

CLOSED

**U.S. District Court
EASTERN DISTRICT OF NORTH CAROLINA (Western Division)
CIVIL DOCKET FOR CASE #: 5:16-cv-00240-FL**

Berger, et al. v. United States Department of Justice, et al
Assigned to: District Judge Louise Wood Flanagan
related Cases: [5:16-cv-00238-BO](#)
[5:16-cv-00245-FL](#)
Cause: 28:1331 Fed. Question

Date Filed: 05/09/2016
Date Terminated: 06/29/2016
Jury Demand: None
Nature of Suit: 950 Constitutional – State Statute
Jurisdiction: Federal Question

Plaintiff

Phil Berger
in his official capacity as President pro tempore of the North Carolina Senate

represented by **Stuart K. Duncan**
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Plaintiff

Tim Moore
in his official capacity as Speaker of the North Carolina House of Representatives

represented by **Stuart K. Duncan**
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Gene C. Schaerr
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Robert D. Potter , Jr.
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V.

Defendant

United States Department of Justice

represented by **Emily B. Nestler**
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LEAD ATTORNEY

Defendant

Loretta E. Lynch
*in her official capacity as Attorney
General of the United States*

represented by **Emily B. Nestler**
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ATTORNEY TO BE NOTICED

Michael James
(See above for address)
TERMINATED: 07/18/2016
LEAD ATTORNEY

Defendant

Vanita Gupta
*in her official capacity as Principal
Deputy Assistant Attorney General*

represented by **Emily B. Nestler**
(See above for address)
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Michael James
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TERMINATED: 07/18/2016
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Interested Party

Patrick L. McCrory

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Interested Party

Frank Perry

represented by **Karl S. Bowers, Jr.**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/09/2016	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400, receipt number 25RGSD63) filed by Phil Berger, Tim Moore. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Financial Disclosure) (Potter, Robert) (Entered: 05/09/2016)
05/09/2016	<u>2</u>	Notice of Appearance filed by Robert D. Potter, Jr. on behalf of All Plaintiffs. (Potter, Robert) (Entered: 05/09/2016)
05/10/2016	<u>3</u>	Notice of Appearance filed by Stuart K. Duncan on behalf of Phil Berger, Tim Moore. (Duncan, Stuart) (Entered: 05/10/2016)
05/10/2016	<u>4</u>	Summonses Issued as to Vanita Gupta, Loretta E. Lynch, and United States Department of Justice. *NOTICE: Counsel shall print the attached summonses and serve with other case opening documents in accordance with Fed.R.Civ.P. 4.* (Tripp, S.) (Entered: 05/10/2016)
05/11/2016		Notice to Counsel regarding <u>3</u> Notice of Appearance filed by Stuart K. Duncan – The court recommends flattened pdf fillable forms, as stated in Section B(3) of the court's CM/ECF Administrative Policies and Procedures Manual. To prevent future docketing issues, it is requested that counsel flatten the document and refile it accordingly. (Baker, C.) (Entered: 05/11/2016)
05/11/2016		NOTICE OF DEFICIENCY regarding Financial Disclosure Statement attached to Complaint – This document must be filed separately, utilizing the <i>Financial Disclosure Statement</i> filing event located in the "Other Documents" category. When refiled, counsel is reminded that Local Civil Rule 5.1 requires that all documents submitted for filing be uploaded in a text searchable format. (Baker, C.) (Entered: 05/11/2016)
05/11/2016	<u>5</u>	Notice of Appearance filed by Stuart K. Duncan on behalf of Phil Berger, Tim Moore. (Duncan, Stuart) (Entered: 05/11/2016)

05/11/2016	<u>6</u>	Financial Disclosure Statement by Phil Berger, Tim Moore. (Potter, Robert) (Entered: 05/11/2016)
05/23/2016	<u>7</u>	MOTION to Consolidate Cases filed by Phil Berger, Tim Moore. (Attachments: # <u>1</u> Text of Proposed Order) (Duncan, Stuart) (Entered: 05/23/2016)
05/23/2016	<u>8</u>	Memorandum in Support regarding <u>7</u> MOTION to Consolidate Cases filed by Phil Berger, Tim Moore. (Duncan, Stuart) (Entered: 05/23/2016)
05/25/2016	<u>9</u>	Notice of Appearance filed by Brennan Tyler Brooks on behalf of Patrick L. McCrory. (Brooks, Brennan) (Entered: 05/25/2016)
05/25/2016	<u>10</u>	Notice of Appearance filed by William W. Stewart, Jr on behalf of Patrick L. McCrory. (Stewart, William) (Entered: 05/25/2016)
05/25/2016	<u>11</u>	Notice of Appearance filed by Frank J. Gordon on behalf of Patrick L. McCrory. (Gordon, Frank) (Entered: 05/25/2016)
05/25/2016	<u>12</u>	Notice of Appearance for non–district counsel by Karl S. Bowers, Jr. on behalf of Patrick L. McCrory, Frank Perry. (Bowers, Karl) (Entered: 05/25/2016)
05/25/2016	<u>13</u>	RESPONSE to Motion regarding <u>7</u> MOTION to Consolidate Cases filed by Patrick L. McCrory, Frank Perry. (Stewart, William) (Entered: 05/25/2016)
05/25/2016	<u>14</u>	Financial Disclosure Statement by Patrick L. McCrory. (Stewart, William) (Entered: 05/25/2016)
05/25/2016	<u>15</u>	Financial Disclosure Statement by Frank Perry. (Bowers, Karl) (Entered: 05/25/2016)
05/25/2016		Notice to Counsel regarding <u>14</u> Financial Disclosure Statement and <u>15</u> Financial Disclosure Statement – Counsel is reminded of the requirement to affix a certificate of service to all filings pursuant to Fed. R. Civ. P. 5(d) and Section F(3) of the court's CM/ECF Electronic Policies and Procedures Manual. (Baker, C.) (Entered: 05/25/2016)
05/25/2016	<u>16</u>	Certificate of Service filed by Patrick L. McCrory regarding <u>14</u> Financial Disclosure Statement. (Stewart, William) (Entered: 05/25/2016)
05/25/2016	<u>17</u>	Certificate of Service filed by Frank Perry regarding <u>15</u> Financial Disclosure Statement. (Bowers, Karl) (Entered: 05/25/2016)
06/09/2016	<u>18</u>	Notice of Appearance filed by Gene C. Schaerr on behalf of Phil Berger, Tim Moore. (Schaerr, Gene) (Entered: 06/09/2016)
06/15/2016		**** Set Hearing – Telephonic Rule 16 Status Conference and Motion Hearing as to <u>7</u> MOTION to Consolidate Cases set for 6/21/2016 at 10:00 AM before District Judge Louise Wood Flanagan. *Counsel will be provided dial–in instructions in advance of the telephonic hearing* (Tripp, S.) (Entered: 06/15/2016)
06/17/2016	<u>19</u>	Affidavit of Service for Complaint filed by Phil Berger, Tim Moore served on Vanita Gupta on June 13, 2016., Summons Returned Executed by Certified Mail filed by Phil Berger, Tim Moore as to Vanita Gupta served on 6/13/2016, answer due 8/12/2016., SUMMONS Returned Executed by Phil Berger; Tim Moore. Vanita Gupta served on 6/13/2016, answer due 8/12/2016. (Duncan, Stuart) (Entered: 06/17/2016)
06/17/2016	<u>20</u>	Affidavit of Service for Complaint filed by Phil Berger, Tim Moore served on Loretta E. Lynch on June 13, 2016., SUMMONS Returned Executed by Phil Berger, Tim Moore. Loretta E. Lynch served on 6/13/2016, answer due 7/4/2016., Summons Returned Executed by Certified Mail filed by Phil Berger; Tim Moore as to Loretta E. Lynch served on 6/13/2016, answer due 7/4/2016. (Duncan, Stuart) (Entered: 06/17/2016)
06/17/2016	<u>21</u>	Affidavit of Service for Complaint filed by Phil Berger, Tim Moore served on United States Department of Justice on June 13, 2014., SUMMONS Returned Executed by Phil Berger, Tim Moore. United States Department of Justice served on 6/13/2016, answer due 7/4/2016., Summons Returned Executed by Certified Mail filed by Phil Berger; Tim Moore as to United States Department of Justice served on 6/13/2016, answer due 7/4/2016. (Duncan, Stuart) (Entered: 06/17/2016)

06/20/2016	<u>22</u>	Notice of Appearance filed by Emily B. Nestler on behalf of All Defendants. (Nestler, Emily) (Entered: 06/20/2016)
06/20/2016		NOTICE OF DEFICIENCY regarding <u>22</u> Notice of Appearance – Counsel failed to attach a certificate of service pursuant to Fed. R. Civ. P. 5(d) and Section F(3) of the Court's CM/ECF Electronic Policies and Procedures Manual. Counsel should file a separately captioned certificate of service using the appropriate event located under the <i>Civil Events – Service of Process</i> category. (Tripp, S.) (Entered: 06/20/2016)
06/20/2016	<u>23</u>	Certificate of Service filed by Vanita Gupta, Loretta E. Lynch, United States Department of Justice regarding <u>22</u> Notice of Appearance of <i>Emily B. Nestler</i> . (Nestler, Emily) (Entered: 06/20/2016)
06/21/2016	<u>24</u>	Notice of Appearance filed by Robert C. Stephens on behalf of Patrick L. McCrory. (Stephens, Robert) (Entered: 06/21/2016)
06/21/2016	<u>25</u>	Minute Entry for proceedings held before District Judge Louise Wood Flanagan in New Bern: Telephonic Rule 16 Status Conference and Motion Hearing as to <u>7</u> MOTION to Consolidate Cases held on 6/21/2016. Counsel present for all parties. Court hears oral argument as to motion and procedural posture of the case. Matters taken under advisement. Written order to follow. (Court Reporter – David Collier) (Baker, C.) (Entered: 06/21/2016)
06/21/2016	<u>26</u>	Notice of Appearance filed by Michael James on behalf of All Defendants. (James, Michael) (Entered: 06/21/2016)
06/29/2016	<u>27</u>	ORDER denying <u>7</u> Motion to Consolidate Cases – On its own initiative, having heard from the parties further at hearing and conference June 21, 2016, the court TRANSFERS case number 5:16–CV–240–FL and case number 5:16–CV–245–FL to the Middle District. Signed by District Judge Louise Wood Flanagan on 6/29/2016. (Baker, C.) (Entered: 06/29/2016)
06/30/2016		Remark – Case transferred from North Carolina Eastern District has been opened in North Carolina Middle District as case 1:16–cv–00844, filed 06/29/2016. (Baker, C.) (Entered: 06/30/2016)
07/15/2016	<u>28</u>	MOTION to Withdraw as Attorney filed by United States Department of Justice. (Attachments: # <u>1</u> Text of Proposed Order Granting Motion to Withdraw) (James, Michael) (Entered: 07/15/2016)
07/15/2016	<u>29</u>	Memorandum in Support regarding <u>28</u> MOTION to Withdraw as Attorney filed by United States Department of Justice. (James, Michael) (Entered: 07/15/2016)
07/18/2016	<u>30</u>	ORDER granting <u>28</u> Motion to Withdraw as Attorney – Signed by District Judge Louise Wood Flanagan on 7/18/2016. (Baker, C.) (Entered: 07/18/2016)