

STATE OF NORTH CAROLINA

File No.

COLUMBUS

County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1

State of North Carolina ex rel Lewis Hatcher

Sheriff of Columbus County

30 Pridgen Acres Drive

Clarkton

COLUMBUS CO., C.S.C.

NC 28433

Name And Address Of Plaintiff 2

VERSUS

Name Of Defendant 1

Jody Greene, Individually and in His Disputed Official capacity as

Sheriff of Columbus County

1049 Page Mill Road

Cerro Gordo

NC 28430

Summons Submitted

☒ Yes ☐ No

Name Of Defendant 2

Columbus County Commissioners

Columbus County Commissioners

111 Washington Street

Whiteville

NC 28472

Summons Submitted

☒ Yes ☐ No☐ Jury Demanded In Pleading☒ Complex Litigation

GENERAL

CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Oscar M. Blanks III

The Law Office of Oscar M. Blanks III, PLLC

126 Memory Plaza

Whiteville

NC 28472

Telephone No.

910-207-6411

Cellular Telephone No.

NC Attorney Bar No.

42196

Attorney E-Mail Address

office@omblanksllaw.com

☐ Initial Appearance in Case☐ Change of Address

Name Of Firm

The Law Office of Oscar M. Blanks III, PLLC

FAX No.

910-207-6513

Counsel for

☒ All Plaintiffs ☐ All Defendants ☐ Only (list party(ies) represented)☐ Amount in controversy does not exceed \$15,000☐ Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
☐ Amended Answer/Reply (AMND-Response)
☐ Amended Complaint (AMND)
☐ Assess Costs (COST)
☐ Answer/Reply (ANSW-Response) (see Note)
☐ Change Venue (CHVN)
☒ Complaint (COMP)
☐ Confession Of Judgment (CNJF)
☐ Consent Order (CONS)
☐ Consolidate (CNSL)
☐ Contempt (CNTN)
☐ Continue (CNTN)
☐ Compel (CMPL)
☐ Counterclaim (CTCL) Assess Court Costs
☐ Crossclaim (list on back) (CRSS) Assess Court Costs
☐ Dismiss (DISM) Assess Court Costs
☐ Exempt/Waive Mediation (EXMD)
☐ Extend Statute Of Limitations, Rule 9 (ESOL)
☐ Extend Time For Complaint (EXCO)
☐ Failure To Join Necessary Party (FJNP)

(check all that apply)

- ☐ Failure To State A Claim (FASC)
☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
☐ Improper Venue/Division (IMVN)
☒ Including Attorney's Fees (ATTY)
☐ Intervene (INTR)
☐ Interplead (OTHR)
☐ Lack Of Jurisdiction (Person) (LJPN)
☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
☐ Modification Of Child Support In IV-D Actions (MSUP)
☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
☐ Petition To Sue As Indigent (OTHR)
☐ Rule 12 Motion In Lieu Of Answer (MDLA)
☐ Sanctions (SANC)
☐ Set Aside (OTHR)
☐ Show Cause (SHOW)
☐ Transfer (TRFR)
☐ Third Party Complaint (list Third Party Defendants on back) (TPCL)
☐ Vacate/Modify Judgment (VCMD)
☐ Withdraw As Counsel (WDCN)
☐ Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

STATE OF NORTH CAROLINA

FILED

File No.

COLUMBUS

County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1

State of North Carolina ex rel. Lewis Hatcher
 Sheriff of Columbus County
 30 Pridgen Acres Drive
 Clarkton

NC 28433

COLUMBUS CO., C.S.C.

GENERAL

CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Name And Address Of Plaintiff 2

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Oscar M. Blanks III

The Law Office of Oscar M. Blanks III, PLLC

126 Memory Plaza

Whiteville

NC 28472

Telephone No.

910-207-6411

Cellular Telephone No.

NC Attorney Bar No.

42196

Attorney E-Mail Address

office@omblanksllaw.com

VERSUS

Name Of Defendant 1

Jody Greene, Individually and in His Disputed Official capacity as
 Sheriff of Columbus County
 1049 Page Mill Road
 Cerro Gordo

NC 28430

Summons Submitted

☒ Yes ☐ No☐ Initial Appearance in Case☐ Change of Address

Name Of Defendant 2

Columbus County Commissioners
 Columbus County Commissioners
 111 Washington Street
 Whiteville

NC 28472

Summons Submitted

☒ Yes ☐ No

Name Of Firm

The Law Office of Oscar M. Blanks III, PLLC

FAX No.

910-207-6513

Counsel for

☒ All Plaintiffs ☐ All Defendants ☐ Only (list party(ies) represented)☐ Jury Demanded In Pleading☒ Complex Litigation☐ Amount in controversy does not exceed \$15,000☐ Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
☐ Amended Answer/Reply (AMND-Response)
☐ Amended Complaint (AMND)
☐ Assess Costs (COST)
☐ Answer/Reply (ANSW-Response) (see Note)
☐ Change Venue (CHVN)
☒ Complaint (COMP)
☐ Confession Of Judgment (CNJF)
☐ Consent Order (CONS)
☐ Consolidate (CNSL)
☐ Contempt (CNTP)
☐ Continue (CNTN)
☐ Compel (CMPL)
☐ Counterclaim (CTCL) Assess Court Costs
☐ Crossclaim (list on back) (CRSS) Assess Court Costs
☐ Dismiss (DISM) Assess Court Costs
☐ Exempt/Waive Mediation (EXMD)
☐ Extend Statute Of Limitations, Rule 9 (ESOL)
☐ Extend Time For Complaint (EXCO)
☐ Failure To Join Necessary Party (FJNP)

(check all that apply)

- ☐ Failure To State A Claim (FASC)
☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
☐ Improper Venue/Division (IMVN)
☒ Including Attorney's Fees (ATTY)
☐ Intervene (INTR)
☐ Interplead (OTHR)
☐ Lack Of Jurisdiction (Person) (LJPN)
☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
☐ Modification Of Child Support In IV-D Actions (MSUP)
☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
☐ Petition To Sue As Indigent (OTHR)
☐ Rule 12 Motion In Lieu Of Answer (MDLA)
☐ Sanctions (SANC)
☐ Set Aside (OTHR)
☐ Show Cause (SHOW)
☐ Transfer (TRFR)
☐ Third Party Complaint (list Third Party Defendants on back) (TPCL)
☐ Vacate/Modify Judgment (VCMD)
☐ Withdraw As Counsel (WDCN)
☐ Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. ____ CVS _____

THE STATE OF NORTH CAROLINA,)
ex rel. SHERIFF LEWIS HATCHER,)
Sheriff of Columbus County)
Plaintiff,)
vs.)

JODY GREENE, *Individually and in His*)
Disputed Official capacity as Sheriff of)
Columbus County)
Defendant,)

COLUMBUS COUNTY)
COMMISSIONERS)
Defendant,)

JEROME MCMILLIAN)
Individually and in His Official Capacity)
As Columbus Co. Commissioner,)
Defendant,)

JAMES E. PREVATTE)
Individually and in His Official Capacity)
As Columbus Co. Commissioner,)
Defendant)

GILES E. BYRD)
Individually and in His Official Capacity)
As Columbus Co. Commissioner,)
Defendant)

P. EDWIN RUSS)
Individually and in His Official Capacity)
As Columbus Co. Commissioner,)
Defendant,)

TRENT BURROUGHS)
Individually and in His Official Capacity)
As Columbus Co. Commissioner,)
Defendant,)

RICKY BULLARD)
Individually and in His Official Capacity)

COMPLAINT

(Injunctive Relief, Jury Trial Demanded)

FILED
2019 JAN -4 P 1:42
COLUMBUS CO., C.S.C.
BY JCB

<i>As Columbus Co. Commissioner,</i>)
Defendant,)
)
CHARLES MCDOWELL)
<i>Individually and in His Official Capacity</i>)
<i>As Columbus Co. Commissioner,</i>)
Defendant,)
)
MIKE STEVENS)
<i>Individually and in his Official Capacity</i>)
<i>As County Manager,</i>)
Defendant.)

NOW COMES the Plaintiff, **LEWIS HATCHER**, hereinafter "**SHERIFF HATCHER**", by and through his counsel, Oscar M. Blanks, III of the Law Office of Oscar M. Blanks III, PLLC, complaining of the Defendants, **JODY GREENE**, Individually and in his Disputed Official Capacity as Sheriff of Columbus County, hereinafter "**DEFENDANT GREENE**", **COLUMBUS COUNTY COMMISSIONERS**, in its entirety, hereinafter "**DEFENDANT COMMISSIONERS**", **JEROME MCMILLIAN**, Individually and in his Official Capacity as Columbus County Commissioner, hereinafter "**DEFENDANT COM 1**", **JAMES E. PREVATTE**, hereinafter "**DEFENDANT COM 2**", **GILES E. BYRD**, Individually and in his Official Capacity as Columbus County Commissioner, hereinafter "**DEFENDANT COM 3**", **P. EDWIN RUSS**, Individually and in his Official Capacity as Columbus County Commissioner, hereinafter "**DEFENDANT COM 4**", **TRENT BURROUGHS**, Individually and in his Official Capacity as Columbus County Commissioner, hereinafter "**DEFENDANT COM 5**", **RICKY BULLARD**, Individually and in his Official Capacity as Columbus County Commissioner, hereinafter "**DEFENDANT COM 6**", **CHARLES MCDOWELL**, Individually and in his Official Capacity as Columbus County Commissioner, hereinafter "**DEFENDANT COM 7**", and **MIKE STEVENS**, Individually and in his Official Capacity as Columbus County Manager hereinafter "**DEFENDANT MANAGER**", alleges and avers as follows:

NATURE OF THE CASE

This action is being brought for Injunctive Relief according to Rule 65 of the North Carolina Rules of Civil Procedure and violations to Election Laws of North Carolina via North Carolina General Statute § 1-515 on behalf of the State of North Carolina.

ALLEGATION OF JURISDICTION

1. That the **SHERIFF HATCHER** is a resident and citizen of Columbus County, North Carolina.
2. That upon information and belief, **DEFENDANT GREENE**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Robeson County, North Carolina and/or Cherry Grove, South Carolina, but for purposes of service has listed an address in the county which is the subject of Appeals Protests before the State Board of Elections.

3. That **DEFENDANT COMMISSIONERS** is the Board of Duly Elected County Commissioners established and formed in Columbus County, North Carolina and incorporated under the laws of the State of North Carolina
4. That upon information and belief, **DEFENDANT COM 1**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
5. That upon information and belief, **DEFENDANT COM 2**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
6. That upon information and belief, **DEFENDANT COM 3**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
7. That upon information and belief, **DEFENDANT COM 4**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
8. That upon information and belief, **DEFENDANT COM 5**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
9. That upon information and belief, **DEFENDANT COM 6**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
10. That upon information and belief, **DEFENDANT COM 7**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
11. That upon information and belief, **DEFENDANT MANAGER**, is, and was at all relevant times prior to this action, mentally competent, more than eighteen years of age, not in military service, *sui juris* is a resident and citizen of Columbus County, North Carolina.
12. That this Court has jurisdiction over the subject matter of this action under the common law of North Carolina and pursuant to the judicial power vested in the General Court of Justice by North Carolina General Statutes §§ 7A-3, 7A-240 and 7A-243.
13. That this Court has jurisdiction over the person, **DEFENDANT GREENE and DEFENDANT COM 1-7**, pursuant to North Carolina General Statute § 1-75.4, due to **DEFENDANT GREENE and DEFENDANT COM 1-7** being natural persons domiciled in this state and over **DEFENDANT COMMISSIONERS and DEFENDANT MANAGER** due to being formed, established, and incorporated under the laws of North Carolina.

14. That venue is proper pursuant to North Carolina General Statute § 1-82 since Columbus County is the county in which all plaintiffs reside and under North Carolina General Statute § 1-77 where the cause of action arose.
15. That North Carolina General Statute § 1-515, Action by Attorney General, states, “An action may be brought by the Attorney General in the name of the State, upon his own information or upon the complaint of a private party, against the party offending, in the following cases: (1) When a person usurps, intrudes into, or unlawfully holds or exercises any public office, civil or military, or any franchise within this State, or any office in a corporation created by the authority of this State;
16. That based on “Petition Seeking Enforcement of Sheriff Lewis Hatchers Rights to Continue in Office” submitted to the North Carolina Attorney General, permission has been granted to move forward in bringing an action on behalf of the State of North Carolina to establish that title to the Office of Sheriff of Columbus County belongs to **SHERIFF HATCHER** (letter from Attorney General Office attached as Exhibit A).

CLAIM FOR RELIEF

17. That the County Election for the Office of Sheriff was held November 6, 2018 between **SHERIFF HATCHER** and **DEFENDANT GREENE**.
18. That the results appeared to be in favor of **DEFENDANT GREENE** for the position of Sheriff, however the vote tally fell less than 1% separating the candidates and a hand recount was requested by **SHERIFF HATCHER**.
19. That the results of the hand recount at that time showed **DEFENDANT GREENE** to be ahead by 37 votes.
20. That after the hand recount, protests to the entire election were filed with the Columbus County Board of Elections and after a false start earlier in the week due to lack of notice, the protests were heard Friday, November 30, 2018.
21. That after the Columbus County Board of Elections dismissed most of the election protests for technicalities, the Board did hear the protest of one voter, Nancy Hill.
22. That Mrs. Hill’s protest was heard but the Columbus County Board of Elections rejected her Protest and Mrs. Hill appealed her protest to the State Board of Elections.
23. That the other protests were appealed as well to the State Board of Elections.
24. That the intentions of the protesters were made on the record as they informed the County Board of Elections that they were appealing the decisions made during that session.
25. That upon information and belief, the County Board of Elections did not issue an official “order

of dismissal” for those protests until December 10, 2018, however District Court Judge Ashley Gore administered **DEFENDANT GREENE**’s Oath of Office on Monday, December 3, 2018, without certification

26. That at that time, **DEFENDANT GREENE** did not have a Certificate of the Election from the Columbus County Board of Election and no certification has been issued to date.
27. That although Judge Ashley Gore administered the Oath of Office in open court, the filed copy of “Oath of Office” clearly shows Rep. Brendan Jones signed the Oath of Office.
28. That, upon information and belief, due to the Oath of Office being signed by Rep. Brendan Jones who did not administer said oath and cannot attest that **DEFENDANT GREENE** appeared before him to take the oath, the swearing in of **DEFENDANT GREENE** is void ab initio.
29. That upon information and belief, the appeal protests were submitted to the State Board of Elections concerning the Columbus County Election questioning the irregularities found with absentee ballots and the residency of **DEFENDANT GREENE** inquiring into his qualification for office on December 11, 2018 in a timely manner.
30. That at least four (4) protests are pending with the State Board of Elections, and at least three (3) of these are appeals from the Columbus County Board of Elections session on Friday, November 30, 2018.
31. That **SHERIFF HATCHER** is ready to continue the duties he was charged with in assuming the Office of Sheriff in the 2014 election.
32. That upon information and belief, despite being told by the State Board of Elections that **SHERIFF HATCHER** is the Constitutional and Statutory Sheriff, **DEFENDANT GREENE** refuses to “step aside” pending the appeals to the State Board of Elections in contravention to state law while placing the citizens of Columbus County at grave risk.
33. That **DEFENDANT GREENE**’s refusal to step aside places Columbus County in legal jeopardy in that all arrests and searches are unlawful and illegal subjecting Columbus County to potential civil unrest and increasing civil liability.
34. That the deputies/officers of the Columbus County Sheriff’s Department are operating without the cover of the North Carolina Constitution nor the United States Constitution creating chaos in the rule of law.
35. That the Plaintiff, **SHERIFF HATCHER**, states at all times herein mentioned, that he is the Constitutional and Statutory Sheriff of Columbus County and that **DEFENDANT GREENE** is not in that he has failed to meet all Constitutional and Statutory requirements for Office.
36. That **DEFENDANT COMMISSIONERS** at all times acted within the purpose and scope of such agency and employment when they failed to take action to establish and support the

Constitutional and Statutory Sheriff of Columbus County, **SHERIFF HATCHER.**

37. That **DEFENDANT COM 1-7** and **DEFENDANT MANAGER**, in their individual capacity, at all times acted outside the purpose and beyond the scope of such agency and employment when they failed to take action to establish and support the Constitutional and Statutory Sheriff of Columbus County, **SHERIFF HATCHER.**
38. That Art. VI, Sec. 10. (Continuation in Office) of the North Carolina Constitution states “In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

No Certification of Election Results

39. That no certificates of election were issued because the protests heard/or not heard due to technicalities by the County Board of Elections were appealed to the State Board of Elections December 11, 2018 and the State Board of Elections directed the County Board of Elections to not issue the Certification.
40. That § 163A-1030. Appeals, states “(a) Appeals from Single or Multicounty Panel. – The decision of a panel created under G.S. 163A-1027(1) or G.S. 163A-1027(2) may be appealed as of right to the State Board by any of the following: (1) The challenger, (2) A candidate adversely affected by the panel's decision. Appeal must be taken within two business days after the panel serves the written decision on the parties. The written appeal must be delivered or deposited in the mail to the State Board by the end of the second business day after the written decision was filed by the panel.”
41. That the appeals to the protests were filed December 11, 2018, one day after the official written decision of the County Board of Election on the protests were served on the parties.
42. That § 163A-1184, Certificate of nomination or election, or certificate of the results of a referendum, states
 “(a) *Issued by County Board of Elections. – In ballot items within the jurisdiction of the county board of elections, the county board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the county board six days after the completion of the canvass pursuant to G.S. 163A-1172, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:*
 (1) *The certificate shall be issued five days after the protest is dismissed or denied by the county board of elections, unless that decision has been appealed to the State Board.*
43. That in accordance with § 163A-1030 and § 163A-1184, the decisions of the Columbus County Board of Elections have been timely appealed to the State Board of Elections and therefore no certification has been issued/can be issued until those appeals are heard.

44. That North Carolina General Statute § 128-6, Persons admitted to office deemed to hold lawfully, states, "Any person who shall, by the proper authority, be admitted and sworn into any office, shall be held, deemed, and taken, by force of such admission, to be rightfully in such office until, by judicial sentence, upon a proper proceeding, he shall be ousted therefrom, or his admission thereto be, in due course of law, declared void."
45. That North Carolina General Statute go on to state in § 128-7, Officer to hold until successor qualified, "All officers shall continue in their respective offices until their successors are elected or appointed, and duly qualified."
46. That at the time of the Swearing-In Ceremony, **DEFENDANT GREENE** did not have certification of the Sheriff Election (certificate of election) from the Columbus County Board of Election and currently does not have the certificate of election nor a valid Oath of Office required to be "elected", "admitted", "chosen", and/or "qualified".
47. That since no certification of election has been issued to certify the results of the 2018 election for Sheriff of Columbus County, **DEFENDANT GREENE** does not meet the statutory requirement that states "...until their successors are elected" in North Carolina General Statute § 128-7 or in Art. VI, Sec. 10. of the North Carolina Constitution that states "...until their successors are chosen and qualified."
48. That in *In re Election Protest of Fletcher*, 625 S.E.2d 564 (N.C. App., 2006), Bill Fletcher, Republican candidate for Superintendent of Public Instruction ran against Democratic Candidate June Atkinson. After Atkinson was determined to have more votes, Fletcher filed election protests. The State Board of Elections ordered that Atkinson be certified as the winner and a certificate of election was issued to Atkinson.
49. That in *Fletcher*, the court states, "The declaration of election as contained in the certificate conclusively settles prima facie the right of the person so ascertained and declared to be elected to be inducted into, and to exercise the duties of the office." *Id* at 567.
50. That in *Fletcher*, the Court goes on to state, "The Board of Elections does not have the statutory authority to revoke Atkinson's certificate of election." The Court held Fletcher's appeal to be moot and dismissed on that basis. *Id*.
51. In the instant matter, *Fletcher* is distinguishable in that no certificate of election has been issued therefore no right has been conferred on **DEFENDANT GREENE** to occupy the office.
52. That in *People ex rel. Duncan v. Beach*, 242 S.E. 2d 796, 294 N.C. 713 (N.C. 1978), the Plaintiff Duncan was lawfully appointed to fill the office of District Court Judge in 1973 and ran for election to the same office in 1974 against Benjamin Beach. Defendant Beach obtained a majority of the votes and was sworn in to office with no objection from Plaintiff Duncan. Prior to the election, Defendant Beach was not eligible at the time of his election to hold office due to his age. This fact WAS NOT KNOWN by Plaintiff Duncan, nor called to attention of the State Board of Elections or the general public. Defendant Beach was thus certified by the

State Board of Elections as the nominee of his party, and after the election, he was duly sworn into office until such time he resigned in 1977 at the request of the North Carolina Administration of the Courts due to his ineligibility to hold office by virtue of his age. Thereafter the Governor appointed Defendant L. Oliver Noble, Jr. to the judgeship vacated by Defendant Beach. Plaintiff Duncan challenged the appointment of Defendant Noble to the judgeship stating that since Beach was not qualified candidate, he should be the one to serve the judgeship.

53. That the Court states in *Beach*, "A judge de jure exercises the office of judge as a matter of right. In order to become a judge de jure one must satisfy three [294 N.C. 720] requirements: (1) He must possess the legal qualifications for the judicial office in question; (2) he must be lawfully chosen to such office; and (3) he must have qualified himself to perform the duties of such office according to the mode prescribed by law." *Id.* at 800.
54. That the Court goes on to state in *Beach*, "A judge de facto is defined as "one who occupies a judicial office under some color of right, and for the time being performs its duties with public acquiescence, though having no right in fact. . . ." In order for one to be deemed a judge de facto, he must have satisfied the following four conditions: "(1) He assumes to be the judge of a court which is established by law; (2) he is in possession of the judicial office in question, and is discharging its duties; (3) his incumbency of the judicial office is illegal in some respect; and (4) he has at least a fair color of right or title to the judicial office, or has acted as its occupant for so long a time and under such circumstances of reputation or acquiescence by the public generally as are calculated to afford a presumption of his (Page 801) right to act and to induce people, without inquiry, to submit to or invoke official action on his part on the supposition that he is the judge he assumes to be." *Id.*
55. That the Court in *Beach* further states, "A usurper in office is distinguished from a de facto officer in that a usurper takes possession of office and undertakes to act officially without any authority, either actual or apparent. Since he is not an officer at all or for any purpose, his acts are absolutely void, and they can be impeached at any time in any proceeding." *Id.* at 801
56. That the Court in *Beach* held, Beach satisfied the requirements of a judge de facto (his election was certified and he served in office two (2) years) deeming his legal acts while in office valid. However upon discovering the legal infirmity that would potentially render his actions void, he resigned from office. *Id.*
57. That the instant case is distinguishable from *Beach* in that, in *Beach* the Plaintiff Duncan had vacated and surrendered the office to the Defendant Beach without contesting Defendant Beach's rights to the office for two (2) years. In this matter, **SHERIFF HATCHER** has always contested **DEFENDANT GREENE's** right to the office and has filed this matter in the very next session available of Superior Court. Furthermore, the election of Defendant Beach was certified and in the instant case the results were not certified.
58. That **DEFENDANT GREENE** was not appointed the position of Sheriff of Columbus County by any elected body or person with such authority and is awaiting the certification of that election.

59. That **DEFENDANT GREENE** is not De facto Sheriff, nor is he De Jure Sheriff, he is a Usurper of authority and is unlawfully holding the Office of Sheriff of Columbus County, thus placing the citizens in grave risk.

60. That based on the State Board of Elections request for the Columbus County Board of Elections to not issue certification of the election to either candidate, the swearing in ceremony of December 3, 2019 should be declared void based on **DEFENDANT GREENE**'s failure to be elected, chosen, or appointed and duly qualified and **SHERIFF HATCHER** shall be allowed to continue in his respective office.

61. That according to NCGS § 1-515 and § 128-6, this is the proper proceeding to challenge **DEFENDANT GREENE**'s usurpation of the Office of Sheriff.

Residency not Established

62. That Art. VI, Sec. 8 of the North Carolina Constitution, Disqualifications for office, states, "The following persons shall be disqualified for office...with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office."

63. That furthermore, Art. VI, Sec. 2(1) of the North Carolina Constitution, Qualifications of voter, states, "Residence period for State elections. Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State."

64. That additionally under North Carolina General Statute § 162-2, Disqualifications for the office, the statute states, "No person shall be eligible for the office of sheriff who is not of the age of 21 years, or has not resided in the county in which he is chosen for one year immediately preceding his election."

65. That North Carolina General Statute § 163A-1026(c), When and how a challenge to a candidate may be made, states, "If Defect Discovered After Deadline, Protest Available. – If a challenger discovers one or more grounds for challenging a candidate after the deadline in subsection (a) (challenge filed no later than 10 days after close of the filing period for notice of candidacy or petition) of this section, the grounds may be the basis for a protest under G.S. 163A-1177.

66. That the protests highlight concerns of Residency of **DEFENDANT GREENE** and were not discovered until recently and then provided to the Columbus County Board of Elections as soon as discovered in the form of protests to the Election under North Carolina General Statute § 163A-1177.

67. That upon information and belief at this time and pending review as part of the protest appeals to the State Board of Elections, **DEFENDANT GREENE**, in accordance with Art. VI, Sec. 8 and Sec. 2(1) of the North Carolina Constitution, has not shown he is even qualified to vote in the election of for the Sheriff of Columbus County for failing to establish residency and

therefore should be disqualified for the office.

68. That upon information and belief at this time and pending review as part of the protest appeals to the State Board of Elections, under North Carolina General Statute § 162-2, Disqualifications for the office, **DEFENDANT GREENE** has not shown he resided in Columbus County for one year preceding the election and therefore should be disqualified for the office.
69. That North Carolina General Statute § 163A-1029(a), Burden of proof, states, "The burden of proof shall be upon the candidate, who must show by a preponderance of the evidence of the record as a whole that he or she is qualified to be a candidate for the office.
70. That North Carolina General Statute § 163A-1029(b), Burden of proof, further states, "If the challenge is based upon a question of residency, the candidate must show all of the following: (1) An actual abandonment of the first domicile, coupled with an intent not to return to the first domicile. (2) The acquisition of a new domicile by actual residence at another place. (3) The intent of making the newer domicile a permanent domicile."
71. That according to North Carolina General Statute § 163A-1029(a) and (b) the burden of proof has not been satisfied.
72. That these Appeal Protests are substantial and affect the civil rights of **SHERIFF HATCHER** and the Citizens of Columbus County.

CAUSE OF ACTION

73. That beginning on or about December 3, 2018, and continuing to the present time, **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7,** and **DEFENDANT MANAGER**, each of them, wrongfully and willfully deny that **SHERIFF HATCHER** is the Constitutional and Statutory Sheriff of Columbus County in Violation of his civil rights, the North Carolina General Statutes, the 14th Amendment to the North Carolina and US Constitution and in contravention of the stated direction of the State Board of Elections.
74. On or about, December 3, 2018, and a number of times since, **SHERIFF HATCHER** has requested that **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7,** and **DEFENDANT MANAGER** reconsider and reverse their wrongful conduct described above.
75. That **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7,** and **DEFENDANT MANAGER** refuse to reconsider and reverse their wrongful conduct described above and continue to deny that **SHERIFF HATCHER** is the Constitutional and Statutory Sheriff of Columbus County in violation of the 14th Amendment to the North Carolina and United States Constitution and in contravention of direction of the State Board of Elections.
76. That **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM**

1-7, and **DEFENDANT MANAGER's** wrongful conduct, unless and until enjoined and restrained by order of this court, will cause great and irreparable injury to **SHERIFF HATCHER** in that **SHERIFF HATCHER's** reputation in the community will be severely damaged and irreparable injury to the Community in that potentially an official with no interest in the county is charged with keeping the citizens of the county safe and best interest in mind.

77. That the actions of **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7, and DEFENDANT MANAGER** may be void causing unfathomable and irreparable injury to Columbus County.

78. That **SHERIFF HATCHER** has no adequate remedy at law for the injuries currently being suffered in that it will be impossible for **SHERIFF HATCHER** to determine the precise amount of damage which he will suffer if **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7, and DEFENDANT MANAGER's** conduct is not restrained, leaving **SHERIFF HATCHER** no alternative other than to institute a multiplicity of suits to obtain adequate relief for his injuries

79. As a direct result and proximate cause of **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7, and DEFENDANT MANAGER** wrongful conduct, **SHERIFF HATCHER** has been damaged irreparably and will be further damaged in like manner so long as **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7, and DEFENDANT MANAGER's** conduct continues. The full amount of such damage is not now known to **SHERIFF HATCHER** and **SHERIFF HATCHER** will amend this complaint to state such amount when the same becomes known to, or on proof thereof, however the loss of power and prestige that comes with the Office of Sheriff, financial loss due to loss of salary, loss of benefits such as insurance, and retirement time accrual are just but a few damages to date.

CONCLUSION

80. That **DEFENDANT GREENE** says he took an Oath of Office in which he was to swear to uphold the Constitution and the laws of the State of North Carolina however he has quickly failed by not listening to the rule of law that applies in elections and his purported taking office.

81. That Rule 65(b) of the North Carolina Rules of Civil Procedure states, "A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (i) it clearly appears from specific facts shown by affidavit or by verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (ii) the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required.

82. That the specific facts of this verified complaint clearly show that immediate and irreparable injury, loss, or damage will result before this matter can be heard.

83. That in regards to security or bond for payment of costs and/or damages, Rule 65(c) of the North Carolina Rules of Civil Procedure states, "No such security shall be required of the State

of North Carolina or of any county or municipality thereof, or any officer or agency thereof acting in an official capacity, but damages may be awarded against such party in accord with this rule.”

84. That furthermore, the County Commissioners have advised **SHERIFF HATCHER**, through counsel, that this matter will be resolved, by proper proceeding, in the court system putting all parties on notice of possible litigation therefore further notice is not required.
85. That according to North Carolina General Statutes § 1-515 and § 128-6, this is the proper proceeding to challenge **DEFENDANT GREENE**’s usurpation of the Office of Sheriff and to establish **SHERIFF HATCHER’S** right to the title of Sheriff of Columbus County.

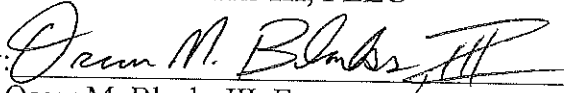
PRAYER FOR RELIEF

WHEREFORE, SHERIFF HATCHER prays judgment against **DEFENDANT GREENE, DEFENDANT COMMISSIONERS, DEFENDANT COM 1-7, and DEFENDANT MANAGER** and each of them, as follows:

1. For an order requiring defendants to show cause, if any they have, why they should not be enjoined as hereinafter set forth, during the pendency of this action;
2. For a **temporary restraining order, a preliminary injunction, and a permanent injunction**, all enjoining defendants, and each of them, and their agents, servants, and employees, and all persons acting under, in concert with, or for them to recognize **SHERIFF HATCHER** as the true and indeed Constitutional and Statutory Sheriff of Columbus County;
3. For damages in such further sums as may be sustained and as are ascertained before final judgment herein;
4. For attorney fees herein incurred;
5. For costs of suit herein incurred; and
6. For such other and further relief as the court deems proper.

This the 4th Day of January, 2019

**THE LAW OFFICE OF
OSCAR M. BLANKS III, PLLC**

By: 
Oscar M. Blanks III, Esq.

ATTORNEY FOR SHERIFF HATCHER
126 Memory Plaza
Whiteville, NC 28472
(910) 207 – 6411 (Office)
(910) 207 – 6517 (Fax)

office@omblankslaw.com
NC Bar No.: 42196

AFFIDAVIT FOR VERIFICATION

I, **LEWIS HATCHER**, am a plaintiff in the above-entitled action bringing this action of behalf of the State of North Carolina in accordance with NCGS § 1-515. I have read the foregoing ***COMPLAINT FOR INJUNCTIVE RELIEF*** and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this Affidavit for Verification was executed at Whiteville, North Carolina on January 4, 2019.

SIGNED: Lewis L. Hatcher

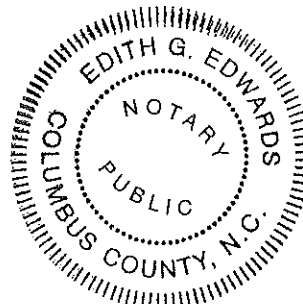
PRINT: Lewis L. Hatcher

DATED: JAN 4th 2019

SUBSCRIBED and SWORN to before
me this 4th day of

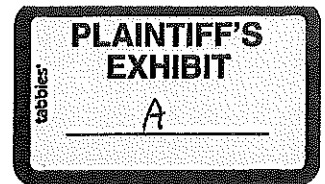
(month) Jan., (year) 2019.

Edith G. Edwards
NOTARY PUBLIC



6-14-2021

JOSH STEIN
ATTORNEY GENERAL



Alexander McC. Peters
Chief Deputy Attorney General

December 29, 2018

Mr. Oscar M. Blanks, III
The Law Offices of Oscar M. Blanks III, PLLC
126 Memory Plaza
Whiteville, North Carolina 28472

VIA U.S. MAIL AND EMAIL

Re: Permission to File *Quo Warranto* Action

Dear Mr. Blanks:

This letter is in response the request you sent to our office yesterday concerning the claim of your client, Lewis Hatcher, that he remains the Sheriff of Columbus County because the results of the 2018 election for that office have not yet been certified due to pending protests. You note that the apparent winner of that election, Jody Greene, was sworn into office despite the lack of a certificate of election. You requested that action be taken to enforce your client's continued right to remain in office pending final resolution of those protests and certification of the election results.

As you may be aware, N.C. GEN. STAT. § 1-516 provides that the Attorney General shall grant the application of a private relator to bring an action on behalf of the State to try a title to public office upon the tendering of security adequate to protect and indemnify the State against any costs and expenses that may be incurred as a consequence of such lawsuit. Based upon the information I have received, permission is granted for your client to pursue an action in the name of the State to determine the rightful holder of the office of Sheriff of Columbus County, subject to your client tendering security in the amount of \$200. Please forward to me a check in this amount payable to the North Carolina Department of Justice.

Please do not hesitate to let me know if you have any questions regarding this matter.

Very truly yours,

Alexander McC. Peters
Chief Deputy Attorney General

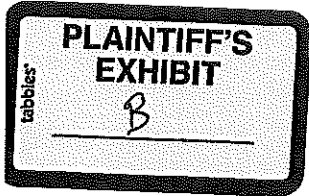
AMP/hs

18-R-305

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

2018-328



FILED

OATH OF SHERIFF

2018 DEC -3, A 7:15

I, STEADMAN JODY GREENE, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States; and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as Sheriff of Columbus County, so help me, God.

I, STEADMAN JODY GREENE, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitution powers and authorities which are, or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability, so help me God.

I, STEADMAN JODY GREENE, do solemnly swear (or affirm) that I will execute the office of Sheriff of Columbus County to the best of my knowledge and ability, agreeably to law; and that I will not take, accept or receive, directly or indirectly, any fee, gift, bribe, gratuity or reward whatsoever, for returning any man to serve as a juror or for making any false return on any process to me directed; so help me, God.

Steadman Jody Greene

STEADMAN JODY GREENE

Sworn to and subscribed before me
this the 3rd day of December, 2018

[Signature]

TRUE COPY
CLERK OF SUPERIOR COURT
Randa C. Davis
CLERK OF SUPERIOR COURT

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served upon all parties by personal service by the Sheriff Deputy and/or depositing a copy of the same in an official depository of the United States mail in a postage-paid envelope addressed as follows:

Jody Greene
1049 Page Mill Rd
Cerro Gordo

Trent Burroughs
209 N. Lewis St.
Tabor City, NC 28463

Columbus County Commissioners
111 Washington St.
Whiteville, NC 28472

Ricky Bullard
2156 Bullard Lane
Cerro Gordo, NC 28430

Jerome McMillian
111 Washington St.
Whiteville, NC 28472

Charles McDowell
7691 Steven Creek Highway
Nakina, NC 28455

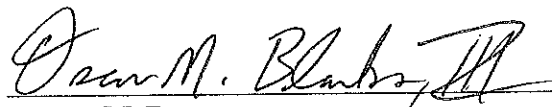
James E Prevatte
P.O. Box 905
Whiteville, NC 28472

Mike Stevens
111 Washington St.
Whiteville, NC 28472

Giles E. Byrd
1941 Giles Byrd Rd.
Hallsboro, NC 28442

P. Edwin Russ
1123 S. Madison St.
Whiteville, NC 28472

This the 4th day of January, 2019.



OSCAR M. BLANKS III
NC State Bar No. 42196
Attorneys for SHERIFF HATCHER
126 Memory Plaza
Whiteville, NC 28472
(910) 207-6411 (Main)
(910) 207-6517 (Fax)