

**N. List of Litigation and Advocacy Efforts of the  
UNC Center for Civil Rights, 2002-16**

**A Representative List of  
Litigation and Advocacy Efforts  
of the UNC Center for Civil Rights  
Between 2002 and 2016**

**2002-2007**

1. In February of 2003, the Center filed an *amicus curiae* brief in the Supreme Court of the United States in the University of Michigan Law School affirmative action case, *Grutter v. Bollinger*. The Supreme Court's eventual decision, which upheld Michigan Law School's use of race as a permissible factor in admissions practices, reflected many of the arguments presented by the Center.

2. The Center became involved with the Holly Springs chapter of NC Fair Share in the summer of 2003. The community relationship focused on provision of municipal services, specifically water and sewer, to several of African American neighborhoods in Holly Springs. The Center met with and advised the Holly Springs group with reports on the adequacy of the municipal services supplied to this neighborhood.

3. In 2005, the Center began a longstanding involvement in the long-running school finance/school adequacy case, *Leandro v. State of North Carolina*, by intervening on behalf of several students, parents, and the Charlotte branch of the NAACP, contending that the resegregation of Charlotte-Mecklenburg Schools (CMS) in the wake of the district's unitary status ruling violated the students' state constitutional right to a sound basic education under *Leandro*. The Honorable Howard Manning, the special North Carolina Superior Court judge assigned to the case, denied intervention on student assignment and equal protection claims, but allowed the Center to intervene on a claim that CMS's inadequate allocation of educational resources violated the students' state constitutional rights. Following this ruling the court signed a consent order between CMS and the State for the implementation of a school turnaround plan, and also stayed further litigation pending reports on the success of that plan

4. In the spring of 2006, the Supreme Court of the United States agreed to decide two challenges contesting the constitutionality of voluntary, race-conscious school integration plans in Louisville, Kentucky and Seattle, Washington. A UNC Law clinical professor and three students in the civil litigation clinic, working with the Center, filed an *amicus curiae* brief in the case and assisted with the filing of two other briefs from North Carolina attorneys. The Center's *amicus* brief was filed on behalf of former members of the Charlotte-Mecklenburg Schools Board of Education, current students and parents, and a coalition of religious organizations to defend the right of school boards to use race conscious school integration plans

5. In 2006, the Center began working with the Pitt County Coalition for the Education of Black Children, which includes local branches of the NAACP and the Southern Christian Leadership Conference. In Pitt, a parents' organization filed a complaint with the U.S. Office of Civil Rights (OCR) to force the Pitt County school board to dismantle its school integration plan. The Center responded by working with the Pitt County Coalition which

sought to build grassroots demand for integrated schools and to prepare for future litigation on this issue. Since the Pitt County school district was subject to a desegregation order from the 1970s, the Pitt County Coalition asked the Center to help it weigh whether to intervene in unitary status litigation likely to follow the OCR complaint.

## **2007- 2008**

6. In late August of 2007, the Center filed an *amicus curiae* brief in the North Carolina Court of Appeals on behalf of the co-presidents of the Coalition of Concerned Parents, to oppose a challenge to Wake County's then-current school student assignment policies.

7. The Center continued in 2007-08 its representation of a class of students confined to high-poverty, racially-isolated high schools in Charlotte-Mecklenburg Schools (CMS).

8. In High Point, the Center helped the local NAACP leverage Title I parental involvement rights to demand revisions to the district's Title I District Improvement Plan. In March 2007, after a campaign that included letters, personal visits with the Superintendent, and NAACP appearances at school board meetings, the district agreed to revise its plan to improve communications about its high school curriculum, to report on whether services for struggling students are actually helping improve outcomes, to report on teacher quality inequities among schools, and to sponsor "know your rights" forums for parents and students.

9. In three of its client communities in Moore County, NC, the Center helped leverage more than \$3 million in funding for improved public infrastructure without the need for litigation. In a particularly rewarding example, the Town of Southern Pines committed \$349,200 in waived connection fees and local funding in order to leverage an additional \$750,000 in federal Community Development Block Grant funds to extend water and sewer to the Waynor Road neighborhood, a 50-year old African-American community behind one of the nation's most famous golf courses.

10. With the legal guidance of Center attorneys, Waynor Road residents achieved full political inclusion into the Town of Southern Pines in 2009. The annexation became effective December 31, 2009.

11. With assistance from Center attorneys and in collaboration with Pinehurst town officials, Jackson Hamlet residents in Moore County secured \$920,125 in federal Community Development Block Grant (CDBG) funding in 2007 to extend sewer to one-third of its homes (Phase I). Phase I was completed in the spring of 2009 and 51 households now receive public sewer services. Additionally, Jackson Hamlet and the Town secured special CDBG monies to initiate Phase II of the sewer project. This phase was designed to provide sewer services to the bulk of remaining Jackson Hamlet residents. The Town was awarded that funding in June 2009 and construction began during August 2010.

12. In January 2008, in the community of Midway, a 9-acre piece of land became available in the neighborhood. At the request of community residents, the Center pulled together a coalition of non-profit affordable housing developers and investors, including Moore County Habitat for Humanity and Self-Help Community Development Credit Union,

to purchase the available land for the purpose of constructing 14 single-family affordable homes.

13. The Center formed new relationships in 2007-08 with excluded communities in other parts of the state who were seeking legal and technical assistance in their organizing efforts to secure access to municipal services and benefits. For example, in Halifax County, North Carolina, near the Virginia border, the Center began working with a century-old African American community lies just outside the borders of the primarily white city of Roanoke Rapids, which refuses to annex the community even though it already provides water and sewer to the neighborhood. In 2010, the Center helped the community advocate before the town to stop a waste transfer station from being place in the neighborhood.

14. Over the 2007-08 year, the Center facilitated grassroots activism and legal support to successfully persuade the N.C. Department of Transportation to look for alternate designs and delay the construction of a bypass that originally would have destroyed a century old African American community of approximately 150 residents in Carthage, NC

15. In 2007, the Center assisted the Fayetteville, NC, chapter of the NAACP to oppose a change in the method of electing the city council that was passed by voters in a referendum in February, 2007, and that would have made it more difficult for minority voters to elect their candidates of choice. The Center prepared a comment letter for the Department of Justice detailing why the change would negatively impact black voters. The Department of Justice issued an objection to the change under Section 5 of the Voting Rights Act, and city council elections proceeded under the single-member district system that has provided minority voters an equal opportunity to participate in the political process.

16. In the spring of 2007, one UNC clinical faculty member worked with the Center for Civil Rights to prepare an *amicus curiae* brief on behalf of the North Carolina State Conference of NAACP Branches and the Triangle Lost Generation Task Force to persuade the North Court of Appeals to uphold due process protections for students facing long term suspension from school in the case of *Copper v. Denlinger*.

## 2008- 2009

17. In Halifax County, a long-time African American community was annexed without notice by Roanoke Rapids, a predominantly white city, as part of its new "entertainment district." The community was annexed without any notice to the residents. This residential neighborhood was rezoned commercial and the city refused to extend sewer or other basic services. The Center began providing legal assistance to this community and issued a press release exposing the inequitable treatment of this community. In response, the Chief of Police met with community leaders to discuss their concerns, the Roanoke Rapids Mayor has agreed to meet, and the Public Works department began roadside landscaping and right of way maintenance.

18. The Center worked closely with the Needmore Community Improvement Association to in rural Moore County to ensure that the construction of a new N.C. bypass would not destroy the historic African American community of Needmore. In December 2008, the North Carolina Department of Transportation removed two proposed routes from

consideration. The community, along with the Center, had organized community meetings, community surveys, letter writing campaigns, and attended meetings with the DOT. Following the community engagement, the routes through the community were removed from consideration, and then the bypass was taken off the DOT priority list, The decision was therefore a win for the preservation of minority home owners and their community.

19. The Center worked with an African American family in Moore County that had been refused a rental unit by a private landlord because of their race. The matter was resolved favorably to the family.

20. The Center worked with the historically African American community of Midway, acting through the Midway Community Association to secure approval from the Aberdeen Town Council for a legislative annexation which came about in June 2009.

### **2009-2010**

21. The Center intervened in the Pitt County school case in 2008, representing four families and the Pitt County Coalition for Educating Black Children, maintaining that a previously issued federal desegregation order was still needed because of remaining vestiges of former segregation. The parties reached a settlement agreement in early 2009. In approving the settlement, the court held that the desegregation orders are still applicable, and that Pitt County Schools still bear the vestiges of racial discrimination from a segregated, dual system. The settlement also required the school board to fully engage the community in ongoing discussion of student reassignment

22. On May 22, 2009 attorneys from the Center for Civil Rights and the Winston-Salem office of Kilpatrick Stockton, working as pro bono co-counsel with the Center, filed a lawsuit on behalf of Habitat for Humanity of the North Carolina Sandhills alleging violations of federal fair housing laws and interference with contract related to Habitat's purchase of land and proposed affordable housing development in Pine Bluff. The case was settled successfully on May 25, 2010.

23. In 2009 the Center, the UNC School of Law Juvenile Justice Clinic, the Office of the Juvenile Defender, and the NC Advocates for Children's Services filed an *amicus curiae* brief to North Carolina Supreme Court in *In re J.D.B.* The case, which involved the *Miranda* rights of juveniles, was ultimately resolved favorably by U.S. Supreme Court, and created new precedent protecting the constitutional rights of minors nationwide.

24. In the fall of 2010, the Pitt County Board of Education approved a revised reassignment plan for elementary and middle school students that would have substantially resegregated several of the district's schools. The Center filed a motion seeking an injunction to stop the implementation of the reassignment plan, which included the opening of a new elementary school that would have been 88% non-white, with only 46% of its students performing at state-measured reading proficiency. These outcomes were completely avoidable, as the board considered and rejected other reassignment proposals that would have resulted in better racial balance and academic performance of the district schools.

25 The Center for Civil Rights and the law firm of K&L Gates, LLP represented The Royal Oaks Concerned Citizens Association and community residents in rural Brunswick County in a civil rights action suit filed June 3, 2011. The lawsuit challenged the county's decision to rezone land in the Royal Oak community from rural residential to industrial general in preparation for the siting of an additional waste dump in the community. The Royal Oaks Community is a historic, African American, low-income rural community located in the unincorporated town of Supply in Brunswick County. The community already hosts most of the other environmental hazards in the county, including a waste transfer station, a sewage treatment facility, an animal shelter, a hog farm, a fish farm and numerous sand mines, all of which threaten significant adverse impact on the water quality and the depth of the water table, which is particularly worrisome to a community that relies entirely on well water. The Royal Oaks community lacks water and sewer service, even though county water and sewer lines stop just short of the community's borders. The Center partnered with the Cedar Grove Institute and the North Carolina Environmental Justice Network to document the extent of the existing environmental and public health hazards. The County ultimately settled the lawsuit, agreeing not to place a waste dump in the community, but instead to build an elementary school for neighborhood children.

### 2012-2013

26. In an important ruling in the Pitt County school case in May of 2012, the Fourth Circuit Court of Appeals vacated a lower court ruling which had approved the Pitt County school board's 2011-2012 plan for student assignment. The Center filed written briefs in the appeal and argued orally before the Fourth Circuit that the plan impermissibly increased racial isolation in the school district. The Circuit majority largely agreed with the Center's legal position and remanded the case for further factual proceedings.

27. In July of 2012, the Center, along with UNC School of Law dean and the UNC-CH Office of University Counsel, filed an *amicus curiae* brief on behalf of the University of North Carolina at Chapel Hill, supporting the position of the University of Texas in *Fisher v. University of Texas at Austin*, which was defending its student admissions plan. On June 24, 2013, the Supreme Court of the United States upheld the University's plan, relying largely on constitutional positions similar to those advanced by the Center.

28. The Center represented the Rogers Road neighborhood, a 150-year-old, majority African American community divided between Chapel Hill and Carrboro, which has "hosted" Orange County's landfills for over 40 years. The Center partnered with the Rogers-Eubanks Neighborhood Association in efforts to address the continuing impacts of the landfill. It also represented the association in pursuing a Title VI discrimination claim the association had filed *pro se* with the U.S. Department of Transportation, the U.S. Department of Housing and Urban Development, and the U.S. Environmental Protection Agency. As a result of the Center's support for the community's engagement with local government, a waste transfer station proposed for the neighborhood was rejected, the landfill was closed, a community center was built, and the neighborhood will now be connected to public water and sewer

29. The Center represented residents of the Brandy Creek and Wallace Fork Road Community in Halifax County against the harm caused by the failed plan to develop Carolina Crossroads entertainment district and the Roanoke Rapids Theater in their

neighborhood. The residents of the community filed a lawsuit against Halifax County, the City of Roanoke Rapids, and Weldon City Schools seeking a refund of illegally inflated property taxes collected in 2007, 2008 and 2009. After the 2007 property revaluation, the land values and property taxes of these predominantly African American residents went up on average of 800% and as high as 1400% an intense hardship. The Center was successful in rolling back the tax increases and securing tax refunds for the residents.

## **2014-present**

30. The Center became engaged early on in the State's program, led by the General Assembly, to compensate victims of North Carolina's 40+ year forced sterilization "eugenics" movement, which was in place from 1929 to 1973. The Center partnered with the state Office of Justice for Sterilization Victims and provided education and outreach about the compensation program in communities across the State, many of them nonwhite and lower-income. The Center also directly assisted several dozen victims in filing claims. Many of those victims, who have since received compensation, would not have been able to do so without the Center's assistance. The Center also helped to coordinate a cadre of pro bono lawyers across the State to provide additional assistance to victims of the eugenics policy. The Center represented in court the heirs of a few of the thousands of victims of North Carolina's eugenics policy in three appeals challenging the Eugenics Compensation Program's exclusion of victims who died before June 30, 2013.

31. The Center provided legal advice to The University of North Carolina at Chapel Hill and its legal counsel in the preparation for an *amicus curiae* brief in a second round of Supreme Court review in the *Fisher v. University of Texas at Austin* case, which was argued in the fall of 2015. The Supreme Court once again upheld the position advocated by the University (and recommended by the Center), in the spring of 2016.

32. In August 2015, on behalf of two community organization and three parents, the Center filed suit against the Halifax County Board of Commissioners, to vindicate the North Carolina constitutional right of all Halifax County's schoolchildren to a sound basic education by urging the consolidation of the three, small school districts within Halifax County, largely segregated by race and some of North Carolina poorest performing districts. The Lawyers Committee for Civil Rights and the law firm Latham & Watkins are working with the Center as co-counsel.

33. The Center has provided legal advice and advocacy support for a community organization challenging the Duplin County school district's proposed facilities plan, which residents believe will further segregate students in this rural community. The Center filed a Title VI complaint with the US Department of Education Office of Civil Rights in 2014, and DOE has opened an investigation and is pursuing the matter.

34. The Center represented the North Carolina NAACP as *amicus curiae* in a state constitutional challenge to North Carolina's private school voucher program. Despite success at the trial court, which declared the voucher program unconstitutional, the ruling was reversed by the NC Supreme Court, on a 4-to-3 vote in 2015, and the program was allowed to go forward.

35. The Center served as co-counsel with a private attorney in Smithfield to make an open records request on the Johnson County School Board; the case was settled favorably.

36. Over the years, the Center has worked with various parents and community groups in Wayne (2009), Wake (2010), Duplin (2014), and Harnett (2015) counties to file Title VI administrative complaints with the US Office of Civil Rights, calling its attention to local decisions that appeared to further the resegregation of students in K-12 public schools.

37. In 2016 the Center and the UNC School of Law Juvenile Justice Clinic filed an *amicus curiae* brief to the Fourth Circuit Court of Appeals in *Hayden v. Butler*, in support of a challenge to the parole process for juvenile offenders. The appellate court dismissed the appeal, a favorable ruling that reaffirmed the District Court's order finding the parole process unconstitutional.

38. In December 2016 the Center filed a Petition for Contested Case on behalf of the North Carolina Environmental Justice Network, the N.C. Waterkeeper Alliance and Cape Fear River Watch in the N.C. Office of Administrative Hearings relating to the failure of the N.C. Department of Environmental Quality to enforce regulations prohibiting the spraying of animal waste within four hours following a National Weather Forecast precipitation event.