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June 29, 2011

The Honorable Beverly E. Perdue
Office of the Governor
Constituent Services Office
116 W. Jones Street
Raleigh, NC 27603

RE: North Carolina State Highway Patrolman Edward S. Wyrick, Jr. #1895
Troop B, District 6

Dear Governor Perdue:

I have had the opportunity to meet you on several occasions. Although I would not expect you to remember me, I have known Lt. Governor Walter Dalton for over 20 years and Attorney General Roy Cooper for over 25 years. I believe both would vouch for my character.

I am deeply sorry and disappointed to have to write this letter. I am writing in my capacity as husband to Gina Tessener and citizen of North Carolina. The story of what happened to my wife of nearly 28 years is truly unbelievable and disturbing.

Earlier this week, we were in New Hanover County for the North Carolina Advocates for Justice (NCAJ) Convention. Gina and I arrived on Friday, June 17 and planned to stay until Thursday, June 23. The NCAJ Convention was being held at the Hilton Riverside Hotel in Wilmington, North Carolina. We were staying with friends at Wrightsville Beach. We drove into Wilmington every day for convention activities, meals and fellowship.

By way of background, I am a former member of the Board of Governors of the NCAJ. As a Board member, I advocated and voted for moving the convention from Sea Trails Plantation at Sunset Beach to Wilmington, North Carolina. On Tuesday June 21, 2011, the NCAJ held its annual President's Gala. At the President's Gala, the new president is inducted for the year. The new president, Gary Jackson, is a personal friend to our family. Unfortunately, I had a business meeting and could not attend the Gala. Gina wanted to support Gary and decided to attend the Gala without me. Because it was a Gala, the dress was formal. For example, Gina, who is almost 52 years old and a mother of three, was wearing an evening gown with high heels.

Gina drove from Wrightsville Beach to the Gala in the Hilton Riverside Hotel in our 2007 GS Lexus automobile that has approximately 85,000 miles. She arrives at the Hilton at approximately 7:00 p.m. The Gala lasts until approximately 9:45 or 10:00 p.m. Gina mingles

with friends and sits at a table with 7 other attendees. The Gala consists of speeches, recognition and a full meal. All of the tables include table wine available for the attendees. Because Gina is driving and alone, she chooses not to have any table wine with her meal or any other alcohol for that matter.

After the Gala ends, Gina drives from Wilmington toward Wrightsville Beach. State Highway Patrol Trooper Edward S. Wyrick, Jr. passes her vehicle on the left. Wyrick slows and allows Gina to pass his marked Dodge Charger patrol cruiser on the right. After Gina passes the cruiser, Wyrick pulls in behind Gina and turns on the blue lights. Gina pulls into a gravel covered area. Wyrick pulls the cruiser behind our vehicle. Wyrick asks to see Gina's license and registration. Gina provides her documents. Wyrick then asks Gina if she knew why she is stopped. Gina tells Wyrick that she does not know why Wyrick pulled her over. Wyrick claims that one of our vehicle's headlights is not operating. Gina tells Wyrick that she is not aware that one headlight is not operating. Gina tells Wyrick that we recently had the car serviced and there was no mention of any sort of repair to the headlight. Gina tells Wyrick that she is less than one mile from where we are staying with friends.

Wyrick sticks his head through the driver side window while Gina operates the light mechanism. Wyrick comments that the 2007 Lexus GS with approximately 85,000 miles is "fancy."

Wyrick asks Gina where she has been. Gina explains that she is returning from a formal Gala for the new President of NCAJ. Wyrick then tells Gina that he smells alcohol on her breath. In response, Gina tells Wyrick that she has not been drinking. Wyrick then asks Gina if she had been around people who were drinking. Gina tells Wyrick there was table wine on the table for anyone to drink along with their meals. Wyrick then orders Gina to exit the car. Wyrick again says he smells alcohol. Gina attempts to explain to Wyrick that she had not been drinking any alcohol, is not in any way impaired and that she was with a lot of people who would gladly tell him, if he wants to call. Wyrick laughs at her and says he is not making any calls.

Wyrick tells Gina that she must perform a field sobriety test. Put yourself in Gina's position: she had not been drinking, followed the rules of the road, was wearing an evening dress and high heels, had never been pulled over for anything but a minor traffic citation, is alone at night on a gravel area with a Trooper who is accusing her of the impossible. Gina is scared, upset and nervous and understandably does not trust Wyrick. Gina tells Wyrick that she cannot perform a field sobriety test in high heels and an evening dress over a gravel covered area. Wyrick tells Gina that from the alcohol smell it is obvious that she has been drinking alcohol and that she must blow into a portable breathalyzer. At this point, Gina knows that Wyrick cannot be trusted because it is impossible for him to smell alcohol on her breath when she had not been drinking any alcohol. Gina therefore exercises her right not to blow into the portable breathalyzer. Gina is afraid that Wyrick will manipulate the results.

Wyrick arrests Gina for driving while impaired, cuffs her hands behind her back and puts her into the Charger cruiser. Gina explains to Wyrick that she has a fused neck and prior shoulder surgery and that the handcuffs were too tight. Wyrick responds by telling Gina to turn her head away from him because he does not want Gina “to blow her alcoholic breath in his face.”

After Wyrick puts Gina in the backseat of the cruiser, Wyrick returns to our vehicle. Wyrick climbs into the driver’s seat and stays in the vehicle for seven or eight minutes. Gina cannot see what Wyrick is doing in our vehicle because of the angle Wyrick placed Gina in the cruiser in relation to our vehicle. When Wyrick returns to the cruiser, Gina asks him if he had searched our vehicle. Wyrick tells Gina that he did not search the vehicle; it took him a long time to turn off our vehicle because he “doesn’t own a fancy car, like yours.”

Wyrick transports a handcuffed Gina in the backseat of the cruiser across the bridge to the Wrightsville Beach Police Station. The handcuffs are so tight they leave a mark on Gina’s wrist. As Wyrick escorts Gina into the Wrightsville Beach Police Station, the strap on her evening gown falls over her shoulder but because she is handcuffed she cannot replace the strap. Wyrick pulls the strap back up onto her shoulder. Gina is embarrassed, humiliated, confused, frightened, intimidated and degraded.

Once in the police station, Wyrick allows Gina one phone call but remains within inches of her when Gina calls me. I immediately come to the police station. Gina sits on a bench handcuffed in an evening gown. She has been crying but is being strong. It is a gut-wrenching sight.

I speak with Gina, and she tells me she cannot understand why Wyrick is doing this. As we later determine, there is no explanation or excuse for these actions. Wyrick approaches us without introducing himself to me and begins almost yelling instructions on how Gina was to blow into the breathalyzer. Wyrick says I will be allowed to witness the breathalyzer tests and results. Wyrick threateningly tells Gina that if she does not blow adequately that she will have to repeat the test or Wyrick might order a blood test.

Once in the police station in the presence of a very nice Wrightsville Beach Police Officer, Gina voluntarily blows into the intoximeter (serial number 008667). The intoximeter calculates a blood alcohol content of **0.00**. The breathalyzer results visibly upset Wyrick. After the machine recalibrates, Wyrick orders Gina to blow into the intoximeter again. Gina blows into the intoximeter as ordered. Immediately after she blows into the intoximeter, Wyrick tells us to leave the area. Gina leaves the area and sits on a bench where Wyrick earlier had her handcuffed. I remain where I stood so that I could see the results of the second reading. Wyrick yells for me to leave the area, presumably so I could not see the results of the second reading. Wyrick walks toward me in a threatening manner and stops with his chest perpendicular to my shoulder, approximately one inch away. I believe Wyrick gets close enough to me in an effort to

intimidate and possibly have me unintentionally touch him. We never touch and I leave as soon as I see the second breathalyzer reading confirm a blood alcohol content of **0.00**. Enclosed are the intoximeter results showing **0.00** readings. The fact that I insisted upon seeing the results of the second breathalyzer further angers Wyrick. Wyrick acts as though he is upset because Gina did not drive impaired.

At this point, a simple apology by Wyrick and the release of Gina ends this entire affair. Instead, Wyrick yells for me to leave the booking area and to go in the Magistrate's office waiting area. I ask Wyrick if I can please stay with my wife. Wyrick again yells for me to get out of the booking area. I tell Wyrick that the readings confirm that Gina had no alcohol, that there is no reason for any of this and that he should be ashamed of himself. My comments obviously further infuriate Wyrick but he should have been ashamed of himself.

As ordered, I go into the waiting area beside the Magistrate's office and watch behind a thick glass. I see Wyrick yelling and pointing at my wife. Wyrick is yelling that Gina should have submitted to the portable breathalyzer test on the side of the road. Wyrick appears unstable. I gesture to Gina to not speak to Wyrick. Wyrick turns and comes at the window and yells for me to sit in a designated chair. I do as ordered and Wyrick then places my wife in a position where I can no longer see her through the window.

From my position in the chair for the next 20 minutes, I see Wyrick texting on a cell phone, and leave the booking area on two or three occasions. Gina had been asking for a glass of water and Wyrick refused until finally at 12:11 a.m. Wyrick brings her a small cup of water.

At 12:15 a.m. on June 22, Wyrick enters the area where he put me and tells me that he was going to take my wife "downtown" for her to be released by a Magistrate. I ask why Wyrick must take Gina "downtown" to be released; we are less than a mile away from where we are staying. Wyrick says a Magistrate must release Gina. I ask if a Magistrate can come to the Wrightsville Beach Police Station. Wyrick says the Magistrate was not available because the Wrightsville Beach Police Officer forgot to call the Magistrate. I ask if the Magistrate could just be called since Gina is clearly not impaired. Wyrick just repeats that it is necessary that Gina go "downtown" or spend the night in jail.

Wyrick asks me if I am familiar with the area and I tell him I am not. Wyrick then says, "I am going to give you directions to the location of the Magistrate and then you just follow me. If you get lost, you will have the directions." Wyrick then gives quick directions. I tried to write down the directions as best I can. I ask Wyrick if he could give me a street address for where he is taking my wife and Wyrick says he does not know the street address to just follow him.

I wait out front of the police station until Wyrick comes out with Gina. Despite that Wyrick just confirmed that Gina is not impaired and should not have been arrested, Wyrick

escorts her down the gang plank with her hands cuffed behind her back. As Wyrick drives past me, I follow in my friend's vehicle.

We are traveling on US 74 towards Wilmington. I follow Wyrick's marked Dodge Charger cruiser. We stop at a stop light and I stop behind the cruiser. When the light changes to green, Wyrick leaves the intersection at a high speed. I come behind him but do not try to match his speed. After approximately 1/10 of a mile in the area identified as Landfall, blue lights come on behind my vehicle. Later, I learn from Gina that after Wyrick leaves the police station and just before I am pulled over, Wyrick is texting on his phone, looking anxiously in the rear and side view mirrors. Just after Wyrick pulls away from the stop light, he puts down his phone, leans back and tells my wife, "Looks like your husband is getting pulled over." Wyrick makes his remark with a satisfying smirk on his face. Gina fights back the sick feeling of what they must be planning to do to me if they would do this to her. Gina asks Wyrick, "Did you set him up?" Wyrick laughs and says, "I resent you making that remark and for that I am not going to speak with you anymore tonight."

The law enforcement officer that pulls me over is not surprisingly another highway patrol trooper. I suspected that Wyrick was taking Gina "downtown" in an effort to set me up. Of course, I had no choice but to follow Wyrick so I could retrieve my wife from him as fast as possible.

The trooper comes to the driver side window of my friend's vehicle and asks for my driver's license. I give him my driver's license. The trooper walks away from the car and comes back moments later and asks me if I know why I was being pulled over. I tell the trooper that I suspect that he pulled me over at the request of his colleague who wrongfully arrested my wife. The trooper asks me to step out of the car. I step out of the car and ask the trooper to tell me his name. In response to me asking for his name, the trooper shines his flashlight in my eyes so that I cannot see his nameplate. The trooper tells me that I must perform a field sobriety test. I tell the trooper that I will perform a field sobriety test provided that he makes sure that the video camera in his cruiser is operating properly. I do not want any misunderstanding as to my ability to perform his sobriety test. The trooper pauses for a moment and then tells me to reenter my friend's vehicle. I get in the vehicle and the trooper returns my license and tells me that I can go. Of course by this time, Wyrick is long gone with my wife, knowing that I am not familiar with the area. I ask the trooper who pulled me over if he could give me a street address of where my wife is being taken and he says, "No," and walks away.

Just after Wyrick (and possibly the other trooper) tries to entrap or incite me, Gina says Wyrick, engages in a two-way radio call that includes some street names, codes and the other person (presumably the trooper who pulled me) say, "I let him go." Gina hopes that comment means that the other trooper had let me go. Gina notices that the "I let him go" comment upsets Wyrick and he turns off the two-way radio. I suspect that Wyrick did not explain fully to his

fellow trooper what had happened and what was happening to my wife and me. I suspect Wyrick just told his colleague to pull me over and see what happens. When the trooper saw that I was not impaired, I was respectful, learned from me what Wyrick had done, or possibly knows Wyrick's reputation, the trooper decided to extract himself from Wyrick's plan of entrapment.

I drive into Wilmington in an attempt to locate the "downtown" facility described by Wyrick. I use a navigational system to determine that my wife is being taken not to Wilmington but to Castle Hayne. I drive to Castle Hayne arriving at 1:10 a.m. I speak with a deputy sheriff at Castle Hayne and ask about my wife. The deputy sheriff tells me that Gina is speaking with the Magistrate. They would let me know when Gina is released.

While at the Magistrate's office, Wyrick detains Gina along with a number of repeat DWI offenders and several highly intoxicated people. After Wyrick speaks with the Magistrate, Gina speaks with the Magistrate. The Magistrate lectures Gina on driving while impaired and demands that she acknowledge what she did wrong. When Gina does not respond, the Magistrate asks Gina, "Do you understand what you did wrong." Gina tells him that, "No, I do not understand what I did wrong. I have violated no laws, I am not and have never been impaired, I was respectful, I did everything I am supposed to do and yet I am arrested, my husband was pulled over for doing what he was told and now you are yelling at me." The Magistrate then says, "Well, I know what you are like, you are one of those that knows all the answers. You just think you are better than everybody else. You better hope that you don't ever come before me again." Gina tells him, "You do not know anything about me. Why are you so mean and threatening me?" The Magistrate yells that Gina wasted Wyrick's time and for her to get out. The Magistrate then releases Gina without charges, at approximately 1:25 a.m.

Now that Gina is released by the Magistrate, she begins to leave and Wyrick stops her and orders her sit in a chair. Gina tells Wyrick that she wants to leave. Wyrick yells for her to sit in the chair until he gets his cruiser because he is going to drive her around to the front of the facility. Gina asks Wyrick if she is under arrest and he refuses to answer her. Wyrick then tries to strong-arm her into the vehicle with him. Gina tells Wyrick again that she is afraid to ride anywhere with him and refused to go with him.

Although Wyrick stopped my wife without probable cause, the whole matter would have ended with an apology at the police station. I understand that law enforcement officers see the tragedy of driving while impaired. In my law practice, I see tragedy caused by driving while impaired. Everyone makes mistakes. Instead of an apology, Wyrick harassed, intimidated, degraded and injured Gina. As if that was not enough, Wyrick then orchestrated an attempt to have me arrested by another trooper. I want to be clear that we are not asking for anything for ourselves. We bring this to your attention and to others so that hopefully what happened to us will not be condoned and allowed to happen to others.

Gina and I used to believe that North Carolina State Highway Patrol Troopers were of the highest caliber in law enforcement. Over the last two years, I have read about Troopers using their authority for their own personal gain and as sexual predators. Like most people, I thought those Troopers were the exception not the rule. After what happened to my wife and the plot against me, I am certain that Trooper Wyrick is capable of anything.

I trust there are records from Wyrick's personal phone or through the highway patrol office that confirms their conversations while this entrapment was planned. I suspect you may also find videotape from the booking area and possibly from the cruisers to document what has happened, if it has not already been destroyed.

We do not know the name of the Magistrate who "released" Gina. The Magistrate was working at approximately 1 am on Wednesday, June 22, 2011. I am sending a copy of this letter to the elected judicial officers that oversee the Magistrate. The Magistrate needs to be reminded that he serves the people. I cannot understand why he treated my wife in such a manner except to intimidate her into silence.

I am copying this letter to everyone that I can think of that should know about or can do something about this egregious conduct. Based upon our experience, Wyrick should be terminated immediately. At the very least, an evaluation should be completed to see whether Wyrick has the judgment, temperament and competence to be trained or retrained. If Wyrick is not terminated or disciplined, then his conduct must be condoned by the North Carolina State Highway Patrol and the State of North Carolina. As a citizen, I truly hope that Wyrick is the exception and not the rule. Surely, his judgment is inconsistent with the practice and procedures of the North Carolina Highway Patrol. I suppose whatever happens with Wyrick will reveal the practices and procedures of the North Carolina State Highway Patrol. If Wyrick's superiors decide to keep Wyrick as a trooper or any other law enforcement officer, I expect this letter to remain in his file as a reminder of his inappropriate, threatening and hurtful conduct.

Wyrick's breeds contempt for the law and law enforcement officers. I can assure you that my wife will never trust another state highway patrol officer. If Wyrick's conduct is condoned and the Magistrate's attempt to cover for Wyrick is gone unpunished, when such conduct is directed at a 52 year old mother of three, I shudder to think how someone less fortunate may be treated. Although I would never have believed it if this had not happened to us, I realize if Wyrick's conduct is permissible, we may face retaliation from the State Highway Patrol. The Magistrate and Wyrick's attempt to intimidate us into ignoring what happened did not work. I cannot sit idly and silently by and allow such injustice.

I also copy this letter to local officials. I cannot imagine that Wrightsville Beach, Wilmington or New Hanover County benefits from the conduct of someone like Wyrick or the Magistrate. Although we are North Carolina residents and taxpayers, we will not return to the New Hanover area unless we are satisfied that people like Wyrick are removed and the

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Magistrate is reminded that he works for the people not law enforcement. I can only imagine that if we were not from North Carolina and we were planning a vacation along the coast anywhere in the Southeast, we would never return to North Carolina.

I look forward to hearing how this situation will be handled so that no one else will suffer the indignity suffered by my wife, or worse.

Sincerely,

Hoyt G. Tessener

HGT:ebr

cc: Lt. Governor Walter Dalton
Attorney General Roy Cooper
Secretary Reuben F. Young
Colonel Michael Gilchrist
Rep. Thom Tillis (Speaker of the House of Representatives)
Sen. Phil Berger (Senate Pro Tempore of the Senate)
Sen. Neal Hunt
Rep. Grier Martin
Sen. Thom Goolsby
Rep. Susi Hamilton
Rep. Carolyn H. Justice
Rep. Daniel F. McComas
Rep. N. Leo Daughtry
Rep. Roger West
Hon. David Cignotti
Hon. Bill Saffo (Mayor of Wilmington)
Chief Daniel L. House (Wrightsville Beach Chief of Police)
Sheriff Edward J. McMahon (New Hanover County Sheriff)
Judge W. Allen Cobb, Jr. (Senior Resident Superior Court Judge)
Judge J.H. Corpening, II (Chief District Court Judge)
District Attorney Benjamin R. David
Wilmington/Cape Fear Coast Convention and Visitors Bureau
Troop B Commander, State Highway Patrol
Gary Jackson, Esq. (President NCAJ)
Dick Taylor, Esq. (CEO of NCAJ)
Trooper Edward S. Wyrick, Jr.