

NORTH CAROLINA

CHATHAM COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

19 CVS 809

2019 OCT 23 A 8:42

BARBARA CLARK PUGH; GENE)
TERRELL BROOKS; THOMAS HENRY) C.S.C.
CLEGG; THE WINNIE DAVIS CHAPTER)
259 OF THE UNITED DAUGHTERS OF)
THE CONFEDERACY,)

Plaintiff,)

vs.)

KAREN HOWARD; MIKE DASHER;)
DIANNA HALES; JIM CRAWFORD; and)
ANDY WILKIE, in their official capacities)
as members of the Board of County)
Commissioners of Chatham County, North)
Carolina,)

Defendants.)

MOTION FOR TEMPORARY RESTRAINING
ORDER

(Rule 65, North Carolina Rules of Civil Procedure)

NOW COME Plaintiffs, by and through counsel, and move the Court pursuant to North Carolina General Statute, § 1-253 *et. seq.* and Rule 65 of the North Carolina Rules of Civil Procedure, restraining the Defendants from attempting to remove, alter, disassemble, or destroy the Confederate Monument located upon the premises of the Chatham County Courthouse in Pittsboro, North Carolina, and show unto the Court as follows:

1. Plaintiff Barbara Clark Pugh (hereinafter referred to as "Plaintiff Pugh") has been a citizen and resident of Chatham County, North Carolina for the six months next preceding the filing of this action. Plaintiff Pugh has been assessed property taxes by the Chatham County Tax Assessor,

and Plaintiff Pugh has paid such property taxes as the same have come due from time to time. Plaintiff Pugh is a direct ancestor of a member of the armed forces of the Confederate States of America during the Civil War.

2. Plaintiff Gene Terrell Brooks (hereinafter referred to as "Plaintiff Brooks") has been a citizen and resident of Chatham County, North Carolina for the six months next preceding the filing of this action. Plaintiff Brooks has been assessed property taxes by the Chatham County Tax Assessor, and Plaintiff Brooks has paid such property taxes as the same have come due from time to time. Plaintiff Brooks is a direct ancestor of a member of the armed forces of the Confederate States of America during the Civil War.

3. Plaintiff Thomas Henry Clegg (hereinafter referred to as "Plaintiff Clegg") has been a citizen and resident of Chatham County, North Carolina for the six months next preceding the filing of this action. Plaintiff Clegg has been assessed property taxes by the Chatham County Tax Assessor, and Plaintiff Clegg has paid such property taxes as the same have come due from time to time. Plaintiff Clegg is a direct ancestor of a member of the armed forces of the Confederate States of America during the Civil War.

4. Plaintiff Winnie Davis Chapter 259 of the United Daughters of the Confederacy (hereinafter referred to as "Plaintiff Chapter") is a nonprofit association, other than one created by a trust and other than a limited liability company, consisting of two or more members joined by mutual consent for a common, nonprofit purpose, which is organized and existing under the provisions of Chapter 59B of the North Carolina General Statutes. Pursuant to the provisions of G.S. § 59B-8, Plaintiff Chapter may assert a claim in its name on behalf of its members or persons referred to as "members" by it if one or more of them have standing to assert a claim in their own right, the interests it seeks to protect are germane to its purposes, and neither the claim asserted nor the relief requested requires the participation of a member or a person referred to as a "member" by it. At all times pertinent to the allegations contained herein, Plaintiff Chapter was a nonprofit association organized and existing under the laws of the State of North Carolina which was operating and existing in Chatham County, North Carolina where it regularly held meetings and engaged in activities germane to its purpose as a Confederate heritage group.

5. Pursuant to the provisions of G.S. § 66-71.5, Plaintiff Chapter has duly filed an assumed business named certificate, recorded on May 8, 2019 in Book 2043, page 959 in the Office of the Register of Deeds of Chatham County, North Carolina.

6. Chatham County is a body politic created and existing under the Constitution of the State of North Carolina and the provisions of Chapter 153A of the North Carolina General Statutes. As such, Chatham County has only such power and authority as might be delegated to it consistent with the provisions of the Constitution of the State of North Carolina and the provisions of Chapter 153A of the North Carolina General Statutes.

7. Defendants are the duly elected or appointed county commissioners for Chatham County, North Carolina. At all times pertinent to the allegations contained herein, Defendants were

acting in their official capacities as members of the Chatham County Board of Commissioners.

8. The Superior Court of Chatham County has jurisdiction over the subject matter of this action and the parties hereto pursuant to the provisions of G.S. §1-75.1 et seq., and venue is proper in Chatham County pursuant to G.S. §1-76 et seq. 1.

9. Contemporaneously with the filing of this motion, Plaintiffs have filed a complaint seeking the entry of a Declaratory Judgment pertaining to the said Confederate Monument, to which more specific reference is made and incorporated herein.

10. The conduct of Defendants directly and substantially affects the legitimate interests of Plaintiffs in the Confederate Monument.

11. Plaintiff alleges and says that they have legitimate and cognizable interests in the Confederate Monument.

12. Plaintiffs will be irreparably harmed if Defendants take affirmative action to remove, alter, destroy and/or attempt to relocate the Confederate monument prior to a full adjudication of the respective rights and obligations of the Parties.

13. Plaintiffs' remedy at law is inadequate.

14. Plaintiffs are entitled to a temporary restraining order, upon such conditions as the Court might deem appropriate, restraining and enjoining Defendants from taking affirmative action to remove or relocate the confederate monument pending hearing upon Plaintiffs' request for a preliminary injunction.

WHEREFORE, Plaintiffs respectfully pray:

1. That this verified motion be taken as an affidavit in the cause;
2. That a Declaratory Judgment be entered with respect to the Parties' respective liabilities and rights with regard to the monument;

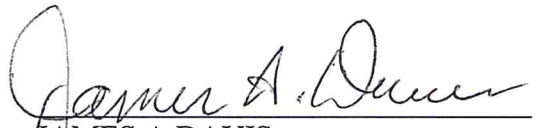
3. That a Temporary Restraining Order be entered restraining and enjoining Defendants from taking affirmative action to remove or relocate the monument prior to a full adjudication of the respective rights and obligations of the Parties;

4. That a Preliminary Injunction be entered restraining and enjoining Defendants from taking affirmative action to remove or relocate the monument prior to a full adjudication of the respective rights and obligations of the Parties;

5. That the Plaintiff be awarded the costs of this action, including reasonable attorneys' fees pursuant to G.S. 6-21.7; and

6. That they have such other and further relief as to the Court might seem just and proper.

This is the 22nd day of October 2019.


JAMES A DAVIS
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Winston-Salem, North Carolina 27101
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Email: jad@jamesdavislaw.com
Attorney for Plaintiffs

NORTH CAROLINA

CHATHAM COUNTY

VERIFICATION

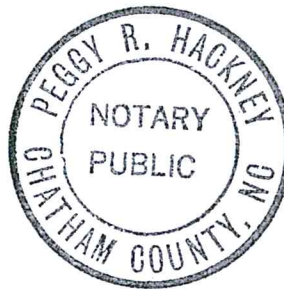
GENE TERRELL BROOKS, first being duly sworn, deposes and says that he is a Plaintiff in the above-entitled action; that he has read the foregoing motion; that it is true and accurate to the best of his knowledge and belief; and that, as to those matters alleged upon information and belief, he believes them to be true.

This 22 day of October 2019.

Gene Terrell Brooks
GENE TERRELL BROOKS

Sworn to and subscribed before me,
this 22nd day of October 2019.

Peggy R. Hackney
Notary Public
My commission expires: 12/30/2020



NORTH CAROLINA

CHATHAM COUNTY

VERIFICATION

THOMAS HENRY CLEGG, first being duly sworn, deposes and says that he is a Plaintiff in the above-entitled action; that he has read the foregoing motion; that it is true and accurate to the best of his knowledge and belief; and that, as to those matters alleged upon information and belief, he believes them to be true.

This 22 day of October 2019.


THOMAS HENRY CLEGG

Sworn to and subscribed before me,

This 22 day of October 2019.


Notary Public

My commission expires: 08-14-24

William Crawford
NOTARY PUBLIC
Chatham County, NC
My Commission Expires August 14, 2024

NORTH CAROLINA

CHATHAM COUNTY

VERIFICATION

BARBARA CLARK PUGH, first being duly sworn, deposes and says that she is the duly elected President of the Winnie Davis Chapter 259 of the United Daughters of the Confederacy which is a Plaintiff in the above-entitled action; that she has actual authority to make this verification on behalf of such entity; that she has read the foregoing motion; that it is true and accurate to the best of her knowledge and belief; and that, as to those matters alleged upon information and belief, she believes them to be true.

This 22 day of October 2019.

Barbara Clark Pugh
BARBARA CLARK PUGH

Sworn to and subscribed before me,
this 22nd day of October 2019.

Peggy R. Hackney
Notary Public
My commission expires: 12/30/2020

