

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:10-cv-265-H

MICHAEL BATEMAN, VIRGIL GREEN,)
FORREST MINGES, JR., GRNC/FFE, INC.,)
AND SECOND AMENDMENT)
FOUNDATION, INC.,)

Plaintiffs,)

v.)

BEVERLY PERDUE & REUBEN F.)
YOUNG,)

Defendants.)

**DECLARATION OF KEARNS DAVIS
IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES AND COSTS**

I, Kearns Davis, declare the following:

1. I am over the age of 18 and am competent to testify to the matters set forth herein, of which I have personal knowledge. I am co-counsel in this action and counsel of record for Plaintiffs Michael Bateman, Virgil Green, Forrest Minges, Jr., GRNC/FFE, Inc., and Second Amendment Foundation, Inc. (collectively, "Plaintiffs").

2. This Declaration is provided in support of Plaintiffs' Motion for Attorneys' Fees and Costs in this matter.

3. I am a partner with the law firm of Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P. ("Brooks Pierce") in Greensboro and Raleigh, North Carolina. I graduated with Honors in History from Davidson College in 1991; earned an M.A. from Duke University in 1994; and graduated with honors from the University of North Carolina School of Law, where I

served as Managing Editor of the North Carolina Law Review, in 1995. After completing law school, I served as a law clerk to Chief Judge Sam J. Ervin, III, of the United States Court of Appeals for the Fourth Circuit. In addition to my time at Brooks Pierce, I served as an Assistant United States Attorney for the Middle District of North Carolina from 2003 to 2007. I was admitted to practice law in North Carolina in 1995.

4. For over 15 years I have devoted the bulk of my law practice to the representation businesses, individuals, and the United States government in civil and criminal litigation in federal court. I am listed in “The Best Lawyers in America” in White-Collar Criminal Defense, Bet-the-Company Litigation, and Commercial Litigation (Woodward/White publishing, 2010-2012), in the “North Carolina Super Lawyers Top 100” (*Law & Politics* 2012), in *Business North Carolina* magazine's “Legal Elite” in Criminal Law (2008-2012), in “North Carolina Super Lawyers” in White-Collar Criminal Defense (*Law & Politics* 2010-2012), and in “America’s Leading Lawyers for Business” in White-Collar Criminal and Government Investigations (Chambers & Partners, 2012).

5. Since 2008 I have served as an Adjunct Law Professor in Trial Advocacy, first at the Elon University School of Law and currently at the University of North Carolina School of Law. I also served as a Trial Advocacy Instructor for U.S. Department of Justice at the National Advocacy Center in 2007 and as faculty for the National Institute for Trial Advocacy Southeast Regional in 2006 & 2007.

6. My billing rate for matters of this type is \$375 per hour.

7. Brooks Pierce has provided legal advice and representation to Plaintiffs in connection with this dispute since June 2010.

8. Plaintiffs primarily engaged Alan Gura and me to institute and prosecute this action. Throughout this litigation, Mr. Gura and I were supported by Andrew Tripp and Wes Camden—associates with Brooks Pierce.

9. Mr. Tripp was a member of Brooks Pierce from 2006-2011. Prior to that, he worked at Sutherland, Asbill & Brennan, LLP in Atlanta, Georgia and served as a law clerk to Judge Terrence W. Boyle, United States District Court, Eastern District of North Carolina. He graduated from the University of North Carolina in 2001 and from Duke University School of Law, with honors, in 2004. Mr. Tripp was admitted to practice law in North Carolina in 2005. He regularly represented clients in general business litigation matters in federal court.

10. Mr. Tripp's billing rate for matters of this type was \$195 per hour.

11. Mr. Camden has been a member of Brooks Pierce since 2009. Prior to that, he worked at Womble Carlyle Sandridge & Rice, LLP in Raleigh, North Carolina, served as an Assistant United States Attorney for the Eastern District of North Carolina. Like Mr. Tripp, Mr. Camden also served as a law clerk to United States District Judge Terrence W. Boyle. He graduated from Belmont University in 2000 and from Wake Forest University School of Law in 2004. Mr. Camden was admitted to practice law in North Carolina in 2004. He regularly represents clients in complex criminal and civil litigation matters in federal court.

12. Mr. Camden's billing rate for matters of this type is \$195 per hour.

13. I supervised Mr. Tripp and Mr. Camden in connection with this case.

14. Attached to this Affidavit are exhibits supporting the amount of attorneys' fees and expenses Plaintiffs seek for worked performed by our firm and expenses incurred through May 2012. Plaintiffs also seek to recover their attorneys' fees and expenses for the period of

May 2012 through the conclusion of this litigation, and they will supplement their Motion to do so.

15. Exhibit A hereto accurately describes by date, timekeeper, and narrative, albeit without disclosing attorney-client privileged materials or attorney work product, the tasks performed by Brooks Pierce for which Plaintiffs seek to recover. All time charges described in Exhibit A were necessary to achieve the results obtained by Plaintiffs in this case.

16. Exhibits A and B also accurately describe the expenses paid by Plaintiffs for which Plaintiffs seek to recover.

17. I have reviewed the Brooks Pierce billing documents and summaries thereof showing Brooks Pierce's time and billing entries in connection with the work performed for Plaintiffs in this matter. I have eliminated excessive and redundant time. Based upon my litigation experience, as well as my special expertise in the representation of media organizations, my interaction with other firms across the country that practice in the same area, and my familiarity with the billing rates charged by other attorneys, I believe the billing rates of Mr. Tripp, Mr. Camden, and myself are reasonable and in keeping with the rates charged by other attorneys of comparable experience, reputation, and skill in this area and for this type of matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 11th day of June, 2012.



Kearns Davis

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)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing DECLARATION OF KEARNS DAVIS IN SUPPORT OF MOTION FOR ATTORNEYS' FEES AND COSTS was served on the parties and counsel of record in this case by the CM/ECF system for the Eastern District of North Carolina, including:

Alexander McClure Peters
N.C. Department of Justice
P. O. Box 629
Raleigh, NC 27602-0629

This the 11th day of June, 2012

/s/ Wes J. Camden

Wes J. Camden
N.C. Bar No. 33190
E-mail: wcamden@brookspierce.com

*Local Civil Rule 83.1
Counsel for Plaintiffs*

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
P.O. Box 1800
Raleigh, NC 27602
Telephone: 919-839-0300
Facsimile: 919-839-0304