

STATE OF NORTH CAROLINA
WAKE COUNTY

FILED

2019 MAR -6 A 10 06

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18 CVS 009586

NORTH CAROLINA SCHOOL BOARDS
ASSOCIATION, et al.,

(Me)

Plaintiffs,

v.

DALE R. FOLWELL, State Treasurer, et al.,

Defendants.

Order Granting Judgment

This matter came before the Undersigned Superior Court Judge with the filing of the Complaint on August 1, 2018. The Complaint alleges that on or about August 8, 2008, in an action in the Superior Court of Wake County, civil action number 98-CVS-4982, Plaintiffs obtained a judgment against Defendants or their predecessors in interest for the sum of \$747,833,074.00. The Complaint alleges that \$729,699,823.00 remains unpaid by Defendants. Defendants filed a motion to dismiss the Complaint on August 27, 2018 on the ground of collateral estoppel. Defendants do not contest the validity of the August 8, 2008 judgment, or the amount that remains unpaid on that judgment. Rather, Defendants contend that Plaintiffs cannot obtain execution to enforce the judgment and that because of constitutional limitations and separation of powers, the court does not have the power to order the Defendants to pay the judgment. *See Richmond Cty. Bd. of Educ. v. Cowell*, 803 S.E.2d 27, 32 (N.C. Ct. App. 2017).

Having considered all of the materials presented by each party and oral arguments made at the hearing, the Undersigned finds that judgment as a matter of law in favor of Plaintiffs should be granted for the following reasons:

1. Having reviewed the materials and arguments of the parties, the Undersigned concludes that Plaintiffs obtained a valid judgment against Defendants or their predecessors in interest for the sum of \$747,833,074.00 on August 8, 2008.

2. Having reviewed the materials and arguments of the parties, the Undersigned concludes that \$729,699,823.00 of the August 8, 2008 judgment remains unpaid by Defendants.

3. Having reviewed the materials and arguments of the parties, the Undersigned concludes that the Complaint appropriately states an action for recovery on a judgment, and that the Complaint makes specific reference to that judgment by date, amount, and docket number.

4. As Judge Manning noted in his original Memorandum of Decision and Judgment, “because of the constitutional limitations and the separation of power between the judicial, legislative and executive branches of government, the Court does not have the authority to direct the manner and means by which the judgment is to be satisfied or the amount of time in which it is done.”

It is therefore ORDERED that judgment is hereby entered against the Defendants in the amount of \$729,699,823.00.

SO ORDERED this 6 day of March 2019.



Superior Court Judge Presiding