

unable to meet patients' needs, including *inter alia*, by intentionally understaffing the emergency department so that EMS crews were required to care for emergency room patients; and (b) by discontinuing certain essential oncology services. More recently, the Attorney General has moved to amend and has filed a proposed first amended complaint, which carries forth and incorporates the key factual allegations of the original complaint and adds new facts as well. *See* ECF No. 39.5 (Proposed First Amended Complaint or "proposed FAC").

2. The Intervenor Plaintiff has suffered injury as result of the matters and things alleged in the Complaint and the proposed FAC and Intervenor Complaint and should be allowed to intervene as a party plaintiff in this action for reasons including the following:

- (a) The Intervenor Plaintiff has a substantial interest in the subject matter of this action;
- (b) The proposed Intervenor Complaint, the Complaint in this cause, and the issues currently existing before the Court, have questions of law and fact in common;
- (c) The proposed intervention is timely. A case management order was only recently entered by the Court on March 20, 2024, and discovery will commence shortly. The Defendants have only recently answered the Complaint. ECF No. 20. The Plaintiff has filed a motion to file an amended complaint on April 1, 2024. ECF No. 38. The case is in its early stages.

3. Intervention as of right under Rule 24(a)(2) is sought on the grounds Intervenor Plaintiff has a direct and immediate interest in this

litigation and its interests are not adequately represented by the existing parties.

4. In the alternative, permissive intervention is sought because the Intervenor Plaintiff's claims to recover damages from Defendants for their use of the County's EMS personnel to provide emergency care to patients waiting for treatment at the Mission emergency department have questions of law or fact in common with the Attorney General's action. Further, Plaintiff relies on affidavits and other evidence produced by Intervenor Plaintiff's employees in its investigation of facts alleged in the Complaint, and the County employees will be a primary source of evidence in the litigation. *See, e.g.,* Complaint Ex. 16 (Affidavit of Van Taylor Jones). Moreover, Buncombe County and its citizens have a significant interest in the outcome of the litigation, and it is unlikely that intervention would cause delay or create substantial logistical problems.

5. The undersigned pursuant to BCR 7.3 has conferred with counsel for the Plaintiff and the Defendants to determine whether they will oppose the motion. The undersigned is authorized to relate that Plaintiff does not oppose the motion but does reserve all rights as to being able to respond to the motion if necessary or to substantively respond to the proposed Intervenor Complaint if the Court allows it to become effective. Counsel for Defendants advises that they oppose the motion and intend to file a response.

WHEREFORE, Intervenor Plaintiff respectfully moves the Court that it be allowed to intervene in this action and that it be granted leave to file an Intervenor Complaint, in a form substantially similar to the proposed Intervenor Complaint a copy of which is attached hereto as **Exhibit A**.

Respectfully submitted this the 3rd day of April, 2024.

/s/ Robert N Hunter, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that in accordance with Business Court Rule 3.9, on the date of filing I served the foregoing document via the Court's electronic filing system, which automatically serves all counsel of record in this matter.

/s/ Mona L. Wallace

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EXHIBITS:

Exhibit A – proposed Intervenor Complaint.