

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY

Court of Common Pleas

Eugene C Griffith, Jr , Circuit Court Judge

Case No 2007-CP-24-1056

William Alvin Hueble, Jr ,

Appellant,

v

South Carolina Department of Natural Resources and
Eric Randall Vaughn,

Defendants,

Of Whom Eric Randall Vaughn is

Respondent

RECORD ON APPEAL

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Certificate of Counsel

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
Plaintiff,)

Case No 2007-CP 24-1056

vs)

ORDER DENYING DEFENDANT DNR'S
MOTIONS TO QUASH AND FOR
PROTECTION

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
Defendants)

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PLEAS

On or about June 10, 2009, Plaintiff noticed the deposition of John E Frampton, Director of Defendant DNR. In response, Defendant South Carolina Department of Natural Resources (hereafter "DNR") moved to quash the subpoena and for a protective order, seeking to prevent the Plaintiff from deposing Frampton. The parties stipulated to the jurisdiction of this Court to resolve this matter. On September 9, 2009, a hearing was held with all parties and/or their representatives in attendance.

Plaintiff landowner asserts that when he refused to allow DNR Agent Vaughn to continue to hunt his property, he was unfairly targeted and/or harassed by Vaughn. Plaintiff claims that Vaughn violated certain of Plaintiff's Constitutional Rights under Color of Law, and that the ability of Vaughn to so act, despite alleged conflicts of interest, appearances of impropriety and/or disdain for the law, is due at least in part to DNR's negligent supervision of its agent. Though Defendants deny such allegations, deny personal knowledge by Frampton and claim any sought after information can be obtained from other sources, Plaintiff properly noticed the deposition Director Frampton.

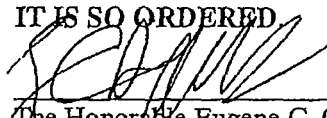
Defendant DNR thereafter moved to protect under Rule 26 and quash under Rule 45(c)(3)(A), praying that DNR and Frampton be protected from undue burden and expense "Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party " Rule 26(b)(1), SCRCF

"All that is required to render evidence admissible is the fact shown thereby legally tends to prove, or make more or less probable, some matter in issue, and bear directly or indirectly thereon " Francis v Mauldin, 215 S C 374, 55 S E 2d 337 (1949) "The United States Supreme Court has recognized that the discovery rules "are to be accorded a broad and liberal treatment," Hickman v Taylor, 1947, 329 U S 495, 507-508, 67 S Ct 385, 392 , 91 L Ed 451, 458 and discovery should be allowed if the information sought appears reasonably calculated to lead to the discovery of admissible evidence Harrison v Prather, 5th Cir , 1968, 404 F 2d 267, 8 C Wright & A Miller, Federal Practice and Procedure §2008 Dunbar v United States, 502 F 2d 506 (5th Cir 1974)

Given that broad discovery is favored, that at least portions of the information sought would be uniquely in the possession of the Director as opposed to "other sources," that even the lack of information by the Director as to the misdeeds of his agent, over whom he has ultimate authority, could be relevant evidence in and of itself, and that Defendant failed to adequately provide a "good cause" showing that a particularized harm will result if the challenged discovery is permitted, Defendant DNR's Motions to Quash and/or for Protection are hereby denied

IT IS SO ORDERED

Dated Oct 2, 2009


The Honorable Eugene C. Griffith, Jr

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT
) CIVIL ACTION NO 2007-CP 24 1056
)

William Alvin Hueble, Jr ,

Plaintiff,

vs

South Carolina Department of Natural
Resources and Eric Randall Vaughn

Defendant

ORDER

FILED
8TH JUDICIAL
CIRCUIT
GREENWOOD
2010 MAR 24 PM 4 17

This matter is before me on Plaintiff's Motion for Fees and Costs. A hearing was held in this matter at which time Steven M. Pruitt, Esquire, appeared on behalf of the Defendant South Carolina Department of Natural Resources (hereinafter SCDNR), James Victor McDade, Esquire, and Thomas E. Hite, Jr., Esquire, appeared on behalf Defendant Eric Randall Vaughn (hereinafter Vaughn) and John P. Riordan, Esquire, and Jonathan Gasser, Esquire, appeared on behalf of the Plaintiff, William Alvin Hueble, Jr. For the reasons set forth below, I deny Plaintiff's Motion.

The Plaintiff initiated this action in September of 2007 making multiple claims against both Defendants. Defendant Vaughn subsequently filed a counterclaim against the Plaintiff. The parties entered into extensive discovery, much of which Defendants argue was unnecessary, and informed Plaintiff's counsel of this fact. A hearing was held on Defendants' Motions for Summary Judgment on October 15, 2009 but no ruling has been issued on the Motions. The parties also attempted to resolve the litigation after this date. The Defendants offered a letter stating in essence that Defendant Vaughn, an officer with SCDNR, would contact a supervisor before entering Plaintiff's property unless there was an emergency situation, plus \$5,000. The Plaintiff's attorney submitted a proposed

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statement that acknowledged an appearance of impropriety, among other items, which was not acceptable to the Defendants. Defendants offered to settle with Plaintiff on all his claims, both federal and state, for \$5,100, by extending Plaintiff an offer of judgment on November 16, 2009 under Rule 68, SCRCP. Plaintiff accepted this offer on November 18 and subsequently filed this Motion for Costs. Shortly after the resolution of the Plaintiff's claim against Defendants, Defendant Vaughn agreed to settle his counterclaim against the Plaintiff for \$25,000.

The Court first finds that costs, including attorney's fees, should not be awarded in favor of the Plaintiff as he is not a prevailing party as required under 42 U.S.C. §1988. Further, even if Plaintiff were found to technically be the prevailing party, the existence of special circumstances prevents the award of attorney's fees.

Plaintiff's acceptance of an offer of judgment does not necessarily establish that he is a "prevailing party" entitled to attorney fees. Fletcher v. City of Fort Wayne, Indiana, 162 F.3d 975, (7th Cir. 1998). A plaintiff is considered a "prevailing party" for purposes of §1988 if he "succeed[s] on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit." Hensley v. Eckerhart, 461 U.S. 424, 433, 103 S.Ct. 1933, 1939 (1983); Denny v. Hinton, 131 F.R.D. 659, 662 (M.D.N.C. 1990). "[A]t a minimum, the plaintiff must be able to point to a resolution of the dispute which changes the legal relationship between itself and the defendant." Texas State Teachers Ass'n v. Garland Indep. School District, 489 U.S. 782, 109 S.Ct. 1486, 1493 (1989). A judgment will constitute relief for purposes of §1988, if and only if, it affects the behavior of the defendant towards the plaintiff. Id. If a plaintiff's success is so insignificant that it can be characterized as purely technical or de minimis, then the plaintiff cannot be considered a prevailing party under § 1988. Id., Denny v. Hinton, 131 F.R.D. 659, 662 (M.D.N.C. 1990).

The Plaintiff litigated this matter for over two years and based on his Motion for Fees and Costs spent over \$155,000 in order to recover \$5,100. There has been no resolution of the dispute which has changed the legal relationship between Plaintiff and Defendants or affected the behavior of the Defendants towards the Plaintiff as referenced by the Supreme Court in Gairland. The Plaintiff's attorney stated at the hearing on Defendants' Motions for Summary Judgment that this case was not about money, but then accepted Defendants' Offer of Judgment that provided only nominal relief in order to attempt to recover fees and costs. If the Plaintiff's objective was not about money as the Plaintiff's attorney stated, the Plaintiff did not obtain the relief desired in the case and did not obtain relief that affected the relationship between the parties. Therefore, he fails to establish himself as a prevailing party.

In addition, the North Carolina Court of Appeals held that "[w]here an offer of judgment is accepted by the plaintiff, there is not a 'prevailing party' or a 'losing party.'" Evans v. Full Circle Productions, Inc., 443 S.E.2d 108 (NC Ct. App. 1994) (refusing to find plaintiff was prevailing party based on an accepted offer of judgment). Finally, the South Carolina Supreme Court refused to award attorney's fees where the trial court did not specifically address liability under an asserted §1983 claim, but instead granted relief under another theory of the case. Spencer v. S.C. Tax Commission, 281 S.C. 492, 316 S.E.2d 386 (1984) (finding the sole reason for alleging § 1983 was to justify the allowance of counsel fees and state courts are not required to open its doors to §1983 actions).

The Plaintiff had numerous causes of action, but had no cause of action against Defendant SCDNR that would entitle him to recover attorney fees. The Plaintiff's claim against Defendant Vaughn pursuant to §1983 is the only claim under which the Plaintiff would be entitled to recover attorney fees. As discussed above, Defendant Vaughn settled his counterclaim against the Plaintiff

for \$25,000. Where the only basis to recover attorney fees was under the §1983 claim against Defendant Vaughn and Defendant Vaughn settled his counterclaim for almost five times the amount the Plaintiff recovered, the Plaintiff is not a prevailing party.

Finally, the Plaintiff has failed to show that he recovered on the §1983 claim. As discussed above, the Plaintiff had numerous causes of action, but his claim against Defendant Vaughn pursuant to §1983 is the only claim under which the Plaintiff would be entitled to recover attorney fees. If this case had gone forward to trial, there would have been a special interrogatory to determine if the Plaintiff received any award on the §1983 claim. The Defendants' Offer of Judgment stated that they offered to allow judgment to be taken against them, but did not specifically address any particular cause of action. The Plaintiff has failed to meet his burden to show that he prevailed on the §1983 claim and his Motion for Fees and Costs is denied.

Even if Plaintiff were found to technically be the prevailing party, which the Court declines to find, the existence of special circumstances prevents the award of attorney's fees. Section 1988 states "the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs" 42 U.S.C. § 1988 (emphasis added). The Court must look at the totality of circumstances surrounding the settlement in determining whether it is appropriate to award fees and costs to the Plaintiff. As stated above, the Defendants offered a letter stating in essence that Vaughn would contact a supervisor before entering Plaintiff's property unless there was an emergency situation, plus \$5,000. The Plaintiff's attorney submitted a proposed statement that acknowledged an appearance of impropriety, among other items, which was not acceptable to the Defendants. Defendants then submitted the offer of judgment for \$5,100. Even if a plaintiff who recovers only nominal damages in a civil rights case technically "prevails" the trial judge has discretion to withhold fees when damages are minor in relation to the claim. Fletcher v

City of Fort Wayne, Indiana, 162 F 3d 975, 977 (7th Cir 1998) ('Nothing in Rule 68 supports plaintiffs' position that by accepting a Rule 68 offer they automatically become entitled to attorneys' fees ') The court in Fletcher found the district judge did not abuse his discretion in concluding that settlements of \$2 500 and \$5 000 reflected only nuisance value, so that plaintiffs were not entitled to attorney fees when they accepted defendant's offers of judgment Id In other words, for a trivial recovery an award of attorney fees is not warranted

In Fletcher each plaintiff claimed that his own legal fees, on the date of the Rule 68 offer, exceeded the amount the defendants offered The court found it was easy to see that defendants paid less than the value of the attorneys' fees they expected to incur themselves if the case proceeded A compromise for less than the future costs of defense is a good working definition of a nuisance-value settlement Id This case is similar to the present action where the Defendants anticipated defense costs well in excess of \$5,100 if this case were to go forward to trial The parties stated there were additional depositions scheduled, extensive motions in limine were anticipated, and the trial was estimated to take four to five days The \$5,100 offered to resolve this case was clearly less than the costs of defense which, as stated in Fletcher, is the definition of a nuisance value settlement

The Court would also note that the Fletcher case was cited in a 2000 opinion by the South Carolina Supreme Court See Belton v State of South Carolina, 339 S C 71, 529 S E 2d 4 (2000) In Belton, the Court considered whether a plaintiff who accepted an offer of judgment was entitled to recover attorney fees under the Whistleblower Act The Court concluded the plaintiff could not recover under the Whistleblower Act as an offer of judgment was not considered a court award The Court cited to the Fletcher opinion for the specific proposition that a case resolved by an acceptance of judgment is considered settled

In Tyler v Corner Construction Corp., 167 F 3d 1202, 1206 (8th Cir 1999), the plaintiff

agreed to settle his action for \$17,500 and then sought to recover more than \$64,000 in fees and costs. The court held that a nuisance settlement is a special circumstance that should bar recovery of attorney fees. The court in Tyler stated a nuisance settlement is one that is accepted despite the fact that the case against the defendant is frivolous or groundless and is solely in an effort to avoid the expense of litigation. The court remanded the case to determine if the Plaintiff's action was frivolous. In the present action, contrary to the Plaintiff's position, there are special circumstances that bar Plaintiff's recovery of attorney fees and costs. The Defendants argued that they have maintained that Plaintiff's action is frivolous and, as stated above, anticipated defense costs well in excess of \$5,100 if this case were to go forward to trial. The Court finds there are special circumstances that bar the recovery of attorney fees and costs by the Plaintiff.

An additional special circumstance argued by the Defendants involves the settlement of Defendant Vaughn's counterclaim. Defendant Vaughn asserted a counterclaim against the Plaintiff on multiple grounds and shortly after the resolution of the Plaintiff's claim against Defendants, Defendant Vaughn agreed to settle his counterclaim against the Plaintiff for \$25,000, almost five times the amount of the Plaintiff's claim. This constitutes another special circumstance that bars Plaintiff's recovery of fees and costs.

The Defendants cited cases that address similar issues which generally hold that where both parties are partially successful, it is within the court's discretion to decline an award of costs to either side. See Testa v. Village of Mundelein, Ill., 89 F.3d 443 (1996) see also Heitz v. Riebe, 936 P.2d 24 (Wash. Ct. App. 1997) (found where both parties prevailed on a major issue, neither was a prevailing party and refused to award costs to either party), Runnells v. Quinn, 890 A.2d 713 (Maine 2006). The Runnells case is most analogous to the present case.

In Runnells, the plaintiff, a contractor, brought suit against the homeowner and the

homeowner counterclaimed. The plaintiff was awarded \$27,742.40 on his claim, while the defendant was awarded \$14,000 on her counterclaim. The plaintiff sought to recover costs as the prevailing party. The court stated that looking at the case as a whole, neither party was considered a winner or a loser where both parties were awarded damages on their respective claims and counterclaims, and hence there was no prevailing party entitled to an award of costs. This is analogous to the present situation as both parties have recovered. However, in Runnels the plaintiff was not allowed to recover costs even though he recovered almost twice the amount on his claim as the defendant did on her counterclaim. In the present case, though both parties recovered on their claims, Defendant Vaughn recovered almost five times the amount recovered by the Plaintiff, and Plaintiff's claim for fees and costs must be denied.

As discussed above, the Plaintiff had no cause of action against Defendant SCDNR that would entitle him to recover attorney fees. The Plaintiff's claim against Defendant Vaughn pursuant to §1983 is the only claim under which the Plaintiff would be entitled to recover attorney fees. The Defendants argued that Plaintiff cannot be a prevailing party because of Defendant Vaughn's settlement of his counterclaim against the Plaintiff for \$25,000 and in the alternative that this would at a minimum constitute a special circumstance that renders an award of fees and costs to Plaintiff unjust. Looking solely at the claim against Defendant Vaughn, which provided the only basis for Plaintiff to recover attorney fees, Defendant Vaughn settled his counterclaim for almost five times the amount the Plaintiff recovered. At a minimum, this constitutes a special circumstance that would make an award of fees and costs to the Plaintiff unjust.

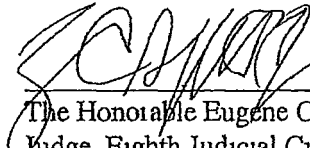
Finally, the Plaintiff's attorney has previously stated that this case was not about money, but then accepted the nominal Offer of Judgment in order to attempt to recover fees and costs. If the Plaintiff's objective was not about money as the Plaintiff's attorney stated, the Plaintiff did not

obtain the relief desired in the case. The fact that the Plaintiff did not recover the desired relief and instead received only a nominal amount is also a special circumstance that bars the Plaintiff from recovering fees and costs.

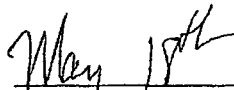
For the reasons set forth above, the Court finds that the Plaintiff is not a prevailing party as required under 42 U.S.C. §1988. Furthermore, regardless of whether the Plaintiff is a prevailing party, the Court finds there were special circumstances that bar the Plaintiff from recovering fees and costs and exercises its discretion to decline to award fees and costs to the Plaintiff.

THEREFORE, it is ordered that Plaintiff's Motion for Fees and Costs is denied.

IT IS SO ORDERED.



The Honorable Eugene C. Griffith, Jr.
Judge, Eighth Judicial Circuit

, 2010
Greenwood, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT
) CIVIL ACTION NO 2007-CP-24-1056
)

William Alvin Hueble, Jr ,
Plaintiff,

vs

South Carolina Department of Natural
Resources and Eric Randall Vaughn
Defendant

OFFER OF JUDGMENT

FILED IN
8TH JUDICIAL CIRCUIT
GREENWOOD SC
2009 NOV 17 PM 1 53

TO JOHN P RIORDAN, ESQUIRE, ATTORNEY FOR THE PLAINTIFF

Pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, the Defendants, South Carolina Department of Natural Resources and Eric Randall Vaughn, hereby offer to allow judgment to be taken against them in the amount of Five Thousand One Hundred and No/100 (\$5,100 00) Dollars. This offer shall remain valid for twenty (20) days after service of same and shall be deemed withdrawn if not accepted within said time.

DOYLE O'ROURKE TATE & MCDADE, PA

By

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ATTORNEYS FOR THE DEFENDANT ERIC VAUGHN

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ATTORNEYS FOR THE DEFENDANT SCDNR

11-17, 2009

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
Plaintiff,)

Case No 2007-CP- 24-1056

vs)

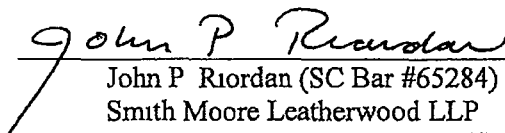
ACCEPTANCE OF OFFER OF JUDGMENT

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
Defendants)

FILED 6,
8TH JUDICIAL CIRCUIT
GREENWOOD SC
2009 NOV 18 PM 3 55

TO COUNSEL FOR THE DEFENDANTS

Pursuant to an Offer of Judgment by both Defendants filed November 17, 2009 and received November 18, 2009, (attached hereto as Exhibit A) Plaintiff hereby accepts such Offer of Judgment to be taken against both Defendants


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Attorney for Plaintiff

November 18, 2009

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT
) CIVIL ACTION NO 2007-CP-24-1056
)

William Alvin Hueble, Jr ,

Plaintiff,

vs

South Carolina Department of Natural
Resources and Eric Randall Vaughn

Defendant

OFFER OF JUDGMENT

FILED
8TH JUDICIAL CIRCUIT
GREENWOOD SC
2009 NOV 17 PM 1 53

TO JOHN P RIORDAN, ESQUIRE, ATTORNEY FOR THE PLAINTIFF
Pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, the Defendants, South
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be taken against them in the amount of Five Thousand One Hundred and No/100 (\$5,100 00) Dollars
This offer shall remain valid for twenty (20) days after service of same and shall be deemed withdrawn
if not accepted within said time

DOYLE O'ROURKE TATE & MCDADE, PA

By

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ATTORNEYS FOR THE DEFENDANT ERIC VAUGHN

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ATTORNEYS FOR THE DEFENDANT SCDNR

11-17, 2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
)
Plaintiff,)

Case No 2007-CP 24-_____

vs)

COMPLAINT
(Jury Trial Demanded)

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn)

Defendants)

The Plaintiff, complaining of the Defendants, would show unto the Court

1 That, in light of the strictures of the South Carolina Tort Claims Act and with the uncertainty as to how the Defendants may respond to the allegations hereafter, these pleadings find reliance in Rule 8(a), SCRCF which states that "[r]elief in the alternative or of several different types may be demanded"

2 That the Plaintiff, William Alvin Hueble, Jr , is a resident of Greenville County, State of South Carolina

3 All issues and matters contained herein are within the personal jurisdiction and subject matter jurisdiction of this Court

4 Upon information and belief Defendant Eric Randall Vaughn ("Vaughn ") was and is an employee of Defendant South Carolina Department of Natural Resources, and is a resident of Greenwood County, State of South Carolina

5 That the Defendant South Carolina Department of Natural Resources ("DNR"), is a South Carolina state agency charged tasks including the regulation of hunting, fishing, boating, duck stamp orders, state parks and conservation efforts of the South Carolina state government

6 That the damaging actions as herein alleged occurred in whole or in part during times when Vaughn was acting as an agent of DNR. To the extent the employment status of Vaughn is denied, or other interpretations are offered, alternative causes of action are asserted per Rule 8(a), SCRPC

7 That the damaging actions as herein alleged occurred in whole or in part upon or related to Plaintiff's property located within Greenwood County, State of South Carolina

8 During 2003, Plaintiff engaged in negotiations to purchase an approximate 160 acre tract of hunting land ('property') in Greenwood County. Ownership of such a property had been a lifelong dream of Plaintiff's, initiated during outdoor activities with his grandfather as a small child. At some point during such negotiations, the seller informed Plaintiff that a friend was also attempting to purchase the property. The seller noted that the friend would likely be unable to afford the property, but was attempting to have others assist him in purchasing the property.

9 Subsequent to Plaintiff entering into a contract to purchase the property, the seller advised that he had allowed Vaughn, a DNR Officer, to hunt the property. Seller went on to inform Plaintiff where the officer's deer stand was located, and suggested it would be a good idea for Plaintiff to continue to allow the DNR officer to hunt the property. Plaintiff related that he might eventually do so, but was more concerned with becoming better acquainted with the property and determining how much pressure it could withstand from hunts by his family and friends.

10 Plaintiff closed on the purchase of the property in June of 2003. Plaintiff's dream of ownership of such a property was coming to fruition, with the hope of using the property to enrich the lives of many, especially children, his own as well as those of family and friends.

11 During or around April of 2004, the seller called Plaintiff to inform him that Vaughn was the person who had recently been on the property and left four-wheeler tracks. The seller reiterated that it would be in Plaintiff's best interest to let Vaughn hunt the property, stated that Vaughn wished to hunt the property, and provided Vaughn's phone number to Plaintiff.

12 Again, being more interested in familiarizing himself with the property and the capacity it might withstand from his friends and family, Plaintiff declined to speak with Vaughn or grant him permission to hunt the property during these initial years of ownership.

13 An adjacent tract of approximately 60 acres (which, due to hunting rights had been treated as part of the property for sometime) was purchased by Plaintiff in September of 2004, further expanded the property to approximately 220 acres. Cumulatively, Plaintiff has expended over \$490,000 to obtain the property and vast amounts on equipment and supplies to improve and maintain the same.

14 In the summer of 2005, Plaintiff planted his first dove field of approximately 15 acres. More than a month before opening day of dove season all standing wheat or oats were mowed and the area was disked twice as a precaution. The field was prepared per any and all regulations and guidelines and was a legal, non-baited dove field.

15 During September 2005, on the opening day of dove season, Plaintiff had invited some family and friends, including an eleven year old boy, the son of a single mother acquainted with Plaintiff's family, to hunt the property – a total of eight hunters. Few shots had been fired and fewer dove killed, when Vaughn and a group of at least three other, unidentified DNR Officers made their appearance.

16 The DNR Officers gathered Plaintiff and his companions together in and around the main dove field and Vaughn began making unfounded accusations to Plaintiff regarding the

party hunting over a baited field and threatening costly fines and/or confiscations of property. Most shockingly, Vaughn stated to Plaintiff that it was a shame the seller had sold the property to Plaintiff and that Plaintiff would regret purchasing the property.

17 Through their interactions, Plaintiff came to realize that Vaughn was the DNR Officer the seller had mentioned on numerous occasions. However, when questioned, Vaughn minimized his prior involvement with the land.

18 Vaughn eventually dropped to his knees and dug into Plaintiff's property with a knife blade to produce seeds, claiming that even one seed constituted a baited field.

19 Despite his earlier threats to the group, Defendant Vaughn eventually charged Plaintiff alone with Baiting a Field. Vaughn demanded that Plaintiff not contest the charge.

20 Prior to the scheduled court date, Plaintiff invited Vaughn back out to the property to ensure Vaughn had no further complaints regarding the legality of his field. During this visit, Vaughn acknowledged that he had indeed hunted the property more than was previously admitted and that he had considered purchasing the property when it was for sale, but did not have the resources to do so. He shared stories regarding hunts on the property with relatives and how one of the biggest bucks he had ever seen was on the property. It was apparent to Plaintiff that Vaughn had an affinity for Plaintiff's property. Moreover, Vaughn shared that he is an avid hunter, who hunts everyday, but was able to "make his cases." Upon information and belief, Vaughn is one of the most prolific issuers of offenses within DNR, perhaps adopting such aggressive tactics to justify his numerous hunts.

21 Through discussions with family, friends and even acquaintances in the legal community regarding what had transpired, Vaughn's relationship to the property, and Vaughn's threat that Plaintiff not contest the charged offense, Plaintiff determined that he would be better

off pleading no contest to the charge in the hopes that such would satisfy the animus Vaughn obviously felt towards him regarding ownership and use of the property. It was generally felt that Plaintiff might otherwise win the battle but lose the war with this vindictive officer.

22 Therefore, though Plaintiff did not believe he had committed any violation of law, he did thereafter plead no contest to the charged offense of Baiting a Field on or about October 10, 2005 and paid a reduced fine. Though Plaintiff hoped that the vendetta against him was now ended, no one hunted dove again on the property the remainder of that season given the unpleasantness that had transpired. In fact, no true dove shoot has ever been enjoyed by Plaintiff, his family or friends on the property.

23 Prior to turkey season, in or around early March of 2006, Plaintiff tilled and planted two food plots with clover seed per the planting instructions and plowed several large strips of dirt. Game cameras on the property depicted numerous turkey on the property leading up to opening day.

24 However, on opening day of turkey season, few if any turkey appeared on the property. A trespasser was discovered on the property and a rather public interchange occurred between one of Plaintiff's hunters and the trespasser before the situation was amicably resolved. Given the uncertainty of any hunt, the absence of turkeys was of little concern until it was discovered that, on the day prior to opening day, someone had removed and/or manipulated one or more game cameras before returning them.

25 Plaintiff called Vaughn to report possible trespassers and to inquire as to whether Vaughn had any information regarding the same. Vaughn thereafter admitted that he and other DNR Officers had visited the property several times in the prior month, including the afternoon in question, but denied manipulating any cameras. Vaughn further informed of the determination

that the new food plots were illegally baited for turkey, that the officers were monitoring their hunt on opening day and would have arrested Plaintiff and their hunters had they hunted over the new food plots. Of course, no assistance was offered for the only true violation, that of the trespasser, which should have been observed by Vaughn and the other officers. In addition, the excessive presence of unknown officers explained the absence of turkey.

26 Upon information and belief, one of Vaughn's supervisors was present with Vaughn this opening day of turkey season and such supervisor later reiterated to Plaintiff their belief that clover seed constituted "bait" since a turkey might consume it. Given the officers' threats, it would be nearly impossible to ensure a legal turkey hunt on Plaintiff's property since a turkey is liable to ingest anything. Of course, most sources, as referenced by Plaintiff, have no strictures on the timing of planting clover since the eventually sprouting plant itself, and not its seeds, are the acknowledged attractant.

27 Upon information and belief, Vaughn and this supervisor were well aware of the chilling effect their threats would have given the extraordinary seriousness of illegally hunting turkey and such threats have had their desired effect.

28 Thereafter, realizing that Vaughn's "vendetta" against Plaintiff was unfortunately continuing unabated, and that Plaintiff was unable to adequately enjoy his property, Plaintiff attempted to initiate a formal complaint against Vaughn.

29 Through talks with Vaughn's regional Supervisor regarding all that had transpired, it became clear that Vaughn was again minimizing to DNR his involvement with Plaintiff's land, denying he had hunted the property more than once in his lifetime and denying he had wanted to purchase the property. In fact, the Supervisor advised Plaintiff that if it was

determined that Plaintiff was providing false information, he could be criminally charged with Providing False Information to a Law Enforcement Officer

30 Thereafter, Plaintiff unequivocally proved to the Supervisor that Vaughn was the one providing false information given that Plaintiff had discreetly and legally recorded the conversation between Plaintiff and Vaughn during their meeting between the arrest and the court appearance

31 Nonetheless, nothing was thereafter done to discipline Vaughn or acknowledge Vaughn's ill-treatment of Plaintiff. Instead, further allegations were raised by the Supervisor regarding alleged misdeeds on his property

32 Initially, the Supervisor questioned Plaintiff regarding grain being spread by Plaintiff's fish feeder into his pond during the most recently ended duck hunting season. Though Plaintiff could hardly be surprised by new false allegations, he advised the Supervisor that such was impossible since, though his only feeder was still in his fish pond, the battery and computer had been at Plaintiff's house awaiting repair throughout the season.

33 Thereafter, the Supervisor claimed that there had indeed been a miscommunication regarding the fish feeder, but then claimed DNR Officers instead alleged that cracked corn was discovered in a pond near a creek where ducks were hunted on Plaintiff's property. Such allegations were also false and of course were made for the first time many months following duck season and only after a complaint was initiated against Vaughn.

34 In November of 2006, a more formal complaint was requested and an investigation was undertaken by DNR. Unfortunately, no decision was immediately forthcoming. In fact, only after demand that some resolution be reached did DNR determine on August 7, 2007 that "nothing in Mr. Hueble's complaint is a verified act of Officer Vaughn exceeding his

authority” Though an invitation was extended for Plaintiff to meet with the Captain of the Region if it was deemed helpful, such measures have had no effect thus far (other than expending time under potential statutes of limitations) and no such request has been made

35 Accordingly, despite a clear conflict of interest, the certain appearance of impropriety and the supplying of false evidence to his superiors in response to initial questioning, DNR has approved the actions of Vaughn and dismissed the concerns of Plaintiff

36 During a time when DNR bemoans the decline in youth hunters and seemingly offers numerous programs to counteract this trend, the actions of their officers as to Plaintiff and his property have affected the lives of many such hunters who will unlikely hunt again Few of Plaintiff’s friends, siblings or acquaintances will allow their children to be subject to the abusive and vindictive actions of Defendants and have instead encouraged participation in other activities and/or sports Regrettably, Plaintiff’s own children are likewise discouraged

37 Accordingly, Plaintiff’s dreams regarding the use of his property has instead been turned into a nightmare by the abusive and petty actions of DNR Officers, primarily Vaughn, whom Plaintiff once considered partners in the stewardship of wildlife

FOR A FIRST CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(NEGLIGENCE)

38 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

39 Pursuant to the South Carolina Tort Claims Act, §15-78-10, et seq claim is made solely as to DNR for those torts committed by its employees, including Vaughn, while acting within the scope of their official duties if such actions, as asserted by DNR, did not constitute actual fraud, malice, intent to harm or moral turpitude

40 The allegations asserted hereinabove against the agents and/or employees of DNR constituted negligent, conspiratorial, abusive, and harassing activity, all of which resulted in injury to Plaintiff.

41 Per the allegations asserted hereinabove, agents and/or employees of DNR owed a duty of care to Plaintiff to lawfully and dispassionately enforce the law and fairly exercise their law enforcement duties

42 By instead targeting Plaintiff for unreasonable inspection and disingenuous enforcement of the law relating to hunting over baited fields and other alleged transgressions, the agents and/or employees of DNR, through their negligent and/or grossly negligent acts or omissions, breached the duty of care owed to Plaintiff

43 As a direct and proximate result of the negligent and/or grossly negligent acts and omissions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A SECOND CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(CIVIL CONSPIRACY)

44 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

45 Per the allegations hereinabove, two or more persons, including agents and/or employees of DNR, combined for the purpose of injuring Plaintiff, causing him special damages

46 As a direct and proximate result of the conspiratorial actions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A THIRD CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(ABUSE OF PROCESS)

47 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

48 Per the allegations hereinabove, agents and/or employees of DNR employed legal process for some purpose other than which was intended by law to effect, resulting in the improper use of regularly issued process

49 The abuse of process involved the malicious misuse or perversion of the process, after its issuance, for an end not lawfully warranted by it in order to obtain an ulterior purpose

50 As a direct and proximate result of the abusive actions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A FOURTH CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(HARASSMENT)

51 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

52 Per the allegations hereinabove, agents and/or employees of DNR engaged in a pattern of intentional, substantial and unreasonable intrusion in the private life of the Plaintiff which caused the Plaintiff and would cause a reasonable person in Plaintiff's position to suffer mental distress

53 As a direct and proximate result of the harassing actions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A FIFTH CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(NEGLIGENT SUPERVISION)

54 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

55 Per the allegations hereinabove, agents and/or employees of DNR, through their negligent and/or grossly negligent acts, intentionally harmed Plaintiff during a time when such agents and/or employees were in the employ and acting under the power invested in them as officers of DNR

56 DNR knew or had a reason to know their ability to control the agent and/or employee and DNR knew or should have known of the necessity and opportunity for exercising appropriate control over their agent and/or employee

57 Upon information and belief, DNR and/or its agents and employees knew or should have known that Defendant Vaughn committed malfeasance and/or misfeasance in the exercise of his official duties and was especially apt to do so in a situation where he was personally acquainted with a particular property and expressed an interest in the purchase and/or obtainment of the same

58 As a direct and proximate result of the failure by DNR to adequately supervise its agents and/or employees and their negligent and/or grossly negligent acts, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A SIXTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(NUISANCE)

59 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

60 By his actions as alleged hereinabove, Defendant Vaughn has unreasonably interfered with the use and enjoyment by Plaintiff of Plaintiff's property, causing material annoyance, discomfort and anxiety

61 Such interference by Defendant Vaughn has directly and proximately caused damage to Plaintiff in an amount of actual and punitive damages to be determined by a jury

FOR A SEVENTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(TRESPASS)

62 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

63 By his actions as alleged hereinabove, Defendant Vaughn has interfered with Plaintiff's right to exclusive and peaceable possession of his land

64 At all times as alleged hereinabove, Plaintiff maintained legal possession of his referenced property in Greenwood County

65 Despite such legal possession and the right to exclusive and peaceful possession therein by the Plaintiff, Defendant Vaughn has voluntarily entered onto the property of the Plaintiff on numerous occasions and such voluntary entrance by Defendant Vaughn was without the Plaintiff's permission

66 Such unlawful entry alone by Defendant Vaughn entitles Plaintiff to nominal damages. However, given the nature of Defendant Vaughn's activities therein, it is herein alleged that Defendant Vaughn's trespasses may have been conducted with wanton, willful and reckless disregard of the Plaintiff's rights and therefore actual and punitive damages in an amount to be determined by a jury are appropriately recoverable by Plaintiff

67 Each and every invasion by Defendant Vaughn constitutes a separate cause of action and therefore in addition to any award of damages, Plaintiff requests that an injunction be issued to prevent Defendant Vaughn's continuous trespass upon Plaintiff's property

FOR AN EIGHTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(OUTRAGE)

68 The previous allegations of Plaintiff's Complaint, not inconsistent, are incorporated herein by reference

69 Through his actions as alleged hereinabove, Defendant Vaughn intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his malicious conduct toward Plaintiff, were so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized community

70 Defendant's outrageous conduct has caused Plaintiff emotional distress so severe that no reasonable person could have been expected to endure it without effect.

71 As a direct and proximate result of the outrageous actions by Vaughn, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A NINTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(INVASION OF PRIVACY)

72 The previous allegations of Plaintiff's Complaint, not inconsistent, are incorporated herein by reference

73 Defendant Vaughn's intentional actions toward Plaintiff constitute a wrongful intrusion into Plaintiff's private activities, in such a manner as to outrage and/or cause mental suffering and/or humiliation to a person or ordinary sensibilities

74 Defendant Vaughn's actions toward Plaintiff constitute a blatant and shocking disregard of Plaintiff's rights and caused serious mental injuries and/or humiliation to the plaintiff

75 As a direct and proximate result of the invasive actions by Vaughn, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A TENTH CAUSE OF ACTION AS TO DEFENDANT VAUGHN
(CIVIL CONSPIRACY)

76 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

77 Per the allegations hereinabove, two or more persons, including Defendant Vaughn, combined for the purpose of injuring Plaintiff, causing him special damages

78 As a direct and proximate result of the actions by Defendant Vaughn and one or more person, Plaintiff has been specially damaged as well as injured in an amount of actual and punitive damages to be determined by a jury

FOR AN ELEVENTH CAUSE OF ACTION AS TO DEFENDANT VAUGHN
(42 U S C §1983)

79 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

80 Defendant Vaughn, as an officer of DNR, acting under color of state law as alleged hereinabove, subjected Plaintiff, a citizen of the United States, to be deprived of equal protection of the law and the rights, privileges and immunities secured by the Constitution and laws of this State and nation and is therefore liable to the Plaintiff for Plaintiff's injuries

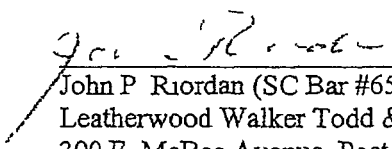
81 Specifically, Defendant Vaughn has deprived Plaintiff of the full enjoyment of his property and the exercise of liberty upon the same without due process of law as guaranteed by the 5th and 14th Amendments to the Constitution of the United States

82 In addition, Defendant Vaughn has deprived Plaintiff the equal protection of the law as guaranteed by the 14th Amendment to the Constitution of the United States

83 Such misuse of power by Defendant Vaughn, such power having been possessed by virtue of state law and made possible only because he was and is clothed with the authority of state law, hereby calls for redress and an award of damages to the Plaintiff, both actual and punitive, in an amount to be determined by a jury, as well as attorney's fees and costs associated with this action pursuant to 42 U S C §1983

WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly and/or severally, for actual damages, punitive damages, applicable interest, attorney's fees, associated costs and such other and further relief or remedy, including an injunction to prevent further trespass by Vaughn upon property of Plaintiff as deemed to be just and proper

Respectfully submitted,


John P. Riordan (SC Bar #65284)
Leatherwood Walker Todd & Mann, P C
300 E McBee Avenue, Post Office Box 87
Greenville, SC 29602-0087
(864) 242-6440/(864) 240 2498 (Fax)
Attorneys for Plaintiff

Date 8/20/07

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr,)
Plaintiff,)

Case No 2007-CP- 24 1056

vs)

PLAINTIFF'S ANSWER
TO COUNTERCLAIM OF DEFENDANT
ERIC RANDALL VAUGHN

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
Defendants)

JURY TRIAL DEMANDED

FILED COMMON PLEAS
8TH JUDGE
GREENWOOD
DEC 14 PM 2:21

The Plaintiff, William Alvin Hueble, Jr, replying to the Answer and Counterclaim of the Defendant Eric Randall Vaughn ("Vaughn") would respectfully show unto the Court as follows

FOR A FIRST DEFENSE

1 Each and every allegation contained in Defendant Vaughn's Counterclaim which is not expressly admitted is denied

2 Plaintiff incorporates herein the allegations contained in his Complaint which are consistent with this pleading

3 Paragraphs I through LXX of Defendant Vaughn's Answer require no response from Plaintiff

FOR A SECOND AND AFFIRMATIVE DEFENSE
(Truth of Statements and/or Privilege)

4 In regard to each and every cause of action raised by Defendant Vaughn in his Counterclaim, the Plaintiff asserts, to the extent necessary, that any and all statements made and/or materials produced and/or actions taken by Plaintiff in regard to his dealings with Vaughn were, upon information and belief, truthful Assuming arguendo, solely for purposes of this defense, that such statements or materials or actions were in some portion less than truthful, such

15 Defendant denies the allegations contained in Paragraphs LXXXIII and
LXXXIV

FOR A FOURTH DEFENSE
(Punitive Damages)

16 To the extent they are not inconsistent, and all preceding allegations and/or
responses are incorporated herein and made a part of this defense

17 An award of punitive damages against the Plaintiff may violate the rights
guaranteed to Plaintiff by the Constitution of South Carolina for the following reasons

- a Any award of punitive damages may violate the prohibition against excessive
fines found in Article I, § 15 of the Constitution of South Carolina.
- b Any award of punitive damages may violate the guarantee of due process found
in Article I, § 3 of the Constitution of South Carolina because of the lack of
objective guidelines on which a jury might base its award and further that such
guidelines as do exist may be arbitrary and void for vagueness

FOR A FIFTH DEFENSE

18 To the extent they are not inconsistent, and all preceding allegations and/or
responses are incorporated herein and made a part of this defense

19 An award of punitive damages against the Plaintiff may violate rights guaranteed by
the Constitution of the United States for the following reasons

- a Any award of punitive damages may violate the prohibition against excessive
fines found in the Eighth Amendment to the Constitution of the United States as
applied to the states by way of the due process clause of the Fourteenth
Amendment of the Constitution of the United States

- b Any award of punitive damages may violate the guarantee of due process found in the Fourteenth Amendment to the Constitution of the United States because of the lack of objective guidelines on which a jury might base its award and further that such guidelines as do exist are arbitrary and void for vagueness

WHEREFORE, having responded to the Answer and Counterclaim of Defendant Eric Randall Vaughn, Plaintiff would respectfully pray that the same be dismissed with prejudice, for an award of costs, for judgment in Plaintiff's favor on Plaintiff's causes of action and for such other and further relief as the Court may deem just and proper

John P. Riordan

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(864) 242-6440/(864) 240-2498 (Fax)
jriordan@lwtn.com
Attorneys for Plaintiff

Date 12/12/07

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
)
Plaintiff,)

Case No 2007-CP- 24-1056

vs)

AMENDED
COMPLAINT
(Jury Trial Demanded)

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn)
)
Defendants)

FILED OCT 7 11
8TH JUDGE
CITE

The Plaintiff, complaining of the Defendants, would show unto the Court

1 That, in light of the strictures of the South Carolina Tort Claims Act and with the uncertainty as to how the Defendants may respond to the allegations hereafter, these pleadings find reliance in Rule 8(a), SCRCF which states that "[r]elief in the alternative or of several different types may be demanded."

2 That the Plaintiff, William Alvin Hueble, Jr , is a resident of Greenville County, State of South Carolina

3 All issues and matters contained herein are within the personal jurisdiction and subject matter jurisdiction of this Court

4 Upon information and belief Defendant Eric Randall Vaughn ("Vaughn") was and is an employee of Defendant South Carolina Department of Natural Resources, and is a resident of Greenwood County, State of South Carolina

5 That the Defendant South Carolina Department of Natural Resources ("DNR"), is a South Carolina state agency charged tasks including the regulation of hunting, fishing, boating, duck stamp orders, state parks and conservation efforts of the South Carolina state government

6 That the damaging actions as herein alleged occurred in whole or in part during times when Vaughn was acting as an agent of DNR. To the extent the employment status of Vaughn is denied, or other interpretations are offered, alternative causes of action are asserted per Rule 8(a), SCRCP.

7 That the damaging actions as herein alleged occurred in whole or in part upon or related to Plaintiff's property located within Greenwood County, State of South Carolina.

8 During 2003, Plaintiff engaged in negotiations to purchase an approximate 160 acre tract of hunting land ("property") in Greenwood County. Ownership of such a property had been a lifelong dream of Plaintiff's, initiated during outdoor activities with his grandfather as a small child. At some point during such negotiations, the seller informed Plaintiff that a friend was also attempting to purchase the property. The seller noted that the friend would likely be unable to afford the property, but was attempting to have others assist him in purchasing the property.

9 Subsequent to Plaintiff entering into a contract to purchase the property, the seller advised that he had allowed Vaughn, a DNR Officer, to hunt the property. Seller went on to inform Plaintiff where the officer's deer stand was located, and suggested it would be a good idea for Plaintiff to continue to allow the DNR officer to hunt the property. Plaintiff related that he might eventually do so, but was more concerned with becoming better acquainted with the property and determining how much pressure it could withstand from hunts by his family and friends.

10 Plaintiff closed on the purchase of the property in June of 2003. Plaintiff's dream of ownership of such a property was coming to fruition, with the hope of using the property to enrich the lives of many, especially children, his own as well as those of family and friends.

11 During or around April of 2004, the seller called Plaintiff to inform him that Vaughn was the person who had recently been on the property and left four wheeler tracks. The seller reiterated that it would be in Plaintiff's best interest to let Vaughn hunt the property, stated that Vaughn wished to hunt the property, and provided Vaughn's phone number to Plaintiff.

12 Again, being more interested in familiarizing himself with the property and the capacity it might withstand from his friends and family, Plaintiff declined to speak with Vaughn or grant him permission to hunt the property during these initial years of ownership.

13 An adjacent tract of approximately 60 acres (which, due to hunting rights had been treated as part of the property for sometime) was purchased by Plaintiff in September of 2004, further expanded the property to approximately 220 acres. Cumulatively, Plaintiff has expended over \$490,000 to obtain the property and vast amounts on equipment and supplies to improve and maintain the same.

14 In the summer of 2005, Plaintiff planted his first dove field of approximately 15 acres. More than a month before opening day of dove season all standing wheat or oats were mowed and the area was disked twice as a precaution. The field was prepared per any and all regulations and guidelines and was a legal, non-baited dove field.

15 During September 2005, on the opening day of dove season, Plaintiff had invited some family and friends, including an eleven year old boy, the son of a single mother acquainted with Plaintiff's family, to hunt the property – a total of eight hunters. Few shots had been fired and fewer doves killed, when Vaughn and a group of at least three other, unidentified DNR Officers made their appearance.

16 The DNR Officers gathered Plaintiff and his companions together in and around the main dove field and Vaughn began making unfounded accusations to Plaintiff regarding the

party hunting over a baited field and threatening costly fines and/or confiscations of property. Most shockingly, Vaughn stated to Plaintiff that it was a shame the seller had sold the property to Plaintiff and that Plaintiff would regret purchasing the property.

17 Through their interactions, Plaintiff came to realize that Vaughn was the DNR Officer the seller had mentioned on numerous occasions. However, when questioned, Vaughn minimized his prior involvement with the land.

18 Vaughn eventually dropped to his knees and dug into Plaintiff's property with a knife blade to produce seeds, claiming that even one seed constituted a baited field.

19 Despite his earlier threats to the group, Defendant Vaughn eventually charged Plaintiff alone with Baiting a Field. Vaughn demanded that Plaintiff not contest the charge.

20 Prior to the scheduled court date, Plaintiff invited Vaughn back out to the property to ensure Vaughn had no further complaints regarding the legality of his field. During this visit, Vaughn acknowledged that he had indeed hunted the property more than was previously admitted and that he had considered purchasing the property when it was for sale, but did not have the resources to do so. He shared stories regarding hunts on the property with relatives and how one of the biggest bucks he had ever seen was on the property. It was apparent to Plaintiff that Vaughn had an affinity for Plaintiff's property. Moreover, Vaughn shared that he is an avid hunter, who hunts everyday, but was able to "make his cases." Upon information and belief, Vaughn is one of the most prolific issuers of offenses within DNR, perhaps adopting such aggressive tactics to justify his numerous hunts.

21 Through discussions with family, friends and even acquaintances in the legal community regarding what had transpired, Vaughn's relationship to the property, and Vaughn's threat that Plaintiff not contest the charged offense, Plaintiff determined that he would be better

off pleading no contest to the charge in the hopes that such would satisfy the animus Vaughn obviously felt towards him regarding ownership and use of the property. It was generally felt that Plaintiff might otherwise win the battle but lose the war with this vindictive officer.

22 Therefore, though Plaintiff did not believe he had committed any violation of law, he did thereafter plead no contest to the charged offense of Baiting a Field on or about October 10, 2005 and paid a reduced fine. Though Plaintiff hoped that the vendetta against him was now ended, no one hunted dove again on the property the remainder of that season given the unpleasantness that had transpired. In fact, no true dove shoot has ever been enjoyed by Plaintiff, his family or friends on the property.

23 Prior to turkey season, in or around early March of 2006, Plaintiff tilled and planted two food plots with clover seed per the planting instructions and plowed several large strips of dirt. Game cameras on the property depicted numerous turkey on the property leading up to opening day.

24 However, on opening day of turkey season, few if any turkey appeared on the property. A trespasser was discovered on the property and a rather public interchange occurred between one of Plaintiff's hunters and the trespasser before the situation was amicably resolved. Given the uncertainty of any hunt, the absence of turkeys was of little concern until it was discovered that, on the day prior to opening day, someone had removed and/or manipulated one or more game cameras before returning them.

25 Plaintiff called Vaughn to report possible trespassers and to inquire as to whether Vaughn had any information regarding the same. Vaughn thereafter admitted that he and other DNR Officers had visited the property several times in the prior month, including the afternoon in question, but denied manipulating any cameras. Vaughn further informed of the determination

that the new food plots were illegally baited for turkey, that the officers were monitoring their hunt on opening day and would have arrested Plaintiff and their hunters had they hunted over the new food plots. Of course, no assistance was offered for the only true violation, that of the trespasser, which should have been observed by Vaughn and the other officers. In addition, the excessive presence of unknown officers explained the absence of turkey.

26 Upon information and belief, Vaughn and/or other DNR officers had actually visited Plaintiff's property on numerous occasions before and perhaps after opening day of turkey season. On such visits, one or more of the DNR officers entered Plaintiff's barn and/or other structures and opened and/or accessed equipment and/or other closed items.

27 Upon information and belief, one of Vaughn's supervisors was present with Vaughn this opening day of turkey season and such supervisor later reiterated to Plaintiff their belief that clover seed constituted "bait" since a turkey might consume it. Given the officers' threats, it would be nearly impossible to ensure a legal turkey hunt on Plaintiff's property since a turkey is liable to ingest anything. Of course, most sources, as referenced by Plaintiff, have no strictures on the timing of planting clover since the eventually sprouting plant itself, and not its seeds, are the acknowledged attractant.

28 Upon information and belief, Vaughn and this supervisor were well aware of the chilling effect their threats would have given the extraordinary seriousness of illegally hunting turkey and such threats have had their desired effect.

29 Thereafter, realizing that Vaughn's "vendetta" against Plaintiff was unfortunately continuing unabated, and that Plaintiff was unable to adequately enjoy his property, Plaintiff attempted to initiate a formal complaint against Vaughn.

30 In response to Plaintiff's complaint, Vaughn prepared a written response which falsely accused Plaintiff in the winter of 2004 with having baited ponds, stating "[t]here was a feeder throwing pelletized food in the water on one pond and cracked corn and wheat in another shallow water pond" Vaughn claimed that the alleged bait was "documented" Vaughn also described alleged feeding practices that he observed (which would have been legal) as being baiting, suggested that he continually found "illegal practices" on Plaintiff's farm and accused Plaintiff of providing false information to his superior officer

31 Upon information and belief, Vaughn verbally communicated such allegations and/or other false comments regarding Plaintiff and/or Plaintiff's complaint to third parties

32 Through talks with Vaughn's regional Supervisor regarding all that had transpired, it became clear that Vaughn was again minimizing to DNR his involvement with Plaintiff's land, denying he had hunted the property more than once in his lifetime and denying he had wanted to purchase the property In fact, the Supervisor advised Plaintiff that if it was determined that Plaintiff was providing false information, he could be criminally charged with Providing False Information to a Law Enforcement Officer

33 Thereafter, Plaintiff unequivocally proved to the Supervisor that Vaughn was the one providing false information given that Plaintiff had discreetly and legally recorded the conversation between Plaintiff and Vaughn during their meeting between the arrest and the court appearance

34 Nonetheless, nothing was thereafter done to discipline Vaughn or acknowledge Vaughn's ill-treatment of Plaintiff Instead, further allegations were raised by the Supervisor regarding alleged misdeeds on his property

35 Initially, the Supervisor questioned Plaintiff regarding grain being spread by Plaintiff's fish feeder into his pond during the most recently ended duck hunting season. Though Plaintiff could hardly be surprised by new false allegations, he advised the Supervisor that such was impossible since, though his only feeder was still in his fish pond, the battery and computer had been at Plaintiff's house awaiting repair throughout the season.

36 Thereafter, the Supervisor claimed that there had indeed been a miscommunication regarding the fish feeder, but then claimed DNR Officers instead alleged that cracked corn was discovered in a pond near a creek where ducks were hunted on Plaintiff's property. Such allegations were also false and of course were made for the first time many months following duck season and only after a complaint was initiated against Vaughn.

37 In November of 2006, a more formal complaint was requested and an investigation was undertaken by DNR.

38 Vaughn prepared more written statements in response to Plaintiff's complaint, describing Plaintiff's legal feeding practices as baiting, falsely alleging duck baiting being documented in Plaintiff's ponds during the 2004-2005 waterfowl season, generally alleged that he observed illegal activity on Plaintiff's property nearly every time he made a visit and accused Plaintiff of providing false information to his superior officer.

39 Upon information and belief, Vaughn verbally communicated such allegations and/or other false comments regarding Plaintiff and/or Plaintiff's complaint to third parties.

40 Unfortunately, no decision was immediately forthcoming. In fact, only after demand that some resolution be reached did DNR determine on August 7, 2007 that "nothing in Mr. Hueble's complaint is a verified act of Officer Vaughn exceeding his authority." Though an invitation was extended for Plaintiff to meet with the Captain of the Region if it was deemed

helpful, such measures have had no effect thus far (other than expending time under potential statutes of limitations) and no such request has been made

41 Accordingly, despite a clear conflict of interest, the certain appearance of impropriety and the supplying of false evidence to his superiors in response to initial questioning, DNR has approved the actions of Vaughn and dismissed the concerns of Plaintiff

42 During a time when DNR bemoans the decline in youth hunters and seemingly offers numerous programs to counteract this trend, the actions of their officers as to Plaintiff and his property have affected the lives of many such hunters who will unlikely hunt again Few of Plaintiff's friends, siblings or acquaintances will allow their children to be subject to the abusive and vindictive actions of Defendants and have instead encouraged participation in other activities and/or sports Regrettably, Plaintiff's own children are likewise discouraged

43 Accordingly, Plaintiff's dreams regarding the use of his property has instead been turned into a nightmare by the abusive and petty actions of DNR Officers, primarily Vaughn, whom Plaintiff once considered partners in the stewardship of wildlife

FOR A FIRST CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(NEGLIGENCE)

44 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

45 Pursuant to the South Carolina Tort Claims Act, §15-78-10, et seq claim is made solely as to DNR for those torts committed by its employees, including Vaughn, while acting within the scope of their official duties if such actions, as asserted by DNR, did not constitute actual fraud, malice, intent to harm or moral turpitude

46 The allegations asserted hereinabove against the agents and/or employees of DNR constituted negligent, conspiratorial, abusive, and harassing activity, all of which resulted in injury to Plaintiff

47 Per the allegations asserted hereinabove, agents and/or employees of DNR owed a duty of care to Plaintiff to lawfully and dispassionately enforce the law and fairly exercise their law enforcement duties

48 By instead targeting Plaintiff for unreasonable inspection and disingenuous enforcement of the law relating to hunting over baited fields and other alleged transgressions, the agents and/or employees of DNR, through their negligent and/or grossly negligent acts or omissions, breached the duty of care owed to Plaintiff

49 As a direct and proximate result of the negligent and/or grossly negligent acts and omissions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A SECOND CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(CIVIL CONSPIRACY)

50 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

51 Per the allegations hereinabove, two or more persons, including agents and/or employees of DNR, combined for the purpose of injuring Plaintiff, causing him special damages

52 As a direct and proximate result of the conspiratorial actions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A THIRD CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(ABUSE OF PROCESS)

53 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

54 Per the allegations hereinabove, agents and/or employees of DNR employed legal process for some purpose other than which was intended by law to effect, resulting in the improper use of regularly issued process

55 The abuse of process involved the malicious misuse or perversion of the process, after its issuance, for an end not lawfully warranted by it in order to obtain an ulterior purpose

56 As a direct and proximate result of the abusive actions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A FOURTH CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(HARASSMENT)

57 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

58 Per the allegations hereinabove, agents and/or employees of DNR engaged in a pattern of intentional, substantial and unreasonable intrusion in the private life of the Plaintiff which caused the Plaintiff and would cause a reasonable person in Plaintiff's position to suffer mental distress

59 As a direct and proximate result of the harassing actions by agents and/or employees of DNR, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A FIFTH CAUSE OF ACTION UNDER THE TORT CLAIMS ACT
(NEGLIGENT SUPERVISION)

60 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

61 Per the allegations hereinabove, agents and/or employees of DNR, through their negligent and/or grossly negligent acts, intentionally harmed Plaintiff during a time when such agents and/or employees were in the employ and acting under the power invested in them as officers of DNR

62 DNR knew or had a reason to know their ability to control the agent and/or employee and DNR knew or should have known of the necessity and opportunity for exercising appropriate control over their agent and/or employee

63 Upon information and belief, DNR and/or its agents and employees knew or should have known that Defendant Vaughn committed malfeasance and/or misfeasance in the exercise of his official duties and was especially apt to do so in a situation where he was personally acquainted with a particular property and expressed an interest in the purchase and/or obtainment of the same

64 As a direct and proximate result of the failure by DNR to adequately supervise its agents and/or employees and their negligent and/or grossly negligent acts, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A SIXTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(NUISANCE)

65 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

66 By his actions as alleged hereinabove, Defendant Vaughn has unreasonably interfered with the use and enjoyment by Plaintiff of Plaintiff's property, causing material annoyance, discomfort and anxiety

67 Such interference by Defendant Vaughn has directly and proximately caused damage to Plaintiff in an amount of actual and punitive damages to be determined by a jury

FOR A SEVENTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(TRESPASS)

68 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

69 By his actions as alleged hereinabove, Defendant Vaughn has interfered with Plaintiff's right to exclusive and peaceable possession of his land

70 At all times as alleged hereinabove, Plaintiff maintained legal possession of his referenced property in Greenwood County

71 Despite such legal possession and the right to exclusive and peaceful possession therein by the Plaintiff, Defendant Vaughn has voluntarily entered onto the property of the Plaintiff on numerous occasions and such voluntary entrance by Defendant Vaughn was without the Plaintiff's permission

72 Such unlawful entry alone by Defendant Vaughn entitles Plaintiff to nominal damages. However, given the nature of Defendant Vaughn's activities therein, it is herein alleged that Defendant Vaughn's trespasses may have been conducted with wanton, willful and reckless disregard of the Plaintiff's rights and therefore actual and punitive damages in an amount to be determined by a jury are appropriately recoverable by Plaintiff

73 Each and every invasion by Defendant Vaughn constitutes a separate cause of action and therefore in addition to any award of damages, Plaintiff requests that an injunction be issued to prevent Defendant Vaughn's continuous trespass upon Plaintiff's property

FOR AN EIGHTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(OUTRAGE)

74 The previous allegations of Plaintiff's Complaint, not inconsistent, are incorporated herein by reference

75 Through his actions as alleged hereinabove, Defendant Vaughn intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his malicious conduct toward Plaintiff, were so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized community

76 Defendant's outrageous conduct has caused Plaintiff emotional distress so severe that no reasonable person could have been expected to endure it without effect

77 As a direct and proximate result of the outrageous actions by Vaughn, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A NINTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(SLANDER)

78 The previous allegations of Plaintiff's Complaint, not inconsistent, are incorporated herein by reference

79 On and after April 20, 2006 as well as April of 2007, Vaughn conducted a course of conduct designed to slander, libel, defame, harass and embarrass Plaintiff Vaughn did on more than one occasion willfully and maliciously (impliedly and/or actually) utter false, slanderous statements to third parties regarding Plaintiff, exposing Plaintiff to hatred, contempt,

ridicule and obloquy and did attempt to cause Plaintiff to be shunned, avoided, embarrassed, humiliated and injured.

80 These slanderous statements by Vaughn were false, defamatory, unprivileged and slanderous (per se or otherwise) and damaged Plaintiff's reputation in the community

81 Plaintiff is informed and believes he is entitled to judgment against Vaughn for actual and punitive damages for his willful, malicious and repeated acts of slander

FOR A TENTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(LIBEL)

82 The previous allegations of Plaintiff's Complaint, not inconsistent, are incorporated herein by reference

83 That on or after April 20, 2006 as well as April of 2007, Vaughn conducted a course of conduct designed to slander, libel, defame, harass and embarrass Plaintiff Vaughn did on more than one occasion willfully and maliciously publish false, written, libelous statements to third parties regarding Plaintiff, exposing Plaintiff to hatred, contempt, ridicule and obloquy and did attempt to cause Plaintiff to be shunned, avoided, embarrassed, humiliated and injured

84 The libelous statements by Defendant Vaughn were false, defamatory, unprivileged and libelous (per se or otherwise) and damaged Plaintiff's reputation in the community

85 Plaintiff is informed and believes he is entitled to judgment against Vaughn for actual and punitive damages for his willful, malicious and repeated acts of libel

FOR A ELEVENTH CAUSE OF ACTION AS TO THE DEFENDANT VAUGHN
(INVASION OF PRIVACY)

86 The previous allegations of Plaintiff's Complaint, not inconsistent, are incorporated herein by reference

87 Defendant Vaughn's intentional actions toward Plaintiff constitute a wrongful intrusion into Plaintiff's private activities, in such a manner as to outrage and/or cause mental suffering and/or humiliation to a person of ordinary sensibilities

88 Defendant Vaughn's actions toward Plaintiff constitute a blatant and shocking disregard of Plaintiff's rights and caused serious mental injuries and/or humiliation to the plaintiff

89 As a direct and proximate result of the invasive actions by Vaughn, Plaintiff has been injured in an amount of actual and punitive damages to be determined by a jury

FOR A TWELFTH CAUSE OF ACTION AS TO DEFENDANT VAUGHN
(CIVIL CONSPIRACY)

90 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

91 Per the allegations hereinabove, two or more persons, including Defendant Vaughn, combined for the purpose of injuring Plaintiff, causing him special damages

92 As a direct and proximate result of the actions by Defendant Vaughn and one or more person, Plaintiff has been specially damaged as well as injured in an amount of actual and punitive damages to be determined by a jury

FOR AN THIRTEENTH CAUSE OF ACTION AS TO DEFENDANT VAUGHN
(42 U S C §1983)

93 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

94 Defendant Vaughn, acting in his official capacity under color of state law as alleged hereinabove, and through policies and procedures implemented and followed by Defendant DNR and its officers, subjected Plaintiff, a citizen of the United States, to be deprived of equal protection of the law and the rights, privileges and immunities secured by the Constitution and laws of this State and nation and is therefore liable to the Plaintiff for Plaintiff's injuries and should be enjoined from continuing such activities in the future

95 Specifically, Defendant Vaughn, acting in his official capacity with DNR has deprived Plaintiff of the right to be free from unreasonable search and seizure, full enjoyment of his property and the exercise of liberty upon the same without due process of law as guaranteed by the 4th, 5th and 14th Amendments to the Constitution of the United States

96 Moreover, Defendant Vaughn, either individually and/or in his official capacity as an officer of DNR, acting under color of state law as alleged hereinabove, subjected Plaintiff, a citizen of the United States, to be deprived of equal protection of the law and the rights, privileges and immunities secured by the Constitution and laws of this State and nation and is therefore liable to the Plaintiff for Plaintiff's injuries

97 Specifically, Defendant Vaughn has deprived Plaintiff of the right to be free from unreasonable search and seizure, the full enjoyment of his property and the exercise of liberty upon the same without due process of law as guaranteed by the 4th, 5th and 14th Amendments to the Constitution of the United States

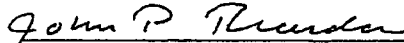
98 In addition, Defendant Vaughn has deprived Plaintiff the equal protection of the law as guaranteed by the 14th Amendment to the Constitution of the United States

99 Such misuse of power by Defendant Vaughn, such power having been possessed by virtue of state law and made possible only because he was and is clothed with the authority of

state law, hereby calls for redress and an award of damages to the Plaintiff, both actual and punitive, in an amount to be determined by a jury, for injunctive relief to cease such activity, as well as attorney's fees and costs associated with this action pursuant to 42 U S C §1983 ✓

WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly and/or severally, for actual damages, punitive damages, an injunction to prevent further trespass upon property of Plaintiff or deprivation of Plaintiff's rights by Defendant Vaughn and/or other officers or agents of Defendant DNR, applicable interest, attorney's fees, associated costs and such other and further relief or remedy as deemed to be just and proper

Respectfully submitted,



John P. Riordan (SC Bar #65284)

Smith Moore Leatherwood

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Greenville, SC 29602-0087

(864) 242-6440/(864) 240 2498 (Fax)

Attorneys for Plaintiff

Date 10/6/09

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENWOOD)
)
)
 William Alvin Hueble, Jr ,)
)
 Plaintiff)
)
 VS)
)
 South Carolina Department of)
 Natural Resources and)
 Eric Randall Vaughn,)
)
 Defendants)

IN THE COURT OF COMMON PLEAS

**ANSWER AND COUNTERCLAIM
 TO AMENDED COMPLAINT**

2007-CP-24-1056
Jury Trial Demanded

FILED CC,
 8TH JUDICIAL CIRCUIT
 GREENWOOD SC
 2007 NOV 11 AM 8 25

The Defendant, Eric Randall Vaughn, responding to the Amended Complaint of the Plaintiff, Answers the Complaint and Counterclaims thereto and would respectfully show unto the Court and allege

FOR A FIRST DEFENSE

I

The Defendant Vaughn would deny each and every allegation of the Amended Complaint not herein specifically admitted, modified or explained

II

This Defendant would assert that paragraph one of the Amended Complaint does not require a response

III

The allegations of paragraph two of the Amended Complaint are admitted upon information and belief

IV

The allegations of paragraphs three and four of the Amended Complaint are admitted

V

This Defendant would admit that part of paragraph five of the Plaintiff's Amended Complaint which alleges that DNR is a state agency which regulates hunting, fishing, boating and conservation efforts of the State of South Carolina

VI

Except as stated above, the allegations of paragraph six of the Plaintiff's Amended Complaint are denied

VII

This Defendant would admit that part of paragraph seven of the Plaintiff's Amended Complaint which alleges that some of the activities alleged occurred on the Plaintiff's property in Greenwood County, State of South Carolina

VIII

This Defendant has no knowledge as to the allegations of paragraph eight of the Amended Complaint and would demand strict proof thereof

IX

The allegations of paragraph nine of the Amended Complaint are denied

X

This Defendant would admit that the Plaintiff purchased the property, but is not sure of the date of purchase. The remaining allegations of paragraph ten of the Amended Complaint are denied

XI.

The allegations of paragraphs eleven and twelve of the Amended Complaint are denied and this Defendant would deny that he ever sought permission directly or indirectly to hunt on the Plaintiff's property

XII

This Defendant has no knowledge as to the allegations of paragraph thirteen of the Amended Complaint and would demand strict proof thereof

XIII

This Defendant would admit that part of paragraph fourteen of the Amended Complaint which alleges that in the summer of 2005, the Plaintiff prepared a dove field. The remaining allegations of paragraph fourteen of the Amended Complaint are denied

XIV

This Defendant would admit that part of paragraph fifteen of the Amended Complaint which alleges that during September of 2005, this Defendant and three other DNR officers came on the Plaintiff's property where the Plaintiff and several other persons were hunting. The remaining allegations of paragraph fifteen of the Amended Complaint are denied

XV

This Defendant would admit that part of paragraph sixteen of the Amended Complaint which alleges that he and the other DNR officers found violations. The remaining allegations of paragraph sixteen of the Amended Complaint are denied

XVI

Except as stated above, the allegations of paragraph seventeen of the Amended Complaint are denied

XVII

This Defendant would admit that part of paragraph eighteen of the Amended Complaint which alleges that he and the other officers discovered seed on the Plaintiff's property which constituted a baited field. The remaining allegations of paragraph eighteen of the Amended Complaint are denied

XVIII

This Defendant would admit that part of paragraph nineteen, of the Amended Complaint which alleges that the Plaintiff was charged. This Defendant would further admit that the Plaintiff did not contest the charge, but would specifically deny that he was involved in any way with the Plaintiff's decision not to contest the charge. The remaining allegations of paragraph nineteen of the Amended Complaint are denied.

XIX

This Defendant would admit that part of paragraph twenty of the Amended Complaint which alleges that he was asked by the Plaintiff to examine his property to make sure that his field was legal. This Defendant would further admit that he advised the Plaintiff that he had hunted on the property and that he had thought about purchasing the property, but did not do so because the land did not contain any timber. It is further admitted that the Defendant told the Plaintiff about a big buck that he had seen on the property and also advised the Plaintiff that he was an avid hunter. The remaining allegations of paragraph twenty of the Amended Complaint are denied

XX

This Defendant would admit that the Plaintiff pled no contest to the charge. The remaining allegations of paragraph twenty-one of the Amended Complaint are denied.

XXI

This Defendant would admit that part of paragraph twenty-two of the Amended Complaint which alleges that the Plaintiff pled no contest to the charge of baiting a field on or about October 10, 2005. This Defendant would further admit and assert that he agreed to a reduced fine for the Plaintiff. The remaining allegations of paragraph twenty-two of the Amended Complaint are denied.

XXII

This Defendant would admit that part of paragraph twenty-three of the Amended Complaint which alleges that prior to turkey season in 2006, a portion of the Plaintiff's property was tilled and it appeared that clover seed or other food material was thrown out in order to bait the field. This Defendant would further admit that there were cameras on the Plaintiff's property. This Defendant does not know what the cameras showed. The remaining allegations of paragraph twenty three of the Amended Complaint are denied.

XXIII

This Defendant would admit that part of paragraph twenty-four of the Amended Complaint which alleges that a trespasser was on the Plaintiff's property and further admits that the situation was amicably resolved. It is specifically denied that the cameras were removed. This Defendant would admit that the cameras were turned briefly in order to avoid notice that officers were on the property. The remaining allegations of paragraph twenty-four of the Amended Complaint are denied.

XXIV

This Defendant would admit that part of paragraph twenty-five of the Amended Complaint which alleges that he spoke with the Plaintiff and advised the Plaintiff that DNR officers had visited the property on several occasions. The remaining allegations of paragraph twenty-five of the Amended Complaint are denied.

XXV

This Defendant would admit that he and other DNR officers checked the Plaintiff's property for bait but would deny that any DNR officer entered any closed structure on the property and denies the remaining allegations of paragraph twenty-six of the Amended Complaint.

XXVI

This Defendant would admit that part of paragraph twenty-seven of the Amended Complaint which alleges that he and other officers considered the clover seed to be bait. The remaining allegations of paragraph twenty-seven of the Amended Complaint are denied.

XXVII

This Defendant denies the allegations of paragraphs twenty-eight and twenty-nine of the Amended Complaint.

XXVIII

This Defendant denies the allegations of paragraph thirty of the Amended Complaint.

XXIX

This Defendant denies the allegations of paragraph thirty one of the Amended Complaint

XXX

This Defendant denies the allegations paragraph thirty-two of the Amended Complaint

XXXI

This Defendant denies the allegations of paragraph thirty-three of the Amended Complaint

XXXII

This Defendant would assert in response to paragraph thirty-four of the Amended Complaint that he has not been disciplined and has not done anything to merit discipline. The remaining the allegations of paragraph thirty-four of the Amended Complaint are denied.

XXXIII

This Defendant denies the allegations of paragraph thirty-six and thirty-seven of the Amended Complaint

XXXIV

This Defendant denies he allegations of paragraph thirty-eight and thirty-nine as stated of the Amended Complaint

XXXV

This Defendant denies the allegations of paragraphs forty, forty-one, forty-two, forty-three, and forty-four of the Amended Complaint

XXXVI

This Defendant would admit that part of paragraph forty five of the Amended Complaint which alleges that DNR is the proper party for actions brought under the South Carolina Tort Claims Act

XXXVII

The allegations of paragraphs forty-six, forty-seven, forty-eight, and forty-nine of the Amended Complaint are denied

XXXVIII

Except as stated above, the allegations of paragraph fifty of the Amended Complaint are denied

XXXVIX

The allegations of paragraphs fifty-one and fifty-two of the Amended Complaint are denied

XL

Except as stated above, the allegations of paragraph fifty-three of the Amended Complaint are denied

XLI

The allegations of paragraphs fifty four, fifty-five and fifty-six of the Amended Complaint are denied

XLII

Except as stated above, the allegations of paragraph fifty-seven of the Amended Complaint are denied

XLIII

The allegations of paragraphs fifty-eight and fifty-nine of the Amended Complaint are denied

XLIV

Except as stated above, the allegations of paragraph sixty of the Amended Complaint are denied

XLV

The allegations of paragraphs sixty-one, sixty-two, sixty-three, sixty-four, sixty five, sixty-six, and sixty-seven of the Amended Complaint are denied

XLVI

Except as stated above, the allegations of paragraph sixty-eight of the Amended Complaint are denied

XLVII

The allegations of paragraphs sixty-nine, seventy, seventy-one, seventy-two, and seventy-three of the Amended Complaint are denied

XLVIII

Except as stated above, the allegations of paragraph seventy-four of the Amended Complaint are denied

XLIX

The allegations of paragraph seventy-five, seventy-six, and seventy-seven of the Amended Complaint are denied

L

Except as stated above the allegations of paragraph seventy-eight of the Amended Complaint are denied

LI

This Defendant denies paragraphs seventy-nine, eighty, and eighty-one of the Amended Complaint

LII

Except as stated above this Defendant denies paragraph eighty-two of the Amended Complaint

LIII

The allegations of paragraph eighty-three, eighty-four and eighty-five of the Amended Complaint are denied

LIV

Except as stated above the allegations of paragraphs eighty-six of the Amended Complaint are denied

LV

The allegations of paragraphs eighty-seven, eighty-eight, and eighty-nine of the Amended Complaint are denied

LVI

Except as stated above, the allegations of paragraph ninety of the Amended Complaint are denied

LVII

The allegations of ninety-one, and ninety-two of the Amended Complaint are denied

LVIII

Except as stated above, the allegations of paragraph ninety-three of the Amended Complaint are denied

LVIX

The allegations of paragraphs ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine, of the Amended Complaint are denied

FOR A SECOND DEFENSE

LX

The preceding allegations are incorporated herein and made a part of this defense

LXI

This Defendant would assert that as an officer of DNR, he had the legal right, duty and privilege to enter private property for the purpose of carrying out his duties and can not be held liable civilly for properly doing the same

FOR A THIRD DEFENSE

LXII

The preceding allegations are incorporated herein and made a part of this defense

LXIII

It is alleged that this Defendant, as employees of the Department of Natural Resources, was at all times engaged in the performance of his official duties and that he is entitled to qualified good faith immunity since at all times he was acting in good faith and in a reasonable manner. It is further alleged that this immunity constitutes a complete bar to the Plaintiff's action.

FOR A FOURTH DEFENSE

LXIV

The preceding allegations are incorporated herein and made a part of this defense.

LXV

That at all times relevant to the allegations contained in the Amended Complaint, this Defendant was acting in good faith according to and in compliance with specific laws, rules and regulations of the State of South Carolina and the South Carolina Department of Natural Resources and is, therefore, immune from suit and pleads such statutory or regulatory authorization as a complete defense and bar to the alleged cause or causes of action.

FOR A FIFTH DEFENSE

LXVI

The preceding allegations are incorporated herein and made a part of this defense.

LXVII

That at all times relevant hereto, this Defendant was engaged in the performance of his official duties and at no time violated any clearly established constitutional rights.

which were known or should have been known to him and therefore he is entitled to immunity as a matter of law

FOR A SIXTH DEFENSE

LXVIII

The preceding allegations are incorporated herein and made a part of this defense

LXVIX

That this Defendant is an agent of a governmental entity as defined by the South Carolina Tort Claims Act, S C Code Ann §15-78-10 et seq and, therefore, the Plaintiff's claims are subject to all the provisions of that Act specifically including, but not limited to, the provisions of §15-78-60(5), (6) and (25) Further, this Defendant is not a proper party under the provisions of SC Code Ann §15 78 70(c)

FOR A SEVENTH DEFENSE

LXX

The preceding allegations are incorporated herein and made a part of this defense

LXXI

That at all time relevant hereto, this Defendants was acting as an officer and official of the State of South Carolina, engaged in the performance of his official duties and acting as the alter ego of the State of South Carolina, and, therefore, this action is barred by the Eleventh Amendment to the Constitution of the United States against this Defendant

**FOR AN EIGHTH DEFENSE AND COUNTERCLAIM
(SLANDER)**

LXXII

The preceding allegations are incorporated herein and made a part of this defense

LXXIII

That on or after September of 2005, the Plaintiff began a course of conduct designed to slander, harass and embarrass the Plaintiff That the Plaintiff did on more than one occasion willfully and maliciously utter slanderous statements to third parties about the Defendant Eric Vaughn to expose him to hatred, contempt, ridicule and obloquy and to attempt to cause the Plaintiff to be shunned, avoided, and injured in his profession

LXXIV

That these slanderous statements were false and defamatory and unprivileged and slanderous *per se* and they damaged the Defendant Eric Vaughn's reputation in the community and injured the said Defendant in his profession causing the Defendant to suffer great pain and mental anguish

LXXV

That the Defendant Eric Vaughn is informed and believes that he is entitled to judgment against the Plaintiff for actual and punitive damages for the willful, malicious and repeated acts of slander

**FOR A NINTH DEFENSE AND COUNTERCLAIM
(LIBEL)**

LXXVI

The preceding allegations are incorporated herein and made a part of this defense

LXXVII

That on or after September of 2005, the Plaintiff began a course of conduct designed to libel, harass and embarrass the Plaintiff That the Plaintiff did on more than one occasion willfully and maliciously publish libelous statements to third parties about

the Defendant Eric Vaughn to expose him to hatred, contempt, ridicule and obloquy and to attempt to cause the Plaintiff to be shunned, avoided, and injured in his profession

LXXVIII

That these libelous statements were false and defamatory and unprivileged and libelous *per se* and they damaged the Defendant Eric Vaughn's reputation in the community and injured the said Defendant in his profession causing the Defendant to suffer great pain and mental anguish

LXXVIV

That the Defendant Eric Vaughn is informed and believes that he is entitled to judgment against the Plaintiff for actual and punitive damages for the willful, malicious and repeated acts of libel

**FOR A TENTH DEFENSE AND COUNTERCLAIM
(ABUSE OF PROCESS)**

LXXX

That the preceding allegations are incorporated herein and made a part of this defense

LXXXI

That since November of 2005, the Plaintiff has attempted to use his influence to get the Defendant Eric Vaughn transferred or fired from his job even though he entered a plea to the charge brought against him by the state That when the Plaintiff was unable to accomplish this goal through proper legal channels he chose to file this lawsuit for the express purpose of putting public pressure on the Defendant Eric Vaughn's employer to fire or transfer him

LXXXII

That the Defendant Eric Vaughn is informed and believes that it is an improper use of a civil lawsuit as a weapon to try to intimidate the Defendants into giving the Plaintiff has said that he really wants That the Defendant Eric Vaughn is informed and believes that he is entitled to actual and punitive damages against the Defendant for abuse of process

**FOR AN ELEVENTH DEFENSE AND COUNTERCLAIM
(INTENTIONAL AFFLICTION OF EMOTIONAL DISTRESS)**

LXXXIII

That the preceding allegations are incorporated herein and made a part of this defense

LXXXIV

That the Plaintiff's course of conduct since November 2005 has been extreme and outrageous in his attempts to get the Defendant Eric Vaughn fired or transferred for properly doing his job That the Plaintiff has steadfastly refused to concede that wildlife officers have a legal right and duty to come onto his property to ascertain if illegal activities are taking place That even though multiple officers with the Wildlife Department have recorded numerous incidents of improper or illegal activity on the Plaintiff's property, for which the Plaintiff was not charged, the Plaintiff has singled out Defendant Eric Vaughn as the recipient of his wrath causing him extreme emotional distress That the Plaintiff's course of conduct toward Eric Vaughn, who was only properly doing his job, was done by the Plaintiff to intentionally or recklessly to inflict severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct That the Defendants are informed and believe that the Plaintiff's

conduct was so extreme and outrageous so as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized community and no reasonable man could be expected to endure it

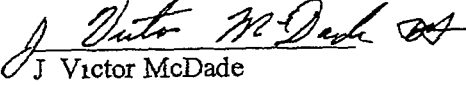
LXXXV

That the Defendant Eric Vaughn is informed and believes that he is entitled to judgment against the Plaintiff for actual and punitive damages against the Plaintiff for intentional infliction of emotional distress

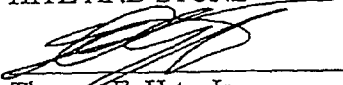
Wherefore, having fully answered the Amended Complaint of the Plaintiff and Counterclaimed thereto, this Defendant prays that Plaintiff's Amended Complaint be dismissed with costs, that he be granted judgment on his Counterclaim and for such other and further relief as the Court may deem just and proper

DOYLE, O'ROURKE, TATE & MCDADE, P A

By


J Victor McDade
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By

HITE AND STONE

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Abbeville, SC 29620
864-366-5400

Dated November 10, 2009

JURY TRIAL DEMANDED

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
)
Plaintiff,)

Case No 2007-CP- 24 1056

vs)

REPLY TO COUNTERCLAIM OF
DEFENDANT VAUGHN

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
)
Defendants)

FILED
JUL 20 2008
CLERK OF COURT
2008 NOV 20 PM 8 35

The Plaintiff, William Alvin Hueble, Jr , replying to the Answer and Counterclaim to the Amended Complaint of the Defendant Eric Randall Vaughn ("Vaughn") would respectfully show unto the Court as follows

FOR A FIRST DEFENSE

1 Each and every allegation contained in Defendant Vaughn's Counterclaim which is not expressly admitted is denied

2 Plaintiff incorporates herein the allegations contained in his Complaint which are consistent with this pleading

3 Paragraphs I through LXXII of Defendant Vaughn's Answer require no response from Plaintiff

FOR A SECOND AND AFFIRMATIVE DEFENSE
(Truth of Statements and/or Privilege)

4 In regard to each and every cause of action raised by Defendant Vaughn in his Counterclaim, the Plaintiff asserts, to the extent necessary, that any and all statements made and/or materials produced and/or actions taken by Plaintiff in regard to his dealings with Vaughn were, upon information and belief, truthful. Assuming arguendo, solely for purposes of this defense, that such statements or materials or actions were in some portion less than truthful, such

were believed to be so by Plaintiff and would nonetheless be conditionally or qualifiedly privileged, such that the counterclaims by Vaughn are without basis

FOR A THIRD DEFENSE
MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)

5 To the extent they are not inconsistent, the paragraphs of the previous defenses are incorporated herein by reference

6 Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, Defendant moves that each of the Counterclaims of the Plaintiff and be dismissed for failure to state facts sufficient to constitute proper causes of action

FOR A FOURTH DEFENSE
(General Denial of All Allegations)

7 To the extent they are not inconsistent, the paragraphs of the preceding allegations and/or responses are incorporated herein by reference

8 Paragraph LXXII requires no response from Plaintiff and all preceding allegations and/or responses are incorporated herein and made a part of this defense

9 The allegations contained in LXXII, LXXIII and LXXIV are denied

10 Paragraph LXXV requires no response from Plaintiff and all preceding allegations and/or responses are incorporated herein and made a part of this defense

11 Plaintiff denies the allegations contained in Paragraphs LXXVI, LXXVII and LXXVIII

12 Paragraph LXXIX requires no response from plaintiff and all preceding allegations and/or responses are incorporated herein and made a part of this defense

13 Defendant denies the allegations contained in Paragraphs LXXX and LXXXI

14 Paragraph LXXXII requires no response from plaintiff and all preceding allegations and/or responses are incorporated herein and made a part of this defense

15 Defendant denies the allegations contained in Paragraphs LXXXIII, LXXXIV, and LXXV

FOR A FOURTH DEFENSE
(Punitive Damages)

16 To the extent they are not inconsistent, and all preceding allegations and/or responses are incorporated herein and made a part of this defense

17 An award of punitive damages against the Plaintiff may violate the rights guaranteed to Plaintiff by the Constitution of South Carolina for the following reasons

- a Any award of punitive damages may violate the prohibition against excessive fines found in Article I, § 15 of the Constitution of South Carolina
- b Any award of punitive damages may violate the guarantee of due process found in Article I, § 3 of the Constitution of South Carolina because of the lack of objective guidelines on which a jury might base its award and further that such guidelines as do exist may be arbitrary and void for vagueness

FOR A FIFTH DEFENSE

18 To the extent they are not inconsistent, and all preceding allegations and/or responses are incorporated herein and made a part of this defense

19 An award of punitive damages against the Plaintiff may violate rights guaranteed by the Constitution of the United States for the following reasons

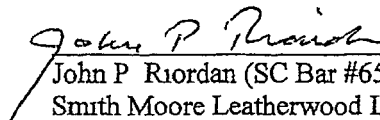
- a Any award of punitive damages may violate the prohibition against excessive fines found in the Eighth Amendment to the Constitution of the United States as

applied to the states by way of the due process clause of the Fourteenth Amendment of the Constitution of the United States

- b Any award of punitive damages may violate the guarantee of due process found in the Fourteenth Amendment to the Constitution of the United States because of the lack of objective guidelines on which a jury might base its award and further that such guidelines as do exist are arbitrary and void for vagueness

WHEREFORE, having responded to the Answer and Counterclaim of Defendant Eric Randall Vaughn, Plaintiff would respectfully pray that the same be dismissed with prejudice, for an award of costs, for judgment in Plaintiff's favor on Plaintiff's causes of action and for such other and further relief as the Court may deem just and proper

Respectfully submitted,


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Attorney for Plaintiff

November 20, 2009

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
CIVIL ACTION NO 2007-CP-24-1056

Plaintiff,

VS

MOTION FOR SUMMARY JUDGMENT

Defendant

TO JACK RIORDAN, ATTORNEY FOR THE PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that the Defendant Eric Vaughn through his undersigned attorney hereby move before the Presiding Judge of the Court of Common Pleas of the Eight Judicial Circuit at the County Courthouse, Greenwood, S C on the October 15, 2009 at 9 00 o clock a m on the grounds that any alleged slanderous statements made by Eric Vaughn as alleged in the amended complaint in this matter are privileged and can not be the basis of a defamation lawsuit

HITE AND STONE

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Attorney for the Defendant, Eric
Vaughn

Abbeville, SC
September 30, 2009

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
William Alvin Hueble, Jr ,	)	MEMORANDUM IN SUPPORT OF
	)	
Plaintiff,	)	MOTION FOR SUMMARY JUDGMENT
	)	
vs	)	
	)	
South Carolina Department of Natural	)	2007-CP 24 1056
Resources and Eric Randall Vaughn,	)	
	)	
Defendants	)	

STATEMENT OF FACTS

Eric Vaughn is a Corporal with the Department of Natural Resources (hereinafter "DNR") He has been employed by DNR since January 2, 2001 and is assigned to Greenwood County In June, 2003, the Plaintiff purchased approximately 160 acres in Greenwood County to be used for hunting and fishing (¶'s deposition, pages 24-26) Plaintiff installed a feeder on a large pond on the property, placed game cameras on the property and prepared a dove field in 2004 on the property (¶'s deposition, pages 36-46) In December, 2005, Cpl Vaughn was called concerning a trespasser on the Plaintiff's property Two other DNR officers went to the property and found the trespasser to be an estranged spouse or a neighbor who was watching his wife (¶'s deposition, pages 55-57)

On the opening day of dove season in 2005, Plaintiff, Plaintiff's father and several friends were on the property for a dove hunt Cpl Vaughn and three other DNR officers came to the property (¶'s deposition, pages 64-70) After examining the field and discussing the matter with the other officers, Cpl Vaughn charged the Plaintiff for baiting the field, but did not charge the other hunters on the property Cpl Vaughn told the Plaintiff that they were charging him the lowest possible fine (¶'s deposition, pages 65-70)

The citation carried a charge of \$465.00 for baiting a dove field (¶'s deposition, pages 77-82) The Plaintiff pled no contest to the charge on October 7, 2005 (¶'s deposition, pages 77-82) With the assistance of Cpl Vaughn, the fine was reduced to \$255.00 (¶'s deposition, pages 77-82)

Plaintiff's Complaint alleges a cause of action under 42 USC §1983 against Cpl Vaughn. This Defendant asserts that Plaintiff's 1983 cause of action is barred by Heck v. Humphrey, 512 US 477 (1994).

Plaintiff's Complaint also alleges causes of action against this Defendant for nuisance, trespass, outrage, invasion of privacy and civil conspiracy. The Plaintiff can present no evidence of a conspiracy or acts which would constitute outrage. This Defendant would assert his right to enter the property as a DNR officer as dispositive of the nuisance and trespass causes of action.

ARGUMENT

I

Plaintiff's claims are barred by Heck v. Humphrey

In Heck v. Humphrey, 512 US 477 (1994), the United States Supreme Court held that

in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a §1983 Plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus, 28 USC §2254. A claim for damages bearing that relationship to a conviction or sentence that has not been so invalidated is not cognizable under §1983.

Id. at 486-487.

Under Heck, the Plaintiff must first successfully challenge the conviction or charge. Any recovery under 42 USC §1983 would imply the invalidity of his criminal conviction and would be barred by Heck. This Defendant respectfully requests that Plaintiff's cause of action under 42 §1983 be dismissed.

II

Plaintiff's causes of action for nuisance, trespass and invasion of privacy are negated by this Defendant's lawful right to enter the Plaintiff's property.

SC Code Ann. 50-1-10 states that "[a]ll wild birds, wild game and fish are the property of the State." Since Plaintiff's purchase of the property, there is no evidence except that which shows that this Defendant was on the property only in his capacity as a DNR officer. As a DNR officer, this Defendant has not only the right to enter the property, but the

duty to enforce the laws governing wildlife. The Plaintiff's causes of action for nuisance, trespass and invasion of privacy should be dismissed.

III

This Defendant has not committed the tort of outrage

The following elements must be established to state a claim for outrage:

(1) an intentional or reckless infliction of severe emotional distress, (2) conduct "so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community", (3) defendant's actions caused the emotional distress, and (4) the distress suffered is "so severe that no reasonable person could be expected to endure it." Williams v. Lancaster County School District, 369 SC 293, 631 SE2d 286, 305 (Ct. App. 2006). Living is not sufficient to state a cause of action for outrage. Todd v. South Carolina Farm Bureau, 283 SC 155, 321 SE2d 602, 613 (SC App. 1984).

This Defendant first met the Plaintiff in September, 2005 when he was on the property with three other officers to inspect the Plaintiff's dove field. When seed was found on the field, it was determined after a consultation with all officers that only the Plaintiff would be charged. The other hunters on the field were not charged on that day. Plaintiff pled no contest to the charge and this Defendant assisted the Plaintiff in getting the fine reduced.

This Defendant was subsequently on the Plaintiff's property at Plaintiff's request. Plaintiff falsely told this Defendant that the reason for the request was to make sure his field was legal. Instead, Plaintiff asked this Defendant to be on the property for the sole purpose of recording the conversation in an attempt to get back at this Defendant for giving him a citation. This Defendant was also on the property on other occasions as a part of his duties as an officer with DNR.

Plaintiff cannot show intentional or reckless infliction of severe emotional distress. He clearly cannot show that this Defendant's conduct was extreme or outrageous or outside the bounds of decency in a civilized society. Plaintiff's cause of action for outrage should be dismissed.

IV

This Defendant has not engaged in a civil conspiracy

Under South Carolina law, the elements of civil conspiracy are: (1) "The combination of two or more people, (2) for the purpose of injuring the plaintiff, (3) which causes special

damages." Pye v. Estate of Fox, 369 SC 555, 633 SE2d 505, 511 (2006). The Plaintiff must present direct or circumstantial evidence that "may reasonable infer the joint assent of the minds of two or more parties to the prosecution of the unlawful enterprise." Pye, 633 SE2d at page 511, quoting Island Car Wash, Inc. v. Norris, 292 SC 595, 601, 358 SE2d 150, 153 (Ct. App. 1987).

Plaintiff has presented no evidence of an agreement or common purpose of the various Defendants to injure the Plaintiff. Plaintiff has been charged with only one offense to which the Plaintiff pled no contest. Plaintiff's claim for civil conspiracy should be dismissed as to all Defendants.

V

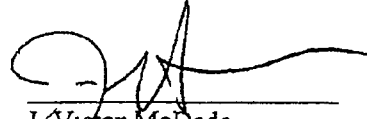
**Plaintiff has failed to assert any damages from the alleged wrongful conduct
of the Defendants**

Even if the Plaintiff's Complaint stated a cause of action under any theory, Plaintiff has shown no damages. Plaintiff pled no contest to the only charge brought against him. These Defendants have not restricted the Plaintiff's activities on his property except to prevent further hunting on the property on the date of the citation. Even if the Plaintiff's causes of action were to survive summary judgment, they should be dismissed for the failure to show any damage under any cause of action.

Respectfully submitted

By

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Dated September 4, 2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
)
Plaintiff,)

Case No 2007-CP- 24-1056

vs)

PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTIONS FOR SUMMARY JUDGMENT

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
)
Defendants)

Defendants move for Summary Judgment as to all causes of action asserted by Plaintiff. Plaintiff respectfully submits that jury review of the circumstances he has been forced to endure is compelled by the actions of Defendant Vaughn and the approval and encouragement of the same by Defendant DNR. Viewing the evidence in the light most favorable to Plaintiff, there exist genuine issues to material fact as to each allegation and therefore Summary Judgment should be denied.

FACTS

Plaintiff purchased over 160 acres of farming/hunting land in Greenwood County in 2003 (Hueble Depo, p 26, l 14). During negotiations regarding purchase, the seller(s) suggested to Plaintiff that he continue to allow a DNR agent to continue hunting the property (Vaughn Depo I, p 65, ll 4-10, Hueble Depo, p 28, ll 10-17). Being more interested in familiarizing himself with the property and the capacity it might withstand from his family and friends, Plaintiff declined to do so. The following April of 2004, the seller(s) reiterated that the DNR agent wished to hunt the property, identifying him as Defendant Vaughn (Vaughn Depo I p 127, ll 12-16 Hueble Depo p 33, ll 1-22). Plaintiff again declined to act upon this request.

In 2004, Plaintiff purchased an additional 60 acres of adjoining property (Hueble Depo , p 26, ll 16-20), making his ownership approximately 220 acres at a cost of over \$490,000

During the summer of 2005, Plaintiff prepared his first dove field of approximately 15 acres, in compliance with applicable regulations and/or guidelines. On opening day of dove season in September of 2005, DNR agents, lead by Defendant Vaughn, descended upon Plaintiff's property. From his knees, Vaughn utilized a knife to produce seeds, claiming that the presence of even one seed constituted a baited field (Hueble Depo, p 67, ll 13-14, Dudley Depo, p 109, ll 21-22). When Plaintiff realized Vaughn was the DNR officer referenced by seller and questioned Vaughn regarding the same, Vaughn minimized his prior involvement with the property (Hueble Depo , p 68, ll 9 – 23). During the ensuing discussions, Vaughan stated to Plaintiff that it was a shame seller had sold the property to Plaintiff and that Plaintiff would regret purchasing the property. Vaughn acknowledges he may have said "I hated to see him sell it," further explaining "it was a nice piece of property, and I had hunted it on occasion." (Vaughn Depo I, p 140, ll 13-18). Eventually, Vaughn charged Plaintiff with Baiting a Field and cautioned Plaintiff not to contest the charge (Hueble Depo, p 70, ll 16-20, Huggins Depo, p 34, ll 23-25, Alvin Hueble Depo, p 23, ll 12-14, Todd Stewart Depo, p 29, line 7). Though Plaintiff believed he had done nothing wrong, he did eventually enter a plea of no contest to the charge, hoping that such would satisfy the animus Vaughn felt towards Plaintiff (Hueble Depo p 80, ll 5 – p 81 ll 4).

The subsequent spring of 2006, following the opening day of turkey season, Plaintiff became aware that his game cameras had been manipulated (Hueble Depo p 94, ll 7 – 16). When Plaintiff contacted Vaughn to discuss this matter, Vaughn admitted he and other agents had visited his property, but denied that they had manipulated his cameras (Vaughn Depo I, p

168, ll 17-21) Vaughn went on to assert that two food plots, where Plaintiff had planted clover seed, constituted baiting. Plaintiff was as shocked by these allegations as by those from Vaughn's first visit. Clover seed is minuscule (Dudley Depo, p. 85, ll 10-11) and expensive as compared to traditional "bait" such as corn or sunflower seeds, it is the ensuing clover plant, not the seed that would serve as a turkey attractant. However, Vaughn and even a DNR superior stated that if a turkey was liable to eat it, it constituted bait. (Hueble Depo, p. 94 ll 16 - p. 95, l 24) Plaintiff of course disagreed with the continued assertions of improprieties on his property and was especially troubled by the continued visitations by Vaughn to the property given his relationship with the former owner and his apparent fondness for the property itself.

Realizing that Vaughn's focus on his property and vendetta against him had not abated, Plaintiff initiated a complaint with Vaughn's superior. In response, Vaughn lied regarding both his involvement with the property (Hueble Depo, p. 114, ll 1-19, p. 115, ll 14-17) and Plaintiff's commission of criminal offenses (Exhibit A). Despite establishing to the superior (based upon the superior's reports to Plaintiff¹) that Vaughn had lied to the superior regarding Vaughn's long standing relationship with the property (Hueble Depo, p. 114, l 2 - p. 115, l 22), no disciplinary action was taken. Rather than concede impropriety on their agent's behalf, DNR dismissed Plaintiff's concerns and falsely trumpeted the virtues of Vaughn (English Depo, p. 130, l 19 - p. 131, l 7, Vaughn Depo II, p. 122 lines 5-6, Vaughn Depo II p. 124, ll 1-10). When Plaintiff was later informed that Vaughn was planning to file a defamation suit against

¹ Captain Holbrooks reported to Hueble that Vaughn denied hunting the property more than a single time. Hueble questioned this point multiple times and was assured by Holbrooks of Vaughn's representation. Hueble recalled that Vaughn was recorded during their conversation acknowledging that he had hunted the property more than he had originally admitted during the dove field incident. Therefore, Hueble played the tape for Holbrooks "proving" to Holbrooks that Vaughn's statement of a single hunt was a lie. Of course Vaughn now denies such was ever said and his statement of April 20, 2006 (Exhibit A) states he "only hunted a few times." Holbrooks' deposition, which might help explain the same, is pending.

Plaintiff, Plaintiff hired counsel and again sought to have an investigation undertaken by DNR. (Hueble Depo, p 125, ll 18-24, Hueble Depo, p 192 ll 11-17)

During the subsequent investigation by DNR, it was suggested that Vaughn had no other complaints made against him, therefore it was difficult to accept Plaintiff's version of events. For approximately six months, no decision was rendered. Upon request of Plaintiff's counsel that some decision be made prior the arguable running of the statute of limitations, DNR finally found no impropriety by Vaughn (Colonel Alvin Taylor Letter, August 7, 2007). This lawsuit by Plaintiff ensued.

Pursuant to discovery, it was belatedly revealed that in fact Vaughn had been the subject of a covert DNR investigation prior to DNR's final ruling, which stemmed from complaints to the U.S. Fish and Wildlife Service Associates of Vaughn's from Ohio, including at least one Ohio DNR agent, were suspected of trapping violations and/or the illegal import of coyote into the state. An anticipated surveillance of aspects of the investigation was compromised via discussions between personnel from the S.C. DNR and a female for the Ohio version of DMV, effectively ending the active portion of the investigation against Vaughn. (Vaughn Depo, p 275, ll 1-8) The follow-up, historical investigation did find irregularities in the trapping paperwork of the Ohio associates of Vaughn (warning tickets were eventually issued against the Ohio residents by DNR) (Sullivan Depo, p 97, ll 3-21). Moreover, it was discovered that Vaughn, while hunting in Ohio, had purchased an Ohio resident hunting license, utilizing the address of the Ohio DNR associate (Sullivan Depo, p 109, l 7 - p 110, l 6). The additional failure by Vaughn to file adequate documentation regarding his depredation trapping as required by law has also been discovered (Ward Depo, p 103, ll 1 - 11). In addition, Vaughn's sale of turkey calls (Ward Depo, p 106, l 19 - p 110, l 6) and his work as a dock builder (Vaughn Depo, p

174, l 3 – p 176, l 14), both of which represent arguable conflicts of interest and the appearance of impropriety, have instead been approved by DNR. The bottom line being despite numerous questionable activities evincing a lack of appreciation for the law, DNR has steadfastly defended the actions of their agent, Vaughn.

Through discovery, Vaughn eventually admitted that he and other agents had manipulated Hueble's game camera (Vaughn Depo I, p 167, l 4 – p 168, l 21). In addition, they also entered his barn and manipulated, opened and accessed equipment and other personal items (Vaughn Depo III, p 58, l 12 – p 60, l 1). Plaintiff was provided copies of written responses by Vaughn to Plaintiff's initial DNR complaint where Vaughn falsely accused Plaintiff in the winter of 2004 with having baited ponds, stating "[t]here was a feeder throwing pelletized food in the water on one pond and cracked corn and wheat in another shallow water pond." Vaughn claimed that the alleged bait was "documented" (Exhibit A, English Depo, p 97 ll 1-12, Vaughn Depo III, p 21, ll 19-21, p 53 ll 13-16). Vaughn also described alleged feeding practices that he observed (which were legal) as being baiting, suggested that he continually found "illegal practices" on Plaintiff's farm and accused Plaintiff of providing false information to his superior officer (Vaughn Depo III, p 120 ll 18-23, Ward Depo, p 133, l 21, English Depo p 82, l 24 – p 83, l 15). Plaintiff submits that such allegations were created by Vaughn to provide an explanation for his focus upon Plaintiff and his land other than Vaughn's prior relationship to the land. In fact, Plaintiff had not even purchased the described feeder at the time alleged (Exhibit B).

In response to Plaintiff's second DNR complaint Vaughn prepared additional written statement(s) (Exhibits C and D), describing Plaintiff's legal feeding practices as baiting, falsely alleging duck baiting being documented in Plaintiff's ponds during the 2004-2005 waterfowl

season, generally alleged that he observed illegal activity on Plaintiff's property nearly every time he made a visit and accused Plaintiff of providing false information to his superior officer. Additionally, as discovered during the deposition of Vaughn's ex-wife Vaughn had shared with her information regarding Plaintiff's complaints against Vaughn, falsely claiming them to be lies. She specifically recalled the allegation of Vaughn wanting to purchase the property claiming such could not have occurred (Lori Vaughn Depo, p 27, l 23- p 29, l 1). However, whether he could have afforded it or not, the ex-wife was unaware that Vaughn was audibly recorded stating to Plaintiff that he indeed had looked at the property when it came on the market. Moreover, Vaughn had apparently been involved in multiple land deals with other business associates (Lori Vaughn Depo, p 28, l 23 – p 29, l 1). Out of an abundance of caution, Plaintiff has attached an affidavit hereto as well (which will be executed prior to the hearing) further detailing the circumstances he has endured (Exhibit E-G).

In essence, DNR fully supports and encourages Vaughn's continual evasion of the law while allowing the threat of improper sanctions to deprive Plaintiff of the use and enjoyment of his property. Such actions directly related to Plaintiff's failure to grant Vaughn hunting privileges to Plaintiff's property as requested on Vaughn's behalf. In conjunction with the stated belief by DNR agents that they have the unfettered right to enter Plaintiff's property at any time, to enter any structure thereon including Plaintiff's barn and manipulate any piece of personal property located on the property in any manner they so desire (Jones Depo, p 144, l 21 – p 147, l 13), it is respectfully requested that jury review of these causes of actions is compelled and therefore Summary Judgment denied.

LAW
SUMMARY JUDGMENT STANDARD

The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder. George v. Fabri, 345 S.C. 440, 548 S.E.2d 868 (2001). Summary judgment is appropriate if the pleadings, depositions, answers to interrogatories, and admissions on file, together with any affidavits, 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. S.C. R. Civ. P. 56(c), Hansson v. Scalise Builders of S.C., 374 S.C. 352, 650 S.E.2d 68 (2007), Helms Realty Inc. v. Gibson Wall Co., 363 S.C. 334, 611 S.E.2d 485 (2005), BPS, Inc. v. Worthy, 362 S.C. 319, 608 S.E.2d 155 (Ct. App. 2005). A court may grant summary judgment pursuant to a properly supported motion which sets forth undisputed facts, but the court cannot make factual determinations or weigh the merits of conflicting testimony. M & M Group v. Holmes, 379 S.C. 468, 473, 666 S.E.2d 262, 264 (Ct. App. 2008) (quoting David v. McLeod Reg'l Med. Ctr., 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006)). Rule 56(c) imposes the burden of demonstrating that no genuine issue of material fact exists on the party seeking summary judgment, S.C. R. Civ. P. 56(c), George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 592, 545 S.E.2d 500, 505 (2001) (citing Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991)), and when ruling on the motion "the evidence and the inferences which can be drawn therefrom should be viewed in the light most favorable to the nonmoving party." George, 344 S.E.2d at 582, 545 S.E.2d at 505 (citing SSI Med. Svcs. Inc. v. Cox, 301 S.C. 493, 497, 392 S.E.2d 789, 792 (1990)).

"Since it is a drastic remedy, summary judgment 'should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues.'" Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991) (quoting Watson v.

S. Ry. Co., 420 F. Supp. 483, 486 (D.S.C. 1975)) Even if no dispute exists to the evidentiary facts, but merely to the conclusions or deductions to be drawn there from, the court should deny summary judgment. Wilson v. Style Crest Prods. Inc., 367 S.C. 653, 656, 627 S.E.2d 733, 735 (2006) (citing Hamilton v. Miller, 301 S.C. 45, 47, 389 S.E.2d 652, 653 (1990)).

Summary judgment is appropriate only when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). "The evidence must be construed in favor of the Plaintiff, the non-moving parties, and all reasonable inferences must be drawn in his favor." Worden v. SunTrust Banks, Inc., 549 F.3d 334, 340 (4th Cir. 2008), see also Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255, 106 S.Ct. 2505 (1986). "Summary judgment is proper only if (1) no genuine issue of material fact exists, viewing every possible inference in favor of the party against whom summary judgment has been entered, and (2) the moving party is entitled to judgment as a matter of law." Babul v. Golden Fuel, Inc., 990 So.2d 680, 682 (Fla. Dist. Ct. App. 2008) (citing Volusia County v. Aberdeen at Ormond Beach, L.P., 760 So.2d 126, 130 (Fla. 2000)). Accordingly, "[i]f the record reflects the existence of any genuine issue of material fact or the possibility of any issue, or if the record raises even the slightest doubt that an issue might exist, summary judgment is improper." Id. (quoting Holland v. Verheul, 583 So.2d 788, 789 (Fla. Dist. Ct. App. 1991)). See also Thomas v. Eckerd Drugs, 987 So.2d 1262, 1263 (Fla. Dist. Ct. App. 2008) (stating "[s]ummary judgment should not be granted unless the facts are so crystallized that nothing remains but questions of law").

Summary judgment should not be granted when inquiry into the facts is desirable to clarify the application of the law. Lawson v. South Carolina Dept. of Corrections, 532 S.E.2d 259, 260 (Sup. Ct. 2000).

TORT CLAIMS ACT

The South Carolina Tort Claims Act waives immunity from suit against State agencies such as DNR, however exceptions to such waiver remain, if affirmatively asserted. DNR claims that none of Plaintiff's causes of action, including negligence, survive the immunities reserved by statute. DNR claims that it cannot be held liable for the enforcement or compliance of any law or the failure to enforce any law. Moreover, DNR claims that all complained of actions by Plaintiff concern the exercise of discretion or judgment by the DNR or its employee in the performance or failure to perform discretionary acts or services. DNR claims it is not liable for loss due to entry upon any property where the entry is expressly or implied authorized by law. Finally, DNR claims immunity from any employee conduct outside the scope of their official duties or which constitute actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. §15-78-60 (4)(5)(9)(17), S.C. Code of Laws.

Despite such assertions by DNR, these determinations involve questions of fact. Moreover, none of the alleged activities are the discretionary actions protected by statute. Herein, given the competing assertions between Plaintiff, Vaughn and the varying DNR witnesses, genuine issues of material fact exist as to each claimed immunity as related to the discrete causes of action. Moreover, no particular exception to waiver of immunity fully addresses the overall activity by DNR's employees, especially when viewed in the light most favorable to Plaintiff and with depositions of additional DNR personnel, including the Director, the Colonel of the law enforcement division and Vaughn's Captain presently pending.

Given the novel nature of certain of the allegations as well as the pending depositions, it is additionally urged pursuant to Rule 56(f) that the Court refuse the applications for summary judgment until such discovery may be completed, especially in light of the measures taken to

prevent certain of such depositions thus far. Although all issues of novel impression do not require a trial, summary judgment is inappropriate where further inquiry into the facts is desirable to clarify application of the law. ML-Lee Acquisition Fund L.P. v. Deloitte & Touche, 320 S.C. 143, 153, 463 S.E.2d 618, 624 (Ct. App. 1995), Shea v. State Dept. of Mental Retardation 279 S.C. 604, 611, 310 S.E.2d 819, 822 (Ct. App. 1983), Shadwell v. Craigie, 361 S.C. 492, 605 S.E.2d 567 (Ct. App. 2004).

NEGLIGENCE

Defendant DNR's is tasked by §50-3-110 S.C. Code of Laws, with charge over DNR officers and enforcement of the varying laws relating to natural resources and wildlife. Such agents have a duty to lawfully, dispassionately and fairly conduct themselves and their actions and to avoid affirmative injury and loss of enjoyment of property to property owners of the state. However, far from mere enforcement or compliance with law or the exercise of discretion, which might provide exception to the waiver of immunity. Defendant here, through the actions of its agents, use such alleged "enforcement" as mere pretext to proximately cause injury to Plaintiff. DNR's own directives declare the primary responsibility of their law enforcement officers to include the protection of the state's citizens through the upholding of the Constitution of the United States and the laws of the state and direct that the officers have an obligation to apply the ethical principles of integrity, honesty, respect for others, fairness and accountability in their individual job duties and responsibilities. SCDNR Directive # D318, Code of Ethics (Exhibit F). It is submitted that such directive recognizes a standard of care owed by DNR to Plaintiff.

In the light most favorable to Plaintiff, the allegations asserted hereinabove against the agents and/or employees of DNR, including Vaughn, constitute negligent, conspiratorial, abusive, and harassing activity. The agents and/or employees of DNR, including Vaughn have

arguably breached the duty of care owed to Plaintiff through their negligent and/or grossly negligent acts or omissions, proximately causing injury to Plaintiff. Genuine issues of material fact exist to support the cause of action of negligence and denial of summary judgment.

ABUSE OF PROCESS

“The tort of abuse of process consists of two elements: an ulterior purpose, and a willful act in the use of the process that is not proper in the regular conduct of the proceeding.” Hamer v. Am. Med. Int'l, Inc., 328 S.C. 128, 136, 492 S.E.2d 103, 107 (1997). See Swicegood v. Lott, 665 S.E.2d 211, 213 (2008). As in Swicegood, where officers charged offenses in an attempt to coerce action, and in the light most favorable to Plaintiff, DNR agents here had the ulterior purpose of either reinstating Vaughn's hunting privileges or punishing Plaintiff for his failure to ensure the same. Of course, such was not proper in the regular conduct of such proceeding. Perhaps as importantly, no exemption to the waiver of immunity exists for such activity. There being genuine issues of material fact as to whether agents of DNR committed an abuse of process, summary judgment should be denied.

HARASSMENT

“Harassment means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress.” §16-3-1700, S.C. Code of Laws. Per the allegations hereinabove, given the reasoning of Swicegood and viewed in the light most favorable to Plaintiff, genuine issues of material fact exist as to whether agents and/or employees of DNR, including Vaughn, engaged in a pattern of intentional, substantial and unreasonable intrusion in the private life of the Plaintiff which caused the Plaintiff and would cause a reasonable person in Plaintiff's position to suffer mental distress. For

from the mere enforcement of law or pursuant to public duty, agents of DNR, including Vaughn, engaged in a course of conduct that has discouraged Plaintiff from the enjoyment of his property and caused mental distress. Accordingly, the grant summary judgment is inappropriate.

NEGLIGENT SUPERVISION

Here, DNR has steadfastly refused to acknowledge a conflict of interest or the appearance of an impropriety by its agent, Vaughn. This despite gaining knowledge that the seller requested Plaintiff allow Vaughn to resume hunting on the property and notice by DNR supervisors that Vaughn had in fact had a relationship to the property and inquired about purchase of the same. Then, in defiance of Plaintiff's concerns about the motives and actions of Vaughn, especially in light of the false accusations regarding Plaintiff's activities on the property, DNR failed to provide any supervision over Vaughn's actions, instead suggesting that Vaughn's actions were exemplary. This despite the eventual knowledge of Vaughn's indiscretions with relation to the Ohio fur trappers, his own hunts in Ohio, his trapping activities in S.C. and even Vaughn's own disagreements with other DNR agents regarding baiting when the alleged perpetrators were friends of Vaughn. (Ira Jones depo, p. 9, ll. 13-16; Ira Jones dep, p. 94, ll. 16-22, Vaughn Depo 111, p. 144, l. 14 - p. 151, l. 22.)

Plaintiff maintains that the lack of supervision by DNR has encouraged the illicit activity he has been subjected to, causing a continuing deprivation of Plaintiff's enjoyment of his property. An employer such as DNR may be liable for negligent supervision when its employee intentionally harms another, while exercising privileges provided by the employer, while employer had means to control the employee's conduct, and the employer knows or should know of the necessity and opportunity for exercising control. Here, viewing the evidence in the light most favorable to Plaintiff, Vaughn's relationship to Plaintiff's property and his desire to

continue hunting the property were known or knowable by other agents and/or superior officers (Dudley Depo, p 121 ll 10 13)

Per the allegations hereinabove, agents and/or employees of DNR, through their negligent and/or grossly negligent acts and/or failure to act, proximately caused harm to Plaintiff during a time when such agents and/or employees were in the employ and acting under the power invested in them as officers of DNR. Ample questions of material fact exist to deny the prayer for summary judgment

NUISANCE

Defendant Vaughn, citing §50 1-10, S C Code, asserts he has not only the right, but the duty to enter Plaintiff's property and enforce the laws governing wildlife. Of course, in the light most favorable to Plaintiff, Vaughn's presence is not occasioned by the enforcement of laws governing wildlife. Moreover, Vaughn conveniently ignores an arguably more applicable provision §50 3-420, perhaps because it merely states that, when acting in his official capacity, Vaughn is not subject to criminal prosecution for entering onto private property. Nothing prohibits inquiry into civil prosecution of such intrusions on private property, especially when material questions of fact exist as to the nature of the intrusion. Here, Vaughn had a personal, non official relationship with Plaintiff's property. The former owner suggested to Plaintiff that he allow Vaughn to resume his use of the property. Vaughn entered the property on numerous occasions. Vaughn was photographed by one of Plaintiff's game cameras alone and wearing camouflage, despite statutes suggesting that DNR agents should wear official uniforms with visible badges when on duty §50-3-130, S C Code of Laws. Vaughn manipulated other game cameras to ensure his image was not captured, then falsely denied the same to Plaintiff.

Given all of the foregoing, in conjunction with Vaughn's threat of criminal prosecution for actions Plaintiff denied or maintained were legal, material questions of fact exist as to whether Vaughn unreasonably interfered with the use and enjoyment by Plaintiff of Plaintiff's property, causing material annoyance, discomfort and anxiety. Accordingly, summary judgment should be denied.

TRESPASS

For all of the reasons asserted above in regard to nuisance, Plaintiff reiterates the same as to his cause of action for trespass. Again, §50-3-420, S.C. Code of Laws, merely states that, when acting in his official capacity, Vaughn is not subject to criminal prosecution for entering onto private property. Nothing prohibits inquiry into civil prosecution of such intrusions on private property, especially when material questions of fact exist as to the nature of the intrusion as exists herein. By his actions as alleged hereinabove, sufficient evidence exists that Defendant Vaughn has interfered with Plaintiff's right to exclusive and peaceable possession of his land. Plaintiff maintained legal possession of his referenced property in Greenwood County. Despite such legal possession and the right to exclusive and peaceful possession therein by the Plaintiff, Defendant Vaughn voluntarily entered onto the property of the Plaintiff on numerous occasions and such voluntary entrance by Defendant Vaughn was without the Plaintiff's permission. Such unlawful entry alone by Defendant Vaughn could entitle Plaintiff to nominal damages. However, given the nature of Defendant Vaughn's activities therein, it is herein alleged that Defendant Vaughn's trespasses may have been conducted with wanton, willful and reckless disregard of the Plaintiff's rights. In the light most favorable to Plaintiff, each and every invasion by Defendant Vaughn constitutes a separate cause of action and therefore, in addition to any award of damages, Plaintiff has requested that an injunction be issued to prevent Defendant Vaughn's

continuous trespass upon Plaintiff's property. Given that genuine issues of material fact exist, summary judgment should be denied.

OUTRAGE

Though Defendant Vaughn correctly recites the elements of outrage, he thereafter fails to acknowledge all facts relating to the same and incorrectly maintains that Plaintiff cannot prove such elements. However, in the light most favorable to Plaintiff, it is submitted that genuine issues of material fact exist as to such elements. It can hardly be suggested that the continued visitation to Plaintiff's property, the false allegations of criminal conduct and threat of prosecution of the same, all following Plaintiff's failure to allow Vaughn to resume hunting privileges on his property does NOT constitute outrageous behavior. Plaintiff was certain he was wrongfully charged on the dove case, was in disbelief over Vaughn's allegation that the planting of a clover plot was an attempt to bait for turkeys and was further shocked by Vaughn's false assertions of observing corn in his ponds as well as a fish feeder throwing feed during duck season - months before Plaintiff even purchased his feeder (See Exhibit B). Given Vaughn's and DNR's position that they can maintain a constant presence on any portion of Plaintiff's property, including his roofed and walled structures, and manipulate any item as they wish, it is certainly a question for the jury as to whether evidence exists regarding the elements of outrage. Plaintiff submits that ample evidence exists that Defendant Vaughn intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his malicious conduct toward Plaintiff, Vaughn's alleged actions were so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized community, Vaughn's outrageous conduct caused Plaintiff emotional distress so severe that no reasonable person could have been expected to endure it.

without effect, as a direct and proximate result of the outrageous actions by Vaughn, Plaintiff has been injured. There being genuine issues of material fact regarding outrage, summary judgment should be denied.

SLANDER AND LIBEL

Vaughn maintains that any publication by him alleging wrongdoing by Plaintiff, written or oral, was privileged. However, material questions of fact exist regarding the procedure by which such defamatory comments by Vaughn were made, as well as his publication to third parties including his then wife, Lori. Moreover, the depositions of Vaughn's Captain, his Colonel and the Director of DNR, the three most senior personnel, who would seemingly have the most information regarding the parameters of such publications, are being scheduled for the coming month. Accordingly, pursuant to Rule 56(f) SCRCP, it is requested, at the very least, that summary judgment not be determined before the completion of this necessary discovery.

Through Vaughn's written publications, as well as his discussions with others, including his then wife, Vaughn conducted a course of conduct designed to slander, libel, defame, harass and embarrass Plaintiff. Vaughn did on more than one occasion willfully and maliciously (impliedly and/or actually) utter false, slanderous statements to third parties regarding Plaintiff, exposing Plaintiff to hatred, contempt, ridicule and obloquy and did attempt to cause Plaintiff to be shunned, avoided, embarrassed, humiliated and injured. These slanderous statements by Vaughn were false, defamatory, unprivileged and slanderous (per se or otherwise) causing damage to Plaintiff.

The tort of defamation allows a plaintiff to recover for injury to his or her reputation as the result of the defendant's communications to others of a false message about the plaintiff. *Holtzschetter v Thomson Newspapers Inc* 332 S.C. 502, 506 S.E.2d 497 (1998). Defamatory communications take two forms: libel and slander. Slander is a spoken defamation while libel is a written defamation or

one accomplished by actions or conduct. *Id* If a communication is libelous, then the law presumes the defendant acted with common law malice. *Id*

In an action, the defendant may assert the affirmative defense of conditional or qualified privilege. Under this defense, one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused. Restatement (Second) of Torts, § 593 (1977), see *Bell v. Bank of Abbeville*, 208 S.C. 490, 38 S.E.2d 641 (1946). In *Bell*, this Court held

In determining whether or not the communication was qualifiedly privileged, regard must be had to the occasion and to the relationship of the parties. When one has an interest in the subject matter of a communication, and the person (or persons) to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interest, is privileged by reason of the occasion. The statement, however, must be such as the occasion warrants, and must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed.

Bell, 208 S.C. at 493--94, 38 S.E.2d at 643.

Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 484-5, 514 S.E.2d 126, 133-4 (1999).

"Where the defamation is made in good faith and with proper motives, a defendant may claim a qualified or conditional privilege. The privilege exists if the defendant correctly or reasonably believes that some important interest of his own or a third party is threatened. Cullum v. Dun & Bradstreet, Inc. 228 S.C. 384, 90 S.E.2d 370 (1955). A qualified privilege may exist where the parties have a common business interest. Conwell v. Spun Oil Company, 240 S.C. 170, 125 S.E.2d 270 (1962). However, the qualified privilege exists only when the publication has occurred in a proper manner and to proper parties only. Prentiss v. Nationwide Mutual Insurance Company, 256 S.C. 141, 181 S.E.2d 325 (1971)." Abofeka v. Alston Tobacco Company, 288 S.C. 122, 341 S.E.2d 622 (1986).

Here, genuine issues of material fact exist as to whether the false statements by Vaughn were privileged. Such statements asserted illegal activity by Hueble every time Vaughn visited

the property, the existence of corn in and feeders on ponds during duck season (Exhibits A, C & D), his accusation that Hueble falsely accused Vaughn of having interest in purchasing the property. While such publication by Vaughn (as well as those by Plaintiff) may eventually prove to be privileged, insufficient inquiry has been conducted thus far to ensure the same. Per Rule 56(f), it is requested that the impending depositions of Vaughn's superiors be allowed before Plaintiff's recently amended causes of action are summarily dismissed. Accordingly, such written and verbal statements, communicated to those with and without DNR including his then wife, Loui caution against an award of summary judgment as prayed for by Defendant Vaughn at this time.

INVASION OF PRIVACY

For all of the same reasons set forth in the Nuisance and Trespass causes of action Plaintiff asserts that genuine issues of material fact exist to support his cause of action for invasion of privacy. Defendant Vaughn's intentional actions toward Plaintiff constitute a wrongful intrusion into Plaintiff's private activities, in such a manner as to outrage and/or cause mental suffering and/or humiliation to a person of ordinary sensibilities. Defendant Vaughn's actions toward Plaintiff constitute a blatant and shocking disregard of Plaintiff's rights. Corder v. Champion Road Machinery International Corp., 283 S.C. 520, 324 S.E.2d 79-82 (Ct. App. 1984). There being genuine issues of material fact regarding Vaughn's invasion of Plaintiff's privacy, summary judgment should be denied.

CIVIL CONSPIRACY

Defendant Vaughn correctly notes the elements of civil conspiracy, but wrongly asserts no evidence of the same. Moreover, such is applicable to both Vaughn individually and as a representative of DNR under the S.C. Tort Claims Act. Far more than the "one offense" charged

against Plaintiff, Vaughn and other agents of DNR have combined for the purpose of injuring Plaintiff, causing him special damages. Ample evidence, in the light most favorable to Plaintiff exhibits the combined manufacturing of false "evidence" against Plaintiff, best exemplified in the joint reporting that photographs of a fish feeder on Plaintiff's pond were taken during duck season either at the end of 2004 or the beginning of 2005. This would have evidenced the sole "documentation" of misdeeds by Plaintiff prior to the dove field incident in September of 2005 and was offered by Vaughn and others as an alternative reason for Vaughn's focus on Plaintiff and his property OTHER than Vaughn's prior relationship to the property and displeasure in Plaintiff not allowing continuance of the same. Of course all the purported pictures exhibit is evidence of Vaughn's willingness to lie and involve co-agents in the same in order to harm Plaintiff. Plaintiff was able to obtain a copy of the cancelled check utilized to purchase the feeder (the only fish feeder he has ever purchased) and it is dated May 25, 2005, months after Vaughn claims to have taken a picture of it (Exhibit B). Some of these same agents and others apparently also assisted in the manipulation of Plaintiff's camera, the entry into his barn, the manipulation of objects inside the barn and comments to Plaintiff suggesting that his lawful planting of a clover patch as well as his legal feeding programs instead constituted illegal baiting, such that Plaintiff is deprived from properly managing his property or enjoying the use thereof. Accordingly, in the light most favorable to Plaintiff, genuine issues as to material fact exist to deprive summary judgment as played for by Defendant Vaughn as to civil conspiracy.

42 U.S.C. §1983

[E]very person who, under color of [law] subjects, or causes to be subjected, any citizen to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured. " 42 U.S.C. §1983. Despite the allegations by

Plaintiff, Defendant Vaughn asserts that Plaintiff's §1983 claims are barred by Heck v. Humphrey, suggesting that since Plaintiff failed to appeal or otherwise address his plea of nolo contendere to the charged offense, no action can thereafter exist. However, Heck dealt with both habeas corpus and §1983 and from the outset stated, "In general, exhaustion of state remedies "is not a prerequisite to an action under §1983." Patsy v. Board of Regents of Fla., 457 U.S. 496, 501, 102 S.Ct. 2557, 2560, 73 L. Ed.2d 172 (1982), even an action by a state prisoner, *id.* at 509, 102 S.Ct. at 2564. The federal habeas corpus statute, by contrast, requires that state prisoners first seek redress in a state forum." Heck, 512 U.S. 477, 480 (1994).

Here, no habeas corpus action exists. Moreover, the §1983 action does not relegate itself to merely to the dove bating charge and makes no mention of malicious prosecution. Instead the dove bating allegation is merely one example of the pattern of infringement of Plaintiff's constitutional rights under color of law, committed by Vaughn. Plaintiff's §1983 claim addresses his deprivation of equal protection of the law and the rights, privileges and immunities secured by the Constitution and laws of this State and nation as well as deprivation of the right(s) to be free from unreasonable search and seizure, full enjoyment of his property and the exercise of liberty upon the same without due process of law as guaranteed by the 4th, 5th and 14th Amendments to the Constitution of the United States.

No recovery by Plaintiff is barred by Heck. In fact, Heck refuses to go so far as Defendant wishes recognizing that "a suit for damages attributable to an allegedly unreasonable search may lie even if the challenged search produced evidence that was introduced in a state criminal trial resulting in the §1983 plaintiff's still-outstanding conviction." Heck, 512 U.S. 477, 487 (1994)(fn. 7). Interestingly, Heck also reiterates that "[t]he res judicata effect of state court

decisions in 1983 actions is a matter of state law. See Migra v. Warren City School Dist. Bd. Of Ed., 465 U.S. 75, 104 S.Ct. 892, 79 L.Ed.2d 56 (1984); Heck, 512 U.S. 477, 480 (1994)(fn. 2)

The S.C. Supreme Court recently spoke to res judicata, clearly distinguishing nolo contendere pleas as entered by Plaintiff from either true guilty pleas and/or Alford pleas. In Zurcher v. Bilton, while agreeing that Zurcher's Alford plea to a misdemeanor collaterally estopped his subsequent civil suit regarding the same action, the Supreme Court noted that such was inadmissible hearsay in the first instance, but that Zurcher failed to object to the same. Tellingly for Plaintiff's purposes, the Court then stated "[w]e also note that Zurcher could have pled nolo contendere and altogether avoided this appeal as nolo pleas are permitted only for misdemeanor charges, S.C. Code Ann. §17-23-40 (2003), and are inadmissible in any civil or criminal proceeding, Rule 410, SCRE, except for impeachment purposes. Rule 610, SCRE." Zurcher v. Bilton, 666 S.E.2d 224, 228 (2008)(fn. 3)

Here, the charged offense was NOT an impeachable offense. Thus, per Zurcher, Plaintiff's "conviction," which Vaughn claims bars any action, is inadmissible. Even if such were not the case, Plaintiff's §1983 suit is distinguishable from Heck and addresses conduct above and beyond the mere improper violation charged. As discussed ad nauseum, Plaintiff's action addresses the ongoing imposition on Plaintiff's constitutional and property rights by Vaughn, both before and following the dove incident, under color of law. Such impositions include unreasonable searches of plaintiff's effects under the 4th amendment, the deprivation of life, liberty and property under the 5th amendment and the denial of equal protection under the law under the 14th amendment.

Awards for such violations of constitutional rights, be they nominal or compensatory for the mental and emotional distress or other like damage attributable thereto, are at the heart of

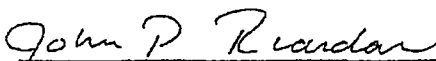
§1983 claims "The purpose of 1983 would be defeated if injuries caused by the deprivation of constitutional rights went uncompensated simply because the common law does not recognize an analogous cause of action" Carey v Piphus, 435 U S 247, 258 (1978) The deprivation of the rights is actionable in and of itself

Such misuse of power by Defendant Vaughn, such power having been possessed and made possible only because he was and is clothed with the authority of state law, hereby calls for redress and determination of an award of damages to the Plaintiff, both actual and punitive, in an amount to be determined by a jury, and for injunctive relief to cease such activity if deemed appropriate. Ample evidence of genuine issues of material fact exist as to the claimed deprivations under §1983 and therefore summary judgment should be denied.

CONCLUSION

For all of the foregoing, especially in light of the genuine issues of material fact, summary judgment should be denied.

Respectfully submitted,



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(864) 242-6440/(864) 240-2498 (Fax)
Attorneys for Plaintiff

Date 10/12/09

EXHIBIT B

WILLIAM A. HURDLER JR
104 Ambrose Way
Columbia, SC, 29615

12-3-04

12/07/04 14941 74090 P09 0334600304

Pay to the order of First Farm \$ 2,898.00

CAROLINA FIRST

For William A. Hurdler Jr

00000000000000000000

Date: 12-07-2004 Account: 8101997002 Serial: 1026
Amount: 2898.00 TR: 5390219 Sequence: 17040780 BankNum: 1

WILLIAM A. HURDLER JR
104 Ambrose Way
Columbia, SC, 29615

1046

06/01/05 120771 70809 P09 0337988000000000

Pay to the order of First Farm \$ 520.00

CAROLINA FIRST

For William A. Hurdler Jr

00000000000000000000

Date: 06-01-2005 Account: 8101997002 Serial: 1046 Amount: 520.00
TR: 5390219 Sequence: 11014490 BankNum: 1 TranCode: 0 DebCr: D

12-3-04

12/07/04 14941 74090 P09 0334600304

2898.00

1026

06-01-05

06/01/05 120771 70809 P09 0337988000000000

520.00

1046

EXHIBIT E

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
)
Plaintiff,)

Case No 2007-CP 24-1056

vs)

**AFFIDAVIT OF
WILLIAM ALVIN
HUEBLE, JR.**

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
)
Defendants)

PERSONALLY APPEARED BEFORE ME William Alvin Hueble, Jr , who being first duly sworn, deposes and states

As in my deposition, which should have been submitted as an exhibit, I hereby reaffirm the factual allegations of my complaint as well as those contained within the narrative I submitted to DNR when my initial complaint was filed I hereby supplement that narrative with corroborative testimony from depositions thus far as well as notes regarding subsequently discovered information

In 2003 I bought a farm in Greenwood County to manage for wildlife and hunting for my family and friends At the time of the purchase, there was only one other potential buyer, a friend of the seller who hunted the property Vaughn acknowledged in his deposition that he had asked the seller, a friend of his what he wanted for it or what price he would put on it since it was a pretty piece of property (Vaughn Depo, Vol 1, p 55, lines 23-25, p 56, lines 1-2) Vaughn additionally acknowledged that he had an interest in potentially putting a group of persons together to explore purchase of the property (Vaughn Depo, Vol 1, lines 11-14 Vaughn ultimately acknowledged to me on tape that he "in fact looked at buying this piece of property when it came up for sale, but just didn't have the resources to do it" (Vaughn tape excerpt)

The seller, Will Batson, indicated to me that he had routinely allowed Vaughn to hunt deer and turkey on this property and though he initially denied other than minimal involvement, eventually acknowledged that "Will let me come down here with my brother, once or twice You know, we talked about, did I ever come hunt out here I promise you I did not come here when I wanted to I would have to call him, and he would let me turkey hunt out here once or twice a year, and I would deer hunt once or twice a year" (Vaughn Tape Excerpt) Other officers admitted knowledge of Vaughn's prior relationship to the land (Captain English Depo, p 108, lines 21 22) (Officer Travis Dudley Depo, p 120, lines 12-13)

Will Batson strongly suggested that I allow Vaughn to continue this practice of hunting the property and that doing so would be in my best interest. Again, one of the DNR officers acknowledged he may have heard Vaughn state that the Batsons were attempting to secure his right to hunt the property (Officer Dudley Depo, p 121, lines 10-13) Vaughn acknowledged the same (Vaughn Depo, Vol 1, p 65, lines 4-10)

I informed Batson that I might get in touch with this officer at some point in time, that I wasn't opposed to that, but that I had to determine the carrying capacity of the property, what kind of pressure it could take, who else might be hunting it, but that at some time in the future, that might be something we could do

I have hunted and fished all my life, and while having been checked dozens of times by wildlife officers, I had never been found to be in violation of even the most minor infraction. I have had great respect for DNR officers and, like most sportsmen, I welcome their presence in the field as a great tool in the proper stewardship of wildlife. Because of my concern for budget cuts in the DNR, I have even contributed financially to the Department above and beyond my taxes and license fees. This comment has been twisted by Vaughn after the fact to suggest I was attempting to state that, because of my donations, I should not be charged. This was not the case.

During April, 2004, I received a phone call from the former owner. He stated that Eric Vaughn had called him to let him know that he had been on my property with a four wheeler and that if I saw his tracks that I should not be concerned (Vaughn Depo, Vol 1, p 127, lines 12-16)

I replied to Will Batson that I had indeed seen these tracks and thought they were from a trespasser and that I was relieved that it was just the game warden.

At this time, Batson again strongly suggested that I let Vaughn hunt on the property and that Vaughn really wanted to hunt my farm. He even gave me Vaughn's phone number. The insinuation was becoming plainer, but I still did not feel the need to allow Vaughn to hunt. Vaughn admitted that Will informed him of the overture (Vaughn Depo, Vol 1, p 127, lines 9-12)

In the summer of 2005, we planted our first dove field of 15 acres. We studied the regulations closely and felt that we had planted a good dove field. In June, we used a grain drill to plant several different types of millet, sunflowers, corn, and sorghum. Brad Tarbert, who has a wildlife biology degree, assisted in the field preparations (Tarbert depo, p 15, lines 23-25)

Shortly thereafter, we sowed two bags of wheat and oats left over from the prior year's fall planting. With almost three months until dove season, this small amount was sure to be consumed or rotten.

Four weeks before opening day we began to mow stubs in our field and gradually mowed most of the millet and some of the sorghum and sunflowers by opening day. We also mowed standing wheat and oats that had been growing since fall. Tarbert and Terry Huggins confirmed

there was volunteer wheat in the field from previous plantings as well as sunflowers (Taibert depo, p 43, lines 7-8) (Huggins depo, p 36, line 6)

Although we saw no wheat and oats, we disked this area twice as a precaution. Officer Dudley confirmed there were no seeds on the ground on the lower end and that he observed green stubs indicative of proper mowing and that accordingly, it would be difficult to differentiate between items thrown on a field and the residue present from mowing. (Dudley Depo, p 96, lines 2-5, p 103, lines 21-25, p 104, lines 1-14)

However, we had almost no doves. Therefore, on opening day, we only had a small group of eight hunters. (Vaughn Depo, Vol 1, page 120, lines 17-19) The shooting was almost non-existent, but we were all having a nice visit when four officers appeared. I welcomed them as I always welcome DNR officers. I did find it strange that they would come to our new field that only contained eight hunters, considering the great number of established private and public fields in their district. I also found it strange that they would focus on a field that had virtually no birds or shooting.

After one officer checked me and the two hunters with me, another officer summoned me to another part of the field. He held in his hand two or three sunflower seeds and stated that he had a problem with these seeds. I asked him how that was a problem -- we had a field full of sunflowers and I had been mowing them for a month. He stated that he did not see any sunflower stalks. I quietly showed him a sunflower within six yards of where he was standing and then quickly showed him another 200 plants within 30 yards.

In his rush to judgment, he had not seen that the field was full of sunflowers mixed with grain sorghum. He began to grow angry and red-faced and stated that the sunflowers were not mature. In response, I pulled a bloom from a sunflower stalk, opened it, and hundreds of mature seeds scattered. Once again, I pointed out to him something he should have seen -- the sunflowers had matured and shriveled up, very different from his attempt to classify these as immature sunflowers.

At this time, he grew angrier. He ordered every one to exit the field under suspicions that we were in a baited field. I was highly embarrassed that he would accuse me of this violation. The hunters in the field included my father, fellow church members, and an 11-year old boy who looks to me as a mentor and is being raised by a single mom.

He then turned to me, pointed a finger, and stated that all he had to find was one seed that was not grown in that field and he would be able to charge me with a baited field.

Most of the hunters witnessed this officer on his knees using his knife blade to dig in the dirt. If the other wardens would be honest, they will admit that they all indicated directly to this officer or to one of the hunters that this officer was going overboard and it was time to go. Officer Dudley at least recalled such probably occurred, but stated such was primarily due to their need to visit other fields. (Officer Dudley Depo, p 110, line 1-3) (Klava depo, p 19, lines 15-16) (Alvin Hueble depo, p 20, lines 15-17)

They also indicated that they had come to our field at this one officer's direction and that it was his case to handle. In the meantime, this officer stalked around the field, and I was left flabbergasted.

Then it hit me like a bolt of lightning. I asked the officer if he was friends with Will Batson. He cautiously stated that he had gone to high school with Will. I then asked him if he had ever hunted this property. He stated that he had hunted it once, maybe twice. I asked him his name and not surprisingly, it was Eric Vaughn. He then looked at me and pointedly stated that it was a shame that Will Batson had sold the property to me. I then realized that Vaughn was the other party who had tried to buy the property. Vaughn merely acknowledged he may have said, "I hated to see him sell it [since] the property was there, and it was a nice piece of property, and I had hunted it on occasion." (Vaughn Depo, Vol 1, p 140, lines 13-18)

In the meantime, Vaughn found several wheat and oat seeds, some of which were just rotten hulls. I was shocked that any seed from June could be in the field, and I asked him if he really thought we were baiting a field with so few seeds and so few birds. He said he did and repeated that only one seed constituted a baited field.

He placed these in a bag, proclaimed my field baited, and then told me he could fine me \$20,000 as a Federal offense. (Vaughn Depo, Vol 1, p 118, lines 9-10). He later conferred with another warden, returned to me, and stated that since I had cooperated, he would not charge the other hunters and he would only levy the lowest fine allowable under SC law.

As he was writing my citation, he indicated that if I came to court, he would not be angry, and he might be able to get the fine reduced. However, he then stated emphatically, "But don't you go in there and plead Not Guilty." He told me again that I should not try to fight this charge.

These officers waited over an hour before they entered our field and then spent almost two hours to find several seeds in our field. (Vaughn Depo, Vol 1, p 117, lines 7-8) (Officer Dudley Depo, p 151, line 25, p 152, lines 1-6)

They had wasted most of opening day of dove season on our field of eight hunters. All the hunters were legal in every way. (Officer Dudley Depo, p 93, lines 12-13). In addition, the officers only asked one hunter if we had killed any doves. The most important function of the DNR, to protect and steward wildlife, was almost completely ignored. We had killed only four doves, but they didn't bother to ask or to check. (Huggins depo, p 20, lines 21-23)

Needless to say, despite my fairly calm presence and cooperation in the field, I was highly upset.

A month later, Officer Vaughn met me at the farm to clear my field for hunting. I had disked much of the field numerous times.

Officer Vaughn was in a much more subdued mood at this visit. He greeted me by informing me that his brother had received a DUI the night before and that he was distressed about it. He

indicated he wanted to use his influence as a law enforcement officer to help his brother but had to be careful (Vaughn Depo, Vol 1, p 142, lines 13-18, Hueble Depo, p 87, lines 14-20)

I was surprised at the course of this conversation, and Officer Vaughn then casually declared my field was legal before even inspecting it. I asked him to look at it anyway. I believe he was willing to declare my field legal without inspecting because he knew it was okay even on Opening Day (Hueble depo, p 87, lines 20-25, Vaughn depo, Vol 1, p 145, lines 8-15)

Vaughn stated that he had received numerous comments from other officers, "picking on him" for abusing his authority in our dove field. One officer told him to stop using rogue tactics (Vaughn depo, Vol 2, p 78, lines 20-25, p 79, lines 1-8)

He then admitted that he had lied to me in the dove field. He had hunted the property regularly, and he had indeed tried to buy the property when it was for sale (Vaughn Tape Excerpt "I in fact looked at buying this piece of property when it came up for sale, but I just didn't have the resources to do it", "Will let me come down here with my brother, once or twice. You know, we talked about, did I ever come hunt out here. I promise you I did not come here when I wanted to. I would have to call him, and he would let me turkey hunt out here once or twice a year, and I would deer hunt) once or twice a year.") Given that Vaughn started hunting there in 2000 (Vaughn depo, Vol 1, p 43, lines 18-19), this taped statement, even while he appears to minimize his relationship with the property, indicates that he hunted there a minimum of 10 times and as much as twenty times.

He offered these admissions without me bringing them up or accusing him. He then stressed that he had not targeted my field for any reason and that they had just heard shooting in my field as they were driving by on opening day. I found this hard to believe, considering that other officers stated to us that Vaughn had brought them to the property. Also, having only shot four doves, I don't think we attracted much attention with our shooting. (Of course, once I filed a complaint, he maintained he had visited the property numerous times and falsely accused me for the first time of numerous other illegalities.)

Our conversation was cordial, and we continued to talk about other matters. He then stated that he was obsessed with hunting and that he hunted every single day of hunting season (Vaughn Tape Excerpt "I didn't sleep a wink last night, I didn't feel like getting up. I hunt every day, I don't mind telling you. I hunt all the time, that's one of my downfalls. But I make a lot of cases because I hunt a lot. I couldn't even get up and hunt deer this morning.") He went into some detail as to how he had hunted this property in the past, specifying his favorite places to hunt on the farm and describing special hunts he had on the property (Vaughn Tape Excerpt "But I did see a big deer. That used to be an alfalfa field, and he would come out at the corner, right at dark, and my brother was in a climber right beside me, and he'd never killed a deer before. So I was looking at the deer through my scope, and it was one of the biggest bucks I'd ever seen. It was a nice deer.")

He said that hunting every day did not affect his job performance because he "made his cases" That comment disturbed me – it appeared to me that he pushed too hard to fill his quotas just so he could gain free time to hunt

Vaughn was insistent that I come to court regarding the charges in my dove field. He felt like he could get my fine reduced.

I did not want to go to court and plead guilty to something I didn't believe I had committed. However, he had warned me not to fight it. I talked with several attorneys and judges who are acquaintances of mine – they felt that we could win an acquittal in a jury trial. However, they felt that we would "win the battle but lose the war." There appeared to be an environment in Greenwood County that you did not want to cross the DNR or they would make your life miserable. I went to court and pled "no contest" and was therefore convicted of baiting a dove field. The judge did reduce my fine, and as I left the room, Officer Vaughn smiled and said he'd give me a call.

I was troubled by these events, but I felt that maybe what I saw as a vendetta had played itself out. I felt that Vaughn knew he had been unreasonable.

Despite the fact that we now had a legal field, no one hunted doves again during the 05/06 season. We were too disturbed by what appeared to be abuse of power – several have decided they will never hunt again, thereby ensuring that their children will not grow up hunting.

(Bearden depo, p 38, lines 7-10, p 38, lines 16-24) (Cameron depo, p 27, line 25, p 28, lines 1-7) (Thornton Stewart depo, p 12, lines 5-16) (Terry Huggins depo, p 13, lines 9-17) (Emil Klava depo, p 12, lines 8-22) (Lyles depo, p 12, lines 16-17)

TURKEY SEASON '06

Prior to turkey season, in early March, I tilled and planted two additional food plots, planting them with clover. We were planting per the instructions on the packaging which indicated that we should plant in spring or fall. One of these plots is in front of a small wooden hut, useful for older or younger hunters. It is in plain view of State Road 44.

I also plowed several large strips of dirt adjacent to tree lines, knowing that turkeys like plowed ground for several reasons. There was nothing planted in these spots.

As turkey season approached, we were excited about the pictures we'd seen on our game cameras. However, on opening day, the turkeys seemed to disappear.

However, that evening I was checking the memory cards from my game cameras and made a troubling discovery. On Friday March 31, someone had removed a camera from a tree, later recabling it to almost the same spot. There were pictures recorded at 1:39 pm and 1:42 pm of tree line views at a distance of about 15 yards from its original position. They were taken with 180

degrees of variance, suggesting that someone removed the camera, walked some distance, then walked back and re mounted the camera

I called Officer Vaughn on his cell phone on Monday, April 3 (he was hunting) I told him that it appeared we had some problems with unauthorized people being on the property and asked him if he had seen or heard anything that may be of any help. He stated that he and fellow officers had been on my property several times in the prior month, including Friday afternoon (Vaughn depo, Vol 1, p 161, lines 22-24) When I asked him if they had manipulated my camera, he denied any knowledge of such, although he was on the property at the time this occurred. I am certain the officers removed the camera to inspect the plowed ground in front of the camera and did not want to be detected (Vaughn eventually acknowledged he had lied about this fact and had indeed manipulated the camera) (Vaughn depo, Vol 1, p 167, line 12, Vol 1, p 168, lines 17-21)

Vaughn then informed me that they had determined that my new food plots were illegally baited for turkeys, saying we had top sown grain. Of course, clover is not grain, but I did not argue that point. I stated that I never considered seed as small as clover an attractant and never intended it to be used as a lure for turkeys. Turkeys may eat clover seeds, but they primarily eat the clover leaf and the insects attracted to clover (Vaughn and Dudley both acknowledged that the minute size of the seed was an issue (Vaughn depo, Vol 1, p 158, lines 4-7, Vol 1, p 161, lines 1-5) (Dudley depo, p 85, lines 10-11 " they're so small. You can hardly see them ")

Vaughn then told me that he and two other officers had watched us hunt the morning of April 1. They were stationed throughout the property and verified that we did not hunt anywhere near these new clover patches. It was no wonder we did not see turkeys, considering the additional human presence we had on the property (We have learned that at least five officers were there opening day: English, Cline, LeCroy and Vaughn) (Vaughn depo, Vol 1, p 156, lines 1-9, Dudley depo, p 129, lines 1-6)

Coincidentally, my hunting partner caught a trespasser on our property at the time the wardens were there. After some tense conversation, my friend and the trespasser parted on fairly cordial terms (Talbert depo, p 30, lines 19-25, p 31, lines 1-2)

According to Vaughn and his captain, the DNR officers were monitoring us at that time, but they did nothing to address the trespassing issue. They claimed they did not see my hunter standing in an open field speaking very loudly to a trespasser.

It was astounding to me that they were using such large amounts of time and resources to monitor my property. Vaughn's captain was present, and he represents an immense territory. Yet, on opening day of turkey season, they were concentrated on my farm. No one believes that we were trying to attract turkeys with clover seed, especially in plain sight of a road. But they know that making the case against someone for "illegally" killing a turkey is an extraordinary violation. They have taken a very adversarial stand that is not befitting of their Department's goals.

After my conversation with Vaughn, his Captain Buddy English called me and reiterated Vaughn's comments. When I asked him if he really thought we were trying to lure turkeys with something as innocuous as clover seed, he said it didn't matter, by the letter of the law, he considered it baiting.

On Tuesday, April 4, a hunting partner and I returned to the farm and inspected the clover patches. We found no seed but plenty of sprouted clover. We also saw no turkey sign, as it is obvious that turkeys are not attracted to clover seed.

CONCLUSION

I believe from the above narrative, it can be concluded that my property and I have been targeted by DNR officers who are extremely unprofessional and unreasonable. This farm is something I have worked for all my life, and I am using it to enrich many people's lives, especially children. It is a shame that this dream is becoming a nightmare because of the pettiness and abusive actions of the very resource officers who should be our partners in the stewardship of wildlife.

This, in essence, was the narrative originally submitted to DNR. Thereafter, I was informed for the first time that Vaughn alleged he had visited the property numerous times before the dove incident and that he alleged multiple illegalities, including corn in my pond, thrown by a fish feeder. Vaughn claimed these violations were "documented." However, upon review of daily activity logs and questioning of Vaughn and the other agents, no specific "documentation" of any alleged violations exists. No reports exist, no record of any samples of alleged "bait" exists and no actual photographs exist of any violation. However, Vaughn did produce photos of my fish feeder and he and others maintained that such photos were taken during duck season at either the end of 2004 or the beginning of 2005. This is yet another false allegation against me. I did not even purchase the fish feeder (the only one I have ever bought) until May of 2005, so that I could begin to feed my fish. (See Exhibit)

I was repeatedly reassured by DNR that Vaughn was one of their best officers, had no complaints against him by anyone but me and had received Officer of the Year Awards multiple

times. However, through discovery in this law suit, it was revealed that during the time they were considering whether any action would be taken to recognize my mistreatment, Vaughn was the subject of a covert investigation by DNR itself. This covert investigation stemmed from a U S Fish and Wildlife Investigation based upon reports of a confidential informant in Ohio. That investigation involved citizens of Ohio, one of whom was an Ohio DNR officer. That Ohio DNR officer had trapped in S C during successive years and during such stays became acquainted with Vaughn. Vaughn in fact traveled to Ohio during 2006 and 2007. On his initial visit, he obtained an Ohio resident hunting license, utilizing the address of his Ohio DNR friend as his own. Vaughn claimed that the Ohio Officer informed him that this was a reciprocal program Ohio shared with other state DNR agencies. Of course it is acknowledged by all that S C has never participated in any such reciprocal program. Moreover, on the eve of a planned surveillance of the Ohio DNR agent, as he was preparing to travel to S C for a shumping outing with Vaughn, the covert investigation was compromised due to conversations between personnel of DNR and personnel from the Ohio DMV. When became aware of the investigation, he was specifically informed by DNR agents NOT to inform his Ohio DNR friend. Nonetheless, Vaughn did so. Upon learning of the investigation, Vaughn questioned whether I or his wife had initiated the same. Of course I had no knowledge of such actions until many months after the filing of this lawsuit and of course Vaughn's counterclaim alleging I had slandered his good name and reputation. From further inquiry into the Ohio matter, it was learned that Vaughn had sought permission from DNR to commercially fur trap like his Ohio friends. DNR did refuse such request, recognizing in that instance a conflict of interest. Nonetheless, Vaughn thereafter was issued a depredation permit by one of his fellow agents. Upon subsequent questioning, Vaughn acknowledged that he trapped animals other than specified in his depredation permit and failed to

file any corresponding reports regarding the same as required. Most recently, it was revealed that Vaughn became involved in an argument with his then supervisor, Ira Jones, interestingly in regard to an allegedly baited turkey field. Other officers had apparently determined that a particular field was baited with sunflower seeds. Vaughn was apparently friends with either the owner or those who planned to hunt the property and both informed them of the findings by the other officers and sought to intervene on his friends' behalf in opposition to the other officers. This of course in direct contrast to my clover patch, with miniscule, expensive clover seed that no officer in this case has ever cited someone for as constituting turkey bait.

Despite allegations to the contrary, I have never demanded that Vaughn be fired [REDACTED]

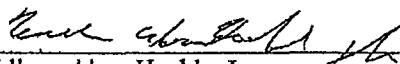
[REDACTED]

[REDACTED] Thereafter, having been informed that the Director of DNR had made comments suggesting that actions like Vaughn's might result in disciplinary action, we sought to depose the Director. Instead, the DNR moved to quash the notice and to protect the Director from even being questioned. I have been greatly disappointed that an agency of the State has had so little concern over the plight I have been enforced to endure. Given all that has occurred and in light of the position by DNR that its agents can enter my property at any time, access any building on

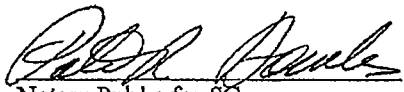
my property and manipulate any personal property located thereon, I have been unable to enjoy my property. Following the most recent hearings, instead of being able to depose the Director first as desired, we were told that he was traveling throughout Sept and October and could not be deposed until the week of Thanksgiving. I find it hard to believe this is the case, especially since we have been seeking his deposition since the spring. Accordingly, we have been discussing scheduling of the following depositions, most of which will take place during the middle to latter portions of November: Charles Ruth, DNR biologist, Captain Holbrooks, Colonel Taylor, Director Fiampton, and either Will or Wade Batson (or both).

If in fact the Court deems the factual recitation of my affidavit or my memorandum to be insufficient at this time, it is asked that summary judgment be denied pending more complete discovery. Through the depositions of the above witnesses and obtainment of more complete discovery responses, it is envisioned that further information should be obtained to more fully address those claims for which Defendants seek relief.

FURTHER AFFIANT SAYETH NOT


William Alvin Hueble, Jr.

SWORN to before me this
14th day of October, 2009



Notary Public for SC

My commission expires

7-9-2013

EXHIBIT G

1 - This conversation begins with me referencing a problem I had with poachers

Hueble - "I heard he was using that little place right there as a base to go and run everywhere down in here "

Vaughn - "One of the biggest deer I ever saw was Will let me come down here with my brother, once or twice You know, we talked about, did I ever come hunt out here I promise you I did not come here when I wanted to I would have to call him, and he would let me turkey hunt out here once or twice a year, and I would deer hunt once or twice a year "

Hueble - "Yeah, yeah "

Vaughn - "But I did see a big deer That used to be an alfalfa field, and he would come out at the corner, right at dark, and my brother was in a climber right beside me, and he'd never killed a deer before So I was looking at the deer through my scope, and it was one of the biggest bucks I'd ever seen It was a nice deer "

Hueble - "What year was that?"

Vaughn - "That had to be when did you buy this?"

Hueble - "Two thousand and "

Vaughn - "2001, 2002?"

Hueble - "2002

Vaughn - "2000 " (when he saw the deer)

Hueble - Because in 2002, it wouldn't have been the same deer A buddy of mine killed one down there about 220, ten-point But it was a young , this was a young deer though This was a big deer, but it was young "

Vaughn - "I could've killed it, but I was trying to let Joel shoot the deer, and he just went out through that IP land Because Will, I think, he had the lease on that IP land "

Hueble - "That's right, and he had suggested, he helped me get the lease on it and then suggested "

Vaughn - "You needed that "

Hueble - "Oh, there's no two ways I needed it for several reasons Like you said, I needed it to cut anybody off over there But I needed it because I don't have any I've

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

Wilham Alvin Hueble, Jr ,)
)
Plaintiff,)
)
vs)
)
South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
)
Defendants)

Case No 2007-CP- 24 1056

**MOTION FOR COSTS AND FEES
PURSUANT TO RULE 54 AND
42 U S C §1988**

FILED
APR 11 2010
CLERK OF COURT
JUL 1 2010
CLERK OF COURT

On November 18, 2009, Plaintiff accepted an offer to take judgment against both of the Defendants. No exceptions or reservation existed as to the causes of action, which centered on Defendant Vaughn's infringement of Plaintiff's constitutional rights. Final Judgment was entered on November 20, 2009 and written notice of the same received by Plaintiff on November 23, 2009. Therefore, pursuant to *Marek v Chesney*, 473 U S 1 (1985), *Buckhannon Bd & Care Home, Inc v West Virginia Department of Health and Human Resources*, 532 U S 598 (2001), *Grissom v The Mills Corporation*, 549 F 3d 313 (Ct App 4th Cir 2008), 42 U S C § 1988 and Rule 54, SCRCF, Plaintiff hereby seeks and/or petitions that he be awarded costs, including attorney's fees pursuant to his 42 U S C §1983 Cause of Action.

"Every person who, under color of [law] subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured. " 42 U S C §1983. 42 U S C §1983 provides civil redress, damages and injunctive relief, for deprivation of virtually any constitutional right if the deprivation is "under color of state law," which means [m]issue of power, possessed by virtue of state law and made possible

only because the wrongdoer is clothed with the authority of state law " *Monroe v Pape*, 365 U S 167, 183 (1961)

"In any action or proceeding to enforce a provision of sections 1983 the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs " 42 U S C §1988(b)

"Black's Law Dictionary 1145 (7thed 1999) defines a "prevailing party" as [a] party in whose favor a judgment is rendered, regardless of the amount of damages awarded " *Buckhannon, Id* at 604

"A party in whose favor a judgment is rendered, regardless of the amount of damages awarded " "is a "prevailing party" for purposes of the various federal fee shifting statutes " *Grissom, Id* at 318 Here, Defendants offered that judgment be taken against them on ALL causes of action, without any specific reservation

"Rule 68 judgment represents a judicially sanctioned change in the relationship between the parties accepted offer of judgment made pursuant to Rule 68 has necessary judicial imprimatur per Buckhannon "in the crucial sense that it is an enforceable judgment against the defendant " *Grissom Id* at 319

"It is now axiomatic that plaintiffs who prevail in actions brought under section 1983 are entitled to attorney's fees unless special circumstances would render such an award unjust, and the discretion of a district court in deciding whether to award such fees to a prevailing party is narrowly limited " *Consumers Union o/United States Inc v Virginia State Bar*, 688 F 2d 218, 222 (4th Cir 1982) Here, it is respectfully submitted that no "special circumstances" exist to render such an award unjust

Lodestar is an Acceptable Method of Fee Calculation

"[I]n calculating an appropriate attorney's fee award, a district court must first determine the lodestar amount (reasonable hourly rate multiplied by hours reasonably expended), applying the Johnson/Barber factors when making its lodestar determination " *Consumers Union, supra* "The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate This calculation provides an objective basis on which to make an initial estimate of the value of a lawyer's services " *Hensley v Eckerhart*, 461 U S 424, 433 (1983) "When the applicant for a fee has carried his burden of showing that the claimed rate and number of hours are reasonable, the resulting product is presumed to be the reasonable fee " *Blum v Stenson*, 465 U S 886, 897(1984)

The product of this multiplication constitutes the "lodestar" amount *Pennsylvania v Delaware Valley Citizens' Council*, 478 U S 546, 563 (1985) "A strong presumption that the lodestar figure the product of reasonable hours times a reasonable rate - represents a "reasonable" fee is wholly consistent with the rationale behind the usual fee shifting Statute, including the one in the present case " *Delaware Valley Citizens' Council*, 478 U S at 565 In *Hensley* and *Blum*, the Supreme Court declared that the lodestar presumptively includes all of the twelve factors derived from the ABA Code of Professional Responsibility DR 2-106 (1980) and adopted in *Johnson v Georgia Highway Express, Inc* , 488 F 2d 714 (5th Cir 1974), except on rare occasions the factor of results obtained, quality of representation and enhancement for contingency

In *Barber v Kimbrell's, Inc* , 577 F 2d 216 (4th Cir 1978), *cert denied*, 439 U S 934 (1978), the Fourth Circuit expressly adopted the standards of *Johnson* Under the rule of *Barber*

these standards include (1) the time and labor expended, (2) the novelty and difficulty of the questions raised, (3) the skill required to perform the legal services rendered, (4) the attorney's opportunity costs in handling the case, (5) the customary fee for like work, (6) the attorney's expectations at the outset of the case, (7) the time limitations imposed by the client or circumstances, (8) the amount in controversy and the results obtained, (9) the experience, reputation and ability of the attorney, (10) the undesirability of the case within the legal community in which the case arose, (11) the nature and length of the professional relationship between attorney and client, and (12) the attorneys' fees in similar cases. While the Fourth Circuit has held that the guidelines established in *Johnson* must be followed, the utilization of the *Johnson* factors has been modified by the Supreme Court decisions in *Hensley* and *Blum*. Thus, most of the *Johnson* factors "are subsumed within the initial calculation of hours reasonably expended at a reasonable hourly rate." *Hensley*, 461 U.S. at 434 n. 9.

Here, it is submitted that appropriate time and labor was expended. Given the absence of case law addressing the bounds of powers to be exercised by game wardens, novel questions were addressed in a skillful and appropriate manner. Both Plaintiff and his counsel suffered great opportunity costs in adversarially addressing these issues. Plaintiff and his counsel were frank in their discussions with Defendants that damages could be modest, but pursuit of judgment and vindication was vital, therefore, expectations were met and a favorable result obtained. Were the same judgment offered at the outset of this matter, great savings on both sides could have been obtained. Plaintiff's counsel has adequate experience, reputation and ability. Plaintiff and his counsel may not have become acquainted if not for Plaintiff's mistreatment by Defendant. Section 1983 matters quite often require extensive efforts by attorney's to obtain modest damages for clients in regard to deprivations of constitutional rights.

"[A]fter calculating the lodestar figure, the "court then should subtract fees for hours spent on unsuccessful claims unrelated to successful ones " *Grissom v Mills*, 549 F 3d at 321, citing *Johnson v City of Aiken*, 278 F 3d 333, 337 (4th Cir 2002) Here, Plaintiff submits that there were neither unsuccessful nor unrelated claims Even the counterclaim filed by Defendant Vaughn deals squarely with Plaintiff's methods of addressing the constitutional violations by Vaughn

In *Daly v Hill* 790 F 2d 1071 (4th Cir 1986), the Fourth Circuit suggested that most *Johnson* factors are appropriately considered in initially determining the lodestar figure, not in adjusting that figure upward According to the Court, "the critical inquiry in determining reasonableness [of a fee award] is now generally recognized as the appropriate hourly rate [If the hourly rate is properly calculated,] "the 'product of reasonable hours times [the] reasonable rate' normally provides a 'reasonable' attorney's fee " *Daly*, 790 F 2d at 1077 Under *Blum* the critical focus in calculating a reasonable attorney's fee is in determining the lodestar figure A fee based upon reasonable rates and hours is presumed to be fully compensatory without producing a windfall In "exceptional circumstances," this presumptively fair lodestar figure may be adjusted to account for results obtained and the quality of representation *Id* at 1078, *see also Spell v McDaniel*, 824 F 2d 1380, 1403 (4th Cir 1987), *cert denied* 98 L Ed 2d 765 (1988)

It is submitted that all of the *Johnson* lodestar factors favor substantial affirmance of Plaintiff's submitted fees and costs as reasonable

Hours Expended By Plaintiff's Counsel On This Case Are Reasonable

In determining the number of hours reasonably expended, courts must consider whether the work sought to be compensated was "useful and of a type ordinarily necessary to secure the final result obtained from the litigation " *Hensley*, 461 U S at 437 Counsel's certification that

the work itemized has in fact been performed is "entitled to considerable weight on the issue of time required " *Perkins v Mobile Hous Bd*, 847 F 2d 735, 738 (11th Cir 1988) "Sworn testimony that, in fact, it took the time claimed is evidence of considerable weight on the issue of the time required in the usual case and, therefore, it must appear that the time claimed is obviously and convincingly excessive under the circumstances " *Id* at 738

Here, the work sought to be compensated by the Plaintiff was useful and of a type ordinarily necessary to secure the final result obtained in the litigation. All work performed related to Plaintiff's complaints of impropriety by Defendant Vaughn, an agent of Defendant DNR, all emanating from Vaughn's infringement of Plaintiff's constitutional rights. Plaintiff should therefore be compensated for all time expended in pursuit of the litigation of this case. It is anticipated that Defendants will oppose an award which includes work performed in responding to the counterclaim of Vaughn and/or Plaintiff's correspondence with its insurers. Accordingly, Plaintiff has located and summarized those matters.

Plaintiff's counsel has been required to expend time preparing detailed case law research, pleadings, and memoranda in the prosecution of this case. There were also detailed rounds of discovery, including depositions, interrogatories and production requests. Additionally there were hearings and arguments before the Court. All of the time expended in the litigation of this case was reasonable and contributed to the overall relief obtained in the case.

Plaintiff has exercised billing judgment

Courts must exclude from this initial fee calculation hours that were excessive, redundant, or otherwise unnecessary. *See Hensley*, 461 U.S. at 437. "In other words, the Supreme Court requires fee applicants to exercise 'billing judgment.' This must necessarily mean that the hours excluded are those that would be unreasonable to bill to a client and therefore, to

one's adversary, irrespective of the skill, reputation, or experience of counsel " *Norman v Housing auth* , 836 F 2d 1292, 1301 (11th Cir 1988) (emphasis and citations omitted) As the Court of Appeals for the District of Columbia Circuit stated in *Copeland v Marshall* "Compiling raw totals spent, however, does not complete the inquiry In the private sector, 'billing judgment' is an important component in fee setting It is no less important here Hours that are not properly billed to one's *client* also are not properly billed to one's *adversary* pursuant to statutory authority " 641 F 2d 880,891 (D C Cir 1980) (original emphasis)

In making this application, not all of the hours worked have been billed, Plaintiff's Counsel has exercised billing judgment in omitting certain billings, primarily those related to confirmatory research, in an attempt to eliminate any charges for excessive, redundant, or unreasonable hours Plaintiff has attempted to present to this Court a full and accurate representation of the number of hours represented in pursuing the ultimate relief obtained in this case, while reducing any charges for excessive, redundant or unreasonable hours As before stated, it is anticipated that Defendants will oppose an award which includes work performed in responding to the counterclaim of Vaughn and/or Plaintiff's correspondence with its insurers Accordingly, Plaintiff has located and summarized those matters for the Court's consideration

Plaintiff's time pursuing entitlement and amount of fees is compensable

Plaintiff has included time entries for preparing this motion for attorneys' fees and costs, together with its supporting memoranda and other documents, as well as a conservative estimate of time necessary to resolve these matters

Time spent attempting to prove the amount of attorney's fees is also compensable even including costs paid to experts for attorney fee affidavits *See Commissioner of INS v Gean*, 496 U S 154 (1990), 69A L R Fed 712 (1984) Each of the federal circuit courts have

acknowledged that counsel may obtain attorney's fees for pursuing entitlement to and the amount of attorney's fees ¹ The legislative history regarding the purpose of the Civil Rights Attorney's Fee Award Act also provides that attorneys may receive fees for pursuing fees *See Senate Report No 94-1011*, 94th Congress, 2nd Session 2 (1976) (*reprinted in 5 U S Code Congo and Admin News and reprinted if in part in an Appendix to Zacone v Perry*, 438 F Supp 788 (E D N Y 1977), *aff'd* 581 F 2d 1039

Accordingly, Plaintiffs counsel in this case should be awarded attorney's fees for its time spent asserting that Plaintiff is entitled to attorney's fees and the amount of such fees It is respectfully requested that Plaintiff be allowed to further supplement this particular cost to reflect efforts expended hereafter in pursuit of such fees and costs, if such becomes necessary

¹ 'First - *Lund v AfJleck*, 587 F 2d 75 (1st Cir 1978), Second - *Gagne v Maher*, 594 F 2d 336 (2nd Cir 1979), *aff'd on other grounds* 448 U S 122, Third - *David v Scranton*, 633 F 2d 676 (3rd Cir 1980), Fourth - *Hymes v Harnett County Bd of Educ*, 664 F 2d 410, 413-14 (4th Cir 1981)(pursing entitlement and amount compensable), Fifth - *Knighton v Watkins*, 616 F 2d 795 (5th Cir 1980), *reh denied*, 620 F 2d 300 (5th Cir), Sixth - *Weisenberger v Huecker*, 593 F 2d 49 (6th Cir 1979), *cert denied*, 444 U S 880, Seventh - *Muscare v Quinn*, 680 F 2d 42 (7th Cir 1982), Eighth - *Jones v MacMullan Bloedel Containers, Inc*, 685 F 2d 236 (8th Cir 1982), Ninth - *McGrath v County of Nevada*, 67 F 3d 248 (9th Cir 1995), Tenth - *Littlefield v Deland*, 641 F 2d 729 (10th Cir 1981), Eleventh - *Fewquay v Page*, 907 F 2d 1046 (11th Cir 1990), *Jean v Nelson*, 863 F 2d 759 (11th Cir 1988), *Johnson v Univ College of Univ of Alabama*, 706 F 2d 1205 (11th Cir 1983) (Relying on *Johnson v Mississippi*, 606 F 2d 635, 637-39 (5th Cir 1979)), *Donaldson v O'Connor*, 454 F Supp 311 (N D Fla 1978)

The Hourly Rate Requested by Plaintiff's Counsel is Reasonable

"A reasonable hourly rate is the prevailing market rate in a relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation " *Blum*, 465 U S at 895 96 n 11, *see also Missouri v Jenkins*, 491 U S 274 (1989) "Evidence of rates may be adduced through direct evidence of charges by lawyers under similar circumstances or by opinion evidence " *Norman*, 836 F 2d 1292, 1299 "The hourly rate must be determined with reference to prevailing market rates in the relevant community for "lawyers of reasonable comparable skill, experience and reputation." *Turner v Secretary of the Air Force*, 944 F 2d 804, 808 (11th Cir 1999), *See also Venegas v Mitchell*, 495 U S 82, 90 (1990) ("In sum, § 1988 controls what the losing defendant must pay, not what the prevailing plaintiff must pay his lawyer ", *Blanchard v Beregon*, 489 U S 87, 93-94 (1989) ("a plaintiff's recovery will not be reduced by what he must pay his own counsel "), *Goodwin v Metts* 973 F 2d 378, 384 (4th Cir 1992), *Herold v Hajoca Corp*, 864 F 2d 317,322 (4th Cir 1988), *Covington v District of Columbia*, 57 F 3d 1101, 1110 (D C Cir 1995) (attorneys who charge discounted fees for non-economic or public spirited reasons may recover the prevailing market rate if they show the reasonableness of the requested rates)

Here, Plaintiff has been billed by its primary counsel at the consistent rate of \$225 00 per hour The requested rates are reasonable based on the experience, skill level and expertise of the counsel involved in the litigation of this case Evidence obtained from other lawyers similarly situated is a valid basis for adducing the reasonable hourly rate to be awarded to Plaintiffs counsel *See Norman* 836 F 2d at 1299 *Cooper v Paychex, Inc*, 163 F 3d 598, 1998 WL637274 at *13 (Fourth Circuit awarding \$280 00 per hour)

Here, through discussions with Gaston Fairey of Columbia, Chris Mills of Columbia, the office of Dick Harpootian in Columbia and Stephen Henry of Greenville, all agree that the \$225 rate actually billed to Plaintiff is reasonable. In fact, all but Mr. Henry, who has maintained a \$200 per hour charge for a number of years, have charged at least \$300 per hour.² Accordingly, per the lodestar method, an even greater hourly billing could be justified as reasonable in this matter.

The rate requested by Plaintiffs Counsel is reasonable and, therefore, Plaintiffs Counsel is entitled to an award of attorney's fees and costs for at least the billed rate as referenced herein.

The Costs Requested By Plaintiff Are Reasonable

It is well settled that costs are fully compensable under 42 U.S.C. §1988. See *Daly*, 790 F.2d at 1083-1084. Section 1983 plaintiffs are entitled to recover reasonable court costs and expenses related to successful litigation. *Daly*, 790 F.2d at 1084, (entitling a prevailing plaintiff to reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client), *Jane L. v. Bangerter*, 61 F.3d 1505, 1517-18 (10th Cir. 1995) (holding that expenses not absorbed as part of law firm's overhead but normally billed to a private client and which are reasonable are compensable under §1988), *Sussman v. Patterson*, 108 F.3d 1206, 1213 (10th Cir. 1997) (awarding for photocopying, mileage, meals, and postage) "[T]he standard for reasonableness is given a liberal interpretation." *Loranger v. Sterheim*, 3 F.3d 356, 363 (11th Cir. 1993), *vacated on other grounds*, 10 F.3d 776 (11th Cir. 1994).

Plaintiffs costs requested are reasonable and should be fully compensable. Failure to "include those reasonable out-of-pocket expenses incurred by attorneys and ordinarily charged to

² Fairey has not litigated such a case in more than two years, but had extensive experience in such matters and agreed that \$225 was a more than reasonable. Harpootian's office confirmed that his rates on such matters are in excess of \$400.

their clients" is reversible error. *LeBlanc-Sternberg v Fletcher*, 143 F 3d 748, 763 (2nd Cir 1998). In *Fletcher*, the District Court denied the plaintiffs' claims for expenses that included duplicating, postage, telephone, computerized legal research and other office expenses. The *Fletcher* appellate court reversed, stating that these categories "are not properly treated as overhead expenses for purposes of a fee award but are the sort of expenses that may ordinarily be recovered." *Fletcher*, 143 F 3d at 763. "Identifiable out-of-pocket disbursements or items such as photocopying, travel, and telephone costs are generally taxable under §1988 and are often distinguished from non-recoverable routine office overhead, which must normally be absorbed within the attorney's hourly rate." *Kuzma v Internal Revenue Service*, 821 F 2d 930, 933-34 (2nd Cir 1997). See also *Aston v Secretary of Health and Human Services*, 808 F 2d 9, 12 (2nd Cir 1986) (postage, photocopying, travel, and telephone costs are reimbursable under Equal Access to Justice Act, 28 U S C §2412), *Abrams v Lightolier, Inc*, 50 F 3d 1204, 1225 (3d Cir 1995) (reproduction and postage expenses may be recovered under § 1988).

Time and costs for paralegal, law clerks, and special counsel are also recoverable. See *Missouri v Jenkins*, 491 U S at 285-89, *United Steel Workers v Phelps Dodge Corp*, 896 F 2d 403, 407-08 (9th Cir 1990), *Alberti v Klevenhagen*, 896 F 2d 927 (5th Cir 1990) (when justified by necessities of case, hiring special counsel is full compensable), *Herold v Hayoca Corp*, 864 F 2d 317, 322 (4th Cir 1988). The United States Supreme Court recognized in *Missouri v Jenkins* that law clerks or paralegals may be billed at market rates separate and independent from the hourly rate of the attorney, and that such compensation is more than mere direct costs.

Plaintiff has filed a Declaration of John P. Riordan supporting the reasonableness of the costs, further itemized on the exhibit attached thereto. Further, invoices, receipts, and other records are filed which demonstrate the basis for the out of pocket costs. Since all expenses not

firm's overhead normally billed to a private client and which are reasonable are recoverable under Section 1983, this Court should fully compensate Plaintiff for all of its costs

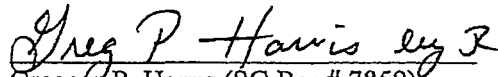
Conclusion

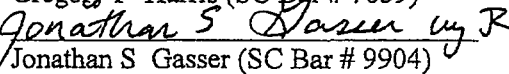
It is submitted that the application of the *Johnson* lodestar factors, on balance, does not militate toward a decrease in the overall fee award. Plaintiff respectfully suggests that a lodestar determination in fact augurs for an even larger hourly rate being considered reasonable. Though other causes of action existed, none were unsuccessful and all were related to the section 1983 action. Accordingly, the Court should consider full approval of the following

Attorney's fees \$134,303 50
Attorney Costs \$11,920 40
Plaintiff out of pocket costs to court reports, experts and for mileage \$2,983 90
Fees and Costs for litigation through offer of judgment \$149,208
Fees and costs related to post-judgment fee obtainment \$5,971 60

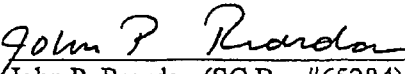
Finally, plaintiff requests that the court allow supplemental pleadings to establish requisite costs associated with pursuit of this Motion

Respectfully submitted,


Gregory P. Harris (SC Bar # 7859)


Jonathan S. Gasser (SC Bar # 9904)

Harris & Gasser
1529 Laurel Street
Columbia, SC 29201
(803) 779-7080


John P. Riordan (SC Bar #65284)

Smith Moore Leatherwood
300 E. McBee Avenue, Post Office Box 87
Greenville, SC 29602-0087
(864) 242-6440/(864) 240-2498 (Fax)
Attorneys for Plaintiff

November 30, 2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
)
Plaintiff,)

Case No 2007-CP 24 1056

vs)

**DECLARATION OF COUNSEL AS TO
ATTORNEY'S FEES
AND COSTS**

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
)
Defendants)

1 I, John Patrick "Jack" Riordan am an attorney of record for the Plaintiff in the above-styled case

2 I am a member of the South Carolina Bar and am also admitted to practice before the United States District Court, District of South Carolina

3 I graduated from Clemson University in 1989 and the University of South Carolina School of Law in 1992 I became a member of the S C Bar on November 18, 1992

4 During my time in law school, I clerked exclusively with Kermit King's law firm, King and Vernon During such time I assisted in the defense of Dr James Holderman, then President of the University of South Carolina as he was being prosecuted by Fifth Circuit Solicitor Dick Harpootlian for criminal charges, including misuse of public office

5 Following graduation from law school, I was hired by the Fifth Circuit Solicitor's Office, still being run by Mr Harpootlian, with Barney Giese serving as his Deputy Solicitor When Barney Giese became Solicitor in 1994, I became the youngest member of his Violent Crime Task Force Johnny Gasser served as Barney Giese's Deputy Solicitor

6 In 1996 I left the Solicitor's Office and became employed with the Attorney

General's Office under Charlie Condon and his Deputy, Robert Bolchoz I was involved in diverse practice areas, including capital litigation, conflict of interest prosecution and was a member of the State Wide Grand Jury division I defended 20 direct appeal murder cases and assisted in the final hearings of two death penalty cases 1) Tommy Lee Davis was convicted of the 1988 murder of a Lander University college student, leaving her body to be found face down Thanksgiving morning in the reflection pond at Lander University The final hearing, upholding the death penalty, was held in the Greenwood County Courthouse 2) In 1996, I assisted in the approximate week-long final hearing of serial killer Larry Gene Bell, which also occurred at the Greenwood County Courthouse Mr Bell was defended by Steve Morrison and the Nelson Mullins Riley & Scarborough law firm, which received well over a half million dollars for the failed representation of Mr Bell, whose death penalty was affirmed, and who was executed via electric chair

7 While with the State-Wide Grand Jury, I was involved in numerous public corruption cases, including a drug ring out of the Marlboro County area run by then Sheriff Kenny York (Roadblock case) I was involved in the prosecution of a Greenwood County Sheriff's Deputy for public corruption and/or misconduct in office This Deputy leaked sensitive information to targeted drug dealers in exchange for monetary payment

8 In 1998, I obtained a reckless homicide conviction against Greenville County Sheriff's Deputy, Paris Fant This case has experienced renewed media discussion in relation to a recent plea and sentence in the John Ludwig case in Greenville

9 Every case of public corruption and/or misconduct in office was pursued with the understanding that "no one should be above the law -- if law enforcement is above the law then there is no law " Failure to uphold these principles undermines confidence in the law and these

same principles are at the heart of §1983 litigation. Most of the murder and death penalty cases referenced above dealt with constitutional rights issues

10 In 1999 I became an associate at Leatherwood Walker Todd & Mann I became a partner in 2001 and in August of 2008, my firm combined with another to become Smith Moore Leatherwood I continue to work in our Greenville office and we have an office in Atlanta, Georgia, along with four offices in North Carolina.

11 I have tried over 100 cases through to a jury verdict

12 I have appeared eight times before the South Carolina Supreme Court and at least four times before the South Carolina Court of Appeals, with a recent fifth appearance during a rare *en banc* rehearing resulting in victory for my client

13 These appellate appearances have resulted in thirteen reported opinions

14 I was the sole legal expert on criminal appellate matters in a legal malpractice case brought against a Greenville attorney and my Affidavit was the primary support for our successful award of summary judgment

15 Given my prosecution background, I have continued to be involved in periodic criminal defense cases, along with my more traditional civil defense practice

16 I have defended at least two law enforcement officers in regard to charges levied against them

17 Following my successful criminal defense of numerous felony charges leveled against a female client in Oconee County, Johnny Gasser and I brought a §1983 action against particular officers of the Oconee County Sheriff's Department, and at least one former SLED agent This resulted in the successful obtainment of a settlement of \$302,000 on behalf of our client in the summer of 2009 This was in addition to my hourly billing at the rate of \$300 00

per hour in that case

18 In the present action, Plaintiff Bill Hueble was referred to me given my background as addressed above and my involvement in the Oconee County matter. Prior to our meeting, Mr. Hueble was unable to obtain the services of any attorney who would agree to take an adversarial position against the DNR and its officer. Many of the attorneys Mr. Hueble was acquainted with were also hunters, and though sympathetic to Mr. Hueble's plight, refused to become involved. It is not unusual for persons such as Mr. Hueble, who feel their constitutional rights have been violated, to have difficulty obtaining counsel on their behalf. As has been my experience, the bringing of such suits creates an adversarial position with law enforcement, such that the attorney's criminal defense practice, which often depends upon the maintenance of favorable relations with law enforcement, is severely curtailed.

19 Moreover, as has been the case with these two §1983 cases, they can be time consuming and lengthy. Criminal allegations against my client in the Oconee matter began in 2003, and the §1983 action was not resolved until the summer of 2009. Likewise, my involvement with Mr. Hueble's case has now exceeded three years.

20 I agreed to represent Mr. Hueble at a base rate of \$225.00 per hour in 2006. We have maintained the same rate throughout my representation, though an increase in rate could have been justified. In taking and maintaining representation of Plaintiff and the protection of his constitutional rights, I have foregone other matters which could have further strengthened other practice areas.

21 There are very few attorneys who practice constitutional litigation on behalf of Plaintiffs against government entities and/or agents. However, after consultation with those whom I deem competent in the area, every one informs me that my rates are exceedingly

reasonable. These attorneys include Steve Henry of Greenville, Gaston Faurey of Columbia, Chris Mills of Columbia and the office of Dick Harpootlian. Per the Johnson Lodestar analysis, an even higher rate, arguably up to \$300 per hour could be considered reasonable in this matter.

22 At all stages of representation in this matter, Plaintiff's counsel has attempted to amicably and fairly resolve any and all outstanding issues. However, Defendants' have persistently declined resolution, even when such could have avoided any monetary exchange. Here, as in every §1983 suit, the obtainment of a nominal judgment, but with an award of attorney's fees greatly in excess of the judgment, existed as an incentive for Mr. Hueble to seek recourse for the violation of his rights. Moreover, on the day Defendants served their Offer of Judgment, counsel for the Defendants warned that if they were to prevail following trial, they would be the ones seeking attorney's fees from the Plaintiff.

23 This matter was needlessly dragged out for over two years, causing extreme financial hardship to the Plaintiff. While he has expended excessive sums in litigating this matter, his costs have been compounded by historic drops in the stock market. Accordingly, funds were required to be removed from investments while the stock market was at the bottom of near historic losses, depriving him from participation in at least the modest rebound that has subsequently occurred. Accordingly, Plaintiff has suffered a great loss in opportunity costs, all of which could have been avoided if the same Offer of Judgment had been submitted from the outset in this matter.

24 Instead, taxpayer funds have been needlessly exhausted in defending actions which were patently inappropriate, raised the appearance of a conflict of interest and the appearance of impropriety and served to violate numerous constitutional rights of the Plaintiff.

25 In addition to the recorded attorney involvement, it should be noted that Mr.

Hueble himself devoted probably more time individually, being fully involved in this process, assisting in the review of discovery materials provided, as well as being a touchstone for all those persons around the state who related their own similar abuses by DNR and other law enforcement officers and yet refused to become involved for fear of being subjected to the same tactics employed against Mr Hueble throughout this matter Only through the proper award of reasonable fees can an agent such as Defendant more seriously consider curbing of such actions, and the public feel more confidence in coming forward and making complaint against those officers who, as in this case, are defended beyond comprehension for their inappropriate behavior and deny constitutional rights to those whom they target.

26 Plaintiff's counsel has exercised billing judgment to avoid excessive, redundant or unreasonable charges or fees

27 The activities of the attorneys and paralegals are recorded contemporaneously or almost contemporaneously to the time when the activity occurred Reasonable time was expended on this case in the representation of the Plaintiff A detailed description of the cumulative time expended is attached to this Declaration as an exhibit

28 As earlier referenced, numerous other attorneys handling cases in the 1983 arena assert that their rates, are greatly in excess of the \$225 per hour fee that was charged In fact, under the Lodestar method, fees up to \$300 would be considered reasonable in Greenwood and/or the Upstate legal community Moreover, while unrelated and unsuccessful claims should be subtracted, no unsuccessful claims exist in this matter and all claims were related to the Section 1983 violations by Defendant Vaughn In anticipation of arguments regarding defense of Vaughn's counterclaim and issues related therein, such time has been identified for the convenience of the Court and totals \$6,030, to be subtracted from the Attorney's fees listed

below if deemed appropriate

29 Based upon the number of hours expended by myself and my law firm, as well as costs incurred, the total amount for which we hereby petition is

Attorney's fees	\$134,303 50

Costs	\$11,920 40

Plaintiff's out of pocket costs for

court reporters	2/12/09 #16689	\$1,136 25
	2/25/09 #16708	\$684 65

expert:	Lovett Williams	\$350 00
mileage	(see list)	\$813 00
total		\$2,983 90

TOTAL Fees and Costs for litigation up to offer of judgment	\$149,207 80

Fees related to post-judgment fee obtainment	\$5,885 00

Costs relate to post-judgment fee obtainment	\$86 60

RESPECTFULLY SUBMITTED AND DECLARED,



John P. Riordan (SC Bar #65284)
Smith Moore Leatherwood
300 E. McBee Avenue, Post Office Box 87
Greenville, SC 29602-0087
(864) 242-6440/(864) 240-2498 (Fax)
jack.riordan@smithmoorelaw.com
Attorney for Plaintiff

Date 11/30/09

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)

Case No 2007-CP- 24 1056

Plaintiff,)

vs)

PLAINTIFF'S BILL OF COSTS WITH
SUPPORTING DOCUMENTATION

South Carolina Department
of Natural Resources and
Eric Randall Vaughn,)

Defendants)

COMES NOW Plaintiff, by and through undersigned counsel, and hereby submits
this Bill of Costs that specifies the reasonable and necessary costs, including attorney's fees,
described in the Declaration of John Patrick Riordan

Attorney's fees (see attached invoices reflecting billings from August 21, 2006 through
to November 17, 2009) **\$134,303 50¹**

Costs (see attached invoices reflecting billings from August 21, 2006 through to
November 17, 2009 as well as invoices and receipts) **\$11,920 40**

Plaintiff out of pocket costs for

court reporters	2/12/09 #16689	\$1,136 25
	2/25/09 #16708	\$684 65

expert	Lovett Williams	\$350 00
mileage	(see list)	\$813 00

total		\$2,983 90

TOTAL Fees and Costs for litigation up to offer of judgment **\$149,207 80**

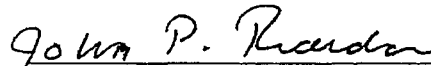
Fees related to post-judgment fee obtainment **\$5,8850 00**

Costs related to post-judgment fee obtainment **\$86.60**

¹ Plaintiff has identified 23 hours at \$225 per hour of J Riordan time and 4 5 hours at \$190 per hour of J Maertens
time related to counterclaim and/or insurer matters total of \$6 030

Finally, if deemed necessary, plaintiff requests that the court consider the allowance of supplemental pleadings to establish additional costs incurred hereafter associated with the pursuit fees and costs

Respectfully submitted,



John P. Riordan (SC Bar #65284)
Smith Moore Leatherwood
300 E McBee Avenue, Post Office Box 87
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(864) 242-6440/(864) 240-2498 (Fax)
jack.riordan@smithmoorelaw.com
Attorneys for Plaintiff

November 30, 2009

LEATHERWOOD WALKER TODD & MANN, P C
 ATTORNEYS AT LAW
 POST OFFICE BOX 87
 GREENVILLE S C 29602-0087
 I R S ACCOUNT NO 57 0901756

October 9, 2006

Bill Hueble
 104 Abingdon Way
 Greenville, SC 29615

Client Number	2009 DEC 1	24940
Matter Number		137290
Invoice Number		199924
Billed Through		10/02/06
Invoice Total		2,686 40
Amount Due		2,686 40

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
08/21/06	JPR	Research regarding DNR statutes/hierarchy/Vaughn, meeting with client, review of information provided, further research regarding DNR statutes,
08/24/06	JPR	Correspondence from client regarding case, continued research regarding DNR statutes,
08/25/06	JPR	Telephone call from client regarding case, conference with client regarding case, research regarding misconduct in office,
08/28/06	JPR	Conference with client,
08/30/06	JPR	Correspondence from/to client regarding case,
08/31/06	JPR	Conference with Statewide Grand Jury regarding case, correspondence from client regarding TN, conference with client regarding case,
09/01/06	JPR	Correspondence from client regarding Holbrooks,

LEATHERWOOD WALKER TODD & MANN, P C

ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
09/05/06	JPR	Correspondence with client regarding visit, travel to/from and around property, conference regarding case, conference with client regarding case,
09/13/06	JPR	Correspondence to Karl Brehmer and client regarding case,
09/14/06	JPR	Correspondence from client regarding case,
09/25/06	JPR	Correspondence from/to client regarding Holbrooks letter,
09/29/06	JPR	Correspondence from/to client regarding Holbrooks/case,
10/02/06	JPR	Conference with client regarding case, research regarding statutes/review of ticket,

John P Riordan	11 90 hrs at 225 00 \$/hr = \$	2,677 50	
	Total Fees	\$	2,677 50

COSTS ADVANCED

DATE	DESCRIPTION	AMOUNT
09/26/06	VENDOR Riordan, Jack P , INVOICE# 092606, \$ DATE 9/26/2006 - 9/5/06 Mileage around Greenwood (20 mi)	8 90
	Total Costs	\$ 8 90

INVOICE SUMMARY

Total Costs	\$	8 90
Total Fees	\$	2,677 50
Invoice Total	\$	2,686 40

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 % PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

February 14, 2007

Bill Hueble
104 Abington Way
Greenville, SC 29615

Client Number 24940
Matter Number 137290
Invoice Number 202487
Billed Through 02/12/07
Invoice Total \$ 2,515 62
Amount Due \$ 2,515 62

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
10/16/06	JPR	Conference with Pat Yon regarding case, telephone call from client, conference with client,
10/17/06	JPR	Prepare correspondence to Holbrooks,
10/18/06	JPR	Conference with Dickert regarding DNR,
10/19/06	JPR	Telephone calls to/from Tom Austin regarding case, conference with Tom Austin regarding case,
10/20/06	JPR	Conference with client regarding case,
10/27/06	JPR	Telephone call from and to client regarding case,
11/09/06	JPR	Telephone call from/to client regarding case,
11/16/06	JPR	Conference with SLED, conference with client, prepare letter to SC DNR,
11/17/06	JPR	Correspondence to client regarding letter, prepare letter to SC DNR,

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
11/20/06	JPR	Correspondence from client regarding letter,
11/21/06	JPR	Correspondence to client regarding case,
11/22/06	JPR	Conference with client regarding case,
11/29/06	JPR	conference with client, prepare letter to DNR,
12/15/06	JPR	Conference with client regarding case,
12/19/06	JPR	Correspondence from/to DNR regarding case,
12/21/06	JPR	Conferences with client/DNR, correspondence to/from DNR,
12/27/06	JPR	Correspondence from/to client,
01/08/07	JPR	Correspondence from/to client regarding list,
01/11/07	JPR	Conference with client regarding case, telephone call to Lt Sullivan,
01/12/07	JPR	Correspondence from client regarding list,
01/17/07	JPR	Conference with client regarding case/eyewitness list review (6), continue file review/telephone call to client (1), telephone calls to and conferences with eyewitnesses (1 2),
01/24/07	JPR	Conference with eyewitness regarding case, conference with Graham Latimer, telephone call to KLAVA, conference with Todd Stewart,
01/30/07	JPR	Conference with client, telephone call to Klava,
01/31/07	JPR	Conference with Klava, telephone call to Hueble regarding case,
02/01/07	JPR	Conference with Al regarding case, telephone calls to/from Amy regarding case,
02/02/07	JPR	Correspondence with Amy/client/telephone call to Sullivan, conferences with DNR, telephone call/correspondence to Sullivan, conference with Cochran, conference with client,
02/06/07	JPR	Conferences with Lt Sullivan and client regarding case,

John P Riordan

9 40 hrs at 225 00 \$/hr = \$

2,115 00

Total Fees

\$

2,115 00

COSTS ADVANCED

DATE	DESCRIPTION	AMOUNT
	Photocopies	\$ 6 00

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 % PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	DESCRIPTION	AMOUNT
	Postage	3 42
02/12/07	South Carolina Department of Natural Res, Fee for FOIA Request Documents	391 20
	Total Costs	\$ 400 62

INVOICE SUMMARY

Total Costs	\$	400 62
Total Fees	\$	2,115 00
Invoice Total	\$	2,515 62

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 1/2% PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

August 20, 2007

Bill Hueble
104 Abington Way
Greenville, SC 29615

Client Number 24940
Matter Number -137290
Invoice Number 207185
Billed Through 08/10/07
Invoice Total \$ 4,649 86
Amount Due \$ 4,649 86

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
02/07/07	JPR	Telephone call from/correspondence to client regarding case (NO CHARGE),
02/08/07	JPR	Conference with Brenda/client regarding DNR meetings,
02/09/07	JPR	Conference with Brenda regarding DNR meeting,
02/11/07	JPR	Correspondence from plaintiff's attorney regarding case,
02/12/07	JPR	Telephone calls from/to client regarding case,
02/13/07	JPR	Conference with Lt Sullivan/client,
02/14/07	JPR	Correspondence from/to client regarding */case, correspondence with Lt. Sullivan regarding meeting,
02/15/07	JPR	Telephone calls from/to client/Lt Sullivan regarding meeting,
02/19/07	JPR	Correspondence from Lt Sullivan regarding meeting,

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I.R.S. ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
02/21/07	JPR	Correspondence with Brenda regarding case, conference with client, research regarding Tommy Will,
02/22/07	JPR	Research regarding Tommy Will, e-mail to school, telephone call to Mr Parker, telephone calls to client regarding case/meeting, correspondence from DNR regarding FOIA,
02/23/07	JPR	Travel to/from Greenwood and meeting with client and Lt Sullivan at client's property,
02/26/07	JPR	Correspondence from client regarding case, research regarding Taneyhill,
02/27/07	JPR	Telephone call to potential witness regarding case,
02/28/07	JPR	Conference with Jim Parker/client regarding case, research regarding Steve Taneyhill, prepare letter to Steve Taneyhill,
03/01/07	JPR	Prepare letter to witness regarding case,
03/02/07	JPR	Conference with Taneyhill and Hueble regarding case,
03/05/07	JPR	Research regarding Vaughan/Pitts,
03/08/07	JPR	Conference with client,
03/12/07	JPR	Conferences with client/Lt Sullivan, conferences with client regarding case/predator,
04/13/07	JPR	Conference with client,
04/16/07	JPR	Telephone call to Margie Rish regarding case,
04/17/07	JPR	Correspondence from/to client regarding case/property,
04/23/07	JPR	Telephone call from Lt Sullivan/to client,
05/22/07	JPR	Correspondence from/to client regarding case,
05/24/07	JPR	Telephone calls to/from Taylor regarding case,
06/07/07	JPR	Correspondence with client regarding case,
06/08/07	JPR	Correspondence to Col Taylor regarding case,
06/12/07	JPR	Telephone calls from/to Col Taylor regarding case,
06/29/07	JPR	Telephone calls to Lt Sullivan/Col Taylor,
07/05/07	JPR	Conference with client regarding case,
07/23/07	JPR	Correspondence from/to client regarding case,
07/24/07	JPR	Correspondence from Clerk to client regarding case,
07/30/07	JPR	Conference with client regarding case, prepare letter to Col Taylor regarding case,

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 1/2% PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I.R.S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
07/31/07	JPR	Prepare letter to Col Taylor, correspondence from/to client,
08/01/07	JPR	Correspondence to client regarding letter,
08/02/07	JPR	Correspondence with client regarding letter,
08/06/07	JPR	Correspondence with client regarding case,
08/09/07	JPR	Correspondence from DNR/to client regarding case,
08/10/07	JPR	Conference with client regarding case,
, Law Clerk services		
07/19/07	RMA	Researched South Carolina Tort Claims Act claims,
07/20/07	RMA	Research and draft Memo,
07/23/07	RMA	Research negligent hire cause of action and edit Memo,
07/24/07	RMA	Draft Memo on causes of action in case,
07/26/07	RMA	Complete Summons and Complaint,
07/31/07	RMA	Draft Memo in Support of Complaint,

Total Fees \$ 4,645 00

COSTS ADVANCED

DESCRIPTION	AMOUNT
Photocopies	\$ 2 20
Postage	2 66
Total Costs	\$ 4 86

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 /% PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE

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POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R.S ACCOUNT NO 57 0901756

INVOICE SUMMARY

Total Costs	\$	4 86
Total Fees	\$	<u>4,645 00</u>
Invoice Total	\$	4,649 86

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57-0901756

September 14, 2007

Bill Hueble
104 Abington Way
Greenville, SC 29615

Client Number 24940
Matter Number 137290
Invoice Number 207798
Billed Through 09/12/07
Invoice Total \$ 6,720 28
Amount Due \$ 6,720 28

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
08/13/07	JPR	Conference with client regarding case,
08/15/07	JPR	Correspondence from client regarding case,
08/17/07	JPR	Preparation for and meeting with client,
08/19/07	JPR	Research regarding Section 1983 cases,
08/20/07	JPR	Correspondence from client regarding deer stand, review of cases,
08/21/07	JPR	Review of cases/Section 1983 cases/causes of action,
08/22/07	JPR	Correspondence with Greenwood attorney/client regarding defendant, prepare Complaint,
08/23/07	JPR	Review of DNR Guidelines/training materials,
08/24/07	JPR	Correspondence from client regarding case,

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
08/27/07	JPR	Review of case law/elements of civil action, research regarding Eric Vaughn, review of file, preparation of Complaint, letter to Attorney General,
08/28/07	JPR	Correspondence from client regarding case and update of Complaint, conference with Attorney General regarding case, conference with client, preparation of correspondence and further preparation of Complaint, research regarding causes of action/criminal charge,
08/29/07	JPR	Continued preparation of Complaint, conference with client regarding filing,
08/30/07	JPR	Correspondence from court regarding filing, conferences with client regarding Judge,
08/31/07	JPR	Travel to/from courthouse to obtain filed records, telephone call to client regarding case,
09/04/07	JPR	Prepare service letters to parties,
09/05/07	JPR	Correspondence from client regarding theft reports,
Paralegal services		
08/23/07	DBC	Requesting SLED report,
09/04/07	DBC	Accurint search regard Eric Vaughn,
Total Fees		\$ 6,472 50

COSTS ADVANCED

DATE	DESCRIPTION	AMOUNT
	Photocopies	\$ 34 40
	Postage	23 38
08/23/07	SLED, Criminal records of William Alvin Hueble, Jr	25 00
08/28/07	Clerk of Court, Filing Fee	150 00
08/30/07	Greenwood County Sheriff, Fee for Service	15 00
Total Costs		\$ 247 78

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / % PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

INVOICE SUMMARY

Total Costs	\$	247 78
Total Fees	\$	<u>6,472 50</u>
Invoice Total	\$	6,720 28

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / 4 PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

January 29, 2008

Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Client Number 24940
Matter Number 137290
Invoice Number 211347
Billed Through 01/25/08
Invoice Total \$ 4,042 32
Amount Due \$ 4,042 32

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
09/13/07	JPR	Telephone call from Pete Logan regarding Complaint,
09/14/07	JPR	Conference with Steven Pruitt regarding case/extension, correspondence to client regarding case,
09/18/07	JPR	Correspondence from/to defense attorney regarding extension,
09/24/07	JPR	Correspondence regarding case from court,
10/05/07	JPR	Telephone call from/to client regarding potential assistance from third party,
10/30/07	JPR	Prepare discovery requests, review of DNR Answer/discovery/Order,
10/31/07	JPR	Prepare discovery requests, correspondence with client regarding case,
11/01/07	JPR	Prepare discovery responses, prepare discovery requests,
11/06/07	JPR	Correspondence from Vaughn regarding Answer/Counterclaim, correspondence to client regarding same, prepare discovery requests,

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ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
11/07/07	JPR	Conference with client regarding case,
11/11/07	JPR	Correspondence from defense attorney McDade regarding extension,
11/14/07	JPR	Correspondence from/to client regarding case/friends of DNR,
11/26/07	JPR	Review of DNR response,
11/27/07	JPR	Correspondence with client regarding LAC audit,
11/29/07	JPR	Correspondence with client regarding case, review of DNR article, correspondence to LAC, conference with Chip Trvitt regarding case,
11/30/07	JPR	Telephone call from/to LAC,
12/03/07	JPR	Conference with DNR attorney regarding case,
12/06/07	JPR	Correspondence from plaintiff's attorney/to client regarding case, conference with LAC attorney and message to client, conference with client regarding case,
12/10/07	JPR	Prepare Answer to Counterclaim, research regarding privilege, correspondence from/to client regarding DNR Advisor Board,
12/11/07	JPR	Review of slander/libel caselaw/restatement of torts, prepare response to counterclaim,
12/12/07	JPR	Prepare Answer to Counterclaim and discovery to defendants, conference with client, correspondence from/to client regarding case,
12/17/07	JPR	Conference with client regarding case/insurance,
01/03/08	JPR	Correspondence from client regarding turkey baiting proposal,
01/08/08	JPR	Conference with plaintiff's attorney regarding case,
01/09/08	JPR	Preparation for and attendance at meeting with client regarding case/discovery matters, correspondence to defendants' attorneys regarding depositions, prepare discovery responses,
01/10/08	JPR	Correspondence from/to client regarding Sen Cromer,
01/14/08	JPR	Correspondence with parties/client regarding depositions,
01/23/08	JPR	Correspondence from client regarding case, correspondence from/to Travelers regarding case,
01/25/08	JPR	Correspondence from/to/with NRA, telephone call from/to conference with B J Joplin/NRA,
Paralegal services		
01/11/08	DBC	Review of file materials,

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 1/2% PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE, S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
01/14/08	DBC	Preparation of Answers to Interrogatories and Responses to Request for Production of both defendants, communications with client regarding additional information and addresses,

Total Fees \$ 4,021 50

COSTS ADVANCED

DESCRIPTION	AMOUNT
Photocopies	\$ 15 00
Postage	5 82
Total Costs	\$ 20 82

INVOICE SUMMARY

Total Costs	\$ 20 82
Total Fees	\$ 4,021 50
Invoice Total	\$ 4,042 32

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
 ATTORNEYS AT LAW
 POST OFFICE BOX 87
 GREENVILLE S C 29602 0087
 IRS ACCOUNT NO 57 0901756

April 9, 2008

Bill Hueble
 104 Abingdon Way
 Greenville, SC 29615

Client Number 24940
 Matter Number 137290
 Invoice Number 213276
 Billed Through 03/21/08
 Invoice Total \$ 2,074 43
 Amount Due \$ 2,074 43

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
01/30/08	JPR	Prepare letter to Tanneyhill/research regarding Tanneyhill, prepare discovery responses,
01/31/08	JPR	Correspondence from client/to Tanneyhill regarding case,
02/01/08	JPR	Correspondence from/to Colony Insurance regarding case,
02/05/08	JPR	Correspondence from client regarding Subway meeting,
02/14/08	JPR	Correspondence with co-counsel Chambers regarding case,
02/15/08	JPR	Prepare discovery responses,
02/19/08	JPR	Telephone calls from/to co-counsel regarding case,
02/21/08	JPR	Correspondence with client regarding meeting/witnesses,
02/22/08	JPR	Correspondence with client regarding case, prepare discovery responses,
02/25/08	JPR	Correspondence with client regarding Greenwood Family court documents,

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ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
02/27/08	JPR	Correspondence from parties regarding plaintiff's deposition/to client regarding case,
02/28/08	JPR	Correspondence with plaintiff's attorneys regarding meeting,
03/03/08	JPR	Correspondence from attorney for Mrs Vaughn regarding case,
03/05/08	JPR	Correspondence with counsel regarding case schedule, correspondence with client regarding case/schedule/witnesses,
03/06/08	JPR	Telephone calls from/to Colony regarding case (1), correspondence from/to client regarding domestic attorney inquiry/dates (1),
03/10/08	JPR	Correspondence from/to K Goeken regarding case,
03/11/08	JPR	Telephone calls to/from K Goeken regarding case, conference with K Goeken regarding case, correspondence from client,
03/12/08	JPR	Correspondence with Chambers regarding case, correspondence with client regarding case,
03/14/08	JPR	Correspondence with client regarding ADR/Chambers meeting,
03/18/08	JPR	Review of Family Court records,
03/20/08	JPR	Correspondence from client/to parties regarding ADR,
03/21/08	JPR	Correspondence with parties regarding ADR,
Paralegal services		
01/23/08	DBC	Addition of information to discovery responses, communications with attorney, preparation of documents for Travelers Insurance Company,
01/24/08	DBC	Review of additional information for discovery responses,
01/30/08	DBC	Supplementing Plaintiff's Answers to Defendant's Interrogatories (5), correspondence to witnesses (3),
01/31/08	DBC	Conference with attorney regarding witnesses (1), correspondence to witnesses Tanneyhill and Lineberger (3), editing responses to DNR discovery requests (5),
02/01/08	DBC	Telephone conference with Colony Insurance Company (2), communication to Colony Insurance representative (2), organization of FOIA documents (1),
02/15/08	DBC	Telephone conference with attorney regarding file materials for Turner Padget (2), office conference with attorney regarding same (1),
02/18/08	DBC	Revising discovery responses to both defendants (5), preparation of documents for production (4), communications with attorney and client regarding photographs (1),

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C

ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
02/20/08	DBC	Conference with attorney regarding photographs for production,
02/21/08	DBC	Preparation of documents for counsel on counterclaim,
02/22/08	DBC	Correspondence to attorney Pruitt and service of discovery pleadings on defendant DNR (6), correspondence to attorney McDade and service of discovery pleadings on defendant Vaughn (6), telephone conference with copy service regarding additional documents for attorney Chambers (2),
02/26/08	DBC	Conferences with attorneys defending on counterclaim regarding depositions and documents (4), indexing pleadings and documents produced to new counsel (5),
02/27/08	DBC	Communications with counsel (2), review of status of documents for new counsel (2),
03/21/08	DBC	Review of recent photographs,
Total Fees		\$ 2,000 50

COSTS ADVANCED

DESCRIPTION	AMOUNT
Photocopies	\$ 69 45
Postage	4 48
Total Costs	\$ 73 93

INVOICE SUMMARY

Total Costs	\$ 73 93
Total Fees	\$ 2,000 50
Invoice Total	\$ 2,074 43

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / 4 PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

June 6, 2008

Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Client Number 24940
Matter Number 137290
Invoice Number 214701
Billed Through 05/29/08
Invoice Total \$ 12 315 32
Amount Due \$ 12 315 32

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
03/25/08	JPR	Correspondence from/to co-counsel Bill Duncan regarding case, correspondence from/to parties regarding ADR,
03/27/08	JPR	Correspondence with parties regarding ADR,
04/01/08	JPR	Correspondence regarding ADR,
04/02/08	JPR	Correspondence with client regarding case, correspondence with DNR attorney regarding ADR/discovery,
04/03/08	JPR	Correspondence from client regarding case/Officer McGee,
04/07/08	JPR	Correspondence with co-counsel regarding case/meeting,
04/08/08	JPR	Correspondence with Karl and Gerald regarding case,
04/09/08	JPR	Correspondence with client/parties regarding case,
04/10/08	JPR	Conference with DNR attorney regarding records/depositions,

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
04/13/08	JPR	Correspondence with client,
04/14/08	JPR	Correspondence from plaintiff's attorney/to client regarding discovery,
04/15/08	JPR	Correspondence regarding discovery discs,
04/16/08	JPR	Correspondence to Tanneyhill,
04/17/08	JPR	Correspondence from DNR attorney/to client regarding depositions,
04/21/08	JPR	Correspondence with defense attorney/client regarding case,
04/22/08	JPR	Correspondence from client regarding discovery, review of discovery responses/discs, review of discovery responses
04/23/08	JPR	Correspondence from defense attorneys/to client regarding depositions,
04/28/08	JPR	Correspondence from plaintiff's attorney regarding depositions/discovery, conference with client regarding case, review discovery,
04/29/08	JPR	Meeting with client to prepare for deposition, correspondence to Victor McDade regarding discovery, correspondence to Steve Pruitt regarding depositions, correspondence with client regarding case,
04/30/08	JPR	Correspondence with client regarding visit with plaintiff's attorneys regarding depositions, correspondence from Johnstone regarding corn case/review of case and statutes, visit to Family Court to review filings, travel to/from farm, meeting with client regarding deer stand/deposition, correspondence from Victor McDade regarding discovery,
05/01/08	JPR	Prepare for and attend deposition of client, post deposition meetings with Travelers, client, research regarding SCLOS and review of tapes and Vaughn discovery responses,
05/02/08	JPR	Conference with client regarding case,
05/05/08	JPR	Correspondence from client regarding witnesses and depositions, correspondence from K Goelken and to client regarding Release, correspondence with Defendant's attorney Pruitt regarding depositions,
05/07/08	JPR	Correspondence from client regarding matters,
05/09/08	JPR	Correspondence from client regarding various issues,
05/12/08	JPR	Conferences with defense attorney/client/telephone call to K Goelken,
05/13/08	JPR	Correspondence from/to defense attorney Pruitt and client, conference with Thornton Stewart regarding case, research regarding public officers, conferences with Stewarts,
05/14/08	JPR	Conferences with client, plaintiff's attorney/correspondence regarding clover seed/tapes,

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
05/15/08	JPR	Meeting with client in preparation for depositions, attendance at depositions, meeting with client and father, correspondence from client regarding seed and updated narrative,
05/16/08	JPR	Meeting with client regarding depositions, attend depositions, meeting with client/Tarbert/co-counsel, review DNR information,
05/19/08	JPR	Review of DNR documents in preparation for depositions,
05/20/08	JPR	Prepare for depositions, review of DNR materials,
05/21/08	JPR	Correspondence regarding phone records, review of defendants' materials in preparation for depositions,
05/22/08	JPR	Correspondence from Alltel regarding phone records,
05/23/08	JPR	Conferences with court/to plaintiffs regarding depositions, research regarding defamation, prepare for depositions, meeting with client, review of game cam information,
05/27/08	JPR	Correspondence from client regarding depositions, conferences/meeting with client regarding case, correspondence with parties regarding depositions rescheduling,
05/28/08	JPR	Correspondence from/to client regarding depositions/planting information,
05/29/08	JPR	Correspondence from Hite/to client regarding discovery,
Paralegal services		
04/02/08	DBC	Correspondence to counsel regarding outstanding discovery,
04/03/08	DBC	Service of correspondence on counsel regarding discovery,
04/15/08	DBC	Correspondence to attorney Duncan regarding discovery, preparation of discovery responses for production to counsel, review of documents produced by defendant DNR,
04/16/08	DBC	Communication with attorney and preparation of documents produced by defendant DNR, updating discovery index, telephone conference with counsel for co-defendant regarding status of discovery,
04/18/08	DBC	Communications with attorney regarding DNR documents and discovery responses,
04/21/08	DBC	Communications with Mr Hueble and attorney regarding DNR documents,
04/28/08	DBC	Telephone conference with counsel regarding depositions of witnesses and defendant Vaughn, communications with attorney regarding same,
04/29/08	DBC	Preparation of Motion to Compel and Certificate of Service, correspondence to Clerk of Court, preparation of Motion Cover Sheet,

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 % / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602-0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
05/09/08	DBC	Communication with attorney regarding Motion to Compel production,
05/12/08	DBC	Office conference with attorney regarding additional discovery requests, preparation of supplemental requests for production to defendants, review of discovery responses,
05/13/08	DBC	Preparation of subpoena for Alltel records, correspondence to Alltel, telephone conference with Alltel,
05/14/08	DBC	Review of DNR discovery responses, review of supplemental discovery requests, updating discovery index, arrangements for depositions,
05/21/08	DBC	Communications with attorney regarding cell phone records, telephone conference with Alltel representative, correspondence to counsel for DNR regarding Supplemental Request for Production, correspondence to counsel for Defendant Vaughn regarding Supplemental Request for Production,
05/22/08	DBC	Telephone conference with Alltel representative, office conference with attorney regarding same,

Total Fees \$ 12,290 00

COSTS ADVANCED

DATE	DESCRIPTION	AMOUNT
	Photocopies	\$ 9 40
	Postage	3 80
05/06/08	Jack P Riordan, Reimbursement 4/30/08 Mileage to farm for meeting (24 miles)	12 12
Total Costs		\$ 25 32

INVOICE SUMMARY

Total Costs	\$ 25 32
Total Fees	\$ 12,290 00
Invoice Total	\$ 12,315 32

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
IRS ACCOUNT NO 57 0901756

July 10, 2008

Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Client Number 24940
Matter Number 137290
Invoice Number 215539
Billed Through 07/01/08
Invoice Total \$ 4,367 15
Amount Due \$ 4,367 15

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
06/02/08	JPR	Correspondence from defendants regarding discovery requests, prepare for depositions,
06/03/08	JPR	Telephone calls from/to K Goeken regarding case,
06/05/08	JPR	Correspondence with client regarding depositions,
06/08/08	JPR	Prepare for depositions,
06/09/08	JPR	Travel to/from and attendance at deposition of Vaughn,
06/10/08	JPR	Correspondence from court reporter/to client regarding deposition, correspondence to client regarding discovery items,
06/11/08	JPR	Correspondence with client/defense attorney Pruitt regarding discovery,
06/12/08	JPR	Travel to Clerk's office to retrieve records (3), correspondence with Clerk's office and client regarding records (2),
06/13/08	JPR	Correspondence with client regarding case,

LEATHERWOOD WALKER TODD & MANN, P C

ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
06/17/08	JPR	Correspondence with client/court regarding complaint (2), telephone call to Vaughn domestic attorney regarding case (1), review of Family Court filings (3),
06/20/08	JPR	Correspondence from client regarding deposition (2), correspondence from defense attorney Pruitt regarding records (1),
06/23/08	JPR	Correspondence to client regarding McDougall,
06/26/08	JPR	Conference with client, conference with McDougall, telephone call to client, telephone calls regarding Wogelmuth, telephone calls to Wogelmuth, conference with Wogelmuth,
06/30/08	JPR	Conference with client, telephone call to USFWS agent Tasor,
		Paralegal services
06/16/08	DBC	Communications with attorney regarding Supplemental Request for Production to Defendant Vaughn (2), preparation of Supplemental Request for Production (4),
06/18/08	DBC	Correspondence to counsel and service of Supplemental Requests for Production,

Total Fees \$ 3,982 50

COSTS ADVANCED

DATE	DESCRIPTION	AMOUNT
	Photocopies	\$ 4 20
	Postage	2 10
06/09/08	Kristen A Bryan, Depositions	378 35
	Total Costs	\$ 384 65

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / % PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

INVOICE SUMMARY

Total Costs	\$	384 65
Total Fees	\$	<u>3,982 50</u>
Invoice Total	\$	4,367 15

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

August 7, 2008

Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Client Number 24940
Matter Number 137290
Invoice Number 216306
Billed Through 07/31/08
Invoice Total \$ 4,470 47
Amount Due \$ 4,470 47

RE General Matters

FOR ALL PROFESSIONAL SERVICES RENDERED, INCLUDING THE FOLLOWING

DATE	ATTY	DESCRIPTION
Attorney services		
07/01/08	JPR	Correspondence with client/to court reporter regarding depositions, correspondence with court reporter regarding errata sheet,
07/03/08	JPR	Correspondence from court reporter regarding depositions, conference with Tabor,
07/08/08	JPR	Correspondence from/to G Chambers and client regarding settlement demand,
07/09/08	JPR	Correspondence to DNR attorney regarding depositions,
07/10/08	JPR	Correspondence with plaintiff's attorneys regarding depositions,
07/16/08	JPR	Correspondence to parties regarding depositions dates,
07/17/08	JPR	Correspondence with parties regarding depositions,
07/18/08	JPR	Correspondence with client regarding case, correspondence with parties regarding depositions, conference with client regarding discovery disc,

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

DATE	ATTY	DESCRIPTION
07/21/08	JPR	Review discovery disc,
07/22/08	JPR	Continued review of discovery disc information,
07/23/08	JPR	Correspondence with G Chambers/to client regarding settlement,
07/24/08	JPR	Prepare discovery responses to defendants, correspondence with client regarding cases, Pacer reseach for Knight suits,
07/28/08	JPR	Correspondence from client regarding case/pictures, meeting with client regarding case, correspondence to co-counsel Chambers, review of policy information, correspondence to client regarding Vaughn depositions,
07/29/08	JPR	Correspondence from client regarding case review of log information,
07/30/08	JPR	Correspondence with client regarding case/logs,
Paralegal services		
07/29/08	DBC	Review of documents for production, preparation of responses to discovery requests,
07/30/08	DBC	Telephone conference with Bill Hueble regarding supplemental discovery responses, finalizing Answers to DNR Supplemental Interrogatories, finalizing Responses to DNR Supplemental Requests for Production, correspondence to counsel,
07/31/08	DBC	Conference with attorney regarding discovery responses,
Total Fees		\$ 2,092 50

COSTS ADVANCED

DATE	DESCRIPTION	AMOUNT
	Photocopies	\$ 37 20
	Postage	2 27
07/14/08	Rebecca A Bazzle, CVR, Depositions	581 50
07/31/08	Bowen Court Reporting Service, Depositions of Eric Randall Vaughn	1,757 00
Total Costs		\$ 2,377 97

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE.

LEATHERWOOD WALKER TODD & MANN, P C
ATTORNEYS AT LAW
POST OFFICE BOX 87
GREENVILLE S C 29602 0087
I R S ACCOUNT NO 57 0901756

INVOICE SUMMARY

Total Costs	\$	2,377 97
Total Fees	\$	<u>2,092 50</u>
Invoice Total	\$	4,470 47

NET BALANCE IS DUE UPON RECEIPT DELINQUENCY CHARGES OF 1 / / PER MONTH WILL BE ASSESSED AFTER 30 DAYS ON ANY UNPAID BALANCE



SMITH MOORE LEATHERWOOD

Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

10/20/08
0598
11/13/08
11/13/08
11/13/08
Invoice 426296

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 09/30/2008

FEES

			Hours
09/01/2008	RIORDAN JP	Correspondence with Judge Hayes regarding requested continuance	10
09/02/2008	RIORDAN JP	Correspondence from court/Judge to parties/client (1) correspondence from/to defense attorney/client regarding depositions (1),	20
09/03/2008	RIORDAN JP	Correspondence with parties regarding depositions,	10
09/04/2008	RIORDAN JP	Correspondence with parties regarding deposition schedule	10
09/16/2008	RIORDAN JP	Correspondence with defense attorney regarding depositions,	10
09/17/2008	RIORDAN JP	Correspondence from/to client regarding case,	10
09/22/2008	RIORDAN JP	Correspondence with plaintiff's attorney regarding case/depositions (2), correspondence to J McDougall regarding divorce case (1), correspondence with client regarding case/depositions (1),	50
09/23/2008	RIORDAN JP	Correspondence with client/to A Lindemann regarding coverage (2) correspondence with defense attorney regarding deposition notice (1),	30
09/24/2008	RIORDAN JP	Correspondence with client regarding DNR/meeting,	10
09/25/2008	RIORDAN JP	Correspondence from/to client regarding case	10
09/26/2008	RIORDAN JP	Meeting with client regarding depositions (2 5), review of new information (1 1) telephone call to client regarding case (1) correspondence with co-defendant attorney regarding case/depositions (1) review of information in preparation for deposition (9) telephone call from Bill Duncan/to client regarding case (1) telephone calls from/to J McDougall regarding case (1)	4 90
09/28/2008	RIORDAN JP	Prepare for depositions (3 5) meeting with client and prepare for depositions (8 1)	11 60
09/29/2008	RIORDAN JP	Travel to/from Abbeville SC with client and attendance at deposition of Eric Vaughn,	11 00
09/30/2008	RIORDAN JP	Travel to/from Columbia, SC and depositions of DNR agents	11 50
			40 70

Total Fees Through 09/30/2008

\$9,157 50



SMITH MOORE LEATHERWOOD

Hueble, Bill

10/20/08
0598

Re General Matters
Our File Number 09124940 137290

Invoice 426296

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	40 70	9157 50
		40 70	\$9,157 50

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$9,157 50
Total Expenses This Invoice	\$0 00
Total Due This Invoice	\$9,157 50

Total Amount Due Now \$9,157 50

Net Due Upon Receipt

Please Remit Payment To

Smith Moore Leatherwood LLP
Post Office Box 87
Greenville, SC 29602



SMITH MOORE LEATHERWOOD

Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

COPY

Re General Matters
Our File Number 09124940 137290
Your Reference Number

2008 DEC 1 AM 10:24
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9/18/08
0598
Invoice 422842

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 08/31/2008

FEES

Hours

08/05/2008	RIORDAN JP	Correspondence from client regarding search issues	10
08/05/2008	CARNES DB	Service of Supplemental discovery and responses on all parties (5) indexing and organization of discovery (5)	1 00
08/06/2008	RIORDAN JP	Review of search cases	80
08/08/2008	RIORDAN JP	Review of search cases	1 40
08/11/2008	RIORDAN JP	Correspondence to Gerald Chambers regarding case	10
08/11/2008	RIORDAN JP	Correspondence from/to K Goeken/client regarding policy	10
08/12/2008	RIORDAN JP	Correspondence to/from client regarding "search" cases	10
08/14/2008	RIORDAN JP	Correspondence from client/to Colony regarding insurance	10
08/15/2008	RIORDAN JP	Correspondence from client regarding search cases (3) review of search issue cases (1 3), telephone calls from/to A Lindeman regarding insurance (3)	1 90
08/18/2008	RIORDAN JP	Correspondence from Lindeman/to client regarding Colony (1) correspondence with client regarding Colony (1)	20
08/19/2008	RIORDAN JP	Correspondence from client regarding Colony/case (2) correspondence from court/to parties regarding trial date (3) correspondence with parties regarding discovery depositions (1) research regarding search cases/issues (1 6)	2 20
08/20/2008	RIORDAN JP	Correspondence regarding depositions/logs/search issues (1), correspondence from client regarding insurance (1)	20
08/21/2008	RIORDAN JP	Telephone call to Lindeman regarding insurance (1), review of search information/Colony information (4), review of files/correspondence with client (2)	70
08/22/2008	RIORDAN JP	Correspondence from client regarding privacy issues/documents (1), research regarding search issues correspondence regarding manuals (4), prepare Motion for continuance (2), correspondence with parties regarding motion (2), prepare letter to court regarding continuance/status conference (1)	1 00
08/25/2008	RIORDAN JP	Correspondence from client regarding search statutes (2), research regarding search/FOIA federal requirements (8), correspondence from parties regarding conference call/letter (1) FOIA	2 60



SMITH MOORE LEATHERWOOD

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To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

9/18/08
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Re General Matters
Our File Number 09124940 137290
Your Reference Number

Invoice 422842

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 08/31/2008

			Hours
		correspondence to U S Fish & Wildlife Department (2), review of search cases (6), correspondence from DNR regarding Deputy logs (1), further research regarding search issues (6)	
08/26/2008	RIORDAN JP	Correspondence from client/to DNR regarding Deputy logs of LeCroy (1) research regarding New (1)	20
08/27/2008	RIORDAN JP	Correspondence to client regarding training manuals	10
08/28/2008	RIORDAN JP	Correspondence to Lindemann regarding Colony (1), conference with A Lindemann regarding Colony (1), telephone conference/correspondence with parties regarding depositions/schedule and correspondence to client regarding schedule (7)	90
08/29/2008	RIORDAN JP	Correspondence with parties regarding proposed schedule	10
08/29/2008	CARNES DB	Telephone conference with counsel regarding depositions	20
			14 00

Total Fees Through 08/31/2008 **\$3,012 00**

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	12 80	2880 00
CARNES DB	110 00	1 20	132 00
		14 00	\$3,012 00

EXPENSES

Postage	14 80
Filing Fee Payee Clerk Of Court Motion Fee	25 00
	\$39 80

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$3,012 00
Total Expenses This Invoice	\$39 80



SMITH MOORE LEATHERWOOD

Post Office Box 87
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Identification # 56-1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

9/18/08
0598

Re General Matters
Our File Number 09124940 137290
Your Reference Number

Invoice 422842

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 08/31/2008

Total Due This Invoice

\$3,051 80

Total Amount Due Now \$3,051 80

Net Due Upon Receipt

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To Mr. Bill Hueble
104 Abingdon Way
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Re General Matters
Our File Number 09124940 137290

2008 DEC 1 10:20/08
70598
Invoice 426296

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 09/30/2008

FEES

			Hours
09/01/2008	RIORDAN JP	Correspondence with Judge Hayes regarding requested continuance	10
09/02/2008	RIORDAN JP	Correspondence from court/Judge to parties/client (1) correspondence from/to defense attorney/client regarding depositions (1)	20
09/03/2008	RIORDAN JP	Correspondence with parties regarding depositions	10
09/04/2008	RIORDAN JP	Correspondence with parties regarding deposition schedule	10
09/16/2008	RIORDAN JP	Correspondence with defense attorney regarding depositions	10
09/17/2008	RIORDAN JP	Correspondence from/to client regarding case,	10
09/22/2008	RIORDAN JP	Correspondence with plaintiff's attorney regarding case/depositions (2), correspondence to J McDougall regarding divorce case (1), correspondence with client regarding case/depositions (1),	50
09/23/2008	RIORDAN JP	Correspondence with client/to A. Lindemann regarding coverage (2) correspondence with defense attorney regarding deposition notice (1)	30
09/24/2008	RIORDAN JP	Correspondence with client regarding DNR/meeting	10
09/25/2008	RIORDAN JP	Correspondence from/to client regarding case,	10
09/26/2008	RIORDAN JP	Meeting with client regarding depositions (2 5), review of new information (1 1) telephone call to client regarding case (1) correspondence with co-defendant attorney regarding case/depositions (1), review of information in preparation for deposition (9) telephone call from Bill Duncan/to client regarding case (1), telephone calls from/to J McDougall regarding case (1),	4 90
09/28/2008	RIORDAN JP	Prepare for depositions (3 5) meeting with client and prepare for depositions (8 1)	11 60
09/29/2008	RIORDAN JP	Travel to/from Abbeville SC with client and attendance at deposition of Eric Vaughn,	11 00
09/30/2008	RIORDAN JP	Travel to/from Columbia, SC and depositions of DNR agents,	11 50
			40 70

Total Fees Through 09/30/2008

\$9,157 50



SMITH MOORE LEATHERWOOD

Hueble Bill

10/20/08

0598

Re General Matters

Our File Number 09124940 137290

Invoice 426296

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	40 70	9157 50
		40 70	\$9,157 50

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$9,157 50
Total Expenses This Invoice	\$0 00
Total Due This Invoice	\$9,157 50

Total Amount Due Now \$9,157 50

Net Due Upon Receipt

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To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

2009 DEC 1 11/24/08
11:11
0598
Invoice 429518

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 10/31/2008

FEES

			Hours
10/02/2008	RIORDAN JP	Correspondence regarding Mag Mutual (1) correspondence regarding case B Wilson, G Johnston (1), correspondence with client/co counsel/Colony regarding release/waiver (30	60
10/06/2008	RIORDAN JP	Correspondence with client regarding case/depositions/experts	20
10/07/2008	RIORDAN JP	Conferences with Steve Pruitt regarding depositions (3), correspondence to client regarding depositions (4), conference with C Tabor (USFWS) regarding case (2), review of file for Gene s memo (2), telephone calls from/to Bill Duncan regarding insurance/depositions (1) correspondence to Bill Duncan regarding Colony (1)	1 30
10/07/2008	CARNES DB	Communications with attorney and review of correspondence file regarding same,	50
10/08/2008	RIORDAN JP	Correspondence with parties regarding depositions (2) conferences with client regarding case/witnesses (2), conference with Gene Johnston regarding case (8), correspondence to/from Gene Johnston (3),	1 50
10/09/2008	RIORDAN JP	Correspondence with parties regarding depositions/Scheduling Order,	20
10/10/2008	RIORDAN JP	Prepare for depositions (2) correspondence regarding Al ' baiting" case/Phillips/research regarding cases (3),	50
10/13/2008	RIORDAN JP	Meetings with client and attending depositions of plaintiff's witnesses, correspondence with client regarding Gene Johnston/case,	6 20
10/14/2008	RIORDAN JP	Correspondence from Turner Padgett/to client regarding case (1) telephone call to B Wilson regarding case (1),	20
10/15/2008	RIORDAN JP	Conference with B Wilson regarding case/DNR (8) conference e with client regarding B Wilson (2)	1 00
10/16/2008	RIORDAN JP	Prepare for depositions of defendant witnesses,	2 40
10/17/2008	RIORDAN JP	Travel to Greenwood and attendance at depositions of DNR witnesses, travel around property	9 80
10/20/2008	RIORDAN JP	Correspondence from/to plaintiff's attorneys regarding Scheduling Order,	10



SMITH MOORE LEATHERWOOD

Hueble, Bill

11/24/08
0598

Re General Matters
Our File Number 09124940 137290

Invoice 429518

			Hours
10/21/2008	RIORDAN JP	Correspondence with client regarding Scheduling Order/Colony (1) correspondence e from plaintiff's attorney/to client regarding Colony matter (1), research regarding third party plaintiff (4),correspondence to Hite's office regarding medical information (1) correspondence with A Lindemann regarding Colony matter (1),	80
10/21/2008	CARNES DB	Telephone conference with counsel for DNR (2), correspondence to counsel for defendant (3) preparation of Supplemental Interrogatory to Defendant Vaughn (4), additional correspondence to counsel (3),	1 20
10/22/2008	RIORDAN JP	Correspondence with McDougall regarding meeting (2), correspondence with client regarding case (2), conference with B Wilson/to client regarding meeting (1)	50
10/23/2008	RIORDAN JP	Conference with J McDougall regarding dates (1) correspondence to/from plaintiff's attorneys regarding deposition dates (2), telephone call from/with client regarding case/Colony information (2),	50
10/27/2008	RIORDAN JP	Correspondence regarding SLED agent/defendant's meds	10
10/27/2008	CARNES DB	Service of Supplemental Interrogatory on counsel	30
10/28/2008	RIORDAN JP	Correspondence from client regarding SLED agreement (1), telephone calls from/to client regarding meeting (1)	20
10/29/2008	RIORDAN JP	Correspondence from plaintiff's attorney/to client regarding medical records (1) review of medical records (3), correspondence to J McDougall (1), correspondence with client regarding case/meds (2) correspondence to B Wilson regarding meeting (1)	80
10/30/2008	RIORDAN JP	Prepare for meeting/prepare defendant's meds for client (1), travel to/from Easley and attendance at meeting with client and potential witnesses (4 5), correspondence from client regarding defendant s meds/Mabry quote (1)	4 70
10/31/2008	RIORDAN JP	Research regarding Mabry/DNR	1 60
10/31/2008	WASHBURN A	Research alleged newspaper quote by Buford Mabry for Mr Riordan	30
			35 50
Total Fees Through 10/31/2008			\$7,718 50

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	33 20	7470 00
CARNES DB	110 00	2 00	220 00
WASHBURN A	95 00	30	28 50
		35 50	\$7,718 50



SMITH MOORE LEATHERWOOD

Hueble, Bill

11/24/08
0598

Re General Matters
Our File Number 09124940 137290

Invoice 429518

EXPENSES

Copying Expense	1 40
Deposition Payee Bowen Court Reporting Service Deposition fee Def of Glenn Ward Gay Sullivan	1 345 90
Deposition Payee Bowen Court Reporting Service Deposition of Eric Vaughn (Vol 3)	1 336 85
	<u>\$2,684 15</u>

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$7,718 50
Total Expenses This Invoice	<u>\$2,684 15</u>
Total Due This Invoice	<u>\$10,402 65</u>

Total Amount Due Now \$10,402 65

Net Due Upon Receipt

Please Remit Payment To

**Smith Moore Leatherwood LLP
Post Office Box 87
Greenville, SC 29602**



SMITH MOORE LEATHERWOOD

Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

12/19/08
0598

Re General Matters
Our File Number 09124940 137290

Invoice 432105

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 11/30/2008

FEES

Date	Attorney	Description	Hours
11/03/2008	RIORDAN JP	Correspondence from/to client regarding witnesses (1) correspondence with defense attorneys regarding deposition dates/Scheduling Order (2)	30
11/05/2008	RIORDAN JP	Correspondence with plaintiff's attorneys regarding deposition dates/Scheduling Order	10
11/06/2008	RIORDAN JP	Correspondence regarding case (3), correspondence with plaintiff's attorneys regarding Scheduling Order/depositions (1) correspondence to Greenwood clerk regarding domestic case (1)	50
11/07/2008	RIORDAN JP	Correspondence with client regarding depositions/case	10
11/10/2008	RIORDAN JP	Correspondence with Pruitt regarding depositions	10
11/11/2008	RIORDAN JP	Correspondence from client regarding case (1), correspondence to McDougall regarding case (1), correspondence to attorney regarding McDougall/US attorney (1) correspondence from court regarding domestic order of Vaughn (2) correspondence with McDougall/client regarding case (3), correspondence from court reporter regarding depositions transcripts (1)	1 00
11/12/2008	RIORDAN JP	Correspondence with client regarding case (2), correspondence to client regarding deposition transcripts (1)	30
11/17/2008	RIORDAN JP	Correspondence from Pruitt regarding Scheduling Order (1), correspondence from Travelers/telephone call to Bill Duncan (1) correspondence from/to client regarding Order/case (1)	30
11/19/2008	RIORDAN JP	Correspondence from client regarding ADR/manuals/witnesses	20
11/20/2008	RIORDAN JP	Correspondence with client regarding case	10
11/21/2008	RIORDAN JP	Telephone call to US Attorney (1), conference with US Fish & Wildlife Service regarding case (5) telephone call from/to client (1), conference with client regarding case (5), correspondence from/to defense attorney Pruitt regarding depositions/discovery (2)	1 20
11/24/2008	RIORDAN JP	Correspondence with potential witnesses regarding case	20
11/25/2008	RIORDAN JP	Correspondence from co defendant attorney regarding hearing date (1), research regarding third party beneficiary of K information (6)	70
11/26/2008	RIORDAN JP	Correspondence from parties regarding hearing (1) correspondence to Pruitt regarding depositions (1)	20



SMITH MOORE LEATHERWOOD

Hueble, Bill

12/19/08
0598

Re General Matters
Our File Number 09124940 137290

Invoice 432105

			Hours
11/26/2008	CARNES DB	Review of Vaughn records and deposition (3) requesting Vaughn medical records pursuant to subpoena (4)	70
			<u>6 00</u>
Total Fees Through 11/30/2008			\$1,269 50

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	5 30	1192 50
CARNES DB	110 00	70	77 00
			<u>6 00</u>
			\$1,269 50

EXPENSES

Copying Expense	0 20
Deposition Payee Rebecca A Bazzle, CVR Depositions of Bearden, Brooks, Cameron and Johnstone	358 00
	<u>\$358 20</u>

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$1,269 50
Total Expenses This Invoice	\$358 20
Less Credit Balance Applied	<u>\$103 32</u>
Total Due This Invoice	\$1,524 38

Statement of All Outstanding Invoices

Invoice Date	Invoice #	Unpaid Amount
11/24/08	429518	\$10 402 65 <i>[Paul]</i>
12/19/08	432105	<u>\$1,524.38</u>
Total Amount Due Now		~~\$11,927.03~~ <i>\$1,524.38</i>

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Greenville, SC 29602

Please disregard any outstanding amount for which payment has already been made



SMITH MOORE LEATHERWOOD

Post Office Box 87
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Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

DEC 1 11 11 AM '09
12/28/09 0598
Invoice 434970

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 12/31/2008

FEES

Hours

12/01/2008	RIORDAN JP	Correspondence with plaintiff's attorney regarding depositions/information (1) correspondence with client regarding case (3)	40
12/02/2008	RIORDAN JP	Correspondence with plaintiff's attorneys/client regarding deposition	10
12/02/2008	CARNES DB	Service of medical subpoena on counsel pursuant to HIPAA	40
12/03/2008	RIORDAN JP	Correspondence with parties regarding depositions (1), correspondence from Pruitt's office regarding discovery information (1), correspondence to client regarding information (1) brief review of information (2)	50
12/04/2008	RIORDAN JP	Review of Wiley Knight information (6) correspondence from Pruitt regarding more information (1), further review of Knight information/correspondence from/to client (1 1)	1 80
12/05/2008	RIORDAN JP	Correspondence from/to client regarding case/turkey bait (1) correspondence with client regarding witnesses/information (5), review of file in preparation for depositions (2 4) correspondence with contact regarding case (2), correspondence to contact regarding case (2), correspondence from client regarding Gene (1)	3 50
12/07/2008	RIORDAN JP	Prepare for deposition of Wiley Knight	1 70
12/08/2008	RIORDAN JP	Prepare for deposition of Wiley Knight (2 3), travel to/from Columbia and attendance at deposition of Wiley Knight (7 8)	10 10
12/09/2008	RIORDAN JP	Correspondence from client/to defendant attorney Pruitt regarding discovery information	20
12/10/2008	RIORDAN JP	Correspondence from client regarding Rock Hill case	10
12/11/2008	RIORDAN JP	Correspondence from Gene regarding RH case (1), correspondence from to client regarding 4 wheeler (1)	20
12/12/2008	RIORDAN JP	Correspondence with client regarding tracks	10
12/15/2008	RIORDAN JP	Correspondence with plaintiff's attorneys regarding deposition dates (1), conference with client regarding RH case (2)	30
12/16/2008	RIORDAN JP	Correspondence with plaintiff's attorneys regarding depositions	20
12/17/2008	RIORDAN JP	Correspondence with client regarding RH matter	30
12/18/2008	RIORDAN JP	Correspondence from J McDougall regarding deposition (1) correspondence with parties regarding depositions (2)	30



SMITH MOORE LEATHERWOOD

Hueble, Bill

1/28/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 434970

			Hours
12/19/2008	RIORDAN JP	Correspondence from client regarding DNR winter feeding memo	10
12/20/2008	RIORDAN JP	Correspondence with client/FAA/Greenwood Sheriff/96 EMT regarding incident	1 70
12/22/2008	RIORDAN JP	Correspondence with client/others regarding copters (3) correspondence from/to client regarding case (2)	50
12/23/2008	RIORDAN JP	Correspondence with client regarding copters/experts/correspondence with defense attorney (4) telephone calls to client (1) telephone call to Jim Lewis regarding case (1) prepare correspondence to defense attorney regarding copter (3)	90
12/23/2008	CARNES DB	Review of Vaughn's medical records	30
12/29/2008	RIORDAN JP	Correspondence to client regarding experts/search/rap sheet (2) review of Banhan article/food plot information/correspondence from court regarding hearing (1 3)	1 50
12/31/2008	RIORDAN JP	Review of turkey/planting information (1 1), research regarding turkey experts (6), correspondence from US Fish and Wildlife regarding FOIA request (1 3) further review of US Wildlife documents received pursuant to FOIA request (2 6), conference with Jim Lewis regarding case (4), correspondence to Jim Lewis regarding case (2)	6 20
			31 40

Total Fees Through 12/31/2008 **\$6,984 50**

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	30 70	6907 50
CARNES DB	110 00	70	77 00
		31 40	\$6,984 50

EXPENSES

Copying Expense	6 60
Postage	2 52
Mileage Payee Buddy English PRD Mileage Fee for Deposition	40 95
Reversal from Void Check Number 10689 Bank ID BBTGvl Voucher ID 398811 Vendor Buddy English	-40 95
Deposition Payee Bowen Court Reporting Service Depositions of Travis Dudley, Duke Burnett and James Rearden on 10 13 08	1 365 70
Records Payee Piedmont Health Group Medical Records of Eric Vaughn	71 80
	\$1,446 62



SMITH MOORE LEATHERWOOD

Hueble, Bill

1/28/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 434970

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$6,984 50
Total Expenses This Invoice	<u>\$1,446 62</u>
Total Due This Invoice	<u>\$8,431 12</u>

Total Amount Due Now \$8,431 12

Net Due Upon Receipt

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Greenville, SC 29602**



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Greenville SC 29602
Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

FILED
2/9/09
0598
DEC 1 PM 1:00
Invoice 436020

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 01/31/2009

FEES

			Hours
01/05/2009	RIORDAN JP	Correspondence from/to client (2), research regarding hunting case (Prosser) (7), correspondence/research with FAA regarding helicopter (8) correspondence to McDougall regarding deposition (2) prepare Notice of Depositions (2), correspondence with defense attorneys regarding depositions/case/helicopters (5), telephone call to US Attorney Max Cauthen (1), conference with US Attorney Walt Wilkins regarding case (2), review of Family Court documents (6) research regarding Lloyds (2), telephone call to Mr Lloyd/conference with son (7) correspondence from client regarding clover/list/case (2), correspondence to defense attorneys regarding future depositions (2) prepare supplemental discovery responses (1), correspondence to Gasser regarding US FWS (1), review of VSPWS information (5), correspondence with client regarding helicopter/experts (2)	5 70
01/06/2009	RIORDAN JP	Correspondence from/to Gasser regarding US FWS case (2), conference with US Attorney Max Cauthen regarding US FWS case (2), correspondence from client regarding Chastain (1), correspondence to/from A Lindemann regarding insurance hearing (1)	60
01/07/2009	RIORDAN JP	Correspondence from Jim Lewis/to client regarding case (1) prepare for Baumann meeting (4) correspondence with client regarding Jim Lewis/clover seed (1), review of clover information/Baumann article (1 2) conference with Dave Baumann regarding case/clover (7), correspondence to Dave Baumann regarding complaint/article/appendix list/Captain Holbrooks (4), prepare supplemental discovery responses (1), correspondence to Jim Lewis regarding case (1), conference with client regarding case/expert (2), review of turkey articles (5)	3 80
01/07/2009	CARNES DB	Preparation of Plaintiff's Supplemental Answers to Defendants' Interrogatories (5), correspondence to counsel (5), service of discovery response (1)	1 10
01/08/2009	RIORDAN JP	Correspondence from client regarding USFWS information (1) correspondence with plaintiff's attorneys regarding depositions (3)	40
01/09/2009	RIORDAN JP	Correspondence from client/to Pruitt regarding DNR records (1) correspondence with plaintiff's attorneys regarding depositions/correspondence from client regarding Vaughn meds (2)	30



SMITH MOORE LEATHERWOOD

Hueble, Bill

2/9/09
0598

Re General Matters

Our File Number 09124940 137290

Invoice 436020

			Hours
01/12/2009	RIORDAN JP	Telephone call from Bill Lloyd (1) review of Family Court records in preparation for talk with Lloyd (4), review of Vaughn medicals (1), correspondence with plaintiff's attorneys regarding depositions (1), conference with Bill Lloyd regarding case (5), correspondence with associate regarding insurance coverage issue (1)	1 30
01/12/2009	CARNES DB	Preparation of Defendant Vaughn's initial medical summary	2 80
01/13/2009	RIORDAN JP	Telephone call to Chad Jenkins regarding case (1), correspondence with client regarding depositions (1) conference with Chad Jenkins regarding Rock Hill case (3), conference with client regarding case/numerous issues (8), correspondence with Chad Jenkins regarding Rock Hill case/experts (4) conference with client regarding case (3), prepare for depositions (4), telephone call to Bill Lloyd regarding case (1)	2 50
01/14/2009	RIORDAN JP	Review of hunting article (decline) (3) correspondence to Bill Lloyd regarding domestic pleadings (1) conference with Bill Lloyd/defense attorneys regarding depositions (3), correspondence from Steve Pruitt regarding W Cline records (1), correspondence from client regarding case/depositions (1), prepare for depositions of DNR/Lloyds (5 9)	6 50
01/15/2009	RIORDAN JP	Travel to/from Greenwood with client for depositions of witnesses (8 5) correspondence from client regarding DNR matter (1), correspondence from Baumann regarding case (1), correspondence to witness regarding depositions (1), review of insurance/attorney matter (5), correspondence to client regarding memo (1)	9 40
01/15/2009	MAERTENS JD	Research issue regarding ability of third party to enforce the terms of an insurance contract between insured and insurer, draft memorandum to Jack Riordan regarding same	4 00
01/16/2009	RIORDAN JP	Correspondence regarding Memo in Support of Motion to Withdraw (6) telephone call to Clemson Extension office (1), prepare Memo in Support of Withdraw (1 7) correspondence to An Lindeman regarding case (2) correspondence from client regarding clover planting (2)	2 80
01/16/2009	MAERTENS JD	Research whether third party can interfere with insured s ability to select independent counsel	50
01/19/2009	RIORDAN JP	Correspondence with client regarding experts (1) prepare memo in support of motion to withdraw (8), correspondence to court/parties regarding memo (1) prepare supplemental discovery responses (1) correspondence with client regarding case/experts (1)	1 20



SMITH MOORE LEATHERWOOD

Hueble, Bill

2/9/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 436020

			Hours
01/20/2009	RIORDAN JP	Correspondence with Casey Heaton regarding case (2), telephone call to Steve Portman regarding case (1) correspondence from plaintiffs regarding motion (2) correspondence with plaintiff's attorneys regarding hearing (1) correspondence from/to client regarding expert/memos (1) correspondence to Dr Dickson regarding case (1), correspondence to co counsel regarding hearing (2) correspondence with Dr Dickson regarding case (5) correspondence with client regarding case/experts (4), prepare for motions hearing including correspondence with co counsel regarding memos research regarding Vaughn/co counsel memos, correspondence to client regarding case information/pleadings (6 1)	8 00
01/20/2009	CARNES DB	Preparation of subpoenas for tapes to Lori Vaughn and Lloyd Vaughn (5) correspondence to Lori Vaughn serving subpoena (3) correspondence to Lloyd Vaughn serving subpoenas (2)	1 00
01/21/2009	RIORDAN JP	Prepare for motion hearing/review of new Hite filings/research of cases/etc (4 5), further preparation for hearing (3), travel to/from Greenwood and attendance at hearing on Motion to Withdraw (3 1) telephone call from/to Pohrman regarding case (1)	8 00
01/22/2009	RIORDAN JP	Correspondence to parties regarding Order/experts (1) telephone calls from/to Clemson extension (2), conference with client regarding case experts (2), telephone call to Dickson (1), correspondence to experts regarding matter (2) prepare supplemental discovery responses (3) correspondence with defense attorneys regarding extension (3), correspondence with client regarding extension (2)	1 60
01/23/2009	RIORDAN JP	Telephone call from Dickson/to client regarding case (2) telephone call to Burchans (1), conference with Burchans regarding case (2) conference with client regarding experts (3) correspondence to/from defense attorney Pruitt regarding documents (1) correspondence with client regarding depositions/information (2)	1 10
01/23/2009	CARNES DB	Revision of subpoenas and service of same on Lori Vaughn and Bill Lloyd and all counsel of record	90
01/26/2009	RIORDAN JP	Correspondence from client regarding experts (1), conference with client regarding experts/case (4), review of statements in preparation for depositions (1 5) correspondence to plaintiff's attorneys regarding USFWS information (2) correspondence from DNR regarding DARS/correspondence to client (5) prepare for depositions (2 3), meeting with client regarding case/depositions (2 3), correspondence with/to client regarding DARS (3)	7 60
01/27/2009	RIORDAN JP	Pare for depositions (5) travel to/from Greenwood and attendance at depositions (10 8) correspondence from DNR regarding 2008 DARS (1)	11 40
01/28/2009	RIORDAN JP	Correspondence with client regarding case/experts (2) correspondence from client/to Pruitt regarding document request (4)	60

3 of 4



SMITH MOORE LEATHERWOOD

Hueble, Bill

2/9/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 436020

			Hours
01/30/2009	RIORDAN JP	Correspondence from client regarding Ohio duck information (1) correspondence with client (2), research regarding Kennar (6) correspondence with Baumann (1) review of Ohio information (2) correspondence with Bill Lloyd/client (3)	1 50
			84 60
Total Fees Through 01/31/2009			\$18,210 50

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	74 30	16717 50
MAERTENS JD	190 00	4 50	855 00
CARNES DB	110 00	5 80	638 00
			84 60 \$18,210 50

EXPENSES

Copying Expense	27 20
Postage	30 86
Deposition Payee Bowen Court Reporting Service Deposition of Wiley Knight 12-08 09	716 35
Witness Fee Payee Lori L Vaughn Witness/mileage fee	35 00
Witness Fee Payee Buddy English	35 00
	\$844 41

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$18,210 50
Total Expenses This Invoice	\$844 41
Total Due This Invoice	\$19,054 91

Total Amount Due Now \$19,054 91

Net Due Upon Receipt

Please Remit Payment To

Smith Moore Leatherwood LLP
Post Office Box 87
Greenville, SC 29602



SMITH MOORE LEATHERWOOD

Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

FILED
FEB 18 2009
CLERK
3/18/09
0598
2009 DEC 1 PM 10 05

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

Invoice 439824

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 02/28/2009

FEES

			Hours
02/01/2009	RIORDAN JP	Correspondence from client regarding Foul	10
02/02/2009	RIORDAN JP	Correspondence to/with client regarding experts/Eryl, (9) correspondence to Joe Denig regarding expert (1), correspondence with R. Kelly regarding experts (2), review of recordings (1 1), correspondence regarding experts/review of US Fish & Wildlife information (4)	2 70
02/04/2009	RIORDAN JP	Correspondence regarding experts/Lacey Act (2), review of U S Fish & Wildlife information (1 1) prepare letter to U S Fish & Wildlife (2)	1 50
02/05/2009	RIORDAN JP	Telephone call to Steve Henry (1), prepare FOIA appeal (1) further review of information from U S Fish & Wildlife Service (2 1), telephone calls from/to/with Steve Henry (1) correspondence to Steve Henry (1)	2 50
02/06/2009	RIORDAN JP	Research regarding experts (5) rev review of tapes (6), correspondence with client regarding tapes (1) research regarding experts (1 1), correspondence with Dr Means (2) correspondence to Dr Williams (1), correspondence from client regarding expert (1)	2 60
02/07/2009	RIORDAN JP	Correspondence from/to L Williams/client	10
02/09/2009	RIORDAN JP	Correspondence from client/G Johnston regarding DNR (1) conferences with expert and client (7)	80
02/10/2009	RIORDAN JP	Correspondence from expert regarding background (1) correspondence from client regarding tapes/visit (1), review of tapes (8) meeting with client regarding tapes/case (9) correspondence to Bill Lloyd regarding tapes/case (1)	2 00
02/11/2009	RIORDAN JP	Review of intent case from client (2), conference with Bill Lloyd regarding case (1) conference with Lori Vaughn regarding case (7), telephone call to client regarding case (1)	1 10
02/12/2009	RIORDAN JP	Telephone call from/to Bill Duncan regarding case (1), correspondence from Hite/to client regarding Tyger River demand (2) review of slander/defamation cases (5), conference with Bill Duncan regarding ADR (1) correspondence with defense attorneys regarding case/schedule/information (6)	1 50



SMITH MOORE LEATHERWOOD

Hueble, Bill

3/18/09

0598

Re General Matters

Our File Number 09124940 137290

Invoice 439824

			Hours
02/13/2009	RIORDAN JP	Correspondence with client regarding case (1) correspondence with Bill Duncan regarding case/ADR (1) correspondence with client regarding case (2), correspondence with defense attorneys regarding ADR (1)	50
02/16/2009	RIORDAN JP	Correspondence with client/expert (2), correspondence with defendant attorneys regarding ADR (1)	30
02/17/2009	RIORDAN JP	Correspondence with client regarding case/ADR (1) conference with Tina McDonald regarding case (1)	20
02/17/2009	RIORDAN JP	Review of bad faith information (2) conference with Bill Duncan regarding case (2), correspondence regarding Travelers offer/response to Parrish (2)	60
02/18/2009	RIORDAN JP	Correspondence from client regarding bad faith cases (1) correspondence with Bill Duncan regarding case (1), correspondence with defendants/client regarding ADR (3), review of bad faith cases (3), correspondence from/to expert regarding case (1)	90
02/19/2009	RIORDAN JP	Correspondence to B Wilson regarding case (1), correspondence with client regarding ADR (1), correspondence with Lovett (1), prepare notice of experts (2) correspondence to plaintiff's attorneys regarding experts (1)	60
02/20/2009	RIORDAN JP	Correspondence with Steve Pruitt regarding expert/ADR/discovery depositions (2) correspondence with R Crouch regarding tapes (1), correspondence with client regarding ADR/depositions/Parrish (1)	40
02/23/2009	RIORDAN JP	Correspondence regarding Lee Bright	20
02/24/2009	RIORDAN JP	Correspondence with client regarding amendment to suit/review of the same	20
02/25/2009	RIORDAN JP	Correspondence with parties regarding ADR (1), correspondence with Steve Pruitt regarding ADR/depositions/experts (3)	50
02/26/2009	RIORDAN JP	Correspondence with plaintiff's attorneys/client regarding ADR	10
02/27/2009	RIORDAN JP	Correspondence to plaintiff's attorneys/client regarding Amended Complaint (1), review of rules/statutes (2)	30
			19 70

Total Fees Through 02/28/2009

\$4,432 50

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	19 70	4432 50
		19 70	\$4,432 50



SMITH MOORE LEATHERWOOD

Hueble, Bill

3/18/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 439824

EXPENSES

Postage	2 69
	\$2 69

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$4,432 50
Total Expenses This Invoice	\$2 69
Total Due This Invoice	\$4,435 19

Total Amount Due Now \$4,435 19

Net Due Upon Receipt

Please Remit Payment To

**Smith Moore Leatherwood LLP
Post Office Box 87
Greenville, SC 29602**



SMITH MOORE LEATHERWOOD

Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

24940/137290

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

3/19/09
0598
2009 DEC
Invoice 439962

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 03/19/2009

FEES

Total Fees Through 03/19/2009

\$0 00

TIME AND FEE SUMMARY EXPENSES

Court Costs Payee Bowen Court Reporting Service Court Reporting Fees, depositions of Buddy English, Terry LeCroy, Wade Cline, Bill Loyd, Lori Vaughn, 01 15 09 01-27-09 1,820 90

\$1,820 90

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$0 00
Total Expenses This Invoice	\$1,820 90
Total Due This Invoice	\$1,820 90

Statement of All Outstanding Invoices

Invoice Date	Invoice #	Unpaid Amount
03/18/09	439824	\$4 435 19
3/19/09	439962	<u>\$1,820.90</u>

Total Amount Due Now \$6,256 09

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SMITH MOORE LEATHERWOOD

Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

2009 DEC 1 AM 1:00
ST 11
4/17/09
0598
Invoice 443692

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 03/31/2009

FEES

			Hours
03/03/2009	RIORDAN JP	Correspondence from client regarding search cases	10
03/03/2009	CARNES DB	Review of depositions and preparation of same for client (8) telephone conference with client (1)	90
03/04/2009	RIORDAN JP	Correspondence from client regarding search cases	10
03/05/2009	RIORDAN JP	Correspondence from defense attorneys regarding depositions/ADR (2), correspondence from Steve Pruitt regarding information/documents (1)	30
03/05/2009	CARNES DB	Communication with court reporter (1), correspondence to client regarding deposition transcripts (4), telephone conference with Mr Hueble (1)	60
03/08/2009	RIORDAN JP	Correspondence to defense attorneys regarding ADR/insurance coverage (1) correspondence from client regarding case/amendment (1)	20
03/09/2009	RIORDAN JP	Correspondence from/to client regarding case information/ADR	20
03/09/2009	CARNES DB	Office conferences with attorney (1) telephone conference with attorney for defendant regarding depositions (2)	30
03/09/2009	CARNES DB	Communications with Mr Hueble regarding deposition transcripts (1), preparation of additional deposition indexes for Mr Hueble (4)	50
03/10/2009	CARNES DB	Preparation of additional depositions for client review (5) correspondence to client (4)	90
03/11/2009	RIORDAN JP	Correspondence with client regarding Amended Complaint (1), research regarding Motion to Amend/elements of claims/deposition testimony and preparation of Motion and Amended Complaint (2 7), correspondence from defense attorneys/to client regarding ADR/options (2) further preparation of Amended Complaint (7) correspondence with client regarding Amended Complaint/meeting with Duncan/Tina (2)	3 80



SMITH MOORE LEATHERWOOD

Hueble, Bill

4/17/09

0598

Re General Matters

Our File Number 09124940 137290

Invoice 443692

			Hours
03/12/2009	RIORDAN JP	Correspondence with client regarding perjury/judicial immunity (1), correspondence from client regarding depositions/witnesses/information (2), correspondence with plaintiff's attorneys regarding ADR (1), telephone call to Bill Duncan/correspondence to Bill Duncan regarding meeting (1) correspondence with B Wilson regarding case (1) prepare Amended Complaint/correspondence to plaintiff's attorneys regarding Amended Complaint (3)	90
03/13/2009	RIORDAN JP	Further preparation of Motion to Amend Complaint (7) correspondence from client regarding Erryl (1) research regarding Biff Sowell/ADR (1), conference with Steve Pruitt regarding case/amendment/depositions/extension (4) research regarding Section 1983/Motion to Amend/Prejudice (1 4)	2 70
03/16/2009	RIORDAN JP	Correspondence from Bill Duncan/to client regarding meeting	10
03/17/2009	RIORDAN JP	Further preparation of Motion to Amend Complaint (2) correspondence regarding GPS (1)	30
03/18/2009	RIORDAN JP	Telephone call to Erryl/review of topics	30
03/19/2009	RIORDAN JP	Correspondence with Steve Pruitt regarding experts (1) prepare supplemental discovery response (1)	20
03/20/2009	RIORDAN JP	Telephone call to/from Bill Duncan regarding case/meeting (1), telephone call to Erryl regarding case (1)	20
03/20/2009	CARNES DB	Preparation of Supplemental Answers to Interrogatories of both defendants (6), preparation of Supplement Responses to Requests for Production to both defendants (5), correspondence to counsel (3)	1 40
03/23/2009	RIORDAN JP	Correspondence with defense attorneys regarding depositions/ADR (1), conference with Bill Duncan regarding case (1)	20
03/24/2009	RIORDAN JP	Correspondence from defense attorneys regarding ADR	10
03/24/2009	CARNES DB	Service of discovery pleadings on all parties	40
03/27/2009	RIORDAN JP	Correspondence with defendants/Duncan regarding ADR/meeting	20
03/30/2009	RIORDAN JP	Correspondence from defense attorneys regarding ADR	10
03/31/2009	RIORDAN JP	Correspondence with client regarding Sarah/case	20
			15 20

Total Fees Through 03/31/2009

\$2,845 00



SMITH MOORE LEATHERWOOD

Hueble, Bill

4/17/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 443692

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	10 20	2295 00
CARNES DB	110 00	5 00	550 00
		15 20	\$2,845 00

EXPENSES

Copying Expense	22 40
Postage	3 21
Filing Fee Payee Clerk Of Court - Motion Fee Amend Complaint	25 00
Outside Copying Payee Legal Eagle Copies	50 82
	<u>\$101 43</u>

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$2,845 00
Total Expenses This Invoice	<u>\$101 43</u>
Total Due This Invoice	<u>\$2,946 43</u>

Statement of All Outstanding Invoices

Invoice Date	Invoice #	Unpaid Amount
03/18/09	439824	\$4 435 19
4/17/09	443692	<u>\$2,946.43</u>

Total Amount Due Now \$7,381 62

Net Due Upon Receipt

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SMITH MOORE LEATHERWOOD

Post Office Box 87
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Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

2009 DEC 1
FEB 6/09
6711 JCMG
51111
Invoice 444366

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 04/30/2009

FEES

			Hours
04/02/2009	RIORDAN JP	Correspondence regarding Eric/Taylor/case (1), correspondence from client regarding Van Kesteren (1)	20
04/03/2009	RIORDAN JP	Correspondence with client regarding Virginia case (2), review of Van Kesteren matters (2), prepare for Taylor deposition (1 2) telephone call to Erryl regarding case (1)	1 70
04/04/2009	RIORDAN JP	Correspondence from client regarding Ruth	10
04/06/2009	RIORDAN JP	Correspondence from plaintiff's attorney regarding Scheduling Order (1) correspondence from client regarding cameras (1) correspondence from client regarding Lineberger (1)	30
04/07/2009	RIORDAN JP	Correspondence from parties regarding deposition/ADR dates	10
04/08/2009	RIORDAN JP	Correspondence from defense attorneys regarding ADR	10
04/09/2009	RIORDAN JP	Correspondence from defense attorney Pruitt regarding cancellation of Taylor deposition/correspondence to client regarding same	10
04/11/2009	RIORDAN JP	Correspondence from client regarding Vaughn dock building/coyote matters	10
04/13/2009	RIORDAN JP	Correspondence from client regarding various topics during spring break week (2) correspondence from defense attorneys regarding depositions and Scheduling Order (1)	30
04/14/2009	RIORDAN JP	Correspondence regarding SC LED's hunting without license (1) conference with client regarding case/Masterson/Gene (3), correspondence with Gene regarding director issue/information (2) conference with defense attorneys regarding schedule (5), correspondence from/to Gene (2), correspondence from parties regarding Scheduling Order (1), correspondence with client regarding case (7),	2 10
04/15/2009	RIORDAN JP	Conferences with client/Lori/research regarding Pacer filings for Vaughn (1 2), correspondence from Steve Pruitt regarding deposition dates	1 30
04/16/2009	RIORDAN JP	Correspondence with Pruitt/client regarding depositions/Frampton (2), correspondence with parties regarding insurance coverage/ADR	30
04/16/2009	CARNES DB	Review of Plaintiff's initial Interrogatories to Defendant Vaughn	20
04/19/2009	RIORDAN JP	Correspondence with S Farrar regarding witness tampering	10



SMITH MOORE LEATHERWOOD

Hueble, Bill

5/6/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 444366

			Hours
04/21/2009	RIORDAN JP	Correspondence from client regarding depositions/ADR.	10
04/22/2009	RIORDAN JP	Correspondence from/to plaintiff's attorney/client regarding depositions (1) correspondence with client regarding case (3)	40
04/23/2009	RIORDAN JP	Correspondence with client/to Steve Pruitt regarding depositions/Duncan/ADR (4), correspondence to defense attorneys regarding insurance coverage (2), correspondence from client regarding settlement information (1), correspondence from/to defense attorneys regarding insurance coverage information (1)	80
04/24/2009	RIORDAN JP	Correspondence with SCHP regarding P Morris case (2), correspondence from/to S Pruitt/client regarding depositions (2) correspondence from/to Matt Staab regarding bad faith cases (2), correspondence from client regarding case/Ohio/FOIA (1) correspondence to Erryl regarding case (1), conference with Erryl regarding case (5), conference with client regarding Erryl information (2) correspondence with client/Steve Pruitt regarding Iowa license cases (2), correspondence with client/to Bill Duncan regarding case/insurance bad faith (3)	2 00
04/24/2009	STAAB MM	Conference with attorney Jack Riordan regarding research assignment (1), research authority for insurance company to settle case without insured's consent (5)	60
04/25/2009	RIORDAN JP	Correspondence from client regarding Ohio codes	10
04/27/2009	RIORDAN JP	Correspondence from Tommy Hite regarding Allstate	10
04/28/2009	RIORDAN JP	Correspondence from client regarding case/to client regarding ADR	10
04/28/2009	STAAB MM	Research caselaw regarding insurer s attempt to settle case with insured's consent	1 20
04/28/2009	CARNES DB	FOIA correspondence to Ohio Department of Natural Resources	50
04/29/2009	RIORDAN JP	Correspondence to client regarding bad faith case (1) correspondence with Rob Moseley regarding Allstate (2), telephone call from client regarding Allstate (1), prepare letter to Ohio DNR (1)	50
04/29/2009	CARNES DB	Review of Ohio Department of Natural Resources website	10
04/30/2009	RIORDAN JP	Correspondence with Tommy Hite/Allstate attorney regarding policy (1), conference with client (2)	30
04/30/2009	RIORDAN JP	Conference with client regarding case/Allstate	40
			14 20
Total Fees Through 04/30/2009			\$3,040 00



SMITH MOORE LEATHERWOOD

Hueble, Bill

5/6/09

0598

Re General Matters

Our File Number 09124940 137290

Invoice 444366

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	11 60	2610 00
STAAB MM	190 00	1 80	342 00
CARNES DB	110 00	80	88 00
		14 20	\$3,040 00

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$3,040 00
Total Expenses This Invoice	\$0 00
Total Due This Invoice	\$3,040 00

Total Amount Due Now \$3,040 00

Net Due Upon Receipt

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**Smith Moore Leatherwood LLP
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Greenville, SC 29602**



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Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

2009 DEC 1 PM 1:05
6/22/09
0598
Invoice 449105

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 05/31/2009

FEES

			Hours
05/04/2009	RIORDAN JP	Correspondence from Vaughn insurance agent regarding Allstate (1) correspondence from client regarding NC GW billing/assaults (1),	20
05/07/2009	CARNES DB	Telephone conferences with Ohio Department of Natural Resources regarding Vaughn's licenses and permits (6)	60
05/11/2009	RIORDAN JP	Correspondence from Ohio DNR to client regarding stamps etc (2) correspondence from S Pruitt and to client regarding depositions (1)	30
05/11/2009	CARNES DB	Telephone conference with Ohio Department of Natural Resources (2), memorandum to attorney (5)	70
05/14/2009	RIORDAN JP	Telephone call to/from Duncan regarding meeting	10
05/15/2009	RIORDAN JP	Conference with Bill Duncan regarding case (1), correspondence from Pruitt/to client regarding depositions (1)	20
05/18/2009	CARNES DB	Scheduling additional depositions with counsel	40
05/20/2009	RIORDAN JP	Correspondence with plaintiff's attorney regarding deposition dates	10
05/21/2009	RIORDAN JP	Conference with client regarding letter to Tina (1) correspondence from client regarding cases/expert (1)	20
05/26/2009	RIORDAN JP	Correspondence from/to client regarding letter to Tina (2), correspondence with plaintiff's attorney regarding depositions (1)	30
05/27/2009	CARNES DB	Scheduling depositions of additional witnesses (2)	20
05/28/2009	RIORDAN JP	Correspondence from client regarding Clemson extension/discovery due (1) correspondence with client regarding fees (1) correspondence from/to client regarding potential witness (2) correspondence regarding contact/mayor (1)	50
05/29/2009	RIORDAN JP	Conference with B Duncan/client regarding meeting (1) conference with client regarding case/Wyndham (2), conference with Wyndham (1), conference with client regarding Wyndham/meeting (1) telephone call from/to client regarding meeting (1)	60
05/30/2009	RIORDAN JP	Correspondence from client regarding case law	10
			4 50

Total Fees Through 05/31/2009

\$794 00



SMITH MOORE LEATHERWOOD

Hueble, Bill

6/22/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 449105

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	2 60	585 00
CARNES DB	110 00	1 90	209 00
		4 50	\$794 00

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$794 00
Total Expenses This Invoice	\$0 00
Total Due This Invoice	\$794 00

Total Amount Due Now \$794 00

Net Due Upon Receipt

Please Remit Payment To

**Smith Moore Leatherwood LLP
Post Office Box 87
Greenville, SC 29602**



SMITH MOORE LEATHERWOOD

Post Office Box 87
Greenville SC 29602
Identification # 56 1493364

To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

7/23/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 450515

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 06/30/2009

FEES

			Hours
06/01/2009	RIORDAN JP	Prepare for and attendance at meeting (2 3), telephone call to mediator regarding case (1), conference with client regarding letter/case (1)	2 50
06/01/2009	CARNES DB	Review of final deposition schedule	30
06/01/2009	FARR NA	Pull and shephardize cases per e mail (Jack Riordan)	40
06/02/2009	RIORDAN JP	Correspondence with parties/client regarding depositions/ADR (2) telephone calls from/to mediator regarding ADR (1) review of synopsis (1)	40
06/02/2009	CARNES DB	Scheduling depositions telephone conferences with client, telephone conference and communications with counsel, preparation Notice of Depositions, correspondence to counsel telephone conference with witness	1 90
06/03/2009	RIORDAN JP	Correspondence with plaintiffs regarding experts/depositions	10
06/03/2009	STAAB MM	Research caselaw on open fields doctrine and search and seizure	40
06/03/2009	CARNES DB	Telephone conference with client regarding deposition schedule communications with counsel scheduling depositions telephone conference with witnesses ACCURINT search on witness telephone conference and communication with expert witnesses	1 50
06/04/2009	RIORDAN JP	Correspondence with client/mediator regarding ADR.	30
06/04/2009	STAAB MM	Continue research of caselaw regarding open fields doctrine and search/seizure of client's property	1 00
06/04/2009	CARNES DB	Communications with outside counsel attorney witnesses and client to coordinate scheduling of depositions revisions to Notice of Depositions and subpoenas, requesting witness fees communications with court reporter	2 90
06/05/2009	RIORDAN JP	Correspondence regarding experts/depositions/ADR/Travelers, correspondence to mediator regarding memo material	60
06/05/2009	CARNES DB	Coordinating depositions of experts and fact witnesses communications telephone conferences and correspondence with witnesses	1 90
06/08/2009	RIORDAN JP	Travel to/from Columbia and attendance at ADR	11 30



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7/23/09
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Re General Matters
Our File Number 09124940 137290

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			Hours
06/08/2009	CARNES DB	Communications with opposing counsel regarding depositions of Plaintiff's expert	90
06/09/2009	RIORDAN JP	Correspondence regarding settlement talks/telephone calls regarding Mabry (4) correspondence from/to Steve Pruitt regarding Crampon depositions (1), conferences with client/contacts regarding case (1 0) conferences with client/contacts (1 5) (no charge)	3 00
06/09/2009	CARNES DB	Preparation of Notice of Deposition, Certificate of Service and correspondence to counsel regarding deposition of Director Frampton	70
06/10/2009	RIORDAN JP	Conferences with Bob Erwin/client/Steve Pruitt regarding case (1 3) prepare Subpoena/Notice for Frampton deposition (1) correspondence to plaintiffs regarding depositions (1), correspondence with Steve Pruitt regarding discovery owed (2), correspondence with client regarding Travelers (1)	2 10
06/10/2009	CARNES DB	Preparation of subpoena and revised correspondence to counsel (5), service of same (2)	70
06/11/2009	RIORDAN JP	Correspondence with client regarding case/Ellenburg (1) correspondence to states regarding FOIA request (1)	20
06/11/2009	CARNES DB	Research on neighboring states department of natural resources type agencies and correspondence to same regarding Vaughn	80
06/12/2009	RIORDAN JP	Correspondence with client/Chad Jenkins regarding cases (6) telephone call to J Howell/information regarding Judge (2), correspondence with Judge Howell/prepare FOIA letters to states (1)	90
06/12/2009	CARNES DB	Finalizing FOIA letters to DNR offices and service of same	50
06/16/2009	RIORDAN JP	Correspondence from Judge Howell/to client regarding case	50
06/16/2009	FARR NA	Research (re Defamation of public official and Search and seizure) (per Jack Riordan) (NO CHARGE)	1 40
06/17/2009	RIORDAN JP	Correspondence from/to client regarding Jones/Judge Howell	30
06/17/2009	FARR NA	Research (re Defamation actions by public officials and search and seizure) (per Jack Riordan) (NO CHARGE)	2 90
06/18/2009	RIORDAN JP	Correspondence regarding J Jones/case	20
06/19/2009	RIORDAN JP	Correspondence with client regarding case	20
06/23/2009	RIORDAN JP	Correspondence from Bill Duncan to client regarding case	10
06/24/2009	RIORDAN JP	Correspondence with client/mediator regarding case (3) prepare revised letter to Vaughn (4)	70
06/26/2009	RIORDAN JP	Conference with client regarding case (3), correspondence with client regarding case (1) correspondence to plaintiff's attorney regarding depositions (1),	50
06/29/2009	RIORDAN JP	Correspondence with defense attorney	10



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			Hours
06/29/2009	CARNES DB	Telephone conferences and communications with experts, attorneys court reporter and witnesses regarding depositions (8) review of FOIA responses (2)	1 00
06/30/2009	RIORDAN JP	Correspondence with client regarding depositions/ J Howell/ Frampton (2), correspondence with defense counsel regarding depositions (1), correspondence from Steve Pruitt regarding Motion to Quash (2)	50
			43 70
Total Fees Through 06/30/2009			\$7,271 50

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	24 50	5512 50
STAAB MM	190 00	1 40	266 00
CARNES DB	110 00	13 10	1441 00
FARR NA	130 00	40	52 00
FARR NA	0 00	4 30	0 00
			43 70 \$7,271 50

EXPENSES

Copying Expense	1 60
Postage	6 33
Witness Fee Payee Wade Batson Deposition witness fee	25 00
Witness Fee Payee Will Batson Deposition witness fee plus round trip mileage from Columbia to Greenwood	114 10
Witness Fee -Payee Stephen Davis Deposition witness fee	25 00
Reversal from Void Check Number 14393 Bank ID BBTGvl Voucher ID 414805 Vendor Stephen Davis	25 00
	\$147 03

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$7,271 50
Total Expenses This Invoice	\$147 03
Total Due This Invoice	\$7,418 53

Total Amount Due Now \$7,418 53

Net Due Upon Receipt



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Hueble, Bill

7/23/09
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Re General Matters
Our File Number 09124940 137290

Invoice 450515

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104 Abingdon Way
Greenville, SC 29615

8/14/09
0598

Re General Matters
Our File Number 09124940 137290

2009 DEC 10 06
FIVE
OF THE
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INVEST
Invoice 453764

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 07/31/2009

FEES

			Hours
07/01/2009	RIORDAN JP	Correspondence from/to S Pruitt's office regarding motions	10
07/02/2009	RIORDAN JP	Correspondence with client regarding case/Pitts	40
07/07/2009	WOODLIFF SC	Conduct caselaw research on requirements needed in order to depose director of state agency (No Charge)	1 60
07/08/2009	WOODLIFF SC	Continue research to find cases that discuss deposing state officials rebutting motion to quash, and limitations on discovery (No Charge)	3 00
07/09/2009	WOODLIFF SC	Continue researching requirements to depose officials of government agencies including how to respond to motion to quash subpoena under SCRCP Rule 26 (No Charge)	3 20
07/10/2009	WOODLIFF SC	Draft bulletpoints on research findings, continue research on South Carolina treatment of motions to quash subpoenas and deposing state officials share and submit findings to Jack Riordan	4 70
07/14/2009	RIORDAN JP	Correspondence from states regarding FOIA/hunting information	10
07/15/2009	RIORDAN JP	Correspondence from court/to client regarding hearing date (1), correspondence from State's regarding FOIA/correspondence to Louisiana contact regarding information (2), correspondence with Steve Pruitt/client regarding hearing and proposed settlement (2) correspondence with client regarding FOIA information/trial dates (1)	60
07/16/2009	RIORDAN JP	Correspondence from Steve Pruitt regarding continuance (1) Correspondence from client regarding Arkansas TMP (1)	20
07/16/2009	CARNES DB	Communications with attorney and client regarding FOIA responses	20
07/17/2009	RIORDAN JP	Telephone call to/from client regarding Louisiana information (1), prepare correspondence to Louisiana regarding records (1), correspondence to/from James Landry regarding information (2)	40
07/17/2009	CARNES DB	Preparation of Subpoena to Louisiana Department of Wildlife and Fisheries (4), correspondence to Louisiana Department of Wildlife and Fisheries Licensing Director (3)	70
07/20/2009	RIORDAN JP	Correspondence to court regarding hearing	10
07/21/2009	RIORDAN JP	Correspondence from court regarding hearing (1) correspondence from Louisiana to client regarding records (1)	20



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Re General Matters
Our File Number 09124940 137290

Invoice 453764

			Hours
07/27/2009	RIORDAN JP	Correspondence from/to client regarding case (1) correspondence to Arkansas paralegal regarding case (1)	20
07/28/2009	RIORDAN JP	Correspondence with W Haggans regarding Arkansas paperwork	20
07/28/2009	CARNES DB	Communications with attorney and client regarding rescheduling of DNR depositions	30
07/31/2009	RIORDAN JP	Correspondence regarding police conspiracy matters	30
			<u>16 50</u>
Total Fees Through 07/31/2009			\$1,373 00

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	2 80	630 00
CARNES DB	110 00	1 20	132 00
WOODLIFF SC	130 00	4 70	611 00
			<u>16 50</u>
			\$1,373 00

EXPENSES

Computer Research Westlaw	<u>75 45</u>
	\$75 45

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$1,373 00
Total Expenses This Invoice	<u>\$75 45</u>
Total Due This Invoice	\$1,448 45

Statement of All Outstanding Invoices

Invoice Date	Invoice #	Unpaid Amount
07/23/09	450515	\$7,418 53
8/14/09	453764	<u>\$1,448.45</u>

Total Amount Due Now \$8,866 98



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8/14/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 453764

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To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

9/16/09
0598

Re General Matters
Our File Number 09124940 137290

2009 DECEMBER 1
Invoice 456571

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 08/31/2009

FEES			Hours
08/03/2009	RIORDAN JP	Correspondence from Travelers/to client regarding case (2) correspondence with plaintiff's attorney regarding depositions (1)	30
08/03/2009	CARNES DB	Communications with all counsel to reschedule depositions of Department of Natural Resources personnel	1 00
08/04/2009	CARNES DB	Communications with counsel regarding rescheduling Department of Natural Resources depositions	60
08/05/2009	RIORDAN JP	Correspondence with client regarding depositions/transcripts (1) correspondence from/to Steve Pruitt regarding hearing (1) further correspondence with Steve Pruitt regarding case/depositions/hearing/settlement/Mabry (4)	60
08/06/2009	RIORDAN JP	Telephone call from Bob Erwin regarding settlement talks	10
08/13/2009	RIORDAN JP	Correspondence from defense attorneys regarding depositions/motion for summary judgment (2) telephone call from court/correspondence to client regarding case (1)	30
08/14/2009	RIORDAN JP	Correspondence with client regarding summary judgment/settlement	20
08/17/2009	RIORDAN JP	Correspondence to Victor McDade regarding Motion for Summary Judgment	10
08/18/2009	RIORDAN JP	Correspondence from/to defense attorney Pruitt regarding plaintiff's witnesses	10
08/19/2009	RIORDAN JP	Correspondence from defense attorney Pruitt/to client regarding trial date	10
08/20/2009	RIORDAN JP	Correspondence from defense attorney Pruitt/to client regarding trial date (1), conference with client regarding case (2), correspondence from/to S Pruitt regarding letter to Judge requesting date certain (1) correspondence from plaintiff's attorney regarding proposed Scheduling Order (1)	50
08/21/2009	RIORDAN JP	Correspondence from court regarding hearings on 9/9/09 (1) correspondence with defense attorney Pruitt regarding hearings/schedule (1)	20
08/24/2009	RIORDAN JP	Correspondence from plaintiff's attorney to court regarding trial/hearings (1), correspondence from plaintiff's attorney regarding letter to court and summary judgment motion and correspondence from court/to plaintiff's attorneys regarding hearing date (1)	20



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Hueble, Bill

9/16/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 456571

			Hours
08/27/2009	RIORDAN JP	Correspondence from plaintiff's attorney/to client regarding case scheduling	10
08/28/2009	RIORDAN JP	Correspondence from/to client regarding hearings/settlement (1), prepare outlines of hearing memos (4) telephone call to Arkansas DNR regarding Vaughn records (1) correspondence from/to client regarding DNR logs (1)	70
08/31/2009	RIORDAN JP	Correspondence from client regarding camera/bad cop issues (2) prepare memos for hearings (1 7)	1 90
			7 00
Total Fees Through 08/31/2009			\$1,391 00

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	5 40	1215 00
CARNES DB	110 00	1 60	176 00
		7 00	\$1,391 00

EXPENSES

Postage	2 20
	\$2 20

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$1,391 00
Total Expenses This Invoice	\$2 20
Total Due This Invoice	\$1,393 20

Total Amount Due Now \$1,393 20

Net Due Upon Receipt

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Greenville, SC 29602



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Identification # 56 1493364

To Mr. Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

FILED
10/19/09
0598
2009 DEC 1 AM 1:05

Invoice # 459983

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 09/30/2009

FEES

			Hours
09/01/2009	RIORDAN JP	Review of defamation case/correspondence to client regarding same (2), correspondence from client regarding obstruction of cameras (1)	30
09/02/2009	RIORDAN JP	Correspondence to client regarding defamation (1), prepare memo outlines (1), correspondence with client regarding case issues (1)	1 30
09/04/2009	RIORDAN JP	Correspondence from/to client regarding amendment (1), prepare for potential hearings (5), correspondence with client regarding summary judgment memo (1), telephone calls to defense attorneys regarding summary judgment motions (2), prepare Memo in Opposition to Summary Judgment (7), correspondence from defense attorney McDade regarding Memo in Support of summary judgment (5), conferences with defense attorneys McDade/Pruitt regarding continuance of summary judgment hearings (6)	8 10
09/05/2009	RIORDAN JP	Prepare memos in preparation for hearings	2 60
09/06/2009	RIORDAN JP	Further preparation of memos in preparation for hearings	3 10
09/08/2009	RIORDAN JP	Correspondence with client (1), review of Gene's deposition/prepare Affidavit (1), correspondence from/to court regarding hearings (3), review of statutes (1), correspondence from defense attorney regarding hearing/trial to client regarding same (1), review of DNR policy/statutes in preparation for hearings (1), correspondence from court/defense attorneys regarding hearings/memos from defense attorneys (2), correspondence to client regarding memos (2), prepare for motions' arguments (1)	8 90
09/09/2009	RIORDAN JP	Prepare Affidavit/conferences with Gene (7), prepare for motions hearings (2), conference with Bill Duncan regarding hearing (1), travel to/from Greenwood and attendance at motion hearings (5)	8 20
09/10/2009	RIORDAN JP	Correspondence with client regarding hearings	10
09/11/2009	RIORDAN JP	Correspondence from Gene regarding DNR (1) correspondence with client regarding case (2), review of co defendant information/defamation/negligence (1)	2 00
09/14/2009	RIORDAN JP	Review of DNR policy manual	2 20



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Hueble, Bill

10/19/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 459983

			Hours
09/15/2009	RIORDAN JP	Prepare Memo in Opposition to Summary Judgment (8), review of case law in preparation for summary judgment memos (1 3), telephone call from/to client regarding case (1)	2 20
09/16/2009	RIORDAN JP	Correspondence from/to client regarding artifacts matter/Lori	10
09/18/2009	RIORDAN JP	Correspondence from defense attorney regarding depositions (1), telephone calls to Lori and Bill Lloyd/conference with Bill Lloyd (3) conference with client regarding artifacts, etc (1)	50
09/21/2009	RIORDAN JP	Correspondence from client regarding open fields cases/discussions (9) review/obtainment of search issues (5), review of summary judgment memos/prepare memo in opposition (8)	2 20
09/22/2009	RIORDAN JP	Telephone call to Lori regarding case (1), conference with Lori regarding artifacts/Eric/others (2), conference with client regarding case/depositions/search (2)	50
09/23/2009	RIORDAN JP	Correspondence with client regarding video	60
09/25/2009	RIORDAN JP	Correspondence to defense attorney Pruitt regarding depositions	10
09/28/2009	RIORDAN JP	Correspondence from/to plaintiff's attorney regarding depositions (1), correspondence from court/to client regarding motions/order (1)	20
09/28/2009	CARNES DB	Review of file and communications with attorney regarding rescheduling depositions	50
09/29/2009	RIORDAN JP	Correspondence with court regarding Orders (1), correspondence with client regarding motions/Gene/records	30
09/29/2009	EVANS TG	Pull supporting case law used in Memorandum in support of Motion for Summary Judgment	50
09/30/2009	RIORDAN JP	Telephone call from/to S Pruitt regarding case	10
09/30/2009	CARNES DB	Rescheduling depositions of DNR personnel and experts	30
			<u>44 90</u>
Total Fees Through 09/30/2009			\$9,988 00

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	43 60	9810 00
EVANS TG	180 00	50	90 00
CARNES DB	110 00	80	88 00
		<u>44 90</u>	<u>\$9,988 00</u>



SMITH MOORE LEATHERWOOD

Hueble, Bill

10/19/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 459983

EXPENSES

Postage	0 61
Computer Research Westlaw	4 48
	<u>\$5 09</u>

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$9,988 00
Total Expenses This Invoice	<u>\$5 09</u>
Total Due This Invoice	<u>\$9,993 09</u>

Statement of All Outstanding Invoices

Invoice Date	Invoice #	Unpaid Amount
09/16/09	456571	\$1,393 20
10/19/09	459983	<u>\$9,993.09</u>

Total Amount Due Now \$11,386 29

Net Due Upon Receipt

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To Mr Bill Hueble
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Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

FILED
11/13/09
0598
DEC 1 AM 1C 06
Invoice 462157

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 10/31/2009

FEES

			Hours
10/01/2009	RIORDAN JP	Correspondence from Steve Pruitt regarding Motion to Quash/Richland (1) correspondence with defense attorneys regarding deposition date (1) prepare Order as requested by Judge (2 1), correspondence to defense attorney regarding Orders (2)	2 50
10/01/2009	EVANS TG	Research case law and statutory annotations for propositions to support Plaintiff's claim	1 30
10/02/2009	RIORDAN JP	Correspondence from court/to client regarding Orders	10
10/02/2009	CARNES DB	Rescheduling depositions communications and telephone conferences with opposing counsel to schedule depositions (4), telephone conference with Brian Williams (2), communications with Lovett Williams (2)	80
10/05/2009	EVANS TG	Research and review case law to support Plaintiff's brief in opposition of MSJ	2 20
10/05/2009	CARNES DB	Communications with counsel to reschedule depositions of experts and additional witnesses	60
10/06/2009	RIORDAN JP	Conference with client/prepare Memo in Opposition to Motion for Summary Judgment (1 1), review of research/1983 other issues raised by summary judgment (3) filing amended complaint (1)	1 50
10/06/2009	EVANS TG	Review case law and prepare outline to summarize supporting propositions research additional issues for client's argument	1 40
10/07/2009	RIORDAN JP	Correspondence from defense attorney Hite/to client regarding summary judgment (1), correspondence with client regarding case/summary judgment (1) correspondence with Tynetra Evans regarding defamation research (1),	30
10/07/2009	EVANS TG	Review case law to support HED claim (0 50), Review depositions (1 20), review Defendant's motion for summary judgment and research case law concerning qualified privilege/qualified immunity (1 80)	1 60
10/08/2009	RIORDAN JP	Correspondence from client regarding cites from deposition (2) correspondence from/to client regarding depositions information/Memorandum (1)	30
10/08/2009	EVANS TG	Research and review case law concerning qualified privilege and qualified immunity (2 8), draft research memorandum (2 0)	2 50



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Hueble, Bill

11/13/09
0598

Re General Matters
Our File Number 09124940 137290

Invoice 462157

			Hours
10/09/2009	RIORDAN JP	Correspondence with client regarding Memorandum (1), further preparation of Memorandum in Opposition to Motions for Summary Judgment (1 8)	1 90
10/09/2009	EVANS TG	Revise research memorandum concerning qualified privilege and qualified immunity	1 50
10/11/2009	RIORDAN JP	Preparation of Memorandum in Opposition to Motions for Summary Judgment	14 00
10/12/2009	RIORDAN JP	Further preparation of Memorandum in Opposition to Motion for Summary Judgment/work on exhibits	11 30
10/13/2009	RIORDAN JP	Correspondence with office regarding Affidavit/filings	20
10/13/2009	CARNES DB	Preparation of deposition transcripts and exhibits in support of Memorandum in Opposition	2 90
10/13/2009	DOWLING PR	Finalize Exhibits and Depositions Excerpts for Memorandum in Opposition to Defendants Motion for Summary Judgment prepare letter to Clerk for filing Memorandum scanning and e mailing letter Memorandum and exhibits/excerpts to Judge Griffith and counsel for defendants	3 00
10/14/2009	RIORDAN JP	Correspondence from court regarding hearing (1) correspondence from Tommy Hite/to client regarding Memo (1), review of Hite Memo/cases (7), review of ADR rules/prepare revised Affidavit/correspondence to court regarding ADR cites (7) prepare for summary judgment hearing (2 3)	3 90
10/14/2009	EVANS TG	Review Defendant's memorandum in support of motion for summary judgment research case law adverse to Defendant's argument	50
10/15/2009	RIORDAN JP	Travel to/from Greenwood and attendance at hearing on Motions for summary judgment (5 0), conference with Bob Erwin regarding settlement (1)	5 10
10/15/2009	CARNES DB	Communications with experts and counsel regarding depositions	50
10/19/2009	RIORDAN JP	Correspondence from client regarding GW cases (1) review of settlement statement (1)	20
10/20/2009	CARNES DB	Telephone conferences with attorneys regarding rescheduling depositions (3), communications with expert witness regarding same (1)	40
10/21/2009	RIORDAN JP	Correspondence from client and Defendant attorney Pruitt regarding GW cases and depositions	10



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11/13/09
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Re General Matters

Our File Number 09124940 137290

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			Hours
10/21/2009	RIORDAN JP	Correspondence with P Reed regarding meeting with Governor	20
10/22/2009	RIORDAN JP	Correspondence with S Pruitt regarding settlement and depositions	30
10/22/2009	RIORDAN JP	Correspondence with Attorney Pruitt regarding case settlement and depositions (3) correspondence to Attorney Pruitt regarding trial and settlement (1)	40
10/22/2009	CARNES DB	Telephone conferences with and communications to opposing counsel and client to reschedule depositions	60
10/23/2009	RIORDAN JP	Correspondence from/to Steve Pruitt regarding DNR Order/Answer/discovery	20
10/23/2009	CARNES DB	Communications with client opposing counsel and expert regarding depositions	30
10/26/2009	RIORDAN JP	Research regarding search issues	1 70
10/28/2009	RIORDAN JP	Correspondence with plaintiff's attorneys/to client regarding deposition dates	20
10/28/2009	CARNES DB	Conferences with attorney regarding Amended Notice of Depositions (5) telephone conference with opposing counsel regarding depositions (2)	70
10/29/2009	RIORDAN JP	Correspondence from client/to plaintiff's attorneys regarding depositions	10
10/30/2009	RIORDAN JP	Prepare proposed letter (3) correspondence from/to client regarding letter (1)	40
			65 70

Total Fees Through 10/31/2009

\$13,055 50

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	44 90	10102 50
EVANS TG	180 00	11 00	1980 00
CARNES DB	110 00	6 80	748 00
DOWLING PR	75 00	3 00	225 00
			65 70 \$13,055 50

EXPENSES

Copying Expense	224 20
Postage	10 34
Computer Research Westlaw	520 17
Computer Research Lexis/Nexis	81 90



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Hueble, Bill

11/13/09
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Re General Matters

Our File Number 09124940 137290

Invoice 462157

Courier Service

6 43

\$843 04

CURRENT INVOICE TOTALS

Total Fees This Invoice \$13,055 50

Total Expenses This Invoice \$843 04

Total Due This Invoice \$13,898 54

Statement of All Outstanding Invoices

Invoice Date	Invoice #	Unpaid Amount
09/16/09	456571	\$1 393 20
10/19/09	459983	\$9 993 09
11/13/09	462157	<u>\$13,898.54</u>

Total Amount Due Now \$25,284 83

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To Mr Bill Hueble
104 Abingdon Way
Greenville, SC 29615

Re General Matters
Our File Number 09124940 137290

11/25/09
- 0598
Invoice 463490

INVOICE FOR PROFESSIONAL SERVICES RENDERED THROUGH 11/17/2009

FEES

			Hours
11/03/2009	RIORDAN JP	Correspondence from/to client regarding settlement statement (1), correspondence with client regarding statement/case (2), research regarding criminal v civil trespass new case (2)	50
11/04/2009	RIORDAN JP	Correspondence from client regarding Iowa charges (1), settlement review/correspondence to/from plaintiff's attorneys/to client (3) review of defamation speech case from 4th Circuit (3)	70
11/05/2009	RIORDAN JP	Correspondence from Steve Pruitt regarding settlement/correspondence with client regarding case/settlement	30
11/06/2009	CARNES DB	Telephone conferences with opposing counsel regarding deposition of experts (2), arrangements for depositions of experts (3), telephone conference with Will Batson regarding deposition (2) correspondence to counsel regarding deposition (3), preparation of subpoenas to Department of Natural Resources personnel (4) correspondence to Brian Wilson regarding deposition (2)	1 60
11/09/2009	RIORDAN JP	Telephone call from/to defense attorney McDade regarding case/Answer (1) correspondence from/to court regarding trial date (1), research regarding DNR (2) telephone call to Paula regarding Governor (1) research regarding Birds/Governor/DNR (7)	1 20
11/09/2009	CARNES DB	Conference with counsel regarding depositions	20
11/10/2009	RIORDAN JP	Correspondence from plaintiff's attorney regarding settlement (1) conference with client regarding case/depositions (3) correspondence from defense attorney Pruitt/to client regarding settlement (1), telephone call to defense attorney Pruitt regarding settlement/depositions (1)	60
11/10/2009	CARNES DB	Preparation of exhibits to subpoenas (5), revision of subpoenas and Amended Notice of Depositions (7), communications with Lovett Williams regarding deposition (1), communications with counsel for Defendants regarding depositions (2), internal arrangements regarding teleconferencing equipment (4)	1 90
11/11/2009	RIORDAN JP	Correspondence regarding and with Andre Bauer/friends of Andre (5) telephone call to Governor's office/constituent affairs (1) telephone call from/to Andre Bauer regarding DNR (2)	80



SMITH MOORE LEATHERWOOD

Hueble, Bill

11/25/09

0598

Re General Matters

Our File Number 09124940 137290

Invoice 463490

			Hours
11/11/2009	CARNES DB	Communications with and correspondence to court reporter (3) telephone conference with Will Batson regarding deposition (2), correspondence to Will Batson (3)	80
11/12/2009	RIORDAN JP	Correspondence from court regarding trial (1) telephone conferences with client regarding case (4) telephone call to defense attorney Pruitt regarding case (3), review of client information (3)	1 10
11/12/2009	CARNES DB	Service of Subpoena on Will Batson	20
11/13/2009	RIORDAN JP	Conference with client regarding case/settlement (5), telephone calls from/to Steve Pruitt regarding case (1), correspondence with Steve Pruitt regarding case/settlement (2), conference with client regarding settlement (2)	1 00
11/13/2009	CARNES DB	Communications with expert witnesses and counsel for defendant regarding expert witness depositions	40
11/15/2009	RIORDAN JP	Review of depositions/notes/materials in preparation for depositions	2 80
11/16/2009	RIORDAN JP	Correspondence from/to defense attorney Pruitt regarding lack of settlement (1), correspondence from defendant attorney Pruitt regarding deposition of plaintiff's experts (1), correspondence from defense attorney Hite regarding Answer/counterclaim (1), prepare for depositions of experts (1), prepare Reply to counterclaim (2), correspondence to C Williams/B Wilson regarding depositions (1) correspondence from/to Steve Pruitt/court regarding case (1), research regarding Offer of Judgment Section 1983 prevailing party (1 1)	1 90
11/17/2009	RIORDAN JP	Correspondence from Steve Pruitt regarding experts/documents (1) correspondence to experts regarding case (2), prepare for deposition of Captain Holbrooks (1 7)	2 00
			18 00

Total Fees Through 11/17/2009

\$3,463 50

TIME AND FEE SUMMARY

	Rate	Hours	Fees
RIORDAN JP	225 00	12 90	2902 50
CARNES DB	110 00	5 10	561 00
		18 00	\$3,463 50

EXPENSES

Postage	4 54
	\$4 54



SMITH MOORE LEATHERWOOD

Hueble, Bill

11/25/09

0598

Re General Matters

Our File Number 09124940 137290

Invoice 463490

CURRENT INVOICE TOTALS

Total Fees This Invoice	\$3,463 50
Total Expenses This Invoice	\$4 54
Total Due This Invoice	\$3,468 04

Statement of All Outstanding Invoices

Invoice Date	Invoice #	Unpaid Amount
11/13/09	462157	\$13,898 54
11/25/09	463490	<u>\$3,468.04</u>

Total Amount Due Now \$17,366 58

Net Due Upon Receipt

Please Remit Payment To

**Smith Moore Leatherwood LLP
Post Office Box 87
Greenville, SC 29602**

Please disregard any outstanding amount for which payment has already been made



Bowen Court Reporting Service
109 WEST CALHOUN STREET
POST OFFICE BOX 2422
ANDERSON, SOUTH CAROLINA
29622

Handwritten signature

Invoice

Date	Invoice #
2/25/2009	16708

Bill To
SMITH MOORE LEATHERWOOD L L P JOHN P RIORDAN, ESQUIRE 300 EAST MCBEE AVENUE SUITE 500 GREENVILLE, SOUTH CAROLINA 29601

CASE CAPTION
WILLIAM ALVIN HUEBLE, JR. VS SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND ERIC RANDALL VAUGHN C.A. NO 2007 CP 24-1056

Terms	Due Date	Rep	Fed I D No
DUE UPON RECE	2/25/2009	SKC	57-0709693

Item	Description	Amount
ORIGINAL & 1 COPY	DEPOSITION OF MARVIN T "BUDDY" ENGLISH, JR.	581 25
APPEARANCE FEE	APPEARANCE/TAKING FEE (HALF DAY RATE)	75 00
SIGNATURE	SIGNATURE CHARGE	15 00
BLACK & WHITE EXHIB	BLACK & WHITE EXHIBIT CHARGE	1 40
COMPRESSED/KEYWOR	COMPRESSED TRANSCRIPT W/KEY WORD INDEX	0 00
MILEAGE	MILEAGE CHARGE (ABBEVILLE, SC)	0 00
CERT POSTAGE	POSTAGE/HANDLING/DELIVERY CHARGE	12 00
CARRYING CHARGES OF 1 5% PER MONTH WILL BE ASSESSED TO INVOICES NOT PAID WITHIN 30 DAYS		
Total		\$684 65

**PLEASE INCLUDE A COPY OF THE INVOICE WITH REMITTANCE AND
INCLUDE THE INVOICE NUMBER ON YOUR PAYMENT IN ORDER TO ASSURE
PROPER CREDIT TO YOUR ACCOUNT



Bowen Court Reporting Service
109 WEST CALHOUN STREET
POST OFFICE BOX 2422
ANDERSON, SOUTH CAROLINA
29622

paid

Invoice

Date	Invoice #
2/12/2009	16689

Bill To
SMITH MOORE LEATHERWOOD L.L.P. JOHN P. RIORDAN ESQUIRE 300 EAST MCBEE AVENUE SUITE 500 GREENVILLE, SOUTH CAROLINA 29601

CASE CAPTION
WILLIAM ALVIN HUEBLE JR. VS SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND ERIC RANDALL VAUGHN C.A. NO. 2007-CP 24-1056

Terms	Due Date	Rep	Fed ID No
DUE UPON RECE	2/12/2009	\$KC	57 0709693

Item	Description	Amount
APPEARANCE FEE	APPEARANCE/TAKING FEE (ALL DAY RATE)	150 00
ORIGINAL & 1 COPY	DEPOSITION OF TERRY LECROY	375 00
COMPRESSED/KEYWORD	COMPRESSED TRANSCRIPT W/KEY WORD INDEX	0 00
ORIGINAL & 1 COPY	DEPOSITION OF WADE CLINE	367 50
COMPRESSED/KEYWORD	COMPRESSED TRANSCRIPT W/KEY WORD INDEX	0 00
ORIGINAL & 1 COPY	DEPOSITION OF BILL LOYD	67 50
SIGNATURE	SIGNATURE CHARGE	15 00
COMPRESSED/KEYWORD	COMPRESSED TRANSCRIPT W/KEY WORD INDEX	0 00
ORIGINAL & 1 COPY	DEPOSITION OF LORI VAUGHN	131 25
SIGNATURE	SIGNATURE CHARGE	15 00
COMPRESSED/KEYWORD	COMPRESSED TRANSCRIPT W/KEY WORD INDEX	0 00
MILEAGE	MILEAGE CHARGE (GREENWOOD SC)	0 00
CERT POSTAGE	POSTAGE/HANDLING/DELIVERY CHARGE	15 00

CARRYING CHARGES OF 1 5% PER MONTH WILL BE ASSESSED TO INVOICES
NOT PAID WITHIN 30 DAYS

Total

\$1,136 25

**PLEASE INCLUDE A COPY OF THE INVOICE WITH REMITTANCE AND
INCLUDE THE INVOICE NUMBER ON YOUR PAYMENT IN ORDER TO ASSURE
PROPER CREDIT TO YOUR ACCOUNT

INVOICE

To Bill Hueble

Invoice Date November 19, 2009

Communications and research re baiting case, S C Dept of Natural Resources vs Bill Hueble

5 hrs @ \$70/hr

\$350 00

Lovett E Williams Jr , PhD
Wildlife Ecologist
P O Box 870
Cedar Key, FL 32625

Mileage

Vaughn Depo, Abbeville, 6/09/08	128
Vaughn Depo, Abbeville, 9/29/08	128
Waid, Sullivan Depos, Columbia, 09/30/08	204
Dudley, Burnett, Rearden Depos, Greenwood, 10/17/08	122
Knight Depo, Columbia, 12/08/08	204
Lecroy, Cline, Lloyd, L Vaughn Depos, Greenwood, 01/15/09	122
English, Jones Depos, Greenwood, 01/27/09	122
Mediation, Columbia, 06/08/09	204
Hearing to Amend, Greenwood	122
Hearing to Dismiss, Greenwood	<u>122</u>
Total miles	1,478
1,478 miles x \$ 55	\$813 00

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS

William Alvin Hueble, Jr ,)
)
Plaintiff,)

Case No 2007-CP- 24-1056

vs)

**AFFIDAVIT OF COUNSEL AS TO
ATTORNEY'S FEES
AND COSTS**

South Carolina Department)
of Natural Resources and)
Eric Randall Vaughn,)
)
Defendants)

1 I, John Patrick "Jack" Riordan am an attorney of record for the Plaintiff in the
above-styled case

2 I am a member of the South Carolina Bar and am also admitted to practice before
the United States District Court, District of South Carolina

3 I graduated from Clemson University in 1989 and the University of South
Carolina School of Law in 1992 I became a member of the S C Bar on November 18, 1992

4 During my time in law school, I clerked exclusively with Kermit King's law firm,
King and Vernon During such time I assisted in the defense of Dr James Holderman, then
President of the University of South Carolina as he was being prosecuted by Fifth Circuit
Solicitor Dick Harpoothian for criminal charges, including misuse of public office

5 Following graduation from law school, I was hired by the Fifth Circuit Solicitor's
Office, still being run by Mr Harpoothian, with Barney Giese serving as his Deputy Solicitor
When Barney Giese became Solicitor in 1994, I became the youngest member of his Violent
Crime Task Force Johnny Gasser served as Barney Giese's Deputy Solicitor

6 In 1996 I left the Solicitor's Office and became employed with the Attorney

General's Office under Charlie Condon and his Deputy, Robert Bolchoz. I was involved in diverse practice areas, including capital litigation, conflict of interest prosecution and was a member of the State Wide Grand Jury division. I defended 20 direct appeal murder cases and assisted in the final hearings of two death penalty cases. 1) Tommy Lee Davis was convicted of the 1988 murder of a Lander University college student, leaving her body to be found face down Thanksgiving morning in the reflection pond at Lander University. The final hearing, upholding the death penalty, was held in the Greenwood County Courthouse. 2) In 1996, I assisted in the approximate week-long final hearing of serial killer Larry Gene Bell, which also occurred at the Greenwood County Courthouse. Mr. Bell was defended by Steve Morrison and the Nelson Mullins Riley & Scarborough law firm, which received well over a half million dollars for the failed representation of Mr. Bell, whose death penalty was affirmed, and who was executed via electric chair.

7 While with the State-Wide Grand Jury, I was involved in numerous public corruption cases, including a drug ring out of the Marlboro County area run by then Sheriff Kenny York (Roadblock case). I was involved in the prosecution of a Greenwood County Sheriff's Deputy for public corruption and/or misconduct in office. This Deputy leaked sensitive information to targeted drug dealers in exchange for monetary payment.

8 In 1998, I obtained a reckless homicide conviction against Greenville County Sheriff's Deputy, Paris Fant. This case has experienced renewed media discussion in relation to a recent plea and sentence in the John Ludwig case in Greenville.

9 Every case of public corruption and/or misconduct in office was pursued with the understanding that "no one should be above the law – if law enforcement is above the law then there is no law." Failure to uphold these principles undermines confidence in the law and these

same principles are at the heart of §1983 litigation. Most of the murder and death penalty cases referenced above dealt with constitutional rights issues.

10 In 1999 I became an associate at Leatherwood Walker Todd & Mann. I became a partner in 2001 and in August of 2008, my firm combined with another to become Smith Moore Leatherwood. I continue to work in our Greenville office and we have an office in Atlanta, Georgia, along with four offices in North Carolina.

11 I have tried over 100 cases through to a jury verdict.

12 I have appeared eight times before the South Carolina Supreme Court and at least four times before the South Carolina Court of Appeals, with a recent fifth appearance during a rare *en banc* rehearing resulting in victory for my client.

13 These appellate appearances have resulted in thirteen reported opinions.

14 I was the sole legal expert on criminal appellate matters in a legal malpractice case brought against a Greenville attorney and my Affidavit was the primary support for our successful award of summary judgment.

15 Given my prosecution background, I have continued to be involved in periodic criminal defense cases, along with my more traditional civil defense practice.

16 I have defended at least two law enforcement officers in regard to charges levied against them.

17 Following my successful criminal defense of numerous felony charges leveled against a female client in Oconee County, Johnny Gasser and I brought a §1983 action against particular officers of the Oconee County Sheriff's Department, and at least one former SLED agent. This resulted in the successful obtainment of a settlement of \$302,000 on behalf of our client in the summer of 2009. This was in addition to my hourly billing at the rate of \$300.00.

per hour in that case

18 In the present action, Plaintiff Bill Hueble was referred to me given my background as addressed above and my involvement in the Oconee County matter. Prior to our meeting, Mr. Hueble was unable to obtain the services of any attorney who would agree to take an adversarial position against the DNR and its officers. Many of the attorneys Mr. Hueble was acquainted with were also hunters, and though sympathetic to Mr. Hueble's plight, refused to become involved. It is not unusual for persons such as Mr. Hueble, who feel their constitutional rights have been violated, to have difficulty obtaining counsel on their behalf. As has been my experience, the bringing of such suits creates an adversarial position with law enforcement, such that the attorney's criminal defense practice, which often depends upon the maintenance of favorable relations with law enforcement, is severely curtailed.

19 Moreover, as has been the case with these two §1983 cases, they can be time consuming and lengthy. Criminal allegations against my client in the Oconee matter began in 2003, and the §1983 action was not resolved until the summer of 2009. Likewise, my involvement with Mr. Hueble's case has now exceeded three years.

20 I agreed to represent Mr. Hueble at a base rate of \$225.00 per hour in 2006. We have maintained the same rate throughout my representation, though an increase in rate could have been justified. In taking and maintaining representation of Plaintiff and the protection of his constitutional rights, I have foregone other matters which could have further strengthened other practice areas.

21 There are very few attorneys who practice constitutional litigation on behalf of Plaintiffs against government entities and/or agents. However, after consultation with those whom I deem competent in the area, every one informs me that my rates are exceedingly

reasonable. These attorneys include Steve Henry of Greenville, Gaston Faurey of Columbia, Chris Mills of Columbia and the office of Dick Harpootlian. Per the Johnson Lodestar analysis an even higher rate, arguably up to \$300 per hour could be considered reasonable in this matter.

22 At all stages of representation in this matter, Plaintiff's counsel has attempted to amicably and fairly resolve any and all outstanding issues. However, Defendants' have persistently declined resolution, even when such could have avoided any monetary exchange. Here, as in every §1983 suit, the obtainment of a nominal judgment, but with an award of attorney's fees greatly in excess of the judgment, existed as an incentive for Mr. Hueble to seek recourse for the violation of his rights. Moreover, on the day Defendants served their Offer of Judgment, counsel for the Defendants warned that if they were to prevail following trial, they would be the ones seeking attorney's fees from the Plaintiff.

23 This matter was needlessly dragged out for over two years, causing extreme financial hardship to the Plaintiff. While he has expended excessive sums in litigating this matter, his costs have been compounded by historic drops in the stock market. Accordingly, funds were required to be removed from investments while the stock market was at the bottom of near historic losses, depriving him from participation in at least the modest rebound that has subsequently occurred. Accordingly, Plaintiff has suffered a great loss in opportunity costs, all of which could have been avoided if the same Offer of Judgment had been submitted from the outset in this matter.

24 Instead, taxpayer funds have been needlessly exhausted in defending actions which were patently inappropriate, raised the appearance of a conflict of interest and the appearance of impropriety and served to violate numerous constitutional rights of the Plaintiff.

25 In addition to the recorded attorney involvement, it should be noted that Mr.

Hueble himself devoted probably more time individually, being fully involved in this process, assisting in the review of discovery materials provided, as well as being a touchstone for all those persons around the state who related their own similar abuses by DNR and other law enforcement officers and yet refused to become involved for fear of being subjected to the same tactics employed against Mr Hueble throughout this matter. Only through the proper award of reasonable fees can an agent such as Defendant more seriously consider curbing of such actions, and the public feel more confidence in coming forward and making complaint against those officers who, as in this case, are defended beyond comprehension for their inappropriate behavior and deny constitutional rights to those whom they target.

26 Plaintiff's counsel has exercised billing judgment to avoid excessive, redundant or unreasonable charges or fees.

27 The activities of the attorneys and paralegals are recorded contemporaneously or almost contemporaneously to the time when the activity occurred. Reasonable time was expended on this case in the representation of the Plaintiff. A detailed description of the cumulative time expended is attached to this Declaration as an exhibit.

28 As earlier referenced, numerous other attorneys handling cases in the 1983 arena assert that their rates, are greatly in excess of the \$225 per hour fee that was charged. In fact, under the Lodestar method, fees up to \$300 would be considered reasonable in Greenwood and/or the Upstate legal community. Moreover, while unrelated and unsuccessful claims should be subtracted, no unsuccessful claims exist in this matter and all claims were related to the Section 1983 violations by Defendant Vaughn. In anticipation of arguments regarding defense of Vaughn's counterclaim and issues related therein, such time has been identified for the convenience of the Court and totals \$6,030, to be subtracted from the Attorney's fees listed

below if deemed appropriate

29 Based upon the number of hours expended by myself and my law firm, as well as costs incurred, the total amount for which we hereby petition is

Attorney's fees \$134,303 50

Costs \$11,920 40

Plaintiff's out of pocket costs for

court reporters 2/12/09 #16689 \$1,136 25
2/25/09 #16708 \$684 65

expert Lovett Williams \$350 00
mileage (see list) \$813 00
total \$2,983 90

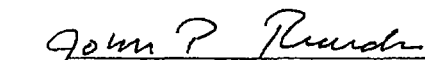
TOTAL Fees and Costs for litigation up to offer of judgment \$149,207 80

Fees related to post-judgment fee obtainment \$5,885 00

Costs relate to post-judgment fee obtainment \$86 60

In conjunction with our earlier Motion, I hereby affirm that the above fees and costs are correct and were necessarily incurred in the action

I SO AFFIRM



John P. Riordan (SC Bar #65284)
Smith Moore Leatherwood
300 E. McBee Avenue, Post Office Box 87
Greenville, SC 29602-0087
(864) 242-6440/(864) 240-2498 (Fax)
Jack.riordan@smithmoorelaw.com
Attorney for Plaintiff

Date 11/30/09

SWORN to before me this 30th day of
November, 2009

A handwritten signature in cursive script, likely belonging to a Notary Public, is written over a horizontal line.

Notary Public for SC

My Commission expires 7/9/2013

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

IN THE COURT OF COMMON PLEAS
(Jury Trial Requested)

FILED
ST. JAMES
GREENWOOD
2009 DEC 10 AM 10:48

William Alvin Hueble, Jr ,

Plaintiff,

vs

South Carolina Department of
Natural Resources and
Eric Randall Vaughn,

Defendants

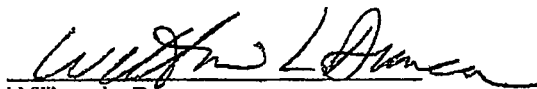
**STIPULATION OF DISMISSAL
WITH PREJUDICE AS TO THE
COUNTERCLAIMS OF
ERIC RANDALL VAUGHN**

C A No 2007-CP-24-1056

On motion of the Plaintiff, and pursuant to South Carolina Rules of Civil Procedure 41(a)(1), the parties, through their respective attorneys, hereby stipulate and agree to full dismissal WITH PREJUDICE of all causes of action contained in the Counterclaim of Eric Randall Vaughn



Tommy Hite
Attorney for Defendant, Eric Randall Vaughn,
on the Counterclaim



William L. Duncan
Attorney for Plaintiff, William Alvin Hueble, Jr ,
on the Counterclaim

December 9, 2009

*In Re William Alvin Hueble, Jr vs South Carolina Dept. of Natural Resources
and Eric Randall Vaughn
C A. No 2007-CP-24-1056*

**ATTORNEYS' CONSENT TO STIPULATION OF DISMISSAL WITH PREJUDICE
AS TO THE COUNTERCLAIM OF ERIC RANDALL VAUGHN**

John P Riordan

John P Riordan
Attorney for Plaintiff, William Alvin Hueble, Jr ,

12/4/, 2009

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

William Alvin Hueble, Jr ,

Plaintiff,

vs

South Carolina Department of Natural
Resources and Eric Randall Vaughn

Defendant

) IN THE COURT OF COMMON PLEAS

) EIGHTH JUDICIAL CIRCUIT

) CIVIL ACTION NO 2007-CP-24-1056

)
)
)
) DEFENDANTS' MEMORANDUM IN
) OPPOSITION TO PLAINTIFF'S
) MOTION FOR FEES AND COSTS

FILED CC
8TH JUDICIAL CIRCUIT
GREENWOOD SC
2009 DEC 10 PM 1:33

TO JOHN P RIORDAN, ESQUIRE, ATTORNEY FOR THE PLAINTIFF

I
STATEMENT

The Plaintiff initiated this action in September of 2007 making multiple claims against both Defendants. Defendant Vaughn subsequently filed a counterclaim against the Plaintiff. The parties entered into extensive discovery, much of which Defendants felt was unnecessary and informed Plaintiff's counsel of this fact. A hearing was held on Defendants' Motions for Summary Judgment on October 15, 2009, but no ruling has been issued on the Motions. The parties also attempted to resolve the litigation after this date. The Defendants offered a letter stating in essence that Officer Vaughn would contact a supervisor before entering Plaintiff's property unless there was an emergency situation, plus \$5,000. The Plaintiff's attorney submitted a proposed statement that acknowledged an appearance of impropriety, among other items, which was not acceptable to the Defendants. Defendants offered to settle with Plaintiff on all his claims, both federal and state, for \$5,100, by extending Plaintiff an offer of judgment on November 16, 2009 under Rule 68, SCRPC. Plaintiff accepted this offer on November 18 and

subsequently filed this Motion for Costs. Shortly after the resolution of the Plaintiff's claim against Defendants, Defendant Vaughn agreed to settle his counterclaim against the Plaintiff for \$25,000.

Costs, including attorney's fees should not be awarded in favor of the Plaintiff in this matter as he is not a prevailing party as required under 42 U.S.C. §1988. Further, even if Plaintiff is found to technically be the prevailing party, the existence of special circumstances prevent the award of attorney's fees in this matter.

II PLAINTIFF IS NOT THE PREVAILING PARTY

Plaintiff's acceptance of an offer of judgment does not necessarily establish that he is a "prevailing party" entitled to attorney fees. Fletcher v. City of Fort Wayne, Indiana, 162 F.3d 975, (7th Cir. 1998). A plaintiff is considered a "prevailing party" for purposes of §1988 if he "succeed[s] on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit." Hensley v. Eckerhart, 461 U.S. 424, 433, 103 S.Ct. 1933, 1939 (1983), Denny v. Hinton, 131 F.R.D. 659, 662 (M.D.N.C. 1990). "[A]t a minimum, the plaintiff must be able to point to a resolution of the dispute which changes the legal relationship between itself and the defendant." Texas State Teachers Ass'n v. Garland Indep. School District, 489 U.S. 782, 109 S.Ct. 1486, 1493 (1989). A judgment will constitute relief for purposes of §1988, if and only if, it affects the behavior of the defendant towards the plaintiff. Id. If a plaintiff's success is so insignificant that it can be characterized as "purely technical or de minimis" then the plaintiff cannot be considered a prevailing party under § 1988. Id., Denny v. Hinton, 131 F.R.D. 659, 662 (M.D.N.C. 1990).

The "relief" for the Plaintiff in this case is *de minimis* at best. The Plaintiff litigated this

matter for over two years and based on his Motion for Fees and Costs spent over \$155,000 in order to recover \$5,100. There has been no resolution of the dispute which has changed the legal relationship between Plaintiff and Defendants or affected the behavior of the Defendants towards the Plaintiff as referenced by the Supreme Court in Garland. The Plaintiff's attorney has repeatedly stated, including at the hearing on Defendants' Motions for Summary Judgment, that this case was not about money, but then accepted Defendants' Offer of Judgment that provided only nominal relief in order to attempt to recover fees and costs. If the Plaintiff's objective was not about money as the Plaintiff's attorney repeatedly stated, the Plaintiff did not obtain the relief desired in the case and did not obtain relief that affected the relationship between the parties. Therefore, he fails to establish himself as a prevailing party.

In addition, the North Carolina Court of Appeals held that "[w]here an offer of judgment is accepted by the plaintiff, there is not a 'prevailing party' or a 'losing party'." Evans v. Full Circle Productions, Inc., 443 S.E.2d 108 (NC Ct. App. 1994) (refusing to find plaintiff was prevailing party based on an accepted offer of judgment). Finally, the South Carolina Supreme Court refused to award attorney's fees where the trial court did not specifically address liability under an asserted §1983 claim, but instead granted relief under another theory of the case. Spencer v. S.C. Tax Commission, 281 S.C. 492, 316 S.E.2d 386 (1984) (finding the sole reason for alleging § 1983 was to justify the allowance of counsel fees and state courts are not required to open its doors to §1983 actions).

The Plaintiff had numerous causes of action, but had no cause of action against Defendant DNR that would entitle him to recover attorney fees. The Plaintiff's claim against Defendant Vaughn pursuant to §1983 is the only claim under which the Plaintiff would be entitled to recover attorney fees. As discussed above, Defendant Vaughn settled his counterclaim against

the Plaintiff for \$25,000. Where the only basis to recover attorney fees was under the §1983 claim against Defendant Vaughn and Defendant Vaughn settled his counterclaim for almost five times the amount the Plaintiff recovered¹, the Plaintiff is not a prevailing party.

Finally, the Plaintiff has failed to show that he recovered on the §1983 claim. As discussed above, the Plaintiff had numerous causes of action, but his claim against Defendant Vaughn pursuant to §1983 is the only claim under which the Plaintiff would be entitled to recover attorney fees. If this case had gone forward to trial, there would have been a special interrogatory to determine if the Plaintiff received any award on the §1983 claim. The Defendants' Offer of Judgment stated that they offered to allow judgment to be taken against them, but did not specifically address any particular cause of action. The Plaintiff has failed to meet his burden to show that he prevailed on the §1983 claim and his claim for fees and costs should be denied.

The Plaintiff has not established himself as a prevailing party under the totality of the circumstances and his Motion for Fees and Costs should be denied.

III THE COURT SHOULD EXERCISE ITS DISCRETION AND DENY PLAINTIFF'S MOTION FOR FEES AND COSTS

Section 1988 states "the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs" 42 U.S.C. § 1988 (emphasis added). The Court should look at the totality of circumstances surrounding the settlement in determining whether it is appropriate to award fees and costs to the Plaintiff. As stated above, the Defendants offered a letter stating in essence that Officer Vaughn would contact

¹ It is important to note that as the settlement to the Plaintiff was for both Defendants, if half of the settlement amount is attributed to Defendant DNR and half to Defendant Vaughn, Defendant Vaughn would have recovered

a supervisor before entering Plaintiff's property unless there was an emergency situation, plus \$5,000. The Plaintiff's attorney submitted a proposed statement that acknowledged an appearance of impropriety, among other items, which was not acceptable to the Defendants. Defendants then submitted the offer of judgment for \$5,100. Even if a plaintiff who recovers only nominal damages in a civil rights case technically "prevails," the trial judge has discretion to withhold fees when damages are minor in relation to the claim. Fletcher v City of Fort Wayne, Indiana, 162 F.3d 975, 977 (7th Cir 1998) ("Nothing in Rule 68 supports plaintiffs' position that by accepting a Rule 68 offer they automatically become entitled to attorneys' fees"). The Court found the district judge did not abuse his discretion in concluding that settlements of \$2,500 and \$5,000 reflected only nuisance value, so that plaintiffs were not entitled to attorney fees when they accepted defendant's offers of judgment. Id. In other words, for a trivial recovery an award of attorney fees is not warranted.

In Fletcher, each plaintiff claimed that his own legal fees, on the date of the Rule 68 offer, exceeded the amount the defendants offered. The court found it was easy to see that defendants paid less than the value of the attorneys' fees they expected to incur themselves if the case proceeded. A compromise for less than the future costs of defense is a good working definition of a nuisance-value settlement. This case is similar to the present action. The Defendants anticipated defense costs well in excess of \$5,100 if this case were to go forward to trial. There were additional depositions scheduled, extensive motions in limine were anticipated, and the trial was estimated to take four to five days. The \$5,100 offered to resolve this case was clearly less than the costs of defense which, as stated in Fletcher, is the definition of a nuisance-value settlement.

almost ten times on his counterclaim as the Plaintiff did against him

Defendants would also note that the Fletcher case was cited in a 2000 opinion by the South Carolina Supreme Court. See Belton v. State of South Carolina, 339 S.C. 71, 529 S.E.2d 4 (2000). In Belton, the Court considered whether a plaintiff who accepted an offer of judgment was entitled to recover attorney fees under the Whistleblower Act. The Court concluded the plaintiff could not recover under the Whistleblower Act as an offer of judgment was not considered a court award. The Court cited to the Fletcher opinion for the specific proposition that a case resolved by an acceptance of judgment is considered settled.

As acknowledged by the Plaintiff, special circumstances can render an award of attorney's fees unjust. In Tyler v. Corner Construction Corp., 167 F.3d 1202, 1206 (8th Cir. 1999) the plaintiff agreed to settle his action for \$17,500 and then sought to recover more than \$64,000 in fees and costs. The court held that a nuisance settlement is a special circumstance that should bar recovery of attorney fees. The court stated a nuisance settlement is one that is accepted despite the fact that the case against the defendant is frivolous or groundless and is solely in an effort to avoid the expense of litigation. The court remanded the case to determine if the Plaintiff's action was frivolous. In the present action, contrary to the Plaintiff's position, there are special circumstances that should bar Plaintiff's recovery of attorney fees and costs. The Defendants have always maintained that Plaintiff's action is frivolous and, as stated above, anticipated defense costs many times \$5,100 if this case were to go forward to trial. Clearly, there are special circumstances that bar the recovery of attorney fees by the Plaintiff.

An additional special circumstance involves the settlement of Defendant Vaughn's counterclaim. As stated above, Defendant Vaughn asserted a counterclaim against the Plaintiff on multiple grounds. Shortly after the resolution of the Plaintiff's claim against Defendants, Defendant Vaughn agreed to settle his counterclaim against the Plaintiff for \$25,000. It should

be a special circumstance considered by the Court when the counterclaim against the Plaintiff settles for almost five times the amount of the Plaintiff's claim. This is another special circumstance that bars Plaintiff's recovery of fees and costs.

The Defendants have found cases that address similar issues. The cases generally hold that where both parties are partially successful, it is within the court's discretion to decline an award of costs to either side. See Testa v. Village of Mundelein, Ill., 89 F.3d 443 (1996) (plaintiff prevailed on claim for malicious prosecution, but not on claim under §1983 and court held plaintiff was not entitled to recover costs as prevailing party because both parties prevailed on portion of litigation), Hertz v. Riebe, 936 P.2d 24 (Wash. Ct. App. 1997) (found where both parties prevailed on a major issue, neither was a prevailing party and refused to award costs to either party), Runnells v. Quinn, 890 A.2d 713 (Maine 2006). The Runnells case is most analogous to the present case. In Runnells, the plaintiff, a contractor, brought suit against the homeowner and the homeowner counterclaimed. The plaintiff was awarded \$27,742.40 on his claim, while the defendant was awarded \$14,000 on her counterclaim. The plaintiff sought to recover costs as the prevailing party. The court stated that looking at the case as a whole, neither party was considered a winner or a loser where both parties were awarded damages on their respective claims and counterclaims, and hence there was no prevailing party entitled to an award of costs. This is analogous to the present situation as both parties have recovered. However, in Runnells the plaintiff was not allowed to recover costs even though he recovered almost twice the amount on his claim as the defendant did on her counterclaim. In the present case, though both parties recovered on their claims, Defendant Vaughn recovered almost five times the amount recovered by the Plaintiff, and Plaintiff's claim for fees and costs should be denied.

As discussed above, the Plaintiff had no cause of action against Defendant DNR that

would entitle him to recover attorney fees. The Plaintiff's claim against Defendant Vaughn pursuant to §1983 is the only claim under which the Plaintiff would be entitled to recover attorney fees. It is, as stated above, Defendants' position that Plaintiff cannot be a prevailing party because of Defendant Vaughn's settlement of his counterclaim against the Plaintiff for \$25,000. However, in the alternative, this would at a minimum constitute a special circumstance that renders an award of fees and costs to Plaintiff unjust. Looking solely at the claim against Defendant Vaughn (which again provided the only basis for Plaintiff to recover attorney fees), Defendant Vaughn settled his counterclaim for almost five times the amount the Plaintiff recovered. At a minimum, this constitutes a special circumstance that would make an award of fees and costs to the Plaintiff unjust.

Finally, as addressed above the Plaintiff's attorney has repeatedly stated that this case was not about money, but then accepted the nominal Offer of Judgment in order to attempt to recover fees and costs. If the Plaintiff's objective was not about money as the Plaintiff's attorney repeatedly stated, the Plaintiff did not obtain the relief desired in the case. The fact that the Plaintiff did not recover the desired relief and instead received only a nominal amount is also a special circumstance that should bar the Plaintiff from recovering fees and costs.

As stated above, §1988 states "the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs" 42 U.S.C. § 1988 (emphasis added). Clearly it is within the Court's discretion to award or not award fees and costs in this matter. The facts in this case are that after over two years of litigation and considerable expense, the Defendants sought to end this litigation by payment of a nominal sum to avoid future costs of litigation. It is clear that Defendants would have expended many times this amount if they went forward to trial. The Plaintiff claims he incurred over \$155,000 in fees and costs in order to recover \$5,100 and

maintains that he is the prevailing party despite the fact that the counterclaim against him settled for almost five times (\$25,000) the amount of his recovery Based on the law above and looking at the facts in this case, Defendants contend that it would be inequitable to make any award to the Plaintiff and ask that Plaintiff's Motion be denied

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12-10-, 2009

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF GREENWOOD) 2007-CP-24-1056

WILLIAM ALVIN HUEBLE, JR ,)
) VS) TRANSCRIPT OF RECORD
)
SOUTH CAROLINA DEPARTMENT OF)
NATURAL RESOURCES AND ERIC)
RANDALL VAUGHN)
 DEFENDANTS)

DECEMBER 10, 2009
GREENWOOD, SOUTH CAROLINA

B E F O R E

HONORABLE EUGENE C GRIFFITH, JR , JUDGE

A P P E A R A N C E S

JOHN P RIORDAN, ESQ
GREG GASSER, ESQ
ATTORNEYS FOR THE PLAINTIFF

STEVE PRUITT, ESQ
J VICTOR MCDADE, ESQ
THOMAS E HITE, JR , ESQ
ATTORNEYS FOR THE DEFENDANTS

JOY E HOLSTON
OFFICIAL COURT REPORTER

1 THE COURT ALL RIGHT, MR RIORDAN

2 MR GASSER MAY IT PLEASE THE COURT, YOUR HONOR?

3 THE COURT YES, SIR

4 MR GASSER GOOD AFTERNOON MR RIORDAN MAY ALSO
5 PARTICIPATE, YOUR HONOR, BUT HE HAD SOME TIME AGO IN
6 ANTICIPATION OF FILING THIS MOTION HE HAD CONTACTED MYSELF
7 AND MY LAW PARTNER, GREG HARRIS FOR THE RECORD MY NAME
8 IS JONATHAN S GASSER, G-A-S-S-E-R AND MY LAW PARTNER IS
9 HERE AS WELL, GREG HARRIS WHO PRACTICES OUT OF COLUMBIA,
10 SOUTH CAROLINA BECAUSE OF THE ISSUE BEFORE THE COURT AND
11 THAT IS, IT IS A MOTION TO AWARD ATTORNEYS FEES AND COST
12 MR RIORDAN, ALTHOUGH HE KNOWS THERE ARE NO RULES THAT BAR
13 HIM FROM PARTICIPATING IN THIS MOTION BEFORE THE COURT, HE
14 JUST FELT THAT IT WAS APPROPRIATE SHOULD ANY ISSUES AS TO
15 HIS QUALIFICATION AS TO HIS EXPERIENCE, BECAUSE THAT IS
16 ONE OF THE THINGS THE COURT LOOKS TO, COME UP HE WANTED
17 TO HAVE OTHER COUNSEL AS WELL PRESENT AND THAT IS PART OF
18 THE REASON WHY WE ARE HERE, YOUR HONOR YOUR HONOR, LET
19 ME JUST START BY SAYING THAT THERE ARE A NUMBER OF ISSUES
20 THAT THE COURT CAN CONSIDER IN THIS PARTICULAR MOTION
21 BUT THE ACTUAL QUESTION ITSELF IS, IN OUR VIEW RELATIVELY
22 SIMPLE, ARE THE COSTS AND THE FEES REQUESTED BY THIS
23 MOTION, ARE THEY REASONABLE AND JUSTIFIED IN THIS 1983 AND
24 RELATED CAUSES OF ACTION AND THAT IS REALLY THE QUESTION
25 THIS COURT IS BEING ASKED TO ANSWER HERE TODAY AND LET

1 ME STEP BACK AND START BY, SINCE OBVIOUSLY THERE IS A
2 RECORD OF THIS AND DEPENDING ON WHICH PARTY PREVAILS AT
3 THIS JUNCTURE, THE OTHER PARTY MAY HAVE CERTAIN AVENUES
4 AVAILABLE TO THEM I WANT TO PUT SOME THINGS ON THE
5 RECORD, YOUR HONOR, I KNOW YOU HAVE A COPY OF OUR BRIEF
6 AND YOU HAVE READ OUR BRIEF AND ARE FAMILIAR WITH THE
7 GENERAL RULE OF LAW IN THIS AREA BUT I WOULD NOTE, AS IT
8 HAS BEEN STATED BY THE UNITED STATES SUPREME COURT IN THE
9 NUMBER OF CASES, IN ANY ACTION PROCEEDING TO ENFORCE THE
10 PROVISIONS OF SECTIONS 1983, THE COURT IN ITS DISCRETION
11 MAY ALLOW THE PREVAILING PARTY, OTHER THAN THE UNITED
12 STATES, REASONABLE ATTORNEYS FEES AS PART OF THE COST
13 BLACK'S LAW DICTIONARY DEFINES THE PREVAILING PARTY AS A
14 PARTY WHO IN FAVOR A JUDGMENT IS RENDERED REGARDLESS OF
15 THE AMOUNT OF DAMAGES AWARDED A PARTY IN WHOSE FAVOR A
16 JUDGMENT IS RENDERED REGARDLESS OF THE AMOUNT OF DAMAGES
17 AWARDED IS A PREVAILING PARTY FOR PURPOSES OF THE VARIOUS
18 FEDERAL FEE SHIFTING STATUTES AND WE CITE THE KRISTEN
19 CASE AND I WOULD NOTE THE COURT IS VERY AWARE THAT THE
20 FILE HERE IN THE COURT HOUSE IS AN OFFER OF JUDGMENT
21 SIGNED BY THE ATTORNEYS FOR THE SOUTH CAROLINA DEPARTMENT
22 OF NATURAL RESOURCES AND FOR ERIC RANDALL VAUGHN THAT
23 OFFER OF JUDGMENT WAS FILED ON NOVEMBER THE 17TH OF THIS
24 YEAR AND MR RIORDAN, ON BEHALF OF MR HUEBLE, ACCEPTED
25 THAT OFFER OF JUDGMENT ON NOVEMBER THE 18TH SO, THERE IS

1 A LEGAL BINDING OFFER OF JUDGMENT MADE BY THE DEPARTMENT
2 OF NATURAL RESOURCES AND MR VAUGHN AND ACCEPTED BY THE
3 PLAINTIFF AND I WOULD SUBMIT BASED ON CASE LAW, BLACK'S
4 LAW DICTIONARY, THAT HE IS THE PREVAILING PARTY ON THIS
5 1983 CAUSE OF ACTION THERE IS NOTHING IN THIS DOCUMENT,
6 THERE IS NO QUALIFICATIONS, CLAUSES ON BEHALF OF EITHER
7 THE DEPARTMENT OF NATURAL RESOURCES, MR VAUGHN CLEARLY
8 THE ATTORNEYS HAVE THE RIGHT TO QUALIFY THIS OFFER OF
9 JUDGMENT, THEY DID NOT DO SO WE KNOW THAT THE CAUSE OF
10 ACTION WAS A 1983 CAUSE OF ACTION WITH RELATED CAUSES OF
11 ACTION, FOR PURPOSES HERE A 1983 CAUSE OF ACTION AND
12 THERE IS NO QUALIFICATIONS SO, I WOULD SUBMIT TO THE
13 COURT THAT THIS IS, ONCE THIS OFFER OF JUDGMENT WAS FILED
14 AND ONCE IT WAS ACCEPTED ON THIS CAUSE OF ACTION RELEVANT
15 TO THE COURT, THE 1983 CAUSE OF ACTION, AT THAT POINT AND
16 TIME AS A MATTER OF FACT BUT MORE IMPORTANTLY AS A MATTER
17 OF LAW WILLIAM HUEBLE BECAME THE PREVAILING PARTY ON THAT
18 CAUSE OF ACTION NOW, AS SUCH IN OUR VIEW THAT HE IS THE
19 PREVAILING PARTY THE QUESTION THEN BECOMES, IS HE ENTITLED
20 TO REASONABLE ATTORNEYS FEES AND CLEARLY THIS COURT IS
21 GIVEN GREAT DISCRETION, IT IS IN YOUR JUDGMENT BASED UPON
22 ALL THE FACTS AND CIRCUMSTANCES IN THIS MATTER AS TO
23 WHETHER OR NOT HE IS ENTITLED TO REASONABLE FEES AND THEN
24 IF YOU BELIEVE HE IS ENTITLED TO REASONABLE FEES, ARE THE
25 FEES REQUESTED IN THIS PARTICULAR CASE, ARE THEY JUSTIFIED

1 BASED ON THE AMOUNT OF WORK THAT WAS DONE, BASED ON THE
2 ISSUES THAT WERE INVOLVED IN THIS PARTICULAR SUIT LET ME
3 ALSO STATE THE TYPE OF CAUSE OF ACTION, YOU KNOW, WE
4 RECEIVED ABOUT TEN MINUTES, FIFTEEN MINUTES BEFORE YOU
5 TOOK THE BENCH WE RECEIVED THE DEFENDANTS MEMORANDUM ON
6 OPPOSITION ON THE PLAINTIFF'S MOTION WE WERE ABLE TO
7 BRIEFLY SKIM THROUGH IT AND READ THROUGH IT BUT AT THE
8 END OF THE DAY THIS IS A 1983 CAUSE OF ACTION AND FROM A
9 CONSTITUTIONAL AND CIVIL RIGHTS PERSPECTIVE THERE IS NO
10 MORE IMPORTANT CIVIL CAUSE OF ACTION IN THE UNITED STATES
11 JURISPRUDENCE THERE IS JUST NOTHING MORE SIGNIFICANT
12 THAN WHEN A CITIZEN CLAIMS THAT HE OR SHE, IN THIS CASE
13 MR HUEBLE, THAT HIS CONSTITUTIONAL AND HIS CIVIL RIGHTS
14 WERE VIOLATED UNDER THE COLOR OF LAW AND NOW THE
15 FRAMEWORK THAT IS BEFORE THIS COURT, THEY WERE VIOLATED
16 THIS IS A LEGAL BINDING OFFER OF JUDGMENT AND ACCEPTANCE
17 OF OFFER OF JUDGMENT AND HIS ALLEGATION, THE 1983
18 ALLEGATION AND THEREFORE HE HAS SUCCEEDED AND HE HAS BEEN
19 VINDICATED, IT IS OUR POSITION AS A MATTER OF LAW AND A
20 MATTER OF FACT AND WHY IS THAT IMPORTANT THAN THAT HE
21 SHOULD BE ABLE TO, HE SHOULD BE ABLE TO OBTAIN REASONABLE
22 ATTORNEYS FEES THE DEPARTMENT OF NATURAL RESOURCE IS A
23 STATE AGENCY THEY HAVE FOUR IN-HOUSE ATTORNEYS, THEY
24 HAVE THE FINANCIAL CAPABILITY OF GOING OUT AND HIRING TWO
25 PRIVATE INDEPENDENT LAWYERS TO ASSIST THOSE FOUR IN-HOUSE

1 LAWYERS ON ANY LEGAL MATTER LIKE THEY DID IN THIS CASE
2 SO ARGUABLY, THEY HAVE THIS LARGE POT OF MONEY AND HAVE
3 THE PERSONNEL TO DEFEND THESE CAUSES OF ACTION THE
4 CITIZEN HAS IN AND OF ITSELF, WHO IS NOT A LAWYER, HAS TO
5 GO OUT AND EXPEND RESOURCES AND FUNDS IN ORDER TO
6 VALIDATE, FIRST OF ALL, HIS CAUSE OF ACTION, HIS 1983
7 CLAIM IN ORDER TO WIN, IN ORDER TO PREVAIL AND THAT IS
8 NOT CHEAP AND IN THIS PARTICULAR CASE, YOUR HONOR, THIS
9 CASE COULD OF BEEN SETTLED HAD THE DEFENDANTS DONE SO
10 THIS CASE EASILY COULD OF BEEN SETTLED ON THE FRONT END
11 HAD THE TERMS OF THE PLAN, WHICH WERE REASONABLE TERMS,
12 WHICH ULTIMATELY THE TERMS THAT IT WAS A SETTLEMENT OFFER
13 OR THE OFFER OF JUDGMENT WAS MADE BUT INSTEAD THEY CHOSE
14 THIS TWO PLUS YEAR PROTRACTED LITIGATION AND WITH THAT
15 COMES THE DEPOSITIONS, INTERROGATORIES, INTERVIEWING OF
16 WITNESSES, THE LEGAL RESEARCH AND I KNOW THAT I SPEAK
17 FROM EXPERIENCE BECAUSE I WAS INVOLVED IN A SIMILAR TYPE,
18 IN A 1983 ACTION IN FEDERAL COURT IN ANDERSON INVOLVING
19 SEVERAL LAW ENFORCEMENT AGENCIES WITH MR RIORDAN THAT
20 ULTIMATELY SETTLED BUT IT WAS A LENGTHY, TIME CONSUMING,
21 VERY EXPENSIVE PROCESS AND THAT IS JUST THE NATURE OF
22 THESE CASES AND IT WOULD HAVE A SIGNIFICANT CHILLING
23 EFFECT IF CITIZENS THAT PREVAIL IN 1983 CAUSES OF ACTION
24 AGAINST THE GOVERNMENT AND AGAINST INDIVIDUALS WHO ARE
25 GOVERNMENTS, EMPLOYEES ACTING UNDER THE COLOR OF LAW, THAT

1 IF THEY CANNOT BE REWARDED, IF THEY CANNOT, ALL OF THEIR
2 RIGHTS INCLUDING THEIR FINANCIAL RIGHTS IT HAS A
3 SIGNIFICANT CHILLING EFFECT BECAUSE THE GOVERNMENT CAN DO,
4 AS WE CLAIM THEY DID IN THIS CASE, THEY CAN STALL, THEY
5 CAN LENGTHEN OUT THE PROCESS, THEY KNOW IT IS COSTING THE
6 PLAINTIFF MONEY, THEY KNOW THAT THE LAWYERS AND THE LEGAL
7 STAFF WORKING ON THIS CASE IS KEEPING TRACK OF THEIR
8 HOURS IT IS A POWERFUL TOOL THAT THEY HAVE IN THEIR
9 WEAPONRY WHICH IS DELAY, PROLONG IT, LET'S DELAY IT, LET'S
10 DO WHATEVER IT TAKES, LET'S MAKE THEM DOT EVERY I, LET'S
11 MAKE THEM GO FROM A TO Z, NOT SKIPPING ANY LETTERS IN THAT
12 ALPHABET BECAUSE WE CAN, WE HAVE THE RESOURCES, WE ARE
13 THE GOVERNMENT AND WE HAVE THE RESOURCES AND WE SUBMIT
14 THAT THAT IS ONE OF THE THINGS THAT WAS DONE IN THIS CASE,
15 THAT THEY ARE IN A LARGE PART AS WE STAND HERE TODAY, THE
16 AUTHORS OF THEIR OWN DILEMMA BECAUSE THIS MATTER COULD OF
17 BEEN RESOLVED A LONG TIME AGO AND MR HUEBLE IS A
18 CITIZEN OF SOUTH CAROLINA AND A CITIZEN OF THESE UNTIED
19 STATES AND IT WOULD HAVE A CHILLING EFFECT ON NOT ONLY MR
20 HUEBLE BUT ON EVERY CITIZEN IN OUR STATE IF THEY PREVAIL
21 AND AGREE TO FIGHT, FIGHT THE GOVERNMENT, TO STICK UP FOR
22 THEIR RIGHTS AND TO COME INTO A COURT OF LAW AND ASK TO BE
23 A JUDGE, TO PRESIDE OVER ALL OF THE ISSUES THAT NEED TO BE
24 PRESIDED OVER IN THIS MATTER, NOT TO BE REWARDED AND MADE
25 WHOLE BECAUSE THEY HAD TO HIRE A LAWYER IN ORDER TO BE, IN

1 ORDER TO PREVAIL IT WOULD JUST HAVE A SIGNIFICANT
2 CHILLING EFFECT IN OUR VIEW IF YOU LOOK TO THE CASE LAW,
3 YOUR HONOR, NOT ONLY IS IT OBVIOUSLY CLEAR THAT YOU ARE
4 GIVEN A GREAT DISCRETION IN THIS PARTICULAR CASE BUT IT
5 ALSO, OBVIOUSLY IT TALKS ABOUT THE LONE STAR AND I AM NOT
6 GOING TO SPEND A SIGNIFICANT AMOUNT OF TIME, I KNOW THIS
7 COURT IS VERY AWARE OF THE LONE, THAT THE LONE STAR METHOD
8 IS AN ACCEPTABLE METHOD, FEE CALCULATION, IT IS USED AND
9 HAS BEEN USED IN SOUTH CAROLINA AS WELL AS OTHER COURTS
10 AND, AGAIN, IT BASICALLY IS A COMMON SENSE APPROACH,
11 REASONABLY HOURLY RATE MULTIPLIED BY HOURS REASONABLY
12 EXPECTED IN ORDER TO LITIGATE THE MATTER AT HAND AND WE
13 SPENT A SIGNIFICANT AMOUNT OF TIME ON PAGES THREE THROUGH
14 SIX, QUITE FRANKLY LAYING OUT WHAT THE LAW IS, LAYING OUT
15 THE FACTORS THAT A COURT CAN CONSIDER AND THEN EXPRESSLY
16 STATING IN THIS CASE EXACTLY THE WORK THAT MR RIORDAN AND
17 HIS LAW FIRM DID IN THIS MATTER THERE WAS SIGNIFICANT
18 TIME AND LABOR EXPENDED, THESE CONSTITUTIONAL CIVIL RIGHTS
19 ISSUES ARE NOVEL ISSUES DEALING WITH A GOVERNMENT AGENCY
20 AND AN EMPLOYEE OF THIS CASE, THE DEPARTMENT OF NATURAL
21 RESOURCES YOU HAVE TO KNOW, YOU KNOW, SOME LAWYER THAT
22 DOES A SLIP AND FALL CASES OR SOFT TISSUE DAMAGE PERSONAL
23 INJURY CASES OR A CONTRACT LAWYER IS NOT GOING TO BE
24 NECESSARILY UP TO SPEED ON THE 1983 CIVIL RIGHTS CAUSE OF
25 ACTION AND SO IT REQUIRES AN AREA OF EXPERTISE IN WHICH

1 MR RIORDAN HAS ON BOTH SIDES, OF QUITE FRANKLY THE
2 COURTROOM, IN THE PLAINTIFFS AND THE DEFENSE PERSPECTIVE
3 THIS IS NOT A NOMINAL, AS FAR AS DAMAGES ARE CONCERNED,
4 YOU KNOW ONE DOLLAR IS A NOMINAL DAMAGE WE WOULD SUBMIT
5 THAT THIS IS A MODEST, \$5,100 00 DOLLARS IS A MODEST
6 VICTORY BUT IT IS NOT A NOMINAL VICTORY AND I WOULD
7 SUGGEST, THINK ABOUT YOUR HONOR, IN HISTORY THE TYPES OF
8 CIVIL RIGHTS CASES IN 1983 CAUSES OF ACTIONS THAT HAVE
9 BEEN FILED IN COURTS ACROSS THE COUNTRY INCLUDING SOUTH
10 CAROLINA IN THE AREA OF EITHER CIVIL RIGHTS OF MINORITIES
11 WHEN THERE WASN'T ANY MONETARY CAUSE OF DAMAGE BUT
12 SIGNIFICANT CONSTITUTIONAL AND CIVIL RIGHTS ISSUES WERE AT
13 STAKE AND LAWYERS EXPENDED THOUSANDS AND THOUSANDS OF
14 MAN HOURS AND WERE AWARDED ATTORNEYS FEES WHEN YOU WEREN'T
15 TALKING ABOUT NECESSARILY A LARGE MONETARY DAMAGE BUT
16 WHETHER OR NOT SOMEBODY CAN SIT AT THE FRONT OF THE BUS AS
17 OPPOSED TO THE BACK OF THE BUS SAME THING IN PRISON,
18 1983 CAUSES OF ACTION THINK ABOUT THE CAUSES OF ACTION,
19 I MEAN, THERE IS NO MONETARY DAMAGE WHEN PRISONERS SOUGHT
20 ACCESS TO LAWS, THERE IS NO MONETARY DAMAGE WHEN PRISONERS
21 SOUGHT ACCESS TO COMPUTERS TO ASSIST THEM IN THEIR PRISON
22 LITIGATION BUT THERE WERE 1983 CAUSES OF ACTION THAT
23 REQUIRED LAWYERS TO EXPEND A SIGNIFICANT AMOUNT OF TIME
24 AND RESOURCES AND BE AWARDED ATTORNEYS FEES AND SO IN
25 THIS CASE THE DAMAGE THAT WAS DONE IS NOT SIMPLY A

1 MONETARY AMOUNT, THE DAMAGE DONE TO MR HUEBLE I MEAN
2 HIS REPUTATION IN THE COMMUNITY, JUST THE MERE FACT OF
3 WHAT HE HAD TO GO THROUGH FROM AN EMOTIONAL PERSPECTIVE,
4 WHAT HIS FAMILY HAD TO GO THROUGH THE FACT IN THIS CASE,
5 FOR ALL PRACTICAL PURPOSES, ARGUABLY IT WAS ALMOST A
6 TAKING OF HIS PROPERTY WHEN A MAN WORKS HARD ENOUGH TO
7 SAVE MONEY AND WANT TO BUY A PIECE OF PROPERTY SO HE CAN
8 ENJOY WITH HIS FAMILY AND WITH HIS FRIENDS LEISURE AND
9 RECREATIONAL TIME AND THEN WHEN HE CAN'T DO THAT BECAUSE
10 HE IS PUT IN SUCH FEAR OVER WHETHER OR NOT HE OR HIS
11 FAMILY OR HIS FRIENDS WOULD BE VIOLATED, WOULD BE
12 ARRESTED, THAT DAMAGE, HOW DO YOU PUT A MONETARY FIGURE ON
13 THAT DAMAGE, YOUR HONOR I HAVE BEEN IN PRIVATE PRACTICE
14 FOR TWO YEARS AND THREE MONTHS NOW AND I HAVE HAD
15 UNFORTUNATELY THE OPPORTUNITY TO REPRESENT, YOU KNOW, AS A
16 CRIMINAL DEFENSE ATTORNEY WHICH IS MOST OF WHAT I DO,
17 PEOPLE THAT HAVE BEEN, AND NOT JUST ME SAYING IT, THEY
18 HAVE BEEN ULTIMATELY VINDICATED BY ELECTED SOLICITORS, BY
19 FEDERAL PROSECUTORS THAT THEY PUT THROUGH THE SYSTEM,
20 ACCUSED OF A CRIME, SOME OF THE NAMES IN THE NEWSPAPER,
21 FINGERPRINTED, BOOKED, PUT IN JAIL AND ULTIMATELY
22 VINDICATED BY A GOVERNMENT AUTHORITY THAT THEY WERE
23 WRONGLY ACCUSED AND THAT, IN TALKING WITH FOLKS LIKE
24 THAT, I JUST CAN'T EXPRESS ENOUGH TO THE COURT HOW
25 PROFOUND THAT IMPACT IS ON SOMEBODY WELL, IN THIS CASE

1 IT IS SO MUCH SIMILAR WITH MR HUEBLE BECAUSE HE HAD HIS
2 CIVIL RIGHTS VIOLATED AND HE HAS AN OFFER OF JUDGMENT AND
3 HE ACCEPTED THAT OFFER OF JUDGMENT AND SO THOSE FACTS
4 CAN'T, CAN'T REWRITE HISTORY ON THOSE FACTS AND THE
5 REASON WHY THE COURTS ARE VERY LIBERAL IN AWARDED
6 ATTORNEYS FEES IN 1983 CAUSES OF ACTION, NOT IN THE
7 SELLING OF NUISANCE OR PROPERTY DAMAGE CASES, THAT IS NOT
8 WHAT WE ARE TALKING ABOUT HERE, WE ARE TALKING ABOUT A
9 1983 CAUSE OF ACTION IN WHICH SOMEBODYS CIVIL AND
10 CONSTITUTIONAL RIGHTS HAVE BEEN VIOLATED AND THE REASON
11 WHY THEY ARE LIBERAL IS BECAUSE IT IS IMPORTANT THAT
12 GOVERNMENT OFFICIALS AND GOVERNMENT AGENCIES BE HELD
13 ACCOUNTABLE CLEARLY, THE OVERWHELMING MAJORITY OF LAW
14 ENFORCEMENT OFFICERS, MANY OF THEM ARE FRIENDS OF MINE AND
15 MR HARRIS' THE OVERWHELMING MAJORITY OF LAW ENFORCEMENT
16 OFFICERS AND LAW ENFORCEMENT AGENCIES DO IT RIGHT EVERY
17 SINGLE DAY AND THEY OUGHT TO BE COMMENDED FOR IT, THEY
18 DON'T GET PAID ENOUGH MONEY AND THEY REALLY EMBRACE THAT
19 CONCEPT TO PROTECT AND SERVE BUT WHEN A LAW ENFORCEMENT
20 AGENT OR AN AGENCY, WHEN THEY DROP THE BOMB, WHEN THEY
21 CROSS THE LINE, WHEN THEY VIOLATE IN THIS CASE A CITIZEN'S
22 CONSTITUTIONAL CIVIL RIGHTS THEY SHOULD BE HELD
23 ACCOUNTABLE AND A CITIZEN SHOULD NOT BE PUNISHED
24 MONETARILY FROM HAVING TO GO OUT, EXPEND THESE RESOURCES
25 OVER TWO PLUS YEARS OF LITIGATION AND NOT BE REFUNDED

1 AND THAT HIS WHAT THIS IS REALLY ALL ABOUT AT THE END OF
2 THE DAY, YOUR HONOR, IT IS ALL ABOUT FAIRNESS I CAN'T
3 PUT IT ANY MORE BLUNTLY THAN THAT AND ANY MORE PLAIN THAN
4 THAT IT REALLY IS, I KNOW SO MUCH OF WHAT WE DO IN THE
5 COURTROOMS, WHETHER IT IS A CIVIL MATTER OR CRIMINAL
6 MATTER IS IT REASONABLE, IS IT FAIR AND WE SUBMIT TO YOU
7 THAT, THAT GIVEN THE FRAME WORK OF THIS MATTER NOW, WHERE
8 IT STANDS NOW BEFORE YOU, WITH AN ACCEPTANCE OF AN OFFER
9 OF JUDGMENT THAT THESE ATTORNEY FEES ARE REASONABLE AND IT
10 IS THE FAIR THING TO DO IN THE 1983 CAUSE OF ACTION

11 A COUPLE OF POINTS I WANT TO ADDRESS TO THE RESPONSE
12 THEY JUST FILED THIS AFTERNOON FIRST OF ALL, THEY BRING
13 UP THE FACT THAT MR VAUGHN AGREED TO A SETTLEMENT ON HIS
14 COUNTERCLAIM IT IS VERY IMPORTANT TO KNOW THAT MR
15 HUEBLE'S HOMEOWNERS INSURANCE, ATTORNEYS, MR HUEBLE HAD
16 NOTHING TO DO WITH THAT, HE WAS OPPOSED TO THAT, HE WAS
17 ADAMANTLY OPPOSED TO THAT, HE ABSOLUTELY DENIED ANY
18 WRONGDOING YET A LAWYER MADE, AS WE ALL KNOW, ALL THE
19 LAWYERS IN THE COURT KNOWS A LAWYER MADE A COST BENEFIT
20 ANALYSIS AND ACTUALLY AN INSURANCE ADJUSTOR PROBABLY MADE
21 THE COST BENEFIT ANALYSIS AND THAT ADVISED A LAWYER TO
22 DO WHAT HE DID I WOULD ALSO NOTE THAT THAT IS SUPPOSE TO
23 BE CONFIDENTIAL AND THIS MATTER WAS NOT AN EXCEPTION TO
24 THE RULE, THAT PARTICULAR CONFIDENTIALITY SO, WHY IS IT
25 BEFORE THIS COURT, IS FOR SOMEONE ELSE TO ANSWER BUT THE

1 PLAIN FACT OF THE MATTER THAT IS COMPLETELY, A COMPLETELY
2 DIFFERENT MATTER THAT IS, IT IS ONE THING TO MAKE AN
3 ARGUMENT LIKE THAT BEFORE A JURY BUT TRY TO MAKE AN
4 ARGUMENT ABOUT THAT BEFORE THIS COURT THAT IS TRYING TO
5 GET YOU FOLKS OVER HERE WHEN THAT IS NOT WHAT THE ISSUE IS
6 BEFORE THIS COURT THE ISSUE BEFORE THIS COURT IS WHETHER
7 OR NOT ON THE 1983 CAUSE OF ACTION FOR WHICH MR HUEBLE IS
8 AS A MATTER OF LAW AND AS A MATTER OF FACT, THE PREVAILING
9 PARTY, WHETHER OR NOT HE IS ENTITLED TO REASONABLE
10 ATTORNEYS FEES AND IF SO WHETHER OR NOT THE FEES
11 SUBMITTED BY MR RIORDAN IN THIS CASE ARE LEGITIMATE AND
12 ARE FAIR THAT IS WHAT IS BEFORE THE COURT AND WE
13 RESPECTFULLY ASK THAT THE COURT NOT BE SWAYED BY SOME
14 OTHER ISSUE THAT HAS NOTHING TO DO WITH THE FUNDAMENTAL
15 ISSUE THAT IS BEFORE THIS COURT THAT I LAYED OUT IN THE
16 BEGINNING OF MY REMARKS NOW, I APPRECIATE THE COURT, THE
17 TIME THAT YOU HAVE JUST GIVEN ME IF YOU HAVE ANY
18 QUESTIONS, I WOULD LIKE TO KIND OF STEP BACK AND TURN IT
19 OVER TO THE OTHER SIDE SO THEY CAN BE ABLE TO RESPOND I
20 KNOW THIS IS OUR MOTION BUT IF YOU DO HAVE ANY QUESTIONS,
21 YOUR HONOR, EITHER MYSELF OR MR RIORDAN, MR HARRIS, ONE
22 OF US MAY BE ABLE TO ANSWER
23 THE COURT MR PRUITT
24 MR PRUITT YOUR HONOR, IF IT PLEASE THE COURT,
25 STEVE PRUITT I APOLOGIZE FOR MY VOICE AND I HAVE BEEN

1 OUT WITH THE FLU FOR SEVERAL DAYS THAT IS ONE REASON I
2 AM JUST GETTING THE MEMO IN AND I APOLOGIZE FOR THE DELAY
3 IF THE COURT WILL BEAR WITH ME ON MY VOICE I WOULD
4 APPRECIATE IT YOUR HONOR, GOING THROUGH THE BASICS OF
5 SOME OF THIS WE HAVE HAD TWO YEARS OF LITIGATION ON
6 THIS NOW, OUR POSITION OBVIOUSLY IS THAT THE TWO YEARS
7 OF LITIGATION COULD OF ENDED A LOT SOONER AND A LOT MORE
8 REASONABLE AND A LOT MORE EFFICIENTLY EXCEPT FOR THE
9 ACTIONS OF THE PLAINTIFF THERE WAS A COUNTERCLAIM FILED
10 ON MR VAUGHN YOUR HONOR HEARD MOST OF THE SUMMARY
11 JUDGMENT ON OCTOBER 15TH AT THAT TIME YOU ENCOURAGED THE
12 PARTIES TO TRY TO RESOLVE THIS MATTER AND THAT IS
13 EXACTLY WHAT WE TRIED TO DO YOUR HONOR IS AWARE OF THESE
14 DISCUSSIONS AND THERE WAS A LETTER SENT TO YOU PREVIOUSLY
15 MR RIORDAN ACTUALLY APPROVED THE LETTER BEFORE IT WAS
16 SENT TO YOU WHICH ADDRESSED THE SETTLEMENT THE
17 DEFENDANTS HAD OFFERED A LETTER WHICH WE DISCUSSED THAT
18 DAY, ACTUALLY THE HEARING ABOUT MR VAUGHN WOULDN'T GO
19 BACK ON THE PROPERTY AND WITHOUT A SUPERVISOR UNLESS IT
20 WAS AN EMERGENCY SITUATION YOUR HONOR HAS REVIEWED THOSE
21 LETTERS, I AM SURE IN AN ATTEMPT TO TRY TO GET THIS CASE
22 RESOLVED THERE WAS AN OFFER OF JUDGMENT MADE OF \$5,100 00
23 DOLLARS TO TRY TO RESOLVE THE CASE THIS WAS MADE ON
24 NOVEMBER THE 16TH AND IT WAS ACCEPTED ON THE 18TH NOW,
25 OUR POSITION FIRST, YOUR HONOR, THAT THE PLAINTIFF IS NOT,

1 THE PLAINTIFF, HE IS NOT THE PREVAILING PARTY IN THE CASE
2 IF YOU LOOK AT THE LAW, WE CITE SOME LAW IN OUR MEMORANDUM
3 THAT TO BE THE PREVAILING PARTY YOU HAVE TO SUCCEED ON A
4 SIGNIFICANT ISSUE IN THIS CASE THAT BRINGS ABOUT A CHANGE
5 IN THE LEGAL RELATIONSHIP BETWEEN THE PARTIES IT TALKS
6 ABOUT IN THE SETTLEMENT IS DE MINIMUS, THE SUCCESS IS DE
7 MINIMUS, THEY ARE NOT RELATED TO THE PARTIES NOW, THE
8 RELIEF FOR THE TEST IN THE CASE IN THE DE MINIMUS AGAIN IS
9 THE LITIGATOR OF TWO YEARS THE PLAINTIFF HAS INCURRED,
10 IF IT PAID THIS LONG, APPARENTLY OVER \$155,000 00 DOLLARS
11 IN ATTORNEYS FEES AND ENDS UP TAKING \$5,100 00 DOLLARS TO
12 RESOLVE THE CASE \$155,000 00 DOLLARS TO OBTAIN \$5,100 00
13 IS NOT A REASONABLE CASE, IT IS NOT A PREVAILING PARTY IN
14 THAT MANNER I AM TRYING TO MOVE THROUGH SOME OF THESE
15 ISSUES, YOUR HONOR IF THE PLAINTIFF'S OBJECTED TO WAS
16 NOT ABOUT MONEY, AS HIS ATTORNEY HAS REPEATEDLY STATED IN
17 OPEN COURT BEFORE AND IN-CHAMBERS, YOUR HONOR, AS WELL
18 THE PLAINTIFF DID NOT RETAIN THE RELIEF HE DESIRED IN THE
19 CASE AND, AGAIN, HE IS NOT A RELATED PARTY THE
20 PLAINTIFF HAD NUMEROUS CAUSES OF ACTION IN THE CASE BUT HE
21 HAD NO CAUSE OF ACTION AGAINST DEFENDANT, DNR, WHICH WOULD
22 ENTITLE HIM TO ATTORNEYS FEES HE IS ONLY ENTITLED TO
23 ATTORNEYS FEES WOULD BE THE 1983 CAUSE OF ACTION AGAINST
24 MR VAUGHN I BELIEVE THAT MAKES MR VAUGHN'S
25 COUNTERCLAIM EXTREMELY VALUABLE

1 NOW, AS FAR AS THIS CONFIDENTIALITY I UNDERSTAND WHAT
2 WAS DONE, I WAS INFORMED OF THE SETTLEMENT PRIOR TO ANY
3 CONFIDENTIALITY, A , BEING REQUESTED, OR B , BEING SIGNED
4 AT THAT POINT, I MEAN, I AM CERTAINLY NOT BOUND BY ANY
5 CONFIDENTIALITY THE ADDITIONAL OFFER WAS MADE, IT IS MY
6 UNDERSTANDING THERE WAS NO CONFIDENTIALITY, THIS WAS LATER
7 DONE BY THAT POINT I HAD BEEN INFORMED OF THE
8 SETTLEMENT, I AM NOT BOUND BY ANY CONFIDENTIALITY
9 PROVISION ON THIS BASIS AS THE ONLY BASIS TO RECOVER
10 ATTORNEYS FEES IS UNDER '83 AGAINST DEFENDANT VAUGHN AND
11 DEFENDANT VAUGHN SETTLED HIS COUNTERCLAIM FOR ALMOST FIVE
12 TIMES THAT AMOUNT CLEARLY, THE PLAINTIFF COULD NOT BE
13 THE PREVAILING PARTY IN THIS CASE AGAIN, LOOKING TO, IF
14 THE CASE GOES TO TRIAL THERE WOULD BE REQUIRED TO BE A
15 SPECIAL VERDICT AS TO ANY CLAIM IN 1983 THERE, THE OFFER
16 OF JUDGMENT STATED TO TAKE JUDGMENT DID NOT SPECIFICALLY
17 TAKE ANY PARTICULAR CAUSE OF ACTION SO THE PLAINTIFF HAS
18 FAILED TO MEET THE BURDEN ON THAT TO SHOW THAT HE HAS
19 PREVAILED IN 1983

20 THE NEXT ISSUE WE WOULD ADDRESS, YOUR HONOR, IS THE
21 COURT'S EXERCISE OF DISCRETION AS MR GASSER STATED, WE
22 HAVEN'T MET UNTIL TODAY AS HE STATED EARLIER, THE COURT
23 HAS WIDE DISCRETION AND I QUOTE THE SECTION 1988 THE
24 COURT IN ITS DISCRETION MAY ALLOW AND THE COURT HAS WIDE
25 DISCRETION IN THIS MATTER IF YOU LOOK AT WHAT THEY SAY,

1 THE TOTALITY OF THE CIRCUMSTANCES AND THE TOTALITY OF
2 THE CIRCUMSTANCES HERE ARE THAT, AGAIN, THE DEFENDANTS DID
3 OFFER THIS LETTER TO THE PLAINTIFF WHICH WE SAY IS WHAT HE
4 WANTED ALL ALONG, ACKNOWLEDGMENT OF SOME SORT THAT WAS
5 REJECTED IT WAS LATER, THE PLAINTIFF DID ACCEPT THE
6 OFFER OF THE JUDGMENT OF \$5,100 00 DOLLARS WE SUBMIT
7 THIS IS NOMINAL DAMAGES WHEN YOU LOOK AT THE AMOUNT OF
8 ATTORNEYS FEES HE HAS ACCRUED TO TRY TO OBTAIN THIS AND
9 WHAT HAS GONE ON IN THIS CASE EVEN IF THE PLAINTIFF WHO
10 RECOVERS ONLY NOMINAL DAMAGES TECHNICALLY PREVAILS, THE
11 TRIAL JUDGE WHICH HAS DISCRETION TO WITHHOLD THE FEES
12 AND THAT IS WHAT WE ARE ASKING IN THIS CASE, YOUR HONOR
13 THE COURT AND WE CITE THE CASE OF FLETCHER VERSUS CITY OF
14 FORT WAYNE, INDIANA I DO HAVE A COPY OF ALL OF THESE I
15 KNOW YOU HAVEN'T HAD TIME TO LOOK AT THIS ANYWAY BUT THE
16 DISTRICT COURT FOUND IN THAT CASE AND THE JUDGE, THE
17 DISTRICT JUDGE DID NOT ABUSE HIS DISCRETION IN INCLUDING
18 THAT THE SUBSTANCE OF \$2,500 00 DOLLARS AND \$5,000 00
19 DOLLARS, THAT IS EXACTLY WHAT WE HAVE IN THIS CASE,
20 REFLECTED ONLY NUISANCE VALUE AND WAS NOT ENTITLED TO
21 RECOVER ATTORNEYS FEES FLETCHER GOES ON, EACH OF THE
22 PLAINTIFFS ACKNOWLEDGE, THE ATTORNEYS FEES WERE FAR IN
23 EXCESS OF THE AMOUNT THAT FLETCHER RECOVERED IN THAT CASE
24 AND THE COURT COMPROMISED FOR LESS THAN THE FUTURE COST OF
25 THE DEFENSE IS A GOOD WORKING DEFINITION OF A NUISANCE

1 VALUE SUPPLEMENT THAT IS WHAT THE COURT IN FLETCHER
2 STATED THAT IS SIMILAR TO THE PRESENT CASE I DON'T
3 BELIEVE THAT MR RIORDAN OR ANYBODY WILL DENY OR DISPUTE
4 THE FACT THAT IF WE HAD GONE FORWARD TO A TRIAL IN THE
5 CASE IT WAS GOING TO BE MANY, MANY TIMES IN FEES THAN THE
6 \$5,100 00 DOLLARS WE WERE LOOKING AT ADDITIONAL
7 DEPOSITIONS, WE WERE LOOKING AT DOING EXTENSIVE MOTION IN
8 LIMINE WHICH WAS PROBABLY GOING TO TAKE THREE QUARTER A
9 DAY ON MOTIONS IN LIMINE ON ISSUES BECAUSE WE FELT THERE
10 WERE MANY THAT NEEDED TO BE ADDRESSED LATER THAT WAS
11 RELEVANT TO ADDRESS AND ALSO A LENGTHY TRIAL AND ALSO
12 INCLUDING HAVING TO BRING OFFICERS FROM ALL OVER THE STATE
13 BECAUSE OF ISSUES THAT THEY HAD RAISED TO TRIAL IN THIS
14 CASE SO, IN THIS CASE THE \$5,100 00 DOLLARS IS SOMETHING
15 OF A NUISANCE TYPE SETTLEMENT, TO AVOID THIS CASE HAVING
16 TO GO FORWARD TO A TRIAL AND EXTENDING THOSE AMOUNT OF
17 RESOURCES BECAUSE TREMENDOUS RESOURCES HAVE BEEN SPENT IN
18 TWO YEARS AND DESPITE THE FACT THAT MR GASSER SAYS, WE
19 COULD HAVE ENDED THIS CASE EARLIER, WE COULD OF DONE THIS,
20 WE TRIED QUITE FRANKLY, THE \$5,100 00 DOLLARS, \$5,000 00
21 DOLLARS HAD BEEN OFFERED MONTHS AGO AND HAD BEEN DECLINED
22 THERE HAVE BEEN ATTEMPTS TO RESOLVE THE CASE PREVIOUSLY
23 WHICH THEY DID REJECT NOW, THE PLAINTIFF ACKNOWLEDGES IN
24 HIS BRIEF THAT SPECIAL CIRCUMSTANCES CAN'T EXIST TO RENDER
25 ATTORNEYS FEES UNJUST AND THAT IS WHAT WE BELIEVE IN THIS

1 CASE WE CITED ANOTHER CASE FROM THE EIGHTH CIRCUIT,
2 TYLER AND THAT CASE WAS SETTLED FOR \$17,500 00 DOLLARS
3 IT IS ON PAGE SIX, YOUR HONOR AND IT WAS OVER \$65,000 00
4 DOLLARS IN ATTORNEYS FEES THE COURT HELD IN THAT CASE,
5 HELD THAT A NUISANCE SETTLEMENT IS A SPECIAL CIRCUMSTANCE
6 THAT SHOULD BAR ATTORNEYS FEES AND THE COURT NOTED THAT
7 A NUISANCE SETTLEMENT IS ONE THAT IS ACCEPTED DESPITE THE
8 FACT THAT THE CASE AGAINST THE DEFENDANT IS AN EFFORT TO
9 AVOID THE STEPS OF LITIGATION HERE WE ARE TRYING TO
10 AVOID THE EXPENSE OF GOING FORWARD IN THIS CASE WITH
11 LITIGATION AND TRYING TO RESOLVE THIS CASE, TO BRING THIS
12 CASE TO AN END AN ADDITIONAL SPECIAL CIRCUMSTANCE AGAIN
13 INVOLVES THE COUNTERCLAIM LOOKING AT THIS CASE AND I
14 UNDERSTAND THEY SAY IT IS NOT RELEVANT, IT DOESN'T MATTER,
15 BUT THEY ARE SAYING THAT THE SAME REASON THEY HAVE
16 RESOLVED THE COUNTERCLAIM THIS CLAIM IS RESOLVED, IS TO
17 END THE CASE AND END GOING FORWARD WITH ADDITIONAL FEES
18 AND COSTS AND BURDENS ON EVERYONES TIME INCLUDING THE
19 COURT'S WITH A LONG LENGTHY TRIAL THE COUNTERCLAIM
20 SETTLED FOR \$25,000 00 DOLLARS, FIVE TIMES ALMOST WHAT THE
21 PLAINTIFF'S RECOVERY WAS IN THE CASE WE HAVE ALSO CITED
22 SOME CASES, CASES WHERE THERE WAS A COUNTERCLAIM, RECOVERY
23 ON BOTH AND THE COURT'S IN THOSE CASES FOUND THAT, AND
24 THESE DIDN'T ALWAYS DEAL WITH THIS PARTICULAR, IT IS NOT
25 REPRESENTING THEY WERE EXACTLY ACCURATE AS FAR AS

1 FACTUALLY THE SAME THEY DIDN'T DEAL WITH MAKING
2 ATTORNEYS FEES BUT THEY DEALT WITH COST AND PREVAILING
3 PARTIES SITUATIONS AND THESE CASES FOUND WHERE BOTH
4 PARTIES RECOVER ON THE COUNTERCLAIM NEITHER WAS, BOTH
5 PARTIES RECOVERED, NEITHER WAS THE PREVAILING PARTY AND
6 I HAVE CITED CASES, ONE OF THOSE CASES, YOUR HONOR, GLENN
7 CASE, SPECIFICALLY FOUND WHERE THE PLAINTIFF RECOVERED
8 ACTUALLY ABOUT TWICE THE AMOUNT THE DEFENDANT DID ON THE
9 COUNTERCLAIM, THE PLAINTIFF WAS STILL NOT THE PREVAILING
10 PARTY ANOTHER CASE, THE COURT STATED LOOKING AT THE CASE
11 AS A WHOLE NEITHER PARTY WAS CONSIDERED A WINNER OR A
12 LOSER WHERE BOTH PARTIES WERE AWARDED DAMAGES ON THEIR
13 RESPECTIVE CLAIMS AND COUNTERCLAIMS AND THERE WAS NO
14 PREVAILING PARTY ENTITLED TO AWARD COST THE PLAINTIFF,
15 AS I SAID, HAD NO CAUSE OF ACTION WHICH WOULD ENTITLE
16 ATTORNEYS FEES SO, AGAIN, LOOKING BACK THE ONLY THING
17 THAT IS A COUNTERCLAIM AGAINST MR VAUGHN, HE DIRECTLY
18 SETTLED THE CLAIM AGAINST MR HUEBLE FOR \$25,000 00
19 DOLLARS AND, AGAIN, WE BELIEVE THAT IN ITSELF IS A
20 SPECIAL CIRCUMSTANCE FINALLY, YOUR HONOR, THE
21 PLAINTIFF'S ATTORNEY REPEATEDLY STATED THAT THIS CASE WAS
22 NOT ABOUT MONEY THIS CASE WAS NOT ABOUT MONEY WE TRIED
23 TO GET THIS CASE RESOLVED, WE HAD GOTTEN A LETTER AND WE
24 SUBMITTED TO THEM WITH A PROPOSAL OF \$5,000 00 DOLLARS TO
25 GET THE CASE RESOLVED BEFORE WHEN WE TALKED ABOUT

1 SETTLEMENT THE MONEY WAS NOT THE ISSUE, THAT WAS STATED TO
2 US, THAT WAS STATED TO YOU, THAT WAS STATED IN THIS
3 COURTROOM THE MONEY BEING NOT THE ISSUE BUT THERE WAS A
4 CHANCE TO TAKE A MINIMAL AMOUNT OF SETTLEMENT WHICH HAD
5 BEEN OFFERED PREVIOUSLY AND TRY TO TAKE ATTORNEYS FEES TO
6 OBTAIN MONEY THEN MONEY BECAME THE ISSUE IN THE CASE
7 WHEN MONEY IS THE ONLY ISSUE THEN CLEARLY HE IS NOT A
8 PREVAILING PARTY WHEN WE ARE SPENDING \$5,000 00 DOLLARS TO
9 TRY THEN, SPENDING \$155,000 00 DOLLARS TO RECOVER \$5 THE
10 COURT, AGAIN, IN ITS PAST DISCRETION IN THIS CASE, IN
11 LOOKING AT THE FACTS IN THIS CASE THIS WAS A CASE WHICH
12 WAS LITIGATED OVER TWO YEARS, CONSIDERABLE EXPENSE TO BOTH
13 SIDES WE SOUGHT TO END THIS CASE BY A SETTLEMENT TO
14 AVOID ADDITIONAL COST AND EXPENSES THE PLAINTIFF
15 INCURRED, AS HE SAYS, INCURRED \$155,000 00 DOLLARS IN COST
16 WHICH WE, TODAY WE ADDRESS WE DO NOT BELIEVE IS
17 REASONABLE AND DESPITE THAT, TO RECOVER \$5,000 00 AND
18 DESPITE THAT WITH THE COUNTERCLAIM THERE WAS \$25,000 00
19 SETTLEMENT LOOKING AT THIS CASE WE BELIEVE THERE ARE
20 SPECIAL CIRCUMSTANCES AND WOULD ASK THAT IN YOUR
21 DISCRETION YOU DENY ANY CLAIM FOR ATTORNEYS FEES IN THIS
22 CASE THANK YOU MR MCDADE, I THINK HE WILL BE MORE
23 PLEASANT TO LISTEN TO HIM THAN ME TODAY, YOUR HONOR HE
24 WILL BE ADDRESSING SOME OF THE ISSUES SPECIFICALLY AS TO
25 THE FEES, YOUR HONOR THANK YOU

1 MR MCDADE MAY IT PLEASE THE COURT, I AM VICTOR
2 MCDADE AND I AM HERE FOR ERIC VAUGHN YOUR HONOR, I HAVE
3 GONE OVER THE EXTENDED BILLING THAT HE SUBMITTED AND WOULD
4 LIKE TO BRING TO YOUR HONOR'S ATTENTION SOME THINGS I
5 THINK ARE RELEVANT AND SOME THINGS THAT I THINK SHOULD BE
6 QUESTIONED AS TO WHETHER THEY ARE REASONABLE THE FIRST
7 THING, YOUR HONOR, THE BILLING STARTS AUGUST THE 21ST OF
8 2006 BUT FOR TWO YEARS THERE ARE TASKS THERE BUT NO
9 ITEMIZED TIMES SO IT WOULD BE VERY DIFFICULT FOR US TO
10 PULL OUT SOME THINGS AND DETERMINE WHAT IS REASONABLE AND
11 WHAT IS NOT REASONABLE AND TO PUT A TIME VALUE ON THOSE
12 SINCE THAT IS NOT GIVEN FOR SOME REASON BEGINNING IN
13 AUGUST OF 2008, TWO YEARS LATER, ALL OF THE TASKS ARE
14 SHOWN AND THEN THERE IS A POINT ONE OR POINT THREE OR
15 ELEVEN HOURS OR WHATEVER SO, I DON'T KNOW WHAT THE ISSUE
16 WITH THAT IS BUT, YOUR HONOR, I ALSO THINK IT IS
17 SIGNIFICANT THAT THIS MATTER APPARENTLY STARTED A YEAR
18 BEFORE HE FILED HIS COMPLAINT AND I BELIEVE THERE IS ABOUT
19 \$10,000 00 DOLLARS EXPENDED OVER THAT YEAR WHICH SEEMS
20 UNREASONABLE TO DETERMINE WHETHER OR NOT YOU HAVE A CAUSE
21 OF ACTION WHEN YOU HAVE A VALID COMPLAINT AND TO PREPARE
22 THAT COMPLAINT I THINK IF YOU LOOK AT THE TOTALITY OF
23 THE BILLING YOU WILL SEE THAT THERE ARE MANY MORE HOURS
24 DEVOTED TO DEFENDING COUNTERCLAIM THAN MR RIORDAN
25 CONCEDES IN HIS AFFIDAVIT AND TO GIVE YOUR HONOR SOME

1 HELP IN TRYING TO PULL THOSE THINGS OUT, I THINK NUMEROUS
2 CONFERENCES WITH HIS CLIENT CONCERNING DEFAMATION WHICH
3 WAS THE COUNTERCLAIM IN THIS CASE THERE IS NUMEROUS
4 ENTRIES THERE FOR RESEARCH ON DEFAMATION AGAIN, WHICH
5 WAS MR VAUGHN'S COUNTERCLAIM AGAINST HUEBLE AND ALSO
6 DEPOSITIONS AND PREP TIME FOR LAURIE VAUGHN AND HER
7 FATHER THOSE ARE MR VAUGHN'S EX-WIFE AND
8 EX-FATHER-IN-LAW THOSE ISSUES RELATED SOLELY TO THE
9 COUNTERCLAIM, THEY DIDN'T HAVE ANYTHING TO DO WITH MR
10 HUEBLE'S CLAIMS BUT SOLELY ON THE COUNTERCLAIM THERE WAS
11 ALSO EXTENSIVE RESEARCH INTO MR VAUGHN'S FAMILY COURT
12 RECORDS AND HAS NOTHING TO DO WITH HIS CLAIM THERE IS
13 EXTENSIVE TIME GIVEN FOR GOING AFTER MR VAUGHN'S MEDICAL
14 RECORDS WHICH AGAIN HAVE NOTHING TO DO WITH MR HUEBLE'S
15 CLAIM SO, A LOT OF THE ISSUES, A LOT OF THE TIME ARE
16 RELATED TO THAT THERE IS ALSO ANOTHER ISSUE THAT A LOT
17 OF THE BILL IS DEVOTED TO AND THAT IS THE INSURANCE ISSUE
18 I BELIEVE, YOUR HONOR, THIS IS THE FIRST CASE I HAVE EVER
19 BEEN INVOLVED WHERE AN INSURED HAD TWO INSURANCE COMPANIES
20 WHO WERE STEPPING IN TO DEFEND HIM AND TO WHICH HE WANTED
21 TO NEGATE ONE OF THOSE INSURANCE CONTRACTS, GIVE HIM THE
22 PREMIUM BACK AND SAY I DON'T HAVE ANY COVERAGE SO, IF
23 YOU LOOK AT THOSE BILLS YOU WILL SEE THAT A LOT OF THEM
24 DEAL WHETHER THE INSURANCE COMPANY COULD SETTLE THE
25 COUNTERCLAIM WITHOUT HIS PERMISSION A LOT OF THEM DEAL

1 WITH WHETHER MR HUEBLE COULD RELEASE OR INDEMNIFY THAT
2 INSURANCE COMPANY AND NEGATE HIS COVERAGE AND ALSO THERE
3 IS AN ANDREW LINDEMAN, THOSE ENTRIES IN THE BILLS ARE
4 SOLELY TO DO WITH THOSE ISSUES WHICH HAVE NOTHING TO DO
5 WITH MR HUEBLE'S CLAIM AGAINST US IN ADDITION TO THAT
6 THERE WERE ALSO NUMEROUS OTHER IRRELEVANT AREAS THAT I AM
7 NOT SURE HOW THEY COULD HAVE ANY SIGNIFICANCE TO HIS
8 CLAIM CONFERENCE WITH THE STATE WIDE GRAND JURY, AS YOUR
9 HONOR IS WELL AWARE, THIS STARTED WITH A TICKET FOR
10 BAITING A DOVE FIELD TO WHICH MR HUEBLE PLEAD GUILTY OR
11 PLEAD NOLO CONTENDERE AND TO WHICH IN THE PRESENCE OF ALL
12 OF THE ATTORNEYS AFTER WE ARGUED OUR SUMMARY JUDGMENT
13 MOTION, YOUR HONOR, POINTED OUT THAT HE WAS HUNG WITH THAT
14 CONVICTION THERE IS ALSO NUMEROUS CONFERENCES WITH
15 ATTORNEYS, PATRICK YON IN 2006, HE IS AN ANDERSON
16 ATTORNEY, I AM NOT SURE WHAT RELEVANCE THAT HAS TOM
17 AUSTIN, AN UNNAMED GREENWOOD ATTORNEY, THE ATTORNEY
18 GENERAL, THE U S ATTORNEY, STEVE HENRY, YOU KNOW,
19 NUMEROUS CONVERSATIONS WITH OTHER ATTORNEYS THAT AREN'T IN
20 ANY WAY RELATED TO THE CASE THERE IS A MATTER
21 EXTENSIVELY BILLED DEALING WITH STEVE TANNIHILL, FORMER
22 QUARTERBACK FOR CAROLINA HAS NOTHING TO DO WITH ERIC
23 VAUGHN THERE IS A SENATOR CROMER CONFERENCE, I AM NOT
24 SURE WHAT A STATE SENATOR WOULD HAVE TO DO WITH A PENDING
25 LAWSUIT CORRESPONDENCE WITH NRA, I AM NOT SURE WHAT NRA

1 WOULD HAVE TO DO WITH THIS NUMEROUS REFERENCES TO OTHER
2 CASES, THAT IS A ROCK HILL CASE THAT IS REFERENCED,
3 GREENWOOD CASE, VIRGINIA CASE, LOUISIANA CASE, ARKANSAS
4 CASE, AN IOWA CASE NUMEROUS TIME WAS DEVOTED TO EITHER
5 RESEARCH WHAT IS GOING ON IN OTHER STATES OR TO SPEND TIME
6 IN DEPOSITION ASKING WITNESSES WHAT THEY THINK ABOUT WHAT
7 WENT ON OUT IN IOWA OR WHAT WENT ON IN LOUISIANA OR WHAT
8 WENT ON IN ARKANSAS NONE OF WHICH HAVE ANYTHING TO DO WITH
9 THIS HE MENTIONS AN EARLIER CASE THAT I HAPPEN TO HAVE
10 BEEN INVOLVED WITH WITH THEM, AN OCONEE CASE IT IS
11 INTERESTING THAT I NOTE IN OCTOBER OF THIS YEAR THAT THERE
12 IS A MEETING WITH THE GOVERNOR, I AM NOT SURE IF THAT IS
13 THE SAME PERSON, I DON'T KNOW WHAT SHE WOULD HAVE TO DO
14 WITH THIS CASE THAT CASE INVOLVED AN ALLEGED BURGLARY
15 AND AN ARREST AND AN EX-HUSBAND AND NOTHING AT ALL RELATED
16 TO THIS CASE EVEN THE ISSUES ARE DIFFERENT THERE IS ALSO
17 AN ANDRE BAUER AND I DON'T KNOW WHY THEY WOULD BE MEETING
18 WITH THE GOVERNOR AND WHY IT WOULD APPEAR ON THIS BILL
19 AND ANDRE BAUER, WHAT IN THE WORLD IS ANDREA BAUER IN
20 CONTACT WITH HIS OFFICE HAVE TO DO WITH THIS CASE AND
21 FINALLY, YOUR HONOR, THERE IS A COUPLE OF OTHER THINGS
22 THERE IS THE HELICOPTER, WHAT I CALL THE HELICOPTER GOOSE
23 CHASE, WE WENT ROUND AND ROUND AND ROUND ABOUT WHETHER A
24 DNR HELICOPTER WAS FLYING OVER THIS PROPERTY AND I
25 BELIEVE WE DETERMINED DNR DOESN'T EVEN HAVE A HELICOPTER

1 BUT WE WENT ON AND ON AND ON IN DEPOSITION AND OTHERWISE
2 ABOUT THAT AND FINALLY THERE IS A CHARACTER NAMED GENE
3 JOHNSTON WHO HAS HAD DISPUTES WITH DNR, HAD DISPUTES WITH
4 ANYBODY COMING ON HIS LAND OR MANAGING HIS LAND BUT WE
5 HAVE NUMEROUS CONFERENCES AND CORRESPONDENCE WITH HIM
6 AND, YOUR HONOR, HE HAS NEVER MET ERIC VAUGHN WHO HAS
7 NEVER BEEN ON THIS PROPERTY AND I AM NOT SURE WHAT
8 RELEVANCE HE WOULD HAVE TO ANYTHING, CERTAINLY NOT AN
9 EXPERT I GUESS ANOTHER THING THAT IS, WE HEARD
10 THROUGHOUT THIS WHOLE CASE THAT THE PRIOR LANDOWNER SAID
11 WHEN HE BOUGHT THE PROPERTY TO MR HUEBLE, YOU NEED TO LET
12 THAT DNR OFFICER HUNT THAT PROPERTY WE HEARD THAT OVER
13 AND OVER AND OVER AGAIN, SET HIS DEPOSITION UP, I THINK,
14 IN NOVEMBER OR LATE OCTOBER AND WHEN HE MET WITH HIM MR
15 RIORDAN DIDN'T EVEN TAKE HIS DEPOSITION SO, IT IS MORE
16 INTERESTING SOMETIMES WHAT THEY DON'T DO WITH THINGS THAT
17 ARE RELEVANT THAN WHAT THEY ARE DOING WITH THINGS THAT
18 AREN'T RELEVANT AGAIN, YOUR HONOR, THIS HAS TOTALLY BEEN
19 ALWAYS TOLD TO US, THIS ISN'T ABOUT MONEY, IT IS NOT ABOUT
20 MONEY BUT YET HERE WE ARE TODAY ARGUING ABOUT MONEY I
21 THINK, YOUR HONOR, IF YOU LOOK AT THE FACTORS, THE TIME
22 AND WAVIER, AGAIN MUCH OF IT IS EXPENDED ON COUNTERCLAIM,
23 THE INSURANCE ISSUE, IRRELEVANT MATTERS, MEETING WITH
24 ANDRE BAUER OR THE GOVERNOR OR SENATOR CROMER, ALL OF
25 THESE PEOPLE THIS IS NOT A NOVEL ISSUE, IT IS NOT A

1 DIFFICULT ISSUE, THERE ARE ATTORNEYS THAT WILL HANDLE THIS
2 TYPE OF CASE AND I THINK IT IS LUDICROUS TO ASSERT THAT
3 BECAUSE THIS INVOLVED DNR THAT ATTORNEYS ARE GOING TO BE
4 AFRAID TO HANDLE THAT CASE SOMEBODY POINTED OUT, THEY
5 CERTAINLY DON'T DO THE SAME THING WITH THE HIGHWAY PATROL,
6 EVEN ALL OF THEM HAVE DRIVERS LICENSE SO, I DON'T THINK
7 THAT MAKES A LOT OF SENSE I THINK THAT IF YOU LOOK AT
8 THE FACTORS, I DON'T THINK IT REQUIRES A SPECIALIST, THE
9 ATTORNEY OPPORTUNITY COST, HE TOOK US ON AN HOURLY BASIS
10 AND WAS SUPPOSED TO HAVE BEEN PAID BY MR HUEBLE
11 CUSTOMARY FEE, THIS CASE WAS HOURLY EXPECTATIONS, AGAIN,
12 THIS CASE WAS ALWAYS NOT BEEN ABOUT MONEY BUT HERE WE ARE
13 TODAY TALKING ABOUT MONEY I AM NOT AWARE OF ANY TIME
14 LIMITATIONS PLACED ON THEM BY THE CLIENT AND I THINK THE
15 AMOUNT IN CONTROVERSY AND RESULT HAVE ALREADY BEEN DEALT
16 WITH BY MR PRUITT BUT CERTAINLY WHEN THE COUNTERCLAIM
17 SETTLES FOR \$25,000 00 AND THIS CASE SETTLES IN ESSENCE
18 FOR \$5,100 00, THEY ARE NOT THE PREVAILING PARTY
19 CERTAINLY MR RIORDAN IS A COMPETENT ATTORNEY AND I
20 GUESS THE LAST, YOUR HONOR, ATTORNEYS FEES IN SIMILAR
21 CASES, THERE IS A LOT IN HIS AFFIDAVITS ABOUT WHAT A
22 REASONABLE FEE WOULD BE AND WHAT SO AND SO SAID IT WOULD
23 BE BUT I WANT TO ASSERT TO YOU HE HASN'T SUBMITTED ANY
24 AFFIDAVITS FROM ATTORNEYS, ALL HE HAS DONE IS GIVEN
25 HEARSAY AND I WOULD ASK YOUR HONOR NOT EVEN CONSIDER THAT

1 IN RULING ON THAT THANK YOU, YOUR HONOR
2 MR PRUITT I JUST HAVE A COUPLE OF THINGS
3 THE COURT SURE, BE BRIEF
4 MR PRUITT THE TIME AND LABOR EXPENDED AND THIS IS
5 JUST A COUPLE OF THINGS BUT INITIALLY THE PLAINTIFF
6 LISTED A BUNCH OF WITNESSES AND I DON'T REMEMBER THE EXACT
7 NUMBER BUT IT WAS A FAIR NUMBER AND CERTAINLY THE ONES
8 THAT WERE ON THE DOVE FIELD THE DAY THAT THIS INCIDENT
9 OCCURRED WERE ABSOLUTELY RELEVANT WITNESSES BUT THERE
10 WERE A NUMBER OF THEM LISTED THAT DIDN'T HAVE ANY
11 INFORMATION ABOUT THIS CASE EXCEPT THAT, WHAT THE
12 PLAINTIFF TOLD THEM AND THEY WERE ONLY THERE TO TESTIFY
13 THAT THEY FEEL COMFORTABLE WHEN HUNTING ON THE PROPERTY
14 BASED ON WHAT HE TOLD THEM WHICH I DON'T SEE HOW THAT IS
15 RELEVANT, PERMISSIBLE TESTIMONY IN THIS CASE ONE OF
16 THEM, HIS BROTHER-IN-LAW STATED THAT HE HAD NEVER HUNTED
17 IN HIS LIFE AND DID NOT KNOW WHY HE HAD BEEN LISTED AS A
18 WITNESS HE INITIALLY TESTIFIED THAT HE HAD NOT HUNTED
19 THE PLAINTIFF'S PROPERTY BECAUSE HE ALSO, BECAUSE HE
20 HADN'T HAD TIME AND THEN TALKS ABOUT GENE JOHNSTON, MR
21 MCDADE HAD DISCUSSED THAT HE OWNED BUT JUST GIVE ME A
22 LITTLE MORE INFORMATION HE SAID HE HAD NEVER MET HIM,
23 SPOKE TO THE PLAINTIFF BUT NEVER MET HIM, SPOKEN TO HIM ON
24 THE TELEPHONE, NEVER BEEN ON THE PROPERTY, DIDN'T KNOW HE
25 HAD BEEN LISTED AS A WITNESS UNTIL THREE WEEKS BEFORE HIS

1 DEPOSITION AND WHEN ASKED WHY HE IS LISTED AS A WITNESS,
2 HE SAID HE FELT LIKE IT MUST BE HIS PAST DEALINGS WITH
3 DNR THINGS LIKE THAT, THESES PEOPLE ARE LISTED AS
4 WITNESSES, WE FEEL WE NEED TO GO FIND OUT WHAT THEY ARE
5 GOING TO SAY IN THE CASE AND HE OBVIOUSLY WAS GOING TO
6 BE THERE AND SPEND THAT TIME, WE DON'T KNOW IF THAT TIME
7 IS REASONABLE AND WE ACTUALLY SOUGHT TO REDUCE THAT
8 AMOUNT OF TIME BY ASKING HIM, WE DID THIS REPEATEDLY AND
9 HE ACKNOWLEDGED TO MOVE THE REST OF THESE PEOPLE FROM THE
10 WITNESS LIST BECAUSE THEY ARE NOT RELEVANT EVENTUALLY
11 THESE PEOPLE WERE AGREED TO BE REMOVED FROM THE WITNESS
12 LIST THE OTHER THING AND THE LAST THING I WANT TO TALK
13 ABOUT IS, ONE THING THAT REALLY BECAME MORE THAN MR
14 HUEBLE, BECAME THE FOCUS OF THIS CASE FOR THE PLAINTIFF
15 WAS OTHER ISSUES INVOLVING ERIC VAUGHN THAT IS WHAT THIS
16 CASE BECAME MORE ABOUT THAN ANYTHING ELSE AND YOUR HONOR
17 HEARD AND IF YOU RECALL THESE ISSUES, I WON'T GO BACK INTO
18 THEM BUT YOU HAVE HEARD ALL OF THESE ISSUES BEFORE I KNOW,
19 HE HAD OTHER INVESTIGATIONS THERE WAS AN ISSUE WITH
20 ANOTHER DNR OFFICER FROM OHIO THAT CAME HERE TO DO SOME
21 TRACKING NOW, INITIALLY MR VAUGHN WASN'T EVEN IN PART
22 OF THAT INVESTIGATION, WASN'T PART OF THAT, WASN'T PART OF
23 THAT TRACKING BUT THERE WAS A TREMENDOUS AMOUNT OF TIME
24 SPENT ON THAT THERE WAS ONE WITNESS WHO WAS DEPOSED
25 BASICALLY FOR SOLELY THAT ISSUE THEN THERE WAS ALSO

1 ABOUT THE POTENTIAL INVESTIGATION THAT WAS GOING TO BE A
2 COVERT OPERATION OVER INVOLVING THAT OFFICER AND MR
3 VAUGHN IT WAS BLOWN UP BUT NOT BECAUSE OF MR VAUGHN BUT
4 BECAUSE SOMEBODY IN OHIO, WHATEVER THEIR DMV IS UP THERE
5 IT GOT BLOWN UP BECAUSE OF THAT AND BUT THEY SPEND A
6 TREMENDOUS AMOUNT OF TIME DEPOSING A WITNESS SPECIFICALLY
7 ON THAT ISSUE EVEN THOUGH THERE WAS NO WRONGDOING OF ANY
8 KIND FOUND ON MR VAUGHN THERE WAS ALSO AN ISSUE USING
9 AN OHIO RESIDENCE LICENSE WELL, THE STATE OF OHIO FOUND
10 NOTHING WRONG WE HAVE ADDRESSED THIS BEFORE, YOUR HONOR,
11 THE CIRCUMSTANCES SURROUNDING THAT AND I WON'T GO INTO
12 THEM NOW BUT HE WAS CLEAR TO BE IN THE WRONGDOING AND
13 IN OHIO YET THEY SPENT A TREMENDOUS AMOUNT OF TIME ON THIS
14 ISSUE INCLUDING QUESTIONING WITNESSES ABOUT WHERE RECENTLY
15 A SOUTH CAROLINA DEPUTY SHERIFF AND A HIGHWAY PATROLMAN
16 WAS HUNTING, USING A RESIDENCE LICENSE IN IOWA HOW THAT
17 HAS ANY RELATION TO THIS CASE IS BEYOND ME AND THE FACT
18 THAT THE TWO CASES AREN'T SIMILAR EITHER FACTUAL
19 BACKGROUND IS ABSOLUTELY TOTALLY DISSIMILAR THEY
20 REPEATEDLY ASKED QUESTIONS ABOUT ERIC VAUGHN AS FAR AS ON
21 HIS OFF TIME HE HAD THINGS WHERE HE BUILT DOCKS, HE MADE
22 TURKEY CALLS AND EVERY WITNESS, IS THAT PROPER, CAN YOU
23 DO THAT AND EVERY TIME IT WAS TOLD, YES, HE CAN BUT HE
24 KEPT GOING INTO ALL OF THOSE THINGS JUST AN EXCESSIVE
25 AMOUNT OF TIME THAT THIS CASE, NOT ABOUT MR HUEBLE'S

1 PROPERTY, IT BECOMES ABOUT GOING AFTER MR VAUGHN AND
2 THAT IS ONE OF THE REASONS IT WAS ENDED TOO IS TO GET THIS
3 CASE ENDED AS WELL THAT WAS ANOTHER REASON THIS CASE WAS
4 RESOLVED THERE WAS A VERBAL ALTERCATION MR VAUGHN GOT
5 INTO AN ALTERCATION WITH HIS SUPERVISOR AND UNFORTUNATELY
6 THAT HAPPENS IN OUR WORLD I THINK WE MIGHT ALL HAVE HAD
7 A SUPERVISOR AT SOME TIME, WE MIGHT HAVE A DISAGREEMENT
8 WITH DIDN'T HAVE ANYTHING TO DO WITH MR HUEBLE DIDN'T
9 HAVE ANYTHING TO DO WITH HIS PROPERTY BUT THERE WAS A
10 DEPOSITION BASICALLY CONDUCTED SPECIFICALLY TO ADDRESS
11 THAT ISSUE AND IT WAS ALSO ADDRESSED WITH OTHER
12 INDIVIDUALS IN DEPOSITIONS AS WELL THESE MATTERS, ALL OF
13 THEM BY THE WAY OCCURRED WELL AFTER THE LAWSUIT WAS EVEN
14 FILED IT OCCURRED CERTAINLY AFTER ANY DEALINGS WITH MR
15 HUEBLE WEREN'T RELEVANT OF THE CASE BUT BECAME THE FOCUS
16 OF THE CASE AND WE CAME WITH THIS TREMENDOUS AMOUNT OF
17 TIME AND EFFORTS SPENT ON THESE AND FOR THAT WE BELIEVE
18 THE TIME WAS UNREASONABLE THANK YOU, YOUR HONOR
19 MR GASSER YOUR HONOR, THIS WHOLE ISSUE THEY KEEP
20 BRINGING UP THE COUNTERCLAIM, THAT IS WHY I TOUCHED UPON
21 IT AT THE END OF MY PRELIMINARY OR MY REMARKS INITIALLY
22 I WOULD SUBMIT AGAIN, YOUR HONOR, THAT THEY ARE TRYING TO
23 COMPARE APPLES AND ORANGES WE ALL KNOW THAT CASE LAW IS
24 CLEAR THAT A SETTLEMENT DOES NOT EQUAL A JUDGMENT A
25 SETTLEMENT IS WHAT IT IS, IT IS AN INSURANCE COMPANY

1 SETTLING A MATTER, IS NOT A LEGAL BINDING JUDGMENT THAT IS
2 FILED IN THE COURT HOUSE A SETTLING IS DIFFERENT THAN A
3 JUDGMENT AND IN THIS PARTICULAR CASE WHAT WE HAVE HERE FOR
4 THE 1983 CAUSE OF ACTION IS AN OFFER OF JUDGMENT AND
5 ACCEPTANCE OF JUDGMENT AND AGAIN AS A MATTER OF LAW AND
6 AS A MATTER OF FACT WE HAVE A JUDGMENT WHY IS THAT SO
7 CRITICALLY IMPORTANT IT GOES DOWN, IT REALLY DOVETAILS
8 INTO THIS ISSUE THAT YOU WILL DECIDE AS TO, IS HE
9 CONSIDERED THE PREVAILING PARTY WELL, I DON'T THINK YOU
10 CAN GET ANY MORE CLEARER THAN THE UNITED STATES SUPREME
11 COURT AND THE UNITED STATE FOURTH CIRCUIT COURT OF
12 APPEALS AND I HAVE GOT, WE HAVE CITED THE UNITED STATES
13 FOURTH CIRCUIT COURT OF APPEALS, THE GRISSOM VERSUS THE
14 MILLS CORPORATION CASE AND IT CITES BUCKHANNON BOARD AND
15 CARE HOME, INCORPORATED VERSUS WEST VIRGINIA DEPARTMENT OF
16 HEALTH AND HUMAN RESOURCES, 532, US, 598 WHICH IS THE
17 UNITED STATES SUPREME COURT AND IN THE BUCKHANNON CASE,
18 TO EVALUATE WHETHER A PLAINTIFF IS THE PREVAILING PARTY,
19 WHISTLE BLOWER CLAIM, THAT IS THE BUCKHANNON CASE WE ARE
20 GUIDED BY THE SUPREME COURT'S DECISION, ACTUALLY THE
21 GRISSOM CASE IS THE WHISTLE BLOWER CASE, WE ARE GUIDED BY
22 THE SUPREME COURT'S DECISION BUCKHANNON, THE SUPREME
23 COURT'S REASONING IN BUCKHANNON IS PRESUMED TO APPLY
24 GENERALLY TO ALL FEE SHIFTING STATUTES USING THE
25 PREVAILING PARTY, WHAT WE HAVE HERE SO THE RESEASONING

1 IN BUCKHANNON IS TO APPLY GENERALLY TO ALL FEE SHIFTING
2 STATUTES USING THE PREVAILING PARTY TERMINOLOGY AND THEN
3 IT GOES ON TO CITE, FOR A PARTY TO BE CONSIDERED A
4 PREVAILING PARTY THERE MUST BE A MATERIAL ALTERATION OF
5 THE LEGAL RELATIONSHIP OF THE PARTIES IN THIS PARTICULAR
6 CASE, IN THE GRISSOM CASE AS IN OUR CASE THEY NOTED THAT
7 THE GRISSOM, THE FORTH CIRCUIT NOTED IN GRISSOM, THE
8 PLAINTIFF IS THE PREVAILING PARTY UNDER THE BUCKHANNON
9 TEST FIRST A JUDGMENT IN FAVOR OF THE PLAINTIFF AND
10 AGAINST THE DEFENDANT WAS ENTERED FOR \$130,000 00 DOLLARS
11 SUCH A JUDGMENT CREATED A MATERIAL ALTERATION OF THE LEGAL
12 RELATIONSHIP BETWEEN PLAINTIFF AND DEFENDANT BY IMPOSING
13 UPON DEFENDANT A LEGALLY ENFORCEABLE OBLIGATION TO PAY
14 PLAINTIFF \$130,000 00 DOLLARS AND WHAT WE HAVE HERE WHEN
15 THIS WAS FILED, WHEN THIS OFFER OF JUDGMENT WAS FILED AND
16 THIS ACCEPTANCE IS A LEGAL BINDING CONTRACT, IF YOU WILL,
17 THEY ARE LEGALLY OBLIGATED TO PAY \$5,100 00 DOLLARS TO MR
18 HUEBLE JUST AS THE DEFENDANTS IN THE GRISSOM VERSUS
19 MILLS CORPORATION AND THEY ARE USING THE UNITED STATES
20 SUPREME COURT CASE LAW IT CITES THE BLACK'S LAW
21 DICTIONARY THAT I CITED TO YOU AT THE BEGINNING OF MY
22 REMARKS, YOUR HONOR RULE 68 JUDGMENT REPRESENTS A
23 JUDICIALLY SANCTIONED CHANGE IN THE RELATIONSHIP BETWEEN
24 THE PARTIES AND AS THEY INDICATED IN THEIR ORDER OF
25 JUDGMENT, OFFER OF JUDGMENT WHICH IS FILED PURSUANT TO

1 RULE 68 OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE,
2 SAME RULE 68 AND IT SAYS THAT THERE IS A JUDICIAL AND
3 PREMATURE OF A CHANGE IN THAT DISTRICT COURT HAS THE
4 INHERENT POWER TO COMPEL DEFENDANT TO SATISFY SUCH
5 JUDGMENT JUST AS THEY HAD TO SATISFY THAT \$5,100 00 DOLLAR
6 JUDGMENT EXCEPTED OFFER OF JUDGMENT MADE PURSUANT TO
7 RULE 68 HAS NECESSARY JUDICIAL AND PREMATURE OCCURRED IN
8 BUCKHANNON IN THE CRUCIAL SENSE THAT IT IS ENFORCEABLE
9 JUDGMENT AGAINST THE DEFENDANT SO, WHAT WE HAVE HERE IS
10 AN ENFORCEABLE JUDGMENT AGAINST THE DEFENDANTS, IN THIS
11 PARTICULAR CASE, A 1983 CAUSE OF ACTION AND THEY ARE
12 TRYING TO EQUATE THAT AND SOME HOW TRY AND GET YOU TO
13 FOCUS ON A SEPARATE AND DISTINCT SETTLEMENT BY INSURANCE
14 ADJUSTOR, AN INSURANCE COMPANY THAT OUR CLIENT DID NOT
15 AUTHORIZE AND IN FACT IT WAS OPPOSED TO SO, SETTLEMENT
16 DOES NOT EQUAL A JUDGMENT UNDER THE LAW AND THE CASE LAW
17 IS CLEAR IN THAT REGARD THE OTHER MATTER I WANTED TO
18 ADDRESS, AND I AM GOING TO TURN IT OVER TO MR RIORDAN TO
19 TALK ABOUT THE SPECIFICS OF THE BILL, OF HIS BILL THAT MR
20 MCDADE BROUGHT UP BUT THEIR OTHER AREA THAT BOTH MR
21 PRUITT AND MR MCDADE TOUCHED ON IS THIS IDEA, THEY ARE
22 WHOLLY TAKING OUT OF CONTEXT MR HUEBLE'S REMARKS ABOUT
23 THIS, THIS IS NOT ABOUT THE MONEY YOU HAVE SEEN, WE HAVE
24 ALL HEARD PEOPLE SAY THAT IN MATTERS IN WHICH THEIR
25 CONSTITUTIONAL AND THEIR CIVIL RIGHTS HAVE BEEN VIOLATED,

1 THEY HAVE MADE THAT HUMAN PHRASE, IT IS NOT ABOUT THE
2 MONEY, IT IS ABOUT RIGHTING THE WRONG IT IS ABOUT BEING
3 VINDICATED, HAVING YOUR REPUTATION, YOUR CHARACTER, YOUR
4 GOOD NAME YOU KNOW, A MAN'S NAME AT THE END OF THE DAY
5 IS REALLY ALL HE HAS IN THIS WORLD AND THAT IS WHAT THIS
6 IS ALL ABOUT BUT THE IDEA TO TAKE THAT PHRASE OUT OF
7 CONTEXT IS TO SAY, HE WAS MEANING HE WASN'T GOING TO BE
8 ENTITLED TO REASONABLE ATTORNEY FEES IS SIMPLY BIZARRE AND
9 IT JUST WHOLLY TAKING IT OUT OF CONTEXT I MEAN THIS IS A
10 1983 CASE, THAT IS THE PHRASE THAT PEOPLE SAY, IT IS NOT
11 ABOUT THE MONEY YOU KNOW, SOMEBODY TO WRONGLY BREAK INTO
12 YOUR HOME AND TO WRONGLY TO ARREST YOU AND TO DRAG YOU
13 DOWN AND TO PUT YOUR NAME ACROSS THE NEWSPAPERS AT THE END
14 OF THE DAY YOU ARE REALLY NOT OUT ANY MONEY, WHAT WOULD
15 YOU EXPECT THAT PERSON TO SAY I WANT TO BE VINDICATED, I
16 WANT TO BE MADE WHOLE AGAIN IT IS NOT ABOUT THE MONEY,
17 IT IS ABOUT GETTING MY GOOD NAME BACK IT DOESN'T MEAN HE
18 DOESN'T EXPECT HIS ATTORNEY FEES TO BE PAID AND HIS COST
19 AND EXPENSES TO BE PAID I MEAN, THIS IS A 1983 CIVIL
20 RIGHTS CONSTITUTIONAL RIGHTS VIOLATION CASE AND THE COURT
21 SHOULD NOT BE SWAYED BY TAKING THAT PHRASE OUT OF CONTEXT
22 THE CONFIDENTIAL CLAUSE, THAT ISSUE IS WHAT IT IS I
23 DON'T KNOW WHAT ELSE TO SAY, THERE IS A CONFIDENTIAL
24 CLAUSE ASPECT OF THAT SETTLEMENT AND YOU HAVE HEARD ME ON
25 THAT REGARD I AM GOING TO TURN IT OVER TO MR RIORDAN

1 MR HITE YOUR HONOR, WHILE HE IS DOING THAT CAN I
2 ADDRESS THE CONFIDENTIALITY CLAUSE ISSUE BECAUSE HE KEEPS
3 RAISING THAT AS BEING THAT WE VIOLATED SOME
4 CONFIDENTIALITY CLAUSE BY TELLING YOU WHAT THE
5 COUNTERCLAIM WAS YOUR HONOR INSTRUCTED US IN-CHAMBERS TO
6 KEEP THIS COURT APPRIZED OF ANY SETTLEMENTS ALL OF THOSE
7 DOCUMENTS, ANY SETTLEMENT DISCUSSIONS WERE EMAILED TO YOU,
8 THERE WAS NO CONFIDENTIALITY DISCUSSED PRIOR TO ME SENDING
9 YOU THOSE NUMBERS, THAT DIDN'T COME UP UNTIL WELL AFTER
10 THAT AND CERTAINLY THIS COURT IS NOT BOUND BY A
11 CONFIDENTIALITY AGREEMENT IN ANY EVENT NOR IS THE COUNSEL
12 HERE SO, I JUST WANTED TO ADDRESS THAT WHILE THAT WAS
13 FRESH ON MY MIND

14 THE COURT I REMEMBER THE CHAMBER CONFERENCE WHEN
15 THE SETTLEMENT PICKED UP STEAM, THERE WAS CONVERSATIONS
16 ABOUT BOTH ISSUES BEING SETTLED THAT I INITIATED BECAUSE I
17 ASKED QUESTIONS, WHY CAN'T Y'ALL SETTLE THIS, WHAT IS IT
18 GOING TO TAKE AND THAT IS WHAT STARTED THE CONVERSATION
19 SO, I WAS WITH EVERYONE IN-CHAMBERS, WE HAD A LARGE CROWD
20 BACK THERE I REMEMBER THAT, I DON'T REMEMBER A
21 CONFIDENTIALITY DISCUSSED THEN I WOULD HAVE KNOWLEDGE OF
22 IT ANYWAY I THINK

23 MR HITE AND COUNSEL HAD GOTTEN INVOLVED IN THIS
24 CASE, OBVIOUSLY VERY LATE, HE DOESN'T KNOW WHAT HE IS
25 TALKING ABOUT ON THAT ISSUE WE WERE ALL THERE, WE HEARD

1 WHAT YOUR HONOR SAID

2 MR GASSER AT ANY TIME DID I ADDRESS ANYTHING THAT
3 OCCURRED BACK IN-CHAMBERS, ANYTHING THAT OCCURRED BETWEEN
4 THE LAWYERS, NEVER CAME OUT OF MY MOUTH

5 THE COURT AND I UNDERSTAND YOUR ARGUMENT, MR
6 GASSER

7 MR GASSER THEY FILED THIS, PUBLIC DOCUMENT NOW--

8 MR HITE YOUR HONOR, LET ME BRIEFLY ADDRESS THAT
9 ISSUE THE CASE LAW THAT WE PROVIDED TO THE COURT, A
10 SETTLEMENT AND A SETTLEMENT ON A CONFESSION OF JUDGMENT,
11 THERE IS NO DIFFERENCE IN THE LAW IN DETERMINING WHETHER
12 SOMEBODY PREVAILED OR NOT THERE IS CASE LAW DIRECTLY ON
13 POINT THE CASE HE IS CITING IS NOT A CASE WHERE THERE
14 WAS A COUNTERCLAIM LIKE THIS CASE AND THEY KEEP SAYING,
15 OH, WE PREVAIL ON THE 1983 THERE IS NO EVIDENCE THAT
16 THEY PREVAIL ON THE 1983 THAT SETTLEMENT COULD OF BEEN
17 PAID ON ANY OF THOSE CAUSES OF ACTION, NOT THE 1983 THEY
18 HAVE GOT THE BURDEN TO SHOW THAT THEY PREVAILED ON THE
19 1983 AND QUITE FRANKLY I DON'T KNOW HOW THEY CAN DO IT,
20 THERE IS NO WAY AND THE TRUTH OF THE MATTER IS, YOUR
21 HONOR, WHEN YOUR HONOR TOLD US IN-CHAMBERS, YOU ARE NOT
22 GETTING OUT OF THAT PLEA THAT IN MY MIND ENDED THE 1983,
23 TO BE HONEST WITH YOU WE ALL FELT THAT WAY

24 MR GASSER I DON'T KNOW WHAT MORE YOU CAN GO ON,
25 THE PLEADINGS SPEAK FOR THEMSELVES THAT THERE IS A 1983

1 CAUSE OF ACTION AND ALL OF THOSE OTHER CAUSES OF ACTION
2 AND WE DIDN'T DRAFT THIS OFFER OF JUDGMENT, JACK RIORDAN
3 LAW FIRM DIDN'T DRAFT THE OFFER OF JUDGMENT THEY ALL
4 HAVE GOT SIGNIFICANT AMOUNT OF EXPERIENCE AND THEY CAN
5 QUALIFY THIS IN ANY MANNER IF THEY WANTED TO QUALIFY IT
6 AND THE PLEADINGS SPEAK FOR THEMSELVES AND IT WAS A 1983
7 CAUSE OF ACTION WITH OTHER CAUSES OF ACTION AND THIS IS AN
8 UNQUALIFIED OFFER OF JUDGMENT AND IT WAS AN UNQUALIFIED
9 ACCEPTANCE OF OFFER OF JUDGMENT SO, THE DOCUMENTS SPEAK
10 FOR THEMSELVES

11 MR HITE WELL, WHILE WE ARE ON THAT SUBJECT, YOUR
12 HONOR, WHEN AN OFFICER OF THE COURT STANDS UP IN FRONT OF
13 THE COURT AND SAYS THIS IS NOT ABOUT MONEY DOES IT MORE
14 THAN ONE TIME ON THE RECORD AND THEN WHEN THE CASE IS
15 SETTLED ALL OF A SUDDEN IT IS ABOUT MONEY NOW, I HAVE
16 GOT AN ETHICAL ISSUE WITH THAT ARE YOU NOT BOUND BY WHAT
17 YOU TELL THE COURT IN OPEN COURT, CAN YOU THEN COME BACK
18 LATER AND THEN SAY, I DIDN'T REALLY MEAN THAT, I MEANT
19 SOMETHING ELSE IS THAT WHY MR RIORDAN ISN'T ARGUING
20 THIS TODAY BECAUSE HE DOESN'T WANT TO HAVE TO ANSWER THOSE
21 QUESTIONS OF WHAT HE TOLD THE COURT BEFORE YOUR HONOR
22 MIGHT THINK ABOUT IT

23 MR GASSER WHEN YOU ARE TALKING ABOUT A 1983 CAUSE
24 OF ACTION AND WHAT THE ISSUES ARE, AT NO POINT AND TIME,
25 THERE IS ATTORNEY FEES, I DON'T KNOW HOW ANYONE COULD

1 SUGGEST THAT THIS, THAT CONTEXT IS NOT BEING TAKEN OR THAT
2 PHRASE IS NOT BEING TAKEN OUT OF CONTEXT BY THESE LAWYERS
3 CLEARLY IT IS A 1983 CAUSE OF ACTION, THAT PHRASE IS NOT
4 ABOUT THE MONEY, YOU HEAR THAT IN VIRTUALLY EVERY 1983
5 CAUSE OF ACTION AND THE IDEA THAT EVERY LAWYER AND EVERY
6 PARALEGAL AND EVERY PERSON THAT WORKS ON A 1983 CAUSE OF
7 ACTION IS NOT ENTITLED TO LEGAL FEES, IT IS JUST
8 PREPOSTEROUS IN TAKING THAT STATEMENT OUT, WHAT HE IS
9 SAYING IS IT AIN'T ABOUT THE MONEY THE CONDUCT, THE
10 CIVIL RIGHTS VIOLATION, THE CONSTITUTIONAL RIGHTS
11 VIOLATION, THE RIGHTING THE WRONG, TO GETTING THE GOOD
12 NAME BACK, OF BEING VINDICATED THAT IS NOT ABOUT THE
13 MONEY IT IS NOT SAYING, BY THE WAY I AM WORKING FOR
14 FREE I SUPPOSE THE OTHER SIDE, NONE OF THOSE LAWYERS
15 WORK FOR FREE I WOULD IMAGINE IF SOMEBODY ON THIS SIDE
16 TRIED TO KEEP THEM FROM GETTING THEIRS, WHAT THEY ARE
17 TRYING TO DO IS GET YOU TO LOOK OVER HERE, YOUR HONOR,
18 RATHER THAN FOCUS ON THE ISSUES WE FRAMED FOR YOU IN OUR
19 BRIEF AND WHAT WE FRAMED FOR YOU IN OUR PRESENTATION AND
20 I APPRECIATE THE TIME

21 MR HITE YOUR HONOR, WHEN THEY SAY IT IS NOT ABOUT
22 THE MONEY AND THEN THEY GO INTO CHAMBERS IN FRONT OF YOU
23 AND TELL US WE WANT A LETTER, WE WANT A LETTER, IT IS NOT
24 ABOUT MONEY, WE WANT A LETTER THEN WE GET THEM THE
25 LETTER, THAT IS NOT GOOD ENOUGH FOR US YOUR HONOR, WE

1 DID THE BEST WE COULD DO TO GET THIS OVER WITH, THIS IS
2 THE MOST RIDICULOUS WASTE OF THE TAX PAYERS MONEY THAT I
3 HAVE SEEN IN 30 YEARS OF PRACTICING LAW THIS IS
4 ABSOLUTELY INSANE THAT ALL OF THIS DISCOVERY ON IRRELEVANT
5 ISSUES, I AM SCREAMING AND HOLLERING THE WHOLE TIME ABOUT
6 HOW ARE YOU TELLING HIM TO TAKE THESE DEPOSITIONS ON ALL
7 OF THIS IRRELEVANT STUFF THAT HAPPENED AFTER THE LAWSUIT
8 HOW IS ANY OF THIS RELEVANT AND HE WENT ON AND ON AND ON
9 AND I JUST APOLOGIZE THAT WE HAVE TAKEN UP THIS MUCH OF
10 YOUR TIME TODAY, JUDGE

11 MR MCDADE YOUR HONOR, ONE LAST THING IN RESPONSE
12 TO WHAT HE SAID IT IS INTERESTING THAT HE BROUGHT UP,
13 THE GRISSOM CASE, BECAUSE YOUR HONOR CAN LOOK AT THE
14 GRISSOM CASE, 549, F 3RD, 313 PLAINTIFF FAILED TO
15 PROVIDE ADEQUATE EVIDENCE TO SUPPORT HIS HOURLY RATE, HE
16 PRESENTS NO AFFIDAVITS FROM OTHER ATTORNEYS BUT ONLY
17 HEARSAY FROM HIS OWN AFFIDAVIT THAT IS EXACTLY, ON THAT
18 POINT, THAT IS EXACTLY WHAT WE HAVE HERE

19 THE COURT MR RIORDAN, ARE YOU GOING TO MAKE ANY
20 COMMENTS

21 MR RIORDAN YOUR HONOR, I THINK YOU HAVE HEARD
22 ENOUGH I STAND BY MY CASE LAW ON THE VERY ISSUES I
23 GUESS THEY CAN HAVE SOMEONE ELSE, BRING SOMEONE ELSE TO
24 TEST US, ANOTHER EXPERT

25 THE COURT Y'ALL GIVE ME AN OPPORTUNITY TO REFLECT

1 ON ALL OF THIS AND I WILL BE ISSUING AN ORDER AS PROMPTLY
2 AS I CAN ASIDE FROM THIS ISSUE I AM VERY PROUD THAT
3 Y'ALL DID GET THE MATTER SETTLED, I THINK THAT WAS
4 APPROPRIATE CONSIDERING THE VERY ISSUES I CAN'T IMAGINE
5 HOW A JURY, HOW THEY WOULD OF FIGURED THIS OUT, IT WOULD
6 OF BEEN VERY CONFUSING I APPLAUD THE ATTORNEYS FOR
7 GETTING THAT WORKED OUT, THE PARTIES INVOLVED IT WAS
8 QUITE A CASE

9 MR HITE THANK YOUR, JUDGE

10 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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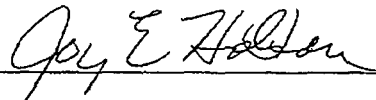
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

I, JOY E HOLSTON, OFFICIAL COURT REPORTER FOR THE
EIGHTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND
COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND
EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE,
RELATIVE TO APPEAL, IN THE COURT OF COMMON PLEAS FOR
GREENWOOD COUNTY, SOUTH CAROLINA, ON THE 10TH DAY OF
DECEMBER, 2009

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO

JULY 20, 2010



JOY E HOLSTON, COURT REPORTER

MY COMMISSION EXPIRES MARCH 13, 2016

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENWOOD

COPY

WILLIAM ALVIN HUEBLE, JR ,

PLAINTIFF,

VS

2007-CP-24-1056

CORRECTED

SOUTH CAROLINA DEPARTMENT OF
NATURAL RESOURCES AND ERIC
RANDALL VAUGHN,

DEFENDANT

DEPOSITION OF WILLIAM ALVIN HUEBLE

PURSUANT TO NOTICE AND/OR AGREEMENT, THE DEPOSITION OF
WILLIAM ALVIN HUEBLE WAS TAKEN BY THE DEFENDANT ON THE MAY
1, 2008, COMMENCING AT 10 00 A M IN THE OFFICES OF
LEATHERWOOD, WALKER, TODD & MANN, 300 E MCBEE AVENUE,
GREENVILLE, SOUTH CAROLINA

REPORTED BY KRISTEN A BRYAN
COURT REPORTER

BAZZLE & ASSOCIATES
COURT REPORTING SERVICES
721 Cypress Point Drive
Chappells S C 29037
864-995 4505

- 1 A No, sir
- 2 Q And as far as working on the farm, that's property that
3 you own? Is that correct?
- 4 A That's correct
- 5 Q You're not working for someone?
- 6 A No, sir
- 7 Q When you say working on the farm, what does that
8 entail? Maintaining?
- 9 A Correct I have USDA contracts that I have to maintain
10 that require me to keep the farm at a certain state,
11 plant certain things, maintain it in an agricultural
12 state
- 13 Q Explain that to me How does that work? Do you have
14 livestock?
- 15 A I do not have livestock My understanding of the
16 purpose of that, it came with the property The
17 contract was already in place, and we just renewed it
18 Is that the USDA is asking that we keep the property in
19 an agricultural state, don't develop it, but you don't
20 let it revert to, I guess, scrub, trees, what not You
21 can actually plant it in trees if you wanted to, but --
22 a pine plantation or something along those lines So I
23 fulfill the requirements of that contract and work on
24 the property
- 25 Q So you don't have any livestock or grow any crops which

1 you sell, or do you?

2 A I do not grow any crops that I sell. I do grow crops as
3 part of my contract with USDA. I either leave them
4 standing for wildlife or, in the case of preparing a
5 dove field, I may mow them.

6 Q Well, the farm, does it have a name? Do you call it
7 something?

8 A No.

9 Q When did you purchase this property?

10 A I think I closed on it in June of '03.

11 Q Who did you purchase it from?

12 A Most of my dealings were with Will and Wade Batson, but
13 the -- I think the former owner was Delaney Batson.

14 Q The Batsons?

15 A Yes, sir.

16 Q And whereabouts -- I know the property's in Greenwood
17 County, but whereabouts is it located? Is it near
18 Epworth?

19 A That's correct.

20 Q Is that the old Steer property?

21 A Yes, sir. Part of it.

22 Q Part of it?

23 A Yes, sir.

24 Q What was the purchase price of the property?

25 A I believe it was 409, somewhere right in that range.

1 409,000, excuse me
2 Q I was adding the zeros in
3 A Good
4 Q Are you the sole owner of the property?
5 A Yes
6 Q Or does someone else have an interest in it?
7 A No, sir I'm the sole owner
8 Q Has any person ever had an interest in it since you
9 purchased it?
10 A No, sir There have been some lease interests
11 Q Right But you have had the ownership interest?
12 A Correct
13 Q How many acres is it?
14 A The original purchase was 160 Some documents said
15 159, some said 162 It varies
16 Q Okay You said originally Have you purchased
17 additional property?
18 A Yes, sir
19 Q How much?
20 A An additional 60 acres approximately
21 Q Now, you said lease interest What have you leased on
22 the property?
23 A There was a -- when I purchased the property there was
24 a farmer that was still farming property for some time
25 He had a lease interest, and I allowed him to continue

1 Q Now, after the purchase of the property, this is
2 initially, what type of improvements, for lack of a
3 better term, did you do? Put in food plots, clear
4 land? Tell me about what y'all did just in general
5 A Yeah We planted food plots We built some ponds or
6 had them built
7 Q So there were not ponds on the property when you bought
8 it?
9 A There were actually some small ponds on the property
10 We refurbished some ponds and did some dam work,
11 enlarged some dams and made some ponds bigger
12 Q Let me kind of stop you here a little bit There were
13 small ones there You might have maybe dredged them
14 out a little bit, flooded them more, made them bigger?
15 A Yes, sir
16 Q All right Go ahead I'm sorry
17 A We obviously did a lot of work cleaning up There was
18 a lot of trash on the property After we bought the
19 adjacent tract, we carved out the fire break, cut
20 trails, any number of things you do on a piece of
21 property
22 Q What type food plots, we'll first talk about that What
23 type did y'all put in?
24 A Numerous types of food plots
25 Q Maybe this is an easier way What were y'all planning

1 to hunt on the property? What type of game?
2 A Doves, ducks, deer, turkey, quail There's several
3 covies of wild quail down there, which ---
4 Q Surprising?
5 A --- very surprising It's a nice quail piece of
6 property, and we really manage toward the quail pretty
7 heavy
8 Q Okay
9 A Maybe some predator hunting I haven't really done
10 much of that, which would be coyotes mostly Rabbit
11 hunt once or twice a year Really anything that's in
12 season
13 Q Okay And you put in food plots, I would assume, for
14 deer?
15 A Yes, sir
16 Q What did y'all plant? Do you remember?
17 A We planted any number of things through the years
18 We've planted clover plots We've planted some
19 alfalfa We've planted corn We've planted sorghum
20 We've planted -- of course, those are more bird plots,
21 but the deer will eat on them some, too Millet,
22 sunflowers, buckwheat, joint vetch, deer vetch
23 Q So these are kind of multi-purpose plots, not just for
24 deer but for -- you say millet and sunflower and all,
25 those are for bird?

1 A Right And we plant a plot in one place and then plow
2 that and go fallow and move it Move plots around for
3 the nutrients in the soil and what not Oats, wheat,
4 soybean, winter peas You name it, we've probably
5 tired it somewhere down there I think these have
6 helped the hunting I think that -- we want to improve
7 the property and help wildlife
8 Q That's what the purpose of the property is for, is for
9 maintaining for wildlife?
10 A That's one of the purposes, but it's also a place that
11 I work It's a place that I go for relaxation It's a
12 place that, you know, we can
13 Q When you bought the property, was it primarily for
14 hunting?
15 A Yes, sir
16 Q Now, the ponds you said, did you stock them or did they
17 already have fish in them?
18 A There were some fish in them We did also stock one
19 pond
20 Q And what did you stock with?
21 A Largemouth bass, bluegill, channel catfish
22 Q Did you have any type feeders or anything on the ponds
23 that you feed fish?
24 A We have used feed on the pond
25 Q On the one you stock, I assume?

- 1 A Yes, sir
- 2 Q How many ponds are there?
- 3 A There are three distinct ponds, and then there is a
4 swamp, also There is a pond we call the big pond
5 There's a pond we call the little pond There's a pond
6 we call the duck pond, which is down It is dry most
7 of the year We basically drain it, plant it, and
8 flood it for duck hunting
- 9 Q Okay What do you plant it with?
- 10 A Plant it with several different things We've planted
11 it with millet, Japanese Millet We've planted it with
12 corn It didn't make it The deer ate it We planted
13 it with Egyptian wheat, various things
- 14 Q Okay Now, which pond did you have the feeder on?
- 15 A What we call the big pond
- 16 Q What type of feeder is that?
- 17 A It is a fish feeder Rectangular, square shape
- 18 Q I mean, is it like a spray? It sprays --
- 19 A No, it is a directional feeder It has a paddle wheel
20 that throw in one direction
- 21 Q Okay And what do y'all put in there to feed the fish?
- 22 A It's fish food that's bought from Tractor Supply Just
23 fish food
- 24 Q Do you buy most of your stuff from Tractor Supply?
- 25 A That's where I buy most of my fish food

1 Q I mean, I don't know -- when you do plots and
2 everything Do you have an account somewhere where you
3 buy all that?
4 A I do not have an account, no I buy it in various
5 places Feeds and seeds
6 Q Around Greenwood? Like the co-op in Greenwood?
7 A I have bought a little bit there I buy a lot in
8 Greenville, buy some from Pendleton, some from Saluda
9 It just depends on where I'm closest to at the time
10 Q Do you have, like, a credit card or something that you
11 use for the business, I mean for the farm?
12 A No, sir
13 Q When you buy the stuff, do you keep records on what you
14 buy?
15 A Yeah, I keep some records
16 Q Do you use a credit card when you buy it? How do you
17 do that? Obviously, it's a deduction
18 A Sometimes a debit card Sometimes a credit card
19 Sometimes cash It just depends
20 Q I didn't know if there was any kind of deduction you
21 could get on any of that purchase, since you are
22 required by the USDA
23 A Yes, at times you could, yes I mean, we do have some,
24 not really the food plot stuff More the things that
25 are required by USDA

1 Q Such as?

2 A Corn, wheat, oats

3 Q Do you ever have corn or anything like that in feeders,
4 the fish feeder?

5 A No, sir There's never been anything in that fish
6 feeder but the fish food

7 Q Okay Do you hunt the ponds or duck hunt on the ponds
8 where the feeder is located?

9 A No, sir I will say this to clarify that We have
10 occasionally hunted -- in the back part of that pond is
11 some flooded timber We made the decision to quit
12 hunting back there That was a roost spot We didn't
13 want to disturb the ducks on the property So we
14 really don't hunt back there any more

15 Q Is that the only feeder that you have for fish?

16 A That is the only feeder I have for fish, correct

17 Q Okay Do you have any other type of feeders on the
18 property?

19 A I do It is a green, I guess 25 or 30 gallon feeder

20 Q What is that for?

21 A Primarily I'd use it to feed deer, turkeys during the
22 off season We also use it to take census so that we
23 can use pictures to determine what type of wildlife we
24 have on the property for management purposes That is
25 a common management practice

1 Q So you have game feeders -- game cameras, I'm sorry,
2 near the feeders?
3 A Right To take pictures to get an idea of how many
4 deer we have on the property, how many turkeys, what
5 not
6 Q How many of the feeders like that do you have?
7 A I have one that is that size We have a little two or
8 three gallon one that is black It has never been
9 used, but it is in my barn
10 Q What do you put in that one?
11 A There has never been anything in that one
12 Q I apologize, I mean --
13 A The green one?
14 Q Yes, sir
15 A Primarily it has been corn I have also put sunflowers
16 in it before It doesn't work very well It doesn't
17 spin properly It doesn't throw seed very far It
18 just dribbles out right there around the feeder
19 Q They will still come and eat it, though?
20 A Yes
21 Q Do you have that -- is that stationary? Do you move it
22 around?
23 A We move it around It has been in two or three
24 different places, generally in an open field where it
25 is easily viewable We take it down prior to any

1 hunting activity, clean anything up It goes back to
2 the barn

3 Q Do you put it up before season or what?

4 A I put it up before we hunt There are some seasons
5 that we don't hunt in And we put it up, generally I
6 do it about 15 days prior, and then also clean up
7 anything that is left there There are different
8 things in season throughout the year that we may or may
9 not hunt in particular So it may be up in a season
10 that we are not hunting in

11 Q All right I'm going to kind of skip a little bit now
12 I saw your letter and complaint You planted a dove
13 field in the summer of 2005 Is that the first time
14 you planted a dove field on the property?

15 A That is the first time that I -- well, that is the
16 first time that I planted a dove field There was a
17 dove field present on the property when I bought it

18 Q Okay

19 A It had been farmed for years It had millet, wheat,
20 and oats that the farmer had planted in that field and
21 cut it as hay When I bought the property he actually
22 -- the first year that I bought the property, he
23 actually prepared the dove field for me, but we didn't
24 really have any hunts much at that time You are
25 correct, '05 is the first year that I prepared it

1 myself
2 Q The first year that you put one in?
3 A That's correct
4 Q And you bought the property again, I'm sorry, in '03?
5 A '03
6 Q So y'all had some hunts maybe in '03?
7 A Yeah, one or two
8 Q And in '04 you didn't have any dove hunts?
9 A I think we had one
10 Q You didn't have a prepared field?
11 A Yeah It had a lot of volunteer that volunteered back
12 up in there that we mowed
13 Q From the prior years?
14 A Right
15 Q How big was the field?
16 A Fifteen acres
17 Q Tell me what y'all did to the field What did y'all do
18 to prepare it?
19 A That particular year we started planting some in May
20 and June but basically finished it in June We planted
21 brown top millet, dove proso millet, black oil
22 sunflowers, grain sorghum, corn
23 Q Did you plant it into strips?
24 A Yes, sir And there was a fair amount of volunteer of
25 various other things in the field

1 Q Okay Did you plant most of the entire fifteen acres?

2 A Basically, most of it Like I said, there was some
3 volunteer crop in there that we didn't, that we didn't
4 mow We left standing and planted around it I would
5 say ten acres of fifteen I generally try to leave
6 some edge for quail, turkey, what not

7 Q Now, I saw in your letter, and I don't know exactly
8 where, that you had -- this is exhibit 1, the April 10
9 letter Y'all had a couple bags of -- I think looking
10 at page 1 on the bottom, next to the last paragraph
11 You had two bags of wheat and oats left over from prior
12 year's fall planting?

13 A Uh-huh

14 Q I assume that would have been for deer?

15 A Uh-huh

16 Q Yes?

17 A Oh, yes

18 Q You kind of broadcast that over or what did you do?

19 A Yes, we did, and that was in June

20 Q When you say spread, you just went out by hand and
21 broadcast it?

22 A No, I used a --

23 Q You used a spreader?

24 A A little push spreader

25 Q Kind of like you would use on your lawn or something?

1 A Yes, sir

2 Q Did you cover that seed in any way or just spread it
3 out?

4 A At that time I did not, no

5 Q You didn't till over it after throwing the seed out or
6 anything?

7 A Not at that time I did prior -- a bunch of that was
8 tilled over prior to hunting season We mowed and
9 tilled all, you know, late summer

10 Q I'll come to that in a minute As far as the planting,
11 though, you did the millet and sunflower? You didn't
12 plant wheat or oats at that point, did you? You just
13 broadcast it?

14 A Actually, there is some now There is some standing
15 wheat and oats in that field that volunteered But not
16 a lot

17 Q It probably reduces as it goes?

18 A It reduces every year After the second or third, the
19 third or fourth year you probably won't see much

20 Q And your letter states that you mowed strips in the
21 field and then disked it? Disked the area?

22 A Yes

23 Q Cutting hunting strips or what for different areas?
24 What?

25 A Yeah, some strips we cut and some strips we cut and

1 A Barry is a fellow I go to church with, who witnessed a
2 trespasser on the property and called Officer Vaughn to
3 respond What he actually witnessed was a Jeep parked
4 in my driveway with hunting clothes in it And he was
5 afraid to go on the property He didn't know where or
6 who this person might be

7 Q Okay Can we take a five minute break? Would that be
8 okay with everybody?

9 (OFF THE RECORD 11 13 - 11 25 A M)

10 EXAMINATION CONTINUED

11 BY MR PRUITT

12 Q All right We're going back on the record Sorry I
13 had to take a little break We were talking about
14 Barry Brooks I think you said he went to your church
15 and witnessed a trespasser or a Jeep on the property
16 and called, and this is where we stopped, I think
17 Called Eric Vaughn?

18 A Yes He called me first, and I gave him Eric's
19 number

20 Q And you just answered my next question then When did
21 this occur?

22 A This was December of '05 I believe around the first
23 week or so of December

24 Q So you gave him Eric's number?

25 A Yes

1 Q Okay What occurred with that? December of '05, and
2 what else will he testify to in the case?
3 A He'll testify, Officer Dudley and Captain English
4 actually came down to address the issue I was in
5 Greenville, but I was down there before the officers
6 left, and they had patrolled the property to see if
7 there was anybody there
8 Q Okay They walked the property?
9 A Drove They drove
10 Q Drove?
11 A Drove his truck through the property to see if there
12 was anybody there And Barry stayed at the barn, and
13 in the meantime he saw the trespasser, and called
14 Travis, and Travis drove up and spoke to the fellow
15 As it turns out, I didn't know him, but it was the
16 estranged spouse of my neighbor, and he was apparently
17 watching her
18 Q He wasn't hunting? He was doing something else?
19 A We don't think he was hunting By the time Travis got
20 there, he was in his vehicle, and Travis didn't see a
21 gun It looked like he was just checking on his ex-
22 wife
23 Q Were there any charges filed in relation to that?
24 A No
25 Q And the person who came -- he called -- Mr Brooks

1 called Mr Vaughn, but you said Officers Dudley and
2 English came to the scene?

3 A That's correct

4 Q Did Eric Vaughn come to the scene?

5 A No

6 Q Anything else that occurred in relation to that?

7 A When I got there, we actually visited for probably half
8 and hour, had a good visit with Captain English and
9 Officer Dudley, and in the course of that conversation,
10 I showed them where the key was to my gate, and invited
11 them to patrol the property when they wanted to,
12 thanked them for coming Officer Dudley asked me if --
13 I had two locks linked together, and he asked me if one
14 of those locks was a Duke Power lock, and I said, yes
15 He said, "Well, I can get in here any how " I said,
16 "Okay That's great " But he'll testify to the fact
17 that we had that conversation Oh, Barry also, for
18 whatever it's worth, Barry had seen game warden
19 vehicles traveling on my road in front of my gate,
20 actually stopped in front of my gate on open day of
21 dove season the following year Which I wasn't there,
22 so--

23 Q 2006, you mean? The following year?

24 A Yes

25 Q You said he saw a game warden vehicle stopped on the

1 Q Anything else specifically that he will testify to?
2 A He was also there on the day of -- April 1st of '06
3 Q That being?
4 A The first day of turkey season that particular year
5 Q Right But I mean as far as what happened that day? We
6 haven't talked about that really, about the incident
7 We're going to talk about that in a minute
8 A He was just there
9 Q Now, I'm going to list these people They were on the
10 dove field Terry Huggins, Emil Klava, Graham Latimer,
11 David Lyles, Thornton Stewart, Brian Cockman Will
12 those individuals all testify solely to the dove hunt
13 that day or are there other issues that they will
14 testify to, as well?
15 A Terry Huggins was present when I witnessed the four
16 wheeler tracks that I received a subsequent call on
17 from Will Batson And that may be I can't think
18 Q If that's all they're going to testify, that's fine
19 A That's all I can think of right now
20 Q All right Let's talk about the day of the dove shoot
21 This will be September of 2005 Was that opening day?
22 A Yes
23 Q So right around Labor Day?
24 A Uh-huh
25 Q All right We talked about who was hunting with you

1 that day Go ahead and just tell me what happened that
2 day
3 A The season opened at noon We entered the field
4 somewhere around 3 00, shot a few times Not much
5 Then saw officers entering the field My initial
6 reaction was this is great I like game wardens I
7 normally seek them out I'm glad they're out doing
8 their job One officer checked my license and gun
9 Then he received a radio call from another officer who
10 said he had a problem with the field So, and wanted
11 the owner of the field At that time I laid my gun
12 down with the breech open, pointed towards the woods,
13 walked with him over to this particular part of the
14 field At that time Officer Vaughn was holding some
15 sunflower seeds in his hand He said, "I've got a
16 problem with these " And I said, "Well, I don't know
17 why this field has sunflowers in it We have been
18 mowing them " He said, "I don't see any " There were
19 multitude of sunflower plants They had matured,
20 died, and shriveled up I took one of the seed head
21 and opened it up Seeds, numerous seeds came out of
22 the seed head He did not take a seed head and pick it
23 up and observe it All he did was look at what I did
24 At that point in time he grew angry and began to tell
25 everyone they had to get out of the field, he thought

1 this was baited field. At that time everyone was pulled
2 out of the field. Of course, there were various
3 conversations going on between the hunters and the
4 different game wardens. I guess I can let those guys
5 testify to those

6 Q You didn't hear those probably?

7 A I heard some of them. And you know, at that time all
8 the hunters were pulled out of the field. We started
9 to walk through the field. One of the officers, I
10 don't remember which one, said, "Hey, look, look,
11 what's that millet down there? What's that millet
12 doing there?" I said, "Officer, that's not millet.
13 That's pigweed seed. There's a lot of pigweed out
14 here. It's just an invasive weed and it's in the
15 field." I said, "What is your concern about millet
16 anyhow? This field is full of millet. We grow millet.
17 There should be millet on the ground. We've been
18 mowing it, too." But once again, this is pigweed. So
19 now they gone from the sunflowers that were growing in
20 the field to pigweed that was growing in the field. So
21 we walked down through the field. Officer Vaughn wanted
22 to see where all the hunters had set up. So we walked
23 down at that end of the field. I will backtrack. When
24 I initially saw Officer Vaughn, he was on his knees.
25 The other hunters witnessed him with a pocket knife out

1 digging in the dirt And we walked down through the
2 field, and he found a couple oat and wheat seeds And
3 he said, "Now, tell me about these " It was at that
4 point in time I think I had already told Travis that we
5 had sowed some wheat and oats in June

6 Q Travis Dudley?

7 A I believe that is who I was talking to And I said,
8 "We have some wheat and oat stands in this field, but
9 yeah, I did put some out in June " He kept saying,
10 "Well, all it takes is one seed All it takes is one
11 seed "

12 Q Who kept saying that to you?

13 A Eric I'm sorry He kept saying, "All it takes is one
14 seed, and you are convicted of baiting a dove field
15 That's a federal offense with \$20,000, and I can fine
16 all of your hunters \$2,000 " I'm not sure if those are
17 exact numbers, but it was an exorbitant amount of
18 money, and he was very threatening in his demeanor and
19 kept stressing the fact what they could do to us And
20 I said, "I know you don't think we're baiting this
21 field with the teaspoonful that you're taking out of
22 this field " He said, "It doesn't matter It just
23 takes one seed " At that time, they also pointed at --
24 I don't know if this was Officer Vaughn or Officer
25 Dudley, but they pointed at several plants and said,

1 "Look at those Where those sprouted right there "
2 Well, that was pigweed also Like I said, I don't
3 remember which officer was which, but the other one
4 acknowledged, yeah, that's pigweed They were trying
5 so hard to find a sunflower plant growing in the field,
6 which wouldn't have been a big deal, because I had been
7 mowing sunflowers, but they couldn't tell the
8 difference between pigweed and millet They couldn't
9 tell the difference between sunflowers At that time
10 is when I recall some of my conversations with Will
11 Batson I asked Eric, I said, "What is your name?"
12 And he said, "Eric Vaughn," very guarded And I said,
13 "Are you friends with Will Batson?" And he said, "I
14 went to high school with him " And I said, "You used
15 to hunt this property " And he said, "Once or twice "
16 And I said, "That's not the way I understand it My
17 understanding is that you hunted it fairly regularly
18 And as a matter of fact, Will called me a couple turkey
19 seasons ago and told me that you had been down here in
20 your four wheeler I wish you had called me, because
21 you're welcome on the property " He said, "I don't
22 remember that I go on so many properties, I don't
23 recall I don't know " And then he stopped We were
24 walking through the field He stopped and turned
25 around to me, and he said, "It's a shame Will sold his

1 property to you," or something to that effect And it
2 was very emphatic
3 Q Did you ask him what he meant by that?
4 A I did not
5 Q Did he have any more comment about that?
6 A No It was at that point in time that Travis -- and
7 this is the part that Travis said, "Come on, Eric
8 It's time to go There's nothing to this "
9 Q Travis Dudley?
10 A That's correct
11 Q When you refer to Travis?
12 A That's correct, and I did hear him say that Eric was
13 still angry, and I didn't think he was acting very
14 professionally, but obviously Travis, Eric, and I were
15 the only ones in that part of the field at that point
16 in time Travis and Eric were pulled over to the side
17 and just had a discussion Eric came back and told me
18 what he wanted to do He said, "We're going to fine
19 you for baiting the field We're not going to fine
20 your hunters " And he did say they were going to fine
21 us the lowest possible fine in South Carolina I felt
22 like Travis was trying to get him to leave the field
23 without even charging us That was my impression,
24 because Travis had "Come on There's nothing here
25 Let's go " At this point in time, they have already

1 been there for over an hour

2 Q Let me stop you You said something, he was acting

3 unprofessional How so?

4 A Well, pointing his finger at me, saying I can charge

5 you with \$20,000 Just kept trying to parade what us,

6 about what he could do to us, and all it takes is one

7 seed, and I can do this to you, and I can do this to

8 you

9 Q So wrote you a ticket at that point, or citation?

10 A We walked out of the field and went to the back of

11 someone's truck I don't remember whose truck, and

12 that's where he wrote the ticket, and it was only Eric,

13 Officer Vaughn, and myself at that point

14 Q Okay Any conversations them?

15 A Yes He wrote the ticket, explained the ticket to me

16 He said, "Now, if you come to court, I won't be mad at

17 you As a matter of fact, I can probably get your fine

18 reduced But don't come in here and plead not guilty

19 Don't you dare come in here and try to plead not

20 guilty "

21 Q Anything else?

22 A That was it, that I can recall at this time

23 Q Now, how many officers came to the field?

24 A Four

25 Q You've already named Eric Vaughn and Travis Dudley Do

1 EXAMINATION CONTINUED

2 BY MR PRUITT

3 Q While we were off the record, I had marked as exhibits
4 -- I want to show you exhibit 2 and 3 I show you those
5 documents and by way of reference, I -- well, let me
6 show you those documents Those are not Bate stamped
7 You can identify those, if you could

8 (WHEREUPON, Defendant's Exhibits Numbers 2 and 3 were marked
9 for identification)

10 A Yes, this look like --

11 Q Let me ask you this Exhibit number 2, is that a copy
12 of the citation issued to you by Eric Vaughn?

13 A Is this 2?

14 Q D-2, yes

15 A Yes

16 Q And exhibit number 3, is that a receipt for payment?

17 A That is correct

18 Q Where you paid your fine on the citation?

19 A That's correct

20 Q Now, can you tell me now how much was the citation for?

21 A 465

22 Q Okay The -- did you cooperate with Mr Vaughn that
23 day?

24 A I believe so

25 Q Okay Did he actually state to you that since you had

1 cooperated with him that he wouldn't charge the other
2 hunters and would charge the lowest possible fine under
3 South Carolina law?
4 A Uh-huh
5 Q Eric Vaughn made that statement to you?
6 A Uh-huh
7 Q Yes?
8 A Yes, sir
9 Q Now, -- and I believe you said Mr. Vaughn said if you
10 came to court, he might could get the fine reduced?
11 A That's correct
12 Q Did he actually get the fine reduced?
13 A Yes, I guess he had an influence on that
14 Q Did you go to court?
15 A Yes
16 Q And was this in -- let me back up first off. What were
17 you charged with specifically?
18 A Baiting a dove field
19 Q Now, did you plead guilty to this charge, or how did
20 you plead?
21 A I pleaded no contest
22 Q Do you know what that means, no contest?
23 A I know that at that point in time I could be convicted
24 or would be convicted of that, but I did not feel that
25 I was guilty. So I would not, did not plead guilty

1 Q You understood that you were going to be found guilty
2 if you pled no contest?
3 A I understood I was going to be found guilty of baiting
4 a dove field, yes I didn't think it would say guilty
5 I thought it would be -- that that word would not be
6 associated with it That's why I pled no contest
7 Q Okay You actually appeared in front of a magistrate,
8 judge?
9 A Yes
10 Q Is that in Greenwood County?
11 A Yes, sir
12 Q You actually had to appear in court?
13 A Yes, sir
14 Q Were you sworn or anything? Or do you remember? You
15 don't recall?
16 A I don't recall I don't know
17 Q And you just simply went in and pled no contest and you
18 paid the fine?
19 A Correct
20 Q Did the judge explain to you that you had a right to
21 contest the charges and have a jury trial on those
22 charges?
23 A He did
24 Q Did you understand that you had that right?
25 A Yes

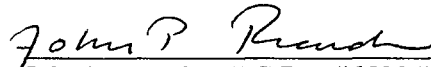
1 Q You understood that right?
2 A Yes
3 Q Did you have an attorney with you?
4 A No, sir
5 Q Did you -- I believe -- I'll come back to that in a
6 minute Well, actually I believe you said you had
7 consulted a couple of attorneys or an attorney?
8 A Yes
9 Q Okay Who was that?
10 A Sidney Mitchell
11 Q Is he in Greenville?
12 A He is You say consulted, Sidney is a personal friend
13 This was a personal conversation
14 Q Not as an attorney?
15 A Not as an attorney It was not a legal -- there wasn't
16 a paid legal price or anything like that
17 Q Did Mr. Mitchell state that he felt you would be
18 acquitted in a jury trial?
19 A Uh-huh Yes
20 Q But you didn't ask for a jury trial? Why not?
21 A I was -- the advice that I was getting from friends and
22 family, also from a magistrate who I had spoken to in
23 Greenwood by the name of Ted Wyndham, that despite
24 winning the case, that they would be right back down
25 there and that I might lose -- I could win the battle

1 but lose the war That was the phrase that was used,
2 and that by pleading no contest that hopefully what I
3 saw as a vendetta or almost a personal issue would be
4 resolved and that was maybe the wiser course to take
5 Q How do you know Ted Wyndham?
6 A Ted has a lake house two or three doors down from the
7 lake house my father owned in Laurens County
8 Q Is that the only two people you talked with, Ted
9 Wyndham and Sidney Mitchell? Attorneys, I'm sorry
10 A I may have spoken with an attorney friend of mine in
11 Atlanta
12 Q Let me back up When you -- did you have any
13 conversation with Eric Vaughn that day at the court?
14 He was there? Is that correct?
15 A Yes
16 Q Did you have any conversation with him that day?
17 A When -- after I pled no contest and I was being
18 dismissed, Officer Vaughn said that he would give me a
19 call sometime and we would talk again sometime
20 Q Anything else?
21 A No
22 Q I believe that date was October 7, 2005?
23 A Yes
24 Q Did Officer Vaughn ask the Court for a reduction in
25 fine?

1 A I believe so. There had been some talk that he might
2 I wasn't sure if he was going to talk to the judge
3 beforehand. I don't remember if Officer Vaughn
4 actually said something about that in the courtroom or
5 if the judge brought that up and they had already had a
6 conversation to that effect.
7 Q Certainly, he didn't oppose a reduction in the fine?
8 Would that be accurate?
9 A Correct.
10 Q Or it was on the record that he would agree to it?
11 A I think so.
12 Q And how much did you actually end up paying? I believe
13 on exhibit number 3 it sets that out. Is that correct?
14 A \$225.
15 Q When you spoke to Sidney Mitchell, was he familiar with
16 DNR in Greenwood County or have any dealings with them?
17 A No, he's just a hunter in various counties.
18 Q Okay. Is he the one that said win the battle and lose
19 the war? Or was that Ted Wyndham?
20 A Ted Wyndham.
21 Q Did Ted Wyndham talk about dealings he had had with DNR
22 in Greenwood County?
23 A He did. He mentioned -- I mean, he used some flowery
24 language with regards to them and the way they behaved,
25 and he had had issues and had to fight them on some

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material



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