

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM RICHLAND COUNTY
R. Scott Sprouse, Circuit Court Judge**

Appellate Case No. 2022-001494

**Basilides F. Cruz, Joseph A. Floyd, Arthur
C. Gillam III, Alma C. Hill, Barry N. Martin,
Charles F. Morris, and Joseph A. Smith,**

Petitioners,

v.

City of Columbia,

Respondent.

and

**Larry Strickland, Denious L. Dimery and
Bailey G. McClinton,**

Petitioners,

v.

City of Columbia,

Respondent.

APPENDIX VOLUME II OF III

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Retirees also testified that several supervisors informed them they would receive free health insurance for life during their individual merit interviews and evaluations, which were incidental to the supervision of their employment. Therefore, the employment review context during which the representations were made provides a scintilla of evidence to suggest the representations and promises were within the supervisors' authority and reasonably relied upon.

Therefore, instead of holding Retirees were charged with knowledge of the extent to which the City's employees were incorrect, it is a question of fact as to whether these explanations were authorized and reasonably relied upon. As a result, the trial court erred in granting summary judgment on Retirees' estoppel claims.

CONCLUSION

Based on the foregoing, we find the trial court properly granted summary judgment against Retirees on their contract claims. We also find the trial court properly granted summary judgment against Retirees on all of their estoppel claims to the extent those claims are based upon the employee handbook and benefits booklet. However, we find the trial court erred in granting summary judgment against Retirees on their estoppel claims based upon representations made by their supervisors and the City's human resource personnel.

Accordingly, the circuit court's rulings are

government. The city manager shall perform and exercise the duties and responsibilities prescribed by law for this office and such other duties and responsibilities as prescribed by the City Council. (b) Assistants. The city manager may employ assistants to exercise such supervisory responsibilities over departments as the city manager may delegate."); City of Columbia Ordinance § 2-151 ("(a) The following departments of the city are created: . . . Human resources; . . . Fire; . . . (b) The head of each department shall be a director, who shall be an officer of the city and shall have supervision and control of his department, subject to the city manager. The city manager may serve as director of one or more departments or divisions within any department."); City of Columbia Ordinance § 2-125 ("The director of human resources, subject to the city manager, shall have administrative supervision over the department of human resources and shall be responsible for those activities relating to employment, employee relations, and training and shall perform such additional duties as may be assigned by the city manager.").

AFFIRMED IN PART and REVERSED IN PART.

THOMAS and LOCKEMY, JJ., concur.

EXHIBIT 2

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Kirby L. Bishop, Herman G. Boney,
 Richard H. Brown, Michael D. Catt,
 Basilides F. Cruz, Robert B. Dozier,
 Joseph A. Floyd, Sr., Arthur C.
 Gillam, III, Alma C. Hill, Barry N.
 Martin, William J. Meyer, Charles F.
 Morris, Sr., and Joseph A. Smith,

Plaintiffs,)

vs.)

City of Columbia,)

Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL DISTRICT

Civil Action File No.: 2009-CP-40-5680

DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT

Defendant, City of Columbia, moves pursuant to Rule 56(b) and (c) SCRCF, for an order granting summary judgment in this action. This motion is based upon the testimony and evidence of record to be presented to the Court in keeping with Rule 56(e). This testimony and evidence shall demonstrate that the Plaintiffs cannot establish the essential elements of the claims remaining for disposition in their Complaint and that the Defendant is entitled to judgment as a matter of law.

By way of illustration, Plaintiffs cannot establish a cause of action for breach of contract insofar as Plaintiffs are at will employees as a matter of law, cannot establish consideration for future benefits or any vested interest in prospective benefits. Plaintiffs cannot establish a cause of action for promissory estoppel or equitable estoppel insofar as Plaintiffs cannot reasonably rely upon any promise for future benefits, Plaintiffs cannot establish detrimental reliance or any legally recognizable injury. Plaintiffs were placed on actual or constructive notice as to the non-vested nature of prospective benefits and any reliance upon representations to the contrary were

not reasonable or justifiable. At all times, the Defendant operated in good faith and within its statutory authority to adopt a budget for its operations and to direct the administration of benefits in keeping with that budget. Any representations as to prospective benefits were not binding, as a matter of law, and the duly elected council operated within its lawful authority in the governance of the City of Columbia.

For all of these reasons, Plaintiffs cannot establish facts upon which a jury could reasonably render a verdict in their favor and Plaintiffs are not entitled to a declaratory judgment regarding alleged enforceable contract rights. Accordingly, Defendant is entitled to summary judgment as a matter of law.

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May 6, 2010
Columbia, South Carolina

EXHIBIT 3

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Kirby L. Bishop, Herman G. Boney,
 Richard H. Brown, Michael D. Catt,
 Basilides F. Cruz, Robert B. Dozier,
 Joseph A. Floyd, Sr., Arthur C.
 Gillam, III, Alma C. Hill, Barry N.
 Martin, William J. Meyer, Charles F.
 Morris, Sr., and Joseph A. Smith,

Plaintiffs,)

vs.)

City of Columbia,)

Defendant.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL DISTRICT

Civil Action File No.: 2009-CP-40-5680

ORDER

RICHLAND COUNTY
 FILED
 2010 SEP 13 AM 9:37
 JEANETTE W. McBRIDE
 C.C.P. & C.S.

This matter comes before me on Defendant's motion for summary judgment filed May 6, 2010. Having considered the written materials presented by both parties and having heard oral argument on August 12, 2010, I find that Plaintiffs cannot establish the essential elements necessary to obtain the relief requested in their Complaint. Accordingly, Defendant is entitled to summary judgment pursuant to Rule 56, SCRPC.

STANDARD OF REVIEW

Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC; Green v. Cottrell, 346 S.C. 53, 550 S.E.2d 324 (Ct. App. 2001); Bruce v. Durney, 341 S.C. 563, 534 S.E.2d 720 (Ct. App. 2000); see also Tupper v. Dorchester County, 326 S.C. 318, 325, 487 S.E.2d 187, 191 (1997) ("Summary judgment is proper where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a

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matter of law.”).

Under Rule 56(c), SCRCP, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Carolina Alliance for Fair Employment v. S.C. Dep’t of Labor, Licensing, & Regulation, 337 S.C. 476, 485, 523 S.E.2d 795, 799 (Ct. App. 1999). In determining whether any triable issues of material fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the party opposing summary judgment. Sumner v. Carpenter, 328 S.C. 36, 42, 492 S.E.2d 55, 58 (1997). In responding to a motion for summary judgment, a plaintiff must offer evidence that a genuine issue of material fact exists as to each element necessary to establish the asserted claims. McLaughlin v. Williams, 379 S.C. 451, 456, 665 S.E.2d 667, 670 (Ct. App. 2008).

CONTROLLING FACTS

1. The City of Columbia (“City”) has selected a manager/council form of government.
2. In the council/manager form of government, council retains all legislative power and policy making authority while the manager exercises administrative responsibility.
3. Policies and procedures are subject to change.
4. Adoption of a budget is a legislative power confined to City Council.
5. The City Manager must administer the City within the budget approved by Council.
6. The City Manager may enter agreements requiring expenditure only in amounts of \$10,000 or less. All other commitment of City funds must be authorized by Council.
7. Council has approved a pay and classification plan for City employees. This plan sets ranges of compensation for employees.

8. The City Manager cannot provide compensation to employees beyond the range set for a position. The City Manager may approve an initial salary for an employee only up to five percent (5%) above the minimum set for the position. The City Manager may not approve compensation that exceeds a salary range.

9. Health insurance is provided by Council through a self funded group health plan available to City employees and eligible retirees administered by Blue Cross/Blue Shield of South Carolina. The City must reflect the cost of providing group health insurance as a contingent liability.

10. The group health insurance plan adopted by Council is available to City employees and eligible retirees on the same basis. At all times relevant to this action, active employees and eligible retirees have been offered the same group health insurance options.

11. Prior to July 1, 2009, the City paid all costs required to fund group health insurance for individual employees and eligible retirees.

12. Council voted on May 6, 2009, to require financial contributions by individual employees and eligible retirees for participation in the group health insurance plan beginning July 1, 2009.

13. Beginning July 1, 2009, all eligible group health insurance plan participants are charged on the same basis for individual coverage. This is \$33.18 per month for Plan A and \$63.17 per month for Plan B.

14. The Plaintiffs retired between January 26, 1997, and January 8, 2009.

15. Each of the Plaintiffs elected to participate in the City's group health insurance plan upon retirement.

16. The membership application providing for group health insurance coverage

contains a certification statement which includes the following language:

I understand that upon acceptance of this application by the insurance company, and so long as I meet the eligibility requirements of the contract with this employer, I will be provided with coverage as specified by the group health contract between my employer [City] and the Corporation [Blue Cross/Blue Shield]."

17. Retirees are provided a letter from the benefits administrator in the City's Human Resources Department that describes benefits available upon retirement. Prior to July 1, 2009, in reference to group health insurance, this letter stated, in part: "Under the current policy, the City pays retirees' portion of the health premium. Therefore, no monthly payments are necessary."

18. At oral argument, counsel for the Plaintiffs indicated that the Plaintiffs seek a ruling that they cannot be charged for participating in the City's group health plan. The record reveals, however, that certain Plaintiffs seek exclusion from the City's group health insurance plan. For example, Plaintiffs Catt, Floyd, Hill and Smith claim entitlement to individual health insurance plans with the following features:

- a. Reimbursement of all premiums paid since July 1, 2009;
- b. Individual health insurance at the same terms (or better) as provided on the date of the individual Plaintiff's retirement;
- c. Guarantee of no future reductions in benefits for the life of each Plaintiff;
- d. Guarantee of no charges for health benefits for the life of each Plaintiff;

19. Because the Plaintiffs and others have retired on different dates, freezing health benefits on individual retirement dates would require individual health plans, with different terms and benefits, on the date of every retirement prior to July 1, 2009.

20. There are presently five-hundred forty (540) individuals covered by the City's group health plan that retired before July 1, 2009.

CONCLUSIONS OF LAW**I. Plaintiffs cannot establish a cause of action for breach of contract.****A. Fringe benefits such as health insurance are not vested or enforceable by contract.**

Plaintiffs' cause of action for breach of contract fails because Plaintiffs have no contractual right to receive free health insurance in perpetuity. As a matter of law, municipal employees have no contractual right or vested interest in prospective benefits. Alston v. City of Camden, 322 S.C. 38, 45-46, 471 S.E.2d 174, 177-78 (1996). Plaintiffs have stipulated that the manager/council form of government applies to both the City of Camden and the City of Columbia. It was this form of government that the South Carolina Supreme Court addressed in Alston.

In Alston, a group of employees and retirees sued the City of Camden challenging a reduction in the percentage of health insurance costs borne by the City. There, as here, the plaintiffs sought to prevent a municipality from making a prospective change in health benefits applicable to current and former employees. In holding for the City, the Supreme Court made the following observations:

- South Carolina law is clear that "public employees generally have no contractual rights in their employment merely by virtue of a statute describing the terms of that employment." Id. at 45, 417 S.E.2d at 177.
- Ordinances or other policies that establish a standard personnel system do not constitute contracts. Id. at 46-47, 417 S.E.2d at 178-79.
- Policies that apply to fringe benefits are not permanent in nature and may be changed prospectively. Id. at 48-49, 417 S.E.2d at 179.

- Even assuming the language of a handbook (or other documents) constituted a contract, employees have “no reasonable expectation that the terms of the ‘contract’ would remain unchanged.” Id. at 48, 417 S.E.2d at 179.
- Any contractual rights created by a handbook or other writing cannot “give rise to any legitimate expectation that fringe benefits provided for them will continue for any specific amount of time.” Id. at 48, 417 S.E.2d at 179.
- Employee contractual rights created by a handbook are subject to unilateral modification. This rule rests on the recognition that “the employer-employee relationship is not static. Employers must have a mechanism which allows them to alter the employee handbook to meet the changing needs of both business and employees. . . . This is especially true where . . . employees concede their at-will status.” Id. at 48-49, 417 S.E.2d at 179 (internal citations omitted).
- Government “should have more flexibility than business with respect to the employer/employee relationship.” Id. at 49, 417 S.E.2d at 179. Accordingly, a prospective change in benefits does not impair any contractual right.

The Supreme Court confirmed the changeable nature of fringe benefits for municipal employees in Layman v. State, 368 S.C. 631, 630 S.E.2d 265 (2006). In an expressly narrow decision, the Supreme Court found “contractually significant” language in TERI legislation that grandfathered participants who joined the program before a change in the law took effect on July 1, 2005. Addressing concerns by the State that this opinion overruled Alston, the Court responded:

We find that Alston is distinguishable in several respects. First, the Court held that the benefits affected in Alston were “fringe benefits,” and that the employees had a reasonable expectation that those benefits might be subject to change. In addition, the

agreement in Alston was the type of unilateral contract that is subject to modification at any time.

Id. at 640, 630 S.E. 2d at 270 (internal citations omitted).

Two years after Layman, the Supreme Court rejected a claim by public retirees seeking to avoid a change in the State's approach to taxing retirement benefits. See Anonymous Taxpayer v. S.C. Dep't of Revenue, 377 S.C. 425, 661 S.E.2d 73 (2008). In that opinion, the Supreme Court dismissed the retirees' claims under contract, due process, and the takings clause, finding that the challenged action served a legitimate governmental purpose. Id. at 436-37, 661 S.E.2d at 79. Applied to the present circumstances, there can be no question that City Council acted within its legitimate legislative authority in requiring retiree participants in the City's group health plan to share a portion of the costs of their health care benefits.

B. Fringe benefits are not "wages" protected by state law.

By law, "wages" are confined to monetary payments. Anderson v. Baptist Med. Ctr., 343 S.C. 487, 489, 551 S.E.2d 526, 530 (2001) (stating fringe benefits such as "medical, disability and life insurance" are not part of an employee's wages); see also Stokes v. Westinghouse Savannah River Co., 206 F.3d 420, 426 (4th Cir. 2000). The Supreme Court ruled in Anderson that including fringe benefits such as insurance in the calculation of wages "would dramatically alter the practice in this state." Id. at 497, 551 S.E.2d at 531.

Plaintiffs assert that their health insurance is a form of deferred compensation "earned" during their employment and to which they are entitled upon retirement. This assertion is contrary to the Supreme Court's decisions in Alston, Layman, and Anonymous Taxpayer. It is also inconsistent with the legislative authority of the City Council to adopt a budget. S.C. Code Ann. § 5-13-30(b). In the present case, City Council voted on May 6, 2009, to alter the fringe benefit program available to all current and former employees. The City Manager is obligated to

implement all resolutions adopted by Council. Plaintiffs' requests for relief would invalidate a duly adopted resolution and require the City Manager to operate in a manner inconsistent with the City's elected governing authority.

C. City Handbooks and Benefit Booklets do not establish a contractual right to continuing free health insurance.

Plaintiffs further contend that statements in handbooks, benefit booklets, and other publications permanently bind the City to provide free health insurance for their lifetimes. This assertion is not consistent with or supported by the following established facts of record and controlling law:

1. The handbooks and other publications relied upon by Plaintiffs do not contain language making permanent guarantees. Instead, these publications are each in the present tense and apply only to the period of their effectiveness.
2. Plaintiffs acknowledge and the record establishes that handbooks were subject to change and were changed during Plaintiffs' employment.
3. The benefits booklets relied upon by Plaintiffs do not contain language making permanent guarantees. Instead, all booklets are in the present tense and apply only to the period of their effectiveness.
4. Plaintiffs acknowledge and the record establishes that benefits booklets were subject to change and were changed during Plaintiffs' employment.
5. Plaintiffs acknowledge that handbooks and benefit booklets presented accurate information during the time they were in effect.
6. Handbooks and benefit booklets were amended before July 1, 2009, to reflect charges for individual health coverage to employees and retirees.
7. Plaintiffs signed up for continuing group health coverage knowing that a charge

for the individual benefit would be imposed.

8. No Plaintiff was required to continue with coverage under the group health plan after July 1, 2009.

9. Plaintiffs acknowledge that no former colleague, supervisor, or representative of the City intentionally deceived or knowingly made any false statements concerning health insurance benefits.

10. Plaintiffs acknowledge that information regarding the availability of health insurance benefits upon retirement was accurate at the time provided.

11. Documents provided at retirement before July 2009 described the "current" policy of not charging for health insurance. Plaintiffs acknowledge that the term "current" does not guarantee that the policies will stay the same "forever."

12. Each Plaintiff received individual benefits under the City's group health plan without charge following retirement until July 1, 2009.

All of these facts, as well as the Alston and Layman decisions, establish that the group health insurance benefits made available to the Plaintiffs were subject to change. Furthermore, the Alston and Layman decisions were issued before adoption of the change in the group health plan challenged here. City Council had the right to rely on the published decisions of our Supreme Court in deciding to require all participants share in a portion of the costs necessary to provide group health insurance benefits.

Plaintiffs have presented no publication or other evidence that Council intended to establish a permanent, vested right to unchanging health insurance benefits. Conversely, years prior to the earliest retirement of the Plaintiffs (1997), our Supreme Court affirmed a summary judgment ruling that the City's handbook does not create an employment contract with its

employees. Marr v. City of Columbia, 307 S.C. 545, 547, 416 S.E.2d 615, 616 (1992). Accordingly, the handbooks, booklets, and testimony offered by Plaintiffs provide no support for their exemption from the City's group health plan, including its premium requirement.

D. Any contract for future benefits would be unenforceable as a violation of public policy.

Even if the benefits booklets, handbooks, and other representations relied upon by Plaintiffs could form a basis for a contractual cause of action, Plaintiffs' breach of contract claim fails. This court cannot enforce a contract that violates public policy, statutory law, or constitutional provisions. See McConnel v. Kitchens, 20 S.C. 430 (1884); Batchelor v. Am. Health Ins. Co., 234 S.C. 103, 107 S.E.2d 36 (1959). South Carolina law has established for more than fifty years that a council "has no authority to make . . . a contract extending beyond the terms of its office; that the acts of former councils relating to governmental functions of said councils which involve a matter of discretion to be exercised by such councils are without force and effect upon succeeding councils." Newman v. McCullough, 212 S.C. 17, 25, 46 S.E.2d 252, 256 (1948); see also Piedmont Pub. Serv. Dist. v. Cowart, 319 S.C. 124, 459 S.E.2d 876 (Ct. App. 1995), aff'd, 478 S.E.2d 836 (1996) (affirming Newman's holding that a municipal council lacks power to bind a successor council to a contract involving terms and conditions of municipal employment). A lifetime health insurance program would span multiple four-year council terms and restrict subsequent elected officials in representing the interests of their constituents. Accordingly, no council in the 1980s, 1990s, or 2000s had or has the authority to provide such a benefit.

Had the City intended to create a lifetime contractual entitlement to free health insurance benefits, and the authority to bind future councils, the contract would be void as a matter of constitutional law. South Carolina Constitution, Article X, § 14, entitled "Bonded Indebtedness

of Political Subdivisions," governs the extent to which municipalities and other political subdivisions may incur indebtedness. Subsection (2) of this article provides:

Such political subdivisions shall have the power to incur indebtedness in the following categories and no other: (a) General obligation of debt; and (b) Indebtedness payable only from a revenue-producing project or from a special source as provided in subsection (10) of this section [i.e., revenue bonds and tax increment financing bonds].

S.C. Const. art. X, § 14(2).

Any general obligation debt by a municipality must be incurred "upon such terms and conditions as the General Assembly shall prescribe by law" and must involve the delivery of "a schedule showing the date and the principal and interest payments to become due." S.C. Const. art. X, § 14 (2),(5); see also S.C. Code Ann. §§ 11-15-10 et seq. ("Bonds of Political Subdivisions," noting the limitation of general obligation debt is eight percent of the total assessed value of the taxable property of a political subdivision). None of these procedural safeguards have been alleged and "no other" form of activity is an allowed method of incurring debt under the South Carolina Constitution. Accordingly, the City is constitutionally prohibited from undertaking an open-ended pledge of future payments on behalf of former employees.

E. All municipal employees are at-will and contract rights do not attach to compensation or other benefits.

All employees of the City of Columbia are at-will and non-contractual. Bunting v. City of Columbia, 639 F.2d 1090, 1094 (4th Cir. 1981); Bane v. City of Columbia, 480 F. Supp. 34 (D.S.C. 1979). No Plaintiff has provided a "written agreement" signed by an authorized representative that establishes an unalterable, vested interest in free lifetime health insurance. Moreover, any "contract" or promise of such coverage would be unenforceable under controlling statutory and constitutional provisions.

In support of their claims, Plaintiffs have offered Middleton Township Policemen's Benevolent Ass'n Local No. 124 v. Township of Middleton, 744 A.2d. 649 (N.J. 2000). This case involved a claim arising from a collective bargaining agreement and application of New Jersey law. Having carefully examined this opinion, I find that it does not apply to facts before me and is not consistent with the controlling Alston and Anderson decisions. Accordingly, Plaintiffs cannot establish a right to free lifetime health insurance benefits.

F. All participants in the City's group health plan, including retirees, agree that benefits shall be governed by the contract entered between the City and BlueCross/Blue Shield of South Carolina.

Participants in the City's group health insurance plan must sign standard applications to qualify for coverage during employment and upon retirement. The standard application contains a certification which includes the following language:

I understand that upon acceptance of this application by the insurance company, and so long as I meet the eligibility requirements of the contract with this employer, I will be provided with coverage as specified by the group health contract between my employer [City] and the Corporation [Blue Cross/Blue Shield]."

The group health plan in effect beginning July 1, 2009, provides all participants, including retirees, the option of selecting between a Plan A and Plan B. Under Plan A, all participants are charged a premium of \$33.18 per month. Under Plan B, the premium is \$63.17 per month. Having agreed to accept coverage under the group health plan, Plaintiffs cannot now seek exemption from their premium obligation.

II. Plaintiffs cannot establish a cause of action for promissory estoppel.

As a second cause of action, Plaintiffs allege that the City made unambiguous promises of free lifetime health insurance on which they justifiably and detrimentally relied. To establish

a claim of promissory estoppel, Plaintiffs must show: (1) a promise unambiguous in its terms; (2) reasonable reliance on the promise; (3) reliance is expected and foreseeable by the party who made the promise; and (4) injury in reliance on the promise. Powers Constr. Co. v. Salem Carpets, Inc., 283 S.C. 302, 306, 322 S.E.2d 30, 33 (Ct. App. 1984). For purposes of this motion, Plaintiffs' testimony that individual employees, supervisors, and City representatives made statements that free health insurance would continue upon retirement is not disputed. Nevertheless, Plaintiffs cannot establish the essential element of reasonable reliance because none of these statements can bind a city council in the exercise of "governmental functions," including the terms and conditions of employment. See Cowart, 319 S.C. 124, 459 S.E.2d 876; Newman, 212 S.C. 17, 46 S.E.2d 25.

"Estoppel [against a municipality] may not be based on an illegal act." Berkeley Elec. Coop., Inc. v. Town of Mount Pleasant, 308 S.C. 205, 210, 417 S.E.2d 579, 582 (1992). This is true even if the party asserting the estoppel claim was unaware of the illegality of the act because all parties are charged with knowledge of the law, including the limitations of a city's authority. Id.; see also Morgan v. S.C. Budget & Control Bd., 377 S.C. 313, 320, 659 S.E.2d 263, 267-68 (Ct. App. 2008). The representations identified by Plaintiffs are not binding or enforceable because these statements or expectations cannot restrict a city council from exercising its legislative authority.

The actions or statements of a city manager or any other municipal employee in the council/manager form of government cannot bind the municipality. This issue was addressed by our Supreme Court in Todd v. Smith, 305 S.C. 227, 407 S.E.2d 644 (1991). Affirming summary judgment in favor of the City of Myrtle Beach, the Court stated as follows:

In the council/manager form of city government all legislative powers of the municipality and the determination of all matters of

policy shall be vested in the municipal council, each member, including the mayor to have one vote. Section 5-13-30, Code of Laws of South Carolina, 1976. Under the form of government adopted by the City of Myrtle Beach, the city manager and the director of the Myrtle Beach Convention Center do not have the authority to set city policy, nor can their acts be said to represent official policy in view of the legislative authority granted to the municipal council.

Id. at 231, 407 S.E.2d at 646-47.

Subsequently, in rejecting a § 1983 action against the City of Columbia, the Supreme Court confirmed that, as a matter of law, only City Council can serve as a policymaker. Stanley v. Kirkpatrick, 357 S.C. 169, 176, 592 S.E.2d 296, 299 n.6 (2004). As Todd and Stanley make clear, only City Council may make policy and only those policy decisions enacted by Council can bind the City. Accordingly, Plaintiffs' purported entitlement to a lifetime of free health benefits based upon promises by City employees or individual representatives cannot form the basis of a successful claim under contract or promissory estoppel. See Berkeley Elec. Coop., Inc., 308 S.C. at 210, 417 S.E.2d at 582 (1992). Any reliance on promises of free lifetime health insurance was *per se* unreasonable because such promises would be illegal.

Plaintiffs offer Townes Associates, Ltd. v. City of Greenville, 266 S.C. 81, 221 S.E.2d 773 (1976), in support of their argument that representations by supervisors, co-workers, and the City Manager can estop the City from imposing a premium for their health care insurance. Neither the facts addressed in Townes nor the Court's opinion support this position. In Townes, the Supreme Court deferred to findings by the master in equity and trial judge that the Greenville City Council had authorized its manager to enter a contract employing an architecture firm. Council knew that the services were being performed and benefitted from those services. Id. at 87-88, 221 S.E.2d at 776. The Supreme Court acknowledged the general principal that a municipality cannot be estopped by the unauthorized acts of its officers, but held that it would

not enforce that rule in Townes because the failure of Council to ratify the contract "was a mere technicality not entitling it to escape liability for the reasonable value of the plaintiff's services." Id. In contrast, Plaintiffs here have not shown a delegation of legislative authority from City Council to the manager. In addition, Plaintiffs have not shown any intent by City Council to enact a permanent health care plan with a lifetime guarantee of free benefits. Unlike Townes, this case does not present a "mere technicality," but involves a clear enactment by Council to adopt a group health plan in keeping with its legislative, budget making authority.

Regardless of what they were told, Plaintiffs agreed to be bound by the terms of the group health plan and were aware that the terms of the group health plan changed during their employment. Plaintiffs could not reasonably assume that changes would cease to take place after they retired. In fact, the letter provided to retirees from the City's benefits administrator prior to July 1, 2009, made clear that payment of the retirees' portion of the health premium was "under the current policy." Plaintiffs signed acknowledgements during their employment that policies were subject to change. This record establishes that Plaintiffs cannot prove reasonable reliance, an essential element of promissory estoppel. - McLaughlin v. Williams, 379 S.C. 451, 457-58, 665 S.E.2d 667, 671 (Ct. App. 2008) ("[T]here can be no reasonable reliance on a misstatement if the plaintiff knows the truth of the matter.").

Plaintiffs have asserted that the presence of material disputed facts renders summary judgment improper on their estoppel claims. By way of response, the City does not challenge any verbal representations asserted by Plaintiffs and points out that written representations relied upon are before the Court. In this context, it is clear that the element of reasonable reliance may be properly adjudicated by way of summary judgment.

Estoppel is an issue to be decided by the court. Gaymon v. Richland Mem'l Hosp., 327

S.C. 66, 488 S.E.2d 332 (1997) (holding that equitable estoppel is an issue for the judge and denying a request for a jury trial). As in other claims, estoppel is an issue of law for the court to determine when the facts are not in dispute or when only one inference can be reasonably drawn from them. T. Leigh Anenson, The Triumph of Equity: Equitable Estoppel in Modern Litigation, 27 Rev. Litig. 377, 422 (2008). Both the Court of Appeals and the Supreme Court have confirmed that the issue of reliance may be determined on summary judgment motions. See, e.g., Davis v. Greenwood Sch. Dist. 50, 365 S.C. 629, 634-35, 620 S.E.2d 65, 67-68 (2005); McLaughlin v. Williams, 379 S.C. 451, 457-58, 665 S.E.2d 667, 671 (Ct. App. 2008); West v. Gladney, 341 S.C. 127, 134-35, 533 S.E.2d 334, 337-38 (Ct. App. 2000). Here, discovery is complete and the material facts are before me. These facts lead to only one conclusion: that reliance by the Plaintiffs was unreasonable. In this context, summary judgment in favor of the Defendant is proper on the issue of promissory estoppel.

III. Plaintiffs cannot establish a basis for declaratory judgment.

For a fourth cause of action, Plaintiffs assert that there is a “justiciable controversy” regarding their alleged rights pursuant to terms of “written contracts.” A decision to grant or withhold declaratory judgment is within the sound discretion of the trial court and requires a “real and substantial controversy” ripe for determination. Sunset Cay, LLC v. City of Folly Beach, 357 S.C. 414, 422, 593 S.E.2d 462, 466 (2004). For the reasons stated above, Plaintiffs have failed to identify any enforceable “written contracts.” Accordingly, Plaintiffs’ request for declaratory judgment is denied.

IV. Plaintiffs cannot establish a cause of action for equitable estoppel.

As a fifth cause of action, Plaintiffs assert that a promise of compensation to employees is an “administrative” rather than “legislative” act. In support, Plaintiffs offer language from certain

handbooks and booklets that health insurance is an important element of compensation and assert that "a city manager's promise of free single coverage health insurance for life is lawful." This argument fails for a number of reasons. First, the fixing of city employees' compensation is a legislative act. 4 McQuillin Mun. Corp. § 13.03.15 (3d ed. 2010). Second, our Supreme Court acknowledged in Alston that municipal employee benefits are not vested and that any "promise" of such benefits, even by way of ordinance, is unenforceable. Third, no municipality, whether through council or manager, is authorized by our Constitution to enter into open-ended indebtedness as would be required to afford lifetime free health insurance. Fourth, under the council/manager form of government, it is the duty of the council to adopt the budget of the municipality. S.C. Code Ann. § 5-13-30(3). Finally, the City's manager may not expend more than \$10,000 for any contract or service, including a group health plan, without prior approval of Council.¹ There can be no dispute that the cost of the group health plan borne by the City runs in the millions of dollars each year.

Plaintiffs understandably seek to shift responsibility for adoption of the group health plan from Council to the City's manager. This is not supported by the testimony of the current City Manager, the public vote of Council in adopting the plan, or controlling law. As stated above, the Todd and Stanley decisions affirm that only a city council is authorized by law to make policy. Specifically, the Court stated in Stanley that under the City of Columbia's council/manager form of government "all legislative powers of the municipality and the determination of all matters of policy [are] vested in the municipal council." 357 S.C. at 176, 592 S.E.2d at 299 n.6. South Carolina law has established for more than 100 years that an "administrative" act is enforceable only if supported by legislative authority. See Glenn v.

¹ Under the City's council/manager form of government, the city manager may fix salaries of individual employees subject to limits established in an approved compensation plan and the budget adopted by Council.

County Comm'rs of York, 6 S.C. 412, 440 (1873) ("administrative" act cannot create new rights or obligations but may be exercised only under legislative authority). Accordingly, any promises by a City Manager, supervisor, or individual Council member of lifetime free health insurance are not binding against the City.

The essential elements of equitable estoppel against a government agency are (1) lack of knowledge and means of knowledge of the truth as to the facts in question; (2) justifiable reliance on the government's conduct; and (3) a prejudicial change of position. See Am. Legion Post 15 v. Horry County, 381 S.C. 576, 584, 674 S.E.2d 181, 185 (Ct. App. 2009). Citizens are presumed to know the law and are charged with exercising reasonable care to protect their interests. Id. (citing Morgan v. S.C. Budget & Control Bd., 377 S.C. 313, 320, 659 S.E.2d 263, 267 (Ct. App. 2008) (finding estoppel unavailable where a representative of the state's retirement system erroneously provided retirement benefit advice beyond the scope of his authority and in contradiction of law)). As the Supreme Court observed in Berkeley Electric Coop., Inc. v. Town of Mount Pleasant, 308 S.C. 205, 417 S.E.2d 579 (1992), parties are charged with knowledge of limiting legislation and cannot have "reasonably justified" reliance on actions inconsistent with such legislation. In reaching this conclusion, the Court stated:

Restrictions on municipal power are created to protect citizens. Although it may seem harsh to deny Berkeley a remedy . . . it is better that Berkeley suffer from the mistake of Mount Pleasant than for this Court to adopt a rule which, through improper combination or collusion, could be detrimental or injurious to the public.

308 S.C. at 210, 417 S.E.2d at 583.

Taking all the allegations by the Plaintiffs as true, it remains clear that no person, whether employee, city manager, or council member had the authority to guarantee free lifetime health insurance. Like their promissory estoppel claim, Plaintiffs' equitable estoppel cause of action is

properly adjudicated by summary judgment. As addressed above, it is well established that an equitable estoppel claim may be determined by way of summary judgment. See, e.g., Quail Hill v. County of Richland, 387 S.C. 223, 236-37, 692 S.E.2d 499, 506-07 (2010). Furthermore, a claim of equitable estoppel is an issue for the judge to determine, not the jury. Gaymon, 327 S.C. 66, 488 S.E.2d 332. Based upon these controlling principles of law and a comprehensive review of the record, it is clear that the City is entitled to summary judgment on the issue of equitable estoppel.

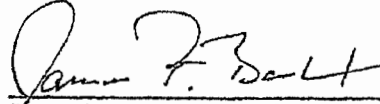
CONCLUSION

Plaintiffs argue that adoption of a group health plan is an administrative function within the authority of the City's manager. Once adopted, Plaintiffs contend that the terms of a group health plan cannot be altered without their consent. Both the record and the established law of this State lead to a different conclusion. In this case it is clear that Council has reserved to itself the authority to determine what costs, if any, will be borne by participants in the City's group health plan. This is consistent with Council's legislative authority to place limits on spending of public funds. In this factual and legal context, Plaintiffs cannot establish breach of contract, promissory, or equitable estoppel.

ORDER

For the reasons stated above and evidenced in the testimony and documents of record, there is no genuine issue of material fact for determination by a jury in this case. Instead, controlling legal principles establish that Plaintiffs cannot satisfy essential elements necessary to obtain the relief requested in this action. On this basis, the City of Columbia is entitled to an order granting summary judgment pursuant to Rule 56, SCRCp.

AND IT IS SO ORDERED.

A handwritten signature in cursive script, appearing to read "James R. Barber, III", written over a horizontal line.

James R. Barber, III, Judge
Fifth Judicial Circuit

September 10, 2010.
Columbia, South Carolina

EXHIBIT 4

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Kirby L. Bishop, Herman G. Boney,
Richard H. Brown, Michael D. Catt,
Basilides F. Cruz, Robert B. Dozier,
Joseph A. Floyd, Sr., Arthur C.
Gillam, III, Alma C. Hill, Barry N.
Martin, William J. Meyer, Charles F.
Morris, Sr., and Joseph A. Smith,

Plaintiffs,

vs.

City of Columbia,

Defendant.

IN THE COURT OF COM
FOR THE FIFTH JUDICI

Civil Action File No.: 2009

DEFENDANT'S ANSWER TO
PLAINTIFFS' AMENDED COMPLAINT

The Defendant, responding to Plaintiffs' Complaint, alleges as follows:

FOR A FIRST DEFENSE

I. The Complaint fails to state a claim for which relief can be granted.

FOR A SECOND DEFENSE

II. Defendant specifically asserts all rights, benefits and limitations available pursuant to the doctrine of sovereign immunity.

FOR A THIRD DEFENSE AND BY WAY OF ANSWER

III. The Defendant answers each of the allegations of the Complaint by numbers which correspond or refer to the numbered paragraphs of the Complaint as follows. Each allegation of the Complaint not hereinafter specifically admitted is denied.

JURISDICTION AND VENUE

1. Admitted upon information and belief.
2. Admitted.

3. Admitted.

4. The allegations of this Paragraph are legal in nature and do not require a response.

PARTICULAR ALLEGATIONS

5. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff.

6. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

7. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

8. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

9. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

10. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

11. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

12. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, the Plaintiff was not authorized to make promises or enter binding agreements on behalf of Defendant.

13. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

14. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

15. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

16. Defendant is without sufficient information to respond to the allegations of this Paragraph. Defendant denies that any employee was authorized to make promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable. By way of further response, Defendant craves reference to the "benefits booklet" referenced therein.

17. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

18. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

19. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

20. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein.

21. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

22. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

23. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

24. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, the Plaintiff was not authorized to make promises or enter binding agreements on behalf of Defendant.

25. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any contractual obligation to provide free health insurance to any employee or retiree.

26. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

27. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

28. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

29. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

30. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

31. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

32. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

33. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

34. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

35. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

36. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

37. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

38. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

39. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

40. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

41. Defendant is without sufficient information to respond to the allegations of this Paragraph.

42. In response to the allegations of this Paragraph, Defendant craves reference to the letter referenced therein.

43. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

44. In response to the allegations of this Paragraph, Defendant craves reference to the letter referenced therein.

45. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

46. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

47. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

48. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

49. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

50. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

51. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

52. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

53. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

54. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

55. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

56. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

57. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

58. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

59. In response to the allegations of this Paragraph, Defendant craves reference to the employment record of the Plaintiff and the health insurance coverage selected by the Plaintiff. The remaining allegations of this Paragraph are denied.

60. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

61. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

62. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by Plaintiff. The remaining allegations of this Paragraph are denied.

COMMON ALLEGATIONS

63. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

64. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

65. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

66. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

67. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by each Plaintiff.

68. Admitted.

69. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by each Plaintiff.

70. In response to the allegations of this Paragraph, Defendant craves reference to the handbooks referenced therein. The remaining allegations of this Paragraph are denied.

71. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by each Plaintiff.

72. Denied.

PLAINTIFFS' FIRST CAUSE OF ACTION
(Breach of Contract)

73. Defendant incorporates Paragraphs 1-72 above as if set forth verbatim.

74. In response to the allegations of this Paragraph, Defendant craves reference to the handbooks referenced therein. By way further response, Defendant craves reference to the employment records of the Plaintiffs.

75. In response to the allegations of this Paragraph, Defendant craves reference to the handbooks referenced therein.

76. Defendant is without sufficient information to respond to the allegations of this Paragraph. Accordingly, these allegations are denied.

77. In response to the allegations of this Paragraph, Defendant craves reference to the "benefits booklet" referenced therein. The remaining allegations of this Paragraph are denied.

78. In response to the allegations of this Paragraph, Defendant craves reference to the newsletters referenced therein. The remaining allegations of this Paragraph are denied.

79. In response to the allegations of this Paragraph, Defendant craves reference to the financial statements referenced therein. The remaining allegations of this Paragraph are denied.

80. Denied.

81. Denied.

82. Denied.

83. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by each Plaintiff.

84. Defendant is without sufficient information to respond to the allegations of this Paragraph.

85. Denied.

86. Denied.

87. The allegations of this Paragraph are legal in nature and do not require a response. By way of further response, Defendant denies that Plaintiffs are entitled to the relief requested.

PLAINTIFFS' SECOND CAUSE OF ACTION
(Promissory Estoppel)

88. Defendant incorporates Paragraphs 1-87 above as if set forth verbatim.

89. Denied. By way of further response, Defendant denies that any employee was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

90. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies that any employee or other individual

was authorized to make the promises allegedly relied upon by Plaintiff and any reliance upon such alleged promises would have been unreasonable.

91. In response to the allegations of this Paragraph, Defendant craves reference to the Plaintiffs' records of employment. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

92. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

93. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

94. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

95. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

96. Defendant is without sufficient information to respond to the allegations of this Paragraph. By way of further response, Defendant denies any conduct that could reasonably induce an employee to believe that any fringe benefit is guaranteed for a lifetime regardless of changes in circumstances.

97. Denied.

98. Denied.

99. Denied.

100. The allegations of this Paragraph are legal in nature and do require a response. By way of further response, Defendant denies any "wrongful actions."

PLAINTIFFS' THIRD CAUSE OF ACTION
(Unfair Trade Practice)

101. Defendant incorporates Paragraphs 1-100 above as if set forth verbatim.

102. The allegations of this Paragraph are legal in nature and do require a response. By way of further response, Defendant denies that Plaintiffs have stated a claim under the South Carolina Unfair Trade Practices Act.

103. Admitted.

104. Denied.

105. Denied.

106. Admitted.

107. Denied.

108. In response to the allegations of this Paragraph, Defendant endeavors to employ the best available staff for each of its positions of employment.

109. Denied.

110. Denied.

111. Denied.

112. Denied.

113. Denied.

114. Denied.

115. Denied.

116. Denied.

PLAINTIFFS' FOURTH CAUSE OF ACTION
(Declaratory Judgment)

117. Defendant incorporates Paragraphs 1-116 above as if set forth verbatim.

118. The allegations of this Paragraph are legal in nature and do require a response. By way of further response, Defendant denies that Plaintiffs are entitled to declaratory judgment.

119. Denied.

120. In response to the allegations of this Paragraph, Defendant craves reference to the health insurance coverage selected by each Plaintiff.

121. Defendant is without sufficient information to ascertain Plaintiffs' subjective beliefs. All remaining allegations of this Paragraph are denied.

122. In response to the allegations of this Paragraph, Defendant denies that it has breached any contractual obligation to Plaintiffs.

123. Denied.

124. The allegations of this Paragraph are legal in nature and do require a response. By way of further response, Defendant denies any "wrongful actions."

PLAINTIFFS' FIFTH CAUSE OF ACTION
(Equitable Estoppel)

125. Defendant incorporates Paragraphs 1-124 above as if set forth verbatim.

126. Denied.

127. Denied.

128. In response to the allegations of this Paragraph, Defendant craves :
Code of Laws for South Carolina and the ordinances of the City of Columbia th
duties of the City Manager.

129. Denied.

130. Denied.

131. Denied.

132. Denied.

FOR A FOURTH DEFENSE
(Statute of Limitations)

IV. Plaintiff's claims and requests for relief are barred by the applicable statutes of
limitations.

FOR A FIFTH DEFENSE
(Accord and Satisfaction)

V. Plaintiff's claims and requests for relief are barred by the doctrine of accord and
satisfaction.

FOR A SIXTH DEFENSE
(State Tort Claims Act)

VI. Defendant specifically asserts and preserve all immunities and limitations
contained in the State Tort Claims Act.

FOR A SEVENTH DEFENSE
(Lack of Standing)

VII. Plaintiffs are without standing to seek the relief claimed in the Complaint.

FOR AN EIGHTH DEFENSE
(Exercise of Governmental Authority)

VIII. The availability of fringe benefits sought by Plaintiffs is a matter within the governmental authority of the Defendant. Plaintiffs are without standing and Plaintiff's claims are barred by the lawful exercise of governmental discretion. Additionally, any alleged promises regarding future benefits are unenforceable as such communications are unauthorized and *ultra vires* as a matter of law.

WHEREFORE, having fully answered the Complaint of Plaintiffs, Defendant demands that the Complaint be dismissed with prejudice.

NICKLES & SOLOMON, LLC

By: 
W. Allen Nickles, III
Carl L. Solomon
1519 Richland Street
Post Office Box 1866
Columbia, South Carolina 29202-1866
(803) 779-8080

October 14, 2009
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	IN THE FIFTH JUDICIAL CIRCUIT
	)	
Basilides F. Cruz; Joseph A. Floyd, Sr.;	)	Case No.: 2009-CP-40-5680
Arthur C. Gillam, III; Alma C. Hill; Barry N.	)	
Martin; Charles F. Morris, Sr.; and Joseph A.	)	
Smith,	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
City of Columbia,	)	
	)	
Defendant.	)	
Larry Strickland, Denious Dimery, and	)	Case No.: 2013-CP-40-05097
Bailey McClinton,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
City of Columbia,	)	
	)	
Defendant.	)	

PLAINTIFFS' POST-TRIAL BRIEF

The parties tried this promissory estoppel case before the Court on December 19 and 20, 2018. Over the course of the two-day bench trial, the Court received evidence and heard testimony from the retired-firefighter Plaintiffs and three witnesses for the City of Columbia and took the case under advisement. In this post-trial brief, Plaintiffs (1) review why the greater weight of the evidence supports finding in favor of all 10 Plaintiffs; (2) articulate why the City of Columbia's defenses are inapplicable here; and (3) propose alternatives for calculating damages.

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I. BACKGROUND

The basic facts of this case are not seriously in dispute. Plaintiffs began working for the City of Columbia as firefighters in the 1960s, 1970s, and 1980s. Each plaintiff articulated specific instances throughout their careers when Chiefs, City Managers, and Human Resources officials represented to them that they would receive no-cost single coverage healthcare from the time of their retirement until the time of their death. And the City of Columbia did, in fact, provide Plaintiffs with no-cost single coverage healthcare from the dates of their retirement until July 2009 for individuals under 65, and 2013 for those individuals over 65. Plaintiff Denious “D.L.” Dimery’s experience illustrates this last point—Dimery retired in 1991 and received no-cost single coverage healthcare for over 20 years before the City of Columbia began requiring him to pay the premium for the same coverage.

The only remaining cause of action in this case is for promissory estoppel. “Promissory estoppel is a quasi-contract remedy.” N. Am. Rescue Prods., Inc. v. Richardson, 411 S.C. 371, 379, 769 S.E.2d 237, 241 (2015). “Promissory estoppel developed to protect the ability of individuals to trust promises in circumstances where trust is essential. It is the value of trust that forms the basis of the entitlement to rely.” State Bank of Standish v. Curry, 442 Mich. 76, 83–84, 500 N.W.2d 104, 107 (1993) (citing Daniel A. Farber and John H. Matheson, Beyond Promissory Estoppel: Contract Law and the “Invisible Handshake”, 52 U. Chi. L. Rev. 903, 928 (1985)).

In South Carolina, the elements of promissory estoppel are “(1) an unambiguous promise; (2) reasonable reliance on that promise by the person to whom the promise is made; (3) the reliance was expected by the person making the promise; and (4) the person to whom the promise was made sustained an injury by relying on the promise.” Judge Early’s Charge Book (citing Woods v. State, 314 S.C. 501, 431 S.E.2d 260 (Ct. App. 1993)).

II. THE GREATER WEIGHT OF THE EVIDENCE SUPPORTS FINDING IN FAVOR OF ALL 10 PLAINTIFFS

The preponderance of the evidence shows that (1) there was an unambiguous promise; (2) City of Columbia officials who made the promise were acting within the scope of their authority; (3) it was reasonable for Plaintiffs to rely on the promise; (4) the reliance was expected by the individuals making the promise; and (5) each plaintiff sustained an injury by relying on the promise, establishing a cause of action for promissory estoppel for each plaintiff. Although this is not a class action, much of the evidence presented by the parties in this case is relevant to every plaintiff's individual claim for promissory estoppel, as highlighted below.

1. City of Columbia officials unambiguously promised Plaintiffs that their service to the City of Columbia would earn them no-cost, single coverage healthcare for life

Each plaintiff testified that throughout their careers with the City of Columbia Fire Department they were promised that they would receive no-cost, single coverage healthcare for life upon retirement through the City of Columbia's healthcare plan, so long as they satisfied the applicable years-of-service requirement. Steve Gantt, the City of Columbia's City Manager when the decision to stop providing such coverage was made, acknowledged that it was the city's longstanding practice to provide such coverage to retirees.

The years-of-service requirement changed over the years, moving first from 10 years to 15 years, and ultimately to 25. The particulars of the City's healthcare plan changed from year-to-year as well; for example, there was testimony that certain doctors may have gone from "in network" to "out of network" or vice versa. But the promise that eligible retirees would receive one constant was the promise that retirees would receive no-cost, single coverage healthcare for life through the City of Columbia's healthcare plan was unambiguous and unchanging.

The City of Columbia presented no competent evidence to counter Plaintiffs' testimonies regarding the promises that were made to them. Its attempt to characterize its longstanding practice

of providing eligible retirees with no-cost, single coverage healthcare as a “then-in-place policy” as opposed to a bona fide promise is disingenuous.

Merriam-Webster’s dictionary defines “promise” as “a declaration that one will do or refrain from doing something specified.” Promise, Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/promise> (last visited Jan. 14, 2019). Here, the cumulative evidence provided by Plaintiffs’ testimonies, testimony from Steve Gantt, and documentary evidence such as the letter instructing new retirees not to take out Medicare Part D several years before they would even be eligible all support the existence of a declaration—numerous declarations—from agents of the City of Columbia that it would do something specified. More specifically, the greater weight of the evidence supports the existence of a promise to provide Plaintiffs with no-cost, single coverage healthcare until they die.

Finally, the City of Columbia cannot sincerely argue that the promise of no-cost, single coverage healthcare for life was ambiguous because (1) it delivered that promise for many years and for many individuals over the years; and (2) it provided each plaintiff with no-cost, single coverage healthcare under the City of Columbia’s healthcare plan for some period of time after he retired. Accordingly, each Plaintiff satisfies the first element of promissory estoppel.

2. City of Columbia officials acted within the scope of their authority when they promised Plaintiffs no-cost, single coverage healthcare for life

The Court of Appeals has held in this case that “[t]he acts of a city official acting *within the proper scope of his or her authority* may give rise to estoppel against a municipality.” Bishop v. City of Columbia, 401 S.C. 651, 665, 738 S.E.2d 255, 262 (Ct. App. 2013); see also id. at 667 (holding that “the employment review context during which the representations [of no-cost, single coverage healthcare] were made provides a scintilla of evidence to suggest the representations and promises were within the supervisors’ authority”). Although the question of whether the person who made

the promise acted within the scope of his or her official authority is not a traditional element of the promissory estoppel cause of action, it is must be addressed here.

Plaintiffs presented substantial evidence—and law—that the individuals who made the promises were acting within the scope of their authority. Plaintiffs all testified that they were told by City Managers, Human Resources officials, and Fire Chiefs that they would receive no-cost, single coverage healthcare for life if they met the years-of-service requirement. As chief executive officer, the scope of the City Manager's authority is broad and includes control over the city's departments, which include Human Resources and Fire. City of Columbia Ordinances § 2-114, 2-151. Plaintiffs testified that these promises and representations were made regularly and in various controlled, professional settings, including fire station meetings, retirement planning seminars, and direct talks with various City of Columbia officials including Mona Holliday.

Plaintiff Joe Floyd testified that he was instructed by Human Resources to discuss the promise of no-cost, single coverage healthcare for life with potential recruits, as did Plaintiff Frank Cruz. Steve Gantt, the City Manager, testified that it was within the scope of Human Resource officials' authority to inform retirees about their benefits. This was offered further support by City of Columbia Ordinance § 2-122, which specifies that the director of human resources is "responsible for all activities related to employment, employee relations, [and] . . . employee benefits." Defendant's Trial Ex. 6.

In Bishop, the Court of Appeals identified several additional City of Columbia ordinances that are relevant to the question of the scope of authority:

- City of Columbia Ordinance § 2-114“(a) Duties. The city manager shall be the chief executive officer of the city and head of the administrative branch of city government. The city manager shall perform and exercise the duties and responsibilities prescribed by law for this office and such other duties and responsibilities as prescribed by the City Council. (b) Assistants.

The city manager may employ assistants to exercise such supervisory responsibilities over departments as the city manager may delegate.”);

- City of Columbia Ordinance § 2-151 (“(a) The following departments of the city are created: ... Human resources; ... Fire; ... (b) The head of each department shall be a director, who shall be an officer of the city and shall have supervision and control of his department, subject to the city manager. The city manager may serve as director of one or more departments or divisions within any department.”); and
- City of Columbia Ordinance § 2-125 (“The director of human resources, subject to the city manager, shall have administrative supervision over the department of human resources and shall be responsible for those activities relating to employment, employee relations, and training and shall perform such additional duties as may be assigned by the city manager.”).

In addition, the testimony provided by Pamela Benjamin, the current Human Resources Director for the City of Columbia, strongly supports the conclusion that discussing retirement benefits with employees is within the scope of Human Resources officials’ authority. Ms. Benjamin testified that she “make[s] it very clear to her staff that [they’re] talking about the present” and that things could change when they discuss retirement benefits with potential recruits and current employees. This testimony is important for two reasons.

First, it highlights the fact that *to this day* the task of discussing retirement benefits with employees falls within the scope of the authority of Human Resources officials. Ms. Benjamin notably did not say that she told her staff not to discuss retirement benefits because they were outside the scope of their authority or that they had no authority to make any statements. The Human Resource department is *the* place employees go for reliable information regarding benefits, as underscored by Plaintiff Cam Gillam’s discussion with Mona Holliday to confirm that he was set to retire with no-cost, single coverage healthcare for life and Steve Gantt’s testimony that it was fair for Plaintiffs to rely on Mona Holliday’s representations regarding retiree health insurance benefits.

Second, although Ms. Benjamin's testimony may be an accurate reflection of the current practices of the City of Columbia's Human Resources Department, it is of no relevance to the practices during the relevant period, which is 1968 to 2009 (i.e., the earliest date a plaintiff was hired to the latest date a plaintiff retired). Ms. Benjamin did not begin working with the City of Columbia until July 2011, and she testified that she had no knowledge regarding whether her predecessors were as diligent as she was in making sure that her representations regarding retirement benefits contained caveats such as "this is the current policy" or "things may change."

The City of Columbia offered little in the way of evidentiary support for the position that making these representations fell outside the scope of the authority of the City Manager, Human Resources, or the Fire Chiefs. In fact, much of the testimony the City of Columbia elicited appeared to conflate the question of the *scope of authority* with the question of whether particular individuals had the *actual authority* to create a binding contract between the City of Columbia and Plaintiffs. The scope of authority is what is at issue here, and it is distinct from actual authority. The doctrine of respondeat superior provides a useful analogy.

"The doctrine of respondeat superior provides that the employer, as the employee's master, is called to answer for the tortious acts of his servant, the employee, when those acts occur in the course and scope of the employee's employment." James v. Kelly Trucking Co., 377 S.C. 628, 631, 661 S.E.2d 329, 330 (2008). The doctrine does not exist because the employee has undertaken an action that the employer has specifically authorized, or even because the employer did something wrong. The liability arises when the acts of the employee "occurred while the employee was going about the employer's business." Id. In other words, respondeat superior liability attaches because the tortious act took place in the scope of the business

Here, there is no doubt that City Managers, Human Resource officials, and Fire Chiefs made the promises and representations to Plaintiffs while going about the City of Columbia's business. When they made the promises, they were attempting to attract and retain Plaintiffs to operate a vital arm of the City of Columbia's "business" of governance—the fire department. This was within the scope of their authority.

The City of Columbia has argued that making these promises was outside of the scope of the City Manager's authority because city ordinances prevented him from making such decisions unilaterally. This is incorrect for at least two reasons. First, the argument again conflates the scope of authority with actual authority. Second, the ordinance that the City of Columbia cited during trial—§ 2-207, Defense Tr. Ex. 1, tab 2—is inapplicable to the case at bar. That ordinance applies only to the rejection or approval of bids and purchase contracts, as well as awarding contracts. This is not a contracts case.

In sum, the question of fact before the court is whether the individuals who made the representations of no-cost, single coverage healthcare for life to Plaintiffs were acting within the scope of their authorization. The Court of Appeals has already conclusively answered the question of whether City Managers, Human Resource officials, or Fire Chiefs had the actual authority to enter into unilateral contracts with Plaintiffs in the negative. Bishop v. City of Columbia, 401 S.C. 651, 663, 738 S.E.2d 255, 261 (Ct. App. 2013). But it held that Plaintiffs had provided at least a scintilla of evidence that the promises were made by individuals acting within the scope of their authority. The great weight of evidence presented during the trial established that this is, indeed, the case. There was no evidence put forward to question what Plaintiffs represented they had been told, and there was no evidence put forward to suggest that the City Managers, Human Resources officials, and Fire Chiefs who made the representations had gone rogue. To the contrary, it was

established that providing this earned benefit in retirement was a longstanding tradition. Accordingly, the greater weight of the evidence supports finding that the promises were made by individuals acting within the scope of their authority.

3. It was reasonable for Plaintiffs to rely on the promise of post-retirement, no-cost, single coverage healthcare for life

It was reasonable for Plaintiffs to rely on the promise that they would receive no-cost single coverage healthcare for life upon retirement because (1) the benefit was a logical tradeoff for lower pay (and was characterized as such); (2) the promise was reinforced through official City of Columbia channels; (3) the City of Columbia allowed the understanding to proliferate; (4) Plaintiffs observed the city making good on that promise to others for many years; and (5) the City of Columbia made good on the promise to all 10 Plaintiffs for some period of time.

Each plaintiff's testimony painted a similar picture. When he was hired, the fire chief and/or an individual from Human Resources would tell him about the benefits that came along with working as a firefighter. One of these benefits was the promise of no-cost, single coverage healthcare for life. As multiple plaintiffs noted, this earned benefit was understood to be a tradeoff for the low salary and high risk that came with the job. To paraphrase the testimony of Plaintiff Bailey McClinton, the firefighters were told that they may never get rich, but at least they had this paid up benefit in retirement.

The uncontested evidence shows that this message was reiterated and reinforced through official channels throughout each plaintiff's career with the City of Columbia. Human Resources put on retirement planning seminars that addressed retiree healthcare coverage. City Managers came to meetings at the fire stations and discussed retiree healthcare coverage. Human Resources instructed the fire department to use retiree health coverage as a recruiting tool. Mona Holliday and others within Human Resources advised Plaintiffs that they were "good to go" with respect to

health insurance benefits in retirement and mailed Plaintiffs letters advising them not to take Medicare Part D because the City's health insurance plan was that much better. In his deposition testimony, Steve Gantt, the former City Manager, testified that it would be reasonable for Plaintiffs to rely on the word of Mona Holliday.

This constant reiteration and reinforcement from the City of Columbia caused an understanding—perhaps even a culture—to proliferate throughout the fire department. There was no doubt in any of the plaintiffs' mind that they would receive the no-cost, single coverage health care when they retired because they had earned it. Every Plaintiff testified that he knew other firefighters who received no-cost, single payer coverage in retirement until death. DL Dimery testified that three chiefs who he outlived all received this promise in retirement. Barry Martin's father, who was also a City of Columbia firefighter, received this promise until he died. Finally, the City of Columbia made good on the promise to each and every Plaintiff for some period of time after retirement, ranging from 9 months to 22 years.

Finally, the City of Columbia has suggested that it was not reasonable for Plaintiffs to rely on these representations because (1) "things change," and (2) "this is how things operate in a democratic society." But the City of Columbia put forth no evidence that the longstanding policy that provided eligible retirees with no-cost, single coverage healthcare for life was implemented through a vote by City Council. Accordingly, Plaintiffs had no reason to believe that what had been promised to them for years during employment and delivered to them in retirement could be changed by the vote of City Council. These aphorisms have no bearing on whether it was reasonable for Plaintiffs to rely on the representations that they would receive no-cost, single coverage healthcare for life upon their retirement.

Considering the factors above, both individually and in the aggregate, it was reasonable for Plaintiffs to rely on the promise of no-cost, single coverage healthcare for life.

4. The City of Columbia, through its agents, expected Plaintiffs to rely on the promise of post-retirement, no-cost, single coverage healthcare for life

As discussed above, agents for the City of Columbia acted within the scope of their authority when they used the promise of no-cost, single coverage healthcare for life as an incentive, both to attract new hires and also to prevent active employees from leaving the fire department for other opportunities. The promise of this future benefit was specifically designed to entice people to come to work for the City of Columbia and continue to work for the City of Columbia despite the low rate of pay. To that end, the individuals making the representations on behalf of the City of Columbia—that is, the City Managers, Human Resources officials, and Fire Chiefs—all expected Plaintiffs to rely on the promise of no-cost, single coverage healthcare for life.

To find that City Managers, Human Resources officials, and Fire Chiefs did not expect Plaintiffs to rely on the promise of no-cost, single coverage healthcare for life would require a factfinder to ignore the fact that these individuals knew that people had relied on this promise for decades, as evinced by testimony regarding individuals who retired with this benefit in the 1970s, 1980s, 1990s, and 2000s. Accordingly, the greater weight of the evidence supports finding that City Managers, Human Resources officials, and Fire Chiefs did expect plaintiffs to rely on their promises and representations.

5. Each plaintiff sustained an injury by relying on the promise of post-retirement, no-cost single coverage healthcare for life

Plaintiffs all testified that they (1) made decisions in reliance of the promise of post-retirement, no-cost single coverage healthcare for life; and (2) had no reason to think that the promise would not be fulfilled. Because that promise was not kept, Plaintiffs all sustained various injuries, as discussed further below.

The class action was not certified because the circuit court held that all Plaintiffs needed to individually establish that they had suffered an injury in reliance on the promise of no-cost, single coverage healthcare for life. Testimony during the trial, however, established that Plaintiffs all suffered identical injuries. Each Plaintiff testified that the promise either induced him to work for or continue working for the City of Columbia for some period of time. Accordingly, each Plaintiff suffered the identical injury in reliance on the broken promise of no-cost, single coverage healthcare for life—the effective reduction of compensation for work already performed. This has caused all Plaintiffs to incur out-of-pocket costs for insurance premiums that they would not have otherwise incurred.

As the Court will recall, Plaintiffs brusquely bristled at the description of no-cost, single coverage health insurance for life as “free healthcare.” Plaintiffs earned it through their service to the City of Columbia, and they factored it into their personal compensation calculus. Several plaintiffs also testified that the City of Columbia provided them with slips of paper that showed them their “true” compensation, which included calculations for benefits such as no-cost, single coverage healthcare for life and significantly increased the amount of their effective compensation beyond their salaries. When the City of Columbia reneged on the promise, it pulled a bait and switch with overall compensation, injuring all Plaintiffs. The broken promise wiped out “savings” the Plaintiffs had earned over the years through their work, in the form of the cost of the monthly premiums for their insurance. Because each Plaintiff was on a fixed income, this effect was significant and substantial, despite the relatively low cost of monthly premiums.

An analogous situation would be if the City of Columbia hired Plaintiffs at a stated rate of \$15/hour and deferred payment of \$5/hour until retirement. In other words, Plaintiffs would pocket only \$10/hour while they worked, but they were induced to work for the promise of \$15/hour. If the

City of Columbia failed to deliver the promised earned \$5/hour in retirement, the effective rate that Plaintiffs would earn is less than the \$15/hour they were initially promised. Here, the reduced effective hourly rate is the injury common to all Plaintiffs.

In addition to the reduction in effective compensation, each plaintiff provided testimony relating to additional injuries suffered in reliance of the promise of no-cost, single coverage healthcare for life:

- Plaintiff Cam Gillam testified that he calculated his ability to retire—that is, the costs he expected to incur and whether he needed to continue to work to satisfy those obligations—based on his reliance of the promise of no-cost, single coverage healthcare for life.
- Plaintiff Larry Strickland stayed with the City of Columbia Fire Department because of the promise of no-cost single coverage healthcare for life instead of seriously pursuing a higher paying job with Southern Railway. This injury is compounded by the fact that the difference in compensation between the two jobs is increased by the elimination of no-cost, single coverage healthcare for life. He also factored no-cost, single coverage healthcare into his retirement planning.
- Plaintiff Bailey McClinton testified that the promise of no-cost, single coverage healthcare induced him to stay with the fire department instead of looking at the numerous well-paying private employers that came to the area during his tenure, including Mack Truck. He also factored no-cost, single coverage healthcare into his retirement planning.
- Plaintiff Charlie Morris testified that he developed bad knees during the course of his work as a firefighter, and he worked for some period of time with his bad knees to reach the years-in-service requirement that would make him eligible for no-cost, single coverage healthcare for life. Morris had surgery on his knees after he retired, but he testified that he would have had the surgery earlier, left the department earlier, and found other work if he had known that the promise of no-cost, single coverage health insurance for life was not going to be covered. Like Gillam, Morris also testified that he knew he was on a fixed income and made calculations based on his expected expenses, which did not include healthcare premiums.
- Plaintiff Alma Hill testified that after he was planning to leave the Fire Department after a rough patch in his life, he decided to stay, in part because of the promise of no-cost, single coverage healthcare for life. He also retired at the age of 47 and could have continued to work as a firefighter to save for the costs of health insurance premiums, but he timed his retirement based, in part on the promise.

- Plaintiff Joe Floyd testified that he withdrew his name from consideration from the final round of the Summerville Fire Department's search for a new Chief in order to obtain the promised no-cost, single coverage healthcare for life. He also testified that he had factored having no-cost, single coverage healthcare for life into his retirement planning.
- Plaintiff Rusty Smith testified that he timed his decision to retire based on the promise of no-cost, single coverage healthcare for life. At the time of his retirement in 2006—after 33 years with the Fire Department—Smith would have continued to work as a firefighter and continued to save money for several additional years, had he known that he would need to factor the cost of his health insurance premiums into his retirement planning. But the City of Columbia's decision to renege on its promise three years after his retirement deprived him of that opportunity.
- Plaintiff Frank Cruz, the son of an Army veteran, specifically took the job with the fire department because of the promise of no-cost, single coverage health insurance premiums until retirement. He made the choice to stay with the Fire Department instead of the Marine Reserves because of this promise, and he was induced not to look at any other employment options at any point in time because of this promise. Because of
- Plaintiff Barry Martin came to work for the City of Columbia Fire Department and stayed with the Fire Department because of the benefits, including no-cost, single coverage health insurance for life. He did not look for other options because of the benefits, and factored the promise of no-cost, single coverage healthcare for life into his decision to continue working with the fire department after he suffered his first heart attack.
- Plaintiff DL Dimery retired at the age of 49 in 1991 because of dry eyes that prevented him from continuing to work as a firefighter. He testified that he could have retired earlier and sought other work if he had known that the promise of no-cost, single coverage healthcare for life was not going to be fulfilled. And because he retired at the age of 49 with no serious physical ailments besides dry eyes, he could have worked in other areas to save for the costs of health insurance premiums. Instead, he was led to believe, as the City of Columbia provided him no-cost, single coverage healthcare for 22 years after his retirement, that he would receive this for life. By waiting 22 years after Dimery's retirement to eliminate the no-cost, single coverage healthcare, the City of Columbia deprived him of opportunities to perform work that he could have performed in his 40s, 50s, and even his 60s to save for this expense.

The City of Columbia has argued that to prove injury in reliance on the promise, Plaintiffs need to demonstrate that they "would have done better" by going to another job instead of staying with the Columbia Fire Department until their retirement. This "requirement" is made from whole

cloth and inconsistent with the law on promissory estoppel in South Carolina and the principles that underpin promissory estoppel.

A plaintiff who brings a cause of action in South Carolina need only demonstrate that “the promise to be enforced [is] unambiguous with clearly articulated, definite terms, [and that] the sustained injury . . . result[ed] from an inconsistent disposition by the promisor.” Barnes v. Johnson, 402 S.C. 458, 470, 742 S.E.2d 6, 11 (Ct. App. 2013). There is no requirement that a plaintiff demonstrate that he or she would have gotten another job or would have “done better” elsewhere. This is why the doctrine of promissory estoppel applies in areas outside the arena of promises related to employment. See, e.g., Powers Const. Co. v. Salem Carpets, Inc., 283 S.C. 302, 306, 322 S.E.2d 30, 33 (Ct. App. 1984) (“Because promissory estoppel is a recognized doctrine in South Carolina, we have no doubt that the doctrine can support an action brought in this state by a contractor who has submitted a prime bid in reliance upon a subcontractor’s bid.” (internal citation omitted)); see also Furman University v. Waller, 124 S.C. 68, 117 S.E. 356 (1922) (applying the concept of promissory estoppel—although not by name—to a situation where a university relied on a pledged donation to build a dormitory); Higgins Const. Co. v. S. Bell Tel. & Tel. Co., 276 S.C. 663, 665–66, 281 S.E.2d 469, 470 (1981) (recognizing that Waller was a promissory estoppel case and holding that the doctrine is not restricted to cases involving charities).

Because the greater weight of the evidence demonstrates that Plaintiffs all (1) took some action or refrained from taking some action based on the promise of no-cost, single coverage healthcare for life; and (2) suffered some injury as a result of that action or forbearance, Plaintiffs have all successfully established their claims for promissory estoppel by a preponderance of the evidence.

III. NONE OF THE CITY OF COLUMBIA'S DEFENSES ARE APPLICABLE

Throughout the course of litigation and during the trial itself, the City of Columbia has expressly articulated defenses and discussed themes that one could believe to be assertions of defenses. None of these express or implied defenses are applicable to the case at bar.

Plaintiffs are not attempting to prohibit city council from making policy changes

1. The State Tort Claims Act does not apply

The City of Columbia has asserted multiple defenses under the South Carolina Tort Claims Act. The South Carolina Tort Claims Act applies only to torts, not to contract or quasi-contract claims. S.C. Code Ann. § 15-78-40 (“The State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages, contained herein.”); S.C. Code Ann. § 15-78-20(d) (“Nothing in this chapter affects liability based on contract nor does it affect the power of the State or its political subdivisions to contract.”). “Promissory estoppel”—the sole remaining claim in the case—“is a quasi-contract remedy.” N. Am. Rescue Prod., Inc. v. Richardson, 411 S.C. 371, 379, 769 S.E.2d 237, 241 (2015). Because there is no tort claim in this case, all defenses based on the Tort Claims Act must fail as a matter of law.

2. The “political question” doctrine does not apply

Throughout litigation, the City of Columbia has argued that this case presents a “political question” that the Court should not decide. It takes more than a litigant stating the words “political question,” however, for the political question doctrine to apply.

Political question cases are those cases in which the court exercises judicial restraint abstaining from deciding certain matters that would place it in conflict with a coequal branch of government. Alexander v. Houston, 403 S.C. 615, 618–19, 744 S.E.2d 517, 519 (2013) (clearly

outlining the political question doctrine). As the United States Supreme Court has noted, this doctrine “is one of ‘political questions,’ not one of ‘political cases.’” Baker v. Carr, 369 U.S. 186, 217, 82 S. Ct. 691, 710, 7 L. Ed. 2d 663 (1962) (quotation marks in original).

To be sure, this case involves City of Columbia politics. But the Court of Appeals has already held that the City of Columbia can be estopped by the representations of City employees where the employees’ statements were authorized and reasonably relied upon. Bishop v. City of Columbia, 401 S.C. 651, 666–67, 738 S.E.2d 255, 263 (Ct. App. 2013). By remanding the case for factfinding, the Court of Appeals has implicitly recognized that this is not a political question case. Accordingly, the political question doctrine does not apply to this case.

3. Plaintiffs are not seeking to prevent City Council from implementing changes writ large

In its pre-trial brief, the City of Columbia argued that this case somehow presents the question of whether “the City may be judicially barred from making changes in its health insurance program applicable to retirees.” City of Columbia’s Pre-Trial Brief at 4. This question misstates the issue before the Court, and all of the cases and constitutional provisions cited by the City of Columbia are inapplicable.

As a threshold matter, this case is not about the City of Columbia’s decision to make changes in its health insurance program applicable to retirees; it is about the City of Columbia’s decision to charge retirees for single coverage healthcare, when they had been promised no-cost, single coverage healthcare for life. And because this is not a class action and the statute of limitations has run for members of the denied class who are not a part of this action, this case is about only the 10 Plaintiffs, not all retirees.

Turning to the cases cited by the City of Columbia, they are all completely unrelated to the matter before the Court:

- Health Promotion Specialists, LLC v. S.C. Bd. of Dentistry, 403 S.C. 623, 635, 743 S.E.2d 808, 814 (2013), involved immunity for a regulatory board pursuant to the Tort Claims Act. As discussed above, the Tort Claims Act is inapplicable here because Plaintiffs' cause of action does not sound in tort.
- Tenney v. Brandhove, 341 U.S. 367 (1951), is a United States Supreme Court case that involved the privileges of state legislators who brought a citizen before them to testify. This case is also unrelated to the case before the Court, which involves no such acts.
- Sandlands C & D, LLC v. Cty. of Horry, 394 S.C. 451, 716 S.E.2d 280 (2011), dealt with the constitutionality of a municipal ordinance. This case does not present a challenge to the constitutionality of any municipal ordinances.

Because Plaintiffs do not seek to "judicially bar" the City of Columbia from making changes in its health insurance program applicable to retirees and the cases cited by the city are unrelated to this promissory estoppel action, the Court should disregard this defense.

4. Article X, Section 14 of the South Carolina Constitution is inapplicable

The City of Columbia has suggested that Article X, Section 14 of the South Carolina Constitution provides a defense to Plaintiffs' promissory estoppel claims. The City of Columbia represents that this constitutional provision bars "public subdivisions"—which include the City of Columbia—"from incurring public indebtedness beyond revenue production." City of Columbia' Pre-trial Brief at 4. However, this constitutional provision simply addresses the terms of "bonded indebtedness" for "political subdivisions." In other words, it outlines the power by which political subdivisions can issue bonds to raise funds. This has no bearing on the promissory estoppel matter before the Court and should be disregarded.

5. None of the themes repeated by the City of Columbia throughout the trial constitute defenses

Throughout the trial, the City of Columbia revisited several themes through its cross examination of Plaintiffs. These themes included the following:

- Plaintiffs received pay increases and were able to retire earlier than many people in society;

- Plaintiffs received personal gratification from working as firefighters;
- Insurance costs and healthcare costs are rising;
- Everyone is wrestling with healthcare costs;
- Things change, that's a fact of life;
- It's not a legal requirement to provide anyone with health insurance;
- Shift work allowed Plaintiffs to work additional jobs if they wanted to;
- At least The City of Columbia provided Plaintiffs with no-cost, single coverage healthcare for some period of time. That's a good deal, when looked over the course of their careers;
- The pension was the primary benefit, the no-charge, single coverage health insurance was an afterthought;
- Even though Plaintiffs are now required to pay for their health coverage, the City of Columbia is still contributing to it; and
- We live in a democratic society, and the way to address any issues you have with decisions of City Council is to vote.

None of these themes tip the balance in favor of the City of Columbia with respect to any element of promissory estoppel. Moreover, none of these themes, individually, or in the aggregate, constitutes a defense to promissory estoppel.

Because Plaintiffs have all established the elements of promissory estoppel by a preponderance of the evidence and the City of Columbia has not articulated an applicable defense, Plaintiffs should prevail on their promissory estoppel claims.

IV. CALCULATING DAMAGES

Promissory estoppel is an equitable remedy. Barnes v. Johnson, 402 S.C. 458, 469, 742 S.E.2d 6, 11 (Ct. App. 2013) (noting that "promissory estoppel is a flexible doctrine that aims to achieve equitable results"). Accordingly, the Court has the authority to determine the proper measure of damages on a case-by-case basis to ensure a fair result.

By working for the City of Columbia for substantial periods of time at reduced pay (as compared to the private sector) but with the expectation of no-charge, single coverage healthcare until retirement, Plaintiffs conferred a bargained-for benefit upon the City of Columbia. The appropriate measure of damages situations such as this where Plaintiffs' restitution interests have been violated is expectation damages—that is, the value of the promise that was broken. This is consistent with Judge Early's charge on Promissory Estoppel and the weight of the authority on promissory estoppel damages.¹

Plaintiffs all testified to a dollar amount that they had spent out of pocket to the date of the trial. There is no question that Plaintiffs should receive these amount as damages for expenses already incurred. And because Plaintiffs have all paid their monthly premiums for the month of January, this amount should be incrementally increased accordingly. But calculating future damages presents a more complicated task. Plaintiffs propose three alternatives to the Court.

First—and perhaps the most straightforward—the City of Columbia could consent to provide Plaintiffs with no-cost, single coverage healthcare for life, as initially promised. This coverage would be the same as the employee/retiree plan Plaintiffs are currently eligible to participate in and include a drug coverage option “as good or better” than Medicare Part D, as specified in the letters Plaintiffs received from Human Resources upon their retirements instructing them not to take Medicare Part D. If the City of Columbia does not consent to such a resolution, Plaintiffs anticipate that the Court will be hesitant to order specific performance and retain jurisdiction over compliance indefinitely.

¹ Judge Early's promissory estoppel charge states, in relevant part, “IF YOU FIND PROMISSORY ESTOPPEL, THE PROMISE MUST BE ENFORCED.” Citing 31 C.J.S. Estoppel § 80. For a comprehensive discussion of damages available in promissory estoppel cases, see Mary E. Becker's informative article, Promissory Estoppel Damages, 16 Hofstra Law Review 131 (1987), which is attached to this post-trial brief as Exhibit 1.

Accordingly, the remaining options involve lump sum payments from the City of Columbia to Plaintiffs to cover the cost of healthcare premiums.

As a second option, the Court could use (1) the evidence the parties stipulated to that contains Plaintiffs ages; (2) life expectancy tables; and (2) evidence presented in Court to estimate the monthly premiums each Plaintiff would pay over time. Plaintiffs under 65 testified that they were paying monthly premiums around \$40, while those Plaintiffs 65 and over testified that they were paying monthly premiums of around \$250. Plaintiffs and Melissa Caughman referenced a City Council meeting where it was suggested that the cost of premiums could rise to \$800. By selecting some values that recognize the expected rising costs of healthcare and the associated premiums in the coming years—perhaps a monthly premium of \$80 for the years before the age of 65 and \$500 for 65 and older—the Court could arrive at a lump sum number for each Plaintiff designed to cover the costs of their insurance premiums.

Third, the Court could take the path of Judge Nicholson in the North Charleston firefighter case and reopen the trial for the sole purpose of hearing from experts from each party on future damages. See Rissanen v. City of North Charleston, Case No. 2013-CP-10-3210.

V. CONCLUSION

For all of the above reasons, Plaintiffs respectfully ask the Court to find that Plaintiffs have proven a case of promissory estoppel against Defendant and award them make whole relief, including payment for their out-of-pocket expenses, future expenses, and attorney's fees pursuant to S.C. Code Ann. § 15-77-300.

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Respectfully submitted,

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EXHIBIT 1

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Becker: Promissory Estoppel Damages

ARTICLE

PROMISSORY ESTOPPEL DAMAGES

Mary E. Becker*

INTRODUCTION

The proper measure of damages in promissory estoppel cases is a traditional subject of controversy.¹ During the drafting of section 90 of the Restatement of Contracts,² Professor Williston maintained that once a promise was enforced because a promisee had reasonably relied upon it, expectation damages should be awarded, as in other contract actions.³ Although the original section seemed to reflect this

* Professor of Law, The University of Chicago. Research support was provided by a F. Leroy Hill Fellowship from the Institute for Humane Studies and by the Russell Baker Scholars Fund, the Bernard F. Sang Faculty Fund and the John M. Olin Fund of the University of Chicago. I thank Albert Alschuler, Walter Blum, Gerhard Casper, Frank Easterbrook, Richard Epstein, Daniel Fischel, Richard Helmholz, Geoffrey Miller, Bernard Meltzer, and Richard Posner for helpful comments on an early version of this article. I especially thank Douglas Baird, Geoffrey Stone, and Cass Sunstein for reading multiple drafts.

1. Courts and commentators have generally taken three approaches to measuring damages in promissory estoppel cases: the reliance measure, the expectancy measure, and a flexible or discretionary approach. For cases awarding reliance damages, see *Goodman v. Dicker*, 169 F.2d 684 (D.C. Cir. 1948); *Grouse v. Group Health Plan, Inc.*, 306 N.W.2d 114 (Minn. 1981); *Wheeler v. White*, 398 S.W.2d 93 (Tex. 1965); *Hoffman v. Red Owl Stores*, 26 Wis. 2d 683, 133 N.W.2d 267 (1965). For cases granting expectation damages, see *Walters v. Marathon Oil Co.*, 642 F.2d 1098 (7th Cir. 1981); *Signal Hill Aviation Co. v. Stroppe*, 96 Cal. App. 3d 627, 158 Cal. Rptr. 178 (1979); *Chrysler Corp. v. Quimby*, 51 Del. 264, 144 A.2d 123 (1958). For courts recognizing a flexible approach, see *Farm Crop Energy, Inc. v. Old Nat'l Bank*, 38 Wash. App. 50, 685 P.2d 1097 (1984) (awarding lost profits). See also *infra* notes 5-11 and accompanying text (the approaches taken by commentators).

2. RESTATEMENT (FIRST) OF CONTRACTS § 90 (1932), which in pertinent part states: A promise which the promisor should reasonably expect to induce action or forbearance of a definite and substantial character on the part of the promisee and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise.

3. 4 A.L.I. PROCEEDINGS App. 97-106 (1926).

view,⁴ other commentators disagreed, arguing that when a non-bargain promise is enforced because of the promisee's reliance, liability should be limited to the promisee's reliance loss.⁵

Promissory estoppel was initially limited to donative, non-commercial, situations.⁶ With the expansion of promissory estoppel to commercial settings, some commentators argue that expectation damages are, or should be, generally available in commercial cases.⁷ Other commentators note that a flexible approach to damage awards has evolved in promissory estoppel cases.⁸ According to these commentators, there are two sets of cases with different measures of damages: expectation damages in commercial settings and reliance damages in donative settings.⁹ The Restatement (Second) of Contracts adopts a discretionary approach: "[t]he remedy granted for breach may be limited as justice requires."¹⁰ Nonetheless most com-

4. The first § 90 provided that the "promise" was "binding," presumably by its terms, once reasonably and foreseeably relied upon. RESTATEMENT (FIRST) OF CONTRACTS § 90 (1932); see Comment, *Once More into the Breach: Promissory Estoppel and Traditional Damage Doctrine*, 37 U. CHI. L. REV. 559, 562-63 (1970).

5. See 1A A. CORBIN, CORBIN ON CONTRACTS § 205 (1963); Boyer, *Promissory Estoppel: Requirements and Limitations of the Doctrine*, 98 U. PA. L. REV. 459, 490-91 (1950); Fuller & Perdue, *The Reliance Interest in Contract Damages: 1*, 46 YALE L. J. 52, 63-65 (1936) [hereinafter *Contract Damages: 1*]; Fuller & Perdue, *The Reliance Interest in Contract Damages: 2*, 46 YALE L.J. 373, 401-06 (1937) [hereinafter *Contract Damages: 2*]; Shattuck, *Gratuitous Promises—A New Writ?*, 35 MICH. L. REV. 908, 942-43 (1937); Note, *An Inquiry into the Principles of the Law of Contracts*, 46 HARV. L. REV. 1, 22-23 (1932).

6. See, e.g., *Robert Gordon, Inc. v. Ingersoll-Rand Co.*, 117 F.2d 654 (7th Cir. 1941); *James Baird Co. v. Gimbel Bros.*, 64 F.2d 344, 346 (2d Cir. 1933). For a comprehensive analysis of the case law, see 1 S. WILLISTON, A TREATISE ON THE LAW OF CONTRACTS §§ 139, 140 (3d ed. 1936); Boyer, *supra* note 5, at 461-70; Henderson, *Promissory Estoppel and Traditional Contract Doctrine*, 78 YALE L.J. 343, 344 (1969); Note, *Promissory Estoppel—Measure Of Damages*, 13 VAND. L. REV. 705, 706 (1960); Comment, *supra* note 4, at 561.

7. Farber & Matheson, *Beyond Promissory Estoppel: Contract Law and the "Invisible Handshake"*, 52 U. CHI. L. REV. 902, 945 (1985); Note, *Farm Crop Energy v. Old National Bank: A Meaningful Test For Damages Under Promissory Estoppel?*, 10 U. PUGET SOUND L. REV. 277, 294 (1987); Note, *supra* note 6, at 709; Comment, *supra* note 4, at 561, 568.

8. J. CALAMARI & J. PERILLO, THE LAW OF CONTRACTS §§ 6-12, at 291 (3d ed. 1987); A. CORBIN, *supra* note 5, § 205, at 249; *Contract Damages: 2*, *supra* note 5, at 401-06; Comment, *supra* note 4, at 564.

9. *Contract Damages: 2*, *supra* note 5, at 401-06; Metzger & Phillips, *The Emergence of Promissory Estoppel as an Independent Theory of Recovery*, 35 RUTGERS L. REV. 472, 545 (1983); Comment, *supra* note 4, at 560-65. For an analysis of damages in donative settings, see *infra* notes 29-51 and accompanying text. For an analysis of damages in commercial settings, see *infra* notes 51-82 and accompanying text.

10. RESTATEMENT (SECOND) OF CONTRACTS § 90 (1979), Comment d provides that "The same factors which bear on whether any relief should be granted also bear on the character and extent of the remedy." See J. CALAMARI & J. PERILLO, *supra* note 8, §§ 6-12, at 273; Henderson, *supra* note 6, at 378-87.

mentators continue to view reliance damages as appropriate in many donative settings.¹¹

Views on damages in promissory estoppel cases are linked to a more basic issue: Is the basis of liability in promissory estoppel cases contract or tort? Commentators who view promissory estoppel as more tort than contract consider reliance the appropriate measure of damages,¹² though in many commercial settings expectation damages may be the best measure of full reliance loss.¹³ In contrast, those commentators who view promissory estoppel as more contract than tort view expectation damages as generally appropriate, at least in commercial settings.¹⁴

This article attempts to describe and explain damages in promissory estoppel cases. In doing so, I rely on an earlier article, which explained why liability is imposed in promissory estoppel cases.¹⁵ That article suggested that in most promissory estoppel cases liability can be understood as contractual in the broad sense that the promisor intended to be legally bound under an objective standard, even though some traditional formal limit on contract liability—such as consideration or the Statute of Frauds—would bar enforcement.¹⁶ There are a few promissory estoppel cases, however, in which liability can be understood only on the basis of tort notions.¹⁷ In

11. Henderson, *supra* note 6, at 379; Metzger & Phillips, *supra* note 9, at 545; Eisenberg, *Donative Promises*, 47 U. CHI. L. REV. 1 (1979); Comment, *supra* note 4, at 563, 565, 568. But see 1 S. WILLISTON, A TREATISE ON THE LAW OF CONTRACTS § 140 (3d ed. 1936) (advocating expectation damages in donative settings); Posner, *Gratuitous Promises in Economics and Law*, 6 J. LEGAL STUDIES 413 (1977) (advocating expectation in donative settings).

12. See *Contract Damages: 2*, *supra* note 5, at 406-10; Posner, *supra* note 11, at 416.

13. See *Contract Damages: 1*, *supra* note 5, at 60 (observing that full reliance in a commercial setting is often best measured by expectation damages). See also Metzger & Phillips, *supra* note 9, at 545 (noting that expectation damages may be best remedy for full reliance since lost profits from forgone opportunities are not always included in reliance); Comment, *supra* note 4, at 566-70 (noting that within the commercial setting, the goal of proper compensation for gains prevented as well as opportunity costs may best be achieved by applying contract damage principles: expectation damages and mitigation rules).

14. See, e.g., Farber & Matheson, *supra* note 7, at 945; Metzger & Phillips, *supra* note 9, at 545; Note, *supra* note 6, at 709.

15. Barnett & Becker, *Promissory Estoppel, Contract Formalities, and Misrepresentation*, 15 HOFSTRA L. REV. 443 (1987).

16. *Id.* at 496.

17. *Id.* at 485-97. See *Greenstein v. Flatley*, 19 Mass. App. Ct. 351, 474 N.E.2d 1130 (1985) (awarding compensatory and punitive damages: the defendant engaged in a pattern of conduct calculated to mislead plaintiffs into believing that a deal had been made). See also *Chrysler Corp. v. Quimby*, 51 Del. 264, 144 A.2d 123 (1958) (awarding expectation and reliance damages in similar situation).

these cases, liability seems to be imposed because of misrepresentation, even though liability would not always lie under established tort standards for misrepresentation.

In this article, I explain promissory estoppel damages in terms of traditional contract and tort damage rules. I also consider whether the use of promissory estoppel as a basis of liability, rather than overtly changing traditional contract and tort limits on liability, has affected the measure of relief.¹⁸ Section I analyzes the measure of relief afforded in promissory estoppel cases in which the imposition of liability can be understood as contractual in a very broad sense: the promise was made with apparently an intent to be legally bound. Although the absence of consideration or the informality of the promise would normally bar recovery under traditional contract doctrines,¹⁹ in the vast majority of these cases, the relief awarded is consistent with traditional contract remedy rules. In donative settings, expectation damages²⁰ or specific performance²¹ are often awarded by courts despite commentators' widely-shared doubts

18. Recent articles have not discussed damages in promissory estoppel cases in any depth. See, e.g., Eisenberg, *supra* note 11, at 18-31 (discussing normative question of damages in donative cases). Farber & Matheson, *supra* note 7, at 944 (only very brief discussion of damages in article describing liability extensively); Kostritsky, *A New Theory of Asset-Based Liability Emerging Under the Guise of Promissory Estoppel: An Explanation and Defense*, 33 WAYNE L. REV. 895 (1987) (discussing only liability, not damages). Metzger & Phillips, *supra* note 9, at 495-500, 544-45. A 1971 Comment is the most recent discussion of promissory estoppel damages in any depth, and it discusses damages in only a narrow set of commercial cases. See Comment, *supra* note 4, at 569-71, 582-603.

Although many commentators have assumed that tort damages would be limited to reliance losses, these commentators have not discussed in any depth how tort damage rules should apply in promissory estoppel cases. See, e.g., Eisenberg, *supra* note 11, at 18-31; Henderson *supra* note 6, at 343-57; Metzger & Phillips, *supra* note 9, at 498-500; Posner, *supra* note 11, at 416; Comment, *supra* note 4, at 559-65.

19. See *infra* notes 29-50 and accompanying text for an analysis of damages in donative settings. For an analysis of damages in commercial settings, see *infra* notes 51-82 and accompanying text.

20. *In re Estate of Bucci*, 488 P.2d 216 (Colo. Ct. App. 1971); *Suter v. Suter*, 97 Idaho 461, 546 P.2d 1169 (1969); *In re Jamison's Estate*, 202 S.W.2d 879 (Mo. 1947); *Richetts v. Scothorn*, 57 Neb. 51, 77 N.W. 365 (1898).

21. See *Horsfield v. Gedicks*, 94 N.J. Eq. 82, 118 A. 275 (1922), *aff'd sub nom. Roberts-Horsfield v. Gedicks*, 96 N.J. Eq. 384, 124 A. 925 (1924) (enforcing a promise to convey land after the promisee took possession of the land and made substantial improvements). See also *Richetts v. Scothorn*, 57 Neb. 51, 77 N.W. 365 (1898) (enforcing a promissory note which grandfather had given granddaughter to induce her to abandon her lucrative position). When specific performance is awarded in a donative setting, the courts tend to use the equitable doctrine of part performance rather than promissory estoppel. See *infra* note 47; see also *Greiner v. Greiner*, 131 Kan. 760, 293 P. 759 (1930); *Seavey v. Drake*, 62 N.H. 393 (1882); *Horsfield v. Gedicks*, 94 N.J. Eq. 82, 118 A. 275 (1922), *aff'd sub nom. Roberts-Horsfield v. Gedicks*, 96 N.J. Eq. 304, 124 A. 925 (1924); *Freeman v. Freeman*, 43 N.Y. 34 (1870).

about such awards in these cases.²² Similarly, when promissory estoppel is used in commercial settings, the remedy is consistent with traditional contract damage rules. Thus, courts routinely award expectation damages²³ unless those damages are too speculative, indefinite, or otherwise unavailable under traditional contract rules.²⁴ The many cases in which courts use both promissory estoppel and traditional contract analysis as alternative bases for relief²⁵ are not discussed because there is nothing novel or interesting about damages in such cases.

Section II analyzes the measure of damages in those promissory estoppel cases in which courts impose liability on the basis of tort notions: to remedy negligent or reckless promissory misrepresentations.²⁶ In these cases, courts have tended to impose expectation damages when expectation damages can be calculated.²⁷ In addition, punitive damages have been imposed in two cases in which the misrepresentation was intentional.²⁸ Whether the overt use of tort principles to impose liability would have resulted in a different measure of compensatory relief, limiting the plaintiff's compensation to reliance losses rather than expectation damages, is not clear.

I. DAMAGES IN CONTRACT CASES

A. Promises in Donative Settings

Most commentators agree that in donative settings, the case for expectation damages is weak.²⁹ In commercial settings a promisee may rely on a gratuitous promise by foregoing alternative opportunities; expectation damages may be the best (or only) available proxy

22. See *supra* note 11 and accompanying text.

23. See, e.g., *Bixler v. First Nat'l Bank*, 49 Or. App. 195, 619 P.2d 895 (1980); *Fretz Constr. Co. v. Southern Nat'l Bank*, 626 S.W.2d 478, 483 (Tex. 1982); *Contract Damages*: 2, *supra* note 5, at 379.

24. See, e.g., *Wheeler v. White*, 398 S.W.2d 93 (Tex. 1965) (holding loan arrangement too vague and indefinite to be enforced under contract principles but using promissory estoppel to impose reliance damages); *Hoffman v. Red Owl Stores*, 26 Wis. 2d 683, 133 N.W.2d 267 (1965) (compensating reliance on a promise when parties had not agreed upon specific terms of exchange).

25. See, e.g., *Litman v. Massachusetts Mut. Life Ins. Co.*, 739 F.2d 1549, 1558-59 (11th Cir. 1984); *Glover v. Sayer*, 667 P.2d 1198, 1202 (Ala. 1983).

26. See *infra* notes 121-54 and accompanying text.

27. See *infra* text accompanying notes 121-30.

28. See *Chrysler Corp. v. Quimby*, 51 Del. 264, 144 A.2d 123 (1958); *Greenstein v. Flatley*, 19 Mass. App. Ct. 351, 474 N.E.2d 1130 (1985).

29. See *supra* note 5 and accompanying text.

for actual reliance loss.³⁰ When the promisor has promised to give a gift to a donee, the donee rarely passes up equivalent opportunities to receive equivalent gifts. The award of more than actual reliance loss may compensate the donee for disappointed hopes, rather than any actual loss.³¹

It is, therefore, surprising that courts have consistently and routinely awarded expectation damages when they enforce donative promises, either on the basis of promissory estoppel,³² or by finding (fictional) consideration.³³ When the question is whether to enforce a formal promise to a charity, actual reliance is often not even required by many courts as a prerequisite to awarding full expectation damages.³⁴ In the context of family promises, reliance is generally required as a prerequisite for liability.³⁵ Yet once reliance has occurred, full expectation damages are awarded even when adequate reliance damages can be easily calculated.³⁶

In the context of formal promises to charities, any link between reliance and enforcement either at the liability stage or the damage stage makes little sense. Whether a charity will rely on a formal subscription's legal enforceability depends entirely on whether the legal system enforces such promises. Charities are repeat players, and will learn the legal rule. If charitable subscriptions are legally en-

30. See Metzger & Phillips, *supra* note 9, at 545; *Contract Damages: 1*, *supra* note 5, at 60. Fuller & Perdue first observed that full reliance in commercial settings is often best measured by expectation damages. *Id.* at 61.

31. Eisenberg, *supra* note 11, at 29-30. Eisenberg would generally award only reliance damages in donative settings but would award expectation damages when adequate reliance loss cannot be calculated. Other commentators suggest that expectation damages or specific performance might be appropriate in some donative cases. See *Contract Damages: 2*, *supra* note 5, at 405; Posner, *supra* note 11, at 413; Metzger & Phillips, *supra* note 10, at 545.

32. See, e.g., *Danby v. Osteopathic Hosp. Ass'n*, 34 Del. Ch. 427, 104 A.2d 903 (1954); *Greiner v. Greiner*, 131 Kan. 760, 293 P. 759 (1930); *Estate of Timko v. Oral Roberts Evangelistic Ass'n*, 51 Mich. App. 662, 215 N.W.2d 750 (1974).

33. See, e.g., *First Presbyterian Church v. Dennis*, 178 Iowa 1352, 161 N.W. 183 (1917); *Congressional B'nai Sholom v. Martin*, 382 Mich. 659, 173 N.W.2d 504 (1969); *In re Upper Peninsula Dev. Bureau*, 364 Mich. 179, 110 N.W.2d 709 (1961); *Depaul Univ. v. Ankeny*, 97 Wash. 451, 166 P. 1148 (1917); *I. & I. Holding Corp. v. Gainsburg*, 276 N.Y. 427, 12 N.E.2d 532 (1938); *Allegheny College v. National Chautauqua County Bank*, 246 N.Y. 369, 159 N.E. 173 (1927); E.A. FARNSWORTH, *CONTRACTS* § 2.19 (1982); Barnett & Becker, *supra* note 15, at 451-53.

34. See, e.g., *In re Darlan's Estate*, 311 Ill. App. 481, 36 N.E.2d 608 (1941); *In re Stack's Estate*, 164 Minn. 57, 204 N.W. 546 (1925); *Salsbury v. Northwestern Bell Tel. Co.*, 221 N.W.2d 609 (Iowa 1974); *RESTATEMENT (SECOND) OF CONTRACTS* §90 comment f (1979). See also Becker & Barnett, *supra* note 15, at 451-53.

35. See *infra* note 42 and accompanying text; see also Becker & Barnett, *supra* note 15, at 453-55.

36. See *infra* note 49 and accompanying text.

forced, charities will rely upon them as such. If charitable subscriptions are not legally enforced, charities will not rely on them. Formal promises to charities should, therefore, either be enforced by their terms, because giving donors the ability to bind themselves by their promises to charities is desirable³⁷ — or should remain unenforced, regardless of reliance. Most American jurisdictions, however, have chosen to enforce charitable subscriptions despite the absence of meaningful reliance.³⁸

In the context of family promises, linking reliance with liability or damages makes more sense because these donees are less likely to be repeat players. As a result, whether a particular family member relies on a particular promised gift may have nothing to do with whether the law would enforce such a promise. In *In Re Estate of Bucci*,³⁹ for example, a grandfather executed a formal "assignment" of \$17,000 to his granddaughter; he planned to give her the money when certain real estate he owned was sold.⁴⁰ The granddaughter and grandfather had lived together for fifteen years. She had performed a variety of services for him and had helped care for him. The grandfather wanted to buy a house for her, and they agreed on a property with both a house and an apartment. The granddaughter was to live in the house, and the grandfather and his wife in the apartment. The granddaughter relied on his "assignment" by spending \$2,000 to extend an option on the house.⁴¹ Shortly thereafter, the grandfather died, and the question was whether the granddaughter could enforce the promise against his estate. Although full reliance damages could easily be calculated at \$2,000, the court enforced the grandfather's promise to give his granddaughter the full \$17,000.

In cases like *Bucci*, reliance may occur regardless of the legal rule on enforceability. Because the grandfather's promise was so formal — an "assignment" — the granddaughter may have assumed that the promise would be legally enforceable. She would be less likely than a charitable organization to know or learn the applicable law, and more likely to rely on the formal "legal" document as enforceable. If the grandfather's promise had been less formal, the

37. See Posner, *supra* note 11, at 411-12.

38. See, e.g., *In re Drain's Estate*, 311 Ill. App. 481, 36 N.E.2d 603 (1941); *In re Stack's Estate*, 164 Minn. 57, 204 N.W. 546 (1925); *Salsbury v. Northwestern Bell Tel. Co.*, 221 N.W.2d 609 (1974); RESTATEMENT (SECOND) CONTRACTS § 90(2) (1979).

39. 488 P.2d 216 (Colo. App. 1971).

40. *Id.* at 217.

41. *Id.* at 217-18. Originally, the grandfather had given the granddaughter \$1,000 to purchase the option. The \$2,000 was paid to extend the option. *Id.*

granddaughter might have relied on it without ever considering whether the promise was legally enforceable. Again, her reliance might be independent of the legal rules on enforceability.

Thus, reliance by a donee in a family setting does increase the need for a remedy. In addition, reliance can be evidence that enforcement is appropriate. In *Bucci*, for example, the fact that the grandfather invited and observed his granddaughter's reliance, with no word of caution that reliance might be risky, is evidence that he intended to be legally bound. Had his promise been less formal, her reliance might have been crucial on this point.⁴²

In the absence of reliance, a legal system might consider enforcement of such informal promises either inappropriate, because there may be too little evidence that the promisor intended to be legally bound, or not worth the costs of enforcement because there is little need for a remedy. Once there is reliance, however, an award of expectation damages is understandable for a number of reasons. First, many of the family-gift cases are actions against the promisor's estate.⁴³ In *Bucci*, for example, enforcement is appropriate not only to redress the granddaughter's \$2,000 reliance loss, but also because the grandfather actually wanted her to have his \$17,000, and he died before he could fulfill his promise.

Second, expectation damages are appropriate in *Bucci* because the transaction was probably, at least in part, an implicit bargain. The grandfather gave the granddaughter the note in exchange for her (perhaps implicit) agreement to share the property with him and his wife.⁴⁴ To the extent that the promise was part of a bargain,⁴⁵

42. When the promise is less formal, reliance invited or observed by the donor may be crucial as evidence that the donor intended to be legally bound. See, e.g., *Miller v. Lawlor*, 245 Iowa 1144, 66 N.W.2d 267 (1954) (plaintiff bought land in reliance on defendant's promise that he would not build on his own land in such a way as to obstruct plaintiff's view); *Greiner v. Greiner*, 131 Kan. 760, 293 P. 759 (1930) (in reliance on mother's promise of house and land, son gave up his own homestead, moved in with mother, and made improvements); *Steele v. Steele*, 75 Md. 477, 23 A. 959 (1892) (son purchased woolen mill in reliance on father's oral promise to give him \$5000 of the purchase price); *Horsfield v. Gedicks*, 94 N.J. Eq. 82, 118 A. 275 (1922), *aff'd sub nom. Roberts-Horsfield v. Gedicks*, 96 N.J. Eq. 384, 124 A. 925 (1924) (aunt and uncle promised niece to convey land, and niece made improvements); See also *Barnett & Becker*, *supra* note 15, at 453-55.

43. See, e.g., *Burch v. Burch*, 145 Colo. 125, 358 P.2d 1011 (1960); *Choppin v. Labranche*, 48 La. Ann. 1217, 20 So. 681 (1896); *Steele v. Steele*, 75 Md. 477, 23 A. 959 (1892); *In re Jamison's Estate*, 202 S.W.2d 879 (Mo. 1947); *Ricketts v. Scathorn*, 57 Neb. 51, 77 N.W. 365 (1898); *Young v. Overbaugh*, 145 N.Y. 158, 39 N.E. 712 (1895).

44. *Bucci*, 488 P.2d at 216. In *Bucci*, there may also have been an implicit understanding that the granddaughter would continue to care for the grandfather. See also *Seavey v. Drake*, 62 N.H. 393 (1882) (father may have promised son land next to his own so that son

the grandfather would have wanted to bind himself, thereby increasing the chances that the granddaughter would fulfill her part of the bargain in reliance on his promise. Once the granddaughter relied, the bargain was no longer wholly executory, and the case for enforcement stronger.

In other cases involving donative settings, expectation damages may be appropriate because reliance includes foregone opportunities which cannot be recaptured or quantified.⁴⁶ Indeed, full reliance, could it be quantified, would often be far greater than the value of what was promised. These points are illustrated by many of the cases in which the equitable doctrine of part performance is used to enforce (specifically) a promise to give land.⁴⁷ The donee moves on to the land, improves it, and lives his life differently because of the promise. At the time of the promise, alternatives may have been slightly more costly than the promised gift of land. However, after years of reliance, the value of the promised land may be much less than the promisee's reliance loss if the promise is not enforced. In addition, it may be impossible to calculate full reliance damages (including foregone opportunities); enforcing the promise may be the only way to protect reliance loss.⁴⁸ In some cases, both these reasons

would be near him); *Horsfield v. Gedicks*, 94 N.J. Eq. 82, 118 A. 275 (1922) (aunt promised and provided house on aunt's land to her niece), *aff'd sub nom. Roberts-Horsfield v. Gedicks*, 96 N.J. Eq. 384, 124 A. 925 (1924); *Wells v. Davis*, 77 Tex. 636, 14 S.W. 231 (1890) ("donor" lived with "donee" in house he had given her and performed many services for him while he lived with her). For a discussion of the basis of liability in such cases, see Henderson, *Promises Grounded in the Past: The Idea of Unjust Enrichment and the Law of Contracts*, 57 VA. L. REV. 1115 (1971).

45. Although lawyers commonly classify promises as either bargained-for or donative, promises in donative settings may be part bargain and part gift.

46. See Eisenberg, *supra* note 11, at 26-28. Eisenberg argues that some informal promises in donative settings should be fully enforced for this reason.

47. Although my discussion is generally limited to cases in which promissory estoppel is used to afford relief, I include cases decided under the equitable doctrine of part performance because of the close relationship between this equitable doctrine and promissory estoppel. "Part performance" is a form of reliance, and the cases decided under the equitable doctrine were influential in the development of promissory estoppel. See E.A. FARNSWORTH, *supra* note 33, § 2.19, at 89-92. See also *Miller v. Lawlor*, 245 Iowa 1144, 66 N.W.2d 267, 272 (1954) (paren needed).

48. See, e.g., *Seavey v. Drake*, 62 N.H. 393 (1882). For cases in which promissory estoppel or the equitable doctrine of part performance are used to enforce the promise, see *Miller v. Lawlor*, 245 Iowa 1144, 66 N.W.2d 267 (1954) (before buying home on a hill, buyer asks neighbor, a friend and the family doctor, whether he intends to stand by commitment not to obstruct view); *Choppin v. Labranche*, 48 La. Ann. 1217, 20 So. 681 (1896) (owner of tomb estopped from removing bodies after reliance on owner's legator's assurance that remains would rest there forever); *Horsfield v. Gedicks*, 94 N.J. Eq. 82, 118 A. 275 (1922) (niece moves on land promised her by aunt and uncle; with help of her husband and aunt, builds

argue for full enforcement.⁴⁹

Finally, there is the advantage of simplicity in the routine award of expectation damages or specific performance when there has been observed or expected reliance on a gratuitous promise in a family situation. More finely tuned damage measures could be imagined for some situations, but they might not be worth the costs of case-by-case consideration of which damage rule to apply.⁵⁰ For all of these reasons, the willingness of courts to use promissory estoppel and related doctrines to fully enforce promises in family settings, once there has been reliance, is understandable.

Although promissory estoppel developed as a means of enforcing promises in donative settings, it is most often used today to enforce promises in commercial settings. I consider the award of damages in commercial cases next, beginning with those cases in which promissory estoppel is used because of the absence of a clear bargain.

B. *Not-Expressly-Bargained-For Promises in Commercial Settings*

The imposition of liability in many promissory estoppel cases can be explained by the fact that the promisor apparently intended to be legally bound by the promise, though enforcement would at

house; after aunt's death, uncle retracts promise), *aff'd sub nom. Roberts-Horsfield v. Gedicks*, 96 N.J. Eq. 384, 124 A. 925 (1924).

49. See, e.g., *Seavey v. Drake*, 62 N.H. 393 (1882) (father died without deeding land to son; son had lived on land promised him for twenty years and had built a house, a barn, a stable, and other improvements; enforcement appropriate because father died without retracting promise, there was possibly an implicit bargain, and reliance cannot be recaptured or quantified).

50. For example, consider the exceptions suggested by Eisenberg. As a general rule, Eisenberg considers reliance the appropriate measure of recovery for breach of informal donative promises in the family context; "expectation [damages] should be employed as a surrogate for measuring the costs of reliance only if those costs appear significant, difficult to quantify, and closely related to the full extent of the promise." *Id.* Additionally, he notes that it "might also be appropriate" to award expectation damages when the donee has become accustomed to the promised gift and would sustain a loss in losing it. *Id.* at 29-30. For formal promises in the family, Eisenberg concludes that the case for nonenforcement is (absent reliance) about as strong as the case for enforcement. *Id.* at 18. Eisenberg notes, however, that special treatment might be appropriate when the promisor has died without retracting a formal promise, but concludes that in most such cases enforcement would be inappropriate either because the promisor's failure to perform during life suggests that he had retracted it, or because the promise was intended to take effect only at death, and enforcement is therefore inappropriate because of rules governing wills. *Id.* at 18 n.57. It is not clear whether Eisenberg would allow expectation damages to be awarded, at least after reliance has occurred, against the donor's estate when the formal promise could have been performed during life but was not, and the delay does not suggest any change of heart.

least be doubtful on the basis of traditional contract doctrines because of the absence of a clear bargain.⁵¹ In these cases, promissory estoppel is routinely used as a basis for awarding full expectation damages provided that expectation damages would be awarded were a more conventional analysis used as the basis for recovery. Although these promises are not clearly bargained-for, expectation damages are nevertheless appropriate for the reasons that expectation damages are appropriate when consideration is clearly bargained-for: to protect the promisee's restitution and reliance interests, and because judicial preferences may favor full enforcement.⁵²

1. The Restitution Interest.—As Fuller and Perdue note, the case for affording a remedy for breach of a promise is strongest when the promisee has conferred a bargained-for benefit on the promisor.⁵³ In these cases, the question is whether the promisor must pay for a benefit conferred by the promisee in reliance on the promisor's promise. An award of the promised price is appropriate to prevent unjust enrichment of the promisor and to protect the promisee's reliance.

Since promissory estoppel is usually regarded as a consideration substitute,⁵⁴ this justification for expectation damages seems inapplicable. In fact, however, most of the cases in which promissory estoppel is used in commercial settings as the sole basis for liability⁵⁵ are cases in which implicit (but real) bargains are enforced; in many of these, the promisee has conferred the bargained-for benefit on the promisor.⁵⁶

In *United Electric Corp. v. All Service Electric, Inc.*,⁵⁷ for example, the court awarded expectation damages for breach of an implicit bargain when the promisor had received what he bargained

51. These cases are divided into five categories for purposes of that discussion: implicit bargains, firm offers, waiver-like contract modifications, assurances likely to be regarded as part of an overall bargain, and pension promised at or near retirement. See Barnett & Becker, *supra* note 15, at 455-69.

52. Other commentators have also argued that expectation damages are appropriate in commercial promissory estoppel cases to protect reliance. See Farber & Matheson, *supra* note 7, at 944; Comment, *supra* note 4, at 561, 568.

53. *Contract Damages: I*, *supra* note 5, at 54-57.

54. See, e.g., Farber & Matheson, *supra* note 7, at 904; Comment, *supra* note 4, at 560.

55. As previously noted this article does not discuss cases in which promissory estoppel is an alternative basis for relief.

56. When an implicit bargain is enforced though the promisee has not yet conferred a benefit on the promisor, the case for full enforcement is slightly weaker. All the other reasons for awarding expectation damages (other than as a form of restitution) apply. See *infra* notes 59-64 and accompanying text.

57. 256 N.W.2d 92 (Minn. 1977).

for.⁵⁸ A general contractor promised a materialman that checks to the subcontractor for electrical equipment would be jointly payable to the subcontractor and the materialman. The general contractor paid for electrical equipment with seven joint checks, but then issued four checks solely to the shaky subcontractor.⁵⁹ As a result, United Electric was not paid for some \$8,000 worth of material.

The court used promissory estoppel to award expectation damages for breach of the implicit bargain.⁶⁰ An award of expectation damages protects reliance and serves as a remedy for unjust enrichment of the promisor. In reliance on the general's promise, the materialman transferred equipment worth \$8,000 to the financially unstable subcontractor, and the materials were incorporated into a building being built by the prime contractor, thus fulfilling the general contractor's obligation to install such materials under the prime contract.⁶¹

This explanation of expectation damages holds only when the promisee's performance of an implicit bargain enriches the promisor. Why should expectation damages be awarded when a promise is not clearly bargained for and the promisor has not benefited by the promisee's performance?

2. The Reliance Interest.—Even when there is a clear bargain, the promisee's lost expectancy is the weakest of contract claims. Pure expectation damages represent only the promisee's disappointed hopes, whereas reliance damages represent real losses.⁶² As Fuller and Perdue point out in discussing bargain promises, there are nevertheless stronger reasons for awarding expectation damages than pro-

58. *Id.* at 96.

59. *Id.* at 94.

60. *Id.* at 95-96. The court used promissory estoppel, rather than bargain analysis, because the bargain was not express. *Id.* at 95. On its face, the general's promise to issue joint checks was gratuitous, rather than made in exchange for United supplying electrical equipment to the financially unstable subcontractor.

61. For other examples of cases in which promissory estoppel is used to enforce partially executed implicit bargains, and in which there is little difference between reliance, restitution, and expectation damages, see *Peterson Tractor Co. v. Orlando's Snack-Mobile Corp.*, 270 Cal. App. 2d 787, 76 Cal. Rptr. 221 (1969); *Day v. Mortgage Ins. Corp.*, 91 Idaho 605, 428 P.2d 524 (1967); *Fretz Constr. Co. v. Southern Nat'l Bank of Houston*, 626 S.W.2d 478 (Tex. 1982). In some instances, reliance damages might not be very close to expectation damages, but expectation damages may nevertheless be a good estimate of restitution damages and the only available measure of relief. See, e.g., *Mazer v. Jackson Ins. Agency*, 340 So. 2d 770 (Ala. 1976) (enforcing, with order of specific performance, implicit bargain between developers, who promised buffer zone between plaintiffs' homes and office park in exchange for plaintiff's ceasing to oppose annexation of office park to another town).

62. See *Contract Damages: I*, *supra* note 5, at 53-60.

protecting disappointed hopes.⁶³ Fuller and Perdue give two related reasons, and these reasons hold when there is a problem with the formal requirement of a bargain. First, expectation damages are often equal to, or a good substitute for, reliance loss. Second, expectation damages protect reliance by awarding damages irrespective of a showing of reliance. Such protection is necessary because reliance is often difficult to show and to quantify.⁶⁴

Many of the cases in which promissory estoppel is used to enforce firm offers illustrate these points; often expectation damages are either a good proxy for difficult-to-prove reliance loss or the only way to protect reliance.⁶⁵ In the typical "firm offer" case, promissory estoppel is used to enforce a subcontractor's bid, after the general contractor has relied by using it in preparing his bid on the prime contract. The general contractor is typically awarded the difference between the relied-upon bid and the price charged by another subcontractor to do the job.⁶⁶

Actual reliance loss would be precisely this amount only if, absent reliance on the withdrawn bid, the general contractor would have increased his bid on the prime contract to reflect the increased price of the subcontract work and would have received the prime contract at the higher bid. But the general contractor might not have submitted a bid for precisely that amount or might not have received the prime contract. If the general did not receive the prime contract, he might have been able to bid on, and perform, another at a profit similar to that he would have enjoyed for this project but for the

63. *Id.* at 60-64.

64. *Id.* at 60-62. Fuller and Perdue regarded these reasons as inapplicable to the proper measure of damages for non-bargain promises under promissory estoppel. *Id.* at 64-65. In the second part of their article, they argue for a flexible approach to damages in promissory estoppel cases. *Contract Damages*: 2, *supra*, note 5, at 405. They regard expectation damages as appropriate in some promissory estoppel cases because expectation damages are equivalent to reliance damages or because "one would not be disposed to quarrel with this result in the charitable subscription cases, or in those cases where by granting specific performance of the promise all difficulties of evaluation can be avoided." *Id.* Fuller and Perdue wrote their classic article at a very early date and prior to the expansion of promissory estoppel into a broad range of commercial cases.

65. See, e.g., *People's Nat'l Bank v. Linebarger Constr. Co.*, 219 Ark. 11, 240 S.W.2d 12 (1951); *Homestead Supplies, Inc. v. Executive Life Ins. Co.*, 81 Cal. App. 3d 982, 147 Cal. Rptr. 22 (1978); *Peterson Tractor Co. v. Orlando's Snack-Mobile Corp.*, 270 Cal. App. 2d 787, 76 Cal. Rptr. 221 (1969); *Farm Crop Energy, Inc. v. Old Nat'l Bank*, 38 Wash. App. 50, 685 P.2d 1097 (1984).

66. See, e.g., *Allen M. Campbell Co. v. Virginia Metal Indus., Inc.*, 708 F.2d 930 (4th Cir. 1983); *Janke Constr. Co. v. Vulcan Materials Co.*, 527 F.2d 772 (7th Cir. 1975); *Loranger Constr. Corp. v. E.F. Hauserman Co.*, 376 Mass. 757, 384 N.E.2d 176 (1978).

subcontractor's failure to stand by his bid.

Given these uncertainties, it would be difficult or impossible to calculate the general's full reliance loss. But the difference between the withdrawn bid and the cost of substitute performance by another subcontractor may be a good substitute for full reliance loss. Perhaps the general contractor would have received this contract at a price close to his original bid plus the differential; if so, full reliance damages are close to expectation damages. Perhaps the general contractor would have lost this contract, but would have received and performed a similar prime contract for a profit close to the profit he would have enjoyed on this one had the subcontractor stuck to its bid. If so, awarding the general the differential is again a good estimate of full reliance loss.⁶⁷ Even if the differential is not a very good proxy of the general's reliance loss, expectation damages are the only effective way to protect the general contractor's reliance given the difficulty of determining what would have happened and assigning a monetary value to it.⁶⁸

3. Judicial Preferences.—In some cases, reliance damages are probably minimal or nominal, yet expectation damages are routinely given. Perhaps even in these cases, expectation damages may be awarded to protect possible reliance, but other policy concerns appear to explain full enforcement. For example, in some of the cases in which courts use promissory estoppel to enforce waiver-like contract modifications, reliance damages may be very low or nominal. Yet the strong judicial hostility to forfeiture may argue for enforcement of the modification by its terms. In *Brewer v. Universal Credit Co.*,⁶⁹ the plaintiff purchased a car on credit, and the conditional sales contract was assigned to the defendant credit company.⁷⁰ When the plaintiff defaulted on two payments, the credit company demanded possession, but later agreed that the car would be stored for thirty days at the plaintiff's expense, and that the plaintiff would be

67. This analysis of the bidding cases was first presented in Comment, *supra* note 4, at 569-70.

68. For other cases illustrating these points, see the cases in which courts use promissory estoppel to enforce non-bargain promises likely to be regarded as part of an overall bargain transaction. See, e.g., *Tomerlin v. Canadian Indem. Co.*, 61 Cal. 2d 638, 394 P.2d 571, 39 Cal. Rptr. 731 (1964); *Sanders v. United Distrib. Inc.*, 405 So. 2d 536 (La. Ct. App. 1981); *Hetchler v. American Life Ins. Co.*, 266 Mich. 608, 254 N.W. 221 (1934); *Abelson v. Genesco*, 58 A.D.2d 774, 396 N.Y.S.2d 394 (1977); *East Providence Credit Union v. Geremia*, 103 R.I. 397, 239 A.2d 725 (1968); *Green v. Helmcamp Ins. Agency*, 499 S.W.2d 730 (Tex. Civ. App. 1973).

69. 191 Miss. 183, 192 So. 902 (1940).

70. *Id.* at 185, 192 So. at 902.

able to pay the overdue installments during that period to recover his car.⁷¹ The plaintiff tendered the money due within the thirty days, but the credit company had sold the car. It seems likely that the plaintiff received full expectation damages on remand: compensation for the costs of recovering "his" car after the resale.⁷²

The plaintiff's reliance may have been quite minimal; there was no evidence that he spent much time or effort finding funds to pay the overdue payments. Nor was there any evidence that he would have suffered any substantial loss had he repaid any additional loan when the credit company withdrew its promise. Common law courts are, however, hostile to forfeiture,⁷³ and nonenforcement of the credit company's promise would result in forfeiture. An award of full expectation damages is therefore understandable apart from the need to protect the plaintiff's probably minimal reliance.⁷⁴

4. The Restitution Interest, the Reliance Interest, and Judicial Preferences.— Expectation damages may be appropriate for all of the reasons discussed above. In *Hessler Inc. v. Farrell*,⁷⁵ for example, the court applied the notion of promissory estoppel to a retired employee who had been promised \$12,000 a year for five years as a pension.⁷⁶ The promise was made to induce Farrell to retire voluntarily. After his retirement, his employer attempted to withdraw the promise.⁷⁷ If one focuses on Farrell and his retirement, there is little need for a promissory estoppel remedy. It is unlikely that Farrell

71. *Id.* at 186, 192 So. at 902.

72. The Mississippi Supreme Court did not precisely indicate what the plaintiff could recover in the way of damages, but its remand suggests that the plaintiff was entitled to more than just the expenses of reliance between the time the promise was made and the time the promise was retracted. The plaintiff does not seem to have been asking for reliance losses, i.e., costs incurred in borrowing the overdue money and tendering it. Instead, as noted in the text, he was seeking the costs of actually recovering his car after he learned that the credit company's promise had been withdrawn.

73. See e.g., *Elizabeth Lodge No. 596, Loyal Order of Moose v. Ellis*, 391 Pa. 19, 137 A.2d 286 (1958); *Wallis v. Smith*, 21 Ch. D. 243 (1882).

74. See, e.g., *Dairyland County Mut. Ins. Co. v. Estate of Basnight*, 557 S.W.2d 597 (Tex. Civ. App. 1977) (enforcing insurer's promise to extend due date on premium, though there was no reason to think that insured would have paid the premium before her death had there been no extension of time). In other cases in which promissory estoppel is used to enforce waiver-like contract modifications, reliance may have been substantial, and expectation damages may be appropriate as a proxy for reliance or to protect reliance. See, e.g., *Vensey v. Layton*, 42 Del. Ch. 55, 206 A.2d 505 (1964); *Perry Publications, Inc. v. Bankers Life & Casualty Co.*, 246 So. 2d 604 (Fla. Dist. Ct. App. 1971); *Wachovia Bank & Trust Co. v. Rubish*, 306 N.C. 417, 293 S.E.2d 749 (1982).

75. 226 A.2d 708 (Del. 1967).

76. *Id.* at 710.

77. *Id.* at 710-11.

relied very substantially or detrimentally by retiring. He was a terminable-at-will employee, and his employer wanted him to retire. Had Farrell refused "voluntary retirement," he could (and might) have been fired.

Enforcement with expectation damages is nevertheless understandable for the reasons identified above. First, there was a partially performed implicit bargain. Whether or not Farrell's retirement was very substantial or detrimental as reliance, it conferred an implicitly bargained-for benefit on the promisor.⁷⁸ As in other implicit bargain cases, having enjoyed the benefits of the bargain, the promisor should not be able to avoid paying the promised price.⁷⁹

Second, although Farrell's retirement might not be very substantial as reliance, he may have relied in other ways which would be difficult to prove or to quantify. For example, but for the promised pension, he might have looked for another job while he was still employed. Once unemployed, substitute employment is more difficult to find. Perhaps he would have made different financial arrangements and plans for the future. Due to the difficulty of showing or quantifying such reliance, expectation damages are the only way to protect it.

Third, it is likely that a judicial preference for legally enforceable pension rights helps explain the award of full expectation damages though Farrell may have suffered little loss by retiring voluntarily.⁸⁰ Courts do not expressly mention such a preference, but such a preference seems likely given the many legal rules favoring legally enforceable pension rights.⁸¹

C. Other Formal Bars to Enforcement

Often, promissory estoppel is used to enforce a promise that is clearly part of a bargain, but which would not be enforceable under traditional rules because of some formal flaw, such as the

78. For a fuller discussion of the basis of liability in these cases, see Barnett & Becker, *supra* note 15, at 467-69.

79. See *supra* notes 53-61 and accompanying text.

80. See also *Feinberg v. Pfeiffer Co.*, 322 S.W.2d 163 (Mo. Ct. App. 1959) (enforcing employer's promise to pay employee a monthly sum for life); *Abelson v. Genesco, Inc.*, 58 A.D.2d 774, 396 N.Y.S.2d 394 (1977) (enforcing employer's promise to pay retirement benefits).

81. See, e.g., I.R.C. § 501(a) (1986) (providing tax exempt status for certain legally enforceable pension funds); *In re Inland Steel Co.*, 21 L.R.R.M. (BNA) 1310 (1948) (holding that pension and retirement plans are part of the subject matter of mandatory bargaining for union contracts).

absence of a non-illusory and definite promise, or compliance with the Statute of Frauds and the parol evidence rule.⁸² Because similar reasons explain the full enforcement of all these promises, this article discusses in depth only one of these groups: promises barred by the Statute of Frauds. The case for limited enforcement is stronger, in several respects, when enforcement is barred by the Statute of Frauds, rather than by the parol evidence rule or by the requirements that an enforceable promise be definite and not illusory.⁸³

The decision to afford a remedy for breach of a parol promise under the Statute of Frauds depends, *inter alia*, on a court's assessment of the costs and benefits of this formal limit on contract liability. Traditionally, both common law courts and courts of equity have afforded some remedies to protect reliance and to prevent unjust enrichment.⁸⁴ Restitution is generally available when one party has conferred goods or services on the other in accordance with a contract under the Statute.⁸⁵ In these cases, recovery has been limited to the market value of the goods or services rather than the price orally promised.⁸⁶ In most jurisdictions, the equitable doctrine of part performance has afforded specific enforcement to promises under the land provision of the Statute when the vendee has relied on the promise.⁸⁷ Most jurisdictions have adopted a similar exception to the

82. For a further discussion of the use of promissory estoppel as a basis for enforcement when other formal defects bar enforcement, see Barnett & Becker, *supra* note 15, at 470-85.

83. First, the Statute of Frauds is a legislative decision, rather than a product of common law judgments. Second, most Statutes of Fraud draw clear, sharp lines and are therefore more reliable as formal limits on liability (and hence more valuable as formalities) than are the parol evidence rule and the requirements that a promise be definite and not illusory. See, e.g., CAL. CIV. PROC. CODE § 1971 (West Supp. 1987); FLA. STAT. ANN. § 725.01 (West Supp. 1987); ILL. ANN. STAT. ch. 59, § 11 (Smith-Hurd 1972); IND. CODE ANN. § 32-2-1-1 (West 1979); IOWA CODE ANN. § 622.32 (West 1950); MASS. GEN. LAWS ANN. ch. 259, §§ 1-5 (West 1976); TEX. BUS. & COM. CODE ANN. § 26.01 (Vernon 1987).

84. For sales of goods under the U.C.C., the Statute of Frauds is itself limited by the need to provide a remedy for reliance and to prevent unjust enrichment. See U.C.C. § 2-201 (1978). Thus, for example, a seller who has manufactured goods for which there is no market can enforce the parol contract when the circumstances "reasonably indicate that the goods are for the buyer." U.C.C. § 2-201(3)(a)(1978). The contract is enforceable to the extent goods are "received and accepted" by the buyer. U.C.C. § 2-201(3)(c)(1978).

85. See, e.g., Blank v. Rodgers, 82 Cal. App. 35, 255 P. 235 (1927); Dale v. Fillenworth, 282 Minn. 7, 162 N.W.2d 234 (1968); Rick v. Sumler, 179 Va. 571, 19 S.E.2d 889 (1942).

86. See E. A. FARNSWORTH, *supra* note 33, § 6.11, at 431-432. Often the promised price is used as evidence of market value. See, e.g., Oxborough v. St. Martin, 169 Minn. 72, 210 N.W. 854 (1926); Bennett Leasing Co. v. Ellison, 15 Utah 2d 72, 387 P.2d 246 (1963); Cochran v. Bise, 197 Va. 483, 90 S.E.2d 178 (1955).

87. See Burns v. McCormick, 233 N.Y. 230, 135 N.E. 273 (1922). There is some varia-

one-year provision of the statute: when one party to a contract under the one-year provision has fully performed her part of the bargain, the bargain is enforced by its terms.⁸⁸

There is a strong case for allowing at least a restitution remedy. If no remedy were available, the Statute would be an invitation for fraud; promisors could enjoy with impunity goods or services given in return for parole promises under the Statute. On the other hand, the Statute represents a legislative decision that certain promises should be legally unenforceable unless in writing. Allowing only restitution claims at the market rate rather than the contract rate seems a reasonable balance between the need to guard against the use of the Statute to perpetrate fraud and the appropriate judicial deference to the legislature.

A similar case can be made for the full performance exception to the one-year provision of the Statute. When one party has fully performed in the bargained-for way, a restitution remedy would usually be available.⁸⁹ The only issue remaining is how to value the goods or services conferred. When the party claiming the protection of the Statute has allowed the other party to perform fully, the use of the contract price simply eliminates the need to inquire into market price. In addition, the contract price will usually be a good substitute for the market price. Thus, the full performance exception to the one-year provision can be regarded as a restitution remedy tailored to a particular factual setting.

In contrast, promissory estoppel and the equitable doctrine of part performance afford a remedy when there has been reliance, though the promisee may have conferred no bargained-for benefit on the promisor. In these cases, one might expect damages to be limited to reliance loss. If full expectation damages (or specific performance) were available once there had been reliance, there would be little left of the statutory bar. The promisor cannot plan her affairs in reliance

tion among jurisdictions as to what acts of reliance are sufficient for the equitable doctrine of part performance, but in most jurisdictions, a promise to transfer an interest in land is specifically enforced if the vendee has, for example, moved onto the land and made substantial improvements to it. See, e.g., *Seavey v. Drake*, 62 N.H. 393 (1882).

88. See, e.g., *Trimmer v. Short*, 492 S.W.2d 179 (Mo. Ct. App. 1973); *Coker v. Richter Corp.*, 261 S.C. 402, 200 S.E.2d 231 (1973). In some jurisdictions, performance must take place within a year in order to come within the exception to the Statute. See *Emerson v. Universal Prods. Co.*, 35 Del. 277, 162 A. 779 (Del. Super. Ct. 1932).

89. In some cases a restitution remedy might not be available. If the breaching party has partially paid for the bargained-for benefit, restitution will afford a remedy only if the non-breaching party can show that there is a difference between the partial payment and the market rate. See *supra* note 86 and accompanying text.

on the Statute, i.e., cannot act with confidence that she will only be subject to full contract liability for certain promises if they are in writing.⁹⁰ Instead, whether the promise is legally enforceable would be at the option of the promisee: by relying, he can remove the promise entirely from the operation of the Statute. Yet courts using promissory estoppel and the equitable doctrine of part performance to enforce parol promises under the Statute of Frauds routinely award full expectation damages or even specific performance.⁹¹ There is some variation among jurisdictions with respect to judicial willingness to afford these remedies.⁹² When a court is willing to use promissory estoppel or the equitable doctrine of part performance to afford a remedy, however, the relief afforded is consistent with that available in other contract actions.⁹³

For courts interested in affording a remedy beyond restitution, all of the points made in the preceding section argue for full enforcement. When the contract has been partially performed, expectation damages are appropriate. Restitution is too narrow a remedy to prevent all unjust enrichment.⁹⁴ In addition, expectation damages are often appropriate to protect reliance,⁹⁵ or judicial preferences favor

90. Although even an award of reliance losses weakens the effectiveness of the Statute as a formal limit on liability, if only reliance damages were available, the promisor could at least rely on not being held to such a promise by its terms unless she had signed a writing.

91. *Monarco v. LoGraco*, 35 Cal. 2d 621, 220 P.2d 737 (1950); *McIntosh v. Murphy*, 52 Haw. 29, 469 P.2d 177 (1970); *Alpark Distrib., Inc. v. Poole*, 95 Nev. 605, 600 P.2d 229 (1979).

92. See *Barnett & Becker*, *supra* note 15, at 470-75 (promissory estoppel); *supra* notes 87-88 (the equitable doctrine of part performance).

93. For cases in which promissory estoppel is used to award expectation damages, see *infra* note 95. For examples of cases using the equitable doctrine of part performance to enforce specifically promises under the Statute, see, *Suter v. Suter*, 97 Idaho 461, 546 P.2d 1169 (1976); *Seavey v. Drake*, 62 N.H. 393 (1882).

94. In an action for compensation for benefits conferred under a contract covered by the Statute of Frauds, restitution affords a remedy only if the goods or services are bargained-for or when the promisor was obviously enriched by reliance. See E.A. FARNSWORTH, *supra* note 33, § 6.11, at 430-33. Non-bargained for acts of reliance may benefit the promisor though restitution would afford no remedy. Cf. *Lacy v. Wozencraft*, 188 Okla. 119, 105 P.2d 781 (1940) (using "estoppel" to avoid the Statute of Frauds in case in which restitution is inadequate). In addition, restitution may be unavailable when the receiver of goods or services partially pays as promised. In such cases, restitution affords a remedy only if the promisee can establish that there is a difference between the partial payment and the market price. Cf. *Vastoler v. American Can Co.*, 700 F.2d 916 (3d Cir. 1983); *Remilong v. Crolla*, 576 P.2d 461 (Wyo. 1978) (using "estoppel" to avoid Statute of Frauds when restitution inadequate because of partial payment).

95. See, e.g., *Lucas v. Whittaker Corp.*, 470 F.2d 326 (10th Cir. 1972) (awarding expectation damages when reliance losses were significant but not quantifiable); *Monarco v. LoGreco*, 35 Cal. 2d 621, 220 P.2d 737 (1950); *Wilk v. Vencill*, 30 Cal. 2d 621, 180 P.2d 351

full enforcement.⁹⁶ Similar reasons explain why expectation damages are available when promissory estoppel is used to enforce indefinite or illusory promises⁹⁷ or promises barred by the parol evidence rule.⁹⁸

*Vastoler v. American Can Co.*⁹⁹ illustrates all these points. In order to induce Vastoler to accept a promotion to a supervisory position in 1963, his employer promised that he would receive full credit for past service for all fringe-benefit purposes, including pension rights.¹⁰⁰ Under the provisions of the pension plan, he was entitled only to credit for post-1958 service. He was given full credit for all other purposes (such as vacation time) until he retired in 1978, when the company notified him that he would receive credit for only post-1958 service for pension purposes.¹⁰¹ The court never identified the formal flaw, but it is likely that the plaintiff sued using promissory estoppel, rather than breach of contract,¹⁰² because of a perceived problem (or problems) with the Statute of Frauds, the parol evidence rule, or with the requirements that a promise be definite and non-illusory.¹⁰³

Regardless of the formal flaw, the court's award of expectation

(1947) (holding specific performance best way to protect reliance since alternative equivalent transactions not available). For cases in which "estoppel" is used to avoid the Statute of Frauds and in which expectation damages are probably equal to, or a good proxy for, reliance loss, see *Le Blond v. Wolfe*, 83 Cal. App. 2d 282, 188 P.2d 278 (1948); *Wolfe v. Wallingford Bank & Trust Co.*, 124 Conn. 507, 1 A.2d 146 (1938); *Jamestown Terminal Elevator, Inc., v. Hieb*, 246 N.W.2d 736 (N.D. 1976).

96. For examples of cases in which courts did not discuss formal flaws, but in which there may have been both a Statute of Frauds problem and a judicial preference for enforcement, see *Vastoler v. American Can Co.*, 700 F.2d 916 (3d Cir. 1983); *Van Hook v. Southern Cal. Waiters Alliance, Local 17*, 158 Cal. App. 2d 556, 323 P.2d 212 (1958).

97. See, e.g., *Goldstick v. ICM Realty*, 788 F.2d 456, 463 (7th Cir. 1986) (awarding minimum expectation damages "simply on grounds of simplicity" for breach of an indefinite contract). In some of the cases in which promissory estoppel is used to enforce illusory promises, only reliance damages can be calculated because of the illusory nature of the promise. See *infra* note 113 and accompanying text. In other cases, full enforcement may be possible though the promise is somewhat illusory. See *infra* notes 99-106 and accompanying text.

98. See, e.g., *Ehret Co. v. Eaton, Yale, & Towne, Inc.*, 523 F.2d 280 (7th Cir. 1975), cert. denied, 425 U.S. 943 (1976). There are, however, only a few cases in which promissory estoppel is used to enforce promises barred by the parol evidence rule. See *Barnett & Becker*, *supra* note 15, at 474-75; *Metzger & Phillips*, *supra* note 9, at 493-494.

99. 700 F.2d 916 (3d Cir. 1983).

100. *Id.* at 917.

101. *Id.* at 918.

102. The plaintiff did sue for breach of contract, but only for breach of the formal pension plan (whose language defeated his claim) rather than for breach of the 1963 agreement reached prior to his accepting the supervisory position. *Id.* at 918.

103. See *Barnett & Becker*, *supra* note 15, at 481-85.

damages is understandable for several reasons.¹⁰⁴ First, there is the problem of unjust enrichment. If Vastoler were given no relief, his employer would be able to enjoy his services without paying the promised price. Restitution would not remedy this unjust enrichment, since Vastoler would have to prove that he received less than the market wages because of the pension promise.¹⁰⁵ Such a showing would almost certainly be impossible to make. In addition, expectation damages are appropriate to protect reliance, and the only available way to protect reliance; reliance damages could not possibly be calculated. Finally, judicial preference for legally enforceable pension plans may explain full enforcement independent of the problems of unjust enrichment and reliance.¹⁰⁶ Although the initial promise might have been indefinite or illusory because the pension plan was subject to change, these problems either no longer existed in 1978, or could be made irrelevant by fashioning appropriate relief. There was a plan in effect; the only question was how to calculate years of service. If the plan was subject to change, declaratory relief could be given with respect to the future, and monetary relief limited to past-due amounts.

D. *Limits on Expectation Damages in Commercial Cases*

Although expectation damages are awarded in most promissory estoppel cases enforcing promises in commercial settings, there are a number of commercial cases where only reliance damages are

104. The court determined that the trial court erred in granting defendant's motion for summary judgment. *Vastoler*, 700 F.2d at 917.

105. Whether Vastoler could take advantage of the full performance exception to the one-year provision of the Statute is not clear. New Jersey appears to recognize the full performance exception to the one-year provision, but the decisions so noting involve contracts not under the one-year provision at all. See, e.g., *Dennis v. Thermoid Co.*, 19 N.J. Misc. 614, 22 A.2d 535 (Mercer County Ct. 1941), *aff'd* 128 N.J.L. 303, 25 A.2d 886 (1942) (holding that Statute applies only if neither side can perform within one year). In addition, New Jersey courts have been rather reluctant to find the Statute inapplicable in the employment context. See, e.g., *Deevy v. Porter*, 11 N.J. 594, 95 A.2d 596 (1953) (holding that oral agreement of employment for more than a year is within the Statute even though employees alleged that under terms of agreement they were free to terminate relationship at any time). Thus, plaintiff's lawyer in Vastoler may have used promissory estoppel because of uncertainty about whether the New Jersey Statute of Frauds would bar a contract action. Cf. *Advocat v. Nexus Industries, Inc.*, 497 F. Supp. 328, 333 (D. Del. 1980) (applying Maryland or New York law and refusing to enforce promised pension because of Statute of Frauds though plaintiff seems to have performed fully; "an oral contract of employment cannot be taken out of the Statute of Frauds by part performance").

106. See *supra* notes 69-72 and accompanying text.

given.¹⁰⁷ Even when a promise is part of a traditionally enforceable bargain, however, there are a number of rules limiting the availability of expectation damages.¹⁰⁸ These rules explain why only reliance damages are awarded (or requested by the plaintiff) in these cases. For example, speculative damages cannot be recovered as expectation damages¹⁰⁹ and expectation damages are not normally available for breach of a promise to loan money.¹¹⁰

Occasionally a court states that promissory estoppel damages are always limited to reliance losses, although in the case at bar, the availability of expectation damages is not an issue.¹¹¹ In other cases,

107. See *Goodman v. Dicker*, 169 F.2d 684 (D.C. Cir. 1948); *Grouse v. Group Health Plan, Inc.*, 306 N.W.2d 114 (Minn. 1981); *Wheeler v. White*, 398 S.W.2d 93 (Tex. 1965); *Hoffman v. Red Owl Stores*, 26 Wis. 2d 683, 133 N.W.2d 267 (1965).

108. In addition to the general limits on expectation damages discussed in the text, the appropriate measure of damages may depend on the scope of a statutory obligation. See *Swinerton & Walberg Co. v. City of Inglewood-Los Angeles County Civic Center Auth.*, 40 Cal. App. 3d 98, 114 Cal. Rptr. 834 (1974). In *Swinerton*, the court limited the plaintiff to reliance damages, though expectation damages would probably have been available under general damage rules for defendant's "breach" of a promise to accept the lowest responsible bidder. Liability depended, however, on the meaning of a statutory mandate that defendant accept the lowest responsible bidder. *Id.* at 104, 114 Cal. Rptr. at 838. In *City of Inglewood-Los Angeles City Civic Center Auth. v. Superior Court*, 7 Cal. 3d 861, 500 P.2d 601, 103 Cal. Rptr. 689 (1972), the Supreme Court of California had held that the statute required more than that the defendant-authority consider each bid and the bidder's responsibility in good faith, though that obligation is all one can reasonably infer as a matter of contract from a promise to take the lowest responsible bid.

109. See, e.g., *Oxley v. Ralston Purina, Co.*, 349 F.2d 328 (6th Cir. 1965) (holding that plaintiff can recover lost profits if reasonably certain after reliance on promise under Statute of Frauds); *Kaye v. Melzer*, 87 Cal. App. 2d 299, 197 P.2d 50 (1948) (using promissory estoppel to avoid the Statute of Frauds and awarding only reliance damages because, apparently, expectation damages would be speculative); *Young v. Johnston*, 475 So. 2d 1309 (Fla. Dist. Ct. App. 1985) (holding that promissory estoppel limited plaintiff to reliance damages for breach of promise to build home for a certain amount of money; difference between defendant's bid and what another contractor would charge speculative as a measure of plaintiff's damage because plaintiff had not engaged another contractor to build home).

110. See, e.g., *Bixler v. First National Bank*, 49 Or. App. 195, 619 P.2d 895 (1980) (holding that in promissory estoppel, plaintiff could only recover reliance damages for the defendant's breach of a firm commitment to loan money because of traditional limits on damages in such situations). For breach of a promise to loan money, only reliance damages, costs of searching for a substitute loan, and the interest-rate differential are available. See generally E.A. FARNSWORTH, *supra* note 33, § 12.14-.18, at 878-99 (1982).

111. See, e.g., *Sun Oil Co. v. Madeley*, 626 S.W.2d 726, 734 (Tex. 1982) (so stating though court ruled for defendant; no "estoppel"); *Wheeler v. White*, 398 S.W.2d 93, 97 (1965) (so stating though plaintiff only requested reliance losses; expectation damages would be speculative and inappropriate because the promise was to loan money); *Okemah Constr. Inc. v. Barkley-Farmer, Inc.*, 583 S.W.2d 458 (Tex. Civ. App. 1979) (so stating though court holds for defendant; no promissory estoppel); *E.F. Hutton & Co. Inc. v. Fox*, 518 S.W.2d 849, 853 (Tex. Civ. App. 1974) (so stating though court holds that there is no basis for imposing any liability on defendant). See also *Fretz Construction Co. v. Southern Nat'l Bank*, 626

the same court will award expectation damages when expectation damages would normally be available.¹¹² In some cases, there is a close link between the use of promissory estoppel and the inability to calculate expectation damages under normal damage rules. When promissory estoppel is used to afford a remedy for breach of an indefinite or illusory promise, it is sometimes impossible to calculate expectation damages for the very reason that promissory estoppel is used to afford relief: the promise is illusory or indefinite.¹¹³

For example, several courts have used promissory estoppel to award reliance damages for breach of a promise of employment when the employer changes its mind prior to the scheduled starting date.¹¹⁴ Once employment started, it would have been terminable at will.¹¹⁵ There is no way to determine how long, but for the preemployment breach, employment would have lasted; expectation damages are therefore speculative, and the courts' award of reliance damages understandable under traditional damage rules. Out-of-pocket reliance damages can, of course, be calculated with relative ease.¹¹⁶ This result may seem strange and inconsistent with contract

S.W.2d 478, 483 (Tex. 1981) (so stating though no difference between reliance loss and expectation damages).

112. See, e.g., *Dairyland County Mut. Ins. Co. v. Estate of Basnight*, 557 S.W.2d 597 (Tex. Civ. App. 1977) (awarding full expectation damages by using waiver and promissory estoppel to enforce promise to extend time for paying insurance premium); *Green v. Helmscamp Ins. Agency*, 499 S.W.2d 730 (Tex. Civ. App. 1973) (using promissory estoppel to bind insurance company to coverage period as represented to the insured, and awarding full expectation damages); *Southwest Water Services, Inc. v. Cope*, 531 S.W.2d 873 (Tex. Civ. App. 1975) (enforcing promised water rates using promissory estoppel to avoid defendant's arguments that agreement unenforceable because too indefinite and because no mutuality of obligation); *Retama Manor Nursing Centers, Inc. v. Cole*, 582 S.W.2d 196 (Tex. Civ. App. 1979) (awarding expectation damages, including lost profits, with promissory estoppel an alternative basis of liability).

113. As already suggested in text in the discussion of *Vastoler v. American Can*, 700 F.2d 916 (3rd Cir. 1983), see *supra* notes 99-106 and accompanying text, this is not always true. In some situations involving the enforcement of illusory or indefinite promises, the promisee's expectancy may be the only available measure of relief. See *supra* notes 62-68 and accompanying text.

114. See *Hunter v. Hayes*, 533 P.2d 952, 953 (1975); *Ravelo v. County of Hawaii*, 66 Haw. 194, 658 P.2d 883, 887 (1983); *Grouse v. Group Health Plan, Inc.*, 306 N.W.2d 114, 116 (Minn. 1981). For a similar case in another factual setting, see *Vigoda v. Denver Urban Renewal Auth.*, 646 P.2d 900, 904-05 (Colo. 1982) (holding reliance damages appropriate when expectation damages would have been speculative because promise illusory; defendant promised to negotiate for 90 days and then broke off negotiations for reasons unrelated to negotiations).

115. The liability imposed because of the employer's pre-employment change of heart may nevertheless be consistent with the parties' understanding of the allocation of this risk. See *Barnett & Becker*, *supra* note 15, at 478-81.

116. In *Hunter v. Hayes*, 533 P.2d 952 (Colo. Ct. App. 1975) for example, the court

notions: awarding reliance damages may overcompensate the non-breaching party by giving her more than she would have enjoyed had there been no breach. For instance, the employee may have lost \$3,000 in reliance on a promise of employment breached prior to the starting date. Had the employer not changed its mind prior to the starting date, the employee might have been fired within a month for incompetence or because of staff cut backs, and damages might have been much less than \$3,000.

In analogous situations, however, common law courts routinely award reliance damages unless the breaching party can make the often impossible showing that the contract would have been unprofitable for the non-breaching party.¹¹⁷ The breaching party is unlikely to be able to show that the contract would have been unprofitable for the same reason that the non-breaching party is limited to reliance damages: expectation damages are speculative.¹¹⁸ There is nothing anomalous about awarding known reliance losses when expectation damages cannot be calculated.

E. Conclusion

In general, when promissory estoppel is used to enforce promises in donative or commercial settings, expectation damages are available as in other contract actions. There are several reasons for awarding expectation damages in the commercial cases: to prevent unjust enrichment, to protect reliance, and because of judicial preferences. When plaintiffs are limited to reliance damages in commercial cases, only reliance loss would be recoverable under ordinary contract rules.¹¹⁹

In donative cases, expectation damages are also generally available, even when reliance damages could easily be calculated.¹²⁰ There are a number of reasons for awarding expectation damages for breach of a promise apparently made with an intent to be legally bound in a donative setting, especially once there has been reliance: to protect reliance, to enforce a possible partially-executed bargain; to fulfill the promisor's intent, and to avoid complex rules about the

awarded \$700 "based on Hunter's monthly wages at the telephone company [her prior employer], namely \$350 per month, and on the period of her unemployment." *Id.* at 954.

117. See, e.g., *Dade County v. Palmer & Baker Eng'rs*, 339 F.2d 208 (5th Cir. 1964); *L. Albert & Son v. Armstrong Rubber Co.*, 178 F.2d 182 (2d Cir. 1949).

118. See E.A. FARNSWORTH, *supra* note 33, § 12.16, at 890.

119. See *supra* notes 107-10 and accompanying text.

120. See *supra* notes 28-49 and accompanying text.

appropriate measure of damages.

II. DAMAGES FOR MISREPRESENTATION

There are only a few promissory estoppel cases whose results (including the measure of damages) cannot be entirely understood as based on contract principles.¹²¹ This section describes and explains the awards of monetary damages in these cases and considers whether the use of promissory estoppel rather than tort as the basis of liability has affected the measure of relief.¹²²

The courts award expectation damages when expectation damages would be available under normal contract rules. Thus, when the misrepresentation was early in the negotiating process and expectation damages are therefore speculative, the courts award only reliance damages.¹²³ In other cases in which the negligent or reckless misrepresentation occurred later, expectation damages are awarded.¹²⁴ In the cases in which the misrepresentation was intentional, the measure of damages seems to include a punitive element.¹²⁵ In one of these cases, the court expressly indicates that it is awarding an amount equal to expectation damages as punitive damages.¹²⁶

121. In an earlier article, I discussed or noted six cases in which promissory estoppel might have been used to remedy a factual or promissory misrepresentation. See Barnett & Becker, *supra* note 15, at 485-95. These cases fall into three factual patterns. In one pair of cases, there is a reckless or negligent misrepresentation so early in the negotiating process that it is unlikely that either party thought a legally-binding commitment had been made. *Id.* at 487-89. For a discussion of these cases see *infra* notes 129-32 and accompanying text. In a second pair of cases, there is an intentional misrepresentation at a later point in the negotiating process, when the key terms of the transaction have been worked out: expectation damages can be calculated. *Id.* at 489-91. For a discussion of these cases see *infra* notes 133-48 and accompanying text. The third pair of cases is like the second (expectation damages can be calculated), but the misrepresentation may have been reckless or negligent rather than intentional. *Id.* at 491 n.221. For a discussion of these cases see *infra* notes 149-55 and accompanying text.

122. In tort, rescission would also be available and is often the remedy preferred by plaintiffs. See, e.g., Sharkey v. Burlingame Co., 131 Or. 185, 282 P. 546 (1929); McLean v. Southwestern Casualty Ins. Co., 61 Okla. 79, 159 P. 660 (1916).

123. See *infra* notes 127-30 and accompanying text.

124. See Greenstein v. Flatley, 19 Mass. App. Ct. 351, 474 N.E.2d 1130 (1985); Chrysler Corp. v. Quimby, 51 Del. 264, 144 A.2d 123 (1958). In Goodman v. Dicker, 169 F.2d 684 (D.C. Cir. 1948), however, there was no difference between reliance and expectation damages, see *infra* note 151 and accompanying text. In Walters v. Marathon Oil Co., 642 F.2d 1098 (7th Cir. 1981), the court awarded expectation damages as a proxy for full reliance. See *infra* note 152 and accompanying text.

125. See *infra* notes 131-42 and accompanying text.

126. See Greenstein v. Flatley, 19 Mass. App. Ct. 351, 474 N.E.2d 1130 (1985); Chrysler Corp. v. Quimby, 51 Del. 264, 144 A.2d 123 (1958) (punitive damages implicit in the

Whether these results are consistent with the results these courts would reach using tort damage rules is impossible to say. There is a great deal of uncertainty and confusion about the proper measure of damages in tort for misrepresentation in these kinds of cases.

The results in the cases in which the misrepresentation is early in the negotiating process are clearly consistent with the measure of damages in tort. In *Hoffman v. Red Owl Stores*,¹²⁷ for example, the court awarded the plaintiff's actual losses sustained in reliance on the defendant's agents' misrepresentations that \$18,000 cash would be enough money for the plaintiff to become a Red Owl franchisee.¹²⁸ The defendants offered this assurance in order to induce Hoffman to take a number of actions in preparation for becoming a franchisee, such as selling the bakery he had been operating and running a small grocery to gain experience in the grocery business.¹²⁹ In a tort action for misrepresentation, a plaintiff can recover as special damages any actual losses, provided that she shows that the losses were the natural and proximate result of the misrepresentation.¹³⁰ Hoffman's reliance losses were the natural and proximate result of the misrepresentations. The defendant's agents made the representations to induce precisely these acts, and Hoffman would not have taken these actions but for the misrepresentation.

In the cases in which deliberate misrepresentation occurred later in the negotiating process, it is not clear whether expectation damages would have been available in tort. In *Greenstein v. Flatley*,¹³¹ for example, the defendants led the plaintiffs to think that they would lease office space in a building owned by a defendant until shortly before the lease was to begin and the plaintiffs' current lease in another office building expired.¹³² The court used promissory estoppel to award expectation damages and punitive damages¹³³ (of

recovery awarded); *infra* note 148.

127. 26 Wis. 2d 683, 133 N.W.2d 267 (1965).

128. *Id.* at 703, 133 N.W.2d at 277. See also *Werner v. Xerox Corp.*, 732 F.2d 580 (7th Cir. 1984) (holding similar to *Hoffman*).

129. *Hoffman*, 26 Wis. 2d at 687, 133 N.W. 2d at 269.

130. See, e.g., W. PROSSER & W. KEETON, *THE LAW OF TORTS*, § 110, at 766-67 (1984).

131. 19 Mass. App. Ct. 351, 474 N.E.2d 1130 (1985).

132. *Id.* at 352, 474 N.E.2d at 1132. See also *Chrysler Corp. v. Quimby*, 15 Del. 264, 144 A.2d 123 (1958) (defendants led plaintiff to believe franchise would be granted if plaintiff would buy out other stockholders and thereafter transfer 51% of stock to person named by defendant).

133. It might have been possible to award expectation damages on the basis of contract

an equal amount) because the owner's conduct "was an intentional course of action, taken to maintain his options despite plaintiffs' predictable reliance on the existence of a deal."¹³⁴

Traditionally, two measures of general damages had been used in tort for misrepresentation in the context of bargain transactions or negotiations:¹³⁵ benefit-of-the-bargain and out-of-pocket damages. Usually, the tort issue arises when there is misrepresentation of the quality or nature of what is being traded.¹³⁶ In such cases, the benefit-of-the-bargain measure is equal to expectation damages, and is the difference between the value as represented and the actual value of the thing traded. The other general damage measure, out-of-pocket damages, is more like a reliance measure, and is defined as the difference between the contract price and the actual value of the thing traded.¹³⁷

principles, since the owner's agent had signed a letter offering to "amend" the lease (the plaintiffs had submitted a signed copy of the lease prepared by the defendants to the defendants). The plaintiffs accepted the amendment. As the appellate court noted in discussing, without reaching, the issue of apparent authority, this instrument "signed on behalf of The Flatley Company, written on a letterhead of The Flatley Company and bearing the home office address, would present some difficulty for the defendant. The test for apparent authority is how the person dealing with the agent reasonably interprets the agent's authority." *Greenstein*, 19 Mass. at 355, 474 N.E.2d at 1133. But contract principles cannot explain the court's award of punitive damages in addition to expectation damages.

134. 19 Mass. App. at 358; 474 N.E.2d at 1134. The defendants' misrepresentations were intentional, though the misrepresentations might not have been actionable in tort in Massachusetts. At the time the promissory misrepresentations were made, the defendants had not decided not to deliver occupancy to the plaintiffs. Had no more attractive alternative presented itself, the plaintiffs would have eventually received a signed lease and occupancy. See *McCusker v. Geiger*, 195 Mass. 46, 80 N.E. 648 (1907) (holding promise actionable as fraud only when made after an "affirmative" decision not to perform; mere absence of intent to perform insufficient).

135. Most promissory estoppel commentators have assumed that only reliance damages would be available in tort. See, e.g., Farber & Matheson, *supra* note 7, at 945; Metzger & Phillips, *supra* note 9, at 544-545. But see *Contract Damages: 2*, *supra* note 5, at 406-10 (noting that despite this widely-held assumption, most jurisdictions award contract-like remedy for fraud or misrepresentation in context of bargain transaction). Instead of monetary damages, the victim of misrepresentation can also seek rescission, see, e.g., *Collins v. Lindsay*, 25 S.W.2d 84 (Mo. 1930), and sometimes reformation, see, e.g., *Layh v. Jonas*, 96 Idaho 688, 535 P.2d 661 (1975).

136. The majority rule is benefit-of-the-bargain; the minority rule out-of-pocket losses. See W. PROSSER & W. KEETON, *supra* note 130, § 110, at 767-68. Many courts have wavered between the two, rather than applying either consistently. *Id.* at 768. Often, there is no difference between the two measures. Whenever the contract price is equal to the fair market value of the property as represented, the two measures are identical: the contract price (or the value of the property as represented) less the actual value of the property. Cf. *Pao Ch'en Lee v. Gregoriou*, 50 Cal. 2d 502, 326 P.2d 135 (1958) (using purchase price as evidence of value of property as represented).

137. See W. PROSSER & W. KEETON, *supra* note 130, § 110, at 766-68.

Traditionally, jurisdictions have purported to apply one of these two measures of general damages in misrepresentation cases (in the absence, of course, of any claim of special damages).¹³⁸ The modern trend, however, is toward a flexible approach, awarding those damages appropriate on the facts of the particular case. Under the flexible approach, the plaintiff usually has her choice of seeking out-of-pocket damages or benefit-of-the-bargain damages, provided that the latter can be proven with sufficient certainty.¹³⁹ When these general measures do not apply — because there was no misrepresentation of the quality of something traded — the plaintiff can recover special damages by showing actual losses which are the natural and proximate result of the misrepresentation.¹⁴⁰

Neither of these measures of general damages would determine the damages in *Greenstein*. The benefit-of-the-bargain formula measures the difference between the value that the property traded would have had if it had been as represented and its actual value. When there has been misrepresentation about whether the parties have a reliable agreement, the benefit-of-the-bargain formula is not equivalent to expectation damages; indeed, the formula cannot be applied. The out-of-pocket measure is also inapplicable since it too refers to the value of something traded. Traditionally, courts have limited plaintiffs in such situations to actual losses.¹⁴¹

Some recent decisions suggest that some modern courts might use expectation damages as a proxy for actual loss when, as in *Greenstein*, forgone opportunities are a significant component in the plaintiff's reliance loss.¹⁴² In *Greenstein*, when the plaintiffs learned that they would not be getting space in the defendants' building, they had only a few weeks in which to find substitute space prior to the termination of their current lease. Because of the defendants'

138. See *supra* note 136.

139. The leading case is *Selman v. Shirley*, 161 Or. 582, 85 P.2d 384 (1938), *aff'd*, 161 Or. 582, 91 P.2d 312 (1938). See also *Hinkle v. Rockville Motor Co.*, 262 Md. App. 502, 278 A.2d 42 (1941) (holding that under flexible approach, \$800 proper measure of damages where defect about which seller lied could be fixed for that amount). See generally W. PROSSER & W. KEETON, *supra* note 130, § 110, at 766-69.

140. See W. PROSSER & W. KEETON, *supra* note 130, § 110, at 766-67.

141. See, e.g., *Morrison v. Glickman*, 119 N.Y.S.2d 136 (N.Y. Civ. Ct. 1936); *Welch v. Lawson*, 32 Miss. 170 (1856); W. PROSSER & W. KEETON, *supra* note 130, § 110, at 766-67 ("When the defendant's fraudulent conduct does not involve the transfer of property, the plaintiff necessarily proves his claim by proving special or consequential damages if he can do so.").

142. See *infra* notes 131-34 and accompanying text. See also *Crummer v. Zalk*, 248 Cal. App. 2d 794, 57 Cal. Rptr. 185 (1967).

misrepresentations, the plaintiffs were limited to the thin market for almost immediate occupancy. Expectation damages — the difference between the rent promised by the defendants and rent on substitute space found at the last minute — are a good proxy for full reliance loss. Courts adopting the flexible modern approach stress the need to apply the most appropriate damage measure in light of the factual situation and the inadequacy of other damage measures.¹⁴³ Courts in these jurisdictions might, therefore, be likely to award expectation damages in a situation like that in *Greenstein* as a proxy for full reliance loss.¹⁴⁴ Courts in out-of-pocket or benefit-of-the-bargain jurisdictions, however, might also be willing to use expectation damages in these situations to measure actual losses.¹⁴⁵ Even the out-of-pocket measure of general damages (which cannot be applied in this situation) compensates the plaintiff for forgone opportunities.¹⁴⁶

It is, however, impossible to state with certainty what measure

143. See, e.g., *Weitzel v. Jukich*, 73 Idaho 301, 308, 251 P.2d 542, 546 (1953) (Porter, J. concurring in part and dissenting in part) ("The underlying principle is that the victim of fraud is entitled to compensation for every wrong which is the natural and proximate result of the fraud. The measure of damages which should be adopted under the facts of a case is the one which will effect such result.").

144. *Cellucci v. Sun Oil Co.*, 2 Mass. App. 722, 320 N.E.2d 919 (1974), *aff'd*, 368 Mass. 811, 331 N.E. 2d 813 (1975) (in flexible jurisdiction, court affirms award of specific performance in tort); *Rokowsky v. Gordon*, 531 F. Supp. 435 (D. Mass. 1982), *aff'd*, 705 F.2d 439, *cert. denied*, 462 U.S. 1120 (1983) (court would prefer actual losses, but uses expectation damages because of difficulty of determining losses caused by forgone opportunities).

145. See, e.g., *Walters v. Marathon Oil Co.*, 642 F.2d 1098 (7th Cir. 1981) (using expectation damages as a proxy for reliance loss in promissory estoppel case); *Stephenson v. Capano Development Inc.*, 462 A.2d 1069 (Del. 1983) (awarding interest rate differential as special damages for fraudulent offer of low interest rate on mortgage; stressing that the plaintiff might not have bought property but for defendant's fraudulent offer). But see *Gray v. Don Miller & Associates, Inc.*, 35 Cal. 3rd 498, 647 P.2d 253, 198 Cal. Rptr. 551 (1984) (limiting plaintiff to actual out-of-pocket loss caused by misrepresentation as to whether there was a deal with a third party in jurisdiction with statute prescribing out-of-pocket rule for misrepresentation in purchase, sale, or exchange of property); *Newkirk v. United Fed. Sav. & Loan Ass'n*, 165 Ga. App. 311, 299 S.E.2d 183 (1983) (allowing only actual reliance loss in out-of-pocket jurisdiction for fraud when neither general damage formula would apply); *Kensington Publishing Corp. v. Kable News Co.*, 100 A.D.2d 802, 474 N.Y.S.2d 574 (1984) (denying plaintiff's claim based on lost opportunities in out-of-pocket jurisdiction); *Traylor v. Gray*, 547 S.W.2d 644, 656-58 (Tex. Civ. App. 1977) (awarding less than either expectation damages or reliance damages for fraud in case in which neither general damage formula would apply).

146. An out-of-pocket damage award is the difference between the price paid by the plaintiff for what was traded (e.g., \$10,000) and the market value of what was traded (e.g., \$8,000). This compensates the plaintiff for forgone opportunities since, but for defendant's misrepresentation, the plaintiff could have purchased the goods elsewhere for \$8,000. Benefit-of-the-bargain damages do more than compensate the plaintiff for forgone alternative opportunities; they give him the promised benefit though no honest seller would have promised so much for so little.

of damages would be imposed in tort for intentionally misleading conduct about whether there will be a bargain. In *Greenstein* (and the other promissory estoppel case dealing with intentional misrepresentation¹⁴⁷), it is possible — but by no means certain — that the relief afforded is consistent with the relief that would have been available in tort.¹⁴⁸

In cases in which misrepresentation is made negligently or recklessly at a late point in the negotiating process, courts have awarded either expectation or reliance damages.¹⁴⁹ Again, as in the inten-

147. *Chrysler Corp. v. Quimby*, 51 Del. 264, 144 A.2d 123 (1958). In this case, the defendant's agent told Quimby that he would be awarded a terminable-on-ninety-days-notice franchise if he bought the stock of the recently-deceased franchisee's widow. *Id.* at 269-70, 144 A.2d at 128. The promise was a lie when made. The agent never intended to award Quimby the franchise but did want to satisfy Chrysler's "moral obligation" to the widow. *Id.* at 278, 144 A.2d at 134. The court awarded both the lost profits for the ninety days and the cost of the stock (net of the value realized by selling the assets of the dealership). Thus, the court awarded both expectation damages and reliance damages, a double recovery since the profit could not have been enjoyed without buying the stock. Given that the defendant's agent deliberately and intentionally misled the plaintiff, the double recovery might include a punitive element. It is impossible to know whether this case would have come out differently had tort rules been used because we do not know what amount the court considered compensatory. (Indeed, we do not even know whether the court realized that it was doing more than compensating the plaintiff.) Delaware is, however, a benefit-of-the-bargain jurisdiction, *see, e.g., Nye Odorless Incinerator Corp. v. Felton*, 35 Del. 236, 162 A. 504 (1931). In *Chrysler*, unlike *Greenstein*, the benefit-of-the-bargain measure could be applied because Chrysler's agent's misrepresentation affected the value of the stock Quimby purchased from the widow. *See, e.g., Hartwell Corp. v. Bumb*, 345 F.2d 453 (9th Cir.), *cert. denied*, 382 U.S. 891 (1965) (general damages in the form of benefit-of-the-bargain awarded for misrepresentation by trustee in bankruptcy to purchaser of a division of a bankrupt corporation).

148. *See, e.g., Rokowsky v. Gordon*, 531 F. Supp. 435, 439 (D. Mass. 1982), *aff'd*, 705 F.2d 439, *cert. denied*, 462 U.S. 1120 (1983) (awarding expectation damages as proxy for full reliance loss); *Cellucci v. Sun Oil Co.*, 2 Mass. App. 722, 320 N.E.2d 919 (1974), *aff'd*, 368 Mass. 811, 331 N.E.2d 813 (1975) (affirming award of specific performance in tort). *Greenstein* was decided in Massachusetts which is a "flexible" jurisdiction. *See Rice v. Price*, 340 Mass. 502, 164 N.E.2d 891 (1960).

149. *See Walters v. Marathon Oil Co.*, 642 F.2d 1098 (7th Cir. 1981); *Goodman v. Dicker*, 169 F.2d 684 (D.C. Cir. 1948). In both cases, the award of expectation damages might have been imposed on the basis of contract and agency principles, though the courts based liability on "estoppel" and "promissory estoppel." *See Barnett & Becker, supra* note 15, at 487. On the other hand, liability might have been appropriate only in tort, not in contract. In *Walters*, contract liability would lie only if the agents with whom the plaintiff dealt had apparent authority to bind the defendant with oral assurances prior to approval of plaintiff's application by the Marathon home office. (The lower court decision can be read as imposing liability on the basis of such (or quite similar) findings). *See Barnett & Becker, supra* note 15, at 489 n.215. In contrast, in tort, a principal is liable for misrepresentations by an agent during negotiations if the agent is authorized to negotiate, the other party had no warning that the representations were unauthorized, and the representations concerned matters that the principal should expect to arise during negotiations. *See, e.g., RESTATEMENT (SECOND) OF AGENCY* § 258 (1958). Thus, it is possible that though contract liability would be inappropriate because

tional misrepresentation cases discussed above, it is not clear whether different measures of relief would have been available in tort. For example, in two cases, agents of a franchisor told a franchise applicant to go ahead and spend money necessary to begin the franchise operation because only formalities remained before he would be officially given a franchise; final affirmative decisions had already been made within the franchisor's organization.¹⁵⁰ The agents were wrong, and the plaintiffs sued. In one of these cases, the court's award of reliance losses was consistent with tort damage rules, as compensation for actual losses, and with contract damage rules, for breach of an indefinite-term contract.¹⁵¹ In the other case, the court awarded expectation damages for the minimum franchise period as a proxy for full reliance losses, including forgone opportunities.¹⁵² Whether the court would have been as willing to use expectation damages as a proxy for actual losses in tort is not clear for the reason given in the preceding section: neither measure of general damages applies in this situation, and there are too few modern cases to know whether courts would award expectation damages as a

the agents lacked apparent authority to bind the principal by an oral assurance, the principal might be liable in tort for misrepresentations made by the agents during negotiations. In *Goodman v. Dicker*, 169 F.2d 684 (D.C. Cir. 1948), the defendants could be held liable on the basis of contract and agency doctrines only if the defendants (the franchisor's local distributor) led the plaintiffs reasonably to believe that the defendants were authorized agents of the franchisor with power to enter into a contract on behalf of the franchisor, and the defendants did agree to give them this franchise in the name of the franchisor. The defendants would then be liable in contract for breach of the indefinite term contract because of their implied warranty of agency. See Restatement (Second) of Agency § 329 comment g, j, illustration 8 (1958); See Barnett & Becker, *supra* note 15, at 488. But the defendants would be liable in tort for negligent or reckless misrepresentation of fact (that the franchisor had made a decision), even though the plaintiffs did not think that the defendants were purporting to accept their application in the name of the franchisor.

150. *Walters v. Marathon Oil Co.*, 642 F.2d 1098 (7th Cir. 1981); *Goodman v. Dicker*, 169 F.2d 684 (D.C. Cir. 1948).

151. In *Goodman v. Dicker*, 169 F.2d 684 (D.C. Cir. 1948) the franchise, if awarded, would have been for an indefinite term. The franchise application stated: "Emerson Radio [the franchisor] shall have the right to revoke the Franchise Certificate, if, at any time after the issuance thereof, the dealer fails to comply with the above requirements." Joint Appendix at 10, *Goodman*. Modern courts have construed indefinite-term franchises as terminable only after a reasonable time when the franchisee invests in beginning operations. These courts have construed "a reasonable time" as the time necessary to give the franchisee the opportunity to recoup her investment. See, e.g., *Whorral v. Drewry's Ltd. U.S.A., Inc.*, 214 F. Supp. 269, 271 (S.D. Io. 1963). There is, therefore, no difference between expectation damages and reliance damages, and the *Goodman* court's award of \$1150 in reliance losses was proper in tort as compensation for actual losses. The court denied an additional recovery of expectation damages, but such a recovery would have been over-compensation in either contract or tort.

152. *Walters v. Marathon Oil Company*, 642 F.2d 1098 (7th Cir. 1981).

proxy for actual losses when there has been no transfer of property.¹⁵³

In addition, in these cases, the misrepresentations appear to have been negligent rather than intentional.¹⁵⁴ Some courts have awarded benefit-of-the-bargain damages only in cases in which the misrepresentation is intentional, i.e., cases in which the defendant knows that there is a discrepancy between what he knows and what he is telling the plaintiff.¹⁵⁵ On the other hand, courts often impose benefit-of-the-bargain damages without any discussion of this issue or finding of intentional misrepresentation.¹⁵⁶ But some courts might be unwilling to use expectation damages as a proxy for actual losses unless the misrepresentation was intentional. As in the previous set of cases, one cannot be sure whether the use of promissory estoppel might affect the measure of relief.

As indicated at the beginning of this section, there are only a handful of cases in which it seems likely that courts used promissory estoppel to impose liability for misrepresentation rather than on the basis of broad contract notions.¹⁵⁷ In these cases, courts have awarded expectation damages when expectation damages would be available under ordinary contract damage rules. In addition, courts have awarded punitive damages when the misrepresentation is deliberate and intentional.

When only reliance damages are available under normal contract rules, the use of promissory estoppel (rather than tort) has not affected the measure of relief.¹⁵⁸ When expectation damages are awarded in promissory estoppel misrepresentation cases, the use of promissory estoppel may affect the measure of relief. But there is much uncertainty about the measure of damages in tort for misrepresentation in the context of an exchange transaction when there is no transfer of property. When reliance includes passing up other opportunities, an award of expectation damages is consistent with the

153. See *supra* notes 141-46 and accompanying text.

154. There are no relevant factual findings, and based on the reported facts one could argue either way. *Walters v. Marathon Oil Company*, 642 F.2d 1098 (7th Cir. 1981); *Goodman v. Dicker*, 169 F.2d 684 (D.C. Cir. 1948).

155. See, e.g., *Danca v. Taunton Sav. Bank*, 385 Mass. 1, 429 N.E.2d 1129 (1982); *Anzalone v. Strand*, 14 Mass. App. Ct. 45, 436 N.W.2d 960 (1982); RESTATEMENT (SECOND) OF TORTS § 526 comment d, 549, 552B (1976).

156. *Hessler Inc. v. Farrell*, 226 A.2d 708 (Del. 1967); *Chrysler Corp. v. Quimby*, 51 Del. 264, 144 A.2d 123 (1958); *Farm Crop Energy, Inc. v. Old Nat'l Bank*, 38 Wash. App. 50, 658 P.2d 1097 (1984).

157. See *supra* notes 121-26 and accompanying text.

158. See *supra* notes 127-30 and accompanying text.

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general purpose of tort remedies: compensating the victim for her actual losses.

III. CONCLUSION

In this article, I have described and explained the measure of damages in promissory estoppel cases, building on a prior article in which I described and explained the basis of liability in promissory estoppel cases.¹⁵⁹ In most promissory estoppel cases, the measure of damages, as well as the question of liability, can be understood on the basis of traditional contract principles. Even in donative cases, courts routinely afford full enforcement.¹⁶⁰ In commercial contract-based cases, expectation damages are similarly available provided that expectation damages would be available under normal limits on expectation damages.¹⁶¹

In the very few remaining cases, courts seem to use promissory estoppel to afford a tort remedy for misrepresentation. In these cases, courts award expectation damages when expectation damages can be calculated.¹⁶² When the misrepresentation occurs early during negotiations, there is only one possible remedy (reliance damages), under either tort or contract damage rules.¹⁶³ When the misrepresentation occurs at a later point in negotiations and expectation damages can be calculated, courts award expectation damages,¹⁶⁴ such awards are neither clearly consistent nor clearly inconsistent with tort damage rules. Consistent with tort damage rules, courts awarding damages for intentional and deliberate misrepresentation in promissory estoppel cases have included a punitive element.¹⁶⁵

159. See Barnett & Becker, *supra* note 15.

160. See *supra* notes 29-50 and accompanying text.

161. See *supra* notes 51-118 and accompanying text.

162. See *supra* notes 121-23 and accompanying text.

163. See *supra* notes 127-30 and accompanying text.

164. See *supra* notes 131-34 and accompanying text.

165. See *supra* notes 131-42 and accompanying text.

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL DISTRICT

COUNTY OF RICHLAND)

Basilides F. Cruz, Joseph A. Floyd, Sr.,)
Arthur C. Gillam III, Alma C. Hill,)
Barry N. Martin, Charles F. Morris, Sr.,)
and Joseph A. Smith,)

Civil Action File No.: 2009-CP-40-05680

Plaintiffs,)

v.)

City of Columbia,)

Defendant.)Larry Strickland, Denious L. Dimery and)
Bailey G. McClinton,)

Civil Action File No.: 2013-CP-40-05097

Plaintiffs,)

vs.)

City of Columbia,)

Defendant.)**DEFENDANT'S POST TRIAL BRIEF**

Defendant, City of Columbia, offers the following post trial brief:

STATEMENT OF THE CASE

Plaintiffs were formerly employed by the City of Columbia ("City"). At the time of their various retirements, City policy provided individual health coverage without charge for employees and retirees. A premium was charged for spouse and dependent coverage.

Due to increasing costs and the obligation to prefund benefits, in 2009 City Council announced that it was considering a change in policy that would require all participants in its group health plans to pay a premium. Committees were formed and public meetings were called

to address this change. As a result of this process, Council voted to charge a premium for all active and retired members under 65 who chose to continue participating in the City's group health insurance plan effective July 1, 2009. The cost to individual participants was set at \$33.18/month, with the City contributing \$800.00/month for each member. (Defendant's Ex. 1, (tab 15))

On August 10, 2009, a group of retirees under 65 years of age filed suit asserting that the premium charge breached contractual rights, violated the Unfair Trade Practices Act, and should be equitably barred on ground of promissory estoppel. At the conclusion of discovery, Judge Barber granted summary judgment on all claims.

On January 23, 2013, the Court of Appeals affirmed summary judgment on all claims except promissory estoppel. That claim alone was remanded to determine: (a) whether "promises" of future benefits were authorized; and (b) whether Plaintiffs could reasonably rely upon "promises" of future benefits. Judge Barber's summary judgment order dismissed Plaintiffs' estoppel claim on the basis of reliance only. Accordingly, the Court of Appeals had no basis to rule on whether Plaintiffs could establish damages and no reason to rule on the City's affirmative defenses, including legislative/sovereign immunity, separation of powers, and political question.

In January 2013, the City extended the premium requirement to its Medicare supplemental coverage for post-65 retirees. On August 27, 2013, Plaintiffs Strickland, Dimery and McClinton filed a class action suit on behalf of all post-65 retirees, alleging that the City was estopped from charging this premium. By order dated August 2, 2016 the late Tanya A. Gee denied class certification. On April 19, 2017, former Chief Justice Jean H. Toal denied Plaintiffs' motion to reconsider.

The two cases were consolidated for nonjury trial on August 18, 2018. The only claim remaining in each case was Plaintiffs' assertion that the City is estopped from imposing any charge for their continuing participation in group health coverage and must provide reimbursement for any insurance premiums paid. As addressed below, however, the evidence presented at trial demonstrates that any representations of health insurance without charge for life relied upon by Plaintiffs were ambiguous and unauthorized, that reliance was not reasonable, that Plaintiffs failed to prove reliance damages and that the City acted within its delegated legislative authority in imposing a premium cost for participation in its insurance program.

STATEMENT OF FACTS

Each of the Plaintiffs participate in the City's group health insurance program. Plaintiffs testified that during the course of their employment fellow employees, including city managers, supervisors and human resources staff, informed them that retirees receive group health coverage without cost. Plaintiffs also introduced newsletters available to employees and retirees. (Plaintiffs' Ex. 1-13)¹ Plaintiffs characterize the representations as "promises" and assert that the City should be compelled to reimburse all premiums paid, provide some undisclosed amount for future insurance costs, reimburse them \$1000.00 each for costs incurred in this litigation and pay their attorneys.

During the course of their employment and thereafter, Plaintiffs received written notice through group health booklets regarding "escalating health care costs" and "the possibility of contribution increases." (Defendant's Ex. 1 (tabs 16-23); Plaintiffs' Ex. 14-20) Plaintiffs acknowledged that health care benefits are determined by City Council on an annual basis as part of the City-wide budget. Plaintiffs further conceded that no supervisor, department head or City

¹ None of the newsletters expressed any "promise" that retirement benefits will be permanent or remain free of charge. Instead, Plaintiffs admitted that the newsletters reported information that was accurate when published.

manager has the authority to spend funds which are not budgeted. Plaintiffs were also on notice by way of state law, ordinance and City handbooks issued during their employment that the City reserves the right "to revise, supplement or rescind any policies . . . in its sole and absolute discretion." In the same fashion, Plaintiffs were advised that the City reserves the right to "alter its rules, policies and procedures from time to time." (Defendant's Ex. 1 (tab 27))

As firefighters, Plaintiffs participate in the State's retirement system with full pension benefits available upon twenty-five (25) years of service. The pension does not include health insurance. Instead, Plaintiffs continue to voluntarily participate in the City's group health plan under the same conditions offered to active employees. Exhibits admitted without objection and Plaintiffs' testimony confirm that they signed applications for group health insurance during employment and as retirees confining their participation to the same terms and benefits as other participants. (Defendant's Ex. 2 (tab 1, p-q); (tab 2(a)(c)); (tab 3(e)(o)), (tab 4(e)(l)), (tab 5(b-d)(g-j)), (tab 6(d)(m)); (tab 7(a-b)), (tab 8(i-j)(n-o)), (tab 9(c)(e)(g)(p)), (tab 10(a)(c)(e)). Similarly, exhibits and Plaintiffs' testimony establish that they were informed in writing by the City's benefits administrator that "current policy" provided retirees health insurance without charge. (Plaintiffs' Ex. 27, 29, 30) Plaintiffs conceded that the term "current" means "now" or "at the present." Plaintiffs also knew that the benefits administrator could not personally guarantee benefits. Even in asserting reliance upon various representations regarding future benefits, Plaintiffs expressed disagreement and changed their testimony as to the nature of the promises relied upon.²

² Plaintiff Joseph A. Floyd, Sr. testified in his deposition that his insurance benefits were frozen at retirement and subject to no reduction regardless of plan changes. (Defendant's Ex. 3 (tab 13, pp. 31-33)) Plaintiff Alma C. Hill shared this belief. (Defendant's Ex. 3 (tab 15, pp. 28-29)) Plaintiff Barry N. Martin testified that he was entitled to more expensive individual coverage without charge. (Defendant's Ex. 3 (tab 16, pp. 26-28)) At trial, Mr. Floyd conceded that personally designed policy terms are not practical. Instead, all Plaintiffs now seek reimbursement for premiums paid (not clear as to policy level) and an uncalculated, unknowable amount for future insurance costs.

The Defendant offered the testimony of former City Manager, Steve Gantt, Human Resources Director, Pamela Benjamin and Budget and Program Management Director, Missy Caughman. These witnesses confirmed that City Council reserves to itself the authority to determine benefits provided to employees and retirees. Mr. Gantt held several administrative position before serving as City Manager. He testified without objection that neither he nor his fellow administrators had authority to bind Council.³ This testimony is consistent with the City's ordinances and state law. (Defendant's Ex. 1, (tab 1); Stipulations of Fact Nos. 15, 16) Ms. Benjamin has served as a human resources professional in state and municipal governments for more than twenty years. She testified that in her prior positions and as Director of the City's Human Resources Office, human resources staff routinely administers employee and retiree benefits. Ms. Benjamin further testified that the authority to administer does not extend to policymaking or offering any "promise" that benefits will be provided beyond the time frame affected by the City's budget or Council vote. Ms. Caughman testified that she had been involved in budgeting for employee and retiree benefits since her first employment with the City in 1998. Ms. Caughman further testified that Council alone votes on employee and retiree benefits, including any charges that might be imposed. Records of City Council meetings admitted without objection confirm that the City's Council received information from staff and outside consultants before voting on imposing charges for employee and retiree health benefits, including the actions challenged by Plaintiffs. (Defendant's Ex. 1 (tab 2, pp. 1-3, 5, 8, 9, 11); (tab 3, p. 2); (tab 4, pp. 7-8); (tab 5, p. 5); (tab 6, p. 4); (tab 7, p. 4); (tab 8, pp. 1-2); (tab 9, pp. 3-6); (tab 10, pp. 6-7); (tab 11, p. 4); (tab 12, pp. 3-7); (tab 13); (tab 14); (tab 15))

³ Plaintiffs may argue that Mr. Gantt admitted that it was reasonable to rely upon representations by supervisors and Human Resources staff regarding employment benefits. As he explained, however, this applies only to policies in place at the time and does not extend to guarantees of future benefits.

CONTROLLING LAW

As stated by the Court of Appeals in Bishop v. City of Columbia, 401 S.C. 651, 667, 738 S.E.2d 255, 263 (Ct. App. 2013), this case presents “a question of fact as to whether these explanations [regarding retiree benefits] were authorized and reasonably relied upon.” For the following reasons, neither the facts presented at trial nor the controlling law of this State offer proof of an authorized, unambiguous promise or support a finding of reasonable reliance. In addition, Plaintiffs have not established reliance damages necessary to obtain relief under promissory estoppel.

After the Bishop decision was issued, our Supreme Court accepted an action in its original jurisdiction challenging a decision by the State’s Budget and Control Board to alter premiums charged to members of the State’s group health insurance plan. Members of the Board included the Governor, Comptroller General, State Treasurer and other high office holders. Finding that their action violated the separation of powers guaranteed by our constitution, the Supreme Court confirmed that “[i]ncluded within the legislative power is the **sole prerogative to make policy decisions**; to exercise discretion as to what the law will be.” The Court went on to observe that “while non-legislative bodies may make policy determinations when delegated such power by the legislature, absent such a delegation, **policymaking is an intrusion upon the legislative power.**” Hampton v. Haley, 403 S.C. 395, 403-404, 743 S.E.2d 258, 262 (2013)(emphasis added)

Applying the above principles to the funding group health insurance for public employees, the Court held: “appropriation of public funds is a legislative function and the . . . power to reduce appropriations according to [administrative] criteria would be an impermissible delegation of legislative powers.” Id. at 265, 409. Accordingly, to determine whether any

representations regarding future group health insurance benefits were authorized, the Court must examine the form of government adopted by the City of Columbia, the manner in which legislative/policymaking functions are performed and distinctions between legislative and administrative responsibilities.

As stipulated by the Plaintiffs, the City of Columbia has adopted a council-manager form of government. (Stipulation of Fact Nos. 15-16; see also, City of Columbia Ordinance, Chap. 2, art. 1, Sec. 2-1)⁴ The legislative powers of the City and the determination of all matters of policy are vested in the City Council, with each member, including the Mayor, having one vote. (City of Columbia Ordinance, Chap. 2, art. 1, Sec. 2-5) The City Manager is the chief executive officer and head of the administrative branch of the City's government. The City Manager must operate within financial limits imposed by the budget approved by City Council. (City of Columbia Ordinance, Chap. 2, art. 1, Sec. 2-32(a)(b)) The Director of Human Resources works under the City Manager and has administrative supervision over the Department of Human Resources, including employee benefits. (City of Columbia Ordinance, Chap. 2, art. 1, Sec. 2-122) Department heads, including the Fire Department, are subject to the City Manager and are responsible for administering their departments. (City of Columbia Ordinance, Chap. 2, art. 1, Sec. 2-151) Under the council-manager form of government, the municipal council has exclusive authority to adopt the municipal budget, provide for the general welfare of the municipality and to carry out any duties not prohibited by law or constitution. S.C. Code Ann. § 5-13-30. For this reason, neither a city manager nor any department head "have the authority to set city policy, nor can their acts be said to represent official policy in view of the legislative

⁴ The City's ordinances were reorganized by Ord. No. 2016-042 on June 21, 2016. The substance of the ordinances addressed above are consistent with those in place during the period relevant to this litigation, including the duties of the City Manager (former Ord. § 2-114), responsibilities of department heads (former Ord. § 2-151) and administrative authority of the Director of Human Resources (former Ord. § 2-125) referenced in Bishop v. City of Columbia, 401 S.C. 651, 738 S.E.2d 255 (Ct. App. 2013) at fn. 6.

authority granted to the municipal council.” Todd v. Smith, 305 S.C. 227, 231, 407 S.E. 2d 644, 646-647 (1991) (addressing the council-manager form of government)

In keeping with the preservation of legislative authority maintained by the City’s Council, neither individual employees nor Council members may bind the City regarding future health insurance; See, Willoughby v. City Council of City of Florence, 51 S.C. 462, 29 S.E. 242 (1898) (verbal assurances insufficient to bind a municipality); State v. Burgess, 408 S.C. 421, 438, 759 S.E.2d 407, 416 (2014) (a governing body is prevented from delegating its “high functions” to any entity or officer and may not “surrender or restrict any portion of [the] power conferred upon it”) A resolution duly adopted by a municipal council “is a legislative enactment and presumed to be constitutional.” Sandlands C & D, LLC v. County of Horry, 394 S.C. 451, 460, 716 S.E.2d 280, 284 (2011), *quoting* Aakjer v. City of Myrtle Beach, 388 S.C. 129, 133, 694 S.E.2d 213, 215 (2010). A party challenging a local ordinance bears the burden of proving its invalidity, keeping in mind that in “[t]his state’s constitution . . . the powers of local governments should be liberally construed.” Id. citing S.C. Const. art. VIII, § 17; see also, Denene, Inc. v. City of Charleston, 532 S.C. 208, 574 S.E.2d 196 (2002) (rehearing denied).

Legislative power is inherently subject to exercise by way of enactment, revision and repeal. In recognition of this power, our Supreme Court has long and consistently held that a council “has no authority to make . . . a contract [or other commitment] extending beyond the terms of its office; that the acts of former councils relating to governmental functions of said councils which involve a matter of discretion to be exercised by such councils are without force and effect upon succeeding councils.” Newman v. McCullough, 212 S.C. 17, 25, 46 S.E.2d 252, 256 (1948) Thus, “[t]he power conferred upon municipal councils to exercise legislative or governmental functions is done so to be exercised as often as may be found needful or politic...”

Id.; see also, Cunningham v. Anderson County, 402 S.C. 434, 741 S.E.2d 545 (Ct. App. 2013)(discussing Newman), reversed in part on other grounds, 414 S.C. 298, 778 S.E.2d 884 (2015)

A two-step analysis is employed to determine the validity of a local governmental act. First, the court must determine “whether the [municipality] had the power to enact the ordinance.” Because the City had the requisite power, the Court must “ascertain whether the [challenged action] is inconsistent with the Constitution or the general laws of this state.” Id. If it is determined that the challenged action is not barred by the Constitution or other general law, the Court may not intervene in the valid exercise of the City’s legislative authority. Id. at 471-472, 290-291. Moreover, an act within a governmental agency’s authority may not be declared unconstitutional if by any reasonable construction it can be harmonized with the state and federal constitutions. City of Darlington v. Stanley, 239 S.C. 139, 122 S.E.2d 207 (1961)

Each Plaintiff concedes that City Council has the authority to set budgets, establish pay and provide employee benefits. The express law of this State confirms this authority. S.C. Code Ann. § 5-13-30(3) As stated above, the absence of a statutory or constitutional prohibition bars any infringement on the decision by City Council to impose premium costs for employee and retiree health benefits. Hampton v. Haley, 403 S.C. 395, 403, 743 S.E.2d. 258, 262 (2013) (separation of powers doctrine expressed in S.C. Const. art. I, § 8 prohibits judicial interference in legislative functions); Segars-Andrews v. Judicial Merit Selection Commission, 387 S.C. 109, 121-122, 691 S.E.2d 453, 460-461 (2010) (challenge to the “wisdom, policy or expediency of an [legislative] act” raises a “nonjusticiable political question”); Smith v. Tiffany, 419 S.C. 548, 559, 799 S.E.2d 479, 485 (2017) (“a court may not reject the legislature’s policy determinations merely because the court may prefer what it believes is a more equitable result.”)

While department heads and human resources personnel may explain and administer **current policies** regarding compensation and benefits, these individuals cannot prohibit future City Councils from making policy changes affecting compensation and benefits. Plaintiffs each testified that they were aware their supervisors and other City administrators could not promise or deliver pay or benefits beyond terms approved by City Council. Plaintiffs agreed that any representations by their fellow employees or published in newsletters regarding retiree benefits were consistent with City policy at the time. Plaintiffs further conceded that City policies changed during their employment and retirement, including changes in the group health insurance program. Accordingly, Plaintiffs could not reasonably rely upon **any** representations regarding future health insurance; See, Powers Constr. Co. v. Salem Carpets, Inc., 283 S.C. 302, 322 S.E.2d 30 (Ct. App. 1984) (a claim of promissory estoppel requires proof of: (1) a promise unambiguous in its terms; (2) reasonable reliance on the promise; (3) reliance is expected and foreseeable by the party who made the promise; and (4) injury in reliance on the promise).

Plaintiffs also failed to prove an “unambiguous promise” authorized by the City to provide free health insurance for life; See, A&P Enterprises, LLC v. SP Grocery of Lynchburg, LLC, 422 S.C. 579, 587, 812 S.E.2d 759, 763 (Ct. App. 2018) (promissory estoppel is a quasi-contract remedy requiring a promise unambiguous in its terms). To satisfy this burden, Plaintiffs were required to prove that an authorized promise was communicated in an unambiguous manner. According to the Oxford Dictionary of the English Language, “unambiguous” means: “not open to more than one interpretation, incontrovertible, incontestable, undeniable, irrefutable, beyond dispute, indubitable, not in doubt, beyond doubt, beyond a shadow of a doubt, unarguable, inarguable, undebatable, and unanswerable.” See, oxforddictionaries.com/definition/unambiguous)

Plaintiffs were on notice individually, through ordinance and state law, that the City of Columbia has a council-manager form of government and that the City's Council reserves to itself all legislative authority. While Plaintiffs' observations of earlier retirees receiving insurance without charge, statements of current policy and even predictions as to the future by fire chiefs, personnel staff and others may have created an expectation of some form of health insurance without charge, this expectation does not rise to the level of an enforceable, unambiguous promise.⁵ Indeed, a ruling that statements made by fellow employees, regardless of position, could prohibit future City councils from exercising their legislative prerogative would be inconsistent with controlling law and interfere in the exercise of municipal authority provided by state law and constitution.

In summary, Plaintiffs could not reasonably rely upon representations that exceeded the administrative functions of their supervisors, department heads and City managers. In addition, Plaintiffs were on notice that "promises" of future benefits were inconsistent with signed acknowledgments and warnings that escalating health costs could require contributions by participants in the group health plan. Plaintiffs' expectations notwithstanding, the Supreme Court's decision in Hampton v. Haley demonstrates that no verbal or written promise could be reasonably relied upon to bar City Council from exercising its legislative authority to appropriate funds and allocate premium costs for participation in the City's group health program.

Plaintiffs' evidentiary deficiencies are further illustrated by absence of "reliance damages". See, Karigg v. Blue, 283 S.C. 494, 498, 323 S.E.2d 787, 797 (Ct. App. 1984)

⁵ For example, Plaintiff Joseph A. Floyd, Sr. testified that he relied upon information from former Human Resources Director, Ron Cunningham in making "promises" to recruits that if they reached retirement, the City would provide free health insurance. The record shows that Mr. Cunningham retired from employment with the City in June 2000. (Plaintiffs' Ex. 7) There is no evidence that Mr. Cunningham had the authority to bind City Council while serving as Human Resources Director. Additionally, the information attributed to Mr. Cunningham prior to June 2000 regarding the current retiree health insurance policy would have been accurate and no evidence has been presented that any recruit detrimentally relied upon Mr. Floyd's representations.

("reliance damages" are intended to replace proven losses) The order of remand specifically affirms dismissal of Plaintiffs' contract claim seeking enforcement of continuing health insurance without charge. The order further states that relief under promissory estoppel requires proof of "injury **in reliance** on the promise." 401 S.C. at 664, 738 S.E.2d at 261 (Emphasis added) Following remand, both Judge Gee and Justice Toal rejected Plaintiffs' attempts to avoid proving reliance damages by arguing that each was entitled to the same expectation relief. See, Order denying class certification (each Plaintiff must "demonstrate how he was prejudiced or how his position was made worse **in reliance** on a promise by the City" in order to prevail); see, Order denying reconsideration of class certification ("the controlling law of this state [requires] individualized examinations necessary to address the **detrimental reliance** (injury) element of Plaintiffs' estoppel claims. . . .") (Emphasis added)⁶

To establish the detrimental reliance element necessary to obtain relief on a promissory estoppel claim, a plaintiff must prove the first that he would have been better off if he had not relied upon a promise, and second, provide a measure of relief not dependent upon speculation. Plaintiffs failed on both counts. Although some Plaintiffs testified that they could have pursued or accepted other employment if informed that they may be charged for health insurance in the future, no Plaintiff identified an available employment opportunity that offered better pay, benefits or future guarantees. Other Plaintiffs testified that they may have postponed their retirement dates had they known that after July 1, 2009 retirees would be required to pay \$33.18 per month for individual group health coverage. Even these Plaintiffs concede that they received substantial increases in pay during employment, obtained significant promotions, enjoyed personal gratification and receive valuable pension benefits as a result of their employment with the City. Plaintiffs did not prove that any lost opportunity would have exceeded or even equaled

⁶ Both orders were attached to Defendant's pretrial brief.

the compensation, benefits, retirement pension and continuing access to group health insurance made available through their employment with the City. This failure to demonstrate detrimental reliance through evidence of better compensation and benefits than available from employment with the City bars estoppel relief. See generally, Craft v. South Carolina Commission for the Blind, 385 S.C. 560, 568, 685 S.E.2d 625, 629 (Ct. App. 2009); Barnes v. Johnson, 402 S.C. 458, 474-476, 742 S.E.2d 6, 14-15 (Ct. App. 2013) (reversing a promissory estoppel judgment despite the plaintiff's sympathetic situation based upon his failure to prove an unambiguous promise and "injury sustained in reliance upon such a promise.")

The burden of proving reliance damages addressed in Craft applies here as it applied in Barnes. In Craft the Court of Appeals found that the Commission for the Blind, through its agents, made unambiguous promises, Craft reasonably relied upon the promises and the Commission expected Craft to rely upon the promises. Craft's estoppel claim failed, however, because he could not demonstrate that a recognizable injury resulted from his reliance. Specifically, Craft could not show that he lost a better business opportunity.

Like Craft, Plaintiffs assert that they relied upon representations regarding a future event, here retirement. Like Craft, however, no Plaintiff offered evidence that he lost a better opportunity, such as higher pay and guaranteed benefits, in reliance upon promises received. As in Craft and Barnes, this failure is a bar to relief on promissory estoppel grounds.

Plaintiffs have previously argued that Craft is limited to its facts and should not apply here. As in Craft, however, Plaintiffs assert that they relied upon authorized representations and lost a prospective benefit or opportunity. If the value of an authorized representation were sufficient to support promissory estoppel relief, the courts in Craft would have been compelled to consider expectation relief based upon the income stream lost from cancellation of future

business at the Commission for the Blind. Instead, the trial judge awarded summary judgment and the Court of Appeals affirmed.

At trial, Plaintiffs' counsel presented a 1987 Hofstra Law Review article entitled "Promissory Estoppel" to support the assertion that Plaintiffs are entitled to expectation damages. Plaintiffs apparently argue that this article should influence the Court depart from established precedent and award the costs of maintaining health insurance without demonstrating any reliance loss.⁷ As Craft confirms, however, promissory estoppel is not available to compel specific performance or to enforce even an authorized promise. Instead, as Judge Gee and Justice Toal ruled already in this case promissory estoppel relief requires a detrimental change of position (lost job opportunity for example) separate from the value of the promise itself. No Plaintiff identified a more favorable employment opportunity lost due to the expectation of post-employment benefits. Their argument to the contrary, mere expectation of future benefits does not establish a basis for relief regardless of the "reasonableness" of the expectation or the authority of the promissor. Therefore, as in Craft and Barnes, Plaintiffs' claims fail.

In addition to the shortcomings in Plaintiffs' promissory estoppel proof, the City cannot be judicially barred from making changes in its group health insurance program. See, Health Promotion Specialists, LLC v. S.C. Board of Dentistry, 403 S.C. 623, 635-637, 743 S.E.2d 808, 814-815 (2013) (public entities are immune from liability on the basis of decisions to fund or impose costs for liabilities); Tenney v. Brand Hove, 341 U.S. 367, 376-378 (1951) (exercise of discretion in selecting projects for public funding is not a matter of judicial review); Sandlands C&D, LLC v. County of Horry, 394 S.C. 451, 460, 716 S.E.2d 280, 284 (2011) (a duly adopted resolution is a legislative enactment and presumed to be constitutional); S.C. Const., art. X, § 14

⁷ This article was published before the Craft and Barnes decisions, each requiring proof of reliance damages in commercial settings. The article is not cited in any opinion in this state and there are no South Carolina cases identified in the article as adopting the author's suggestions for awarding expectation relief.

(public subdivisions barred from incurring public indebtedness beyond revenue production)

These legal barriers apply even had Plaintiffs satisfied all elements of their estoppel claim.

Finally, Plaintiffs have presented no evidence to support an award of attorney fees or costs. Apparently, Plaintiffs contend that attorney fees and costs may be awarded pursuant to S.C. Code Ann. § 15-77-300 et seq. This statutory construct is not available. First, neither case was “brought by the State,” brought by “any political subdivision of the State” or involves “contesting state action.” These are the only circumstances that support recovery of attorney fees under § 15-77-300(A). Second, there is no evidence that any “agency acted without substantial justification in pressing its claims against the party.” § 15-77-300(A)(1). Instead, the summary judgment awarded by Judge Barber, limited remand from the Court of Appeals, and denial of class certification by Judge Gee and Justice Toal demonstrate that the City has been justified in contesting Plaintiffs’ claims. Accordingly, any petition for an award of fees and costs under § 15-77-310 would be without merit and should not be entertained.

CONCLUSION

As Judge Barber, the Court of Appeals, Judge Gee and Justice Toal have previously ruled, it is incumbent upon Plaintiffs to prove each element of their promissory estoppel cause of action. In this instance, Plaintiffs have failed to provide the required evidence as to any of the necessary elements. Specifically, in view of their own admissions and the documentary evidence presented, Plaintiffs did not prove a promise unambiguous in its terms. Additionally, the notices provided by state law, ordinance and communications from the City regarding the opportunity to revise policy render any reliance upon a promise of permanent benefits without charge unreasonable. Likewise, Plaintiffs failed to prove that the City, through its governing body, made any promise or expected Plaintiffs to rely upon any promise as to permanent future

benefits. Finally, Plaintiffs failed to establish "injury" beyond the expenditure of premiums necessary to maintain group health coverage. This expenditure alone, compared to Plaintiffs' testimony regarding the many benefits of their employment, including promotional opportunities, increases in compensation, personal satisfaction and pension payments that the City assisted in funding, and Plaintiffs' inability to forecast future costs or damages, cannot support a monetary judgment in their favor.

Respectfully submitted,

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January 15, 2019
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APP. 0468

Counsel for Plaintiffs received electronic notice of the order on January 29, 2019. A copy of the order is attached as Exhibit 1.

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I. BACKGROUND

The basic facts of this case are not seriously in dispute. Plaintiffs began working for the City of Columbia as firefighters in the 1960s, 1970s, and 1980s. Each plaintiff articulated specific instances throughout their careers when Fire Chiefs, City Managers, and Human Resources officials represented to them that they would receive no-cost single coverage healthcare from the time of their retirement until the time of their death. And the City of Columbia did, in fact, provide Plaintiffs with no-cost single coverage healthcare from the dates of their retirement until July 2009 for individuals under 65, and until 2013 for those individuals over age 65. Plaintiff Denious "D.L." Dimery's experience illustrates this last point—Dimery retired in 1991 and received no-cost single coverage healthcare for over 20 years before the City of Columbia began requiring him to pay the premium for the same coverage.

Each Plaintiff brought individual promissory estoppel claims. Under South Carolina law, "[t]he elements of promissory estoppel are (1) an unambiguous promise by the promisor; (2)

reasonable reliance on the promise by the promisee; (3) reliance by the promisee was expected by and foreseeable to the promisor; and (4) injury caused to the promisee by his reasonable reliance.”

N. Am. Rescue Prod., Inc. v. Richardson, 411 S.C. 371, 379–80, 769 S.E.2d 237, 241 (S.C. 2015).

In finding for the Defendant, the Court stated that “Plaintiffs failed to establish compensable injuries incurred in reliance upon representations regarding the availability of individual health insurance without charge throughout their retirements.” Order at 5. This initially suggests that the Court found that Plaintiffs failed to establish the fourth element of promissory estoppel. But a closer analysis demonstrates that the Court erred by replacing the fourth element of promissory estoppel with requirements that have no basis in South Carolina law. Plaintiffs now move for the Court to reconsider its Order.

II. AN “INJURY IN RELIANCE” IS NOT THE SAME THING AS “RELIANCE DAMAGES”

The fourth element of promissory estoppel requires the person to whom the promise is made to have suffered “injury in reliance on the promise.” Craft v. S.C. Comm’n for Blind, 385 S.C. 560, 565; 685 S.E.2d 625, 627 (Ct. App. 2009). An analysis of the case law establishes that “injury in reliance” requires only that the Plaintiffs demonstrate a causal relationship between the broken promise and the complained-of injury: “In order to demonstrate that the injury was sustained in reliance upon an alleged promise, the promisee must show, *but for the promisor’s inconsistent disposition*, the complained-of injury would not have otherwise resulted.” Barnes v. Johnson, 402 S.C. 458, 742 S.E.2d 6, 14 (Ct. App. 2013) (emphasis added). This is underscored by the two cases the Court cites in its Order to support its holding: Craft and Barnes. Although the Court cites Craft and Barnes in its Order, a faithful application of their legal analysis and holdings would lead the court to a different conclusion.

In Craft v. South Carolina Commission for the Blind, the plaintiff quit his job on December 29th based on a promise that another job would be available. The other job never materialized, and the plaintiff was unable to go back to the old job because the job site was permanently closed on December 31st. Plaintiff failed to present any evidence regarding why the job site was closed, and the Court held that plaintiff failed to demonstrate that he had sustained the claimed injury of loss of current employment by quitting his job in reliance on the defendant's promise. Even if plaintiff had quit his job on reliance of the promised job, he would have been out of a job in two days because the job site was permanently closed. Barnes v. Johnson, 402 S.C. 458, 475, 742 S.E.2d 6, 14 (Ct. App. 2013) (noting that the merchant in Craft "could no longer work there for reasons beyond the Commission's control, and, thus, his unemployed status was not due to the Commission's inconsistent disposition.").

Similarly, in Barnes v. Johnson, the Court held that the plaintiff could not maintain a cause of action for promissory estoppel because he "failed to demonstrate . . . an injury sustained in reliance [on] a promise." 402 S.C. at 476, 742 S.E.2d at 15-16. In Barnes, the plaintiff asserted a promissory estoppel cause of action related to alleged agreements related to various improvements to a house. The house at issue ultimately burned down due to "an act of nature," and the Court of Appeals held that "the fire caused [the plaintiff's] injury," not the actions of the promisor. 402 S.C. at 475, 742 S.E.2d at 15-16. The plaintiff suffered an unfortunate set of circumstances, but the injury was not causally related to the broken promise; it was caused by the house burning down.

Here, the causal connection is that the injury complained of—that is, the Plaintiffs' unexpected need to pay for health care premiums in retirement—would not have occurred but for

the City of Columbia breaking its promise of no-cost, single coverage healthcare for life upon retirement.

Of note, the term "reliance damages" does not appear anywhere in South Carolina case law regarding promissory estoppel. In fact, the only case to use the term "reliance damages" in the entire Westlaw collection of South Carolina cases is Carrigg v. Blue, 283 S.C. 494, 323 S.E.2d 787 (Ct. App. 1984), a case involving the fraudulent lease of a service station. This is because reliance damages are a measure of damages, not an element of promissory estoppel. 24 Williston on Contracts § 64:2 (4th ed. 2007) (describing (1) expectation damages, which seek to provide the plaintiff with the benefit of his bargain by putting him in the position he would have been in but for the broken promise; (2) reliance damages, which seek to reimburse the plaintiff for losses stemming from her reliance on the promise by placing him in the position he would have been in had the contract not been made; and (3) restitution damages, which seek to restore any benefit that the plaintiff has conferred on the other party).

By requiring the Plaintiffs to demonstrate "reliance damages," the Court has unilaterally changed the elements of the promissory estoppel cause of action.

III. PLAINTIFFS EACH DEMONSTRATED AN INJURY IN RELIANCE

During the trial, Plaintiffs all testified that they (1) made decisions in reliance of the promise of post-retirement, no-cost single coverage healthcare for life; and (2) had no reason to think that the promise would not be fulfilled. The Court has expressed "no doubt regarding the sincerity and honesty of their testimony," Order at 5. Defendant City of Columbia presented no compelling evidence to contradict Plaintiffs' testimony. Because (1) the promise of post-retirement, no-cost single coverage healthcare for life was not kept and (2) Plaintiffs all took actions in reliance on that promise, each Plaintiff sustained *injuries in reliance on the promise*.

The class action was not certified because the circuit court held that all Plaintiffs needed to individually establish that they had suffered an injury in reliance on the promise of no-cost, single coverage healthcare for life. Testimony during the trial, however, established that Plaintiffs all suffered identical injuries. Each Plaintiff testified that the promise either induced him to work for or continue working for the City of Columbia for some period of time. Accordingly, each Plaintiff suffered the identical injury in reliance on the broken promise of no-cost, single coverage healthcare for life—the effective reduction of compensation for work already performed. This has caused all Plaintiffs to incur out-of-pocket costs for insurance premiums that they would not have otherwise incurred.

As the Court will recall, Plaintiffs brusquely bristled at the description of no-cost, single coverage health insurance for life as “free healthcare.” Plaintiffs earned it through their service to the City of Columbia, and they factored it into their personal compensation calculus. Several plaintiffs also testified that the City of Columbia provided them with slips of paper that showed them their “true” compensation, which included calculations for benefits such as no-cost, single coverage healthcare for life and significantly increased the amount of their effective compensation beyond their salaries. When the City of Columbia reneged on its promise, it pulled a bait and switch with overall compensation, injuring all Plaintiffs. The broken promise wiped out “savings” the Plaintiffs had accrued over the years through their work, in the form of the cost of the monthly premiums for their insurance. Because each Plaintiff was on a fixed income, this effect was significant and substantial, despite the relatively low cost of monthly premiums. This is an injury.

An analogous situation would be if the City of Columbia hired Plaintiffs at a stated rate of \$15/hour and deferred payment of \$5/hour until retirement. In other words, Plaintiffs would pocket only \$10/hour while they worked, but they were induced to work for the promise of \$15/hour. If the

City of Columbia failed to deliver the promised earned \$5/hour in retirement, the effective rate that Plaintiffs would earn is less than the \$15/hour they were initially promised. Here, the reduced effective hourly rate is an injury in reliance that is common to all Plaintiffs.

In addition to the reduction in effective compensation, each plaintiff provided testimony relating to additional injuries suffered in reliance of the promise of no-cost, single coverage healthcare for life:

- Plaintiff Cam Gillam testified that he calculated his ability to retire—that is, the costs he expected to incur and whether he needed to continue to work to satisfy those obligations—based on his reliance of the promise of no-cost, single coverage healthcare for life.
- Plaintiff Larry Strickland stayed with the City of Columbia Fire Department because of the promise of no-cost single coverage healthcare for life instead of seriously pursuing a higher paying job with Southern Railway. This injury is compounded by the fact that the difference in compensation between the two jobs is increased by the elimination of no-cost, single coverage healthcare for life. He also factored no-cost, single coverage healthcare into his retirement planning.
- Plaintiff Bailey McClinton testified that the promise of no-cost, single coverage healthcare induced him to stay with the fire department instead of looking at the numerous well-paying private employers that came to the area during his tenure, including Mack Truck. He also factored no-cost, single coverage healthcare into his retirement planning.
- Plaintiff Charlie Morris testified that he developed bad knees during the course of his work as a firefighter, and he worked for some period of time with his bad knees to reach the years-in-service requirement that would make him eligible for no-cost, single coverage healthcare for life. Morris had surgery on his knees after he retired, but he testified that he would have had the surgery earlier, left the department earlier, and found other work if he had known that the promise of no-cost, single coverage health insurance for life was not going to be covered. Like Gillam, Morris also testified that he knew he was on a fixed income and made calculations based on his expected expenses, which did not include healthcare premiums.
- Plaintiff Alma Hill testified that after he was planning to leave the Fire Department after a rough patch in his life, he decided to stay, in part because of the promise of no-cost, single coverage healthcare for life. He also retired at the age of 47 and could have continued to work as a firefighter to save for the costs of health insurance premiums, but he timed his retirement based, in part on the promise.

- Plaintiff Joe Floyd testified that he withdrew his name from consideration from the final round of the Summerville Fire Department's search for a new Chief in order to obtain the promised no-cost, single coverage healthcare for life. He also testified that he had factored having no-cost, single coverage healthcare for life into his retirement planning.
- Plaintiff Rusty Smith testified that he timed his decision to retire based on the promise of no-cost, single coverage healthcare for life. At the time of his retirement in 2006—after 33 years with the Fire Department—Smith would have continued to work as a firefighter and continued to save money for several additional years, had he known that he would need to factor the cost of his health insurance premiums into his retirement planning. But the City of Columbia's decision to renege on its promise three years after his retirement deprived him of that opportunity.
- Plaintiff Frank Cruz, the son of an Army veteran, specifically took the job with the fire department because of the promise of no-cost, single coverage health insurance premiums until retirement. He made the choice to stay with the Fire Department instead of the Marine Reserves because of this promise, and he was induced not to look at any other employment options at any point in time because of this promise. Because of
- Plaintiff Barry Martin came to work for the City of Columbia Fire Department and stayed with the Fire Department because of the benefits, including no-cost, single coverage health insurance for life. He did not look for other options because of the benefits, and factored the promise of no-cost, single coverage healthcare for life into his decision to continue working with the fire department after he suffered his first heart attack.
- Plaintiff DL Dimery retired at the age of 49 in 1991 because of dry eyes that prevented him from continuing to work as a firefighter. He testified that he could have retired earlier and sought other work if he had known that the promise of no-cost, single coverage healthcare for life was not going to be fulfilled. And because he retired at the age of 49 with no serious physical ailments besides dry eyes, he could have worked in other areas to save for the costs of health insurance premiums. Instead, he was led to believe, as the City of Columbia provided him no-cost, single coverage healthcare for 22 years after his retirement, that he would receive this for life. By waiting 22 years after Dimery's retirement to eliminate the no-cost, single coverage healthcare, the City of Columbia deprived him of opportunities to perform work that he could have performed in his 40s, 50s, and even his 60s to save for this expense.

Because each Plaintiff demonstrated at least one injury in reliance on the promise of post-retirement, no-cost single coverage healthcare for life, they have established the fourth element of promissory estoppel damages—injury in reliance.

**IV. PROMISSORY ESTOPPEL DOES NOT REQUIRE A PLAINTIFF TO DEMONSTRATE THAT HE
"WOULD HAVE BEEN BETTER OFF" IF HE HAD NOT RELIED ON THE PROMISE**

In its Order, the Court made the following statement of law: "To prove the detrimental reliance element necessary to obtain relief on promissory estoppel, a plaintiff must demonstrate that he would have been better off if he had not relied upon a promise" Order at 6. This is an inaccurate assertion, for at least two reasons.

First, there is no "detrimental reliance element" in promissory estoppel. A Westlaw search of the entire South Carolina catalog of cases does not produce a single instance where the terms "detrimental reliance" and "promissory estoppel" are used in the same case. As discussed above, Plaintiffs need only demonstrate an injury in reliance on the promise—that is, an injury that would not have occurred but for the City of Columbia's renegeing on the promise of post-retirement, no-cost single coverage healthcare for life.

Second, there is no support for the statement that "a plaintiff must demonstrate that he would have been better off if he had not relied upon a promise." As in all of Defendant's briefing throughout the life of this case where similar assertions were made, there is no citation to supporting case law. This is because this "requirement" is made from whole cloth and inconsistent with the law on promissory estoppel in South Carolina and the principles that underpin promissory estoppel. The assertions that Plaintiffs "experienced substantial increases in pay during employment, obtained significant promotions, enjoyed personal gratification and continue to receive valuable pension benefits as a result of their employment with the City" (Order at 6) have no bearing on whether Plaintiffs can establish a cause of action for promissory estoppel.

As discussed above, a promissory estoppel plaintiff satisfies the fourth element of the cause of action by demonstrating that "the sustained injury . . . result[ed] from an inconsistent disposition by the promisor." Barnes v. Johnson, 402 S.C. 458, 470, 742 S.E.2d 6, 11 (Ct. App. 2013). There is

no requirement that a plaintiff demonstrate that he or she would have gotten another job or would have "done better" elsewhere.

From a public policy perspective, requiring a plaintiff to show that he or she would have done better elsewhere runs counter to the equitable principles of fairness that underpin the cause of action. Adopting an "I would have done better" standard will allow future promise breakers to take advantage of the loyalty engendered by their promises; if a promisee believes the promise of future benefits and that promise induces the desired result (that is, staying put), the promisee will rarely, if ever, have the ability to say that he or she would have done better.

The fact that the doctrine of promissory estoppel applies in areas outside the arena of promises related to employment also cuts against adopting a new "would have done better" element, because it oftentimes makes no sense. See, e.g., Powers Const. Co. v. Salem Carpets, Inc., 283 S.C. 302, 306, 322 S.E.2d 30, 33 (Ct. App. 1984) ("Because promissory estoppel is a recognized doctrine in South Carolina, we have no doubt that the doctrine can support an action brought in this state by a contractor who has submitted a prime bid in reliance upon a subcontractor's bid." (internal citation omitted)); see also Furman University v. Waller, 124 S.C. 68, 117 S.E. 356 (1922) (applying the concept of promissory estoppel—although not by name—to a situation where a university relied on a pledged donation to build a dormitory); Higgins Const. Co. v. S. Bell Tel. & Tel. Co., 276 S.C. 663, 665–66, 281 S.E.2d 469, 470 (1981) (recognizing that Waller was a promissory estoppel case and holding that the doctrine is not restricted to cases involving charities).

To establish a cause of action for promissory estoppel, Plaintiffs do not need to prove that they "would have done better" elsewhere.

V. EXPECTATION DAMAGES ARE AN APPROPRIATE REMEDY FOR A PROMISSORY ESTOPPEL ACTION, AND PLAINTIFFS' EXPECTATION DAMAGES ARE NOT SPECULATIVE

Promissory estoppel is an equitable remedy; it "is a flexible doctrine that aims to achieve equitable results." Barnes v. Johnson, 402 S.C. 458, 469, 742 S.E.2d 6, 11 (Ct. App. 2013). Accordingly, the Court has the authority to determine the proper measure of damages—expectation, reliance, or restitution—on a case-by-case basis to ensure a fair result.

By working for the City of Columbia for substantial periods of time at reduced pay (as compared to the private sector) but with the expectation of no-charge, single coverage healthcare until retirement, Plaintiffs conferred a bargained-for benefit upon the City of Columbia. The appropriate measure of damages situations such as this where Plaintiffs' restitution interests have been violated is expectation damages—that is, the value of the promise that was broken. This is consistent with the simplified Circuit Court jury charge on Promissory Estoppel, which is attached as Exhibit 2. ("If you find promissory estoppel, the promise must be enforced"). An award of expectation damages is also consistent with the weight of the authority on promissory estoppel damages; "courts routinely award expectation damages unless those damages are too speculative, indefinite, or otherwise unavailable under traditional contract rules." Mary E. Becker, Promissory Estoppel Damages, 16 Hofstra Law Review 131, 135 (1987).¹

Plaintiffs all testified to a dollar amount that they had spent out of pocket to the date of the trial. There is no question that Plaintiffs should receive these amounts as damages for expenses already incurred. And because Plaintiffs have all paid their monthly premiums for the month of January, this amount should be incrementally increased accordingly. And although calculating future damages presents a more complicated task, it is no more speculative than the task of estimating future

¹ For a comprehensive discussion of damages available in promissory estoppel cases, see Mary E. Becker's informative article, Promissory Estoppel Damages, 16 Hofstra Law Review 131 (1987), which is attached to this post-trial brief as Exhibit 3.

damages for medical needs, which occurs in courtrooms around the state on a regular basis. The Court's implied assertion that Plaintiff's damages are "dependent upon speculation," Order at 6, is simply incorrect.

VI. CONCLUSION

In its conclusion, the Court's Order focuses on Plaintiffs' failure to demonstrate that they would have done better elsewhere and that there was no testimony regarding the retirement healthcare costs they would have had if they did not work for the City of Columbia. As discussed above, these factors are inapplicable to the elements of promissory estoppel. But more saliently, they underscore just how effective the City's promises were at inducing Plaintiffs to remain employed by the City.

Individuals who remain employed will never be able to say, with any degree of certainty, that they would have done better elsewhere or what their retirement healthcare costs would have been in another setting. Even if, for instance, Larry Strickland knew precisely what the retirement health benefits would have been with Southern Railway, he cannot say with certainty that he would have remained with that company until retirement. But all of the Plaintiffs *can* say that they dutifully worked for the City of Columbia and did so until their retirement. If their loyalty were to somehow prevent the Court from fully exercising its equitable powers, the City of Columbia will be the beneficiary of an unfair bargain, and every governmental employee in South Carolina should express a healthy amount of skepticism regarding any promise of compensation that is not in the form of an immediate paycheck.

For the abovementioned reasons, Plaintiffs respectfully ask the Court to reconsider its Order granting judgment to Defendant and find in favor of the Plaintiffs on their promissory estoppel claims and award them make whole relief, including payment for their out-of-pocket expenses, future insurance expenses (or payment by Defendant of future insurance expenses) and attorney's fees pursuant to S.C. Code Ann. § 15-77-300.

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Charleston, South Carolina
Date: February 6, 2019

ELECTRONICALLY FILED - 2019 Feb 06 9:55 AM - RICHLAND - COMMON PLEAS - CASE#2009CP4005680

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL DISTRICT
COUNTY OF RICHLAND	)	

Basilides F. Cruz, Joseph A. Floyd, Sr.,	)	Civil Action File No.: 2009-CP-40-05680
Arthur C. Gillam III, Alma C. Hill,	)	
Barry N. Martin, Charles F. Morris, Sr.,	)	
and Joseph A. Smith,	)	

Plaintiffs,

v.

City of Columbia,

Defendant.

Larry Strickland, Denious L. Dimery and	)	Civil Action File No.: 2013-CP-40-05097
Bailey G. McClinton,	)	

Plaintiffs,

vs.

City of Columbia,

Defendant.

MEMORANDUM IN RESPONSE TO PLAINTIFFS'
MOTION TO ALTER OR AMEND ORDER ISSUED JANUARY 29, 2019

By motion dated February 6, 2019, Plaintiffs seek to alter or amend the order denying their claims for relief on grounds of promissory estoppel. For the following reasons, Plaintiffs' motion should be denied.

STANDARD OF REVIEW

To alter or amend a judgment requires demonstration that the Court misapprehended controlling law or that a "previous argument" requires the Court's attention. In this instance, Plaintiffs have identified no controlling authority overlooked or misapprehended in the

challenged order. Instead, Plaintiffs' arguments were brought to the Court's attention in their pretrial memorandum, during trial and in their post-trial memorandum.

LEGAL ANALYSIS

In support of their motion, Plaintiffs argue that mere reliance upon representations made during their employment regarding continuing individual health insurance without charge is sufficient to award damages in this proceeding. As demonstrated in their previous filings and testimony, however, Plaintiffs have failed to present the Court with evidence of a detrimental change in position necessary to establish a basis for relief on their promissory estoppel cause of action.

Plaintiffs assert, without offering supporting testimony, that they accepted lower wages than otherwise available in exchange for a promise of lifelong health coverage without charge. As noted in the challenged order, however, no Plaintiff presented evidence of an employment opportunity lost. Moreover, no Plaintiff presented evidence allowing the Court to measure compensation and benefits received while employed by the City of Columbia and upon retirement against compensation and benefits available from any other potential employer.

Plaintiffs attempt to circumvent these deficiencies by arguing cost free health coverage constitutes earned compensation. (See, Plaintiffs' Memorandum at p. 6) To advance this argument, Plaintiffs would have the Court ignore pretrial rulings in the consolidated cases and by the Court of Appeals that they possess no wage claim and that they are obligated to prove detrimental reliance individually.

The established law of this State supports these rulings and the conclusion reached in this Court's order. Plaintiffs' contention to the contrary, the burden of proving a detrimental change of position is not confined to a single case. (See, Plaintiffs' Memorandum at p. 5, *citing Carrigg*

v. Blue, 283 S.C. 484, 323 S.E.2d 787 (Ct. App. 1984)) Instead, our courts have consistently refused to provide relief on estoppel grounds when the moving party fails to provide evidence of a measurable detrimental change in position. For example, in addition to the authorities offered by the City and contained in the challenged order, this burden is addressed in Fradley v. Smith, 247 S.C. 353, 359-60, 147 S.E.2d 412, 415 (1966)(requiring proof that the plaintiff "change his position prejudicially") overruled on other grounds by Tolemac, Inc. v. United Trading, Inc., 326 S.C. 103, 484 S.E.2d 593 (1997); Wachovia Bank of South Carolina, N.A. v. Thomasko, 339 S.C. 592, 596, 529 S.E.2d 554, 556 (Ct. App. 2000)(denying detrimental reliance as a defense for failure to show a "change in position"); and, Queen's Grant II Horizontal Property Regime v. Greenwood Development Corporation, 368 S.C. 342, 358, 628 S.E.2d 902, 911 (Ct. App. 2006)(requiring proof of a "prejudicial change of position"). Although different turns of phrase may be employed, the consistent burden imposed when seeking estoppel relief includes the obligation to provide the court a basis to measure a detrimental change in position due to reliance upon a representation. No evidence identified by Plaintiffs before, during, or after trial meets this burden.

CONCLUSION

For the reasons stated above and contained in this Court's order of January 29, 2019, Plaintiffs have failed to present arguments or evidence sufficient to prove their promissory estoppel cause of action. Accordingly, their motion to alter or amend should be denied.

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February 14, 2019
Columbia, South Carolina

1 STATE OF SOUTH CAROLINA
2 COURT OF COMMON PLEAS
3 COUNTY OF RICHLAND

4 2009-CP-40-5680 and 2013-CP-40-5097

5 Larry Strickland and Frank Cruz, et als

6 Vs.

7 City of Columbia

8

9 Columbia, South Carolina

10 December 19-20, 2018

11 Before the Honorable R. Scott Sprouse

12 APPEARANCES

13 For the Plaintiffs: Nancy Bloodgood, Christopher Bryant

14 For the Defendant: W. Allen Nickles

15

16 Reported by: Michael C. Watkins

17 Official Court Reporter

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25

TESTIMONY OF CAM GILLAM

1 A Yes, ma'am.

2 Q And this was the year 2009; is that correct?

3 A Yes, ma'am.

4 Q And at that point it was only the people under 65 who
5 had retired that was going to be affected?

6 A That is correct. At one of the council meetings they
7 had told the people over 65 that it didn't concern them at
8 all, that they would still get theirs for free, it was only
9 the people under 65 that needed to be concerned.

10 Q So personally what has the city breaking its promise
11 meant to you?

12 MR. NICKLES: Objection.

13 THE COURT: Overruled.

14 A Well, it has meant being here in this courtroom instead
15 of being at home enjoying the Christmas holidays with my
16 grandkids for one. It's just been a very stressful thing.
17 I've spent a lot of time trying to talk to different people
18 and explain to them what was going on. I've been trying to
19 figure out what I needed to do. I contacted different legal
20 representatives and sought legal counsel and --

21 Q So practically what has been the effect of this change
22 on you, what has it meant to you?

23 A It's meant a decrease in my income.

24 Q So how much did you start paying in 2009 that you had
25 not paid before for your premium?

TESTIMONY OF CAM GILLAM

1 A \$33 and something a month. I took a lower plan because
2 I wasn't counting on paying for it all and I was hoping to
3 get the issue resolved expediently.

4 Q And from 2009 presently have you paid for your
5 insurance, part of the cost?

6 A Yes, ma'am.

7 Q And what's your understanding of what's going to happen
8 when you turn 65?

9 A I will no longer have the same type of a policy, I'll
10 have a supplemental policy instead of a secondary policy and
11 the premiums will go up dramatically.

12 Q I know you've talked to a lot of people. What is your
13 understanding what this -- the effect that not paying for
14 the cost of retiree's health insurance has on your fellow
15 firefighters?

16 MR. NICKLES: I'm going to object, Your Honor. He can
17 speak to his own effect but not to others who aren't in the
18 courtroom or I'm able to examine.

19 THE COURT: I sustain the objection.

20 Q Okay. Cam, do you know the amount of out of pocket
21 costs that you have paid from 2009 when the city stopped
22 paying the costs until today?

23 A I believe it's around \$4,108.

24 Q And how did you come to that amount?

25 A I added up my premiums that I had paid.

TESTIMONY OF CAM GILLAM

1 Q Have your premiums gone up through the years?

2 A Yes, ma'am, they have, and the coverage has gone down.

3 Q And what is it that you want this Court to do?

4 A I want this Court to make the city do what I believe
5 they promised me and that's provide a high quality health
6 insurance plan with prescription drug coverage that's better
7 than what I would have received through Medicare at no cost
8 to me. I would like them to reimburse me all of my premiums
9 that I have paid, and I would like them to reimburse me the
10 \$1,100 I've spent so far on this case and pay the attorney
11 fees.

12 Q Okay. Hold on one minute.

13 MS. BLOODGOOD: Your Honor, if I may?

14 THE COURT: Yes, ma'am.

15 (Break in proceedings.)

16 Q All of the newsletters that I've shown you, was it your
17 understanding that these newsletters were authorized by the
18 City of Columbia?

19 A Absolutely. Many of them have pictures of the council
20 members on them so I'm sure they read them since their
21 picture was in there.

22 Q And were you regularly in the habit of picking them up
23 when you saw them and reading them?

24 A Yes. Actually in the last several years of my
25 employment they brought them to my office.

TESTIMONY OF CAM GILLAM

1 Q And again, the same question with the healthcare
2 booklets that I showed you, and the first ones in the
3 beginning, the first one, which was Exhibit 14, was signed
4 by the city manager, correct?

5 A Yes, ma'am.

6 Q Was it your understanding that these health coverage
7 booklets that you received over the years were also
8 authorized by the city?

9 A Yes, ma'am. Several of them had the city seal on them.

10 MS. BLOODGOOD: Okay. Thank you. I don't have any
11 other questions but Mr. Nickles may.

12 THE COURT: Mr. Nickles, your witness.

13 MR. NICKLES: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. NICKLES:

16 Q Good morning, Mr. Gillam?

17 A Morning.

18 Q Mr. Gillam, you testified that you worked for the city
19 for a number of years, correct?

20 A Yes, sir.

21 Q And during that time you received some promotions.

22 A Yes, sir.

23 Q Pay increases.

24 A Yes, sir.

25 Q And you ultimately retired at age 51, correct?

TESTIMONY OF CAM GILLAM

- 1 A Yes, sir.
- 2 Q That was a tremendous benefit to you, wasn't it, the
- 3 ability to retire at such a young age.
- 4 A It was. I planned on that from the beginning.
- 5 Q And you said that your final position was, I believe,
- 6 administrative chief; is that correct?
- 7 A Administrative officer, yes, sir.
- 8 Q And you were making over \$71,000 at the time of your
- 9 retirement, correct?
- 10 A Yes. That was what my pay would have been continued
- 11 for a year.
- 12 Q Ms. Bloodgood asked you to look through a number of
- 13 exhibits, I think there were -- oh gee whiz, all of these
- 14 things that went back from the 90's up in the 2000's with
- 15 Inside the City of Columbia or at some point the name may
- 16 have changed, and y'all went over some of the information in
- 17 there, correct?
- 18 A Correct.
- 19 Q But throughout that point in time you understood that
- 20 when it comes to policy the City of Columbia City Council is
- 21 the ultimate decision maker, correct?
- 22 A I wasn't exactly sure who the ultimate policy maker
- 23 was, because we had procedures and policies and guidelines
- 24 that we did that I thought at the time were okayed by the
- 25 city manager.

TESTIMONY OF CAM GILLAM

1 Q Well, those are standard operating guidelines within
2 the fire department, correct?

3 A Correct.

4 Q And the fire department is just one of many departments
5 within the city.

6 A Yes, sir.

7 Q And the fire chief holds the position of a department
8 head, correct?

9 A Yes, sir.

10 Q There are many department heads in the city.

11 A Yes, sir.

12 Q And there were many in the city at the time that you
13 were employed there.

14 A There were several, yes, sir.

15 Q Okay. You knew that the fire chief couldn't pay you
16 anything he wanted to, didn't you?

17 A That's correct. He had to go to the city manager to
18 get my pay increased.

19 Q And you new the city manager couldn't go outside the
20 guidelines of city council, didn't you?

21 MR. BRYANT: Object, Your Honor. Sorry.

22 THE COURT: Overruled.

23 Q Didn't you? Didn't city council set the budget every
24 year?

25 A Yes, sir. We presented a budget to the city council

TESTIMONY OF CAM GILLAM

1 and they approved it.

2 Q And even little things -- well, maybe not so little,
3 like buying fire trucks and things like that, that had to do
4 within a budget approved by city council, correct?

5 A Yes, sir.

6 Q So when it came to money and spending money it was
7 council who had the authority and the power to approve that,
8 correct?

9 MR. BRYANT: Objection, Your Honor, legal question.

10 MR. NICKLES: I'm asking his understanding, Your Honor.

11 THE COURT: Rephrase the question.

12 Q Based upon your experience in working for the City of
13 Columbia, isn't it true that city council prepares a budget
14 and that the departments had to operate within those
15 budgets?

16 A Actually the departments prepared the budget and then
17 the city council approved the budget.

18 Q If city council didn't approve a budget could the
19 department spend the money?

20 A Pardon?

21 Q If the city council didn't approve the budget could the
22 department spend the money?

23 A No, sir.

24 Q Okay. Now, you knew -- did you actually read cover to
25 cover each one of these Inside City of Columbia bulletins

TESTIMONY OF CAM GILLAM

1 when it was handed out over the 20 or so years that Ms.

2 Bloodgood examined you on?

3 A Probably most of them.

4 Q Okay. And you knew these were reporting what was

5 happening at the time.

6 A Yes, sir.

7 Q Because they were issued, I guess, about monthly,

8 correct?

9 A They were issued sometimes monthly, I think sometimes

10 quarterly trying to change that up a little bit. They

11 expanded it to more pages to include more information.

12 Q And sometimes they told you that things had changed or

13 were about to change, correct?

14 A That's correct.

15 Q And sometimes they referred you to things like let's

16 say the insurance handbook, I believe you went over some of

17 those things with Ms. Bloodgood.

18 A Yes, sir.

19 Q They would say it's available to you, correct?

20 A Yes, sir.

21 Q When you were talking with Ms. Bloodgood about the

22 city's insurance program, didn't you know that you were part

23 of a group? It was not the Cam Gillam insurance program, it

24 was for the entire active employees and retirees?

25 A Yes, sir, that was my understanding.

TESTIMONY OF CAM GILLAM

1 Q All right. So you don't claim, do you, that you have
2 been treated any differently than any other similarly
3 situated employee or retiree?

4 A No, sir. I believe they lied to all 195 of us.

5 Q So the answer to my question is you were treated the
6 same, correct?

7 A Yes, sir.

8 Q And if you look at, for example, Exhibit Number 14 in
9 the plaintiff's exhibits. Let's see, I think they might be
10 out of order here. I hate to put something on the Bible but
11 I might have to. And Ms. Bloodgood asked you to read one
12 paragraph on the first page of that document, correct?

13 A Yes, sir.

14 Q She pointed out the third paragraph from the bottom.
15 But that's not the only information on that page, is it?

16 A No, sir.

17 Q In fact, in the second paragraph it talks about that
18 it's important to try to control the escalating costs of
19 healthcare, correct?

20 A That's correct.

21 Q And that the city is doing things to try to effectuate
22 that and explain some of the things that they're doing,
23 correct?

24 A That's correct.

25 Q And it says, and this is to all our full-time and

TESTIMONY OF CAM GILLAM

1 retired employees, that's who it's directed to, correct?

2 You would have been an employee at the time.

3 A Yes, sir, I would have.

4 Q It says, "By practicing costs containment with your
5 medical expenses you, the insured," that's you, correct?

6 A Yes, sir.

7 Q "Play the greatest role in helping to slowdown the
8 every increasing costs to health insurance. You," Mr.
9 Gillam, "keep your insurance affordable by always using the
10 benefits wisely and this decreases the possibility of
11 contribution increases," correct?

12 A That's correct.

13 Q So this is telling you, is it not, Mr. Gillam, that
14 there is the possibility of contribution increases due to
15 the escalating costs of health insurance?

16 A We have increases in contributions quite often on
17 family coverage. They would send us things that would say
18 it has gone up five percent, it's gone up 15 percent, it's
19 going up 10 percent, it's the same, but it never ever
20 changed for people who were retired already.

21 Q But this does not say you by practicing cost
22 containment for your family decrease the possibility of
23 contributions, it is speaking to you, is it not?

24 A Yes, sir.

25 Q And not everybody has family coverage, do they?

TESTIMONY OF CAM GILLAM

- 1 A No, sir.
- 2 Q A lot of people had single coverage, correct?
- 3 A Yes, sir.
- 4 Q And they got the same notice as you did, correct?
- 5 A Yes, sir.
- 6 Q So did you ever go to anyone and say, "Wait a minute,
- 7 this is saying there's a possibility of contribution
- 8 increases?" Did you go to city council and say, "What do
- 9 you mean by that?"
- 10 A No, sir. Back then I would not attempt to go to city
- 11 council and question their plan.
- 12 Q But you received that notice, correct?
- 13 A Yes, sir.
- 14 Q And you received it repeatedly while you were employed
- 15 and after your retirement, correct?
- 16 A I don't know that I received this repeatedly after I
- 17 was retired.
- 18 Q You retired in what year?
- 19 A In 2007.
- 20 Q And that's the year that you got your letter from Ms.
- 21 Holiday.
- 22 A Mona Holiday.
- 23 Q In which she says under current policy the city pays
- 24 retirees a portion of the health premium, correct?
- 25 A That's correct.

TESTIMONY OF CAM GILLAM

1 Q So Ms. Holiday is informing you that this is a policy,
2 correct?

3 A That's correct.

4 Q And you know policies are subject to change, you
5 witnessed policies being changed during your employment,
6 correct?

7 A Certain policies could change, yes.

8 Q Well, you've already mentioned that health insurance
9 changed during the course --

10 A Once I retired policies to me no longer affected me.
11 Once I retired I had done my part of the bargain so I was
12 already there. It's kind of like you go to the store, bread
13 is on sale, you buy a loaf of bread, you leave the store,
14 they don't tell you later on give me more money for that
15 loaf of bread, we changed our mind.

16 Q So when you signed the application for being a member
17 of the city's health insurance program, and that
18 application, one of the exhibits, number 24 I believe Ms.
19 Bloodgood submitted, I have some as well, show that you are
20 a member of a group plan and you're going to be subject to
21 the same terms as everybody in the group, you didn't think
22 that applied to you?

23 A Yes, sir, I did. That group isn't receiving their
24 insurance for free.

25 Q Well, one of the provisions of the group plan after

TESTIMONY OF CAM GILLAM

1 2009 was that you pay a small premium, correct?

2 A That was definitely a change.

3 Q Okay. And you continued to sign those applications
4 since the premium change and you've continued to be a member
5 of that plan, correct?

6 A I did because I wanted insurance. I couldn't afford to
7 not have insurance.

8 Q Now, Mr. Gillam, you said that you received notice
9 before the city voted to charge a premium to all
10 participants in its group health plan, that it was in the
11 works, correct?

12 A Yes, sir, I saw where it was in the works.

13 Q And you said that you took a number of steps including,
14 I believe, you attended council meetings, correct?

15 A Yes, sir.

16 Q You were actually a member of a committee that worked
17 with a council member, correct?

18 A Later on, yes, sir.

19 Q Okay. And that was all prior to the vote by city
20 council to make this change, correct?

21 A The committee with the insurance was Natasha Taylor and
22 Missy Caughman and Daniel Rickerman, that group was
23 afterwards.

24 Q Okay. You had the opportunity to speak to council, I
25 believe you actually spoke to council.

TESTIMONY OF CAM GILLAM

1 A That is correct.

2 Q Now, when you were working for the city as a
3 firefighter and you mentioned that people talked to you
4 about what would be available to you once you retired, all
5 of those folks were expressing what was then the policy of
6 the City of Columbia, weren't they?

7 A They were expressing what the benefits were at that
8 time, yes, sir.

9 Q And those benefits were part of the city's policies as
10 they related to their employees, correct?

11 A They may have been.

12 Q Okay. Now, you mentioned that you want not only to be
13 reimbursed for whatever you have laid out, \$4,108, but that
14 you want the city to give you a different better plan than
15 everybody else now has.

16 MR. BRYANT: Objection, Your Honor, he did not say
17 different, it's just a mischaracterization of his testimony.

18 Q Well, didn't you testify --

19 THE COURT: Ask him what he said.

20 Q Didn't you testify, Mr. Gillam, that you wanted to have
21 a better plan at no cost?

22 A I think I said a high quality plan at no cost I believe
23 is what I said with drug coverage. I can't say whether the
24 one we have now is good or not, and it's changing in
25 January, which may or may not be better than what we have

TESTIMONY OF CAM GILLAM

1 today.

2 Q So you just don't know, is that fair to say?

3 A I don't know what the city plans, no, sir.

4 Q So you're not asking this Court then to carve out for
5 you a different individual healthcare plan.

6 A The city told me I would have a high quality health
7 insurance plan, I don't care how they do it, that's what I
8 expect.

9 Q Would you agree with me that the terms high quality
10 could mean different things to different people?

11 A I would say they would mean relatively the same thing.
12 There could be some small differences but relatively they
13 would mean the same thing.

14 Q So you know what that term high quality means to all of
15 the other participants in the city's group health coverage,
16 all of those thousands of people?

17 A I can only compare it to things like what Daniel
18 Rickerman told me when he said if you want insurance for
19 free we'll give you free insurance but it won't be worth
20 anything because it won't pay anything. To me that would be
21 a low quality as compared to one that pays your bills, and
22 that would be a high quality.

23 Q So you don't have a plan to substitute now, you haven't
24 brought one with you for the Judge to examine to determine
25 whether it is higher quality than the one that you currently

TESTIMONY OF CAM GILLAM

1 have.

2 A No. But there are plenty of insurance books there that
3 have the policies in them that we used to have.

4 Q But you understand the you're the plaintiff in this
5 lawsuit and it's your responsibility to establish your loss,
6 correct? You understand that.

7 A Yes, sir.

8 Q But you haven't brought anything today to allow the
9 Judge to determine what that loss may be if you are
10 comparing current policy versus high quality policy,
11 correct?

12 MR. BRYANT: Objection, Your Honor. It speaks to
13 damages, not loss.

14 THE COURT: I don't understand your objection.

15 MR. NICKLES: I think it's semantics.

16 MR. BRYANT: It speaks to the --

17 THE COURT: Counsel approach.

18 (A bench conference was held.)

19 Q Just to be clear, Mr. Gillam, you have brought with you
20 no alternative group health plans for this Court to examine
21 nor have you costed any other group health plans that you
22 would present as alternatives to the one that you currently
23 are a member of?

24 A We're getting ready to have a new one in January
25 through the state.

TESTIMONY OF CAM GILLAM

1 Q Mr. Gillam, if you would simply answer my questions
2 without -- it was a very simple one, okay? Have you brought
3 with you today any alternative group plans and affiliated
4 costs with any other group health plans?

5 A No, sir.

6 Q Did any of those folks who talked to you about future
7 benefits tell you, "Cam, I am going to guarantee you no
8 matter what happens that when you retire I will make sure
9 that you will get free health insurance for the rest of your
10 natural life." Did anybody tell you that?

11 A At those seminars?

12 Q Yeah.

13 A No, sir.

14 Q Or the fire chief didn't tell you that. The fire chief
15 didn't personally guarantee it, did he? He didn't say,
16 "I'll pay for it."

17 A No, sir.

18 Q And Mona Holiday didn't say, "I've got a billion
19 dollars over here and I'll pay for it." Nobody told you
20 that, did they?

21 A No, sir.

22 Q Okay. Now, you mentioned to Ms. Bloodgood that you may
23 have stayed longer or you may have done this or that if you
24 had known that two years after your retirement the city
25 would change its policy.

TESTIMONY OF CAM GILLAM

1 A Yes, sir.

2 Q But, in fact, you retired at age 51 with a monthly
3 benefit, correct?

4 A Yes, sir.

5 Q The city contributed significantly to that pension
6 benefit, correct?

7 A Yes, sir.

8 Q And you have been receiving those pension benefits for
9 many, many years, correct?

10 A Yes, sir.

11 Q And during those years you have not been compelled to
12 get up at a certain time and put on a uniform and go to work
13 and do the job and come back, you had other things that you
14 could do, correct?

15 A Yes, sir.

16 Q And there's a value to that, is there not?

17 A There is.

18 Q Now, while you were working for the city at least for
19 part of the time you also worked for a landscaping company,
20 correct?

21 A That's correct.

22 Q But you didn't apply for any other full-time jobs
23 during that period, did you?

24 A No, I did not apply for other full-time jobs.

25 Q And you weren't offered any other jobs during that

TESTIMONY OF CAM GILLAM

1 time, were you, full-time positions?

2 A Not full-time, no, sir.

3 Q Now, when Mona Holiday talked to you and wrote to you,
4 when the fire chiefs talked to you about what retirees
5 receive they were telling you what was actually the policy
6 at that time; isn't that true?

7 A That's correct.

8 Q But you know as an adult that things do change,
9 correct? You know they change.

10 A Yes, sir. That's what Sam David said.

11 Q Well, I mean, you have experienced change in policy,
12 you experienced change when that the health insurance
13 provided all while you were employed by the city and
14 thereafter, correct?

15 A I have definitely experienced that after.

16 Q Well, while you were employed as well, correct?
17 Weren't there -- you've got premium books -- or not
18 premium books, policy books every year, didn't you have
19 to -- didn't you receive those?

20 A Yes, sir.

21 Q Well, you talk about them.

22 A Yes, sir.

23 Q And you examined them, right?

24 A Yes, sir.

25 Q You presented them to the Court. -- So you knew that it

TESTIMONY OF CAM GILLAM

1 Part D, correct?

2 A Correct.

3 Q So what you're asking for is what was promised, a plan
4 as good as what the city employees have under their group
5 insurance policy because --

6 MR. NICKLES: Your Honor, I hate to interrupt, but this
7 is leading, much more detail than even a non-jury proceeding
8 should be permitted.

9 THE COURT: Overruled. Go ahead and ask the question.

10 Q So the plan that you were -- is referred to in the Mona
11 Holiday letter is a plan that is -- acknowledges that it's
12 better than Medicare part D, correct?

13 A Yes, ma'am.

14 MS. BLOODGOOD: Hold on one minute.

15 (Break in proceedings.)

16 MS. BLOODGOOD: That's all the questions I have, thank
17 you.

18 THE COURT: Anything further from this witness?

19 MR. NICKLES: If I might be indulged.

20 THE COURT: Yes, sir.

21 RECROSS EXAMINATION

22 BY MR. NICKLES:

23 Q Mr. Gillam, when you received that letter at the time
24 of your retirement Ms. Holiday was describing something that
25 was in existence at that time, correct?

TESTIMONY OF LARRY STRICKLAND

1 A That's correct.

2 Q Now, you and Ms. Holiday may have had expectations as
3 to the future but neither of you have control of the future,
4 do you?

5 A That's correct.

6 MR. NICKLES: Thank you. No other questions.

7 THE COURT: Thank you, sir, you can step down.

8 Counsel, approach.

9 (A bench conference was held.)

10 THE COURT: We'll break for lunch and start back at
11 1:30.

12 (A lunch break was taken.)

13 THE COURT: All right. Plaintiff call your next
14 witness.

15 MR. BRYANT: At this time plaintiffs call Larry
16 Strickland.

17 The witness, LAURIE "LARRY" STRICKLAND, was first duly
18 Sworn and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BRYANT:

21 Q Good afternoon, Larry.

22 A How are you doing?

23 Q All right. Mr. Strickland, where do you live?

24 A Lexington, South Carolina.

25 Q All right. How long have you sort of been in this

TESTIMONY OF LARRY STRICKLAND

- 1 A Yeah. Matter of fact that's how I hurt my back.
- 2 Q You hurt your back on the job?
- 3 A Yeah..
- 4 Q So over the course of your almost 24 years, about 24
- 5 years, was it your understanding that when you retired you
- 6 would earn these --
- 7 A It's an earned benefit. I felt like they were going to
- 8 keep paying my health insurance for the rest of my life is
- 9 what I was told.
- 10 Q All right. So over the course of those 24 years you
- 11 probably got to know quite a few firefighters.
- 12 A Right.
- 13 Q And some of them started before you?
- 14 A Before me, after me.
- 15 Q After you. And the ones that started before you
- 16 retired, some of them retired, right?
- 17 A Right.
- 18 Q And it's my understanding firefighters are kind of a
- 19 close knit group.
- 20 A Uh-huh.
- 21 Q And did you continue to communicate with some of those
- 22 people afterwards?
- 23 A Yes, I did, yeah.
- 24 Q And what's your understanding about whether those
- 25 firefighters who retired before you received their -- had

TESTIMONY OF LARRY STRICKLAND

1 Q So how many years had you received your healthcare
2 benefits, how many years had they been paid?

3 A About 20 years they paid for it.

4 Q Okay. So if someone tells you that they're going to do
5 something until you die and they do it for 20 years, do you
6 think it's reasonable to believe that they're going to do it
7 until you die?

8 A Yeah, I thought that.

9 Q Before the time you retired and at anytime after you
10 retired until they took it away, took your insurance away,
11 did you ever go out --

12 MR. NICKLES: I'm going to object to that, no insurance
13 has been taken away from these individuals.

14 THE COURT: Rephrase it.

15 MR. BRYANT: I'll rephrase the question, Your Honor.

16 Q From the time you retired until the time that your full
17 premium for your health coverage stopped being paid, did you
18 go ever go out and look for other health coverage for
19 yourself?

20 A No.

21 Q And why didn't you go out and look for other health
22 coverage?

23 A I was told it was paid for so there was no reason to
24 look for other coverage.

25 Q So while you were working you believed that you were

TESTIMONY OF LARRY STRICKLAND

1 told that this would happen in retirement by city managers
2 and chiefs, right?

3 A Yes.

4 Q And you saw other people getting --

5 A These benefits, yeah.

6 Q And you yourself received what you believe you had been
7 promised for about 20 years after you retired.

8 A Right.

9 Q If you had known back in 1969 that that the city could
10 take this -- I'm sorry, let me rephrase that. If you had
11 known back in 1969 that the city could stop paying the full
12 retiree benefits at any point in time, they could tell you
13 one time and then stop at any point in time because it was
14 only the current policy, would you have done anything
15 different?

16 A I could have, yes.

17 Q All right. And what would you have done differently?

18 A Well, I might have went with Southern Railroad for one
19 thing.

20 Q That job you had offered.

21 A Right.

22 Q And that job you stayed as a firefighter because they
23 told you how good the benefits were.

24 A Right, they told me that.

25 Q And one of the good benefits was this --

TESTIMONY OF LARRY STRICKLAND

1 A Health insurance. Paid-up health insurance.

2 Q Until you died.

3 A Right.

4 Q All right. So since the full amount of your health
5 premium has stopped being paid for, have you had to come out
6 of pocket for anything?

7 A Oh, yeah. The premiums, yes.

8 Q The premiums. And I know that you sat down and looked
9 at -- or have you sat down and looked at how much you came
10 out of pocket?

11 A Right. Approximately 19,000.

12 Q And that's from 2013 until now.

13 A Yeah.

14 Q And do you know how you sort of came up with that
15 calculation?

16 A Well, yeah. I looked at my old tax returns and my W2
17 forms and my old stubs.

18 Q Okay. Now, as you sit here today and the city does not
19 resume paying these health -- I'm sorry. Do you expect to
20 continue to incur similar out of pocket costs for the rest
21 of your life?

22 A Yes.

23 MR. BRYANT: I don't have anymore questions for you,
24 Mr. Strickland, Mr. Nickles or the Judge may. Thank you.

25 THE COURT: All right. Mr. Nickles?

TESTIMONY OF LARRY STRICKLAND

1 A I was a tailboard fireman still.

2 Q You hadn't gone up the ladder at that point.

3 A No.

4 Q But you didn't seriously pursue that job, did you?

5 A Well, I got talked out of it. I was probably going to
6 take it but I got talked out of it.

7 Q Well, let me ask you about that, you never compared the
8 benefits offered by the railroad to those offered by the
9 city, did you?

10 A No. It didn't go that far after I decided to stay.

11 Q In fact, you don't know whether that railroad paid
12 vacation or sick leave, holiday time, paid it up at the end
13 of your work, don't know that, do you?

14 A Well, my brother-in-law worked there so he got all of
15 those benefits.

16 Q Well, your brother-in-law actually approached you about
17 possibly taking that job, correct?

18 A Right.

19 Q But he wasn't the president of Southern Railway, was
20 he?

21 A No.

22 Q He was doing pretty much supervising what you were
23 going to do, right?

24 A Right.

25 Q Which was maintenance work.

TESTIMONY OF LARRY STRICKLAND

- 1 A Right.
- 2 Q Which would require you to go around the railroads from
3 place to place and repair --
- 4 A Track, right.
- 5 Q -- track. That sounds like that would be a pretty
6 physically demanding job as well.
- 7 A Right.
- 8 Q So you can't tell us if you had taken that job at
9 Southern that you would have been more successful career,
10 you would have been able to qualify for retirement or if you
11 could have gotten free health insurance for a day much less
12 20 years.
- 13 A That's right.
- 14 Q You know that your lawyer showed you a couple of -- may
15 I approach you?
- 16 A Yes.
- 17 Q -- showed you a couple of booklets, and maybe he was
18 confused, but it does say employee and retiree health
19 coverage, correct?
- 20 A Right.
- 21 Q You knew that retirees and the employees had the same
22 group plan, correct?
- 23 A Right.
- 24 Q The only difference was, I believe, dental, right?
- 25 A Right.

TESTIMONY OF LARRY STRICKLAND

- 1 Q Which was a different plan.
- 2 A Right. You had to -- it wasn't offered after you
- 3 retired, it was only offered if you were employed.
- 4 Q That was separate. And you're not suing the city for
- 5 dental insurance, are you?
- 6 A No.
- 7 Q Just to make sure. And when you got these things you
- 8 had the opportunity to read them, correct?
- 9 A Yes.
- 10 Q Do you remember if you actually read them?
- 11 A Probably the older I get I got in-depth reading them.
- 12 When I first went there you were kind of young and you don't
- 13 think about things like that until you get a little time in.
- 14 Q And this says to all our full-time and retired
- 15 employees, so they're talking to you as an employee or
- 16 retiree when they say that, correct?
- 17 A Right.
- 18 Q It's directed to you, correct?
- 19 A Right.
- 20 Q And it also says among other things that you know that
- 21 healthcare is -- cost is escalating, everybody in America
- 22 knows that, right?
- 23 A Uh-huh.
- 24 Q It's been rising for decades, right?
- 25 A Uh-huh.

TESTIMONY OF LARRY STRICKLAND

1 Q Is that correct?

2 A Yes.

3 Q When you were hired back in 1968 or '69, do you think
4 the cost of your healthcare was higher or lower for the --

5 A It was lower then.

6 Q Yeah, much lower for the city. But even as it rose
7 throughout your employment the city continued to pay not
8 only a part of it but all of it.

9 A Right.

10 Q Have you ever calculated, Mr. Strickland, how much you
11 would have paid in health insurance those 20 years that you
12 retired and paid nothing, how much do you think you would
13 have paid for health insurance if you hadn't had it from the
14 city?

15 A I'm not sure. I don't know how I would have calculated
16 it.

17 Q Well, do you think it would have been a little or a
18 lot?

19 A Well, it would have fluctuated every year and it
20 probably would have went up every year.

21 Q It would have fluctuated every year because things
22 change, correct?

23 A Right.

24 Q And you noticed, I believe, in responding to your
25 attorney that things changed even in the health insurance as

TESTIMONY OF LARRY STRICKLAND

1 being offered by the city.

2 A Uh-huh.

3 Q Is that correct?

4 A Right.

5 Q And I suppose that's one reason why they didn't give
6 you just one book when you walked in the door and said,
7 "This is it, these your benefits." You knew they changed
8 from year to year to year to year, correct?

9 A Right.

10 Q And when they changed from year to year to year, were
11 you aware during those years that city council was
12 responsible for adopting a budget to run the city?

13 A City manager and the council.

14 Q Well, the city manager recommends and the council
15 adopts, correct? Is that your understanding?

16 MR. BRYANT: Objection, legal, but --

17 A I didn't get into that.

18 Q If you don't know you can say you don't know.

19 THE COURT: He can ask him his understanding.

20 Q Yeah. Did you ever attend any council meetings?

21 A Yes, I did.

22 Q Did you ever -- were you ever there when they were
23 talking about money?

24 A Yes.

25 Q Because that's one thing councils talk about a lot.

TESTIMONY OF LARRY STRICKLAND

1 A Yeah.

2 Q And in that process, did you ever observe that council
3 would debate an issue and then eventually vote on it?

4 A Yeah.

5 Q And that's the way that council operated to the best of
6 your observation, correct?

7 A Right.

8 Q During your many years of service, did any of these
9 fire chiefs ever say to you, "You know, Larry, I wish I
10 could get you more money but I just can't do it?"

11 A I don't think it was left up to them unless they
12 promoted me.

13 Q Because you knew that it had to come in within a
14 budget, correct?

15 A Right.

16 Q And you knew that those fellows couldn't go outside
17 that budget, correct?

18 A Right.

19 Q And you also knew that even though you were a
20 firefighter and you took certain risks that there wasn't a
21 special firefighter or a special Larry Strickland insurance
22 program, was there?

23 A No.

24 Q It was for everybody. It was for the secretaries and
25 the custodians and the city manager and the assistant city

TESTIMONY OF LARRY STRICKLAND

- 1 manager and the fire chief --
- 2 A Right.
- 3 Q -- and Larry Strickland, all of you together, correct?
- 4 A Yes, sir.
- 5 Q Now, these fire chiefs that talked to you about the
- 6 benefits, when they said that retirees get free health
- 7 insurance, that was absolutely true at that time, wasn't it?
- 8 A It was when I worked there and when I retired, yes.
- 9 Q Because that was consistent with the policy, wasn't it?
- 10 A Right.
- 11 Q But the policy ultimately changed. I know you didn't
- 12 like it --
- 13 A Uh-huh.
- 14 Q -- and probably those folks wouldn't have liked it
- 15 either, but it changed, didn't it?
- 16 A Yes.
- 17 Q And you weren't treated any differently than former
- 18 city managers or former fire chiefs or former custodians or
- 19 former secretaries, were you?
- 20 A No.
- 21 Q The same way.
- 22 A Yeah.
- 23 Q Part of a group, correct?
- 24 A Right.
- 25 Q Now, back when we talked years ago I asked you what you

TESTIMONY OF LARRY STRICKLAND

1 thought you were entitled to if you won this case.

2 A Right.

3 Q And you said to me, "I don't think I'm entitled to the
4 same insurance as when I retired," you thought you should
5 get the group coverage and just not have to pay for it,
6 correct?

7 A I'm not sure exactly what I said.

8 Q Okay. Well, it's a part of the record, and we'll let
9 the record speak for itself, I'm not going to bother you
10 with looking at something old, okay?

11 A All right.

12 Q So you had the free insurance for 20 years, you haven't
13 calculated what that value is. You haven't tried to compare
14 what the benefits would have been at the railroad versus the
15 city, is that fair to say?

16 A Right.

17 Q When you said \$19,000, did you have anybody else on
18 your health insurance?

19 A No, not at that time -- after I retired because I was
20 divorced then.

21 Q I understand. After you retired were you single
22 coverage only?

23 A Right.

24 Q So you figured this \$19,000 from your tax returns as
25 being your expenditures since 2013, the last five years.

TESTIMONY OF LARRY STRICKLAND

1 A Right.

2 Q Think you would have spent a whole lot more than
3 \$19,000 over the 20 years that you got the health insurance
4 free?

5 A I'm not --

6 Q There's no way of knowing, is there?

7 A I don't know.

8 Q No way of knowing.

9 A I don't know.

10 Q And all of that time you were receiving not only social
11 security benefits but also state retirement benefits.

12 A Right.

13 Q And you don't know, do you, that you if you had gotten
14 hurt on the job at Southern Railway whether they would have
15 been paid -- you wouldn't have been eligible for state
16 retirement, would you?

17 A I think they had their own retirement system.

18 Q Do you know what they paid?

19 A No.

20 Q No way of knowing, is there?

21 A I didn't go into it further after I decided -- they
22 talked me into saying.

23 Q And after you stayed you had a successful career.

24 A Right.

25 MR. NICKLES: Thank you very much, I appreciate it.

TESTIMONY OF LARRY STRICKLAND

1 Q Okay. And you started in 1969 and you retired in 1993?

2 A Right.

3 Q And a lot of things changed between 1969 and 1993, is
4 that fair to say?

5 A Yeah.

6 Q Lots of policies changed in -- healthcare costs
7 changed, you had lots of different presidents, I was born
8 somewhere in there --

9 A Uh-huh.

10 Q -- but throughout that time, did the retirees who had
11 fulfilled the requirement receive their health insurance
12 benefits paid?

13 A Yes.

14 Q All right. So real quick, last line of questioning
15 here. So after you retired you had this horse -- what was
16 it called?

17 A Hideaway Farms.

18 Q And you mentioned that you had an individual there that
19 you had a barter relationship --

20 A That took care of things mostly.

21 Q How would that work? You gave --

22 A I gave him free rent for cleaning stalls and doing
23 different things, repairing a fence and whatever.

24 Q And is it fair to say that you promised them that you
25 would give them free rent if they did the work?

TESTIMONY OF LARRY STRICKLAND

- 1 A Right.
- 2 Q Do you still operate that?
- 3 A No.
- 4 Q And while you operated it, did you give them free rent?
- 5 A Yes.
- 6 Q Did they do the work?
- 7 A Yes.
- 8 Q Now, did you offer them free healthcare?
- 9 A No. Most of them had other jobs, too.
- 10 Q So the fact that you didn't offer it to them doesn't
- 11 say anything about whether there's a promise there.
- 12 A Right.
- 13 MR. BRYANT: That's all the questions I have for you,
- 14 thank you.
- 15 THE COURT: All right. Anything further from this
- 16 witness?
- 17 MR. NICKLES: Just a very couple.
- 18 RE CROSS EXAMINATION
- 19 BY MR. NICKLES:
- 20 Q Mr. Strickland, now you knew when you were employed
- 21 even if you didn't go you could have gone to council
- 22 meetings, right?
- 23 A I could have, yes.
- 24 Q Nobody stopped you.
- 25 A We were usually busy working a second job.

TESTIMONY OF LARRY STRICKLAND

1 Q Making money.

2 A Right, trying to make some.

3 Q Making money, right?

4 A Right.

5 Q And when you had somebody working for you, were you the
6 person who was responsible for either paying them or giving
7 them a benefit? You were the person, correct?

8 A I was, yes.

9 Q You were in control, correct?

10 A Right.

11 Q But you knew that police -- that fire chief was not in
12 control of your salary, right?

13 A Not in control of my salary.

14 Q And not in control of your benefits either, was he?

15 A No.

16 MR. NICKLES: Thank you.

17 THE COURT: Thank you, Mr. Strickland, you may step
18 down.

19 MS. BLOODGOOD: Your Honor, we took the deposition of
20 Steve Gantt and at this time we would like to read portions
21 of his transcript into the record. And I could ask
22 questions and Chris could go up there if that's the best way
23 to do it for you.

24 MR. NICKLES: However they want to do it, but I'll
25 stipulate the record says what the record says and I'm happy

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 A September 30th, 2003.

2 Q And so from 2003 until 2009 the city paid the full
3 costs your retiree health insurance, correct?

4 A I think that is correct.

5 Q And then in 2009 did you have to start paying premiums
6 for your -- for part of the cost for your health insurance?

7 A I think that is correct also.

8 Q And when did you turn 65?

9 A Well, I'm 69 now, so I approximately four years ago,
10 June 1st, 2014.

11 Q And June 1st of 2014, did you then have to start paying
12 part of your Medicare costs?

13 A Absolutely.

14 Q If you'd known in 1978 that the promise of paid-up
15 retiree health insurance was something that could be changed
16 or broken at any point, would you have done anything
17 differently?

18 A I can't say that I would or I would not have, but it
19 would certainly have entered into the equation.

20 Q Could you have worked longer than you did at the city?

21 A Absolutely.

22 Q You have a general contractor's license?

23 A Yes.

24 Q Could you have gotten a job as a general contractor
25 that offered insurance?

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 A I never went so far as to see what kind of insurance
2 was offered, but, yes, I could have done that. And there
3 was insurance there but I just can't tell you how good of
4 insurance it was.

5 Q And since 2009 when the city stopped paying the full
6 cost of your premium, and then again in 2013 when they
7 stopped paying for Medicare for persons over the age of 65,
8 have you calculated your out of pocket that you would not
9 have had to pay but for the city breaking the promise?

10 A Yes, ma'am.

11 Q And how did you do that?

12 A With insurance stubs. There's actually only six months
13 of calculations that I don't have and I just had to
14 negotiate those from the previous year, but from any figures
15 it's \$18,815.90.

16 Q And you calculated that by just adding up your out of
17 pockets costs.

18 A That's correct, and I have the documents to support
19 that.

20 Q And do you expect to have similar expenses the rest of
21 your life?

22 A Yes, or maybe higher.

23 MS. BLOODGOOD: I have no further questions, Your
24 Honor.

25 THE COURT: Okay. Mr. Nickles?

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 MR. NICKLES: Yes, thank you.

2 CROSS EXAMINATION

3 BY MR. NICKLES:

4 Q Good afternoon, Mr. McClinton.

5 A Hey Mr. Nickles, how are you?

6 Q I'm doing well, I hope you are. I don't know that
7 we'll need to refer to it but I just want to put your
8 deposition up there in case you want to refer to it.

9 A Okay.

10 Q And I'll give you the opportunity if you wish. Mr.
11 McClinton, now, you were asked a question whether there was
12 any hint that there could be an increase in or a change in
13 your contributions to the health insurance program, do you
14 remember saying not a hint?

15 A Yeah, but it wasn't to that particular question. I
16 said not a hint, but it was whether it was going to be done
17 away with.

18 Q Okay. Well, you looked at two of these booklets, and I
19 imagine you have more than two during your many years with
20 the city.

21 A I've seen a bunch of them.

22 Q But they all seem to have something in common, and it
23 is directed to full-time and retired employees, is that your
24 reading of it as well? Do you see it?

25 A Yeah. I can read it good enough if you hold it that

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 far away.

2 Q I'll let you put your glasses on if you want to. In
3 this among what they're telling you is important to read it
4 says, you, Mr. McClinton, keep your, Mr. McClinton,
5 insurance affordable by always using benefits wisely and
6 this decreases the possibility of contribution increases.
7 Isn't that at least a hint things can change?

8 A Is it a hint?

9 Q Yes, sir.

10 A Yeah, I think things change.

11 Q It's at least a hint.

12 A Right.

13 Q All right. Now, fair to say that you didn't price with
14 Craig Construction how much insurance would have cost you if
15 you had gone to work for them.

16 A No.

17 Q Craig Construction is a private business, correct?

18 A Correct.

19 Q They rarely give things away, do they?

20 A I would say you're right.

21 Q Okay. And you said well, you feel that you were paid
22 low. Did you bring anything to court today to show that
23 during the time that you were employed, that if you looked
24 at the benefits you were receiving at that time and the pay
25 you were receiving at that time and the promotional

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 opportunities you had at that time, that you would have done
2 better somewhere else?

3 A No. With the benefit package that was promised to me I
4 think I did very well, one of them was the insurance.

5 Q And I'm talking to you about what you actually
6 received, not what you wanted to get or expected to get or
7 believed you were going to get, what you actually got.

8 A Right.

9 Q And what you actually got was very valuable, wasn't it?

10 A It was.

11 Q And you know that life is a gamble, you're an adult,
12 you know that, right?

13 A Yes.

14 Q You even told that to me back those years ago at your
15 deposition, correct?

16 A I think so.

17 Q And you know that there is not just one factor that
18 makes a job attractive, there are many, are there not?

19 A That's correct.

20 Q The opportunity for attention, the opportunity to do
21 other work like as you'd had with your shift work, you could
22 work for Craig Construction or do your own subcontracting.

23 A Right.

24 Q And that was a valuable commodity, you made money doing
25 that, correct?

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 A That's correct.

2 Q And many of your fellow firefighters did as well,
3 correct?

4 A All of them.

5 Q It was common. And so you were to what some folks call
6 moonlight while you were on your 48 off shift, correct?

7 A That's correct.

8 Q You told me back when your deposition was taken, and
9 that was back in 2015, that you had not explored any other
10 insurance options. Have you done that since then?

11 A Yes.

12 Q So you didn't explore them until after you were
13 deposed; is that correct?

14 A That is correct, about six weeks ago.

15 Q Did you ever talk to your lawyer about supplementing
16 your responses to interrogatories or anything like that?

17 A No.

18 Q All right. When all of these folks were talking to
19 you, the fire chiefs and the battalion chiefs and the
20 assistant chiefs, you have heard the question before, you
21 knew they didn't come out of pocket for your benefits, they
22 weren't paying for it, correct?

23 A Correct.

24 Q And so you knew that what they were reporting to you
25 was what council had approved when they were talking to you,

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 correct?

2 A I knew it was coming from a much bigger authority, city
3 council. That's one of the reasons I counted on it.

4 Q And you knew that council was made up of politicians,
5 correct?

6 A I'm afraid so.

7 Q And you know that politicians change their minds from
8 time to time.

9 A I'm afraid so.

10 Q Okay. And that was something that wasn't started in
11 2009, that's been since the dawn of time, isn't it?

12 A Since the cave man.

13 Q So those councils back in 1970's, 1980's and up to the
14 2000's, they annually budgeted for the benefits to be paid
15 entirely by the city, did they not?

16 A I think that's correct, and that's a good point.

17 Q But in 2009 after a period of study and debate they
18 decided to stop doing that, correct? And that's why we're
19 here.

20 A Yeah.

21 Q All right. But you knew that the city continues even
22 today to pay a substantial amount toward your health
23 insurance, correct? You're not paying the whole thing.

24 A Mr. Nickles, that's debatable. I would agree that they
25 are paying, when you put substantial that changed that. I

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 agree that they're paying some.

2 Q All right. They have never not paid something for your
3 health insurance, correct?

4 A That's correct.

5 Q And when you were talking to Ms. Bloodgood about your
6 health insurance and paid-up and so forth, you knew that you
7 were not getting an individual policy, you were part of a
8 big group of people, correct?

9 A Sure.

10 Q Just like you've heard other people say, you knew it
11 was not only the fire department, it wasn't a special
12 benefit for the fire department, was it?

13 A No.

14 Q It was for all of the employees. And you signed the
15 agreements, the applications when they came around to you
16 when there was any change and so forth, you signed off on
17 the dotted line, did you not?

18 A No, sir. We didn't sign as to whether we're agreeing
19 with the changes in the policy, we were signing as to
20 whether we received the booklet or not.

21 Q No, I'm not talking about that. There's a document
22 that has been introduced into the record by the plaintiffs,
23 and maybe you didn't get one of these but I would be
24 surprised. Oh, here it is, Number 24, and it's part of a
25 membership application, this happens to be to your friend --

TESTIMONY OF BAILEY GEORGE MCCLINTON

- 1 Q So you did see these documents and they did say you're
2 being a part of a group, correct?
- 3 A Yes.
- 4 Q And you knew that, correct?
- 5 A Yeah.
- 6 Q And it said that you would receive your benefits in
7 keeping with those provided to the other members of the
8 group, correct?
- 9 A Yeah.
- 10 Q Did you attend any of those council meetings where they
11 were debating as to how they were going to change or not
12 change the health insurance programs?
- 13 A Yes, sir, I spoke at one.
- 14 Q So you were aware that there was an active political
15 debate about this, correct?
- 16 A Yes.
- 17 Q And you participated in that political process,
18 correct?
- 19 A Yes.
- 20 Q And you disagreed with the outcome. They voted and
21 they didn't vote your way, correct?
- 22 A Yes, I think that's right.
- 23 Q Did you live in the City of Columbia at the time?
- 24 A No. I lived in the City of Columbia at the time of
25 employment but I left the city a long time ago.

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 Q All right. So since you have left the city you
2 couldn't vote the rascals out of office.

3 A No, sir. I would have though.

4 Q And that's one way that you respond to actions by a
5 governmental body that you disagree with, correct?

6 A That is correct.

7 Q And that's the democratic way to do it, correct?

8 A Yes, sir.

9 MR. NICKLES: Thank you. No other questions.

10 THE COURT: Redirect?

11 MS. BLOODGOOD: I just have a few, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. BLOODGOOD:

14 Q Mr. McClinton, first of all, did you ever tell your
15 lawyer you were looking into other insurance policies?

16 A No.

17 MR. NICKLES: Your Honor, I'm not trying to cast any
18 dispersions on Ms. Bloodgood or Mr. Bryant.

19 THE COURT: So noted.

20 Q There was a question about your construction company
21 not giving away anything for free. The city doesn't give
22 away anything for free either, does it?

23 A Absolutely not.

24 Q And you in the beginning of your deposition said you
25 don't like the word free because you earned the benefit,

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 didn't you?

2 A I don't even like it when you use it.

3 Q I know that, you told me that. Because it's not free,
4 was it?

5 A No, ma'am. We paid for it through 25 years of low
6 salary, injuries. While in my 25 years two men died in the
7 line of duty, they will never get any insurance.

8 Q Mr. McClinton, you also -- there was some questions
9 about county -- the city council and what they can do. The
10 city council, no individual on the city council made you the
11 promise in those 25 years that you were working that you
12 were going to get the retiree health insurance.

13 A Personally?

14 Q Yes.

15 A No, ma'am.

16 Q Those promises came from the city manager and your
17 chiefs, correct?

18 A That's mostly correct. I mean, there were other
19 chiefs, too, but those were the two highest up, yes.

20 Q Right. Your promise --

21 A And the HR director, which I originally went to.

22 Q So the promises came all from people who worked for the
23 city manager or the city manager, correct?

24 A That's correct.

25 Q You don't work -- you didn't work for city council, did

TESTIMONY OF BAILEY GEORGE MCCLINTON

1 you?

2 A No.

3 Q Okay. And then when you stood up and complained about
4 the city changing its policy in 2009, you had already been
5 receiving that promise for six years, correct?

6 A That's correct.

7 MS. BLOODGOOD: Thank you, that's the only questions I
8 have..

9 THE COURT: Anything else from this witness?

10 MR. NICKLES: One thing, your Honor, if you don't mind.

11 RECROSS EXAMINATION

12 BY MR. NICKLES:

13 Q Mr. McClinton, you don't like the word free, I don't
14 like the word promises. Let's see if we can agree on
15 something.

16 A Okay.

17 Q When those folks were talking to you in all of these
18 years about retirees getting health insurance that was --
19 the city paid for, they were telling you a fact that existed
20 at that time, were they not?

21 A Yes.

22 MR. NICKLES: Thank you.

23 THE COURT: All right. Thank you, Mr. McClinton, you
24 can step down. We'll take a short break.

25 (A break was taken.)

TESTIMONY OF CHARLES MORRIS

1 year and a half or two years because the city paid the
2 supplement plan. I went on Medicare and the city paid my
3 supplement so I didn't pay anything for about a year and a
4 half or two years, and then the rules changed and now I'm
5 spending about 200 bucks a month.

6 Q And just so I understand how that -- and correct me if
7 I'm wrong, I just want to make sure I followed that
8 correctly, you retired and for about eight years the city --
9 you had the paid-up insurance benefit.

10 A Right. I think I paid a supplement then to cover the
11 copay, things like that.

12 Q Okay. And then when you turned 65 you didn't pay
13 anything.

14 A I didn't pay anything.

15 Q And then after it changed again for those over 65 you
16 started paying 200 a month.

17 A Right.

18 Q And did you do any sort of calculations to sort of
19 figure out what you've come out of pocket that you wouldn't
20 have come out of pocket if there was a paid-up --

21 A Yeah. I did something for Nancy Bloodgood and I think
22 I came up about \$13,000.

23 Q Do you remember how you came up with that?

24 A I looked on my Medicare payments and my checking
25 account where I wrote checks, I had my checkbook and then my

TESTIMONY OF CHARLES MORRIS

1 stubs, Medicare stubs.

2 Q Okay. So almost through this here. So you started in
3 1977.

4 A Yes.

5 Q All right. And then retired in -- I've got dates --

6 A 2001.

7 Q 2001. And over that time period you saw people -- you
8 believe that if you worked a certain numbers of years you
9 would have paid-up health insurance.

10 A Yes, I did.

11 Q You saw people who met those qualifications receiving
12 that paid-up health insurance before you retired.

13 A Yes.

14 Q That's fair?

15 A Yes.

16 Q And you didn't even have any thought that it would
17 change until 2009.

18 A No.

19 Q If you would have known back in 1978 or 1995, or 1990
20 that they could -- this could change at any time, would you
21 have done anything differently?

22 A I thought about that when you asked the others. One
23 thing I would have probably done was when I got my 20 years
24 in, because I had bought some time when I could afford it,
25 and so I would have had 25 years to retire, but I had my 20

TESTIMONY OF CHARLES MORRIS

1 BY MR. NICKLES:

2 Q Mr. Morris --

3 A Yes.

4 Q -- afternoon. Mr. Bryant asked you a bunch of
5 questions about what you woulda, coulda, shoulda done. But
6 you don't know whether you would have done X, Y or Z, do
7 you? I mean, you're talking about possibilities and not
8 things that you actually explored at the time, correct?

9 A I didn't need to.

10 Q But please answer my questions, you didn't explore any
11 of those options at the time, correct?

12 A No.

13 Q And did you ever -- you said you did some calculations
14 for Ms. Bloodgood, when did you do those?

15 A The last ones I did was a couple of months -- well,
16 about a month ago, I think.

17 Q Okay. And when did you give them to her?

18 A I guess in the last month or so.

19 Q Mr. Morris, you said you did some calculations about
20 what it has cost you over this period of time. Did you do
21 any calculations as to the value of 35 years of health
22 insurance that you didn't have to contribute to?

23 A No.

24 Q When you say yours was paid-up, who paid it up and how?

25 A Well, my working at a low salary basically earned --

TESTIMONY OF CHARLES MORRIS

1 that was -- the way it was presented at one time was that
2 was our supplement for the low salary.

3 Q Well, did you look around to see if you could get a job
4 at higher salary?

5 A Not really.

6 Q So you didn't try to balance off what you were being
7 paid and what you were being provided.

8 A Well, I'm not complaining about the pay, you know,
9 because it worked out to where it was for my benefit being a
10 single parent to work one day and be off two days.

11 Q And also allowed you to do other things for profit as
12 well if you wanted to.

13 A Well, no. I was a single parent, I didn't work a lot.

14 Q You chose not to do that. Your other firefighters may
15 have done that but you chose not to, correct?

16 A Yeah. .

17 Q Although it was time that was available to you to use
18 as you saw fit.

19 A Correct.

20 Q And that was a value to you as a single parent,
21 correct?

22 A Uh-huh.

23 Q Is that a yes?

24 A Yes.

25 Q That's something that might not have been available to

TESTIMONY OF CHARLES MORRIS

1 you had you been working at a tax office or working at H.H.
2 Gregg or being a salesmen or any of those other things that
3 may have happened, correct?

4 A Yeah.

5 Q And you knew when you talked with Miles Hadley that he
6 worked for somebody too, he worked for city council,
7 correct?

8 A That's right.

9 Q And ultimately that's who you worked for also, correct?
10 That's who cut the checks.

11 A Yes.

12 Q Although you were a firefighter your entire career you
13 also knew that you were a member of a group plan that
14 included all employees, not just firefighters, correct?

15 A That's correct.

16 Q And in terms of these other folks who you've spoke with
17 and you referred to in responding to Mr. Bryant, you knew
18 that those folks weren't going to come out of their pocket
19 to pay for your health insurance, correct? The money had to
20 come from the budget; isn't that right?

21 A That's correct.

22 Q All right. And you knew those politicians on council
23 are the ones who determined what the budget was going to be
24 from year to year to year, correct?

25 A I understand that, yes.

TESTIMONY OF CHARLES MORRIS

1 Q All right. And you knew that even if they didn't like
2 it Miles Hadley, your chief, other department heads, all had
3 to operate within the budget that was approved by the city
4 council, correct?

5 A Yes, I understand that.

6 Q Okay. And in terms of your work for the fire
7 department, there wasn't any bargain where you can negotiate
8 your salary or your benefits, they were what were being
9 provided at the time, correct?

10 A That's correct.

11 Q Because there's no collective bargaining for public
12 employees in this state, you're aware of that.

13 A Uh-huh.

14 Q Is that correct?

15 A That's correct..

16 Q As you were working you noticed that even when you
17 became a captain and worked your way up and had a successful
18 career, correct?

19 A Correct.

20 Q That there were policies and things like that coming
21 down from outside the fire department that impacted you and
22 others, correct?

23 A Correct.

24 Q And even if your chief didn't agree with them he could
25 complain or he could go to council, but he couldn't make a

TESTIMONY OF CHARLES MORRIS

1 A Right.

2 Q Is that right?

3 A That's right.

4 Q Now, in terms of your benefits with the city I'm going
5 to show you some documents that I believe you will
6 recognize.

7 MR. NICKLES: And Your Honor and counsel, this is
8 Defendant's Exhibit Number 2, tab eight.

9 Q And do you mind if I show those to you? Page A is
10 simply a new employee that tells us that you were hired in
11 January 1977.

12 A Uh-huh.

13 Q And you filled it out and that was just a standard
14 form, correct?

15 A Correct.

16 Q You had a deduction authorization. I believe that you
17 got over the course of your career those folks issued new
18 booklets from time to time, correct?

19 A Correct.

20 Q You got one right when you came on the 1977 version of
21 what we have here, Plaintiff's Exhibit Number 14. It was a
22 booklet that looked something like this, wasn't it?

23 A Yes.

24 Q And these booklets were pretty consistent in what they
25 were telling you about the availability of health insurance,

TESTIMONY OF CHARLES MORRIS

1 correct?

2 A Correct.

3 Q And every one of them that has put in evidence here,
4 this one happened to be in 1988 while you were still an
5 employee, correct?

6 A Yes.

7 Q Tells you that there is a possibility of a contribution
8 increase. Now, doesn't it make sense, Mr. Morris, that as
9 the costs of running the city and the costs of providing
10 health insurance increased that there have to be adjustments
11 made?

12 A Yes. My assumption, of course that's just an
13 assumption, but my understanding was that the increase would
14 be on the family plan, I never imagined --

15 Q Of course, it doesn't say that in the booklet.

16 A It doesn't say that.

17 Q So that would be at a minimum an ambiguity, wouldn't
18 it?

19 A Since we weren't paying anything for our policy an
20 increase of nothing is nothing, but an increase of a family.

21 Q Well, an increase over nothing is something, isn't it?
22 You can't get lower than nothing.

23 A Well, if you increase zero by 50 percent it's still
24 zero.

25 Q It doesn't use percentages here, does it? You're

TESTIMONY OF CHARLES MORRIS

- 1 playing word games with me, aren't you, Mr. Morris?
- 2 A We were playing word games.
- 3 Q You also -- I don't want to belabor the point, but
- 4 these are matters that are already in the record. I want to
- 5 see if you recognize your signature here, it's on tab eight
- 6 letter I. Would that be your signature at the bottom of the
- 7 page? It's kind of small. Charles Morris, is it Junior?
- 8 A That's my son's name.
- 9 Q Oh, that's his name? You were designating him as a
- 10 beneficiary.
- 11 A Yeah, beneficiary.
- 12 Q But that relates to you, correct?
- 13 A Yeah, uh-huh. That's my writing.
- 14 Q You filled it out.
- 15 A Yeah.
- 16 Q And you knew at least they were giving you the
- 17 opportunity to know that you're only going to be treated the
- 18 same as everybody else who is a member of this group,
- 19 correct?
- 20 A All right.
- 21 Q And although you object to being charged any premium,
- 22 you don't know of anyone who was treated better than you, do
- 23 you?
- 24 A No.
- 25 Q Whether they have to be a current employee or a retiree

TESTIMONY OF CHARLES MORRIS

1 they've been treated the same, correct?

2 A I hope.

3 Q All right. And when you left the city back in 2001, I
4 believe Jack Jantzen was the chief; is that correct?

5 A That's correct.

6 Q And you wrote him a very nice letter, didn't you?

7 A No use in burning bridges.

8 Q Well, were you being honest in telling him that you
9 had -- it has been a pleasure to serve and you wish the best
10 and you pray that God will give him wisdom? Maybe he needed
11 a little wisdom?

12 A Amen.

13 Q But that you said it was a pleasure working for the
14 city, correct?

15 A That's correct.

16 Q And you got a lot of gratification not only out of a
17 paycheck you took home but the service that you provided and
18 the opportunities you had to be with your family, correct?

19 A Correct.

20 Q Hard to put a dollar figure on that, isn't there?

21 A That's right.

22 MR. NICKLES: Thank you.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION

25 BY MR. BRYANT:

TESTIMONY OF AL HILL

1 THE COURT: I understand your position.

2 Q Did you care how the city funded the promise that it
3 had made to you to pay for your retirement after you retire?

4 A No, ma'am.

5 Q Did you also see the booklets on health that were for
6 active and retired employees concerning healthcare benefits?

7 A Yes, ma'am. On occasion I would, yes.

8 Q Over the course of years that you worked, did you see
9 your supervisors, other chiefs or assistant chiefs retire
10 and receive the benefit that had been promised?

11 A Yes, ma'am, and a lot of other employees.

12 Q And did you know of any particular older employees who
13 received this benefit until they died?

14 A Assistant Chief Don Davis received it. Claude Stewart,
15 one of the assistant chiefs, he received it. A number of
16 employees, that I worked with.

17 Q All right. If you would have known back in 1982 when
18 you started working that this promise of paid-up retiree
19 health insurance was something that could be taken away at
20 any time, that the city would come in and say this is just a
21 policy and we're going to change it, would you have done
22 anything differently?

23 A Yes.

24 Q And what would you have done differently if you would
25 have known?

TESTIMONY OF AL HILL

1 A I probably would have seeked another avenue, because at
2 that time I was raising a family and I would have seeked
3 another avenue of income that included and would benefit me
4 when I got to retirement age. And --

5 Q And since you've stopped receiving health insurance,
6 have you had to come out of pocket --

7 MR. NICKLES: Object to the form.

8 MS. BLOODGOOD: I'm sorry.

9 Q Since you have stopped having the city pay in full for
10 your retiree health insurance, have you had to come out of
11 pocket for the cost of part of that insurance?

12 A Yes, ma'am.

13 Q And did you calculate that amount?

14 A Roughly about \$8,124 and some change I think it is, the
15 best of my calculation.

16 Q And that's because you're not eligible for Medicare
17 yet, correct?

18 A No, ma'am.

19 Q And how did you calculate that?

20 A I went back through my old tax records and recalculated
21 what I had paid for healthcare because that's part of tax
22 records.

23 Q And then you also have paid for some costs associated
24 with this case, correct?

25 A Yes, ma'am.

TESTIMONY OF AL HILL

1 Q Do you know the total amount paid?

2 A I think it's about \$1,100 right now out of my pocket.

3 Q When will you be eligible for Medicare?

4 A I'm 58 now, so about another six years I'll be ready.

5 Q And do you expect that you will be on Medicare and
6 paying for Medicare after your age 65?

7 A Yes, ma'am.

8 MS. BLOODGOOD: All right. I don't have any other
9 questions but Mr. Nickles may.

10 THE COURT: All right. Mr. Nickles?

11 MR. NICKLES: Sorry, Your Honor.

12 CROSS EXAMINATION

13 BY MR. NICKLES:

14 Q Mr. Hill.

15 A Yes, sir.

16 Q I just have very few questions for you. Ms. Bloodgood
17 asked you some questions about turning back the clock and
18 what you may have done had you known then what you know now,
19 do you remember that series of questions? Can you turn back
20 the clock?

21 A No, sir.

22 Q And you really don't know what would have been
23 available to you, whether it would have been better than
24 what you received at the City of Columbia, do you?

25 A No, sir.

TESTIMONY OF AL HILL

1 Q You said you gave, I believe, about \$8,124 is what
2 you've spent thus far on health insurance, that is from the
3 date that you were employed back in 1982 to the date that
4 you retired to when, recently?

5 A Repeat the question again, now.

6 Q What period of time does that \$8,124 encompass?

7 A It encompasses from the time I had to start paying my
8 healthcare, my single coverage healthcare July 1 of 2009
9 until most recently.

10 Q Now, can you tell me that if someone told you in --
11 when did you come in -- in 1982 that you could get insured
12 from 1982 to 2018 for \$8,000, that would have been quite a
13 deal, wouldn't it?

14 A For a single person, yes.

15 Q Very good deal.

16 A I had a family at that time.

17 Q Well, you've already admitted, as have your fellows,
18 that active employees and retirees had to pay through this
19 period of time to have their dependents covered, correct?

20 A Yes.

21 Q Is that yes?

22 A Yes, sir.

23 Q You didn't include any of that in your \$8,124
24 calculation, did you?

25 A No, sir, because I didn't have any dependents at that

TESTIMONY OF AL HILL

1 time.

2 Q Okay. So ever since you've been retired you've been
3 just single coverage, correct?

4 A Yes, sir.

5 Q Any single coverage while you were actively employed?

6 A Sir?

7 Q Were you on single coverage at anytime that you were
8 actively employed?

9 A It seems like the last part or so of my career, because
10 up to that point I had my daughters on the family coverage
11 because they were in college and so forth.

12 Q At least some time during your career you were single
13 covered, correct?

14 A Yes, sir.

15 Q And Ms. Bloodgood and others have made repeated
16 references to these employee and retiree health coverage
17 booklets. Would you agree with our colleagues that these
18 things came to you with some regularity?

19 A Yes, sir, on a regular basis.

20 Q And you noticed I'm sure because you said you were
21 paying attention to it that it says to you, you were a
22 full-time employee there, that you keep your insurance
23 affordable by always using your benefits wisely and this
24 decreases the possibility of contribution increases. Now,
25 that wasn't just sent out just to people who had families,

TESTIMONY OF AL HILL

1 was it?

2 A No, sir.

3 Q Wasn't sent out just to people who have wives and
4 children who were covered, was it?

5 A No, sir.

6 Q It was sent out to you the active employee and retiree,
7 correct?

8 A Yes, sir.

9 Q So they're talking to you about the possibility of
10 contribution increases, correct?

11 A Yes, sir.

12 Q While you were employed and you talked about Ms. Mona
13 giving you this letter and you went to some of these
14 retirement sessions, when you were there and the full time
15 that you were employed by the city, what those folks were
16 telling you was in accordance with city policy, wasn't it?

17 A In accordance with city policy at that time, yes, sir.

18 Q At that time. And you knew that city council had the
19 opportunity to change its policies, correct?

20 A Myself, I didn't get into what the city council done,
21 that was not in my scope of my job and I didn't pay a whole
22 lot of attention to that.

23 Q You attended some council meetings at least after you
24 retired, correct?

25 A A couple of them, yes, sir.

TESTIMONY OF AL HILL

- 1 Q But you had the opportunity to attend them throughout
2 your career.
- 3 A If I would have wanted to but I never had no desire to.
- 4 Q All right. And when Ms. Bloodgood showed you that
5 document that you signed that came from the HR department, I
6 believe it was number 25, do you have still that with you?
- 7 A Yes, from Ms. Natasha Taylor.
- 8 Q Yeah. That was after Ms. Holiday had left the job I
9 believe.
- 10 A I believe she had, yes, sir.
- 11 Q And we talked a little bit about this, it does use the
12 word current, doesn't it?
- 13 A Yes, sir.
- 14 Q And you know that current means now, correct?
- 15 A Yes, sir.
- 16 Q. It means as we speak.
- 17 A Yes, sir.
- 18 Q Because current is not future and is not past, it's
19 what happens when she gives you this letter, correct?
- 20 A Yes, sir.
- 21 Q Although you provided Ms. Bloodgood this calculation of
22 costs to you, you've not done any comparison or pay or
23 benefits with regard to other positions of employment, have
24 you?
- 25 A No, sir. Not since I got employed by the City of

TESTIMONY OF AL HILL

1 Columbia, I had no need to.

2 Q And you got to be a battalion chief in 2007, which is a
3 very responsible position, correct?

4 A Yes, sir.

5 Q But you knew as battalion chief that you could not
6 personally guarantee someone as to their future, could you?

7 A No, sir.

8 Q Over the course of the years I believe you started out
9 making 14,000 a year, as battalion chief you were making
10 considerably more than that.

11 A Yes, sir.

12 Q And there's no guarantee, is there, Mr. Hill, that if
13 you had gone to work for the state or for some other public
14 entity that you would have ended your career as successfully
15 as you did, is there?

16 A Are you talking about for somebody giving you something
17 or you're working for it?

18 Q I mean, there's no guarantee if you would have gone to
19 work for somebody else that you would have ended up in a job
20 more responsible, more meaningful and more important than
21 battalion chief.

22 A I don't know that.

23 Q You don't know that.

24 A No, sir.

25 MR. NICKLES: Thank you very much. Those are all of

TESTIMONY OF AL HILL

1 the questions I have.

2 THE COURT: Any redirect?

3 MS. BLOODGOOD: I just have one, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. BLOODGOOD:

6 Q Al, would you have stayed with the City of Charleston
7 when you were going through those tough times if it had not
8 been for the retiree free insurance?

9 MR. NICKLES: I believe you mean the City of Columbia.

10 Q City of Columbia.

11 MS. BLOODGOOD: What did I say?

12 MR. BRYANT: You said Charleston.

13 THE COURT: You're in the wrong city.

14 Q Let me rephrase that. When you were going through
15 those tough times, would you have left the City of Columbia
16 if it were not for the offer of the free retiree health
17 insurance?

18 A No, ma'am.

19 Q Did you say that you were talked into staying by some
20 of these chiefs?

21 A Yes, ma'am.

22 Q So did you consider leaving at that point?

23 A I had considered it, yes. Not for the sake of my
24 coworkers is what my decision was, I was going through a
25 traumatic time during that time in my life.

TESTIMONY OF AL HILL

1 times in my career that you were vested at ten years and
2 then 15 and then 20, and I think it's 25 now since I left,
3 or they changed it right before I left that you had to have
4 25.

5 Q So my question is when you were going through those
6 tough times, was the promise of free retiree health
7 insurance something that was a factor in you staying with
8 the City of Columbia?

9 A Absolutely, yes, ma'am.

10 MS. BLOODGOOD: Okay. Thank you.

11 THE COURT: Any question in response?

12 MR. NICKLES: Just very briefly.

13 RECROSS EXAMINATION

14 BY MR. NICKLES:

15 Q Now, Mr. Hill, you're not telling this Court that the
16 only reason that you stayed with the City of Columbia is
17 because somewhere out in the future you may receive health
18 insurance that you don't have to pay for, that wasn't the
19 only reason, was it?

20 A I enjoyed my job.

21 Q And you also had 14 years in the police officers
22 retirement system; isn't that right?

23 A Yes, sir.

24 Q You only had to work ten more years and you could
25 retire with full benefits.

TESTIMONY OF AL HILL

1 A Yes, sir.

2 Q If you walked away you would have been giving away a
3 lot?

4 A Yes, sir. And that's why I was told I would have been
5 stupid to do it.

6 MR. NICKLES: Thank you, those are all of the questions
7 I have.

8 THE COURT: Thank you, Mr. Hill, you may step down. We
9 will just go ahead and break and start at 9:30 in the
10 morning.

11 (Court recessed for the day and resumed at 9:30 a.m.

12 On Thursday, December 20, 2018.)

13 THE COURT: We're back on the record with Strickland
14 and others case versus City of Columbia. As I understand it
15 we're going to take a defense witness out of order by
16 consent because that witness is not available for later; is
17 that correct?

18 MR. NICKLES: That's correct, Your Honor.

19 MS. BLOODGOOD: Yes, sir.

20 THE COURT: All right. Is there anything -- any other
21 matters we need to take up before we go back into the
22 testimony?

23 MS. BLOODGOOD: Not from the plaintiffs, Your Honor.

24 MR. NICKLES: Only to hand you something that has been
25 marked by consent Defendant's Number 6. And I'll explain,

TESTIMONY OF STEVE GANTT

- 1 Q About how long have you been doing that?
- 2 A Since 2013.
- 3 Q Were you previously employed by the City of Columbia?
- 4 A Yes, sir.
- 5 Q When did you first come to employment with the city?
- 6 A November of 2001.
- 7 Q In what capacity?
- 8 A Special projects. I was responsible for construction
- 9 of the convention center.
- 10 Q Did you have a supervisor?
- 11 A I worked directly for the city manager.
- 12 Q How long were you in that job?
- 13 A About four months.
- 14 Q What happened then?
- 15 A I was promoted to assistant city manager.
- 16 Q What were your duties in general in that position?
- 17 A I responsible for all of the development corporations
- 18 and -- I can't remember all of the other, but three or four
- 19 other departments within the city.
- 20 Q Did you have a supervisor in that position?
- 21 A Again, it was the city manager.
- 22 Q Now, in your position as assistant city manager, did
- 23 you have occasion to examine from time to time the
- 24 ordinances of the city and to attend city council meetings?
- 25 A Yes, sir.

TESTIMONY OF STEVE GANTT

1 Q In that position, were you responsible to report
2 directly to the city manager?

3 A Yes, sir.

4 Q Did you have any authority beyond that of the city
5 manager?

6 A No, sir.

7 Q And in that position, did you have any understanding of
8 an authority to make promises or guarantees on behalf of the
9 city?

10 A No, sir.

11 Q What next position did you hold?

12 A After the assistant city manager with Ms. Plough I
13 became the assistant city manager for Charles Austin.

14 Q How long were you in that position?

15 A A year and a half or so.

16 Q And you mentioned Ms. Leona Plough, did you work
17 directly with Ms. Plough?

18 A Yes, sir.

19 Q In what capacities?

20 A As an assistant city manager and as a special projects
21 administrator.

22 Q And was she city manager at anytime while you were an
23 assistant?

24 A The entire time.

25 Q There's been some discussion by some of the plaintiffs

TESTIMONY OF STEVE GANTT

1 in this case about Ms. Plaugh's involvement in objecting to
2 the city's decision to discontinue free health insurance for
3 employees and retirees, were you aware of that?

4 A Yes, sir.

5 Q How did you become aware of that?

6 A Well, I knew that she had retired from the City of
7 Columbia and then had been elected to city council, so she
8 was basically on the state retirement -- the city's
9 retirement program.

10 Q And when she left the city, was it in a position of
11 city manager?

12 A Yes, it was.

13 Q And was that a voluntary departure?

14 A No, sir.

15 Q Was it contested by Ms. Plaugh?

16 A Yes, sir.

17 Q And did she ultimately not prevail in that contest?

18 A That is correct.

19 Q Once Ms. Plaugh left the city then she was receiving
20 the retiree health insurance benefits; is that correct?

21 A Yes, sir.

22 Q And would you say she was a vocal advocate of
23 maintaining those benefits?

24 A Yes, sir.

25 Q Was she later elected to city council?

TESTIMONY OF STEVE GANTT

1 A Yes, sir.

2 Q And as a member of city council, was she permitted to
3 participate in the debates and discussions regarding the
4 retiree health benefits?

5 A She initially was involved in it. I reached out to the
6 state ethics commission just to make sure that that was an
7 appropriate situation, they strongly urged that she recuse
8 herself from that discussion. I think she consequentially
9 called the state ethics commission as well and I think they
10 gave her the same information.

11 Q Ultimately did she recuse herself?

12 A Yes, sir.

13 Q Now, after Ms. Plough left Mr. Austin was the city
14 manager, correct?

15 A Yes, sir.

16 Q Did you also work directly under him?

17 A Yes, sir, as the senior assistant city manager for the
18 city.

19 Q And as the senior assistant city manager, did you have
20 any responsibilities or authorities beyond those of the city
21 manager?

22 A No, sir.

23 Q Did you have the ability to commit or guarantee to
24 employees or retirees or any third parties that city council
25 would act in one way or another?

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- 1 A Absolutely not.
- 2 Q What other position did you hold after that?
- 3 A I became city manager, I believe, in 2007.
- 4 Q And in that capacity, did you report directly to the
- 5 city council?
- 6 A Yes, sir, I did.
- 7 Q Did you attend city council meetings?
- 8 A Yes, sir, on a weekly basis.
- 9 Q And were you aware in that capacity and perhaps in
- 10 other earlier capacities of any rising concerns regarding
- 11 the cost of employee and retiree health benefits?
- 12 A Yes, sir.
- 13 Q Was this something that occurred overnight or did it
- 14 happen over an extended period of time?
- 15 A I think it was an extended period of time.
- 16 Q Okay. Did you have interactions with other department
- 17 heads regarding concerns relating to employee/retiree health
- 18 benefits?
- 19 A Yes, sir.
- 20 Q Ultimately were there consultants retained and
- 21 committees formed to examine this issue?
- 22 A Yes, sir.
- 23 Q And was information conveyed to city council concerning
- 24 the various costs, programs and so forth that were
- 25 alternatives for council to consider regarding employee and

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1 Q Was the city's health plan for active and retired
2 employees in excess of \$10,000?

3 A Yes, sir.

4 Q Were the benefits paid out as a result of that plan
5 routinely greater than \$10,000?

6 A Yes, sir..

7 Q And was the cost to the city for the implementation and
8 provision of that group plan considerably more than \$10,000?

9 A Yes, sir.

10 Q During the course of your employment, did city council
11 reserve to itself alone the authority to determine what the
12 benefits would be to active and retired employees?

13 A Yes, sir.

14 Q They never gave that to you.

15 A No, sir.

16 Q And you never gave it to anybody else.

17 A No, sir.

18 Q In fact, you couldn't give it to anybody else, could
19 you?

20 A No, sir.

21 Q Let's look at tab number two. And these, Mr. Gantt,
22 are minutes of a work session in January of 2009. Tell us
23 what a work session is.

24 A It was normally held in the conference room instead of
25 the council chambers, and it was actually a session where

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1 Q The next is October 18th, it's tab number 6, October
2 18, 2011. If we look at page number four where it says
3 entry number 11. And once again, council is asked to
4 approve the renewal of the retiree Medicare supplemental
5 plan that had been previously adopted, do you see there?

6 A Yes, sir.

7 Q So were these in your experience acted upon on at least
8 an annual basis?

9 A Yes, sir, fiscal year basis.

10 Q I mean, under the operations of the city the budget was
11 for a specific period of time, correct?

12 A Yes, sir, fiscal year July 1 to June 30.

13 Q And you as city manager, could you spend money that was
14 not approved by the budget?

15 A No, sir.

16 Q Did you approve any of your department heads to commit
17 funds that were not approved within the budget?

18 A Not within that 12 month period, no, sir.

19 Q And to the best of your knowledge was that known and
20 communicated to the department heads?

21 A The department heads certainly had to know that because
22 they had to present their budgets annually to the budget
23 committee.

24 Q There were quite a few department heads while you were
25 city manager, correct?

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1 A Yes, sir.

2 Q One was a fire department head, correct? Another was a
3 fire chief.

4 A Correct.

5 Q But there were others over other operations of the
6 city, correct?

7 A Yes, sir.

8 Q Do the department heads with the fire department have
9 anymore authority to commit the city to future plans than
10 any other department head?

11 A No, sir.

12 Q You testified you didn't have the authority to commit
13 the city to future plans, correct?

14 A Correct.

15 Q All right. Look at tab number seven very briefly if
16 you would.

17 A Yes, sir.

18 Q This is a January 10 of 2012 meeting. If you look at
19 page four, item number six, who was Mr. Bill Ellis?

20 A Mr. Bill Ellis was our finance director at that time.

21 Q And was he generally responsible for trying to keep the
22 city solvent?

23 A Yes, sir.

24 Q At that time were there concerns about the solvency
25 with the city?

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- 1 A Yes, there were.
- 2 Q And did Mr. Ellis from time to time express those
- 3 concerns to council?
- 4 A Yes, sir.
- 5 Q That was his job, was it not?
- 6 A Yes, sir.
- 7 Q And has Melissa Caughman here, budget director, did you
- 8 know Ms. Caughman?
- 9 A Yes, sir.
- 10 Q And did you interact with her?
- 11 A Yes, sir.
- 12 Q It says that among other things that Ms. Caughman
- 13 reports that human resources identify health exchange
- 14 insurance for post 65 retirees. Is that something that
- 15 would be within the authority of the human resources
- 16 department to explore?
- 17 A Yes, sir, and bring their findings back to council.
- 18 Q Could the human resources department implement anything
- 19 without the approval of council?
- 20 A No, sir.
- 21 Q The next council minutes are tab number eight, they are
- 22 from October 2nd of 2012. And on the first page there's a
- 23 discussion about retiree premiums and Ms. Pamela Benjamin is
- 24 providing some information. Who was Ms. Benjamin?
- 25 A She was the human resource director.

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1 Q And to the best of your knowledge does she remain in
2 that position?

3 A Yes, sir.

4 Q So did she work under your supervision as the human
5 resources director?

6 A Yes, sir.

7 Q In fact, did you hire Ms. Benjamin?

8 A Yes, I did.

9 Q Did you ever give Ms. Benjamin the authority to commit
10 the City of Columbia to provide benefits into the future?

11 A No, sir.

12 Q Did you work with her predecessor, Ms. Gilliam?

13 A Yes, sir.

14 Q Did you ever give her such authority?

15 A No, sir.

16 Q Do you know who Mona Holiday is?

17 A I believe Ms. Holiday was in the human resource
18 department when I first came to work for the city, I'm not
19 sure how long. She retired at some juncture while I was
20 with the city.

21 Q Well, if she was the benefits coordinator or the
22 benefits staff person, would she have the authority to
23 commit the city to future benefits?

24 A No, sir.

25 Q And you say on the second page of this exhibit tab

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1 eight that there's a motion made by Mr. Newman, he was a
2 council member at the time.

3 A Yes, sir.

4 Q Seconded by Mr. Runyan who was a council member at the
5 time.

6 A Yes, sir.

7 Q To approve a plan -- alternative plan to cap the city's
8 contribution for a post 65 retiree, do you see that?

9 A Yes, sir, I do.

10 Q And was action ultimately taken to cap the city's
11 contributions?

12 A Yes, sir.

13 Q I believe you said you left the city in 2013.

14 A Yes. I handled one council meeting in January of '13
15 and then retired after that.

16 Q. Let me ask you to turn to tab number 27 in this
17 exhibit. It's the very last one. It's a rather dark
18 employee handbook, not a contract as of 2002 is the cover.
19 And let me just ask you, Mr. Gantt, in the third block of
20 this document in the -- can you see what I'm talking about,
21 a second page?

22 A Yes, sir.

23 Q It says, "No personnel manual can anticipate every
24 circumstance or question about policy. As the City of
25 Columbia's operation continue to grow we reserve the right

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1 to revise, supplement and rescind any policies or portions
2 of the employee handbook from time to time as it deems
3 appropriate in its sole and absolute discretion. Employees
4 will be informed as quickly as possible the revisions." Do
5 you see that?

6 A Yes, sir.

7 Q This statement, who makes policy for the City of
8 Columbia?

9 A Council.

10 Q Nobody else.

11 A No, sir.

12 Q Was that the case even before you became city manager?

13 A Yes, sir.

14 Q Are you aware of a time when city council did not
15 reserve to itself the responsibility of making policy?

16 A No, sir.

17 Q I'm going to ask you to look at something that has been
18 marked as Exhibit Number 6. And Mr. Gantt, I will publish
19 to you that under the ordinances that were in effect at the
20 time this case began preceded 6/21/16, that's after your
21 time.

22 A Yes, sir.

23 Q There was reorganization numbers, some modifications,
24 but to the extent that you need your recollection reflected
25 or refreshed we could look at this with that caveat, is that

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- 1 okay with you?
- 2 A Yes, sir, that's fine.
- 3 Q I'm going to ask you a question first, and that is
- 4 under the ordinances that existed at the time of this case,
- 5 it stays, "The duties of city manager shall be chief
- 6 executive officer of the city and head of the administrative
- 7 branch of the government." Did you as chief executive
- 8 officer of the city have the authority to administer the
- 9 policies adopted by city council?
- 10 A Yes, sir, I did.
- 11 Q Did you have the authority to make policy for city
- 12 council?
- 13 A No, sir.
- 14 Q Did you have the authority to deviate from policy
- 15 adopted by city council?
- 16 A No, sir.
- 17 Q "City manager shall perform and exercise such duties
- 18 and responsibilities prescribed by law for this office and
- 19 such other duties and responsibilities as described by the
- 20 city council." Was that your understanding of your job as
- 21 city manager?
- 22 A Yes, sir, it was.
- 23 Q Okay. Now, looking at number six. Section 2.1 is
- 24 actually just a paraphrase of the law, it says of code
- 25 section 1979 11-101, this law has changed since '79, "The

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1 city shall be governed by its council manager form of
2 municipal governments prescribed by the law." Was that the
3 case while you were the city manager?

4 A Yes, sir.

5 Q If you look at the bottom of this, section 2.5, it says
6 legislative powers, matters of policy. If you turn over to
7 the next page, "All legislative powers of city and
8 determination of all matters of policy vested with city
9 council with each member, including the mayor, having one
10 vote." Does that accurately describe how council operated
11 while you were employed by the city?

12 A Yes, sir.

13 Q Turn to page -- at the bottom is page nine of 29, it's
14 the third page in. And that's now section 2.32, city
15 manager?.

16 A Uh-huh.

17 Q Is that yes? Do you see that?

18 A Yes, sir, it's there.

19 Q And sub A, is that -- you read, is that consistent with
20 what your duties were while you were city manager?

21 A Yes, sir, it is.

22 Q Okay. And it's consistent with what I read to you
23 earlier, correct?

24 A Yes, sir.

25 Q And so B says, "The city manager may with financial

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1 limits imposed by the budget approved by city council take
2 certain actions." Do you see that?

3 A Yes, sir, I do.

4 Q Were you always limited by the budget?

5 A Yes, sir.

6 Q Look over at the bottom and you'll see it says 17 of 29
7 and it's section -- it was article three of the code,
8 current code.

9 A Two of 29?

10 Q Seventeen of 29, the bottom, if I can help you locate
11 it.

12 A Got it.

13 Q All right. Article three relates to directors,
14 department heads and employees, correct?

15 A Yes, sir..

16 Q At the time that you were city manager, were the
17 salaries of the employees determined by a classification
18 paid plan approved by council?

19 A Yeah. (Inaudible) case study and then a plan was
20 initiated from that and approved by council.

21 Q Did you have the individual authority just to pay
22 anybody whatever you felt they were worth?

23 A No, sir.

24 Q Did you have the authority to negotiate individually
25 with employees about their future benefits?

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1 A No, sir.

2 Q During the time that you were city manager, were
3 employees eligible to be a part of a group health plan?

4 A Yes, sir.

5 Q And at that time the city fully funded that plan,
6 correct?

7 A Yeah, we were self insured.

8 Q Except for spouse and dependents who made some monetary
9 contribution to the plan, correct?

10 A Yes, sir.

11 Q And that was available both to employees and retirees,
12 correct?

13 A Yes, sir.

14 Q Were retirees ever carved out of that plan? Was there
15 ever a separate retiree health benefit plan while you were
16 employed by the city?

17 A I don't believe so, no, sir.

18 Q So the same terms and conditions applied to employees
19 and retirees to the best of your knowledge, correct?

20 A Yes, sir.

21 Q Including whether or not there would be any premium
22 paid, correct?

23 A Yes, sir.

24 Q If you look two pages in it has a reference to the
25 director of human resources, section 2.122. I believe that

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1 was 2.2-125 at the time that you were there.

2 A Right.

3 Q And while you were there was -- did the human resources
4 director operate subject to your supervision?

5 A Yes, sir.

6 Q Did the human resources also have administrative
7 supervision over matters, including employee and retiree
8 benefits?

9 A Yes, sir.

10 Q Did the human resources director, or anybody under that
11 human resources director have the authority to commit to
12 future benefits or compensation?

13 A No, sir.

14 Q While you were employed as city manager, did there seem
15 to be any mystery or misunderstanding about the authority of
16 council and the limited nature of city managers and
17 department heads?

18 A No, sir.

19 Q And certainly the department heads themselves,
20 including the fire chief, would have been made aware of
21 those limitations, correct?

22 A Yes, sir.

23 Q If you look at page 22 of 29 it is now section 2-151,
24 it talks about department heads created, the department
25 heads, administrative regulations procedures. You'll see

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1 participation in group health, was it accurate for a
2 department head to tell an employee the policy is that
3 retirees receive free healthcare?

4 A Yes, sir.

5 Q Was it accurate for Ms. Holiday or someone in the HR
6 department to say currently the policy is retirees receive
7 free healthcare insurance?

8 A If that was the policy during that fiscal year, yes,
9 sir.

10 Q Or whatever they call it without charge.

11 A Right.

12 Q If that was the policy at the time. Are you aware of
13 any representation by any fire chief, supervisor, HR
14 department where they made a personal promise to an employee
15 to say whatever happens the rest of the time you will get
16 free health insurance for your entire lifetime?

17 A I'm not aware of that personally, no.

18 Q If somebody had said that and it had been brought to
19 your attention, would you have corrected them?

20 A Yes, sir.

21 Q So when these newsletters go out, are you familiar with
22 the newsletters that went out from time to time called
23 Inside Columbia? You know, there are a bunch of them that
24 are part of the record in this case, I'll just show you a
25 few if you don't mind my standing near you. These go way

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1 back. Were these intended to tell employees what's going to
2 happen in the future?

3 A I don't believe so.

4 Q Were they reporting what was then currently happening?

5 A Yes, sir.

6 Q Now, if let's say there was a letter sent out, I'll
7 show it to you, Plaintiff's Exhibit Number 22. This is a
8 letter to Mr. Gillam at that time, it says Mona Holiday was
9 benefits administrator, it's on the City of Columbia
10 letterhead, do you see that?

11 A Uh-huh.

12 Q And it talks about under current policy, then has in
13 bold, "When you become eligible for Medicare you are
14 expected to take out part A and part B." Was that what the
15 law was at the time, when you would take out Medicare you
16 were expected to take out part A and B?

17 A I don't think so.

18 Q Okay. It says, "It will not be necessary for you to
19 participate in part D, the drug coverage since ours has been
20 shown to be as good or better at no cost to you." Now,
21 could Ms. Holiday promise to someone 14 years down the road
22 that that would be the case?

23 A No, sir.

24 Q Could she tell them that that is currently the case?

25 A Yes, sir.

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1 working weren't able to meet that requirement?

2 A There were several people. You know, firefighting is
3 not for everybody. People come in and go and they -- just
4 the stress and the mental aspect of the job, just people
5 don't meet the requirement. Now, some come into the
6 department late and they don't meet that requirement. Chief
7 Jantzen didn't meet that requirement. I had a conversation
8 with him, and he was -- it was a conversation that was
9 pretty personal, he was upset that when he came to the
10 department it was ten years and he would have met the
11 requirement, but they changed it to eventually 15 to 20 and
12 he said he was upset, he said, "You'll meet that requirement
13 but I never will." And he was one that didn't meet the
14 requirement. And there were others over the years that if
15 they didn't get those years in they didn't meet the
16 requirement and that was not a benefit for them.

17 Q But if they retired and they had met the requirement at
18 the time they got that benefit.

19 A Absolutely, it goes without saying. You know, the city
20 had a long history of providing that benefit, a precedent so
21 to speak for over a half a century, this is what they did,
22 and I had no reason in my mind to ever doubt that the city
23 would ever go back on that commitment. I had no reason to
24 believe that they ever would. And even once I retired after
25 I had met that requirement, I had fulfilled my obligation to

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1 the city of 28 years of service, met that requirement, more
2 than met that requirement, I fully expected that that
3 benefit would be there for me free of charge until the day I
4 die.

5 Q Now, you mentioned Chief Jantzen, he recognized that he
6 was not going to get that benefit, right?

7 A Yes.

8 Q But are you aware of whether Chief Jantzen also used
9 that as a recruiting tool for new recruits?

10 A Well, he told me to. He was fully aware of that. I
11 made sure that everybody in the chain of command above me
12 was fully aware of what I was saying or what I was doing.

13 Q Now, in your time, your 28 years while you were there,
14 is there a time where you ever considered leaving to go to
15 another job?

16 A Well, not once I got my time in.

17 Q And when you say got your time in, what do you mean?

18 A Well, once I had got my 25 years and I had met the
19 insurance requirement, but there were times that I actually
20 did apply for other jobs, Asheville, Summerville.

21 Q And were these also fire department jobs?

22 A They were, they were chief jobs. A lot of that was I
23 kind of wanted to test the waters, you kind of want to
24 validate yourself in career, are people really interested.

25 Asheville was one that came down to a few candidates but I

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1 Columbia, so I had a total of 30 years..

2 Q 30 years of firefighting service.

3 A Right.

4 Q And over the course of the those 28 years with the City
5 of Columbia Fire Department, it was your understanding that
6 you had earned these health insurance benefits when you
7 retired. You would have paid-up, as we've heard before,
8 health insurance for you, single coverage for you.

9 A Yes.

10 Q And in your role as assistant chief over HR you told
11 recruits about this benefit, correct?

12 A Absolutely.

13 Q All right. And you expected them to take that into
14 consideration when they chose to join?

15 A I did.. I had no reason to believe that that promise,
16 that commitment of healthcare, free healthcare from the city
17 would be taken away, I had no reason to doubt or disbelieve
18 that.

19 Q So in those 28 years before you got to know -- or
20 before you retired, did you get to know the firefighters
21 that you worked with relatively well?

22 A Yeah.

23 Q All right. And people say it's kind of like a family,
24 you get a lot of time together?

25 A Yeah. I mean, I love these guys.

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1 Q And there's more folks that you've met that aren't in
2 this room today, that's fair to say?

3 A A lot.

4 Q And over that time period that you worked there were
5 people who started before you maybe who you saw retire, is
6 that fair to say?

7 A Yeah, there were a lot. I would say over the course of
8 my career and until now with just the City of Columbia there
9 were probably hundreds of guys that came before me that
10 retired from the department with this benefit.

11 Q And it was your understanding that the entire time you
12 were there they were receiving that benefit in retirement.

13 A They were.

14 Q All right. So you retired in 2005, right?

15 A Yes.

16 Q And so in 2006, did you have your health insurance
17 benefits paid?

18 A Yeah, I did, up until 2009.

19 Q So you had no reason to think in 2006 or 2007 or 2008
20 that this was something that would go away.

21 A No, I never thought it would. I was quite -- I was
22 really surprised. I learned through Cam, that's how I
23 learned about it, he said they were talking about having us
24 pay.

25 Q So this is Mr. Gillam who testified earlier and he said

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1 Q And I hate to sound insensitive to jump right back to
2 money here --

3 A Okay.

4 Q -- is it your understanding -- you talked about cost.
5 Is it your understanding that you will continue to need to
6 pay these costs until you die?

7 A Yes. Well, yeah. It's -- I kind of -- Steve Gantt
8 said forever, so it was not forever, one day I'm going to
9 die. Whether it's tomorrow or whether it's ten years from
10 now, 20 years, 30 years from now, hopefully I do live a long
11 good quality of life. For some those guys back there, I
12 know one of them, his days are not too long on this earth,
13 and I hate to see that we're fighting this battle, or he's
14 fighting this battle in the last days of his life. So --

15 Q Have you sort of done any sort of calculations about
16 sort of the money that you've spent out of pocket so far?

17 A Yeah. It's all total with the fees, you know, the
18 \$1,100 that we paid y'all and what I've paid in premiums,
19 the cost of out of pocket for me is right around 94 or
20 \$9,500. And, of course, the potential of that is -- the
21 potential that that could skyrocket is there.

22 Q And so the expectation you have is when you turn 65 you
23 might have to pay more?

24 A Right.

25 Q Okay.

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1 Q You already had a couple of years under your belt so
2 you stepped in, but when you retired those, I guess, 28
3 years later you had elevated through the ranks.

4 A Yes, sir.

5 Q And you were making 68 grand, right about that amount
6 at that time.

7 A That's right.

8 Q So your work life with the City of Columbia resulted in
9 some, you said, personal gratification, correct?

10 A Right.

11 Q And elevation in your pay and your position, correct?

12 A Yes, sir. It was a good career.

13 Q And you also, even though you were experiencing
14 promotions and so forth at the city you candidly said that
15 you applied for other jobs, right?

16 A I did.

17 Q And you applied in Asheville, I believe. You said that
18 that was before you had made your time, correct?

19 A I believe so.

20 Q Well, if you would like I can show you your
21 deposition --

22 A That's fine.

23 Q -- and we can talk a little bit about it, it's not that
24 big a deal. Here we go, page nine.

25 A Okay.

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1 Q It says -- and it's just to refresh your recollection
2 at this point.

3 A Okay.

4 Q It said, "Did you apply for any other positions while
5 you were employed with the city?" And you said, "Yes, I
6 did," right?

7 A Right.

8 Q "Do you remember when they were that you applied?
9 Asheville, North Carolina," right?

10 A Right.

11 Q "Around when would that have been?" And we're at page
12 seven at your deposition beginning at line 11, actually it's
13 on page nine, isn't it?

14 A Well, Summerville page nine, James Island.

15 Q So there were quite a few, right?

16 A There were a few, yes.

17 Q And at the time that you were applying for those you
18 were thinking about advancement because those were more
19 responsible positions, correct?

20 A Yes, they were chief --

21 Q Chief positions.

22 A That's right.

23 Q And at that time even though you had not made your time
24 you were willing to put yourself out there in the
25 marketplace in order to advance your career, correct?

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1 A Partly. Again, like I said earlier I was testing the
2 waters to see what would be out there, and again, kind of
3 some -- to kind of validate myself and what I was doing with
4 Columbia.

5 Q But at least at Asheville you were actively pursuing
6 and they turned you down, right?

7 A Yeah, they did.

8 Q They didn't hire you, 'it wasn't your choice.

9 A Well, yeah. I was never offered the position so I
10 really never had the opportunity to make the decision to go
11 or not.

12 Q Yeah. All right. So at any rate you observed folks in
13 your career who joined the City of Columbia Fire Department
14 and they left voluntarily before they hit their 20 year or
15 their 25 year, correct? Went other places.

16 A There were those that did that, went to other jobs.

17 Q And when you were at the West Columbia Fire Department,
18 it's a much smaller fire department, correct?

19 A Yes, it is.

20 Q Would you say the opportunities for advancement there
21 were more limited than in the City of Columbia Fire
22 Department?

23 A That's right.

24 Q Were they members of the state retirement system?

25 A Not the policemen's retirement, they were members of

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1 the regular state retirement system.

2 Q Okay. So that's a five years difference.

3 A Yes, sir.

4 Q That's significant, isn't it?

5 A It is.

6 Q Okay. Because when you came to the city you retired at
7 49 but you could have retired at 47, right?

8 A I could.

9 Q So you have been retired since you were 49 years of age
10 and you chose to retire according to the record, correct?

11 A Yeah. Let me just add to that. You know, I was
12 seriously thinking about retiring at the age of 25 years,
13 but then 911 happened, and I felt that along with others
14 that it wasn't -- I had a lot of knowledge and experience
15 that I could offer, you know. It was the feeling that was
16 going through the country that I need to play my part.

17 Q That's a laudable sentiment. But the fact of the
18 matter is that two years later you retired at the age of 49?

19 A I did.

20 Q Which is not many people, including yours truly, are
21 able to do that. That's a huge benefit, is it not?

22 A It is. But when you consider the fire service, the
23 wear and tear that you take on your body over the years,
24 there's a reason the policemen's retirement and firemen's is
25 25 years is because we do take that wear and tear, we do

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1 take that wear and tear on the bodies and mentally also.

2 Q And the city during that period of time was
3 contributing even more than you were towards your pension,
4 you were you aware of that, right?

5 A Absolutely, that was part of the benefits.

6 Q That's a big benefit, right?

7 A Yes, it was.

8 Q All right. You stated, if I heard you correctly, that
9 you felt like it was perhaps wrong for you to be considered,
10 you and your fellow firefighters, to be considered a part of
11 the same group as all of the other city employees, did I
12 hear you right?

13 A I can only speak to the firefighters because what I'm
14 saying is that the sacrifices that they make. The fire
15 department is unique in that you're putting your life on the
16 line everyday to perform a service, that makes us unique
17 from other departments in the city, and so from that aspect
18 we do stand out.

19 Q But you understood from day one of your job with the
20 city that there wasn't a separate Joe Floyd insurance
21 policy, there wasn't a separate fire department policy, it
22 was all the active employees and the retirees and they were
23 all eligible to participate in the same plan, correct?

24 A Right. To me there's a distinction, though, between
25 employees and retirees. Employees are still employed,

TESTIMONY OF JOSEPH FLOYD

1 they're working, they're subject to the current policy.
2 Firefighters, they -- I mean retirees, are -- we have
3 fulfilled our obligation, we have done what the city has
4 asked us to do in staying long term, and that's what it is.
5 It's 20 or 25 years now for a reason because they want you
6 to commit long term and we stayed long term, we fulfilled
7 that obligation, and on the day I retired I had met that
8 obligation and I was no longer a current employee.

9 Q Let me ask you this, Mr. Floyd, you said that you have
10 calculated about 94 or \$9,500 in what you have paid thus far
11 for health insurance --

12 A Yes, sir.

13 Q -- based upon your employment with the City of
14 Columbia. So you were employed with the city for 28 years
15 in 2005, now we're almost 14, we're 13 years past that, so
16 that's 40 something years, okay?

17 A Yes.

18 Q It would be a pretty good deal to pay \$9,500 for 40
19 plus years of health insurance, wouldn't it?

20 A Like I stated earlier --

21 Q No, please answer my question.

22 A I'm going to answer it, give me a second.

23 MR. NICKLES: Well, the answer is yes or no, Your
24 Honor.

25 A It's a good deal. But the potential there also is that

TESTIMONY OF JOSEPH FLOYD

1 it can go higher and higher and higher and we didn't plan on
2 that, we didn't plan on the unknown and that's what we have
3 here is the unknown.

4 Q Well, you mentioned to me you have a big family,
5 correct?

6 A I do.

7 Q And you know that life is full of uncertainties,
8 correct?

9 A Absolutely.

10 Q Sometimes things happen the way you want to, sometimes
11 they don't, correct?

12 A That's right.

13 Q You knew that when you were employed by the fire
14 department that policies changed, you knew that sometimes
15 y'all wanted to get raises that you didn't get, right?

16 A That's right.

17 Q You knew that maybe it was Jack Jantzen, maybe it was
18 somebody before him would go to city hall, try to get stuff,
19 try to get pay for the fire department, it didn't always pan
20 out, did it?

21 A That's correct.

22 Q Because you knew that city hall, the people on council
23 had the ultimate say so in monetary matters, correct? You
24 knew that.

25 A Yeah.

TESTIMONY OF JOSEPH FLOYD

1 Q Now, there was some discussion earlier about the books
2 here that you were issued, I want to make sure you got them.
3 Here is one from 1992. You would have been employed by the
4 city in 1992, correct?

5 A Yes, sir.

6 Q And you got these coverage books, right?

7 A Yes, sir.

8 Q We're talking about Exhibits 15, et cetera, they're all
9 familiar to you, right?

10 A Yes.

11 Q And you knew that these coverage books were describing
12 a plan available to you, right?

13 A Correct.

14 Q There is nothing in these coverage books -- in fact, if
15 you look at the table of contents these coverage books don't
16 mention how much it cost for anybody, including spouses or
17 dependents or anybody like that, this just describes what
18 you can get when you go to the doctor or the hospital,
19 right?

20 A Right.

21 Q Okay. It was never intended to be anything more than
22 that, was it?

23 A Yeah. That's --

24 Q That's what it's for.

25 A Yeah.

TESTIMONY OF JOSEPH FLOYD

1 Q When did Ron Cunningham retire, do you remember?

2 A I don't remember when he retired. I know there was --
3 Gillam came after he did --

4 Q It's been quite awhile, hadn't it?

5 A Oh, yeah.

6 Q And that was when you were working with the HR in the
7 fire department when Ron was there?

8 A Yes, sir.

9 Q Okay. Ron was a nice guy, wasn't he?

10 A Yeah, I like Ron.

11 Q And when Ron told you that you could tell folks that
12 retirees continued to have access to health insurance and
13 there's no charge from the city, he was telling you what the
14 policy was at that time, wasn't he?

15 A Yes.

16 Q He wasn't trying to lie to you. .

17 A No. I think everything Ron told me he truthfully
18 believed in, but I can't get in his -- I don't know exactly
19 what was -- he was authorized to do. I know he was
20 authorized, but exactly what all he was authorized to --

21 Q You knew that Ron didn't have a private stash of money
22 that he could go to if city council decided to charge a
23 premium, that wasn't his responsibility, right?

24 A No.

25 Q Now, I asked you in your deposition if you remember

TESTIMONY OF JOSEPH FLOYD

1 what you wanted out of this lawsuit, do you remember that?

2 A I do.

3 Q And you said then what you wanted was exactly the same
4 coverage that you got on the day that you retired without
5 charge. Do you remember telling me that?

6 A I do.

7 Q Have you changed your mind?

8 A Well, I thought about it over the nine years now, I've
9 thought about it. And yeah, I still want what the city said
10 that I would have, that's what I worked for, that's what I
11 felt my benefit was.

12 Q Okay.

13 A And I didn't want anything less than that, but if the
14 city improves upon that that's fine, I'll take it.

15 Q What you actually told me if I recall you told me, and
16 you correct me if I'm wrong, is, "I want exactly what I had
17 with no charge." I said, "Well, you know, Mr. Floyd, people
18 retire on different days, how can we have plans for
19 everybody at the date that they retired?" And you said,
20 "That's not my problem," right?

21 A I did say that.

22 Q Okay. But now you're saying, well, that's really not
23 realistic, is it? It's not realistic, is it?

24 A Well, no. I think it can be realistic, you know,
25 thinking back on things. Because, you know, sure, the city

TESTIMONY OF JOSEPH FLOYD

1 kind of has this group plan, but how they treat different
2 aspects of people in that plan, like retirees, we're
3 different from those who are working because we've met an
4 obligation so the city should take that into account and
5 figure that out how it works.

6 Q But you've been retired since 2005, right?

7 A Yes, sir, that's right.

8 Q And you continued to get communications from the city
9 about what your health coverage was after you retired,
10 right?

11 A Yes, I believe I did.

12 Q Okay. And you knew that even after you retired because
13 the group plan changed your plan changed, because you're not
14 just Joe Floyd, you're a member of a group, right?

15 A That's right.

16 Q And you have never been provided the opportunity to
17 receive health insurance on the basis that is less favorable
18 than anyone else in your situation, right?

19 A I'm not sure if I understand the question.

20 Q Well, nobody reached out and said, "I'm going to take
21 something from Joe Floyd," there was a change in a group
22 policy that applied to you, correct?

23 A There were changes -- yeah, there were changes in the
24 group policies that applied to me. But we're talking
25 about -- we're talking about the policy, we're talking about

TESTIMONY OF JOSEPH FLOYD

1 how it's paid for, that's why we're here.

2 Q And your objection today, as I understand it, is that
3 even though you've been a member of this group and you
4 agreed to be a member of the group and you continued to be a
5 member of the group you don't want to pay what the other
6 members of the group pay, correct?

7 A By virtue that I met my obligation that the city asked
8 me to meet.

9 MR. NICKLES: Thank you.

10 THE COURT: All right. Any redirect?

11 MR. BRYANT: Two quick points, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. BRYANT:

14 Q Mr. Nickles just asked you about being a member of a
15 group.

16 A Right.

17 Q And it's your understanding that in your 28 years as a
18 City of Columbia firefighter --

19 MR. NICKLES: Well, I'm going to object to telling the
20 witness what his understanding is.

21 MR. BRYANT: I'm sorry. I stated it as a sentence, I
22 meant to ask it as a question, I'll redo that.

23 THE COURT: Rephrase your question.

24 Q Is it correct that you were a City of Columbia
25 firefighter for 28 years?

TESTIMONY OF RUSTY SMITH

1 Q Okay. And you weren't telling a tale, you really
2 believed that this was the truth, correct?

3 A I've always believed it.

4 Q If you had known back in 1973 when you had started that
5 the city was not going to keep its promise after awhile,
6 would you have done anything differently?

7 A I can't really answer that. I may have and may not
8 have, I just really don't know.

9 Q Could you have worked longer before you retired?

10 A Yes, ma'am. As long as my body and my health allowed
11 me to.

12 Q Did you put any money aside in case the city decided
13 they were going to stop paying your insurance?

14 A No, ma'am.

15 Q Could you have done that?

16 A Put money aside?

17 Q Yes.

18 A I probably could have put a little bit aside.

19 Q And then since the city has stopped paying your
20 insurance, all of your insurance, retiree insurance, have
21 you had to pay out of pocket for some of the premiums?

22 A Yes, ma'am.

23 Q And have you calculated how much you have had to pay?

24 A I think it comes with the health insurance and the
25 other fees, it's about 92, \$9,300.

TESTIMONY OF RUSTY SMITH

- 1 Q And the other fees you're referring to are costs that
2 you've had to pay?
- 3 A Yes, ma'am.
- 4 Q When are you going to turn 65?
- 5 A Next October.
- 6 Q Okay. At that point are you going to incur more
7 significant charges for your health insurance?
- 8 A Yes, ma'am.
- 9 Q Why is that?
- 10 A I'll be going on Medicare, and that's \$200.38 a month
11 as of right now, I don't know what it will be next year.
- 12 Q Okay. Did you do any financial planning to determine
13 when you could afford to retire?
- 14 A Yes, ma'am.
- 15 Q Tell me about that.
- 16 A My wife and I saved over the years what we could and we
17 invested and that's the reason that I decided to retire in
18 2006, that we could do it. And I also went to the
19 retirement board at that time before I retired to see what
20 my income was going to be and the lady told me, and based on
21 what she told me my wife and I made a decision for me to
22 retire.
- 23 Q And did you factor the fact that you were going to have
24 free retiree health insurance into that calculation?
- 25 A Yes, ma'am.

TESTIMONY OF RUSTY SMITH

1 MS. BLOODGOOD: Okay. Thank you. I don't have any
2 other questions.

3 THE COURT: Mr. Nickles, your witness.

4 CROSS EXAMINATION

5 BY MR. NICKLES:

6 Q It's always a pleasure to talk to Mr. Smith.

7 A Good to see you again, Mr. Nickles.

8 Q Good to see you again, Mr. Smith. Mr. Smith, you said
9 you were making a pittance when you were first employed by
10 the city, correct?

11 A Yes.

12 Q But you ended up making over \$78,000 a year, right?

13 A Correct.

14 Q And your pension is about \$60,000 a year, correct?

15 A About that before taxes.

16 Q When you were planning for retirement, did you think
17 you could afford a cup a coffee a day?

18 A Say that again.

19 Q When you were planning to retire did you think you
20 could afford a cup of coffee a day?

21 A Yes.

22 Q And that's about what you pay for health insurance now,
23 right?

24 A Right now? Yes.

25 Q About a cup a coffee a day, right?

TESTIMONY OF RUSTY SMITH

1 A Yes.

2 Q Okay. The city still pays a heck of a lot more than
3 you do for your insurance, doesn't it?

4 A Correct.

5 Q Now, Ms. Bloodgood asked you some questions about these
6 booklets. I know you probably have got a bunch of them over
7 the course of your career, right?

8 A Yes, I did.

9 Q Because there were changes in the health insurance plan
10 over the course of the year, correct?

11 A Yes.

12 Q And you were aware of that. Let's see, I think she
13 said number 19.

14 MR. NICKLES: Is that the number you gave me?

15 MS. BLOODGOOD: Yes.

16 MR. NICKLES: What pages?

17 MS. BLOODGOOD: 25..

18 Q Now, Mr. Smith, when you got these booklets did you
19 read them?

20 A Yes.

21 Q Did you read just one page?

22 A No.

23 Q Because it says to everybody, the participants in this,
24 that you keep your coverage affordable by always using your
25 benefits and this decreases the possibility of contribution

TESTIMONY OF RUSTY SMITH

1 increases, correct? Do you remember that language?

2 A Rephrase that again, sir.

3 Q Sure. You keep your coverage affordable by always
4 using your benefits wisely and this decreases the
5 possibility of contribution increases.

6 A Okay. May I ask you a question?

7 Q No, sir, you may not.

8 A Okay.

9 Q After we finish with our exchange here you can ask me
10 anything. But Mr. Smith, doesn't that tell you where they
11 keep reminding you that there could be contribution
12 increases, that's coming directly from the Bible here,
13 right?

14 A Yeah.

15 Q The coverage book. You try to believe things in the
16 Bible, right?

17 A I try to believe that, too.

18 Q Okay. And it said contribution increases are possible,
19 right?

20 A Correct.

21 Q Now, when you were speaking to folks and listening to
22 folks talking about health insurance and how it will be
23 handled after retirement, all of those folks were describing
24 what was the case at that time, correct?

25 A You're talking about the policy.

TESTIMONY OF RUSTY SMITH

1 Q Yes, sir.

2 A Right.

3 Q And did any of those folks ever say to you, "Now,
4 Rusty, whatever happens with the rest of the world I will
5 personally promise and guarantee to you that you will never
6 have to pay for health insurance for the rest of your
7 natural life, I will pay for it myself." Anybody ever say
8 that to you?

9 A No, sir.

10 Q And you weren't promising to personally pay for health
11 insurance for anybody else when you were talking to them,
12 were you?

13 A No, sir.

14 Q And nobody at HR was personally making that promise to
15 you, were they?

16 A Mr. Nickles, with all due respect, when I handed in my
17 paperwork to Ms. Mona Holiday and I asked her the point
18 blank question am I going to be covered, am I going to be
19 able to take my health insurance and it's going to be paid
20 for by the city after I retired she told me, yes, it was.

21 Q And that was the case at the time, correct?

22 A Correct.

23 Q And you knew Ms. Mona didn't have the power to predict
24 the future, correct? She didn't keep a crystal ball with
25 her in her desk in her office, correct? You knew that.

TESTIMONY OF RUSTY SMITH

1 A I knew that. But according to the letter I got she was
2 somewhat predicting it, telling me not to take Medicare D or
3 whatever because the city's was better, and that was several
4 years on down the road.

5 Q Well, I think I hit it right on the head. It's a
6 prediction, maybe an expectation, but it's not a promise, is
7 it?

8 A I took it as a promise.

9 Q Where is the word promise?

10 A It's not in there, but for the 33 years this is what we
11 were told.

12 Q I hear the word promise and I've heard the word promise
13 until it's bleeding out my ears, but there's not a word in
14 any of these documents that your lawyer has presented that
15 says promise. Have you ever seen the word promise?

16 A Not the word promise, but I've seen it and been told
17 that the city would pay for the health insurance when we
18 performed and met our 25 years.

19 Q Now, Mr. Smith, you know that what the city was
20 representing to you what was available not just to you and
21 not just to the people you supervised, and not just to the
22 people in this room, and not just to the people in the fire
23 department, but everybody who chose to be a member of the
24 city's group health plan, correct?

25 A Correct.

TESTIMONY OF RUSTY SMITH

1 Q And that was something you could do or not do but you
2 elected to do it, correct? And for many, many years, for 36
3 years the city paid the entire cost of that health
4 insurance, correct?

5 A Correct.

6 Q And although you've put a value on the last few years
7 of paying a cup of coffee a day for health insurance, can't
8 you imagine -- how much money do you think the city paid
9 over those 36 years to cover you for health insurance? It
10 had to be a lot, didn't it?

11 A It had to be a lot, but I believe in my own opinion,
12 personal opinion that I've earned every bit of it.

13 Q And I'm not suggesting you didn't earn a single dime of
14 it, I wouldn't insult you by suggesting that, but I want you
15 to acknowledge that that was something that was not free for
16 the city at all --

17 A No, somebody had to pay for it.

18 Q Right, somebody had to pay for it. And you knew from
19 your experience that city council ultimately had to make
20 decisions about money, right?

21 A Correct.

22 Q And they have to make decisions not only about Rusty
23 Smith and your colleagues, but everybody working, retired,
24 and citizens, that's what they're supposed to do, whether
25 they do it or not that's what they're supposed to do,

TESTIMONY OF RUSTY SMITH

1 correct?

2 A Yes.

3 Q Is that yes?

4 A Yes.

5 Q Okay. And you knew that neither your chief nor you nor
6 the city manager nor anybody else could spend a dime that
7 council didn't budget and allocate, correct?

8 A Correct.

9 Q In specifics with regard to you, and I know you got a
10 lot of paperwork over the course of your many years of
11 working with the city, sometimes it seems like you get more
12 paper than anything else, but I want you to look with me --
13 and this is Defendant's Exhibit Number 2, tab nine. I was
14 going to show you some things that were in your deposition
15 that are exhibits, and I will give it to you in its
16 entirety, but Rusty, what I'll show you is it's got A, B and
17 C and so forth at the top and I'll direct you to the ones I
18 want to look at if you don't mind.

19 A Okay.

20 Q Now, going back to 1973 you started getting booklets
21 that describe health insurance, correct?

22 A Correct.

23 Q And they were -- if they weren't exactly these booklets
24 they were pretty dog gone close, weren't they?

25 A Yes.

TESTIMONY OF RUSTY SMITH

1 Q And even from the beginning they were telling you the
2 possibility of a contribution increase, that was something
3 from your hire you were being made aware of, correct?

4 A Right.

5 Q Is that yes?

6 A Yes.

7 Q Look at -- and you looked at -- look at O here, I
8 believe, that Ms. Bloodgood showed you a sample, she may
9 have shown you yours. This is the letter that Ms. Holiday
10 routinely gave folks or sent out to folks usually because it
11 just says Mr. Smith, it doesn't have your address on it, you
12 probably picked it up at the HR office, correct?

13 A Yes.

14 Q And not to beat a dead horse, it does say under current
15 policy, doesn't it?

16 A Yes.

17 Q When you retired back in 2006 you hoped, as I do, that
18 you would get to a point where you could obtain Medicare,
19 correct?

20 A I hope to get there.

21 Q You can join the club. But you didn't know that you
22 would get there, did you?

23 A Nobody knows that.

24 Q And Ms. Holiday didn't know that at that time, correct?

25 A I would -- she made the statement, that's all I can

TESTIMONY OF RUSTY SMITH

1 say.

2 Q All right. You mentioned to Ms. Bloodgood that you
3 were going to have to pay \$238, is that to the federal
4 government for Medicare?

5 A \$200? That's for Medicare next year.

6 Q That's to the federal government, that's not to the
7 City of Columbia, is it?

8 A No.

9 Q So we can scratch that. You don't want to see the city
10 pay what you pay Medicare, do you?

11 MR. BRYANT: Objection, Your Honor.

12 A Can I rephrase that?

13 Q Yes, sir, please do.

14 A I'm thinking correctly that my portion that I will be
15 paying to the city will be \$200.38.

16 Q If that's the case I stand corrected. I wanted to be
17 clear because I didn't know whether you were talking
18 about --

19 A I did, right. That would be my portion that I will be
20 paying the city.

21 Q Look at page G in this document, please. And this one
22 happens to be from does it say '92? '92. Are you familiar
23 with this enrollment form?

24 A Yes, sir.

25 Q And this is sort of a template that's used when you

TESTIMONY OF RUSTY SMITH

1 either change or there's a new policy issued or whatever
2 when they want to have a record that you have agreed to the
3 provisions of the plan, correct?

4 A Correct.

5 Q And it's got a certification here at the bottom, "I
6 understand upon acceptance of the application by this
7 insurance company so long as I meet eligibility requirements
8 of the contract I will be provided with coverage specified
9 in the group contract made between my employer, City of
10 Columbia, and Blue Cross/Blue Shield." So you knew that you
11 were part of a group that was sponsored by the City of
12 Columbia, correct?

13 A Correct.

14 Q And you understood that you were bound by whatever that
15 contract was between the city and Blue Cross/Blue Shield,
16 you signed your name to that and agreed to it.

17 A Correct.

18 Q So when you were accepting the benefits of the plan you
19 were also responsible for any of the contributions that may
20 be charged, there were none charged from you until 2009,
21 correct?

22 A Correct.

23 Q Did you ever cover anybody else?

24 A I believe when I first joined I had my daughter on it.

25 Q And you paid some amount of money for her.

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1 A Yes.

2 Q And that was in keeping with the plan as well, the plan
3 that changed from year to year to year to year, correct?

4 A Yes. And eventually I took her off of that coverage
5 later on.

6 Q Mr. Smith, I appreciated your answer to Ms. Bloodgood's
7 question about what would you have done had you known,
8 because none us know what we would have done in different
9 circumstances, do we?

10 A No, I wouldn't.

11 Q And did you have a fulfilling career at the City of
12 Columbia?

13 A I had a fulfilling career minus the few injuries I had
14 that has messed me up.

15 Q Were you eligible for worker's compensation?

16 A Did I get something from worker's comp? Yeah, I got a
17 little bit.

18 Q Well, that's life, isn't it?

19 A That's life, that comes with the job.

20 MR. NICKLES: Thank you very much, Mr. Smith.

21 THE COURT: Redirect?

22 MS. BLOODGOOD: Just two short questions.

23 REDIRECT EXAMINATION

24 BY MS. BLOODGOOD:

25 Q Rusty, I'm going to say two things and then I'm going

TESTIMONY OF FRANK CRUZ

1 which is the -- Columbia is broken up into four sectors so
2 there was four battalions long. And from that position I
3 went to division chief, which made you the head chief in the
4 operations level at the lower level for the fire department
5 for that shift.

6 Q And that's the same thing as a shift commander?

7 A It's a shift commander.

8 Q Okay. And with the shift commander, what were some of
9 your responsibilities being a shift commander?

10 A The day to day operations of shift, which is a 24 hour
11 shift, is being responsible for fire ground operations, the
12 in between of the administration between the operations and
13 the administration. Doing -- a little bit of a block --
14 when the employees are first hired and they're brought into
15 the shifts I would do the orientation for the new employees,
16 and at that time in my last years I worked under Chief
17 Smith, who just spoke a little bit ago. And during those
18 orientations I would go over their benefits, their holidays,
19 the insurance, disciplinary issues, the schedules, and
20 before they were disbursed to the individual stations we
21 tried to cover as much administrative information as we
22 could as far as they were.

23 Q So during that sort of orientation thing that you just
24 described, what, if anything, did you tell the new hires
25 about the retirement health insurance?

TESTIMONY OF FRANK CRUZ

1 A I just reiterated what we've been talking about here,
2 that if they were to complete the 20 years minimum in the
3 fire service that they would be entitled to -- I'm not going
4 to say free healthcare because I don't think it's free
5 either, but they were entitled to healthcare, part of their
6 pension.

7 Q Now, did you ever consider leaving the City of Columbia
8 Fire Department for another job?

9 A I did, there might have been several occasions. Within
10 my first two years I applied for a job at Westinghouse,
11 which is a job that -- it was a hazmat job, which kind of
12 related to the fire department because we did hazmat at a
13 lower level within the department. Theirs was more involved
14 because that's what they dealt with in the Westinghouse
15 nuclear section of what they had. It was a job that
16 actually paid more than twice as much as what I was making
17 as a firefighter in Columbia. I also -- I was in the Marine
18 Corps reserves when I joined the fire service, and during
19 that time I was serving on my weekend duties I started to
20 have some serious issues with the fire service and the
21 Marine Corps, because the scheduling part caused a
22 scheduling issue because we worked 24 hour shifts, and every
23 third day I wasn't always available for my drills on the
24 weekend. And as I made the complaint at the upper level on
25 the federal side my commanding officers were involved in the

TESTIMONY OF FRANK CRUZ

1 upper echelon of the state, which they had some powerful
2 jobs, the officers that were in charge. Well, they made
3 complaints to the city. In turn the city called the fire
4 department, and then I was called in by the officers, my
5 direct captain and the chief of the department and basically
6 told that I had to make a choice at the time. And during
7 that time there weren't many -- I don't think there was
8 anybody else in the fire department that was in the Marine
9 Corps reserves. A lot of people were in the guard and that
10 was kind of cliquish, I mean, because it had been going on
11 for so long, it might have been some people in the Navy
12 Reserves, I don't know, I was the only one at that time.
13 And when I was told to make the decision on whether I wanted
14 to continue to be a marine or be a fireman, I chose to go
15 with the fire department considering -- even though the
16 military offers the health insurance if you stay a certain
17 amount of time also, the fire department was offering the
18 same deal, which was health insurance for life. And growing
19 up in the service, my dad did 27 years, they never backed
20 down on giving health insurance to my dad or my mom, who has
21 been involved for 45 years or 50 years as a widow, she still
22 gets free service from the military.

23 Q And so in your decision -- would you say then that the
24 fact that you believed that there would be this health
25 insurance benefit played a role in your decision to stay

TESTIMONY OF FRANK CRUZ

1 with the fire department?

2 A Definitely.

3 Q Now, you spoke a little bit about the Westinghouse job.

4 A Yes, sir.

5 Q Whatever happened with that?

6 A I chose not to -- I spoke with my supervisors at the
7 time in the fire service. And even though -- at that time I
8 think I was making around \$10,500, Westinghouse was offering
9 \$24,000 at the time for that job, I went through a couple of
10 the application processes, I was supposed to do an on the
11 job kind of training kind of process. I was getting so much
12 fulfillment from being a fireman that I just couldn't
13 compare that to working in a factory, it's just a totally
14 different environment.

15 Q I get that. So you spoke -- heard other people speak a
16 little bit about this family type environment, would you
17 characterize it in a similar way?

18 A I mean, comradery within the fire department,
19 certainly. These guys were my brothers, it was like a
20 family. One third of my life was spent at the fire
21 department. They encouraged me actually, which was kind of
22 odd, some of them told me I was crazy to stay at the fire
23 department.

24 Q Why did they say you were crazy?

25 A Because a lot of people back then thought about money.

TESTIMONY OF FRANK CRUZ

1 I've never -- I mean, I like having money but my life is not
2 about that, it's about being happy and comfortable and being
3 secured, and that's what the fire department offered me was
4 security.

5 Q And when you say the fire department offered you that,
6 you're not talking about going in fires, that's not
7 security.

8 A No, sir. If we want to go down that line then I can
9 tell you about the stress, the injuries, how much I
10 suffered, how hard physically it was for me to make 25
11 years. I prayed all the time that I would not have
12 something physically happen to me where I couldn't complete
13 the 20 years. I mean, I really prayed on that, I prayed for
14 the guys. I supervised guys at big fires that were risking
15 their lives and doing things that the average person just
16 wouldn't dare do, and at the same time I could just give
17 them a pat on the back. There wasn't no money to give them,
18 there wasn't raises, so the career is not one bit about
19 money. What I made at the end of my career does not equate
20 to even half of what I went through to earn it. I earned
21 it. It wasn't given to me. My promotions were not given to
22 me, nothing in my job was given to me, I earned it. I
23 walked away from there with an agreement that I was going to
24 be entitled to my health insurance. Now, for the city to
25 turn their back on me like that is an insult and slap in the

TESTIMONY OF FRANK CRUZ

1 face.

2 Q So you started in '92.

3 A In '82.

4 Q In '82. And you worked until 2000 --

5 A It was 25 years, you know, if you do the math. I
6 wanted to stay -- my retirement date was a couple days after
7 25 years exactly. Now, at 20 years my back was so bad and I
8 wanted to complete my retirement, my 25 years. I knew I
9 could have left at 20 years with my health with some
10 disability compensation but I wanted to complete my
11 commitment to the city and do my 25 years in order to earn
12 my retirement also. I didn't want anything for free.
13 Nothing was given to me for free. I can't imagine anybody
14 sitting in this court saying that something is for free.
15 They all earned it, every one of them. I mean, look at them
16 physically what they look like. There's not a man outside
17 the fire department that can describe to you what it does to
18 you emotionally or physically to do that job for 25 years.

19 Q Over those 25 years you saw other people who maybe had
20 started before you retired, is that fair to stay?

21 A Retire, yes, sir, and I saw people leave.

22 Q The folks that retired and had put in their 20 years,
23 was it your understanding that they were receiving their
24 health insurance?

25 A I knew they were getting their health insurance. I

TESTIMONY OF FRANK CRUZ

1 never thought of it that anybody was giving them anything, I
2 thought it was an entitlement that they earned. It was part
3 of a pay package is what it was.

4 Q And based on the fact that you had sort of seen this
5 happening around you, you had been given these
6 representations, did you believe that this is what you would
7 have happen when you were in retirement?

8 A I'm sorry, could you --

9 Q That was a bad question, I can take that back.

10 A Okay.

11 Q So you saw some people retire before you --

12 A Yes, sir.

13 Q -- and they received -- they had their health insurance
14 paid for --

15 A It was their pension and health insurance.

16 Q And their health insurance was paid for, their single
17 coverage premium.

18 A Yes, sir.

19 Q And you had this representation to you from when you
20 joined in '82 that this was going to be the same for you.

21 A I knew it was going to be that way, I knew it. I'm
22 not -- I'm not normally a naive person who is fooled very
23 easily or lied to very easily or cheated, but it's happened,
24 it's happened. I'm being cheated right now.

25 Q Now, while you were a shift commander, maybe this was

TESTIMONY OF FRANK CRUZ

1 something the city could take away at anytime, would you
2 have stayed with the fire department like that?

3 A I don't think so. I loved my career, I loved my life
4 but I have to take care of myself and my family. I
5 certainly would have looked elsewhere. It's not like I'm
6 just a high school dropout who decided to go to work
7 somewhere and say, "I'll take whatever comes at me." I
8 thought about the future from the beginning. I watched my
9 dad raise five kids on a military income, which wasn't a
10 lot, but the government did tell him "We'll take care of
11 you, you're going to have a pension and we're also going to
12 pay for your health insurance." Now, he never got rich and
13 I never wanted to be rich in my life, but the agreement that
14 I had is I was going to stay there -- I wouldn't have stayed
15 there without the health insurance. I'm a smart enough guy
16 to know that there are many options in this world that I
17 could have gone somewhere and made more money, I didn't have
18 to stay in Columbia and suffer physically and emotionally
19 like I have. Now, I don't regret what I did, I enjoyed my
20 career and I enjoy my life, but what I don't enjoy is the
21 fact that I'm sitting right here today dealing with my
22 insurance. I think that's a slap in my face.

23 Q So since 2009, July of 2009 to now, have you had to
24 come out of your pocket to pay?

25 A Yes, sir. I can only give you a guestimate because I

TESTIMONY OF FRANK CRUZ

1 was trying to look at it, in the beginning it was so much
2 and then -- I think it's somewhere between seven and \$9,000,
3 somewhere in there is what I've paid. Now, I know it's
4 getting ready to go up because I've already gone to the
5 meeting. I'm getting a new insurance -- they're getting
6 ready to send out the new bills and I'm going to be
7 somewhere in that \$200 range. Now, I mean, come on, from
8 free to 200? There's nothing free about that.

9 Q It's \$200 a month?

10 A Next month when I get on the new plan with the PEBA
11 mine is going to be a little costlier.

12 Q Now, do you expect to have costs like that for the rest
13 of your life?

14 A I expect them to be worse, a lot higher through my life
15 if I make it that long. I'm fortunate. I've got to explain
16 something to you. When I started with the fire department .
17 you just -- you look up at all of these guys and they're
18 your officers, you can only believe everything they tell
19 you. But by the time -- from the time I was a firefighter
20 to the time I was a captain there wasn't one officer alive
21 still that I worked with. I didn't think my life would even
22 last ten years past my retirement. And I know a lot of it
23 has to do with the job -- the protection that they used back
24 in the early years of firefighting, but to know that Captain
25 Jeffcoat, Chief Douglas, Chief Stewart, all of those guys

TESTIMONY OF FRANK CRUZ

1 others, as others, correct?

2 A I want what you promised me, how about that?

3 Q Well, I asked you the question in your deposition do
4 you want to be treated more favorably than others and you
5 said, "No, I don't," okay?

6 A I want to be treated like a firefighter should be
7 treated.

8 Q Well, sir, but this wasn't a firefighter plan, was it?

9 A But I worked for the fire department, I did not work in
10 the street division or the plumbing or whatever, I worked
11 for the fire department. I did not go to city hall every
12 time you turned around. I never went past city hall because
13 I worked directly under people that had the authority coming
14 from city hall.

15 Q I understand, Mr. Cruz, but my question is this, are
16 you aware of any plan, policy or procedure that applies
17 specifically to the fire department with regard to
18 healthcare that didn't apply to every other element of the
19 city?

20 A Can I ask you something? Well, no, I'm not going to
21 ask you something, I'm going to tell you something. I
22 worked for the fire department. What plan they had in the
23 garbage department and the plumbing, in the sewage had
24 nothing to do with me. They didn't come and bring me their
25 plans. I looked directly to the chief for him to give me,

TESTIMONY OF FRANK CRUZ

1 you know, whatever. I did not go to the city, and if I had
2 gone to the city saying I don't like what they're doing over
3 in street division, they would have probably fired me. They
4 would have said, "Who in the hell do you think you are?" I
5 don't have nothing to do with street division. I worked for
6 the Columbia Fire Department and I had an agreement when I
7 got hired that y'all were going to take care of me.

8 Q Well, I know you've been a part of this lawsuit for a
9 long time, correct?

10 A That's correct.

11 Q And you know that you asserted that there was a
12 contract between you and the city, you believed that.

13 A It was an agreement, there was an agreement.

14 Q And the South Carolina Court of Appeals said, no, there
15 is not a contract between you and --

16 A I didn't sign a contract.. But if I got you to rake my
17 yard right now and I told you I'm going to pay you \$10 and
18 when you got done you came up to me and said, "Where's my
19 \$10?" And I said, "I don't have \$10." Now, wouldn't you be
20 disappointed.

21 Q If you had this situation just as you explained, would
22 you have -- you're promising your own money, correct?
23 You're promising your own money.

24 A I'm promising my money, not you promised me something.

25 Q Now, was Chief Jantzen promising you his own money?

TESTIMONY OF FRANK CRUZ

- 1 A Chief Jantzen worked directly under city council.
- 2 Q Did any of the other folks who talked to you about
- 3 this, were they promising their own money?
- 4 A I wasn't promising the new recruits at the fire
- 5 departement my own money either.
- 6 Q Because you were telling them what was in existence at
- 7 the time, correct?
- 8 A I was telling them what was factual at the time, not in
- 9 existence but what was a fact.
- 10 Q And a fact is not a promise, is it, Mr. Cruz?
- 11 A A fact is not a promise?
- 12 Q A statement of fact as what exists today is not a
- 13 promise.
- 14 A I'm going to tell you something, sir, the difference
- 15 between a fact and a promise, there is no difference. There
- 16 is no difference. If I tell you I'm going to do something
- 17 I'm going to do it, I'm not going to turn around tomorrow
- 18 and back down on you.
- 19 Q Well, if you read these documents, and I know you have
- 20 and I know you're a very intelligent man, Mr. Cruz, but the
- 21 documents are all written in the present tense, aren't they?
- 22 This is what exists today.
- 23 A I left the fire department already so what does the
- 24 document have to do with me?
- 25 Q Well, the documents that you receive that were telling

TESTIMONY OF FRANK CRUZ

1 you, "Hey, these things can change," that has something to
2 do with you, correct?

3 A I would say that once I completed my agreement and I
4 walked away from the fire department after my 25 years and
5 completed my 20 years minimum, that the agreement I had was
6 that I was taken care of, not that I had to come back and
7 look at a -- your guideline here or your books. I was so
8 fed up with those books when I worked there.

9 Q I think we're talking at cross purposes.

10 A I don't think so.

11 Q You're talking about handbooks.

12 A I don't care whether it's a handbook or a policy book
13 or whatever, I had an agreement for insurance, that's all
14 I'm here for.

15 Q And you still have that insurance, correct?

16 A I'm paying for my insurance, no, I don't have the same
17 insurance.

18 Q Well, you're not paying completely for your insurance,
19 are you? Are you?

20 A Well, let's put it this way --

21 Q No, please answer my question.

22 A What I earned I'm not getting anymore, let's put it
23 that way.

24 Q You earned \$72,962 --

25 A I don't think my salary has a thing to do with my

TESTIMONY OF FRANK CRUZ

1 insurance right now.

2 Q Well, I'm just pointing out in response to your
3 statement, Mr. Cruz, and I don't want to elevate your blood
4 pressure anymore than necessary --

5 A I don't think you could elevate it any higher.

6 Q So you did say that there are many factors involved in
7 choosing a career, correct?

8 A Yes, sir.

9 Q And you're a man who had some options. You perhaps
10 could have gone to Westinghouse, we don't know because you
11 withdrew your application, correct?

12 A I did.

13 Q They may have paid you more money. We don't know what
14 the benefits would have been. We don't know how long you
15 would have stayed. We don't know whether their retirement
16 system would have been what yours is. Westinghouse is in
17 the private sector. There are a lot of variables, are there
18 not? Can we agree on that, Mr. Cruz?

19 A Certainly, yeah.

20 Q So there are a lot of things that take place during the
21 course of our lives where if we take it a step to the side
22 it may have made all the difference in the world, correct?

23 A You could die on that side over there.

24 Q Right. So, Mr. Cruz, can we agree you have despite
25 your many objections, and I understand them, you today are

TESTIMONY OF BARRY MARTIN

1 fire department from the time I can remember with the City
2 of Columbia Fire Department. I've always been around the
3 fire department. My daddy did 25 years and then I did 35
4 years after him. He says, "You're going to have insurance,
5 you're going to have a retirement, you stay there and don't
6 leave and you'll be all right." Well, I went down and
7 applied for the city. I told B.P. Barber and them that I
8 was going to apply and --

9 Q You said that your father worked for the fire
10 department for 25 years. Did he get free retiree health
11 insurance?

12 A Yes. He received the insurance, the retirement all of
13 his life until the day he died.

14 Q So you saw your father get the promise that was made to
15 you too.

16 A I saw many men. I knew all of the old fellows, I knew
17 everybody. Like I told you, I was raised in that place.
18 All of them got it, that was the thing. Most of the men
19 back then, they didn't retire until they were 62 years old.
20 Most of those guys, they were older guys, they had been to
21 war like daddy, World War II and a lot of those other guys
22 and got back later in life and they got a job there and they
23 worked until they were 62 and they got their insurance and
24 all.

25 Q Okay. And how about when you started working, did you

TESTIMONY OF BARRY MARTIN

1 also hear the same promise that your father had gotten?

2 A Yeah.

3 Q And who were the people when you started working who
4 told you that?

5 A Well, I don't -- when I first started you go to city --
6 back when I did you went to city hall and you had to get an
7 application, take it and fill it out, then they brought you
8 in a room and they measured your height and weight, you had
9 a height and weight requirement and all of that, you had to
10 meet that. Then they explained the benefits to me and this,
11 that and the other and all and what the job would entail and
12 all, what I would have to do. And I would have -- you know,
13 you would have retirement, you had insurance. I was also
14 required to join the South Carolina Firemen's Association, I
15 was required to do that yearly. We had to pay that, that
16 was a requirement..

17 Q And when you talk about insurance, are you talking
18 about insurance while you're employed or insurance when you
19 retired, or both?

20 A This is just a set up. It's not union, it's just a
21 South Carolina Association, I guess the city fire
22 department -- we had to join that.

23 Q When you applied and started working and you said you
24 were told about all of the benefits, do you recall if you
25 were specifically told that if you work here a certain

TESTIMONY OF BARRY MARTIN

1 phone company. So the phone company called me and told me,
2 I talked with them and I told them I had just got a job two
3 week ago, that I had insurance. They didn't have what you
4 call a real retirement, though, you had to put money in kit
5 like a 40K (sic) thing, they didn't really have that so I
6 just stayed where I was at and committed myself. I done
7 like my daddy said, he said don't leave, so I didn't.

8 Q Okay. And then in 2009 you had to start paying out of
9 your pocket for this.

10 A Right.

11 Q And have you added up how much you've had to pay since
12 then, because you're not 65 yet, right?

13 A Right. I've paid around \$5,400 in premiums and I spent
14 about \$1,100 in legal fees.

15 Q Costs. You haven't paid any legal fees yet, have you?

16 A Right, no.

17 MS. BLOODGOOD: Thank you. Okay. Mr. Nickles may have
18 some questions for you, okay?

19 THE COURT: Any questions, Mr. Nickles?

20 MR. NICKLES: Not many, Your Honor.

21 CROSS EXAMINATION

22 BY MR. NICKLES:

23 Q Good to see you again, Mr. Martin. Good to see you
24 again, sir.

25 A Yes, sir.

TESTIMONY OF BARRY MARTIN

1 Q Now, Mr. Martin, you testified that you rose from the
2 back of the truck --

3 A All of the way through.

4 Q -- to being a battalion chief.

5 A Yes, sir.

6 Q You had a successful career.

7 A Yes, sir.

8 Q And you don't know if you had gone anywhere else
9 whether you would be better off, about the same or worse off
10 than you are today, do you?

11 A I can't guarantee that. But like I told you I done
12 pretty well at surveying and they made offers to me and they
13 even recommended -- and I was 18 years old. I done well.

14 Q How long ago was 18 years old?

15 A Oh, that's a long time ago. Like I said, I didn't -- I
16 did the phone company, SC&G and that and then came up, and I
17 didn't pursue no more because I had it, I was doing well.

18 Q But it's fair to say that you've never compared the
19 city's health insurance program to other health insurance
20 programs.

21 A I mean, the only one I can see, my wife has Blue
22 Cross/Blue Shield also through her employee and that's the
23 only thing I know about is what she's got and what I got.

24 Q And she worked for the phone company?

25 A Uh-huh.

TESTIMONY OF BARRY MARTIN

1 Q Well, but it's been in effect since, what, the 80's?

2 A Now you've got to remember, you're saying they're off
3 24 hours. These guys, now they've got to rest some and
4 they've got to have time to spend with their families, all
5 of them can't go to work. And some of them are single
6 parents, they have to be with their kids, they can't get
7 somebody to watch their kids everyday of the week.

8 Q And I understand, but that is an element in a decision.

9 A Yeah.

10 Q And it can be one of many, many factors, correct?

11 A You can make good choices or bad choices.

12 Q And when you were looking at your career I know you
13 told me back years ago --

14 A Well, you'd better remind me.

15 Q -- that you checked around a little bit but you decided
16 to stay and one of the reasons you did is it because of the
17 retirement system.

18 A Yeah.

19 Q That you put a lot of value in that.

20 A Yeah, I do. And I put value on my insurance, too.

21 Q And you probably got some of that from your dad, too.

22 A Yeah. My dad -- you know, he had his retirement, he
23 had his insurance.

24 Q Just so the record is clear, Mr. Martin, the city has
25 never canceled your health insurance, have they?

TESTIMONY OF DENIOUS DIMERY

1 you ever go out and look for other insurance?

2 A Never did, no.

3 Q Why?

4 A Well, I didn't feel like I would ever need it, you
5 know. After I went under Medicare that was my primary, and
6 the secondary was being paid for me by the city for what I
7 earned.

8 Q And then before you went onto Medicare were you ever
9 paying anything out of pocket?

10 A Never.

11 Q And what's your understanding of how that was paid?

12 A I didn't understand you.

13 Q What's your understanding of how those premiums got
14 paid?

15 A What was my understanding of how the city premiums got
16 paid?

17 Q You didn't pay it, right?

18 A No, I didn't pay it, the city was paying it.

19 Q Okay. Now, if you would have known back in 1968 or
20 1975 or 1980 that this retiree healthcare, free retiree
21 healthcare, paid-up retiree healthcare was something that
22 could be taken away, it wasn't something for the future, it
23 was just something that might change from year to year, do
24 you think you might have done anything differently?

25 A I think I would have.

TESTIMONY OF DENIOUS DIMERY

1 Q Why?

2 A Why?

3 Q Yeah. Why do you think you would have done something
4 differently?

5 A Well, I thought I had something that was promised to me
6 and I had no reason to doubt that it wasn't being fulfilled
7 for the things that I seen as time progressed. But to
8 answer your question, I probably would have done something
9 different had I known -- knew that things were happening
10 like it is today.

11 Q So since you stopped receiving the premium being paid
12 for you, have you had to come out of your pocket for
13 anything?

14 A Yes, I have.

15 Q And have you sort of looked at what that would be?

16 A Well, I've been paying since January of 2013 and it's
17 almost \$20,000.

18 Q Okay. And the reason why -- I know we've heard some
19 things that are close to \$4,000 or \$7,000, but what's your
20 understanding of why yours is so much higher at 20,000?

21 A Well, that's the United Health and the Medicare
22 combined, that's the figure I gave you.

23 Q And it's because you're over 65.

24 A That's correct.

25 Q And I know you called yourself a spring chicken a

TESTIMONY OF DENIOUS DIMERY

1 Q Well, good, good, I'm glad that we can do this easily.

2 You have been here and you have the advantage of nine

3 people --

4 A Nine of us.

5 Q -- saying pretty much the same thing, correct?

6 A All right.

7 Q So I don't want you to be a ditto, I want to give you

8 the opportunity as well.

9 A Well, I will tell you before you start with your books

10 like Mr. Cruz, the books were not in my tenure.

11 Q No, sir, I'm not asking you about the books that were

12 issued to employees.

13 A Okay.

14 Q I'm asking you about the books that talk about health

15 insurance.

16 A Okay..

17 Q And you've -- I don't know whether you've read them --

18 A No, I have not.

19 Q -- but you had the opportunity, correct?

20 A Well, I wouldn't say I have or hadn't. I don't

21 recollect any book you hold in your hand.

22 Q All right. Well, they've been issued before and after

23 your employment, and quite frankly, Mr. Dimery, these are

24 not things that I brought into the courtroom, they're things

25 that your lawyers brought into the courtroom.

TESTIMONY OF DENIOUS DIMERY

1 A Okay.

2 Q And usually when your lawyers bring something in the
3 courtroom it means that they want to present it in your
4 favor, okay?

5 A Okay.

6 Q So they brought it into the courtroom to present it in
7 your favor and it says here among other things -- and I'm
8 not going to pretend it's the only thing that it says --

9 A Okay.

10 Q -- it says you, which would have been you who were
11 covered, and you've been in the group plan for decades,
12 correct?

13 A Yes, sir.

14 Q And it says you, the covered person, keep your coverage
15 affordable by always using your benefits wisely, and I don't
16 suggest for a minute you have not done that, okay? "This
17 decreases the possibility of contribution increases." And
18 you've heard me repeat that over and over and over again
19 until both you and I are tired of it, okay? But it's in
20 there, isn't it?

21 A Right.

22 Q Isn't it in there?

23 A Yes, sir.

24 Q Okay. And so while these folks were telling you the
25 truth for all of those years that it hadn't got to the point

TESTIMONY OF DENIOUS DIMERY

1 where the contributions needed to be made, somebody, city
2 council in 2009, decided it had gotten to that point and
3 they charged you, not you because you were 65, they charged
4 some of your colleagues \$33 a month. And then in 2013
5 because you were of an age you started being charged for the
6 Medicare supplement; is that correct?

7 A That's correct.

8 Q But up until that point in time whoever was making the
9 decisions about whether the contributions needed to be made
10 had decided to continue to carry the full nut, correct?

11 A Yes, sir.

12 Q And you knew that that was not a single individual, it
13 was not a fire chief, it was not HR director, it was a group
14 of elected officials, the members of city council, correct?

15 A Yes, sir.

16 Q And you even attended some council meetings and I know
17 that people expressed their opposition to this, didn't they?

18 A That's right.

19 Q And you personally were offended by it, outraged by it
20 and wanted them not to adopt this, correct?

21 A That's correct.

22 Q But we live in a democratic society and those men and
23 women voted that it was in the best interest of all
24 concerned, although you might disagree, everybody in this
25 room might disagree, but they voted that it was time to

TESTIMONY OF DENIOUS DIMERY

1 increase the contributions under this policy, isn't that
2 what happened?

3 A That's what happened, but they reneged on the promise
4 that was promised to me back in 1968.

5 Q Well, the statement that was made to you in 1968 and
6 all the way up until 2009 to I think Mr. Hill, I believe,
7 retired in 2009; is that correct? Yes. So we have folks
8 retired from 1991 until 2009. The one thing you all have in
9 common is that at that time of retirement the folks
10 responsible for making those decisions had decided to assume
11 the full cost and they did, correct?

12 A That's correct.

13 Q And thereafter they imposed some portion of the cost on
14 the participants, both the active and retirees, correct?

15 That was their decision.

16 A Right.

17 Q You disagreed, correct?

18 A I disagree.

19 Q Okay. Now, you were asked questions about would you
20 have done other things and so forth, but honestly, Mr.
21 Dimery, as we look back, can you say with certainty that if
22 you had taken another course of action that you would have
23 been in a better position today than you are?

24 A No one will ever know that --

25 Q Thank you.

TESTIMONY OF DENIOUS DIMERY

1 A -- okay? But that's not the choice I made based on
2 what I was told and that's what I relied on 100 percent.

3 Q And you never compared retirement benefits offered by
4 other employers while you were out in the work force, did
5 you?

6 A Never, no.

7 MR. NICKLES: All right. Very good. Thank you,
8 Mr. Dimery, I appreciate your time.

9 THE WITNESS: I would like to ask you a question before
10 you leave.

11 MR. NICKLES: No, sir, I'm sorry, the Judge won't let
12 me answer questions.

13 THE COURT: You can't ask him any questions,
14 Mr. Dimery. All right. Anything further from this witness?

15 MR. BRYANT: No. That's all, Your Honor.

16 THE COURT: All right. Thank you, Mr. Dimery, you may
17 step down.

18 MS. BLOODGOOD: We don't have any other witnesses, Your
19 Honor.

20 THE COURT: All right. Plaintiff has rested. Is the
21 defense ready to proceed? It's 4:00. You have two witness?

22 MR. NICKLES: I have two. I would ordinarily move for
23 a direct verdict but I will proceed with my witnesses.

24 The witness, PAMELA BENJAMIN, was first duly sworn and

25 Testified as follows:

TESTIMONY OF PAMELA BENJAMIN

1 DIRECT EXAMINATION

2 BY MR. NICKLES:

3 Q Please state your name.

4 A Pamela Benjamin.

5 Q Ms. Benjamin, where are you employed?

6 A For the City of Columbia.

7 Q What is your position there?

8 A I am the chief of staff and HR director.

9 Q How long have you been employed with the City of
10 Columbia?

11 A Since July of 2011.

12 Q So you came to the City of Columbia at a time when
13 there had been a charge imposed for group health insurance;
14 is that correct?

15 A That's correct.

16 Q Where did you work before coming to the city?

17 A I worked for the department of parks and recreation and
18 tourism is my most recent employer.

19 Q And is that in the state retirement system?

20 A Yes, sir.

21 Q You are fresh as a rose, but how many years do you have
22 in the state retirement system?

23 A I have 23 years in the state retirement system.

24 Q All right. So when you came to work for the City of
25 Columbia was the continuation of that retirement service a

TESTIMONY OF PAMELA BENJAMIN

1 factor in your decision making process?

2 A Yes, it certainly was.

3 Q Have you found as human resources director that the

4 availability of retirement benefits is a factor often

5 considered by applicants whether coming directly for the

6 first time to the city or from other locations?

7 A Yes. It is certainly one of the factors, yes.

8 Q And is it fair to say that also benefits packages are a

9 factor?

10 A Yes, they are a factor.

11 Q And compensation is also a factor.

12 A Absolutely.

13 Q And duties are also a factor, correct?

14 A That's correct.

15 Q How about work environment?

16 A Yes. There are lots of factors that determine whether

17 someone wants to work for an employer or not.

18 Q And have you found that to be the case throughout your

19 career as a human resources professional?

20 A Absolutely.

21 Q How many years have you been a human resources

22 professional?

23 A Twenty-three years.

24 Q Now, in this particular matter, were you employed at

25 the time that city council was considering imposing any of

TESTIMONY OF PAMELA BENJAMIN

1 Q Does that continue to be the case today?

2 A Yes.

3 Q So would it be fair to say that if the city represented
4 to employees that it was making a cash contribution toward
5 their health insurance benefits that has been truthful
6 throughout this process?

7 A Yes, absolutely.

8 Q Okay. Ms. Benjamin, when you administer a program such
9 as benefits or other elements of your job, does that give
10 you the authority to bind the City of Columbia to anything
11 other than has been approved by council?

12 A Absolutely not.

13 Q And was that the way it was explained to you when you
14 first got to the city?

15 A Yes, and prior employers.

16 Q Okay. So it's not unique to the City of Columbia.

17 A No, it's pretty routine.

18 Q And do you have interactions with colleagues and other
19 municipalities or public entities that are wrestling with
20 healthcare costs?

21 A Yes, sir, absolutely. All of my colleagues are having
22 the same debate --

23 Q Okay.

24 A -- whether that would be public sector or private.

25 Q All right. And, in fact, some entities have decided

TESTIMONY OF PAMELA BENJAMIN

1 just to no longer offer health insurance to retirees; isn't
2 that true?

3 A That's absolutely correct.

4 Q But the city has not taken that measure, correct?

5 A Not so far.

6 Q Okay. Ms. Benjamin, other than the group health
7 insurance benefits that are offered retirees and employees
8 encapsulated over the years in various booklets, are you
9 aware of anyone whose had the authority to say no matter
10 what happens in the future I'm going to guarantee this for
11 you?

12 A No. No one has that authority.

13 Q Now, I know that you've listened to some of the
14 testimony. In order to become a retiree from the City of
15 Columbia, is it necessary that you have been an employee of
16 the City of Columbia?

17 A Absolutely.

18 Q And turn to tab number 27, it's the last tab in that
19 Exhibit Number 1, and just look with me at the third block,
20 just read that to yourself. It has to do with changing
21 policies in its sole and absolute discretion. Is it the
22 City of Columbia city council?

23 A Can you repeat that, Al?

24 Q Yes. We're talking about its absolute discretion to
25 change policy in the third block. Who has the authority to

TESTIMONY OF PAMELA BENJAMIN

1 change policy in the City of Columbia?

2 A The city council.

3 Q Do you?

4 A No, sir.

5 Q And in your other experiences and interactions with
6 other human resource professionals, is it your experience
7 that those folks likewise administer programs, they don't
8 create policy, they administer policy?

9 A Yes, sir. In any organization I've worked in there's
10 been a governing body, or a legislature when I worked for
11 state government, that created those policies and the HR
12 office is responsible for administering them.

13 Q So like when you worked for the state the general
14 assembly would adopt a budget and the general assembly may
15 even have a line item for the state's group health insurance
16 program, correct?

17 A Yes, sir.

18 Q From time to time governors, budget control boards,
19 PEBA, have tried to interfere in that budgetary process,
20 have they not?

21 A Yes, sir, they have.

22 Q And who has the ultimate authority?

23 A The legislature.

24 Q And in the City of Columbia who has the ultimate
25 authority?

TESTIMONY OF PAMELA BENJAMIN

1 A That would be city council.

2 Q And has there ever been to your knowledge any doubt
3 about that?

4 A Not to my knowledge.

5 MR. NICKLES: That's all of the questions I have at
6 this time, thank you.

7 THE COURT: Mr. Bryant?

8 CROSS EXAMINATION

9 BY MR. BRYANT:

10 Q Hello, Ms. Benjamin. Now, you'll have to forgive me, I
11 was getting settled when you got started so I missed what
12 your title is, can you remind me and let me know what that
13 is?

14 A Sure, it's chief of staff and HR director.

15 Q So chief of staff -- are you chief of staff to someone?

16 A To the city manager.

17 Q To the city manager. And your HR director, that's of a
18 separate department, so you kind of operate in both
19 departments.

20 A Yes.

21 Q And did I correctly write down that you started in July
22 of 2011?

23 A That's correct.

24 Q So you have no -- do you have any firsthand knowledge
25 of what happened before July of 2011?

TESTIMONY OF MISSY CAUGHMAN

1 A I oversee the facilitation of the city's budget
2 process, and the program management side means I manage a
3 team of business analysts and project managers who help
4 facilitate different projects in the city.

5 Q Okay. How long have you held that position?

6 A This particular title four years.

7 Q And before that?

8 A Before that budget director, budget administrator,
9 management, budget analyst.

10 Q When did you first come to the City of Columbia?

11 A I started with the city in January of 1998.

12 Q Okay. And have you been employed by the city
13 continuously since that time?

14 A Continuously.

15 Q In your current and former capacity were you involved
16 at all in the city's attempt to deal with escalating
17 healthcare costs?

18 A Yes, since my first arrival at the city.

19 Q And when was that?

20 A 1998.

21 Q And has it been a part of your responsibilities ever
22 since?

23 A Yes, it has.

24 Q Take you back in time just a little bit to the middle
25 two thousands. Was there a time when city council was

TESTIMONY OF MISSY CAUGHMAN

1 considering charging a financial contribution for health
2 insurance to its active employees and retirees?

3 A Yes.

4 Q And did you participate in studies and committees and
5 go over mounds and mounds of information in an attempt to
6 provide some guidance to city council?

7 A Yes. I facilitated most of those discussions.

8 Q And would some of those discussions appear in the
9 minutes of city council meetings?

10 A Yes.

11 Q But that would be like the tip of the iceberg I take
12 it.

13 A Correct.

14 Q Hundreds of thousands of hours spent on this issue,
15 correct?

16 A Yes.

17 Q Now ultimately as we've heard there was the decision in
18 2009 to impose a charge for active and retired participants
19 under the age of 65, do you recall that process?

20 A Yes.

21 Q Did you participate in the lead-up to that process?

22 A Yes, I did.

23 Q Did you provide financial information to the city
24 council?

25 A Yes, I did.

TESTIMONY OF MISSY CAUGHMAN

1 Q Did the city council ultimately make a decision on how
2 to deal with that problem?

3 A Yes, they did.

4 Q Okay. And did you have the authority to make that
5 decision?

6 A No, sir.

7 Q Did any employee of the City of Columbia have the
8 authority to make that decision?

9 A No, sir.

10 Q Since 1998 is it your experience that city council has
11 annually and regularly examined its health insurance
12 programs?

13 A Yes, especially starting in the mid-2000's.

14 Q Okay. And when there is a material change in that
15 program whose responsibility is it to make that change?

16 A To make the change?

17 Q Yes.

18 A City council.

19 Q All right. In 2010, '11, '12 and '13 were you involved
20 in questions and debates about whether or not there should
21 be some change in the manner in which post 65 retirees
22 participated in the city's group health plan?

23 A Yes.

24 Q And once again were there discussions, debates,
25 committees, budgets and so forth involved in that process?

TESTIMONY OF MISSY CAUGHMAN

1 A Yes.

2 Q And did some of those appear in city council records?

3 A Yes.

4 Q Ultimately did city council make a decision as to that
5 group of former employees?

6 A Yes.

7 Q Former employees, you anticipated my question, and city
8 council did.

9 A Yes.

10 Q Did anybody else make a decision?

11 A No.

12 Q As an employee of the city, were you affected by the
13 decision to impose a premium on active employees?

14 A Yes, I am affected.

15 Q Okay. And as a potential retiree could you be affected
16 by that into the future?

17 A Yes.

18 Q In carrying out your duties with regard to budgets and
19 so forth, did you attempt to bring the best information that
20 you could to city council so that it could make an advised
21 decision?

22 A That is my job, yes.

23 MR. NICKLES: Thank you. I don't have any other
24 questions for Ms. Caughman.

25 CROSS EXAMINATION

INSIDE COLUMBIA

VOL. XV No. 9 September, 1991

A Capital Place To Be

1

United Way It Brings Out The Best In All Of Us

It's that time of the year again, when as employees we are asked to make a contribution to the United Way Campaign.

You may ask, "I make my donation every year. Why are you bringing this up again?" It's because we need to be aware of the importance of the United Way.

The United Way and the City have been involved for many, many years.

With over 1,700 employees we need to continue the tradition of contributing to this umbrella agency and providing them with desperately needed funding.

"As a result of our present economy there are a lot of people who may need services provided by United Way agencies. We are trying to make up for the expected shortfall this year for what problems people have already experienced because of the recession," said Miles Hadley, city manager. "We think it would be in everybody's best interest to continue to strongly support the United Way, especially since many of our own employees have benefited from their services."

United Way assists agencies such as the American Red Cross, the Boys and Girls Club of the Midlands, the Harvest Hope Food Bank, the Salvation Army and the YMCA of the Midlands. Without assistance, emergency services such as those provided by Red Cross personnel and volunteers may not be available when an event like Hurricane Hugo

happens.

Another example of how your donation helps is the distribution of food through the Harvest Hope Food Bank.

Also consider the children who have a place to receive quality recreational, educational and inspirational opportunities through programs offered at the YMCA of the Midlands.

All of these examples show how your donation, no matter how large or small, can provide a better environment for someone to live.

Many City employees have taken advantage of the services provided by the agencies funded through the United Way. Consequently our contributions are a way we return some of the benefits received by our co-workers.

Jackie Craft, senior secretary for Public Information, uses the example that giving up one soda per week could make a difference in someone else's life. "Fifty cents per pay period totals \$13 a year that will give a little extra help to someone who really needs it," said Craft.

Making a contribution through payroll deduction isn't the only way to give to United Way. Both of these methods put your money directly into the United Way budget. From there, the money is distributed accordingly to their agencies via budget proposals. Or if you like, you can designate which agency receives your money whether it is a United Way agency, or any other charity that may not be

directly affiliated with their organization.

Donating your dollars is ultimately your decision. Listed below are some facts that may help you decide for sure.

Last year, contributions made to the United Way of the Midlands..

- Helped 256 abused, abandoned and neglected children find a safe haven.

- Provided 4,311,000 pounds of food to needy people in the Midlands.

- Provided intervention and referral for 12,963 people in crisis.

- Provided vocational and academic training to 80 developmentally disabled adults.

- Helped 1,198 children and adults to be matched as big brothers and big sisters.

- Provided health care to 2,312 low-income men, women and children.

These are only a hand full of the areas your contributions made a difference.

Every penny counts and your pledge will make a difference.

United Way is an essential part of the Midlands and through your decision you can make COLUMBIA more of A Capital Place To Be and help bring out the best in all of us.

COLUMBIA
A Capital Place To Be



Police Department Charts A New Direction

Chief Austin has charted a new rection for the Columbia Police epartment. After his appointment Chief, he met with the staff to scuss the future course of the partment. All involved concurnly decided to move in the rection of community based dicing.

As part of that concept, the epartment was decentralized facing police officers back into the omunity.

"Currently, I feel that I have

people in positions who will advocate and sell the community oriented policing concept. Over the last 11 months, I have chosen people with good supervisory and management skills who will serve as strong proponents for the community based concept and who will serve as the nuclei both externally and internally in getting the community and officers geared toward the same idea."

Another area of change for the department was the splitting of the

Operations Division into two separate sections. This was done primarily to balance the work load thereby making the division more manageable. The division was divided into north and south regions of the City with Captain Swisher overseeing District 1 and 2 (North) and Captain Burke over District 3 and 4 (South).

Quite a few promotions have been made over the last few months and are as follows:

Lieutenant Charles R. Clark and Lieutenant Lewis S. Shumpert promoted to Captain. Captain Clark currently heads up the Investigation Division and Captain Shumpert is over Police/Administrative Services.

Sergeant L.P. Greene and Sergeant K.J. Mooney to Lieutenant. Lieutenant Greene works in District I and Lieutenant Mooney is in Investigations. Investigator K.W. Parrish and Investigator R.B. Dozier promoted to Sergeant. Sergeant

Parrish was assigned to Crime Prevention and Sergeant Dozier went to District IV. Corporal T.H. Dodson, E. Jordan and J.R. Ballentine were promoted to Sergeant. Their assignments are Sergeant Dodson and E. Jordan to District I and Sergeant Ballentine to District II.

The following squad leaders were promoted to Corporal and assigned these duties: M.J. Hendrix and J.L. Romine to District I Operations; T.A. Monahan and T.G. Blevins to District II Operations.

S.K. Koon is assigned to District III Operations and P.J. Mead to District IV. R.D. Martin was transferred to Police/Administrative Services and R.L. Sumpter is responsible for District Operations and Community Housing Police.

And finally, S.B. Desrochers, S.O. Rice, E. Smith and R.L. Tyler were promoted to Investigator I effective September 16.

Autumnfest

Autumnfest '91 will open for its ninth season September 27, 28 and 29 in Columbia's uptown historic district.

The festival will be held on the grounds of the Robert Mills House, Hampton Preston Mansion, Seibels House and Richland School District One.

The three day festival will include a street dance Friday Night and three stages of entertainment Saturday and Sunday with more than 75 arts and crafts exhibitors from around the southeast. Historic re-enactments and tours will be available throughout the festival as well as a family funland and an array of food treats.

Something new that will be featured at Autumnfest this year is "Oktoberfest at Autumnfest". The Historic Columbia Foundation and the Golden Crown German Restaurant are co-sponsoring the celebration Saturday, September 28, 10 a.m. - 6 p.m. and Sunday, September 29, 1 p.m. - 6 p.m. in the Seibels House Garden located at 1601 Richland Street. This celebration will be a traditional Oktoberfest complete with authentic German food, drink and music.

For more information on Autumnfest, call the Columbia Action Council at 254-0253.

Bowling Party

The City's Parks and Recreation Department has arranged with AMF Major League Lanes on Bush River Road to host a FREE BOWLING PARTY for all employees, relatives and adult guests Tuesday, September 17 at 7 p.m. Included in the party are bowling, shoes and light refreshments. Plans are to form a City bowling league, although there is no obligation. According to Willie Washington, athletic supervisor for Parks and Recreation, "There are approximately 20 people interested in the league already."

To sign up or for more information, call Willie at extension 8331.

Moore Keeps Municipal Court In Check

Phyllis Moore has been with Municipal Court as a computer operator for 14 months and has become a valuable asset to their daily work force. Her enthusiasm and hard work to keep things moving in Municipal Court are the characteristics that helped her garner Employee of the Month for September.

Phyllis's responsibilities include keying in traffic tickets, booking reports and warrants, maintaining the docket for court sessions and finally, keying in the disposition from the court docket after court is held.

Inputting traffic tickets is a time consuming part of her job that requires a lot of information. For the court docket, each ticket must have the person's name, sex, date of birth, license number and state, tag number and state, the charge, the officer's name and employee number and the original date of court. Just for one ticket, all of this must go on the docket.

Mondays are always busy for Phyllis because she has anywhere from 150 to 300 tickets to put into the computer. First she must hand separate them by date and time. Criminal warrants or tickets also require all of the above information, as well as the warrant or ticket number, the booking number and the case number. The dockets are run Monday for court Thursday and Thursday for court Monday. When Phyllis completes these dockets, she sends them to the clerk for proofing before court day.

The booking reports aren't as bad in



Phyllis Moore

number figures explained Moore because they come straight from the jail and are handled two days before each court date. Copies of the criminal docket are proofed the day before and one copy of the docket goes to the jail so they will know who to bring to court.

These particular responsibilities of her job can be very taxing at times because when Municipal Court gets the bottom copy of the ticket they can't always read the necessary information.

Aside from these major responsibilities of her job, Phyllis helps people who need to continue their court date. She helps co-workers run preliminary dockets, keys in the scheduled time payments for payees from their court session and occasionally helps run a disposition for proof for assessments. She also remands charges on tickets if they are reduced in court, keeps up with new

officers names, employee numbers and payroll numbers in case she or others in Municipal Court can't read the names on tickets. And finally, she receives a copy of the officer's court dates from each district via Sgt. Howell, the liaison for the Police Department and Municipal Court. This helps keep everyone informed of what's happening in Municipal Court.

Phyllis, along with her co-worker, Vonda, are the only two computer operators at Municipal Court who handle these activities. They have both designed several forms to help court personnel maintain accuracy.

Born in Baltimore, Maryland, Phyllis graduated from high school there and moved to Chester, South Carolina with her family in 1969. Since that time, she attended nursing school and obtained her LPN license. She worked as a nurse from 1969 until 1985. At that time, she moved back to Chester from Columbia and attended York Technical College in the secretarial science field. She graduated from there in 1989 and was on the dean's list for two quarters. After graduation, she headed back to Columbia and worked for temporary agencies until a friend told her about the opening in Municipal Court.

Her outside interests include knitting, crocheting, listening to music, walking, getting together with friends and traveling when she gets a chance.

Phyllis will receive her awards at the City Council meeting Wednesday, October 16.

City Pet Licensing Enforced

If you live in the city and you haven't licensed your dog or cat yet, Animal Services will soon be tracking you down. Animal Services is obtaining the names of owners who have gotten rabies shots for their pets and matching those names against residents who have already licensed their pets.

If the name of a city resident who has gotten a rabies vaccination for their pet does not appear on the list of

residents who have licensed their pets, the resident will be notified of the oversight. The list of owners is being obtained through local veterinarians.

"This new system will help us to ensure all City residents are complying with the licensing ordinance," said Eloise McMillan, animal services' director. Under the ordinance, all residents are required to license their pets with the City. Failure to license can result in a \$200 fine.

In addition to helping enforce the licensing ordinance, Animal Services has also entered into a "partnership" with Woolworth's Department Store to help promote pet adoption.

Woolworth's has a pet department that recently put up a poster advertising some of the pets available for adoption at the shelter. The poster has pictures of the various dogs, cats, puppies and kittens at the shelter and has the slogan "Columbia Cares...We Care."

Happenings

Joe Ballentine

Page.

New Employees

Animal Control

Ireneusz Zabka, *Kennel Worker*

Parks and Recreation

Trent Dash, *Building and Grounds Maintainer*

Police

Jean Parris, *Clerk III*; Rose A. Watts, *Clerk II*

Promotions

Fire Department

John Reich, *Fire Inspector* to Chief
Fire Inspector; Evelyn Jefferson,
Clerk II to Clerk III; Ann Graham,
Clerk III at CPD to Divisional Secre-
tary; Donald W. Caulder, Leroy M.
Coad, Jr., Walter E. Gordon, James E.
Jacobs, Dean Ray Jumper, Steven P.
McCullum, Charles Steven Mitchum
and Brian K. Raines, *Firefighter* to
Relief Fire Equipment Operator;
Herbert Barnett, James R. Bouknight,
Relief Fire Equipment Operator to Fire
Equipment Operator

Parks and Recreation

Michael Addison, *Building and
Grounds Maintainer* to MEO I

Police Department

Scott C. Jackson, *Police Cadet* to
Police Officer; T. G. Blevins, M. J.
Hendrix, S. K. Koon, R. D. Martin,
Paul J. Mead, T. A. Monahan, J. L.
Romine, R. L. Sumpter, *Police Officer*
to Police Corporal

Sanitation

Eric Isaac, Calvin Roberts, James L.
Vance, *Laborer I* to Sanitation Truck
Driver I; Donald Johnson, *Sanitation
Worker* to Sanitation Truck Driver;
Johnny L. Brisson, Charlie English,
Dwight Stoney, *Sanitation Truck
Driver I* to MEO III; Vernia Taylor,
Sanitation Truck Driver I to Recycling
Driver; Alfred Turnipseed, *Sanitation
Truck Driver II* to MEO III

Sewer

Norman Davis, *MEO I* to MEO II

Utilities & Engineering

Jimmy I. Robinson, *Utility Worker I* to
Utility Worker II

Water

Ernest Lee Boykin, *Laborer I* to
Laborer II; Calvin Mack, *Laborer II* to
Utility Worker I

Walk For Life

Baptist Medical Center is sponsoring a
Walk For Life - Steps Against Breast Cancer
Saturday, October 12 beginning at 9 a.m.

This walk is a celebration to raise money
and awareness in fighting breast cancer
through education, early detection and
patient support.

The entry fee for the walk is a \$15
minimum contribution.

If you wish to participate either by
walking or volunteering your time to this
cause, please call 771-5065.

Congratulations:

....to Laura Coleman with Communications
on her recent Golden Poet Award. She was
chosen for her poem titled DAD HAS
MADE HEAVEN HIS HOME.

She was also invited to attend the annual
poetry convention in New York over the
Labor Day weekend to formally read her
poem before her peers at the Golden Poets
Round-Robin presentations. Laura was one
of less than ten percent who were chosen of
the World of Poetry's constituency eligible
for a presentation of her poem at the conven-
tion.

Laura was also invited to appear on John
Campbell's television show "Poetryland-The
Wonderful World of Poetry to read her
poem.

Although she was unable to attend the
convention, she states "I was thrilled about
winning the award. I wrote the poem
honoring my father. It was the first award I
have ever won for writing and it has inspired
me to continue to write."

Corrections:

The employee of the month article in the
August issue incorrectly stated that Richardo
Lee is one of eight telecommunicators when
he is actually one of 21.

Donors Wanted

Donors are greatly needed for the
platelets or white blood cells of healthy
people.

Pheresis is a special method of blood
collection in which a large number of
platelets or white cells are taken during a
single donation using special equipment.

Great accomplishments are being made
in the treatment of patients suffering from
leukemia, cancer or aplastic anemia becau
of this process.

If you would like a more personal
account of pheresis giving, contact Julie
Baker at extension 8221 or you can call the
American Red Cross office at 251-6086.

Etc.

....Effective July 1, 1991, the retiree
participation requirement is 15 years of C
employment, not 10 years as stated on pag
15 in the City Health and Retiree Coverage
Booklet.

....An organizational meeting for those
interested in a Singles Winter Bowling
League will be held Sunday, October 6 at
6:30 p.m. at Parklane Bowling Alley in
West Columbia. The season lasts through
mid-April. For more information, call Gig
Gouveia at 8313.

Sympathy:

....to Antonio McFadden (Fire) on the
death of his father August 31.

Inside Columbia

EDITOR: Camille Plyler Edens

Inside Columbia is a monthly
publication containing information for
and about City of Columbia employees

The City of Columbia is an Equal
Opportunity Employers.

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PERSONNEL DEPARTMENT NOTES

YOU ARE COVERED WHEREVER YOU GO!

You will soon be receiving a new Blue Cross/Blue Shield card in the mail along with a brochure.

Your new card will have a little suitcase in the upper right corner and the letters PPO. This lets our providers, the doctors and hospitals, know what type of coverage you have and that it travels with you wherever you go. The alpha prefix on your ID number also identifies the type of coverage you have.

If you are an active employee, this one card is all that you need for both health and dental coverage. Please destroy all other Blue Cross cards in your possession.

Mark your calendar for September 19, 1996. Our Blue Cross/Blue Shield representative will be available at 10 a.m. on this date to answer your questions concerning our health and dental plan in council chambers.

As always, if you have any problems or questions about your coverage or bills that you have received, please don't hesitate to call Mona Holliday at extension 8541.

INSIDE COLUMBIA
City of Columbia
Public Information Office
PO Box 147
Columbia, SC 29217

If the addressee's address has changed
or they are deceased, please call the
Public Information Office at 733-8228.

COLUMBIA
A Capital Place To Be



2

UPCOMING CALENDAR

LABOR DAY — MONDAY, SEPTEMBER 2, CITY OFFICE CLOSED, GARBAGE AND RECYCLABLES WILL BE COLLECTED.

GRANDPARENTS DAY — SUNDAY, SEPTEMBER 8

ROSH HASHANAH — SATURDAY, SEPTEMBER 10

JENNIE HERITAGE — SATURDAY, SEPTEMBER 14, MANN-SIMONS COTTAGE, CALL 333-570 FOR DETAILS.

FIRST DAY OF AUTUMN (AUTUMNAL EQUINOX) — SUNDAY, SEPTEMBER 22

YOANIPPU — MONDAY, SEPTEMBER 23

FALL FOLKLORE FESTIVAL — SATURDAY, SEPTEMBER 28, JACKSON MUSEUM'S USCHORSHOLE

The Employee Special Activities Committee has added a lapel pin to their logo item inventory. Rectangular in shape, the pins have a white background with a blue logo and are outlined in gold. Cost is \$2. To buy one, go to City Hall, Public Services or 1225 Laurel Street logo sale locations.

For more information, call Robert Anderson at extension 8456.

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CITY OF COLUMBIA

INSIDE COLUMBIA

SEPTEMBER 1996

Unique promotions propel United Way campaign

A series of innovative fund raisers have already brought in thousands for this year's City of Columbia United Way campaign and more such promotions are planned — including two large barbecues. The city's Public Services Department will hold a chicken barbecue September 26 and a pork barbecue will be hosted by the Fire Department October 18. Between the two events, the goal is to raise \$5,000. Tickets for the barbecues are \$5 each and must be purchased in advance. United Way coordinators, ESAC representatives and select employees from Public Services and the Fire Department are selling them.

Employees in the Community Development Department are getting in the spirit of the United Way with a spe-

cial Friday promotion. The department is selling cones or cups of ice cream for \$1 a scoop every Friday from 11 a.m. - 3:30 p.m. for the remainder of the campaign.

Meanwhile, raffles of all sorts are continuing in departments citywide. To date, parking spaces, cakes and vacation days have been raffled off with vacation days having the the most takers. Vacation day raffles alone have raised \$1,400 for United Way. The final free vacation day will be raffled off September 6. The \$1 tickets are available through your department's United Way coordinator or by contacting Maria Melonas at extension 8256.

Other United Way initiatives have included the sale of hot dogs, popcorn and doughnuts. Municipal Court raised more than \$200 dollars and sold 100 dozen

doughnuts at an August 16 sale. Both Municipal Court and Utilities and Engineering are now selling tickets for cake raffles. Call those departments for information or to purchase a ticket.

A boat cruise on the Southern Patriot featuring beautiful views and heavy hors d'oeuvres is planned for September 22. Employees are doing double duty by giving employees a treat and the United Way campaign a boost. The sales, sponsored by the Community Development Department, are from 11 a.m. - 3:30 p.m.



The cruise offers an evening of music and dancing and will depart from the Lake Murray Marina. Cost is \$20 per person with \$2 of each admission being donated to the United Way. Call Peggy McMurray at extension 8223 or Pam Ford at extension 8526 for details. The last day to purchase tickets is September 6.

Susan Busbice, this year's City of Columbia campaign chairperson, is encouraging departments and divisions to use their imagination in developing additional promotions to raise money for the United Way. "These special events are generating dollars but in a less pressured way," she said. "Employees seem to be enjoying the fun revolving around this year's campaign."

All money raised through the city's efforts will be used locally to assist with United Way agencies. The United Way of the Midlands provides funding to 44 member agencies that address a broad range of community concerns including health issues, spousal and child abuse, drug use, adult literacy and crime. Employees have the option of designating which agency or agencies their donation will assist.



DOUBLE DUTY: Friday ice cream sales at 1225 Laurel Street are doing double duty by giving employees a treat and the United Way campaign a boost. The sales, sponsored by the Community Development Department, are from 11 a.m. - 3:30 p.m.

CATCH THE EXCITEMENT!

City participating in group discount program for USC football tickets

The City of Columbia will share the excitement of 1996 Gamecock football with its employees through a special group discount program that saves \$8 off the price of tickets for groups of 20 or more individuals. Tickets are only available at this special price if 20 or more tickets are pre-ordered for a particular game.

Tickets are available for \$12 per person to the following home games:

- Central Florida — September 7
- East Carolina — September 23
- Mississippi State — September 28
- Arkansas — October 19

There is no pre-designated group seating in Williams-Brice Stadium. They will be assigned the best possible seats when the order for tickets is received by the USC Athletics Department. These seats are generally in the east upper deck of the stadium and the south end zone upper deck.

For more information on this program or to order tickets, call the Public Information Office at extension 8728.



Explorer Post #193 excels in SCALE Competition

The Columbia Police Department's Explorer Post #193 achieved excellent results at the SCALE (South Carolina Association of Law Enforcement Explorers) Competition in Summerville, SC July 24-28.

In the individual category, Melron Kelly won first place in legals. Melron is a sophomore at South Carolina State University and a Major in Explorer's Post #193. Taurus Sanders won third place in legals and third place in accident reporting. He is a Captain in the Explorers Post and attends USC where he is a sophomore. Post winnings were as follows: 1st Place - Courtroom Reporting; 3rd Place - Building Search; and The Post of the Year Award.

Approximately 100 youngsters, representing 10 posts from around the state, participated in the annual competition. Explorer Post #193 was represented by 23 youngsters from the Columbia area. Explorers expose youngsters 14-20 to careers in law enforcement and also provide first hand experience and training in many aspects of law and corrections.



WINNING EFFORT: Columbia's Explorer Post #193 earned numerous awards in the state competition.

EMPLOYEE DAY AT STATE FAIR

Opening Day honors

City of Columbia employees

City of Columbia employees, Melissa Light, Animal Services Director, and Eloise McMillan, Public Services Director, were honored at the opening day of the State Fair.

When employees need an ID card, they should check with their department/division secretary for the required form and go to the Public Services large conference room Thursday, September 5 from 3-4 p.m.

Opening Day's Grand Stand appearance is country superstar Wynonna. The free show begins at 7:30 p.m. All seats in the Grand Stand are general admission.

The State Fair runs from Thursday, October 3 through Sunday, October 13.

Workers' Compensation now handled by outside company

PHT Services, Ltd. began administering the Workers' Compensation Program for the City of Columbia September 1. An employee from each department and division has been designated to report on-the-job injuries to PHT. Call the Personnel Department at extension 8264 if you need to know who your designee is.

Senior Claims Adjuster Dawn Warren is the city's primary contact with PHT. Warren can be reached at 731-5300. For injuries occurring after regular business hours or in the case of extreme emergencies, the 24-hour, toll-free number for PHT is 1-800-849-8010.

August Employee of the Month makes a measurable difference

Just when I thought there was no way we could ever do without Melissa in the front office, she took a position as a kennel worker in the shelter. She loves animals and soon I was amazed that she could provide such quality care for the shelter animals (creature comforts like dog treats, extra blankets, special diets, etc.) and still manage to assist in the front office to make things work smoothly."

That comment from, Animal Services Director Eloise McMillan explains why Melissa Light makes a measurable difference and why she was selected August's Employee of the Month.

McMillan was employed as an office clerk in Animal Services in 1992. She quickly added to her clerical duties, and within a few short months, was handling radio calls, answering the telephone 200 times a day, and dealing with 30-40 shelter visitors daily. McMillan also efficiently handled record keeping for the more than 12,000 animals that come through the shelter yearly.

When the position of kennel supervisor came up, McMillan said she urged Melissa to apply for the job. In her current position, Melissa oversees the care of shelter animals, cleans the shelter, orders supplies and equipment, and performs record keeping for drugs and animals. She also supervises kennel workers, volunteers and community workers and still manages to help ensure things flow smoothly in the front office.

"Sometimes I think there's nothing she can't do. I always wonder what we did without her. The greater her responsibilities, the happier she is," added McMillan. Asked how she felt about her recent honor and the attention and praise she is receiving, Melissa said, "I was stunned, but very pleased to learn I had won considering all the terrific employees here I do appreciate the award."

In her spare time, Melissa is busy contributing her energy and enthusiasm to the Pelion community and the Pelion United Methodist Church where she is the Sunday School superintendent. She and her husband Keith have three dogs, four cats and two ducks. "These are my children," she says laughingly. In her spare time, Melissa babysits animals for vacationers. She also fosters animals from the shelter until they are old enough for adoption.

In summing up her feelings about Melissa, McMillan said "Melissa is one of those special people who enriches everyone's life while asking for nothing in return. It was truly a lucky day for us in July 1992 when she walked into my office for that office clerk's interview."

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Tickets can be purchased from your department/division representative for \$1 each.

WELCOME NEW EMPLOYEES!

Community Development Department—Tina Benggio, Community Development Analyst
Environmental Health Division—Jury Taylor, Vector Control Worker
Municipal Court—Marion Hanna, Associate Municipal Judge, Lon Winston, Warrant Clerk
Parks & Recreation Department—Felicita Woods, Part-time Data Entry Operator
Police Department—George Adams, Police Officer Candidate, Stacy Bryant, Part-time Data Entry Operator, Jason Jennings and Mary R. Sutar, both Police Officers
Solid Waste Division—Willie Palmer and Lorenzo Williams, both Labor I
Utilities & Engineering Department—Lawrence Curiale, Wastewater Treatment Operator I
Wastewater Treatment Plant—David Eyster, Utility Worker II

CONGRATULATIONS ON YOUR PROMOTIONS

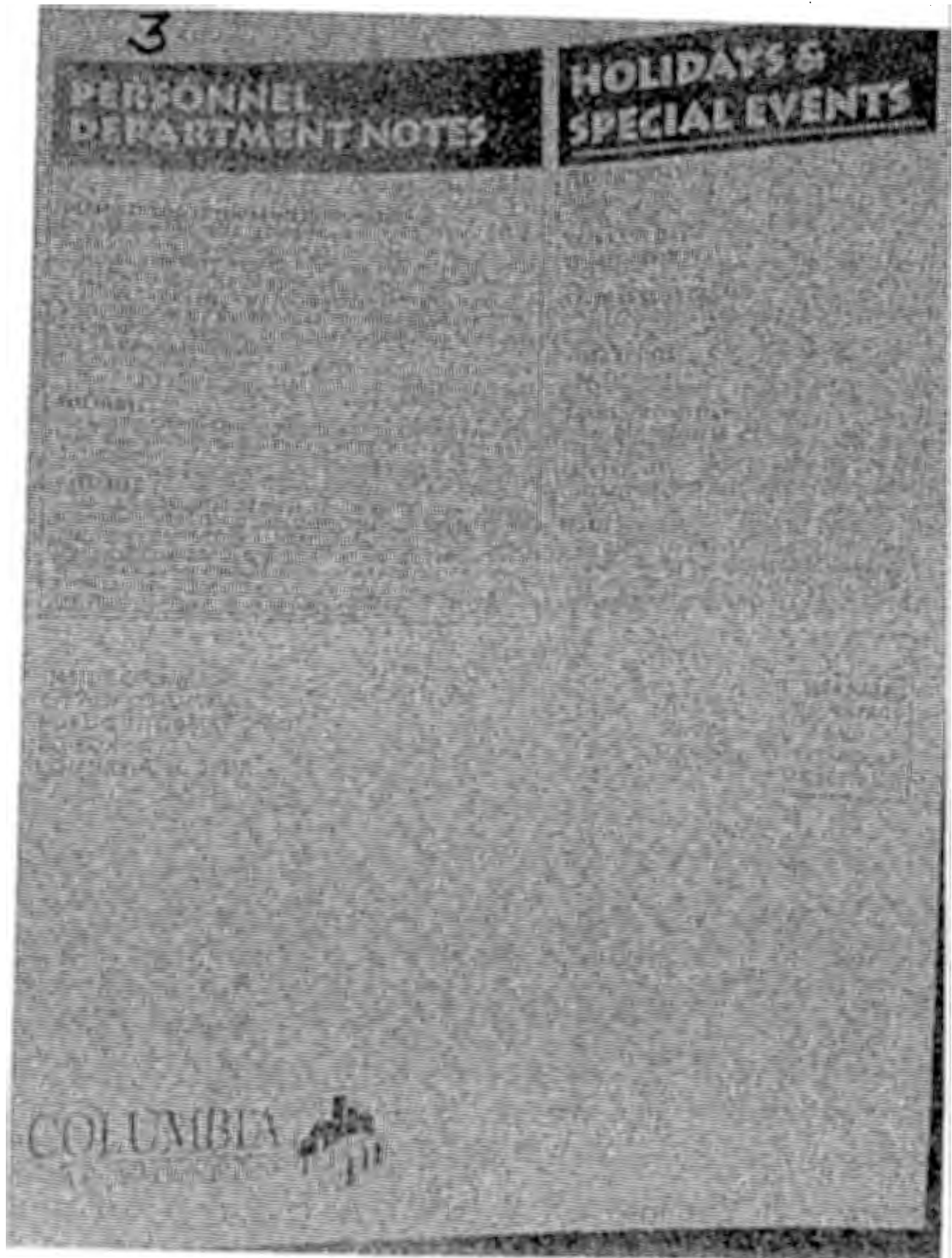
Columbia Canal Water Plant—Stephen Wilkins, Water Plant Operator I to Lead Operator
Parks & Recreation Department—Bobby Goodwin, Recreation Program Specialist to Athletic Program Supervisor, Clarence Stevan, Customer Service Administrator (Customer Service) to Parks Superintendent, Bony Wells, Foreman II to Parks Management Supervisor
Police Department—Robert J. Wall, Police Officer to Master Police Officer, Paul J. Nelson, Police Officer Candidate to Police Officer
Solid Waste Division—George M. Cnevis, Anthony A. Fogle, Jenny Green, Clifford A. Johnson, Elmer L. Jones and Edward Pany, all Truck Driver to Laborer I
Traffic Engineering Division—Mark Cummings, Senior Electronic Technician I to Communications Supervisor
Utilities and Engineering Department—Chemon Lee Walker, Maintenance Technician II to Wastewater Treatment Plant Operations Supervisor/Inchination Specialist
Water Division—Marshall Morrisette, Utility Worker II to Foreman II

CONGRATULATIONS TO...

Galena Laveris Hodge (Municipal Court) are Charlie James Alford on their August 17 marriage.
Flavian Coleman (Business License) for being honored with an Outstanding Volunteer Service Award at Lyon Street School for the 1995-96 school year from Richland County School District One.

CLASSIFIEDS

HOUSE FOR SALE BY OWNER: Three bed room brick house, 1,200 square feet, central air, the bathroom, hardwood floors, large master bedroom, \$38,000. Call Hung Nguyen at 776-5522.



4

June 1998

City of Columbia Employee Newsletter

Battiste credits City staff for success on City Council

Councilman Luther J. Battiste, III will be leaving office at the end of this month after fifteen years of service on Columbia City Council. Councilman Battiste was elected in 1983 and since that time he has been influential in the growth, development and planning efforts for the City of Columbia.

Battiste has been described as a concerned leader and a dedicated public servant by both constituents and city leaders. One would think that he would credit his success on City Council to hard work and dedication and they would be right. However, he also lists another reason for his ability to be effective while in office and that is a good working relationship with city staff. In a manner which is true to his character, Battiste gives much of the credit to city employees who have been willing to help him and his constituents with getting answers about their concerns. "The City of Columbia has some great employees and they have always been willing to help me whenever I needed it," Battiste said.

One of Battiste's goals has always been to treat everyone with respect. "When you

respect people they are more willing to respond," he stated. As a rule he has always asked constituents to call him during the day because he knew he could get them an answer quickly. He commented, "I always knew I could call one of the city departments and there would be a fast response. The city

has a great team and Columbia is lucky to have so many dedicated employees."

According to Battiste, he wants to relax and simply enjoy life after his term on City Council ends. He says he wants to spend more quality time with his family and use his free time to do his favorite things, reading and listening to music.

A farewell "Roast and Toast" is being held in Battiste's honor in recognition of his years of service to the City of Columbia. The event will be held on June 25 at the Clarion Town House Hotel. A social hour is scheduled from 6:30 - 7:30 p.m. and the "Roast and Toast" will begin at 7:30 p.m. For more information concerning the event or for ticket information please call Julie Ruff at 733-8221.



A more detailed feature article on Mr. Battiste will appear in the Summer issue of Cityscape due out on July 6.

New fiscal year is new directions for inside Columbia

Inside Columbia will kick off the new fiscal year with a new look and new content. It will now be produced by the City of Columbia's Public Information Office. The new look and content will allow the newspaper to provide readers with more timely information, but also broaden the scope of articles concerning the City of Columbia.

USC Gamecock football Group Sales Ticket Order Form

NAME _____

DEPARTMENT _____

DIVISION _____

PHONE _____

(If applicable) _____

Mail to: _____

City of Columbia Employee Fund

Clip, fill out, and return with payment to the Plyer Edens in Public Information. For more details, call Julie Ruff at 733-8523.

# of tickets	Game	Price	Date	Game time
_____	Belmont	\$19	9/8	7 p.m.
_____	Arkansas	\$19	10/19	7 p.m.
_____	Mississippi State	\$12	10/27	7 p.m.
_____	Arkansas (Homecoming)	\$19	10/31	7 p.m.

notes from the PERSONNEL DEPARTMENT

for employees only

DISCOUNT TICKETS

The Personnel Department has discount tickets available for Carowinds. They are valid for May 30-31 and June 5 to July 19, 1998. They may already be available through your division. Call 733-8264 to see where they may be picked up.

Sam's One Day Guest membership coupons are available until July 31, 1998. You still must pay the 5 percent upcharge. Call 733-8264 for more information.

DENTAL OPEN ENROLLMENT

Would you like your dependents who have health coverage to also be covered under the dental plan? Dental Open Enrollment is going on now until July 31. The rates have been posted but may change effective July 1, which begins the new benefit year. Remember, you can only sign up dependents for the dental plan during the open enrollment period every two years.

RETIREMENT

If you are thinking of retiring, there are two criteria you must meet to be eligible to continue your health insurance. They are:

- 1) You must have been employed by the City for 20 years; and
- 2) You must retire with the SC Retirement System.

The cost continues to be free for the retiree that meets this criteria. Cost for dependents is the same, but paid on a monthly basis. Dental coverage ends at retirement. The cost goes down about 20 percent when you or your spouse turns 65. However, you must contact the Personnel Department when this occurs.

JUNE EVENTS

*A list of special events
and city activities*

CITY POOLS OPEN

City pools open on May 23 for the summer. Swimming lessons and water safety training are available at all three pools - Riberview, Drew and Mowbray. For more information call 733-6881.

SUMMER CONCERT SERIES

Begins Saturday, June 5 in Walnut Park. Concerts are held from 7-10 pm every Saturday through August 29. See posters available on page 3.

FLAG DAY

Sunday, June 14

FATHER'S DAY

Sunday, June 21

FIRST DAY OF SUMMER

(Summer Solstice)

Sunday, June 21

CITY HOLIDAY

Independence Day

The City will observe Independence Day on Friday, July 3, due to the actual holiday being on Saturday. City Offices will be closed. Garbage and recyclables will not be on a normal schedule.

INSIDE COLUMBIA
CITY OF COLUMBIA
PUBLIC INFORMATION OFFICE
PO BOX 147
COLUMBIA, SC 29217

*Return
Service
Requested*

BULK RATE
U.S. POSTAGE
PAID
COLUMBIA, S.C.
PERMIT NO. 89

COLUMBIA
A Capital Place To Be



JANUARY/FEBRUARY EVENTS

A list of holidays, special events and city activities

Monday, January 18
Martin Luther King, Jr. Day
(observed)

*City offices closed. Garbage and
recyclables will be collected.*

Free USC Basketball Game
Sunday, January 24
City employees and their families will receive an admission pass upon presenting their City ID at the ticket window for the Lady Gamecocks game against Arkansas. Tip off time is 2 p.m.

INSIDE COLUMBIA
CITY OF COLUMBIA
PUBLIC INFORMATION OFFICE
PO BOX 147
COLUMBIA, SC 29217

COLUMBIA
A Capital Place To Be



Friday, February 12
Lincoln's Birthday

Sunday, February 14
Valentine's Day

Monday, February 15
Presidents' Day

Wednesday, February 17
Ash Wednesday

Monday, February 22
Washington's Birthday

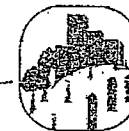
**RECYCLE YOUR
HOLIDAY GREETINGS:**
Help support the St. Jude's Ranch for Children by sending your Christmas cards from home or work to the Solid Waste Division. They will mail them to the St. Jude's Children's Ranch where they will be recycled and used to make new holiday greetings.

Return
Service
Requested

BULK RATE
U.S. POSTAGE
PAID
COLUMBIA, S.C.
PERMIT NO. 69

City of Columbia Employee Newsletter

January • February • 1999



City observed holiday on January 18

On January 18, the fourteenth Federal holiday in honor of Rev. Dr. Martin Luther King, Jr. was observed. This year, Dr. King would have been 70 years old on his birthday, January 15.

The holiday has become a national "lead-in" on the values of nonviolence such as unconditional love, tolerance, forgiveness, and reconciliation. Coretta Scott King has said of this occasion, "No other day of the year brings so many people from different cultural backgrounds together in such a vibrant spirit of brotherhood and sisterhood."

Our city celebrated the King Holiday at M.L. King Park at 5 p.m. on January 18. There was a brief ceremony with city officials, area high school



DREAM LIVES ON: Dr. King's legacy is preserved in this monument at M.L. King Park in Five Points as a constant reminder to love your fellow man.

an opportunity to show each other harmony and reconciliation.

bands and church choirs commemorating this special day. Rev. Dr. Charles B. Jackson, Sr. of the Brookland Baptist Church was the speaker for this observance. City offices were also closed.

Dr. King worked tirelessly toward freedom and equal opportunity for all Americans. He led peaceful strikes and freedom marches. He spoke out against civil wrongs and prayed for peace throughout the world. Now, over 30 years after his assassination, King continues to be a powerful example of how goals can be accomplished through nonviolence. This holiday was celebrated as

CATCH SOME HOOPS!

City of Columbia employees and their families will receive an admission pass upon presenting their City ID at the ticket window for the

**Carolina vs. Arkansas
Women's Basketball Game**
Sunday, January 24.

Tip off time is 2 p.m.

For more information call extension 8523.



COLUMBIA
A Capital Place To Be



1999 official city holidays

- Friday, January 1
New Year's Day
- Monday, January 18
Martin Luther King, Jr. Birthday
- Friday, April 2
Good Friday
- Monday, May 31
Memorial Day
- Monday, July 5
Independence Day
- Monday, September 6
Labor Day
- Thursday, November 25
Thanksgiving Day
- Friday, November 26
City Holiday
- Friday, December 24
Christmas Eve
- Monday, December 27
City Holiday

Employee of the Month feature

Fire Department employee receives City's accolades for November



RECOGNIZED: Carl Robinson is congratulated by Mayor Cottle during a City Council meeting.

Carl Robinson was November's employee of the month. He began working for the Fire Department in 1984. Since he began his career with the City, his work ethic has shone brightly through his actions of routinely arriving for work early and when needed staying late. Robinson has consistently shown his leadership abilities when he is with other employees and conducts himself in a professional manner at all times while on duty.

A hydrant maintenance technician, Robinson is

respected by logistics personnel and other city department and divisions for his "get the job done" attitude and his knowledge in the fire hydrant acceptance program.

He has proven himself to be an asset to the Fire Department and a true "team player."

Robinson is married and has three children. His supervisor David Bagwell said, "He's DEPENDABLE!" "Carl is the kind of employee who comes in early and stays late."

December's employee of the month gives all at work, home and in community

Robert Boulton, with the Water Division, recently received the City's Employee of the Month distinction for December 1998. He was nominated by fellow coworkers who said, "R.B. is strongly committed to his job, family, church and community."

"R.B." as he is affectionately called by coworkers, family and friends, has been a city employee for the last 26 years. He is Water Maintenance Supervisor within the Water Division. R.B. maintains high standards for getting the job done without disrespecting his fellow employees. Mac Fortune, water division superintendent, said R.B. is the most frugal person with city resources he's ever seen. "You never have to worry about him throwing anything away—parts or materials—until he has explored every possible option for its reuse or salvage," Fortune continued.

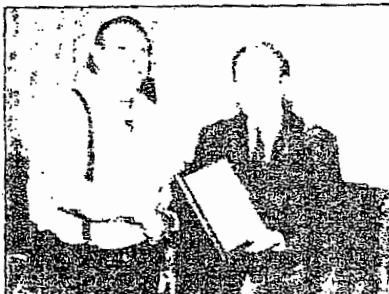
Under Robert's leadership, he and his coworkers have worked tirelessly during the last three years to accomplish the new conservation design program for commercial meters.

R.B. attends Nazareth Lutheran Church, where he and his wife have served 45 youth advisors for the past four years. He assists the church with their annual big barbecue fundraisers, a member of the Lutheran Church men's group, sings in the choir and just recently was

elected to serve on the church Council.

Robert is also known for giving countless hours of volunteer service for children who are physically and emotionally abused. He and his wife also serve as foster parents to these children. "The little things he does for children are just wonderful," said Julie Nelson, one of his co-workers. "R.B.'s heart is just full of giving," she continued. "He has been a helping hand at the Carolina Children's Home for many years and played Santa for needy children."

His coworkers summed it up best by stating, "R.B. is just one of those diamonds in the rough." It seems the more he gives of himself generously, he shines brighter.



HONORED: Robert Boulton receives his award for being selected Employee of the Month from Mayor Cottle recently.

"I'm thrilled to have been chosen for this award," he said. "I truly enjoy my work and the challenges it brings. Outside of work, I've been blessed in so many ways," he stated. "Giving back is not way of counting my blessings."

Motivational Moment

WORDS TO THE WISE

Success in '99

See your goal

Understand the obstacles

Clear your mind of doubt

Create a positive mental picture

Embrace the challenge

Stay on track

Show the world you can do it

"Always bear in mind that your own resolution to succeed is more important than any other one thing."

Abraham Lincoln

City employee plays Jeopardy

Once in a while, you get to do something you've always dreamed of. That moment came for Les Dively, City Analyst, recently. He was chosen to appear on Jeopardy, the game show. Dively went to Los Angeles December 14 and 15 to play the game for a delayed broadcast on March 16.

Dively, who said he's been a Jeopardy fan for years, took the chance to

show that as a potential contestant, they kept your information on file for a year with the possibility of being called to appear on the show. If an individual isn't called to appear, then they can reappear again as a possible player. "I was very surprised when they called me and said we would be a contestant in December," he said. "I'm nervous and really hoping I win. I could certainly use the money."



EXPERIENCE OF A LIFETIME: Dively's appearance on Jeopardy is a great memory for him.

game, Dively said that his individual performance on camera and under pressure of the game show time frame. It was made it through that, Dively said that your phone and ask you what you would do with the money if you won. Dively said he informed them he would use the money to help raise his twin 10-month-old sons. Upon being chosen as a finalist in the contestant search, Dively com-

mmented that as a potential contestant, they kept your information on file for a year with the possibility of being called to appear on the show. If an individual isn't called to appear, then they can reappear again as a possible player. "I was very surprised when they called me and said we would be a contestant in December," he said. "I'm nervous and really hoping I win. I could certainly use the money."

Dively said just before departing for Los Angeles Saturday, December 12, 1998, "Mostly though, I'm just excited about being on the show." Upon his return to work at the Public Works Department, Dively commented that he didn't do very well and was eliminated in the first round. He did state, however, that the experience was a great memory and something that he would never forget. The only downer to the entire experience was that Dively said contestants have to pay for their own airfare or transportation, hotel and other expenses while in Los Angeles taping the show.

Dively's game will appear on ABC's local channel 25 WOJO-TV at 7 p.m. on Tuesday, March 16.

WELCOME NEW EMPLOYEES!

Animal Services
Bibi Cere, Animal Control Clerk
Collections
Shirley Lynch, Collections Clerk
Communications
Korah Vail, Telecommunications
Customer Service
Sherry Dine, Customer Service Clerk
Environmental Health Division
Margaret Hupke, Fieldwork Clerk II
Plant Services
Charles Chalmers, Asset Technician II
Parking Division
Thomas Crawford and Vinay Bano
Josh Peeling Motor Minder's
Police Department
Daniel Bowman, Police Officer
Audrey Nault, Traffic and Data Entry Clerk II
Solid Waste
Kobbe D. Lewis, Laborer I
Jody Roberts, Motor Equipment Operator III
Street Division
Charmelle Bailey and Thomas Franklin, Asset Laborer II
Wastewater Maintenance Division
Lad McIntosh, Division Secretary
Frank Peterson, Laborer I
Water Distribution
Gerald Adams, Laborer II
Rick D. Hughes, Laborer I
Dwight Sims, Water Motor Tender

CONGRATULATIONS ON YOUR PROMOTION!

Collections
Lisa San Coloman
Crime Inspector I of many to Collections Supervisor
Fire Department
David Kismet
Retail Fire Equipment Operator to Fire Equipment Operator
Inventory and Replenishment
Kathy Chappelow, Motor Equipment Operator II to Foreman I
Metro Wastewater Treatment Plant
Kris Davis
Division Secretary to Metro Wastewater Staff Assistant
Harrison Killam
Maintenance Technician II to Maintenance Technician III
Parks and Recreation Department
Kenneth Pinsky
Park and Recreation
Tallone Park, Central Park, Los Olivos Park, Los Olivos
Suzanne Davidson
Lloyd Canfield, Foreman II to Foreman III
Thomas Smith, Motor Services Unit Utility Worker I
Wastewater Division
Dennis Austin, Foreman I (Solid Waste) to Foreman II
Larry Boyd, Laborer II to Utility Worker I
Eric Brown, Laborer II to Foreman I
John Richardson, Foreman I to Foreman II
Water Division
Craig Boykin, Utility Worker I to Utility Worker II
Bernad Chavis, Truck Driver I to Truck Driver II
Timothy Lee, Truck Driver I to Motor Equipment Operator II
Timothy Lee and Michael Layton, both Laborer I to Laborer II
Kevin Ulmer, Laborer II to Utility Worker I

CONGRATULATIONS TO

Les Martin (Employment Administrator) on recently being elected as an at-large member of the South Carolina Municipal Personnel Association at their annual meeting in December.

SYMPATHY TO

Brenda Kyrie (Business Liaison) on the recent loss of her mother.
Margie Gura (Business Liaison) on the recent death of her father-in-law.
Doreen Jennings (Support Services) on the recent loss of her father.
The family of retired (Fire Department) Battalion Chief "Woody" Douglas.

Notes from the PERSONNEL DEPARTMENT

New Blue Cross handbooks, an outline of your health and dental plan, have been distributed to all departments and divisions. If you have not received your copy please check with your division supervisor or secretary. Retirees may drop by the Personnel Department on the first floor of City Hall and pick up a copy. (Dental information in the handbook will not apply to retirees.)

The only real change in your handbook concerns Mental Health Services. Any expense, whether inpatient or outpatient, for mental health services treatment, applies to the benefits lifetime maximum of \$1 million.

New Blue Cross Provider books are available as reference books. Only about fifty have been provided, so they have been distributed on a limited basis. They should be available at the desk of the secretary or division head in your area. You will receive the maximum benefits that can be paid, if you use Preferred Blue providers. However, you must get Blue Cross approval, when required, before obtaining medical care. You may also call the number on your Blue Cross card for providers anywhere and everywhere. The number is 1-800-811-2383.

HIPPA — Health Insurance Portability and Accountability Act of 1996, became a law on August 21, 1996. This law affects group and individual health plans. It includes important new protections for individuals, including those who move from one job to another, or who are self-employed and who have pre-existing conditions.

HIPPA protects workers who change jobs or lose jobs by providing better access to the continuation of their health insurance.

The Personnel Department has small booklets explaining HIPPA.

Exercising a little can help a lot!

According to results of a United Kingdom study published in the journal, *Medicine & Science in Sports & Exercise*, several short sessions of exercise may be just as healthy for your heart as one long session. High levels of certain blood fats, known as triglycerides, have been linked to an increased risk of heart disease. Previous study findings have suggested that a single, prolonged exercise session can lower triglyceride levels.

The authors conclude, "The results of this study indicate that an intermittent exercise protocol can confer a reduction in (post-meal triglyceride levels) of comparable magnitude to that afforded by the same amount of exercise performed continuously." In other words, a little exercise can help a lot!



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Breast Cancer Awareness education & training

The City of Columbia has joined The US Conference of Mayors in the effort to promote breast cancer awareness. The US Conference of Mayors recently developed a national campaign against breast cancer.

City employees and their dependent spouses are invited to participate in Breast Cancer Awareness Education and Training classes that were held January 5 and 7. The next classes will be Tuesday, January 26 at the Public Works Department at 10 a.m. and 2 p.m.

In order to make an appointment to receive a mammogram, it is imperative that you have attended one of the classes in January. During the classes, women thirty-five and over have the opportunity to schedule an appointment to have a mammogram taken in February and March. Palmetto Baptist will make available the Mammogram Mobile Unit for your convenience. Employees and spouses of employees will receive instructions regarding their mammogram when they attend a class. Please remember to bring your Blue Cross Blue Shield card and be on time for your appointment.

Dates and times for the mammograms are as follows:

February 5.....8 a.m. — 4 p.m.
Public Works Department

February 12.....8 a.m. — 4 p.m.
City Hall Parking Area

February 19.....8 a.m. — 4 p.m.
Columbia Police Department

March 1.....8 a.m. — 4 p.m.
Columbia Fire Department

Please call the Mayor's Office at 733-8221 if you have additional questions.

NOTE: Employees will not have to take vacation or sick leave.

WE CAUGHT YOU doing something right

Bad Summers, superintendent for the city's water plants, has been caught doing something right.

Summers recently gave up one of his Saturdays to escort a visiting group of military officials on an in-depth tour of the Columbia Canal Water Plant. Members of the 36th Civil Affairs Brigade (Airborne), which is located at Fort Jackson, recently requested a tour of the facility after reading about the technological improvements in the fall '98 issue of *Cityscape*.

Even though only two days notice was given, Summers was still willing to come to work on a Saturday to conduct the tour. The military officials were interested in the water plant's system because of their role as a special operations support unit for the 18th Airborne Corps located at Fort Bragg, North Carolina. Officials explained that the exposure to different facilities provides training for members of the unit, who might be

deployed around the world. While they are in various locations they might be required to re-establish water operations in foreign countries.

Summers was described, by members of the unit, as going the extra mile to be both courteous and informative. What was planned as a 1-hour tour turned into a 3-hour question and answer session. Summers continued to display the highest level of customer service to all of the visitors, who had traveled from all over the country for this weekend drill. His level of knowledge was also commended by all of the participants.

Summers, who has been employed with the city for 24 years, truly displayed a customer service attitude and left a definite good impression with the group. He is described by his supervisor, Utilities and Engineering Director John Dooley, as a consummate team player. "Bud is one of the best guys I know. He is a very hard worker, he always strives for the very best and is always willing to help out in any way he can."



GOING THE EXTRA MILE: Bud

Summers is dedicated to his job and shows his loyalty through his actions.

Summers is dedicated to his job and shows his loyalty through his actions.

Get in 2 Columbia by watching the city's cable access channel, channel 2, on Time Warner Cable. *Columbia Closeup*, the city's news magazine, features current city news and special events. It airs daily, throughout the month, at 7 a.m., 12 p.m., 5 p.m. and 10 p.m.

City Spotlight is another regular feature of channel 2. This segment features a different city department each month and gives viewers an inside look at how city staff handle daily operations. *City Spotlight* immediately follows each segment of *Columbia Closeup*.

Both *Columbia Closeup* and *City Spotlight* air new segments at the beginning of every month so be on the lookout for you can get in 2 Columbia.

Get in 2 Columbia

We would like to get your opinion on the programming for Channel 2. Please take a moment to answer the questions below and return the survey to the Public Information Department. Thank you for your participation.

Do you watch Channel 2 now?
☐ Yes ☐ No

If yes, when? Check boxes that apply to your viewing times — you may check more than one.
☐ 6-8 a.m. ☐ 9 p.m. — 11 a.m.
☐ 11 a.m. — 2 p.m. ☐ 12-4 p.m.
☐ 4-8 p.m.

If you do not watch Channel 2, tell us why?

What types of news do you like to see on Channel 2?
☐ Local news ☐ National news ☐ International news ☐ Sports ☐ Entertainment ☐ Business ☐ Health ☐ Science ☐ Technology ☐ Other

What types of news do you like to see on Channel 2?

☐ Local news ☐ National news ☐ International news ☐ Sports ☐ Entertainment ☐ Business ☐ Health ☐ Science ☐ Technology ☐ Other

Do you find the *Columbia Closeup* and *City Spotlight* informative?
☐ Yes ☐ No

Did You Know?

- ☐ The first city vehicle was a car purchased for the chief fireman in 1903?
- ☐ The Columbia police force was established in 1856 with 1 chief and 9 patrolmen?
- ☐ Columbia is home to 8 major institutions of higher education?
- ☐ The State Museum was the first totally electric textile mill in the world. Now one of the South's largest museums.
- ☐ The State Capital building is the eighth oldest state capital still in use. It spent the longest time in construction, 53 years. It was designed in 1854, was bombed in 1865, and re-opened in 1907. In 1998 it was completely renovated.



mark your CALENDAR



Monday, January 17
Martin Luther King Jr. Day
 City offices closed

Monday, January 17
City of Columbia MLK Day Celebration
 4:45 p.m. at King Park

Wednesday, January 19
City Council Quarterly Evening Meeting
 6:00 p.m. at Ben Arnold Center
 Owens Field Park



Wednesday, February 2
Groundhog Day

Saturday, February 12
Lincoln's Birthday

Monday, February 14
Valentine's Day

Monday, February 21
Presidents' Day



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 City of Columbia
 Public Information Department
 P.O. Box 147
 Columbia, SC 29217

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THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES

JANUARY / FEBRUARY 2000

what's INSIDE...



Get a slice of
 the P.I.E.

-Page 3

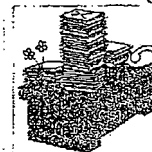
See how the city
 shined in '99

-Page 4

Make life easier...

Learn to organize

your
 desk.



-Page 7

EMPLOYEE FITNESS CENTER EXPANDS FOR 2000

During the spring and summer months, there are all kinds of outdoor activities to keep us physically fit. Now, there is no need to wait for spring and no more excuses about the high costs of fitness center plans.

Employees can get in shape this year at the City's Fitness Center. Almost 20 new pieces of equipment are on order for the facility, including a boxing room. Some of the equipment will be dumb bells from 5 to 115 pounds, free weights, over 1,600 pounds of plates, three Olympic benches, a leg press, a squat rack, along with many others.

There have been many changes at the center and this is a great time to begin a new year's resolution.

The fitness center is located near the police station on Henderson Street. Just look for the stairs leading down to the center. There is 24 hour video surveillance for the gym and in the parking

lot. Fees for employees are \$10.00 for individuals and \$20.00 to include a spouse.

City employees may sign up for a 24 hour access card to the center.

The City Fitness Center has on staff, Barbara Yoder, a certified personal trainer with 16 years of experience. She will work weekday evenings from 4:30 p.m. until 8:00 p.m. Yoder is also a licensed massage therapist specializing in sports injuries and has trained two body building athletes.

Employees may call Barbara to get your access card.

Yoder said, "There are already 250 persons signed up to take advantage of this great facility. Soon, if there is interest, we will have an aerobics class in the evenings."

For more information on the expanded facility call 343-8769 and leave a message.

COLUMBIA POLICE OFFICERS RECEIVE PROMOTIONS IN 1999

Bottom Row, left to right:
 Cpl. Wayne Evans, Sgt. Reilly
 Hite, Cpl. James Auld

2nd Row, left to right:
 Ins. Kevin Reese, Cpl. Mandell
 McCarty, Cpl. Olga Carr, Sgt.
 Randy Martin, Sgt. Scott Paulding,
 Sgt. Steven Stiles, Capt. Estelle
 Young

3rd Row, left to right:
 Ins. Robert McCracken, Ins.
 Burns Walker, Cpl. Geraldine
 Moss, Cpl. Chris Butler, Cpl. Joe
 Ransom, Cpl. Robert Hall

Absent: Lt. Mike Johnson





Inside COLUMBIA
Page 2

employee NEWS

Fire Dept. Color Guard Founding Member Gains RESPECT

Mark George is November's Employee of the Month. Mr. George began working at the Columbia Fire Department in 1982, after serving as a volunteer in the Winnsboro Fire Department. During his tenure with the City, he has demonstrated diligence and commitment to his job. Chief John Jansen said, "Mark is the kind of employee who gives 110%. He gets the job done."



NOVEMBER EMPLOYEE OF THE MONTH

Mark George (center) pictured above with Mayor Bob Cable (left) and Chief John Jansen (right).

Mark is a founding member of and supervises the Columbia Fire Department Color Guard. On duty, he teaches at the South Carolina Fire Academy. He and his wife Janie

have two children and live in Blythebrook.

Mark is a dedicated and hardworking employee, a family man and has the respect of his peers, subordinates and supervisors alike.

John Cooper, Senior Computer Programmer/Operator is WORTHY To Help

The December Employee of the Month is John Cooper. This dedicated Senior Computer Programmer / Operator began his employment with the City in 1970.

"He is always willing to help others," says Ruben Hecker of the Computer Services Department. Cooper also works with two new computer operators to make sure they are

learning all of the necessary functions of their jobs. Hecker says, "John is a tireless and unselfish person who does his job quietly with no fanfare."

Cooper voluntarily adjusts his work hours so that he can arrive early in the mornings to see that the water bills get printed and in the mail in a timely manner. Hecker said, "Cooper fills in for computer operators on short notice and does this with no questions or complaints whatsoever."

He is married and has one daughter and one son. Cooper likes to play golf and works with a baseball league. The Computer Services Department is proud to have him as part of their team.



John Cooper, Senior Computer Programmer/Operator pictured with Mayor Bob Cable (left) and Ruben Hecker (right).

"The Eskimos have 52 names for snow because snow was important to them; there ought to be as many for love."

-Margaret Atwood

"The Four Surefire Rules For Success:

1. Show up
2. Pay attention
3. Ask questions
4. Don't quit"

-Bob Gilbert

"If the love of what you're doing exceeds the labor of doing it, success is inevitable."

-Bob Brers

"When wealth is lost, nothing is lost; When health is lost, something is lost; When character is lost, all is lost."

-German Proverb

in the WORKPLACE



Inside COLUMBIA
Page 7

Congratulations to...

Captain Anthony Fanning (Fire Department) and his wife Lorie on the birth of their daughter, Angela Michelle.

Sgt. Darcia Sparks (Police Department) on her marriage to Russell Scott.

Investigator Felicia Mar (Police Department) on her marriage to Terrance Williams.

Sympathy to...

Jim Lawracy (Parks & Recreation) on the recent loss of his mother.

Officer John Spravis (Police Department) on the recent loss of his grandmother, Gwendolyn.

FEO Rodney Harris (Fire Department) on the death of his father, Willie Harris.

FREO Sam Iriel (Fire Department) on the death of his mother, Ruth Ann Iriel.

FF Mark Smith (Fire Department) on the death of his grandmother, Rosa Holts.

FEO Myron Taylor (Fire Department) on the death of his mother-in-law.

Friends, family and co-workers of retired Assistant Chief Claude Stewart (Fire Department) who passed away on October 13.

Friends, family and co-workers of retired Assistant Chief Donald W. Davis (Fire Department) who passed away on September 28.

Friends, family and co-workers of Battalion Chief James C. Norton (Fire Department) who passed away on November 16.

Steve Campbell, SCBA (Fire Department) on the loss of his wife Valerie.

If you have any employee news for the next issue of Inside Columbia, please send it to Public Information, attention: Whanne Bouknight.

notable quotable

"Learning begins with listening."

-Noah Ben Shua



Julie Ruff of the Mayor's Office poses with Purice Sherin, a P.E. & Health teacher at Burton Elementary School, in front of the presents donated by city employees for less fortunate children.

Useful Tips: How to Organize Your

Organize. Organize. Organize! It sounds obvious, but the most important item in keeping your papers and files organized and on hand is a desk. A desk doesn't have to be expensive, nor does it require a great deal of space. Any small corner will do. If your desk is out of control you may need to begin with seven boxes and label as follows: To File, To Do, To Read, Contact, Office Equipment, Magazines & Catalogs, Other Receipts.

Now, sort items as you encounter them. Try not to get sidetracked, as this will only waste time and when your enthusiasm wanes, you'll still be left with a mess. Remember the golden rule: *Take No Prisoners And Be Ruthless.*

Armed with your trash bag, start sorting and wading through all the papers that seem to have been flooding on your desk. Trash anything that is expired or not vital to your existence. The rest should go into the To File, To Do or To Read boxes.

Trash any magazines and catalogs that are older than 4 to 6 months. Get rid of catalogs that you have no use for.

If you find an article that you would like to read, rip it out, date and label if necessary, staple the pages together and place in your To Read box. It is a waste of space to save the whole magazine.

All business cards, notes, scraps of paper with phone numbers and addresses should go into the Contacts box and later be put into your computer, diary or organizer.

Do not shuffle paper from one pile to another. This is not really organizing, nor is it productive. Once a piece of paper is in your hands, make a decision on what to do with it.

Place all pens, staplers, paperclips, etc., into the Office Equipment box.



Inside COLUMBIA
Page 6

"The road to happiness lies in two simple principles: find what is that interests you and that you can do well, and when you find it, put your whole soul into it every bit of energy and ambition and natural ability you have."

- John D. Rockefeller,
Philanthropist

things to REMEMBER

Tips on Combatting the Common Cold

Have you spent your Winter days sneezing and coughing? You probably have a common cold. The National Institute of Allergy and Infectious Diseases estimates that Americans suffer 1 billion colds per year. Here are some health tips to consider that will keep you cold-free until Spring.

TO PROTECT YOURSELF FROM A COLD...

- Wash your hands frequently. Washing hands is the simplest and most effective way to keep from getting a cold.
- Avoid touching your nose and eyes.
- Clean regularly with virus-killing disinfectant to prevent the spread of infection.
- Avoid close personal contact with someone who has a cold.

TO PROTECT OTHERS FROM YOUR COLD...

- Try to prevent the cold from spreading by sneezing into a tissue and throwing it away immediately.
- Get rest, drink plenty of fluids, gargle with warm salt water and take aspirin so you get well as soon as possible.
- Avoid close personal contact with someone who could catch your cold.

Personnel Update: Using Your New Blue Cross Card at the Pharmacy

Your new Blue Cross Card with the "mortar and pestle" in the lower right hand corner triggers the discount for drugs that are bought at the pharmacy. If the card is not shown then the member will not receive the discount. When you are reimbursed it will be at the discounted rate and not the actual cost. The savings will not be passed to the member.

Example: If a drug costs \$50, the pharmacy paid \$45 for it, and the retail cost for it is \$40, the member will get the lowest cost when

the card is presented. That's the beauty of Blue Rx. Then the member files the claim on the new brown claim form that goes to Parsippany, NJ for reimbursement. Parsippany makes sure that the member got the lowest of the three prices and tracks this information for Blue Cross. This insures that you receive the participating discount for your prescription.

Any prescriptions bought before August 1, 1999 must be processed separately. If you get a drug printout from

your pharmacy, make sure it is from 8/1/99.

We have the Parsippany Drug Prescription Drug Claim forms in the Personnel Office. Call 733-8541.

Within the area, Bi-Co, CVS, Drug Emporium, Drug-Ls, Eckerd, Kerr, K-mart, Kroger, Medicap, Phar-Mor, Publix, Revco, Rite Aid, Scottie, Value-Pac, Wal-Mart, and Winn Dixie are just some of the participating pharmacies. The mail order pharmacy still works the same.

employee NEWS

Have Some P.I.E. Programs Inspired by Employees

Grab a Slice of P.I.E.

No, P.I.E. isn't something to eat. It is the City of Columbia's newly formatted employee suggestion program - Programs Inspired by Employees! Thanks to Tasha Watson of the Employment Office for naming this program and thanks to all of you who submitted ideas.

The P.I.E. forms are uncomplicated, the format is different, and employees may send in their suggestions anonymously and without their supervisors signature. Missy Coughman said, "We know that there are many great ideas city personnel have on improving work procedures, safety and other issues. Who better to get ideas from than an employee who does the job everyday?"

Employees may send in a suggestion anytime. There is no deadline on this program. Suggestions that are implemented may be awarded with a certificate or a monetary award.

Contact Locations of P.I.E. Booklets and Applications:

- Missy Coughman-City Hall, 2nd Floor
- Margaret Sugick-Public Works Main Office
- Terry Peedre-Water Operations Division
- Bud Sammers/Phil Miller-Columbia Canal
- Tommy Faulk-Metro Wastewater Treatment Plant
- Gigi Sallier-Engineering 2nd Floor
- Josephine Hydrick-Fire Department Headquarters
- Tom Jacob-Police Department Headquarters
- Vivian Tatum-Violations Bureau, Ground Floor
- Kim Mitchell-Parks & Recreation Headquarters

For more information about P.I.E., please call 733-8664.

Inside COLUMBIA
Page 2

"Think extensive, with excitement, act out excitement and you are bound to become an excited person. Life will take on a new zest, deeper interest, and greater meaning."

- Norman Vincent Peale
Religious Leader

EMPLOYEE SERVICE RECOGNITION AWARDS 1999

20 YEARS

Robert Phillips, Public Works
Theodis Thompson, Public Works
Bruce Hall, Fire Dept.
Aubrey Jackins, Fire Dept.
Josephine Taylor, Purchasing
Jacob Farrow, Police Dept.
Marshall Johnson, Community Services
Fredrick Robinson, Inspections
Steven Mewitt, Parks & Rec.
Richard Scott, Utilities
James Alken, Public Works
Ira Greene, Police Dept.
Carl Burke, Police Dept.
Steven Cleveland, Fire Dept.
Lawrence Johnson, Police Dept.
Mark Vison, Police Dept.
Steven Turner, Fire Dept.
Terrell Gay, Fire Dept.
John Faust, Utilities
Rafael Rodriguez, Police Dept.
Jacqueline Boyd, Parks & Rec.
Dorita Harris, Community Services
Dianne Jennings, Support Services
Marge Sauter, Accounting
David Grubb, Police Dept.
Phyllis Tillman, Community Services
Henry Sielke, Public Works
William Mayet, Police Dept.
Jerry Jenkins, Public Works
Doe Bennett, Engineering

25 YEARS

Charles McNeill, Police Dept.
Peter Basso, Police Dept.
John Reich, Fire Dept.
David Sharpe, Utilities
Alexander Wayne Sr., Public Works
Charles Butler, Utilities
Albert Betcher, Police Dept.
Kenneth Pedersen, Parks & Rec.
John Moore, Municipal Court
John Niello, Utilities
Richard Young, Utilities
Timothy Thomas, Police Dept.
Virginia Scott, Parks & Rec.
Jimmy Thomas, Public Works
James Summers, Utilities
Willie Corbin Jr., Utilities
WDEen Giles, Utilities

30 YEARS

Eric Wasserman, Public Works
Jerry Oslay, Parking
Herry Scott, Public Works
Joseph Ciozia, Police Dept.

35 YEARS

James Davis, Jr., Utilities

These employees were honored for achieving their 20th, 25th, 30th, or 35th year of service during 1999 at a luncheon held in December at the Ben Claire Print Facility. Congratulations!



departmental HIGHLIGHTS

1999 Proved to be Year of Change, Growth

The turn of the century was an event in itself, but the City of Columbia had plenty of accomplishments to celebrate during 1999. Each department prospered throughout the year with fund raisers, recognitions and new facilities opening. Here is a look back in time at the City of Columbia's very own 1999.

- On Jan. 5 and 7, city employees participated in Breast Cancer Awareness Education and Training classes.
- On Jan. 18, the city observed Martin Luther King, Jr. Day for the first time as an official city holiday.
- On Feb. 23, Animal Services held the groundbreaking ceremony for a new adoption center.
- On Jan. 13, the city hosted a Backhoe Rodeo at the Public Works facility.
- On June 17, the Utilities department held a Risk Management Forum for city employees and citizens to learn about emergency preparations.
- On June 19, Parks & Recreation dedicated the Emma B. Sessions Park.

JULY / AUGUST:

- On August 7, the Police Department's KOBAN on Lady Street was featured in a London publication, The Economist.

- On August 10, Water Customer Service began accepting water payments in the Eau Claire Town Hall.
- On August 27, Inspections held a Golf Tournament to benefit the United Way of the Midlands and raised \$5,301.

SEPTEMBER / OCTOBER:

- Oct. 2, the Mayor's Office sponsored a team that participated in the 1999 First

Ladies' Walk for Life.

- From Oct. 3 - 9, the Fire Department celebrated Fire Prevention Week under the theme: "Fire Drills: The Great Escape."
- On Oct. 20, CityTalk was held to get information from the community on the major concerns in the city.
- On Oct. 21, city employees gathered at Brumby's Stadium for an employee appreciation luncheon.

NOVEMBER / DECEMBER:

- On Nov. 8, the Mayor's Technology Task Force held a press conference to announce their technology recommendations for the city in the future.
- On Nov. 12, City Council members and other city officials participated in a retreat at Colonial Life.
- On Dec. 17, the Columbia Police Department held the ribbon cutting ceremony for the new police headquarters.

JANUARY / FEBRUARY:

- On Jan. 5 and 7, city employees participated in Breast Cancer Awareness Education and Training classes.
- On Jan. 18, the city observed Martin Luther King, Jr. Day for the first time as an official city holiday.
- On Feb. 23, Animal Services held the groundbreaking ceremony for a new adoption center.

MARCH / APRIL:

- Investigator Jim Potish (Police Department) was recognized by the Columbia Housing Authority for saving an infant's life.
- On March 12-14, city departments participated in the Caroling Classic Home & Garden Show.
- On March 20, the Employee Golf Tournament was held at LinRick Golf Course.
- On April 23, Community Development celebrated the 25th anniversary of National Community Development Week with a social hour and dinner at the State Museum.
- On April 24, city employees participated in the March of Dimes "Walk America" Team Walk '99.

MAY / JUNE:

- City employees honored the month of May as "Clean Your Files" month by recycling unwanted paperwork.
- On May 3, Columbia firefighters held their third annual golf tournament to raise money for the Muscular Dystrophy Association.
- On May 4, city employees participated in the "Planning for your Future" semi-



Inside COLUMBIA
Page 4

MEETINGS:

Are you interested in commenting on the city's land use regulations? If so, you can attend one of the following public meetings to voice your opinion.

JAN. 13: Capital Senior Center, 1650 Park Circle, 5:30-7:00 p.m.

JAN. 18: Eau Claire Town Hall, 3903 Ensor Avenue, 7:00-9:00 p.m.

JAN. 20: Martin Luther King, Jr. Park Gymnasium, 3300 Greene Street, 7:00-9:00 p.m.

JAN. 25: Ben Arnold Center at Owens Field Park, 1351 Jim Hamilton Blvd., 7:00-9:00 p.m.

BACK TO SCHOOL:

The City of Columbia's government course, "Understanding Columbia: It's Your City" will offer a winter session beginning on February 1, 2000. The classes are held once a week every Tuesday evening from 6:00-8:00 p.m. The classes are taught by different City employees each week depending on the topic.

The purpose of the six-week course is to provide citizens with the chance to learn about the inside operations of city government. Employees are also welcome to learn more about the city functions by participating in the classes.

For more information, please call the Public Information Department at 733-8228.

departmental HIGHLIGHTS



Inside COLUMBIA
Page 2

Police Department Makes Official Move To New Headquarters

Police officers have a new home to work out of this year. In November, 1999, the Columbia Police Department officially moved into the new police headquarters located on #1 Justice Square.

The move to the new building commemorates years of hard work and dedication. The new headquarters is a refurbished version of a 1913 building that housed a previous police headquarters, a jail, horse stables and a sack-ade for prisoners.

Some of the amenities of the new headquarters include an in-house forensics lab, an expanded property and evidence room, more office space, a conference room and a criminal investigations laboratory.

"The facility reflects upon the city in a very positive way. How people are received here influences their perception of the Columbia Police Department and it speaks volumes about the City of Columbia," said Chief Charles P. Austin.

There are several differences between

the old police headquarters, which has now been demolished for additional parking, and the new facility. The new headquarters is 33,000 square feet incorporating three floors and a basement. The old headquarters at 1409 Lincoln Street amounted to 15,000 square feet.

The new facility has room for present and future growth.

The facility will add the Police Department in a number of ways. It will expand the range of services to be performed by the actual police officer. For example, all forensic lab will be handled by the police department as opposed to being handled by an outside agency.

In addition, the new facility is user-friendly and more welcoming to the public. It will create a better working environment so that the police department can better service each individual.

"We feel very blessed and fortunate that we will have this modern day facility from which we will provide commendable services to the public," added Austin.

GRAND OPENING



RED JUSTICE FOR ALL:

The Columbia Police Department held its Grand Opening/Open House for the new facility on December 17, 1999. The event featured speeches, tours of the new facility and refreshments to celebrate the move to #1 Justice Square.

Thanks

• The generosity of City of Columbia employees never ceases! Payroll deduction authorizations, cash and check contributions for the Combined Health Appeal of South Carolina totaled \$13,659.15!

We appreciate the 283 employees who contributed through payroll deduction totaling \$12,262.90 and the 163 employees who donated by way of cash or check.

• A special thanks also goes to employees for donating Christmas gifts for less fortunate students at Burton Park Elementary School. The project was coordinated through the Mayor's Office.

• The City of Columbia received an award and a thank-you from the National Committee for Employer Support of the National Guard and Reserves.

• The City also received awards and many thanks from the 34th Marine Expeditionary Unit for the overwhelming support from city staff during their urban training exercise.



'inside COLUMBIA

THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES

MAY / JUNE 2000

what's INSIDE...

*City employees
make the grade
with numerous
awards*



4

*Municipal Court
Building gets a
facelift*



5

*Energy Boosters to
help you
through the day*



7

EMPLOYEE WELLNESS CENTER IS OPEN FOR BUSINESS



The Employee Wellness Center held its Grand Opening on March 30, 2000. The center opened just in time to get fit for the summer.

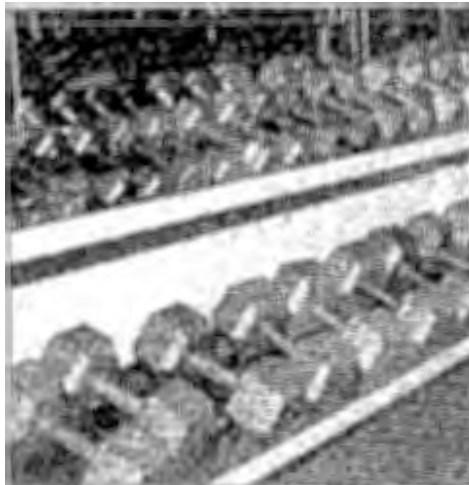
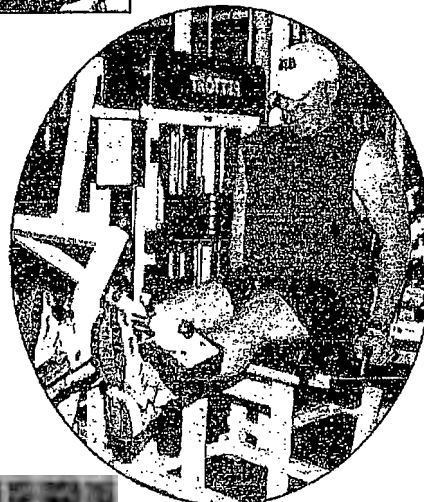
The Fitness Center is located near the police substation on Henderson Street. Just look for the stairs leading down to the center. There is 24-hour video surveillance for the gym and the parking lot.

There are more than 20 new pieces of equipment in the facility. Some of the equipment includes:

- Dumb Bells from 5 to 115 pounds
- Free Weights
- 3,000+ Pounds of Plates
- 3 Olympic Benches
- 1 Leg Press
- 1 Squat Rack

And many others...

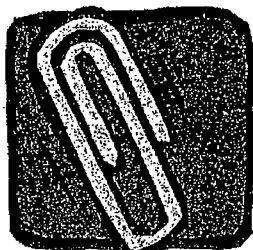
Discussions about possible aerobics classes are in the works. All interested employees are encouraged to add their input.



Fees for employees are \$10.00 per year for individuals and \$20.00 to include a spouse. City employees may sign up for a 24 hour access card to the center.

Employees can call Barbara Yoder, a certified personal trainer at 343-8769 (leave a message), to get your access card. Barbara will work weekday evenings at the wellness center from 4:30p.m. until 8:00p.m.

This is a great opportunity to get in shape and stay healthy. See more exercise tips inside this issue on page 6.



inside COLUMBIA
Page 2

*"Treasure every moment
that you have!
Yesterday is history.
Tomorrow is mystery.
Today is a gift.
That's why its called the
present!"*

-Author Unknown

*"Success or failure depends
more upon attitude than
upon capacity. Successful
people act as though they
have accomplished or are
enjoying something. Soon
it becomes a reality. Act,
look, feel successful, con-
duct yourself accordingly,
and you will be amazed at
the positive results."*

-Dipree Jordan

employee NEWS

EXCEPTIONAL ENGINEER HUNG HUYNH SERVES CITY WELL

Hung Huynh is a long term city employee who performs well everyday with an upbeat demeanor. Huynh was born in Vietnam and at the age of 19, he and other members of his family left for the United States.

Huynh has been in the U.S. for over 22 years and became a citizen in 1985. He has worked with the city since 1984 and has always been a model employee who is willing to assist the city with any need which arises.

His work with the City began in a drafting capacity and has progressed to performing work at the level of a Civil Engineer I.

Huynh has provided valuable service to the Engineering Department and to the City of Columbia in general through his oversight of our computer applications.

During a critical shut down of a computer system in another department, Huynh provided assistance to bring their system up again. His expertise during that stressful time saved the city the expense of outside consultant fees. Huynh has completed certificate programs from Midlands Technical College in Artificial Intelligence and Applications Programming and he is a graduate of the Highway Institute in Vietnam.

In recent years, Huynh has been the team leader in encouraging the Engineering Department to continuously advance in the computer technology field. He has developed,

maintained and updated the department's network system. Through his efforts, the department is able to operate more efficiently and effectively by sharing information in a network environment. What a wonderful example of a model employee. Congratulations to our March Employee of the Month!



MARCH EMPLOYEE OF THE MONTH

Hung Huynh of Engineering pictured above with Mayor Bob Coble.

WILLIE MAE KENNEDY EXHIBITS CREATIVITY WITH A SMILE AT PARKS & REC

Willie Mae Kennedy has worked with the City of Columbia since 1970. She served the community for 27 years as Senior Park Leader at Drew Park, and currently holds the position of District Supervisor.

During her tenure with the city, she has become known as a person with exceptional creative talents in many areas. She is known to be generous to a fault, and is a wonderful person to be around.

Kennedy has consistently proven her professional leadership and demonstrated the highest standards. Her professionalism and outstanding demeanor truly enhance not only the Department of Parks and Recreation but also the entire city.



APRIL EMPLOYEE OF THE MONTH
Willie Mae Kennedy, Parks & Recreation, will retire from the City of Columbia in June.

Kennedy has been a valuable asset for the city and it will be a shame to lose her to retirement in June of this year. Her leadership as a District Supervisor has added substantially to the success of the recreation division. The years have not weakened, but only deepened her resolve to continue reaching for the highest standards there are.

"Mrs. Kennedy is a great source of pride for us," said Parks & Recreation Director S. Allison Baker.

Congratulations to a very deserving individual as our Employee of the Month Award for April. Special wishes go to Willie Mae as she retires from the City of Columbia in June.

employee NEWS

PERSONNEL DIRECTOR RON CUNNINGHAM RETIRES IN JUNE

In June, Personnel Director Ron Cunningham will retire from the City of Columbia.

Cunningham has worked with the City of Columbia

since 1975. Prior to that, he was the manager of Personnel and Management Development for a division of Uniroyal, Inc.

Involved in every aspect of his job, Cunningham was a member of several boards and committees. Under his direction, the Personnel Department received an Award of Excellence from the S.C. Chapter of the International Personnel Management Association.

Cunningham is a graduate of the University of North Carolina. He received his B.S. in Personnel Administration. He also went to graduate school at UNC to study public administration.

As the City's Personnel Director, Cunningham is responsible for the communication, interpretation and enforcement of personnel policies and procedures.



Personnel Director Ron Cunningham will retire from the City in June after 27 years of a job well done.

FROM COLUMBIA TO CHINA... CITY CLERK VIVIAN KRIGLINE LEAVES FOR SHANGHI TO TEACH

City Clerk Vivian Krigline plans to leave the City of Columbia in June to teach English in Shanghai, China with her husband, Michael.

Since 1972, Krigline has been employed by the City of Columbia. She has worked in numerous departments during her tenure including the Inspections Department, Community Development and Administration. In 1995, she was promoted to her current position as City Clerk.

"I will definitely miss the people I have worked with. I will also miss being able to serve the community," said Krigline.

As a native of Cayce, South Carolina, Krigline has seen a lot of changes take place in the City of Columbia over the years.

"I started working for Columbia when I graduated

from high school. My father worked for the City of Cayce and I became a second generation municipal employee by working for Columbia," Krigline added.

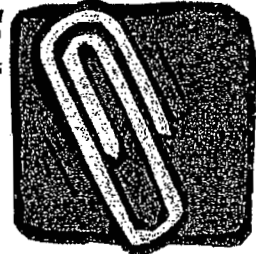
Krigline and her husband Michael have two children, Beth, 24, and Andrew, 7. Together, they will travel

across the globe to try to establish relationships with the Chinese. They eventually would like to create a new adult education program in Shanghai.

This came to play in part from Krigline's active involvement with the International community.



City Clerk Vivian Krigline works until her departure from the City in June. She has worked with the City for 28 years.



Inside **COLUMBIA**
Page 3

To my fellow employees,

When I first started working for the Inspections Department, I was a year out of high school and quite timid. Several of the inspectors (Buddy Hornsby, Bill Montgomery) made it their purpose in life to "grow Vivian up." The time they took with me, whether teaching or teasing, still means a lot.

Looking back on all the changes of City Hall makes me feel old! When I started, the elevator was manually operated. There was a phone switchboard, complete with Helen, the operator. I had an electric correctable typewriter and I learned to do my own data entry on the computer keypunch machine. I helped Jack Worehelle write a 10-year computer program which we both thought we would not be around to see the end of. That was twenty years ago.

Now while everyone thinks the elevator is still antiquated, we all have our own computers, faxes, email. And even though I am going halfway around the world, communication with friends and family will be as easy as calling up next door.

I have been blessed working with and growing to know wonderful people. I will truly miss you all.

Vivian Krigline
City Clerk



**Inside COLUMBIA
Page 4**

*"Traditional thinkers say:
broken, don't fix it. But b
through thinkers say fix it
it breaks."*

- Gerald

*"Let us have faith that rig
makes right, and in that fi
us to the end dare to do o
as we understand it."*

- Abraham

*"The greatest waste of oi
al resources is the numbe
ple who never achieve th
potential. Get out of tha
lane. Shift into the fast l
you think you can't, you
Even making the effort v
you feel like a new persc*

- United Technology

*"To attain excellence, y
care more than others tl
wise, risk more than oth
is safe, dream more tha
think is practical."*

- Author 1

employee HIGHLIGHTS

• EMPLOYEE AWARDS •

CARLTON FLEWER

INSPECTIONS

Carlton Flewer, a member of the Inspection Department, has been awarded the Employee Award for his outstanding performance in the field. He has consistently exceeded expectations in his work, demonstrating a high level of professionalism and dedication.

Flewer's commitment to excellence is evident in his thorough inspections and his ability to identify and resolve issues efficiently. His positive attitude and teamwork skills have made him a valuable asset to the department.

His dedication to his work and his commitment to providing the highest quality service to our customers have earned him this well-deserved recognition.

KEVIN HENRICHSEN

ANIMAL SERVICES

Kevin Henrichsen, a member of the Animal Services Department, has been awarded the Employee Award for his exceptional performance. He has consistently provided excellent service to our customers, demonstrating a high level of professionalism and dedication.

Henrichsen's commitment to excellence is evident in his thorough inspections and his ability to identify and resolve issues efficiently. His positive attitude and teamwork skills have made him a valuable asset to the department.

His dedication to his work and his commitment to providing the highest quality service to our customers have earned him this well-deserved recognition.

STEVE REHITT

PARKS & RECREATION

Steve Rehitt, a member of the Parks & Recreation Department, has been awarded the Employee Award for his outstanding performance in the field. He has consistently exceeded expectations in his work, demonstrating a high level of professionalism and dedication.

Rehitt's commitment to excellence is evident in his thorough inspections and his ability to identify and resolve issues efficiently. His positive attitude and teamwork skills have made him a valuable asset to the department.

His dedication to his work and his commitment to providing the highest quality service to our customers have earned him this well-deserved recognition.

POLICE DEPARTMENT STAFF

The Police Department staff has been awarded the Employee Award for their outstanding performance in the field. They have consistently exceeded expectations in their work, demonstrating a high level of professionalism and dedication.

Their commitment to excellence is evident in their thorough inspections and their ability to identify and resolve issues efficiently. Their positive attitude and teamwork skills have made them a valuable asset to the department.

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CAPTAIN HAMILTON RECEIVES OFFICER OF THE YEAR AWARD

Captain Hamilton, a member of the Police Department, has been awarded the Officer of the Year Award for his outstanding performance in the field. He has consistently exceeded expectations in his work, demonstrating a high level of professionalism and dedication.

Hamilton's commitment to excellence is evident in his thorough inspections and his ability to identify and resolve issues efficiently. His positive attitude and teamwork skills have made him a valuable asset to the department.

His dedication to his work and his commitment to providing the highest quality service to our customers have earned him this well-deserved recognition.

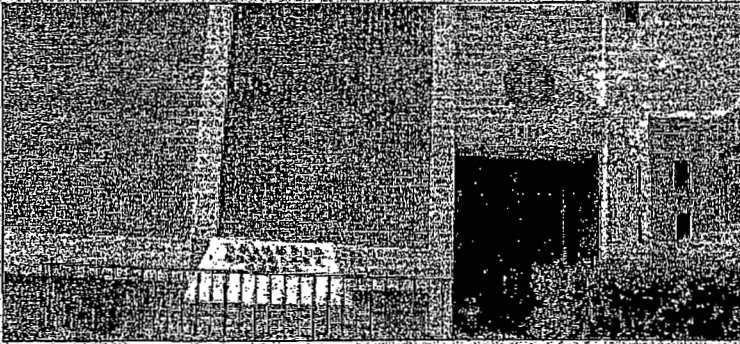
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departmental HIGHLIGHTS

20-YEAR-OLD MUNICIPAL COURT TO RECEIVE NEW LOOK



The City of Columbia Municipal Court has never had major exterior renovations. The building has looked the same since it was built more than 20 years ago. Later this year, the first stage of rejuvenation will start on the outside of the building.

Court Administrator Gladys Brown said that, "improvements will total almost \$500,000 for the exterior restoration. Shrubby, flowers and lighting will also be added. There will

be a lobby area with seating added to make the environment more customer-friendly."

Windows will be added and a wonderfully designed veranda area will wrap around most of the court building.

"This will give the citizens that we serve a more pleasant surrounding to come to and our employees are also excited about the renovation," Brown commented.



inside **COLUMBIA**
Page 5

THANKS

UPCOMING TRAINING SESSIONS

Electrical Safety, May 15:

This program covers both qualified and unqualified persons working on, near or with electrical conductors and equipment. It includes requirements for the use of electrical protective equipment, the safe use of electrical equipment. It meets at 8:30 a.m.

Excavation, May 15:

This class is designed for those persons engaged in trenching and excavation work. It covers OSHA requirements, trench supporting systems, sloping of trenches and safe use of equipment around excavations. The class meets at 10:30 a.m. and 2:00 p.m.

Ladder Safety & Combustible and Flammable Liquid Storage, May 16:

This is a combination of two short courses. Ladder safety covers the inspection, maintenance and proper use of

portable and fixed ladders. Combustible and Flammable Liquid Storage assists employers and employees in recognizing the hazards involved with flammable and combustible liquids. The times are 7:30 a.m. and 9:00 a.m.

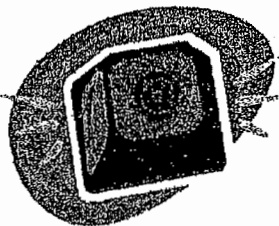
Hazard Recognition at Construction Sites, June 12-13:

This course will review the background of OSHA, causes of accidents, employer and employee rights and responsibilities and hazards associated with construction.

The class will meet at 7:30 a.m., 8:30 a.m., and 9:45 a.m.

These training courses are offered by the South Carolina Department of Labor. They are free of charge and available on a first-come first-serve basis. They are held in the conference room at the Public Works Building located at 2910 Colonial Drive. Call Chip Timmons for more information, 988-8020.





inside **COLUMBIA**
Page 6

in the **WORKPLACE**

NOTABLE QUOTABLE

*"A kind word is like a
spring day."*
Russian proverb

COLUMBIA NAMED TOP 20 BEST PLACES TO LIVE & WORK

The City of Columbia was recently named one of the Top 20 Best Places to Live & Work in America by *Employment Review* magazine and BestJobsUSA.com.

The ranking will appear in an issue of *Employment Review*, on the BestJobsUSA.com and EmploymentReview.com websites and in several publications including *Forbes*, *USA Today*, *PC Week*, *Inter@ctive Week*, *Sales and Marketing Management* and *Selling Power*.

Columbia was picked from an analysis of 300 cities across the country. The criteria used to choose each city includes lifestyle, cost of living, types of industries, unemployment rates, job growth, healthcare systems, education, recreation, the arts and much more.

Congratulations to all employees of the City of Columbia. You greatly deserve a pat on the back for making Columbia, now more than ever, *A Capital Place To Bel*

LOOK

LEARN THE TRICKS OF THE EXERCISE TRADE

Do you want to get the most out of your walk, run or climb? Sure you do. Here are some simple moves to get you on the right foot.

• **WALKING:** Always walk softly! To boost your calories burning by 1/3, walk on sandy or soft terrain. You can exercise more muscles in the foot this way.

• **RUNNING:** Run with spirit! Studies show that runners who focus on the horizon ahead have a longer stride and use oxygen more efficiently than those who look down.

• **CLIMBING:** Be careful! To get the most from a stair-climbing machine, hold onto the rails

light enough to avoid losing your balance and falling. Do not lean on the rails or the monitor in front of you. These tips will help you reduce your energy expenditure.

• **GOLFING:** Think aerobically! You will cover about five miles and burn 500 calories walking an 18-hole course. Carrying your golf bag burns 100 additional calories. Both walking and carrying are better for your joints, especially if you have arthritis. So back off the golf carts!

• **WATCHING:** Tune In! Studies show that turning on the TV if you are on the treadmill or exercise bicycle makes you walk, run or ride longer. It also makes you less inclined to refuse to exercise.



EMPLOYEE N • E • W • S

Congratulations to...

David A. Smith, a Columbia Police Officer, was named one of the Top 20 Best Places to Live & Work in America by *Employment Review* magazine and BestJobsUSA.com.

Richard B. Smith, a Columbia Police Officer, was named one of the Top 20 Best Places to Live & Work in America by *Employment Review* magazine and BestJobsUSA.com.

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Sympathy to...

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things to REMEMBER

PUMP UP THE PRODUCTIVITY WITH ENERGY BOOSTERS

Let's face it, you need energy that lasts the entire day. How do you make the most of what energy you have? Here are some instant energy boosters that will help you to become more productive.

• **Make the most of mornings:**

Four out of five people are the most alert in the morning. Tackle your toughest projects when you arrive at work. You'll see that you will finish them faster.

• **Brush your teeth:**

It is proven that mint flavored toothpaste acts as a mint stimulant.

Brushing with mint toothpaste makes you less likely to have a sugary snack which eliminates sugar highs and the lows that follow.

• **Stretch:**

When you are stressed, your muscles naturally

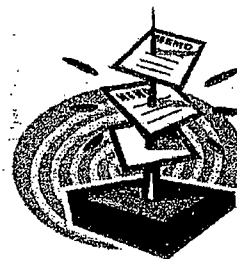
contract. This tension results in fatigue. A way of recharging your energy is stretching. Lace your fingers together and raise your arms over your head. Let them fall backward until you feel resistance. Relax. You'll be glad you stretched after you get all that work on your desk completed.

• **Experiment:**

Try something new when it comes to getting energy. Aromatherapy works for some people. You can de-stress in minutes with the scent of basil, which may alleviate mental fatigue as well. Lavendar is known to relieve physical

exhaustion. Lemon helps clear the mind and improve focus. Always keep an air freshener near

(source: Top Health, 11/99)



Inside
COLUMBIA
Page 7

NOTICE

You may still enroll for Long Term Disability Insurance by completing a short personal health statement available in the Personnel Department. Call 733-8541 if you are interested.

Personnel Update: PLANNING FOR YOUR FUTURE SEMINAR SET FOR MAY

There is still time to sign up for the "Planning For Your Future" seminar on May 23, 2000. Learn all kinds of information about retirement, benefits and your future.

The seminar will cover retirement by examining your financial situation and creating an awareness of what retirement really involves. It will stress ways to prepare for your retirement.

Plan ahead now. All interested employ-

ees and their spouses are invited to attend the "Planning For Your Future" seminar. Different professionals will be speaking on the following topics:

- The importance of planning for retirement
- Retirement benefits
- Setting financial goals
- Wills, trusts and estate planning
- Tax deferred savings

• **Social Security benefits**

The cost for the seminar is \$5.00.

Make reservations through your supervisor with the attachment form below. This seminar is considered in-service training and will not be charged to vacation time. It will be held at the Pat. Claire Prim Facility. For more information, call Mona Holliday at the Personnel Department 733-8541.

"Planning For Your Future" Registration Form

_____ Yes, I plan to attend the seminar on May 23, 2000

_____ I plan to bring my spouse along with me

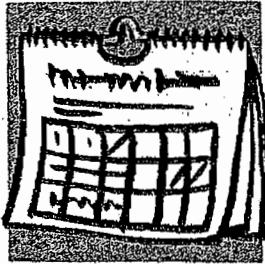
Name

Department

Employee Signature

Department Head Signature

*** Sign and return this form to Mona Holliday at the Personnel Department (City Hall) with a check for \$5.00 made payable to City of Columbia by May 8, 2000



mark your CALENDAR

MAY	JUNE
Thursday, May 4-Sunday, May 7 <i>Mayfest @ Finlay Park</i> Sunday, May 14 <i>Mother's Day</i> Monday, May 29 <i>Memorial Day (observed)</i> <i>City offices closed</i> Wednesday, May 31 <i>Memorial Day</i>	Saturday, June 3 <i>American Soap Box Derby @ Finlay Park</i> Wednesday, June 14 <i>Flag Day</i> Sunday, June 18 <i>Father's Day</i> Saturdays, June 3, 10, 17, 24 <i>Summer Concert Series</i> <i>Finlay Park 7-10p.m.</i>



inside COLUMBIA

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Columbia, SC 29217

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mark your CALENDAR

MAY	JUNE
Thursday, May 4-Sunday, May 7 Mayfest @ Finkys Park Sunday, May 14 Mother's Day Monday, May 29 Memorial Day (observed) City offices closed Wednesday, May 31 Memorial Day	Saturday, June 3 American Soap Box Derby @ Finkys Park Wednesday, June 14 Flag Day Sunday, June 18 Father's Day Saturdays, June 3, 10, 17, 24 Summer Concert Series Finkys Park 7-11p.m.

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'ins COLUMBIA

THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES

MAY / JUNE 2000

what's INSIDE...

City employees
make the grade
with numerous
awards



Municipal Court
Building gets a
facelift



5

Energy Boosters to
help you
through the day



7

EMPLOYEE WELLNESS CENTER IS OPEN FOR BUSINESS

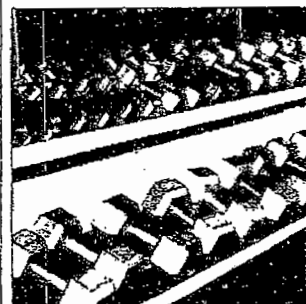


The Employee Wellness Center held its Grand Opening on March 30, 2000. The center opened just in time to get fit for the summer. The Fitness Center is located near the police substation on Henderson Street. Just look for the stairs leading down to the center. There is 24-hour video surveillance for the gym and the parking lot.

There are more than 20 new pieces of equipment in the facility. Some of the equipment includes:

- Dumb Bells from 5 to 115 pounds
- Free Weights
- 3,000+ Pounds of Plates
- 3 Olympic Benches
- 1 Leg Press
- 1 Squat Rack
- And many others...

Discussions about possible aerobics classes are in the works. All interested employees are encouraged to add their input.



Fees for employees are \$10.00 per year for individuals and \$20.00 to include a spouse. City employees may sign up for a 24 hour access card to the center.

Employees can call Barbara Yudec, a certified personal trainer at 343-8769 (leave a message), to get your access card. Barbara will work weekday evenings at the wellness center from 4:30p.m. until 8:00p.m.

This is a great opportunity to get in shape and stay healthy. See more exercise tips inside this issue on page 6.



Inside COLUMBIA
page 2

"Treasure every minute
that you have.
Yesterday is history.
Tomorrow is mystery.
Today is a gift.
That's why it's called the
present!"

-Author Unknown

"Success or failure depends
more upon attitude than
upon capacity. Successful
people act as though they
have accomplished or are
enjoying something. Soon
it becomes a reality. Act
like you are successful, and
you will be successful.
and you will be successful
at the positive results."

-Napoleon Bonaparte

employee NEWS

EXCEPTIONAL ENGINEER HUNG HUYNH SERVES CITY WELL

Hung Huynh is a long term city employee who performs well everyday with an upbeat demeanor. Huynh was born in Vietnam and at the age of 19, he and other members of his family left for the United States.

Huynh has been in the U.S. for over 22 years and became a citizen in 1985. He has worked with the city since 1984 and has always been a model employee who is willing to assist the city with any need which arises.

His work with the City began in a drafting capacity and has progressed to performing work at the level of a Civil Engineer I.

Huynh has provided valuable service to the Engineering Department and to the City of Columbia in general through his oversight of our computer applications.

During a critical shut down of a computer system in another department, Huynh provided assistance to bring their system up again. His expertise during that stressful time saved the city the expense of outside consultant fees. Huynh has completed certificate programs from Midlands Technical College in Artificial Intelligence and Applications Programming and he is a graduate of the Highway Institute in Vietnam.

In recent years, Huynh has been the team leader in encouraging the Engineering Department to continuously advance in the computer technology field. He has developed,

maintained and updated the department's network system. Through his efforts, the department is able to operate more efficiently and effectively by sharing information in a network environment. What a wonderful example of a model employee. Congratulations to our March Employee of the Month!



MARCH EMPLOYEE OF THE MONTH
Hung Huynh of Engineering pictured above
with Mayor Bob Noble.

WILLIE MAE KENNEDY EXHIBITS CREATIVITY WITH A SMILE AT PARKS & REC

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Source: Top Health, 11/90



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"Planning For Your Future" Registration Form

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____ I plan to bring my spouse along with me

Name _____

Department _____

Employee Signature _____

Department Head Signature _____

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mark your CALENDAR

July	August
Tuesday, July 4 Independence Day City offices closed in observance Saturdays in July Summer Concert Series Schedule 7/8- Friends w/ Fred & Sunny 7/15- Elliot & the Untouchables 7/22- The O'Keaysians 7/29- King Kong 7:00-10:00p.m. in Flaley Park	Friday-Saturday, August 18-19 Jubilee: Festival of Heritage Historic Columbia Foundation Saturdays in August Summer Concert Series Schedule 8/5- Second Nature 8/12- Darryl Guttin 8/19- The Ross Holmes Band 8/26- Fresh Air 7:00-10:00p.m. in Flaley Park

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'E COLUMBIA

THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES

JULY / AUGUST 2000

WHAT'S INSIDE...

Employee
recognized
for 37
years of
service



3

Cool off in a city
pool



5

New Health
Insurance Books
are in



7

CITY EMPLOYEES RAISE TOP DOLLAR FOR MARCH OF DIMES

The March of Dimes biggest fund-raiser, WalkAmerica, supports lifesaving research and community programs that save innocent babies from birth defects, low birth weight and infant death. Since its beginning in 1979, WalkAmerica has raised more than \$1 billion to help save millions of babies from death or disability. This year the City of Columbia raised a total of \$4,121.86 for March of Dimes.

The City of Columbia, a long-time participant in WalkAmerica, is proud of three very special fund-raisers. Collecting the most money for the City of Columbia was Gladys Brown, second place was Ruby Hampton, and third place Eva Gordon, all of the Municipal Court. These women have been collecting for several years and they don't plan on stopping!

Court Administrator Gladys Brown said, "I

look forward to this event every year and I have been involved for more than 14 years. I enjoy the competition between city departments and the walk itself."

Ruby Hampton, Violations Clerk was persuaded almost three years ago to get involved in WalkAmerica by Gladys Brown when she came to work for the city. "I believe in the March of

Dimes program," said Hampton, "and their work in saving children. Ms. Brown knew I loved to walk, so it was a natural fit."

"We have no problem getting donations because folks knew about the good work of the March of Dimes, and they are more than happy to contribute," said Gordon. "I am already planning on next year."



The top new WalkAmerica fund-raisers Gladys Brown (left) and Ruby Hampton (right) were honored by Mayor Bob Coble on June 7. Eva Gordon, the third place fund-raiser, was not present.

CITY DEPARTMENTS HOST VARIETY OF INTERNSHIPS

This summer, City of Columbia youth will gain an opportunity to do something unique on their summer vacation... learn.

City departments are sponsoring summer internships for Columbia high school students. Hanging Iron Parks & Recreation to the Police Department, these stu-

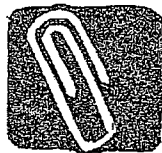
dents gain on-the-job experience and make extra money.

"We are trying to instill good work ethics in these kids. We treat them professionally and if they mess up, they get docked," said Captain Estelle Young, Police Department.

This summer, the City is sponsoring a program that

involves corporations in "Summer Initiatives 2000." It is a community effort for the Summer-Columbia Empowerment Zone and Community Development.

Internships are perfect opportunities for Columbia youth and the City because both sides benefit from the experience.



Inside COLUMBIA
Page 2

for
goodness sake

"It is easy to perform
a good action, but
not easy to acquire a
settled habit of per-
forming such
actions."

-Aristotle

"The greatest plea-
sure I know, is to do
a good action by
sudden, and to have it
found out by acci-
dent."

-Charles Lamb

"Beauty endures only
for as long as it can
be seen; goodness,
however, will
remain so tomor-
row."

-Sappho

employee NEWS

ROOF DISPLAYS DEDICATION FOR CITY AND COMMUNITY

The employee of the month for May has displayed many admirable qualities of a dedicated worker. Kimberley Roof has been employed with the City of Columbia since 1989. She is currently working as the Assistant to the Executive Director for the TN Development Corporation and the Columbia Housing Development Corporation.

"For seven months," Deborah Livingston said, "she ran the TN and Columbia Housing Development Corporations single-handedly, with assistance and direction from Assistant City Manager Leona Plough."

Kimberley has demonstrated dedication, faithfulness and

loyalty to the city and the corporations. The Community Development team is thankful

to have Kimberley on their side and is grateful for her tireless work.



MAY EMPLOYEE OF THE MONTH

Kimberley Roof pictured above with City Council members and Deborah Livingston, executive director of the corporations.

MPO TAYLOR DOES JUSTICE FOR POLICE DEPARTMENT

The employee of the month for June is Master Police Officer H.L. Taylor who was hired as a police officer in 1991. He is currently assigned to the Metro Region. Officer Taylor performs his

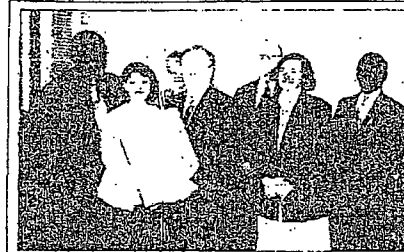
duties in a very pro-active manner. His supervisor said that Taylor can be depended upon to perform his duties with limited supervision and in a professional manner with a team concept in mind.

He can be relied upon to be able to identify suspects who have been involved in criminal activity. Taylor is the kind of police officer who constantly evaluates his patrol area for potential criminal activity and develops a plan to address the problems.



JUNE EMPLOYEE
MPO H.L. Taylor (middle) is
Cable and Chief Charles P.

things to REMEMBER



A FINAL FAREWELL

Former City Clerk Vivian Kingline was honored at a City Council meeting on June 7. City Council presented her with a key to the city. She retired from her position to move to China to teach English.

Inside COLUMBIA
Page 7

TIME

"Time is a great
teacher, but unfortunately it kills all its
pupils."

-Hector Berlioz

"Time is but the
stream I go a-fishing
in."

-Henry David
Thoreau

"Time is a dressmaker
specializing in obser-
vations."

-Faith Baldwin

"We should all be concerned about the
future because we will
have to spend the rest
of our lives there."

-Charles Kettering

DON'T FORGET TO DRINK WATER ALL THE LIVE LONG DAY

According to a recent survey, most Americans are not drinking the recommended serving per day of water.

The survey, conducted by an independent research group for the International Bottled Water Association, found that only 34% of Americans actually drink the recommended eight 8-ounce servings of water per day. The survey said most people drink 6 servings per day and found that 10% said they do not drink water at all.

Water is necessary for a nutritious diet. It makes up more than 70% of

the body's tissues and plays a role in nearly every body function by regulating temperature to bringing oxygen to the cells.



With the hottest days of the year upon us, please be prepared and carry water with you when you are outdoors. Caffeinated drinks do not replenish the body as well as water does. It is best to have water waiting on you at all times.

This survey was conducted on 2,800 randomly selected people living in the 14 selected cities from across the United States.

Personnel Update: NEW HEALTH INSURANCE BOOKS

ATTENTION RETIREES:

We have new Health Insurance Booklets. Many have been mailed out to those who have called. If you would like to have one and you have not yet received one, please call Mona Holliday. The Dental plan is included in the booklet, but Retirees do not receive dental coverage.

If you have further questions on this matter, call Mona Holliday at 733-8541.

ATTENTION ACTIVE EMPLOYEES:

Dental Open Enrollment applications are now being taken. If your dependents are on the health insurance but not the dental, now is the time to sign them up. The effective date of this change was July 1, 2000. See your Department Head or Divisional Secretary to obtain the correct "Dental Open Enrollment" form.

For more information on, contact Mona Holliday at 733-8541.



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Page 6

HAPPINESS

"Whoever is happy will
make others happy."

-Anne Frank

"Happiness is mostly a by-
product of doing what
makes up feel fulfilled."

-Benjamin Spock

"Happiness makes up in
height for what it lacks in
length."

-Robert Frost

"Keep your face in the
sunshine and you cannot
see the shadow."

-Helen Keller

"Follow your bliss."

-Joseph Campbell

in the WORKPLACE

GERRY LYNN HALL RECOGNIZED FOR HER PHOTOGRAPHY

Gerry Lynn Hall, executive director for the South Columbia Development Corporation, was recently recognized for her photography skills when her photos were selected for the

cover of Sandlapper Magazine. She is in the commended for her skills and for her accomplishments as a photographic artist. Congratulations!

LOGO ITEMS ON SALE NOW

Check out the latest logo items:

- License tags
- Insulated mugs
- Hats
- Short sleeve t-shirts
- Long sleeve t-shirts
- Sweatshirts
- Golf shirts
- Portfolios
- Lapel pins
- Tank tops



Show your City of Columbia pride and

wear these logo items. They all come in a variety of styles and colors.

These items can be purchased at
• 1225 Laurel Street,
Inspections Department

• 2910 Colonial Drive
Solid Waste Department

For more information, please call Sharon
Mallon at 733-8436.

*Tank tops are only available at the
Employee Wellness Center.

SEAL OF APPROVAL

May 16, 2000

Dear Mr. Land:

As you are aware, I recently got approved for an adult daycare center. The reason I am writing is due to the fact that as difficult and tedious as the process may have been, there was one person who really made an extra effort to make things as easy and understandable as possible.

I was new at this process, and sometimes, in dealing with new endeavors, there are many questions and obvious answers that you don't know. There are times when the staff can make you feel stupid for not knowing what to them seems to be obvious.

Ms. Valerie Lykes answered all my questions with a smile and never made me feel as though I was a bother to her. She assisted and guided me through the process and made what could have been an insurmountable task into a difficult, but pleasurable one. She made sure I knew what was required to pass zoning and asked questions to make me think about whether my location possessed all the criteria within the zoning laws.

Ms. Lykes assisted me in becoming very prepared for the zoning board. Some people said if everyone was as prepared, the zoning meetings would not take as long. The credit goes to Ms. Lykes. She is a tremendous asset to the department.

Sincerely,

Preston Anderson
Preston Anderson

employee NEWS

JAMES DAVIS, JR. RETIRES AFTER 37 YEARS OF SERVICE

James Davis, Jr., who recently retired after 37 years, began his career with the City of Columbia in January 1963 as a Laborer I, Water Distribution Assistant Superintendent. Richard Young said that Davis' father had also worked for the city in the early 1970's.

Young said, James Davis, Sr., was known as "Pop" by his crew and supervisor. Young, who worked with both father and son stated that,

"James, Jr., was very well-liked by his supervisors and was respected highly by his crew." He remarked, "We will miss his knowledge of the water system and his good attitude at work everyday. He was a pleasure to work with and someone that everybody got along with."

During his career with the city, he advanced to the position of Foreman III in the Water Distribution Division, Water Distribution

Superintendent Mac Fortune said, "James Jr., supervised about 15 persons and was known as a district supervisor for the northeast area of the city. He was on 24-hour call in that position and was a worker who never said, 'no.'"

Fortune commented on how dedicated Davis was to his job.

"In that position," Fortune said, "Davis was responsible for all maintenance of water mains, installing meters, locating water lines for new homes and businesses, and fire hydrant repair and the northeast area is one of the fastest growing areas in the city."

Fortune said of Davis, "Those are big shoes to fill, because of the numerous things he was involved with

In terms of his awareness of the water distribution system, knowing where valves were and repairing service lines. He was the kind of person who got the job done and we will miss him."



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Page 3

success

"Never lose sight of the fact that the most important yardstick of your success will be how you treat other people—your family, friends, co-workers, and even strangers you meet along the way."

-Barbara Bush

"The toughest thing about success is that you've got to keep on being a success."

-Irving Berlin

"Apparent failure may hold in its rough shell the germs of a success that will blossom in time, and bear fruit throughout eternity."

-Frances Ellen
Watkins Harper

SCHOOL SERVICES UNIT RECEIVES GRANT



The School Intervention Officers pictured above were honored at a recent City Council meeting. A grant was presented to City Council that will be used for the School Services Unit. Pictured from left to right are R.E. White, MPO E.D. Adams, MPO W.R. Hittom, MPO R.L. Patten, Corporal B.G. Goff, Captain A.D. Hamilton (School Capt. Hamilton is T. Reynolds) and MPO J. Sloan.



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Page 45

Communication is KEY

"Much unhappiness has come into the world because of bewilderment and things left unsaid."

-Fyodor Dostoyevsky

"When the eyes say one thing, and the tongue another, a practiced man relies on the language of the first."

-Ralph Waldo Emerson

"Good communication is as stimulating as black coffee, and just as hard to sleep after."

-Anne Morrow Lindbergh

"Barking dogs seldom bite"

-Proverb

employee HIGHLIGHTS

BUSINESS LICENSE ELEAZER GRADUATES FROM TRAINING PROGRAM

Allen Eleazer, Business License Inspector for the City of Columbia, has reason to celebrate. Eleazer recently graduated from the Training Program offered by the Business Licensing Officials Association.

The training program is a three year program designed to provide business licensing personnel the

skills critical to their profession. To receive his certificate, Eleazer attended 18 hours of classes in the role of the business licensing official, enforcement, problem areas, communication skills, licensing procedures and licensing administration.

The Business Licensing Officials Association is an affiliate of the Municipal

Association of South Carolina. It helps members remedy the problems associated with administering and enforcing the local businesses and professional license law. The Association addresses these issues through training sessions and its newsletter which is published three times a year. Congratulations!

some words of...

THANKS

• Thank you to all those who volunteered for Mayfest: Whenna Bouknight, Eddie Bristow, Dorey Daniels, John Dooley, Cheryl Draft, Amanda Gunter, Sam Hess, Darlene Horne, Frankie Keller, Susan Leitner, Marie Melonas, Jimmy Niles, Gee Gee Sallic, Colby Staley, Denim Turner, Chris Ulster and Lisa Williams. Thanks to all of you for a job well done on the Beer Wagon! We helped to raise \$75.15 for the Employee Special Activities Committee (ESAC) fund.

• Thank you from Janet LaSchuma to Business License. She would like to say thanks to all for the cards and phone calls she received from friends and co-workers while she was having surgery.

EMPLOYEE N • E • W • S

Congratulations to...

• Kelly Brown (Support Services) and his wife Julie on the birth of quadruplets Sawyer, Nicholas, Cordell and Dakota, born Feb. 29, 2000. Kelly and Julie also have a 2 year old son, Jarrett.

• Retired MPO Jeffery J. Dunn (Police Department) with 25 years of services

• Investigator Jim Potash (Police Dept.) and his wife Wynn on the birth of their baby girl born June 2, 2000 - weighing 8 lbs. 4oz. and 20 in.

• Tracy Thomas, Municipal Court; Brenda Brown; Police Department; Dee Epps, Computer Services; and Ruby Hampton, Municipal Court for being named Top Walker Awards for the March of Dimes 2000 "Walk America" Team Walk.

• John Faust, Water Division; Mark V. Johnson, Fire Department; and Sherri L. Tiedemann, Business License for being the "Day Off" winners at the March of Dimes 2000 "Walk America" Team Walk.

Farewell to...

• Brenda Kyster (Business License) who left the City June 13 with over 14 years of service.

departmental HIGHLIGHTS



SUMMER IS HERE TAKE ADVANTAGE OF CITY POOLS

The City of Columbia Parks and Recreation Department invites all employees to come out to our pools this summer! We have scheduled lessons for beginners and experienced lap swimmers also have a time set aside.

Days and Hours of Operation:
May 27 - June 4 and August 21-September 3

(Part-time hours)
Monday - Friday: 4:00p.m. - 7:00p.m.
Saturday: 10:00a.m. - 6:00p.m.
Sunday: 1:00p.m. - 6:00p.m.
*Note: Memorial Day: 12:00p.m. - 7:00p.m.
Labor Day: 12:00p.m. - 7:00p.m.

June 5 - August 30
(Full-time hours)

Weekdays:
Swim Lessons: 9:00a.m. - 12:00p.m.
Recreation Swim: 1:00p.m. - 6:00p.m.
Lap Swim: 6:00p.m. - 7:00p.m.
Swim Lessons: 7:00p.m. - 8:00p.m.
Weekends:
Recreation Swim Only
Saturday: 10:00a.m. - 6:00p.m.
Sunday: 2:00p.m. - 6:00p.m.

Price of Admission:

\$1.00 for children 12 years of age and below and \$2.00 for persons 13 years of age and above.

****Note: During the swim season the pools will be closed one day per week for maintenance service. Please call for possible changes in schedule.

Drew Pool: Closed Mondays.
733-5442
Maxey Gregg Pool: Closed Fridays.
733-5447
Greenview Pool: Closed Fridays.
754-5223

***There are also passes that can be purchased by paying that will allow them to have a certain number of swims for the season. Passes are listed below:

	Child	Adults
30 visits	\$15.00	\$30.00
50 visits	\$25.00	\$50.00
100 visits	\$50.00	\$100.00

See you at the pools! For more info, call 733-8331.

INSPECTIONS DEPT. TO HOLD GOLF TOURNAMENT

The Inspections Department is hosting a Golf Tournament and cook out on Friday, September 29, 2000 at the Northwood Country Club. All proceeds will benefit the United Way of the Midlands. Cash prizes will be awarded for first,

second and third place, as well as longest drive and closest to the pin prizes. Hancock Motors will be giving away an automobile for the first hole in one on a designed hole during the Inspections Dept. Golf Tournament.



For info. Call John Hill, Donny Phipps, or Billy Kennett at 733-8320.



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Creation

"Don't think! Thinking is the enemy of creativity. It's self-conscious, and anything self-conscious is lousy. You can't try to do things, you simply must do them."

-Ray Bradbury

"Every production must resemble its author."

-Miguel De Cervantes

"Man unites himself with the world in the process of creation."

-Erich Fromm

"In order to create, there must be a dynamic force, and what force is more potent than love?"

-Igor Stravinsky



City of Columbia
Department of Public Relations
P.O. Box 147
Columbia, SC 29217

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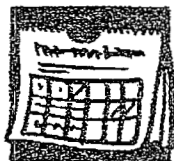


'inside' COLUMBIA

THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES

MARCH/APRIL 2002

Mark Your Calendar!



Earth Day - April 22



April

April 17-21
DooBie Relaxation Reunion
(www.doodieforrelaxation.com)
April 21 - 27
Community Development Week
Friday, April 26
CON Annual Dinner - tickets call 733-8535

Mother's Day - May 12

May



Saturday, May 4
Riverfest
Riverfront Park
Wednesday, May 8
Secretary's Day
Sunday, May 12
Mother's Day
Saturday, May 25
Memorial Day Weekend Concert
Fintay Park, 6 - 10pm
Monday, May 27
Memorial Day
City Offices Closed

what's INSIDE...

City of
Columbia
Launches Safe
Neighborhood
Initiative

Columbia:
A Top-Rated
City



Heard it Through
the Grapevine...
Employee Updates



CONGRATULATIONS TO LEONA PLAUGH ON ONE YEAR AS CITY MANAGER



City staff threw Leona Plough a surprise party on Friday, February 15, 2002 to celebrate her one-year anniversary as City Manager. She was pleasantly surprised when she walked into the second floor conference room and saw the table decorated with glitter, balloons and a beautiful anniversary cake. During the celebration, Mrs. Plough mingled with employees while eating cake and drinking sparkling apple cider.



Columbia Says Thanks

Mayor Bob Coble, Columbia City Council members, City of Columbia officials and Columbia firefighters welcomed two New York City firefighters to Columbia in early March. The U.S. Conference of Mayors and NYC & Company sponsored tips for FDNY firefighters to approximately 200 cities including Columbia. The initiative is called, "Cities Unite-America and Thank New York Firefighters," and its purpose was to thank the firefighters while also promoting travel and tourism across the country.

New York City firefighters Tim Burke and Bobby Noms were given their official welcome to Columbia on March 1, at Fire Department Headquarters. Burke and Noms are from the same fire station that received the donated fire truck from students at White Knoll.



Mayor Coble and Mayor Bob Coble visit with FDNY firefighters Tim Burke and Bobby Noms. The visitors were here to say thank you.

Children Learn How to Build a City

During the weekend of March 8-10, the City of Columbia co-sponsored Kids City.

The affair was held at the Carolina Classic Home and Garden Show on the South Carolina State Fairgrounds. During the event, kids built their own buildings and placed them on a 40x80 inch base map.

From age 2 to 82, participants built houses, places to work, places to buy things, and even places that help people. They learned that, when constructing a city, planning decisions must be made. They were educated on where places such as schools, hospitals, and fire stations should be placed. They were also taught the process of securing a building permit in order to build many of the necessary structures.

There was even a Kids City Council which met and decided where such things as city parks and railroads would go. After each building was constructed, it was placed in the city, and an announcement was made, giving each child recognition for his or her contribution.

City of Columbia staff were also present, lending a hand. They helped the children obtain their building permits and also aided in helping kids

place their buildings within the city limits.

Kids City would not have been possible without the help of many people and organizations. The Home Builders Association of Greater Columbia has been instrumental in bringing the event to the Carolina Classic Home and Garden Show. Special thanks also goes out to various City of Columbia Departments, the Columbia Commission on Children and Youth, Richland School District One, City Year, and the many other volunteers that participated in this year's event.



Columbia Voted One of "America's Top-Rated Cities"

Congratulations to the City of Columbia for making it into America's Top-Rated Cities: A Statistical Handbook, 2002 by Grey House Publishing. It seems Columbia is one of the best cities for sports, women, entrepreneurs, best places for business and careers, and one of the best places to live and work. City employees seem to agree. Here's what some of your fellow coworkers had to say:

"The Parks & Rec. Division work well together to accomplish the same goal. It gives us an opportunity to interact with the citizens of Columbia."

- Kim Mitchell, Cultural Arts Specialist, Parks & Recreation, 6yrs with the City.

"I love Accounting. I work with a good group of people and I like being involved in teamwork...it's very rewarding."

- Barbara Sumpter, Accountant, 2yrs with the City.

"I enjoy working for the City. I never do the same thing twice. It's been very rewarding especially when I have irate customers...it's really rewarding to see how you can calm them down and watch them leave the office with a smile on their face."

- Shannon Lissowski, Environmental Technician, Engineering Dept., 3yrs with the City.

"I enjoy the work...the people...the benefits are good."

- Danny Caldwell, Asst. City Traffic, Traffic Engineering, 21yrs.

"I really enjoy the great benefits. I have made a lot of friendships along the way. It's just a great working environment."

- Stacy Gayton, Foreman, Water Div., 8yrs with the City.

"The City makes a habit of hiring nice people. I really enjoy the friendly employees."

- Janice Crook, Senior Secretary, Inspections, 10yrs with the City.

"The City has good benefits...they look after their employees. It's a good work atmosphere."

- Ashley Dove, Lead Operator, Canal Water Plant, 5yrs.

"I enjoy my job. I get to work with a variety of people, professional as well as the public."

- Debra Turner, Victims Advocate, Police Dept., 5yrs.

"The main reason I like working for the City, is being able to help the citizens of Columbia. With the Street Division, we get to do a job we can be proud of...work goes toward improving the City and making it a better place to live."

- Robert Sweet, Supervisor, Street Division, 16yrs with the City.

"The Parks & Rec. crew is a really great team."

- Karen Kustalik, P/T Park Aid, Parks & Recreation, 1 Yrs with the City.

Community Development Week

April 21 - 27

The Columbia Council of Neighborhoods will be hosting special events during their Community Development Week. Make sure you come out to support your neighborhood and make Columbia a better place to live.

FRIDAY, APRIL 26

Columbia Council of Neighborhoods Appreciation Dinner will be held at the Shandon United Methodist Church located at 3407 Devine Street. The Honorable Inez Tannenbaum, State Superintendent of Education, will be the program speaker. Tickets are \$15 dollars and must be purchased in advance. For more information contact Ernest Evans, Treasurer at 754-4194.

SATURDAY, APRIL 27

Neighborhood Leadership Training and Columbia Council of Neighborhoods Grant Writing are two workshops that are being held at the Ben Arnold Center on S. Holly St. For more information please contact George McInosh at 776-0257.



Congratulations, to Dee Bennett!

Dee Bennett, elected Chair of the South Carolina Section of the American Water Works Association on March 18, 2002, has worked for the City of Columbia for 22 years. During the last 17 years, she has been responsible for environmental compliance for water, wastewater and stormwater; real estate transactions for utility and other City projects; development and implementation of environmental programs and contract negotiation and management. She is also an "A" certified water and biological wastewater treatment plant operator.

During her membership in the Association she has served in other key capacities in the South Carolina Section, including Trustee, Vice Chair and Chair Elect. She has also served on and/or chaired the following committees: Advancement and Education, Public Information, Customer Service, Budget, Operator Meritorious and been recognized with the Herman F. Wiedeman Award.

Birthday Roundtable!

Just a reminder for all associates to attend the Birthday Roundtable in the month of their birth.

This gathering is always held in the Eau Claire Conference Room, located at 3907 Ensor Ave. (off of Monticello Road)

Spring cleaning means cash when you clean out the closet for Columbia's largest garage sale!

Saturday, July 27, 2002

7am - 12 noon

BellSouth Parking Garage, Huger Street at Riverfront Park

City of Columbia Launches Safe Neighborhood Initiative

As a result of mounting local concerns about safety following September 11, the Columbia City Council has earmarked \$250,000 to fund a six-month pilot project that will entail hiring 15 Community Safety Officers.

"Columbia City Council continues to be committed to ensuring the safety of our city and to enhancing the quality of life in our neighborhoods. Our neighborhoods are a strong foundation in Columbia and our city is a great place to live because of the feedback from our citizens," Mayor Bob Cook stated.

The duties of officers hired for the pilot project, called the Safe Neighborhoods Initiative, will include:

- Providing high visibility patrol efforts primarily on foot
- Directing motor vehicles and/or pedestrian traffic during special events
- Collecting incident reports involving minor incidents and violations
- Collecting fix planning information
- Aiding crime and fire prevention efforts by conducting property surveys when necessary
- Completing incident reports involving minor incidents and violations
- Responding to calls for service, in assigned areas, which require general reports

reports

- Conducting fire hydrant maintenance and inspection

The rationale for the program's implementation is no later than four months from the release of the funds to the employment of officers into the neighborhoods. This includes 60 to 90 days for recruitment, selection and hiring.

"Overall this is going to have a positive effect on the police effort in that our CSOs will allow our certified officers to concentrate on Part 1 Crime Incidents (which include robbery, aggravated assault, murder, and rape) and focus more attention on neighborhoods that are experiencing on-going problems with Part 1 incidents, as well as crime activity involving street level drug distribution and street level prostitution," said First Assistant City Manager Charles P. Austin Sr.

In the wake of September 11, Columbia citizens have experienced an increased feeling of vulnerability to terrorism and criminal actions. The CSO project allows the City of Columbia, with full cooperation from the Office of Public Safety, to expand its role in protecting the community.

CSOs must have graduated from an accredited high school or possess a GED, be at

least 17 years old, possess a valid South Carolina driver's license, pass a thorough background check, pass a drug test and medical exam, and be of good character and temperate in habits. They cannot have a prior criminal conviction.

The CSOs will receive supervision from a seasoned officer who will make available to them the knowledge, skills, and abilities for a continued career in public safety, law enforcement or fire services. The CSOs will supplement police and fire manpower by taking on non-emergency duties and by serving as a hands-on liaison between the citizens of Columbia and city agencies. The CSOs will also assist with security at local parks.

CSOs will be staffed at two public utility areas such as the Columbia Water Treatment Plant and work 24 hours a day, seven days a week. During the pilot program, they will be assigned to the northern, middle and southern regions of the city.

The northern region spans from Calhoun Street north to Interstate 20, the middle region consists of the downtown area, and the southern region spans from Veterans Hospital to the Shandon area.

FROM THE DEPARTMENT OF ENGINEERING AND THE DEPARTMENT OF UTILITIES: NATIONAL DRINKING WATER WEEK IS MAY 5-11, 2002

Americans utilize between 50,000 to 250,000 gallons of water per day. Water affects our health, our lifestyles, and our economic well being. Knowing how to take care of this precious resource is necessary now and for future generations. To commemorate National Drinking Water Week, May 5-11, the City of Columbia looks forward to providing information on how to achieve a sustainable, uncontaminated, and safe supply of water by raising public awareness of drinking water issues. Keep an eye out for activities.



February Employee of the Month

Congratulations goes out to February's employee of the month, Stacey Cannon from the Animal Services Division.

Since 1998, Cannon has been a Kennel Technician for the Animal Shelter. She works endlessly making sure all the shelter animals are well cared for, comfortable, and safe. Cannon also helps assist the full time veterinarian. "Stacey is an excellent employee," says Ramona Tinsley, her supervisor. "She goes above and beyond the call of duty. Stacey makes sure all the animals have food and water for the night. I wish I had more employees like her."

Ever since she was little, Cannon has been into animals. Besides raising her two children with

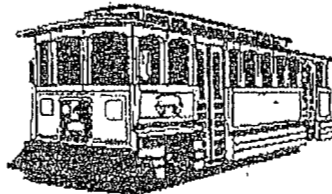
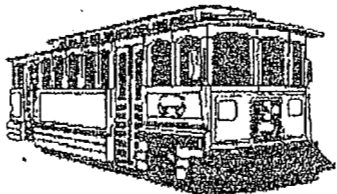


Stacey Cannon, Animal Services
February 2002 Employee of the Month

her husband, she also has two dogs and cats that she cares for daily. All of her animals, with the exception of one cat, are once shelter animals. Eloise Millan, Superintendent, says, "Stacey is a great team player. She's friends with everyone on staff and she's always willing to lend a hand, no matter what the problem, and she does it with a smile."

Cannon says the best thing about working with Animal Services is caring for the animals. She also enjoys working with her coworkers. Cannon says, "It's wonderful. Everyone is friendly and we're like a family. I like it and I plan to be here for as long as I can."

Stacey Cannon is being acknowledged for her positive example for her peers at the Animal Shelter.

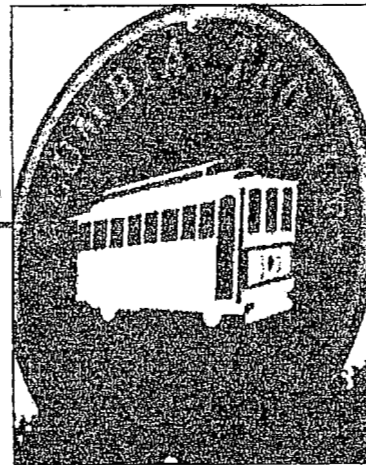


HAVE YOU RIDDEN THE TROLLEY LATELY?

Now that spring has sprung, more city employees will be enjoying the great outdoors. With only about an hour to spare for lunch, who has time to deal with the traffic?

The Columbia Trolley is the easiest route. With service routes throughout Main Street and the Vista areas, getting around is simple. It even makes special accommodations for the disabled. Service is also available in the USC/Five Points area.

During the day, the Trolley operates Sunday through Friday from 11:30 am to 2:40 pm. With prices so low, it'll be hard to stay indoors. Just look for the blue and gold trolley stop sign.



HUMAN RESOURCES UPDATE:

When is Open Enrollment for Dental Coverage?

Open Enrollment runs now through July 15, 2002.

The Human Resources Department will be conducting Open Enrollment for active (not retired) associates for our BC/BS Dental Insurance. Open enrollment for dental is only done every two years. You may drop or add your dependents from dental insurance only at this time. The cost for spouses is \$4.59 and for children \$5.39 per pay period.

Health and Dental coverage are free to each full time associate. You only pay for dependent coverage. Your dependents must be covered by the health insurance to be eligible for the dental.

The effective date will be July 1, 2002. You may begin enrolling as soon as the *special forms* are sent to your department. Check with your Senior or Divisional Secretary to enroll. Open enrollment will end on July 15th.

If you have questions about this or other benefits, call the Human Resources Office at 733-8541.

Are You Looking for a Form?

Pick any of these up at City Hall:

Drug Claim, Mail Order Pharmacy Envelopes, 401K Enrollment, Dental Reimbursement, OB-GYN Participant Doctors, and many others.

If you can't stop by, we can send these out to you by inter-office mail.





City of Columbia
Department of Public Relations
P.O. Box 147
Columbia, SC 29217

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Mark Your Calendar!



August September

Summer Concert Series
(runs through August 24th - Every Saturday)
Finlay Park
call 343-8750 or visit
www.columbiaactioncouncil.com

Saturday, August 31
USC Football Begins!
USC vs. New Mexico State
Williams Brice Stadium

and
Jubilee: Festival of Heritage
Mann-Simons College
call 252-7742 or visit
www.historiccolumbia.org

Friday, August 30
Labor Day Weekend Concert
Finlay Park
call 343-8750 or visit
www.columbiaactioncouncil.com

Monday, September 2
Labor Day
City Offices Closed

Saturday, September 7
Palmetto Classic
Benedit vs. SC State
Williams Brice Stadium
Monday, September 23
First Day of Autumn



THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES

JULY/AUGUST 2002

'insidE' COLUMBIA

what's INSIDE...

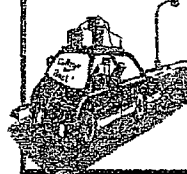
City Center Made Safer (pg. 3)



Planning for the Future Seminar (pg. 5)



Columbia Fire Fighter Heads to Harvard (pg. 6)



COMMUNITY SAFETY OFFICERS CREATE A DEEPER SENSE OF SECURITY

Bruce K. Jackson says he was able to positively influence numerous youth while working as a security guard for Richland School District One the past nine years.

But as a newly hired Community Safety Officer with the City of Columbia, Jackson said he is grateful to be able to positively impact young and old alike.

"I meet the old, the young, retired people, and I still get a chance to work with kids," said Jackson, who was part of the first class of Community Safety Officers that the City of Columbia and the Columbia Police Department graduated on May 17, 2002.

The Community Safety Officers program allows the City and the Police Department to achieve its commitment to Community Policing. Their presence will reduce the burden on police by allowing officers to concentrate on crime.

For Jackson, one of the nine officers who com-



pleted training, being a Community Safety Officer is a labor of love.

"Every time I get up in the morning, I feel great about going to work," Jackson said, "I try my best to get around and see everybody in the neighborhood that I patrol."

The area Jackson has been assigned to patrol includes Allen-Benedict Court, Heist Street and Regis Street. He said he has already seen the impact of his presence.

"I've seen about 15 percent more people sitting on their porches now than when I first started," he said.



Charles Bonner and the rest of the CSO graduates listen to the speakers at the graduation ceremony.

"Usually they just peek out the door and go back in. This includes a lot of elderly people."

CSO Yvonne McDams has had similar experiences in the Elmwood Area, which is her designated community.

"For the residents there, just seeing me is an asset," she said. "A lot of elderly people, if they don't see me they are asking 'Where were you?' or 'I missed you.'"

McDams said she has witnessed a decreased number of homeless people in the Elmwood Area since she has been walking the streets.

Ruth Martin, a 74-year-old Waverly Street resident, said Jackson's presence makes her feel safer when she sits on her porch.

"I feel more comfortable," Martin said. "I'm glad to have him around. I hope that we will be able to have him around a lot."

Louvenia Young, 86, another Waverly Street resident, agrees.

"I feel that it's a positive thing that he is here because you're sitting on your porch and can never tell things happen," Young said. "I feel safer."

Giving residents a greater sense of security is one of many components of the CSO project, said Sgt. Randy Martin, who supervises the CSOs.

"I think that has made a positive impact on the community as far as you've got more eyes and ears in the community, making contacts with the residents," (continued on page 4)

A Fond Farewell To Chief Clark

A reception was held June 25, 2002 for Police Chief Charles Rembert Clark, who officially retired June 30. At the reception, Clark's colleagues bid him adieu through verbal accolades, jokes and moving accounts of his performance as a police chief.

Speakers included the Honorable Mayor Robert D. Coble, City Manager Leona K. Plough, and First Assistant City Manager Charles P. Austin, Sr. Presentations were also made to Clark by Austin, Captain Steven D. Conley, Major N. Caldwell, Captain John R. Tate and others.

"I am extremely appreciative of the ceremony and the people who participated from city government," Clark said after the ceremony. "I am going to miss it. After 40 some odd years it's like leaving your family."

Chief Clark began his service with the Columbia Police Department on December 18, 1960 as a patrolman. He was transferred to the Traffic Unit on October 1, 1964.

Chief Clark left the Department on March 15, 1988 to move to Daytona Beach, Florida where he worked with the police department there.

He returned to the Columbia Police Department on July 25, 1988 and was reinstated in the Traffic Unit. He was pro-

noted to the Identification Office on January 3, 1972 and stayed there until his promotion to Detective on June 4, 1973.

On May 8, 1974 he was promoted to the rank of Sergeant. November 1, 1976, Chief Clark was promoted to Lieutenant in the Uniform Office Division. He was promoted to the Investigative Bureau on January 3, 1983 as Commander.

He was later transferred as Lieutenant of the Administrative Services Division June 30, 1985. He was assigned to District II on January 7, 1991. On June 10, 1981, Chief Clark was promoted to the rank of Captain and transferred to the Investigations Division.

Chief Clark was appointed to the position of Major on September 26, 1994. He was assigned to the Administrative Services and Investigative Divisions. He remained in that position until June 18, 2001 when he was appointed to the position of Chief of Police.



Stormwater Utility Helps Control Flooding Issues

The City of Columbia implemented a Stormwater Utility on July 1, 2002. The Stormwater Utility will establish a new stormwater fee, dedicating a stable funding source to maintain and improve the City's currently inadequate drainage system.

The stormwater fee for all single-family property owners within the City limits will be a flat rate of \$1.97 per month for the first two years of the program. All non-residential properties within the City limits, such as commercial, industrial, multifamily and tax exempt properties, will be charged \$1.97 for every 2,454 square feet of hard surface area (such as rooftops, driveways, parking lots, etc.) measured on the property.

All residential and non-residential property owners within the City limits should see the stormwater fee added to their City water bills as a separate line item beginning in August, when customers receive their water bills for water usage in July. Property owners that do not currently receive a water bill will receive a separate billing for the new stormwater fee.

Please refer any questions to the City of Columbia's Department of Engineering at 733-5232.



0101 Senior Firefighters Tony Peoples and Brian Bouce

A troubled citizen who doesn't know exactly where to turn knows that he or she can always receive assistance at a fire station. Recently, Fire Department Headquarters became such a safe haven for a confused and distressed woman who wandered into their office. Senior Firefighters Brian Bouce and Tony Peoples could see the woman was very distressed and tried to lend assistance. They were able to calm her down and stay with her, while trying to contact her family and let them know the lady was safe. Her family was able to come and pick her up and bring her safely back home.

A few weeks later, the woman returned to the Fire Museum at Station #1 on Laurel Street again and asked to talk with a firefighter. As she waited in the administration office, it became apparent to the staff that

Firefighters Go the Extra Mile

she was lost, anxious and disoriented. Firefighter Tony Peoples recognized the lady and took her to the Captain's office to talk with her again.

While she and Peoples were talking, a fire call came in requiring sirens to sound and lights to flash, frightening the already distraught woman. Firefighter Peoples phoned a relative to come and pick up the woman. He requested to be left behind from the fire call to wait with her. When she told Peoples she wanted to wait around the block, he sensed that she was going to run away. He grabbed a walkie-talkie and ran with the woman several blocks downtown, redirecting their whereabouts back to the station.

In the meantime, the family member who had been called arrived at the station. She had been frantically searching for the woman who had a history of emotional problems. Earlier that day, she had disappeared from a doctor's office across town where she had been taken for treatment. Peoples was able to give their exact whereabouts and the woman was delivered back to the doctor's office safely.

Had it not been for his quick thinking and willingness to do what it takes to keep citizens from harm, the situation could have ended much differently. "I ran with her because I didn't want to see her get hurt and I knew if she was alone she could get hurt. I just stayed with her until her family came," says Peoples. Kudos and thanks to Tony and Brian for literally "going the extra mile" to serve and protect.

Seagrave Fire Truck Dedication

Fire Chief John Jansen, Jr. recently took a trip to New York City to deliver the Seagrave Fire Truck to the New York City Fire Department. The Seagrave was the fire truck that White Knott Middle School students raised money to buy in the wake of the September 11 attacks and the depleted fire fighting equipment that resulted. On June 1, 2002, Jansen met with Ladder Company 101, Engine Company 202 in Brooklyn, NY, along with some of the wives and family members of firefighters who perished trying to rescue people trapped in the World Trade Center. Painted on the side of the truck were the names of the seven firefighters from this battalion who died.



Chief Jansen (right) and Captain Tony Tilocchio pose in front of the Seagrave. The names of fallen firefighters are behind them.



Chief Jansen shares a moment with wives and other family members of firefighters who lost their lives on September 11th.

CONGRATS AND CONDOLENCES

SPECIAL HONORS

Tony Redenbaugh, Chief of Training at Columbia Fire and Rescue, was chosen for the Higgins and Langley Memorial Award for Outstanding Achievement in Southwestern Rescue. Nominated by Battalion Chief Tim Rogers of the Charlotte Fire Department, Redenbaugh was the award because of his instrumental role in the development of the Southwestern Rescue capabilities of the Columbia Fire and Rescue. Chief Redenbaugh received the award on May 31, 2002 at the annual National Association for Search and Rescue (NASCAR) conference in Charlotte, NC.

Archie Meddette, Jr. (Commission on Children and Youth) recently received the Communities to Schools of the Midlands (CIS-M) Francis S. Bickford Award. The award was bestowed to recognize an individual whose unselfish, dedicated, persistent and patient efforts help to improve the quality of life of CIS youth people and who advocates for new opportunities for youth to become positive contributing members of society.

Jean Sorenson (Parks & Rec), Paula Davis (Parks & Rec) and Rob Schaller (Public Relations) all participated in the Mayor's 5K River Run during Riverfest. Jean and Paula, participating in the "mommy 450-run," placed 3rd for running and 1st for walking, respectively. Rob placed 1st for running in his age division.

Patrick Goodwin (Parks Division), and his wife, Norilyn, on the birth of their son.

SYMPATHY

Carter Chaplata (Recreation Division), on the death of his grandfather.

Shawn Fippe (Engineering) on the death of his mother.

Martin Gotsche (Water/Water Maintenance) on the recent death of his grandmother and his father.

Herbert Grant (Water/Water Maintenance) on the recent death of his mother.

The family and friends of Arthur Keith (Solid Waste) who passed away on June 19, 2002. He was an employee of the City for 30 years.

Jerry Moore (Parks Division), on the death of his brother.

Melvin Murphy (Parks Division) on the death of his uncle.

James Reese (Street) on the death of his mother-in-law.

Lawrence Wilcox (Street) on the death of his sister.

PROMOTIONS

Pronitor Brooks (Water/Water Maintenance) from Foreman I to Foreman II

Jenna Linnier (Engineering) from Project Coordinator to Engineering Administration Manager.

Edoby Spencer (Water/Water Maintenance) from Laborer I to Utilities I.

Bobby Thompson (Water/Water Maintenance) from Laborer I to Utilities I.

If you would like to publish any employee news please email the Public Relations Department at pr@columbiacsc.com or fax us at 733-47719.



MARRIAGES

Douglas Brooks (Water/Water Maintenance) and wife, Rebekah on May 1, 2002.

David Mackay (Water/Water Maintenance) and wife, Jennifer on April 4, 2002.

BIRTHS

Deborah Kipp (Street Division), and his wife, Melinda, on the birth of their son.

E.S.A.C. Garage Sale A Success!

The Employee Special Activities Committee held its 2nd Annual Garage Sale on July 27, 2002, at the Bell South Parking Garage located at the corner of Hugor and Taylor Streets, near Riverfront Park. Employees and citizens of Columbia came out to sell their old things that were collecting dust in their attics. People from all over the City came out to purchase some hidden treasures and feast on a hot dog and chips meal.



A special thank you goes out to all the volunteers and E.S.A.C. members that helped make this year's garage sale a success!



June Employee of the Month

The City of Columbia's June 2002 Employee of the Month is Corporal Correll D. Robinson, with the Columbia Police Department. Robinson is a native Columbian and became an officer with the department thirty-four years ago. He entered the law enforcement field out of a desire to help others. Robinson enjoys his job because it allows him to "assist people that don't know where to turn in times of need." Chief of Police (Ret.) Charles Clark says that Robinson's commitment to others is reflected in his positive attitude when dealing with citizens. "He has demonstrated outstanding leadership along with the ability to perform many varied tasks and has always shown a willingness to perform any assigned duty to the highest standard," Clark said.



Correll D. Robinson, Police
June 2002 Employee of the Month

Robinson, who is married and has two children and one grandchild, enjoys camping and fishing. For being employee of the month, he received a commemorative City of Columbia watch and a day off. Robinson said he will most likely be spending that day out at Lake Marion, forgetting about the time and enjoying the great outdoors. And as with any good fireman, no doubt he will also be gathering material to tell his wife the epic story of "The One That Got Away!" For his outstanding professionalism, dedication and demeanor throughout his career, Corporal Correll D. Robinson has been selected as the June 2002 Employee of the Month.

Accounting/Finance Department Wins an Award

In June 2002, the Government Finance Officers Association of the United States and Canada awarded a Certificate of Achievement to the City of Columbia for Excellence in Financial Reporting.

The City received the certificate for its comprehensive annual financial report. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

The award was presented to Catherine Alexander, finance director, and Sarah Sullivan, accounting administrator.

The GFOA is a nonprofit professional association serving approximately 14,000 government finance professionals with offices in Chicago, Illinois and Washington, D.C.



New Logo Items

are now available from Inspections or Solid Waste. Its not too early to start thinking about those Christmas gifts!



Columbia Firefighter Goes Ivy League!

Assistant Chief Bradley Anderson of the Columbia Fire Department has received a fellowship from the National Fire Protection Association to attend the seminar, "Senior Executives in State and Local Government" at the John F. Kennedy School of Government at Harvard University. He is one of eight fire officials selected from the U.S. and Canada for the fellowship this year. The three-week seminar promotes an exchange of ideas with the School of Government's faculty and with a diverse group of elected officials and government managers. The seminar also examines analytic methods of program evaluation and helps leaders find ways to inspire effective and efficient public services. "This is an exciting opportunity to interact with other public officials in a high quality academic setting," Anderson said. A native of Durham, NC, Chief Anderson has worked for the City of Columbia for eleven years and heads the Fire Department's Administration Division.

April Employee of the Month

Henry W. James is the City of Columbia's April 2002 Employee of the Month. He is the Records Technician for the Records Division and it has been said that he can find a needle in a haystack plus the thread that goes with it!

Being with the City for 32 years has helped James hone those research skills. He started off in the Accounting department, reconciling bank statements and over the years has also worked for Computer Services and Support Services before coming to the Records Division in 1988. James said that each department has its own uniqueness and the diversity in types of



Henry W. James, Records
April 2002 Employee of the Month

records they use helps keep his job interesting. James likes the Records Division in particular because of the types of records he keeps. "I'm trying to help preserve the records for the people in the future to see what Columbia was like," he said.

In his spare time, James likes to read and work on crossword puzzles and also stays active with the First Baptist Church of Columbia, where he goes on mission trips and also belongs to the square dancing club. Congratulations to Henry W. James, the April 2002 Employee of the Month!

City Center Made Safer

The public got its chance to meet and greet the new Downtown Safety Guides and Downtown Clean Team on June 25, 2002 in Jefferson Square.

The group consists of the City Center Business Improvement District's newest team members who will be working to make Downtown Columbia the Capital of Southern Hospitality. Mayor Bob Coble and Matt Kennell, executive director of the City Center Partnership, Inc., spoke during the event.

Team members are slated to be downtown six days a week wearing bright-colored uniforms and getting rid of weeds, trash, graffiti and other eyesores. During the evenings, unarmed ambassadors on bicycles and on foot will also provide a reassuring safety presence downtown seven days a week.

"Our initial focus really is on

improving the physical environment of the area. Next year, two-thirds of our budget is dedicated to cleaning and safety services," Kennell has said. "You can do this by enhancing the safety, security and appearance of the area. We hope that there will be a lot more activity downtown in the next few years."

The City Center Partnership, Inc. is a non-profit organization that was formed to implement and manage the new Business Improvement District in the 36-block area bounded by Gervais, Elmwood, Assembly, and Marion streets in downtown Columbia.

The Partnership is working in unison with downtown developers and businesses to help restore the Blended to Columbia's downtown. Mayor Bob Coble and the Columbia City Council have made a commitment to bringing residents back to the downtown area.



National Drinking Water Week, held May 5-11, 2002, raises awareness on the importance of clean water to our health, our lifestyles and even our economic well-being.

The Engineering Department and the Utilities Department joined forces to help spread the word here in Columbia, including this information display that was assembled in City Hall for visitors to look at. The host had information showing how water is treated and made safe to drink, the history of the City of Columbia's Water Plant, ways to help conserve water and more. A big thanks to both departments for getting the word out about such an important topic.



HUMAN RESOURCES UPDATE:

SYSTEM ERROR ON PRESCRIPTION DRUGS AT BLUE CROSS BLUE SHIELD

There has been a system error in the Blue Cross or Advance Rx claims area. An issue that is what they are calling the problem:

For a short period of time in late May or early June, BCBS was only taking a co-pay of \$20 or \$40 at the local pharmacy instead of the full amount. Normally, you pay the full amount at the retail drug store and are then reimbursed at 80% after your \$200 deductible.

Also, for the Mail Order they were taking \$20 or \$40 instead of the \$9 co-pay. Normally, your mail order payment is only \$9 for 3 months supply.

Blue Cross has a plan in place to correct the problem, but you need to check your own records if you have ordered prescriptions or used your Blue Cross card at the drug store during that time frame. Blue Cross will go into the system and correct each claim individually.

If you have questions about your claims, please call 1-800-760-9290 or locally, 264-0315.

Did You Know...

HR Employment has a new fax number?

You can now fax them at: 255-8116

The main HR fax will still be: 343-8752



May Employee of the Month

Robert L. Cade was selected as the City of Columbia's May 2002 Employee of the Month. He has been with the City since 1993 and currently holds the title of Maintenance Technician II, working at the Lake Murray Water Treatment Plant. Cade enjoys working with his hands and the challenge that each repair brings.

"When we repair something, it stays repaired for a long time, so we don't see the same problems very often," he said.

Bud Summers, water works superintendent for the City, said he enjoys working with Mr. Cade.

"Robert is a valuable part of our Water Works maintenance team at the Lake Murray Water Treatment Plant. He is usually seen and not



Robert Cade, Lake Murray WTP
May 2002 Employee of the Month

heard, as he is a quiet individual and one who is a very proficient technician that complements our work force," said Summers. Summers continued to praise Cade for "going above and beyond," and taking the initiative to become one of the first technicians to become a certified water treatment plant operator - something a technician is not required to do. This not only shows Cade's dedication to keeping our water supply safe, but his commitment to serving our citizens. For his professionalism and hard work, the City of Columbia is proud to name Robert L. Cade as the May 2002 Employee of the Month.

(CSO continued from page 1) they are doing entirely checks while it's hot, assisting with special events and much more," Martin said. Martin added that six more CSOs are expected to hit the streets in July.

Mayor Bob Coble said public safety is one of the most crucial services provided by the City of Columbia. He added that the City is dedicated to ensuring that citizens are safe.

"This program will have a significant impact on security in Columbia," Mayor Coble said. "Our neighborhood leaders requested an increased presence of law enforcement in the community and this initiative will accomplish that goal."

As a result of mounting local concerns about safety following September 11, the Columbia City Council earmarked \$250,000 to fund the CSO project, which included hiring 15 Community Safety Officers.

"Overall, this is going to have a positive effect on the police effort in that our CSOs will allow our certified officers to concentrate on Part 1 Crime Incidents (which include robbery, aggravated assault, murder, and rape) and focus more attention on neighborhoods that are experiencing on-going problems with Part 1 incidents, as well as crime activity involving street level drug distribution and street level prostitution," said First Assistant City Manager Charles P. Austin, Sr.



Melissa Enlow is one of the nine new Community Safety Officers.

CSOs must have graduated from an accredited high school or possess a GED, be at least 17 years old, possess a valid South Carolina drivers license, pass a thorough background check, pass a drug test and medical exam, and be of good character and temperate in habits. They cannot have a prior criminal conviction.

The CSOs are receiving supervision from seasoned officers who make available to them the knowledge, skills, and abilities for a continued career in public safety, law enforcement or fire services. The CSOs will supplement police and fire manpower by taking on non-emergency duties and by serving as a hands-on liaison between the citizens of Columbia and city agencies. The CSOs will also assist with security at local parks.

CSOs will be staffed at two public utility areas such as the Columbia Visitor Treatment Plant and work 24 hours a day, seven days a week. During the pilot program, they will be assigned to the northern, metro and southern regions of the city. The northern region spans from Calhoun Street north to Interstate 20, the metro region consists of the downtown area, and the southern region spans from Veterans Hospital to the Shandon area.

Racing to Find a Cure for Leukemia-Lymphoma

Rob Schaller (Public Relations) will be doing a little sit-sitting, catching some great sea-food and watching an NFL game in Baltimore this October. Why is this a newsworthy item? Because he recently became committed to a wonderful cause that has helped and will continue to help thousands of people across the United States and even more across the world. Many of you, in fact, might even know someone who has already been helped by this organization.

Before doing any of those fun things, Rob will hit the ground running in his first marathon and will be doing so on behalf of the South Carolina Leukemia-Lymphoma Society. His longest run prior to this endurance event was only 5 miles, and in just a couple of months, he will be going the distance - a full 26.2. Of course, he won't be doing it alone. Rob has the help of Team In Training, the number one endurance training and fund-raising program in the

United States. Team In Training will not only prepare him physically for this challenge, but will also help him raise \$3,000 to help fund research and find cures for leukemia, lymphoma, myeloma and Hodgkin's Disease.

Rob said, "The hardest part is getting up to run at 6:00 a.m. every Sunday morning. Right now, it's easy - we're only doing 10-12 mile runs. But come September, we hit the big 18 and 20 mile runs!"

So set your alarms for 6:00 a.m. all this summer and then hit your snooze, knowing that, for you, it is safe to say in bed a little while longer. If you would like to learn more about leukemia and lymphoma, or Team In Training, call the Leukemia & Lymphoma Society at 748-4299 or visit www.leukemia-lymphoma.org.



Customer Service Means Success for the City

Everyday the employees working for the City of Columbia come in contact with the customers we are paid to serve. It is always important that during these interactions, we make sure the city's image does not get tarnished. A positive attitude and especially a smile, even on the phone, can often disarm the most disgruntled citizen.

A great point in case is Valerie Lykes, Planning and Development Assistant with the City's Planning Department. Chip Land, Deputy Planning Director, recently received the following letter, praising Ms. Lykes and showing the type of service that all employees should strive for during their interactions with citizens. Way to go, Valerie!

Dear Mr. Land:

Although my request for a variance in order to enlarge my kitchen and add a utility room-office to my home has been cancelled due to a change in my remodeling plans, I would like to take this opportunity to tell you what a pleasant experience I had dealing with your office, particularly with Valerie. Not only is she a total professional - knowing her job, giving much needed guidance, and returning phone calls promptly - she was such a delight to talk to. I believe she sincerely cared about my situation and did everything she could to make sure I understood what I needed to do. This kind of service is all too rare these days, and I would be remiss if I didn't share my thoughts about her.

I don't know that I will ever again have any dealings with your office, but I will look forward to it with pleasure should it become necessary. Thank you very much.

Sincerely,

John G. Bule



PARKS & RECREATION

Rendezvous Wrap-Up!

The City of Columbia Parks and Recreation Department joined cities across the country in celebrating July as National Parks and Recreation Month. For the celebration, the Parks and Recreation Department held a "Rendezvous at the River" at Riverfront Park. Participants enjoyed water games for children, kayaking demonstrations, and boating lessons programs and classes for children, adults and seniors. The event was held on July 26, 2002 from 5:30 p.m. to 8:30 p.m.

A Force to Reckon With

The Double Dutch Forces participated in the 28th Double Dutch World Championship Competition and won nine 1st place and three 2nd place events. So far the Forces have amassed 56 World Titles and 175 State Titles!

"PLANNING FOR YOUR FUTURE" SEMINAR SCHEDULED for September 12, 2002.

The City of Columbia is once again sponsoring a seminar to assist you in understanding your benefits concerning retirement, examining your financial situation and creating an awareness of what retirement really involves and how to best prepare.

Plan ahead and mark your calendars. All interested employees and their spouses are invited to attend the "Planning for Your Future" seminar. Different professionals will be speaking on the following topics:

- Why planning is vital
- Setting Financial Goals
- Wills, Trusts & Estate Planning
- Retirement Benefits
- Social Security Benefits
- Tax Deferred Savings

The cost will be \$5. Make reservations through your supervisor with the enrollment form in this issue. This seminar is considered in-service training and will not be charged to vacation. It will be held at the Eau Claire Print Shop.

REGISTRATION FORM (With Approval)

I plan to attend the Planning for the Future seminar, September 12, 2002. ☐ Yes, my spouse will attend free.

Name (Please Print)

Department

Employee Signature

Department Head Signature

Clip this portion of the form and return it through your department to Human Resources with your \$5 check or money order made payable to the City of Columbia no later than September 4, 2002 if you have any questions, please contact Mona Holliday at 735-8541.



inside COLUMBIA



THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEE

A MESSAGE FROM THE INTERIM CITY MANAGER Strengthening Our Commitment to Our Family

MY FELLOW COLLEAGUES:

I want to take this opportunity to thank each of you for your unwavering commitment to our citizens. Certainly you are to be commended for the untiring and unselfish manner in which you have conducted the business of our City under some very challenging circumstances.

Needless to say, the past few weeks have been some stormy and trying times. Yet, I sense we have grown significantly as a family and as servants. I am so proud of how we have weathered the adversities around us and through it all maintained an outstanding record of service delivery.

Our citizens rely very heavily on the 1900+ employees who make up this family to protect their lives and property; to maintain a clean city; to provide clean, healthy water services and to be good stewards over the resources in our care. They recognize that each of us, regardless of role or tenure is valuable to this family and each of us has gifts and talents to build up our City. To paraphrase the Apostle Paul, we are many parts, but all part of one body. Each of us has a gift that is unique to us; but our gift is important to the whole body.

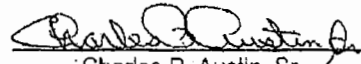
I am asking you to take time out for a period of reflection. Ask yourself two questions:

1) What is my gift to contribute to the family?

2) How much am I willing to give towards the success of the family?

When you have completed your self analysis, then I am asking you to renew your commitment to be a positive contributor to this period of healing, reconciliation and restoration.

I know we are going to make it!


Charles P. Austin, Sr.
Interim City Manager



Charles P. Austin, Sr.
Interim City Manager

Inside this Issue:

Celebrating Growing Communities

Firefighting Place of National Challenge

Attend an Emergency Preparedness Seminar

IT'S GETTIN' HOT IN HERE: Columbia Competes in National Firefighter Combat Challenge

Captain Mark George, with the Columbia Fire Department, tells all new recruits that they can't eat cheese puffs everyday and expect to do their job.

"We have to be prepared for that fire that is not going to be over in five minutes," George said. "That's the one that tells on you if you're not in shape."

The Columbia Fire Department has a surefire-way for Columbia firemen to stay in shape: the annual Scott Firefighter Combat Challenge. An average of five firemen from the Columbia Fire Department compete in the Challenge.

Broadcast on ESPN, the Firefighter Combat Challenge attracts hundreds of U.S. and Canadian municipal fire departments each year at more than 25 locations and is seen by more than 30 million people worldwide. The Challenge seeks to encourage firefighter fitness and demonstrate the profession's rigors to the public. Wearing full bunker gear and a breathing apparatus, pairs of competitors simulate the physical demands of real-life firefighting by performing a linked series of five tasks including climbing the five-story tower, hoisting, chopping, dragging hoses and rescuing a life-sized, 175 lb. "victim" as they race against themselves, their opponent and the clock.

The Columbia Fire Department has been competing in the Challenge for about six years. George has coordinated the Columbia Fire Department's participation in the event for the past three years. The Columbia firefighters have already started training for an upcoming competition on May 16, 2003 in Deerfield, Florida. "Each individual does weight and cardiovascular training," George said. "If someone makes a commitment to compete in the Combat Challenge, they're going to be in better shape for their job. They know that by being in shape with the Combat Challenge, it enables them to do their job well. The

better shape we're in, the better we can protect the people we serve in our community."

Three years ago, the Columbia team started competing nationally in the Challenge.

In 2001, the team placed first in the state competition and finished 26th overall at the World Challenge Finals in Memphis, Tennessee. They placed third in the Relay Competition in Ocean City, Maryland in June 2001. That qualified them for the World Challenge where they competed against more than 300 teams.

In June of 2002, the Columbia team placed second in the relay in Ocean City, Maryland, and qualified in the World Challenger's Relay. In the state competition, the team placed second overall. The team then went to the World Challenge in Deerfield Beach, Florida, and ranked 40th overall. Also in 2002, the Columbia team had its first female competitor named Misty Rucker, a senior firefighter. She qualified for the World Challenge in the Women's Individual competition and placed in four minutes and thirty-four seconds.

The Columbia City Council donated \$1,000 to the Fire Department last year to assist firefighters with travel costs. Support from local businesses and individuals also made it possible for them to travel and compete, George said.



PARKS & RECREATION

The Parks and Recreation Department held its annual workshop on February 18th and 19th at Hyatt Park. Some of the topics discussed were: department goals, team building initiatives, evaluations/performance reviews and gang awareness.

Carolyn Myers, the facilitator, kept the group discussions on track and helped to bring a new perspective. Myers also had the staff break into smaller groups for a team-building exercise, which had groups competing against each other to finish an assignment. Myers encouraged participation from all ranks in the department in order to create equitable solutions.

The February 2003 Employee of the Month is Karl Banach, a Truck Driver III with the Street Division. Banach has been with the City of Columbia for five years. He has been a tremendous asset to the department with an incredible level of commitment to helping his fellow workers and keeping the storm drains clean.

"When it rains is when I work the hardest," said Banach, whose main duty is to clean the catch basins and storm drainage pipes, which alleviates flooding problems in City streets.

Banach operates the City's sole Storm Drainage Vacuum Truck, along with Darrell Cain, his assistant. The two of them must work together, often using hand signals to communicate due to the noise caused by the



machinery on the truck.

"What I do, nobody sees because it is underground," said Banach. "But when I drive down the street and see no yards are flooded, that says I'm doing something right."

Banach places a high value on helping the public, something he has become accustomed to over his thirty-nine years of public service. A retired fire fighter in Nevada, he moved to Columbia and began working for the City in 1997.

Robert Sweatt, supervisor for the Street Division, commented that Banach is very efficient and dedicated to his job.

"He's an excellent employee. He's always on time, always works hard and always goes the extra mile," said Sweatt.

"I've been on the Vac truck for four and a half years now and I try to learn everything I can and help the City because that's what I'm here for," said Banach. "There's lots of expertise out there and to be chosen over everybody else to be the employee of the month is quite an honor."

The City of Columbia is proud to name Karl Banach the February 2003 Employee of the Month.

Frances "Fran" Bedenbaugh is the City of Columbia's March 2003 Employee of the Month. She is currently a Senior Clerk for the Collections Department, but has been a City employee for fourteen years, serving in several different divisions.

Bedenbaugh's enthusiasm for her work is outstanding. She shows up for work early everyday and will always stay late to finish any task she feels is a priority. As evidenced by her 736 hours of accrued sick time, Bedenbaugh has a wonderful record of attendance and does not call in sick unless it is just impossible to come to work. In fact, Bedenbaugh insisted on driving into work from her home in Gilbert to open up at 7:00 a.m. during the ice-storms the region experienced earlier this year.



Bedenbaugh is always trying to think of ways to make her division more efficient, productive and customer friendly, whether to internal or external customers. This year, Bedenbaugh has introduced two ideas to help streamline City operations.

One of these ideas will likely affect several divisions, decreasing their workload and helping the City and taxpayers get more out of their tax dollars.

Bedenbaugh looks after her customers' best interest and always provides quick and accurate service. She also looks out for her co-workers and often tries to help them in any way she can.

Marla Melonas, collections administrator for the City, enjoys having Bedenbaugh as one of her employees.

"Fran is always a pleasure to work with and remains upbeat and enthusiastic at all times," said Melonas. "Her enthusiasm, dedication and good humor have a positive effect on the entire division, including myself."

Congratulations to Frances Bedenbaugh, the March 2003 Employee of the Month.

city of columbia employee of the month

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FUNDamental Growth

**The City Sponsors Community
Development Week April 21 - 27**

Community Development Week (CDW) was nationally celebrated on April 21-27, 2003. The purpose of CDW is to celebrate all the activities that the City of Columbia implements with Community Development funds.

These activities include: housing, economic development, summer youth employment, and neighborhood beautification. The City of Columbia is slated to receive \$1.56 million for fiscal year 2003-2004. The funding comes from the United States Department of Housing and Urban Development.

The City's Community Development Staff hosted a presentation before City Council on April 16, 2003, which highlighted housing and other activities involving Community Development Block Grant (CDBG) dollars. Also, the Community Relations Council for Housing hosted its annual Fair Housing Poster Contest on April 24, 2003 at Dutch Square Mall.

The CDBG program was enacted into law as part of the 1974 Housing Act and began operations in 1975. This entitlement program, providing grants to 50,000-plus cities and 200,000-plus urban counties and states, benefits its communities. While the primary purpose is to provide a decent, safe and suitable living environment and economic opportunities to low and moderate income people, CDBG remains to this day a principal source of revenue for localities to devise flexible strategies to prevent physical, economic and social deterioration throughout our nation's neighborhoods.

The week before Community Development Week, on April 17, 2003, the Columbia Housing Authority hosted its annual Wall of Fame Award Ceremony at 11:00 a.m.

The Columbia Housing Authority can be contacted at 254-3886. The Community Relations Council for Housing can be contacted at 733-1134. For more information regarding the City of Columbia's Community Development Week, please call 545-3373.

HUMAN RESOURCES

- **NEW EMPLOYEE HANDBOOKS** have been distributed. There is no new information, only some clarifications and corrections.
- **PROVIDER DIRECTORIES** have been distributed to most departments during the last week of March. We do not have enough for each employee so they should be used as a reference book and kept in the department offices. Providers may also be found at www.SouthCarolinaBlues.com.
- **BLUE CROSS BLUE SHIELD HANDBOOKS** are also being distributed. You will notice that all of the contact phone numbers are now listed on one of the first pages in the book. We hope that this will make it easier for you to find the right place to call Blue Cross. There are no changes to your BCBS Insurance Plan. We have just made some corrections.
- **RETIREES** - Human Resources has new BCBS Handbooks available. If you would like one mailed to you, call 545-3007 (new phone number), or you may stop by our office on the first floor of City Hall and pick one up. We also have available Prescription Drug Claim forms and the Mail Order Envelopes to receive a 3-month supply of your prescription for only \$9.
- **HAVE YOU MOVED?** Please keep Human Resources updated. We can then update BCBS. Plus, you won't miss any issues of Inside Columbia. Call 545-3007.
- **MARK YOUR CALENDAR** - A "Planning for the Future" seminar will be held on September 18, 2003. Learn all about your Retirement Benefits, Financial Planning, 401k or 457 Plans, Social Security and Estate Planning.

INSPECTION DEPARTMENT

Special thanks to all of the City staff in the Inspections Department for all their hard work. April 6 - 12 was "Building Safety Week."

Rule #1 - Don't Panic

Columbia Police Offer Free Emergency Preparedness Seminar

The City of Columbia's Police Department is offering citizens a free, eight-hour seminar to help them better understand and prepare for an emergency.

The seminar will focus on current events as they relate to terrorist threats and weapons of mass destruction. Training will include how to prepare citizens and their families in case of severe weather or a biological, chemical or nuclear threat. This will include how to organize and build a home survival kit for use in emergencies.

The dates and times of seminars are:

Friday, May 9, 2003 from 6:00 p.m. to 9:00 p.m.
Saturday, May 10, 2003 from 9:00 a.m. to 2:00 p.m.
Friday, May 23, 2003 from 6:00 p.m. to 9:00 p.m.
Saturday, May 24, 2003 from 9:00 a.m. to 2:00 p.m.

Each class is limited to 30 participants. The training will be held at the Columbia Police Department's Training Center, located at 1632 Hampton Street, next to the old Bellsouth Building.

For more information or to register, call the Training and Career Development Division at 255-8925 or e-mail the Division at dahellman@columbiasc.net.



RESPONDING TO THE CALL:

The City Recognizes National Public Safety Telecommunications Week

The City of Columbia recognized National Public Safety Telecommunications Week during the second full week of April.

The purpose was to recognize and honor the many telecommunications professionals who assist in providing 9-1-1 emergency assistance to citizens everyday. There are 70 staff persons employed in telecommunications at the City of Columbia.

"It is my sincere hope that all of the men and women who dedicate themselves to this most admirable profession understand how important they are to residents and continue to do their best work each and every day," said Judy Spell, telecommunications director for the City of Columbia. "We want the citizens of this city and county to know that we will be there when you need us the most."

As the First Responders, telecommunications are the first voice that callers come in contact with when requesting emergency assistance. They are committed to being the voice of the people during emergencies by ensuring the emergency responders are provided information in an accurate and timely manner. While they are oftentimes forgotten about when all goes well with a call, well-trained and disciplined telecommunications answer the call quickly, process the call accurately (ask the right questions), and disseminate (dispatch) the call in a timely manner.

"The role of a telecommunicator can prove to be both rewarding and challenging. The reward comes from knowing at the end of the day, you have helped someone during one of their most vulnerable periods of their lives, because we know if you, the caller, are having to call 9-1-1, your life or property is being threatened," Spell said. "It is indeed a wonderful feeling to have a week set aside to recognize the dedicated men and women of the most honorable profession."

Captain Harry Tinsley with the Columbia Fire Department Rescue Squad added: "I would like to take this opportunity to say thanks to all of the dedicated E-911 professionals of the Columbia-Richland Communications Center for the City of Columbia and Richland County on a job well done. Keep up the good work. You have served this city and county well."

Special recognition was given to the telecommunications staff at the April 16, 2003 City Council Meeting.

congrats and condolences: employee news

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The Columbia Council of Neighborhoods (CCN) held its annual Appreciation and Awards Dinner on Friday, April 25 at the Historic Print Facility in Eau Claire.

The dinner was well attended by civic-minded citizens who are interested in building, empowering and promoting neighborhoods. The featured speaker was the Honorable Jesse Washington, Jr., commissioner for the South Carolina Human Affairs Commission. The 2003 Neighborhood Volunteer Awards were also handed out at the dinner.



Jim Gambrell (Economic Development) received his 10-year pin from **Mayor Bob Coble** at the March 12, 2003 City Council Meeting.



Ms. Gerry Lynn Hall, Councilwoman **Anne Sinclair** and Mayor **Bob Coble** receive Honor Awards from **Wilbur Smith Associates** during the March 5, 2003 City Council meeting. Hall, executive director of the South Columbia Development Corporation, had previously recognized Wilbur Smith Associates for their dedication and hard work on the Columbia Owens Master Plan.

THE UPPER CRUST

City Employees Form 'Core Team' For Software Installation

Twelve City of Columbia Employees, representing various departments including Utilities, Engineering, Collections, Water Customer Service and Information Technology, recently completed a six-week training program to serve as members of a special "Core Team."

The Core Team's training prepared them to assist the City in deploying its new Utility Billing/Customer Information System, called Banner CIS. Designed by a local development firm, INDUS (formerly known as SCT Corporation), the Banner CIS software will improve delivery of City services, including water, wastewater, solid waste, parking and 311 non-emergency services, by centralizing and enhancing data management for these services.

With a goal of improving efficiency in providing customer service and maintenance of the City's utility systems, the Core Team chose a theme called "SAILS" - Software Advancements Improve Local Services. Core Team members were selected to serve on the Banner implementation project, based on their expertise and knowledge of current City business practices. Directed by Missy Caughman, project manager for Banner CIS implementation, Core Team members Toney Abbott, Angela Adams, Angela Albergottle, Denny Daniels, Dee Epps, Carmen Flemming, Priscilla Mayes, Gail McIntosh, Maria Melonas, Ronda Rhoden, Darryl Sharp and Frances Tillman were charged with the task of thoroughly exploring the Banner software, identifying impacts on current business practices, and assisting management in outlining possible changes to business processes. For many Core members, juggling team responsibilities with regular job functions was quite a challenge, yet everyone has done his or her part to ensure the effectiveness of the team. The lines of communication were kept open with training notes and periodic meetings between Core Team members and members of senior management, including City Council, Interim City Manager Charles P. Austin, Sr., John Dooley, Dana Turner, Cathy Alexander, Robert Anderson, Charles Daniels, Bobby Hecker, Lee Honeycutt, I.D.

Hook, and James Johnson.

Phase Two of the Core Team's role involves configuration of the software through outlining system rules and validations, including service types, procedures and rates. Several Core Team members will also implement a process called User Acceptance Testing (UAT), designed to ensure that the software performs effectively based on specific business practices. In addition, development and execution of end-user training, spearheaded by Carmen Flemming, integrated systems lead trainer, will bring about customized training and support for all staff expected to utilize the Banner software.

With a go-live date set for early next year, the Core Team's role is valuable and essential to the successful implementation of the new Banner software. Congratulations to the Core Team and to all City employees involved with this project on a job well done so far! Stay tuned for future updates on how Software Advancements Improve Local Services (SAILS).

For questions or comments about this project, contact Missy Caughman at 545-3201 or Carmen Flemming at 737-4229.



COLUMBIA HOUSING DEVELOPMENT CORPORATION

The Columbia Housing Development Corporation's Annual Meeting was held on April 10, 2003. Congratulations to Deborah Livingston and her staff members, Kimberly Roof and Michelle Prevost on a job well done.





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check it out!

May

MAY 8-29

Vista After 5
Every Thursday until May 29
6:30 p.m. to 9:00 p.m.
Parking Area Behind Jillans

MAY 8-29

Five After 5
Every Thursday until May 29
6:30 p.m. to 10:00 p.m.
Fountain Plaza in Five Points

MAY 9-29

The Symphony League's
2003 Designer Showhouse
333 Old Woodlands Road
Monday-Saturday: 10:00 a.m. to 4:00 p.m.
Sunday: 1:30 p.m. to 5:00 p.m.

MAY 11

Mother's Day

MAY 17

Armed Forces Day

MAY 18

South Carolina Philharmonic Youth Orchestra
Koger Center for the Arts - 3:00 p.m.

MAY 24

Memorial Day Weekend Concert
Beginning of Summer Concert Series
Every Saturday until August 23rd in Finlay Park
7:00 p.m. to 10:00 p.m.

MAY 25

Free Memorial Day Concert
by the Palmetto Concert Band
Koger Center for the Arts - 4:00 p.m.

MAY 26

Memorial Day
City Offices Closed
Garbage and Recyclables will be collected



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inside COLUMBIA



THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES

FIREFIGHTERS FEELIN' LUCKY Station 13 Opens in Eau Claire

Columbia Firefighter Robert Hook vividly recalls the cramped trailer that served as the Eau Claire Fire Station for several years.

"Three people slept in a small space. Where one person's feet ended, another's head began," Hook, a Columbia firefighter for four years, said. "The refrigerator had 12 people's items in it, and there were three shifts of four people that the trailer accommodated."

But not anymore.

The Columbia Fire Department dedicated the new two-story Eau Claire Fire Station on April 22, 2003. The facility measures 6,176 square feet and includes: two bays for fire apparatus, a brass fire pole from the second floor to the first floor, a watch room for communications, a day room, a weight room, a dormitory for six firefighters, landscaping around the building with an irrigation system, and exterior brick, enhanced with ceramic tile accents to blend with nearby historic buildings.

"This fire station was greatly needed in this community," said Sen Davis, District 1 Councilman. "Not only is it more accommodating to the firemen who work in this area, but it is also aesthetically pleasing. The City of Columbia is very pleased."

The firefighters are pleased as well.

"This is what you call a home away from home," said Fire Equipment Operator Charles Thomas, who has worked for the Columbia Fire Department for 25 years.

Henry Hopkins, executive director of the Eau Claire Community Council, said he was thrilled that the new fire station was completed on North Main Street.

"It has been a long, hard ordeal for the firemen who were stationed at the temporary fire station and

for the Eau Claire residents who were hoping that we got a fire station. I am happy to say that all of that has been rectified."

Assistant Fire Chief Bradley Anderson added: "It's really good to have the new fire station in place. The firefighters were in less than desirable quarters the last several years, and we're very glad to have a building that serves the needs of the fire department and the community." The new building also boasts four refrigerators for four shifts of firefighters, storage space for uniforms, and lockers.



The newly 11 fire station is located at 4112 North Main Street.

"It's totally different now. You have more room," Hook said with a smile. "With four people in that one trailer, you had to look at four people all day long. Now, we all have our own space."

Inside this issue:

City Sponsors Mega-Garage Sale

Star Tech - The Next Generation of IT

County Director Resigns 7/1/13 Re-election

July August

JULY - AUGUST

At the Threshold of the Homeland
Exhibit at the State Museum
Now through August 9

JULY - AUGUST

Columbia Action Council's
Summer Concert Series
Every Saturday through August 23
Finley Park
7:00 p.m. to 10:00 p.m.

JULY 26

Storytelling Festival at the State Museum
Presented by the SC Storytelling Network

REMAINING CITY HOLIDAYS

September 1 - Labor Day
November 27 - Thanksgiving Day
November 28 - Day After Thanksgiving
December 25 - Christmas Day
December 26 - Day After Christmas

AUGUST 21

Vista After 5 Concert Series Begins
Every Thursday through October 9
Behind Jiliens - 800 Gervais Street
6:00 p.m. to 9:00 p.m.

AUGUST 28

Fire Point After 5 Concert Series Begins
Every Thursday through October 30
(except October 23rd)
The Fountain in 5 Points
9:30 p.m. to 10:30 p.m.

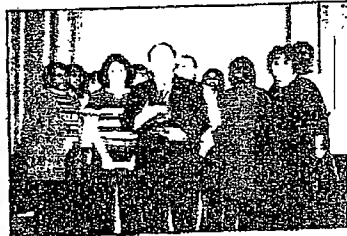
AUGUST 29

Columbia Action Council's
Summer Concert Series
Special Labor Day Weekend Concert
Finley Park
6:00 p.m. to 10:00 p.m.

AUGUST 30

Gamecock Football Begins
USC vs. Louisiana-Lafayette
Williams-Brice Stadium

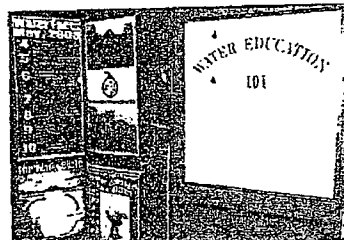
congrats and condolences: employee news



The City of Columbia's Finance Department received the Government Finance Officers Association of America Certificate of Achievement for Excellence in Financial Reporting. The department presented the award to Mayor Coble in April.



(l-r) Retiree Clarence Stewart was recognized by Interim City Manager Charles P. Austin, Sr. during a City Council meeting. Stewart retired in March after 21 years of service to the Parks & Recreation Department.



National Drinking Water Week was held May 4-10, 2003. The Utilities and Engineering departments displayed information pertaining to water education in the entrance to 1225 Laurel Street during that week for the public to read.

GROOMING I.T. GURUS GCBDPA Hosts Second Annual Competition for Youth

The Greater Columbia Chapter of Black Data Processing Association - Information Technology Thought Leaders (GCBDPA) hosted the 2nd Annual Southeast Regional High School Computer Competition on Saturday, May 17, 2003 at Midlands Technical College, Beltsville.

The event drew participants from teams representing BDPA chapters in Georgia, Memphis, North Carolina and South Carolina. With local media coverage, including a feature on WLTN, Channel 10 News, the event was exciting and rewarding.

BDPA is a national, nonprofit organization whose mission is to promote Information Technology (IT) with an emphasis on youth and minority communities. The Greater Columbia Chapter of BDPA (GCBDPA) was started in 1997, and presently has a membership of over 80 IT professionals employed throughout the Midlands.

Among GCBDPA's primary initiatives is its High School Computer Training Program (HSCTP), designed to bridge the gap in information technology by providing free access to computer training and IT mentors for youth in the community. In its fifth year of conducting the training program, the Greater Columbia Chapter has been a national leader in training and developing new and diverse talent for the Information Technology field.

"As the coordinator for the Chapter's Computer Training Program, I am pleased to note that hundreds of Columbia-area students have benefited from our efforts," said Program Coordinator Carmen Flemming of the City's Integrated Systems Department. With experience in teaching and information technology, Carmen indicates, "I truly value this opportunity to give back to the community in a positive way."

"I also appreciate the support that we receive from the community in providing this service for students. A special thanks to the City's Utilities Department for donating souvenir items to share with our local and visiting competitors."

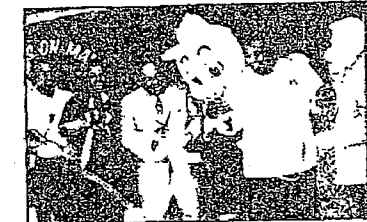
If you would like more information about BDPA and the High School Computer Training Program, contact Carmen Flemming at 737-4229, or visit

the following websites.

National: <http://www.bdpa.org/hscyouth2003.cfm>
Local: <http://www.go-bdps.org/hscoc.htm>
Partners: <http://www.go-bdps.org/links.htm>



Associations who help make home-buying a reality at Columbia.



Barry A. Walker, Sr., owner of Mac's on Main restaurant, cuts the ribbon on his new business, Wend Famous Cobbblers, which will be distributed to Piggly Wiggly stores across South Carolina and create new job opportunities here in Columbia.

ENGINEERING DEPARTMENT

2002 Water Quality Report

In order to be compliant with the Consumer Confidence Reports Rule of the 1996 Safe Drinking Water Act Amendments, a copy of this report must be in the hands of all City water customers by July 1, 2003.

This is the fifth year the departments of Engineering and Utilities have produced a document providing invaluable information about the City's drinking water quality.

We had no violations during 2002, so the report will reflect positively on the City.

The City of Columbia is proud to name Jim Lawracy as the April 2003 Employee of the Month. Although Lawracy began his work for the City in the planning department, he quickly rose through the ranks to become the parks planner and this past March, he became parks superintendent.

Even with the promotion, Lawracy will still work as the City's primary parks planner.

"Any new work that we do within the City's Parks and Recreation Department, that is generally my responsibility; whether that be purchasing the land to overseeing the design and construction of each park," Lawracy said.

Standing on the site of one of his latest projects, an addition to the Hyatt Park facilities building, Lawracy rattles off a list of past projects with an easy smile:



"Pinehurst Park, Sims Park, Heathwood Park, Emily Douglas, Columbia Golf Facility, worked with the River Alliance on getting Granby Park built, worked closely with the Hope VI folks at Drew Park..."

Yet, the sixty-eight acre Owens Field seems to be the jewel in Lawracy's crown. Boasting nine soccer and three baseball fields, a skateboard park, an inline hockey rink and a complete irrigation and drainage system, Owens Field was constructed solely by Parks Department staff and staff from various Public Works divisions.

A New York native and former vocational teacher, Lawracy is particularly proud of the work his staff performed.

"I helped train our forces and we physically built that ourselves. Guys in our department had never worked on those things, but they were willing to learn how to do some things."

Lawracy plans to continue this philosophy in his new position.

"One of my goals, now that I'm parks superintendent, is to bring in some outside training to really expand the trade skill levels of all the employees," Lawracy said.

Wayne Pound, a maintenance tech specialist for the Columbia Canal Water Treatment Plant, is the City of Columbia's May 2003 Employee of the Month. He will be celebrating twenty years with the City on July 5th.

Pound says that his time with the City has been well worthwhile.

"I worked construction all my life up until I came to work here, and I took a big cut in pay coming here, but I could see the advantages down the road and it has paid off. It's a good place to work," said Pound.

Some of those advantages include the City's good benefits package, job security, good people to work with and of course the increase in pay during the past two decades.

"I figure I'm ahead of the game now."



As a maintenance tech specialist, Pound stays very busy with a wide assortment of tasks that can include anything from tracking inventory and work orders to performing electrical work and other mechanical repairs.

"He's our specialist," said Glenn Giles, maintenance supervisor for the plant. "Anytime the guys have any problems, they can go to him and get answers. He's a very good troubleshooter and a good electrician."

Giles went on to praise Pound's strong work ethic and positive attitude. "Everything he does has got to be right or he's not going to do it at all," he said.

Bud Summers, water works superintendent, echoed these sentiments before City Council at the employee of the month presentation ceremony, held on May 7th.

"Wayne works well with a very dedicated group of individuals who must maintain all the critical components of the infrastructure involved in treating and conveying drinking water to our customers," said Summers.

Congratulations to Wayne Pound, the May 2003 Employee of the Month.

city of columbia employee of the month

The Envelope Please...

Columbia's Court Director Nominated for TWIN Award

Gladys Brown, the City of Columbia's Municipal Court Director, was nominated for the YWCA's Tribute to Women and Industry (TWIN) award. The TWIN award recognizes women who exemplify excellence in executive-level positions. The TWIN Award Ceremony was held on May 27, 2003.

Brown said that based on the fact that the award has been in existence since 1980, and based on the criteria needed to receive the award, she felt honored to be nominated. "I felt honored to be nominated because it was totally unexpected," Brown said. "I am proud to have been nominated. I am sure that the award would not have been in existence for so long if it wasn't something positive."



Gladys Brown (center) receives her nomination plaque at this year's TWIN Award Ceremony.

The YWCA of the Midlands created the TWIN Awards in 1980. The TWIN program publicly recognizes women for their contributions and achievements in both professional and volunteer domains. The TWIN Award, designed to resemble a cut diamond, represents the many facets of a woman's life - her contributions to her company, her community, her family and her industry.

The guest speaker for the ceremony was Columbia native Kimberly Aiken-Cockerham, the former Miss America.

Past nominees include: City Councilwoman Anne Sinclair, former City Councilwoman Frannie Heizer, Diane Sumpter of DESA Inc., and Rebecca Gonzales of Sam McCuen/Gonzales Consulting.

For more information, contact Wendi Nance at 252-2151.



HUMAN RESOURCES

- ✦ **BLUE CROSS BLUE SHIELD** - New handbooks have been printed and are available in Human Resources at City Hall along with Provider Books. There is an error that we have found in the book with the effective date 7/1/2002. The new book states that retirees have dental coverage. Retirees do not have dental coverage and have never had coverage since the plan began.
- ✦ **PREVENTIVE BENEFITS** - There is no \$15 co-pay if you go to the doctor for a routine physical. The maximum paid for a routine physical is \$100.
- ✦ **SC DEFERRED COMPENSATION, 401K AND 457** - You may now go online to make any changes to your plan at www.scrs.csplans.com. Their local phone number is 803-754-7997 or toll free 1-866-826-7283.
- ✦ **MARK YOUR CALENDAR** - A "Planning for the Future" seminar will be held on September 18, 2003. Mark your calendar and plan to attend. The registration form will be in the next *Inside Columbia*.

COMMITTEE

The Employee Special Activities Committee (ESAC) hosted its annual Citywide Garage Sale on July 19 at the BellSouth Parking Garage. City employees and citizens alike were able to sign up for a space and make some quick cash.

The "Mega-Garage Sale" was a great success with a wonderful turn-out by shoppers and buyers alike.

Participants were able to sell new and old items, as well as some homemade crafts during the event which lasted from 7:30 a.m. - 12:00 noon.

The City would like to thank members of the ESAC Committee for all of their help in coordinating this event! We would also like to thank BellSouth for partnering with us and making this event possible through the use of their parking garage.

ESAC Committee Meeting Schedule

August 20, 2003	November 19, 2003
September 17, 2003	December 17, 2003
October 15, 2003	

July/August
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INSIDE

COLUMBIA

THE NEWSLETTER FOR CITY OF COLUMBIA EMPLOYEES
 "EVERYBODY COUNTS, EVERYBODY CONTRIBUTES, EVERYBODY BENEFITS"

Creating Opportunities for All Citizens:

CITY NAMED EMPLOYER OF THE YEAR



Mayor Coble receives the Employer of the Year Award from Preston Winkler.

The success of Columbia and its citizens is arguably one of the most important jobs City administrators face everyday. Partnerships with area agencies often provide the keys to this success and are mutually beneficial.

The City was recently honored by the Greater Columbia Community Relations Council (GCCRC) as the Large Employer of the Year for 2004. Mayor Bob Coble accepted the award on behalf of the City at the GCCRC's annual luncheon held on June 22.

The GCCRC is celebrating its 40th anniversary this year, continually working to promote positive relationships within the community, equal opportunity and fair services for all members of the community and awareness and appreciation of cultural

diversity. The four areas of concentration for the GCCRC are employment, housing, youth leadership and education.

"Ultimately, our goal is to improve race relations; to have persons of all backgrounds working together to improve the quality of life for everyone," said Preston Winkler, executive director of the GCCRC. "I think the City is obviously very concerned about our workforce and having jobs available. This year, the City was able to place more of our referrals than any other business."

The GCCRC works primarily in underprivileged neighborhoods where employment or underemployment levels are very high. They set up workshops and hold job-training seminars in an effort to help these individuals gain a background that will lead to steady employment. The GCCRC also conducts job screenings and makes referrals to area businesses that will give these individuals the chance to succeed. This year, the City was able to place 57 candidates referred by the

(continued on page 5)

FULL SPEED AHEAD

After Months of Preparation, Banner CIS Finally Sets S.A.I.L.



Mark Doughman with Sungard helps Lindo Nutry, a clerk with the Collections Division, navigate the new software after the system went live on June 7.

On June 7, 2004, the City of Columbia transitioned to its new utility billing system, called Banner CIS.

Developed by a local software systems firm, INDUS (formerly known as SCT Corporation), the Banner CIS software will improve delivery of City services, including water, wastewater, solid waste and parking garages, by centralizing and enhancing data management for these services.

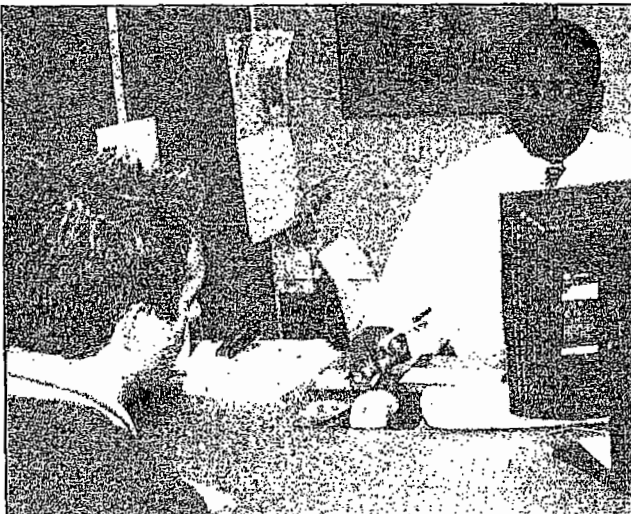
"I am really proud of my team for making the transition so successful," said Missy Caughman, project manager for the installation of the new software. "They have all worked extremely hard to make sure that we would have as few problems as possible when it came time to go-live."

Core Team members representing various City departments included Toney Abbott, Angela Adams, Denny Daniels, Dee Epps, Carmen Flemming, Maria Melonas, Ronda Rhoden, Darryl Sharp, Frances Tillman, Mark Johnson, Luz Giraldo, Ed Steinmeyer, Tawana Shine, Sally Cargile, Barbara Andrews, Judy Simons, Shannon Lizewski, and Synlithia Williams. Management involvement included Bobby Hecker, Dana Turner, John Dooley, James Johnson, and Cathy Alexander. The team from INDUS included Jermaine Britton, Villi Jordanova, Kerry Stillinger, Ming Ding, CJ Carlisle and Project Manager Robert Hunter.

There were four basic steps to implementing the new utility billing system:

1. Explore the Banner software and identify impacts on current business practices and assist management in outlining possible changes to business practices.
2. Configure the software through outlining system rules and validations, including service types, procedures and rates.
3. Implement User Acceptance Testing to ensure that the software performs effectively based on specific business practices.
4. Training and support for all staff expected to utilize the new software.

The success of the Banner CIS installation required the collaboration of numerous departments and truly was a citywide effort. The implementation process began in October 2002 and marks the beginning of a new era in city utility services and billing. Congratulations to all of the members of the Banner CIS Implementation Team on a job well done!



Eric Williams, a customer service representative with the Water Customer Service Department, helps a citizen set up his water account using the new Banner CIS software.

P.O.W.E.R. COMPANY

TN Development Corporation Receives \$10K Grant

With a new program dedicated to helping individuals reach their full job potential, the TN Development Corporation is the place to go when you need *P.O.W.E.R.*

Since the beginning of 2003, the Two Notch Development Corporation (TNDC) has been supplying *P.O.W.E.R.* to the neighborhood. *P.O.W.E.R.* stands for Providing Opportunities for Work by Empowering Residents. The *P.O.W.E.R. Center* is an employability and computer skills training center located at Oak Hill Apartments and was established through the generosity of the Columbia Empowerment Zone to help provide a comprehensive professional and personal development skills training program for the community with an emphasis on computer, employment and personal development skills training. Its goal is to provide this comprehensive training in order to enhance and improve the economic stability and growth of the residents of the TNDC apartment communities and surrounding neighborhoods.

The program has recently been able to expand its reaches and help its participants increase their chances of success through a \$10,000 grant from the Sisters of Charity Foundation. Students at the Center were originally provided with fifteen weeks of hands-on training in such areas as conflict resolution, communication skills, resume development, interview skills, and basic math, reading and computer skills such as Microsoft Word, Excel and Powerpoint. After two graduating cycles, TNDC staff began evaluating the program to determine where it could be improved.

"We discovered that a lack of confidence still existed," said Michelle Prevost, district manager for the TNDC. "Participants may have done well during the program, but later became overwhelmed and unsure of

themselves when it came to actually being on the job independently."

The Sisters of Charity Foundation grant will allow for a second component to be added to the *P.O.W.E.R. Center*. Students now have the opportunity to participate in a competitive On-the-Job Training (OJT) Work Experience. For twelve weeks, students will be matched with a local employer, learning a new job skill, while receiving a small stipend paid by the Center. During this OJT experience, the student is given the opportunity to continue developing their employability skills through the coaching and support provided by the employer and the *P.O.W.E.R. Center* staff.

Prevost emphasized that although all participants are eligible for the OJT, it is not a guarantee that they will receive it. "They have to earn that experience," she said. "It is based on skill level, attendance, application and interview process and encourages students to strive to be better and really apply themselves."

The program, which is open to any Columbia resident and EZ resident who is unemployed or underemployed, will place students with employers ranging from grocery stores and fast food restaurants to banks and municipalities.

"This grant will allow us to make a greater impact in the community," said Deborah Livingston, executive director of the TNDC. "We are excited about the opportunities we can now offer."

For more information, please call Michelle Prevost at 734-3314.

HR UPDATE

WORDS OF PRAISE

Citizens Applaud Employees for a Job Well Done

Once again, *Inside Columbia* has received letters thanking City staff for the excellent job they do every-day and for even saving a life:

Dear City of Columbia,

At approximately 0100 hours on Friday, April 16, 2004, my wife awoke unable to breathe due to a polyp on her vocal chords that was blocking her airway.

After calling 9-1-1, Engine 8 with Captain [Christopher] Boyd and two other firemen responded, arriving before the ambulance. According to Dr. David C. Wynn in the Emergency Room at Providence Hospital, had not Capt. Boyd responded so quickly and assisted her breathing with oxygen, she would not be with us today. Emergency surgery removed the polyps.

Both my wife and I are so grateful to Capt. Boyd, not only in this matter, but for all that Engine 8 does for this community they serve.

My wife and I celebrated our 49th wedding anniversary on March 28, 2004, and are now looking forward to our 50th and beyond.

Sincerely,

Calvin & Retta Irwin

Dear Ms. [Melissa] Gentry,

I just want to tell you what a great, professional group you have working on projects. Everyone from Lee [Honeycutt in Public Works], Robert [Sweatt in Public Works], Dana [Cannella in Public Works] and Hung [Huynh in Engineering] were wonderful to work with and did an excellent job. They are a very professional group of people.

Morgan D. Grimbail
Grimball, Cotterill & Associates

EMPLOYEE NEWS

CONGRATULATIONS
SYMPATHY

Wayne Lucas (Fire) and his wife, Robin, on the June 16, 2004 birth of their daughter, Emma MacKenzie.

John Davis (Street) and his wife, Dee, on the June 24, 2004 birth of their son, Aidan Christopher.

Michael Steele (Support Services) on the loss of his father, Ben Steele, Sr., on June 23, 2004.

Billie Bright (Fire) on the loss of his mother, Kathy Bright, on July 4, 2004.

The City mourns the loss of McDowell Fortune, Water Maintenance Superintendent (ret.), on July 10, 2004.

Robert Thomas (Street) on the loss of his grandmother, Rebecca Davis, on July 10, 2004.

Dear Alice [Williams in Purchasing],

Thank you for your assistance in processing the invoices we submitted. You were most gracious and extremely helpful in explaining your accounting system and procedures, in walking through the invoices and information submitted, and in clarifying the overall situation.

If I, or my staff, may be of any assistance to you, please do not hesitate to call. Again, thank you for your help.

Sincerely,

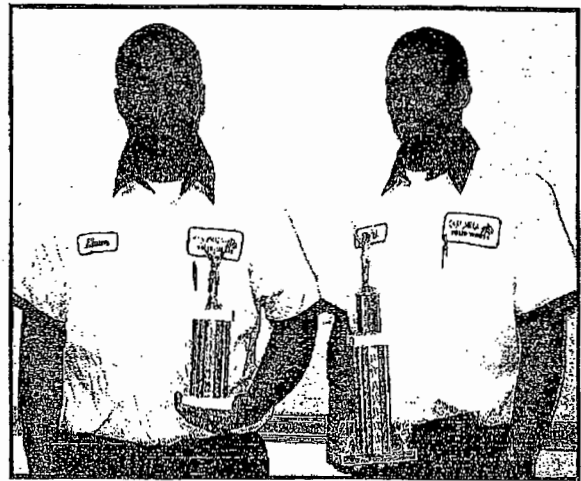
Randall "Mack" Jackson
President & CEO
Sunrise Enterprises of Columbia, Inc.

URBAN COWBOYS

City Employees Participate in "Road-eo"

In May, for employee appreciation, the American Public Works Association sponsored the 14th Annual Regional Backhoe Rodeo at the City of Columbia Public Works Facility.

The event took place during National Public Works Week. A total of seven employees participated in different events in competitions at two different levels, city and regional. The purpose of the event was for the City of Columbia to show the employees that all their hard work and dedication to the City is appreciated. The City competition, which was held on May 14, included seven competitors. The winners were, 1st place: Richard Dixon, 2nd place: Jimmy Thomas, and 3rd place: Harry Rice. All of the winners of the City competition are employed with Columbia's Wastewater Division. Those winners advanced to the regional competition in which employees from Richland, Camden, Lexington, and West Columbia also participated. The winners of the regional competition were, 1st place: Harry Rice, 2nd place: Jeff Goegeline (Lexington), and 3rd place: Todd Frick (Lexington). Participants had to use a backhoe (construction machinery) in order to maneuver through certain obstacles at the lowest time possible. The events included the pipe roll, pipe and pipe, and golf ball pipe. The Volvo Backhoe construction machinery was provided by Mr. L. B. Smith.



(l to r) Elmer Jones & Kadri Diggs (both in Solid Waste) won 3rd and 1st respectively in the Automated Truck Division of the Truck Road-eo.

EMPLOYER OF THE YEAR

(Continued from page 1)

GCCRC, more than any other large employer.

"This award recognizes the integral role that the City has for the citizens of Columbia and that the viability of the city depends upon employment and a workforce that contributes to the entire community," said Winkler.

Lisa Young, employment director for the Council, also cited the City's Work Initiative Program for its ability to provide Columbia with a well-trained labor force.

"We overwhelmingly support that program," said Young. "We've become much more involved with the City's Work Initiative Program, which is directly in line

"The City is committed to helping all of our citizens to be the best that they can be..."

- Mayor Bob Coble

with the mission of the Council."

"Obviously we are honored to have been chosen for this award," said Mayor Bob Coble. "The City is committed to helping all of our citizens to be the best that they can be and our partnership with the Greater Columbia Community Relations Council is further evidence of the great things that can be accomplished when we work together towards our common goals."

To find out more information about the Greater Columbia Community Relations Council and the programs they offer, please call 733-1130.

GET SET FOR OPPORTUNITY

On Tuesday morning, May 18, numerous City department heads and staff gathered at the Richland One Adult Community Education Center for a special ceremony to recognize the educational achievements made by participants of the Get SET program.

An Initiative conceived by City Manager Charles P. Austin, Sr., Get SET (Get Skills Enhancement Training) is based on the concept that employees are a key asset in providing quality services to citizens, and a solid foundation of basic skills is essential if the City is to remain competitive in a rapidly changing environment.

Prior to the ceremony, breakfast was served in celebration of a productive and successful year. During the ceremony, Get SET supervisors and instructors made inspirational remarks to GED recipients and remaining students. Greater Columbia Literacy Council Director Deborah Yoho states, "It's been a gift and a blessing. The program has given me an opportunity to do what I have been called to do, and the students are worth it." Leshia Utsey, Public Relations director, presented forty-one employees with the annual certificates of completion. The poem "It Couldn't Be Done" was read by Ellen Senter, a Get SET instructor, and GED recipient Jermaine Holman gave words of encouragement to close the program.

"It is an absolutely wonderful program, one of the many benefits the City offers our employees," explained Melissa Smith-Gentry, Public Works director. "It

provides employees who do not have a high school diploma the opportunity to get their education and basic skills needed on the job and to build up their self confidence. I hope that the other employees are encouraged by their co-workers."

track component had to be created in which ten of the pre-GED students were placed; seven students have advanced from basic education to the pre-GED phase. Daniel stated, "We attended school during the working hours so I was able to spend time with my little girl at

home. Get SET is a nice program. It helped me achieve my goal."

Currently, forty-one City employees are enrolled in the Get SET program. The GED fast track, the advanced level, requires students to work harder and prepares them for GED testing.

Assessments are given in areas where students may need assistance to improve the quality of the education process.

Anyone who may be interested in enrolling in the Get SET program can contact Training

Administrator Marshall Johnson at 545-3029.

The Get SET program has created a tremendous impact in the lives of City employees by improving the quality of their education, which helps create a better life for their families, thus making our city an even better place to live.



Charles Daniel congratulates one of his employees, Ned Wood, during the Get SET certificate ceremony.

After the ceremony, Holman, of the Solid Waste Division, stated, "The program is successful, and students put their hearts into it. Don't quit, because if it's in your heart, there's no reason why you wouldn't be successful."

Since program implementation on September 16, 2003, two city employees have received a General Equivalency Diploma from the program. Holman and Dana Daniel were the first students to receive their GED through the Get SET program. Holman is researching the City's Tuition Reimbursement Plan and plans to attend classes at Midlands Tech. A fast

EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY THRIVES.

DAVID JOHNSON RETIRES

The Department of Engineering's director received a wonderful send off on June 30, 2004, his last day on the job.

David Johnson ended his tenure with the City after twenty-two years of service. Johnson, who began as a Civil Engineer in December 1979, has seen quite a few changes during his time, and is proud of the work his department has achieved. Prior to the mid-90s, the department focused on water and sewer construction.

"But because of funds that have become available in the last eight to nine years, a lot of our energy has gone towards the many streetscaping projects," said Johnson.

The storm water utility also provided additional opportunities for the Engineering staff, which surprisingly has grown only minimally to meet the new demands of the department.

It is at this point in the conversation, when Johnson talks about his staff, that he seems to be the proudest.

"We've been able to hire high quality employees who have been able to move into higher positions in the City," Johnson said, and then quickly rattled off three Engineering success stories: Missy Smith-Gentry and Tom Ward, both promoted to department heads (Public Works and Construction & Facilities Management, respectively), and Shawn Epps, promoted to Special Projects Administrator working alongside Assistant City Manager Steve Gantt.

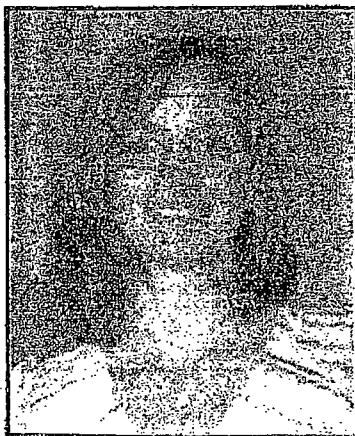


David Johnson takes a momentary break as he tries to bring closure to the multiple projects he administers before his retirement on June 30.

"It's the people I will miss the most," said Johnson about life after the City. "I've got four excellent division heads -- you couldn't ask for better, and quite frankly, those are the people who have made this department what it is."

After taking some time off to travel through the United States, Johnson hopes to stay busy after retirement by finding another position in the private sector that will allow him to continue doing what he loves, working as a civil engineer.

AND THEN THERE WERE TWO



Dana Daniel is ready for success thanks to the Get SET program.

On May 1, Dana Daniel nervously opened the envelope that would reveal her future.

First, she made sure she was alone and then she peeked into the envelope to reveal her score on the General Educational Development (GED) test.

"I was so nervous at first," said Daniel, a Water Customer Service Clerk in the Water Customer Service Department. "But once I saw the results, I was so relieved. I tried to call my parents to tell them, but no one was home!"

Daniel is now the City's second graduate of the Get SET (Get Skills Enhancement Training) Program. She was able to obtain her GED in one academic school

year through this program, which offers City employees the opportunity to earn their GED.

"I feel more confident about myself now and am one step closer to achieving my other goals," said Daniel. "This opportunity has opened so many doors for me. I want to continue with school and get a college degree."

Daniel encourages other City employees to take advantage of the Get SET program.

"It wasn't easy, but I know now that I can do what I set my mind to, and that is a great feeling."

HELPING HANDS

Fundraising Campaign in Full Swing for United Way

Planning for the 2004 United Way campaign is already underway, and not a moment too soon. With an ambitious \$78,750 goal for this year, the 2004 Committee has quite a challenge ahead of them. Members of this year's committee include Missy Smith Gentry, Deborah Livingston, Gladys Brown, Judy Spell, Bradley Anderson, David Knoche, Robert Anderson, Estelle Young, Sonya Convington, Carmen Floyd, Shirley Dilbert, John Dooley and Valerie Smith.

In an effort to offer more participation opportunities, a plethora of activities have been planned for this year's campaign. In addition to the annual Public Works Luncheon, Inspections Department Golf Tournament and Engineering's Tricycle Race, efforts are being made to host a bowling tournament, softball tournament and basketball (HORSE) competition. These activities are being planned by various departments and will be sure to provide all employees the opportunity to participate in their favorite event. Each department is encouraged to host a fundraising event. There are many opportunities for departments to offer a hot dog, bake, or ice cream sale in conjunction with activities being planned by another department.

Mark your calendar for these upcoming events and keep your ear to the ground for additional opportunities to help us reach our goal:

911/311 Communications Bake Sale
(In conjunction with Public Works Cookout on August 6)

Fire Department Barbeque
August 20, 2004
Contact David Bagwell at 733-8521

Police Department Bowling Tournament
August 28, 2004
Contact Sgt. D.J. Speaks-Scott at 545-3553

Public Works Cookout
September 24, 2004 - 12 noon
Contact Amanda Gunter at 545-3790

Building Inspections Golf Tournament
September 24, 2004
Contact Donny Phipps, Jerry Thompson or Billy Kennett at 545-3420

Engineering Department Tricycle Races
(In conjunction with Employee Luncheon on October 21, 2004)
Contact Susan Leitner at 545-3400

Softball Tournament
Additional information to be distributed soon

City Wide Pledge Card Campaign
October 11 - November 15, 2004

ADMISSION
(NON GRATIS)

ON-THE-JOB
INJURY?

HOMETOWN HERO

Hard Work and Determination Made the Difference for One Man

Millions of people across the world begin each New Year with a list of changes, hoping to transform their lives. By May, one man had already completed his.



Glenn Figgures has turned his life around thanks, in part, to the City of Columbia.

Glenn A. Figgures, Jr., a maintenance worker in the Solid Waste Department, was released from a Florida prison on December 31, 2003. Within five months, he had completely turned his life around with a list of accomplishments that put most New Year's resolutions to shame.

"When I got out, I planned on going to Atlanta to pursue my dream of being a hip-hop artist," said Figgures. "But my mom said, 'Please come home and get your GED first.' So that's what I did."

Figgures temporarily put his musical aspirations on hold and was in Columbia for less than three weeks when his GED teacher recommended that he look into the City's Work Initiative Program (WIP).

"At first, it was just about going to school and getting paid for it, but then it became more about looking at my future."

Over the next few months, Figgures' future continued to get brighter. He completed his GED and classroom instruction for his Commercial Drivers License and was inducted into the

National Honors Society, all through Richland County School District I Adult and Community Education. He also finished the WIP program and gained employment with the City. Figgures worked with SC Vocational Rehabilitation and the Workforce Investment Act to help him manage his bills, provide tools, uniforms and other services, obtain driver's insurance and even find his own place to live.

Securing his own apartment was particularly important, especially since Figgures also gained custody of his two daughters, aged 5 and 7.

"The motivating factor for me to stay on the right track is my girls," Figgures said, a huge smile crossing his face.

Figgures said he could not have been so successful if it had not been for the WIP, administered by Tony Lawton.

"This program is about giving people opportunities," said Lawton. "Someone gave me an opportunity, therefore I feel it's my duty to provide others the same."

Figgures' story was featured in a special program that aired on South Carolina Educational Television (SCETV). The 30-minute program, called *Carolina Works*, is coordinated by the SC Employment Security Commission to address economic issues, current workforce trends and the many educational and partnership opportunities individuals and companies can use to help create a healthy economy for our state. A segment titled, "Hometown Heroes," highlighted Figgures and the many achievements he has made by utilizing the resources that are available to any citizen who wants more out of life.

Figgures said he was excited about being on TV. "Just make sure they get my good side," he laughed.

Carolina Works began airing July 5, and repeated throughout the month.

GARY A. JOHNSON, JR.

May Employee of the Month

Gary A. Johnson, Jr. is the City of Columbia's May Employee of the Month. He has been employed by the City for ten years as a Lead Operator at the Canal Water Treatment Plant.

Johnson's dedication and commitment to the City has been proven through his membership in the plant's "Zero Club" for the past three years and the "720 Club." Both of these are high honors that are not easily achieved. To be a member, you cannot have used any sick leave and must also have accrued 720 hours of sick leave.

Johnson has a very positive attitude, works well with all plant employees and has gained the respect of his co-workers. His duties include checking the water quality at various stages of treatment and making the appropriate adjustments

to ensure that regulations are being met. Johnson also monitors the water storage tanks and booster pumps in the distribution system and makes the necessary adjustments to maintain adequate water pressure at all times.

Johnson has shown time and again his skills and knowledge as a Lead Operator, and always works conscientiously and diligently to achieve all of the City of Columbia's goals. His dedication, positive attitude and his willingness to learn and implement new methods and technologies have allowed the City to provide very high quality drinking water to its customers.

Congratulations to Gary A. Johnson, Jr., the City of Columbia's May 2004 Employee of the Month.



CRYSTAL A. BROWN

June Employee of the Month



Crystal A. Brown has been a Community Safety Officer with the City's Division of Community Safety/Professional Standards for two years. She was first assigned to the University Neighborhood where she set the standard for other community safety officers. Brown played a significant role in providing the continuity needed between the citizens in the area and the City of Columbia. She has received countless praises from citizens for her dedication, initiative and enthusiasm. This attention and service that the City was providing sparked a new interest in other neighborhoods throughout the city. In part due to Brown's fervor for her job, it was not long before every other neighborhood was requesting their very own community safety officer.

Brown was later reassigned to the Canal

Water Treatment Plant to protect its physical security by patrolling the perimeter on foot and controlling the gate access. She embraced her new assignment with open arms and has since taken the initiative to perform tasks outside of her job description. Brown keeps other community safety officers informed by passing on orders from the supervisor and distributing interoffice memorandums, payroll sheets and handles other logistical matters. Brown is always quick to take on extra responsibility and will report to work at the drop of a hat when one of her colleagues calls in sick or takes vacation. Her knowledge and devotion has earned her the respect of her co-workers and supervisors alike. This nomination recognizes the outstanding day-to-day efforts of such an exemplary employee.

The City is proud to honor Crystal A. Brown as the June Employee of the Month.

SPARE SOME CHANGE?

Local Teens Make a Difference in Columbia Communities

How often do you get the opportunity to change the world?

Whether that be your own world, or someone else's is a whole other question, but there is a program that strives to answer both of these in one fell swoop. World Changers, a program sponsored by the North American Mission Board of the Southern Baptist Convention, has been changing the lives of its participants, its recipients, and the world as a whole for fourteen years now. In Columbia, they have been active since 1997.

Within the city limits of Columbia and in partnership with the City of Columbia's Operation Paintbrush program, World Changers comes once each year during the summer to rehabilitate homes that are desperately in need of repair. Materials are supplied by the City of Columbia and labor is supplied by teams of youth from all over the United States who are eager to perform this mission work.

The spring of 2003, however, was the beginning of a new program that expanded the World Changers program even further. While teams of youth can come from all over the United States during the summer months with World Changers, this new program, called Metro Changers, takes local teams of youth during spring break and involves them in projects right where they live.

In April of this year, Metro Changers was again in Columbia, working in partnership with Operation Paintbrush, to help improve the exteriors of four Columbia homes. The four residences were selected based on certain criteria including a low annual income, as recommended by the Community Development Department. Three of the houses are in District I and the fourth is in District II.

John Hert, the volunteer coordinator for South Carolina World Changers, said that the program is a win-win situation for all involved.

"We provide the expertise to repair houses for homeowners who could otherwise never get it done. It is good for homeowners, the city, the community, but especially for the young kids who participate," said Hert.

The owner of one such house received a handicap ramp that will allow her to more easily get in and out of her home. A team of four students and one crew chief spent three days building the ramp for the grateful resident. None of them seemed to mind that they were giving up their spring breaks to make these home improvements.

"What else am I going to do? Sit at home and play on the Internet and get a tan? No, I would rather be out helping somebody," said seventeen-year old Helen Bryant, who counts this as her fifth mission trip.

This is the first mission for sixteen-year old Xavier Hernandez, but he said he was glad to do it.

"My church [North Columbia Baptist

Church] was doing this and I thought it would be a lot of fun," he said. "It's really rewarding to start with nothing in the beginning and see what we've been able to put together."

Metro Changers helped repair seven other homes in Lexington and Richland counties this spring and World Changers will return to Columbia this July to build on their previous successes and improve more people's homes and lives.

Operation Paintbrush is a year-round housing program of the City of Columbia's Community Development Department. It is a grant program that supplies exterior paint to eligible homeowners after cleaning and repairs have been completed. Unfortunately, many of the applicants to Operation Paintbrush either do not know how and/or cannot afford to make the initial repairs, and therefore cannot receive the paint. Thanks to World Changers and Metro Changers, many of these homes are repaired AND painted.

For more information on Operation Paintbrush in Columbia, please call the City of Columbia's Community Development Department at 545-3373.



Philip Fyfe and Xavier Hernandez build a handicap ramp for Metro Changers.