

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )  
BTM MACHINERY, INC., )  
Plaintiff, )  
v. )  
MICHAEL J. FINLEY, Individually and )  
d/b/a FINLEY & ASSOCIATES, )  
KATHRYN A. FINLEY, WILBUR ROSS )  
MCMILLAN, JR. and 4M IRON, LLC, )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Civil Action NO. 2013-CP-10-4366

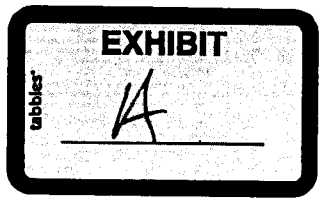
ORDER AWARDING  
ATTORNEYS' FEES AND COSTS  
AND EXPERT FEES TO PLAINTIFF

FILED  
2014 JUL 29 AM 9:16  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY

This matter came before this Court on June 13, 2014, upon Plaintiff's request for a hearing. At this hearing, Plaintiff alleged that Defendant Michael J. Finley engaged in a series of acts that were in direct contravention to this Court's order of September 4, 2013, and subsequent order of October 8, 2013. Both orders restrained the Defendant from deleting or altering any electronic data and/or e-mails on his computer and electronic devices containing files in controversy. Based on testimony provided by Mr. Steven Abrams, computer forensic expert for the Plaintiff, the Court finds that Defendant violated this Court's order by deleting and/or modifying files on his computer and electronic devices which resulted in the filing of the Plaintiff's motion and belabored Mr. Abram's attempts to analyze the Defendant's computer and electronic storage devices. Therefore, the Court orders Defendant Michael J. Finley to pay:

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- I. Mr. Steven Marc Abrams in the amount of \$14,380.36 (See Exhibit A);
- II. Mr. Brian C. Duffy, attorney for Plaintiff, in the amount of \$8,643.00 (See Exhibit B);
- III. Mr. K. Douglas Thorton, attorney for Plaintiff, in the amount of \$2,317.50 (See Exhibit C as revised by this Court).



Defendant Finley shall pay the above within forty-five (45) days from the date of this order.

It is further ordered that Defendant shall pay Mr. John Ackerman, computer forensic expert for Defendant, to conduct a word search on the approximate 42,000 deleted e-mails which were contained on Defendant's computer and produce the results to Plaintiff and his expert, Mr. Abrams. If any e-mails contain material subject to the attorney-client privilege, Defendant may attach a privilege log.

IT IS SO ORDERED!

7/24, 2014  
Charleston, South Carolina

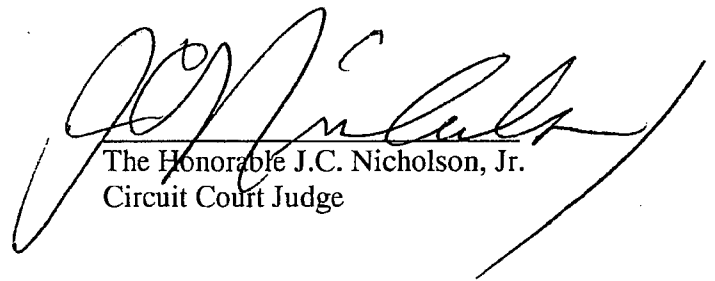
  
The Honorable J.C. Nicholson, Jr.  
Circuit Court Judge

Exhibit A

<b>STATE OF SOUTH CAROLINA</b>	)	<b>COURT OF COMMON PLEAS</b>
	)	<b>NINTH JUDICIAL CIRCUIT</b>
<b>COUNTY OF CHARLESTON</b>	)	<b>CASE NO.: 2013-CP-10-4366</b>
	)	
<b>BTM MACHINERY, INC.</b>	)	
<b>PLAINTIFF,</b>	)	
	)	<b>AFFIDAVIT OF STEVEN ABRAMS</b>
<b>VS.</b>	)	<b>REGARDING FORENSICS FEES</b>
	)	<b>INCURRED AS A RESULT OF</b>
<b>MICHAEL J. FINLEY, et al,</b>	)	<b>DEFENDENT MICHAEL FINLEY'S</b>
<b>DEFENDANTS.</b>	)	<b>SPOILIATION OF EVIDENCE</b>
	)	
	)	

**PERSONALLY** appeared before me the undersigned who duly sworn and says as follows:

1. My Name is Steven Marc Abrams. I am a licensed attorney and commissioned state constable in South Carolina. My field of concentration is computer forensics examination. My office address is Post Office Box 305, Sullivans Island, SC 29482. My business phone number is (843) 216-1100. I make my living as a digital forensics examiner and instructor of digital forensics technologies.
2. I was retained in this matter by BTM Machinery Inc. ("BTM") to conduct a digital forensics investigation of computers used by Defendants in the above captioned matter. I charge \$250 per hour for my services as a digital forensics examiner.
3. At the conclusion of the June 13, 2014, hearing the Court asked me to prepare an affidavit explaining the added costs of searching for data as a result of the difficulties introduced by Defendants' tampering with the Dell laptop computer prior to turning it over for my examination.
4. To date I have invoiced a total of \$23,005.36 for my services in this matter.
5. As explained below, a reasonable estimate of my charges to date which BTM incurred as a result of Mr. Finley making changes on the computer is \$14,380.36.
6. Putting an exact figure on the added costs of my searches as a result of the way the computer was doctored prior to being presented to me is difficult. There are two parts to this analysis, the first part concerns the duplication of effort required to search Mr. Akerman's image of the Dell computer and the other devices

presented on May 28, 2014 that were said to contain relevant and potentially missing data. Had Mr. Finley presented his computer unaltered, along with any other media and devices containing relevant data per the September 4, 2014 Order initially then all of my efforts to prove spoliation in hopes of compelling production of the missing data would have been unnecessary. While these spoliation analyses are not directly costs of searching for defendant Finley's business and marketing data, the searches that Plaintiff was entitled to make would never have been made available without them. These spoliation costs would not have occurred but for the condition of the Dell computer when it was presented to me. Below I have provided a detailed description of these spoliation analyses and the costs incurred for them.

#### **SPOILIATION ANALYSIS COSTS**

7. Through his legal counsel, Richard Hricek, Defendant Finley made a Dell Laptop and a DVD-ROM optical disk available for my forensic investigation on October 7, 2013.
8. As a result of evidence obtained during my forensic examination of the hard drive in the Dell laptop, I became concerned that Mr. Finley had deleted, altered, and moved data on the Dell laptop after the Order and before making the computer available to me. I prepared an affidavit on February 21, 2014, explaining my concerns and circulated it among the lawyers in this matter.
9. In response to my affidavit Mr. Hricek confirmed in writing that files had been deleted prior to my examination. Mr. Hricek then instructed his digital forensics expert, John Akerman, to make me a copy of an image that Mr. Akerman had made of the Dell laptop on September 11, 2013, which contained some of the files deleted prior to my examination. Before my initial spoliation affidavit, and the discussions that ensued thereafter, there had been no disclosure of even the existence of the less altered copy of the Dell hard drive in Defendant's possession since September 11, 2013.
10. From February through May 2014, I repeated my searches of the Dell laptop using Mr. Akerman's September 11, 2013 image, a lengthy and expensive process unnecessary but for Mr. Finley's tampering with the computer prior to my

examination. My costs related to this examination and preparation to testify about the spoliation I observed are listed in my invoice 1099 which totals \$5,125.00.

11. As a result of the evidence tampering done on the Dell laptop by, or at the direction of, Mr. Finley, I attended and testified in two spoliation evidentiary hearings held on May 27, 2014 and June 13, 2014. On May 28, 2014, after an Order that defendant Finley turn over devices or files containing the relevant data from the period beginning in mid-March 2013, Defendant Finley produced a Seagate GoFlex hard drive, a Lexar thumb drive, an Apple iPad, a Dell laptop, an Apple iPod Nano, a Macbook laptop, and a hard drive containing assorted files from defendant Finley's computers, an image of a Kingston SE9 Flashdrive, and Mr. Finley's online dropbox (cloud) account.
12. The May 28, 2014 production did not include all of the mass storage devices known to have been recently used in defendant Finley's Dell laptop during the critical period after Mr. Akerman's image (September 11, 2013) and before my image on October 7, 2013, when most of the known tampering occurred. A complete list of recently used devices obtained from the Windows Registry was provided to Mr. Akerman on May 28, 2014.
13. I have yet to receive at least two of the crucial and requested devices, these include a Kingston Data Traveler 102 thumb drive and a Western Digital Passport hard drive. Both are known to have been used only one and a half days before the first Dell laptop was turned over to me in October 2013. My analysis of the devices provided to me by Defendant Finley has shown to a scientific certainty that the Seagate Free Agent hard drive was wiped clean of data after it was last used on October 5, 2013, to a point that it cannot be recovered.
14. At the June 13, 2013 hearing Mr. Akerman indicated that he had made me copies of images of the heretofore missing Kingston Data Traveler 102 thumb drive and Mr. Finley's Apple iPhone. As of the signing of this affidavit I have not received them.
15. My fees for attending the two hearings related to spoliation and my analysis of the data produced on May 28, 2014, are contained in Invoice 1101 in the amount of \$6,470.36.

16. Thus the added analysis costs to date directly a result of the spoliation by defendant Finley are \$13,380.36.

**ADDED COSTS OF INITIAL EXAMINATION AS A RESULT OF DATA TAMPERING**

17. The second part of this cost analysis has to do with the unnecessary time spent searching these Finley devices for database files that prior to my examination were kept open and obviously on the Windows desktop. As testimony showed, between the time of Mr. Akerman's image on September 11, 2013 and October 7, 2013, when I was given the computer, Defendant Finley's database files, one obvious target of my examination, were altered, moved off the desktop, and in a few cases deleted. My initial search of the Dell computer would have been much quicker had the database files been on the desktop in the "Database files" directory as they were in the Ackerman image. According, to my invoice #1083, I spent 27 hours on my initial examination of the Dell computer, at a cost of \$7,750.00. Only seven hours of this time was used looking for database files, the balance was used looking for emails and other evidence of the business conducted by Defendants. Thus \$1750 was spent on searching for database files. I would estimate that I would have saved at least half of this seven hours if all the database files had been intact as there were when Mr. Akerman had the machine a month prior. Thus on this one device, the Dell computer, I incurred about \$1,000 in unnecessary searching costs.
18. I am still in the process of searching all of the additional devices presented or identified on May 28, 2014. Until I complete my analysis of these devices I will not know if they contain information that was on the Dell laptop before it was tampered with, but if they do contain such data then it could be argued that the cost of searching these devices also was an unnecessary cost incurred as a result of the changes made to the Dell computer before it was given to me.
19. Nevertheless, in response to the Court's inquiry at this stage, I estimate the costs of my services resulting from the spoliation are the \$13,380.36 from paragraph 16 above and the \$1000 from paragraph 17 above, for a grand total of \$14,380.36.

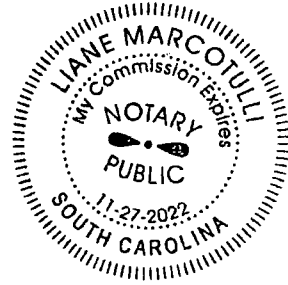
FURTHER THE AFFIANT SAYETH NOT!

*Steven M. Abrams*

Steven Marc Abrams

SWORN TO AND SUBSCRIBED BEFORE ME THIS  
30 DAY OF *June*, 2014.

*[Signature]*  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: *11/27/2022*



# Abrams Computer Forensics, LLC

Post Office Box 305  
Sullivans Island, SC 29482

# INVOICE

(843) 216-1100

DATE	INVOICE #
12/09/2013	1083

**BILL TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

**SHIP TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

		SHIP VIA	SHIP DATE	TRACKING NO.
General		P.O. NUMBER	TERMS	PROJECT
			On Receipt	
QUANTITY	DESCRIPTION	RATE	AMOUNT	
1.00	Make Forensic Image of Hard Drive	\$500.00	\$500.00	
2.50	10/17/2013 - Computer Forensics	\$250.00	\$625.00	
0.25	10/22/2013 - Computer Forensics	\$250.00	\$62.50	
0.50	10/24/2013 - Computer Forensics	\$250.00	\$125.00	
7.00	10/30/2013 - Computer Forensics	\$250.00	\$1,750.00	
3.50	10/31/2013 - Computer Forensics	\$250.00	\$875.00	
2.75	11/01/2013 - Computer Forensics	\$250.00	\$687.50	
0.50	11/03/2013 - Computer Forensics	\$250.00	\$125.00	
10.00	11/13/2013 - Computer Forensics and Affidavit	\$250.00	\$2,500.00	
2.00	11/22/2013 - Court Time - Hearing	\$250.00	\$500.00	
			<b>TOTAL</b>	<b>\$7,750.00</b>

# Abrams Computer Forensics, LLC

Post Office Box 305  
Sullivans Island, SC 29482

# INVOICE

(843) 216-1100

DATE	INVOICE #
03/05/2014	1091

**BILL TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

**SHIP TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

		SHIP VIA	SHIP DATE	TRACKING NO.
General		P.O. NUMBER	TERMS	PROJECT
			On Receipt	
QUANTITY	DESCRIPTION	RATE	AMOUNT	
1.00	2/18/2014 - Computer Forensics Review of Hricik's Priv log.	\$250.00	\$250.00	
1.00	2/20/2014 - Computer Forensics Prep for Affidavits	\$250.00	\$250.00	
5.00	2/21/2014 - Legal Drafting two affidavits and attachments	\$250.00	\$1,250.00	
1.00	FEDEX Shipping Affidavit to Doug Thornton	\$35.00	\$35.00	
			<b>TOTAL</b>	<b>\$1,785.00</b>

# Abrams Computer Forensics, LLC

Post Office Box 305  
Sullivans Island, SC 29482

# INVOICE

(843) 216-1100

DATE	INVOICE #
05/23/2014	1099

**BILL TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

**SHIP TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

		SHIP VIA	SHIP DATE	TRACKING NO.
General		P.O. NUMBER	TERMS	PROJECT
			On Receipt	
QUANTITY	DESCRIPTION	RATE	AMOUNT	
1.00	5/15/2014 - Computer Forensics Ackerman Image	\$250.00	\$250.00	
1.50	5/16/2014 - Meeting with Client	\$250.00	\$375.00	
3.00	5/20/2014 - Computer Forensics Ackernam Image	\$250.00	\$750.00	
7.50	5/21/2014 - Computer Forensics Statistical Analysis Dell vs Mac	\$250.00	\$1,875.00	
5.00	5/22/2014 - Computer Forensics Statistical Analysis	\$250.00	\$1,250.00	
2.50	5/23/2014 - Trial Preparation	\$250.00	\$625.00	
			<b>TOTAL</b>	<b>\$5,125.00</b>

# Abrams Computer Forensics, LLC

Post Office Box 305  
Sullivans Island, SC 29482

# INVOICE

(843) 216-1100

DATE	INVOICE #
06/18/2014	1101

**BILL TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

**SHIP TO:**

BTM Machinery, Inc  
501 Wando Park Blvd.  
Suite 110  
Mount Pleasant, SC 29466

		SHIP VIA	SHIP DATE	TRACKING NO.
General		P.O. NUMBER	TERMS	PROJECT
			On Receipt	
QUANTITY	DESCRIPTION	RATE	AMOUNT	
4.00	5/27/2014 - Court Time - Spoliation Hearing	\$250.00	\$1,000.00	
3.00	5/29/2014 - Hard Drive Media	\$115.12	\$345.36	
2.00	5/29/2014 - Make Forensic Image of Hard Drive (Wiped Seagate + Second Dell)	\$500.00	\$1,000.00	
0.25	6/2/2014 - Make Forensic Image of Lexar Thumb drive	\$500.00	\$125.00	
1.00	6/2/2014 - iPad Image and Report	\$750.00	\$750.00	
8.00	6/9/2014 - Computer Forensics Analysis of Spoliation	\$250.00	\$2,000.00	
5.00	6/13/2014 - Court Time - Spoliation Hearing	\$250.00	\$1,250.00	
			<b>TOTAL</b>	<b>\$6,470.36</b>

Exhibit B

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON ) NINTH JUDICIAL CIRCUIT

BTM Machinery, Inc., ) Civil Action No. 2013-CP-10-4366

Plaintiff, )

v. )

**AFFIDAVIT OF ATTORNEY'S FEES**

Michael J. Finley, individually and d/b/a )  
Finley & Associates, Kathryn A. Finley, )  
Wilbur Ross McMillan, Jr. and 4M Iron, )  
LLC, )

Defendants. )

Brian C. Duffy, being first duly sworn, deposes and says:

1. My name is Brian C. Duffy, and I am a citizen and resident of the State of South Carolina. I am over eighteen years of age, am competent to make this affidavit, and do so of my own personal knowledge.
2. I am a member of the law firm Duffy & Young, LLC, and I serve as co-counsel to Plaintiff BTM Machinery, Inc. in the above-referenced matter.
3. In this case my firm charges my time at the hourly rate of \$350.00; associate attorneys at the hourly rate of \$250.00; and paralegals at the hourly rate of \$125.00.
4. I have been asked by the Court to prepare and Affidavit of Fees resulting from the spoliation issue in this case.
5. I and others in my firm keep detailed and contemporaneous time entries for the purpose of submitting invoices to our client, BTM Machinery, Inc.
6. I have reviewed the invoices and time spent on this matter and believe them to be reasonable for the work done in this case.

7. A reasonable approximation of fees from my firm that BTM incurred as a result of the Finley spoliation is \$8,643.00.
8. While several entries are easily discernible as resulting from the spoliation issue, our records do not always specify precisely when an issue regarding the spoliation was addressed during our work with Mr. Abrams or in preparation for the hearings since multiple issues were addressed during those times. For fee entries that included work on the spoliation issue but do not segregate the time spent on that issue, therefore, I arrive at the figure included here by applying a multiple representing the estimated percentage of time spent on the spoliation issue as described below.
9. I estimated that (a) in preparing for the May 27 hearing, 15% of my time was dedicated to the spoliation issue; (b) in preparing for the June 13 hearing, 33% of my time and of my paralegal's time was dedicated to the spoliation issue; and (c) 85% of my time and my paralegal's time at the June 13 hearing was so dedicated.
10. Of the total fees in Paragraph 7 above addressing spoliation issues, the following subparagraphs show the amounts included in that total which are derived from the percentages described herein.
  - a. 15% of preparing for May 27, 2014 hearing: 4 hours at \$350 per hour = \$1,400.00
  - b. 33% of preparing for June 13, 2014 hearing
    - i. My time: 7 hours at \$350 per hour = \$2,450.00
    - ii. Paralegal time: 3.8 hours at \$125 per hour = \$475.00
  - c. 85% of time at June 13, 2014 hearing
    - i. My time: 3.5 hours at \$350 per hour = \$1,225.00

ii. Paralegal time: 3.5 hours at \$125 per hour = \$437.00

12. The total of fees of Duffy & Young, LLC from May 1, 2014 through June 13, 2014 in addressing spoliation in this matter total \$8,643.00.

FURTHER AFFIANT SAITH NOT.

This 10<sup>th</sup> day of July, 2014.



Brian C. Duffy (SC Bar No. 16247)  
Duffy & Young, LLC  
96 Broad Street  
Charleston, SC 29401  
(843) 720-2044 (tel)  
(843) 720-2047 (fax)  
bduffy@duffyandyoung.com

SWORN TO AND SUBSCRIBED before me this  
10<sup>th</sup> day of ~~June~~<sup>July</sup>, 2014.

Sarah E. Stives  
Notary Public for South Carolina

My Commission Expires: Feb. 14, 2022

Exhibit C

STATE OF SOUTH CAROLINA )	COURT OF COMMON PLEAS
) )	BUSINESS COURT -9 <sup>TH</sup> CIRCUIT
COUNTY OF CHARLESTON )	CASE NO.: 2013-CP-10-4366
BTM MACHINERY, INC., )	
) )	
PLAINTIFF, )	
) )	
VS. )	
) )	
MICHAEL J. FINLEY, )	AFFIDAVIT OF ATTORNEY'S FEES
FINLEY & ASSOCIATES, LLC, )	REGARDING SPOILATION
KATHRYN A. FINLEY, )	
WILBUR ROSS McMILLAN, JR., )	
and 4M IRON, LLC, )	
) )	
DEFENDANTS. )	
) )	
) )	

PERSONALLY appeared before me the undersigned, K. Douglas Thornton, who being first duly sworn, deposes and states as follows:

1. I am a licensed attorney in good standing in the State of South Carolina, and am active member of the Horry County Bar Association. I am co-counsel with Brian Duffy, Esquire, in the present action, representing the Plaintiff.

2. I have been representing BTM since the inception of this litigation, and have expended many hours dealing with all issues presented in this case, including the spoliation of evidence issue. I have attached hereto as Exhibit "A", invoices reflecting time expended by me regarding the spoliation issues consisting of 25.15 hours. Because BTM Machinery, Inc. is owned by my nephew, I only charged \$150.00 per hour. My normal hourly rate is \$250.00 per hour. At \$150.00 per hour, this comes to \$3,367.50

3. In submitting my bill for services rendered on behalf of BTM Machinery, Inc., pursuant to this Court's instructions, I made every effort to include only time expended by me specifically addressing Mr. Finley's deletion of information from his computer, before it was delivered to Steve Abrams in accordance with this Court's Order. As with Mr. Duffy's time records my invoices are reasonably detailed, but do not ordinarily articulate time expended by me on specific issues. Those invoice entries between the dates of 10/28/13 and 4/24/14 are for much less than my entire time devoted to this case during those dates, and in my opinion were caused by our efforts to establish the amount and type of data that had been deleted by Mr. Finley. As the evidence of these deletions was ascertained by Mr. Abrams, I began devoting more of

my time to developing the Plaintiff's position on the issue. As the May 27, 2014 hearing approached, the spoliation issues also required that we deliver all pertinent information to Defendant Finley's expert, to avoid the potential of Mr. Ackerman contending that he did not have adequate information to either agree with or dispute Mr. Abram's findings and conclusions on this issue. Doing so required negotiation and conclusion of an additional confidentiality agreement for the production of data. None of this time has been included.

4. As my April 24, 2014 entry indicates, I reviewed the file on this date, and pulled exhibits to be used for a Power Point presentation. I discussed this with Steve Abrams, both to avoid overlap, and to confirm with him that he had all evidence that he may need. This would have included, for example, the spoliation letter I had prepared and served with the pleadings, and this Court's Order requiring production of Mr. Finley's computer, which also restrained all parties from altering electronic evidence during pendency of this matter. I spent an additional 3 hours on April 25, 2014, in preparation for the May 27<sup>th</sup> hearing, which were not included in this invoice on the spoliation issue.

5. With regard to my 5/15/14 invoice entry, I have revised that to reflect that 5.5 of the 7.0 hour total expended by me on that day, was devoted to the spoliation issue. This is approximately 80% of this entry. During this meeting, it was decided that Mr. Duffy would handle the presentation and argument of this motion, including the spoliation issue. A great deal of our time on this date was spent in conference with Mr. Abrams, tracking through this issue.

6. With regards to the 5/24/14 entry, this was time spent reviewing Mr. Abrams' Affidavits and evidence regarding deleted files and information, and reviewing research gathered by me concerning civil and criminal penalties for such conduct.

7. With regards to the 5/27/14 entry, the majority of this Motion argument was actually devoted to the spoliation issue. I only entered half of my actual time spent for travel and attending the hearing on this date.

8. My invoice entries for 5/28, 6/2, and 6/4/14, were all devoted to the spoliation issue, following the Court's ruling on May 27, 2014.

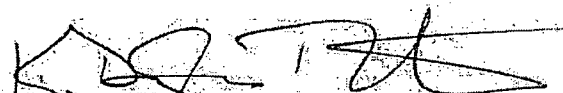
9. I was involved in a "fender bender" accident on my way to Charleston on the morning of June 13, 2014, and would have otherwise attended the entire hearing. We had agreed that Brian Duffy would take primary responsibility for the argument and presentation of this Motion, but I conducted a reasonable amount of preparation to enable me to assist Brian, and to be able to handle the Motion myself, if necessary. These preparations once again, involved my review of all available affidavits and evidence regarding the spoliation issue, reviewing the law I had collected on these issues, again briefly, and organizing evidence which Mr. Duffy or I may have needed. The primary focus of our Motion on June 13, 2014, was to address the spoliation issue.

Mr. Duffy agreed to cover the law regarding a TRO, and I was very familiar with the relevant facts supporting our position on this issue. I had argued this Motion extensively when it first came before this Court on July 27, 2013.

10. My invoice entry for June 13, 2014, represents the time I actually spent attending this Motion hearing, providing assistance to Mr. Duffy and Mr. Abrams. It also includes a brief review of these issues with our client following this hearing.

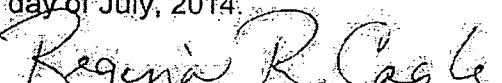
11. As an officer of the Court, I hereby affirm that, to every extent possible, I have not submitted any billable time for the Court's consideration, that was not directly and necessarily devoted to the spoliation issue.

Further your deponent not.



K. Douglas Thornton

SWORN to before me this 11<sup>th</sup>  
day of July, 2014.



Regina R. Cagle  
Notary Public for South Carolina  
My Commission Expires: 9/1/16

**EXHIBIT "A"**

Thornton Law Firm, LLC  
1025 Third Avenue  
Conway, SC 29526

# Invoice

Phone # 843-488-5858

Invoice #: 2237  
Invoice Date: 6/24/2014  
Due Date: 6/24/2014  
Case:

**Bill To:**  
BTM MACHINERY, INC.

Date	Description	Hours/Qty	Rate	Amount
10/28/2013	Phone calls to Steve Abrams. Phone conference with Blake about Mr. Abrams search of Finley's computer	0.35	150	52.50
11/5/2013	Phone conference with Steve Abrams about the information he has found in general terms. Discussed him preparing an Affidavit - in general terms, based on what he has found.	0.35	150	52.50
11/12/2013	Phone conference with Steve Abrams about his Affidavit.	0.5	150	75.00
2/18/2014	Phone conference with Steve Abrams. Reviewing file. Sent Steve another copy of October 9, 2013 Consent Order (for production and protection)	1	150	150.00
2/24/2014	Reviewed Steve Abrams' Affidavits.	0.7	150	105.00
4/24/2014	Pulling exhibits to use for power point. Spoke to Steve Abrams.	2	150	300.00
4/25/2014	Working on organizing file. Preparations for May 27th Hearing.	3	150	45.00
5/15/2014	Phone conference with Steve Abrams. To Charleston to meet with Brian, Steve, and Marsh. Prepare for 5/27/2014 Motion.	5.5	150	825.00

Total  
Payments/Credits  
Balance Due

The total amount is due and payable within ten (10) days of billing. A late payment penalty of 1 1/2% per month will be added to the total amount due if not paid within 20 days of billing. Any balance remaining after thirty days shall be subject to collection unless prior arrangements are made, and shall further entitle Attorney to be relieved as counsel for Client. In the event an outstanding balance of \$1,500.00 or more shall remain unpaid for a period of 15 days or more, Attorney shall be entitled to seek to be relieved as Attorney for Client.

Thornton Law Firm, LLC  
1025 Third Avenue  
Conway, SC 29526

# Invoice

Phone # 843-488-5858

Invoice #: 2237  
Invoice Date: 6/24/2014  
Due Date: 6/24/2014  
Case:

**Bill To:**  
BTM MACHINERY, INC.

Date	Description	Hours/Qty	Rate	Amount
5/24/2014	Reviewing file. Preparing for Motion argument (Spoliation evidence and research reviewed)	2:25	150	337.50
5/27/2014	To Court for Motion Hearing	2	150	<del>300.00</del>
5/28/2014	Reviewing emails between Hricik, Brian and Steve/Ackerman. Called Brian (Sarah) and Steve.	1.5	150	225.00
6/2/2014	Phone call to Steve Abrams and Marsh. Phone conference with Blake on the way to the Office.	0.5	150	75.00
6/4/2014	Reviewed emails between Brian and Hricik. Sent email to Brian.	0.5	150	75.00

Total \$2,617.50  
Payments/Credits \$0.00  
Balance Due \$2,617.50

The total amount is due and payable within ten (10) days of billing. A late payment penalty of 1-1/2% per month will be added to the total amount due if not paid within 20 days of billing. Any balance remaining after thirty days shall be subject to collection unless prior arrangements are made, and shall further entitle Attorney to be relieved as counsel for Client. In the event an outstanding balance of \$1,500.00 or more shall remain unpaid for a period of 15 days or more, Attorney shall be entitled to seek to be relieved as Attorney for Client.

*Handwritten:* \$2307.50

Thornton Law Firm, LLC  
1025 Third Avenue  
Conway, SC 29526

# Invoice

Phone # 843-488-5858

Invoice #: 2234  
Invoice Date: 6/13/2014  
Due Date: 6/13/2014  
Case:

**BILL TO:**  
BTM MACHINERY, INC.

Date	Description	Hours/Qty	Rate	Amount
6/12/2014	Preparations for TRO in Charleston tomorrow	3	250	450.00
6/13/2014	Attending hearing and travel time to Charleston.	2	250	300.00

Total \$750.00  
Payments/Credits \$0.00  
Balance Due \$750.00

The total amount is due and payable within ten (10) days of billing. A late payment penalty of 1-1/2% per month will be added to the total amount due if not paid within 20 days of billing. Any balance remaining after thirty days shall be subject to collection unless prior arrangements are made, and shall further entitle Attorney to be relieved as counsel for Client. In the event an outstanding balance of \$1,500.00 or more shall remain unpaid for a period of 15 days or more, Attorney shall be entitled to seek to be relieved as Attorney for Client.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 BTM MACHINERY, INC., )  
 )  
 PLAINTIFF, )  
 )  
 VS. )  
 )  
 MICHAEL J. FINLEY, )  
 FINLEY & ASSOCIATES, LLC )  
 KATHRYN A. FINLEY, )  
 WILBUR ROSS McMILLAN, JR., )  
 and 4M IRON, LLC, )  
 )  
 DEFENDANTS. )  
 )  
 \_\_\_\_\_ )

COURT OF COMMON PLEAS  
 BUSINESS COURT – 9<sup>TH</sup> CIRCUIT  
 CASE NO.: 2013-CP-10-4366

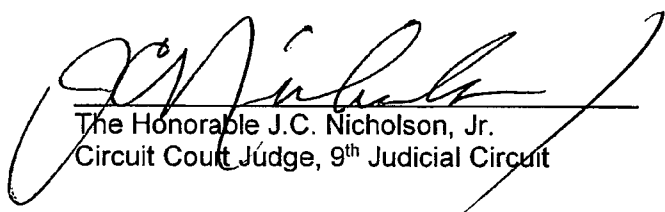
FILED  
 2014 SEP -3 PM 12:39  
 JULIE J. ARMSTRONG  
 CLERK OF COURT  
 BY \_\_\_\_\_

CONSENT ORDER AMENDING ORDER  
 AWARDING ATTORNEYS'  
 FEES AND COSTS

This matter is before the Court on motion of Defendant Michael J. Finley seeking an Order amending the Court's July 29, 2014 Order Awarding Attorneys' Fees and Costs and Expert Fees to Plaintiff. Specifically, Defendant Finley seeks amendment of the referenced Order, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, to replace the phrase "42,000 deleted e-mails" with the appropriate phrase of "42,000 deleted files" It appears that all parties consent to this motion.

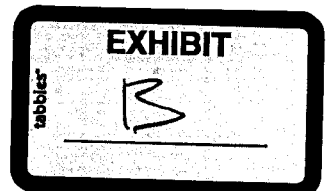
Therefore, it is hereby ordered that page two of the Court's Order Awarding Attorneys' Fees and Costs and Expert Fees to Plaintiff is amended to state "42,000 deleted files," and the term "e-mails," as previously referenced, is hereby stricken from the Order. Defendant Finley's payment of the sums awarded shall remain payable within forty-five (45) days from the date of the Court's original order, July 24, 2014. Mr. Ackerman's word search shall also proceed as previously ordered, on the approximate 42,000 deleted files, rather than emails.

AND IT IS SO ORDERED.

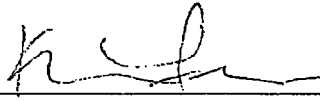
  
 The Honorable J.C. Nicholson, Jr.  
 Circuit Court Judge, 9<sup>th</sup> Judicial Circuit

8/29, 2014  
 Charleston, South Carolina

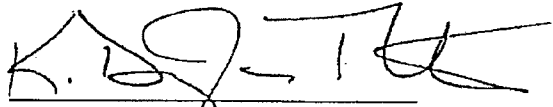
BTM Machinery, Inc. vs. Michael J. Finley, etc.  
 Case No.: 2013-CP-10-4366  
 Consent Order Amending Order Awarding Attorneys' Fees and Costs



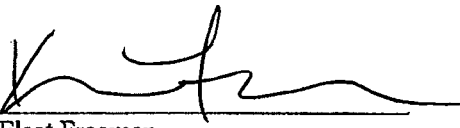
I SO MOVE:

*for*   
Joseph C. Wilson  
PIERCE, HERNS, SLOAN & WILSON, LLC  
Attorney for Michael J. Finley, Finley &  
Associates, LLC, and Kathryn A. Finley

I CONSENT:

  
K. Douglas Thornton  
THORNTON LAW FIRM, LLC  
Attorney for Plaintiff

I CONSENT

*for*   
Fleet Freeman  
FLEET FREEMAN, LLC  
Attorney for Defendants Wilbur Ross  
McMillan, Jr. & 4 M Iron, LLC