

Filed Aug 28-1950

IN THE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

HAROLD THOMAS EPPS and
ROBERT DAVIS GLASS, et als

Plaintiffs

vs.

WILLIAM DONALD CARMICHAEL, JR., President
of the University of North Carolina ;
HENRY P. BRANDIS, JR., Dean of the Law
School of the University of North Carolina;
LEE ROY WELLS ARMSTRONG, Director of
Admissions of the University of North
Carolina; ARCH T. ALLEN, Secretary of the
Board of Trustees of the University of
North Carolina; and the University of
North Carolina a body Incorporate,

Defendants

Civil Action
No. 144

NOTICE OF MOTION FOR INTERVENTION

TO: HARRY McMULLEN, ATTORNEY GENERAL,
Attorney for defendants.

PLEASE TAKE NOTICE that on the petition of J. Kenneth Lee, and the proposed complaint of intervention of said J. Kenneth Lee copies of both of which are hereto attached, and on the pleadings in this suit, the undersigned will petition this court at a regular term to be held at the United States Court House, Post Office Building, Durham, North Carolina on the 28th day of August, 1950 at 10:00 o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an order permitting J. Kenneth Lee petitioner herein, to intervene as a party-plaintiff in the above entitled cause and for such other relief as may be just.

DATED 28 August 1950.

Conrad O. Pearson

CONRAD O. PEARSON

Robert L. Carter

ROBERT L. CARTER

ATTORNEYS FOR PETITIONERS

IN THE
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MIDDLE DISTRICT OF NORTH CAROLINA

HAROLD THOMAS EPPS and :
ROBERT DAVIS GLASS, et als)

Plaintiffs :
:

vs.)

WILLIAM DONALD CARMICHAEL, JR., President :
of the University of North Carolina; :
HENRY P. BRANDIS, JR., Dean of the Law :
School of the University of North Carolina;)
LEE ROY WELLS ARMSTRONG, Director of :
Admissions of the University of North :
Carolina; ARCH T. ALLEN, Secretary of the)
Board of Trustees of the University of :
North Carolina; and the University of :
North Carolina, a body Incorporate,)

Civil Action
No. 144

Defendants)

MOTION TO INTERVENE

To the Judge of the District Court of the United States
for the Middle District of North Carolina, Durham Division:

J. Kenneth Lee, your petitioner, respectfully moves this
Court for an order allowing him, as a member of the class on
behalf of which this action is brought, to intervene as a
party-plaintiff, and respectfully alleges and shows as
follows:

1. Petitioner is a student presently attending North Carolina
College School of Law, at Durham, North Carolina. He is a
citizen of the United States, a resident of North Carolina
and a person of African descent. He has applied individually
and on behalf of himself for admission to the School of Law
of the University of North Carolina and has been denied
admission to said University solely because of his race and
color.

2. The above entitled cause was commenced by service of the original complaint on defendants, William Donald Carmichael, Jr., Acting President of the University of North Carolina; Henry P. Brandis, Jr., Dean of the School of Law of the University of North Carolina; Lee Roy Wells Armstrong, Director of Admissions of the University of North Carolina; Arch T. Allen, Secretary of the Board of Trustees of the University of North Carolina; and the University of North Carolina, a body incorporate on the 25th day of October, 1949. The cause has not yet come to trial but is scheduled for trial on August 28, 1950.

3. The complaint in this action seeks a declaratory judgment declaring the legal rights and relations of the parties hereto and an injunction enjoining the defendants from refusing to admit the original plaintiffs to the Law School of the University of North Carolina, solely because of their race and color, in violation of the 14th Amendment to the Federal Constitution. The answer to said complaint sets up the defense that a separate law school has been provided by the State of North Carolina for plaintiffs, in which they may receive, and are receiving, a legal education substantially equal to that provided by the University of North Carolina.

4. Petitioner has a right to intervene in the litigation in the above entitled cause of action against defendants herein on the ground that: 1) he is a member of the class on behalf of which the original action is brought; 2) he has a substantial interest in the subject matter of the action; 3) his interest and the main action have questions of law and fact in common; 4) his intervention will not to any extent delay or prejudice the adjudication of the rights of the original parties; 5) said right to intervene arising out of the facts alleged in your petitioners proposed complaint of intervention as intervenors, a copy of which is attached hereto.

5. The interest of petitioner in the above entitled suit is such that his intervention in this cause is necessary to the protection of his interest alleged in paragraph 4 because of the following facts:

- 1) The present applicant for intervention is a student qualified for admission to the School of Law of the University of North Carolina.
- 2) He has been denied admission solely because of his race and color by defendants herein.
- 3) He is a member of the class which the original plaintiffs and the plaintiffs by intervention represent.
- 4) If the original plaintiffs and the plaintiffs by intervention fail even though they have brought a class action, the cause of action fails, unless some other member of the class duly intervenes as plaintiff.

WHEREFORE, petitioner prays that this Court make an order granting them leave to file the attached complaint of intervention herein against said defendants and for such other and further relief as to this Court seem just.

Dated 28th August 1950.

Conrad O. Pearson
CONRAD O. PEARSON

Robert L. Carter
ROBERT L. CARTER

ATTORNEYS FOR PETITIONER

IN THE
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Plaintiffs)

vs. :

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of the University of North Carolina;)
HENRY P. BRANDIS, JR., Dean of the Law)
School of the University of North Carolina,)
LEE ROY WELLS ARMSTRONG, Director of)
Admissions of the University of North)
Carolina; ARCH T. ALLEN, Secretary of the)
Board of Trustees of the University of)
North Carolina; and the University of)
North Carolina, a body Incorporate,)

Defendants)

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COMPLAINT OF INTERVENOR

The intervention of J. Kenneth Lee by leave of Court
this day obtained, files this his complaint of intervention
against the above named defendants and says:

1. Harold Thomas Epps and Robert Davis Glass, the original
plaintiffs herein filed their complaint herein on the 25th
day of October, 1949 against William Donald Carmichael, Jr.,
Acting President of the University of North Carolina; Henry
P. Brandis, Jr., Dean of the Law School of the University of
North Carolina; Lee Roy Wells Armstrong, Director of Admiss-
ions of the University of North Carolina; Arch T. Allen, Sec-
retary of the Board of Trustees of the University of North
Carolina; and the University of North Carolina, a body in-
corporate, defendants to enjoin them from refusing to admit
said plaintiffs to the Law School of the University of North
Carolina solely because of their race and color and to secure
from this court a declaratory judgment declaring the rights
and legal relations of the parties of this action.

2. William Donald Carmichael, Jr., Acting President of the University of North Carolina, Henry P. Brandis, Jr., Dean of the Law School of the University of North Carolina, Lee Roy Wells Armstrong, Director of Admissions of the University of North Carolina, Arch T. Allen, Secretary of the Board of Trustees of the University of North Carolina, and the University of North Carolina, a body incorporate, the original defendants herein filed their answer in the original suit herein on the 16th day of December, 1949, denying certain stipulated allegations of the complaint and admitting others and setting up as a separate defense that the State of North Carolina has provided a separate Law School at North Carolina College at Durham for the plaintiffs where an education substantially equal to the one offered at the University of North Carolina may be obtained by plaintiffs.

3. This cause is scheduled for trial on August 28, 1950.

4. J. Kenneth Lee, intervenor herein, is a Negro, a citizen of the United States and of the State of North Carolina, and is presently enrolled in the School of Law of the North Carolina College at Durham. He is duly qualified for admission to the law school of the University of North Carolina. He duly made application for admission to the University of North Carolina School of Law on the 21st day of June 1950, and on the 27th day of June, 1950, he was denied admission solely because of his race and color.

5. The intervenor adopts as his complaint each and all of the allegations set out in the original complaint and complaint of intervention, filed herein and adopt such complaints as his own, with the addition of the matter set forth herein.

WHEREFORE, these intervenors pray that the answers filed herein by the original defendants above named be considered by this Court as answers to the original complaint, and complaint of intervention as well as to his complaint in as much as he has adopted the original complaint as his own.

DATED 28th August 1950.

Conrad O. Pearson
CONRAD O. PEARSON

Robert L. Carter
ROBERT L. CARTER