

No. 124A24  
No. 221A24

TWENTY SIXTH JUDICIAL DISTRICT

NORTH CAROLINA SUPREME COURT

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ATLANTIC COAST CONFERENCE,

Plaintiff-Appellee,

v.

BOARD OF TRUSTEES OF FLORIDA  
STATE UNIVERSITY,

Defendant-Appellant.

From Mecklenburg County

No. 23-CV-040918-590

NORTH CAROLINA SUPREME COURT

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ATLANTIC COAST CONFERENCE,

Plaintiff-Appellee,

v.

CLEMSON UNIVERSITY,

Defendant-Appellant.

From Mecklenburg County

No. 24-CV-013688-590

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**CONSENT MOTION TO AMEND BRIEFING SCHEDULES AND JOINT  
REQUEST FOR ORAL ARGUMENT TO OCCUR AT THE SAME  
SESSION OF COURT**

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TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

Plaintiff-Appellee Atlantic Coast Conference (“ACC” or “Conference”), with consent of all parties, respectfully moves this Court under Rules 37 and 27(c)(2) of the North Carolina Rules of Appellate Procedure to adjust and streamline the briefing and oral argument schedules in *Atlantic Coast Conference v. Board of Trustees of Florida State*, No. 124A24 (“FSU Board Appeal”) and *Atlantic Coast Conference v. Clemson University*, No. 221A24 (“Clemson Appeal”). In support of this Motion, the ACC shows the Court as follows:

1. These appeals arise out of disputes between the ACC on the one hand, and the FSU Board and Clemson on the other, over the enforceability, meaning, and effect of various agreements.

The FSU Board Lawsuit and Appeal

2. On 21 December 2023, the ACC filed a Complaint against the FSU Board in the Superior Court of Mecklenburg County seeking among other claims declarations concerning the various agreements. On 22 December 2023, the FSU Board filed a lawsuit against the ACC in Leon County, Florida, seeking among other claims declarations concerning the various agreements. The ACC subsequently filed an Amended Complaint on 17 January 2024. The case was subsequently designated as a Mandatory Complex Business Case in North Carolina Business Court on 22 December 2023.

3. On 8 February 2024, the FSU Board filed a Motion to Dismiss the ACC's action in North Carolina on several grounds, including a lack of personal jurisdiction grounded in sovereign immunity under Rule 12(b)(2).

4. On 4 April 2024, the Business Court denied the Rule 12(b)(2) motion citing *Farmer v. Troy University*, 382 N.C. 366 (2022), *cert. denied* 143 S.Ct. 2561 (2023).

5. The FSU Board filed Notice of Appeal of the Business Court's order denying its Motion to Dismiss under Rule 12(b)(2) to this Court on 9 April 2024.<sup>1</sup>

6. The record on appeal was filed with this Court on 8 August 2024. Thus, the FSU Board's Appellant's Brief is to be filed with this Court on or before 9 September 2024.

#### The Clemson Lawsuit and Appeal

7. On 19 March 2024, Clemson sued the ACC in Pickens County, South Carolina, seeking declarations concerning the various agreements.

8. On 20 March 2024, the ACC sued Clemson in the Superior Court of Mecklenburg County, seeking declarations concerning the various agreements. The case was subsequently designated as a Mandatory Complex Business Case in the North Carolina Business Court on 22 December 2023.

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<sup>1</sup> On 17 May 2024, the FSU Board also filed a Petition for Writ of Certiorari with this Court seeking review of other aspects of the Business Court's Order pursuant to N.C. Gen. Stat § 1-75.12(c), which has not yet been ruled upon.

9. On 6 May 2024, Clemson filed a Motion to Dismiss on several grounds, including a lack of personal jurisdiction under Rule 12(b)(2) and for failure to state a claim under Rule 12(b)(6) on sovereign immunity grounds.

10. On 10 July 2024, the Business Court denied the Rule 12(b)(2) and (b)(6) motions citing *Farmer v. Troy University*, 382 N.C. 366 (2022), *cert. denied* 143 S.Ct. 2561 (2023).

11. Clemson filed Notice of Appeal with this Court on 11 July 2024 of the Business Court's 10 July 2024 Order.

12. The record on appeal was filed with this Court on 21 August 2024. Thus, Clemson's Brief is to be filed in this Court on or before 20 September 2024.

13. The FSU Board Appeal and the Clemson Appeal both involve application of this Court's opinion in *Farmer v. Troy University*. The FSU Board and Clemson address *Farmer* in both similar but also distinct ways, with each arguing different facts and legal theories below in support of their Rule 12 motions.

14. In light of the unique posture of these appeals, and the labor for briefing that will need to be done in an otherwise relatively short time period, the parties respectfully request that the briefing schedule in both appeals be modified, so that the Briefs of Appellant FSU Board and Appellant Clemson shall be filed on or before 15 October 2024, the Brief of Appellee ACC in each appeal shall be filed on or before 15 December 2024, and a Reply Brief of the FSU Board and a Reply Brief of Clemson, if any, shall be filed on or before 15 January 2025.

15. Furthermore, and in the interest of judicial economy, the parties further request that oral argument in each appeal be separately calendared but set for the same day.

29. The parties have conferred under Appellate Rule 37(c) and the undersigned counsel certifies that all counsel of record were notified of the ACC's intent to file this Consent Motion. All parties have consented to the filing of this Motion and the entry of this relief.

Respectfully submitted this 3<sup>rd</sup> day of September 2024.

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N.C. R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their name on this document as if they had personally signed it.

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**CERTIFICATE OF SERVICE**

I hereby certify that, in accordance with Appellate Rule 26(c), I have served a copy of the foregoing document by email to the following:

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