UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NATIONAL ASSOCIATION FOR RATIONAL SEXUAL OFFENSE LAWS; NC RSOL; and JOHN DOES #'s 1 and 2,	)	
Plaintiffs,	)	
v.	)	
JOSHUA STEIN, Attorney General of the State of North Carolina;	)	
ERIK A. HOOKS, Secretary of the North Carolina Department of Public Safety;	)	
DISTRICT ATTORNEYS	)	
Andy Womble (District 01), Seth Edward (District 02), Kimberly Robb (District 03A) Scott Thomas (District 03B), Ernie Lee (District 04), Ben David (District 05), Valerie Asbell (District 06), Robert Evans (District 07), Matt Delbridge (District 08), Mike Waters (District 09), Wallace Bradsher (District 09A), Lorrin Freeman (District 10), Vernon Stewart (District 11A), Susan Doyle (District 11B), Billy West (District 12), Jon David (District 13), Roger Echols (District 14), Pat Nadolski (District 15A), Jim Woodall (District 15B), Kristy Newton (District 16A), Johnson Britt (District 16B), Reece Saunders (16C), Craig Blitzer (District 17A),	)	Case No. 1:17-cv-53

Ricky Bowman (District 17B), Doug Henderson (District 18), Roxann Vaneekhoven (District 19A), Andy Gregson (District 19B), Brandy Cook (District 19C), Maureen Krueger (District 19D), Lynn Clodfelter (District 20A), Trey Robison (District 20B), Jim O'Neill (District 21), Sarah Kirkman (District 22A), Garry Frank (District 22B), Tom Horner (District 23), Seth Banks (District 24), David Learner (District 25), Andrew Murray (District 26), Locke Bell (District 27A), Mike Miller (District 27B), Todd Williams (District 28), Ted Bell (District 29A), Greg Newman (District 29B), Ashley Welch (District 30);	)
Defendants.	)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
NOTICE OF CHALLENGE TO CONSTITUTIONALITY OF STATE STATUTE

Preliminary Statement

1. Sex Offender Registry laws largely originated in the mid-1990s in response to several highly publicized, violent crimes against children.

2. Although the abduction and/or sexual assault of children by strangers is rare, the sheer horror of these crimes, combined with their publicity, caused the near universal enactment of federal and state registry laws by 1996.

3. Originally, these laws were relatively simple, often doing no more than establishing a non-public or limited release law-enforcement database to track the current addresses of persons convicted of certain sexual crimes and/or crimes against children. The original laws generally (and North Carolina in particular) required registration for a period of ten years, allowed for a petition for exception, and imposed no affirmative restraints other than the fact of registration itself.

4. Since that time, however, in North Carolina and most other states, the registry laws have morphed into mandatory, public, often lifetime registration and reporting requirements, along with housing, occupational, and mere presence restrictions that impose extensive direct and indirect restraints on all registrants regardless of their actual level of dangerousness.

5. In North Carolina, a registry originally designed to collect and provide basic information on registrants has grown into an elaborate system of affirmative restraints without any history of legislative fact-finding or other indication that these restraints are either necessary or effective in protecting the public.

6. In fact, there is now general consensus among researchers that these laws not only fail to protect the public, but actually exacerbate genuine risk factors for recidivism thereby increasing the chance of future criminal activity.

7. The individual Plaintiffs in this case are North Carolina residents required to register under North Carolina's Sex Offender Registration Law (North Carolina Criminal Code, Article 27A and related statutes) [hereafter "registry law"].

8. Several provisions of this law, imposing direct, affirmative restraints on Plaintiffs, have been imposed retroactively.

9. Each of the individual Plaintiffs has been specifically found *not* to be a danger to minors, yet they are still subject to these restraints.

10. The corporate Plaintiffs in this suit, the National Association for Rational Sex Offense Laws (NARSOL) and its North Carolina affiliate (NC RSOL), are non-profit advocacy groups. Each have and represent members subject to North Carolina's registry law.

11. As with the individual Plaintiffs, these laws have been applied retroactively to various members of NARSOL and NC RSOL.

12. As a matter of course, the State conducts risk assessments (assessments of potential for future dangerousness) on all persons convicted of offenses requiring registration under the registry law.

13. Many such persons (including the individual Plaintiffs) are found to be at low risk for recidivism.

14. However, regardless of this individualized determination, all registrants are subject (most often for thirty (30) years or life) to close supervision, frequent in-person reporting requirements, and random inspection and recall by law enforcement.

15. The State publicly and falsely identifies all registrants as a danger to children and the public generally – despite knowing this imputation is false in individual cases and for the vast majority of registrants.

16. Based on that false declaration of danger, registrants are banned from living in many areas, working in many jobs, and simply being present in a wide array of public spaces (including houses of worship, libraries, the

General Assembly building, colleges, community centers, fairs, parks, and wide range of private businesses).

17. They are largely prevented from directing the care and upbringing of their children or obtaining an education for themselves; directly and indirectly barred from a broad range of occupations; and greatly burdened in the exercise of their basic First Amendment liberties.

18. In addition to the restraints and burdens stemming from the registry law itself, registrants are also subject to severe social penalties stemming from the State's continued assertion and resultant public belief that presence on the registry indicates that an individual is likely to reoffend against young children or adolescents.

19. Failure to comply with any of the myriad obligations and restrictions of the registry law is a felony offense – treated more seriously by the State than many of the crimes that placed an individual on the registry in the first place.

20. In this case, the Plaintiffs ask this Court to recognize that registry laws, including North Carolina's, have changed from a database of criminal convictions to a punitive regime of affirmative restraint. *See, e.g.*, *Doe v. Snyder*, 834 F.3d 696 (6th Cir. 2016) (holding Michigan Sex Offender Registration Act violates *ex post facto* clause); *U.S. v. Juvenile Male*, 590 F.3d 924 (9th Cir. 2009) (finding 42 U.S.C. § 16901 *et seq*. (SORNA) violates *ex post facto* clause when applied to juvenile), *vacated as moot*, 534 U.S. 932 (2011); *State v. Williams*, 952 N.E.2d 1108 (Ohio 2011) (holding Ohio's registry scheme violates *ex post facto* clause); *Wallace v. State*, 905 N.E.2d 371 (Ind. 2009) (holding Indiana's registry scheme violates *ex post facto* clause); *State v. Letalien*, 985 A.2d 4 (Me.

2009) (holding Maine's registry scheme violates *ex post facto* clause); *Commonwealth v. Baker*, 295 S.W.3d 437 (Ky. 2009) (holding that Kentucky's limitations on where registrant may live violates the *ex post facto* clause).

21. The North Carolina registry law, both in its parts and as a whole, violates the federal Constitution's prohibition on *ex post facto* laws.

22. The Plaintiffs further ask this Court to recognize that North Carolina's registry laws place severe burdens on Plaintiffs' constitutional liberties – including their exercise of First and Fourteenth Amendment rights, and their fundamental rights to "pursue the common occupations of life," "to acquire useful knowledge," and "to direct the education and upbringing of one's children".

23. These burdens are not justified by "logic," or "common sense," but require the State to produce hard evidence that these laws are "narrowly tailored to serve a compelling government interest." *See Doe v. Cooper*, Nos. 16-6026, 16-1596 (4th Cir. Nov. 30, 2016) ("Neither anecdote, common sense, nor logic, in a vacuum, is sufficient to carry the State's burden of proof under [heightened] scrutiny.") (striking down a portion of North Carolina N.C.G.S. §14-208.18 (sex offender on premises)).

24. To meet this burden, the State must, at an absolute minimum, show that the registry law appropriately target those registrants that pose a real risk to children. *See Doe v. Cooper*, 1:13CV711 at *18 (M.D.N.C. Apr. 22, 2016) (applying heightened scrutiny to previous version of N.C.G.S. §14-208.18(a)).

25. The State must also show that the registry law, both as a whole and in its various subparts, materially reduces the risk of danger to minors and

the public at law. *See, e.g.*, *Ross v. Early*, 746 F.3d 546, 556 (4th Cir. 2014) (discussing State's burden under heightened scrutiny in First Amendment context).

26. Without such affirmative showings, the State cannot justify the registry law's burdens on First Amendment and other fundamental liberties.

27. The registry law also violates the Due Process Clause by falsely stigmatizing Plaintiffs as a danger to young children and then depriving them of First Amendment and other fundamental rights on the basis of that false stigmatization.

28. The registry law provides no mechanism for challenging the State's assertion that the Plaintiffs are dangerous to children.

29. In fact, the individual Plaintiffs in this case have already been found *not* to be a danger to children yet they are subjected to a serious deprivation of liberty *despite* that determination.

30. Finally, portions of the North Carolina registry law, specifically N.C.G.S. § 14-208.18 (a)(2) and (a)(3) are unconstitutionally vague and overbroad in violation of the First and Fourteenth Amendments of the U.S. Constitution.

31. The law fails to provide sufficiently clear guidance as to what is and is not prohibited – leaving registrants without fair notice and setting the conditions for arbitrary and unfair enforcement.

32. To the extent the statutes are clear, they impermissibly restrict a broad range of First Amendment activity without sufficient justification.

33. In light of these constitutional deficiencies, the Plaintiffs seek declaratory and injunctive relief barring retroactive application of the North Carolina registry law as applied to them and the members of NARSOL and NC RSOL who committed offenses prior to enactment of the constitutionally deficient provisions of the law.

34. The Plaintiffs also request declaratory and injunctive relief barring enforcement of the North Carolina registry law against Plaintiffs and those similarly situated to the extent those laws unconstitutionally interfere with Plaintiffs' fundamental liberties.

35. Lastly, Plaintiffs request declaratory and injunctive relief barring application of the North Carolina registry law, both individual subsections and the law as a whole, to individuals who have been adjudicated *not* to be a danger to minors or others.

36. The Plaintiffs ask this Court to require the State to show that an individual is reasonably likely to be a danger to minors, especially children, before subjecting that individual to the severe stigma and restraints imposed by the North Carolina registry law.

37. The registry law is currently being enforced in all its aspects.

38. The State has not declared any intention to cease attempting to enforce any portion of the registry laws

39. The individual Plaintiffs as well as the members of NARSOL and NC RSOL desire to engage in activity prohibited by the registry law and are subject to prosecution if they do engage in such activity. But for the registry law, they would engage in the activities prohibited by it.

Jurisdiction and Venue

40. Plaintiffs' claims are brought pursuant to 42 U.S.C. § 1983.

41. Jurisdiction of federal claims is proper under 28 U.S.C. §§ 1331 and 1343. Plaintiffs seek redress for the deprivation of rights secured by the U.S. Constitution.

42. Supplemental jurisdiction over state law claims is proper under 28 U.S.C. § 1367.

43. Venue is proper in the Middle District of North Carolina pursuant to 28 U.S.C. § 1391(b). All defendants are residents of North Carolina and at least one defendant resides in the federal Middle District of North Carolina.

44. The declaratory and injunctive relief sought by Plaintiffs is authorized by 28 U.S.C. §§ 2201 and 2202, Federal Rules of Civil Procedure 57 and 65, and by the legal and equitable powers of the Court.

Defendants

a. Joshua Stein (Attorney General)

45. Defendant Joshua Stein is the Attorney General of the State of North Carolina. He is sued in his official capacity.

46. The Attorney General is the State's authorized legal representative charged with defending the interests of the State in all criminal and civil suits.

47. Under N.C.G.S. §§ 114-11.6 and 114-2(1), the Attorney General has the authority, through special prosecutors, to bring or assist in criminal suits upon request of a district attorney.

48. Under N.C.G.S. § 114-3, the Attorney General consults with and advises district attorneys, provides legal opinions, and handles all criminal appeals from state trial courts.

49. The previous Attorney General actively pursued prosecutions under the registry law and indicated an intent to do so in the future. The current Attorney General is expected to do the same.

b. Erik A. Hooks (Secretary of the NC Dep't of Public Safety)

50. Defendant Erik A. Hooks is the Secretary of the North Carolina Department of Public Safety. He is sued in his official capacity.

51. Under North Carolina law, the Department of Public Safety is responsible for maintaining the statewide sex offender registry. N.C.G.S. § 14-208.15.

52. Its responsibilities include collecting and disseminating information about registrants, including photographs of each individual registrant, and ensuring this information is publicly available via the Internet. N.C.G.S. § 14-208.15.

53. The Secretary of the Department of Public Safety is a proper defendant in a suit challenging the constitutionality of the registry statutes.

c. Individual District Attorneys

54. Defendant District Attorneys are responsible for the prosecution of crimes in their respective judicial districts. They are each sued in their official capacities.

55. The District Attorneys each have statutory authority under N.C.G.S. § 7A-61 to prosecute individuals for violations of the registry laws. The statute states that "[t]he district attorney shall . . . prosecute in a timely

manner in the name of the State all criminal actions and infractions requiring prosecution in the superior and district court of his prosecutorial district[.]"

56. The Plaintiffs, including NARSOL and NC RSOL on behalf of their members, wish to engage in conduct proscribed by the registry laws and are reasonably concerned that they will be prosecuted for doing so.

57. The Plaintiffs' desire to engage in such conduct and consequent fear of prosecution is not limited to the judicial district in which they currently reside.

58. The State has not disclaimed any intention of enforcing each provision of the registry law against either the individual Plaintiffs or the affected members of NC RSOL.

Plaintiffs

a. National Association for Rational Sexual Offense Laws (NARSOL)

59. The National Association for Rational Sexual Offense Laws (NARSOL) is a non-profit corporation organized under the laws of the State of North Carolina.

60. It is a voluntary membership organization.

61. Its purpose is to advocate, both legislatively and legally, for the reform of state and national laws regarding sex offender registries and legal restrictions placed on registrants (collectively "registry laws").

62. To fulfill this purpose, NARSOL seeks to educate legislators and the public regarding the facts and effects of sex offender registries and restrictions placed on registrants.

63. NARSOL also seeks to assist registrants in vindicating their constitutional rights through legal challenges to unconstitutional restrictions.

64. NARSOL has membership that includes registrants, family members of registrants, and other concerned citizens.

65. NARSOL has members who are on the North Carolina Sex Offender Registry, are subject to the restrictions contained therein (including those in N.C.G.S. § 14-208.18), and who committed their registerable offense prior to 1996.

66. NARSOL has members who are on the North Carolina Sex Offender Registry, are subject to the restrictions contained therein (including those in N.C.G.S. § 14-208.18), and who committed their registerable offense prior to 2006.

67. NARSOL has members who are on the North Carolina Sex Offender Registry, are subject to the restrictions contained therein (including those in N.C.G.S. § 14-208.18), and who committed their registerable offense prior to 2008.

68. NARSOL has members who are on the North Carolina Sex Offender Registry, are subject to the restrictions contained therein (including those in N.C.G.S. § 14-208.18), and who committed the registerable offenses prior to 2016.

69. Additionally, NARSOL has members whose term of registration was retroactively extended from ten (10) years to thirty (30) years or life without any consideration of the dangerousness of those individuals or opportunity to petition for exception.

70. In this lawsuit, NARSOL seeks to protect the interests of its members by removing from them unconstitutional burdens and restrictions on their constitutional liberties.

71. Such protection is germane to the interests of the organization.

72. The full effect of the North Carolina registry laws on the members of NARSOL will be described in detail below.

73. This is a suit for declarative and injunctive relief.

74. Neither the claims asserted nor the relief requested require the participation of the individual members in this lawsuit.

75. The relief sought, if granted, will inure to the benefit of the members of NARSOL whose constitutional rights are injured by the North Carolina registry law.

b. NC RSOL

76. NC RSOL is the North Carolina affiliate of NARSOL.

77. It is an independently chartered non-profit corporation organized under the laws of the State of North Carolina.

78. It is a voluntary membership organization.

79. Its purpose is to advocate, both legislatively and legal, for the rational reform of the North Carolina state registry law.

80. To fulfill this purpose, NC RSOL seeks to educate legislators and the public regarding the facts and effects of the registry law.

81. NC RSOL also seeks to assist registrants in vindicating their constitutional rights through legal challenges to unconstitutional restrictions.

82. NC RSOL has membership that includes registrants, family members of registrants, and other concerned citizens.

83. NC RSOL has members who are on the North Carolina Sex Offender Registry, are subject to the restrictions contained therein (including those in N.C.G.S. § 14-208.18), and who committed their registerable offense prior to 1996.

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87. Additionally, NC RSOL has members whose term of registration was retroactively extended from ten (10) years to thirty (30) years or life without any consideration of the dangerousness of those individuals or opportunity to petition for exception.

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91. This is a suit for declarative and injunctive relief.

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93. The relief sought, if granted, will inure to the benefit of the members of NC RSOL whose constitutional rights are injured by the North Carolina registry law.

c. John Doe 1

94. John Doe 1 currently resides in Alamance County, North Carolina. He pled guilty to a qualifying offense in 2009, is registered as a sex offender in North Carolina, and is subject to the restrictions contained in North Carolina General Statutes Article 27A, including N.C.G.S. § 14-208.18 (premises restriction).

95. John Doe 1 was convicted in 2009, pursuant to his plea, of two counts of misdemeanor sexual battery.

96. He received two suspended 75-day sentences and served two 15-day active sentences. He was placed on supervised probation for 18 months, but he successfully completed his requirements and was released from the probationary program early.

97. John Doe 1 is not currently on probation or subject to any court-ordered restrictions. He has not committed any misconduct nor has he been the subject of any allegations or charges (sexual or otherwise) since the 2009 conviction.

98. The victim in John Doe 1's case was a 30-year old woman. There were not at that time, nor have there ever been, any allegations that John Doe 1 ever engaged in any inappropriate conduct with any minor.

99. As part of the sentencing process, John Doe 1 underwent a psychological evaluation at the direction of the State. Pursuant to this evaluation, the trial judge specifically determined that John Doe 1 is *not* a threat to minors or others.

100. Based upon this finding, the trial judge directed that John Doe 1 would *not* be subject to sex offender counseling or other treatment.

101. Based upon this finding, the trial judge also directed that John Doe 1 would *not* be subject to the premises, housing, and work restrictions contained in Article 27A. However, this ruling was modified upon the State's objection that such ruling exceeded the trial judge's authority.

d. John Doe 2

102. John Doe 2 currently resides in Wake County, North Carolina. He pled guilty to a qualifying offense in 2009, is registered as a sex offender in North Carolina, and is subject to the restrictions contained in North Carolina General Statutes Article 27A, including N.C.G.S. § 14-208.18 (premises restriction).

103. In 2011, pursuant to his plea, John Doe 2 was convicted of misdemeanor sexual battery after engaging in a consensual sexual relationship with a 16-year old girl – although 16 years old is the age of consent in North Carolina, this relationship was illegal as John Doe 2 was a coach of the victim.

104. John Doe 2 received a suspended sentence of sixty (60) days and was placed on supervised probation for sixty (60) months. He was released from probation early as he fulfilled all requirements.

105. John Doe 2 is married and has a son (now age 12).

106. At the time of his sentencing, the trial judge specifically found that John Doe 2 should be allowed to interact with minors (and attend his son's educational and social activities) provided there was another adult present.

107. However, the Wake County Sheriff's office subsequently informed John Doe 2 that the registry law, particularly N.C.G.S. § 14-208.18(a), superseded this finding and that John Doe 2 could be prosecuted for violation of that section of the registry law.

108. John Doe 2 attended and successfully completed sex offender counseling and treatment. As part of this treatment, John Doe 2 was assessed for risk of recidivism.

109. John Doe 2 was specifically found to be at "low" risk of recidivism and his counselor recommended that John Doe 2 be allowed to attend his son's social and recreational activities.

Factual Allegations

a. Historical Development of the North Carolina Registry Laws

110. North Carolina passed its first registry law in 1995. Before then, there was no state database of "sex offenders."

111. This initial registry law did no more than create a database of persons who had been convicted of a relatively small number of qualifying offenses.

112. Registration terminated automatically after ten (10) years and a person could petition for removal from the registry on the grounds that inclusion did not serve a useful purpose in the individual case.

113. The registry was maintained by the local sheriff and was available to the public only upon request by a member of the public regarding a specific individual; however, the public was not entitled to take or make copies of any photograph of the registrant.

114. Registrants were required to mail in notification of any change of address.

115. Violation of the registry law was a Class 3 misdemeanor.

116. The stated purpose of this law was to "assist local law enforcement agencies' efforts to protect their communities by requiring sex offenders to register . . . and to require an exchange of relevant information about sex offenders among law enforcement agencies and to authorize the access to necessary and relevant information about sex offenders to others[.]"

117. The statute applied to all persons committing a qualifying offense or who were released from a penal institution after the effective date.

118. There is no history of independent legislative fact-finding or even substantive legislative debate prior to enactment of the initial registry law.

119. Although N.C.G.S. § 14-208.5 (1995) (purpose) states that "the General Assembly recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration," there is no evidence of any studies, testimony, or other factual basis for this finding in the legislative record.

120. Since that first law, the North Carolina registry law has been repeatedly amended, each time making the laws' restrictions more stringent and often adding entirely new offenses – both "reportable offenses" (those that result in registration) and new felony offenses applicable only to registrants.

121. However, the stated purpose of the law (collection and exchange of information) has never changed nor is there any record that the state legislature has ever made independent factual findings regarding the dangerousness of sex offenders as a class or the efficacy of the registry laws in protecting the public.

122. The registry law was first amended in 1997.

123. The new law expanded the list of reportable offenses and established a process for adjudicating whether an individual was a "sexually violent predator."

124. "Reportable Offenses" were redefined as "sexually violent offenses" and "(non-sexual) offenses against minors."

125. The new reportable offenses include kidnapping (of a minor), abduction of children, and felonious restraint of a child regardless of whether these crimes had any sexual component.

126. Registry for persons adjudicated sexually violent predators was increased to thirty (30) years while it remained at ten (10) years for all other registrants.

127. For all registrants, the provision allowing for petition for removal if the registry served no purpose was deleted. With one exception (see 2001

amendments) registration periods became mandatory regardless of individual circumstances.

128. All registrants were now required to mail in an annual address verification form and their photographs were made part of the public record.

129. The State also created an internet-searchable database including the names, addresses, photographs, offenses, sentences, and "any other relevant information" as determined by the sheriff.

130. Violation of the registry law was made a Class F felony.

131. Although not specifically part of the 1997 (or other legislative amendments to the registry law), the Internet database has been periodically updated.

132. The database now allows the public to "subscribe" to email alerts either tracking individual registrants or monitoring whether a registrant moves within a mile of a given address.

133. This subscription service automatically pushes out notifications to the subscribers.

134. These "alerts" can be received by email or text message.

135. The State has also developed a mobile phone application ("app") which allows users to access the sex offender registry directly from their mobile phone.

136. After 1997, the registry law was next amended in 1999. At that time, the law was amended to state that a "solicitation or conspiracy to commit" or "aiding and abetting" a reportable offense was also a reportable offense.

137. Registration for "aiding and abetting" would only occur when a court deemed it necessary.

138. In 2001, the registration period was extended to life for persons categorized as "recidivists," "sexually violent predators," and persons convicted of statutorily-defined "aggravated offenses" (including engaging in a penetrative sexual act with a victim of any age through the use of force).

139. A provision of the law allowing review of the determination that a person is a "sexually violent predator" was removed.

140. In 2002, notification provisions (still allowed by mail) were expanded to include a statement whether the registrant intended to enroll as a student or obtain employment at an institute of higher learning and to report any change in educational enrollment or employment status.

141. In 2003, "peeping" was added to the list of reportable offenses, but only upon a judicial finding of dangerousness.

142. In 2005 a series of amendments added "solicitation of a child by computer," "sexual battery," and "felonious indecent exposure" to the list of "sexually violent offenses."

143. In 2006, the North Carolina legislature made significant amendments to the registry law.

144. The 2006 amendments again added several offenses to the list of "sexually violent offenses" requiring registration, including statutory rape (a strict liability offense).

145. The 2006 amendments significantly changed the verification and notification requirements of the registry law.

146. Whereas in 1995, the registry law required initial registration and mail-in notification of any change of address, under the 2006 amendments registrants became required to report change of address, change of academic status, change of educational employment status, establishment of residence out of state and intent to move out of state, and any "temporary" residence and employment out-of-county.

147. Rather than annual confirmation of information, a registrant became required to completely re-register every six (6) months.

148. In person reporting to the sheriff's office became required for all notifications and verifications.

149. Failure to provide any required notifications or verifications, in person, within ten (10) days, became a felony offense for which the registrant is strictly liable if not actually incarcerated.

150. In addition to these time and event driven notifications and verifications, the Sheriff became authorized to confirm current address status (through home visitation or otherwise) at any time.

151. The Sheriff also became authorized to require any registrant to come to the sheriff's office upon seventy-two (72) hours notice in order to have a new photograph taken.

152. The 2006 amendments further banned all registrants from establishing a residence within one thousand (1000) feet of any "public or nonpublic school or child care center is located" (including home-based after-school care).

153. While registrants who had established a residence in a restricted zone prior to the effective date were not required to move, the restrictive zones

themselves retroactively apply to all persons registered or required to register as of the effective date in 2006.

154. The 2006 amendments add a provision titled "Sexual Predator Banned from Working or Volunteering for Child-Involved Activities," which bans all residents from accepting any work, for pay or otherwise, which involves "instruction, supervision, or care of a minor."

155. This ban was applied retroactively to all registrants.

156. It also creates a satellite-based monitoring program to be used in cases where an individual is a recidivist, sexually violent predator or has committed an aggravated offense (mandatory lifetime monitoring), or where an individual has been adjudicated to be high risk (monitoring in discretion of the court).

157. The 2006 amendments also fundamentally alter the prospects and process for removal from the registry.

158. For "Part II" offenders, those not adjudicated a recidivist, aggravated offender, or sexually violent predator, the 2006 amendments end automatic termination of the registry requirement after ten (10) years and instead creates a process whereby a registrant can petition the court to terminate the registry requirement after ten (10) years.

159. The statute then lays out the conditions under which a court *may* grant termination.

160. Importantly, the court *cannot* grant termination if doing so would shorten federally-mandated registration periods.

161. Effectively, this changes the North Carolina ten (10) year registration requirement into a "tier-based" system in which each registrant is effectively classified as a "Tier I," "Tier II," or "Tier III" offender.

162. The effective length of registration is determined by this classification: Tier I registrants must register for fifteen (15) years (which may be shortened to ten (10) in some instances); Tier II registrants must register for twenty-five (25) years; and Tier III registrants must register for life.

163. The tier classifications are based solely on the offense of conviction, without regard for any extenuating circumstances or individualized determination of dangerousness.

164. Prior to this amendment, most North Carolina registrants were required to register for ten (10) years.

165. This amendment was applied retroactively to all persons whose period of registration had not already ended as of the effective date.

166. Even upon the clearest proof that an individual is not dangerous, there is no mechanism that allows a registrant to be removed prior to these time periods.

167. Plaintiffs NARSOL and NC RSOL have distinct members whose period of registry was retroactively increased under the 2006 amendments.

168. In 2008, amendments again increased the duration of the registry period and added additional reporting requirements and substantive offenses.

169. The baseline registry requirement was changed to thirty (30) years for all registrants (with the ability to petition for removal as described above).

170. Registrants were required to notify the Sheriff of any "on-line identifiers" (user names for internet services).

171. The time period for complying with all registration requirements (including changes to any information) was shortened from ten (10) days to three (3) days.

172. The 2008 amendments added the offense of "sex offender on premises" (N.C.G.S. § 14-208.18) (preventing most registrants from being in churches, libraries, the General Assembly building, colleges, community centers, parks, and wide range of private businesses).

173. Though most of the "sex offender on premises" statute was later declared unconstitutional, as described below a new version was enacted in 2016 with minor changes.

174. The 2008 amendments banned registrants from accessing certain "commercial social networking" websites. *See State v. Packingham*, 368 N.C. 380 (2015), *cert. granted as Packingham v. N.C.*, No. 15-1194 (U.S. Oct. 28, 2016).

175. The 2008 amendments banned registrants from changing their name.

176. The ban on access to certain Internet sites and the ban on name changes were codified separately in the North Carolina criminal code as "offenses against public decency" alongside "secretly peeping" and "indecent liberties with a minor."

177. The increase in registry duration, new reporting requirements, premises ban, and Internet-ban were all applied retroactively to registrants regardless of offense, conviction, or initial registration date.

178. In 2009, the State banned registrants from obtaining or maintaining a commercial driver's license allowing them to operate a commercial passenger vehicle or school bus.

179. Again, this prohibition applies retroactively to all registrants.

180. And in 2016 the State re-enacted its "sex offender on premises" law (N.C.G.S. §14-208.18) again effectively banning most registrants from churches, libraries, the General Assembly building, colleges, community centers, fairs, parks, and wide range of private businesses.

181. The current North Carolina registry law is substantially similar to the registry laws in most States around the county – specifically including those of Michigan, Maine, Ohio, and Kentucky where such regimes have already been found to be unconstitutional.

182. At all times, the registry law has been a part of Chapter 14 of the North Carolina General Statutes – the North Carolina criminal code.

b. Effect of North Carolina Registry Law

183. The full text of the North Carolina Registry Law is attached to this Complaint.

184. As described above, since its inception the North Carolina registry law has grown from a simple law enforcement database of the kind upheld in *Smith v. Doe*, 538 U.S. 84 (2003) (upholding registry scheme that imposed only "minor and indirect" obligations and restraints), into a comprehensive monitoring, control, and exclusion scheme bearing a striking resemblance to conditions of probation or supervise release only without any individualized consideration of the dangerousness of the offender or the appropriateness of such conditions.

185. The registry law substantially burdens registrants' exercise of First Amendment rights and fundamental constitutional liberties.

186. It subjects registrants to the State-sponsored assertion that they are a danger to young children and the public at large – an assertion that is false for the vast majority of registrants and which the State makes even in cases it *knows* an individual is *not* dangerous.

187. Lastly, placement on the registry triggers a vast and complex array of federal, state, local, and private obligations and restraints that further impede registrants' ability to participate in basic aspects of public and even private life.

i. False Stigmatization

188. "Reportable offenses" under the North Carolina registry law include non-sexual offenses against minors and apply to persons who have never committed a sexual crime.

189. The registry law also applies to persons who have only committed a crime against an adult and who have never shown any evidence of sexual attraction or dangerousness to minors at all – much less young children.

190. At the same time, the State of North Carolina routinely conducts recidivism risk assessments of all persons convicted of a reportable offense.

191. The State relies on these assessments in determining whether to require satellite-based monitoring, in determining that an individual is a "sexually violent predator," and in determining the conditions of probation or supervised release.

192. Such assessments, have been shown to be highly predictive of future risk of recidivism.

193. Many registrants, including the individual Plaintiffs, have been found to be "low risk."

194. However, the North Carolina registry law is built around the assumption and assertion that those on it are "high risk" – that they represent a current danger to young children and the public generally.

195. In form and substance, the registry law communicates to the public that each person on the registry is substantially likely to commit a sexual assault upon a child.

196. In the registry law itself, all persons, regardless of their offense, are referred to as "sex offenders" throughout (and in one provision, all registrants are described as "sexual predators") and the registry is designed to prevent registrants from coming into contact with minors – especially pre-pubescent children.

197. It labels offenses that do not involve contact and do not involve lack of consent as "sexually violent" and then describes registrants as "sexually violent" offenders.

198. The registry law itself (by effectively banning registrants from any technology or place where they might come into contact with children) necessarily implies to the public that all or substantially all registrants are dangerous and sexually attracted to children even though the State itself is aware that this is not true.

199. The vast majority of persons convicted of a reportable offense will *not* commit another sexual offense.

200. The State is aware of which registrants pose a significant risk to minors and which do not.

201. Additionally, the State-run registrant database conveys to the public that all or substantially all registrants are highly dangerous.

202. Any person may subscribe to the database for email or text alerts whenever a registrant moves into a particular zip code or to follow particular registrants.

203. On its website, the State invites the public to sign up for telephonic alerts whenever a "sex offender moves into a particular zip code" but cautions the public that "these updates should be just one part of your safety plan." NC Dep't of Public Safety, *http://sexoffender.ncsbi.gov/telephone.aspx* (last visited January 21, 2017).

204. Nowhere on the registry does the State indicate the individualized dangerousness of a particular offender.

205. Instead, the State places persons on the registry and thereby creates and then perpetuates the assumption that they are high-risk, violent, sexual deviants attracted to young children even when it knows those facts to be untrue.

206. This stigmatization has resulted in direct loss to the individual Plaintiffs and members of NARSOL and NC RSOL.

207. They have been ostracized by friends and family; fired from jobs, and forced to relocate.

208. Housing and employment opportunities not directly banned by the registry law are routinely denied to registrants due to the public perception that they are necessarily dangerous.

209. Social opportunities, club memberships, and the like are routinely denied registrants due to the public perception that they are necessarily dangerous.

210. Taken together, the direct and indirect effects of the false assertion that registrants are, *per se*, dangerous to children has effectively prohibited registrants from participating in public and social life.

ii. Reporting, Surveillance, and Supervision

211. Under the North Carolina registry law, all registrants are required to provide the following to the sheriff of their county of residence within three (3) business days of release from prison or immediately upon conviction if no active term of imprisonment is imposed:

1) Name and aliases (including specifically the registrant's name at the time of the reportable offense as well as a description of that offense);
2) Residential address;
3) Physical description;
4) Driver's license number;
5) Photograph;
6) Fingerprints;
7) The name and address of any school attended or that the registrant expects to attend;
8) Notice if the registrant is employed or expects to be employed at any institute of higher learning;
9) Any "on-line identifiers" such as email addresses, log-in names, or other Internet identifiers; and

10) Name and address of employer (if a non-resident registrant).

(N.C.G.S. § 14-208.7)

212. If the registrant changes his or her residence, name (although name changes are separately prohibited under the law), academic status, employment status, or changes or adds an on-line identifier, they must report the change, in person, within three business days. N.C.G.S. § 14-208.9.

213. In addition, a registrant must notify the Sheriff, again in person, if they intend to move out of the state or if they then decide to remain in the state. *Id.* If a registrant lives and works for ten (10) days a month or thirty (30) days a year (including travel lodgings such as hotels, motels, etc.), the registrant must provide the temporary address as well as employment information. N.C.G.S. § 14-208.8A.

214. Regardless of whether any information has changed, on the anniversary of a registrant's initial registration and every six months thereafter, the registrant must appear in person at the sheriff's office to verify the above information. N.C.G.S. §14-209.8A.

215. This in-person verification must be completed within three (3) days of receiving written notice from the sheriff that verification is due. *Id.*

216. In addition to these general reporting requirements, the sheriff is authorized to verify the registrant's address at any time. *Id.*

217. This provision is widely interpreted to mean that the sheriff or his representative may go to and inspect the registrant's address at any time.

218. The sheriff may also, at any time, require any registrant to come to the sheriff's office to update their photograph. A registrant must comply with the request within three (3) business days. *Id.*

219. Failure to comply with any registration requirement is a Class F felony offense that carries a base-level penalty of 10 to 41 months imprisonment. N.C.G.S. § 14-208.11.

220. By comparison, this is the same felony level as "taking indecent liberties with children" (N.C.G.S. § 14-202.1) and a higher felony level than "solicitation of a child by computer" (N.C.G.S. § 14-202.3 (Class H felony)).

221. There is no good cause exception to these reporting requirements.

222. A registrant may only be excused if the registrant is actually incarcerated, and then only if he makes the reporting requirement known to the official in charge of the incarcerating facility. N.C.G.S. § 14-208.11.

223. Unlike other criminal statutes, the registry law specifically mandates that law enforcement officials will arrest any person that violates these verification and notification provisions. *Id.*

224. In addition to these formal reporting requirements, the registry law sets up a second, informal surveillance regime.

225. Unlike any other law in North Carolina, the registry law makes it a felony offense for any person to fail to report a known violation of the registry laws. N.C.G.S. § 14-208.11A.

226. The State actively provides, in a publicly accessible, Internet-searchable database, updated photographs of all registrants.

227. The State also provides email and telephonic alerts regarding the status and movement of all registrants.

228. The net effect is to enlist the public in monitoring and reporting on registrants in a way it does not do for any other class of prior offenders.

229. During the term of their active sentence, North Carolina law directs that all felons (except those serving life without parole) will be placed on post-release supervision. *See generally* N.C.G.S. Article 84A, § 15A-1368 *et seq*.

230. In contrast to the verification and notification procedures imposed upon all registrants *after* the end of their sentence (including any period of probation or supervised release), the only mandatory condition of post-release supervision for non-registrants is that the offender not commit any other crime. N.C.G.S. § 15A-1368.4.

231. All other conditions of supervised release are tailored to the individual risk level of the released offender. *See id.*

232. As a result, most felony offenders are subject to post-release supervision substantially similar to the decades long or even permanent supervision regime imposed by the registry law.

233. For both John Doe 1 and John Doe 2 (both convicted only of misdemeanors), the registry law's reporting requirements (even without the occupational, location, residence, or Internet-restrictions) are substantially more onerous and burdensome than the terms of their post-release supervision or parole.

234. Taking into account the full scope of the registry laws (including not only supervision but the direct and indirect occupational bars, housing

limitations, premises bans, and Internet restrictions), the restrictions placed upon registrants are substantially more burdensome than the terms of post-release supervision or parole in almost all cases.

235. The significant reporting and verification requirements were enacted in 2006 and 2008.

236. They apply retroactively to all registrants regardless of the date of offense, conviction, release, or placement on the registry.

iii. Burdens on Free Speech and Association

a. N.C.G.S. § 14-208.18(a)

237. The North Carolina registry law places significant burdens on registrants' rights of free speech and association.

238. N.C.G.S. § 14-208.18(a) was enacted in 2016 after 4th Circuit struck down most of its substantially similar predecessor statute as unconstitutionally overbroad and vague. *See Doe v. Cooper*, Nos. 16-6026, 16-1596 (4th Cir. Nov. 30, 2016).

239. The 2016 amendments did not significantly alter the scope of this provision of the registry law.

240. N.C.G.S. § 14-208.18(a) applies to any registrant convicted of an offense listed in Article 7B of the North Carolina criminal code or any reportable offense in which the victim was under eighteen (18).

241. Substantially all registrants are subject to the provisions of § 14-208.18(a).

242. N.C.G.S. § 14-208.18(a) registrants are prohibited from being:

(1) On the premises of any place intended primarily for

> the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.
>
> (2) Within 300 feet of any location intended primarily for the use, care of supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, places described in subdivision (1) of this subsection that are located in malls, shopping centers, or other property open to the general public.
>
> (3) At any place where minors frequently congregate, including, but not limited to, libraries, arcades, amusement parks, recreation parks, and swimming pools, when minors are present.
>
> (4) On the State Fairgrounds during the period of time each year that the State Fair is conduction, on the Western North Carolina Agricultural Center grounds during the period of time each year that the North Carolina Mountain State Fair is conducted, and on any other fairgrounds during the period of time that an agricultural fair is being conducted.

243. Subsections 1, 3, and 4 of this law apply to all qualifying registrants. N.C.G.S. § 14-208.18(c).

244. Subsection 2 applies to persons convicted of any offense against a person under age eighteen (18) or to persons individually adjudicated to be a danger to minors. *Id.*

245. Both directly and in effect, this statute bars almost all registrants from a substantial portion of traditional and limited public fora.

246. By direct decree, registrants cannot be present in parks, state fairgrounds, or libraries.

247. By effect, registrants cannot be present in many government buildings, on the campus of public or private colleges, community centers, public museums or the like.

248. Registrants also cannot be present at limited public or private fora associated with First Amendment freedoms such as schools, theaters, movies, or sporting events.

249. The limitation on subsection (a)(3) that presence is a violation only when "minors are present" does not alleviate the First Amendment burdens.

250. "Minor" is defined as anyone under age 18 and the statute does not require that the minors be "congregated," only that they be "present."

251. In almost any park, library, community center, social event or gathering, there will be "minors present."

252. Every county-run library in North Carolina contains a children's section and runs programs specifically for children.

253. There will be "minors present" in every community center in North Carolina at all or substantially all times.

254. There will be "minors present" in every "recreation park" in North Carolina at all or substantially all times.

255. Moreover, under the statute, a registrant would have to immediately leave if a minor became present – again an event that will happen in substantially all cases.

256. The limitation in subsection (a)(2) of application to only those persons convicted of an offense against a minor does not address the burden this statute places upon such persons.

257. John Doe 1 specifically desires to attend church, to be able to go to the public library, to go to movies, sporting events, recreation parks, amusement parks, and other areas made off-limits to him by § 14-208.8(a)(3).

258. John Doe 1 would exercise these rights if not for the ban imposed by statute.

259. John Doe 2 also specifically desires to attend church, to attend sessions of the General Assembly and other government meetings, to go to the public library, to go to movies, sporting events, recreation parks, amusement parks, and other areas made off-limits to him by §§ 14-208.8(a)(2) and (a)(3).

260. John Doe 2 would exercise these rights if not for the ban imposed by statute.

261. Many members of NARSOL and NC RSOL are affected by these two subsections and are not able to exercise their First Amendment rights because of the premises ban imposed.

262. Many of these members wish to exercise those rights and would if not for the ban imposed by the statute.

263. Violation of § 14-208.18(a) is a Class H felony punishable by 4 to 25 months imprisonment.

264. Sections 14-208.18(a)(2) and (a)(3) were enacted in 2016.

265. They apply retroactively to all qualifying registrants regardless of the date of offense, conviction, release, or placement on the registry.

b. N.C.G.S. § 14-202.5

266. The North Carolina registry law also directly burdens Plaintiffs' Free Speech rights through severely limiting their Internet activity.

267. N.C.G.S. § 14-202.5 bans all registrants from "accessing" "commercial social networking sites."[1]

268. "Commercial social networking site" is defined to mean:

> A website that meets all of the following requirements:
>
> (1) Is operated by a person who derives revenue from membership fees, advertising, or other sources related to the operation of the website.
>
> (2) Facilitates the social introduction between two or more persons for the purposes of friendship, meeting other persons, or information exchanges.
>
> (3) Allows users to create Web pages or personal profiles that contain information such as the name or nickname of the user, photographs placed on the personal Web page by the user, other personal information about the user, and links to other personal Web pages on the commercial social networking site of friends or

[1] Note: The constitutionality of N.C.G.S. § 14-202.5 as a separate subsection of the North Carolina registry law is currently before the Supreme Court of the United States. *Packingham*, No. 15-1194 (Oct. 28, 2016). However, the challenge before the Supreme Court does not include consideration of the statute under the *ex post facto* clause of the federal constitution. This statute is currently in effect and Plaintiffs reasonably anticipate that if the statute is struck down at some point in the future, the State legislature will enact a similar statute as it did when § 14-208.18(a) was ruled unconstitutional.

> associates of the user that may be accessed by other users or visitors to the Web site.
>
> (4) Provides users or visitors to the commercial social networking Web site mechanisms to communicate with other users, such as a message board, chat room, electronic mail, or instant messenger.

269. While this definition may seem limiting, § 14-202.5 in fact bans registrants from all social media sites (such as Facebook, YouTube, etc.), many news sites (such as nytimes.com, newsobserver.com (the website of the Raleigh News and Observer) and other newspapers, as well as many other informational sites including recipe sharing sites, fan clubs, etc.

270. Almost any website that facilitates information sharing among users will be rendered inaccessible to registrants under this statute.

271. This ban effectively makes communication with millions of persons impossible or much more difficult than it would be without the statute.

272. This ban on accessing such sites applies whether or not a registrant contacts or attempts to contact any minor.

273. This ban applies to all registrants whether or not they have any history of inappropriate conduct with children or minors.

274. The ban applies whether the registrant is sending or simply receiving information.

275. Violation of this ban is a Class I felony punishable by 3 to 12 months imprisonment.

276. Section 14-202.5 was enacted in 2008.

277. It applies retroactively to all registrants regardless of the date of offense, conviction, release, or placement on the registry.

278. Additionally, the State will provide the on-line identifiers of registrants to any "business or organization that provides Internet service, electronic communications service, electronic mail service, remote computing service, online service, electronic mail service, or electronic instant message or chat service" regardless of whether those entities operate websites otherwise banned under the statute. N.C.G.S. § 14-208.15A.

279. The State then provides immunity from any civil or criminal liability for any entity that then refuses to provide service to a registrant. *Id.*

280. The State thus effectively encourages private businesses to ban registrants from an even broader range of internet and other communications platforms than the State bans registrants from directly.

281. Plaintiffs John Doe 1 and John Doe 2 would both like to access such sites for the purpose of communicating with friends and family and receiving news and other information.

282. They would access such sites were it not for the ban.

283. Many members of NARSOL and NC RSOL are subject to § 14-202.5.

284. These members would like to access sites banned and would do so but for the ban.

iv. Burdens on Religion/Association

285. Under the registry law (§§14-208.18(a)(2) and (a)(3)) most registrants, including Plaintiffs John Doe 1 and 2, are prohibited from being:

> (a) "[W]ithin 300 feet of any location intended primarily for the use, care, or supervision of minors [when that location is part of another, larger area]; or

(b) "At any place were minors frequently congregate . . . when minors are present."

[N.C.G.S. §§ 14-208.18(a)(2) and (3) respectively.]

286. This statute effectively prevents registrants from attending church services as all or substantially all church's in North Carolina have a space dedicated for youth activities which effectively renders the entire church off-limits under subsection (a)(2).

287. Even if a church does not have a space dedicated for minors, in all or substantially all cases the church will have youth programs that occur simultaneously with worship services or minors will attend worship services – rendering the church off-limits under subsection (a)(3).

288. Prior to his registration, John Doe 1 attended church weekly with his family.

289. John Doe 1 cannot now attend church without violating N.C.G.S. § 14-208.18(a) since the church offers Sunday School and other activities for children.

290. John Doe 1's pastor is aware of his conviction and status and desires John Doe 1 to return to church.

291. John Doe 1 though has not returned because he is reasonably concerned that he will be subject to prosecution under N.C.G.S. § 14-208.18 for attending church, despite the permission of the church's pastor.

292. John Doe 1 has also not returned, despite the fact that his pastor has encouraged him to do so, because John Doe 1's attendance would subject his pastor to felony prosecution.

293. John Doe 2 also desires to attend church but cannot do so because his church offers Sunday School and other activities for minors.

294. John Doe 2's pastor is also aware of his conviction and status and desires that John Doe 2 attend his church.

295. Both John Does 1 and 2 would attend church if not for the premises restriction.

296. A member of NC RSOL was arrested for attending church.

297. His pastor was aware that he was a registered sex offender but permitted him to attend subject to the restriction that he not enter the area of the church reserved for minors.

298. However, after an anonymous tip, this member was arrested in the middle of church services for violating N.C.G.S. § 14-208.18(a)(2).

299. Multiple other persons in North Carolina have been arrested for attending worship services despite the fact that the pastor knew of their history.

300. John Does 1 and 2, as well as members of NARSOL and NC RSOL are aware of these arrests.

301. The practice of religion at home, at a pastor's house outside of the communal service, or at a neutral location is not an adequate substitute for participating in communal worship.

302. From the beginning of the Judeo-Christian religion, attendance at communal services has been a religious obligation and central part of religious practice.

303. The inability to attend the communal worship service of a religious congregation is, of itself, a serious burden on the exercise of religious and associational liberty.

304. Violation of § 14-208.18(a) is a Class H felony punishable by 4 to 25 months imprisonment.

305. Subsections 14-208.18(a)(2) and (a)(3) were enacted in 2016.

306. They apply retroactively to all qualifying registrants regardless of the date of offense, conviction, release, or placement on the registry.

v. Burdens on Housing

307. Under N.C.G.S. § 14-208.16 (a section of the registry law), no registrant may reside "within 1000 feet of the property on which any public or nonpublic school or child care center."

308. "Child care center" is defined in law as "an arrangement where, at any one time, there are three of more preschool-age children or nine or more school-age children receiving child care." N.C.G.S. §110-86(3)(a).

309. There are dozens of "schools" and "child-care centers" located in Chapel Hill, North Carolina – a town of approximately 60,000 residents.

310. Schools and child-care centers are almost all located in or close to population centers and residential neighborhoods.

311. As a matter of law, N.C.G.S. §14-208.16 prevents registrants from establishing residence in a large portion of the housing available in Chapel Hill.

312. Similar results occur in the vast majority of other cities, towns, and population centers.

313. Most registrants are also subject to N.C.G.S. § 14-208.18.

314. Under this section, a registrant cannot be present: "within 300 feet of any location intended primarily for the use, care or supervision of minors[.]" N.C.G.S. §14-208.18(a)(2).

315. N.C.G.S. §14-208.18 places further, significant restrictions on registrants" ability to find housing.

316. Taken individually and together, these two restraints severely limit the scope of available housing for registrants as a matter of law.

317. Registrants on lifetime registration are also banned by law from obtaining federally subsidized (Section 8) housing. 24 C.F.R. 5.856.

318. As explained more fully below, under North Carolina law a "lifetime" registration requirement is not substantially linked to the dangerousness of the individual.

319. Beyond these direct restraints imposed as a matter of law, further restraints are caused by the false stigmatization of the registry itself.

320. Because the public has been falsely led by the State to believe that presence on the registry indicates a substantial likelihood of future dangerousness, many landlords are unwilling to rent to registrants and homeowners may be unwilling to sell.

321. This reluctance further limits housing options.

322. Registrants have been forced to relocate from otherwise qualified housing when his landlord found out he was on the registry.

323. When they are able to at all, it routinely takes months for registrants to locate suitable housing because of these restrictions – both because of the exclusion zones and because landlords will not rent to registrants.

324. Additionally, registrants often cannot live with family or friends as the substantial likelihood is that family and friends live in an exclusion zone.

325. This is especially problematic given that the registry law also severely limits registrants' employment opportunities making it substantially less likely that a registrant will be able to afford housing without such assistance.

326. One effect of these restrictions is to push registrants into rural areas away from schools, child care centers, and commercial areas where child-centric facilities are commonly located.

327. For instance, Chapel Hill, NC and its contiguous suburban areas is the major population center of Orange County, NC – containing approximately half of the residents of the county.

328. However, only fifteen (15) of the ninety-two (92) registrants that reside in Orange County (16%) are listed as residing within Chapel Hill or its contiguous suburban areas.

329. This effect of pushing registrants out of population centers is confirmed by multiple academic studies in multiple states with residency restrictions substantially similar to those of North Carolina.

330. These rural areas are more remote from public transportation and other public service facilities, further exacerbating the registry laws impact on employment and other opportunities.

331. A second effect is to dramatically increase homelessness rates among registrants.

332. There is no established correlation between residential restrictions and reduced sexual offense recidivism.

333. Numerous studies show that residency restrictions do *not* reduce recidivism.

334. Housing restrictions themselves exacerbate recidivism risk factors and are strongly correlated with increased criminal recidivism.

335. Section 14-208.16 was passed in 2006.

336. While it allows registrants to stay in their residence if they established residency prior to 2006 or if their residence loses statutory compliance *after* they have established residence, its provisions apply to all registrants and prevents all registrants from establishing a residence regardless of the date of their offense, conviction, release, or placement on the registry.

vi. Employment

337. The North Carolina registry law places severe restraints on employment and work in several ways.

338. First, the registry law creates direct and indirect occupational bars to many jobs and professions.

339. N.C.G.S. § 14-208.19A bars all registrants from obtaining or renewing a "P" or "S" endorsement for their driver's license.

340. This means that a registrant cannot operate a vehicle designed to transport sixteen (16) or more passengers.

341. N.C.G.S. § 14-208.19A was enacted in 2009 and applies to all registrants regardless of the date of their offense, conviction, release, or placement on the registry.

342. N.C.G.S. § 14-208.17 prevents any registrant from "work[ing] for any person or as a sole proprietor, with or without compensation, at any place where a minor is present and the person's responsibilities or activities would include instruction, supervision, or care of a minor or minors."

343. This provision is titled "sexual predator prevented from working or volunteering for child-involved activities" but applies to *all* registrants – including those not adjudicated to be a sexual predator, those not convicted of any crime against a minor, and those not convicted of any sexual offense.

344. This prohibition acts as a direct bar to any job or profession that necessarily involves "instruction, care, or supervision of minors," including teaching, coaching, child care, etc.

345. This prohibition also acts as an indirect bar to any job above entry-level in retail sales, restaurants (including fast food), discount stores, amusement parks, or other economy sectors that routinely hire minors for entry-level and even supervisory positions.

346. All or substantially all of the jobs above entry-level in these sectors will necessarily involve the supervision of minors.

347. Additionally, other sections of the registry law, particularly § 14-208.18(a), further place severe restrictions on career and job opportunities for registrants.

348. Section 14-208.18(a) acts as an indirect bar to work as a delivery person, postal worker, or the like because such work will, in almost all cases, require entry into a restricted zone.

349. Section 14-208.18(a) places severe restrictions on employment in trades such as construction, electrician, plumbing, HVAC, emergency medical service, etc., because no work can be performed in a restricted zone.

350. Restricted zones typically cover a significant portion of the locations in which such tradespeople would otherwise work.

351. A significant number of business are themselves located within restricted zones.

352. Registrants are prevented from working at any such business.

353. In addition to the lost jobs and opportunities listed below, John Doe 2 was required to quit a job working at a store in a strip mall after a trampoline park opened within three hundred (300) feet of his store.

354. Finally, registrants are being administratively barred from obtaining or maintaining many professional licenses required by the state.

355. Below the state level, there are a dozen or more county and local ordinances that further bar registrants from occupations such as driver for hire, peddler or solicitor, and coaching of any municipal activity.

356. Beyond these official restraints, registrants suffer intense discrimination in hiring and are often fired when employers learn they are on the registry.

357. This discrimination and unfair treatment is not simply the collateral consequence of the State's publication of information, but is the direct result of the false stigmatization that all registrants represent a significant danger of committing sexual offenses against young children or others.

358. The State applies this stigmatization even to individuals it knows are *not* dangerous to children or others.

359. Further, the State pushes this information out to the community in ways it does not for any other category of criminal offender.

360. John Doe 1 is a supervisor at a construction firm. This job requires him to visit various construction sites to ensure the proper construction and safety of the company's projects.

361. The registry laws in general, and N.C.G.S. § 14-208.18 in particular, unreasonably interfere with John Doe 1's ability to pursue this occupation.

362. Many such construction sites are made off-limits by N.C.G.S. § 14-208.18. For instance, John Doe 1's company performs projects at schools – sites which John Doe 1 cannot go to regardless of whether there are any children present and despite being specifically adjudicated *not* to be a danger to minors.

363. Other sites are located at "places where minors frequently congregate."

364. John Doe 1 is not reasonably able to "switch" jobs to avoid the limitations inherent in the registry statutes. Most, if not all, construction jobs available to him will present the same problems and he is unlikely to be hired given these constraints.

365. These restrictions materially limit his opportunity for advancement within his own company or transfer to another company.

366. John Doe 2 has been fired from four jobs (including salesman, online teaching at the college level, contract delivery driver and) when the employer found out he was on the registry.

367. Additionally, he has twice been offered steady employment (office administration) but had the offer rescinded when he informed the potential employer of his status.

368. In an attempt to support his family, John Doe 2 has helped start and currently works for a family business.

369. However, customers frequently ask for delivery to places made off-limits by the registry statutes.

370. John Doe 2 cannot easily avoid this problem by discussing his registrant status with potential customers because of the false implication that his placement on the registry indicates he is a danger to children and/or a dangerous criminal.

371. John Doe 2 has a reasonable fear that because of this false implication he will lose business should he discuss his status.

372. The registry laws in general, and N.C.G.S. § 14-208.18 in particular, unreasonably interferes with John Doe 2's ability to pursue gainful employment and to work at his current job.

373. One member of NC RSOL was given a non-custodial sentence in another state after having consensual sexual intercourse with a sixteen (16) year old girl he was tutoring at the time.

374. The registry law in that state is substantially similar to North Carolina's registry law.

375. In arguing for a non-custodial sentence, the prosecutor in his case told the court, "his placement on the registry is punishment enough" and that she did not believe he represented a danger to children, minors, or the public.

376. After being placed on the registry, he was fired from four jobs after his employer learned he was on the registry.

377. Each successive job was lower in pay and status.

378. He moved to North Carolina to live with his parents because the out-of-state registry restrictions (substantially similar to North Carolina's) rendered him unemployable and he was in danger of becoming homeless.

379. In North Carolina, he applied for more than two dozen jobs (ranging from restaurant work, to construction, to landscaping), but was either denied employment because he was on the registry or was fired quickly after his employer learned he was on the registry.

380. In many cases, potential employers told him that he could not be employed because the business's customers would not like it.

381. The only work he has been able to find is for a relative's company where he is able to do technical work out of his parents' home.

382. At his current job he is not allowed to contact any customers out of his employer's fears that if his status is known it will hurt business.

383. Another member of NC RSOL was fired from his job painting houses.

384. His employer knew he was a felon, but fired him upon learning that he was on the registry.

385. Another member is an accomplished Ph.D. in biomedical science.

386. After he was convicted of misdemeanor sexual battery in 2015 he was fired from his job at a state university.

387. The state university has no policy of firing misdemeants and would not have fired him were he not placed on the registry.

388. His job at the university did not require him to be in contact with minors in any way.

389. Like John Does 1 and 2, he was found *not* to be a present threat to minors or the public but is still subjected to the registry restrictions.

390. Since he was fired, he has filed hundreds of job applications but cannot find work because he is on the registry.

391. He has been told repeatedly by potential employers that they cannot hire him because he is on the registry and customers might not like it.

392. Because of his placement on the registry he is unable to find new work in his field at even the lowest level.

393. Because he has been unable to find work, he has begun attempting to get sufficient training in a new field that will allow him to work from home.

394. This is because he understands that working from home is the only way he can find a job while he is on the registry.

395. Internet restrictions further burden registrants' ability to find employment.

396. They cannot access websites such as "LinkedIn" or the major resume sharing sites, nor can they use social media to look for or ask for jobs.

397. Most job seeking today is done on-line, and registrants are effectively barred from participating in that search.

vii. Parenting

398. The North Carolina registry law, particularly §14-208.18(a), significantly impairs Plaintiffs' ability to direct the education and upbringing of their children.

399. Both John Doe 1 and John Doe 2 have custody of their minor children.

400. John Doe 1 was awarded joint custody of his son and daughter (now ages eleven (11) and sixteen (16)) *after* his conviction for a reportable offense.

401. As did the trial court, the divorce court found that John Doe 1 was *not* a danger to minors nor otherwise disqualified to fully care for his children.

402. John Doe 2 is married and has a twelve (12) year old son with his wife.

403. At his sentencing, the trial judge specifically stated that John Doe 2 should be allowed to participate in his son's activities so long as another adult was present.

404. After John Doe 2 received counseling, he was found to be low risk and his State counselor specifically recommended that he be allowed to fully participate in his son's activities without restriction.

405. Both John Doe 1 and John Doe 2 want to participate in the educational and public lives of their children but they are unable to do so due to the restrictions of § 14-208.18.

406. The restrictions contained in Article 27A, specifically N.C.G.S. § 14-208.18, place a severe burden on their ability to direct the upbringing and education of their children as they are unable to participate in (or even observe) any of their children's public or educational activities.

407. Section 14-208.18 does provide a limited exception for being on school grounds, but only to attend a parent teacher conference or if specifically requested by the principal for the child's welfare. Even under these limited circumstances, the statute requires that they be escorted by school personnel at all times.

408. Because of the escort requirement, taking advantage of even this limited opportunity would unfairly stigmatize their children and subject them to embarrassment and harassment by creating the false impression that John Does 1 and 2 are a danger to children.

409. There is no exception that would allow Plaintiffs to attend school events for any other purpose, or that would allow them to attend *any* public event in which their children were participating. The fact that their children are participating makes such events effectively "off-limits" under the statute.

410. Under the statute, the Does cannot be present in any "place" their children are likely to go (including libraries, museums, parks, swimming pools, etc.).

411. Additionally, the registry law significantly restricts Plaintiffs' ability to monitor the social lives of their children.

412. A significant amount of the social and educational lives of children take place via social media and Internet based applications.

413. As described above, Plaintiffs are unable to "access" this social media for any purpose – regardless of whether or not they actively use the medium.

414. Thus, they cannot observe their children's social media habits, assist with homework, or perform other routine supervisory and instructional tasks that now require access to Internet-based programs.

viii. Education

415. In addition to their children's education, the North Carolina registry law places significant burdens on registrants' rights to further their own education ("to acquire useful knowledge").

416. It is the opinion of the legal counsel for North Carolina Community Colleges that N.C.G.S. §14-208.18(a) renders all community colleges off-limits to registrants.

417. They are not allowed to be present on campus.

418. Law enforcement personnel recently escorted a member of NC RSOL off the campus of a North Carolina community college where he had arrived to register for classes.

419. Other registrants have been denied enrollment at community colleges because of their status.

420. Section 14-208.18(a) specifically prohibits registrants from being at libraries.

421. The internet restriction of N.C.G.S. §14-202.5 prevents registrants from taking "on-line" classes.

422. Each of these burdens applies to all registrants, regardless of their date of offense, conviction, or placement on the registry.

423. Members of NARSOL and NC RSOL desire to go to colleges and libraries and to attend on-line training classes but cannot do so because of the registry law.

c. The North Carolina Registry Law in an *Ex Post Facto* Law

424. Collectively, these burdens, along with the history of the registry law, demonstrate the intent to punish and/or create the effect of punishment in violation of the *Ex Post Facto* clause.

425. The North Carolina registry law is codified in the North Carolina criminal code – as Article 27A (as part of Chapter 14 (Criminal Law), Subchapter 07 (Offenses against Public Morality and Decency).

426. Registration is handled exclusively by criminal justice agencies.

427. Violation of registry provisions is a felony offense often more serious than the crime leading to registration.

428. The registry law has been repeatedly amended to make it harsher with no evidence of any legislative findings of fact to support these harsher restrictions.

429. There is no mechanism to seek exemption from any registry requirement and each requirement is applied to persons *known to the state* not to be a danger to children, minors, or the public generally.

430. The registry law is triggered solely by the commission of a criminal offense and its restrictions are imposed regardless of the individual circumstances of such offenses.

431. The registry law inflicts, both directly and indirectly, what has been regarded in our history and traditions as punishment.

i. Similarity to Traditional Forms of Punishment (Banishment)

432. The registry law restrictions force registrants to live away from population centers.

433. It severely reduces the ability of registrants to attend any kind of public event or to be present in public, limited, and even private fora.

434. The registry law precludes registrants from participating in many sectors of the economy, both by precluding them from many professions and jobs, and by severely limiting the areas where they can shop.

435. Registrants are largely prohibited from being present at shopping malls and in other commercial areas both because malls are "places where minors frequently congregate" under § 14-208.18(a)(3) and because large swaths of malls and general commercial areas are excluded under (a)(2).

(Shaming and Branding)

436. The State mislabels all registrants as "sex offenders" and "sexual predators" and states they are a danger to children, minors, and the public even when it knows this to be false.

437. It then actively publishes registrants' photographs and detailed personal information.

438. The State then not only publishes this information, but pushes it out to the public along with warnings that registrants are dangerous.

439. The State actively encourages the populace, under threat of criminal sanction, to monitor and report on registrants.

440. These actions are specifically intended to bring attention to registrants' status, to ensure that the public is easily able to identify them, and to subject them to a unique system of state and social controls.

441. Because of the false belief, propagated by the State, that presence on the registry indicates dangerousness to children, minors, and the public generally, registrants who are *not* a dangerous are denied First Amendment rights and other fundamental liberties as well as subjected to discrimination and harassment by the general public.

(Probation/Parole)

442. The restrictions imposed by the registry law are more burdensome than those generally imposed under conditions of probation, parole, or supervised release.

443. To the extent the registry restrictions are not *more* burdensome, they are substantially similar to a condition of probation, parole, or supervised release.

444. Uniquely, the State then enlists the public, under threat of felony prosecution, to further monitor registrants.

ii. Affirmative Disability or Restraint

445. The registry law, both directly and indirectly, imposes affirmative disabilities and restraints on registrants.

446. "Restraint" is defined as a "confinement, abridgment, or limitation." *Black's Law Dictionary* 610 (2d pocket ed. 2001)

447. "Disability" is the revocation of legal rights and privileges as a result of criminal conviction. *Id.* at 205.

448. The registry law creates direct occupational bars for all registrants.

449. The registry law creates indirect occupational bars for all registrants.

450. The registry law creates direct, significant burdens for registrants' ability to find and maintain employment.

451. The registry creates indirect, significant burdens on registrants' ability to find and maintain employment and stable housing.

452. The registry law significantly and directly limits where registrants can live and work.

453. The registry law requires registrants (many of them for life) to appear in person both at regular intervals and at the whim of law enforcement.

454. Registrants are subject to random visitation from law enforcement without reasonable suspicion of wrong-doing.

455. The registry law directly restrains registrants from substantially participating in the lives of their children.

456. The registry law directly precludes registrants from being present in a wide array of public, limited public, and private fora.

457. The registry law directly precludes registrants from accessing substantial portions of the Internet and from substantially engaging in electronic social media.

iii. Traditional Aims of Punishment

458. The registry law advances the traditional aims of punishment: retribution, incapacitation, general and specific deterrence.

459. The registry law imposes such heavy restraints on individuals that it significantly affects the plea bargain process.

460. Registry restrictions are based solely on the fact of conviction without regard to extenuating circumstances, future dangerousness, or any other factor.

461. The registry restrictions apply to individuals who have never committed an offense against a minor and who have never committed a sexual offense.

462. The registry restrictions apply to individuals, such as John Does 1 and 2, that have been specifically found *not* to be a danger to children, minors, or the public at large.

463. The registry restrictions directly prevent registrants from even entering large swaths of the community, effectively isolates them from population centers, and inhibits their freedom of movement.

464. Many of the registry restrictions are designed specifically to prevent registrants from being in a position where they could possibly commit an offense against a child or minor.

iv. Reasonable Relation to a Non-Punitive Purpose

465. As outlined above, the stated purpose of the North Carolina registry law "to assist law enforcement agencies' efforts to protect communities by requiring [registration]" is no longer reasonably related to the registry law itself. *See* N.C.G.S. § 14-208.5 (Purpose).

466. The only legitimate non-punitive purpose of the registry law would be to increase public safety by reducing recidivism.

467. To be reasonably related to this purpose, the registry law would need to actually and materially *reduce* recidivism.

468. However, the consensus of researchers is that registry laws *increase* rather than reduce sexual offense recidivism.

469. Large-scale empirical research shows that the more people a state subjects to public sex offender registration, the higher the relative frequency of sex offenses in that state.

470. Public sex offender registries that are based on the offense of conviction (like North Carolina's) strongly correlate with an *increase* in the frequency of sex offenses against all type of victims (family members, neighbors, acquaintances, and strangers).

471. Research conducted in Michigan (which then had a registry law substantially similar to North Carolina's), suggests that the incidence of sex offenses is increased by about 10% over the incidence that would occur without the registry.

472. In North Carolina, there is no evidence that the registry law has either decreased the incidence of sexual offenses or decreased recidivism.

473. These results are driven by the fact that the registry law significantly exacerbates the actual risk factors for recidivism by substantially reducing employment and housing opportunities, and, through both direct restraint and untrue stigmatization, preventing registrants from effectively reintegrating into society.

474. There is no research to support the hypothesis that registrants who live closer to schools or child-care centers are more likely to reoffend.

475. Research shows that the location of a registrant's residence is not correlated with risk of re-offense.

476. There is no empirical evidence to suggest that more frequent or in-person verifications of registry information reduces recidivism.

477. The state has never produced evidence showing that the premises restriction materially reduces recidivism nor are Plaintiffs aware of any such evidence.

478. The North Carolina registry law is not reasonably related to a legitimate non-punitive purpose.

v. Excessiveness in Relation to Purpose

479. The extent and duration of registry requirements are substantially greater than necessary to meet the legislature's avowed purpose.

480. The North Carolina registry law goes far beyond the simple sharing of information among law enforcement personnel and even the provision of information to the public.

481. The North Carolina registry law requires continued registration long past the period when there is any meaningful risk of recidivism.

482. The North Carolina registry law applies to persons who have been found not to be dangerous to children, youths, or the public at large.

483. The North Carolina registry law applies to persons who have never committed an offense against a minor.

484. The North Carolina registry law applies to persons who have received full treatment and counseling.

485. The North Carolina registry law applies to persons who have no risk factors for future recidivism.

486. The North Carolina registry bans all registrants from certain occupations and constructs occupational barriers without a reasonable relationship between those barriers and the dangerousness of individuals subject to them.

487. The North Carolina registry law creates substantial barriers to housing for all registrants without a reasonable relationship between those barriers and the dangerousness of individuals subject to them.

488. The North Carolina registry law prevents all registrants from being at places associated with young children without distinction as to which registrants pose a danger to young children.

489. The North Carolina registry law significantly curtails the First Amendment rights and other fundamental liberties registrants without a reasonable relationship between those barriers and the dangerousness of individuals subject to them.

490. There is no reasonable fit between the restictions imposed and the class of persons subject to them.

491. The vast weight of objective evidence is that the North Carolina registry law exacerbates rather than reduces sex offense recidivism.

d. The North Carolina Registry Law Substantially Burdens First Amendment Rights and Fundamental Liberties

492. In addition to violating the *ex post facto* clause, as outlined above, the North Carolina registry law suffers from a separate, distinct constitutional deficiency.

493. As described and alleged above, the North Carolina registry law places substantial burdens on the exercise of First Amendment liberties.

494. In addition to those rights expressly guaranteed by the U.S. Constitution, a small set of rights has been recognized as so "fundamental to the concept of ordered liberty" that the State may not place burdens upon their exercise unless such restrictions are narrowly tailored to serve a compelling government interest.

495. These rights include:

a) The right to pursue the common occupations of life. *Washington v. Glucksberg*, 521 U.S. 702, 761 (1997).

b) The right to direct the care and upbringing of one's children. *Id.*

c) The right to acquire useful knowledge. *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

496. As described and alleged above, the North Carolina registry law places substantial burdens on the exercise of these rights as well.

497. There is no mechanism under the statute for a registrant to obtain any relief from any provision of the statute without complete removal from the registry.

498. Removal from the registry is not possible for at least ten (10) years and is entirely unavailable for a substantial number of registrants without regard to individual circumstances or risk levels.

e. The North Carolina Registry Law Is Not Narrowly Tailored to Support a Compelling State Interest

(Fails To Reasonably Target Those Individuals Who Constitute a Threat to Minors)

499. In order to justify these burdens on fundamental liberties, the State must show that the registry law is narrowly-tailored to support a compelling state interest. *See Reno v. Flores*, 507 U.S. 292, 301-302 (1993).

500. To show narrow tailoring, the State at a minimum must first demonstrate that the sex offender registry reasonably targets those individuals that present a substantial threat to minors and then that the registry law materially mitigates that threat. *See, e.g.*, *Kolbe v. Hagan*, 813 F.3d 160, 179 (4th Cir. 2016) ("To be narrowly tailored, the law must employ the least restrictive means to achieve the compelling government interest.").

501. Even under a less strict standard of review, the State is required to make the same showing. *See Doe v. Cooper*, 1:13CV711 at *18-19 (M.D.N.C. Apr. 22, 2016) (striking down previous version of N.C.G.S. §14-208.18(a)(3) upon review under "intermediate scrutiny").

502. In arguing that registry laws are reasonably targeted, States have often simply relied on statements in court opinions that the risk of "sex offender" recidivism is "frightening and high." *See, e.g.*, *McKune v. Lile*, 536 U.S. 24, 34 (2002).

503. These same cases will also often repeat the claim that "the rate of recidivism of untreated offenders has been estimated to be as high as 80%." *Id.*; *see also Smith v. Doe*, 538 U.S. 84, 104 (2003) (*citing McKune*, 536 U.S. at 34).

504. However, this statistic has since been thoroughly debunked as the unsupported claim of an unqualified therapist seeking state-funding for a sex offender treatment program. *See generally*, Ira Mark Ellman and Tara Ellman, *"Frightening and High": The Supreme Court's Crucial Mistake about Sex Crime Statistics*, 30 Constitutional Commentary 495 (2015).

505. In the face of this reality, more recent cases have eschewed reliance on *McKune* and its progeny, and have instead looked primarily to a

Department of Justice Report released in 2003. *See, e.g.*, *United States v. Kebodeaux*, 133 S.Ct. 2496, 2503 (2013) (*citing* Dept. of Justice, Bureau of Justice Statistics, P. Langan, E. Schmitt, & M. Durose, *Recidivism of Sex Offenders Released in 1994* (Nov. 2003) [hereafter "the study"].

506. However, as shown below, and as *Kebodeaux* itself suggests, while this study may provide a rational basis for basic registry laws compiling records of conviction, it does not support the State's burden of showing that the registry law is reasonably targeted at those persons who present an actual danger to minors or to the public at large.

507. The study makes the claim that the three-year recidivism rate for sex offenders is 5.3%.

508. But this figure significantly overstates the real risk of recidivism among North Carolina registrants.

509. The study defines "recidivism" as a "new arrest." To be counted, there does not need to be a conviction or even an indictment.

510. Per the study, only about half of those persons arrested are subsequently convicted for *any* crime suggesting that the recidivism rate is over-stated as to those persons actually guilty of a subsequent offense.

511. Further, while the study uses the term "sex offender" throughout, the population actually studied is only a small subset of those persons labelled "sex offenders" under the North Carolina registry laws.

512. First, the population of "sex offenders" in the study is comprised almost exclusively of persons who have an offense involving either the actual or threatened use of physical force or who committed a contact offense against a minor (including statutory rape).

513. The study specifically excludes persons convicted of "morals and decency offenses" (such as indecent exposure) and "commercialized sexual offenses such as prostitution, pimping, and pornography."

514. Nor does the study contain any data relating to non-sexual offenses against minors.

515. In contrast, the North Carolina registry law specifically includes both "morals and decency offenses" (such as "felonious indecent exposure") and "commercialized sexual offenses" (such as possession of illegal (child) pornography, pimping, etc.) as well as non-sexual offenses against minors (such as "felonious restraint").

516. A substantial number of persons on the North Carolina registry were placed on the registry upon conviction for an offense that would not be included in the study.

517. At the same time, there is no reason to assume that the recidivism rate for such offenses would be substantially similar to the recidivism rate for contact offenses such as those included in the study.

518. Second, the study is further limited to include only persons sentenced to more than a year imprisonment for their crimes.

519. The average length of sentence in the study is eight (8) years.

520. These longer sentences are almost exclusively correlated with either especially egregious crimes or preexisting recidivism.

521. In contrast to the population studied, a majority of persons on the North Carolina sex offender registry have *not* committed a crime serious enough to warrant a prison sentence that would qualify for the study.

522. As a subset of offenders, those who commit the most egregious crimes (those warranting a substantial prison sentence) are at a substantially higher risk for recidivism than those who commit sex offense that does not warrant such a severe sentence.

523. The vast majority of "sex offenders" tracked in the study (78.5%) had at least one arrest (including for non-sexual offenses) prior to the arrest for the sex offense that qualified them for the study.

524. The study acknowledges that prior arrest history is a substantial indicator of future dangerousness.

525. According to the study, the recidivism rate for a released sex offender without a prior arrest record is approximately half that for sex offenders with a prior arrest record.

526. At the same time, almost a third (28.5%) of the total persons studied had previously been arrested for a sexual offense.

527. The recidivism rate for these persons was approximately *double* the rate for persons not previously arrested for a sexual offense.

528. In contrast to the studied population, the vast majority of persons on the North Carolina registry have *not* been previously arrested (nor convicted) of a previous offense.

529. In sum, the recidivism rate of 5.3% is based on a broad definition of recidivism and is arrived at by specifically looking at a population almost entirely made up of a subset of "sex offenders" who have significant risk factors for recidivism.

530. At the same time, North Carolina law and practice is such that the class of registrants shares significant *mitigating* risk factors not present in the study.

531. First, the study itself notes that 40% of the observed recidivism occurred in the first year of release after prison.

532. Per the study, the risk of recidivism is essentially halved after a year of release.

533. Under North Carolina law, persons convicted of a reportable offense are placed on a minimum mandatory five (5) year period of supervised release, which includes mandatory provisions related to contact with minors, counseling and/or treatment, and close supervision, as well as special provisions appropriate to the individual offender.

534. Second, there is general consensus in the scientific community that sustained counseling and/or treatment of "sex offenders" results in significantly lower recidivism rates.

535. However, as sex offender counseling and treatment was not widespread in the 1990s, we may presume that the population studied did not receive such counseling/treatment.

536. In contrast, counseling and treatment is a standard part of sex offender sentencing in North Carolina and will be excused only when a trial judge specifically finds that it is *not* required for a specific individual.

537. Third, there is also general consensus that the risk of "sex offender" recidivism is tied to discernible characteristics of the offender and circumstances of offense rather than the definition or type of offense itself.

538. These risk factors are not tied to the specific offense itself (offense-based risk), but to the *way* the offense was committed [such as the relationship to the victim] and characteristics of the offender himself (offender-based risk).

539. Again, as a matter of course North Carolina conducts offender-based risk assessment on each individual convicted of a reportable offense and therefore identifies individuals with a high recidivism risk.

540. Therefore, the registry law necessarily applies to a substantial number of identifiable individuals whose recidivism risk is significantly lower than the average rate across the class of registrants.

541. By relying on an "offense-based" rather than "offender-based" determination of future dangerousness, the North Carolina registry law fails to target those individuals who present an actual heightened risk of recidivism.

542. Even if we accept the study's numbers at face value, we see that the risk of recidivism is actually quite low.

543. Among this high recidivism risk population studied, the overall rate of recidivism against minors was 2.2%.

544. 98 out of 100 relatively high-risk offenders will *not* commit any future sexual offense against a minor.

545. This number does not account for the difference in recidivism rates between offenders who offended against pre-adolescent children and those who offended against adolescent or post-adolescent minors. The study simply does not consider this factor.

546. This deficiency is obscured by the study's misleading use of the term "child molester."

547. While the average reader will interpret that term to mean sexual offenses against a young child, as used in the study the term includes any sexual offense in which the victim was under the age of 18.

548. Within the study's population, the overall rate of recidivism against minors by persons whose offense of conviction victimized an adult (adult-victim offenders) is 1.25%.

549. Within the study's population, the overall rate of recidivism against minors by persons whose offense of conviction victimized a minor (minor-victim offenders) is 3.3%.

550. Of these, the recidivism rate against minors of persons with more than one prior conviction of a sexual offense against a minor was four (4) times greater than those with one prior conviction of a sexual offense against a minor (6.4% versus 1.7%).

551. In other cases, decided under a much more lenient standard of review, courts have noted that the study states that "[c]ompared to non-sex offenders released from State prisons, released sex offenders were 4 times more likely to be rearrested for a sex crime." *See, e.g.*, *Kebodeaux*, 133 S.Ct. 2503 (*citing* DoJ Study at *1).

552. This statement though is simply inapplicable to this case.

553. First, as noted above, the 5.3% figure itself is derived from a class of persons not substantially similar to the class of North Carolina registrants.

554. The North Carolina class of registrants is much broader (including not only a broader range of "sexual" offenses but also crimes with no sexual component whatsoever).

555. The North Carolina class of registrants is substantially less recidivistic.

556. The North Carolina class of registrants have generally received treatment.

557. The North Carolina class of registrants includes a substantial number of persons known to be at low-risk of recidivism.

558. To justify a substantial burden on fundamental liberties, the State must prove the dangerousness of the class of registrants as the State has chosen to define it.

559. Second, this statement refers to the *comparative* rate of recidivism rather than the *absolute* rate.

560. It does not seem surprising that a convicted rapist is more likely to commit a future rape than a convicted armed robber, but this obscures the relevant fact here.

561. The relevant measure of dangerousness for a class is the *absolute* rate of recidivism – how many members of the class are substantially likely to commit a future crime of the type the statute is aimed at.

562. In the case of "sex offenders" generally, the *absolute* rate of recidivism is significantly *lower* than nearly every other type of crime – including violent crime.

563. If the defined class does not present a substantial likelihood of future dangerousness (as measured by the absolute rate of recidivism), then the

State cannot meet its burden of showing that the registry law passes anything other than rational basis review.

564. Further, the study's conclusions regarding even the *comparative* rate of "sex offender" recidivism are not valid.

565. When time and treatment are taken into account, the study itself demonstrates that the comparative rate of "sex offender" recidivism is not meaningfully distinct from the background rate (the rate at which *any* offender will commit a sex-related offense in the future).

566. Other studies show that "sex offenders" recidivate with *less* frequency than almost all other types of offenders.

567. Even if the State could show that the *overall* rate of registrant recidivism is sufficient to justify the burdens the North Carolina registry law places on fundamental liberties, it would still need to show that the registry law appropriately targets those offenders who pose a substantial risk.

568. The study itself shows (and a court in this district has previously found) that the recidivism rate of registrants who committed a crime against an adult (adult-victim offenders) going on to commit a crime against a minor is exceedingly low.

569. However, the registry law draws a distinction between adult-victim offenders and minor-victim offenders in only one place. *See* N.C.G.S. § 14-208.18(a)(2).

570. Second, the study shows that persons who have already committed more than one sexual offense (recidivists) are four to five times more likely than first-time offenders to commit a subsequent offense.

571. The rate of recidivism for first-time offenders is exceedingly low even without factoring in time since release and treatment.

572. Further, as noted above, the State conducts risk-assessments of all persons convicted of a reportable offense.

573. These risk assessments are scientifically valid and the State relies upon them for determining conditions of release, treatment, and designation as a "sexually violent predator."

574. The recidivism rate for offenders deemed to be low risk by this assessment is significantly lower than the averages discussed above.

(Fails to Materially Advance the State's Interest)

575. Even if the State could show that the North Carolina registry law reasonably targets those individuals who constitute a threat to minors, it would still be incumbent on the State to show that the current registry law materially reduces that danger.

576. As alleged previously, registry laws such as North Carolina's *increase* rather than decrease recidivism.

577. Further, the North Carolina registry law itself is largely designed to protect against "stranger danger" (that is, the sexual abuse of children and minors by persons previously unknown to them).

578. However, per the study and others, the vast majority (>90%) of child or minor sexual abuse is committed by a family member or someone close to the victim.

579. At the same time, the Plaintiffs are unaware of any evidence supporting the contention that "sex offenders" generally (as opposed to a

targeted subset of such offenders) are a danger to minors. *See Doe v. Cooper*, 1:13CV711 at *24-26 (M.D.N.C. Apr. 22, 2016).

580. For these reasons, a substantial number of victims' advocacy groups have called for relaxing registry laws generally.

581. In sum, the North Carolina registry law is subject to strict scrutiny because it significantly burdens fundamental constitutional liberties and fails that scrutiny because it is not narrowly tailored to serve a compelling state interest.

582. Even were the Court to apply some lesser standard of review such as "intermediate scrutiny," the registry law will still fail as there is no reasonable fit between the statute and the goal of protecting children.

f. N.C.G.S. § 14-208.18(a)(3) Is Unconstitutionally Vague

583. N.C.G.S. § 14-208.18(a)(3) is unconstitutionally vague.

584. After a previous version of this subsection was struck down as unconstitutionally vague, the State hurriedly amended it by changing the phrase "where minors gather for regularly scheduled programs" to "where minors frequently congregate." N.C.G.S. § 14-208.18(a)(3) (2016).

585. The State also provided some examples of places it considered to fall under the statute, including "libraries, arcades, amusement parks, etc." *Id.*

586. In its current form the statute reads:

> It shall be unlawful for any person required to register under this Article . . . to knowingly be at . . .
>
> (3) At any place where minors frequently congregate, including, but not limited to, libraries, arcades, amusement parks, recreation parks, and swimming pools, when minors

are present.

N.C.G.S. § 14-208.18(a)(3) (2016).

587. The changes made by the statute appear motivated by the district court's suggestion in a prior opinion that while phrases such as "regularly" and "frequently" were inherently vague, this deficiency can often be remedied by the inclusion of examples that provide the necessary guidance to citizens and law enforcement officials. *See Doe v. Cooper*, 1:13CV711 at *493-96 (M.D.N.C. Dec. 7, 2015).

588. However, the examples provided in the current version of (a)(3) do not do so.

589. The cases noted by the district court universally involved individualized conditions of probation or supervised release. *Id.*

590. Most of the examples provided in such cases refer to schools, playgrounds, arcades, amusement parks, etc.

591. These are all places primarily intended *for* minors and are made off-limits by either (a)(1) or (a)(2).

592. Two additional examples, libraries and parks, are only "places minors frequently congregate" because they have dedicated spaces and equipment *for* minors.

593. A library without a children's section or a park without a playground (or at least youth athletic fields) would not tend to be a place minor congregate.

594. So the only example provided by the statute as a place minors frequently congregate that is not a place *for minors* is a swimming pool.

595. In drafting the statute, the legislature appears to have simply copied examples from the cases cited by the district court without considering how those examples worked into the existing statutory scheme.

596. Both John Doe 1 and John Doe 2 are unsure of the meaning or extent of section 14-208.18, particularly subsection (a)(3). Even though subsection (a)(3) contains examples of prohibited places, these examples are not helpful. They seem to refer mainly to places that would also be covered under (a)(1) or (a)(2), but their location in (a)(3) signals a different legislative intent.

597. Both John Doe 1 and John Doe 2 would like to take their children to sporting events, movies, bowling alleys, city parks, and the like, but are unsure whether these "places" are off-limits anytime "minors" are present.

598. It is almost always the case that at least some minors are present at any public location.

Claims for Relief

599. The preceding paragraphs, including any exhibits incorporated therein, are incorporated by reference into each claim and count below.

Claim 1: Violation of the Ex Post Facto Clause

600. The retroactive application of amendments made in 2006 to Article 27A of the North Carolina Criminal Code violates the Ex Post Facto Clause of the U.S. Constitution Art. 1, § 10, cl. 1, because those amendments make more burdensome the punishment imposed for offenses committed prior to the enactment of those amendments and applies those amendments retroactively.

601. The retroactive application of amendments made in 2008 to Article 27A of the North Carolina Criminal Code violates the Ex Post Facto Clause of the U.S. Constitution Art. 1, § 10, cl. 1, because those amendments make more burdensome the punishment imposed for offenses committed prior to the enactment of those amendments and applies those amendments retroactively.

602. The retroactive application of amendments made in 2009 to Article 27A of the North Carolina Criminal Code violates the Ex Post Facto Clause of the U.S. Constitution Art. 1, § 10, cl. 1, because those amendments make more burdensome the punishment imposed for offenses committed prior to the enactment of those amendments and applies those amendments retroactively.

603. The retroactive application of amendments made in 2016 to Article 27A of the North Carolina Criminal Code violates the Ex Post Facto Clause of the U.S. Constitution Art. 1, § 10, cl. 1, because those amendments make more burdensome the punishment imposed for offenses committed prior to the enactment of those amendments and applies those amendments retroactively.

Claim 2: Violation of the First and Fourteenth Amendments

Count I: Substantial Overbreadth (Free Speech)

604. The individual Plaintiffs in this case have been found not to represent a danger to children, minors, or the public at large.

605. N.C.G.S. § 14-208.18 subsections (a)(2) and (a)(3) are overbroad, both facially and as applied, because they place substantial limits on Plaintiffs' rights of free speech and are not narrowly tailored to serve a compelling government interest.

Count II: Unconstitutional Burden on the Free Exercise of Religion

606. N.C.G.S. § 14-208.18 subsections (a)(2) and (a)(3) are substantially interfere with Plaintiffs' free exercise of religion and are not narrowly tailored to serve a compelling government interest.

Count III: Unconstitutional Burden on Freedom of Association

607. N.C.G.S. §§ 14-208.18 (a)(2) and (a)(3) substantially restrict Plaintiffs' associational rights and are not narrowly tailored to serve a compelling government interest.

Claim 3: Violation of the Fifth and Fourteenth Amendments (Vagueness)

608. A law is unconstitutionally vague when it fails to provide persons of ordinary intelligence notice of what conduct is prohibited, or where it fails to provide adequate standards to prevent arbitrary enforcement.

609. N.C.G.S. § 14-208.18(a)(3) fails to provide such notice and does not provide adequate standards to prevent arbitrary enforcement.

610. N.C.G.S. § 14-208.18(a)(3) is unconstitutionally vague.

Claim 4: Violation of the Fifth and Fourteenth Amendments (Burden on Fundamental Liberties)

Count I (Right to Direct the Education and Upbringing of One's Children)

611. The right to direct the education and upbringing of one's children is a fundamental right protected under Fifth Amendment and the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

612. The North Carolina registry law substantially interferes with Plaintiffs' right to direct the education and upbringing of their children.

613. The North Carolina registry law does not provide for any individualized consideration before restricting Plaintiffs' right to direct the education and upbringing of their children.

614. The North Carolina registry law provides no mechanism by which Plaintiffs can seek exception to the registry law or excuse from the restrictions on their right to direct the care and upbringing of their children.

615. The North Carolina registry law violates the Plaintiffs' right to direct the education and care of their children because it is not narrowly tailored to serve a compelling state interest.

Count II (Right to Pursue the Common Occupations of Life)

616. The right to pursue the common occupations of life is a fundamental right protected under Fifth Amendment and the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

617. The North Carolina registry law substantially interferes with Plaintiffs' right to pursue the common occupations of life.

618. The North Carolina registry law does not provide for any individualized consideration before restricting Plaintiffs' right to pursue the common occupations of life.

619. The North Carolina registry law provides no mechanism by which Plaintiffs can seek exception to the registry law or excuse from the restrictions on their right to pursue the common occupations of life.

620. The North Carolina registry law violates the Plaintiffs' right to pursue the common occupations of life because it is not narrowly tailored to serve a compelling state interest.

Count III (Right to Acquire Useful Knowledge)

621. The right to acquire useful knowledge is a fundamental right protected under the Fifth Amendment and Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

622. The North Carolina registry law substantially interferes with Plaintiffs' right to acquire useful knowledge.

623. The North Carolina registry law does not provide for any individualized consideration before restricting Plaintiffs' right to acquire useful knowledge.

624. The North Carolina registry law provides no mechanism by which Plaintiffs can seek exception to the registry law or excuse from the restrictions on their right to acquire useful knowledge.

625. The North Carolina registry law violates the Plaintiffs' right to acquire useful knowledge because it is not narrowly tailored to serve a compelling state interest.

Claim 5: Violation of the Fourteenth Amendment (Due Process)

Count 1 (Deprivation of Liberty Interests without Due Process)

626. The individual Plaintiffs and other persons subject to the registry in this case have been adjudicated not to be dangerous to children, minors, or the public at large.

627. Despite this adjudication, they are placed in a class of persons labelled by the State as "dangerous" to children, minors, and the general public.

628. Based on this classification, the State deprives Plaintiffs and others similarly situated of First Amendment rights and other fundamental rights.

629. The deprivation of such rights is a deprivation of liberty under the Fourteenth Amendment of the U.S. Constitution.

630. The fact of the individual's dangerousness is the salient question at issue and the justification for the deprivation of constitutional liberties.

631. The State fails to provide minimal due process protections before determining that an individual is "dangerous" and thereby depriving the individual of constitutional liberties.

632. The State often ignores judicial determinations that a person is *not* dangerous before depriving the individual of constitutional liberties on the grounds that the individual is dangerous.

633. By ignoring judicial determinations that individuals (such as John Does 1 and 2) are *not* dangerous, the State violates the individual's Fourteenth Amendment right to due process.

634. By failing to provide minimal due process protections as to the salient question whether individuals (such as John Does 1 and 2) are dangerous prior to depriving the individual of constitutional liberties on the basis that the individual *is* dangerous, the State violates the individual's Fourteenth Amendment right to due process.

Count 2 (Extension of Time on the Registry without Due Process)

635. Placement on the North Carolina registry deprives registrants of constitutional liberties as described above.

636. In 2006, the State increased the length of time registrants had to remain on the registry from ten (10) years to thirty (30) years to life.

637. This increase in registration length was applied retroactively to all persons on the registry or who had committed a reportable offense.

638. This increase in registration requirement was made without any due process protections for registrants on the registry at that time.

639. NARSOL and NC RSOL, Plaintiffs in this case, represent members who were on the North Carolina registry prior to the extension of registration time requirements.

640. The North Carolina registry law violates those individual's Fourteenth Amendment right to due process as it deprives them of substantial liberty interests without sufficient due process.

Count 3 (Fundamental Fairness)

641. The Due Process Clause of the Fourteenth Amendment imposes limits on retroactive legislation that is harsh or oppressive or that violates principles of fundamental fairness.

642. Both John Doe 1 and John Doe 2 have both been found to *not* be dangerous to children, minors, or the public at large.

643. However, despite this finding, that North Carolina registry law severely limits their exercise of constitutional liberties on the false grounds that John Does 1 and 2 are dangerous to children.

644. The retroactive application of the North Carolina registry law to John Does 1 and 2 violates their Fourteenth Amendment right to due process.

Claim 6: Defamation under North Carolina State Law

645. North Carolina has waived immunity for tort claim against state officials under the state Tort Claims Act. N.C.G.S. §143-291 *et seq*.

646. Defendants are the state officials responsible for placing the individual Plaintiffs on the North Carolina Sex Offender Registry.

647. By placing the individual Plaintiffs on the registry, the State has made affirmative statements "of and concerning" the Plaintiffs – including that the Plaintiffs are "sexual predators" and that the predators are "sexually violent."

648. The State has further, by conscious implication, indicated that the Plaintiffs are dangerous to children, minors, and the public at large.

649. These statements are false.

650. The Defendants should know that these statements are false.

651. The Defendants are negligent in failing to correct these statements.

652. These statements have been published to a third-party (the public at large).

653. These statements are *per se* defamatory.

654. Under the circumstances, these statements are defamatory *per quod*.

655. These statements have caused damages to Plaintiffs.

Lack of Legal Remedy

656. The Plaintiffs' harm is ongoing and cannot be alleviated except by declaratory and injunctive relief.

657. No other remedy is available at law.

Prayer for Relief

Wherefore, the Plaintiffs respectfully request that this Court:

a) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that the retroactive application of amendments made to the North Carolina registry law, specifically those amendments made in 2006, 2008, 2009, and 2016 violate the prohibition in the U.S. Constitution against *ex post facto* laws, and further that the Court issue a preliminary and permanent injunction restraining the Defendants from retroactively enforcing those amendments;

b) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that N.C.G.S. §§ 14-208.18(a)(2) and (a)(3) are facially overbroad in violation of the First and Fourteenth Amendments to the U.S. Constitution and further that the Court issue a preliminary and permanent injunction restraining the Defendants from retroactively enforcing those provisions of the North Carolina registry law;

c) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that N.C.G.S. §§ 14-208.18(a)(2) and (a)(3) are overbroad as-applied to the individual Plaintiffs in violation of the First and Fourteenth Amendments to the U.S. Constitution and further that the Court issue a preliminary and permanent injunction restraining the Defendants from enforcing those provisions of the North Carolina registry law against Plaintiffs;

d) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that N.C.G.S. §§ 14-208.18(a)(2) and (a)(3) unconstitutionally burdens Plaintiffs' Free Exercise of Religion in violation of the First and Fourteenth Amendments to the U.S. Constitution and further that the Court issue a preliminary and permanent injunction restraining the Defendants from

enforcing those provisions of the North Carolina registry law against Plaintiffs;

e) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that N.C.G.S. §§ 14-208.18(a)(2) and (a)(3) and N.C.G.S. § 14-202.5 unconstitutionally burden Plaintiffs' Freedom of Association in violation of the First and Fourteenth Amendments to the U.S. Constitution and further that the Court issue a preliminary and permanent injunction restraining the Defendants from enforcing those provisions of the North Carolina registry law against Plaintiffs;

f) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that N.C.G.S. §§ 14-208.18 (a)(3) is void for vagueness and further that the Court issue a preliminary and permanent injunction restraining enforcement of that provision;

g) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that Article 27A of the North Carolina criminal code (the North Carolina registry law) and related statutes unconstitutionally burden Plaintiffs' fundamental right to direct the education and upbringing of their children and further that the Court issue a preliminary and permanent injunction restraining the Defendants from enforcing against Plaintiffs those provisions of the North Carolina registry law that burden that right;

h) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that Article 27A of the North Carolina criminal code (the North Carolina registry law) and related statutes unconstitutionally burden Plaintiffs' fundamental right pursue the common occupations of life and further that the Court issue a preliminary and permanent injunction restraining the Defendants from enforcing against Plaintiffs those provisions of the North Carolina registry law that burden that right;

i) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that Article 27A of the North Carolina criminal code (the North Carolina registry law) and related statutes unconstitutionally burden Plaintiffs' fundamental right to acquire useful knowledge and further that the Court issue a preliminary and permanent injunction restraining the Defendants from enforcing against Plaintiffs those provisions of the North Carolina registry law that burden that right;

j) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that the retroactive application of the North Carolina registry law to John Does 1 and 2 violated the due Process Clause of the Fourteenth Amendment to the U.S. Constitution and further that the Court issue a preliminary and permanent injunction restraining Defendants from enforcing against them those provisions of the registry law enacted after the time of their reportable offenses;

k) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that the retroactive extension of registration periods for all registrants violated the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and further that the Court issue a preliminary and permanent injunction restraining Defendants from retroactively extending registration periods;

l) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring that application of the North Carolina registry law to Plaintiffs found *not* to be dangerous to children, minors, and/or the public at large violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and further that the Court issue a preliminary and permanent injunction restraining Defendants from enforcing the registry law against such persons;

m) Award Plaintiffs their costs and attorneys' fees pursuant to 42

U.S.C. § 1988;

n) Issue judgment in favor of the individual Plaintiffs on their defamation claim and award such damages as are just and proper;

o) Grant such other relief as the Court finds just and proper.

Respectfully submitted this is the 23rd day of January, 2017.

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