NORTH CAROLINA

WAKE COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

PISGAH LEGAL SERVICES,
LEGAL AID OF NORTH CAROLINA, INC.,
and CHARLOTTE CENTER
FOR LEGAL ADVOCACY,

Plaintiffs,

v.

DESTIN C. HALL, in his official capacity as Speaker of the North Carolina House of Representatives; PHILIP E. BERGER, in his official capacity as President Pro Tempore of the North Carolina Senate; NORTH CAROLINA STATE BAR; NORTH CAROLINA INTEREST ON LAWYERS' TRUST ACCOUNTS BOARD OF TRUSTEES; ALEX DALE, in his official capacity as Chair of the IOLTA Board; DAVID ALLEN, in his official capacity as a member of the IOLTA Board; THEODORE EDWARDS, in his official capacity as a member of the IOLTA Board; AMY FUNDERBURK, in her official capacity as a member of the IOLTA Board; RALPH MEEKINS, in his official capacity as a member of the IOLTA Board; and THE STATE OF NORTH CAROLINA,

Defendants.

COMPLAINT

INTRODUCTION

1. This case concerns the legislature's attempt to violate the separation of powers by nullifying an order of the North Carolina Supreme Court—a unanimous order in which the Supreme Court invoked its inherent power to regulate the state's lawyers, established a Court-supervised program funded by the interest generated from lawyers' trust accounts, and dedicated those funds to fulfill specific purposes under the Court's supervision and direction. This case also concerns the legislature's attempt to ban access to that funding for organizations that speak out on certain topics or engage in other constitutionally protected expression—a violation of the fundamental rights of free speech, association, petition, and assembly under the First Amendment and the North Carolina Constitution.

2. For over forty years, North Carolina's lawyers have supported organizations that provide civil legal services to North Carolinians who cannot afford a lawyer and are not entitled to representation provided by the State. They have done so by dedicating interest earned on client trust accounts to a program administered by the State Bar—the Interest on Lawyers' Trust Accounts program, known as IOLTA. This activity operates mostly through grants from the State Bar to nonprofit legal organizations, including the three Plaintiffs in this case, that provide direct legal services to low-income clients.

3. IOLTA has made it possible for countless North Carolinians to resolve their most critical civil legal matters, including whether they can rebuild and recover after devastating hurricanes, whether they can keep their housing, whether they can be safe from a threat of domestic violence, and whether they can access

public benefits like veterans' assistance that will preserve their dignity and well-being. As the State Bar's Executive Director recently put it, "the IOLTA program has been one of the finest examples of the legal profession working together to serve the needs of the public, filling a gap on the civil legal side that is not otherwise supported by the State."[1]

4. The IOLTA program has operated under the principle that "civil legal aid isn't merely an ideal," but rather, "civil legal aid is shelter, stability and health."[2] To that end, the IOLTA program's recent successes include the following:

> [In 2024], nearly 100,000 household members benefited from the legal support provided by NC IOLTA grantees. Legal nonprofits funded by NC IOLTA helped hardworking families stay in their homes, farmers keep their land, and senior citizens fight back against elder abuse. Providers handled more than 40,000 cases. This includes representing more than 10,000 domestic violence victims, protecting families and their children; assisting 5,893 seniors with wills and powers of attorney and protecting them from scams; and supporting 1,429 low-income veterans to access their benefits and secure employment and housing.
>
> These civil legal services provide a lifeline to North Carolinians facing civil legal issues. Civil legal aid also supports the efficient operation of the court system, reducing the number of self represented litigants and easing the burden on judges and clerks.

---

[1] *Hearing on N.C. IOLTA Before the H. Select Comm. on Oversight & Reform, N.C. Gen. Assemb.* (Oct. 22, 2025), https://webservices.ncleg.gov/ViewDocSiteFile/101164 (statement of Peter Bolac, Exec. Dir., N.C. State Bar) [hereinafter *Testimony of N.C. State Bar Executive Director*].

[2] *See* 2025 Annual Report, *NC IOLTA: A Vital Funder of Civil Legal Aid,* https://nciolta.org/annual-report/#flipbook-df_16657/1/.

> Finally, the provision of civil legal services boosts the economy and saves the state money. Last year, NC IOLTA's largest grantee, Legal Aid of North Carolina, helped secure more than $36 million in preserved home value and money saved for clients.[3]

5. IOLTA's genesis can be traced back to the 1980s, when members of the Bar began a voluntary effort to fund the State Bar's IOLTA grant program. In the decades that followed, that voluntary program proved to be enormously effective in meeting low-income North Carolinians' unmet need for civil legal services. And by 2007, after decades of success with North Carolina's voluntary IOLTA program, the Supreme Court of North Carolina determined that the program needed to become a mandatory one.

6. In a groundbreaking, unanimous decision that drew upon the Court's inherent power to regulate North Carolina lawyers, the Supreme Court of North Carolina mandated that every lawyer in North Carolina with a client trust account must use the interest earned on that account to support a mandatory, Court-supervised IOLTA program. *See In re: Petition of N.C. State Bar*, 361 N.C. 687 (2007), attached as Exhibit A. In that 2007 decision, the Supreme Court directed the State Bar to implement a mandatory IOLTA program "consistent with the purposes expressed in the existing North Carolina State Bar Plan for Interest on Lawyers' Trust Accounts." Exhibit A. That "existing North Carolina State Bar Plan

---

[3] *Hearing on N.C. IOLTA Before the H. Select Comm. on Oversight & Reform, N.C. Gen. Assemb.* (Oct. 22, 2025), https://webservices.ncleg.gov/ViewDocSiteFile/101165 (statement of Mary Irvine, Exec. Dir., N.C. Interest on Lawyers' Tr. Accts.) [hereinafter *Testimony of N.C. IOLTA Executive Director*].

for Interest on Lawyers' Trust Accounts," in turn, required that the funds must be used for "providing civil legal services for indigents," along with three other measures for improving the administration of justice in North Carolina. *See* 27 N.C.A.C. 1D .1301(c) (2007). Importantly, the plan also specifically mandated that "private interests of the legal profession are not to be funded with IOLTA funds." *Id.* § .1301(b). And it vested both the State Bar's IOLTA Board and the Court itself with the authority to supervise and direct how grants would be distributed. *See id.* § .1301(b), (c)(4). All of this, the Supreme Court made clear, would be carried out as an "exercise of this Court's inherent power to supervise and regulate conduct of members of the Bar." Exhibit A.

7. In the nearly two decades since this groundbreaking decision, the Supreme Court's IOLTA program has proven to be as transformative for the lives of low-income North Carolinians as the Court had foreseen. The Supreme Court's IOLTA program "has been able to provide sustained funding for civil legal services without requiring the use of state tax dollars," and has truly been "a partnership between the legal profession, banks, and the public, and one that has served North Carolina well for decades."[4] Simply put, the Supreme Court's IOLTA program has been there "to ensure that people of limited means can access the courts and obtain legal representation when they need it."[5]

---

[4] *Testimony of N.C. State Bar Executive Director, supra* note 1, at 1.

[5] *Id.* at 2.

8. In July 2026, however, the General Assembly included a set of provisions in the 2026 budget enactment that would effectively abolish the Supreme Court's IOLTA program, replace it with a new program of the General Assembly's making, and convert the non-taxpayer funds from within the Supreme Court's IOLTA program to pay for budgetary expenses that the State is already required to pay for. *See* N.C. Session Law 2026-41, Current Operations Appropriations Act of 2026, sec. 16.25. Upon information and belief, the General Assembly did not petition the Supreme Court to amend its 2007 order or otherwise obtain the Supreme Court's approval before doing so.

9. Absent injunctive relief, the legislation would nullify the Supreme Court's 2007 order in multiple respects. Most fundamentally, and directly contrary to the Supreme Court's order, the legislation changed the purpose of IOLTA funds and the Court's role in supervising and directing those funds. In place of the Supreme Court's order providing that IOLTA funds would be used for civil legal aid and must not be used to pay private lawyers, the legislation requires the opposite: IOLTA funds received from July 1, 2025 onward will be used to fund the Private Assigned Counsel Fund within the State Office of Indigent Defense Services, which pays for criminal defendants to be represented by private lawyers. *See id.* sec. 16.25(e)(4) (hereinafter "the Private Counsel Provisions"). As the Speaker of the North Carolina House of Representatives explained in unveiling the legislation, this

funding shift was to fund "indigent criminal defense"—a budgetary expense that the State is already required to pay for.[6]

10. Nothing about the Supreme Court's order even remotely suggests that the Court ordered the use of non-taxpayer funds to fund state government's existing budgetary obligations, such as providing lawyers to criminal defendants. Instead, the Supreme Court's order clearly sought to meet the legal needs of North Carolinians beyond the State's existing obligations—critical legal needs that would otherwise not be met.

11. By converting non-taxpayer funds from the Supreme Court's IOLTA program, earmarking those funds for private lawyers, and stripping the Supreme Court and the State Bar of their roles in supervising and directing the use of these funds, the Court's order has been effectively overruled by the General Assembly.

12. In addition to the legislation's attempt to countermand the Supreme Court's 2007 order, the funds received before July 1, 2025 that remain in the IOLTA program may only be used for grants "to improve the administration of justice" (a term that is defined nowhere in the legislation) and, even then, the legislation includes further restrictions on access to these funds—restrictions that forbid any organization that engages in certain types of legal or public advocacy to access these funds at all. *Id.* sec. 16.25(e)(1)–(3) (hereinafter "the Speech Restrictions"). In a

---

[6] Mackenzie Thomas, NC budget redirects legal funds to criminal defense, away from civil legal aid, Carolina Public Press (July 19, 2026), https://www.wfae.org/politics/2026-07-19/nc-budget-redirects-legal-funds-to-criminal-defense-away-from-civil-legal-aid.

sweeping restriction that suppresses even the most basic forms of speech, any organization that engages in public advocacy on issues before the government of North Carolina or issues on the ballot is forbidden from accessing the funds. *Id.* sec. 16.25(e)(3). In addition, organizations that represent clients on immigration issues or gender-affirming health care are forbidden from accessing the funds. *Id.* sec. 16.25(e)(1)–(2).

13. These provisions of the legislation amount to flagrant constitutional violations in two distinct ways.

14. First, the Private Counsel Provisions violate the separation of powers by encroaching on the inherent power of the judiciary—indeed, our state's highest court. As the Supreme Court of North Carolina recently admonished, "[u]nder well-settled separation of powers principles, 'the Legislature has no right, directly or indirectly, to annul, in whole or in part, a judgment or decree of a court already rendered' and 'every such attempt of legislative action is plainly an invasion of judicial power, and therefore unconstitutional and void.'"[7] Here, the legislation seeks to nullify an order of our State's highest court. It violates the North Carolina Constitution.

15. Second, the Speech Restrictions violate core freedoms of speech, association, assembly, and petition—fundamental rights protected by the First

---

[7] *Doe 1K v. Roman Cath. Diocese of Charlotte*, 387 N.C. 12, 14, 911 S.E.2d 38, 40 (2025) (quoting *Piedmont Mem'l Hosp., Inc. v. Guilford Cnty.*, 221 N.C. 308, 313, 20 S.E.2d 332, 335 (1942)).

Amendment and the North Carolina Constitution. These First Amendment rights[8] are violated by laws that "seek to leverage funding to regulate speech outside the contours of [a government-funded] program itself."[9] As described more fully below, the Speech Restrictions not only forbid IOLTA's non-taxpayer funds from being used to engage in certain types of public advocacy, but they forbid any *organization* that engages in such advocacy whatsoever from accessing those funds—regardless of whether the funds are even used for the advocacy. These government restrictions on non-taxpayer funds used for private speech violate the First Amendment right to associate, assemble, and petition the government for redress of grievances, as well as the North Carolina Constitution's guarantees of those same rights.

16. As one example of the absurdity of the Speech Restrictions, if Plaintiff Pisgah Legal Services were to organize a rally in support of victims of Hurricane Helene and called on the legislature to adequately fund recovery programs, or if the organization were to hold a press conference to advocate for the government to streamline its application process for home rebuilding programs post-Helene, those actions in support of Helene victims would make Pisgah Legal Services ineligible for IOLTA funding. These examples are not hypothetical. Pisgah Legal Services has,

---

[8] When this Complaint refers to the First Amendment and the rights secured thereunder, the allegations are intended to encompass both the federal constitutional protections at issue and the analogous state constitutional protections found in Article I, Sections 12 and 14 of the North Carolina Constitution.

[9] *Agency for Int'l Dev. v. All. for Open Soc'y Int'l, Inc.*, 570 U.S. 205, 214–15 (2013).

and surely will, continue seeking IOLTA funding to support victims of natural disasters, and by advocating for public policy to support the victims of Hurricane Helene, it will have disqualified itself from directly assisting those victims with IOLTA funds.

17. In sum, the constitutional violations brought about by the Private Counsel Provisions and the Speech Restrictions are plain and clear. It is the function and responsibility of the judiciary to invalidate them.

PARTIES

Pisgah Legal Services

18. Plaintiff Pisgah Legal Services ("Pisgah Legal") is a nonprofit corporation founded in 1978, headquartered in Asheville, with offices in twelve communities across Western North Carolina, including Brevard, Burnsville, Cashiers, Franklin, Hendersonville, Highlands, Marshall, Newland, Rutherfordton, Spruce Pine, and Waynesville.

19. Pisgah Legal's mission is to provide legal assistance and advocacy to low-income people in Western North Carolina to help them meet their basic needs and improve their lives. Pisgah Legal provides free civil legal aid, engages in anti-poverty advocacy, and supports access to health care for people with low incomes across eighteen counties and the Qualla Boundary in Western North Carolina. Through its staff attorneys and a network of more than 250 pro bono attorneys, Pisgah Legal assists nearly 28,000 of the most vulnerable people in western North Carolina annually, helping them meet urgent needs in housing, safety from

domestic violence, health care, income, consumer protection, family law, elder law, immigration, and public benefits.

20. Pisgah Legal has been a longtime, consistent recipient of NC IOLTA grants. In the decade leading up to the legislative freeze on IOLTA grants, Pisgah Legal received IOLTA funding each year, for a total of over $5 million in grants used to provide legal services to low-income civil clients. In the most recent full grant cycle before the freeze (2025), the organization was awarded over $1.8 million in IOLTA funds, including $700,000 for a special grant for Helene recovery, which overall represented roughly 13% of the organization's annual operating budget.

21. Pisgah Legal operates a program called the Justice for All Program, through which the organization provides legal assistance to immigrants in Western North Carolina, including helping eligible immigrants secure legal immigration status, work authorization, asylum, and other immigration benefits and relief. The Justice for All Program focuses on helping the most vulnerable immigrants in Pisgah Legal's service area, including survivors of domestic violence and other violent crimes, children and youth, and survivors of trafficking, to navigate complex federal immigration laws. Pisgah Legal has employed attorneys dedicated to immigration work through the Justice for All Program for more than two decades.

22. Pisgah Legal engages in public advocacy and policy work concerning issues that affect its low-income clients, including advocacy related to domestic violence, affordable housing, homelessness prevention, healthcare, public benefits, and access to justice. For example, Pisgah Legal advocated for Medicaid expansion,

speaking at press conferences and talking to elected officials about how the organization's clients were experiencing substantial hardship as a result of the Medicaid gap. The organization does not use IOLTA funding for lobbying or policy advocacy.

23. Pisgah Legal Services provides comprehensive health insurance enrollment to help people access quality, affordable health care coverage, including enrollment in health insurance plans that provide gender-affirming care. It has provided health insurance navigator services since the federal Affordable Care Act ("ACA") went into effect, helping consumers determine the health insurance plan that best fits their needs. Navigators are required by the terms of their federal funding to "provide information and services in a fair, accurate, and impartial manner" to "all consumers who seek their assistance."[10] In 2024, Pisgah Legal began gathering information on gender-affirming care under the various ACA plans each year and provides guidance to its clients about this issue, when needed. The organization has helped consumers search for plans that cover surgical gender transition procedures and has advised clients about surgical procedures to align with their gender identity.

---

[10] New Funding Opportunity Announcement for Navigators in Federally-facilitated and State Partnership Marketplaces, Centers for Medicare & Medicaid Services (Sept. 10, 2024), https://www.cms.gov/cciio/resources/fact-sheets-and-faqs/navigator-foa.

Legal Aid of North Carolina

24. Plaintiff Legal Aid of North Carolina, Inc. ("Legal Aid") is a statewide nonprofit law firm headquartered in Raleigh. Its mission is to provide free legal services in civil matters to low-income people, to ensure equal access to justice, and to remove legal barriers to economic opportunity.

25. Legal Aid is the only civil legal services provider in North Carolina representing clients in all 100 counties. Prior to the IOLTA funding freeze and the enactment of the challenged Act, Legal Aid operated approximately twenty-four offices throughout the state, a centralized helpline, and multiple statewide special projects. As a result of the loss of IOLTA funds, Legal Aid has closed five offices and laid off dozens of employees. Legal Aid estimates it will serve thousands fewer North Carolinians in 2026 as a result of losing IOLTA funds.

26. Legal Aid's attorneys, staff, and pro bono volunteers provide civil legal assistance to children, survivors of domestic violence and sexual assault, victims of human trafficking, seniors, veterans, migrant farmworkers, and other vulnerable individuals. Its practice areas include housing and eviction defense, domestic violence and sexual assault response, family law, consumer protection, public benefits, health care access, education and children's rights, elder law, community economic development, disaster recovery, and immigration. In 2025 alone, Legal Aid handled over 24,000 cases, serving more than 21,000 clients and impacting over 53,000 household members.

27. Legal Aid has been a routine recipient of NC IOLTA grants for approximately forty years. It has historically been IOLTA's largest grantee. In the most recent full grant cycle before the freeze (2025), the organization received over $6 million in NC IOLTA grants, which represented approximately half of all IOLTA funds distributed statewide and approximately 15% of Legal Aid's annual budget. For the ten years leading up to the legislative freeze on IOLTA grants, Legal Aid received IOLTA funding each year, for a total of over $22 million in grants used to provide legal services to low-income civil clients.

28. NC IOLTA grants have funded critical civil legal services provided by Legal Aid, including domestic violence legal services, disaster recovery legal assistance, the Home Defense Project to preserve homeownership and housing stability, various initiatives to expand access to civil legal assistance in rural communities, and technology upgrades to improve client access.

29. Legal Aid provides legal representation in matters governed by federal immigration law. It operates the Immigration Pathways for Victims program as part of its Domestic Violence and Sexual Assault Project and a Farmworker Unit, a statewide project that serves migrant and seasonal farmworkers by addressing unsafe work and housing conditions, enforcing anti-trafficking and minimum wage laws and employment contracts, handling immigration cases, and providing orientation and education. The organization's immigration law work includes applications for immigration relief for survivors of domestic violence, sexual assault,

human trafficking, and migrant farmworkers and their family members, among other forms of immigration relief.

30. In compliance with federal regulations, Legal Aid educates the public concerning laws, policies, and funding decisions that affect its low-income clients. When requested, Legal Aid provides testimony to governmental bodies, responds to requests from elected officials and government agencies regarding proposed legislation and regulations, submits comments in public rulemaking proceedings, and communicates with government officials regarding legal aid services and issues affecting low-income communities.

31. Legal Aid at times represents transgender clients in Medicaid eligibility appeals, eligibility-level reduction appeals, and disputes concerning coverage for gender-affirming medical procedures. Legal Aid also provides health insurance navigator services, similar to those described herein regarding Pisgah Legal, that provide counseling to clients on the health insurance plans, including regarding the gender-affirming care that such plans offer.

Charlotte Center for Legal Advocacy

32. Plaintiff Charlotte Center for Legal Advocacy ("CCLA") is a nonprofit corporation headquartered in Charlotte. It has served the Charlotte-Mecklenburg region and west-central North Carolina for nearly six decades. CCLA's mission is to pursue justice for those in need, with the vision of building a just community where all people are treated fairly and have access to legal representation to meet their basic human needs of safety, economic security, and stability.

33. CCLA serves more than 10,000 individuals each year through its staff attorneys, pro bono attorneys, and community partners. It is the largest provider of civil legal assistance in Mecklenburg County and the largest nonprofit provider of representation in the Charlotte immigration court in the Carolinas.

34. CCLA provides a broad array of civil legal services, including consumer protection, health care access, home preservation and foreclosure prevention, immigration, income security, food access, education law, criminal record expunction, veterans' legal services, estate planning for seniors, tax disputes, and family law services for victims of domestic violence. It accomplishes its mission through a variety of advocacy strategies, including individual advice and representation, community education and outreach, representation of groups, collaboration with other agencies, community economic development, legislative and administrative advocacy, and impact litigation.

35. CCLA has been a longtime and routine recipient of NC IOLTA grants. In the most recent full grant cycle before the freeze (2025), CCLA received $765,000 in NC IOLTA Civil Legal Aid grants to support programs including health care, housing, immigrant justice, low-income taxpayers, and veterans. For the ten years leading up to the legislative freeze on IOLTA grants, CCLA received IOLTA funding each year, for a total of over $3 million in grants used to provide legal services to low-income civil clients. IOLTA funds represent approximately 15% of CCLA's annual budget.

36. Through its Immigrant Justice Program, CCLA provides legal services to immigrants, including representing clients in immigration court, providing aid to immigrant victims of violent crimes, and representing unaccompanied children in immigration proceedings. The organization provides individual representation for immigration cases in Alexander, Alleghany, Ashe, Avery, Burke, Cabarrus, Caldwell, Catawba, Cleveland, Gaston, Lincoln, McDowell, Mecklenburg, Mitchell, Stanly, Union, Watauga, Wilkes, and Yancey Counties. CCLA's immigration work includes protecting low-income and non-English-speaking immigrants from exploitation, representing survivors of human trafficking and domestic abuse in immigration matters, and representing unaccompanied minors facing immigration proceedings.

37. CCLA has been heavily involved in the community response to recent federal immigration enforcement operations in the Charlotte area, including providing information to the public about immigrants' legal rights and providing representation in immigration-related proceedings.

38. CCLA engages in legislative and administrative advocacy as part of its organizational mission. Among other activities, the organization regularly submits comments on proposed regulations; provides substantial input on state agency manuals, forms, notices, and procedures; provides information to legislators and other elected officials; helps draft proposed legislation, ordinances, and regulations; speaks to the press and public about important public issues affecting the organization's clients; and encourages both its clients and the public at large to

contact public and elected officials to make their views known. CCLA also engages in letter writing, telephone, and email campaigns with members of the public to advocate for such issues as Medicaid expansion, food security, and foreclosure protections which are pending before the legislature. The organization also meets with legislators and executive branch officials to advocate for policies to improve the lives of the communities the organization serves—including on such issues as health care, education policy, and home foreclosure.

39. CCLA, like the other Plaintiffs, advocates for Medicaid coverage of medically necessary services for its clients and offers health insurance navigator services that provide counseling to clients on the health insurance plans that meet their particular needs, including advising on plans with regard to gender-affirming care, such as surgical procedures. The organization will continue providing these services to clients, even if the client requires gender-affirming health care.

Defendants

40. Destin C. Hall is the Speaker of the North Carolina House of Representatives and is named as a defendant in his official capacity. He is a resident of Caldwell County.

41. Philip E. Berger is the President Pro Tempore of the North Carolina Senate and is named as a defendant in his official capacity. He is a resident of Rockingham County.

42. The State of North Carolina is a state with its capital in Wake County. At all relevant times, the State acted through the Defendants' conduct in the enactment and implementation of the legislation challenged in this action.

43. The North Carolina State Bar is an agency of the State of North Carolina. The State Bar's purpose is to regulate the professional conduct of licensed lawyers and to promulgate administrative rules of professional ethics and conduct. The State Bar is headquartered in Wake County. Upon information and belief, the State Bar did not support the challenged legislation's enactment and may recognize that the legislation is unconstitutional. Nevertheless, the challenged legislation requires the State Bar to promulgate rules to carry out the challenged provisions, supervise the administration of IOLTA funds through its IOLTA Board, and implement the challenged provisions. Therefore, the State Bar has been named as a defendant to ensure that the Plaintiffs are able to obtain the full relief they seek in this action, including an injunction against implementation of the challenged provisions.

44. The North Carolina Interest on Lawyers' Trust Accounts (IOLTA) Board of Trustees is an entity established in 1983 by the North Carolina State Bar through rulemaking and is located in Wake County. The IOLTA Board of Trustees' purpose is to administer the IOLTA program. Upon information and belief, the IOLTA Board of Trustees did not support the challenged legislation's enactment and may recognize that the legislation is unconstitutional. Nevertheless, the challenged legislation "establish[es]" the IOLTA Board of Trustees (the same Board

that has already existed for over 40 years) and vests it with the authority to administer the IOLTA funding program. Therefore, the IOLTA Board of Trustees has been named as a defendant to ensure that the Plaintiffs are able to obtain the full relief they seek in this action, including an injunction against implementation of the challenged provisions.

45. The current members of the IOLTA Board of Trustees are named as defendants in their official capacities. They include the Chair of the IOLTA Board, Alex Dale, a resident of Pender County; David Allen, a resident of Mecklenburg County; Theodore Edwards, a resident of Durham County; Amy Funderburk, a resident of Carteret County; and Ralph Meekins, a resident of Cleveland County.[11] Upon information and belief, many of the IOLTA Board members did not support the challenged legislation's enactment and may recognize that the legislation is unconstitutional. Nevertheless, the challenged legislation requires them in their official capacities to implement the challenged provisions. Therefore, the members of the IOLTA Board of Trustees have been named as official-capacity defendants to ensure that the Plaintiffs are able to obtain the full relief they seek in this action, including an injunction against implementation of the challenged provisions.

---

[11] Woody White, a resident of New Hanover County, and Lawrence Shaheen, Jr., a resident of Mecklenburg County, have also been appointed as members of the IOLTA Board of Trustees, but because their appointments are not effective until November 1, 2026, they have no official capacity at the present time and, therefore, are not proper official-capacity defendants. *See* N.C. Sess. Laws 2026-55, sec. 2.97. Upon their appointment, the Plaintiffs intend to amend the complaint to include them as defendants in their official capacities.

46. Public statements indicate that, in the absence of preliminary injunctive relief, the State Bar and the IOLTA Board and its members ("the IOLTA Board Defendants") will be taking steps to enforce the challenged provisions of the legislation in the coming weeks. *See* Exhibit B.[12]

JURISDICTION AND VENUE

47. The Court has subject-matter jurisdiction over this action and personal jurisdiction over the Defendants. Under *Corum v. Univ. of N.C.*, 330 N.C. 761, 413 S.E.2d 276 (1992), Plaintiffs are entitled to bring direct claims under the North Carolina Constitution where their rights have been abridged and they are without an adequate state law remedy. Therefore, sovereign immunity is inapplicable to Plaintiffs' *Corum* claims. Plaintiffs also seek prospective injunctive relief for federal constitutional violations under 42 U.S.C. § 1983, for which the official-capacity Defendants have no sovereign immunity.

48. This action is properly brought in the Superior Court Division of the General Court of Justice pursuant to N.C. Gen. Stat. §§ 1-253, *et seq.*, and 7A-245(a).

49. Plaintiffs seek a judgment declaring unconstitutional and enjoining the following provisions of the challenged session law: section 16.25(d), (e), (f), and (g). Thus, under N.C. Gen. Stat. § 1-81.1, Wake County is the proper venue for this

---

[12] North Carolina IOLTA, Report Outlines Next Steps in Implementing IOLTA Program Changes (Sept. 9, 2026), https://nciolta.org/report-outlines-next-steps-in-implementing-iolta-program-changes/ (accessed Sept. 29, 2026).

action because it involves a challenge to the constitutionality of an act of the General Assembly.

FACTUAL ALLEGATIONS

The NC IOLTA Program's Beginnings

50. North Carolina's IOLTA program was established in the 1980s as a voluntary program created by the North Carolina State Bar and the North Carolina Supreme Court that lawyers and law firms could opt into.

51. A change in federal law had allowed IOLTA to come into being. Historically, checking accounts used for most client money held in trust could not generate interest. But in 1980, Congress enacted a law that created Negotiable Order of Withdrawal (NOW) accounts, which were allowed to generate interest so long as all client funds were deposited into a single trust account with the interest going to a not-for-profit purpose. *See Phillips v. Washington Legal Found.*, 524 U.S. 156, 161 (1998).

52. The Bar adopted rules governing the IOLTA program on April 8, 1983 and June 23, 1983. Pursuant to N.C. Gen. Stat. § 84-21, those rules were then approved by the Chief Justice of the North Carolina Supreme Court as being consistent with the Bar's statutory authority, and the Court ordered that they be published in the North Carolina Reports. *See* 307 N.C. 716.

53. The rules required that any interest generated under the program would be transferred to the Bar to fund "programs concerned with improvement of the administration of justice, under the supervision and direction of" a State Bar

committee appointed for that purpose. *Id.* at 719. These "programs" that were authorized in the Bar rules included, among other things, "providing legal services to indigents" and, upon the approval of the Supreme Court, "other programs designed to improve the administration of justice." *Id.*

54. The Bar updated these rules on January 12, 1996, to list four exclusive purposes for IOLTA grants:

> .1301 Purpose
>
> The programs for which the funds may be utilized shall consist of
>
> (1) providing civil legal services for indigents;
>
> (2) enhancement and improvement of grievance and disciplinary procedures to protect the public more fully from incompetent or unethical attorneys;
>
> (3) development and maintenance of a fund for student loans to enable meritorious persons to obtain legal education when otherwise they would not have adequate funds for this purpose;
>
> (4) such other programs designed to improve the administration of justice as may from time to time be proposed by the board and approved by the Supreme Court of North Carolina.

341 N.C. 808. On April 3, 1996, the Chief Justice of the North Carolina Supreme Court approved this updated rule as being consistent with the Bar's statutory authority, and the Court ordered it published in the North Carolina Reports. *See id.* at 809.

The Supreme Court of North Carolina Mandates IOLTA-Funded Civil Legal Aid

55. On August 31, 2007, the Council of the North Carolina State Bar petitioned the North Carolina Supreme Court to order the establishment of a comprehensive, mandatory IOLTA program—a program in which all of North Carolina's lawyers and law firms would be required to participate. In its justification for seeking the order, the State Bar showed the Court the following, among other things:

(a) "equal access to justice is fundamental to our system of democratic government and necessary to the maintenance of public trust and confidence in the courts;"

(b) "less than twenty percent of the legal needs of poor people in North Carolina are presently being met;"

(c) "lawyers have a professional responsibility to do what they reasonably can to increase the availability of legal services for all, regardless of the ability to pay;" and

(d) "the Council of the North Carolina State Bar believes that the conversion of North Carolina's voluntary IOLTA program to a comprehensive IOLTA program would greatly enhance the ability of the legal profession to support financially access to justice in North Carolina and advises the Court that this view is shared and endorsed by the North Carolina Bar Association and the North Carolina Equal Access to Justice Commission."

Exhibit C.

56. The Bar's petition requested the entry of an order for a comprehensive, mandatory IOLTA program, grounded in the Court's "exercise of its inherent authority to govern the legal profession," "so that more funds might be made available to increase access to our system of justice, and otherwise to improve the administration of justice throughout the state of North Carolina." *Id.*

57. On October 11, 2007, the Supreme Court granted the petition. *See In re: Petition of N.C. State Bar*, 361 N.C. 687 (2007) (attached as Exhibit A). In its unanimous decision, the Court found that "the legal needs of only a small percentage of those people qualifying for legal assistance are being met, that access to the legal system is necessary to the maintenance of public trust and confidence in the administration of justice, and that mandatory participation in the State Bar's IOLTA program by the eligible active members of the North Carolina State Bar would likely provide substantial increased revenue to fund legal services for the poor in North Carolina and to advance the program's purposes of increasing access to justice and facilitating the administration of justice." *Id.*

58. The Court ordered as follows:

> based upon the premises set forth in the State Bar's petition, that the North Carolina State Bar implement a comprehensive IOLTA program <u>consistent with the purposes expressed in the existing North Carolina State Bar Plan for Interest on Lawyers' Trust Accounts</u>, and that all active members of the North Carolina State Bar who maintain general client trust accounts in North Carolina participate in the program effective January 1, 2008.

Id. (emphasis added).

59. The "purposes expressed in the existing North Carolina State Bar Plan for Interest on Lawyers' Trust Accounts" that the Supreme Court incorporated into its decision were the then-existing provisions of the 2007 N.C. Administrative Code governing IOLTA, which the Court had previously approved on April 3, 1996. *See* 341 N.C. 808. The 2007 Code section on IOLTA, entitled "PURPOSE," stated:

> The programs for which the funds may be utilized shall consist of
>
> (1) providing civil legal services for indigents;
>
> (2) enhancement and improvement of grievance and disciplinary procedures to protect the public more fully from incompetent or unethical attorneys;
>
> (3) development and maintenance of a fund for student loans to enable meritorious persons to obtain a legal education when otherwise they would not have adequate funds for this purpose;
>
> (4) such other programs designed to improve the administration of justice as may from time to time be proposed by the board and approved by the Supreme Court of North Carolina.

27 N.C.A.C. 1D .1301(c) (2007).

60. Another provision of the "PURPOSE" rule stated, "The board will award grants or noninterest bearing loans under the four categories approved by the North Carolina Supreme Court being mindful of its tax exempt status and the IRS rulings that <u>private interests of the legal profession are not to be funded with IOLTA funds</u>." *Id.* § .1301(b) (emphasis added).

61. Another provision of the "PURPOSE" rule stated that the use of the IOLTA funds shall be "under the supervision and direction of the board established under this plan to administer the funds," which is the IOLTA Board. *Id.*

62. In accordance with the Supreme Court's 2007 decision, these purposes have remained in the relevant Administrative Code section to this day—namely, that the primary purpose of the IOLTA program as mandated by the Supreme Court is to provide civil legal aid to low-income North Carolinians, and that IOLTA funds are not to fund private interests of the Bar. In remarks to a legislative committee in 2025, the executive director of the State Bar confirmed that the IOLTA program's "mission" is "making civil legal services available to the people of North Carolina, regardless of ability to pay."[13]

63. No part of the State Bar's petition or the Court's decision indicated that the State Bar or the Court intended for the interest from lawyers' trust accounts to be used to fund existing financial obligations of state government. To the contrary, the Bar and the Court were concerned with fulfilling the "professional responsibility" of lawyers to increase the availability of legal services. Exhibit C.

64. IOLTA funds are not derived from taxes that the General Assembly has imposed—the type of funds that would appropriately finance the general obligations of government, such as providing counsel to indigent criminal defendants. Instead, IOLTA funds are contributions from law firm trust accounts that exist only because of the Supreme Court's order. Those funds are not the proper subject of legislative earmarking.

---

[13] *Testimony of N.C. State Bar Executive Director*, *supra* note 1, at 2 (emphasis added).

The General Assembly Attempts to Countermand the Supreme Court

65. Almost two decades after the Supreme Court's order, in Session Law 2025-70, section 25, the General Assembly placed a freeze on the State Bar's IOLTA grant making for the 2025-26 fiscal year. IOLTA funds continued to accrue throughout that fiscal year, but the IOLTA Board was forbidden from awarding any grants as of July 9, 2025, the effective date of Session Law 2025-70. This legislative freeze, in and of itself, nullified the Supreme Court's 2007 decision. It also made North Carolina the only state in the nation that did not administer an IOLTA program for civil legal assistance, according to testimony from the program's executive director to a legislative committee in 2025.[14]

66. In the Fiscal Year 2026-27 Appropriations Act, the General Assembly lifted the IOLTA freeze, then effectively abolished the Supreme Court's IOLTA program, replaced it with a new program of the General Assembly's making, and converted the non-taxpayer funds from within the Supreme Court's IOLTA program to pay for budgetary expenses that the State is already required to pay for. In doing so, the General Assembly made its intent to countermand the Supreme Court abundantly clear: The legislation specifically states that it applies "[n]otwithstanding any provision of 27 NCAC 01D .1301 to the contrary." N.C. Sess.

---

[14] *See Testimony of N.C. IOLTA Executive Director, supra* note 3 ("Upon creation, NC IOLTA was the 15th IOLTA program in the United States. Today, programs exist in every jurisdiction across the country, all developed to provide a source of funding for civil legal services.").

Law 2026-41, sec. 16.25(e). In other words, the legislation applies notwithstanding the State Bar plan incorporated by the Supreme Court's 2007 order.

The Legislation Violates the Separation of Powers

67. The legislation violates the North Carolina Constitution's separation-of-powers clause by attempting to nullify the Supreme Court's unanimous 2007 decision in at least five distinct ways.

68. First, as noted above, the Private Counsel Provisions devote IOLTA funds to an impermissible purpose under the Supreme Court's decision—criminal defense. *See In re: Petition of N.C. State Bar*, 361 N.C. 687 (requiring IOLTA program to be administered "consistent with the purposes expressed in the existing North Carolina State Bar Plan for Interest on Lawyers' Trust Accounts"). Under the legislation, all funds received from July 1, 2025 onward are predestined for the State's Office of Indigent Defense Services—specifically, its Private Assigned Counsel Fund, which pays private attorneys to represent low-income criminal defendants. N.C. Sess. Law 2026-41, sec. 16.25(e)(4)a. The State has been legally required to provide this service for at least sixty years. *See Gideon v. Wainwright*, 372 U.S. 335 (1963). Unsurprisingly, therefore, criminal defense appears nowhere in the IOLTA plan ordered by the Supreme Court. 27 N.C.A.C. 1D .1301(c) (2007).

69. Second, the Private Counsel Provisions directly contradict the Supreme Court's instruction, set forth in the "PURPOSE" rule adopted by the Court, that "private interests of the legal profession are not to be funded with IOLTA funds." *Id.* § .1301(b). The Private Counsel Provisions do the opposite: They

earmark all post-July 1, 2025 IOLTA funds for compensating private lawyers and their private law firms.

70. Third, the Private Counsel Provisions strip the Supreme Court and the State Bar of their Court-ordered role in supervising and directing IOLTA funds as set forth in the "PURPOSE" rule adopted by the Court. *Id.* § .1301(b), (c)(4). Under the Supreme Court's 2007 order, the IOLTA Board made substantive decisions about the proper recipients of all IOLTA funds, and the Supreme Court exercised its supervisory role in determining, in its discretion, whether to approve or deny any of the "administration of justice" grants funded through IOLTA. *See id.* Under the legislation, however, for all post-2025 funds, the Supreme Court's role and the IOLTA Board's role are gone, and the IOLTA Board is relegated to a mere passthrough entity that makes no substantive decisions about the proper recipients of grants. Instead, under the legislation, the funds are predestined to compensate private-sector lawyers.

71. Fourth, by earmarking all IOLTA funds for the State's Private Assigned Counsel fund, the legislation makes it impossible to carry out the other purposes of the rule incorporated into the Court's order—the very purposes that the IOLTA plan "shall" consist of. *Id.* § .1301(c). No funds are available to improve attorney disciplinary procedures or help meritorious individuals pay for their legal education, for example. *Id.* § .1301(c)(2)–(3).

72. Fifth, by using IOLTA funds to pay for the existing legal obligations of the State, the Private Counsel Provisions explicitly violate the stated purpose of the

Supreme Court's order that brought the funds into existence in the first place. The stated purpose of these funds is to fulfill the "professional obligation" of North Carolina lawyers to provide legal services to the substantial number of North Carolinians who cannot afford those services and whose needs are not "presently being met"—not to pay for the government's fulfillment of pre-existing legal obligations that were already "presently being met." Exhibit C (State Bar Petition); *see In re: Petition of N.C. State Bar*, 361 N.C. 687 (basing decision on "the premises set forth in the State Bar's petition").

The Legislation Violates the First Amendment

73. Not only does the legislation violate the Supreme Court's decision many times over, but it also violates the First Amendment in multiple ways.

74. The legislation's Speech Restrictions prohibit entities that engage in certain types of First-Amendment activity from receiving any IOLTA funds altogether. N.C. Sess. Law 2026-41, sec. 16.25(e)(1)–(3). Those provisions identify three categories of entities that are banned from accessing any IOLTA funds:

> (1) "any entity that provides representation, assistance, or advocacy in matters governed by federal immigration law, including applications for visas, lawful permanent residency, asylum, deportation defense, naturalization, and any other immigration benefit or relief;"
>
> (2) "any entity that provides representation, assistance, or advocacy in matters related to the performance of or in furtherance of surgical gender transition procedures, or the provision of puberty-blocking drugs or cross-sex hormones to a minor;" and
>
> (3) "any entity that engages in any oral, written, or electronically transmitted communication or any advertisement,

> telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion to the public to contact public officials in support of or in opposition to pending or proposed legislation, regulations, executive decisions, or any decision by the electorate on a measure submitted to it for a vote" including any entity that provides "financial contributions by recipients to, or participation by recipients in, any demonstration, march, rally, fundraising drive, lobbying campaign, letter writing or telephone campaign for the purpose of influencing the course of such legislation, regulations, decisions by administrative bodies, or any decision by the electorate on a measure submitted to it for a vote. This prohibition does not include communications which are limited solely to reporting on the content or status of, or explaining, pending or proposed legislation or regulations. This prohibition shall not apply to entities that advocate solely for their own funding, internal rules, or laws directly affecting their own existence or structure."

Id.

75. The legislation also states that any available funds received before July 1, 2025 may be used for grants "for programs designed to improve the administration of justice as may be proposed by the IOLTA Board of Trustees and approved annually by the North Carolina Supreme Court." *Id.* sec. 16.25(e)(4)b. The legislation provides no further explanation of what these programs will entail, and the legislation states that the IOLTA Board may distribute no more than $2 million per fiscal year from the pre-2025 leftover funds, until such pre-2025 funds are depleted. Regardless, even if the pre-2025 leftover funds could be used to support civil legal assistance for low-income North Carolinians, the legislation disqualifies organizations from receiving those leftover funds if they engage in any of the three prohibited types of advocacy described above.

76. The Plaintiffs have engaged—and continue to engage—in each of the three prohibited types of advocacy described above, with non-IOLTA funds. At all relevant times, the Plaintiffs have exercised and continue to exercise their fundamental rights to free speech, association, and assembly, have petitioned and continue to petition their government for redress of grievances, and have engaged and continue to engage in expressive activity related to these fundamental freedoms. The Plaintiffs' exercise of these fundamental rights includes legal advocacy, client counseling, client representation, public education, public commentary, coalition work, lobbying, communications urging the public to engage with government officials, and advocacy concerning laws, regulations, executive decisions, and ballot measures, to the extent allowed by preexisting law.

77. As one component of this exercise of the Plaintiffs' First Amendment rights, Plaintiffs Pisgah Legal and CCLA engage in oral, written, and electronically transmitted communications that contain a direct suggestion to the public to contact public officials in support of or in opposition to pending or proposed legislation, regulations, executive decisions, or a decision by the electorate on a measure submitted to it for a vote. In addition, these Plaintiffs participate in lobbying campaigns and letter writing or telephone campaigns for the purpose of influencing the course of such legislation, regulations, decisions by administrative bodies, or a decision by the electorate on a measure submitted to it for a vote. Pisgah Legal has also participated in a rally to promote an issue before the legislature: Medicaid expansion. Plaintiff Legal Aid educates the public concerning

laws, policies, and funding decisions that affect its low-income clients. When requested, Legal Aid provides testimony to governmental bodies, responds to requests from elected officials and government agencies regarding proposed legislation and regulations, submits comments in public rulemaking proceedings, and communicates with government officials regarding legal aid services and issues affecting low-income communities.

78. As another component of the Plaintiffs' exercise of their First Amendment rights, the Plaintiffs have also provided and continue to provide representation, assistance, and advocacy in matters governed by federal immigration law, including applications for immigration benefits, asylum, naturalization, deportation defense, and related forms of legal relief.

79. As another component of the Plaintiffs' exercise of their First Amendment rights, the Plaintiffs have also provided and continue to provide health insurance enrollment services or representation related to surgical gender-affirming care covered by the Speech Restrictions.

80. Under the Speech Restrictions, all three of the Plaintiffs will continue to be categorically ineligible to receive IOLTA funds because they intend to continue exercising their federal and state constitutional rights to provide immigration legal services, provide gender-affirming care advice or representation, and engage in public advocacy by communicating with the public and government officials about laws and policies affecting their clients and communities. Thus, in the absence of

injunctive relief, the Plaintiffs will be disqualified from accessing IOLTA funds under the Speech Restrictions.

The Legislation Causes Irreparable Harm

81. In terms of total clients served, Plaintiffs are the three largest civil legal aid organizations operating in North Carolina, and IOLTA funding has been a critical funding source for their civil legal work for decades. Under both the Private Counsel Provisions and the Speech Restrictions, however, the Plaintiffs are categorically ineligible to receive IOLTA funds. As a result, the Plaintiffs have already suffered irreparable harm and will continue to suffer irreparable harm in the absence of injunctive relief.

82. Although the constitutional violations themselves constitute *per se* irreparable harm, each of the Plaintiffs has also suffered irreparable harm in a number of distinct ways, and they will continue to suffer that irreparable harm in the absence of injunctive relief as described more fully below.

83. First and foremost, the legislation has caused the Plaintiffs irreparable harm, and in the absence of injunctive relief will continue to cause the Plaintiffs irreparable harm, by impeding their ability to fulfill their organizational purposes and missions. The legislation has already resulted in office closures, staff layoffs, and program reductions for the Plaintiffs, and the legislation's continued implementation will result in more office closures, more staff layoffs, reduced recruitment, and more program reductions:

(a) For Pisgah Legal, the loss of IOLTA funding will require Pisgah Legal to divert resources to attempt to fill a significant gap in funding in the coming years by finding alternative funding sources. Pisgah Legal will not be able to completely and permanently replace IOLTA as a funding source, which will result in significantly fewer clients in Western North Carolina communities receiving civil legal services. Pisgah Legal estimates that it will serve at least 3,500 fewer clients annually due to the redirection of IOLTA funding and the advocacy prohibitions in the challenged Act that disqualify the organization from accessing these funds.

(b) For Legal Aid, the loss of IOLTA funding has already forced Legal Aid to close or consolidate five offices, primarily in rural areas of the state, lay off dozens of employees, and scale back programs that communities rely on, including disaster recovery, domestic violence protection, family law, and consumer-related legal assistance. Legal Aid will be forced to divert resources to fill a significant gap in its funding in the coming years by finding alternative sources, but it will not be able to completely replace IOLTA as a funding source. The organization estimates that up to 5,000 fewer people will be served annually as a result of the funding loss.

(c) For CCLA, the loss of IOLTA funding has already led to a reduction in staff and reduction in services to clients. CCLA will be forced to divert

resources to attempt to fill a significant gap in funding in the coming years by finding alternative funding sources. CCLA will not be able to completely replace IOLTA as a funding source, which will result in significantly fewer clients in the communities receiving these civil legal services. CCLA estimates that it will serve up to 3,000 fewer clients annually due to the redirection of IOLTA funding and the advocacy prohibitions in the challenged Act that disqualify the organization from accessing these funds.

In sum, the Plaintiffs will no longer be able to provide the same level of legal services to low-income North Carolinians. As a result, a significant number of potential clients of these organizations will simply have no legal representation in civil matters that otherwise would have been provided if the organizations were still able to apply for and obtain IOLTA funds.

84. Second, the legislation has caused the Plaintiffs irreparable harm, and in the absence of injunctive relief will continue to cause the Plaintiffs irreparable harm, in the Plaintiffs' capacity as law firms. Each of the Plaintiffs is a nonprofit law firm that, like private law firms, holds client funds in trust accounts that are subject to the Supreme Court of North Carolina's 2007 order. As a result, the Plaintiffs and the attorneys they employ have been ordered by the Supreme Court to remit the interest from their client trust accounts to the State Bar to fund the purposes set forth in the Court's order. In the absence of injunctive relief, however, the IOLTA accounts that the Supreme Court has ordered these law firms and

lawyers to maintain will be converted by the legislature to fund private counsel in criminal cases, which the Supreme Court's order expressly prohibits. Moreover, as law firms comprised of lawyers, the Plaintiffs have a strong, direct interest in a well-functioning grievance and disciplinary system for North Carolina attorneys—a specific purpose of the Court-ordered IOLTA program. By earmarking all of the IOLTA funds to pay for private lawyers from here on out, the Private Counsel Provisions impede this purpose as well.

85. Third, the legislation has caused the Plaintiffs irreparable harm, and in the absence of injunctive relief will continue to cause the Plaintiffs irreparable harm, in their capacity as employers. The Plaintiffs employ dozens of attorneys to carry out their missions, and they have relied on an existing IOLTA program that helps public-interest attorneys finance their legal education with up to $400 a month in student loan repayment support. Plaintiffs have relied on this employee incentive program to recruit and retain their staff attorneys, especially in rural areas of the state where it is more difficult to recruit and retain lawyers. By earmarking all of the IOLTA funds to pay for private lawyers from here on out, this program will be greatly diminished, if it remains at all. As a result, Plaintiffs' recruitment and retention efforts will be significantly impeded.

86. Fourth, the legislation has also caused and will continue to cause each of the Plaintiffs to suffer irreparable harm in their capacity as law firm clients. Plaintiffs are clients of the law firm representing them in this action, and that firm and its attorneys, including the undersigned, are subject to the Supreme Court's

order. Although the undersigned counsel and their firm have agreed to pursue this matter pro bono, the Plaintiffs have placed funds in a trust account with the law firm sufficient to cover filing fees through the duration of this action. Under the Supreme Court's order, the interest that Plaintiffs' funds earn in these trust accounts must be remitted to the State Bar to fund the purposes set forth in the Court's order. Under U.S. Supreme Court precedent, a lawyer's client has a property right in the interest earned on the funds held in trust, but that interest may be lawfully remitted to a state bar for the purposes of an IOLTA program. The Private Counsel Provisions, however, convert these funds in violation of the North Carolina Constitution, taking them from the purposes that the North Carolina Supreme Court's order mandates, and earmarking them instead for a purpose that the order forbids.

CLAIMS FOR RELIEF

COUNT 1:
Violation of Separation of Powers
N.C. Const. art. I, § 6; N.C. Const. art. IV, § 1

87. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

88. Article I, Section 6 of the North Carolina Constitution requires that "[t]he legislative, executive, and supreme judicial powers of State government shall be forever separate and distinct from each other."

89. Article IV, Section 1 requires that "[t]he judicial power of the State shall . . . be vested in . . . a General Court of Justice." It further provides that "[t]he

General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government[.]"

90. In its unanimous decision in *In re: Petition of N.C. State Bar*, 361 N.C. 687, the Supreme Court of North Carolina invoked the inherent authority of the judiciary to order that all North Carolina lawyers—as well as the North Carolina State Bar—comply with a comprehensive IOLTA program consistent with the purposes set forth in the State Bar's then-existing IOLTA plan. The General Assembly cannot abridge this inherent power of the judiciary to regulate North Carolina lawyers. For nearly 90 years, the General Assembly itself has recognized as much. *See* N.C. Gen. Stat. § 84-36 ("Inherent powers of courts unaffected") ("Nothing contained in this Article shall be construed as disabling or abridging the inherent powers of the court to deal with its attorneys.").

91. The Private Counsel Provisions in section 16.25 of the legislation purport to nullify and override the Supreme Court's order in at least five distinct ways, as described above. Both independently and collectively, therefore, the Private Counsel Provisions violate the North Carolina Constitution's separation of powers guarantee in Article I, Section 6 and Article IV, Section 1.

92. As described above, the Plaintiffs have suffered irreparable harm as a result of the Private Counsel Provisions, and in the absence of preliminary and permanent injunctive relief, will continue to suffer irreparable harm.

93. Accordingly, the Plaintiffs are entitled to declaratory and injunctive relief from Defendants, including a preliminary and permanent injunction enjoining the State Bar and the IOLTA Board Defendants' implementation of the Private Counsel Provisions.

COUNT 2:
Violation of First and Fourteenth Amendments – 42 U.S.C. § 1983
N.C. Const. art. I, § 12; N.C. Const. art. I, § 14

94. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

95. The First Amendment to the United States Constitution, a liberty protected from state interference by the Due Process Clause of the Fourteenth Amendment, protects Plaintiffs' fundamental rights to free speech, association, and assembly, petitioning their government for redress of grievances, and expressive activity related to these fundamental freedoms. These rights are likewise guaranteed under Article I, Sections 12 and 14 of the North Carolina Constitution.

96. As described above, the Speech Restrictions impose unconstitutional, entity-wide conditions on accessing IOLTA funds in violation of the First Amendment and Article I, Sections 12 and 14 of the North Carolina Constitution. These conditions facially exclude organizations for exercising their fundamental rights to free speech, association, and assembly, petitioning their government for redress of grievances, or expressive activity related to these fundamental freedoms. The Speech Restrictions impose these entity-wide access exclusions regardless of whether any IOLTA funds are used to support the exercise of those First

Amendment rights, thereby conditioning IOLTA grants on surrendering protected First Amendment activity outside of the IOLTA program. As a result, the Speech Restrictions chill Plaintiffs' protected speech and advocacy by forcing them to choose between engaging in constitutionally protected expression or having access to critical IOLTA funding that would allow them to serve more low-income North Carolinians.

97. The Speech Restrictions are a particularly egregious violation of the First Amendment and Article I, Sections 12 and 14 of the North Carolina Constitution because the IOLTA program funds private legal services and private legal advocacy, not government speech. When the government funds legal services organizations to represent private clients, the lawyer speaks for the private client and not for the government. Thus, the Speech Restrictions distort the ordinary functioning of legal representation by preventing the Plaintiffs from advising, representing, and advocating for clients in matters that the General Assembly disfavors.

98. The Speech Restrictions are facially content-based, because eligibility turns on the subject matter and the function or purpose of the communication. These prohibitions are also facially content-based because a determination of whether an organization is disqualified under the Speech Restrictions requires the IOLTA Board Defendants or other state officials to examine the content and subject matter of the organization's speech, legal work, public communications, and advocacy.

99. In addition to the Speech Restrictions imposing entity-wide unconstitutional conditions on their face, the Speech Restrictions related to immigration law and gender-affirming care also constitute viewpoint-based discrimination in violation of the First Amendment and Article I, Sections 12 and 14 of the North Carolina Constitution. The Speech Restriction related to immigration law constitutes viewpoint discrimination because it necessarily disqualifies organizations that, in every instance, will be advocating for—and never against—a client's immigration-related benefits. After all, the United States Government, which is not an IOLTA recipient, would be solely responsible for advocating against a client's immigration-related benefits. The Speech Restriction related to gender-affirming care also constitutes viewpoint discrimination because it disqualifies any organization that provides "assistance" with gender-affirming care or provides representation or advocacy "in furtherance of" gender-affirming care. Thus, the Speech Restrictions disfavor representation, assistance, and advocacy supporting immigration benefits or access to gender-affirming care while leaving advocacy and representation against immigration benefits or access to gender-affirming care unaffected.

100. Because the Speech Restrictions are content-based and viewpoint-based as described above, they are subject to strict scrutiny and presumptively unconstitutional. Because the Speech Restrictions do not serve a compelling governmental interest sufficient to justify disqualifying civil legal aid organizations from IOLTA funding, they fail strict scrutiny. Moreover, even if the State could

somehow identify a compelling interest, the Speech Restrictions are not narrowly tailored to serve that purported interest because they are both overinclusive and underinclusive, and they are not the least restrictive means of advancing that interest.

101. As described above, at all relevant times, the Plaintiffs have exercised—and intend to continue exercising—their rights under the First Amendment and Article I, Sections 12 and 14 of the North Carolina Constitution such that they are disqualified from accessing IOLTA funds under the Speech Restrictions.

102. As described above, the Plaintiffs have suffered irreparable harm as a result of the Speech Restrictions, and in the absence of preliminary and permanent injunctive relief, will continue to suffer irreparable harm.

103. As described above, the Speech Restrictions violate the First and Fourteenth Amendments to the United States Constitution. Under 42 U.S.C. § 1983, the Plaintiffs are entitled to prospective declaratory and injunctive relief against the IOLTA Board members in their official capacities, as they are the state officials responsible for implementing and enforcing the Speech Restrictions under color of state law. Under 42 U.S.C. § 1988, the Plaintiffs are further entitled to an award of their attorneys' fees and costs.

104. As described above, the Speech Restrictions also violate Article I, Sections 12 and 14 of the North Carolina Constitution. Under *Corum*, the Plaintiffs are entitled to prospective declaratory and injunctive relief against all of the

Defendants, as there is no adequate state-law remedy that would redress the constitutional injury.

REQUEST FOR RELIEF

Plaintiffs respectfully request that the Court:

(1) declare that the Private Counsel Provisions violate Article I, Section 6 and Article IV, Section 1 of the North Carolina Constitution, as described above;

(2) declare that the Speech Restrictions violate the First Amendment of the United States Constitution and Article I, Sections 12 and 14 of the North Carolina Constitution, as described above;

(3) preliminarily and permanently enjoin the State Bar and the IOLTA Board Defendants from implementing or enforcing the Private Counsel Provisions or the Speech Restrictions;

(4) award Plaintiffs their costs incurred in this action, including attorneys' fees, pursuant to 42 U.S.C. § 1988 and any other provision of law authorizing such costs and fees; and

(5) grant such further relief as the Court deems equitable and just.

Respectfully submitted the 9th day of October, 2026.

POYNER SPRUILL LLP

/s/ Paul M. Cox
Paul M. Cox
N.C. State Bar No. 49146
pcox@poynerspruill.com
/s/ Andrew H. Erteschik
Andrew H. Erteschik
N.C. State Bar No. 35269
aerteschik@poynerspruill.com
Caroline Mackie
N.C. State Bar No. 41512
cmackie@poynerspruill.com
Andrea M. Schwehr
N.C. State Bar No. 58070
aschwehr@poynerspruill.com
Kayla B. Zollinger
N.C. State Bar No. 64307
kzollinger@poynerspruill.com
P.O. Box 1801
Raleigh, NC 27602-1801
Telephone: (919) 783-1013
Facsimile: (919) 783-1075

Counsel for Plaintiffs

EXHIBIT A

In the Matter of a Petition of the North Carolina State Bar Re:	)	
	)	ORDER
INTEREST ON LAWYERS' TRUST ACCOUNTS PROGRAM OF THE NORTH CAROLINA STATE BAR	)	

The North Carolina State Bar, authorized by Chapter 84 of the North Carolina General Statutes to regulate and supervise attorneys practicing law in this State, has petitioned this Court, in the exercise of its inherent power, to authorize and direct the North Carolina State Bar to implement a comprehensive Interest On Lawyers' Trust Accounts (IOLTA) program; and it appearing to the Court from the petition that the legal needs of only a small percentage of those people qualifying for legal assistance are being met, that access to the legal system is necessary to the maintenance of public trust and confidence in the administration of justice, and that mandatory participation in the State Bar's IOLTA program by the eligible active members of the North Carolina State Bar would likely provide substantial increased revenue to fund legal services for the poor in North Carolina and to advance the program's purposes of increasing access to justice and facilitating the administration of justice; and it further appearing that this matter is a proper subject for the exercise of this Court's inherent power to supervise and regulate conduct of members of the Bar; Now, therefore, in the exercise of its inherent power to supervise and regulate the conduct of attorneys in this State, the Supreme Court of North Carolina does hereby order, based upon the premises set forth in the State Bar's petition, that the North Carolina State Bar implement a comprehensive IOLTA program consistent with the purposes expressed in the existing North Carolina State Bar Plan for Interest on Lawyers' Trust Accounts, and that all active members of the North Carolina State Bar who maintain general client trust accounts in North Carolina participate in the program effective January 1, 2008.

By order of the Court in Conference, this 11th day of October, 2007.

s/Hudson, J.
For the Court

EXHIBIT B

PUBLISHED ON SEPTEMBER 9, 2026 / POSTED IN NEWS, STORIES

Report Outlines Next Steps in Implementing IOLTA Program Changes

State Bar Executive Director Peter Bolac writes that leaders are “working diligently to interpret the full scope” of legislation that significantly restructures the IOLTA program and redirects its earnings to support criminal indigent defense.

NORTH CAROLINA IOLTA

INVESTING IN JUSTICE FOR ALL NORTH CAROLINIANS

Share

In a legislative report in the Fall 2026 State Bar Journal, Executive Director Peter Bolac writes that State Bar and NC IOLTA leaders are "working diligently to interpret the full scope" of July 2026 legislation that significantly restructures the IOLTA program and redirects its earnings to support criminal indigent defense.

The provision — included in the 2026 Appropriations Act passed by the North Carolina General Assembly and signed into law by Gov. Josh Stein on July 7 — directs nearly all IOLTA program funds to the state Office of Indigent Defense Services to bolster the Private Assigned Counsel (PAC) Fund. The PAC Fund pays private attorneys who are appointed by the court to represent defendants who cannot afford an attorney.

The legislation requires the State Bar to make the following changes to its rules governing the IOLTA program:

- **Appointments to the NC IOLTA Board of Trustees**. The program's nine-member board, which reviews grant applications and makes all grant decisions, has traditionally been appointed by the State Bar Council, which is itself composed of lawyers elected by their peers across the state and three public members appointed by the governor to represent the public's interest. The provision changes the authority for appointing NC IOLTA board members to include the appointment of two members each by the Chief Justice of the state Supreme Court, leadership of the NC House and leadership of the NC Senate. The Bar will appoint three members. The Chief Justice of the Supreme Court will appoint the board chair.

- **Eligibility of grantees.** The provision bars from grant eligibility any entity that provides any services in the following areas:
  - Representation, assistance or advocacy in matters governed by federal immigration law, including visas, lawful permanent residency, asylum, deportation defense, naturalization and any other immigration benefit or relief.
  - Representation, assistance or advocacy regarding surgical gender-transition procedures or the provision of puberty-blocking drugs or cross-sex hormones for minors.
  - Grassroots lobbying and public advocacy, defined as communication (written oral or electronic) or advertisements that directly suggest the public contact officials to support or oppose pending or proposed legislation, regulations, executive decisions or electoral matters.
- **Use of IOLTA funds.** The provision directs IOLTA earnings as follows:
  - Payment of the program's administrative expenses, which include monitoring the collection of interest from IOLTA accounts, managing the eligible bank list, and grant administration and monitoring. NC IOLTA has historically worked to keep administrative expenses to less than 10% of annual program income, with 2025 expenses at 4.5%.
  - Up to $15 million per year of **funds received after July 1, 2025**, are directed to the state's Office of Indigent Defense Services for the Private Assigned Counsel (PAC) Fund, which pays for court-appointed private attorneys to represent criminal defendants who cannot afford one on their own. Any funds received by NC IOLTA in excess of $15 million will carry over to the next fiscal year for this use by the state.

- Up to $2 million per year of **funds received prior to July 1, 2025,** may be directed to grant support of programs designed to improve the administration of justice as recommended by the program's trustees and approved by the state Supreme Court. (Note: Technical corrections to the budget, which became law on July 27, increase the annual cap to $2.5 million).

As Bolac notes, this provision "significantly restructures the governance, grant eligibility and funding allocation" of the program, which was established by the State Bar and approved by the state Supreme Court in 1983 to fund high-quality civil legal aid across North Carolina.

Since the program's inception, NC IOLTA has distributed more than $134 million in grant funding under two categories: (1) organizations that provide free civil legal services to low-income North Carolinians in matters such as housing security, consumer finance, access to health care and wages, disability rights, and family law matters; and (2) other programs that improve the administration of justice, from supporting public interest law to educating the public about the law and legal matters. In 2025, the most recent year of NC IOLTA grantmaking under these categories, the program funded more than $11 million in civil legal aid grants and nearly $850,000 in administration of justice grants.

"The reallocation of institutional grant funds creates an unprecedented challenge for the delivery of free civil legal services," Bolac writes, adding that members of the State Bar must "step up directly to help bridge anticipated service gaps."

Action Items and Timeline

The State Bar Council made its three appointments to the newly constituted board at its July 24, 2026, meeting: attorneys Ted Edwards of Durham County, Amy Funderburk of Carteret County and Ralph Meekins of Cleveland County.

The Chief Justice's appointees are attorneys Alex Dale of Pender County, who will serve as board chair, and State Bar Vice President David Allen of Mecklenburg County.

Upon recommendation of the office of the Speaker of the House of Representatives, the General Assembly appointed Woody White of New Hanover County and Larry Shaheen of Mecklenburg County. Other legislative appointments are expected to be finalized this fall.

In addition, Bolac notes, the State Bar is "statutorily required to adopt revised rules amending the Grant Program Rule (27 NCAC 01D .1301)" to align with this legislation no later than Nov. 1, 2026.

NC IOLTA Executive Director Mary Irvine provided the following timeline, which is subject to change pending Board approval and the State Bar's adoption of temporary rules:

- **September:** Board Orientation and Planning Meeting will take place Sept. 28-29.
- **October:** Amended rules will be considered for both temporary adoption and approval for publication at the Oct. 30 meeting of the State Bar Council.
- **November:** NC IOLTA Board meets with the following anticipated action items:
  - Consider and establish governing policies
  - Adopt 2027 organizational budget

  - Establish grant cycle and timeline for administration of justice applicants
  - Approve grant award to Indigent Defense Services for 2026-27

- **Late 2026/Early 2027:** Grant application cycle opens for applicants seeking funding for administration of justice efforts; NC IOLTA grant review process begins.
- **Spring 2027:** NC IOLTA Board meets with the following anticipated action items:
  - Review and approve 2026 financial audit
  - Award 2027-28 administration of justice grants

Additional updates will be available at nciolta.org/publications as this work progresses.

Read Bolac's full legislative report in the Fall 2026 State Bar Journal. More information about this issue is available on our Media Resources page.

PREVIOUS POST
Budget Provision Appropriates IOLTA Funds for State Use

North Carolina IOLTA PO Box 25996, Raleigh, NC 27611 Tel: 919.828.0477

© Copyright North Carolina State Bar 2026. All right reserved. | Site By Loop Creative

EXHIBIT C

FILED

AUG 31 2007

SUPREME COURT OF
NORTH CAROLINA

PETITION TO
THE NORTH CAROLINA SUPREME COURT

RE: INTEREST ON LAWYERS' TRUST ACCOUNTS PROGRAM
OF THE NORTH CAROLINA STATE BAR

NOW COMES Steven D. Michael, the undersigned president of the North Carolina State Bar, on behalf of the Council of the North Carolina State Bar, and shows unto the Court the following:

WHEREAS, equal access to justice is fundamental to our system of democratic government and necessary to the maintenance of public trust and confidence in the courts. Its denial has an adverse impact not only upon individuals and families, but on society as a whole; and

WHEREAS, the North Carolina State Bar has been made aware of statistical information tending to demonstrate that less than twenty percent of the legal needs of poor people in North Carolina are presently being met; and

WHEREAS, lawyers have a professional responsibility to do what they reasonably can to increase the availability of legal services for all, regardless of the ability to pay; and

WHEREAS, in recognition of this professional obligation, the North Carolina State Bar adopted in 1983, with the approval of this Court, the Plan for Interest on Lawyers' Trust Accounts (NC IOLTA) by means of which funds generated from interest earned on pooled client trust accounts could be used to provide funding for civil legal aid and other projects that improve the administration of justice; and

WHEREAS, NC IOLTA has since its inception been a vital source of funding for the provision of legal services for the poor in North Carolina, having disbursed nearly $50,000,000 in grants since 1985, most of which have been used to support agencies supplying such legal services. In 2007, based upon the voluntary participation of only 75% of those North Carolina lawyers who are eligible, NC IOLTA will be making more than $3,700,000 in grants; and

WHEREAS, information provided by the American Bar Association's Commission on IOLTA indicates that of the 52 IOLTA programs operating in the United States, 32 are "comprehensive" programs in which all eligible lawyers are required to participate, and further indicates that in those cases where voluntary programs have been converted to comprehensive programs, revenues have invariably been substantially enhanced; and

WHEREAS, the Council of the North Carolina State Bar believes that the conversion of North Carolina's voluntary IOLTA program to a comprehensive IOLTA program would greatly enhance the ability of the legal profession to support financially access to justice in North Carolina and advises the Court that this view is shared and endorsed by the North Carolina Bar Association and the North Carolina Equal Access to Justice Commission; and

WHEREAS, the Council of the North Carolina State Bar did, on April 20, 2007, vote to petition the Court for an order authorizing and directing the North Carolina State Bar to implement comprehensive IOLTA, and requiring eligible active members of the North Carolina State Bar to participate.

NOW THREFORE, the North Carolina State Bar hereby petitions the North Carolina Supreme Court to enter an order, in the exercise of its inherent authority to govern the legal profession, authorizing and directing the North Carolina State Bar to implement a comprehensive IOLTA program and requiring all active members of the North Carolina State Bar who practice in the state and maintain general client trust accounts to participate in IOLTA so that more funds might be made available to increase access to our system of justice, and otherwise to improve the administration of justice throughout the state of North Carolina.

Respectfully submitted, this the 30 day of August, 2007

Steven D. Michael

Steven D. Michael, President
The North Carolina State Bar