



# CHEROKEE COUNTY

75 Peachtree Street  
Murphy, NC 28906  
828-837-5527

*Randy Wiggins, County Manager*  
*Maria Hass, Asst. County Manager/Clerk to Board*  
*Candy R. Anderson, CPA, Finance Officer*  
*Darryl R. Brown, County Attorney*

***Board of Commissioners***  
*Dr. Dan Eichenbaum, Chairman*  
*Gary Westmoreland, Vice-Chairman*  
*Cal Stiles, Member*  
*Randy Phillips, Member*  
*Jan Griggs, Member*

## STATEMENT OF CHEROKEE COUNTY GOVERNMENT

29 June 2022

In 2018 and 2019, twenty-six (26) separate lawsuits were filed against Cherokee County and former county employees regarding the use of Custody and Visitation Agreements by the Cherokee County Department of Social Services to place children outside of their parent's homes until they were 18 years old without Court approval. The suits alleged violations of the Constitutional rights of the parents and the children involved, as well as violations of state law regarding abused, neglected and dependent juveniles. In May of 2021 the first of these cases was tried in the US District Court in Asheville. The Hogan case resulted in jury awards and attorney's fees for a total of over \$6.5 million. Subsequently, three other cases were settled by the parties for \$4.65 million before they came to trial. \$2.65 million was paid by the County's insurer. Two million dollars of these settlements was paid by Cherokee County.

After the Hogan verdict, the North Carolina Liability and Property Pool (the County's Insurer) filed suit in the Superior Court of Wake County seeking a declaratory judgment that would absolve their responsibility to pay any further for the remaining lawsuits, end their duty to defend the County and its former employees, and to relieve them from paying anything on the Hogan judgments. The County retained Attorneys Walter Brock of Raleigh and Richard Daniels of Asheville to work with Darryl Brown, the county attorney, to defend this lawsuit and work on a possible settlement of all of the pending lawsuits. This lawsuit, at the request of the attorneys for Cherokee County, was ordered transferred to Cherokee County for trial.

Trial counsel for the County, Sean Perrin of Charlotte, obtained a stay in the remaining 22 cases pending in the United States District Court for the parties to attempt to reach a settlement in all of the cases. Mediation meetings and further negotiations ensued over months, not only with the County and the Plaintiff's but also with the County's insurer.



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Today, 29 June 2022, the Cherokee County Board of Commissioners approved a settlement agreement that will resolve all of the pending actions against the County and will result in the payment of the Hogan judgments. The agreement is summarized as follows:

The total settlement including the Hogan judgement totals approximately \$48.5 million. The NC Liability and Property Pool pays \$24.25 million and the County will pay \$24.25 million.

The County's insurer pays the Hogan judgment plus any interest and \$17.5 million within 60 days of the approval of the agreement by the United States District Court.

The County will pay \$4 million by February 15, 2023. (\$2 million of that total had been reserved in last year's county fund balance for settlement of lawsuits.) Beginning in July of 2024 the County will pay approximately \$2.9 million per year for 7 years ending in 2031. There is no interest on these payments.

The North Carolina Liability and Property Pool has agreed to dismiss its lawsuit against Cherokee County.

A number of factors were considered by the County in making this agreement:

1. The potential of future judgements like Hogan for which the County did not have the cash to pay. Just paying the Hogan Judgment would have caused a millage rate increase of over 18 cents.
2. The Hogan judgment was accruing interest at a rate of over \$78,000 per year.
3. The distinct possibility that the North Carolina Liability and Property Pool would prevail in the declaratory judgment action, leaving the County to pay ALL of the remaining lawsuits, the legal fees in defense of those lawsuits and the Hogan judgments.
4. The County' attorneys, in the negotiations, insisted that the settlement be paid over time to lessen the immediate impact on taxpayers.
5. The County had already paid nearly \$300,000.00 in outside counsel and looked to have paid much more if the lawsuit with the county's insurer continued.



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6. The County would have been unable to finance any capital projects until the cloud of financial uncertainty of pending litigation was removed.
7. The new Cherokee County Department of Social Services and the county as a whole need to be able to move on from the specter of pending litigation.

The employees of Cherokee County DSS that were involved with the CVA issue are no longer employees of Cherokee County. It is the hope of the Board of Commissioners and all of Cherokee County Government that the settlement of these cases will allow the Department of Social Services to grow and to restore the confidence of the people that DSS serves every day.