibit only certain types of electronic sweepstakes and rewards promotions.

78. The Sales Promotions violate the Gambling Statutes and the Video Sweepstakes Law if and only if they are operated in the manner prohibited by the Gambling Statutes and the Video Sweepstakes Law.

79. If the Sales Promotions do not operate in the manner prohibited by the Gambling Statutes and the Video Sweepstakes Law, then they do not violate those laws and may be offered legally by business owners in North Carolina without interference by law enforcement.

80. The legality of some electronic sweepstakes and reward promotions, including the Sales Promotions, has been tested in court in North Carolina and have been found not to violate the Gambling Statutes or the Video Sweepstakes Law.

81. The Sales Promotions do not violate the Gambling Statutes or the Video Sweepstakes Law.

Pre-Lottery Enforcement of Gambling Statutes and Video Sweepstakes Law

82. Historically, local law enforcement (i.e. local police and sheriff's departments) enforced the Gambling Statutes and the Video Sweepstakes Law.

83. While the practice of local law enforcement varied from jurisdiction to jurisdiction in North Carolina before the adoption of the Lottery, the State and ALE largely were uninvolved with the enforcement of the Gambling Statutes and the Video Sweepstakes Law as it

related to use of electronic sweepstakes and reward games, except with regard to criminal prosecutions by local district attorneys of violations of the Gambling Statutes and the Video Sweepstakes Law after arrests had been made by local law enforcement officers.

84. The State and ALE generally let local law enforcement and local district attorneys decide how to enforce the Gambling Statutes and Video Sweepstakes Law within their own jurisdictions.

85. However, after the State adopted the Lottery and became increasingly dependent upon revenues raised by the Lottery, the State and ALE began using their police power to eliminate all electronic sweepstakes and reward promotions, including the Sales Promotions, regardless of their legality, in order to protect the Lottery and to increase its sales, because the State views electronic sweepstakes and reward promotions, including the Sales Promotions, as competition for the Lottery.

The North Carolina Education Lottery

86. In 2005, the State enacted the North Carolina Lottery Act, N.C. Gen. Stat. § 18C-101, *et seq.* ("Lottery Act"), which adopted the state-run Lottery. The Lottery began operating in March 2006.

87. Prior to the enactment of the Lottery Act, the Gambling Statutes made all lotteries (as defined by the Gambling Statutes) illegal in North Carolina. Accordingly, neither the state nor private enterprises could lawfully operate a lottery (as defined by the Gambling Statutes).

88. The Lottery consists of pure games of chance which would violate the Gambling Statutes if offered by anyone other than the Lottery Commission.

89. However, when the State enacted the Lottery Act, it modified the Gambling Statutes to allow for the operation of the Lottery as an exception to the Gambling Statutes.

90. The Lottery is operated by the Lottery Commission, which was established pursuant to the Lottery Act. According to the Act, the Lottery Commission "is an independent, self-supporting and revenue raising agency of the State."

91. Upon information and belief, the Lottery Commission's only revenue, or the vast majority of its revenue, comes from the sale of Lottery tickets.

92. The Lottery Commission sells entertaining games of chance, which gives the purchaser a chance to win cash prizes in amounts which have varied from \$1 on the low end to over \$1 billion on the high end. The cash prizes may be paid over a period of years or in a single lump sum payment.

93. The Lottery Commission currently offers six (6) different draw games consisting of *Powerball*, *Mega Millions*, *Carolina Cash 5*, *Carolina Pick 3*, *Carolina Pick 4*, and *Lucky for Life*, which feature balls being randomly selected by a machine on certain days of the week.

94. The Lottery Commission also currently offers instant scratch-off tickets, which show prizes that are revealed instantly when customers scratch off a film on the tickets.

95. The cost to customers to purchase scratch-off tickets runs from \$1.00 to \$30.00 per ticket, depending upon the game.

96. The Lottery is a State-owned proprietary commercial enterprise which is operated to generate a profit, so that the operational costs and the value of the cash prizes are less than the amount of revenue raised by the sale of Lottery tickets.

97. The profits generated by the Lottery Commission are used by the State to supplement its income from taxation, fees and other similar sources of revenue to fund its annual budget.

98. The express statutory purpose for the adoption of the Lottery Act is "to establish a State-operated lottery to generate funds for the public purposes described in this Chapter."

99. Expressly stated goals of the Lottery Commission include maximizing revenue and increasing revenue, year over year.

100. The State's and the Lottery Commission's objective in operating the Lottery is not to protect the public from gaming or lotteries. Instead, their joint purpose in operating the Lottery is to raise money for the State by encouraging people to play the Lottery's games of chance.

101. The State and the Lottery Commission are not operating the Lottery for the purpose of protecting the health, morals, order, safety or the general welfare of society.

102. The protection of the health, morals, order, safety or the general welfare of society is not a purpose expressed under the Lottery Act.

103. The Lottery Act does not seek to suppress gaming activity, but rather seeks to encourage gaming activity conducted by and through the State.

104. The Lottery Act does not seek to regulate gaming activity offered by persons other than the State.

105. Operating a commercial enterprise for the purpose of generating increasing revenue for the State each year does not constitute the protection of the health, morals, order, safety or the general welfare of society.

106. The State's and the Lottery Commission's operation of the Lottery is not a governmental function. It is a proprietary function.

107. The State's and the Lottery Commission's operation of the Lottery is not an exercise of the State's police power.

108. In order to meet its revenue-raising goals, each year the Lottery Commission seeks to entice new customers to play the Lottery or entice existing customers to play the Lottery more frequently.

109. Since its adoption, the revenue generated from the Lottery has increased steadily each year. For each of the past ten fiscal years, the Lottery has set record sales and earnings.

110. Since 2006, the Lottery has raised more than \$16 billion in revenue in gross ticket sales.

111. During the 2016 fiscal year alone, the Lottery generated approximately \$2.38 billion in revenue in gross ticket sales.

112. The State and Lottery Commission have become increasingly reliant upon the funds raised by the Lottery Commission over time, and therefore have sought additional ways to maximize the Lottery revenue.

113. The State and Lottery Commission have sought to increase Lottery revenue by adopting new entertaining instant scratch-off tickets and draw games, including games with larger cash prizes.

114. During the 2015 fiscal year, the Lottery Commission released 50 new instant scratch off games into the marketplace that generated gross instant ticket sales of \$1.29 billion.

115. The State and the Lottery Commission supported changes to the operation of the *Powerball* draw game to increase the size of the jackpot.

116. The State and the Lottery Commission are aware that larger jackpots generally result in greater ticket sales. Accordingly, the State and Lottery Commission know that steps made to increase the size of jackpots in the *Powerball* draw game will increase sales of *Powerball* tickets, and therefore generate greater revenue for the State.

117. In October 2015, the rules for the operation of the *Powerball* draw game were changed to make it much more difficult for a participant to win the jackpot. Specifically, the odds of a participant winning the jackpot dramatically decreased from 1 in 175,000,000 to 1 in 292,000,000, yet the cost to play the *Powerball* game remained the same. As a result, it has become more likely that there will be no jackpot winner during a particular drawing. Each time a jackpot is not won, the size of the next jackpot grows larger. The size of the jackpot continues to grow with each subsequent non-jackpot winning drawing until eventually the jackpot is won.

118. As a result of the decreased odds of winning the *Powerball* jackpot, the size of Powerball's jackpots have risen dramatically, including a jackpot worth over \$1.5 Billion in January 2016.

119. As a result of these large *Powerball* jackpots, the State has seen a huge increase in the sale of *Powerball* tickets and has generated substantially more revenue from the sale of those tickets, which was the intended effect of changing the odds of winning.

120. The State and the Lottery Commission also have sought to increase Lottery revenue by increasing opportunities for consumers to purchase tickets. For example, the Lottery has enabled consumers to purchase Lottery tickets at gas station pumps throughout the State. As a result, customers now can purchase Lottery tickets without ever having to even enter a store. Importantly, many of the gas pumps which dispense lottery tickets also have entertaining video displays which play while gas is being pumped.

121. The Lottery Commission spends tens of millions of dollars each fiscal year in advertising and marketing for the Lottery. The amount spent by the Lottery Commission in advertising and marketing the Lottery has steadily increased each fiscal year.

122. The Lottery Commissions advertisements and marketing efforts are designed specifically to encourage and entice the public to play the Lottery by purchasing lottery tickets.

123. The State continues to look at additional ways to increase revenue from the Lottery. At the request of State legislators, the Lottery Commission made a presentation to the General Assembly in March 2016 showing several new and different types of games of chance that may be introduced to consumers in the State, such as:

- a. "E-Instant" games, which are internet-based games that allow registered players to access a portfolio of interactive electronic games;
- b. "Video Lottery Terminals", which run entertaining video poker games, located at retail stores throughout the State; and
- c. "Club Keno" quick draw games located at "age controlled social establishments" throughout the State.

124. Upon information and belief, the Video Lottery Terminals will offer games very similar to the Sales Promotions offered by Plaintiffs.

125. Upon information and belief, given the State's and the Lottery Commission's goal of increasing revenue from the Lottery each year and the State's growing dependence upon the funds generated by the Lottery, the State and the Lottery Commission have become increasingly concerned about their "competition," i.e., businesses that they view as competing with the Lottery Commission for the consumers' limited discretionary spending money.

126. According to the Lottery Commission, it considers its competition to include "private sweepstakes operations."

127. Upon information and belief, the Lottery Commission's definition of "private sweepstakes operations" includes businesses that offer electronic sweepstakes and rewards

promotions, such as those offered by the Plaintiffs, without regard to whether those businesses comply with the law.

128. Upon information and belief, the State and the Lottery Commission believe that they will generate more revenue from the sales of Lottery tickets if electronic sweepstakes and rewards promotions -- regardless of whether they comply with the statutes -- are eliminated.

129. The State and the Lottery Commission are more focused on eliminating their competition than they are in addressing potential fraud in the Lottery system which is evidenced by the fact that there are an unusual number of multi-jackpot winners of the Lottery.

130. Recent studies of lottery winnings have found numerous examples of certain individuals, including the owners of retail stores that sell lottery tickets, who have won substantial Lottery jackpots multiple times.

131. Statistically it is virtually impossible for these individuals to win multiple, large jackpots playing the Lottery.

132. However, the Lottery Commission has ignored these problems. Rather than acknowledge that it is virtually impossible for these persons to continue to win jackpots as frequently as they do, Defendant Garland has stated on behalf of the Lottery Commission that the reason for these statistical anomalies is that these multi-winners simply are "lucky."

133. Upon information and belief, the Lottery Commission has chosen to ignore many other, more plausible explanations for these multiple winners, such as that they purchase winning tickets at a discount from others who are not eligible to play the Lottery or are subject to having their winnings garnished, such as customers who owe back child support.

134. Upon information and belief, the reason that the State and the Lottery Commission have not further investigated these persons is because these problems so far have

not impacted the Lottery revenue. Ultimately, the State and the Lottery Commission do not care who wins the jackpots. They primarily are focused on increasing revenue.

135. In contrast to the problem with multiple, repeat Lottery winners, the State and the Lottery Commission believe, upon information and belief, that they can increase revenue for the Lottery by eliminating their perceived competition from businesses that offer electronic sweepstakes and rewards promotions.

Post-Lottery Law Enforcement of the Gambling Statutes and Video Sweepstakes Law

136. Upon information and belief, under the direction of the Defendants and in order to protect the Lottery (i.e. to increase Lottery revenue), ALE now is serving as the primary law enforcement agency throughout the State with regard to the enforcement of the Gambling Statutes and Video Sweepstakes Law against businesses that utilize electronic sweepstakes and rewards promotions.

137. ALE, working in conjunction with local police and sheriff's departments, has been shutting down every form of business which promotes the sale of legal products with any form of electronic sweepstakes or other type of promotion which use computers. ALE has done this without reference to the law or basic criminal procedure.

138. Upon information and belief, the Lottery, ALE and the State desire to eradicate all electronic sweepstakes or electronic rewards programs from the State of North Carolina, including the Sales Promotions, without regard to whether such sweepstakes or rewards programs comply with the Gambling Statutes or the Video Sweepstakes Statute, or other applicable law.

139. Upon information and belief, ALE has not educated its law enforcement officers on the particular requirements of the Gambling Statutes and the Video Sweepstakes Law, with

the result being that individual officers cannot determine whether a particular electronic sweepstakes or rewards program does or does not comply with the law.

140. As a result of this lack of training, individual ALE officers have investigated and raided businesses offering electronic sweepstakes and rewards programs without knowing whether those sweepstakes or rewards programs violate the Gambling Statutes or the Video Sweepstakes Law.

141. Upon information and belief ALE purposefully has not educated its law enforcement officers on the Gambling Statutes and the Video Sweepstakes Law because it does not care about whether a particular electronic sweepstakes or rewards program is lawful, and simply wants to eradicate all of them.

142. Upon information and belief, ALE has informed its law enforcement officers that all electronic sweepstakes and reward promotions, which would include the Sales Promotions, violate either the Gambling Statutes or the Video Sweepstakes Law, or both.

143. Upon information and belief, the State desires to eradicate all such electronic sweepstakes or electronic rewards programs, including the Sales Promotions, in order to eliminate what the State perceives to be competition for the Lottery and in order to create and protect a monopoly for the State on gaming and games of chance, to increase revenue for the Lottery, and to open the door for the Lottery to offer games played on computers which are the same or similar to the games offered by retailers who offer sweepstakes or other electronic promotions to boost the sale of their lawful products and merchandise.

144. Upon information and belief, ALE officers have met with and encouraged local law enforcement officials and prosecutors throughout North Carolina to take action adverse to retailers that offer Sales Promotions on the premise that the Sales Promotions and all similar

systems violate the Gambling Statutes or the Video Sweepstakes Statute, or both, and that it is impossible for any electronic sweepstakes or rewards program to comply with applicable law.

145. For example, the County Store was raided by the Scotland County Sheriff under the direction and supervision of ALE in 2016.

146. During the raid, the Scotland County Sheriff's office consulted with ALE officers via telephone in the presence of the owner of County Store such that the owner could hear the conversation between the Sheriff's office and ALE. During that conversation, ALE advised the Sheriff's office that all electronic sweepstakes, including the Sales Promotions offered by the County Store, were illegal.

147. Based upon the direction of ALE, the Scotland County Sheriff's office seized all of the County Store's equipment and cash, and shut down the internet café.

148. Despite conducting the raid and seizing all of the County Store's equipment, no one has been charged with any violation of the Gambling Statutes or the Video Sweepstakes Law based upon the Sales Promotions being utilized by County Store at its internet café in Scotland County. Nonetheless, the Scotland County Sheriff has not returned any of the Country Store's property that his office seized.

149. Upon information and belief, ALE officers, either acting alone or in conjunction with local law enforcement officials, have visited numerous establishments in the State that offer sweepstakes or electronic rewards programs, including the Sales Promotions, and have issued warnings and/or threatened criminal prosecution unless the retailers remove equipment associated with the operation of the electronic sweepstakes or rewards programs they are operating.

150. Upon information and belief, ALE officers, either acting alone or in conjunction with local law enforcement, have participated in or encouraged numerous raids of establishments across the state that the offer electronic sweepstakes or rewards programs. Such raids are conducted with a huge display of force, involve many law enforcement officers, involve gratuitous damage inflicted upon private property for no purpose, and involve the display of firearms.

151. These raids have resulted in numerous persons having their personal property seized and being wrongfully charged with criminal offenses arising from their ownership or operation of legal electronic sweepstakes or rewards programs.

152. For example, both Thompson Cafes were raided by local law enforcement acting in conjunction with and at the behest of ALE.

153. Upon information and belief, ALE targeted Thompson and the Thompson Cafes specifically because she is an outspoken critic of both ALE and the Lottery.

154. Thompson was arrested, had her equipment confiscated from the Farmville Café, and was charged with a crime in Pitt County.

155. Prosecutors, upon information and belief acting in concert with and at the behest of ALE, attempted to get Thompson to plead guilty to violations of the NC Gambling Statutes and Video Sweepstakes Law. In exchange, Thompson was offered probation, and would have been required to agree never to do business using any electronic promotion or sweepstakes in Pitt County in the future.

156. Thompson refused and demanded that her case go to trial, whereupon the prosecution dismissed the charges relating to the Farmville Café, pending against her.

157. Upon information and belief, the prosecution in this Pitt County case knew that it had no evidence to sustain the charges filed against Thompson at the behest of ALE, and only was trying to frighten her into accepting a plea deal in order to compel her to stop doing business in Pitt County in a manner deemed to be competitive with the lottery.

158. Thompson has continued to be harassed by ALE as she has attempted to open other businesses offering sweepstakes and other types of electronic promotions.

159. As a result of ALE's actions against Thompson, she has been forced to discharge numerous employees who were working at the Thompson Cafes.

160. In another example, ALE agents raided the Stinnes Café in Rockingham County.

161. Cash and equipment on hand at the Stinnes Café were seized during the raid.

162. Stinnes has never been given a full or accurate inventory or accounting of the cash, equipment and property that was seized from the Stinnes Café and has no idea where all of his property has been taken or what has been done with it.

163. ALE agents contend that Stinnes personally violated the Gambling Statutes and the Video Sweepstakes Law. Based upon this contention, Stinnes has reasonably feared that he personally will be charged with a violation of one or more of those criminal statutes relating to the operation of the Stinnes Café.

164. As of the date of this complaint, Stinnes has not been charged with any crime of any kind or nature whatsoever relating to the operation of Stinnes Café.

165. Stinnes also has received none of his cash or equipment back from ALE.

166. Upon information and belief, ALE is counting upon Stinnes not making any demand for his money and equipment to be returned, on the assumption that Stinnes will fear

that if he makes such demand, he personally will be charged with a violation of the Gambling Statutes or the Video Sweepstakes Law.

167. Upon information and belief, conducting raids, seizing equipment and cash, and then not filing any charges is a standard ALE tactic for dealing with businesses and business owners who offer Sales Promotions.

168. By taking this approach, millions of dollars of cash and hundreds of thousands of dollars worth of equipment have gone into an administrative "black hole" at ALE where they are not publically accounted for and their ultimate disposition is unknown.

169. Upon information and belief, any business owner whose equipment or cash is seized by ALE during a raid, and who seeks its return or otherwise protests, is threatened with criminal prosecution by ALE unless he agrees to cease using any Sales Promotions and also forfeit all cash and equipment seized will then disappear into the ALE administrative "black hole" referred to above, where it remains unaccounted for.

170. Upon information and belief, in this manner the coffers of ALE and other Defendants surreptitiously are enriched with minimal, if any, public oversight.

171. In addition, many Crazy Overstock Retail Establishments throughout the State, including in Alamance County, have been targeted by ALE and have closed either as a result of threats by local law enforcement and ALE, or by raids conducted by ALE or joint raids conducted by ALE and local law enforcement.

172. As a result of Defendants' and ALE's actions, potential Crazy Overstock Retail Establishments have decided not to open out of fear that they will be targeted and raided by ALE.

173. Members of N.C. Citizens for Free Enterprise, Inc. also have been targeted by ALE and have been forced to closed down their retail stores.

174. Upon information and belief, on or about February 20, 2015, ALE officers presented at a training seminar of the North Carolina Conference of District Attorneys in Raleigh, North Carolina, the subject of which focused on electronic sweepstakes or rewards programs investigations and prosecutions.

175. Upon information and belief, local law enforcement officers and district attorneys from all parts of the State attended the training seminar.

176. Upon information and belief, ALE informed attendees at that February 20, 2015 meeting that all electronic sweepstakes or rewards programs of every kind are illegal and violate either the Gambling Statutes or the Video Sweepstakes Statute.

177. Upon information, ALE encouraged all local law enforcement officers and prosecutors in attendance at the February 20, 2015 meeting to act as a united front by pursuing criminal investigations and prosecutions against all business that offer electronic sweepstakes or rewards programs of any kind as a promotion.

178. Upon information and belief, ALE has intensified its efforts with local law enforcement over the past two years in furtherance of its plans to eradicate all electronic sweepstakes or rewards programs, including the Sales Promotions, from the state.

179. Upon information and belief, ALE has been the driving force behind recent efforts by local law enforcement officials in raiding retailers who utilize electronic sweepstakes or rewards programs.

180. Upon information and belief, an objective of ALE is to force the closure of all retailers which offer electronic sweepstakes or rewards programs by conducting raids that result

in the seizure of all of the equipment, personal property and money of the owners of such businesses.

181. Upon information and belief, in an effort to cause further intimidation, ALE conducts raids on as many people as it can possibly link to persons who operate businesses that offer electronic sweepstakes or rewards programs, even if the links between those people, or their links with the operations that ALE considers to be unlawful, are not credible.

182. Upon information and belief, another tactic employed by ALE is to encourage prosecutors to pile on as many charges as possible against certain persons who operate businesses that offer electronic sweepstakes or rewards programs, such as separate felony charges for separate days of operations, for the purpose of coercing operators, whose access to money to pay for their own defense has been cut off as a result of their funds having been seized and their businesses being shut down, into accepting plea agreements with little to no jail time, rather than face the cost of a defense of those charges and the risk however slight, of being convicted and sentenced on multiple felony charges.

183. This tactic of piling on as many charges as possible was employed against the owner of a Crazie Overstock Retail Establishment in Rockingham County.

184. ALE's focus upon shutting businesses down rather than obtaining convictions is further evidence that its goal and that of the State is to eliminate what it perceives to be competition for the Lottery, at a time when the Lottery is considering expanding its offerings to include sweepstakes style games.

185. Upon information and belief, individual ALE agents have been tasked with closing as many retailers that offer electronic sweepstakes or rewards programs as possible.

186. In furtherance of ALE's goals of shutting down businesses that offer electronic sweepstakes and rewards promotions, individual ALE agents have acted with malice, disdain for the rights of Plaintiffs and other persons who use electronic sweepstakes and rewards, and contempt for the rule of law.

187. For example, Thompson was in the process of purchasing an internet café in Nashville, North Carolina which – under its prior owner – had offered electronic sweepstakes games to promote the sale of internet time.

188. The name of this internet café was Expressnet.

189. Thompson was present when Expressnet was raided pursuant to a search warrant issued against the name of the prior owner of Expressnet for actions allegedly undertaken by that prior owner.

190. Nonetheless, Thompson was searched, arrested and put into a holding cell in which there was human urine all over the floor, by the Lenoir County Sheriff's office, at the behest and under the direction of ALE.

191. Thompson was told by a Lenoir County Sheriff's deputy that ALE had decided to "make an example" of her.

192. Thompson was left in the stinking holding cell for a considerable period of time after her bail had been posted, while "paperwork" was being processed, even though technically she already had been released.

193. When asked why she had been arrested for actions allegedly committed by the prior owner of Expressnet, Thompson was told that ALE believed she was the prior owner's "silent partner," an allegation which is both false and lacks any evidentiary basis whatsoever.

194. Upon information and belief, these actions taken against Thompson by ALE to "make an example" of her, were taken for the express purpose of intimidating her into agreeing to plead guilty and agree to open no more internet cafes, and also to intimidate others whose businesses offer electronic game promotions of some kind into shutting down their businesses and otherwise resign to offer such promotions even though those promotions comply with the law, and otherwise without regard to the legality of any given promotion offered by any given business.

195. Upon information and belief these actions taken against Thompson and others were intended by Defendants to eliminate her business as perceived competition for the Lottery.

196. The actions taken by ALE against Plaintiffs and those businesses represented by N.C. Citizens for Free Enterprise, Inc. has had much success. Many owners of retail stores and other businesses throughout the State have either closed or not opened their businesses out of fear that they will be targeted, raided, their equipment, money and property seized, and charged personally with felonies, even though the owners of such businesses are operating lawful electronic sweepstakes or reward promotions.

197. On multiple occasions, individual ALE agents throughout the State have knowingly, intentionally and maliciously made false statements and omissions concerning the manner in which certain electronic sweepstakes and reward programs function in affidavits that have been submitted to the courts as the basis for issuance of search warrants authorizing raids on businesses that offer such sweepstakes and rewards promotions.

198. The false statements and omissions made in these affidavits submitted to the courts by ALE agents related to key facts that establish that the electronic sweepstakes or rewards promotions do not violate the Gambling Statutes or the Video Sweepstakes Law, such as

that a customer must successfully complete a skill or dexterity test before being eligible to win a prize.

199. For example, ALE has submitted affidavits for search warrants in multiple counties throughout the State, including Alamance County, concerning the CO Rewards Program for Crazie Overstock, which intentionally omit the dexterity test component from the description of the rewards programs contained in the affidavits, even though ALE clearly is aware of the dexterity test.

200. Upon information and belief, the reason that ALE agents intentionally have made false statements or omitted material facts in these affidavits is that they do not believe that judges will issue search warrants if they are aware of the actual facts and the actual manner in which the electronic sweepstakes and reward programs operate.

201. Individual ALE agents also knowingly and willfully have seized property of businesses that offer electronic sweepstakes or rewards promotions, which neither have evidentiary value to the alleged violations of the Gambling Statutes or the Video Sweepstakes Law, nor are substantially related to the operation of the alleged wrongful conduct.

202. In one recent example, ALE agents seized a shipment of packages of new toilet paper, coffee filters and office chairs that were being delivered to the Stinnes Café in Rockingham County while a raid was occurring.

203. The ALE agents seizing the toilet paper, chairs and coffee filters joked among themselves about the fact that they could use those items themselves. They also joked they did not want used chairs, which they did not seize from the Stinnes Café, because those chairs "smell like ass."

204. Additionally, Stinnes operated a computer sales and repair business in a location adjacent to the Stinnes Café.

205. ALE agents also seized a large number of new and used computer components from this unrelated business during the raid of the Stinnes Café.

206. None of the seized computers, coffee filters or office chairs were being used in conjunction with the operation of the Stinnes Café, and none had anything to with the operation of any Sales Promotions.

207. During the raid, Stinnes was told he would receive a written inventory of all items seized by ALE.

208. As of the date of this complaint, several months after the raid of the Stinnes Café, Stinnes still has not received any inventory of the items seized during the raid.

209. Upon information and belief, despite apparently knowing there was no justification for seizing these items, ALE agents seized them in order to harass Stinnes for offering Sales Promotions.

210. Upon information and belief, ALE agents regularly engage in the types of unjustified activity described above in an effort to intimidate and harass businesses into not reopening.

211. Upon information and belief, the actions of the individual ALE agents are not rogue actions of those ALE agents, but rather are taken pursuant to an official written or unwritten policy of ALE to eliminate all electronic sweepstakes and reward programs, regardless of their legality.

Lottery Directly Funding ALE

212. Upon information and belief, ALE's actions described herein are being funded by the Lottery.

213. State agencies typically are funded each year through appropriations made by the General Assembly out of money held in what is known as the "General Fund," i.e. a pool of tax revenue collected by the State.

214. Historically, aside from grants, ALE has received its funding from appropriations from the General Fund.

215. However, for the past several years, ALE also has been receiving funding directly from the Lottery.

216. The Lottery has paid ALE approximately \$1 million or more per year for the past several years, and starting with the 2016 fiscal year the Lottery began paying ALE \$2.1 million per year.

217. Upon information and belief, the Lottery is funding ALE's actions against the companies and individuals that the Lottery identifies as its competitors.

Defendants' Actions Are Unlawful

218. Prior to the adoption of the Lottery, the State considered lotteries to be a type of evil or vice from which the public needed protection. As a result, lotteries were totally barred, and persons caught operating them were subject to criminal prosecution.

219. Now the State and Lottery Commission are spending millions of dollars advertising the Lottery and developing new types of entertaining games to entice both new customers to play the Lottery and existing customers to pay more frequently.

220. The State's goal of maximizing revenue by enticing greater, repeated play of the Lottery from the public is entirely inconsistent with the State's stated goal of protecting the public through the Gambling Statutes and the Video Sweepstakes Law.

221. By operating the Lottery, the State now is engaged in the proprietary business of gaming and gambling.

222. It is inconsistent, arbitrary, abusive and unlawful for the State to claim that sweepstakes, gaming, gambling and lotteries are public evils while directly and aggressively engaging in that very conduct for the purpose of generating revenue.

223. It is inconsistent, arbitrary, abusive, and unlawful for the State to prohibit privately-operated gaming and lotteries while the State directly and aggressively engages in that very type of conduct.

224. It is inconsistent, arbitrary, abusive, and unlawful for the State to enforce the Gambling Statutes and the Video Sweepstake Law while the State directly and aggressively engages in that very type of conduct.

225. It is inconsistent, arbitrary, abusive, and unlawful for the State to exercise its police power to forcefully shut down businesses that offer lawful electronic sweepstakes and rewards promotions through the use of coercion, for the purpose of creating and maintaining a monopoly over games of chance.

226. It is inconsistent, arbitrary, abusive, and unlawful for the State to exercise its police power in a manner that is contemptuous of the law and disregards the rights of the Plaintiffs and other members of the public.

227. By operating the Lottery, the State has adopted and legitimized gambling and gaming as a business for raising revenue and making a profit.

228. If the State can lawfully sell games of chance to the public for purposes of raising revenue, then there is no just reason that private individuals or businesses cannot do the same.

229. There is no justifiable reason for the State to have a monopoly on such gaming activity.

230. Defendants' actions described herein are unlawful and constitute an abuse of police power and government authority.

231. Thompson has had her lawful businesses destroyed as a result of the conduct alleged herein.

232. Specifically, the Thompson Cafes have been put out of business, Thompson has lost thousands of dollars of income from the Thompson Cafes, Thompson's good will from the Thompson Cafes has been severely damaged or destroyed, Thompson's personal integrity has been impugned, Thompson personally has been subjected to unwarranted and unlawful harassment and the humiliation of being incarcerated and detained in a urine soaked cell, and Thompson has been specifically targeted for no lawful reason so that ALE can "make an example" of her to intimidate other operations of lawful electronic promotions in order to protect the Lottery from perceived competition.

233. As a result of the actions of Defendants complained of herein, Thompson has suffered substantial financial and personal property losses.

234. Stinnes has had his lawful business destroyed as the result of the conduct alleged herein.

235. Specifically, the Stinnes Café has been put out of business, Stinnes has lost thousands of dollars of income from the Stinnes Café, Stinnes' goodwill from the Stinnes Café has been severely damaged or destroyed, Stinnes has had thousands of dollars in cash,

equipment, unrelated computer equipment, toilet paper, coffee filters, and office chairs confiscated, Stinnes' personal integrity has been impugned, and Stinnes has been subjected to harassment, threats and fear that he will be charged personally with a crime if he complains or otherwise "steps out of line."

236. As a result of the actions of Defendants complained of herein, Stinnes has suffered substantial financial and personal property losses.

237. Similarly, Moore Country Store has suffered substantial financial losses as a result of Defendant's actions, which resulted in the forced closure of its internet café and the seizure of its equipment and property.

238. All of the businesses represented by N.C. Citizens for Free Enterprise similarly have suffered substantial financial and personal property losses, or have a reasonable fear that they will suffer such losses as the result of the actions of Defendants complained of herein.

239. Although both Pirates Loot and Artificial Gravity have not been shut down by ALE yet as a result of the actions of ALE and the Defendants, they reasonably fear that they will be threatened and/or raided soon based upon the Defendants' actions taken to date and the Defendants' desire to eradicate the entire State of all electronic sweepstakes and reward promotions, including the Sales Promotions that they offer, in order to create and protect a State-owned monopoly on games of chance.

240. As a direct result of Defendants' actions complained of herein, Crazie Overstock has lost numerous Retail Establishments, and has lost the revenue that it was receiving from those stores. In addition, retailers in Alamance County and other parts of the State have informed Crazie Overstock that they are unwilling to offer CO Rewards Program or sell Crazie Overstock gift certificates because they fear that they are being targeted unlawfully by ALE and

other local law enforcement agencies acting at the behest of ALE.

241. Upon information and belief, the actions of Defendants and ALE complained of herein, are targeted specifically and intentionally to harm the owners of the retail stores, as well as distributors, and the supplies or software companies, such as Crazie Overstock, that provide the Sales Promotions to retail stores.

242. Upon information and belief, ALE has targeted Crazie Overstock specifically and is trying to cause harm to Crazie Overstock by attacking its Retail Establishments.

243. As a direct result of the actions of the Defendants, Plaintiffs' business reputations have been harmed because ALE has characterized their Sales Promotions as being unlawful when they are not.

244. All of the Plaintiffs, including the retailer, suppliers and distributors represented by N.C. Citizens for Free Enterprise, Inc., who have shut down their businesses or stopped using their Sales Promotions as a result of the Defendants' actions complained of herein have done so temporarily and further intend to reopen their businesses and/or continue to use their Sales Promotions upon the return of their equipment that was seized or upon a declaration of their rights through this lawsuit, as applicable.

245. Even when Plaintiffs reopen their closed retail stores, they likely still will have permanently lost customers because of the Defendants' actions described herein.

246. Defendants have no immunity with respect to Plaintiffs' claims. The Appellate Courts of North Carolina have recognized on multiple occasions that in circumstances similar to the ones complained of herein where the State has taken or threatened businesses, and the owners of such businesses, with criminal enforcement action, that the State, its agencies and officials have no immunity for claims of injunctive and declaratory relief, or that that such immunity

defenses otherwise has been waived by the actions and threats of the State, its agencies and officials.

247. Defendants have no immunity for violations of Plaintiffs' constitutional rights.

248. Defendants have no immunity for claims for prospective injunctive relief pursuant to 42 U.S.C. § 1983.

249. Declaratory and injunctive relief are necessary because the State and other Defendants enjoy immunity from claims for monetary damages.

250. If Thompson, Stinnes, Country Store, Pirates Loot, Artificial Gravity, and Crazie Overstock are not able to restrain and enjoin the unlawful behavior of the Defendants, they will have no recourse for the substantial monetary harms they have suffered and are continuing to suffer as the result of not being able to operate their businesses.

251. Likewise, all of the similarly situated businesses represented by N.C. Citizens for Free Enterprise will have no recourse for the substantial monetary harm they have suffered and any continuing to suffer as the result of not being able to operate their businesses.

FIRST CAUSE OF ACTION
Declaratory Judgment that Defendants Have Violated
Art I, Section 32 of the NC Constitution (Prohibition on Exclusive Privileges)

252. Plaintiffs reallege and incorporate the allegations of the preceding paragraphs as if set forth fully herein.

253. The Lottery Commission is an independent, self-supporting and revenue raising agency of the State.

254. The State has conferred upon the Lottery Commission the exclusive privilege of conducting a lottery in the State.

255. The State also has conferred upon the Lottery Commission the exclusive privilege of conducting games of chance in the State as a result of the State's efforts to eradicate all electronic sweepstakes and rewards promotions from the State under the Gambling Statutes and the Video Sweepstakes Law, regardless of their legality.

256. No other private person or business is permitted to operate a lottery in the State of North Carolina.

257. Persons and businesses that attempt to offer lawful electronic sweepstakes and rewards promotions under the Gambling Statutes and the Video Sweepstakes Law are being unlawfully and maliciously targeted directly by ALE, or by local law enforcement through the encouragement of ALE, in an effort to force them out of business, for the purpose of protecting and expanding the profitability of the Lottery.

258. As a result of ALE's actions, the State and ALE have granted the Lottery Commission de facto exclusive rights to operate games of chance and games similar to electronic sweepstakes and rewards promotions.

259. The operation of the Lottery is not a public service.

260. ALE's actions to shut down lawful businesses that offer electronic sweepstakes and rewards promotions, like the Plaintiffs, are not a public service.

261. The exclusive rights granted by the State to the Lottery Commission are not intended to promote the general welfare of the public. Instead, the exclusive rights are granted for the sole purpose of generating revenue on behalf of the State.

262. This benefit flows solely to the State as a mechanism to avoid having to raise taxes, or make further spending cuts, in order to balance its budget in the absence of funds from the Lottery Commission. In other words, these exclusive rights bestowed upon the Lottery

Commission are designed to make life easier for State officials who otherwise would have to make difficult legislative decisions in the absence of the funds generated by the Lottery to balance the budget.

263. There is no public benefit from the Lottery for the funding of education in the State, despite the Lottery being promoted as the "Education" Lottery.

264. Upon information and belief, the overall State appropriations is for education, including funding provided by the Lottery Commission, is the same, or at best, minimally higher, than the appropriations for education prior to the adoption of the Lottery Act.

265. Upon information and belief, the State simply has offset its appropriations for education from the General Fund by the amount of funding provided by the Lottery Commission, and has diverted the money previously used for education before the adoption of the Lottery Act for use on non-education expenses and priorities.

266. There is no reasonable basis on which the General Assembly and the State could have concluded that the grant of these exclusive benefits to the Lottery Commission serves the public interest.

267. There is no reasonable basis on which Defendants could have concluded that the ALE's unlawful enforcement of the Gambling Statutes and the Video Sweepstakes Law serves the public interest.

268. As a result of the actions described herein, Defendants have violated Plaintiffs' rights under Article I, Section 32 of the North Carolina Constitution.

269. As a result of Defendants' violations of Plaintiffs' constitutional rights, Plaintiffs are entitled to a declaration that:

- a. the State's grant of the right to operate the Lottery to the Lottery Commission constitutes an unlawful exclusive privilege in violation of Article I, Section 32 of the North Carolina Constitution;
- b. Defendants' enforcement of the Gambling Statutes and the Video Sweepstakes Law has resulted in the creation of an unlawful exclusive privilege in favor of the Lottery Commission in violation of Article I, Section 32 of the North Carolina Constitution; and
- c. The State's simultaneous operation of the Lottery and enforcement of the Gambling Statutes and the Video Sweepstakes Law constitutes an unlawful exclusive privilege in violation of Article I, Section 32 of the North Carolina Constitution.

SECOND CAUSE OF ACTION
Declaratory Judgment that Defendants Have Violated
Art I, Section 34 of the NC Constitution (Prohibition on Monopolies)

270. Plaintiffs reallege and incorporate the allegations of the preceding paragraphs as if set forth fully herein.

271. The only entity or person that may offer a lottery in the State is the Lottery Commission on behalf of the State.

272. The Lottery Commission is a for-profit commercial business, whose sole purpose is to raise revenue on behalf of the State.

273. The State and Lottery Commission have aggressively promoted and encouraged the sale of Lottery tickets in order to increase revenue, year over year,

274. The State and the Lottery Commission also are considering the use of Video Lottery Terminals, which are very similar to the electronic sweepstakes and rewards promotions offered by Plaintiffs, in order to further increase revenue from the Lottery.

275. As a result of the actions of Defendants described herein, they have legitimized gaming as a means of raising revenue.

276. In doing so and by exempting themselves from the Gambling Statutes and the Video Sweepstakes Law, the Defendants have undermined the legitimacy of the Gambling Statutes and the Video Sweepstakes Law.

277. Through the actions of the Defendants described herein, the State has granted the Lottery Commission a monopoly on lotteries and games of chance in the State.

278. In furtherance of its monopoly, Defendants, through ALE, have stifled all competition from businesses that offer electronic sweepstakes and rewards promotions, such as Plaintiffs, regardless of their legality.

279. As a result of Defendants' actions described herein, Plaintiffs no longer can offer lawful electronic sweepstakes and rewards promotions.

280. As a result of Defendants' actions described herein, the State and the Lottery Commission have been able to continue to increasing their revenue year over year.

281. As a result of Defendants' actions described herein, the State and ALE have no competition and can freely change whatever price they want for Lottery tickets, and can continue to decrease the odds of winning jackpots in order to meet their goal of generating more revenue, year over year.

282. Article I, Section 34 of the North Carolina Constitution prohibits monopolies.

283. As a result of the actions described herein, Defendants have violated Plaintiffs' constitutional rights under Article I, Section 34 of the North Carolina Constitution.

284. As a result of Defendants' violations of Plaintiffs' constitutional rights, Plaintiffs are entitled to a declaration that:

- a. the State's grant of the right to operate the Lottery to the Lottery Commission constitutes an unlawful monopoly in violation of Article I, Section 34 of the North Carolina Constitution;
- b. Defendants' enforcement of the Gambling Statutes and the Video Sweepstakes Law has resulted in the creation of an unlawful monopoly in favor of the State and the Lottery Commission in violation of Article I, Section 34 of the North Carolina Constitution; and
- c. The State's simultaneous operation of the Lottery and enforcement of the Gambling Statutes and the Video Sweepstakes Law constitutes an unlawful monopoly in violation of Article I, Section 34 of the North Carolina Constitution.

THIRD CAUSE OF ACTION
Declaratory Judgment that Defendants Have Deprived Plaintiffs
of their Constitutional Rights to Procedural Due Process

285. Plaintiffs reallege and incorporates the allegations of the preceding paragraphs as if set forth fully herein.

286. Plaintiffs have the right to offer and utilize the Sales Promotions in connection with the sale of legitimate products.

287. Plaintiffs have the right to own, utilize and operate the Sales Promotion Equipment in connection with the Sales Promotions or any other lawful purposes.

288. Plaintiffs also have the right to conduct a lawful business free of unlawful and improper interference by the State and ALE, which seek to promote the Lottery by shutting down any perceived competition.

289. The United States and North Carolina Constitutions protect Plaintiffs, their Sales Promotion Equipment, their good will, and their right to operate a lawful business and marketing promotions.

290. The actions of Defendants taken to prevent Plaintiffs from operating their lawful businesses and Sales Promotions in the State of North Carolina in order to create a monopoly in favor of the State are improper and not justified by law, and have interfered with, harmed and otherwise deprived Plaintiffs of their property, their right to utilize lawful Sales Promotions, their right to operate a lawful business, and their good will.

291. At all times relevant to this Complaint, Defendants knew that their conduct violated Plaintiffs' constitutional rights, but intentionally and maliciously disregarded those rights for improper purposes.

292. The actions taken by Defendants with regard to Plaintiffs, as described above, were arbitrary, capricious and malicious and were not consistent with the procedural requirements of applicable local, state or federal law.

293. The actions of Defendants were not random, were not necessitated by emergency, and will be repeated by them against Plaintiffs if they are not permanently enjoined from engaging in such conduct.

294. Defendants have violated Plaintiffs' rights to procedural due process pursuant to Article I, Section 19 of the North Carolina Constitution and the Fourteenth Amendment of the United States Constitution.

295. Plaintiffs are entitled to a declaration that the actions of Defendants constitute a violation of Plaintiffs' rights to procedural due process pursuant to Article I, Section 19 of the North Carolina Constitution and the Fourteenth Amendment of the United States Constitution.

296. No adequate state remedies exist to provide Plaintiffs the relief sought for the injuries arising from the conduct of Defendants.

FOURTH CAUSE OF ACTION
Declaratory Judgment that Defendants Have Deprived Plaintiffs
of their Constitutional Rights to Substantive Due Process

297. Plaintiffs reallege and incorporate the allegations of the preceding paragraphs as if set forth fully herein.

298. The actions taken by Defendants against Plaintiffs and their property as described herein were arbitrary, capricious and malicious, and were not in furtherance of any legitimate governmental purpose.

299. Defendants have violated Plaintiffs' rights to substantive due process pursuant to Article I, Section 19 of the North Carolina Constitution and the Fourteenth Amendment of the United States Constitution.

300. Plaintiffs are entitled to a declaration that the actions of Defendants with regard to them and their property constitute a violation of their rights to substantive due process pursuant to Article I, Section 19 of the North Carolina Constitution and the Fourteenth Amendment of the United States Constitution.

301. No adequate state remedies exist to provide Plaintiffs the relief sought for each of the injuries arising from the Defendants' actions with regard to Plaintiffs and their property.

FIFTH CAUSE OF ACTION
Permanent Injunctive Relief against All Defendants

302. Plaintiffs reallege and incorporate the allegations of the preceding paragraphs as if set forth fully herein.

303. It is unlawful for Defendants cannot both operate a Lottery as private, commercial enterprise and use their police power to wipe out all competition in order to create a monopoly in a gaming industry in North Carolina.

304. Defendants' actions in this regard are no different from those employed by organized crime interests to eliminate their competition.

305. Defendants' actions as alleged herein violate Article I, Sections 19, 32 and 34 of the N.C. Constitution.

306. Plaintiffs will suffer irreparable harm by virtue of Defendants' actions if they are not enjoined from enforcing, threatening to enforce, or otherwise engaging in the behavior described in this Complaint. The amount of revenue lost by Plaintiffs is substantial. Regardless of the amount of damages incurred by Plaintiffs, Defendants will attempt to limit Plaintiffs' claims for their financial losses based on the doctrine of sovereign immunity. Consequently, absent an order of this Court enjoining the actions of the Defendants, no adequate relief by way of monetary damages is available for the prevention of significant harm to Plaintiffs.

307. The relevant equities between the parties are best served by permanently enjoining the Defendants as described above after the merits of the action have been determined.

308. In order to prevent irreparable harm, Plaintiffs are entitled to an order permanently enjoining the Defendants from:

- a. prohibiting the State and the Lottery Commission from operating the Lottery;

- b. prohibiting the Defendants from enforcing the Gambling Statutes and the Video Sweepstakes Law as alleged herein for the purpose of protecting and growing the Lottery in furtherance of the State's and the Lottery Commission's goals to increase the revenue of the Lottery, year over year; and
- c. prohibiting the Defendants from operating a Lottery while simultaneously enforcing the Gambling Statutes and the Video Sweepstakes Law.

SIXTH CAUSE OF ACTION
Violation of 42 U.S.C. § 1983 – Prospective Injunctive Relief
Against Defendants Governor, Senter and Garland

309. Plaintiffs hereby incorporate the preceding allegations contained in this Complaint as if fully alleged herein.

310. Defendants McCrory, Senter and Garland have no immunity for claims against them for prospective injunctive relief that seeks to enjoin them from depriving person of their rights, privileges, and immunities secured by the United States Constitution and under the Civil Rights Act of 1871, 42 U.S.C. § 1983.

311. Upon information and belief, at all times relevant to this Complaint, the State, ALE, and the Lottery Commission, including the individual members and agents thereof, while taking the actions complained of herein, were acting pursuant to official policies of the State, ALE, and the Lottery Commission, respectively.

312. Upon information and belief, the Governor, having the authority to direct ALE to investigate "violations of the gaming laws, and lottery laws, and matters of similar kind" pursuant to N.C. Gen. Stat. § 143B-919, has helped establish ALE's official policies with regard to the actions taken by ALE concerning electronic sweepstakes and electronic reward programs, including the Sales Promotions offered by Plaintiffs, as described in this Complaint.

313. As the Branch Head of ALE, Defendant Senter is responsible for the development and enforcement of ALE's and the State's official policies concerning electronic sweepstakes and electronic rewards programs as described in this Complaint.

314. Upon information and belief, as the Executive Director of the Lottery, Garland has helped establish the official policies of the Lottery and the Lottery Commission with regard to investigations related to the Lottery, the Gambling Statutes, and Video Sweepstakes Law, the enforcement thereof, including their official policies concerning electronic sweepstakes and reward programs as described in this Complaint.

315. As shown by the facts alleged in this Complaint, as well as additional facts and evidence that Plaintiffs believe will be developed through further investigation and discovery, Defendants Governor, Senter and Garland have acted under the color of state law in accordance with the official policies of the State and ALE, to deprive Plaintiffs of their rights, privileges, and immunities secured by the United States Constitution and under the Civil Rights Act of 1871, 42 U.S.C. § 1983.

316. Plaintiffs will suffer irreparable harm as a result of Defendants' actions if those actions are not enjoined. The amount of revenue lost by Plaintiffs is substantial. Regardless of the amount of damages incurred by Plaintiffs, Defendants will attempt to limit Plaintiffs' claims for their losses based on the doctrine of sovereign or governmental immunity. Consequently, absent an order of this Court enjoining the actions of Defendants Governor, Senter and Garland, adequate relief by way of monetary damages may not be available for the prevention of significant harm to Plaintiffs.

317. Plaintiffs are entitled to an order enjoining Defendants Governor, Senter and Garland from the actions complained of, in order to prevent irreparable harm to Plaintiffs.

318. Plaintiff are entitled to recover their actual costs and attorneys' fees expended as a result of the violations of their Civil and Constitutional Rights by Defendants Governor, Senter and Garland as described above, pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiffs respectfully request the Court to:

1. Enter a judgment declaring that:
 - a. the State's grant of the right to operate the Lottery to the Lottery Commission constitutes an unlawful exclusive privilege in violation of Article I, Section 32 of the North Carolina Constitution;
 - b. the State's grant of the right to operate the Lottery to the Lottery Commission constitutes an unlawful monopoly in violation of Article I, Section 34 of the North Carolina Constitution;
 - c. Defendants' enforcement of the Gambling Statutes and the Video Sweepstakes Law has resulted in the creation of an unlawful exclusive privilege in favor of the State and the Lottery Commission in violation of Article I, Section 32 of the North Carolina Constitution;
 - d. Defendants' enforcement of the Gambling Statutes and the Video Sweepstakes Law has resulted in the creation of an unlawful monopoly in favor of the State and the Lottery Commission in violation of Article I, Section 34 of the North Carolina Constitution;
 - e. the State's simultaneous operation of the Lottery and enforcement of the Gambling Statutes and the Video Sweepstakes Law constitutes an unlawful

exclusive privilege in violation of Article I, Section 32 of the North Carolina Constitution;

f. the State's simultaneous operation of the Lottery and enforcement of the Gambling Statutes and the Video Sweepstakes Law constitutes an unlawful monopoly in violation of Article I, Section 34 of the North Carolina Constitution;

g. Defendants' actions violate Plaintiffs' rights to procedural due process pursuant to Article I, Section 19 of the North Carolina Constitution and the Fourteenth Amendment of the United States Constitution; and

h. Defendants' actions violate Plaintiffs' rights to substantive due process pursuant to Article I, Section 19 of the North Carolina Constitution and the Fourteenth Amendment of the United States Constitution.

2. Enter a permanent injunction:

a. prohibiting the State and the Lottery Commission from operating the Lottery;

b. prohibiting the Defendants from enforcing the Gambling Statutes and the Video Sweepstakes Law as alleged herein for the purpose of protecting and growing the Lottery in furtherance of the State's and the Lottery Commission's goals to increase the revenue of the Lottery, year over year; and

c. prohibiting the Defendants from enforcing the Gambling Statutes and the Video Sweepstakes Law while simultaneously operating a Lottery.

3. Hold a trial by jury on all issues so triable;

4. Award Plaintiffs their reasonable attorneys' fees pursuant to applicable law;

5. Tax the costs of this matter against the Defendants; and
6. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted, this the 27TH day of December, 2016.

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Attorneys for Plaintiffs

STATE OF NORTH CAROLINA

FILED

File No.

16CVS 2324

ALAMANCE

County

2016 DEC 29 PM 2:07

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1

JANICE THOMPSON

ALAMANCE COUNTY, C.S.C.

GENERAL

CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

William J. Brian, Jr./ Keith P. Anthony*

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NC Attorney Bar No.

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Attorney E-Mail Address

bbrian@morningstarlawgroup.com

Name And Address Of Plaintiff 2

N.C. CITIZENS FOR FREE ENTERPRISE, INC.

VERSUS

Name Of Defendant 1

STATE OF NORTH CAROLINA

Summons Submitted

☒ Yes ☐ No

☒ Initial Appearance in Case

☐ Change of Address

Name Of Defendant 2

PATRICK MCCRORY

Name Of Firm

Morningstar Law Group

FAX No.

Counsel for

☒ All Plaintiffs ☐ All Defendants ☐ Only (list party(ies) represented)

*kanthony@morningstarlawgroup.com

Summons Submitted

☒ Yes ☐ No

☒ Jury Demanded In Pleading

☐ Complex Litigation

☐ Amount in controversy does not exceed \$15,000

☐ Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
- ☐ Amended Answer/Reply (AMND-Response)
- ☐ Amended Complaint (AMND)
- ☐ Assess Costs (COST)
- ☐ Answer/Reply (ANSW-Response) (see Note)
- ☐ Change Venue (CHVN)
- ☒ Complaint (COMP)
- ☐ Confession Of Judgment (CNJF)
- ☐ Consent Order (CONS)
- ☐ Consolidate (CNSL)
- ☐ Contempt (CNTP)
- ☐ Continue (CNTN)
- ☐ Compel (CMPL)
- ☐ Counterclaim (CTCL) Assess Court Costs
- ☐ Crossclaim (list on back) (CRSS) Assess Court Costs
- ☐ Dismiss (DISM) Assess Court Costs
- ☐ Exempt/Waive Mediation (EXMD)
- ☐ Extend Statute Of Limitations, Rule 9 (ESOL)
- ☐ Extend Time For Complaint (EXCO)
- ☐ Failure To Join Necessary Party (FJNP)

(check all that apply)

- ☐ Failure To State A Claim (FASC)
- ☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
- ☐ Improper Venue/Division (IMVN)
- ☐ Including Attorney's Fees (ATTY)
- ☐ Intervene (INTR)
- ☐ Interplead (OTHR)
- ☐ Lack Of Jurisdiction (Person) (LJPN)
- ☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
- ☐ Modification Of Child Support In IV-D Actions (MSUP)
- ☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
- ☐ Petition To Sue As Indigent (OTHR)
- ☐ Rule 12 Motion In Lieu Of Answer (MDLA)
- ☐ Sanctions (SANC)
- ☐ Set Aside (OTHR)
- ☐ Show Cause (SHOW)
- ☐ Transfer (TRFR)
- ☐ Third Party Complaint (list Third Party Defendants on back) (TPCL)
- ☐ Vacate/Modify Judgment (VCMD)
- ☐ Withdraw As Counsel (WDCN)
- ☐ Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

CLAIMS FOR RELIEF

- | | | |
|--|---|--|
| <input type="checkbox"/> Administrative Appeal (ADMA) | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State | <input type="checkbox"/> Product Liability (PROD) |
| <input type="checkbox"/> Appointment Of Receiver (APRC) | <input type="checkbox"/> Convictions (PLDP) | <input type="checkbox"/> Real Property (RLPR) |
| <input type="checkbox"/> Attachment/Garnishment (ATTC) | <input type="checkbox"/> Medical Malpractice (MDML) | <input type="checkbox"/> Specific Performance (SPPR) |
| <input type="checkbox"/> Claim And Delivery (CLMD) | <input type="checkbox"/> Minor Settlement (MSTL) | <input checked="" type="checkbox"/> Other (specify and list each separately) |
| <input type="checkbox"/> Collection On Account (ACCT) | <input type="checkbox"/> Money Owed (MNYO) | Declaratory Judgment |
| <input type="checkbox"/> Condemnation (CNDM) | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG) | |
| <input type="checkbox"/> Contract (CNTR) | <input type="checkbox"/> Negligence - Other (NEGO) | |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | <input type="checkbox"/> Motor Vehicle Lien G.S. 44A (MVLN) | |
| <input checked="" type="checkbox"/> Injunction (INJU) | <input type="checkbox"/> Possession Of Personal Property (POPP) | |

Date

12/27/16

Signature Of Attorney/Party

Leith P. Anthony

BY: J. Roether

FEES IN G.S. 7A-308 APPLY

Assert Right Of Access (ARAS)
Substitution Of Trustee (Judicial Foreclosure) (RSOT)
Supplemental Procedures (SUPR)

PRO HAC VICE FEES APPLY

Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No.	<input checked="" type="checkbox"/> Additional Plaintiff(s)	
3	MOORE'S COUNTRY STORE, LLC	
4	PIRATES LOOT HEADQUARTERS, LLC	
5	CRAZIE OVERSTOCK PROMOTIONS LLC	
6	ARTIFICIAL GRAVITY, INC.	
7	DENNIS STINNES	
No.	<input checked="" type="checkbox"/> Additional Defendant(s) <input type="checkbox"/> Third Party Defendant(s)	Summons Submitted
3	NORTH CAROLINA STATE LOTTERY COMMISSION	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4	ALICE GARLAND	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5	NORTH CAROLINA ALCOHOL LAW ENFORCEMENT DIVISION	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6	MARK J. SENTER	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted