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FILED

2014 JUL 18 PM 3:53

CIRCUIT COURT
CLERK'S OFFICE
LOUDOUN COUNTY, VA
TESTE: *[Signature]*
J.C.C.

VIRGINIA:

IN THE CIRCUIT COURT FOR LOUDOUN COUNTY

CITIZENS OF STERLING,)
)
 Plaintiff,)
 v.)
 EUGENE DELGAUDIO,)
)
 Defendant.)

Case No. CL00085754-00

BRIEF IN SUPPORT OF MOTIONS FOR AWARD OF ATTORNEY FEES AND FOR SPECIAL GRAND JURY PROCEEDINGS TO REMAIN UNDER SEAL

PROCEDURAL POSTURE

Petitioners from the Loudoun County Magisterial District filed a removal petition pursuant to Section 24.2-233 of the Code of Virginia on January 27, 2014. Pursuant to Section 24.2-235 of the Code of Virginia, a rule to show cause was issued on January 28, 2014.

At the initial Court appearance on February 4, 2014, the Judges of the 20th Judicial Circuit recused themselves, but a ruling on the motion of Loudoun County Commonwealth's Attorney to appoint a special prosecutor was deferred. The recusal order was entered on February 5, 2014, by the Hon. Burke F. McCahill.

On February 4, 2014, the Supreme Court of Virginia designated the Hon. Paul F. Sheridan to preside over this case.

Judge Sheridan scheduled a hearing for March 4, 2014. At said hearing, the Court granted the recusal motion of the Loudoun County Commonwealth's Attorney and appointed Theophani Stamos, the Arlington County Commonwealth's Attorney, as special prosecutor. The Court also denied the motion filed by the Citizens of Sterling to intervene without prejudice.

A status conference was set for March 25, 2014. At said status conference, a motion to disqualify the Arlington Commonwealth's Attorney by the Citizens of Sterling was denied. Motions to quash the Defendant's subpoenas duces tecum were granted in part and denied in part. A motion for a protective order and for sanctions against the Defendant and his Counsel was denied. The renewed motion to intervene by the Citizens of Sterling was denied without prejudice.

The deposition of Donna Mateer was taken on May 13, 2014.

On May 19, 2014, an order was entered establishing who could attend the Defendant's deposition without leave of court.

On May 20, 2014, Supervisor Delgaudio was deposed.

On June 24, 2014, the Commonwealth's Attorney filed a detailed motion to dismiss the removal petition and the Court heard argument on motions by the Citizens of Sterling to intervene, be granted discovery and to replace Ms. Stamos.

At the hearing on June 24, 2014, the motion to dismiss was granted and the motions by the Citizens of Sterling to intervene, for discovery and for new counsel were denied. The case was continued to July 21, 2014 at 11:00 a.m. on the issues of attorney's fees and the disposition of the special grand jury material.

ISSUES

1. Pursuant to Section 24.2-238 of the Code of Virginia, should the Defendant be awarded legal fees and costs to be paid by the County of Loudoun for defending the removal petition and, if so, in what amount?
2. Should the proceedings of the Special Grand Jury remain under seal?

FACTS

Attorney's Fees

Prior to the filing of the removal petition, the Defendant was a subject of Special Grand Jury investigation stemming from allegations made by a former aide, Donna Mateer.

The Special Grand Jury issued a report, but no indictments were returned. Although no indictments were issued, the Defendant had to retain counsel. His legal fees and costs for defending himself between October 30, 2012, when counsel was retained, and January 26, 2014, the day before the removal petition was filed, totaled \$88,180. Of this amount Counsel for the Defendant would estimate approximately \$5,000 was for other work.

Between January 27, 2014, and July 18, 2014, as shown in Exhibit A, the Defendant has incurred \$29,125 in legal fees and \$5,378.64 in costs for a total of \$34,503.64. The costs were mostly for ordering transcripts and paying filing fees.

Counsel's usual rate is \$300 per hour, but the Defendant was billed at a discounted rate of \$250 per hour.

For comparative purposes, attached is a Washington Post article by Tom Jackman dated January 26, 2012, which describes a dispute between the Loudoun County Board of Supervisors and the Board of Equalization over a \$54,000 legal bill from Leesburg attorney John P. Flannery for representing the Board of Equalization in a Freedom of Information Act dispute with a private citizen. Mr. Flannery billed his time at \$400 per hour. A copy of said article is attached as Exhibit B.

Special Grand Jury Records

After the release of the Special Grand Jury report, on July 17, 2013, the Board of Supervisors censured Supervisor Delgaudio, barred him from serving on Board committees and stripped him of the individual budget for his Supervisor's office.

After a joint request by both parties, the Court entered an order allowing respective counsel access to the proceedings of the Special Grand Jury. Counsel met and reviewed the exhibits and several transcripts from the grand jury proceedings. Counsel for the Defendant ordered transcripts of several county employees and four members of the Board of Supervisors. Counsel has these transcripts and the Chairman's testimony in his possession.

At the hearing held on June 24, 2014, both parties advised the Court they wanted to discuss the disposition of these transcripts at the final hearing.

The Defendant considered requesting the public release of the Special Grand Jury transcripts because of the exculpatory testimony of former staff, current staff and fellow members of the Board of Supervisors contained therein. If needed, Supervisor Delgaudio could cite this testimony in an effort to have the budget for his supervisor's office restored.

The Chairman and four Supervisors whose testimony before the Special Grand Jury was reviewed by the undersigned Counsel, said, in summation, that although they would not have sent out correspondence similar to Supervisor Delgaudio, they had not observed him engage in misconduct.

Supervisor Delgaudio's former staff testified there were efforts to separate Public Advocate and his 2011 re-election campaign from the workings of his supervisor's office.

The testimony of the members of the Board of Supervisors contains descriptions of campaign finance practices in the 2011 election involving the "retired reverend" in greater detail

than is discussed in the Special Grand Jury report. The relationships of individual Board members with the “retired reverend” are also described.

The testimony also includes unflattering remarks made about people who were not involved in any aspect of this investigation.

Recently the Board of Supervisors reversed its decision to ban Supervisor Delgaudio from Board committees and appointed him to the Transportation and Land Use Committee.

On July 16, 2014, the Board of Supervisors voted eight to one to restore funding for Supervisor Delgaudio’s office budget.

ARGUMENT

Legal Fees and Costs

Section 24.2-238 of the Code of Virginia states: “If a judicial proceeding under this article is dismissed in favor of the respondent, the court in its discretion may require . . . the political subdivision which the respondent serves to pay court costs or reasonable attorney fees, or both for the respondent.”

Section 24.2-238(B) of the Code of Virginia also precludes the Court from ordering the petitioners to pay costs or be subject to sanctions for filing the petition.

Having met the initial threshold of dismissal in his favor, Supervisor Delgaudio requests the Court award him the all fees and costs incurred from January 27, 2014 to the present date.

In her motion to dismiss the Commonwealth’s Attorney wrote:

“The Rules of Professional Conduct prohibit a prosecutor from filing or maintaining a charge the prosecutor knows is not support by probable cause. Rule 3.8(a). To continue along the path to a trial on this matter, in the Commonwealth’s view, presents the risk of running afoul of that rule.”

It appears the Commonwealth's Attorney has taken the position to further prosecute this matter might be sanctionable.

The Court should also consider the history of non-cooperation by the Petitioners with the Commonwealth's Attorney cited in the motion to dismiss.

Also relevant is the fact Supervisor Delgaudio paid substantial legal fees for defending himself in an investigation for which no charges were forthcoming.

Counsel billed this matter at a reduced rate of \$250 which is substantially less than the \$400 per hour billed by John P. Flannery, Esq., in the cited case involving the Board of Equalization.

Given the unusual, somewhat unusual nature of this matter, legal fees of \$29,125 and costs of \$5,378.64 for a total of \$34,503.64 are not unreasonable, especially when compared to the \$54,000 billed by an attorney in a FOIA dispute handled in the general district court.

Special Grand Jury Records

Since the Board voted to return his office funds, the primary need for the public disclosure of the proceedings of the Special Grand Jury is moot. Supervisor Delgaudio no longer needs the Special Grand Jury witness transcripts to make the case for the return of his budget.

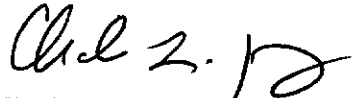
During the Special Grand Jury investigation Supervisor Delgaudio was the subject of vicious rumors, later shown to be untrue. He believes many of the allegations made against people not involved in this matter appearing in the Special Grand Jury transcripts are also untrue. Were this information released, the persons so mentioned would be subject to the same scorn and ridicule he endured. To the extent he is able to do so, Supervisor Delgaudio does want another innocent person to endure what he has gone through.

Therefore, his position is the proceedings of the Special Grand Jury should remain under seal.

CONCLUSION

For the reasons and on the grounds aforesaid, Loudoun County should be ordered to reimburse Supervisor Delgaudio in the total amount of \$34,503.64 and the proceedings of the Special Grand Jury should remain under seal.

EUGENE DELGAUDIO
By Counsel



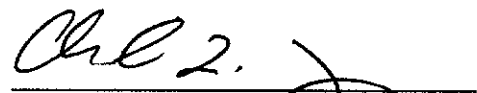
Charles L. King, Esq.
VSB 29639
116-G Edwards Ferry Road
Leesburg, Virginia 20176
703-669-3500 telephone
703-669-3525 fascimile
charleskingesq@verizon.net
Counsel for Defendant

CERTIFICATE OF SERVICE

I, Charles L. King, hereby certify that a true and accurate copy of the foregoing pleading was sent via electronic and regular mail to Hon. Theophani Stamos, Arlington County Commonwealth's Attorney, 1425 North Courthouse Road, Suite 5200, Arlington, VA 22201.

Date: _____

7/17/17



Charles L. King

Date	Entry #	Fee / Time Explanation	Hours	Amount	Inv#	Billing Status
	1647	Delgaudio, Eugene				
	12-1510	Board of Supervisors				
Jan 29/2014	35455	Lawyer: CLK 4.00 Hrs X 250.00 Several conversations with client; review of pleadings; conversation with Commonwealth Attorney; Conversation with	4.00	1000.00	5031	Billed
Jan 29/2014	35463	Lawyer: CLK 0.20 Hrs X 250.00 Conversation with Dowell Muse	0.20	50.00	5061	Billed
Jan 29/2014	35481	Lawyer: CLK 0.30 Hrs X 250.00 Telephone Conference with about interview requests and strategy	0.30	75.00	5061	Billed
Jan 30/2014	35480	Lawyer: CLK 0.20 Hrs X 250.00 Telephone Conference with Commonwealth's Attorney regarding Tuesday's hearing	0.20	50.00	5061	Billed
Feb 3/2014	35666	Lawyer: CLK 1.00 Hrs X 250.00 Draft motion to advance hearing	1.00	250.00	5061	Billed
Feb 3/2014	35681	Lawyer: CLK 0.20 Hrs X 250.00 Review emails from client	0.20	50.00	5061	Billed
Feb 4/2014	35507	Lawyer: CLK 2.50 Hrs X 250.00 Draft press release; court appearance and press conference	2.50	625.00	5061	Billed
Feb 4/2014	35531	Lawyer: CLK 0.20 Hrs X 250.00 Conversation with Mr. Bragale with NBC 4	0.20	50.00	5061	Billed
Feb 4/2014	35611	Lawyer: CLK 1.00 Hrs X 250.00 Draft press release and two conversations with client	1.00	250.00	5061	Billed
Feb 4/2014	35612	Lawyer: CLK 2.50 Hrs X 250.00 Meeting with client before court, preparation for court, court appearance, press conference and meeting with client	2.50	625.00	5061	Billed
Feb 4/2014	35673	Lawyer: CLK 0.20 Hrs X 250.00 Review emails from reporter and client	0.20	50.00	5061	Billed
Feb 5/2014	35543	Lawyer: CLK 0.60 Hrs X 250.00 Legal Research on out of state subpoena	0.60	150.00	5061	Billed
Feb 5/2014	35544	Lawyer: CLK 0.40 Hrs X 250.00 Telephone Conference with client	0.40	100.00	5061	Billed
Feb 5/2014	35669	Lawyer: CLK 0.20 Hrs X 250.00 Review pleadings filed by John Flannery	0.20	50.00	5061	Billed
Feb 7/2014	35668	Lawyer: CLK 0.20 Hrs X 250.00 Review of court orders	0.20	50.00	5061	Billed
Feb 16/2014	35609	Lawyer: CLK 2.00 Hrs X 250.00 Began drafting initial pleadings and initial research on first amendment issues	2.00	500.00	5061	Billed
Feb 17/2014	35613	Lawyer: CLK 3.50 Hrs X 250.00 Legal Research on removal statute, notary provisions, statute of limitations, election law and first amendment is	3.50	875.00	5061	Billed
Feb 21/2014	35672	Lawyer: CLK 0.10 Hrs X 250.00 Review of email from expert	0.10	25.00	5061	Billed
Feb 21/2014	35682	Lawyer: CLK 0.50 Hrs X 250.00 Meeting with expert witness	0.50	125.00	5061	Billed
Feb 25/2014	35671	Lawyer: CLK 0.20 Hrs X 250.00 Emailed copy of FOIA request to Jack Roberts	0.20	50.00	5061	Billed
Feb 26/2014	35667	Lawyer: CLK 0.20 Hrs X 250.00 Conversation with the client	0.20	50.00	5061	Billed
Feb 26/2014	35670	Lawyer: CLK 0.20 Hrs X 250.00 Review of FOIA response, forward FOIA response to expert, and talk to Ms. Grimmell	0.20	50.00	5061	Billed
Mar 4/2014	35722	Lawyer: CLK 3.50 Hrs X 250.00 Draft press release, meeting with client; court appearance; conversations with reporters	3.50	875.00	5087	Billed
Mar 5/2014	35731	Lawyer: CLK 2.60 Hrs X 250.00 Work on subpoenas; conversation with commonwealth attorney; conversation with client;	2.60	650.00	5087	Billed
Mar 5/2014	35732	Lawyer: CLK 0.50 Hrs X 250.00 Phone Conversation with Chris at Family Research Foundation	0.50	125.00	5087	Billed
Mar 6/2014	35763	Lawyer: CLK 0.30 Hrs X 250.00 Telephone Conference with Barbara Hollingsworth	0.30	75.00	5087	Billed
Mar 6/2014	35835	Lawyer: CLK 0.10 Hrs X 250.00 Reviewed order signed by Judge Sheridan	0.10	25.00	5087	Billed
Mar 6/2014	35836	Lawyer: CLK 0.10 Hrs X 250.00 E-mailed client copy of SPLC return	0.10	25.00	5087	Billed
Mar 6/2014	35837	Lawyer: CLK 0.20 Hrs X 250.00 E-mailed Theo Stamos	0.20	50.00	5087	Billed
Mar 10/2014	35767	Lawyer: CLK 0.50 Hrs X 250.00 Conversation with client	0.50	125.00	5087	Billed
Mar 11/2014	35834	Lawyer: CLK 0.50 Hrs X 250.00 Meeting with Jack Roberts	0.50	125.00	5087	Billed
Mar 11/2014	35854	Lawyer: CLK 0.20 Hrs X 250.00 Reviewed email from Lynette Burkey	0.20	50.00	5087	Billed
Mar 12/2014	35848	Lawyer: CLK 0.10 Hrs X 250.00 Reviewed email from Lynette Burkey	0.10	25.00	5087	Billed
Mar 13/2014	35833	Lawyer: CLK 0.50 Hrs X 250.00 Telephone Conference with William Olson	0.50	125.00	5087	Billed
Mar 17/2014	35842	Lawyer: CLK 0.30 Hrs X 250.00 Conversation with client	0.30	75.00	5087	Billed
Mar 18/2014	35849	Lawyer: CLK 0.20 Hrs X 250.00 Telephone Conference with Theo Stamos	0.20	50.00	5087	Billed
Mar 19/2014	35851	Lawyer: CLK 0.90 Hrs X 250.00 Telephone Conference with Client	0.90	225.00	5087	Billed
Mar 20/2014	35853	Lawyer: CLK 0.40 Hrs X 250.00 Reviewed email and conversation with client	0.40	100.00	5087	Billed
Mar 20/2014	35855	Lawyer: CLK 1.00 Hrs X 250.00 Draft Supoenas and Motion	1.00	250.00	5087	Billed
Mar 21/2014	35856	Lawyer: CLK 1.00 Hrs X 250.00 Completed and filed motion and subponas	1.00	250.00	5087	Billed
Mar 21/2014	35880	Lawyer: CLK 1.00 Hrs X 250.00 Review of motions filed by Sterling Citizens and Conversation with client	1.00	250.00	5087	Billed
Mar 21/2014		Lawyer: CLK 2.50 Hrs X 250.00	2.50	625.00	5087	Billed

Date	Entry #	Fee / Time Explanation	Working Lawyer	Hours	Amount	Inv#	Billing Status
Mar 24/2014	35881	Drafted responsive pleadings and two conversations with client					
		Lawyer: CLK 0.30 Hrs X 250.00	CLK - Charles L. King	0.30	75.00	5087	Billed
	35884	Meeting with Attorney Milller					
Mar 24/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00	5087	Billed
	35885	Preparation for court; finalize Responses to pleadings					
Mar 24/2014		Lawyer: CLK 0.30 Hrs X 250.00	CLK - Charles L. King	0.30	75.00	5087	Billed
	35886	Conversation with Ms. Stamos					
Mar 25/2014		Lawyer: CLK 2.00 Hrs X 250.00	CLK - Charles L. King	2.00	500.00	5087	Billed
	35894	Prepare for hearing; court appearance					
Mar 27/2014		Lawyer: CLK 0.50 Hrs X 250.00	CLK - Charles L. King	0.50	125.00	5087	Billed
	35901	Conversation with Erika Cotti					
Apr 2/2014		Lawyer: CLK 3.00 Hrs X 250.00	CLK - Charles L. King	3.00	750.00	5123	Billed
	35932	Review/listen to hearing recording, draft Order, and conversation with client					
Apr 2/2014		Lawyer: CLK 0.10 Hrs X 250.00	CLK - Charles L. King	0.10	25.00	5123	Billed
	36164	Review of email from Stevens Miller					
Apr 3/2014		Lawyer: CLK 0.50 Hrs X 250.00	CLK - Charles L. King	0.50	125.00	5123	Billed
	35934	Conversation with Theo Stamos					
Apr 7/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00	5123	Billed
	35942	Emails with Theo Stamos					
Apr 7/2014		Lawyer: CLK 2.00 Hrs X 250.00	CLK - Charles L. King	2.00	500.00	5123	Billed
	35948	Conversation with client and research on Mateer timesheets					
Apr 8/2014		Lawyer: CLK 0.30 Hrs X 250.00	CLK - Charles L. King	0.30	75.00	5123	Billed
	36163	Draft Deposition notice and review of correspondence (signed orders) from Flannery					
Apr 9/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00	5123	Billed
	35991	Conversation with client, two conversations with FOIA officer, email to Theo Stamos					
Apr 10/2014		Lawyer: CLK 0.50 Hrs X 250.00	CLK - Charles L. King	0.50	125.00	5123	Billed
	35993	Conversation with client					
Apr 11/2014		Lawyer: CLK 0.50 Hrs X 250.00	CLK - Charles L. King	0.50	125.00	5123	Billed
	36000	Conference with Arlington County Commonwealth's Attorney					
Apr 12/2014		Lawyer: CLK 1.50 Hrs X 250.00	CLK - Charles L. King	1.50	375.00	5123	Billed
	36016	Draft press release and email to client					
Apr 14/2014		Lawyer: CLK 2.00 Hrs X 250.00	CLK - Charles L. King	2.00	500.00	5123	Billed
	36025	Revise press release; conversations with client; review FOIA response and email with commonwealth's attorney					
Apr 15/2014		Lawyer: CLK 0.30 Hrs X 250.00	CLK - Charles L. King	0.30	75.00	5123	Billed
	36023	Conversation with client					
Apr 21/2014		Lawyer: CLK 0.20 Hrs X 250.00	CLK - Charles L. King	0.20	50.00	5123	Billed
	36058	Conversation with Supervisor Delgaudio					
Apr 22/2014		Lawyer: CLK 0.60 Hrs X 250.00	CLK - Charles L. King	0.60	150.00	5123	Billed
	36105	Twp telephone conferences with Commonwealth's Attorney and emailed Gary Clemons					
Apr 25/2014		Lawyer: CLK 2.00 Hrs X 250.00	CLK - Charles L. King	2.00	500.00	5123	Billed
	36118	Conference with Theo at the courthouse.					
Apr 28/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00	5123	Billed
	36126	Review of State Police Reports					
Apr 28/2014		Lawyer: CLK 0.20 Hrs X 250.00	CLK - Charles L. King	0.20	50.00	5123	Billed
	36165	Review of grand jury material					
May 1/2014		Lawyer: CLK 0.10 Hrs X 250.00	CLK - Charles L. King	0.10	25.00	5123	Billed
	36166	Review of letter from Stevens Miller					
May 2/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00	5123	Billed
	36172	Review of filed, conversation with client, conversation with court reporter and order transcripts					
May 5/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00		Unbilled
	36196	Conversation with client, two conversations with Theo Stamos, conversation with reporter and others					
May 5/2014		Lawyer: CLK 0.30 Hrs X 250.00	CLK - Charles L. King	0.30	75.00		Unbilled
	36197	Conversation with reporter					
May 6/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00		Unbilled
	36198	Meeting with client; Court Appearance					
May 9/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00		Unbilled
	36230	Reviewed Donna Mateer deposition					
May 9/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00		Unbilled
	36250	Preparation for deposition on 5/13 of D. Mateer Hackett					
May 12/2014		Lawyer: CLK 8.00 Hrs X 250.00	CLK - Charles L. King	8.00	2000.00		Unbilled
	36260	Work on deposition for 5/13/14					
May 13/2014		Lawyer: CLK 6.00 Hrs X 250.00	CLK - Charles L. King	6.00	1500.00		Unbilled
	36263	Deposition of Donna Mateer Hackett					
May 16/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00		Unbilled
	36273	Drafting and filing emergency motion w/praecipe and order					
May 17/2014		Lawyer: CLK 0.20 Hrs X 250.00	CLK - Charles L. King	0.20	50.00		Unbilled
	36282	Conversation with client					
May 20/2014		Lawyer: CLK 6.50 Hrs X 250.00	CLK - Charles L. King	6.50	1625.00		Unbilled
	36288	Meeting with client; deposition of client; and conversation with client					
May 29/2014		Lawyer: CLK 0.50 Hrs X 250.00	CLK - Charles L. King	0.50	125.00		Unbilled
	36333	Conversation with Commonwealth Attorney, review of order, and letter to Ms. Stamos					
Jun 6/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00		Unbilled
	36401	Meeting with client					
Jun 10/2014		Lawyer: CLK 1.00 Hrs X 250.00	CLK - Charles L. King	1.00	250.00		Unbilled
	36407	Review and organize file/conversation with court reporter and order transcripts, review of emails and emails with					
Jun 14/2014		Lawyer: CLK 3.00 Hrs X 250.00	CLK - Charles L. King	3.00	750.00		Unbilled
	36441	work on draft of brief					
Jun 18/2014		Lawyer: CLK 3.00 Hrs X 250.00	CLK - Charles L. King	3.00	750.00		Unbilled
	36434	Review and research; and draft of letter to Ms. Stamos;					
Jun 19/2014		Lawyer: CLK 7.00 Hrs X 250.00	CLK - Charles L. King	7.00	1750.00		Unbilled
	36442	work on draft of brief					
Jun 23/2014		Lawyer: CLK 5.00 Hrs X 250.00	CLK - Charles L. King	5.00	1250.00		Unbilled
	36453	draft press release; conversation with WMAL; conversation with client; conversation with Theo Stamos; review plea					
Jun 24/2014		Lawyer: CLK 3.00 Hrs X 250.00	CLK - Charles L. King	3.00	750.00		Unbilled
	36456	Conversations with client; court appearance; conversations with the press and meeting with client					

Date	Entry #	Fee / Time Explanation	Working Lawyer	Hours	Amount	Inv#	Billing Status
Jun 30/2014	36505	Lawyer: CLK 0.30 Hrs X 250.00 Conversation with Trevor at the paper	CLK - Charles L. King	0.30	75.00		Unbilled
Jul 1/2014	36572	Lawyer: CLK 1.00 Hrs X 250.00 Draft motion for restoration of funds; draft motion to dismiss	CLK - Charles L. King	1.00	250.00		Unbilled
Jul 2/2014	36568	Lawyer: CLK 0.50 Hrs X 250.00 Conversation with client	CLK - Charles L. King	0.50	125.00		Unbilled
Jul 3/2014	36569	Lawyer: CLK 0.60 Hrs X 250.00 Conversation with Ken Reid	CLK - Charles L. King	0.60	150.00		Unbilled
Jul 3/2014	36570	Lawyer: CLK 0.50 Hrs X 250.00 Conversations with client	CLK - Charles L. King	0.50	125.00		Unbilled
Jul 7/2014	36554	Lawyer: CLK 1.00 Hrs X 250.00 Telephone Conference with client	CLK - Charles L. King	1.00	250.00		Unbilled
Jul 10/2014	36603	Lawyer: CLK 0.30 Hrs X 250.00 Conversation with legislator	CLK - Charles L. King	0.30	75.00		Unbilled
Jul 16/2014	36623	Lawyer: CLK 0.10 Hrs X 250.00 Conversation with client	CLK - Charles L. King	0.10	25.00		Unbilled
Jul 17/2014	36624	Lawyer: CLK 4.00 Hrs X 250.00 Write brief	CLK - Charles L. King	4.00	1000.00		Unbilled
				Unbilled:	57.80	14450.00	
				Billed:	58.70	14675.00	
				Total:	116.50	29125.00	
				Percent Billed:	50.39	50.39	

*** Summary by Working Lawyer ***

Working Lawyer	Hours				% Bld	Fees					
	Unbilled	Firm %	Billed	Firm %		Total	% Bld	Unbilled	Firm %	Billed	Firm %
CLK - Charles L.	57.80	100.00	58.70	100.00	50.39	14450.00	100.00	14675.00	100.00	29125.00	50.39
Firm Total	57.80	100.00	58.70	100.00	50.39	14450.00	100.00	14675.00	100.00	29125.00	50.39

*** Summary by Responsible Lawyer ***

Responsible Lawyer	Hours				% Bld	Fees					
	Unbilled	Firm %	Billed	Firm %		Total	% Bld	Unbilled	Firm %	Billed	Firm %
CLK - Charles L.	57.80	100.00	58.70	100.00	50.39	14450.00	100.00	14675.00	100.00	29125.00	50.39
Firm Total	57.80	100.00	58.70	100.00	50.39	14450.00	100.00	14675.00	100.00	29125.00	50.39

REPORT SELECTIONS - Client Fees Listing

Layout Template	Default
Advanced Search Filter	None
Requested by	ADMIN
Finished	Friday, July 18, 2014 at 01:26:53 PM
Ver	12.0 SP3 (12.0.20130212)
Date Range	Jan/27/2014 To Jul/17/2014
Matters	12-1510
Clients	All
Major Clients	All
Client Intro Lawyer	All
Matter Intro Lawyer	All
Responsible Lawyer	All
Assigned Lawyer	All
Type of Law	All
Select From	Active, Inactive, Archived Matters
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New Page for Each Lawyer	No
Firm Totals Only	No
Client balances only	No
Matter balances only	No
Entries Shown - Billed Only	Yes
Entries Shown - Unbilled	Yes
Entries Shown - Billable Tasks	Yes
Entries Shown - Write Up/Down Tasks	Yes
Entries Shown - No Charge Tasks	Yes
Entries Shown - Non Billable Tasks	Yes
Working Lawyer	All

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Expenses Incurred**

1/27/2014 to 7/17/2014

Date:	Paid to:	Amount:	For:
2/27/2014	Montgomery County Clerk	\$ 24.00	filing fee
2/28/2014	Loudoun County Clerk	\$ 25.00	filing fee
3/4/2014	CI Corporation	\$ 720.00	service fee
3/5/2014	Charles L. King	\$ 19.99	postage
3/6/2014	Burkey Investigations	\$ 200.00	service fee
3/11/2014	bank wire charge	\$ 20.00	wire fee
3/11/2014	Loudoun County Clerk	\$ 36.00	filing fee
3/21/2014	Loudoun County Clerk	\$ 24.00	subpoena fee
3/27/2014	Loudoun County Clerk	\$ 105.00	CD request
4/8/2014	CI Corporation	\$ 585.00	service fee
4/9/2014	Veteran Reporters	\$ 475.75	court reporter
5/8/2014	M.A.R. Reporting Group	\$ 492.25	transcripts
5/8/2014	M.A.R. Reporting Group	\$ 1,237.65	transcripts
5/12/2014	Michael Rigsby	\$ 105.00	service fee
5/19/2014	Veteran Reporters	\$ 60.00	court reporter
5/27/2014	Cavalier Courier	\$ 99.00	process service fee
5/28/2014	Veteran Reporters	\$ 120.00	court reporter
6/11/2014	M.A.R. Reporting Group	\$ 760.00	transcripts
6/19/2014	CI Corporation	\$ 270.00	service fee
		\$ 5,378.64	

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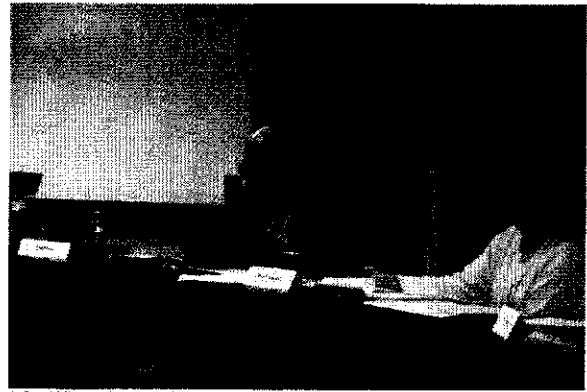
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- 4 Federal food aid rising locally: [Use of food stamps skyrocketing in Northern Virginia](#) - Alexandria Gazette Packet
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TOP 31 NOVA BLOGS

Sure, there are a lot of blogs and a lot of blah-blah-blah out there. But here at The State of NoVa, we've culled through a few

Loudoun FOIA battle expands into costly power struggle

By Tom Jackman



J. Scott Littner, chairman of the Loudoun County Board of Equalization, apparently did not appreciate having this photo taken. His displeasure has turned into a costly lawsuit and a battle with the county Board of Supervisors. (Beverly Bradford - Leesburg Patch.com)

Sitting in a public meeting, in the Loudoun County government center one afternoon last summer, Beverly Bradford snapped a picture. One picture. And that innocent, utterly legal act has snowballed into a sprawling, unnecessarily costly lawsuit for Loudoun County, followed by an escalating battle between the county's Board of Supervisors and Board of Equalization over paying for that suit, and finally a power struggle between the boards that stretches down to Richmond.

Plus there's a side order of weirdness over a large land deal involving the new high school that Loudoun wants to build in Lansdowne, and no one knows where that will all play out.

What we do know is that after Beverly Bradford snapped the one photo (above), Loudoun Board of Equalization Chairman J. Scott Littner became quite upset. Twice, he interrupted the meeting to walk over to Bradford, loom over her and berate her, Bradford and witnesses have testified. Then Littner summoned a sheriff's deputy, who escorted Bradford out of the meeting. And while Bradford was in the hallway, the BOE voted to reduce the tax assessment on a 112-acre chunk of valuable Loudoun land from \$49 million to \$44 million.

Bradford filed a Freedom of Information Act complaint. The Board of Supervisors urged the BOE to simply apologize to Bradford. Instead, the BOE hired a lawyer who has run up \$54,000 in legal bills fighting the complaint and trashing Bradford in court. The Board of Supervisors is refusing to pay, and so the BOE is suing the Supervisors to force them to pay the bill over a simple FOIA complaint.

And the Board of Supervisors is now going to Richmond, seeking legislation to enable it to appoint and oversee the BOE, rather than having it done by the circuit court.

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hundred or so, and bring you our list of the **Top 31 fun and fascinating blogs** on everything from politics to partying.

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Fun!

Bradford said she couldn't discuss the lawsuit while it was pending, and Littner couldn't be reached for comment. David McClure, Bradford's lawyer, said that "the BOE and its counsel have, in my opinion, expended shocking amounts of time and taxpayer money to present evidence personally attacking Ms. Bradford."

The BOE's lawyer, John Flannery, also declined to comment. In court filings, he repeatedly attacks Bradford for her statements about whether or not she had an attorney (she is a journalist) and is seeking sanctions against her. He also presented a legal expert who said Flannery's billings at \$400 an hour were reasonable and his fees of \$54,000 so far were perfectly fine.

The relevant background is that the Board of Equalization is where property owners go to contest their tax assessments, whether for homes or businesses. The board is composed of five citizens appointed by the circuit court, but paid by the county.

Bradford is a longtime reporter and photographer for a variety of newspapers big and small, and she currently contributes to Patch.com. On June 28, she happened to learn that the BOE was going to be hearing the tax appeal of the National Conference Center in Lansdowne. The NCC wanted its \$49 million assessment lowered, and it hoped to eventually sell a chunk of its campus to the county so Loudoun could build a new high school. Newsworthy stuff, though Bradford was not assisted by Patch to cover it. She went as a private citizen.

Bradford told the BOE's administrator that she would be attending the meeting that afternoon, McClure said. Then she went home and got her Nikon digital camera. At some point during the NCC's presentation, Bradford clicked off a shot of Littner. The flash went off, momentarily distracting everyone in the small room. Bradford put her camera away, McClure said.

But a few minutes later, in the middle of the meeting, Littner stood up, walked over to Bradford and berated her, witnesses said. One witness said Littner demanded the camera.

Bradford said little, and the meeting resumed. But a few minutes later, McClure said, Littner again stood up and loomed over Bradford. Not long after that, a sheriff's deputy was summoned, and he asked Bradford to step into the hallway, McClure said. And while she was outside the room, the BOE decided to approve a \$5 million assessment reduction for the NCC, McClure said. Loudoun County has since purchased the devalued land, though many believe it is highly unsuitable for a new high school.

Bradford's suit argues that she was prevented from attending and photographing the public hearing. The BOE has a rule that says anyone who wants to photograph them must inform its members or staff ahead of time. That wouldn't seem to be part of the state FOIA law, which in [section 2.2-3707 states](#) only that a public body "may adopt rules governing the placement and use of cameras and microphones "to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open."

Bradford filed a complaint in Loudoun General District court alleging violations of the state Freedom of Information Act. She asked the court to order the BOE to stop doing that, to attend training in FOIA, to contribute \$2,000 to the Virginia Literary Fund and pay her costs.

Upon learning of this, the Board of Supervisors advised the BOE to simply apologize and make the case go away. But the Board of Supervisors is not the BOE's boss. Instead, the BOE won a court order from Circuit Court Judge James Chamblin forcing the Board of Supervisors to pay \$25,000 for an outside attorney, arguing that the county attorney had a conflict of interest.

A trial was held, but not finished after a day of testimony. A [second day of testimony](#) also did not end the matter. A third day is scheduled for Monday before District Court Judge Julia Cannon.






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As the case dragged on, the BOE demanded the Board of Supervisors allocate another \$35,000 to pay Flannery. The Supervisors balked. They wanted the BOE to settle the case, apologize, move on.

"Nobody," Board Chairman Scott York said, according to Leesburg Today, "whether it is the Board of Supervisors or the Planning Commission or anybody has the right or ability to restrict the public from recording and taking pictures other than to ask them if they are disrupting the meeting, to ask them to do it in a way that does not disrupt the meeting. Just because you don't like it doesn't mean they are disrupting the meeting."

The county asked the BOE to try to come up with a budget for their epic FOIA defense. Littner responded with six single-spaced pages blaming the legal process, Bradford's "legally frivolous FOIA" and that she "failed to give the requisite notice so that we could avoid any disturbance."

Now the two sides are fighting a separate battle in circuit court, and the Supervisors have spent another \$28,000 to pay their own outside attorneys to battle the BOE, Flannery's filings state.

Meanwhile, the Supervisors have tasked Leesburg State Del. Joe May with sponsoring a bill which would amend state law to specifically allow the Loudoun Board to select its own BOE.

McClure said, "The BOE's inappropriately extensive litigation has turned this matter into the 'Case of the Century.' In light of what has been, in my opinion, the inappropriate and disproportionate manner in which the BOE has proceeded with this litigation, we have asked that Ms. Bradford recover her legal expenses."

Those expenses may seem like small potatoes compared to the damage done when this case and its offshoots are ultimately over.

[This post has been updated].

By [Tom Jackman](#) | 10:20 AM ET, 01/26/2012

Categories: [Loudoun County](#), [Politics](#) | Tags: [Loudoun Board of Equalization](#), [Beverly Bradford](#), [Virginia](#)

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NVaSkeptic wrote:
4/5/2012 3:47 PM EDT

Though Tom Jackman seems to be trying hard to defend Beverly Bradford, cub reporter, his 26 January 2012 column seems pretty clear on this topic:

"The BOE has a rule that says anyone who wants to photograph them must inform its members or staff ahead of time." None of what has been written about this topic then or since has contested the BOE's authority to write rules that help them maintain decorum at its meetings.

http://www.washingtonpost.com/blogs/the-state-of-nova/post/loudoun-foia-battle-expands-into-costly-power-struggle/2012/01/26/ntQAaEctSQ_blog.html

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Tom Jackman responds:
4/5/2012 4:23 PM EDT

You have apparently failed to read the article above. This topic is discussed in detail, including a full quotation of the relevant section of

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