

STATE OF NORTH CAROLINA  
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO. 21CV51217

CHRISTOPHER A. "SKIP" McCALL;  
REV. ROBERT WRIGHT LEE IV;  
NORTH CAROLINA STATE  
CONFERENCE OF THE NAACP  
(NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED  
PEOPLE); NATIONAL ASSOCIATION  
FOR THE ADVANCEMENT OF  
COLORED PEOPLE (NAACP)  
STATESVILLE BRANCH #5454;  
NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED  
PEOPLE (NAACP) SOUTH IREDELL  
BRANCH #5476; IREDELL CLERGY  
FOR HEALING AND JUSTICE, INC.

*Plaintiffs,*

v.

IREDELL COUNTY; IREDELL  
COUNTY BOARD OF  
COMMISSIONERS; and  
COMMISSIONERS JAMES B.  
MALLORY III, MELISSA NEADER,  
MARVIN NORMAN, GENE HOUBE,  
and SCOTTIE BROWN, in their official  
capacities

*Defendants.*

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IREDELL CO., C.S.C.  
AS

**COMPLAINT AND PETITION FOR  
DECLARATORY JUDGMENT AND  
INJUNCTIVE RELIEF**

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**COMPLAINT AND PETITION FOR  
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Plaintiffs, through counsel, allege as follows:

### **INTRODUCTION**

1. This lawsuit is brought by a multi-racial coalition of Iredell County residents and supporting groups because County officials refuse to remove a monument (the “Confederate Monument”), which overtly celebrates slavery, secession, and white supremacy, from in front of the former Iredell County Courthouse (now the Iredell County Government Center). This multi-story Monument—topped with an armed white man, and bearing inscriptions to “OUR CONFEDERATE DEAD” and to a “cause, though lost, still just”—poses a threat to public safety, drains the public purse, and stands in violation of multiple provisions of the North Carolina Constitution. Many Iredell County residents have called for the Monument’s removal, recognizing the continuing threat to public safety it poses and the continuing pain to Iredell County’s Black residents it inflicts. The Iredell County Manager has admitted that protests over the Confederate Monument have turned “violent,” and an Iredell County Commissioner has acknowledged the unique burdens the Confederate Monument is placing on Black residents and he advised “those that think the statue wasn’t affecting anyone” to “talk to African Americans one-on-one.” The Board of Commissioners recognized the legitimacy of these concerns when it voted 4-1 on March 2, 2021 to remove the Monument from public land. But the Board has broken its promise and now refuses to follow through on its vote.

2. The North Carolina Constitution and decisions of the Supreme Court of North Carolina allow for this lawsuit. Taxpayers can bring suit to challenge the unconstitutional or otherwise illegal expenditures of public funds by local officials,

and North Carolinians can sue directly under the North Carolina Constitution when individual rights protected by that fundamental and supreme law are violated.

3. Plaintiffs ask this Court to declare that the maintenance of the Confederate Monument (current photo below) on Iredell County property violates the North Carolina Constitution, and to order the Defendants, who have both the power and the obligation to rectify this constitutional violation, to remove the Confederate Monument from its current location and to not allow the Monument to be put on public display on any property owned or controlled by Iredell County.



Credit: Ben Gibson, Statesville Record & Landmark



**PARTIES**  
**Plaintiffs**

4. Plaintiff Christopher A. “Skip” McCall (“McCall”) is a Black resident of Statesville, who has spent nearly all his life in Iredell County. McCall served for two years in the U.S. Army during the Vietnam War and completed a ten-month tour of duty overseas, after which he was honorably discharged.

5. Plaintiff Reverend Robert Wright Lee IV (“Lee”) is a white resident of Iredell County. Lee is the fourth great-nephew of Confederate General Robert E. Lee. Rev. Lee is a graduate of Duke Divinity School and has made his home in Statesville since graduating.

6. Plaintiff North Carolina State Conference of the NAACP (National Association for the Advancement of Colored People) (“North Carolina State Conference”) is a civil rights organization whose mission is to “ensure the political, educational, social and economic equality of rights of all persons and to eliminate racial hatred and discrimination.” *See* <https://naacpnc.org/about-us/>. Members of the North Carolina State Conference include Black taxpayers and residents of Iredell County, who are harmed in a common way by Iredell County’s maintenance of the Confederate Monument in Statesville.

7. Plaintiff National Association for the Advancement of Colored People (NAACP) Statesville Branch #5454 (“Statesville NAACP”) is a local affiliate of Plaintiff North Carolina State Conference and, as such, shares the mission of the North Carolina State Conference as described in Paragraph 6, above. The core membership of the Statesville NAACP is comprised of Black taxpayers and residents

of Iredell County, who are harmed in a common way by Iredell County's maintenance of the Confederate Monument in Statesville.

8. Plaintiff National Association for the Advancement of Colored People (NAACP) South Iredell Branch #5476 ("South Iredell NAACP") is a local affiliate of Plaintiff North Carolina State Conference and, as such, shares the mission of the North Carolina State Conference as described in Paragraph 6, above. The core membership of the South Iredell NAACP is comprised of Black taxpayers and residents of Iredell County, who are harmed in a common way by Iredell County's maintenance of the Confederate Monument in Statesville.

9. Plaintiff Iredell Clergy for Healing and Justice, Inc. ("Iredell Clergy") is a multi-racial organization whose members consist of Iredell County residents, taxpayers, and religious leaders from various denominations. Iredell Clergy seeks to serve as a voice for the underrepresented, disenfranchised, and underserved members of the Iredell County community in addressing social, civic, economic, and educational disparities. Iredell Clergy's members believe that the Confederate Monument in Statesville serves as a divisive and overt tribute to a war fought to perpetuate racial apartheid.

10. Plaintiffs McCall and Lee are residents and taxpayers of Iredell County and, as such, have standing on their own behalf to challenge Iredell County's expenditure of public funds for purposes related to the Confederate Monument pursuant to *Goldston v. North Carolina*, 361 N.C. 26, 33, 637 S.E.2d 876, 881 (2006), and other cases holding that taxpayers have standing to challenge the misuse of

public monies.

11. Plaintiffs McCall, North Carolina State Conference, Statesville NAACP, South Iredell NAACP, and Iredell Clergy have standing on their own behalf to bring claims for denial of the equal protection of the laws and for race discrimination under the North Carolina Constitution pursuant to *Corum v. University Of North Carolina*, 330 N.C. 761, 781-783, 413 S.E.2d 276, 289-290 (1992), *Craig v. New Hanover County Board Of Education*, 363 N.C. 334, 338-339, 678 S.E.2d 351, 354-355 (2009), and other cases holding that there is a direct action under the North Carolina Constitution for a violation of rights guaranteed by the North Carolina Declaration of Rights where, as here, there is no other adequate remedy under state law.

12. Plaintiffs North Carolina State Conference, Statesville NAACP, South Iredell NAACP, and Iredell Clergy (collectively, the “Association Plaintiffs”) have standing to assert claims on behalf of their members pursuant to *River Birch Associates v. City Of Raleigh*, 326 N.C. 100, 129-131, 388 S.E.2d 538, 555-556 (1990), *Willowmere Community Association, Inc. v. City Of Charlotte*, 370 N.C. 553, 557, 809 S.E.2d 558, 561 (2018), and other cases recognizing that an organization can seek legal redress on behalf of its members where the organization’s members would otherwise have standing to sue in their own right, the interests the organization seeks to protect through the litigation are germane to the organization’s purpose, and neither the claim asserted nor the relief requested in the litigation requires the participation of individual organization members in the lawsuit.

**PARTIES**  
**Defendants**

13. Defendant Iredell County is a body politic and corporate, organized and existing under the laws of the State of North Carolina, with capacity to be sued as provided by N.C.G.S. § 153A-11.

14. Defendant Iredell County Board of Commissioners (the “Iredell Board”) is the governmental body primarily responsible for the management and administration of Iredell County. Under North Carolina law, “each power, right, duty, function, privilege and immunity of the [County] shall be exercised by the board of commissioners.” N.C.G.S. § 153A-12.

15. Defendants James B. Mallory III, Melissa Neader, Marvin Norman, Gene Houpe and Scottie Brown (collectively, the “Commissioner Defendants”) are the current members of the Iredell Board. They are sued in their official capacities only.

16. Iredell County, the Iredell Board, and the Commissioner Defendants are collectively referred to herein as the “Defendants.”

17. The Confederate Monument in Statesville was dedicated on or about May 10, 1906 on public land in front of the building which, at the time, was the Iredell County Courthouse. The Monument has remained in the same location to this day, but the building the Monument presides over now serves as the Iredell County Government Center. Iredell County has, at all times since the Confederate Monument’s dedication, owned and controlled the land on which the Monument is located as well as the surrounding grounds and the Government Center/Courthouse building. Iredell County has tasked its Sherriff’s Office with policing the Iredell

County Government Center and its surrounding areas, including the land on which the Confederate Monument stands.

18. The Commissioner Defendants, in their official capacities, are charged with numerous responsibilities in the governance of Iredell County, including adopting an annual budget, establishing a tax rate for the County, appointing a County Manager to serve as chief administrator, and promoting public safety. The Commissioner Defendants are responsible for determining whether County funds and resources are expended for purposes related to the Confederate Monument in Statesville, and have the authority to remove the Monument from its current location on County land.

### **JURISDICTION**

19. This General Court of Justice has subject-matter jurisdiction and authority to hear this civil matter, which seeks a declaratory judgment pursuant to N.C.G.S. § 7A-240 and § 1-253. The Superior Court is the proper division of the General Court of Justice where, as here, the principal relief sought is the enforcement or declaration of a claim of constitutional right. *Id.* § 7A-245(a)(4). This Court has personal jurisdiction over Defendants, because Iredell County is a North Carolina local government and because the Commissioner Defendants, comprising the Iredell Board, are public officers executing their duties in and on behalf of Iredell County.

### **VENUE**

20. Venue is appropriate in Iredell County pursuant to N.C.G.S. § 1-77, because some or all of Plaintiffs' causes of action arose in the County and because Defendants include the County government and its public officers.

## FACTUAL ALLEGATIONS AND BASIS FOR ACTION

### **I. North Carolina's Post-Civil War Constitutional History**

21. In 1865, the largest troop surrender of the Civil War was negotiated near Durham, while Greensboro provided depots for Confederate arms to be laid down and units to be disbanded. Across the State, newly-freed Black Americans began participating in the civic life from which they had been so long, so brutally, and so unjustly excluded. They could also enjoy rights enumerated in the North Carolina Constitution of 1776, which included “the law of the land” guarantee.

22. In 1868, North Carolinians enacted a new State Constitution which included two key principles absent from the 1776 original: individual equality and national unity.

23. Overriding any State law to the contrary, and repudiating the Confederacy's contrary belief, the 1868 Constitution declared that “[w]e hold it to be self-evident that all men are created equal,” N.C. Const. art. I, § 1, and directed that “[s]lavery and involuntary servitude ... shall be, and are hereby forever prohibited within this State.” *Id.* art. I, § 33.

24. The 1868 Constitution also spoke repeatedly to the necessity of supporting the Union. Its opening line expresses that North Carolina is “grateful ... for the preservation of the American Union.” *Id.* preamble. The constitutional text goes on to guarantee absolute and permanent loyalty to the reunited Nation, promising “[t]hat this State shall ever remain a member of the American Union; that the people thereof are part of the American nation; that there is no right on the part of this State to secede; and that all attempts from whatever source or upon whatever



pretext, to dissolve said Union, or to sever said nation, ought to be resisted with the whole power of the State,” and that “[e]very citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof, can have any binding force.” *Id.* art. I, §§ 4, 5. All of these provisions were carried over into the 1971 State Constitution and remain in effect today.

25. The 1971 North Carolina Constitution added a provision explicitly guaranteeing equal protection as a matter of law: “No person shall be denied the equal protection of the laws; nor shall any be subjected to discrimination by the State because of race, color, religion, or national origin.” *Id.* art. I, § 19. It also required that state and local governments appropriate taxpayer funds exclusively for public purposes. *Id.* art. V, § 2 (“The power of taxation shall be exercised in a just and equitable manner, for public purposes only.”).

26. The Supreme Court of North Carolina has held that the North Carolina Constitution is the “fundamental law of the State” and that “individual rights protected under the Declaration of Rights from violation by the State are constitutional rights. Such constitutional rights are a part of the supreme law of the State.” *Craig v. New Hanover County Board Of Education*, 363 N.C. 334, 339, 678 S.E.2d 351, 355 (2009). The “individual rights protected under the Declaration of Rights,” referenced in *Craig*, include the right to equal protection of the laws and the right to be free from governmental discrimination on the basis of race as guaranteed by Article I, Section 19, of the North Carolina Constitution.

27. The State Constitution “is more detailed and specific than the federal Constitution in the protection of the rights of its citizens.” *Corum v. University Of North Carolina*, 330 N.C. 761, 783, 413 S.E.2d 276, 290 (1992). North Carolina courts “give [the State] Constitution a liberal interpretation in favor of its citizens with respect to those provisions which were designed to safeguard the liberty and security of the citizens in regard to both person and property.” *Id.*; see also *Tully v. City of Wilmington*, 370 N.C. 527, 534, 810 S.E.2d 208, 214 (2018) (“[T]he ‘fundamental guaranties’ set forth in Sections 1 and 19 [of Article I of the State Constitution] ‘are very broad in scope, and are intended to secure to each person subject to the jurisdiction of the State extensive individual rights.’”) (quoting *State v. Ballance*, 229 N.C. 764, 769, 51 S.E.2d 731, 734 (1949)).

## **II. The Confederate Monument’s Erection And Dedication Was An Integral Part Of A Broad Political Campaign To Further Entrench White Supremacy**

28. For a brief period immediately following the Civil War, North Carolina was a site of Black political participation and elected a Republican Governor in both 1872 and 1896. But this was short-lived due to violence, intimidation, and subterfuge waged by white supremacists seeking to again subjugate fellow Americans based on race. “During Reconstruction (1868-1898), 111 African Americans served in our General Assembly.... Until 1968, no African Americans had served in our General Assembly in the 20th century.” *N.C. NAACP v. Moore*, 849 S.E.2d 87, 91 & n.11 (N.C. Ct. App. 2020).

29. Prior to 1896, there had been sporadic calls for a Confederate Monument in Iredell County, but no significant work was done to fund or erect a Monument until

after the election of 1896.

30. The Republican victory in 1896, led by a coalition of Black Republican voters, white Republicans, and a part of the agrarian Populist Party, gave birth to a Democratic Party political strategy based on white supremacy designed by Furnifold M. Simmons from Goldsboro, North Carolina, a former Congressman who had been defeated after one term by a Black Republican.

31. In 1898, within the space of 90 days, the Iredell County and North Carolina Democratic Party immersed itself in this campaign by adopting a white supremacy platform and forming associations to erect monuments to “Anglo Saxon Rule” in North Carolina, and by taking the following actions (among others):

a. The Iredell County Monumental Association was formed under the leadership of the then-Chairman of the Iredell County Democratic Party, B.F. Long, to raise money to erect a Confederate Monument in Iredell County (*see Confederate Soldiers’ Reunion*, Carolina Mascot, Aug. 25, 1898);

b. The *Statesville Landmark* (the local newspaper) endorsed the Democratic Party platform, stating that “No, the Democrats will not disfranchise [sic] poor people or put negroes back into slavery. There is one thing they may be relied upon to do when they have the power, God being their helper, and that is to rid the counties of the State now subject to the control of the negroes of any and all such degradation and oppression” (*see What The Democrats Will Do*, Statesville Landmark, Sep. 23, 1898);

c. The Iredell County chapter of the United Daughters of the

Confederacy (“UDC”) was formed by Mary Alice Robbins Long, whose husband was the Iredell County Democratic Party Chair (B.F. Long) (*see Statesville Chapter Of The Daughters Of The Confederacy Organized*, Statesville Landmark, Oct. 28, 1898);

d. The North Carolina Democratic Party held a “White Man’s Rally” in Goldsboro, North Carolina, which was the subject of a special Supplement to the *Statesville Landmark* in its election edition, describing the rally as “a call to arms of a white army, two hundred thousand strong, **to march in victory under the unsullied banner of Anglo-Saxon rule...**” and reprinting a resolution adopted by the Rally “[t]hat we declare it is not our purpose to do the negro any harm. **It is better for him, as well as for us that the white man shall govern....**” (*see Resolutions Adopted By Eight Thousand Voters At The White Man’s Convention In Goldsboro, October 28th*, Statesville Landmark, Nov. 3, 1898 (emphasis added)); and

e. The day after the 1898 election, “the office of the negro paper, the *Record*, of Wilmington, was wrecked,” which the Statesville newspaper celebrated along with the banishment of the Wilmington newspaper’s editor. The Statesville newspaper did not mention the murder of African-Americans in Wilmington in connection with the white mob’s rampage. (*See The Trouble In Wilmington*, Statesville Landmark, Nov. 11, 1898.) For the *Statesville Landmark*, those Black lives did not matter.

32. In 1899, the Iredell County Courthouse was built to replace the prior

courthouse built in 1854.

33. In 1900, the North Carolina Democratic Party endorsed and passed an amendment to the State Constitution which effectively disenfranchised Black citizens with a poll tax that included an exemption for white voters whose ancestors had been registered to vote as of 1867.

34. The North Carolina Democratic Party ran in 1900 under the banner of white supremacy and Black “disfranchisement,” with Charles B. Aycock as its candidate for Governor. The Iredell County chapter of the UDC served refreshments at an Aycock rally in Statesville to raise money for a Confederate Monument. (See *Carolina Mascot*, June 14, 1900.) At that rally, reported one newspaper, Aycock proclaimed: “We were slow to leave the Union but when we did go, we managed to sacrifice the first life [on] the altar of the Southern Confederacy.... We sent the Republicans to the school of White Supremacy in '98. ... ***The Anglo-Saxon race is the all-conquering race intended by God to be the rulers of the world....*** Who were the men that carried the banner of the Confederacy farthest north at Gettysburg? ... [T]hey were white men, every one of them. ... ***By all the strength that is in us the white man must rule.***” (See *A Great Day For Iredell*, *Carolina Mascot*, June 21, 1900 (emphasis added).)

35. In 1902, when the “disfranchisement” amendment to the North Carolina Constitution was in effect, the Statesville newspaper reported that “[s]ome of the colored voters, mainly the old timers, who have tried to register and failed under the requirements of the new constitution, are very much put out. Most of those who had

been voting since the civil war failed to realize what the campaign of two years ago meant. They couldn't comprehend that they were disfranchised until they tried to register within the past week. A majority of the colored people, however, have fully appreciated the conditions and long ago realized that they were done voting. As a rule, it is to be said to their credit that they have accepted the changed conditions good naturedly." (See *Disenfranchisement Of Voters In Fact*, Statesville Landmark, Oct. 7, 1902.)

36. In 1904, the Statesville newspaper published on its front page the North Carolina Democratic Party Platform, which proudly boasted that "[t]he Democratic Party pointes [sic] with pride to its settlement of the race problem in North Carolina.... We pledge the party to a fuller discharge of a debt that can never be fully paid to these aging heroes [i.e., Confederate Veterans] who offered their lives as a sacrifice upon the altars of their country.... We invite all who believe in ... popular government and white supremacy...." (See *Democratic State Platform*, Statesville Record & Landmark, June 28, 1904.)

37. Following the 1904 election, the UDC held a fund-raiser for the Confederate Monument where attendees were to dress in Civil War outfits. As the Statesville newspaper phrased it, "[i]f the textbooks of the future are to teach coming generations that our soldiers were traitors, we must leave the record of their patriotism, courage and honor, and of our loyalty and love to them [en]graven[ed] in everlasting stone. [The] statue of a Confederate soldier ... will stand there for the children of our grandchildren, history that no false sentiment can change, the pride



of the county.” (See *A Confederate Tea Party*, Statesville Record & Landmark, Nov. 18, 1904.)

38. By May of 1905, the UDC had raised enough money to order the Confederate Monument. (See *Memorial Day Address*, Statesville Record & Landmark, May 16, 1905.) William Augustus Self of Hickory, a well-known apologist for Furnifold Simmons’ white supremacist views (see ¶ 30, *supra*), addressed a gathering at the Courthouse Yard on May 10, 1905 (North Carolina’s Confederate Memorial Day), where he reminded those present that Iredell County’s Confederate Veterans did not just fight for “what they believed was right. Rather . . . they did battle for what we believe was right.” (*Id.*) Reiterating the omnipresent theme of white supremacy, Self exclaimed that “where slavery last flourished [i.e., the South] is the one place of all places for the development of the very best that is in the black man,” and that Northerners who believed “[a]ll men are created equal” were actually distorting the true meaning of the Declaration of Independence because “[t]he Declaration of Independence is not inconsistent with the subordination of an inferior race.” (*Id.*)

39. Within 60 days after Self’s speech, the Iredell County Board of Commissioners recorded in its Minutes that “[t]he Daughters of the Confederacy are hereby granted the authority to erect a monument in the Court house Yard.” (See Minutes of the Iredell County Board of Commissioners (July 3, 1905); reported in *County Commissioners*, Statesville Record & Landmark, July 4, 1905.)

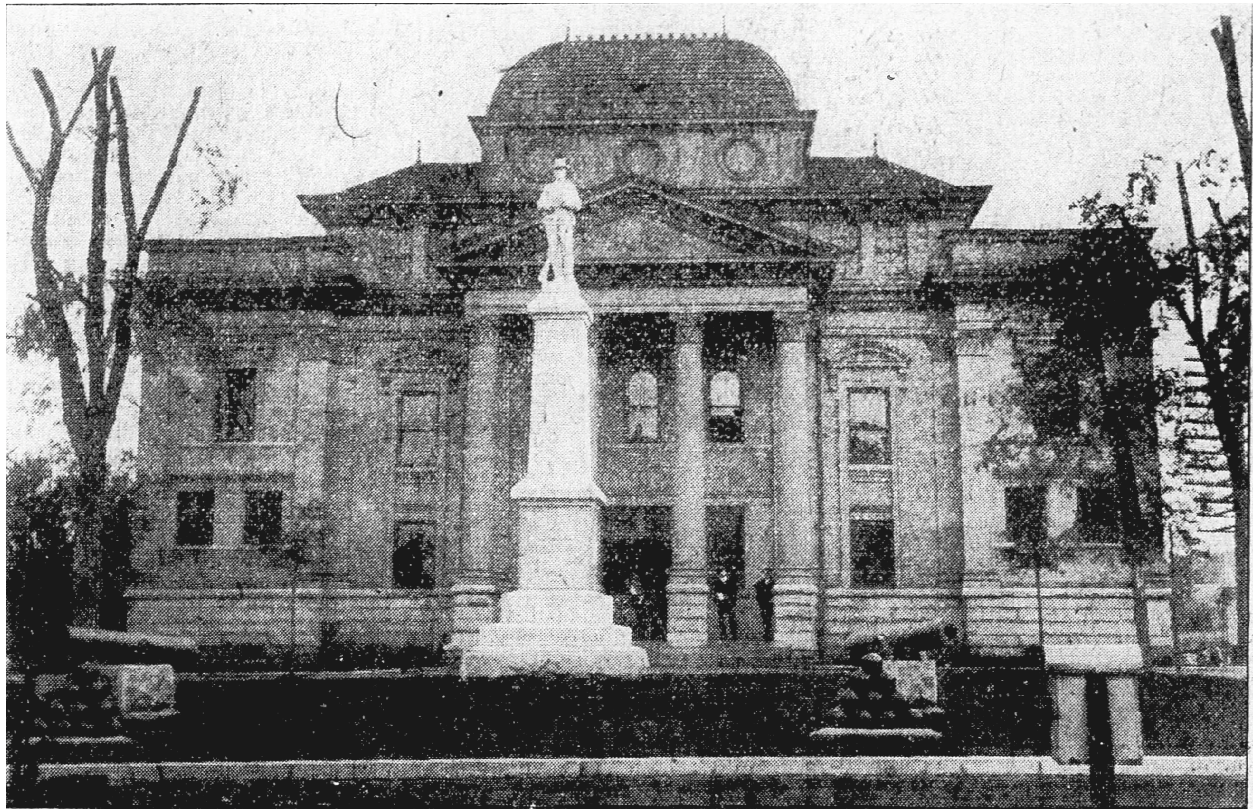
40. The cornerstone of the Confederate Monument in Statesville was laid in

July of 1905, containing a Bible, a list of officers and members of the “Statesville Chapter, United Daughters of the Confederacy,” a list of government officers of Iredell County and the City of Statesville, an estimated number of the Confederate Veterans then living in Iredell County, a list of financial contributors to the Monument, and a history of Iredell County. (*See Programme For Everybody’s Day—Corner Stone Laying, Etc.*, Statesville Record & Landmark, July 25, 1905.) Notably, although local white supremacist politicians were identified by name, there was no list of the names of the actual Confederate Veterans who were purportedly the honorees of the Monument.

41. A Committee of the UDC selected the “most suitable and appropriate inscription” for the Confederate Monument (*see Inscription For Confederate Monument By Daughters Of The Confederacy*, Statesville Record & Landmark, Aug. 15, 1905), and the inscriptions were carved into the Monument after the base stones had been delivered to Statesville. (*See The Monument Here*, Statesville Record & Landmark, Nov. 24, 1905.) The Monument was erected on December 23, 1905. (*See The Monument Completed*, Statesville Record & Landmark, Dec. 29, 1905.)

42. The Monument was dedicated on May 10, 1906, Confederate Memorial Day, at an event at which the Democratic Governor Robert Glenn (who had been elected in 1904 on a platform of white supremacy), former Democratic Lt. Governor (and Iredell County native) Wilfred Turner, and former Statesville Democratic Mayor L.C. Caldwell spoke. Governor Glenn said that the purpose of the gathering was to “honor, respect and love the memory of the grandest cause” and thereafter read the

inscriptions. (See *The Unveiling Yesterday*, Statesville Record & Landmark, May 11, 1906.) Farmer & Mechanic Newspaper also covered the event and photographed the Confederate Monument dominating the Courthouse Yard and watching over the halls of justice—a powerful, gleaming white symbol of the primacy of white supremacy in Iredell County:



Confederate Monument and Iredell County Court House.

43. True to its own roots as an organization on a mission “for hearts and minds to solidify white control of the South,” and to the publicly-expressed goals of the North Carolina Democratic Party at both the state and local level, a mere four years after the dedication of the Confederate Monument in Statesville, one speaker at the UDC’s North Carolina convention applauded the UDC for its continuing commitment to “Southern rights, democracy, and, *thank God, to white*

*supremacy.*” Greg Huffman, *The Group Behind Confederate Monuments Also Built A Memorial To The Klan*, Facing South (June 8, 2018), <https://www.facingsouth.org/2018/06/group-behind-confederate-monuments-also-built-memorial-klan> (emphasis added).

### **III. The Confederate Monument’s Characteristics, Including Its Towering Armed Soldier, Carry On The Racial Bigotry And Subjugation Embraced Throughout The Monument’s Planning, Erection, And Unveiling**

44. The white supremacy underlying the Iredell County Confederate Monument lives on in the granite stone itself. The Monument’s inscription reads: “TO THE SOLDIERS OF IREDELL COUNTY 1861-1865, 1905. THEY BORE THE FLAG OF A NATION’S TRUST AND FELL IN A CAUSE, THOUGH LOST, STILL JUST, AND DIED FOR ME AND YOU.”<sup>1</sup>

45. The cause of the Confederacy was not just—not then and not now—for the “cause” of the Confederacy, as its leaders proudly proclaimed, was white supremacy and slavery. Confederate Vice President Alexander Stephens delivered his infamous Cornerstone Speech on March 21, 1861, where he elaborated on one of the Confederate Constitution’s “numerous changes for the better” compared to the U.S. Constitution: “The new constitution has put at rest, forever, all the agitating questions relating to our peculiar institution [of] African slavery as it exists amongst

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<sup>1</sup> To celebrate the centennial of the Confederate Monument’s dedication, a re-dedication took place in 2006. The re-dedication plaque contained the following inscription: “CENTENNIAL AND REDEDICATION OF MONUMENT IN MEMORY OF THE IREDELL CO. CONFEDERATE SOLDIERS MAY 6, 2006 – DEO VINDICE.” (See <https://docsouth.unc.edu/commland/monument/232/>). The Monument’s re-dedication is discussed further in Paragraph 68, *infra*.

us the proper status of the negro in our form of civilization. This was the immediate cause of the late rupture and present revolution.” Vice President Stephens recounted how the Union’s Founding Fathers endeavored to build a government which “rested upon the assumption of the equality of the races”—an assumption he dismissed as “fundamentally wrong” and an “error.” Doubling down on the abject racism which lied at the Confederacy’s core, Stephens claimed: “Those at the North, who still cling to these errors, with a zeal above knowledge, we justly denominate fanatics.” The Confederacy, Stephens boasted, was “founded upon exactly the opposite idea; its foundations are laid, its corner-stone rests, upon *the great truth that the negro is not equal to the white man; that slavery subordination to the superior race is his natural and normal condition.*” (The Cornerstone Speech can be found in full at <https://www.battlefields.org/learn/primary-sources/cornerstone-speech>.) And, not surprisingly, the Constitution of the Confederate States of America provided that “[n]o bill of attainder, ex post facto law, or law denying or impairing the right of property in negro slaves shall be passed.” (Constitution of the Confederate States of America (Mar. 11, 1861), Art. I, § 9(4), [https://avalon.law.yale.edu/19th\\_century/csa\\_csa.asp](https://avalon.law.yale.edu/19th_century/csa_csa.asp)).

46. The “me and you,” for whom the 1905 Confederate Monument in Statesville claimed that nearly 600 Iredell County Confederate soldiers had died some 40 years earlier, did not include the Black citizens who were disenfranchised by the poll tax adopted in the 1900 amendment to the State Constitution. Nor does it include the more than 20,000 Black citizens who live in Iredell County today.

#### **IV. The Confederate Monument's Location At The Center Of Iredell County's Civic Life Exacerbates Its Harmful Impact**

47. Given the State's rural history, resulting in the primacy of the county over the town, "[t]he county courthouse in North Carolina is perhaps the most significant single governmental building. . . . As a symbolic force and a functional center for community activity, the courthouse is without peer in North Carolina." *See* National Register of Historic Places – Nomination and Inventory re Courthouses in North Carolina, North Carolina State Historic Preservation Office, at 10 (Dec. 6, 1978), [https://npgallery.nps.gov/NRHP/GetAsset/NRHP/64000461\\_text](https://npgallery.nps.gov/NRHP/GetAsset/NRHP/64000461_text). This is where they put the Confederate Monument in Statesville, just a few years after the historic Iredell County Courthouse was built in 1899.

48. That building remained in use as a courthouse until 1972 and now serves as the Iredell County Government Center. While no longer a courthouse, the building still is home to much of the civic life of Iredell County, including the meetings of the County Board of Commissioners, and the offices of the County Manager, the Emergency Medical Services Administration, Human Resources, Information Technology Services, and Veterans Services. The Confederate Monument stands watch, armed and menacing, over them all. To make matters even worse, because the Government Center's only functioning entrance faces the Confederate Monument, Plaintiff McCall—a U.S. Army veteran—was confronted by the Monument when he had to visit the local Veteran's Administration office to get information about his educational benefits.

49. The Confederate Monument's location in the center of Statesville makes



it profoundly more difficult for Iredell County's Black residents to enjoy the city center and all of its amenities equally with white residents. When visiting some restaurants and other businesses in downtown Statesville, it is virtually impossible to avoid passing by or having to look at the Confederate Monument.

**V. The Confederate Monument Continues To Inflict Racialized Pain On Iredell County's Black Residents, And Many Iredell County Residents Continue To Request The Monument's Removal**

50. Given the purpose of the Confederate Monument, its characteristics, and its location, it is not surprising that Plaintiffs and other residents of Iredell County find the Monument to be racially demeaning, racially hostile, and racially discriminatory. Moreover, a recent study by scholars at the University of North Carolina at Chapel Hill showed that Black Southerners feel racial injustice profoundly upon viewing Confederate monuments and that government protection of Confederate monuments leads them to experience a diminished sense of belonging. Lucy Britt, *et al.*, *Meanings And Impacts Of Confederate Monuments In The U.S. South*, Du Bois Rev. 1-19 (2020). To the same effect, the Iredell Board, in voting to remove the Confederate Monument, acknowledged that it "occupied a prominent position in front of the justice system during a period of Jim Crow laws, segregation and endemic discrimination against African-Americans," and that, for Black residents, the monument "continues to serve as a reminder of policies of oppression, having their roots in the system of slavery that existed in the Confederate States of America." James B. Mallory III, Chairman, "Resolution of the Iredell County Board of Commissioners in Support of Relocation of Confederate Monument Currently Located at the Iredell County Government Center" (Mar. 2, 2021) (attached hereto as

Exhibit A).

51. The white supremacist message conveyed by Iredell County's Confederate Monument has followed Plaintiff McCall throughout his entire life. When visiting downtown Statesville as a child, McCall would have to drink from the "Colored water fountain," which was located behind the courthouse. McCall's grandmother explained to him that the Confederate Monument in front of the courthouse was in honor of the people who were killed to keep Black people in slavery. When McCall would walk through downtown Statesville to go to the segregated movie theater, he could not help but look at the Monument—serving as another reminder of his status as a second-class citizen growing up in Iredell County.

52. In a closed-door session before announcing he would be voting against removal of the Confederate Monument, Defendant Brown (a member of the Iredell Board) stated that the Monument has "been there 120 years – when did it start bothering people?" Ben Gibson, *Resolution Just the First Step In Statue's Removal For Its Opponents*, Statesville Record & Landmark, Mar. 3, 2021, [https://statesville.com/news/local/resolution-just-the-first-step-in-statues-removal-for-its-opponents/article\\_a7e86200-7c5d-11eb-9607-23404f55812e.html](https://statesville.com/news/local/resolution-just-the-first-step-in-statues-removal-for-its-opponents/article_a7e86200-7c5d-11eb-9607-23404f55812e.html). The answer, for Plaintiff McCall, is "as far back as the 1950s." This lawsuit is part of a lifelong effort on his part, which also spanned his presidency of Plaintiff Statesville NAACP. McCall promised his grandmother that the Monument would come down peaceably, and he plans to keep his promise.

53. McCall's understanding is shared by others. According to a petition to

remove the Confederate Monument signed by more than 3,000 people, the Monument is a “physical representation of the ideals of the Confedera[cy]” and “a 27 foot reminder of White Supremacy.” Genesis Houpe, *Remove the Confederate statue in Statesville NC*, Change.org, <https://www.change.org/p/mayor-costi-kutteh-remove-the-confederate-statue-in-statesville-nc> (last visited May 1, 2021).

## **VI. The Confederate Monument Strains Taxpayer-Funded Iredell County Resources, While Threatening Residents’ Physical Safety**

54. Defendants’ refusal to remove the Confederate Monument in Statesville poses both financial and physical risks to Iredell County residents.

55. On information and belief, Iredell County is expending taxpayer dollars on Monument-related activities, including, without limitation, providing overtime compensation to Sheriff’s Deputies, paying legal expenses, and devoting staff time to citizen and media inquiries. As just one example, after protests in downtown Statesville escalated in the Summer of 2020, the Iredell County Manager announced that a local trespassing ordinance would be enforced, necessitating an around-the-clock law enforcement presence. (*See* ¶ 62, *infra*.)

56. Maintaining the Confederate Monument also exposes Iredell County to a host of potential lawsuits, including for negligence, hostile work environment, and civil rights violations, the cost of which will necessarily ultimately be borne by taxpayers. As University of North Carolina at Chapel Hill officials recognized when considering what to do with the Confederate monument on their campus, “the best way to reduce potential legal exposure would be to relocate the Monument to minimize exposure to negligence claims, claims under 42 U.S.C. 1983, and under

Title VI.” Recommendation for the Disposition and Preservation of the Confederate Monument, Appendix D, Dec. 3, 2018. The Monument’s presence on public land directly in front of the entrance to the Iredell County Government Center also subjects Iredell County, and ultimately its taxpayers, to the risk of workplace-harassment claims and other suits from County employees, such as the Sheriff’s Department officers consistently called to the scene or Iredell County employees who work at the Government Center—as federal courts have concluded that the presence of Confederate symbols in the workplace is evidence of a racially-hostile environment under the Civil Rights Act of 1964. *See, e.g., Brown v. Nucor Corp.*, 576 F.3d 149, 151 (4th Cir. 2009) (in reversing lower court’s denial of class certification in Title VII case, noting that “[t]he display of the Confederate flag was pervasive throughout the plant, and items containing [the employer’s] logo alongside the Confederate flag were sold in the plant’s gift shop.”); *Crawford v. Newport News Indus. Corp.*, 2018 U.S. Dist. LEXIS 231885, at \*47 (E.D. Va. Mar. 2, 2018) (stating that reasonable jury could find hostile work environment where employees had seen “Confederate flags displayed on vehicles, tool boxes, clothing and hats”).

57. In addition to financial harm, the continued presence of the Confederate Monument on Iredell County property poses physical risks to Plaintiffs and their members as well as to their fellow County residents. The Monument has been the site of numerous altercations between demonstrators advocating for and against removal. For example, in August of 2020, one demonstrator “pushed a Confederate flag into a protester’s face and a shoving match broke out between the two men,” and

then a third man joined in. Ben Gibson, *Protests To Continue At Iredell County Confederate Memorial*, Statesville Record & Landmark, Aug. 14, 2020, [https://statesville.com/news/local/crime-and-courts/protests-to-continue-at-iredell-county-confederate-memorial/article\\_e1d66bf6-dd66-11ea-a3da-c7d75962ad6a.html](https://statesville.com/news/local/crime-and-courts/protests-to-continue-at-iredell-county-confederate-memorial/article_e1d66bf6-dd66-11ea-a3da-c7d75962ad6a.html). One protester was arrested, and charged with assault and resisting a public officer. *Id.* That same week, two other protesters were arrested for disorderly conduct. *Id.*

58. As recently as March of 2021, Iredell County Sheriff's deputies arrested one protester as tensions spiked between those in favor and against the Monument's removal, and several protesters in favor of removal "claimed one of the counter protesters said they would shoot someone." Ben Gibson, *One Arrested During Protest Outside Iredell County Board Of Commissioners Meeting*, Statesville Record & Landmark, Mar. 17, 2021, [https://statesville.com/news/local/one-arrested-during-protest-outside-iredell-county-board-of-commissioners-meeting/article\\_3031a8f2-86d5-11eb-978a-b7957a732ed0.html](https://statesville.com/news/local/one-arrested-during-protest-outside-iredell-county-board-of-commissioners-meeting/article_3031a8f2-86d5-11eb-978a-b7957a732ed0.html). And, on the night when the Iredell Board voted to relocate the Monument, angry counter-protesters "threw a noose from a car" at the activists who had pushed for the Monument's removal. *Commissioners Vote To Relocate Confederate Statue Outside Iredell County Courthouse*, WSOC-TV (Mar. 3, 2021), <https://www.wsoctv.com/news/local/commissioners-vote-relocate-confederate-statue-outside-iredell-county-courthouse/BSSFVIIHTBELLO5IEHUKFSG4RI/>.

59. Across the South, from Charlottesville<sup>2</sup> to nearby Alamance County,<sup>3</sup> protests over Confederate monuments have been a magnet for hate groups, white supremacists, and neo-Confederates. These groups often espouse both white supremacy and violence, including, at times, through the promotion of a new American civil war. See Robert Kuznia, *et al.*, *Gun-toting Members Of The Boogaloo Movement Are Showing Up At Protests*, CNN (June 4, 2020), [www.cnn.com/2020/06/03/us/boogaloo-extremist-protests-invs/index.html](http://www.cnn.com/2020/06/03/us/boogaloo-extremist-protests-invs/index.html).

60. Iredell County has proved to be no exception. White supremacist forces are operating openly in Iredell, and seeking to intimidate those residents speaking out against the Monument. Flyers purporting to be from the Ku Klux Klan were left on the doorstep of anti-Monument online petition organizer Genesis Houpe and other Black Statesville residents in March of this year. Ben Gibson, *Woman Said KKK Flyer Was Left On Her Doorstep*, Statesville Record & Landmark, Mar. 6, 2021, [https://statesville.com/news/local/woman-said-kkk-flyer-was-left-on-her-doorstep/article\\_22c361a0-7ebb-11eb-a81b-7b2782e5d17c.html](https://statesville.com/news/local/woman-said-kkk-flyer-was-left-on-her-doorstep/article_22c361a0-7ebb-11eb-a81b-7b2782e5d17c.html). The Klan left Houpe

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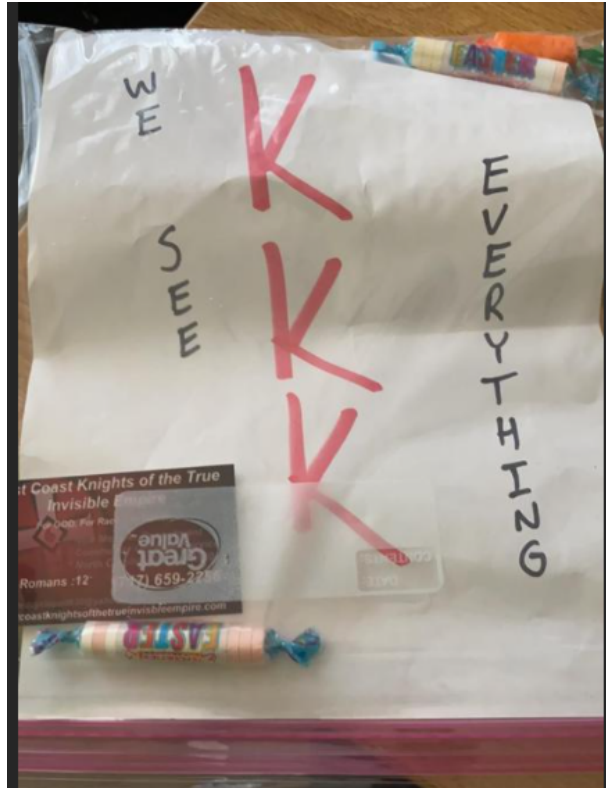
<sup>2</sup> The infamous 2017 Charlottesville “Unite the Right” rally, which resulted in three deaths and put the university town on the global map, arose from a controversy over the planned removal of a Robert E. Lee statue. Colin Dwyer, *Charlottesville Rally Aimed To Defend A Confederate Statue. It May Have Doomed Others*, NPR (Aug. 14, 2017), <https://www.npr.org/sections/thetwo-way/2017/08/14/543471538/charlottesville-rally-aimed-to-defend-a-confederate-statue-it-may-have-doomed-ot>. The Virginia Supreme Court recently ruled that Virginia’s monuments statute did not preclude the contemplated removal of the statue. *City of Charlottesville v. Payne*, Record No. 200790 (Va. Apr. 1, 2021).

<sup>3</sup> Recent protests over the Alamance County Confederate monument have drawn neo-Confederate hate groups, including ACTBAC (“Alamance County Taking Back Alamance County”) and the League of the South. See Maggie Brown, *Confederate Statue In Alamance County Guarded By Law Enforcement During Protests*, WRAL (July 12, 2020), [www.wral.com/confederate-statue-in-alamance-county-guarded-by-law-enforcement-during-protests/19185158/](http://www.wral.com/confederate-statue-in-alamance-county-guarded-by-law-enforcement-during-protests/19185158/).



a business card for a local white supremacist group and a flyer with the handwritten words “WE SEE EVERYTHING” and the letters “KKK” in red ink, *id.*, and the purported Grand Dragon of the East Coast Knights of the Klan sent an email to Charlotte press in which he acknowledged that the flyers were left in response to the Iredell Board’s initial vote to remove the Confederate Monument and “to let the citizens know that we are not happy with the statue being removed in downtown.”

Trish Williford, *Ku Klux Klan Member Responds To WCCB Story About KKK Flyer In Statesville, WCCB* (Mar. 10, 2021), <https://www.wccbcharlotte.com/2021/03/10/statesville-woman-says-ku-klux-klan-targeted-her-following-vote-to-remove-confederate-statue/>. Tellingly, given the original purpose for the erection of the Confederate Monument in Iredell County—i.e., to re-establish the subjugation of Black citizens—the KKK did not leave its flyers for the Iredell Commissioners, who actually voted for the Monument’s removal; instead, the KKK targeted the Black Iredell residents who had been protesting the Monument for months.



Credit: Ben Gibson, Statesville Record & Landmark

61. Numerous Iredell County residents have voiced concerns to the Commissioner Defendants regarding the Confederate Monument's detrimental impact on public safety.

62. Against this backdrop, it is no surprise that Iredell County officials, including the Commissioner Defendants, have recognized the threat to public safety posed by the Confederate Monument in Statesville. In the wake of the skirmishes and arrests at the Monument in the Summer of 2020, the County announced plans to enforce a local trespassing ordinance. Defendant Gene Houpe (a Commissioner; presumably no relation to Genesis Houpe, as referenced in Paragraph 60, *supra*) explained that enforcing the ordinance was "in the best interest of public safety,

citizen safety, and business owners' safety... when [protesters] start fighting, we didn't want things to escalate." Ben Gibson, *Iredell County To Enforce Trespassing Ordinance In Response To Protests*, Statesville Record & Landmark, Aug. 16, 2020, [https://statesville.com/news/local/iredell-county-to-enforce-trespassing-ordinance-in-response-to-protests/article\\_389d8fe0-de6c-11ea-8a84-4b7d5903967a.html](https://statesville.com/news/local/iredell-county-to-enforce-trespassing-ordinance-in-response-to-protests/article_389d8fe0-de6c-11ea-8a84-4b7d5903967a.html). Iredell County Manager Beth Jones issued a press release in which she stated that what began as peaceful protests "have turned into more violent protests, which have resulted in physical assaults and arrests." *Id.* She explained that the trespassing ordinance was being enforced to "protect the health, safety and welfare of not only the protestors but the citizens, businesses, law enforcement and visitors to our community." *Id.*

## **VII. Iredell County Officials Refuse To Remove The Monument**

63. Despite the Commissioner Defendants' recognition in their March 2, 2021 resolution that the Confederate Monument in Statesville "has occupied a prominent position in front of the justice system during a period of Jim Crow laws, segregation and endemic discrimination against African-Americans" (*see* ¶ 50, *supra*), they now claim they are powerless to follow through on their commitment to remove and relocate the Monument. But the text of their relocation resolution was clear: The Commissioner Defendants found that Black Iredell residents see the monument as a "reminder of policies of oppression, having their roots in the system of slavery that existed in the Confederate States of America." (Board of Commissioners Resolution, attached hereto as Ex. A.) In their own words, they recognized that "there remains much work to be done to eliminate the vestiges and

effects of racial discrimination” and professed that they were “committed to protecting and expanding the opportunities for every citizen regardless of race.” (*Id.*) The Commissioner Defendants further decreed that the Confederate Monument is “hurtful to a significant number of African-American citizens who live and work in our communities,” which runs contrary to the Commissioners’ desire that “public statues . . . serve to unify and inspire our communities.” (*Id.*) Thus, at the most fundamental level, the Iredell Board expressed its understanding that “the Confederate memorial does not foster a sense of unity and common purpose within our community given its location at the seat of County government.” (*Id.*)

64. It was based upon the above factual findings, which have never been refuted, that the Iredell Board resolved that it would work with the City of Statesville and other necessary parties “to affect (sic) the relocation” of the Monument. (Board of Commissioners Resolution, attached hereto as Ex. A.) The local chapters of the Sons of Confederate Veterans and Daughters of the Confederacy were explicitly named in the Board’s March 2, 2021 resolution as organizations to be “consulted in the site selection and process of relocation,” but not as necessary parties whose permission was actually required to effectuate the Monument’s relocation. (*Id.*) And the Board further demonstrated its clear intent to go beyond mere exploratory discussions and to actually remove/relocate the Monument by directing the County Manager to investigate the costs of relocation and have the County pay for it.

65. Yet, before the week was up, the Commissioner Defendants succumbed to political pressure and started backtracking on their resolution. Defendant Mallory

(a Commissioner) appeared at a meeting of the Iredell County Republican Party and was jeered when he mentioned the possibility of moving the Monument. Ben Gibson, *Iredell GOP Elects New Leadership At Convention, But Statue Debate Dominates Discussion*, Statesville Record & Landmark, Mar. 6, 2021, [https://statesville.com/iredell-gop-elects-new-leadership-at-convention-but-statue-debate-dominates-discussion/article\\_a81263d2-7ec1-11eb-855d-fff5a0edc21b.html](https://statesville.com/iredell-gop-elects-new-leadership-at-convention-but-statue-debate-dominates-discussion/article_a81263d2-7ec1-11eb-855d-fff5a0edc21b.html).

So, even though he was only one of the four Commissioners who had voted in favor of relocating the Monument, Mallory re-characterized the Iredell Board's resolution as a mere invitation to begin a negotiating process which might or might not lead to the Monument's relocation and, for the first time, elevated the local Confederate groups from potential partners in securing a new location for the Monument to holders of a veto power over the relocation itself, stating that if the Sons of Confederate Veterans do not agree to the Monument's relocation, "it isn't going anywhere." (*Id.*)

66. The Commissioner Defendants now appear to claim that the fact that Iredell County has not asserted an ownership stake over the Monument renders them powerless to effectuate the manifest intent of their March 2 resolution. According to Mallory, the opposition of the Monument's owner to moving their tribute to slavery and white supremacy renders the Iredell Board's resolution a dead letter. But this is unfounded. The Monument sits on public land and its presence immediately in front of the Iredell County Government Center violates Plaintiffs' constitutional rights. The purported private ownership of the Monument in no way diminishes the Defendants' power and obligation to remedy this constitutional violation on County

land.

### VIII. The North Carolina Monuments Law, Enacted In 2015, Does Not Prohibit Defendants From Removing The Confederate Monument In Statesville

67. In the face of calls from countless Iredell County residents for the Confederate Monument to be removed, it has been suggested by some Commissioner Defendants as well as the Iredell County Attorney that the County is legally prohibited from removing the Monument. Commissioner Mallory, for example, has opined that “state law would still restrict [the monument’s] movement.” *Gibson*, ¶ 65, *supra*. Presumably, Defendant Mallory is referring to the law enacted by the General Assembly in 2015 titled “[p]rotection of monuments, memorials, and works of art” (codified at N.C.G.S. § 100-2.1, and hereinafter referred to as the “Monuments Law”). If so, Commissioner Mallory and the other apologists for the Iredell Board’s about-face on its March 2, 2021 resolution are wrong for at least two reasons.

68. First, the Monuments Law only restricts the removal/relocation of “objects of remembrance,” which are defined as a “monument, memorial, plaque, statue, marker, or display of a permanent character **that commemorates an event, a person, or military service** that is part of North Carolina’s history.” N.C.G.S. § 100-2.1(b) (emphasis added). The Commissioner Defendants’ March 2, 2021 resolution effectively concedes that the Monument in Statesville does not commemorate “a person,” because, in the Commissioners’ own words, the Monument “depicts the common Soldier and not a specific individual.” Mar. 2, 2021 Resolution, ¶ 44, *supra*. Indeed, the cornerstone of the Monument is conspicuously lacking any identification of any “person” from Iredell County who died in battle. (See ¶ 40,

*supra*.) Moreover, the Monument was not intended to commemorate “an event.” Rather, as demonstrated above (*see* ¶¶ 33-46, *supra*), the primary purpose of the Confederate Monument in Statesville was to galvanize and maintain white voter support in Iredell County for Black voter disenfranchisement and to serve as both a physical and symbolic barrier to Black citizens’ access to the Iredell County courts and halls of government. The vehicle for these assaults on the principles embodied in the North Carolina and United States Constitutions was to cynically use the emotionally-charged deaths during the Civil War of white men from Iredell County in order to sanctify the motivating factors of Confederate secession in direct contravention of Article I, Sections 4 and 5, of the North Carolina Constitution. And, to drive the point home, when it was time in 2006 to celebrate the centennial of the Confederate Monument in Statesville, the re-dedication plaque contained a (legally-insufficient) generic reference to “IREDELL CO. CONFEDERATE SOLDIERS”—with no reference to the Civil War—followed by an invocation of the Confederate States of America’s motto, “DEO VINDICE.” (*See* note 1, *infra*.)

69. Nor does the Monument commemorate “military service.” Although “military service” is not defined in the Monuments Law itself, it is a term that is used and consistently defined elsewhere in the General Statutes as applying to service in the United States military or the North Carolina National Guard. *See, e.g.*, N.C. Gen. Stat. § 143B-1277 (defining “Military service medal” as “any medal, badge, ribbon, or other decoration awarded by the active or reserve components of the Armed Forces of the United States or the North Carolina National Guard to members of those forces”);

§ 45-21.12A(d)(1) (defining “Military service” as active or reserve-type duty for “a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard,” in addition to other federal active service). Service in the Confederate Army is not “military service” within the meaning of the Monuments Law.

70. Second, the Monuments Law’s restrictions on the removal/relocation of an “object of remembrance” do not apply to “[a]n object of remembrance for which a building inspector or similar official has determined poses a threat to public safety because of an unsafe or dangerous condition.” N.C.G.S. § 100-2.1(c)(3). The North Carolina Attorney General’s office has noted the breadth of risks encapsulated by the statutory phrase “unsafe or dangerous condition.” *See* Advisory Letter re: Relocation Or Removal Of Monument For Public Safety, from Chief Deputy Attorney General Alexander McC. Peters to John F. Maddrey, General Counsel, North Carolina Department of Administration, June 20, 2020, at 1 (“The statute does not purport to specify or limit what conditions may be considered ‘unsafe or dangerous.’”) (attached hereto as Ex. B).

71. Iredell County officials had already acknowledged that the Confederate Monument presented “a threat to public safety because of an unsafe or dangerous condition,” N.C.G.S. § 100-2.1(c)(3), long before the Iredell Board reneged on its commitment to remove the Monument. In justifying the County’s decision to begin enforcing a trespassing ordinance in downtown Statesville in August of 2020, Iredell County Manager Beth Jones issued a press release explaining that the trespassing ordinance was being enforced to “protect the health, safety and welfare of not only



the protestors but the citizens, businesses, law enforcement and visitors to our community.” *See Gibson*, ¶ 62, *supra*. Clearly, then, a “building inspector or similar official,” N.C.G.S. § 100-2.1(c)(3), from Iredell County has made the requisite determination to exempt the Confederate Monument in Statesville from the strictures of the Monuments Law, and for Defendants to suggest otherwise is simply not credible. *See also WRAL* “Letter to UNC President Margaret Spellings” (Aug. 21, 2017) (North Carolina Governor stating, in relation to Confederate monuments, that if “our University leaders believe there is real risk to public safety, the law allows them to take immediate measures,” citing N.C.G.S. § 100-2.1(c)(3)).

72. The conclusion that the Monuments Law does not preclude the removal of the Confederate Monument from in front of the Iredell County Government Center is confirmed by the fact that the Board of Commissioners’ March 2, 2021 Resolution called for “the relocation of the Confederate memorial monument . . . to a suitable location in either the Fourth Street Cemetery or Oakwood Cemetery” even though the Monuments Law states unequivocally that “[a]n object of remembrance may not be relocated to a museum, *cemetery*, or mausoleum unless it was originally placed at such a location.” Mar. 2, 2021 Resolution; N.C.G.S. § 100-2.1(b) (emphasis added). If the Monuments Law truly were relevant to the relocation of the Confederate Monument in Statesville, the Board of Commissioners would not have issued its March 2, 2021 Resolution in the first place.

## **IX. State And Local Authorities In North Carolina Have Removed Confederate Symbols**

73. While Defendants refuse to remove a symbol of slavery and white

supremacy in Iredell County, public bodies and officials from across North Carolina have already done so. Indeed, the Southern Poverty Law Center tracked the removal of public Confederate monuments in 2020, and found that North Carolina witnessed the second-highest number of removals of Confederate symbols, with 24 monuments and symbols removed from public spaces across the State. “SPLC REPORTS OVER 160 CONFEDERATE SYMBOLS REMOVED IN 2020,” Southern Poverty Law Center, Feb. 23, 2021, <https://www.splcenter.org/presscenter/splc-reports-over-160-confederate-symbols-removed-2020>. This includes Anson, Buncombe, Davidson, Pitt, Vance, and Warren Counties, which have all removed Confederate monuments from public property over the last two years.<sup>4</sup>

74. Many of these counties and municipalities cited N.C.G.S. § 160A-279,

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<sup>4</sup> See Charles Wood, *Confederate Statue Removed From Anson Courthouse*, Anson Record, July 8, 2020, <https://www.yourdailyjournal.com/news/95249/confederate-statue-removed-from-anson-courthouse>; Mackenzie Wicker, *Confederate Monument Removed From Buncombe Courthouse Property*, Asheville Citizen Times, Jul. 14, 2020, <https://www.citizen-times.com/story/news/local/2020/07/14/confederate-monument-removed-buncombe-property/5433660002/>; “Base, Pedestal Of Confederate Monument Outside Pitt County Courthouse Removed,” *WITN* (June 22, 2020), <https://www.witn.com/2020/06/22/confederate-monument-removed-from-pitt-county-courthouse/>; Gary Band, *Confederate Monument Removed From Courthouse Square*, The Warren Record, June 24, 2020, [https://www.bpr.org/post/george-floyds-death-these-confederate-monuments-have-been-removed-north-carolina#stream/0](https://www.warrenrecord.com/news/article_d0b7ae62-b619-11ea-9ab5-9bea1c619edc.html#:~:text=A%20Confederate%20monument%20which%20has,Warren%20County%20Board%20of%20Commissioners; Mitch Northam, “Since George Floyd’s Death, These Confederate Monuments Have Been Removed In North Carolina,” <i>Blue Ridge Public Radio</i> (Dec. 22, 2020), <a href=) (noting Vance County monument removal); Carrie Hodgin and Chris Venzon, “Lexington Confederate Monument To Be Placed On Private Property In Davidson Co.,” *WFMY News 2* (Oct. 19, 2020), <https://www.wfmynews2.com/article/news/local/lexington-confederate-monument-to-be-placed-on-private-property-in-davidson-co/83-ae43ff47-ed21-40b5-bc80-aea2f1ac7491#:~:text=The%20Confederate%20monument%20that%20stood,long%20battle%20to%20remove%20it> (noting Davidson County monument removal).

which grants broad property conveyance rights to local governments “[n]otwithstanding any other provision of law,” in support of their decision to remove Confederate monuments from public property. Additional authority is found in N.C.G.S. § 153A-140, under which “[a] county shall have authority, subject to the provisions of Article 57 of Chapter 106 of the General Statutes, to remove, abate, or remedy everything that is dangerous or prejudicial to the public health or safety.”

75. The actions of these local government officials are consistent with the Governor’s statement in June of 2020: “Monuments to white supremacy don’t belong in places of allegiance, and it’s past time that these painful memorials be moved in a safe, legal way.” Based on that rationale, the Governor authorized the removal of several Confederate monuments which had marred the grounds of the State Capitol for more than a century. Virginia Bridges, *et al.*, *NC Governor Orders Confederate Monuments Removed At Capitol After Statues Toppled*, News & Observer (June 21, 2020 5:08 PM), <https://www.newsobserver.com/news/local/article243682477.html>.

76. The North Carolina Monuments Law did not preclude any of these removals of Confederate monuments and likewise does not prevent Iredell County from removing the Monument in Statesville.

### **CAUSES OF ACTION**

77. Plaintiffs re-allege and incorporate by reference, for the causes of action below, the allegations stated in the preceding paragraphs as if fully set forth herein.

## COUNT ONE

### **Violation Of The North Carolina Constitution—Equal Protection (Brought By Plaintiffs McCall, North Carolina State Conference, Statesville NAACP, South Iredell NAACP, And Iredell Clergy Against All Defendants)**

78. Central to the North Carolina Constitution is the declaration that “all persons are created equal.” N.C. Const. art. I, § 1. Article I, Section 19, provides further: “No person shall be denied the equal protection of the laws.”

79. North Carolina courts have held that these equality protections are particularly relevant to and important for Black citizens. As the Court of Appeals has explained: “Courts traditionally have employed a two-tiered scheme of analysis when evaluating equal protection claims. The upper tier of equal protection analysis requiring strict scrutiny of a governmental classification applies only when the classification impermissibly interferes with the exercise of a fundamental right or *operates to the peculiar disadvantage of a suspect class. . . .*” *Dobrowolska v. Wall*, 138 N.C. App. 1, 14, 530 S.E.2d 590, 600 (2000) (emphasis added; quotation omitted). And, as the North Carolina Supreme Court has noted, a “traditional indicia of suspectness” is being “subjected to . . . a history of purposeful unequal treatment.” *White v. Pate*, 308 N.C. 759, 768, 304 S.E.2d 199, 205 (1983). A recent opinion authored by then-Chief Justice Beasley provided a stark reminder of the extent to which Black North Carolinians have lived through such an unequal history. “After the Civil War and Reconstruction, . . . racism and legal segregation remained rampant in North Carolina and across the South . . . . The same racially oppressive beliefs that fueled segregation manifested themselves through public lynchings, the

disproportionate application of the death penalty against African-American Defendants, and the exclusion of African-Americans from juries.” *State v. Robinson* 375 N.C. 173, 177-178, 846 S.E.2d 711, 716 (2020). Then-Chief Justice Beasley added that “racially oppressive practices and beliefs . . . permeated every level of American society during the Jim Crow era.” *Id.* Of course, one such example of these racially oppressive practices was the installation of Confederate monuments, including the Confederate Monument in Iredell County.

80. Iredell County’s Confederate Monument is not just a symbol of past and present discrimination—it is an instrument of it. The Monument is located in the middle of downtown Statesville. Residents looking to visit the County Board of Commissioners, the County Manager, the Emergency Medical Services Administration, Human Resources, Information Technology Services, or Veterans Services, consult an attorney or realtor, or even simply park a car and visit a restaurant are confronted with a governmental embrace of white supremacy.

81. Plaintiffs McCall, and North Carolina State Conference, Statesville NAACP, South Iredell NAACP, and the members thereof, as well as Iredell Clergy’s members, have no choice but to conduct their daily activities in Statesville in the shadow of a demeaning monument which attracts people espousing racist and white supremacist views. (See ¶¶ 48-49, 55-62, 80, *supra.*) The Confederate Monument inevitably imposes particular burdens on Black residents and visitors to Iredell County—exactly as intended when the Monument was dedicated in 1906, as voiced loudly in multiple speeches and resolutions of the day and in the political events in

the years preceding it.

82. The maintenance of the Confederate Monument in Statesville by Defendants denies Plaintiffs McCall, and North Carolina State Conference, Statesville NAACP, South Iredell NAACP, and the members thereof, as well as Iredell Clergy's members, the equal protection of the laws. It thus violates their rights under the North Carolina Constitution as recognized in *Corum* and *Craig*. Because these Plaintiffs have no other adequate legal remedy, their direct action under the North Carolina Constitution may proceed. As the *Craig* Court held emphatically, “[t]his Court could hardly have been clearer in its holding in *Corum*: ‘[I]n the absence of an adequate state remedy, one whose state constitutional rights have been abridged has a direct claim against the State under our Constitution.’” *Craig*, 363 N.C. at 354, 678 S.E.2d at 338. The *Craig* Court added (again, affirming and building on *Corum*): “individuals may seek to redress all constitutional violations, in keeping with the ‘fundamental purpose’ of the Declaration of Rights to ‘ensure that the violation of [constitutional] rights is *never* permitted by anyone who might be invested under the Constitution with the powers of the State.’” 363 N.C. at 357, 678 S.E.2d at 342 (quoting *Corum*, 330 N.C. at 782-783, 413 S.E.2d at 289-290 (emphasis added by *Craig*)).

83. The presence of the Iredell County Confederate Monument on public land in front of the Government Center in Statesville amounts to an ongoing violation of the right of Plaintiffs McCall, and North Carolina State Conference, Statesville NAACP, South Iredell NAACP, and the members thereof, as well as Iredell Clergy's

members, to the equal protection of the laws. Accordingly, these Plaintiffs seek an order requiring immediate removal of the Confederate Monument from its current location and prohibiting the Monument from being put on public display on any property owned or controlled by Iredell County. *See Seaboard Air Line R.R. v. Atlantic Coast Line R.R.*, 237 N.C. 88, 94, 74 S.E.2d 430, 434 (1953) (a court of equity “may, by its mandate, compel the undoing of those acts that have been illegally done, as well as it may, by its prohibitive powers, restrain the doing of illegal acts.”).

## COUNT TWO

### **Violation Of The North Carolina Constitution—Race Discrimination (Brought By Plaintiffs McCall, North Carolina State Conference, Statesville NAACP, South Iredell NAACP, And Iredell Clergy Against All Defendants)**

84. The North Carolina Constitution goes beyond the United States Constitution in prohibiting race-based discrimination. North Carolinians are promised “equal protection,” but then are also separately and additionally guaranteed that no person shall “be subjected to discrimination by the State because of race.” *See* N.C. Const. art. I, § 19. Constitutional scholars view the two provisions as comprising “the most important section of Article I, the Declaration of Rights.” *See* John V. Orth & Paul M. Newby, *The North Carolina State Constitution* 68 (2013). Importantly, both Professor Orth and Chief Justice Newby view the two clauses as distinct, noting that the equal protection clause was “drawn from the Fourteenth Amendment” while the nondiscrimination clause was “based on federal civil rights legislation.” *Id.* Their view matches that of the legal leaders who proposed the section: “Proposed Sec. 19 adds to the present law of the land provision a guarantee

of equal protection of the laws and a prohibition of improper discrimination by the State.” See Report of the North Carolina State Constitution Study Commission to the North Carolina State Bar and the North Carolina Bar Association 74 (1968), <https://www.ncleg.gov/Files/Library/studies/1968/st12308.pdf>.

85. As noted in Count One (see ¶¶ 80-83, *supra*), Iredell County’s Confederate Monument particularly harms Black residents and visitors to Iredell County, including Plaintiffs McCall, and North Carolina State Conference, Statesville NAACP, South Iredell NAACP, and the members thereof, as well as Iredell Clergy’s members. The Monument thus not only denies them the equal protection of the laws, but also subjects them to discrimination because of their race. And when the Commissioner Defendants chose to renege on their resolution to remove the Monument, they knew full well that their official action would bear far more heavily on one race—that represented by these Plaintiffs—than any other race. As the Court of Appeals recently affirmed, when official action bears more heavily on one race than another, it constitutes an impermissible and unconstitutional “discriminatory impact.” *Holmes v. Moore*, 270 N.C. App. 7, 16, 840 S.E.2d 244, 254 (2020). The discriminatory impact on these Plaintiffs and their members resulting from the continued presence of Iredell County’s Confederate Monument in Statesville is a violation of the North Carolina Constitution’s anti-race discrimination provision and must be remedied. These Plaintiffs therefore seek an order requiring immediate removal of the Confederate Monument from its current location and prohibiting the Monument from being put on public display on any property owned or controlled by



Iredell County.

### **COUNT THREE**

#### **Violation Of The North Carolina Constitution—Misuse Of Taxpayer Money (Brought By All Plaintiffs Against All Defendants)**

86. Too often, Black Americans are required to fight alone for the equality and freedom from discrimination that is their birthright. In this case, however, the burden of removing the Monument, which should never have been erected, need not be shouldered solely by the Black residents of Iredell County.

87. Specifically, all Plaintiffs, either as individual taxpayers or representatives of them, have a constitutional right to ensure that County resources are spent for “public purposes only,” that is, on lawful and constitutional activities. N.C. Const. art. V, §§ 2(1), (7). North Carolina courts follow two principles in determining whether a particular expenditure is for a public purpose: (1) the government expenditure must “involve[] a reasonable connection with the convenience and necessity of the particular municipality;” and (2) the activity must “benefit[] the public generally, as opposed to special interests or persons.” *Madison Cablevision, Inc. v. City of Morgantown*, 325 N.C. 634, 646, 386 S.E.2d 200, 207 (1989). Neither principle is satisfied here.

88. Showcasing a monument to a “cause though lost, still just”—to wit, the enslavement of Black human beings, which was the basis for secession from the United States—is neither a traditional nor a reasonable government activity. *See Foster v. N.C. Med. Care Comm’n*, 283 N.C. 110, 124-126, 195 S.E.2d 517, 527-528 (1973) (“Many objects may be public in the general sense that their attainment will

confer a public benefit or promote the public convenience but not be public in the sense that the taxing power of the State may be used to accomplish them.”). Here, the Iredell County Confederate Monument has both served as a symbol of repression and discrimination and increasingly been the focal point of unrest—hardly the example of a public benefit or convenience.

89. The fact that groups connected with memorializing the Confederacy wish the Monument to remain, defended at public expense, is not enough to create a public purpose warranting the use of taxpayer funds. *See Martin v. N.C. Housing Corp.*, 277 N.C. 29, 43-44, 175 S.E.2d 665, 673 (1970) (“...[F]or a use to be public its benefits must be in common and not for particular persons, interests, or estates; the ultimate net gain or advantage must be the public’s as contradistinguished from that of an individual or private entity.”). Expending public funds raised by taxation to preserve or otherwise defend the Iredell County Confederate Monument prioritizes the desires of a particular interest—apparently, the Sons of the Confederacy (*see* ¶ 65, *supra*)—above that of the public as a whole.

90. Moreover, because Iredell County’s preservation and protection of the Confederate Monument stands in violation of the North Carolina Constitution’s equal protection and anti-discrimination guarantees (*see* ¶¶ 78-83 & 84-85, *supra*), there is no universe in which a public purpose, legitimately defined, is served by the Monument’s preservation at taxpayer expense.

91. As discussed above (*see* ¶¶ 55, 57-58, and 62, *supra*), the space immediately surrounding the Confederate Monument in Statesville has been the site

of numerous altercations between protesters, counter-protesters, and law enforcement, presenting a real and continuing threat to public safety. Iredell County taxpayers, including Plaintiffs and their members, pay for the salaries and benefits of the officers in the Iredell County Sheriff's Department. Whenever officers are dispatched to the Monument to keep tensions between rival protesters from escalating, which has happened repeatedly since at least the Summer of 2020, taxpayers are paying for the indignity and affront of safeguarding a continuing constitutional violation. See Ben Gibson, *Protests To Continue At Iredell County Confederate Memorial*, Statesville Record & Landmark, Aug. 14, 2020, [https://statesville.com/news/local/crime-and-courts/protests-to-continue-at-iredell-county-confederate-memorial/article\\_e1d66bf6-dd66-11ea-a3da-c7d75962ad6a.html](https://statesville.com/news/local/crime-and-courts/protests-to-continue-at-iredell-county-confederate-memorial/article_e1d66bf6-dd66-11ea-a3da-c7d75962ad6a.html); *Iredell County Sheriff Keeps The Peace At Protest In Front Of Controversial Confederate Statue*, WSOC-TV (Mar. 16, 2021), <https://www.wsoc.tv.com/news/local/iredell-county-leaders-meet-discuss-confusion-over-fate-confederate-statue/CSOYO4IQABF5TEMNGNHYHSGTPM/>.

92. While Plaintiffs do not know the exact cost of providing security in the vicinity of the Confederate Monument in Statesville, it is likely significant. In the annual financial report of Iredell County for the fiscal year ending on June 30, 2020, the Sheriff's Department spent \$12,044,228 on salaries and employee benefits, and \$2,919,522 on operating expenses. Beth M. Jones and Debra L. Cheek, *Iredell County North Carolina Comprehensive Annual Financial Report* 104 (2020), <https://www.co.iredell.nc.us/ArchiveCenter/ViewFile/Item/297>. Data is not yet

available for the latter half of 2020 and early 2021, when the bulk of the unrest at the Confederate Monument occurred, but, given the many instances in which law enforcement officers have been called to patrol the Monument or keep the peace between rival protesters, it is reasonable to conclude that these expenses will only increase.

93. Indeed, a similarly-divisive statue drained the University of North Carolina's coffers by at least \$390,000 during the 2017-2018 fiscal year. *See* Jane Stancill and Andrew Carter, *UNC Details Security Costs Near Silent Sam For The Last Year*, *The News & Observer*, July 12, 2018, <https://www.newsobserver.com/news/local/education/article214790180.html>. The Alamance County Sheriff's Office reported spending at least \$747,672 on protests in 2020, a significant portion of which was almost certainly spent in connection with protests around Alamance County's Confederate monument in Graham. *See* Alamance County Sheriff's Office, 2020 Annual Report 6, [https://www.alamance-nc.com/sheriff/wp-content/uploads/sites/25/2021/01/FINAL-1-15-21\\_ACSO-Annual-Report-2020-reduced-file-size.pdf](https://www.alamance-nc.com/sheriff/wp-content/uploads/sites/25/2021/01/FINAL-1-15-21_ACSO-Annual-Report-2020-reduced-file-size.pdf). The Sheriff's Office also noted that "these events have significantly drained the Sheriff's Office resources and manpower." *Id.* And, in Gaston County, according to publicly-available communications purporting to be from Gaston County's Public Information Officer, Adam J. Gaub, the county government has spent more than \$50,000 in taxpayer money in recent months "to rent fencing to provide a protective barrier" around its Confederate monument and on "overtime hours" due to "[s]pecial assignment for security at the Monument/Courthouse" and "personnel working for

Protest events at the courthouse.”

94. In addition to the costs for heightened law enforcement activity, maintenance of the Monument on public property is likely to result in future costs to Iredell County taxpayers as a result of negligence suits arising from injuries to protesters and other members of the community. (*See* ¶ 56, *supra*.) The location of the Monument on public property in front of the Iredell County Government Center also subjects the County, and ultimately its taxpayers, to the risk of workplace-harassment and other suits from County employees, such as the Sheriff’s Department officers consistently called to the scene or County employees who work at the Government Center. (*See* ¶ 56, *supra*.)

95. The result of all of the foregoing is that Iredell County taxpayers, including Plaintiffs and their members, subsidize the preservation of an edifice designed to appeal to the limited number of County residents who profess support for or otherwise cherish and wish to honor the Confederacy. Because the “Lost Cause” of the Confederacy is inextricably linked to North Carolina’s secession from the Union, the expenditure of public funds on the Confederate Monument is inconsistent with the fundamental public policy of the State of North Carolina, as declared in Article I, Section 4, of the State Constitution: “there is no right on the part of this State to secede; and [] all attempts from whatever source or upon whatever pretext, to dissolve said Union, or to sever said nation, ought to be resisted with the whole power of the State.” (*See also* ¶ 24, *supra*.)

96. The Defendants’ continued funding for the maintenance, preservation,

and protection of the Iredell County Confederate Monument amounts to an ongoing violation of Plaintiffs’ and their members’ rights to have taxpayer monies used exclusively for public purposes as guaranteed by Article V, Section 2, of the North Carolina Constitution. Plaintiffs therefore seek an order from this Court prohibiting Defendants from spending any public funds for any purpose related to the Confederate Monument in Statesville (other than in connection with its removal).

#### **COUNT FOUR**

##### **Violation of the North Carolina Constitution—Secession Clause (Brought By All Plaintiffs Against All Defendants)**

97. Section 4 and Section 5 of Article I of the North Carolina State Constitution have been in effect since 1868. The passage of time does not diminish their broad and emphatic commands, including that “all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State,” and that “[e]very citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.” The continuing vitality of these provisions is underscored by failed legislative efforts to give voters an opportunity to repeal them. *See* Colin Campbell, *NC Constitution’s Ban On Secession Could Be Dropped Under House Bill*, News & Observer (Feb. 22, 2017 2:57 PM), <https://www.newsobserver.com/news/politics-government/state-politics/article134037589.html>.

98. As demonstrated above (*see* ¶¶ 33-46, *supra*), the primary purpose of the

erection of the Confederate Monument in Statesville was to galvanize and maintain white voter support in Iredell County for Black disenfranchisement and to serve as both a physical and symbolic barrier to Black citizens' access to the Iredell County courts and halls of government. The vehicle for these assaults on the principles embodied in the North Carolina and United States Constitutions was to use the deaths during the Civil War of white men from Iredell County to sanctify the motivating forces behind Confederate secession in direct contravention of Article I, Sections 4 and 5, of the North Carolina Constitution.

99. Plaintiffs, on their own behalf and on behalf of their members, therefore seek an order requiring immediate removal of the Confederate Monument from its current location and prohibiting the Monument from being put on public display on any property owned or controlled by Iredell County.

#### **COUNT FIVE**

##### **Violation Of The North Carolina Constitution—Law Of The Land Clause (Brought By All Plaintiffs Against All Defendants)**

100. Article 1, Section 19, of the North Carolina Constitution provides that “[n]o person shall be ... in any manner deprived of his life, liberty, or property, but by the law of the land.” Analogous to the Due Process Clause in the United States Constitution, North Carolina’s “Law of the Land Clause” is “intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice.” *M.E. v. T.J.*, 854 S.E.2d 74, 92 (N.C. Ct. App. 2020) (quoting *Gunter v. Town of Sanford*, 186 N.C. 452, 456, 120 S.E. 41, 43 (1923)). Pursuant to this Clause, the State is

forbidden from taking actions through its police powers which do not bear “a rational, real, or substantial relation to the public health, morals, order, or safety, or the general welfare.” *M.E.*, 854 S.E.2d at 93 (quoting *State v. Ballance*, 229 N.C. 764, 769-770, 51 S.E.2d 731, 735 (1949)).

101. In contravention of the Law of the Land Clause, Defendants are exercising Iredell County’s police power and taxing authority to safeguard a Monument whose presence on public land in front of the Iredell County Government Center violates multiple provisions of the North Carolina Constitution. The North Carolina Supreme Court has repeatedly held that whether the Law of the Land Clause is violated “is a question of degree and reasonableness [of the government action] in relation to the public good likely to result from it.” *See, e.g., Lowe v. Tarble*, 313 N.C. 460, 462, 329 S.E.2d 648, 650 (1985) (quoting *In re Hospital*, 282 N.C. 542, 550, 193 S.E.2d 729, 735 (1973)).

102. Iredell County’s use of the Sheriff’s Department to maintain and protect the Confederate Monument in Statesville bears no rational, real or substantial relation to public health, morals, order, or safety, or the general welfare of the people of Iredell County. To the contrary, maintaining and protecting a monument to the Confederacy, which venerates white supremacy, slavery and secession, is an arbitrary and unreasonable use of government power with no connection to any public good. If anything, leaving the Confederate Monument in place, so that Iredell County law enforcement officers must repeatedly be dispatched there at the public’s expense



to diffuse tensions among protesters, stands in stark opposition to public health, morals, order, and safety.

103. All Plaintiffs and their members are harmed by the Defendants' contravention of the Law of the Land Clause. The public harms from the Iredell County Confederate Monument are many, including racial discrimination, waste of taxpayer dollars, and the violation of the North Carolina Constitution. As a result, the Defendants' continuing maintenance of the Monument at the entrance to the Iredell County Government Center violates North Carolina's promise of due process as enshrined in the State Constitution's Law of the Land Clause.

**COUNT SIX**

**Declaratory Judgment  
(Brought By All Plaintiffs Against All Defendants)**

104. Pursuant to N.C.G.S. §§ 1-253 *et seq.*, Plaintiffs seek a declaratory judgment or decree because such action by this Court will terminate an actual controversy or remove an uncertainty among the parties. Specifically, Plaintiffs seek and have established grounds for a judgment or decree declaring that Defendants' maintenance of the Confederate Monument on public property in front of the Iredell County Government Center in Statesville violates one or more provisions of the North Carolina Constitution, as set forth in Counts One through Five above; and that, to remedy these ongoing constitutional violations, Defendants are required by law to effectuate immediate removal of the Monument, and to not expend public funds or other resources for any purpose related to the Monument (other than in connection with its removal).

105. If the Court were to conclude that N.C.G.S. § 100-2.1 or some other state law precludes the Confederate Monument’s removal, Plaintiffs additionally seek a declaratory judgment or decree that any such state law—as applied to the circumstances of the Iredell County Confederate Monument located on public property in front of the Iredell County Government Center in Statesville—violates one or more provisions of the North Carolina Constitution as set forth in Counts One through Five above, and therefore does not prevent Defendants’ immediate removal of the Monument from its current location on County property.

106. Plaintiffs have properly invoked the Declaratory Judgment Act by setting forth in this pleading “all facts necessary to disclose the existence of an actual controversy between the parties.” *Lide v. Mears*, 231 N.C. 111, 118, 56 S.E.2d 404, 409 (1949). As a result, Plaintiffs have fulfilled “[t]he purpose of the Declaratory Judgment Act [which] is to settle and afford relief from uncertainty concerning rights, status and other legal relations.” *N.C. Consumers Power, Inc. v. Duke Power Co.*, 285 N.C. 434, 446, 206 S.E.2d 178, 186 (1974). Accordingly, Plaintiffs are due the declaratory relief sought.

### **RELIEF REQUESTED**

1. Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendants, and:

2. Enter an order declaring that:

a. The Defendants’ maintenance of the Confederate Monument on public property in front of the Iredell County Government Center in Statesville violates one or more provisions of the North

Carolina Constitution as set forth in Counts One through Five, above; and

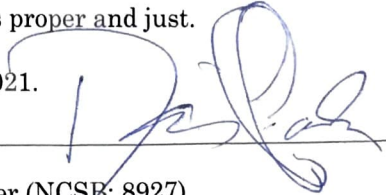
- b. To the extent N.C.G.S. § 100-2.1 or any other North Carolina law would purport to prohibit the Confederate Monument's removal, such law is unconstitutional as applied to the circumstances of the Iredell County Confederate Monument located on public property in front of the Iredell County Government Center in Statesville.

3. Enter an order requiring Defendants to remove the Confederate Monument from its current location within forty-five (45) days of this Court's order; prohibiting Defendants from publicly displaying the Monument, or allowing the Monument to be publicly displayed, on any other County-owned or -controlled property; and prohibiting Defendants from expending public funds or other resources for any purpose related to the Monument (other than in connection with its removal).

4. Award Plaintiffs their reasonable costs and attorneys' fees as allowed by law, including N.C.G.S. § 6-21.7; and

5. Provide Plaintiffs all other relief as is proper and just.

Respectfully submitted this, the 4th day of May 2021.



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<sup>5</sup> With helpful drafting and research assistance from O'Melveny & Myers associates Carly Gibbs, David Alpert, and Bo Li.

# EXHIBIT A



**RESOLUTION OF THE IREDELL COUNTY BOARD OF COMMISSIONERS IN  
SUPPORT OF THE RELOCATION OF CONFEDERATE MONUMENT  
CURRENTLY LOCATED AT THE IREDELL COUNTY GOVERNMENT  
CENTER**

**WHEREAS**, in 1895 a fundraising campaign amongst citizens of Iredell County began for the purchase and placement of a monument to memorialize the ultimate sacrifice of at least 597 Soldiers from Iredell County who had died in the service of the State of North Carolina while detailed to the Confederate States of America; and

**WHEREAS**, the monument, titled “Our Confederate Dead,” served as the only memorial for Soldiers who died on distant battlefields, or of disease, and whose gravesites were unknown to families or unmarked in any way; and

**WHEREAS**, the fundraising, design and organization of the placement of the monument was undertaken by the Daughters of the Confederacy and the Col. Reuben Campbell Camp of Confederate Veterans, and was ultimately erected in front of the newly built Iredell County Courthouse in 1905 and dedicated in 1906 on Confederate Memorial Day; and

**WHEREAS**, Iredell County allowed placement of the memorial monument by the aforesaid organizations on county property but has asserted no claim of ownership; and

**WHEREAS**, the statue on the memorial monument depicts the common Soldier and not a specific individual; and

**WHEREAS**, at the time of the dedication, the vast majority of Iredell County residents were either alive in 1865 or were descendants of families who were present in Iredell County during the Civil War; and

**WHEREAS**, the Sons of Confederate Veterans Camp 387 conducts annual memorial ceremonies and is responsible for the cleaning and maintenance of the memorial; and

**WHEREAS**, we understand that while the memorial monument has not been a significant source of controversy for a majority of the people of Iredell County, it has occupied a prominent position in front of the justice system during a period of Jim Crow laws, segregation and endemic discrimination against African-Americans; and

**WHEREAS**, a common perspective among a significant number of African-American citizens of Iredell County is that the monument served a purpose beyond memorializing the sacrifice of Iredell County Soldiers and continues to serve as a reminder of policies of oppression, having their roots in the system of slavery that existed in the Confederate States of America; and

**WHEREAS**, despite significant social, economic and legal progress toward equality of rights and opportunity since the Civil War and Civil Rights Movement, there remains much work to be done to eliminate the vestiges and effects of racial discrimination; and

**WHEREAS**, this Board affirms that it is committed to protecting and expanding the opportunities for every citizen regardless of race, religion, gender or ethnicity to achieve their highest and best potential; and

**WHEREAS**, recently, and in particular since the summer of 2020, the monument has been the subject of ongoing protests calling for its removal from its current location in front of the Iredell County Government Center; and

**WHEREAS**, during the public comment period of the Iredell County Board of Commissioner meetings, there have been numerous speakers both for and against relocation of the memorial monument; and

**WHEREAS**, the opinions expressed represent passionately held beliefs as to the meaning of the memorial, which are diametrically and irreconcilably opposed to each side's perspectives; and

**WHEREAS**, this Board is not persuaded by arguments based on identity politics, cancel culture, historical revisionism, racism, Marxist or Fascist ideologies or hateful and offensive speech; and

**WHEREAS**, the Commissioners of this Board have had numerous direct public and private conversations with individuals and groups providing input on how to best resolve the issue in controversy; and

**WHEREAS**, while the Commissioners of this Board know that our decisions on many contested issues rarely square the circle and fully "satisfy the offended without offending the satisfied," and that while the majority may rule in a democracy, wise decisions take into account the views of all of our citizens and consider the disparate effects on individuals and groups; and

**WHEREAS**, that while the monument's presence at the seat of County government appears to be of little or no consequence to the majority of Iredell County citizens, it is hurtful to a significant number of African-American citizens who live and work in our communities; and

**WHEREAS**, this Board does acknowledge the heartfelt perspectives of those whose Confederate ancestors the monument was designed to recognize and memorialize, as well as African-Americans who, after it's placement, continued to suffer systemic discrimination; and

**WHEREAS**, this Board desires that public statues, monuments and memorials located at or adjacent to government and judicial buildings serve to unify and inspire our communities; and

**WHEREAS**, it is evident that the Confederate memorial does not foster a sense of unity and common purpose within our community given its location at the seat of County government; and

**WHEREAS**, such a memorial monument commemorating Soldiers who have fallen in the service of their State serves the same purpose as the Tomb of the Unknown Soldier located in Arlington National Cemetery; and

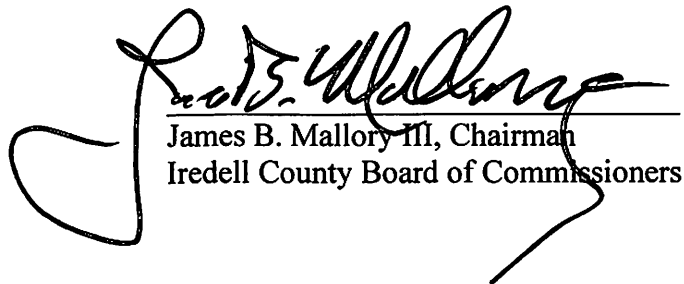
**WHEREAS**, there are two cemeteries owned by the City of Statesville, namely Fourth Creek Cemetery and Oakwood Cemetery, both of which have gravesites of former Confederate Soldiers who were contemporaries of those fallen Confederate Soldiers who have no known or close gravesites; and

**WHEREAS**, it is the Board's belief that such a memorial monument should be placed on hallowed ground to firmly establish its' purpose as a memorial in tribute and testament to these Soldier's ultimate sacrifice, and at a place that allows the public to visit and commemorate, with no other purpose now or in the future.


**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Iredell County Board of Commissioners, that:

1. This Board requests the participation of the Statesville City Council to assist in the relocation of the Confederate memorial monument by making available a suitable location in either the Fourth Creek Cemetery or Oakwood Cemetery, as well as working with the necessary parties to affect the relocation by mutual agreement; and
2. The Sons of Confederate Veterans Camp 387 and/or the local chapter of the Daughters of the Confederacy be consulted in the site selection and process of relocation; further, it is the desire of this Board that these organizations be authorized to conduct Confederate Memorial Day or Decoration Day ceremonies at the new location, as in years past; and
3. The County Manager investigate the costs of relocation to the site designated by the parties and report back to this Board, as it is the intent of the Board that the County bear the costs of relocation upon the availability of funds.

Adopted this the 2nd day of March, 2021.

  
James B. Mallory III, Chairman  
Iredell County Board of Commissioners

Attest:

  
Amy B. Anderson  
Clerk to the Board of Commissioners



# EXHIBIT B

JOSH STEIN  
ATTORNEY GENERAL



Alexander McC. Peters  
Chief Deputy Attorney General

June 20, 2020

Mr. John F. Maddrey  
General Counsel  
North Carolina Department of Administration  
1301 Mail Service Center  
Raleigh, NC 27699-1301

VIA U.S. MAIL AND EMAIL TO [John.Maddrey@doa.nc.gov](mailto:John.Maddrey@doa.nc.gov)

Re: Advisory Letter: Relocation or Removal of Monument for Public Safety  
N.C. GEN. STAT. § 100-2.1

Dear Mr. Maddrey:

This advisory letter addresses the circumstances under which monuments may be relocated or removed in the interest of public safety, or relocated as required for their preservation.

Sections (a) and (b) of N.C. GEN. STAT. § 100-2.1 place certain restrictions on the removal or relocation of monuments. However, those restrictions do not apply where a “building inspector or similar official” determines that the monument “poses a threat to public safety because of an unsafe or dangerous condition.” N.C. GEN. STAT. § 100-2.1(c)(3). The statute does not purport to specify or limit what conditions may be considered “unsafe or dangerous.”

In addition, a monument “may be relocated . . . when appropriate measures are required by the State . . . to preserve the object.” *Id.* § 100-2.1(b)(1). When a monument is temporarily relocated, it must be returned to its original location “within 90 days of completion of the project.” When a monument is permanently relocated, the new location must be of “similar prominence,

Mr. John F. Maddrey  
General Counsel  
North Carolina Department of Administration  
June 20, 2020  
Page 2

honor, visibility, availability, and access.” *Id.* § 100-2.1(b). However, these requirements for temporary or permanent relocations do not apply where the removal occurs pursuant to one of the exceptions set forth in subsection (c) of the statute, including the public safety exception.

I hope that this adequately responds to your inquiry. Please do not hesitate to contact me if I can provide any additional assistance.

Please be aware that this is an advisory letter. It has not been reviewed and approved in accordance with the procedures for issuing formal Attorney General’s Opinions.

Very truly yours,



Alexander McC. Peters  
Chief Deputy Attorney General

AMP/hs