

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR COURT DIVISION

GUILFORD COUNTY

20 CVS

2306

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MARYHELEN MAYFIELD and
JOHN DENNIS,

GUILFORD CO., C.S.C.

Plaintiffs,

BY _____



VERIFIED COMPLAINT

v.

GREENSBORO BALLET, INC.,
Formerly Civic Ballet Theatre,
Inc. and formerly The Greensboro
Civic Ballet, Inc.,
Jennifer Jones, Deanna Watson,
Rayna Stoycheva, and
Carole Lindsey-Potter,

Defendants.

PLAINTIFFS MARYHELEN MAYFIELD and JOHN DENNIS, complaining of defendants GREENSBORO BALLET, INC., JENNIFER JONES, DEANNA WATSON, RAYNA STOYCHEVA, AND CAROLE LINDSEY-POTTER alleging and saying:

1. Plaintiffs are citizens and residents of Rockingham County, North Carolina.
2. A. Upon information and belief, Defendant Greensboro Ballet, Inc. (hereinafter, "Greensboro Ballet") is a non-profit corporation organized and existing pursuant to the provisions of Chapter 55A of the North Carolina General Statutes. Upon information and belief, Greensboro Ballet has been mismanaged for many years by its Board of Directors, which has failed in many material respects to comply with the obligations of Directors, including, without limitation, failure to raise funds for the defendant, failure to attract and seat qualified members of the Board of Directors, failure to manage the corporation wisely, failure to maintain a Registered Agent, and failure to maintain a Registered Office, among many other failures. A true and accurate copy of the information available from the North Carolina Secretary of State concerning Greensboro Ballet, Inc. is attached hereto as Exhibit 1. This listing does not show a proper Registered Office or Registered Agent. Instead, this record reflects that the Registered Agent is Wade Hall, who died in 2015, and that the Registered Office and mailing addresses are at a lot that was demolished decades ago to clear property for the construction of the Governmental Center in downtown Greensboro.

B. Upon information and belief, defendant Jennifer Jones (hereinafter "Jones") is a citizen and resident of Guilford County, North Carolina.

C. Upon information and belief, defendant Deanna Watson (hereinafter "Watson") is a citizen and resident of Guilford County, North Carolina.

D. Upon information and belief, defendant Rayna Stoycheva (hereinafter "Stoycheva") is a citizen and resident of Guilford County, North Carolina.

E. Upon information and belief, defendant Carole Lindsey-Potter (hereinafter "Lindsey-Potter") is a citizen and resident of Guilford County, North Carolina.

3. Plaintiffs have been employees of Greensboro Ballet for decades. Plaintiff Maryhelen Mayfield (hereinafter "Mayfield") served as the Artistic and Executive Director of Greensboro Ballet for decades until November, 2019. Plaintiff John Dennis (hereinafter "Dennis") served as the Director of the Ballet School. In addition to these roles, both of plaintiffs taught ballet and dance classes at Greensboro Ballet.

4. Because of the mismanagement of defendant by its Board of Directors, and its failure to undertake effective fundraising campaigns, Greensboro Ballet has been unable to pay plaintiffs all of the sums due to them as employees for years.

5. Greensboro Ballet maintains a register of the amounts due to Mayfield for unpaid wages, a true and accurate copy of which is attached hereto as Exhibit 2, effective September 15, 2019, totaling \$79,667.73.

6. Greensboro Ballet also owes to Dennis the sum of \$7,545.66 for a variety of failures to pay wages when due, and for advancements. A true and accurate copy of the list of unpaid amounts due to Dennis is attached hereto as Exhibit 3.

7. On or about October 14, 2019, Jennifer Jones, Deanna Watson, Rayna Stoycheva and Carole Lindsey-Potter, presuming to act on behalf of "Greensboro Ballet Board", wrote a letter to Mayfield advising that effective immediately, Mayfield was being placed upon paid administrative leave through January 31, 2020, and promised that Mayfield would continue to be paid her "salary and to receive full benefits" through January 31, 2010. A true and accurate copy of the October 14, 2019 letter is attached hereto as Exhibit 4.

8. On or about November 8, 2019, Jones, acting as "Greensboro Ballet Board Chair" wrote a letter addressed to Mayfield in which defendant notified Mayfield that her employment was terminated immediately. A true and accurate copy of the November 8, 2019 letter is attached hereto as Exhibit 4. Notably, in Exhibit 4,

Greensboro Ballet admits its indebtedness to Mayfield in the amount of \$79,667.73 for unpaid payroll. In addition to admitting this indebtedness, Greensboro Ballet further admits in writing its inability to pay its indebtedness to Mayfield.

9. On or about November 8, 2019, defendant likewise discharged Dennis effectively immediately. Greensboro Ballet has not paid to Dennis the sums it owes to him.

10. Greensboro Ballet has regular pay periods twice every month. The first regular pay period following November 8, 2019 fell on November 19, 2019.

11. Upon information and belief, Greensboro Ballet has replaced plaintiffs with employees who were existing employees of Greensboro Ballet. Upon information and belief, Greensboro Ballet has awarded to the replacement employees significant raises in pay above the levels that the replacement employees previously received from Greensboro Ballet.

12. Greensboro Ballet failed and refused to pay to Mayfield and to Dennis the sums due to them as employees for wages on or after November 19, 2019 through the date of this filing. Greensboro Ballet has further failed and refused to pay the promised wages and benefits to Mayfield through January 31, 2020.

13. As a result of the foregoing, plaintiffs have been damaged in an amount exceeding \$25,000, according to proof at trial.

FIRST CLAIM FOR RELIEF
UNPAID WAGES

14. The foregoing allegations are incorporated herein by reference as if fully set forth.

15. Plaintiffs are, or were, “employees” of Greensboro Ballet within the meaning of N.C. Gen. Stat. § 95-25.2(4).

16. Greensboro Ballet is, or was, the “employer” of Mayfield and Dennis within the meaning of N.C. Gen. Stat. § 95-25.2(5).

17. Upon information and belief, Jones, Watson, Stoycheva, and Lindsey-Potter are, or were, the “employer” of Mayfield within the meaning of N.C. Gen. Stat. § 95-25.2(5).

18. Defendants were required to pay to plaintiffs all wages accruing to plaintiffs on the regular payday as provided in N.C. Gen. Stat. § 95-25.6.

19. Defendants failed and refused to comply with their obligations to plaintiffs specified in N.C. Gen. Stat. § 95-25.6.

20. The employment of plaintiffs with defendants was discontinued on or about November 8, 2019.

21. Defendants were obligated to pay to plaintiffs all sums due to them as described in the North Carolina Wage and Hour Act on the first regular payday after the amount becomes calculable when a separation occurs, as provided by N.C. Gen. Stat. § 95-25.7. Plaintiffs have not been notified of any grounds for forfeiture of their wages pursuant to § 95-25.7. The first regular payday after separation was November 19, 2019.

22. Plaintiffs are unaware of any reason that their wages might be in dispute.

23. Defendants have violated N.C. Gen. Stat §§ 95-25.6 through 95-25.12, or some of them.

24. Defendants are obligated to pay to plaintiffs interest as provided in N.C. Gen. Stat. § 95-25.22(a).

25. Upon information and belief, the acts and omissions of defendants constituting the violations of the Wage and Hour Act were not in good faith. Upon information and belief, defendants did not, and do not, have grounds for reasonably believing that the acts or omissions were not a violation of the Wage and Hour Act, within the meaning of N.C. Gen. Stat. § 95-25-22(a1). Defendants are liable to plaintiffs for liquidated damages in an amount equal to the amount found to be due as provided by N.C. Gen. Stat. § 95-25.22(a) and § 95-25.22(a1).

26. This action is brought pursuant to, and in accordance with N.C. Gen. Stat. § 95-25.22(b).

27. Plaintiffs have been damaged in an amount exceeding \$25,000 according to proof at trial.

SECOND CLAIM FOR RELIEF
BREACH OF CONTRACT

28. The foregoing allegations are incorporated herein by reference as if fully set forth.

29. Plaintiffs and defendants had a contract of employment whereby plaintiffs would provide services as employees for Greensboro Ballet, and defendants would pay wages to plaintiffs.

30. Plaintiffs have fully performed their contracts with defendants.

31. Defendants have breached their contracts of employment with plaintiffs by failing to pay to plaintiffs sums due to them pursuant to the terms of the respective contracts.

32. Plaintiffs have been damaged in an amount exceeding \$25,000 according to proof at trial.

THIRD CLAIM FOR RELIEF
ACCOUNT

33. The foregoing allegations are incorporated herein by reference as if fully set forth.

34. Plaintiffs and defendants maintained an account for payment of wages. Defendants have made partial payments against the account, but have not paid the account in full.

35. The balances on the accounts payable from defendants to plaintiffs are now due and owing.

36. Defendants have failed and refused to pay the accounts when due.

37. Plaintiffs have been damaged in an amount exceeding \$25,000 according to proof at trial.

FOURTH CLAIM FOR RELIEF
DISSOLUTION OF GREENSBORO BALLET, INC.

38. The foregoing allegations are incorporated herein as if fully set forth.

39. Mayfield is a creditor of Greensboro Ballet.

40. Greensboro Ballet has admitted in writing that Mayfield's claim is due and that the corporation is insolvent within the meaning of N.C. Gen. Stat. § 55A-14.30(3)a.

41. Venue for the dissolution proceedings for Greensboro Ballet is properly laid in Guilford County, North Carolina as provided by N.C. Gen. Stat. § 55A-14-31(a).

42. Plaintiffs seek judicial dissolution and either reorganization or liquidation of Greensboro Ballet as provided by law, and payment to plaintiffs of sums due them from the assets of the corporation.

FIFTH CLAIM FOR RELIEF
ATTACHMENT AND GARNISHMENT

43. The foregoing allegations are incorporated herein by reference as if fully set forth.

44. A substantial single source of revenues of Greensboro Ballet is its annual production of “The Nutcracker”, the classic Christmas story. This production is presented in December and closes with the Christmas holiday.

45. The Greensboro Ballet’s 2019 production of “The Nutcracker” has just been completed. This production of the Nutcracker was presented at the Carolina Theater in downtown Greensboro.

46. Among the typical arrangements for the production of “The Nutcracker” at the Carolina Theater, Greensboro Ballet contracts with the Theater to provide, sell and manage tickets, including collecting the proceeds of the ticket sales. Traditionally, Carolina Theater collects the receipts prior to the performances, and renders an accounting to Greensboro Ballet of the receipts and its own expenses shortly after the production has closed, deducts sums owed to the Carolina Theater, and remits the balance in cash to Greensboro Ballet. Plaintiffs are informed and believe that a similar arrangement was made between Greensboro Ballet and Carolina Theater for the 2019 production of “The Nutcracker.”

47. Occasionally in the past, Greensboro Ballet has sought and received advances from Carolina Theater prior to the final accounting. Plaintiffs are unaware whether Greensboro Ballet sought or received advances of the proceeds of the 2019 production of “The Nutcracker” from Carolina Theater.

48. Plaintiffs are informed and believe that Greensboro Ballet expects to receive a substantial sum over and above the 2019 production expenses for “The Nutcracker”, as it has enjoyed in previous years.

49. Greensboro Ballet traditionally pays the costs of production to its vendors after it receives the net proceeds from Carolina Theater, and retains the excess to fund operations in the remainder of the fiscal year. Upon information and belief, Greensboro Ballet intends to apply the net proceeds from the 2019 Nutcracker production in a similar manner.

50. Plaintiffs stand in the same, or in a preferred relationship to Greensboro Ballet as the vendors for the 2019 production of "The Nutcracker." Upon information and belief, Greensboro Ballet intends to continue its operations at the expense of plaintiffs, and intends to assign, secrete or dispose of the net proceeds from the 2019 production of "The Nutcracker" in an effort to defraud plaintiffs of the sums due to them as described hereinabove. As creditors of Greensboro Ballet, plaintiffs' claims alleged herein are entitled at least to equal dignity with, if not preference over the claims of ordinary creditors.

51. Because of the history of mismanagement of Greensboro Ballet by its Board of Directors, and its history of failing to pay to plaintiffs wages due them, Plaintiffs believe that Greensboro Ballet will be unable to pay their claims in the future, as the sums due to plaintiff are already past due, and defendants have failed and refused to apply substantial sums toward these indebtednesses, and have expressed their intention to postpone and unreasonably delay payments to plaintiffs for a period of time exceeding a decade into the future.

52. Plaintiffs seek garnishment of all funds held by Carolina Theater which are the property of Greensboro Ballet so that these funds may be preserved and applied to the existing indebtedness of Greensboro Ballet, including its indebtedness to plaintiffs.

53. Plaintiffs further seek attachment of all funds held in accounts of Greensboro Ballet or otherwise under the control of its officers, directors, employees and agents, before these funds are dissipated and become unavailable to creditors of the corporation, including, without limitation, plaintiffs.

WHEREFORE, plaintiffs respectfully pray for the following relief:

1. That the Court enter money judgment in favor of plaintiffs and against defendants in an amount exceeding \$25,000 according to proof at trial; and
2. That the Court award to plaintiffs liquidated damages as provided by N.C. Gen. Stat. § 95-25.22(a) and § 95-25.22(a1); and
3. That the Court award interest to plaintiffs as provided by law; and
4. That the Court award to plaintiffs their reasonable costs and counsel fees, as provided in N.C. Gen. Stat. § 95-25.22(d); and
5. That the Court enter an order dissolving Greensboro Ballet, Inc and supervise such further proceedings, including reorganization or liquidation as may be just and proper; and

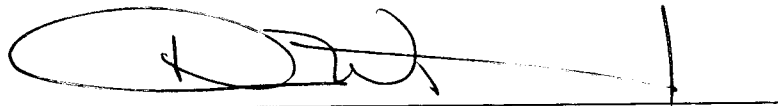
6. That the Court enter an Order attaching and freezing all funds and assets in the possession of Greensboro Ballet so that the assets may be applied to pay indebtedness of the corporation; and

7. That the Court enter an Order of Garnishment for all funds and other assets in the possession of Carolina Theater which are the property of Greensboro Ballet, Inc. so that these funds and assets may be preserved and applied against the indebtedness of Greensboro Ballet and not dissipated; and

8. That the costs of this action be taxed to defendants; and

9. For such other and further relief as may be just and proper.

This, the 2d day of January, 2020.

A handwritten signature in black ink, appearing to read 'D. McDonald', is written over a horizontal line. The signature is stylized and somewhat cursive.

David W. McDonald
North Carolina State Bar No. 12814
Attorney for Plaintiffs

OF COUNSEL:
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Greensboro, North Carolina 27401
336-574-0200 voice
336-574-0201 fax
Dmcdonald@hmnlawfirm.com

VERIFICATION

MARYHELEN MAYFIELD, being first duly cautioned and under oath, does hereby aver that she is over age eighteen and is competent to make this Affidavit; that she has read the foregoing Complaint and the allegations contained therein; that the allegations of the Complaint are true of her own personal knowledge, except for those made upon information and belief, and as to those allegations, she is informed and believes them to be true.

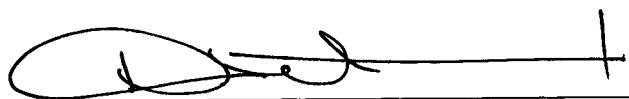
This, the 28 day of December, 2019.



MARYHELEN MAYFIELD

NORTH CAROLINA)
GUILFORD COUNTY)

Sworn and subscribed before me, this, the 28 day of December 2019.



Notary Public: David W. McDaniel
My Commission Expires: September 5, 2021



VERIFICATION

JOHN DENNIS, being first duly cautioned and under oath, does hereby aver that he is over age eighteen and is competent to make this Affidavit; that he has read the foregoing Complaint and the allegations contained therein; that the allegations of the Complaint are true of his own personal knowledge, except for those made upon information and belief, and as to those allegations, he is informed and believes them to be true.

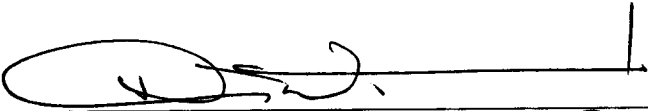
This, the 28 day of December, 2019.



JOHN DENNIS

NORTH CAROLINA)
GUILFORD COUNTY)

Sworn and subscribed before me, this, the 28th day of December 2019.



Notary Public: DAVID W. MCDONALD
My Commission Expires: SEPTEMBER 5, 2021

