

CASE No. 19-1401

In The
United States Court of Appeals
For the Fourth Circuit

DAVID TODD VINCENT; SUSAN T. VINCENT,
Plaintiffs – Appellees,

v.

AMCO INSURANCE COMPANY,
Defendant – Appellant,

and

**WENDY SMITH VICK; NATIONWIDE MUTUAL INSURANCE
COMPANY; ALLIED PROPERTY AND CASUALTY
INSURANCE COMPANY; LIBERTY MUTUAL INSURANCE
COMPANY; SAFECO INSURANCE COMPANY OF AMERICA,**
Defendants,

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,**
Intervenor/Defendant.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA AT RALEIGH**

**BRIEF OF NORTH CAROLINA ADVOCATES FOR JUSTICE
AS AMICUS CURIAE IN SUPPORT OF PLAINTIFFS-APPELLEES**

T. Shawn Howard
Maginnis Law, PLLC
4801 Glenwood Avenue
Suite 310
Raleigh, NC 27612
(919) 480-8526

Jerome P. Trehy, Jr.
Jerome P. Trehy, Jr., P.A.
1821 Hillandale Rd
Suite 1b-180
Durham, NC 27705
(844) 270-6700

Jon Ward
Pinto Coates Kyre & Bowers, PLLC
3203 Brassfield Road
Greensboro, NC 27410
(336) 282-8848

Counsel for Amicus Curiae NCAJ

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? YES NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: s/ T. Shawn Howard

Date: 7/2/19

Counsel for: North Carolina Advocates of Justice

CERTIFICATE OF SERVICE

I certify that on July 2, 2019 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

s/ T. Shawn Howard
(signature)

7/2/19
(date)

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTEREST OF <i>AMICUS</i>	1
ARGUMENT	2
I. The Provisions of the Financial Responsibility Act Take Precedence Over the Language of the Liability Policy	2
II. Because Coverage Under the Liability Policy Was Not “Applicable Solely to Fleet Vehicles,” the Statutory Exception Does Not Apply ...	6
III. North Carolina Still Needs the FRA’s UM/UIM Mandate	9
IV. The FRA’s UM/UIM Mandate Requires UM/UIM Coverage for Plaintiffs and Others Similarly Situated.....	12
CONCLUSION	13
CERTIFICATE OF COMPLIANCE.....	15
CERTIFICATE OF SERVICE	16

TABLE OF AUTHORITIES

Cases

<i>Bray v. North Carolina Farm Bureau Mut. Ins. Co.</i> , 341 N.C. 678, 462 S.E.2d 650 (1995).....	4
<i>Good Hope Hosp., Inc. v. N.C. Dep't of Health & Human Servs.</i> , 175 N.C. App. 309, 623 S.E.2d 315 (2006).....	6
<i>Hlasnick v. Federated Mut. Ins. Co.</i> , 353 N.C. 240, 539 S.E.2d 274 (2000).....	6
<i>Liberty Mut. Ins. Co. v. Pennington</i> , 356 N.C. 571, 573 S.E.2d 118 (2002)	5
<i>Maready v. City of Winston-Salem</i> , 342 N.C. 708, 467 S.E.2d 615 (1996)	5
<i>Moore v. Hartford Fire Ins. Co. Group</i> , 270 N.C. 532, 155 S.E.2d 128 (1967).....	5
<i>Nationwide Mut. Ins. Co. v. Chantos</i> , 293 N.C. 431, 238 S.E.2d 597 (1977).....	3
<i>Nationwide Mut. Ins. Co. v. Mabe</i> , 342 N.C. 482, 467 S.E.2d 34 (1996).....	5, 8
<i>News & Observer Pub. Co. v. Interim Bd. of Ed.</i> , 29 N.C. App. 37, 223, S.E.2d 580 (1976).....	6
<i>Silvers v. Horace Mann Ins. Co.</i> , 324 N.C. 289, 378 S.E.2d 21 (1989).....	5
<i>Sutton v. Aetna Casualty & Surety Co.</i> , 325 N.C. 259, 382 S.E.2d 759 (1989).....	5

Statutes

N.C Gen. Stat. § 20-9(A)	2
N.C Gen. Stat. § 20-279.21	<i>passim</i>
N.C. Gen. Stat. § 58-40-10(2).....	7

Other Authorities

73 Am. Jur.2d, *Statutes* § 313, 463-64 (1974).....6

L.J. Miller et al., National Highway Traffic Safety Administration, *The Economic and Societal Impact of Motor Vehicle Crashes*, 2010 (Revised May 2015), Abstract, p. i, available at <http://www-nrd.nhtsa.dot.gov/pubs/812013.pdf>.11

N.C. Reinsurance Fac., Circ. Ltr. to All Member Companies (Dec. 12, 2008), available at <http://www.ncrb.org/Portals/5/ncrf/circular%20letters/RF-08-23%20-%20Cedable%20Limits.pdf>.....8

North Carolina 2016 Traffic Crash Facts, Division of Motor Vehicles, Traffic Records Branch, North Carolina Department Of Transportation, 2017, p. 2, available at10

North Carolina 2017 Traffic Crash Facts, Division of Motor Vehicles, Traffic Records Branch, North Carolina Department Of Transportation, 2018, p. 2, available at10

INTEREST OF AMICUS CURIAE

Amicus Curiae, the North Carolina Advocates for Justice (“NCAJ”), submits this brief in support of Plaintiffs-Appellees and respectfully urges this Court to affirm the district court’s order granting plaintiffs’ motion for judgment on the pleadings.¹

NCAJ is a professional organization of approximately 2,500 North Carolina attorneys. NCAJ members work to ensure the proper administration of justice in both civil and criminal cases. Among NCAJ’s primary purposes is the advancement and protection of the rights of those injured in motor vehicle collisions. In furtherance of its mission, NCAJ regularly participates in the legislative process, prepares resource materials, conducts seminars, and appears as *amicus curiae* before state and federal courts to advance and protect the rights, safety and health of citizens throughout North Carolina.

This case will determine whether a motor vehicle liability policy must comply with the terms of North Carolina’s Financial Responsibility Act (the “Act”), and, in particular, N.C Gen. Stat. § 20-279.21(b). The North Carolina General Assembly fashioned the Act as a remedial statute designed to mitigate the

¹ Pursuant to Rule 29, counsel for *Amicus* state that no counsel for a party authored this brief in a whole or in part, and no person or entity other than *Amicus* or its counsel made a monetary contribution to the preparation or submission of this brief. *Amicus* has filed a motion seeking leave to file this amicus brief. Plaintiffs consent to the motion. Defendants-Appellants do not consent to the motion.

harms from serious motor vehicle collisions. The North Carolina Supreme Court has been consistent in broadly construing the Act to maximize the potential for uninsured and underinsured motorist coverage. Because the issues raised in this case have serious implications for persons injured by the negligence of uninsured and underinsured drivers, NCAJ has an interest in the outcome of this appeal.

ARGUMENT

I. The Provisions of the Financial Responsibility Act Take Precedence Over the Language of the Liability Policy.

North Carolina has a long-standing public policy in favor of diminishing the individual and societal harm caused by motor vehicle collisions. To effectuate this public policy, courts must broadly construe the Financial Responsibility Act (“FRA”), N.C. Gen. Stat. Chapter 20, Article 9A, and in particular, N.C Gen. Stat. § 20-279.21, in order to maximize the potential for uninsured and underinsured motorist (“UM/UIM”) coverage. This Court should reject AMCO’s reliance upon a policy exclusion that improperly attempts to circumvent and violate the FRA. This Court should, instead, stay true to the express language of § 20-279.21 and to the spirit, purpose and intent of the Act.

Because of the “owned vehicle” exclusion, the express provisions of the motor vehicle policy at issue do not require UM/UIM coverage for Plaintiffs. Instead, it is North Carolina law that requires coverage. The provisions of the FRA take precedence over any contrary language found in a motor vehicle liability

policy. Such a policy must be read as though it incorporates the FRA, and the statute's provisions supersede those of the policy. As the North Carolina Supreme Court declared in *Nationwide Mutual Insurance Co. v. Chantos*, 293 N.C. 431, 238 S.E.2d 597 (1977), “[t]he provisions of the Financial Responsibility Act are ‘written’ into every automobile liability policy as a matter of law, and, when the terms of the policy conflict with the statute, the provisions of the statute will prevail.” *Id.* at 441, 238 S.E.2d at 604.

In this case, although AMCO's defense is that the policy falls under an exception to the FRA's mandate for UM/UIM coverage, the policy itself belies that argument when it directly makes reference to UM/UIM mandates of the FRA. Specifically, the AMCO policy informs the insureds that “[y]ou are required to purchase Uninsured Motorist Bodily Injury Coverage, Uninsured Motorist Property Damage Coverage and, in some cases, Underinsured Motorist Bodily Injury Coverage.” (Endorsement IN 52 35 02 10). AMCO would have had no reason to make reference to this mandate unless the policy was, in fact, governed by the FRA.

N.C. Gen. Stat. § 20-279.21, “Motor Vehicle Liability Policy Defined,” describes two types of motor vehicle liability policies that satisfy the FRA: an “owner's policy” and an “operator's policy.” N.C. Gen. Stat. § 20-279.21(a).

(1) An “owner’s policy” provides liability insurance for the “operation, maintenance and use” of vehicles described by the policy terms. This type of insurance coverage depends on the vehicle involved, and hence is a “vehicle-oriented” form of insurance. *See* N.C. Gen. Stat. § 20-279.21(b).

(2) An “operator’s policy” provides liability coverage for a person described by the policy terms, no matter the vehicle being operated, maintained or used. In contrast to an owner’s policy, coverage under an operator’s policy follows the person described in the policy, and hence is a “person-oriented” form of insurance. *See* N.C. Gen. Stat. § 20-279.21(c).

Today’s motor vehicle liability policies combine owner’s and operator’s policies by containing both vehicle-oriented and person-oriented coverage. While the motor vehicle policy at issue here has elements of both vehicle-oriented coverage and person-oriented coverage, N.C. Gen. Stat. § 20-279.21(b) governs the AMCO policy as an owner’s policy. Consequently, UM/UIM coverage is mandated pursuant to the provisions of G.S. § 20-279.21(b)(3) and (4).

North Carolina cases interpreting the FRA consistently stress its “remedial” nature and caution that its statutory provisions must be “liberally construed to effectuate its purpose of providing coverage for damages to injured parties.” *Bray v. North Carolina Farm Bureau Mut. Ins. Co.*, 341 N.C. 678, 684, 462 S.E.2d 650, 653 (1995) (“Financial Responsibility Act is a remedial statute to be liberally

construed in order that the beneficial purpose intended by its enactment may be accomplished”); *accord, Silvers v. Horace Mann Ins. Co.*, 324 N.C. 289, 296, 378 S.E.2d 21, 26 (1989); *Nationwide Mut. Ins. Co. v. Mabe*, 342 N.C. 482, 496, 467 S.E.2d 34, 42 (1996); *Sutton v. Aetna Casualty & Surety Co.*, 325 N.C. 259, 265, 382 S.E.2d 759, 763 (1989); *Moore v. Hartford Fire Ins. Co. Group*, 270 N.C. 532, 535, 155 S.E.2d 128, 130 (1967).

The North Carolina Supreme Court has instructed that, “[t]he purpose of the Act . . . is best served when [every provision of the Act] is interpreted to provide the innocent victim with the fullest possible protection.” *Liberty Mut. Ins. Co. v. Pennington*, 356 N.C. 571, 573-74, 573 S.E.2d 118, 120 (2002); *see also, Sutton*, 325 N.C. at 265, 382 S.E.2d at 763 (“The avowed purpose of the Financial Responsibility Act . . . is to compensate the innocent victims of financially irresponsible motorists”). In order to effectuate the FRA’s remedial purpose, exceptions to requirements of N.C. Gen. Stat. § 20-279.21(b) – like the exception for policies “applicable solely to fleet vehicles” – must narrowly construed. Both this Court and the North Carolina appellate courts have confirmed “the general rule of construction that exemptions from remedial statutes are to be construed narrowly.” *Olsen v. Lake County, Inc.*, 955 F.3d 203, 206 (4th Cir. 1991); *see also Maready v. City of Winston-Salem*, 342 N.C. 708, 730, 467 S.E.2d 615, 629 (1996) (narrowly construing exceptions to the open meetings law); *Good Hope Hosp., Inc.*

v. N.C. Dep't of Health & Human Servs., 175 N.C. App. 309, 313, 623 S.E.2d 315, 318, *aff'd*, 360 N.C. 641, 636 S.E.2d 564 (2006) (North Carolina courts have established a “rule of statutory construction that exemptions must be construed narrowly”); *News & Observer Pub. Co. v. Interim Bd. of Ed.*, 29 N.C. App. 37, 47, 223, S.E.2d 580, 586 (1976) (“Ordinarily a strict or narrow construction is applied to statutory exceptions to the operation of laws.”) (citing 73 Am. Jur.2d, *Statutes* § 313, 463-64 (1974)). Without a narrow construction in this case, innocent North Carolinians like Mr. Vincent may be left with little to no assistance after suffering catastrophic injuries due to the negligence of a “financially irresponsible motorist.”

II. Because Coverage Under the Liability Policy Was Not “Applicable Solely to Fleet Vehicles,” the Statutory Exception Does Not Apply.

The policy at issue here is an owner’s policy under N.C. Gen. Stat. § 20-279.21(b), and consequently must provide UM/UIM coverage in conformity with the FRA, *unless* the policy fits one, narrow, statutory exception:

Notwithstanding the provisions of [§20-279.21(b) (4)], no policy of motor vehicle liability insurance . . . **applicable solely to fleet vehicles** shall be required to provide underinsured motorist coverage.

N.C Gen. Stat. § 20-279.21(b)(4) (emphasis added). The district court correctly held that “according to the unambiguous language of the statutory provision, a policy ‘applicable solely to fleet vehicles’ must only insure vehicles that are part of a ‘fleet.’” (JA 209) (citing *Hlasnick v. Federated Mut. Ins. Co.*, 353 N.C 240, 244,

539 S.E.2d 274, 276-77 (2000)). The policy here is not “applicable solely to fleet vehicles.” The policy, pursuant to its endorsement titled “Drive Other Car Coverage – Broadened Coverage for Named Individuals,” undeniably provides Plaintiffs UM/UIM coverage for the operation of an array of vehicles that are not part of any fleet.

This Court should not be misled by AMCO’s numerous attempts to redefine the exception to the FRA’s mandate of UM/UIM coverage as one for “fleet policies.” The phrase “fleet policies” is never used in the FRA and has no statutorily defined meaning. The exception upon which AMCO seeks to rely, for policies “applicable solely to fleet vehicles,” has no application here. The district court acknowledged as much, finding that “the AMCO policy, under the Broadened Coverage Endorsement, purports to extend coverage to [Plaintiffs] when they are driving any vehicle at all, so long as the vehicle is not owned by the Vincents.” (JA 210) Therefore, the policy must provide UM/UIM coverage in the manner and to the full extent required by the FRA.

The Court should reject AMCO’s argument that counting whether a policy provides coverage to five or more vehicles determines whether a policy is “applicable solely to fleet vehicles.” For its position, AMCO relies upon N.C. Gen. Stat. § 58-40-10(2) as well as the following language from N.C. Gen. Stat. § 20-279.21(b)(4): “[w]hen determining whether a policy is applicable solely to fleet

vehicles, the insurer **may rely upon the number of vehicles reported by the insured at the time of the issuance of the policy.**” (Emphasis added). The purpose of the bolded language is not to define a policy as “applicable solely to fleet vehicles” merely because it insures five or more vehicles. Defendant’s construction reads the word “solely” out of the statute. Rather, that language simply confirms that if a policy is otherwise applicable solely to five or more fleet vehicles at the time of commencement (and therefore falls under the FRA exception for UM/UIM coverage), and vehicles are later removed mid-policy period, the policy need not be amended or changed to comply with the FRA. The North Carolina Reinsurance Facility explained the concern this language attempted to address in a December 12, 2008 circular to all member insurance companies: “In the normal course of business, insureds frequently add or delete vehicles on a policy mid-term. By adding or deleting vehicles, it is arguable that the policy status may change from fleet to non-fleet (or vice versa) or from a policy for which UM/UIM is mandated for one for which those coverages are not mandated (or vice versa). Consistent with the above, the Facility will accept cession of UM/UIM limits based on the status of a policy at the inception of the policy . . .” N.C. Reinsurance Fac., Circ. Ltr. to All Member Companies (Dec. 12, 2008), available at <http://www.ncrb.org/Portals/5/ncrf/circular%20letters/RF-08-23%20-%20Cedable%20Limits.pdf>.

Finally, the North Carolina Supreme Court has clearly held that an “other vehicle” exclusion, such as the one AMCO relies upon here, is invalid with respect to UM/UIM coverage mandated by the FRA. *Nationwide Mut. Ins. Co. v. Mabe*, 342 N.C. 482, 467 S.E.2d 34 (1996). The policy in this case must conform to the FRA and provide UIM coverage for Mr. Vincent’s devastating personal injuries.

III. North Carolina Still Needs the FRA’s UM/UIM Mandate.

Times have changed since the FRA was created, and the language of N.C. Gen. Stat. § 20-279.21 has been repeatedly amended. Nevertheless, our legislature has never expanded the narrow exception for mandatory UM/UIM coverage beyond the narrow class of motor vehicle liability policies “applicable solely to fleet vehicles,” and the reasons undergirding the FRA’s mandate for UM/UIM coverage have only grown stronger, as motor vehicle collisions have taken an increased economic and societal toll in North Carolina and across the country.

The latest available North Carolina statistics are staggering. 2016 crash data reveal:

- 1,441 persons killed, a 4.4% increase from 2015;
- 130,137 persons injured, a 5.3% increase from 2015;
- 267,494 traffic crashes reported, a 6.3% increase from 2015;
- 14.2 persons were killed for every 100,000 North Carolina residents;
- 15 pedal-cyclists killed;

- 151 motorcyclists killed; and,
- 198 pedestrians killed in motor vehicle crashes, an 18.9% increase from 2011.

Gov. Pat McCrory et al., North Carolina Department of Transportation, *North Carolina 2016 Traffic Crash Facts*, Division of Motor Vehicles, Traffic Records Branch, North Carolina Department Of Transportation, 2017, p. 2, *available at* <https://connect.ncdot.gov/business/DMV/DMV%20Documents/2016%20Crash%20Facts.pdf>.

North Carolina did not see any significant improvements in this picture in 2017:

- 1,396 persons killed;
- 127,964 persons injured;
- 275,067 traffic crashes reported;
- 13.59 persons killed for every 100,000 North Carolina residents;
- 28 pedal-cyclists killed;
- 139 motorcyclists killed; and,
- 200 pedestrians killed in motor vehicle crashes.

Gov. Roy Cooper et al., North Carolina Department of Transportation, *North Carolina 2017 Traffic Crash Facts*, Division of Motor Vehicles, Traffic Records Branch, North Carolina Department Of Transportation, 2018, p. 2, *available at*

<https://connect.ncdot.gov/business/DMV/DMV%20Documents/2017%20Crash%20Facts.pdf>.

When private, contractual obligations fail to pay for the economic and societal loss, they fall on the general public and the government to make up the difference. The National Highway Safety Administration has described the enormous toll of motor vehicle collisions:

In 2010, there were 32,999 people killed, 3.9 million were injured, and 24 million vehicles were damaged in motor vehicle crashes in the United States. The economic costs of these crashes totaled \$242 billion. Included in these losses are lost productivity, medical costs, legal and court costs, emergency service costs (EMS), insurance administration costs, congestion costs, property damage, and workplace losses. The \$242 billion cost of motor vehicle crashes represents the equivalent of nearly \$784 for each of the 308.7 million people living in the United States, and 1.6 percent of the \$14.96 trillion real U.S. Gross Domestic Product for 2010. . . . When quality of life valuations are considered, the total value of societal harm from motor vehicle crashes in 2010 was \$836 billion. Lost market and household productivity accounted for \$77 billion of the total \$242 billion economic costs, while property damage accounted for \$76 billion. Medical expenses totaled \$23 billion . . . Each fatality resulted in an average discounted lifetime cost of \$1.4 million. Public revenues paid for roughly 7 percent of all motor vehicle crash costs, costing tax payers \$18 billion in 2010, the equivalent of over \$156 in added taxes for every household in the United States.

L.J. Miller et al., National Highway Traffic Safety Administration, *The Economic and Societal Impact of Motor Vehicle Crashes*, 2010 (Revised May 2015), Abstract, p. i, *available at* <http://www-nrd.nhtsa.dot.gov/pubs/812013.pdf>.

This Court should do what the North Carolina Supreme Court has always done: expansively enforce the protections of the FRA, limit the exception for UM/UIM coverage to those policies that are “applicable solely to fleet vehicles,” and reduce the economic and societal impact of motor vehicle collisions to North Carolina and its citizens.

IV. The FRA’s UM/UIM Mandate Requires UM/UIM Coverage for Plaintiffs and Others Similarly Situated.

The FRA has neither been weakened nor narrowed by the legislature, and continues to protect North Carolina citizens. In this case, N.C. Gen. Stat. § 20-279.21(b) requires that the policy provide UM/UIM coverage, because (1) the motor vehicle policy was not “applicable solely to fleet vehicles,” and (2) “owned auto” exclusions are invalid under North Carolina law.

Moreover, the legislature crafted with very limited language the exception for “policies applicable solely to fleet vehicles” so that coverage would include those in Mr. Vincent’s situation. It intended that insurance carriers would continue to provide UM/UIM coverage for “hybrid” policies, which frequently insure farmers, sole proprietors, small closely held businesses, and the families of the individuals operating those farms or businesses. Under AMCO’s erroneous argument, the test for whether the carrier must sell and provide UM/UIM coverage would be: “does the business/family use five or more vehicles?” The legislature

did not intend for insurers to so easily avoid the statutory requirement and the strong societal need for UM/UIM coverage. It limited the exception at issue only to those policies that insured five or more fleet vehicles without providing any other type of coverage. If an owner's policy provides coverage at all beyond those fleet vehicles, it must provide UM/UIM coverage for the insureds in conformity with the FRA.

CONCLUSION

The Court should recognize North Carolina's long-held adherence to the remedial purpose of the Financial Responsibility Act and, for the foregoing reasons, affirm the district court's Order.

Respectfully submitted, this the 2nd day of July, 2019.

/s/ T. Shawn Howard
T. Shawn Howard
N.C. State Bar No. 41323
Maginnis Law, PLLC
4801 Glenwood Avenue, Suite 310
Raleigh, NC 27612
(919) 480-8526 Office
(919) 882-8763 Fax
tshoward@maginnislaw.com

/s/Jerome P. Trehy, Jr.
Jerome P. Trehy, Jr.
N.C. State Bar No. 11124
Jerome P. Trehy, Jr., P.A.
1821 Hillandale Rd, Ste 1B-180
Durham, NC 27705-2659
(844) 270-6700 Office

(919) 666-2476 Fax
jtrehy@trehysafetylaw.com

/s/Jon Ward

Jon Ward

N.C. State Bar No. 37122

Pinto Coates Kyre & Bowers, PLLC

3203 Brassfield Road

Greensboro, North Carolina 27410

(336) 282-8848 Office

(336) 282-8409 Fax

jonward@pckb-law.com

CERTIFICATE OF COMPLIANCE WITH RULE 28.1(e) or 32(a)Certificate of Compliance With Type-Volume Limitation,
Typeface Requirements, and Type Style Requirements

1. This brief complies with the type-volume limitation of Fed. R. App. P. 28.1(e)(2) or 32(a)(7)(B) because:
 this brief contains 2762 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because:
 this brief has been prepared in a proportionally spaced typeface using MS Word 2010 Times New Roman size 14 font.

I certify that the information on this form is true and correct to the best of my knowledge and belief formed after a reasonable inquiry.

Date: July 2, 2019.

/s/ T. Shawn Howard
T. Shawn Howard
N.C. State Bar No. 41323
Maginnis Law, PLLC
4801 Glenwood Avenue, Suite 310
Raleigh, NC 27612
(919) 480-8526 Office
(919) 882-8763 Fax
tshoward@maginnislaw.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing documents with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system on July 2, 2019.

I certify that all participants in the case that require service are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Date: July 2, 2019.

/s/ T. Shawn Howard
T. Shawn Howard
N.C. State Bar No. 41323
Maginnis Law, PLLC
4801 Glenwood Avenue, Suite 310
Raleigh, NC 27612
(919) 480-8526 Office
(919) 882-8763 Fax
tshoward@maginnislaw.com