


Application Packet of Allen L. Wayne  
before the  
Arkansas State Claims Commission

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Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

☐ Mr.  
☒ Mrs.  
☐ Ms.  
☐ Miss

GWENEVER A. WAYNE Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces

Claim No. \_\_\_\_\_

Date Filed \_\_\_\_\_  
(Month) (Day) (Year)

Amount of Claim \$ \_\_\_\_\_

Fund \_\_\_\_\_

COMPLAINT

GWENEVER A. WAYNE the above named Claimant, of \_\_\_\_\_

(Name)

(Street or R.F.D. & No.)

(City)

(State) (Zip Code) (Daytime Phone No.)

County of \_\_\_\_\_

represented by \_\_\_\_\_

(Legal Counsel, if any, for Claim)

of \_\_\_\_\_  
(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says:

State agency involved: State of ARKANSAS / Little Rock FD Amount sought: \$150,000 & Educational Benefit

Month, day, year and place of incident or service: Employed by LRFD from 3/19/84 to 6/6/08 died 11/15/15

Explanation: Claimant seeks Award as provided for under Act 341 of 2015

Claimant's husband was employed by LRFD from 3/19/84 to 6/6/08. He

Retired from service due to \_\_\_\_\_ He died 11/15/15  
Claimant seeks Award as a Line of Duty Death from  
Cancer caused by Exposure to The By Products of Combustion and  
Exposure to Diesel Exhaust in the performance of his Duties  
as a Little Rock Firefighter  
Claimant's husband was Allen Wayne Sr.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

NO; when? \_\_\_\_\_; to whom? \_\_\_\_\_  
(Yes or No) (Month) (Day) (Year) (Department)

and that the following action was taken thereon: \_\_\_\_\_

and that \$ \_\_\_\_\_ was paid thereon: (2) Has any third person or corporation an interest in this claim? \_\_\_\_\_; if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows: \_\_\_\_\_; and was acquired on \_\_\_\_\_, in the following manner: \_\_\_\_\_

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Gwenever Wayne  
(Print Claimant/Representative Name)

Gwenever Wayne  
(Signature of Claimant/Representative)

SWORN TO and subscribed before me at Little Rock AR.  
(City) (State)

(SEAL) on this 4 day of November, 2017  
(Date) (Month) (Year)

Theresa Flippin  
(Notary Public)

SF1-R7/99

My Commission Expires: December 1 2020  
(Day) (Year)

5  
THERESA FLIPPIN  
PULASKI COUNTY  
NOTARY PUBLIC -- ARKANSAS  
My Commission Expires December 1, 2020  
Commission No. 12379642

















**Office of the Fire Chief**  
624 South Chester Street  
Little Rock, AR 72201-3904  
(501) 918-3700  
Fax (501) 918-3734

November 3, 2017

Subject: Allen Wayne Employment with LRFD

Allen Wayne was employed with the Little Rock Fire Department from March 19, 1984 to December 19, 2014.

Sincerely,



Chief Summers







































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































**Office of the Assistant Fire Chief**

**Operations Division**  
624 South Chester St.  
Little Rock AR 72201-3904  
(501)918-3736  
Fax (501)918-3734

October 16, 2018  
RE: Allen Wayne Sr.

To whom it may Concern:

Allen Wayne Sr. was hired by the Little Rock Fire Department on March 19, 1984, and was in my recruit class. Allen was assigned to Engine 6 out of recruit school on April 7, 1984, Engine 6 was one of the busier engine companies at the time. He spent a total of five years assigned as a firefighter on Engine 6, and was transferred to Truck 7 (now Truck 15) on April 29, 1989. Around 1990, he was transferred in house to Engine 15, where he spent 12 years of his career before transferring to Engine 13 due to being promoted as a Fire Apparatus Engineer on May 5, 2002. Allen was assigned to Engine 13 until transferring to Truck 21 on September 21, 2006. Allen continued to work on Truck 21 [REDACTED]

[REDACTED] The Little Rock Fire Department hired Allen back on June 6, 2008 as the Fire Equipment Repair Technician working in the Warehouse at the Training Facility. He was forced to permanently retire from the department on July 12, 2014 [REDACTED]

Little Rock Fire Department personnel are currently researching through all of the station logbooks from Allen Wayne's career to verify fires that Allen has fought. Just recently the computer database from 1986 to 2004 was found, and is currently being worked on by the City's I.T Department to extrapolate the data being housed there.

Allen Wayne, Sr. fought fire for 24 years of his life for the Little Rock Fire Department. I can assure you that in 24 years, especially where he was assigned during that time, that Allen fought more fire than most. We will be happy to provide more information as it becomes available through the current research efforts if needed.

Respectfully,

Douglas R. Coney  
Assistant Fire Chief of Operations  
Little Rock Fire Department

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, AR 72201-3823

October 25, 2018

Mr. Monty Baugh  
Arkansas Attorney General's Office  
323 Center Street Suite 200  
Little Rock, Arkansas 72201

RE: *Gwenever A. Wayne v. State of Arkansas*  
**Claim No. 190479**

---

Dear Mr. Baugh,

Enclosed please find a copy of the above-styled claim filed against the State of Arkansas. Pursuant to the Arkansas Rules of Civil Procedure, as well as Claims Commission Rule 2.2, you have **thirty days from the date of service** in which to file a responsive pleading.

Your responsive pleading should include your agency number, fund code, appropriation code, and activity/section/unit/element that this claim should be charged against, if liability is admitted, or if the Claims Commission approves this claim for payment. This information is necessary even if your agency denies liability.

Sincerely,



Kathryn Irby

Enclosure  
cc: Gwenever A. Wayne (w/o encl.)

**Note to Claimant or Claimant's counsel:** The Claims Commission copied you on this correspondence to provide you with confirmation that your claim has been processed and served upon the respondent agency.

BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS

OCT 30 2018

GWENEVER A. WAYNE

CLAIMANT  
RECEIVED

v.

NO. 19-0479-CC

STATE OF ARKANSAS

RESPONDENT

ANSWER

Comes Respondent, the State of Arkansas, by and through Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and states for its Answer:

1. The Arkansas Claims Commission has jurisdiction over this matter pursuant to Ark. Code Ann. § 21-5-702.

2. Respondent admits that Claimant is the surviving spouse of Allen Wayne Sr., who died on November 15, 2015 and she has sufficiently proven that she married Allen Wayne Sr. on August 6, 1984 and continued to be married to him until the time of his death.

3. This claim satisfies Ark. Code Ann. § 21-5-703 in that it was filed within five years of death of Allen Wayne Sr., which occurred on November 15, 2015.

4. Respondent admits that Allen Wayne Sr. was employed by the Little Rock Fire Department from March 19, 1984 until July 12, 2014. While employed with the Little Rock Fire Department, Allen Wayne Sr. served as a firefighter for twenty-four (24) years from March 1984 till June 2008. From June 2008 till July 12, 2014, Allen Wayne Sr. worked as the Fire Repair Technician. Thus, Allen Wayne Sr. served the City of Little Rock for over 30 years.

5. Based upon the Certificate of Death for [REDACTED] Allen Wayne Sr. causes of death were [REDACTED]

6. Benefits for the surviving spouse of a firefighter are governed by Ark. Code Ann. § 21-5-705.



7. Specifically, Ark. Code Ann. § 21-5-705(3)(A)(i) states the following:

Firefighter killed in the line of duty after January 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, or a cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if he or she was exposed to a known carcinogen as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer while in the official line of duty.

8. Allen Wayne Sr. medical records show [REDACTED]

9. Because Mr. Wayne Sr. was diagnosed with [REDACTED] Respondent lacks sufficient knowledge and therefore must deny that Allen Wayne Sr. cause of death falls within the scope of Ark. Code Ann. § 21-5-705(3)(A)(i). Thus, Respondent also denied that the requirements of Ark. Code Ann. § 21-5-705(3)(A)(i) have been satisfied.

10. Accordingly, Respondent must also deny that Claimant is entitled to payment under Ark. Code Ann. § 21-5-705 in the amount of \$150,000.

11. In addition, although it has been shown that Allen Wayne Sr. was survived by a son, [REDACTED] because Respondent has denied that this claim meets the requirements of Ark. Code Ann. § 21-5-705(3)(A)(i), so too must Respondent also deny scholarship benefits provided by the provisions of §6-82-501, *et seq.* at the time any death benefit or total permanent disability benefit is awarded under this subchapter. Section 6-82-504(e) is inapplicable.

12. Respondent expressly reserves the right to amend its answer after the findings and recommendations of the Firefighter Benefit Review Panel as the Respondent will defer to the medical expertise of the oncologist who is appointed to the Board.

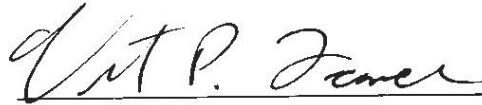
## CONCLUSION

Respondent denies the claim that Claimant has sufficiently shown that Allen Wayne Sr. medical conditions meet the requirements of Ark. Code Ann. § 21-5-705(3)(A)(i). In doing so, Respondent reserves the right to amend its answer pending review by the Firefighter Benefit Review Panel.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By:



Vincent P. France  
Ark Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)

**CERTIFICATE OF SERVICE**

I, Vincent P. France, Assistant Attorney General, do hereby certify that a copy of the foregoing document has been sent to the following via U.S. Mail on this 30<sup>th</sup> day of October, 2018:

Gwenever A. Wayne  




Vincent P. France  
Ark Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)

To: Arkansas State Claims Commission

Arkansas  
State Claims Commission

From: Firefighter Benefit Review Panel

NOV 26 2018

Re: Gwenever A. Wayne, Claimant

RECEIVED

The Firefighter Benefit Review Panel met on November 15, 2018, to review the claim filed by Gwenever A. Wayne.

Based on the information provided, the Firefighter Benefit Review Panel finds that Allen L. Wayne was not killed in the line of duty. This finding is based on the recommendation provided by the panel's Oncologist, Dr. Anthony Bucolo:



The Panel recommends to the Arkansas Claims Commission that the claim be denied.

Brad Hardin, Chair

*Brad Hardin* 11/19/18

Firefighter Benefit Review Panel



# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823

KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, AR 72201-3823

November 29, 2018

Ms. Gwenever A. Wayne

RE: **Gwenever A. Wayne v. State of Arkansas**  
Claim No. 190479

Dear Ms. Wayne,

Enclosed please find a copy of the recommendation of the Firefighter Benefit Review Panel (the "Review Panel"). Please be advised that the Review Panel recommended denial of the above-referenced claim. The State of Arkansas (the "Respondent") previously filed an answer denying liability, as well. In this situation, you have two options:

- 1) You may request a hearing before the Arkansas State Claims Commission (the "Claims Commission") in writing within fifteen (15) calendar days from the date of this correspondence.
- 2) You may do nothing. If this office does not receive any communication from you within fifteen (15) calendar days from the date of this correspondence, the Claims Commission will adopt the recommendation of the Review Panel and Respondent, which will result in the dismissal of your claim.

Please note that even if you request a hearing on your claim, the filing of a dispositive motion (such as a Motion to Dismiss or a Motion for Summary Judgment) by the Respondent could result in dismissal of your claim before hearing. The failure of a party to file a timely response is sufficient basis for the granting of a motion by the Claims Commission.

It is your responsibility to know when responses are due to any motions or other pleadings filed in your claim. It is also your responsibility to notify both the Claims Commission and the Respondent if you have a change in mailing address.

Sincerely,

Kathryn Irby

Enclosure

cc: Vincent P. France, *counsel for Respondent* (w/ encl.) (via email only)

To: Arkansas State Claims Commission

Arkansas  
State Claims Commission

From: Firefighter Benefit Review Panel

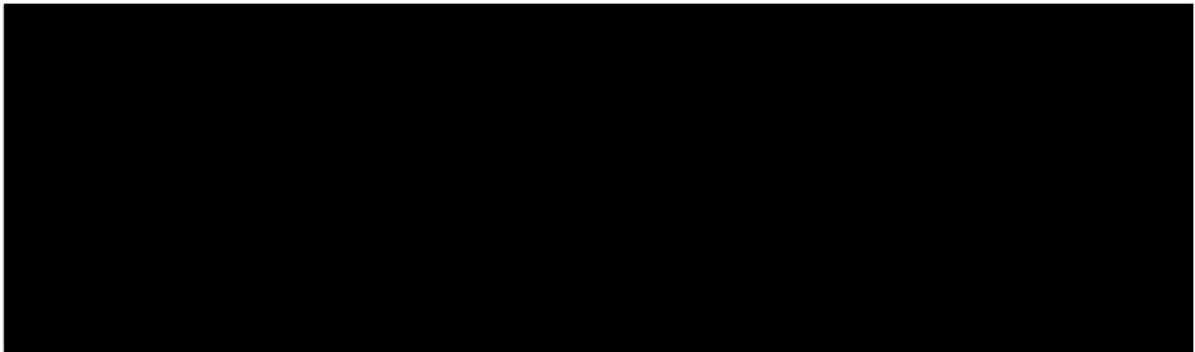
NOV 26 2018

Re: Gwenever A. Wayne, Claimant

RECEIVED

The Firefighter Benefit Review Panel met on November 15, 2018, to review the claim filed by Gwenever A. Wayne.

Based on the information provided, the Firefighter Benefit Review Panel finds that Allen L. Wayne was not killed in the line of duty. This finding is based on the recommendation provided by the panel's Oncologist, Dr. Anthony Bucolo:



The Panel recommends to the Arkansas Claims Commission that the claim be denied.

Brad Hardin, Chair

*Brad Hardin* 11/19/18  
Firefighter Benefit Review Panel

**From:** [REDACTED]  
**To:** [Kathryn Irby](#)  
**Subject:** Hearing Request  
**Date:** Thursday, December 13, 2018 11:13:33 AM

---

Good Morning,

I would like to request a hearing on my claim, case no. 19-0479-CC.

Thank you,  
Gwen Wayne

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

January 15, 2019

Gwenever A. Wayne

Vincent P. France  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

RE: *Gwenever A. Wayne v. State of Arkansas*  
Claim No. 190479

---

Dear Ms. Wayne and Mr. France,

The above-styled claim has been scheduled for hearing beginning at 9:00 a.m. on June 13, 2019. Both parties should submit pre-hearing briefs, witness lists, exhibit lists, and proposed findings of fact and conclusions of law on or before close of business on May 13, 2019. If depositions are taken, both parties should also submit deposition summaries by that date. A copy of these pre-hearing submissions must be provided to the opposing party.

The hearing will be held in the Claims Commission Hearing Room, 101 East Capitol Avenue, Suite 410, Little Rock, Arkansas 72201. Please make every effort to be present outside the Hearing Room at least thirty minutes prior to the scheduled hearing time. All parties should maintain flexible schedules, as hearing times can vary.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: csimpkins

BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS

Arkansas  
State Claims Commission

MAY 13 2019

GWENEVER A. WAYNE

CLAIMANT  
RECEIVED

v.

NO. 19-0479-CC

STATE OF ARKANSAS

RESPONDENT

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Comes Respondent, the State of Arkansas, by and through Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and states for its Proposed Findings of Fact and Conclusions of Law states:

**FINDINGS OF FACT**

1. Claimant, Gwenever A. Wayne, is the surviving spouse of Allen Wayne Sr., who died on [REDACTED] and she has sufficiently proven that she married Allen Wayne Sr. on [REDACTED] and continued to be married to him until the time of his death.

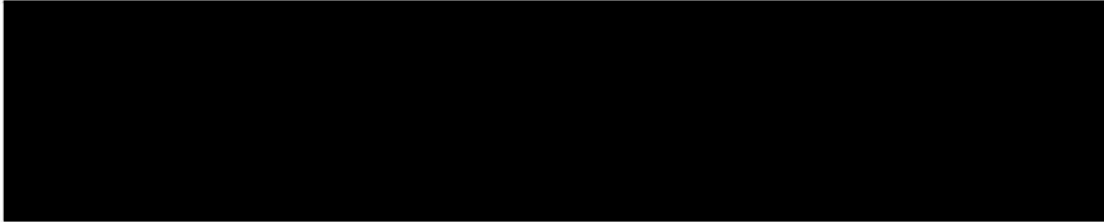
2. Allen Wayne Sr. was employed by the Little Rock Fire Department from March 19, 1984 until July 12, 2014. While employed with the Little Rock Fire Department, Allen Wayne Sr. served as a firefighter for twenty-four (24) years from March 1984 till June 2008. From June 2008 till July 12, 2014, Allen Wayne Sr. worked as the Fire Repair Technician. Thus, Allen Wayne Sr. served the City of Little Rock for over 30 years.

3. Allen Wayne Sr. causes of death were [REDACTED]  
[REDACTED]

4. Allen Wayne Sr. medical records show that he had a history of [REDACTED]  
[REDACTED]



5. On November 15, 2018, the Firefighter Benefit Review Panel found that Allen Wayne was not killed in the line of duty based upon the recommendations of the panel's Oncologist, Dr. Anthony Bucolo, which included the following:



**APPLICABLE LAW**


6. Benefits for the surviving spouse of a firefighter are governed by Ark. Code Ann. § 21-5-705.

7. Specifically, Ark. Code Ann. § 21-5-705(3)(A)(i) states the following:

Firefighter killed in the line of duty after January 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, or a cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if he or she was exposed to a known carcinogen as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer while in the official line of duty.

**PROPOSED CONCLUSIONS OF LAW**

8. This claim for death benefits for Claimant, Gwenever A. Wayne, at the surviving spouse of Allen Wayne Sr. should be denied.

9. Based upon the expert opinion of Dr. Dr. Anthony Bucolo, an expert in Oncology, who opined that Mr. Allen Wayne's cancer is not attributable to his work as a firefighter but rather from him 

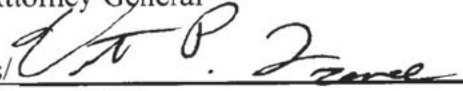
10. Accordingly, because Mr. Allen Wayne's cancer is not covered pursuant to Ark. Code Ann. § 21-5-705, Claimant, Gwenever A. Wayne, is not entitled to any benefits.

WHEREFORE, Respondent, the State of Arkansas, respectfully requests that this claim be denied by the Arkansas State Claims Commission.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By:

/s/ 

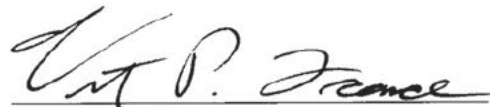
Vincent P. France  
Ark Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: vincent.france@arkansasag.gov

**CERTIFICATE OF SERVICE**

I, Vincent P. France, Assistant Attorney General, do hereby certify that a copy of the foregoing document has been sent to the following via U.S. Mail on this 13<sup>th</sup> day of May, 2019:

Gwenever A. Wayne





Vincent P. France  
Ark Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: vincent.france@arkansasag.gov

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

June 4, 2019

Ms. Gwenever A. Wayne  
[REDACTED]

Mr. Vincent P. France  
Arkansas Attorney's General Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

(via email only)

RE: *Gwenever A. Wayne v. State of Arkansas*  
Claim No. 190479

---

Dear Ms. Wayne and Mr. France,

I spoke with Wade Marshall today, who communicated Ms. Wayne's request that the hearing be continued from the June docket. The Claims Commission has rescheduled this matter for Thursday, November 14, 2019, beginning at 9:00 a.m.

Both parties should submit pre-hearing briefs, witness lists, exhibit lists, and proposed findings of fact and conclusions of law on or before close of business on Thursday, October 24, 2019. A copy of these pre-hearing submissions must be provided to the opposing party.

The hearing will be held in the Claims Commission Hearing Room, 101 East Capitol Avenue, Suite 410, Little Rock, Arkansas 72201. Please make every effort to be present outside the Hearing Room at least thirty minutes prior to the scheduled hearing time. All parties should maintain flexible schedules, as hearing times can vary.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby



**From:** [Kathryn Irby](#)  
**To:** ["Vincent France"](#)  
**Subject:** Wayne v. SOA, Claim No. 190479 -- hearing rescheduled  
**Date:** Tuesday, June 4, 2019 3:37:00 PM  
**Attachments:** [Wayne v. SOA -- hearing rescheduled.pdf](#)

---

Vincent, please see attached.

Thanks,  
Kathryn

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

**From:** [Kathryn Irby](#)  
**To:** [REDACTED]  
**Subject:** Wayne v. SOA, Claim No. 190479 -- hearing rescheduled  
**Date:** Monday, June 24, 2019 3:36:00 PM  
**Attachments:** [Wayne -- rescheduled hearing ltr.pdf](#)

---

Wade, apologies for the delay in sending a copy of this correspondence to you.

KMI

## Crystal Okoro

Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115  
Phone: 501-859-3424  
Fax: 501-812-2072

SENT VIA FACSIMILE and U.S. MAIL ONLY 501.686.2823

August 28, 2019

Kathryn Irby  
Arkansas State Claims Commission  
101 East Capitol Ave. Suite 410  
Little Rock, AR 72201- 3823

Re: Our Client: Gwenever A. Wayne v. State of Arkansas  
Claim NO: 190479

Dear Ms. Irby,

Please be advised that this firm represents the above mentioned person. We would request the hearing date in this matter and the complete file. Please include any filings and the witness list if applicable.

Should you have any questions or concerns please do not hesitate to contact us. Thank you for your attention to this matter.

SINCERELY,

  
CRYSTAL J. OKORO

CJO/dc

CC:  
Gwenever A. Wayne

Arkansas  
State Claims Commission

AUG 28 2019

RECEIVED

Arkansas  
State Claims Commission  
AUG 28 2019

RECEIVED

Attorney at Law

Telephone (501)

Fax (501)

Email:

## FAX TRANSMISSION COVER SHEET

Date:

8/27/19

To:

Kathryn Trbovick

Facsimile:

501.680.2823

Re:

C. Wayne

Sender:

Crystal Oloro

YOU SHOULD RECEIVE [2] (including cover sheet) PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL "(501) 680.3424"

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [REDACTED]  
**Subject:** RE: Allen Wayne, Sr-hearing dates  
**Date:** Monday, September 16, 2019 12:19:00 PM  
**Attachments:** [Complaint.pdf](#)

---

Ms. Okoro,

Part 1 of the claim file is attached to this email. This will be sent in several parts. I apologize for the delay in sending.

The hearing on this claim is being rescheduled for April 17, 2020. Correspondence will go out soon confirming this date, although if you need additional time once you've reviewed the file, please let me know.

Thanks,  
Kathryn

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Monday, September 16, 2019 12:11 PM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** [REDACTED]

**Subject:** Allen Wayne, Sr-hearing dates

Ms. Irby,

My assistant informed me that this matter is currently set for 11/14. We will likely need more time to review the file and relate to this matter. At your convenience, please provide the file and available dates for a hearing. Thank you for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118

North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [REDACTED]  
**Subject:** RE: Allen Wayne, Sr-hearing dates  
**Date:** Monday, September 16, 2019 12:24:00 PM  
**Attachments:** [REDACTED]

---

Ms. Okoro,

Attached is part 2 of the claim file. This is the final part. Please let me know if you have any questions.

Thanks,  
Kathryn

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

---

**From:** Kathryn Irby  
**Sent:** Monday, September 16, 2019 12:21 PM  
**To:** Crystal Okoro <okorocrystal@yahoo.com>  
**Cc:** [REDACTED]  
[REDACTED]  
[REDACTED]

**Subject:** RE: Allen Wayne, Sr-hearing dates

Ms. Okoro,

Part 1 of the claim file is attached to this email. This will be sent in several parts. I apologize for the delay in sending.

The hearing on this claim is being rescheduled for April 17, 2020. Correspondence will go out soon confirming this date, although if you need additional time once you've reviewed the file, please let me know.



Thanks,  
Kathryn

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Monday, September 16, 2019 12:11 PM

**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>

**Cc:** [REDACTED]  
[REDACTED]  
[REDACTED]

**Subject:** Allen Wayne, Sr-hearing dates

Ms. Irby,

My assistant informed me that this matter is currently set for 11/14. We will likely need more time to review the file and relate to this matter. At your convenience, please provide the file and available dates for a hearing. Thank you for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [REDACTED]  
**Subject:** Re: Allen Wayne, Sr-hearing dates  
**Date:** Monday, September 16, 2019 12:24:12 PM

---

Thanks, I appreciate your assistance.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
okorocrystal@yahoo.com

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On Monday, September 16, 2019, 12:21:49 PM CDT, Kathryn Irby <Kathryn.Irby@arkansas.gov> wrote:

Ms. Okoro,

Part 1 of the claim file is attached to this email. This will be sent in several parts. I apologize for the delay in sending.

The hearing on this claim is being rescheduled for April 17, 2020. Correspondence will go out soon confirming this date, although if you need additional time once you've reviewed the file, please let me know.

Thanks,

Kathryn

Kathryn Irby

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>

**Sent:** Monday, September 16, 2019 12:11 PM

**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>

**Cc:** [REDACTED]

**Subject:** Allen Wayne, Sr-hearing dates

Ms. Irby,

My assistant informed me that this matter is currently set for 11/14. We will likely need more time to review the file and relate to this matter. At your convenience, please provide the file and available dates for a hearing. Thank you for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Kathryn Irby](#)  
**To:** [Vincent France](#); "[okorocrystal@yahoo.com](#)"  
**Cc:** [REDACTED] [Crystal Carey](#)  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.  
**Date:** Wednesday, March 4, 2020 8:54:00 AM

---

Okay, then let's look at December 17. I will send out a hearing notice in the next couple of days. If another time before then becomes available, I will let you all know.

Thanks,  
Kathryn

---

**From:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Sent:** Wednesday, March 4, 2020 8:03 AM  
**To:** '[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)' <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Wade Marshall [REDACTED] [Crystal Carey](mailto:Crystal.Carey@arkansasag.gov) <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

I agree that a half day should be sufficient. And, I am flexible as to the date of the hearing.

Thanks,

**Vincent P. France**

Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, March 3, 2020 5:26 PM  
**To:** [Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov); Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Cc:** Wade Marshall <[REDACTED]>  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

I'm thinking we will need at least half a day for the Plaintiff's side. This maybe way more than needed, but I want to make sure we have sufficient time. We can always set it and get a closer date if it is determined less time is needed.

Crystal  
[Sent from Yahoo Mail on Android](#)

On Tue, Mar 3, 2020 at 10:37 AM, Kathryn Irby  
<[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France,

I apologize that I haven't closed the loop on this. Can you please confirm for me how long you each believe you'll need for this hearing?

I can schedule it for December 17 or 18 now. But depending on how long will be needed, I may be able to move it up some.

Thanks,

Kathryn

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Monday, March 2, 2020 4:05 PM

**To:** [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov); Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>

**Cc:** Wade Marshall [REDACTED]

**Subject:** Re: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Ms. Irby,

I have not received a response on this or the new setting for the above. Did I miss other dates sent out since 4/24 wasn't available? Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Wednesday, January 29, 2020, 11:01:29 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro, I apologize for originally sending my email to your client. Please see below.

Mr. France has indicated that he is available on April 24.

Thanks,

Kathryn

---

**From:** Kathryn Irby  
**Sent:** Wednesday, January 29, 2020 10:44 AM  
**To:** Gwen Wayne <[gwenwayne37@hotmail.com](mailto:gwenwayne37@hotmail.com)>; [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
**Cc:** Wade Marshall [REDACTED]  
**Subject:** CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Mrs. Wayne and Mr. France,

Please give me an update on this claim – will it be ready to be heard by the Commission in April, or will additional time be needed?

If April is still workable for everyone, we've had a scheduling issue arise with our docket, and I need to move this claim to April 24 instead of April 17. Please confirm whether this date will work for everyone.

Thanks,

Kathryn

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

**From:** [Misty Scott](#) on behalf of [ASCC Pleadings](#)  
**To:** [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com); [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
**Cc:** [ASCC Pleadings](#); [Kathryn Irby](#)  
**Subject:** CORR: Gwenever A. Wayne v. SOA, Claim No. 190479  
**Date:** Tuesday, March 10, 2020 4:28:52 PM  
**Attachments:** [Gwenever Wayne v. SOA.pdf](#)

---

Mr. Okoro and Mr. France:

Please see attached. Contact Kathryn Irby with any questions.

***Misty Scott***  
***Arkansas State Claims Commission***

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

March 10, 2020

Ms. Crystal Okoro  
Attorney at Law  
Post Office Box 1118  
North Little Rock, Arkansas 72115

(via email)

Mr. Vincent P. France  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

(via email)

RE: ***Gwenever A. Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. France,

The above-styled claim has been rescheduled for hearing beginning at 9:00 a.m. Thursday, December 17, 2020. Both parties should submit pre-hearing briefs, witness lists, exhibit lists, and proposed findings of fact and conclusions of law on or before close of business on Thursday, December 3, 2020. If depositions are taken, both parties should also submit deposition summaries by that date. A copy of these pre-hearing submissions must be provided to the opposing party.

The hearing will be held in the Claims Commission Hearing Room, 101 East Capitol Avenue, Suite 410, Little Rock, Arkansas 72201. Please make every effort to be present outside the Hearing Room at least thirty minutes prior to the scheduled hearing time. All parties should maintain flexible schedules, as hearing times can vary.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: jsjones



**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#); [Vincent France](#)  
**Cc:** [REDACTED] [Crystal Carey](#)  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.  
**Date:** Tuesday, November 17, 2020 12:46:00 PM

---

Ms. Okoro and Mr. France,

I have removed this claim from the December hearing docket and will put it on the list of claims requesting in-person hearings. I will probably wait until January to start scheduling those, so that we may have a better idea of when in-person hearings can resume.

Thank you for this information.

Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Tuesday, November 17, 2020 12:37 PM  
**To:** Vincent France <vincent.france@arkansasag.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** Wade Marshall <[REDACTED]> Crystal Carey <crystal.carey@arkansasag.gov>  
**Subject:** Re: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

Ms. Irby,

We are requesting a continuance in hopes of in-person hearing being possible in the Spring. I have spoken with Mr. France and he is not opposed to said continuance. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Tuesday, November 10, 2020, 11:33:34 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France,

We are looking at a Zoom hearing for December. Please let me know whether the parties are comfortable proceeding via Zoom or whether this claim should be continued to see whether the Claims Commission is able to resume in-person hearings by next spring.

Thanks,

Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Wednesday, March 4, 2020 8:55 AM  
**To:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; 'okorocrystal@yahoo.com' <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Wade Marshall <[REDACTED]>; Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

Okay, then let's look at December 17. I will send out a hearing notice in the next couple of days. If another time before then becomes available, I will let you all know.

Thanks,

Kathryn

---

**From:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Sent:** Wednesday, March 4, 2020 8:03 AM  
**To:** 'okorocrystal@yahoo.com' <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Wade Marshall <[REDACTED]>; Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

I agree that a half day should be sufficient. And, I am flexible as to the date of the hearing.

Thanks,

**Vincent P. France**

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Tuesday, March 3, 2020 5:26 PM

**To:** [Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov); Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Cc:** Wade Marshall [REDACTED]

**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

I'm thinking we will need at least half a day for the Plaintiff's side. This maybe way more than needed, but I want to make sure we have sufficient time. We can always set it and get a closer date if it is determined less time is needed.

Crystal

[Sent from Yahoo Mail on Android](#)

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Ms. Okoro and Mr. France,

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I can schedule it for December 17 or 18 now. But depending on how long will be needed, I may be able to move it up some.

Thanks,

Kathryn

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Monday, March 2, 2020 4:05 PM

**To:** [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov); Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>

**Cc:** Wade Marshall [REDACTED]

**Subject:** Re: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Ms. Irby,

I have not received a response on this or the new setting for the above. Did I miss other dates sent out since 4/24 wasn't available? Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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Mr. France has indicated that he is available on April 24.

Thanks,

Kathryn

---

**From:** Kathryn Irby  
**Sent:** Wednesday, January 29, 2020 10:44 AM  
**To:** Gwen Wayne [REDACTED] [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
**Cc:** Wade Marshall [REDACTED]  
**Subject:** CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Mrs. Wayne and Mr. France,

Please give me an update on this claim – will it be ready to be heard by the Commission in April, or will additional time be needed?

If April is still workable for everyone, we've had a scheduling issue arise with our docket, and I need to move this claim to April 24 instead of April 17. Please confirm whether this date will work for everyone.

Thanks,

Kathryn

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Subject:** Allen Wayne Matter  
**Date:** Wednesday, April 14, 2021 12:06:22 PM  
**Attachments:** [Epson\\_11042020053809 \(1\).pdf](#)

---

Good morning Ms. Irby,

Out of an abundance of caution, I am re-forwarding the expert's report in this matter. I am almost certain it was already provided. It has been provided to opposing counsel. Please confirm receipt.

Also, kindly let me know if the panel is still conducting virtual hearings instead of in-person.

Thank you for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**W. L. Rutledge, M.D., P.A.**

The Doctor's Office

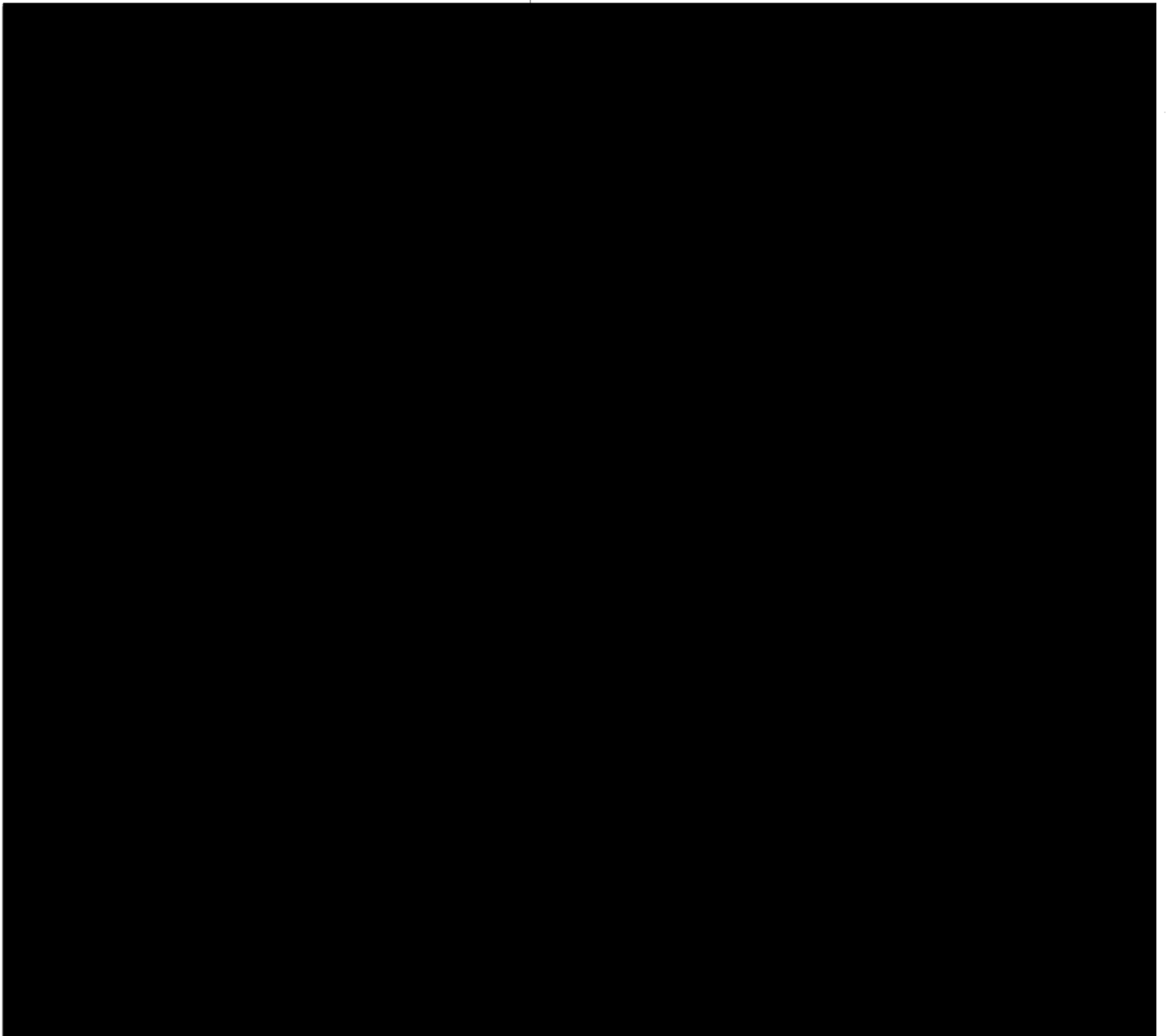
**William L Rutledge, M.D.**

Physician and Surgeon

**PATIENT NAME:** Wayne Sr., Allen Lyn

**DOE:** 09/30/2020

**REVIEW OF MEDICAL RECORDS AND OPINION**

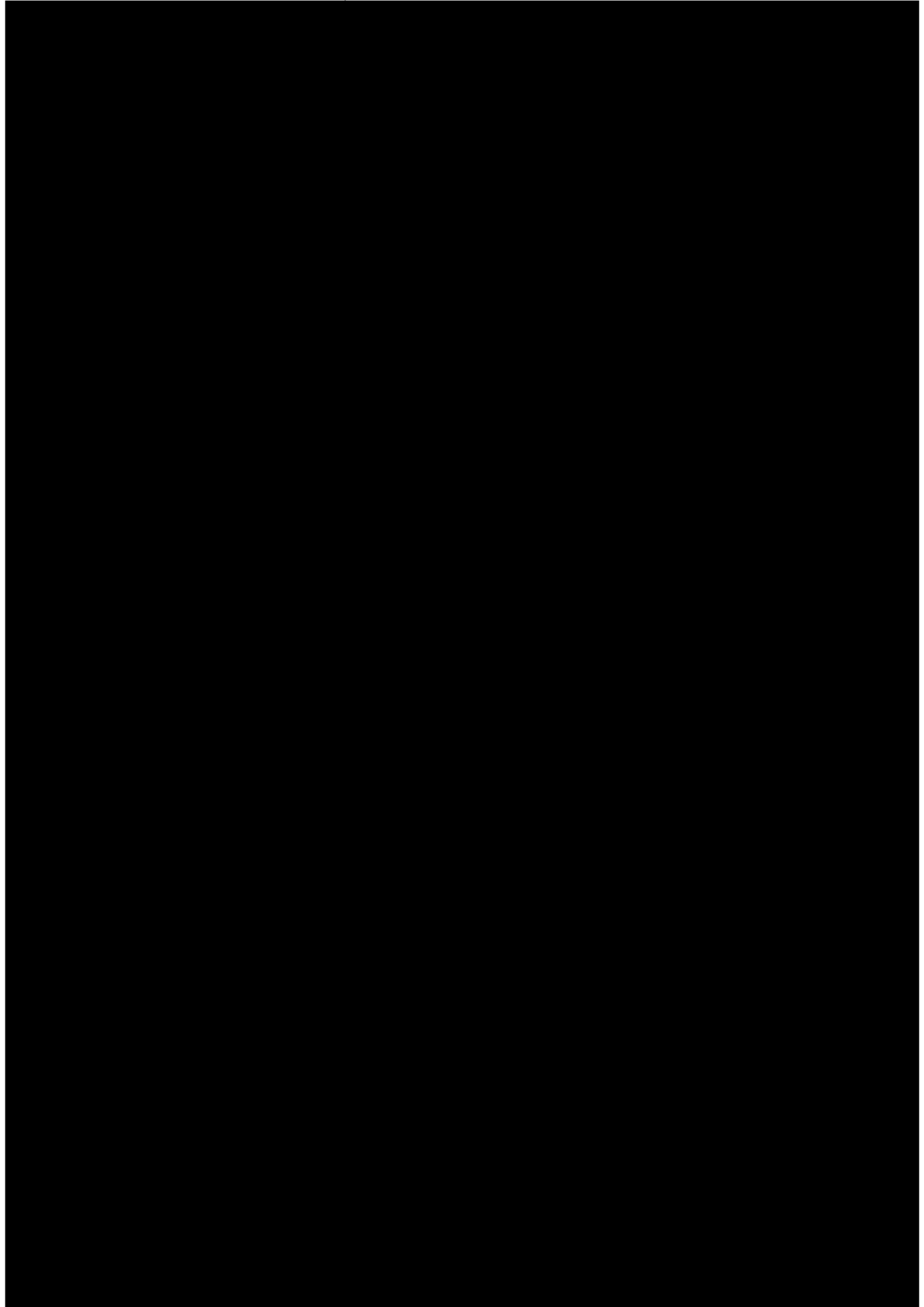




**PATIENT NAME:** Wayne Sr., Allen Lynn

**DOE:** 09/30/2020

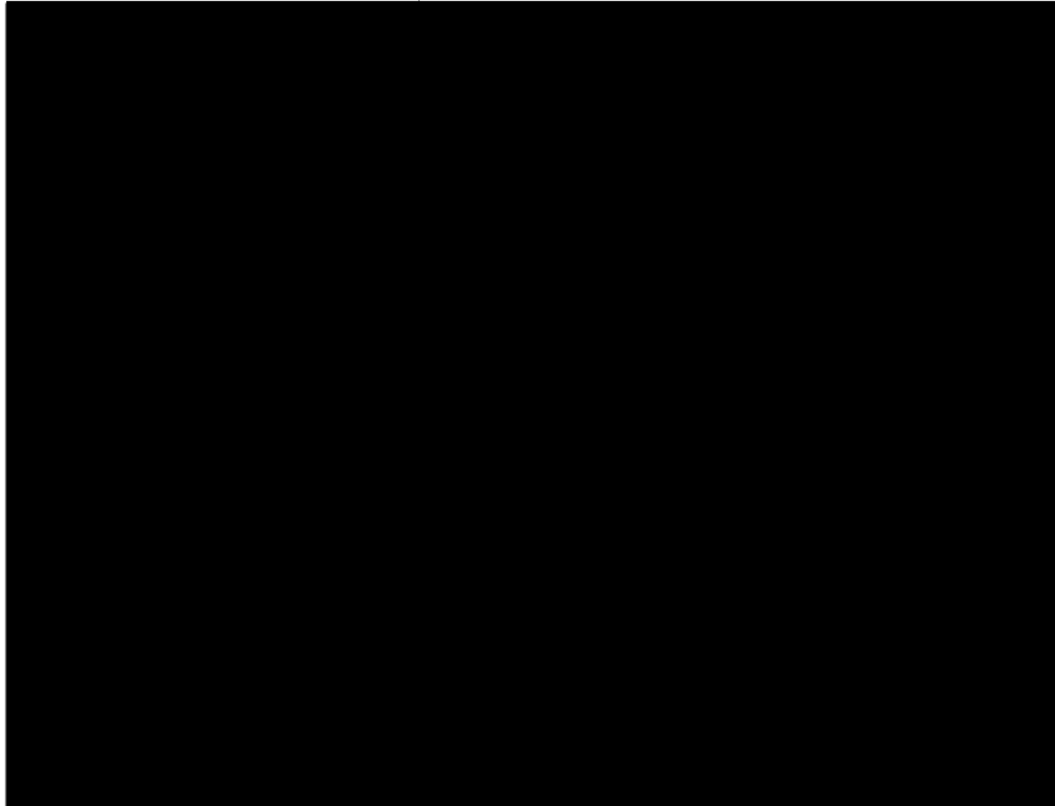
**PAGE TWO**



**PATIENT NAME:** Wayne Sr., Allen Lyn

**DOE:** 09/30/2020

**PAGE THREE**



*W-Rutledge, M.D.*

William Rutledge, M.D.

WR/sb

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#); [Vincent France](#)  
**Cc:** [Crystal Carey](#)  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Friday, April 23, 2021 11:36:00 AM

---

I can schedule this matter for a half-day hearing on Friday, August 20.

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Wednesday, April 21, 2021 2:10 PM  
**To:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** Re: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Yes, that should still work.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Wednesday, April 21, 2021, 02:07:23 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Will a half-day be sufficient?

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Wednesday, April 21, 2021 2:05 PM  
**To:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>

**Cc:** Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>

**Subject:** Re: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Thanks Mrs. Irby. Is there any availability on a different day, preferably a Friday?

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Wednesday, April 21, 2021, 01:34:42 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, I'm following up on the below email.

Thanks,

Kathryn

---

**From:** Kathryn Irby

**Sent:** Wednesday, April 14, 2021 12:24 PM

**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Cc:** Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>

**Subject:** CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Ms. Okoro and Mr. France,

The Claims Commission is beginning to schedule some in-person hearings. Do the parties think a half-day will be sufficient? If so, I can schedule it on July 16.

Thanks,

Kathryn

---

**From:** Kathryn Irby  
**Sent:** Tuesday, November 17, 2020 12:46 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Cc:** Wade Marshall [REDACTED]; Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

Ms. Okoro and Mr. France,

I have removed this claim from the December hearing docket and will put it on the list of claims requesting in-person hearings. I will probably wait until January to start scheduling those, so that we may have a better idea of when in-person hearings can resume.

Thank you for this information.

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, November 17, 2020 12:37 PM  
**To:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Wade Marshall [REDACTED]; Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** Re: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

Ms. Irby,

We are requesting a continuance in hopes of in-person hearing being possible in the Spring. I have spoken with Mr. France and he is not opposed to said continuance.

Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Tuesday, November 10, 2020, 11:33:34 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France,

We are looking at a Zoom hearing for December. Please let me know whether the parties are comfortable proceeding via Zoom or whether this claim should be continued to see whether the Claims Commission is able to resume in-person hearings by next spring.

Thanks,

Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Wednesday, March 4, 2020 8:55 AM

**To:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; 'okorocrystal@yahoo.com' <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Wade Marshall [REDACTED] Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

Okay, then let's look at December 17. I will send out a hearing notice in the next couple of days. If another time before then becomes available, I will let you all know.

Thanks,

Kathryn

---

**From:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Sent:** Wednesday, March 4, 2020 8:03 AM  
**To:** 'okorocrystal@yahoo.com' <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Wade Marshall <[REDACTED]>; Crystal Carey <[crystal.carey@arkansasag.gov](mailto:crystal.carey@arkansasag.gov)>  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

I agree that a half day should be sufficient. And, I am flexible as to the date of the hearing.

Thanks,

**Vincent P. France**

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, March 3, 2020 5:26 PM  
**To:** [Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov); Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Cc:** Wade Marshall [REDACTED]  
**Subject:** RE: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No.

I'm thinking we will need at least half a day for the Plaintiff's side. This maybe way more than needed, but I want to make sure we have sufficient time. We can always set it and get a closer date if it is determined less time is needed.

Crystal

[Sent from Yahoo Mail on Android](#)

On Tue, Mar 3, 2020 at 10:37 AM, Kathryn Irby

<[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France,

I apologize that I haven't closed the loop on this. Can you please confirm for me how long you each believe you'll need for this hearing?

I can schedule it for December 17 or 18 now. But depending on how long will be needed, I may be able to move it up some.

Thanks,

Kathryn

**Kathryn Irby**



## Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Monday, March 2, 2020 4:05 PM

**To:** [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov); Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>

**Cc:** Wade Marshall [REDACTED]

**Subject:** Re: CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Ms. Irby,

I have not received a response on this or the new setting for the above. Did I miss other dates sent out since 4/24 wasn't available? Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

On Wednesday, January 29, 2020, 11:01:29 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro, I apologize for originally sending my email to your client. Please see below.

Mr. France has indicated that he is available on April 24.

Thanks,

Kathryn

---

**From:** Kathryn Irby  
**Sent:** Wednesday, January 29, 2020 10:44 AM  
**To:** Gwen Wayne [REDACTED]; [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
**Cc:** Wade Marshall [REDACTED]  
**Subject:** CLAIMS COMMISSION: Wayne v. State of Arkansas, Claim No. 190479

Mrs. Wayne and Mr. France,

Please give me an update on this claim – will it be ready to be heard by the Commission in April, or will additional time be needed?

If April is still workable for everyone, we've had a scheduling issue arise with our docket, and I need to move this claim to April 24 instead of April 17. Please confirm whether this date will work for everyone.

Thanks,

Kathryn

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

**From:** [ASCC Pleadings](#)  
**To:** ["Vincent France"; okorocrystal@yahoo.com](#)  
**Cc:** [ASCC Pleadings](#); [Kathryn Irby](#)  
**Subject:** CORR: Gwenever A. Wayne v. SOA, Claim No. 190479  
**Date:** Tuesday, April 27, 2021 10:24:36 AM  
**Attachments:** [Gwenever A. Wayne v. SOA.pdf](#)

---

Please see attached. Contact Kathryn Irby with any questions.

**Julie S. Jones**  
**Arkansas Claims Commision**

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

April 27, 2021

Ms. Crystal Okoro  
Attorney at Law  
Post Office Box 1118  
North Little Rock, Arkansas 72115

(via email)

Mr. Vincent P. France  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

(via email)

RE: ***Gwenever A. Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. France,

The above-styled claim has been scheduled for a half-day hearing beginning at 9:00 a.m. on Friday, August 20, 2021. Both parties should submit pre-hearing briefs, witness lists, exhibit lists, and proposed findings of fact and conclusions of law on or before close of business on July 23, 2021. If depositions are taken, both parties should also submit the deposition transcripts by that date. A copy of these pre-hearing submissions must be provided to the opposing party.

The hearing will be held in the Claims Commission Hearing Room, 101 East Capitol Avenue, Suite 410, Little Rock, Arkansas 72201. Please make every effort to be present outside the Hearing Room at least thirty minutes prior to the scheduled hearing time. All parties should maintain flexible schedules, as hearing times can vary.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: jsjones

**From:** [Kathryn Irby](#)  
**To:** ["Vincent France"; okorocrystal@yahoo.com](#)  
**Subject:** HEARING DETAILS: Gwenever A. Wayne v. SOA, Claim No. 190479  
**Date:** Monday, July 19, 2021 1:30:00 PM

---

Ms. Okoro and Mr. France,

On August 20, the Claims Commission has both in-person hearings and Zoom hearings. We're going to do the Zoom hearings in the morning, and this half-day hearing in the afternoon beginning at 1:00 p.m. Please plan to be here by 12:30 p.m. to get set up and be ready for the 1:00 p.m. hearing to begin.

Thanks,  
Kathryn Irby

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Vincent France](#); [Kathryn Irby](#)  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Tuesday, July 20, 2021 12:48:14 PM  
**Attachments:** [Plt.Mtn.Compel.w.Brief-wayne072021\\_combined.pdf](#)

---

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v. NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**MOTION TO COMPEL**

Comes now the Claimant and moves this Court to order the Respondent to answer the previously propounded discovery or suffer a disposition under Rule 37. Plaintiff's request is made per Rules 26(b)(1), 33 and 37 of the Ark. R. of Civ. Pro. and the case law developed thereunder.

Respectfully submitted,

CRYSTAL J. OKORO  
P.O. Box 1118  
No. Little Rock, AR 72115  
(501) 859.3424  
BY: crystal okoro  
CRYSTAL J. OKORO  
(ARK. BAR #2012-077)

**CERTIFICATE OF SERVICE**

I, undersigned, do hereby certify that on this 20th day of July, 2021, a copy of the foregoing has been hand delivered, faxed or mailed, postage prepaid to proper address of all parties or all counsel of records for the same.

BY: crystal okoro

Crystal J. Okoro



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v. NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**BRIEF IN SUPPORT OF MOTION TO COMPEL**

The Claimant propounded discovery (i.e., Interrogatories and Requests for Production) to the respondents on or about August 25, 2020. Rule 8.1 of the Arkansas State Commission Rules provide that the Rules of Civil Procedure as adopted by the Circuit Court will apply unless they are in direct conflict with the procedure of the Arkansas State Claims Commission.

As of this date the same has not been fully answered or supplemented in the manner required by law or rules. Respondents did turn in or submit some “answers or replies” on or about September 23, 2020, but the same were not in compliance with the applicable rules and were deficient. See Exhibit A. The sought-after information goes to the very essence of this matter and is necessary to proceed. Some of the information includes, but is not limited to, respondent and expert’s reasoning for denying said claim, and other related documentation.

The claimant has provided notice of the deficient responses and made a prior demand for answers to be submitted in compliance and conformity with the Rules. Note Exhibit B, claimant’s letter for compliance dated July 6,

2021 attached hereto. Respondent subsequently respondent failing to provide the requested information. See Exhibit C.

Arkansas rules of procedure requires that defendants answer the discovery or that sanctions be related to for failure to do so upon order of the Court. Esp. note R. 37(3) of Ar. R. Civ. Pro. Note Graham v. Sledge, 28 Ark. App. 122, 771 S.W. 2d 296 (1989) and Goodwin v. Harrison, 300 Ark. 474, 780 S.W. 2d 518 (1989).

WHEREFORE, all premises considered, Claimant requests a hearing or this Commission enter and order the Respondent to fully, truthfully, completely and sufficiently answer the previously propounded and referenced discovery demands, reimbursement of attorney fees, and for all other good and proper relief.

Respectfully submitted,

CRYSTAL J. OKORO  
P.O. Box 1118  
No. Little Rock, AR 72115  
(501) 859.3424  
BY: crystal okoro  
CRYSTAL J. OKORO  
(ARK. BAR #2012-077)

#### CERTIFICATE OF SERVICE

I, undersigned, do hereby certify that on this 20th day of July, 2020, a copy of the foregoing has been hand delivered, faxed or mailed, postage prepaid to proper address of all parties or all counsel of records for the same.

By crystal okoro  
CRYSTAL J. OKORO



ATTORNEY GENERAL  
**LESLIE RUTLEDGE**

[ARKANSASAG.GOV](http://ARKANSASAG.GOV)

Vincent P. France  
Assistant Attorney General

Direct Dial: (501) 682-2007

September 23, 2020

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115

Re: *Wayne v. State of Arkansas*, Arkansas State Claims Commission,  
Claim No. 19-0479-cc

To Ms. Okoro,

Please find enclosed Respondent's Responses to Claimant's First Set of Interrogatories and Requests for Productions of Documents.

Sincerely,

A handwritten signature in black ink, appearing to read "V. P. France", written over a horizontal line.

Vincent P. France  
Assistant Attorney General

Enclosure

323 Center Street, Suite 200, Little Rock, AR 72201  
(501) 682-2007 | [oag@ArkansasAG.gov](mailto:oag@ArkansasAG.gov)

AGRutledge AGLeslieRutledge AGLeslieRutledge Attorney General Leslie Rutledge ArkansasAG AGRutledge

EXHIBIT A

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**RESPONDENT'S RESPONSES TO CLAIMANT'S FIRST SET OF  
INTERROGATORIES AND REQUEST FOR  
PRODUCTION OF DOCUMENTS**

Comes Respondent, the State of Arkansas, by and through Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and for its Responses to Claimant's First Set of Interrogatories, and Requests for Production of Documents, states as follows:

**INTERROGATORY NO. 1: Please state the name, telephone number and address of each individual, including experts, likely to have discoverable information relevant to the facts or allegations in this case, identifying the subjects of the information.**

**ANSWER NO. 1:** Besides the Claimant and any individual disclosed by the Claimant, the only other individual who have discoverable information is Dr. Anthony Bucolo, the oncologist for the Arkansas Firefighter Benefit Review Board pursuant to Ark. Code Ann. § 21-5-705.

**INTERROGATORY NO. 2: Please state the full name, address, and telephone number of each person who you may call as a witness in this**

case, the subject matter to which each person will testify, and the substance of the facts to which each will testify.

**ANSWER NO. 2:** Respondent has yet to determine who it will call to testify, but reserves the right to call any individual disclosed during discovery.

**INTERROGATORY NO. 3:** Please state the name and address of each and every expert witness, if any, upon whom Respondent relies in opposing the allegations of this Complaint, or who is anticipated as a trial witness in this case. Separately identify for each such person whether Respondent intends to call them as a witness at trial.

**ANSWER NO. 3:** Respondent opposes the allegations contained in the Complaint based upon the recommendations of the Arkansas Firefighter Benefit Review Board. Accordingly, if necessary, Respondent reserves the right to call as an expert Dr. Anthony Bucolo, the oncologist for the Arkansas Firefighter Benefit Review Board.

**REQUEST FOR PRODUCTION NO. 1:** If you intend to use an expert witness at the hearing of this case, please produce a copy of that witness' C.V., and any report prepared by the witness.

**RESPONSE NO. 1:** Respondent has attached the C.V. of Dr. Anthony Bucolo, bates number "Respondent Docs. p. 1-5.

**INTERROGATORY NO. 4:** Please identify with particularity each and every document upon which Respondent relies in denying the Claimant's claim, or which Respondent intends to introduce at the hearing

and/or provide to the Arkansas State Claims Commission as evidence in this matter.

**ANSWER NO. 4:** Respondent has yet to determine what document it plans on introducing at trial, but reserves the right to use any document disclosed during discovery.

**REQUEST FOR PRODUCTION NO. 2:** Please produce a copy of each and every document you identified in response to Interrogatory No. 4.

**RESPONSE NO. 2:** See Response to Interrogatory No. 4.

**INTERROGATORY NO. 5:** Please state whether the Respondent, or any one acting on behalf of the Respondent, has obtained or possesses statements from any persons regarding any of the events or allegations contained in the Complaint. If so, for each statement provide:

- a. The name, address and telephone number of the person(s) from whom the statement was taken;
- b. The date on which the statement was taken;
- c. The name, address and telephone number of the person(s) who obtained the statement; and,
- d. Whether the statement was oral, written, by recording device or by court reporter.

**ANSWER NO. 5:** The only records the Respondent has are those provided by the Claimant to the Claims Commission when this claim was filed.

**REQUEST FOR PRODUCTION NO. 3:** Provide a copy of each statement described in response to Interrogatory No. 5 for those statements which were written or recorded.

**RESPONSE NO. 3:** See Response to Interrogatory No. 5.

**REQUEST FOR PRODUCTION NO. 4:** Produce copies of all correspondence between the Respondent and the Arkansas State Claims Commission and between the Respondent and the Claimant in possession of the Respondent.

**RESPONSE NO. 4:** Objection, Respondent objects to Request for Production No. 4 because Claimant should have all these documents and has equal access to them.

**REQUEST FOR PRODUCTION NO. 5:** Produce copies of all correspondence between the Respondent and any other individual, excluding her attorneys, regarding the allegations contained in the Complaint and the denied claim.

**RESPONSE NO. 5:** Objection, Respondent objects to Request for Production No. 5, because the information is protected from disclosure by the attorney-client privilege and work product doctrine. Additionally, the request is vague because the Respondent is the State of Arkansas.

**INTERROGATORY NO. 6:** Were any oral or written statements made to any other governmental agency or any made regarding any insurance claim regarding the death of Allen Wayne? If so, who made each statement, what was said, and when was the statement made?

**ANSWER NO. 6:** Objection, Respondent objects to Interrogatory No. 6 because it is vague, confusing and overly broad.

**REQUEST FOR PRODUCTION NO. 6:** If your Answer to Interrogatory No. 6 is yes, please provide a copy of each and every statement made.

**RESPONSE NO. 6:** Objection, Respondent objects to Request for Production No. 6 because it is vague, confusing and overly broad.

**REQUEST FOR PRODUCTION NO. 7:** Please produce a copy of each statement, whether recorded, written, oral, stenographically transcribed or otherwise, that you or anyone else acting on your behalf has obtained from any person(s) who have information or knowledge pertaining to any of the allegations which you have raised in your Complaint.

**RESPONSE NO. 7:** Objection, Respondent objects to Interrogatory No. 7 because it is vague, confusing and overly broad.

**REQUEST FOR PRODUCTION NO. 8:** Please provide a copy of all documents not specifically requested above, but which were used to answer these interrogatories or that will support your claim for damages in this action.

**RESPONSE NO. 8:** Objection, Respondent objects to Request for Production No. 8 because it is vague, confusing, overly broad, and not relevant.

**REQUEST FOR PRODUCTION NO. 9:** Please provide copies of any and all statements, recorded, oral or written, in any way related to this dispute.



**RESPONSE NO. 9:** Objection, Respondent objects to Request for Production No. 9 because it is vague, confusing and overly broad.

**INTERROGATORY NO. 7:** If you contend that any document, letter, report, writing or any written statement of any type or description is relevant to any issue in this case, identify such written instrument, including the date and identity of the person preparing or signing such written instrument.

**ANSWER NO. 7:** Respondent objects to Interrogatory No. 7 to the extent that it seeks information protected by work-product privilege. Respondent does not intend to introduce any documents that have either not been provided by Claimant or that have not been already filed with the Claims Commission in this claim.

**REQUEST FOR PRODUCTION NO. 10:** Please provide a copy of each item listed by you in response to Interrogatory No. 7.

**RESPONSE NO. 10:** See Response to Interrogatory No. 7.

**INTERROGATORY NO. 8:** If you are aware of the existence of any pictures, diagrams or objects (real evidence) pertaining to your complaint, state the nature, subject matter, date produced or obtained, and the name and address of the present custodian of each.

**ANSWER NO. 8:** Objection, Respondent objects to Interrogatory No. 8 because it is vague, confusing and overly broad.

**REQUEST FOR PRODUCTION NO. 11:** Please provide any item listed by you in your response to Interrogatory No. 8.

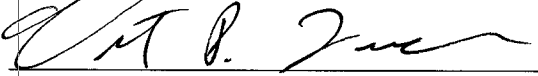
**RESPONSE NO. 11:** Objection, Respondent objects to Request for Production No. 11 because it is vague, confusing, overly broad, and not relevant.

Respectfully submitted,

LESLIE RUTLEDGE

Attorney General

By:



Vincent P. France

Ark. Bar No. 2010063

Assistant Attorney General

Arkansas Attorney General's Office

323 Center Street, Suite 200

Little Rock, AR 72201

Phone: (501) 682-1314

Fax: (501) 682-2591

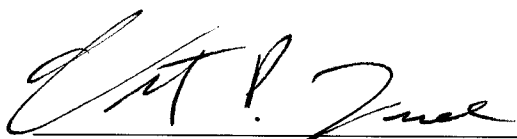
Email: [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Vincent P. France, hereby certify that on the 23rd day of September 2020, I mailed this document by U.S. Postal Service to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115

A handwritten signature in black ink, appearing to read "Vincent P. France", written over a horizontal line.

Vincent P. France

Anthony Philip Bucolo Jr. M.D.



---

**Education:**

- 1978-1980     **Hospital of the University of Pennsylvania**, Philadelphia, PA  
Medical Fellowship, Hematology and Oncology
- 1976-1978     **Rhode Island Hospital of Brown University**, Providence, RI  
Medical Residency, Internal Medicine
- 1975-1976     **Rhode Island Hospital of Brown University**, Providence, RI  
Medical Internship, Internal Medicine
- 1971-1975     **Georgetown University**, Washington, District of Columbia  
Georgetown University School of Medicine  
Degree: Doctor of Medicine, June 1975  
Alpha Omega Alpha  
Cahill Surgery Award
- 1967-1971     **Canisius College**, Buffalo, New York  
Degree: Bachelors of Arts  
Major: Biology  
Minor: Chemistry  
Alpha Sigma Nu- National Jesuit Honor Society  
Beta Beta Beta National Biologic Honor Society  
Graduated Magna Cum Laude June 1971

**Clinical Experience:**

**2020 – CHI SVI Oncology Staff Physician**

**2018 - Present Arkansas Foundation for Medical Care : peer review for medical oncology drug usage**

2008-Present Expert witness, Little Rock, AR

- Expert witness testimony in 60 medical malpractice cases involving coagulation abnormalities, breast, colon, and lung cancer and acute and chronic leukemia  
98% of the testimonies were for the defendants (Medical Doctors)
- Defense of oncology practice in ZPIC contractor government review and recovered 72% of the amount of the fine
- Wrote nine, 20 page reports, each including 300 references for product liability lawsuits involving bisphosphonates for Novartis for national attorneys, none of the cases ever went to trial

1980-2007 **Arkansas Oncology Associates,** Little Rock, AR and North Little Rock, AR

Full time private practice

- Treated on average 35 patients a day in office, ages ranging from 18-90 years of age
- Treated ten hospital patients a day, plus interdisciplinary consultation
- Provided daily patient advocacy via telephone
- Specialized in breast, colon, lung, and acute and chronic leukemia
- Bone marrow and spinal taps conducted in office regularly
- Joined U.S. Oncology in 1995

## Research Experience:

1974-1975      **Brookhaven National Laboratory**, Brookhaven, NY  
National Science Foundation  
Performed bone marrow cultures in millipore diffusion chambers in irradiated rabbits treated with erythropoietin.  
Supervisors: Ann Boyum, M.D., and Arland Carsten M.D.

Administered procedures for data collection, analysis, and interpretation in a double-blind, randomized, multicenter trial comparing the efficacy and tolerability of FASLODEX 250mg (Long-acting ICI 182 780) in combination with 1 mg ARIMIDEX (Anastrozole) in postmenopausal women with advanced breast cancer.

Administered procedures for data collection, analysis, and interpretation in a double-blind, randomized, multicenter trial comparing the efficacy and tolerability of FASLODEX 250mg (Long-acting ICI 182 780) in combination with NOLVADEX 20mg (Tamoxifen) in postmenopausal women with advanced breast cancer.

Administered procedures for data collection, analysis, and interpretation in a double-blind, randomized, multicenter trial comparing ARIMIDEX alone with Nolvadex alone versus Arimidex and Nolvadex in combination as adjuvant treatment in postmenopausal women with breast cancer.

Administered procedures for data collection, analysis, and interpretation in a randomized, double-blind, parallel-group trial to assess the pharmacokinetics of ARIMIDEX alone, NOLVADEX alone, or ARIMIDEX and NOLVADEX in combination, when used as adjuvant treatment for breast cancer in women.

Administered procedures for data collection, analysis, and interpretation in a randomized, double-blind, parallel-group trial to assess quality of life with ARIMIDEX alone, NOLVADEX alone or, ARIMIDEX and NOLVADEX in combination when used as adjuvant treatment for postmenopausal women with breast cancer.

Administered procedures for data collection, analysis, and interpretation in a randomized, double-blind trial to compare the efficacy and safety of Anastrozole (ARIMIDEX 1mg daily) in combination with Tamoxifen Citrate (20mg daily) as first-line therapy for advanced breast cancer in postmenopausal women.

## Publications:

Bucolo, Anthony M.D., (1980). Germinal Cell Tumors of the Testes. *University of Pennsylvania Cancer Update*, 1-4.

Bucolo, Anthony M.D., Creech, Richard, Finan, Janet, Glick, John M.D., Nowell, Peter Ph.D. (1981). Cytogenic Studies of Bone Marrow in Breast Cancer Patients After Adjuvant Chemotherapy. *Cancer*, 48, 667-673.

**Relevant Field Experience:**

- Summer 2013 Zambia Medical Mission,  
• Practice general medicine within community of Lusaka
- Summer 2008 Honduras Medical Mission, Christ the King Catholic Church, Trujillo, Honduras  
• Practiced general medicine with children and adults
- Summer 2007 Honduras Medical Mission, Christ the King Catholic Church, Trujillo, Honduras  
• Practiced general medicine with children and adults

**Professional Affiliations:**

- 2018-Present Firefighter Pension Review Board for Arkansas; oncology related illnesses
- 2014-Present Medical Advisory for the Arkansas Foundation for Prostate Cancer
- Present American Cancer Society of Internal Medicine
- Present Southern Medical Association
- Present Southern Oncology Association
- 1995-2000 Education Committee of American Cancer Society
- 1990-1995 Chairman of the Hematology Oncology board of St. Vincent's Hospital

**References:**

Joseph Beck, M.D

[REDACTED]

Robert Ritchie, M.D.

[REDACTED]

Tom Koonce, M.D.

[REDACTED]

Ayub Mazher, M.D.

[REDACTED]

Kent Westbrook, M.D.

[REDACTED]





**Crystal Okoro**

**Attorney at Law**

**P.O. Box 1118**

**North Little Rock, AR 72115**

Vincent P. France

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201



# Crystal Okoro

Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115  
Phone: 501-859-3424  
Fax: 501-983.4203

SENT VIA E-MAIL AND US MAIL ONLY.

July 6, 2021

Vincent P. France  
Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201

Re: Wayne v. State of Arkansas, Arkansas Claim No. 100479- cc

Dear Vincent,

A lot of time has passed since you provided your discovery responses. We believe we requested complete answers but did not receive a response. Out of an abundance of caution, we wanted to send this letter.

We appreciate the responses, but they are deficient. Of the twelve Interrogatories and eleven Request for Productions, almost all of them were not answered. The answers were unresponsive, and the objections were improper. Please supplement responses and provide full responses. Below are the specific Interrogatories and Requests for Production that are deficient.

- Interrog No. 2, 3 (Did not provide any witness info.)
- interrogatory no 4.
- Request for production no. 2
- Interrogatory No 5.
- Request for production No. 3.
- Request for production No. 4:
- Request for production No. 5 .
- Interrogatory No. 6.
- Request for production No. 6.
- Request for production No 7 .
- Request for production No 8.
- Request for production No. 9
- Response to interrogatory No. 7 .

Response to Request for production No. 10

- Interrogatory No8.
- Request for production No. 11.

Please supplement responses by **Monday, July 12th**. If additional time is needed, please let us know so that we can respond accordingly. Thanks for your attention to this matter.

SINCERELY,

/s/ Crystal Okoro

CRYSTAL J. OKORO

CJO/dc



ATTORNEY GENERAL  
**LESLIE RUTLEDGE**

ARKANSASAG.GOV

Vincent P. France  
Assistant Attorney General

Direct Dial: (501) 682-1314

July 8, 2021

*Delivered via email:* [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115

Re: *Wayne v. State of Arkansas*, Arkansas State Claims Commission,  
Claim No. 19-0479-CC

To Ms. Okoro,

I have received your letter dated July 6, 2021 in which you expressed concerns that some of our discovery responses were deficient including the responses to Interrogatories No. 2-8 and Requests for Production No. 2-11. For Interrogatories No. 5, 6, 7, and 8, Respondent stands by its original responses. Likewise, for Requests for Production No. 3-11, Respondent stands by its original responses. For all of the remaining, I will address each one below accordingly.

**Interrogatory No. 2:** Please state the full name, address, and telephone number of each person who you may call as a witness in this case, the subject matter to which each person will testify, and the substance of the facts to which each will testify.

**Supplemental Response No. 2:** Please see Response to Interrogatory No. 3.

**Interrogatory No. 3:** Please state the name and address of each and every expert witness, if any, upon whom Respondent relies in opposing the allegations of this Complaint, or who is anticipated as a trial witness in this case. Separately identify for each such person whether Respondent intends to call them as a witness at trial.

**Supplemental Response No. 3:** Respondent stands by its original Answer to Interrogatory No. 3.

**Interrogatory No. 4:** Please identify with particularity each and every document upon which Respondent relies in denying the Claimant's claim, or which Respondent intends to introduce at the hearing and/or provide to the Arkansas State Claims Commission as evidence in this matter.

**Supplemental Response No. 4:** The only evidence Respondent plans on presenting to the Claims Commission is the medical records of Allen Wayne Sr., which Claimant provided to the Arkansas State Claims Commission.

**Request For Production No. 2:** Please produce a copy of each and every document you identified in response to Interrogatory No. 4.

**Supplemental Response No. 2:** See Response to Interrogatory No. 4.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vincent P. France", is written over a light blue horizontal line.

Vincent P. France  
Assistant Attorney General



**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** RE: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Wednesday, July 21, 2021 10:10:00 AM

---

Also, if we are able to have a motion hearing on Aug 20, it will be via Zoom.

Thanks,  
Kathryn

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Wednesday, July 21, 2021 9:45 AM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** Vincent France <vincent.france@arkansasag.gov>  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC

Thank you Ms. Irby.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

**PRIVILEGE AND CONFIDENTIALITY NOTICE:** The information contained in this email message and any attachments may contain privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

On Tuesday, July 20, 2021, 04:49:48 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Given the timing, I don't see how we can have a hearing on the merits on Aug 20. By my calculation, Mr. France has until early August to respond to the motion, then Ms. Okoro will have additional time to file a reply brief. It's possible that we could convert the claim hearing to a hearing on the motion to compel (should the commissioners wish to hear argument), but it will depend on when everything is filed. If we need to have a motion hearing but cannot on Aug 20, I'll try to get that scheduled as quickly as I can.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 20, 2021 12:47 PM  
**To:** ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [Vincent France](#)  
**Subject:** Re: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Thursday, July 29, 2021 2:38:03 PM

---

Ms. Irby, thanks.

Yes, I would like to have it sooner than later. I will try to figure out how to make it work for 9/17 via zoom.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Thursday, July 29, 2021, 12:38:30 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Crystal, yes, the 8/20 hearing is pulled from the docket. Mr. France's time to respond to the motion isn't until August 6<sup>th</sup>, I believe, and we'll be right up on the hearing with your reply time. With my commissioners not in the office every day, I have to send the hearing files to them well in advance of the hearing for them to review. We don't have enough time to keep this one on the 8/20 docket. If the Claims Commission does want to have a hearing on the MTC, we should be able to have a quick one on 9/17. I've made a tentative note on the docket. I'll know more once the motion is fully briefed.

If the potential hearing on the MTC needs to be set further out, I can do that, but the docket is pretty full the rest of the year. Just let me know. I hate to schedule the MTC for a January 2022 hearing.



Kathryn

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Tuesday, July 27, 2021 2:27 PM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** Vincent France <vincent.france@arkansasag.gov>  
**Subject:** Re: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

Kathryn, I appreciate the email.

Just so I am clear, the 8/20 hearing is officially pulled from the docket and it will not be converted to a possible motion hearing? Instead, 9/17 will be a possible motion hearing should the panel want to hear it?

If this is accurate, I have 3 week trial set for 9/7. If it goes, I may be able to still find a time to have the motions hearing on 9/17 since it will be via zoom. I just wanted to make you aware of any conflicts for scheduling purposes.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Monday, July 26, 2021, 01:50:13 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, I have removed this hearing from the Aug 20 docket. When the motion to compel is fully briefed, if the Claims Commission would like to hear argument on the motion, I may be able to add it to the September 17 Zoom docket.

Thanks,  
Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Wednesday, July 21, 2021 10:11 AM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** RE: Wayne v. State of Arkansas, No. 19-0479-CC

Also, if we are able to have a motion hearing on Aug 20, it will be via Zoom.

Thanks,  
Kathryn

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Wednesday, July 21, 2021 9:45 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC

Thank you Ms. Irby.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Tuesday, July 20, 2021, 04:49:48 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Given the timing, I don't see how we can have a hearing on the merits on Aug 20. By my calculation, Mr. France has until early August to respond to the motion, then Ms. Okoro will have additional time to file a reply brief. It's possible that we could convert the claim hearing to a hearing on the motion to compel (should the commissioners wish to hear argument), but it will depend on when everything is filed. If we need to have a motion hearing but cannot on Aug 20, I'll try to get that scheduled as quickly as I can.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 20, 2021 12:47 PM  
**To:** ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

**From:** [Vincent France](#)  
**To:** [ASCC Pleadings](#); ["Crystal Okoro"](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Tuesday, August 3, 2021 10:00:37 AM  
**Attachments:** [Response in Opposition to Motion to Compel.pdf](#)

---

Please find attached the State of Arkansas Response in Opposition to the Motion to Compel with exhibit combined.

Sincerely,

**Vincent P. France**

Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**RESPONDENT'S RESPONSE IN OPPOSITION  
TO CLAIMANT'S MOTION TO COMPEL**

Comes now Respondent, the State of Arkansas, by and through its attorneys, Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and for its Response in Opposition to Claimant's Motion to Compel, states the following:

Claimant's motion to compel should be denied for the following reasons. First, this Court should find and rule that the time for discovery by Claimant has ended. *See Dodson v. Allstate Ins. Co.*, 345 Ark. 430, 443, 47 S.W.3d 866, 874 (2001) ("the trial court has wide discretion in matters pertaining to discovery").

Second, Respondent stands by all of its responses to Claimant's First Set of Interrogatories and Requests for Production of Documents. A party is not entitled to a "fishing examination" of documents and there must be a substantial showing that the "document sought contains material evidence in support of the cause of action or defense of the party asking for it." *Bryant v. Arkansas Public Service Comm.*, 55 Ark.

App. 125, 136, 931 S.W.2d 795, 801 (Ark. App. 1996). Thus, “discovery necessarily revolves around the causes of actions alleged by the plaintiff, and from these causes of action the trial court must fashion its rulings on discovery.” *Dodson*, 345 Ark. at 444, 47 S.W.3d at 875. Specifically, based upon Claimant’s First Set of Interrogatories and Requests for Production of Documents, there is nothing additional to compel.

Third, assuming *arguendo* that the Claims Commission were to allow Claimant to conduct additional discovery, then Claimant’s motion to compel, which was filed on July 20, 2021 is moot. The motion to compel is moot because on July 29, 2021, Claimant propounded a Second Set of Interrogatories and Requests for Production of Documents to Respondent. *See* Exhibit 1, attached hereto.

Finally, to the extent that Claimant’s First Set of Interrogatories and Requests for Production of Documents seeks privileged information, as clarified by Claimant’s second set of discovery requests, Respondent objects to producing such information based upon privilege. Specifically, Respondent objects to any discovery request that seeks information regarding the decision-making process of the Arkansas Firefighter Benefit Review Panel. The deliberative process privilege is “a privilege permitting the government to withhold documents relating to policy formulation to encourage open and independent discussion among those who develop government policy.” *Black’s Law Dictionary*, 1235 (Bryan A. Garner ed., 8th ed., West 2004). Moreover, the Arkansas Supreme Court has found that government officials are entitled to privilege in order to maintain the integrity of the “decision-making process, damaging the functionality of the executive branch.” *Protect Fayetteville v. City of Fayetteville*,

2019 Ark. 28, at 7, 566 S.W.3d 105, 110. Thus, any discovery seeking information concerning the decision-making process of the Arkansas Firefighter Benefit Review Panel is privileged information. Accordingly, Claimant's motion to compel should be denied, all discovery should cease, and a hearing on the merits scheduled for this claim.

WHEREFORE, Respondent respectfully requests that this Court denies Claimant's Motion to Compel and order that all discovery be immediately ceased.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By:



Vincent P. France  
Ark. Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
*Attorneys for Respondent*



**CERTIFICATE OF SERVICE**

I, Vincent P. France, hereby certify that on August 3, 2021, I have served the foregoing this document through email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)



Vincent P. France

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**CLAIMANT'S SECOND SET OF INTERROGATORIES AND REQUEST FOR  
PRODUCTION OF DOCUMENTS**

Comes now Claimant, by and through counsel, and for its Second Set of Interrogatories and Requests for Production state the following:

**INTERROGATORY NO. 1:** Please state whether Dr. Anthony Bucolo or panel submitted any writing, report, or document to the Respondent in regard to Claim No. 19-0479.

**INTERROGATORY NO. 2:** Please list any document, writing, or report Dr. Anthony or panel Bucolo submitted to the Respondent in regard to Claim No. 19-0479.

**REQUEST FOR PRODUCTION NO. 1:** Please produce a copy of each and every document you identified in response to Interrogatory No. 2.

**INTERROGATORY NO. 3.** Please list the names of individuals who were on the Arkansas Firefighter Review Board at the time Claim No. 19-0479 was denied.

**INTERROGATORY NO.4:** Please provide the basis of the denial of Claim No. 19-0479.

**INTERROGATORY NO. 5:** Please provide any documentation relied upon in reaching the denial of Claim No. 19-0479.

**INTERROGATORY NO 6.** Please provide the number of recommendations submitted by the Arkansas Firefighter Benefit Review Panel where a claim was opposed since 2018?

**INTERROGATORY NO 7:** Please explain how the Respondent opines that the decedent's on the job environmental exposure did not contribute to his cancer?

**INTERROGATORY NO. 8:** Please explain how the Respondent opines that the decedent's toxic exposures did not contribute to the aggressiveness of his gastrointestinal stromal tumor?

**REQUEST FOR PRODUCTION OF DOCUMENT NO. 2:** Produce copies of all correspondence between the Respondent and any other individual, excluding attorney client materials or attorney work product, regarding Claim No. 19-0479.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3:** Please provide a copy of all documents not specifically requested in the preceding interrogatories, but which were used to deny Claim No. 19-0479.

**INTERROGATORY NO. 9:** Has the Arkansas Firefighter Benefit Review Panel recommended paying any partial payment claims since 2018?

**INTERROGATORY NO. 10:** Has the Arkansas Firefighter Benefit Review Panel recommended paying any partial payment claims where the decedent had a smoking history?

**INTERROGATORY NO. 11:** State whether you are aware of the existence of any pictures, diagrams, or objects pertaining to the denial of Claim No. 19-0479. If so, please state the nature of item, subject matter of item, date item was produced or obtained, and the name and address of the present custodian of each item.

**INTERROGATORY NO. 12:** Please identify with particularity each and every document upon which Respondent relies on in denying Claim No. 19-0479, or which Respondent intends to introduce at the hearing and/or provide to the Arkansas State Claims Commission as evidence in this matter.

**REQUEST FOR PRODUCTION NO. 4:** Please produce a copy of each and every document you identified in response to Interrogatory No. 12.

Respectfully submitted,

By: **GWENEVER A. WAYNE**

Crystal Okoro  
ATTORNEY AT LAW  
P.O. Box 1118  
North Little Rock, AR 72115  
Fax: 501-812-2072  
okorocrystal@yahoo.com  
/s/ Crystal Okoro  
Crystal Okoro  
Ph: 501.859.3424  
Fax: 501.983.4203

**CERTIFICATE OF SERVICE**

I, Vincent P. France, hereby certify that I have served the foregoing through the U.S. Mail postage prepaid, facsimile, and via email on July 29, 2021 the attorney of record for the Claimant at the following:

ATTORNEY FOR THE STATE  
Vincent P. France  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201

/S/CRYSTAL OKORO  
CRYSTAL OKORO

**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Vincent France](#)  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Friday, August 6, 2021 3:23:08 PM  
**Attachments:** [Reply mtn to compel-wayne072021.pdf](#)

---

I failed to attach the pleadings. See attached.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, August 6, 2021, 03:18:28 PM CDT, Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)> wrote:

Please find the Claimant's reply to be filed. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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notify us by telephone, and delete the communication from your system. Thank you.

On Tuesday, August 3, 2021, 09:59:32 AM CDT, Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)> wrote:

Please find attached the State of Arkansas Response in Opposition to the Motion to Compel with exhibit combined.

Sincerely,

**Vincent P. France**

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v. NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**CLAIMANT'S REPLY TO MOTION TO COMPEL RESPONSE**

Comes now the Claimant and for its Reply to the Motion to Compel now states:

Respondent's response is ill- founded for the following reasons. First, there is not a discovery deadline entered in this matter. The respondent does not get to dictate when discovery should be completed. If the panel is inclined to set a discovery deadline, Claimant requests that this be set further out from the date of the hearing.

Claimant would like to note that instead of the Respondent explaining the properness of its objections, the respondent simply makes a general response that all information is essentially privileged. The respondent only objected to Request for Productions 5, 10, and Interrogatory 7 as being privileged.

Next, the Respondent inaccurately portrays the circumstances surrounding the "fishing expedition" issue in *Bryant v. Arkansas Pub. Serv. Comm'n*. In *Bryant*, the Attorney General sent thirty-six interrogatories, most containing five to six subparts, and thirty-one requests for production of

documents. Even so, the respondent in Bryant answered the majority of requests, but there were some not answered, and the Commission ultimately compelled the respondent to answer some additional requests. The court acknowledged that the respondent did its best to comply with discovery requests incurring approximately \$6,000.00 in costs. *Bryant v. Arkansas Pub. Serv. Comm'n*, 55 Ark. App. 125, 137, 931 S.W.2d 795, 802 (1996).

This case is quite distinguishable from the current matter. Here, there were only eleven interrogatories and eleven requests for production propounded on the respondent. The respondent only answered six of these requests and the majority were unresponsive answers. The respondent only produced the curriculum vitae of Dr. Bucculo. The respondent in *Bryant* provided voluminous information to the opposing party and still wanted the Commission to compel the respondent to provide additional records and to create records. The Commission decline to do so, stating the attorney general was not entitled to a fishing expedition of documents. *Bryant v. Arkansas Pub. Serv. Comm'n*, 55 Ark. App. 125, 137, 931 S.W.2d 795, 802 (1996).

It should also be noted that the respondent has not said that the information sought is not relevant. Even where information is privileged, the information can be provided where certain criteria is met. Respondent isn't the gatekeeper that gets to make this determination, it is up to the panel.

Lastly, the Claimant is entitled to pursue its case as it sees fit. Claimant isn't required to wait until discovery is complete before filing a



motion to compel. Once a party makes clear that they do not intend to supplement or comply with requests one can file a motion to compel. However, should the panel make this ruling, Claimant requests that the panel consider each discovery requests to make said determination. Said request is grounded in the interest of fairness and efficiency.

WHEREFORE, all premises considered, Claimant requests a hearing, or this Commission enter and order the Respondent to fully, truthfully, completely and sufficiently answer the previously propounded and referenced discovery demands, reimbursement of attorney fees, and for all other good and proper relief.

Respectfully submitted,

CRYSTAL J. OKORO  
P.O. Box 1118  
No. Little Rock, AR 72115  
(501) 859.3424  
BY: \_\_\_\_\_  
CRYSTAL J. OKORO  
(ARK. BAR #2012-077)

#### CERTIFICATE OF SERVICE

I, undersigned, do hereby certify that on this 6th day of August, 2021, a copy of the foregoing has been hand delivered, faxed or mailed, postage prepaid to proper address of all parties or all counsel of records for the same.

BY: \_\_\_\_\_

Crystal J. Okoro

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** RE: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Thursday, August 19, 2021 5:18:00 PM

---

Ms. Okoro, yes, the Claims Commission will have a short hearing on 9/17 on the pending motion to compel. A hearing letter will be going out in the next few days.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Tuesday, August 17, 2021 1:30 PM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** Vincent France <vincent.france@arkansasag.gov>  
**Subject:** Re: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

Ms. Irby,

I have on my calendar 9/17 as a tentative date for the Motion to Compel should the panel want to hear this matter, correct? For some reason, I can't find my reply to this email.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
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On Thursday, July 29, 2021, 12:38:30 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Crystal, yes, the 8/20 hearing is pulled from the docket. Mr. France's time to respond to the motion isn't until August 6<sup>th</sup>, I believe, and we'll be right up on the hearing with your reply time. With my commissioners not in the office every day, I have to send the hearing files to them well in advance of the

hearing for them to review. We don't have enough time to keep this one on the 8/20 docket. If the Claims Commission does want to have a hearing on the MTC, we should be able to have a quick one on 9/17. I've made a tentative note on the docket. I'll know more once the motion is fully briefed.

If the potential hearing on the MTC needs to be set further out, I can do that, but the docket is pretty full the rest of the year. Just let me know. I hate to schedule the MTC for a January 2022 hearing.

Kathryn

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**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 27, 2021 2:27 PM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** Re: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

Kathryn, I appreciate the email.

Just so I am clear, the 8/20 hearing is officially pulled from the docket and it will not be converted to a possible motion hearing? Instead, 9/17 will be a possible motion hearing should the panel want to hear it?

If this is accurate, I have 3 week trial set for 9/7. If it goes, I may be able to still find a time to have the motions hearing on 9/17 since it will be via zoom. I just wanted to make you aware of any conflicts for scheduling purposes.

Sincerely,

Crystal J. Okoro  
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P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
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On Monday, July 26, 2021, 01:50:13 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, I have removed this hearing from the Aug 20 docket. When the motion to compel is fully briefed, if the Claims Commission would like to hear argument on the motion, I may be able to add it to the September 17 Zoom docket.

Thanks,

Kathryn Irby

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**From:** Kathryn Irby  
**Sent:** Wednesday, July 21, 2021 10:11 AM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
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Also, if we are able to have a motion hearing on Aug 20, it will be via Zoom.

Thanks,

Kathryn

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**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Wednesday, July 21, 2021 9:45 AM  
**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC

Thank you Ms. Irby.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
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Given the timing, I don't see how we can have a hearing on the merits on Aug 20. By my calculation, Mr. France has until early August to respond to the motion, then Ms. Okoro will have additional time to file a reply brief. It's possible that we could convert the claim hearing to a hearing on the motion to compel (should the commissioners wish to hear argument), but it will depend on when everything is filed. If we need to have a motion hearing but cannot on Aug 20, I'll try to get that scheduled as quickly as I can.

Thanks,

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**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 20, 2021 12:47 PM  
**To:** ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this

matter.

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**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** HEARING LTR: Wayne v. State of Arkansas, No. 190479  
**Date:** Monday, August 23, 2021 3:08:00 PM  
**Attachments:** [Wayne -- 190479 -- hearing letter on MTC.pdf](#)

---

Ms. Okoro and Mr. France, this motion can be heard at 8am on 9/17. See attached letter. Please jump on the Zoom about 7:50 for a sound check, so we can begin promptly at 8am.

Thanks,  
Kathryn

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Friday, August 20, 2021 1:47 PM  
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**Subject:** RE: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

Ok thanks Ms. Irby.

The Judge has confirmed in my "previous mentioned" federal case that we will conduct our jury trial between 830am and 3pm to allow private counsel to conduct their other business.

If opposing counsel's schedule permits, can this be set early morning at 8am or after 315pm?

Thanks for your attention to this matter.

[Sent from Yahoo Mail on Android](#)

On Fri, Aug 20, 2021 at 9:39 AM, Kathryn Irby  
<[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)> wrote:

Ms. Okoro, yes, the Claims Commission will have a short hearing on 9/17 on the pending motion to compel. A hearing letter will be going out in the next few days.

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**Subject:** Re: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

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P.O. Box 1118

North Little Rock, AR 72115 <tel:501-859-3424>  
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**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

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# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

August 23, 2021

Ms. Crystal J. Okoro  
Attorney at Law  
Post Office Box 1118  
North Little Rock, Arkansas 72115

(via email)

Mr. Vincent P. France  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

(via email)

RE: ***Gwenever A. Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. France,

The Claims Commission has scheduled a hearing on the pending motion to compel on Friday, September 17, 2021, beginning at 8:00 a.m. All parties will attend via Zoom. As the motion has been briefed, no prehearing documents are required.

The Zoom invite will be emailed the week of the hearing.

Sincerely,

Kathryn Irby

ES: kmirby

**From:** [Kathryn Irby](#)  
**To:** [Kathryn Irby](#)  
**Bcc:** [Crystal Okoro](#); [Vincent France](#); [REDACTED]  
**Subject:** CLAIMS COMMISSION: Zoom invitation -- September 17 hearings  
**Date:** Thursday, September 2, 2021 11:44:00 AM  
**Attachments:** [September 2021 docket.pdf](#)

---

Below is the Zoom invitation for the Claims Commission's September 17th hearings. Please log in to the Zoom 15 minutes before your hearing setting, so that I can do a sound check with you before the hearing begins. Please let me know if you have any questions.

**8am settings:**

*Gwenever Wayne v. State of Arkansas*, Claim No. 190479 (hearing on motion to compel)

[REDACTED]

**9am settings:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Zoom invitation:**

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Sep 17, 2021 08:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85005672457?pwd=SUpUVGpzb0VFYUt3TWFMd0M4bGlPQT09>

Meeting ID: 850 0567 2457

Passcode: E8nWSv

One tap mobile

+19294362866,,85005672457#,,,,\*884229# US (New York)

+13017158592,,85005672457#,,,,\*884229# US (Washington DC)

Dial by your location

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 850 0567 2457

Passcode: 884229

Find your local number: <https://us06web.zoom.us/j/kdoYT5Vqct>

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** HEARING RESCHEDULED: Wayne v. State of Arkansas, No. 190479  
**Date:** Tuesday, September 14, 2021 2:55:00 PM  
**Attachments:** [Wayne v. State of Arkansas -- 190479 -- hearing rescheduling ltr.pdf](#)

---

Ms. Okoro and Mr. France, one of our commissioners has notified me that he will be recusing from this matter, which necessitates rescheduling. Please see attached new hearing letter.

Thanks,  
Kathryn

---

**From:** Kathryn Irby  
**Sent:** Monday, August 23, 2021 3:08 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** HEARING LTR: Wayne v. State of Arkansas, No. 190479

Ms. Okoro and Mr. France, this motion can be heard at 8am on 9/17. See attached letter. Please jump on the Zoom about 7:50 for a sound check, so we can begin promptly at 8am.

Thanks,  
Kathryn

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Friday, August 20, 2021 1:47 PM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** RE: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

Ok thanks Ms. Irby.

The Judge has confirmed in my "previous mentioned" federal case that we will conduct our jury trial between 830am and 3pm to allow private counsel to conduct their other business.

If opposing counsel's schedule permits, can this be set early morning at 8am or after 315pm?

Thanks for your attention to this matter.

[Sent from Yahoo Mail on Android](#)

On Fri, Aug 20, 2021 at 9:39 AM, Kathryn Irby  
<[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)> wrote:

Ms. Okoro, yes, the Claims Commission will have a short hearing on 9/17 on the pending motion to compel. A hearing letter will be going out in the next few days.



Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, August 17, 2021 1:30 PM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** Re: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

Ms. Irby,

I have on my calendar 9/17 as a tentative date for the Motion to Compel should the panel want to hear this matter, correct? For some reason, I can't find my reply to this email.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Thursday, July 29, 2021, 12:38:30 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Crystal, yes, the 8/20 hearing is pulled from the docket. Mr. France's time to respond to the motion isn't until August 6<sup>th</sup>, I believe, and we'll be right up on the hearing with your reply time. With my commissioners not in the office every day, I have to send the hearing files to them well in advance of the hearing for them to review. We don't have enough time to keep this one on the 8/20 docket. If the Claims Commission does want to have a hearing on the MTC, we should be able to have a quick one on 9/17. I've made a tentative note on the docket. I'll know more once the motion is fully briefed.

If the potential hearing on the MTC needs to be set further out, I can do that, but the docket is pretty full the rest of the year. Just let me know. I hate to schedule the MTC for a January 2022 hearing.

Kathryn

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 27, 2021 2:27 PM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** Re: HEARING CHANGE: Wayne v. State of Arkansas, No. 19-0479-CC

Kathryn, I appreciate the email.

Just so I am clear, the 8/20 hearing is officially pulled from the docket and it will not be converted to a possible motion hearing? Instead, 9/17 will be a possible motion hearing should the panel want to hear it?

If this is accurate, I have 3 week trial set for 9/7. If it goes, I may be able to still find a time to have the motions hearing on 9/17 since it will be via zoom. I just wanted to make you aware of any conflicts for scheduling purposes.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Monday, July 26, 2021, 01:50:13 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, I have removed this hearing from the Aug 20 docket. When the motion to compel is fully briefed, if the Claims Commission would like to hear argument on the motion, I may be able to add it to the September 17 Zoom docket.

Thanks,

Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Wednesday, July 21, 2021 10:11 AM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** RE: Wayne v. State of Arkansas, No. 19-0479-CC

Also, if we are able to have a motion hearing on Aug 20, it will be via Zoom.

Thanks,

Kathryn

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Wednesday, July 21, 2021 9:45 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC

Thank you Ms. Irby.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Tuesday, July 20, 2021, 04:49:48 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Given the timing, I don't see how we can have a hearing on the merits on Aug 20. By my calculation, Mr. France has until early August to respond to the motion, then Ms. Okoro will have additional time to file a reply brief. It's possible that we could convert the claim hearing to a hearing on the motion to compel (should the commissioners wish to hear argument), but it will depend on when everything is filed. If we need to have a motion hearing but cannot on Aug 20, I'll try to get that scheduled as quickly as I can.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Tuesday, July 20, 2021 12:47 PM

**To:** ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>

**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>

**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro

Attorney at Law

P.O. Box 1118

North Little Rock, AR 72115 <tel:501-859-3424>

F:501-983-4203

[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

September 14, 2021

Ms. Crystal J. Okoro (via email)  
Attorney at Law  
Post Office 1118  
North Little Rock, Arkansas 72115

Mr. Vincent P. France (via email)  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

RE: ***Gwenever A. Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. France,

The Claims Commission has rescheduled the hearing on the pending motion to compel filed by the State of Arkansas for Friday, January 14, 2022, beginning at 9:00 a.m. All parties will attend via Zoom.

As the motion has been briefed, no prehearing documents are required.

The Zoom invite will be sent to Ms. Okoro and Mr. France the week of the hearing.

Sincerely,

Kathryn Irby

ES: kmirby

**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Vincent France](#)  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Wednesday, November 10, 2021 9:06:02 PM  
**Attachments:** [Plt.Mtn.Compel.w.Brief2-wayne111021 w exhibits.pdf](#)

---

Please find the Claimant's 2nd Motion to Compel with Exhibits for filing. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Monday, August 9, 2021, 03:21:21 PM CDT, ASCC Pleadings <[ascccpleadings@arkansas.gov](mailto:ascccpleadings@arkansas.gov)> wrote:

Received on 8-6-21.

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Friday, August 6, 2021 3:22 PM  
**To:** ASCC Pleadings <[ascccpleadings@arkansas.gov](mailto:ascccpleadings@arkansas.gov)>  
**Cc:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC

I failed to attach the pleadings. See attached.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, August 6, 2021, 03:18:28 PM CDT, Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)> wrote:

Please find the Claimant's reply to be filed. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Tuesday, August 3, 2021, 09:59:32 AM CDT, Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>



wrote:

Please find attached the State of Arkansas Response in Opposition to the Motion to Compel with exhibit combined.

Sincerely,

**Vincent P. France**

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v. NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**MOTION TO COMPEL**

Comes now the Claimant and moves this Court to order the Respondent to answer the previously propounded discovery or suffer a disposition under Rule 37. Plaintiff's request is made per Rules 26(b)(1), 33 and 37 of the Ark. R. of Civ. Pro. and the case law developed thereunder.

Respectfully submitted,

CRYSTAL J. OKORO  
P.O. Box 1118  
No. Little Rock, AR 72115  
(501) 859.3424  
BY: *crystal okoro*  
CRYSTAL J. OKORO  
(ARK. BAR #2012-077)

**CERTIFICATE OF SERVICE**

I, undersigned, do hereby certify that on this 10th day of November, 2021, a copy of the foregoing has been hand delivered, faxed or mailed, postage prepaid to proper address of all parties or all counsel of records for the same.

*crystal okoro*  
BY: \_\_\_\_\_

Crystal J. Okoro

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v. NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**BRIEF IN SUPPORT OF MOTION TO COMPEL**

The Claimant propounded discovery (i.e., 2<sup>nd</sup> Set of Interrogatories and Requests for Production) to the respondents on or about July 29, 2021. Rule 8.1 of the Arkansas State Commission Rules provide that the Rules of Civil Procedure as adopted by the Circuit Court will apply unless they are in direct conflict with the procedure of the Arkansas State Claims Commission. As of this date, the same has not been fully answered or supplemented in the manner required by law or rules. Discovery responses were due on or about August 29, 2021 but weren't submitted until much later. The Respondents did not provide responses until prompted. See Exhibit A. The "answers or replies" were submitted on or about October 15, 2021, but the same were not in compliance with the applicable rules and were deficient. See Exhibit B. Not only were the objections improper, but the Respondents waived any right to object to said discovery.

The Claimant has provided notice of the deficient responses and made a prior demand for answers to be submitted in compliance and conformity with the Rules. Note Exhibit C, claimant's letter for compliance dated October 11,

2021 attached hereto. To date, Respondent has not responded to correspondence.

Arkansas rules of procedure requires that defendants answer the discovery or that sanctions be related to for failure to do so upon order of the Court. Esp. note R. 37(3) of Ar. R. Civ. Pro. Note Graham v. Sledge, 28 Ark. App. 122, 771 S.W. 2d 296 (1989) and Goodwin v. Harrison, 300 Ark. 474, 780 S.W. 2d 518 (1989).

WHEREFORE, all premises considered, Claimant requests a hearing or this Commission enter and order the Respondent to fully, truthfully, completely and sufficiently answer the previously propounded and referenced discovery demands, reimbursement of attorney fees, and for all other good and proper relief.



Respectfully submitted,

CRYSTAL J. OKORO  
P.O. Box 1118  
No. Little Rock, AR 72115  
(501) 859.3424  
BY: crystal okoro  
CRYSTAL J. OKORO  
(ARK. BAR #2012-077)

#### CERTIFICATE OF SERVICE

I, undersigned, do hereby certify that on this 10th day of November, 2020, a copy of the foregoing has been hand delivered, faxed or mailed, postage prepaid to proper address of all parties or all counsel of records for the same.

By crystal okoro  
CRYSTAL J. OKORO



**Crystal Okoro**

**Attorney at Law**

**P.O. Box 1118**

**North Little Rock, AR 72115**

Vincent P. France

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201



# Crystal Okoro

Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115  
Phone: 501-859-3424  
Fax: 501-983.4203

SENT VIA E-MAIL AND US MAIL ONLY.

October 11, 2021

Vincent P. France  
Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201

Re: Wayne v. State of Arkansas, Arkansas Claim No. 100479- cc

Dear Mr. France,

The Complainant sent a second set of Interrogatories and Requests for Production on or about July 29, 2021 in the above matter. Subsequently, an email was sent on September 14, 2021 regarding discovery requests. Another status email was sent on October 4, 2021. To date, no discovery responses to the second set of Interrogatories and Requests for Production have been received. This is a good faith attempt to try and confer with you.

Please provide responses by **Friday, October 15<sup>th</sup>**. Thanks for your attention to this matter.

SINCERELY,

/s/ Crystal Okoro

CRYSTAL J. OKORO

CJO/dc

cc. G. Wayne

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**RESPONDENT'S RESPONSES TO CLAIMANT'S SECOND SET OF  
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

Comes Respondent, the State of Arkansas, by and through Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and for its Responses to Claimant's Second Set of Interrogatories, and Requests for Production of Documents, states as follows:

**INTERROGATORY NO. 1: Please state whether Dr. Anthony Bucolo or panel submitted any writing, report, or document to the Respondent in regard to Claim No. 19-0479.**

ANSWER TO INTERROGATORY NO. 1: Objection, Respondent objects to Interrogatory No. 1. Specifically, Respondent objects to any discovery request that seeks information regarding the decision-making process of the Arkansas Firefighter Benefit Review Panel. The deliberative process privilege is "a privilege permitting the government to withhold documents relating to policy formulation to encourage open and independent discussion among those who develop government policy." *Black's Law Dictionary*, 1235 (Bryan A. Garner ed., 8th ed., West 2004). Moreover, the Arkansas Supreme Court has found that government officials are entitled to privilege in order to maintain the integrity of the "decision-making process, damaging the functionality of the executive branch." *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, at 7, 566 S.W.3d 105, 110. Thus, any discovery seeking information concerning the decision-making process of the Arkansas Firefighter Benefit Review Panel is privileged information.



**INTERROGATORY NO. 2: Please list any document, writing, or report Dr. Anthony [Bucolo] or panel Bucolo submitted to the Respondent in regard to Claim No. 19-0479.**

ANSWER TO INTERROGATORY NO. 2: Please see Response to Interrogatory No 1. Without waiving said objections, it is undersigned's understanding that Dr. Bucolo simply orally gave his medical opinion after he had reviewed the medical records of the decedent. Based upon Dr. Bucolo's explanation, the Panel's decision was memorialized in writing, which contains Dr. Bucolo's opinion.

**REQUEST FOR PRODUCTION NO. 1: Please produce a copy of each and every document you identified in response to Interrogatory No. 2.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Please see the attached Firefighter Benefit Review Panel decision dated 11/19/2018.

**INTERROGATORY NO. 3: Please list the names of individuals who were on the Arkansas Firefighter Review Board at the time Claim No. 19-0479 was denied.**

ANSWER TO INTERROGATORY NO. 3: Respondent is trying to determine exactly who were the members on the Firefighter Benefit Review Board on 11/19/2018 and will supplement this answer once the information is obtained.

**INTERROGATORY NO. 4: Please provide the basis of the denial of Claim No. 19-0479.**

ANSWER TO INTERROGATORY NO. 4: Respondent denied the claim based upon the recommendation of the Firefighter Benefit Review Panel.



**INTERROGATORY NO. 5: Please provide any documentation relied upon in reaching the denial of Claim No. 19-0479.**

ANSWER TO INTERROGATORY NO. 5: The only document that Respondent used to deny Claim No. 19-0479 was the recommendation letter from the Firefighter Benefit Review Panel to the Arkansas State Claims Commission, in which it recommended the denial of said claim.

**INTERROGATORY NO. 6: Please provide the number of recommendations submitted by the Arkansas Firefighter Benefit Review Panel where a claim was opposed since 2018?**

ANSWER TO INTERROGATORY NO. 6: Objection, Respondent objects to Interrogatory No. 6 because it is not relevant nor is it likely to lead to discoverable relevant evidence.

**INTERROGATORY NO. 7: Please explain how the Respondent opines that the decedent's on the job environmental exposure did not contribute to his cancer?**

ANSWER TO INTERROGATORY NO. 7: Objection, Respondent objects to Interrogatory No. 7. Specifically, Respondent objects to any discovery request that seeks information regarding the decision-making process of the Arkansas Firefighter Benefit Review Panel. The deliberative process privilege is "a privilege permitting the government to withhold documents relating to policy formulation to encourage open and independent discussion among those who develop government policy." *Black's Law Dictionary*, 1235 (Bryan A. Garner ed., 8th ed., West 2004). Moreover, the Arkansas Supreme Court has found that government officials are entitled to privilege in order to maintain the integrity of the "decision-making process, damaging the functionality of the executive branch." *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, at 7, 566 S.W.3d 105, 110. Thus, any

discovery seeking information concerning the decision-making process of the Arkansas Firefighter Benefit Review Panel is privileged information.

**INTERROGATORY NO. 8 : Please explain how the Respondent opines that the decedent's toxic exposures did not contribute to the aggressiveness of his gastrointestinal stromal tumor?**

ANSWER TO INTERROGATORY NO. 8: Objection, Respondent objects to Interrogatory No. 8. Specifically, Respondent objects to any discovery request that seeks information regarding the decision-making process of the Arkansas Firefighter Benefit Review Panel. The deliberative process privilege is "a privilege permitting the government to withhold documents relating to policy formulation to encourage open and independent discussion among those who develop government policy." *Black's Law Dictionary*, 1235 (Bryan A. Garner ed., 8th ed., West 2004). Moreover, the Arkansas Supreme Court has found that government officials are entitled to privilege in order to maintain the integrity of the "decision-making process, damaging the functionality of the executive branch." *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, at 7, 566 S.W.3d 105, 110. Thus, any discovery seeking information concerning the decision-making process of the Arkansas Firefighter Benefit Review Panel is privileged information.

**REQUEST FOR PRODUCTION OF DOCUMENT NO. 2: Produce copies of all correspondence between the Respondent and any other individual, excluding attorney client materials or attorney work product, regarding Claim No. 19-0479.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: No such documents exists.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3: Please provide a copy of all documents not specifically requested in the preceding interrogatories, but which were used to deny Claim No. 19-0479.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: The only document that Respondent used to deny Claim No. 19-0479 was the recommendation letter from the Firefighter Benefit Review Panel to the Arkansas State Claims Commission, in which it recommended the denial of said claim.

**INTERROGATORY NO. 9: Has the Arkansas Firefighter Benefit Review Panel recommended paying any partial payment claims since 2018?**

ANSWER TO INTERROGATORY NO. 9: Objection, Respondent objects to Interrogatory No. 9 because it is not relevant nor is it likely to lead to discoverable relevant evidence. Without waiving said objection, yes there have been claims partially denied since 2018.

**INTERROGATORY NO. 10: Has the Arkansas Firefighter Benefit Review Panel recommended paying any partial payment claims where the decedent had a smoking history?**

ANSWER TO INTERROGATORY NO. 10: Objection, Respondent objects to Interrogatory No. 10 because it is not relevant nor is it likely to lead to discoverable relevant evidence. Without waiving said objection, yes there have been claims in the past either denied or partial denied because of a decedent's history of smoking.

**INTERROGATORY NO. 11: State whether you are aware of the existence of any pictures, diagrams, or objects pertaining to the denial of Claim No. 19-0479. If so, please state the nature of item, subject matter of item, date item was produced or obtained, and the name and address of the present custodian of each item.**

ANSWER TO INTERROGATORY NO. 11: None exist.

**INTERROGATORY NO. 12:** Please identify with particularity each and every document upon which Respondent relies on in denying Claim No. 19-0479 or which Respondent intends to introduce at the hearing and/or provide to the Arkansas State Claims Commission as evidence in this matter.

**ANSWER TO INTERROGATORY NO. 12:** Respondent has yet to determine what documentation if any it plans on introducing at a hearing on this matter.

**REQUEST FOR PRODUCTION NO. 4:** Please produce a copy of each and every document you identified in response to Interrogatory No. 12.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:** See Answer to Interrogatory No. 12.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By:



Vincent P. France  
Ark. Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: vincent.france@arkansasag.gov

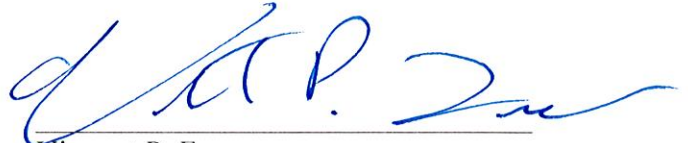
*Attorneys for Respondent*



**CERTIFICATE OF SERVICE**

I, Vincent P. France, hereby certify that on October 15, 2021, I mailed and emailed this document by U.S. Postal Service to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

  
\_\_\_\_\_  
Vincent P. France

To: Arkansas State Claims Commission

Arkansas  
State Claims Commission

From: Firefighter Benefit Review Panel

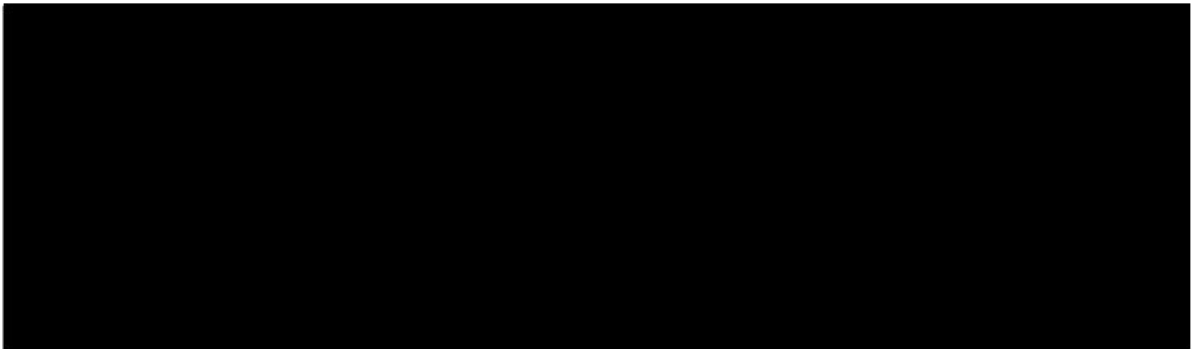
NOV 26 2018

Re: Gwenever A. Wayne, Claimant

RECEIVED

The Firefighter Benefit Review Panel met on November 15, 2018, to review the claim filed by Gwenever A. Wayne.

Based on the information provided, the Firefighter Benefit Review Panel finds that Allen L. Wayne was not killed in the line of duty. This finding is based on the recommendation provided by the panel's Oncologist, Dr. Anthony Bucolo:



The Panel recommends to the Arkansas Claims Commission that the claim be denied.

Brad Hardin, Chair

*Brad Hardin* 11/19/18  
Firefighter Benefit Review Panel



**Crystal Okoro**

**Attorney at Law**

**P.O. Box 1118**

**North Little Rock, AR 72115**

Vincent P. France

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201



# Crystal Okoro

Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115  
Phone: 501-859-3424  
Fax: 501-983.4203

SENT VIA E-MAIL AND ONLY.

October 19, 2021

Vincent P. France  
Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201

Re: Wayne v. State of Arkansas, Arkansas Claim No. 100479- cc

Dear Mr. France,

We are in receipt of your responses sent on October 15, 2021. The Claimant's second set of Interrogatories and Requests for Production were sent to you on or about July 29, 2021. Some of the answers were not responsive and your client's late responses included objections. Per the Arkansas Rules of Civil Procedure, your client has waived their right to object to the Claimant's Second set of Interrogatories and Requests for Production. Below are the specific requests that are deficient:

Interrogatories 1, 6,7,8,9,10,-objections not proper

Interrogatories:2, 4: not responsive

Please supplement responses by **Thursday, October 21<sup>st</sup>**. Thanks for your attention to this matter.

SINCERELY,

/s/ Crystal Okoro

CRYSTAL J. OKORO

CJO/dc

cc. G. Wayne



**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** RE: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Friday, November 12, 2021 8:52:00 AM

---

Ms. Okoro and Mr. France, the Claims Commission will consider this motion to compel at the January 14 hearing in addition to the first motion to compel.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Tuesday, July 20, 2021 12:47 PM  
**To:** ASCC Pleadings <ASCCPleadings@arkansas.gov>  
**Cc:** Vincent France <vincent.france@arkansasag.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** RE: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Friday, November 12, 2021 9:06:00 AM  
**Attachments:** [HEARING RESCHEDULED Wayne v. State of Arkansas No. 190479.msg](#)

---

Ms. Okoro, yes, the hearing was rescheduled back in September. The email with the hearing letter is attached.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Friday, November 12, 2021 8:58 AM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** Vincent France <vincent.france@arkansasag.gov>  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC

Ms. Irby, did a notice go out for this hearing? and will it be in-person or zoom? I didn't have this set or I missed an email. Either way it works for me!!!

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, November 12, 2021, 08:52:06 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, the Claims Commission will consider this motion to compel at the January 14 hearing in addition to the first motion to compel.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 20, 2021 12:47 PM  
**To:** ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** ZOOM INVITE: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Friday, January 7, 2022 2:19:00 PM

---

Ms. Okoro and Mr. France, below is the Zoom invite for the January 14 motions hearing.

Thanks,  
Kathryn Irby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings  
Time: Jan 14, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/83390022097?pwd=NjFnZXhZMmNVa0dCMzRjYURabnU4dz09>

Meeting ID: 833 9002 2097

Passcode: MbL2Bj

One tap mobile

+19294362866,,83390022097#,,,,\*736724# US (New York)

+13017158592,,83390022097#,,,,\*736724# US (Washington DC)

Dial by your location

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 833 9002 2097

Passcode: 736724

Find your local number: <https://us06web.zoom.us/j/kecsRB7PsL>

---

**From:** Kathryn Irby  
**Sent:** Friday, November 12, 2021 8:52 AM  
**To:** Crystal Okoro <okorocrystal@yahoo.com>  
**Cc:** Vincent France <vincent.france@arkansasag.gov>  
**Subject:** RE: Wayne v. State of Arkansas, No. 19-0479-CC

Ms. Okoro and Mr. France, the Claims Commission will consider this motion to compel at the January 14 hearing in addition to the first motion to compel.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 20, 2021 12:47 PM  
**To:** ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Subject:** RE: ZOOM INVITE: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Thursday, January 13, 2022 10:33:40 AM

---

Ok thanks.

[Sent from Yahoo Mail on Android](#)

On Thu, Jan 13, 2022 at 8:43 AM, Kathryn Irby  
<[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)> wrote:

Ms. Okoro, Mrs. Wayne's presence is not required.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Thursday, January 13, 2022 8:33 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Re: ZOOM INVITE: Wayne v. State of Arkansas, No. 19-0479-CC

Ms. Irby,

Good morning. Is Mrs. Wayne's presence required at the Motions hearing tomorrow?  
Thank you for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, January 7, 2022, 02:20:19 PM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, below is the Zoom invite for the January 14 motions hearing.

Thanks,  
Kathryn Irby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings  
Time: Jan 14, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting  
<https://us06web.zoom.us/j/83390022097?pwd=NjFnbXhzZmNVa0dCMzRjYURabnU4dz09>

Meeting ID: 833 9002 2097  
Passcode: MbL2Bj  
One tap mobile  
+19294362866,,83390022097#,,,,\*736724# US (New York)  
+13017158592,,83390022097#,,,,\*736724# US (Washington DC)

Dial by your location  
+1 929 436 2866 US (New York)  
+1 301 715 8592 US (Washington DC)  
+1 312 626 6799 US (Chicago)  
+1 669 900 6833 US (San Jose)  
+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
Meeting ID: 833 9002 2097  
Passcode: 736724  
Find your local number: <https://us06web.zoom.us/j/83390022097?pwd=NjFnbXhzZmNVa0dCMzRjYURabnU4dz09>

---

**From:** Kathryn Irby  
**Sent:** Friday, November 12, 2021 8:52 AM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Subject:** RE: Wayne v. State of Arkansas, No. 19-0479-CC

Ms. Okoro and Mr. France, the Claims Commission will consider this motion to compel at the January 14 hearing in addition to the first motion to compel.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, July 20, 2021 12:47 PM  
**To:** ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Wayne v. State of Arkansas, No. 19-0479-CC

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Vincent France](#); [Kathryn Irby](#)  
**Subject:** Re: Wayne v. State of Arkansas, No. 19-0479-CC  
**Date:** Tuesday, February 8, 2022 1:02:58 PM  
**Attachments:** [panel ltr-wayne020822.pdf](#)

---

Please find the letter to be filed. Thanks for your attention in this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
okorocrystal@yahoo.com

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On Tuesday, July 20, 2021, 12:47:04 PM CDT, Crystal Okoro <okorocrystal@yahoo.com> wrote:

Please find the attached Motion to Compel with Brief and Exhibits for filing. By way of this email opposing counsel has been provided a copy of the same. Thanks for attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
okorocrystal@yahoo.com

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**Crystal Okoro**

**Attorney at Law**

**P.O. Box 1118**

**North Little Rock, AR 72115**

Kathryn Irby

Arkansas State Claims Commission

101 East Capitol Ave. Suite 410

Little Rock, AR 72201- 3823



# Crystal Okoro

Attorney at Law

P.O. Box 1118

North Little Rock, AR 72115

Phone: 501-859-3424

Fax: 501-983.4203

SENT VIA [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov)

February 8, 2022

Kathryn Irby  
Arkansas State Claims Commission  
101 East Capitol Ave. Suite 410  
Little Rock, AR 72201- 3823

Re: Our Client: Gwenever A. Wayne v. State of Arkansas  
Claim NO: 190479

Dear Ms. Irby,

This letter is intended to inform the board of the Claimant's intentions and the need to depose Dr. Anthony Bucolo. This deposition will allow the Claimant to properly litigate her claim and the full adjudication of the same. This was briefly touched on at the hearing held on January 14<sup>th</sup> and we wanted to ensure the panel was clear on Claimant's intentions as it related to this matter.

Thank you for your attention to this matter.

SINCERELY,

/s/Crystal Okoro

CRYSTAL J. OKORO

CJO/dc

CC:  
Vincent France via email  
Gwenever A. Wayne

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**GWENEVER WAYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by Gwenever Wayne (the “Claimant”) to compel the State of Arkansas (the “Respondent”) to respond to discovery requests. At the hearing held on January 14, 2022, Crystal Okoro appeared on behalf of Claimant, and Vincent P. France appeared on behalf of Respondent.

1. Claimant filed her claim on October 17, 2018, seeking death benefits and scholarship benefits related to the death of Claimant’s husband, Allen Wayne Sr.

2. Pursuant to Ark. Code Ann. § 21-5-705(a)(3)(C)(viii), the Firefighter Benefit Review Panel (FBRP) reviewed the claim and recommended that it be denied.

3. Claimant thereafter requested a hearing and retained counsel.

4. Claimant subsequently filed the instant two motions to compel, arguing that Respondent did not properly respond to Claimant’s discovery requests.

5. Respondent responded to the first motion to compel, arguing, *inter alia*, that “any discovery seeking information concerning the decision-making process of the Arkansas Firefighter Benefit Review Panel is privileged information.”

6. At the beginning of the hearing, upon a question from a commissioner as to whether the parties had discussed these issues prior to the hearing, Claimant’s attorney stated that she had reached out several times to suggest a meeting.

7. Respondent argued that Dr. Anthony Bucolo is a member of the FBRP and that the FBRP's recommendation should be adopted by the Claims Commission.

8. Claimant responded, stating that this is a "battle of the experts" and that she must be able to depose Dr. Bucolo.

9. In response, Respondent asked for guidance from the Claims Commission about the weight of the FBRP's recommendation. Respondent stated that the FBRP members may not be comfortable discussing the deliberative process or how any vote occurred.

10. The Claims Commission notes that, in the future, the Claims Commission would appreciate the parties trying to resolve issues before involving the Claims Commission.

11. The Claims Commission also notes that there is no dispositive motion pending. Claimant has retained an expert and is preparing the claim for hearing. Absent a pending dispositive motion, such a hearing would need to go forward.

12. The Claims Commission is mindful of the fact that the FBRP members are volunteers and will likely not want to volunteer if they are going to have to testify. The Claims Commission also realizes that if the FBRP is not fully staffed, so to speak, these claims will grind to a halt because Ark. Code Ann. § 21-5-705(a)(3)(C) requires a full panel to review the claim and render an advisory opinion to the Claims Commission.

13. The Claims Commission finds that it cannot simply rubberstamp the FBRP's recommendations.

14. The Claims Commission finds that Respondent has three options: (1) Respondent rests on the FBRP recommendation and its cross-examination of Claimant's expert; (2) Respondent calls Dr. Bucolo, which means that Claimant gets to depose him prior to hearing; or (3) Respondent calls another expert witness, and Claimant gets to depose that expert witness prior to hearing.

15. The Claims Commission finds that it is unduly burdensome to require the FBRP members to be subject to deposition unless Respondent is going to call a panel member as a witness.

16. The Claims Commission will give Respondent 30 days to advise whether it is calling Dr. Bucolo as a witness (or anyone else). If Claimant is going to call Dr. Bucolo or anyone else, Claimant is allowed to depose the witness(es).

17. With regard to the parties' disagreement over Interrogatory No. 6, the Claims Commission finds that it cannot and will not re-litigate past claims. Claimant's motion to compel is denied with regard to Interrogatory No. 6.

18. As such, Claimant's motions are GRANTED IN PART and DENIED IN PART as described more fully herein.

IT IS SO ORDERED.



---

ARKANSAS STATE CLAIMS COMMISSION  
Courtney Baird



---

ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow, Co-Chair



---

ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Co-Chair

DATE: March 4, 2022

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).



**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Vincent France](#)  
**Subject:** ORDER: Wayne v. State of Arkansas, No. 190479  
**Date:** Friday, March 4, 2022 11:45:00 AM  
**Attachments:** [Wayne -- 190479 -- hearing -- MTCs.pdf](#)

---

Ms. Okoro and Mr. France, please see attached order entered by the Claims Commission.

Thanks,  
Kathryn Irby

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#); [Vincent France](#)  
**Subject:** HEARING SCHEDULED: Gwenever Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Friday, March 4, 2022 11:58:00 AM  
**Attachments:** [Gwenever Wayne v. SOA2.pdf](#)

---

Ms. Okoro and Mr. France, please see attached.

Thanks,  
Kathryn Irby

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

March 4, 2022

Ms. Crystal Okoro (via email)  
Attorney at Law  
Post Office Box 1118  
North Little Rock, Arkansas 72115

Mr. Vincent P. France (via email)  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

RE: ***Gwenever Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. France,

The Claims Commission has scheduled this claim for hearing on Friday, August 19, 2022, beginning at 9:00 a.m. All parties will attend virtually via Zoom. If either party objects to the Zoom format, that objection should be submitted in writing to me via email ([kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)) no later than March 9, 2022. The Zoom invite is enclosed.

Both parties should submit witness lists, exhibit lists, and proposed findings of fact and conclusions of law on or before close of business on Friday, July 29, 2022. Should the parties wish the Claims Commission to review a pre-hearing brief, that is due at the same time. A copy of all pre-hearing submissions must be provided to the opposing party.

To the extent that this hearing letter conflicts with the deadline for submission of witness lists in the Claims Commission's March 4, 2022, order, the order controls.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Aug 19, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/84722382731?pwd=ZHVuaS92YUVuUEo4RENnUXk3aG1sQT09>

Meeting ID: 847 2238 2731

Passcode: 1zn2WA

One tap mobile

+13126266799,,84722382731#,,, \*770019# US (Chicago)

+19294362866,,84722382731#,,, \*770019# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 847 2238 2731

Passcode: 770019

Find your local number: <https://us06web.zoom.us/u/kftUMzi2C>

**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Subject:** Re: ORDER: Wayne v. State of Arkansas, No. 190479  
**Date:** Friday, March 4, 2022 11:53:04 AM

---

Thanks.

[Sent from Yahoo Mail on Android](#)

On Fri, Mar 4, 2022 at 11:45 AM, Kathryn Irby  
<[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, please see attached order entered by the Claims Commission.

Thanks,  
Kathryn Irby

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

**From:** [Vincent France](#)  
**To:** [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com); [ASCC Pleadings](#)  
**Cc:** [Johanna Hinkle](#); [Kathryn Irby](#)  
**Subject:** RE: Wayne, Gwenever A v State of AR CC 190479  
**Date:** Tuesday, March 8, 2022 8:27:17 AM  
**Attachments:** [Notice to Commission.pdf](#)

---

Pursuant to the Commission's Order dated March 4, 2022, the Respondent seeks to file the attached Notice to the Commission.

Sincerely,

**Vincent P. France**

Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**RESPONDENT'S NOTICE TO THE COMMISSION**

Comes now Respondent, the State of Arkansas, by and through its attorneys, Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and for its Notice to the Commission, states the following:

Pursuant to the Order entered by the Commission on March 4, 2022, Respondent the State of Arkansas files this Notice with the Commission. Specifically, pursuant to Paragraph 16 of the Order, Respondent hereby provides notice to both the Commission and the Claimant that the Respondent intends to call Dr. Tony Bucolo as a witness at the final hearing in this matter.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By:



Vincent P. France  
Ark. Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
*Attorneys for Respondent*

### CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on March 8, 2022, I have served the foregoing this document through email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com



Vincent P. France



**From:** [Kathryn Irby](#)  
**To:** [Vincent France](#); [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** RE: Wayne, Gwenever A v State of AR CC 190479  
**Date:** Friday, March 11, 2022 12:30:00 PM

---

Ms. Okoro and Mr. France, in light of the Claims Commission's March 4 order, as well as Mr. France's notice that he intends to call Dr. Bucolo as the August 19 hearing, I am assuming that the parties are working to set up Dr. Bucolo's deposition. If anything further is needed from the Claims Commission regarding Dr. Bucolo's deposition, please let me know.

Thanks,  
Kathryn Irby

---

**From:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Sent:** Tuesday, March 8, 2022 8:27 AM  
**To:** [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com); ASCC Pleadings <[ASCCpleadings@arkansas.gov](mailto:ASCCpleadings@arkansas.gov)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>; Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Subject:** RE: Wayne, Gwenever A v State of AR CC 190479

Pursuant to the Commission's Order dated March 4, 2022, the Respondent seeks to file the attached Notice to the Commission.

Sincerely,

**Vincent P. France**

Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Subject:** Re: ORDER: Wayne v. State of Arkansas, No. 190479  
**Date:** Monday, April 4, 2022 11:20:40 AM  
**Attachments:** [Wayne -- 190479 -- hearing -- MTCs.pdf](#)

---

Good morning Ms. Irby.

I am requesting a subpoena for testimony and production to be issued to Dr. Anthony Bucculo. I am requesting all materials, documents, articles, books, treatises, decedent's medical records/ or notes in his possession or obtained by him that he relied upon in issuing his report/decision in Mr. Allen Wayne's matter. Please let me know if anything further is needed from us.

Wayne vs. State Of Arkansas	WITNESS	Dr. Anthony Bucculo
DATE	4/29/2022	
TIME	9:30 AM	SERVICES REQUESTED
LOCATION	Buschman Court Reporting- Little Rock, AR 620 W Third St Ste 302 Little Rock, AR 72201	Court Reporter

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

**PRIVILEGE AND CONFIDENTIALITY NOTICE:** The information contained in this email message and any attachments may contain privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

On Friday, March 4, 2022, 11:45:17 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, please see attached order entered by the Claims Commission.

Thanks,  
Kathryn Irby

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Subject:** Re: INFO NEEDED FOR SUBPOENA: Wayne v. State of Arkansas, No. 190479  
**Date:** Wednesday, April 6, 2022 3:07:23 PM

---

[REDACTED]

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Wednesday, April 6, 2022, 02:26:19 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro, you have not provided an address for Dr. Bucolo, as required under Claims Commission Rule 3.2(a). I'll need that before I can issue the subpoena.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Monday, April 4, 2022 11:20 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Re: ORDER: Wayne v. State of Arkansas, No. 190479

Good morning Ms. Irby.

I am requesting a subpoena for testimony and production to be issued to Dr. Anthony Bucculo. I am requesting all materials, documents, articles, books, treatises, decedent's medical records/ or notes in his possession or obtained by him that he relied upon in issuing his report/decision in Mr. Allen Wayne's matter. Please let me know if anything further is needed from us.

Wayne vs. State Of Arkansas	WITNESS	Dr. Anthony Bucculo
DATE	4/29/2022	
TIME	9:30 AM	SERVICES REQUESTED <ul style="list-style-type: none"><li>• Court Reporter</li></ul>
LOCATION	Buschman Court Reporting- Little Rock, AR 620 W Third St Ste 302 Little Rock, AR 72201	

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 tel:501-859-3424  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, March 4, 2022, 11:45:17 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, please see attached order entered by the Claims Commission.

Thanks,  
Kathryn Irby

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Subject:** SUBPOENA: Wayne v. State of Arkansas, No. 190479  
**Date:** Wednesday, April 6, 2022 3:12:00 PM  
**Attachments:** [Wayne v. SOA -- 190479 -- subpoena.pdf](#)

---

Please see attached.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Wednesday, April 6, 2022 3:07 PM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Subject:** Re: INFO NEEDED FOR SUBPOENA: Wayne v. State of Arkansas, No. 190479



Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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Ms. Okoro, you have not provided an address for Dr. Bucolo, as required under Claims Commission Rule 3.2(a). I'll need that before I can issue the subpoena.

Thanks,  
Kathryn Irby



---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Monday, April 4, 2022 11:20 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** Re: ORDER: Wayne v. State of Arkansas, No. 190479

Good morning Ms. Irby.

I am requesting a subpoena for testimony and production to be issued to Dr. Anthony Bucculo. I am requesting all materials, documents, articles, books, treatises, decedent's medical records/ or notes in his possession or obtained by him that he relied upon in issuing his report/decision in Mr. Allen Wayne's matter. Please let me know if anything further is needed from us.

Wayne vs. State Of Arkansas		WITNESS	Dr. Anthony Bucculo
DATE	4/29/2022		
TIME	9:30 AM	SERVICES REQUESTED	• Court Reporter
LOCATION	Buschman Court Reporting- Little Rock, AR 620 W Third St Ste 302 Little Rock, AR 72201		

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 <tel:501-859-3424>  
F:501-983-4203  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

PRIVILEGE AND CONFIDENTIALITY NOTICE: The information contained in this email message and any attachments may contain privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication



is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

On Friday, March 4, 2022, 11:45:17 AM CST, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, please see attached order entered by the Claims Commission.

Thanks,  
Kathryn Irby

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

---

**Issued by the  
ARKANSAS STATE CLAIMS COMMISSION**

---

GWENEVER WAYNE, Claimant

**SUBPOENA**

V.

CLAIM NO. 190479

STATE OF ARKANSAS, Respondent

TO: **Dr. Anthony Bucolo**

[REDACTED]

[REDACTED]

---

\_\_\_\_ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

---

**X** YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

April 29, 2022  
9:30 a.m.

Buschman Court Reporting  
620 West Third Street, Suite 302  
Little Rock, Arkansas 72201

---

**X** YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

all materials, documents, articles, books, treatises, decedent's medical records/  
or notes in his possession or obtained by him that he relied upon in issuing his  
report/decision in Mr. Allen Wayne's matter

---

\_\_\_\_ YOU ARE COMMANDED, no more than \_\_\_\_ business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

---



April 6, 2022

---

Kathryn Irby, Director  
Arkansas State Claims Commission  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201

---

Date

---

---

**PROOF OF SERVICE**

\_\_\_\_\_  
SERVED ON (Print Name)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PLACE

\_\_\_\_\_  
MANNER OF SERVICE

\_\_\_\_\_  
SERVED BY (Print Name)

\_\_\_\_\_  
TITLE

---

---

**DECLARATION OF SERVER**

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

---

**NOTICE TO PERSONS SUBJECT TO SUBPOENAS**

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of \$30.00 per day for attendance and \$0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of \$30.00 per day for attendance and \$0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Apr 14, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/81341060052?pwd=NDcyb1pPZS9GYU54L3NnRHJ0RWxuQT09>

Meeting ID: 813 4106 0052

Passcode: 0Mk9hw

One tap mobile

+13017158592,,81341060052#,,, \*753221# US (Washington DC)

+13126266799,,81341060052#,,, \*753221# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 813 4106 0052

Passcode: 753221

Find your local number: <https://us06web.zoom.us/j/81341060052?pwd=NDcyb1pPZS9GYU54L3NnRHJ0RWxuQT09>

**From:** [Kathryn Irby](#)  
**To:** ["Crystal Okoro"](#); ["Vincent France"](#)  
**Cc:** ["Johanna Hinkle"](#)  
**Subject:** RE: FOLLOW UP: STATUS QUESTION: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Tuesday, June 28, 2022 11:43:00 AM

---

Correction – will the parties be ready for an August *hearing*? Apologies for the typo.

Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Tuesday, June 28, 2022 11:43 AM  
**To:** 'Crystal Okoro' <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** RE: FOLLOW UP: STATUS QUESTION: Wayne v. State of Arkansas, Claim No. 190479

Ms. Okoro, this hearing has been set as a Zoom hearing, per my March 4 letter. Neither party objected to the Zoom format pursuant to the letter. I'm attaching a copy of the email transmitting the hearing letter.

Will the parties be ready for an August matter?

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, June 28, 2022 11:21 AM  
**To:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** Re: FOLLOW UP: STATUS QUESTION: Wayne v. State of Arkansas, Claim No. 190479

My apologies, I did not receive this email! I will check my spam!

Yes, we need a hearing date and this will be in person, correct? Thank you for following up.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

PLEASE NOTE NEW FAX NO.!!!

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On Tuesday, June 28, 2022 at 11:18:43 AM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, I am following up on my June 24 email.

Thanks,

Kathryn Irby

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Friday, June 24, 2022 12:26 PM  
**To:** Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>; [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** STATUS QUESTION: Wayne v. State of Arkansas, Claim No. 190479

Ms. Okoro and Mr. France, given that we are less than two months from the scheduled hearing, I wanted to check in to see whether the parties have been able to resolve this matter and, if not, whether the parties will be ready for hearing in August.

I may need to move this hearing to August 18, if that is a workable option for you both.

Thanks,

Kathryn Irby

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

**From:** [Crystal Okoro](#)  
**To:** [Vincent France](#); [Kathryn Irby](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** RE: INFO NEEDED: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Tuesday, June 28, 2022 3:01:57 PM

---

Kathryn,

I just called you and left a voicemail. I was trying to make this date work and find coverage for this date... I'm sorry, but we are going to need another date. Since this will likely push us back to 2023, we would like an in-person date.

[Sent from Yahoo Mail on Android](#)

On Tue, Jun 28, 2022 at 2:17 PM, Vincent France  
<[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)> wrote:

Kathryn,

I appear to be available on November 17. Currently, the State does not intend to depose Ms. Okoro's expert.

**Vincent P. France**

Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, June 28, 2022 12:53 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** INFO NEEDED: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

**Ms. Okoro,** to follow up on our telephone conversation, I confirmed with Commissioner Smith that he does not know Ms. Wayne and is not recusing from this matter. Commissioner Booth is the only recusal. From our telephone call, I understand that you have a conflict on August 19 and are requesting a continuance. I think I can move this one to November 17. I realize that you are requesting an in-person hearing, and I will communicate that request to the commissioners.



**Ms. Okoro and Mr. France**, please confirm whether November 17 is a workable date for you and for your witnesses. The Claims Commission will request that deposition transcripts be submitted with the prehearing materials, so the Claims Commission can review prior to the hearing.

**Mr. France**, have you deposed Ms. Okoro's expert yet?

Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Tuesday, June 28, 2022 11:44 AM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** RE: FOLLOW UP: STATUS QUESTION: Wayne v. State of Arkansas, Claim No. 190479

Correction – will the parties be ready for an August *hearing*? Apologies for the typo.

Kathryn Irby

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**To:** 'Crystal Okoro' <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>  
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**Subject:** RE: FOLLOW UP: STATUS QUESTION: Wayne v. State of Arkansas, Claim No. 190479

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F:501-325-1989  
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Little Rock, Arkansas 72201

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**Subject:** PREHEARING CONFERENCE SCHEDULED: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Tuesday, June 28, 2022 3:49:00 PM  
**Attachments:** [Wayne -- hearing ltr.pdf](#)

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Topic: Claims Commission -- hearings  
Time: Aug 18, 2022 09:00 AM Central Time (US and Canada)

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Meeting ID: 865 4443 6200  
Passcode: 2L08Hb  
One tap mobile  
+13017158592,,86544436200#,,, \*574953# US (Washington DC)  
+13126266799,,86544436200#,,, \*574953# US (Chicago)

Dial by your location  
+1 301 715 8592 US (Washington DC)  
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# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

March 4, 2022

Ms. Crystal Okoro  
Attorney at Law  
Post Office Box 1118  
North Little Rock, Arkansas 72115

(via email)

Mr. Vincent P. France  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

(via email)

RE: ***Gwenever Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. France,

The Claims Commission has scheduled this claim for hearing on Friday, August 19, 2022, beginning at 9:00 a.m. All parties will attend virtually via Zoom. If either party objects to the Zoom format, that objection should be submitted in writing to me via email ([kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)) no later than March 9, 2022. The Zoom invite is enclosed.

Both parties should submit witness lists, exhibit lists, and proposed findings of fact and conclusions of law on or before close of business on Friday, July 29, 2022. Should the parties wish the Claims Commission to review a pre-hearing brief, that is due at the same time. A copy of all pre-hearing submissions must be provided to the opposing party.

To the extent that this hearing letter conflicts with the deadline for submission of witness lists in the Claims Commission's March 4, 2022, order, the order controls.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Aug 19, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/84722382731?pwd=ZHVuaS92YUVuUEo4RENnUXk3aG1sQT09>

Meeting ID: 847 2238 2731

Passcode: 1zn2WA

One tap mobile

+13126266799,,84722382731#,,,,\*770019# US (Chicago)

+19294362866,,84722382731#,,,,\*770019# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

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+1 253 215 8782 US (Tacoma)

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**To:** [Crystal Okoro](#); [Vincent France](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** RE: PREHEARING CONFERENCE SCHEDULED: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Tuesday, June 28, 2022 5:05:00 PM

---

The Claims Commission determines the order that the docket items will be heard, and I don't know yet whether it will be morning or afternoon. I would hold the day for the time being. You're welcome to check back with me closer to August 18 to see if I know any more about docket order.

Thanks!

Kathryn

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Ms. Irby, I am in receipt.

I can do 15mins on 8/18. Kindly let me know if it will be in the morning or afternoon so I can hold the window open. Thanks!

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Attorney at Law  
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Ms. Irby, I am in receipt.

I can do 15mins on 8/18. Kindly let me know if it will be in the morning or afternoon so I can hold the window open. Thanks!

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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Thanks,

Kathryn

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Aug 18, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/86544436200?pwd=VVp0Yy94SIFsNlpgSWlaUGtVUVA2dz09>

Meeting ID: 865 4443 6200

Passcode: 2L08Hb

One tap mobile

+13017158592,,86544436200#,,,,\*574953# US (Washington DC)

+13126266799,,86544436200#,,,,\*574953# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 865 4443 6200

Passcode: 574953

Find your local number: <https://us06web.zoom.us/j/86544436200?pwd=VVp0Yy94SIFsNlpgSWlaUGtVUVA2dz09>

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**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
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Kathryn,

I just called you and left a voicemail. I was trying to make this date work and find coverage for this date... I'm sorry, but we are going to need another date. Since this will likely push us back to 2023, we would like an in-person date.

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**Vincent P. France**

Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

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**EXTERNAL EMAIL**

**Ms. Okoro,** to follow up on our telephone conversation, I confirmed with Commissioner Smith that he does not know Ms. Wayne and is not recusing from this matter.

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Correction – will the parties be ready for an August *hearing*? Apologies for the typo.

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No. 190479

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Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Tuesday, June 28, 2022 at 11:18:43 AM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro and Mr. France, I am following up on my June 24 email.

Thanks,  
Kathryn Irby

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
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**Subject:** STATUS QUESTION: Wayne v. State of Arkansas, Claim No. 190479

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I may need to move this hearing to August 18, if that is a workable option for you both.



Thanks,  
Kathryn Irby

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Vincent France](#); [Kathryn Irby](#)  
**Subject:** Re: PREHEARING CONFERENCE SCHEDULED: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Monday, July 25, 2022 9:23:45 AM  
**Attachments:** [2022.07.21 witness and exh list-gwayne.pdf](#)  
[2022.7.21 findgs of fact and law-gwayne-F.pdf](#)

---

Please find the attachments submitted for filing. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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Okay, thanks.

Sincerely,

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Attorney at Law  
P.O. Box 1118  
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F:501-325-1989  
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On Tuesday, June 28, 2022 at 05:05:38 PM CDT, Kathryn Irby <kathryn.irby@arkansas.gov> wrote:

The claimant does not need to be present.

Kathryn

---

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**Sent:** Tuesday, June 28, 2022 5:05 PM  
**To:** Vincent France <vincent.france@arkansasag.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>  
**Cc:** Johanna Hinkle <johanna.hinkle@arkansasag.gov>  
**Subject:** Re: PREHEARING CONFERENCE SCHEDULED: Wayne v. State of Arkansas, Claim No. 190479

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+1 669 900 6833 US (San Jose)

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**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**July 25, 2022**

**Possible Witness List**

Dr. Rutledge  
Ex-Fire Chief Greg Summers  
Bo Hagar  
Joe Cuffel  
Vaden Holmes  
Anthony Franklin  
Harold Brown  
Gene Etheridge  
Wade Marshall

**Possible Exhibit List**

Dr. Rutledge Report's and research used  
Dr. Buccolo's Report  
Transcript of Deposition of Dr. Buccolo and Exhibits

The claimant reserves the right to supplement the above and call any of the witnesses called by the Respondent.

Cc: Vincent France

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Comes Claimant, Gwenever Wayne, by and through counsel, Crystal Okoro for its Proposed Findings of Fact and Conclusion of Law, state the following:

**Findings of Fact**

1. Claimant, Gwenever A. Wayne was married to Allen Wayne, Sr. on [REDACTED] and is the appropriate party to bring said claim.
2. Allen Wayne Sr. was employed by Little Rock Fire Department from Mar 19, 1984, until July 12, 2014. He served the City of Little Rock for over thirty years.
3. Mr. Allen Wayne [REDACTED] before he became employed as a Little Rock Firefighter.
4. Mr. Allen Wayne was [REDACTED] [REDACTED] [REDACTED] [REDACTED].
5. Mr. Wayne was exposed to carcinogens while he was Firefighter.
6. The death certificate [REDACTED]  
[REDACTED]

**Proposed Conclusions of Law**

7. The claim for death benefits should not have been denied. The claimant should have been awarded partial benefits at a minimum.

8. Firefighters have a much greater chance of developing cancer compared to non-firefighters.
9. It is well established that firefighters have an extremely high rate of malignancies due to their environmental exposure on the job.
10. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Wherefore, Claimant requests the relief herein and all other relief Claimant may be entitled to; Claimant also reserves the right to modify and supplement the same.

Respectfully submitted,

By: **GWENEVER A. WAYNE**

Crystal Okoro  
ATTORNEY AT LAW  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com  
/s/ Crystal Okoro  
Crystal Okoro  
Ph: 501.859.3424  
Fax: 501.325.1989

### **CERTIFICATE OF SERVICE**

I, Vincent P. France, hereby certify that I have served the foregoing through the U.S. Mail postage prepaid, facsimile, or via email on July 25, 2022 the attorney of record for the Claimant at the following:

ATTORNEY FOR THE STATE  
Vincent P. France  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201

/S/CRYSTAL OKORO  
CRYSTAL OKORO

**From:** [Vincent France](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com); [Kathryn Irby](#); [Brittany Garcia](#)  
**Subject:** RE: Wayne, Gwenever A v State of AR CC 190479  
**Date:** Wednesday, July 27, 2022 10:58:20 AM  
**Attachments:** [Respondent's Witness & Exhibit List.pdf](#)  
[Respondent's Proposed Facts & Conclusions of Law.pdf](#)

---

To all,

Please find attached for filing in the above-referenced claim, Respondent's Witness and Exhibit List and Respondent's Proposed Findings of Facts and Conclusions of Law.

Sincerely,

**Vincent P. France**

Assistant Attorney General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**RESPONDENT'S WITNESS AND EXHIBIT LIST**

Comes Respondent, the State of Arkansas, by and through Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and states for its Witness and Exhibit List, states the following:

**Witness List**

Only the witnesses listed by Claimant

**Exhibit List**

Medical Records of Allen Wayne  
Firefighter Benefit Review Panel Decision  
Dr. Rutledge's Report  
Transcript of Dr. Bucolo's Deposition including exhibits

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By: /s/ Vincent P. France  
Vincent P. France  
Ark. Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Vincent P. France, hereby certify that on July 27, 2022, I have served the foregoing this document through email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

/s/ Vincent P. France  
Vincent P. France

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**RESPONDENT'S PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

Comes Respondent, the State of Arkansas, by and through Attorney General Leslie Rutledge and Assistant Attorney General Vincent P. France, and states for its Proposed Findings of Facts and Conclusions of Law, states the following:

**FINDINGS OF FACT**

1. Claimant, Gwenever Wayne is the surviving spouse of Allen Wayne Sr., who died on [REDACTED] and she has sufficiently proven that she married Allen Wayne Sr. on [REDACTED] and continued to be married to him until the time of his death.

2. Allen Wayne Sr. was employed by the Little Rock Fire Department from March 19, 1984 until July 12, 2014. While employed with the Little Rock Fire Department, Allen Wayne Sr. served as a firefighter for twenty-four (24) years from March 1984 till June 2008. From June 2008 till July 12, 2014, Allen Wayne Sr. worked as the Fire Repair Technician. Thus, Allen Wayne Sr. served the City of Little Rock for over 30 years.

3. Based upon the Certificate of Death for July 12, 2014, Allen Wayne Sr. [REDACTED]  
[REDACTED]

4. Allen Wayne Sr. medical records show [REDACTED]  
[REDACTED].



5. On November 19, 2018, the Firefighter Benefit Review Panel issued its recommendation and found that “Allen L. Wayne was not killed in the line of duty.” The recommendation continued by stating the following:

This finding is based on the recommendation provided by the panel's Oncologist, Dr. Anthony Bucolo:

[REDACTED]

The Panel recommends to the Arkansas Claims Commission that the claim be denied.

6. On April 29, 2022, counsel for Claimant was able to take the deposition of Dr. Bucolo.

#### **CONCLUSIONS OF LAW**

7. The Arkansas Claims Commission has jurisdiction over this matter pursuant to Ark. Code Ann. § 21-5-702.

8. This claim satisfies Ark. Code Ann. § 21-5-703 in that it was filed within five years of death of Allen Wayne Sr., which occurred on [REDACTED]

9. Benefits for the surviving spouse of a firefighter are governed by Ark. Code Ann. § 21-5-705.

10. Specifically, Ark. Code Ann. § 21-5-705(3)(A)(i) states the following:

Firefighter killed in the line of duty after January 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, or a cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if he or she was exposed to a known carcinogen as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer while in the official line of duty.

11. Given the recommendation of the Firefighter Benefit Review Panel and the sworn testimony of Dr. Bucolo, the Claims Commission finds that cause of death of Allen Wayne Sr. is outside the scope of Ark. Code Ann. § 21-5-705(3)(A)(i).

12. Accordingly, Claimant is not entitled to payment under Ark. Code Ann. § 21-5-705 in the amount of \$150,000.

13. Additionally, to the extent applicable, no scholarship benefits are to be awarded pursuant to Ark. Code Ann. § 6-82-501, *et seq.*

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By: /s/ Vincent P. France  
Vincent P. France  
Ark. Bar No. 2010063  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)  
*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Vincent P. France, hereby certify that on July 27, 2022, I have served the foregoing this document through email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

/s/ Vincent P. France  
Vincent P. France

**From:** [Caleb G. Conrad](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** "[okorocrystal@yahoo.com](#)"; [Vincent France](#); [Katie Wilson](#)  
**Subject:** Entry of Appearance (Wayne v. State of Arkansas, Claim No. 19-0479)  
**Date:** Wednesday, August 17, 2022 12:34:05 PM  
**Attachments:** [Caleb"s NOA \(Wayne v. State\).pdf](#)

---

You don't often get email from [caleb.conrad@arkansasag.gov](mailto:caleb.conrad@arkansasag.gov). [Learn why this is important](#)

Please find attached my entry of appearance for the matter of **Wayne v. State of Arkansas, Claim No. 19-0479**. I will be appearing on behalf of Respondent at tomorrow morning's hearing.

Thank you,

Caleb

**Caleb G. Conrad**

Assistant Attorney General, Civil Division  
Office of Arkansas Attorney General Leslie Rutledge  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1019 | Cell: [REDACTED]  
[caleb.conrad@arkansasag.gov](mailto:caleb.conrad@arkansasag.gov)

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**NOTICE OF APPEARANCE**

Assistant Attorney General Caleb G. Conrad hereby enters his appearance as co-counsel for Respondent, the State of Arkansas, and that all future service and correspondence be sent accordingly.

I hereby certify that I am admitted to practice in this Court and respectfully place the Clerk of the Court and all parties of record on notice of my appearance.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By: Caleb G. Conrad  
Ark Bar No. 2020119  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1091  
Fax: (501) 682-2591  
Email: Caleb.Conrad@ArkansasAG.gov

## **CERTIFICATE OF SERVICE**

I, Caleb G. Conrad, hereby certify that on August 17, 2022, I have served the foregoing this document through email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

/s/ Caleb G. Conrad  
Caleb G. Conrad

**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#); [Vincent France](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** Re: Wayne, Gwenever A v State of AR CC 190479  
**Date:** Monday, August 29, 2022 4:21:50 PM

---

Vincent, no final hearing has been set yet.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

PLEASE NOTE NEW FAX NO.!!!

**PRIVILEGE AND CONFIDENTIALITY NOTICE:** The information contained in this email message and any attachments may contain privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

On Monday, August 29, 2022 at 03:10:26 PM CDT, Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)> wrote:

Kathryn,

I apologize but I cannot remember if a final hearing has been scheduled for this claim. If one has, what is the date for the final hearing?

Sincerely,

**Vincent P. France**

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**GWENEVER WAYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the claim of Gwenever Wayne (the “Claimant”) against the State of Arkansas (the “Respondent”). At the status conference held on August 18, 2022, Crystal Okoro appeared on behalf of Claimant, and Caleb G. Conrad appeared on behalf of Respondent. Respondent confirmed that Dr. Bucolo is Respondent’s only witness and that Dr. Bucolo’s testimony would be presented via deposition. Upon a question from the Claims Commission as to Claimant’s witnesses, Claimant confirmed that Dr. Rutledge is Claimant’s expert and stated that the other witnesses listed include fellow firefighters.

The Claims Commission notes that this claim is about medical causation.

The Claims Commission is scheduling a two-hour hearing for this claim. The hearing will be held in-person at the Claims Commission at the parties’ request.

IT IS SO ORDERED.



---

ARKANSAS STATE CLAIMS COMMISSION  
Courtney Baird



---

ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



---

ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair

DATE: September 2, 2022

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#); [Vincent France](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** ORDER AND HEARING SCHEDULED: Wayne v. State of Ark., Claim No. 190479  
**Date:** Thursday, September 8, 2022 9:18:00 AM  
**Attachments:** [Wayne -- 190479 -- status conf -- order re hearing scheduling.pdf](#)  
[Wayne v. SOA -- 190479 -- hearing ltr.pdf](#)

---

Crystal and Vincent, please see attached.

Thanks,  
Kathryn

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Monday, August 29, 2022 4:22 PM  
**To:** Kathryn Irby <kathryn.irby@arkansas.gov>; Vincent France <vincent.france@arkansasag.gov>  
**Cc:** Johanna Hinkle <johanna.hinkle@arkansasag.gov>  
**Subject:** Re: Wayne, Gwenever A v State of AR CC 190479

Vincent, no final hearing has been set yet.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

PLEASE NOTE NEW FAX NO.!!!

**PRIVILEGE AND CONFIDENTIALITY NOTICE:** The information contained in this email message and any attachments may contain privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

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Kathryn,

I apologize but I cannot remember if a final hearing has been scheduled for this claim. If one has, what is the date for the final hearing?

Sincerely,

**Vincent P. France**

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**GWENEVER WAYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the claim of Gwenever Wayne (the “Claimant”) against the State of Arkansas (the “Respondent”). At the status conference held on August 18, 2022, Crystal Okoro appeared on behalf of Claimant, and Caleb G. Conrad appeared on behalf of Respondent. Respondent confirmed that Dr. Bucolo is Respondent’s only witness and that Dr. Bucolo’s testimony would be presented via deposition. Upon a question from the Claims Commission as to Claimant’s witnesses, Claimant confirmed that Dr. Rutledge is Claimant’s expert and stated that the other witnesses listed include fellow firefighters.

The Claims Commission notes that this claim is about medical causation.

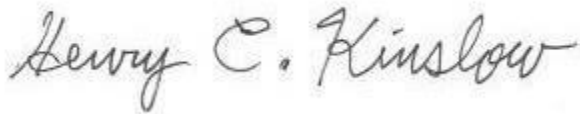
The Claims Commission is scheduling a two-hour hearing for this claim. The hearing will be held in-person at the Claims Commission at the parties’ request.

IT IS SO ORDERED.



---

ARKANSAS STATE CLAIMS COMMISSION  
Courtney Baird



---

ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



---

ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair

DATE: September 2, 2022

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- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

September 8, 2022

Ms. Crystal Okoro (via email)  
Attorney at Law  
Post Office Box 1118  
North Little Rock, Arkansas 72115

Mr. Vincent P. France (via email)  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

RE: ***Gwenever Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. France,

The Claims Commission has scheduled this claim for a two-hour hearing on Friday, May 19, 2023, beginning at 9:00 a.m. This hearing will be held at the Claims Commission offices.

Each party's witness lists, exhibit lists, and exhibits are due by Friday, April 28, 2023. If the parties would like for the Claims Commission to review prehearing briefs, the briefs are due at the same time. Those prehearing submissions can be electronically filed with the Claims Commission by emailing them to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov). If any party will require a subpoena, subpoena requests are also due by April 28, 2023. Absent a showing of good cause, the Claims Commission will not issue subpoenas for requests received after April 28, 2023.

To the extent that either party intends to file a motion of any kind, absent a showing of good cause, the motion must be submitted in sufficient time to allow the motion to be fully briefed by April 28, 2023.

Please note that a copy of any filing must be served upon the opposing party via U.S. Mail in accordance with the Arkansas Rules of Civil Procedure.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby



**From:** [Rosalyn Middleton](#)  
**To:** [ASCC Pleadings; "okorocrystal@yahoo.com"](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** Gwenever A. Wayne v. SOA, Claim No. 190479  
**Date:** Thursday, February 23, 2023 1:33:11 PM  
**Attachments:** [image001.jpg](#)  
[2023-02-23 - Entry of Appearance.pdf](#)  
[2023-02-23 - Motion to Sub and Withdraw Counsel.pdf](#)

---

Good afternoon.

Please find attached for filing my entry of appearance and the Motion to Withdraw Vincent France and Caleb Conrad as counsel for the respondent in the above referenced claim.

Sincerely,

*Rosalyn Middleton*

**Rosalyn Middleton**  
Assistant Attorney General  
Office of the Attorney General Tim Griffin  
323 Center Street | Suite 200 | Little Rock, AR 72201  
Telephone: (501) 682-8122 | Facsimile: (501) 682-2591  
E-mail: [rosalyn.middleton@arkansasag.gov](mailto:rosalyn.middleton@arkansasag.gov)



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ENTRY OF APPEARANCE**

Assistant Attorney General Rosalyn Middleton respectfully submits her entry of appearance on behalf of the respondent, State of Arkansas. Complete contact information for the undersigned counsel is included in the signature block below.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By:



Rosalyn Middleton  
Ark Bar No. 2001257  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-8122  
Fax: (501) 682-2591  
Email: [rosalyn.middleton@arkansasag.gov](mailto:rosalyn.middleton@arkansasag.gov)

*Attorneys for the Respondent*

**CERTIFICATE OF SERVICE**

I, Rosalyn Middleton, hereby certify that on February 23, 2023, I served the foregoing document via email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**


**MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL**

The Respondent by and through counsel, hereby moves the Commission to allow the withdrawal of attorneys Vincent France and Caleb Conrad as counsel for the Respondent and to substitute Assistant Attorney General Rosalyn Middleton as counsel for the Respondent. Attached hereto is the Notice of Appearance for Assistant Attorney General Rosalyn Middleton.

WHEREFORE the Respondent respectfully request that the Commission grant the motion for withdrawal and substitution of counsel.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By:   
Rosalyn Middleton  
Ark Bar No. 2001257  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-8122  
Fax: (501) 682-2591  
Email: rosalyn.middleton@arkansasag.gov

*Attorneys for the Respondent*

**CERTIFICATE OF SERVICE**

I, Rosalyn Middleton, hereby certify that on February 23, 2023, I served the foregoing document via email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

A handwritten signature in blue ink that reads "Rosalyn Middleton". The signature is written in a cursive style and is positioned to the right of the recipient's contact information.

**From:** [Charles Lyford](#)  
**To:** [ASCC Pleadings](#); [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** Claim No. 19-0479, Notice of Appearance  
**Date:** Monday, March 6, 2023 1:32:30 PM  
**Attachments:** [image001.jpg](#)  
[2023-03-06 Lyford Notice of Appearance \(Wayne\).pdf](#)

---

You don't often get email from [charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov). [Learn why this is important](#)

Good afternoon. Attached is a Notice of Appearance for the Respondent in the above-referenced claim. Claimant's counsel is copied on this email. Thank you.

**Charles Lyford**  
Assistant Attorney General  
Office of Attorney General Tim Griffin  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**NOTICE OF APPEARANCE**

I, Charles Lyford, Assistant Attorney General, enter my appearance of counsel for Respondent, the State of Arkansas. I ask to be included on future service and correspondence related to this case. I certify that I am admitted to practice in this Court:

Dated: March 6, 2023

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: /s/ Charles Lyford  
Charles Lyford  
Ark Bar No. 2010-200  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)

*Counsel for Respondent*

### **CERTIFICATE OF SERVICE**

I, Charles Lyford, hereby certify that on March 6, 2023, the foregoing was filed electronically by submission to [asccpleadings@arkansas.gov](mailto:asccpleadings@arkansas.gov), and served via email to the following:

Crystal J. Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

/s/Charles Lyford  
Charles Lyford



**From:** [Charles Lyford](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [ASCC Pleadings](#)  
**Subject:** hearings scheduled May 19th  
**Date:** Thursday, March 9, 2023 12:47:39 PM  
**Attachments:** [image001.jpg](#)

---

Some people who received this message don't often get email from charles.lyford@arkansasag.gov. [Learn why this is important](#)

Kathryn,

This is Charles Lyford with the AG's Office. I moved back to the Civil Department from Arkansas Rehabilitation Services—hope all has been well since the last Claims Commission cases involving ARS.

I filed notices of appearance last week in three claims, Wayne v. State, 19-0479 (firefighter cancer benefit); [REDACTED]  
[REDACTED]

It looks like all three are scheduled on May 19th at 9 a.m., with an in-person hearing in Wayne from 9 to 11. Is that correct? If ok with the Commission and claimants, maybe the Arkansas Tech hearings could be held after a lunch break.

Thanks.

**Charles Lyford**  
Assistant Attorney General  
Office of Attorney General Tim Griffin  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.1314 | Fax: 501.682.2000  
[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#); [charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)  
**Subject:** TIMING OF HEARING: Wayne v. State of Ark., Claim No. 190479  
**Date:** Tuesday, March 14, 2023 4:58:00 PM  
**Attachments:** [Wayne -- 190479 -- status conf -- order re hearing scheduling.pdf](#)  
[Wayne v. SOA -- 190479 -- hearing ltr.pdf](#)

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Ms. Okoro and Mr. Lyford, the Claims Commission has Zoom hearings set on May 19 in addition to this in-person hearing. This hearing will begin 30 minutes after the completion of the (ten to twelve) Zoom hearings that are set for that day. I'm not sure exactly when that will be, but the Zoom hearings will begin at 9am. I'm including the Zoom invitation for May 19 below, so that you can know when you'll need to arrive at the Claims Commission.

I note that the Commission's 9/2/2022 order clarified that this hearing would be on the issue of medical causation only and that two hours were allotted for this hearing.

If the parties would prefer for this hearing to be held via Zoom, please let me know, and I will convert it.

Thanks,  
Kathryn Irby

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings  
Time: May 19, 2023 09:00 AM Central Time (US and Canada)

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---

**From:** Kathryn Irby

**Sent:** Thursday, September 8, 2022 9:18 AM

**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>

**Subject:** ORDER AND HEARING SCHEDULED: Wayne v. State of Ark., Claim No. 190479

Crystal and Vincent, please see attached.

Thanks,  
Kathryn

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Monday, August 29, 2022 4:22 PM

**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>

**Subject:** Re: Wayne, Gwenever A v State of AR CC 190479

Vincent, no final hearing has been set yet.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Monday, August 29, 2022 at 03:10:26 PM CDT, Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)> wrote:

Kathryn,

I apologize but I cannot remember if a final hearing has been scheduled for this claim. If one has, what is the date for the final hearing?

Sincerely,

**Vincent P. France**

Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#); [charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)  
**Cc:** [Gwen Wayne](#); [Charlanda Kimble](#)  
**Subject:** RE: TIMING OF HEARING: Wayne v. State of Ark., Claim No. 190479  
**Date:** Thursday, March 16, 2023 4:08:00 PM

---

Thanks for this information. Please monitor the Zoom hearings, so you'll know when this one will begin.

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Wednesday, March 15, 2023 8:21 AM  
**To:** [charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov); Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Gwen Wayne <[gwenwayne37@hotmail.com](mailto:gwenwayne37@hotmail.com)>; Charlanda Kimble <[charlanda.kimble@yahoo.com](mailto:charlanda.kimble@yahoo.com)>  
**Subject:** RE: TIMING OF HEARING: Wayne v. State of Ark., Claim No. 190479

Good morning. We're holding out for an in-person setting Mr. Lyford. Thanks for the offer, Ms. Irby!

[Sent from Yahoo Mail on Android](#)

On Wed, Mar 15, 2023 at 8:10 AM, Charles Lyford  
<[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Received, thank you. I have no objection to attending by Zoom if that is alright with Ms. Okoro. However, I'll plan on attending in person unless directed otherwise.

Charles Lyford, Assistant Attorney General  
501.682.2286

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, March 14, 2023 4:59 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** TIMING OF HEARING: Wayne v. State of Ark., Claim No. 190479

**EXTERNAL EMAIL**

Ms. Okoro and Mr. Lyford, the Claims Commission has Zoom hearings set on May 19 in addition to this in-person hearing. This hearing will begin 30 minutes after the completion of the (ten to twelve) Zoom hearings that are set for that day. I'm not sure exactly when that will be, but the Zoom hearings will begin at 9am. I'm including the Zoom invitation for May 19 below, so that you can know when you'll need to arrive at the Claims Commission.

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Topic: Claims Commission -- hearings

Time: May 19, 2023 09:00 AM Central Time (US and Canada)

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+1 305 224 1968 US

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

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+1 669 444 9171 US

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---

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<[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>

**Subject:** ORDER AND HEARING SCHEDULED: Wayne v. State of Ark., Claim No. 190479

Crystal and Vincent, please see attached.

Thanks,

Kathryn

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Monday, August 29, 2022 4:22 PM

**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Vincent France <[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov)>

**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>

**Subject:** Re: Wayne, Gwenever A v State of AR CC 190479

Vincent, no final hearing has been set yet.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas, 72201

Office: 501.682.1314 | Fax: 501.682.2000

[vincent.france@arkansasag.gov](mailto:vincent.france@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** [Charles Lyford](#)  
**To:** [ASCC Pleadings](#); [Kathryn Irby](#)  
**Cc:** [Crystal Okoro](#); [Johanna Hinkle](#)  
**Subject:** Wayne v. State of Arkansas, 19-0479  
**Date:** Monday, March 27, 2023 3:12:04 PM  
**Attachments:** [image001.jpg](#)  
[2023-03-27 Mtn for Summary Judgment \(Wayne\).pdf](#)  
[Exhibit A - Deposition of Dr. Anthony Bucolo.pdf](#)  
[Exhibit B - Report of Dr. William Rutledge.pdf](#)  
[2023-03-27 Mtn for Summary Judgment BJS \(Wayne\).pdf](#)

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*Gwenover Wayne v. State of Arkansas*  
Case No. 19-0479

Good afternoon. Attached on behalf of the Respondent are a Motion for Summary Judgment, exhibits, and a Brief in Support. Given that a hearing in this matter is scheduled for May 19th, the Respondent waives filing a reply brief to any response filed by the Claimant. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Arkansas Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
Office: (501) 682-1314 | Fax: (501) 682-2591  
[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

v.

**CLAIM NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**MOTION FOR SUMMARY JUDGMENT**

Comes Respondent, the State of Arkansas, and states for its Motion for Summary Judgment:

1. Ark. Code Ann. § 21-5-705(a)(3) provides for \$150,000.00 to families of firefighters, if the decedent is “killed in the line of duty” as the result of cancer developed due to exposure “to a known carcinogen as determined by the Department of Health ... in the official line of duty.”

2. The Claimant’s husband, a firefighter, died [REDACTED]

[REDACTED].

3. [REDACTED] It is not among the cancers listed in section 21-5-705(a)(3)(A)(i) as potentially giving rise to benefits: “leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle ... .”

4. Under section 21-5-705(a)(3)(A)(i), a cancer may also potentially give rise to benefits if it “has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population.”

5. The Firefighter Benefit Review Panel was created under section 21-5-705(a)(3)(C) to make recommendations on such claims to the Claims Commission. And the Panel determined that [REDACTED] did not occur at higher rates in firefighters than in non-firefighters.

6. Rather, the Panel concluded that [REDACTED]

7. The following exhibits are attached to this Motion:

- Condensed deposition of Dr. Anthony Bucolo, medical oncologist and member of the Panel (Exhibit A); and
- Report of Claimant's expert Dr. William Rutledge (Exhibit B).

8. This Motion incorporates the related Brief in Support.

WHEREFORE, the State of Arkansas requests that its Motion for Summary Judgment be granted, and that the State Claims Commission adopt the recommendation of the Firefighter Benefit Review Panel to deny the claim for benefits.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Charles Lyford  
Ark Bar No. 2010-200  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: charles.lyford@arkansasag.gov

*Counsel for Respondent*

**CERTIFICATE OF SERVICE**

I, Charles Lyford, certify that on March 27, 2023, the foregoing was filed electronically by submission to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov), and served via email to the following:

Crystal J. Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

/s/ Charles Lyford  
Charles Lyford

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ARKANSAS STATE CLAIMS COMMISSION

GWENEVER WAYNE

CLAIMANT

VS.

CLAIM NO. 190479

STATE OF ARKANSAS

RESPONDENT

ORAL DEPOSITION OF DR. ANTHONY BUCOLO

FRIDAY, APRIL 29, 2022

9:36 A.M. - 10:44 A.M.

Page 1

<p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF PLAINTIFFS:</p> <p>4 CRYSTAL JUNIECE OKORO, ESQUIRE</p> <p>5 P.O. BOX 1118</p> <p>6 North Little Rock, AR 72115</p> <p>7 okorocrystal@yahoo.com</p> <p>8</p> <p>9</p> <p>10</p> <p>11 ON BEHALF OF DEFENDANTS:</p> <p>12</p> <p>13 VINCENT P. FRANCE, ESQUIRE</p> <p>14 ASSISTANT ATTORNEY GENERAL</p> <p>15 323 Center Street</p> <p>16 Suite 200</p> <p>17 Little Rock, AR 72201</p> <p>18 vincent.france@ArkansasAG.gov</p> <p>19</p> <p>20</p> <p>21</p> <p>22 ALSO PRESENT:</p> <p>23</p> <p>24 Charlanda Kimble</p> <p>25 Gwenever Wayne</p> <p>Page 2</p>	<p>1 STIPULATIONS</p> <p>2 THE ORAL DEPOSITION OF DR ANTHONY BUCOLO is being taken on</p> <p>3 Friday, April 29, 2022, before Kerry L Means, Certified Court</p> <p>4 Reporter, beginning at 9:36 a m , in accordance with the</p> <p>5 following:</p> <p>6 IT IS HEREBY AGREED AND STIPULATED by the parties in the above</p> <p>7 cause, through their attorneys of record, that the deposition of</p> <p>8 Dr Anthony Bucolo, may be taken on oral deposition before</p> <p>9 Kerry L Means, CCR, pursuant to the Arkansas Rules of Civil</p> <p>10 Procedure for use as permitted by the Rules; that the questions</p> <p>11 and answers so given and propounded shall be transcribed by the</p> <p>12 reporter; that all formalities in the notifying, taking,</p> <p>13 transcribing, signing of the deposition are waived; that the</p> <p>14 right to object to the testimony of the witness on the grounds</p> <p>15 of competency, relevancy and materiality is expressly reserved,</p> <p>16 other than the form of the questions as propounded to the</p> <p>17 witness; and that those such objections may be asserted at the</p> <p>18 time of trial without the necessity of noting the objection at</p> <p>19 the taking of the deposition</p> <p>20 IT IS FURTHER AGREED that when the questions and answers are</p> <p>21 reduced to typewriting, the deposition may be mailed or</p> <p>22 delivered as follows: one electronic copy to Ms Okoro; and one</p> <p>23 electronic copy to Mr France</p> <p>24 WHEREUPON, there being no further stipulations, the</p> <p>25 following proceedings were had and done, to-wit:</p> <p>Page 4</p>
<p>1 INDEX</p> <p>2 CAPTION ..... 1</p> <p>3 TABLE OF CONTENTS ..... 3</p> <p>4 PROCEEDINGS ..... 5</p> <p>5</p> <p>6 WITNESS: SAMUEL WAYNE WYATT</p> <p>7</p> <p>8 Direct Examination by Ms. Okoro..... 5</p> <p>9</p> <p>10 Introduction of Claimant's Exhibit 1..... 6</p> <p>11</p> <p>12 Introduction of Claimant's Exhibit 2..... 7</p> <p>13</p> <p>14 Introduction of Claimant's Exhibit 3..... 28</p> <p>15</p> <p>16 DEPOSITION CONCLUDED ..... 39</p> <p>17</p> <p>18</p> <p>19 EXHIBITS</p> <p>20</p> <p>21 Claimant's Exhibit 1 (Dr. Bucolo's CV)</p> <p>22</p> <p>23 Claimant's Exhibit 2 (Medical Articles)</p> <p>24</p> <p>25 Claimant's Exhibit 3 (Claim Denial)</p> <p>Page 3</p>	<p>1 PROCEEDINGS</p> <p>2 (Witness Sworn)</p> <p>3 WHEREUPON, DR ANTHONY BUCOLO, having been duly sworn,</p> <p>4 gave the following testimony to wit:</p> <p>5 DIRECT EXAMINATION</p> <p>6 BY MS OKORO:</p> <p>7 Q My name is Crystal Okoro I represent Ms Wayne and the</p> <p>8 family in this matter, and Dr Bucolo, have you given a</p> <p>9 deposition before? I'm sure you have</p> <p>10 A Yes</p> <p>11 Q Okay So, as you already know, it's important that the</p> <p>12 court reporter get - - she gets all the information down I'm</p> <p>13 sure it's gonna be stuff that I mispronounce with the medical</p> <p>14 jargon, so - -</p> <p>15 A That's quite all right</p> <p>16 Q Feel free to correct me Of course, if you don't</p> <p>17 understand something that I'm stating, please let me know, and</p> <p>18 I'll restate my question Mr France, he may object, and of</p> <p>19 course you - - I'll stop and allow him to make his objection for</p> <p>20 the record, and then you can continue on and answer the</p> <p>21 question</p> <p>22 COURT REPORTER: And you might've done it, but I'm</p> <p>23 just making sure That mic right there - - right here,</p> <p>24 this - -</p> <p>25 MS OKORO: Oh, this one right here?</p> <p>Page 5</p>

<p>1 COURT REPORTER: Just make sure you don't, like, put</p> <p>2 any papers - -</p> <p>3 MS. OKORO: Yes.</p> <p>4 COURT REPORTER: - - or anything like that. I</p> <p>5 just - - Because it'll cause interference.</p> <p>6 MS. OKORO: Okay.</p> <p>7 COURT REPORTER: Thanks.</p> <p>8 MS. OKORO: No problem.</p> <p>9 MS. OKORO: (Continuing)</p> <p>10 Q. Did you have any questions based off of what I - -</p> <p>11 A. No, ma'am.</p> <p>12 Q. Okay. And Dr. Bucolo, you were served with a subpoena</p> <p>13 yesterday.</p> <p>14 A. That's correct.</p> <p>15 Q. Did you bring those items requested?</p> <p>16 A. I believe. I brought my CV.</p> <p>17 Q. Okay. And I'm going to go ahead and mark this as Exhibit</p> <p>18 1, Claimant's Exhibit 1.</p> <p>19 (Whereupon, Claimant's Exhibit 1, was marked for</p> <p>20 identification and introduced into the record without</p> <p>21 objection.)</p> <p>22 MS. OKORO: (Continuing)</p> <p>23 Q. The subpoena also requested any documents used in</p> <p>24 preparation for when you wrote your report. Did you bring those</p> <p>25 items?</p> <p style="text-align: right;">Page 6</p>	<p>1 MS. OKORO: I'll see to it that we get copies.</p> <p>2 COURT REPORTER: And what are those?</p> <p>3 MS. OKORO: These are the - -</p> <p>4 THE WITNESS: Medical articles.</p> <p>5 COURT REPORTER: Okay.</p> <p>6 MS. OKORO: Yes. That were used in preparing his</p> <p>7 report.</p> <p>8 MS. OKORO: (Continuing)</p> <p>9 Q. Doctor, can you state your name for the record.</p> <p>10 A. It's Anthony Phillip Bucolo, Jr.</p> <p>11 Q. Okay. And can you spell that please?</p> <p>12 A. B-u-c-o-l-o.</p> <p>13 Q. And can you state your current occupation and title?</p> <p>14 A. I'm a medical oncologist at CHI St. Vincents.</p> <p>15 Q. And how long have you been there?</p> <p>16 A. I've been there for the last two years, and I practiced</p> <p>17 with Arkansas Oncology for 28 years before that.</p> <p>18 Q. And Dr. Bucolo, how long have you served on the fire panel,</p> <p>19 review panel?</p> <p>20 A. I believe it was 2018.</p> <p>21 Q. Okay. Is that when you were first appointed?</p> <p>22 A. Yes. It's on my CV. Let me look. 2018.</p> <p>23 Q. Okay. And you were appointed by the governor?</p> <p>24 A. Yes.</p> <p>25 Q. How many people make up the panel?</p> <p style="text-align: right;">Page 8</p>
<p>1 A. They're all here.</p> <p>2 Q. Okay. All right. Thank you. And I'm going to mark these</p> <p>3 as Claimant's Exhibit 2.</p> <p>4 COURT REPORTER: Just all together?</p> <p>5 MS. OKORO: Yes.</p> <p>6 (Whereupon, Claimant's Exhibit 2, was marked for</p> <p>7 identification and introduced into the record without</p> <p>8 objection.)</p> <p>9 MS. OKORO: (Continuing)</p> <p>10 Q. And Dr. Bucolo, did you need those items for (inaudible)?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 COURT REPORTER: He needs them back, or - -</p> <p>14 MS. OKORO: Yes. Can you -- just for today while he's</p> <p>15 giving his deposition?</p> <p>16 COURT REPORTER: Gotcha. I'll just have to take them</p> <p>17 at the end.</p> <p>18 THE WITNESS: That's fine. And I'll get them back?</p> <p>19 MS. OKORO: I can - - I can see - -</p> <p>20 COURT REPORTER: I mean, we can try to - -</p> <p>21 MS. OKORO: I can see to - - I'll find a way to make</p> <p>22 some copies for you.</p> <p>23 COURT REPORTER: Unless there's a copy - - Yeah, we</p> <p>24 can get Sophia to make copies of them.</p> <p>25 THE WITNESS: Okay.</p> <p style="text-align: right;">Page 7</p>	<p>1 A. I think there's five or six.</p> <p>2 Q. Okay.</p> <p>3 A. It varies depending on the meeting.</p> <p>4 Q. You said it varies depending on the meeting?</p> <p>5 A. How many people are at the meeting.</p> <p>6 Q. Okay. Now, is there a certain amount of panel members that</p> <p>7 are needed when you are - -</p> <p>8 A. Oh, I'm sure. Yeah, it's a quorum. We've always had a</p> <p>9 quorum.</p> <p>10 Q. Okay. And just for the record, just allow me to complete</p> <p>11 the question so that way the court reporter can get a complete</p> <p>12 record, Doctor. So, can you describe how the panel generally</p> <p>13 works?</p> <p>14 A. We review a case.</p> <p>15 Q. Okay.</p> <p>16 A. And decide if it's related to occupation.</p> <p>17 Q. And how does it work as it relates to rendering a decision?</p> <p>18 A. You know, I generally - - It's generally -- usually</p> <p>19 everyone's in pretty much agreement.</p> <p>20 Q. Okay.</p> <p>21 A. One way or the other. Yeah.</p> <p>22 Q. And what happens when everyone is not in agreement?</p> <p>23 A. I guess we end up here.</p> <p>24 Q. Okay. So, does every panel member get a vote?</p> <p>25 A. Yes, and to be honest with you, you know, I don't know if</p> <p style="text-align: right;">Page 9</p>



<p>1 it has to be unanimous or not.</p> <p>2 Q. Okay. And every panel member's vote carries the same</p> <p>3 amount of weight?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And have you had a chance to review this particular</p> <p>6 claim, Mr. Wayne's claim?</p> <p>7 A. Yeah. Absolutely. I mean, it's clearly [REDACTED].</p> <p>8 Q. Okay. And I'm sorry. I meant just here recently have you</p> <p>9 had - - Did you review the items and - -</p> <p>10 A. Yes.</p> <p>11 Q. - - refresh your memory?</p> <p>12 A. Yes. Oh, yes.</p> <p>13 Q. Okay. Okay. And in this particular claim, do you remember</p> <p>14 the vote in this particular claim?</p> <p>15 A. No. I do not.</p> <p>16 Q. Okay. And what - -</p> <p>17 A. I don't think we ever took a vote.</p> <p>18 Q. Okay. And was it a unanimous decision?</p> <p>19 A. The idea was, is this a congenital process or is this a</p> <p>20 fire-induced process.</p> <p>21 Q. Okay.</p> <p>22 A. Mr. Wayne was diagnosed [REDACTED] -</p> <p>23 Q. Uh-huh (yes).</p> <p>24 A. - - [REDACTED]</p> <p>[REDACTED] . [REDACTED]</p> <p style="text-align: right;">Page 10</p>	<p>1 A. But it was, you know, several years ago.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>9 Q. Uh-huh (yes).</p> <p>10 A. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>14 Q. Uh-huh (yes).</p> <p>15 A. - - [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>18 Q. Okay.</p> <p>19 A. [REDACTED].</p> <p>20 Q. Yes, sir. And before we get to that, I'm trying to</p> <p>21 understand the panel members' role in the decision. Because I</p> <p>22 understand your position, Doctor. I'm trying to understand - -</p> <p>23 Since you testified - - since there was not a vote, why was</p> <p>24 there not a vote? Did you - -</p> <p>25 A. I can't recall. I think they relied on my medical</p> <p style="text-align: right;">Page 12</p>
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>5 Q. Okay.</p> <p>6 A. And [REDACTED]</p> <p>[REDACTED]</p> <p>8 Q. Okay. Before we get to that - -</p> <p>9 A. Right.</p> <p>10 Q. - - I want to go back to the panel. So, when the claim was</p> <p>11 filed by Mrs. Wayne, did you make a recommendation that this</p> <p>12 claim should not be heard? Scratch that. It's your testimony</p> <p>13 that there was not a vote? Correct?</p> <p>14 A. As I recall, you know, pre-covid - -</p> <p>15 Q. Uh-huh (yes), uh-huh (yes).</p> <p>16 A. - - there wasn't a vote because we talked about this being</p> <p>17 an inherited disorder.</p> <p>18 Q. Okay. And so - - and how did that - - was that virtually?</p> <p>19 Was that a virtual meeting?</p> <p>20 A. No. I - - To be honest with you - -</p> <p>21 Q. Uh-huh (yes).</p> <p>22 A. - - I can't recall.</p> <p>23 Q. Okay.</p> <p>24 A. I actually think it was in person.</p> <p>25 Q. Okay. Okay. Okay.</p> <p>[REDACTED]</p> <p style="text-align: right;">Page 13</p>	<p>1 expertise - -</p> <p>2 Q. Okay.</p> <p>3 A. - - to determine whether or not this was an environmental</p> <p>4 or toxin-induced tumor - -</p> <p>5 Q. Uh-huh (yes).</p> <p>6 A. - - or a congenitally developed tumor.</p> <p>7 Q. Okay.</p> <p>8 A. [REDACTED] -</p> <p>9 Q. Uh-huh (yes).</p> <p>10 A. - - [REDACTED].</p> <p>11 Q. Okay. So you're - - you're not aware if panel members felt</p> <p>12 differently?</p> <p>13 A. No. I had - - They asked me my opinion, and I gave them my</p> <p>14 opinion based on the medical literature.</p> <p>15 Q. Gotcha. All right. And Dr. Bucolo, did you have all the</p> <p>16 information you needed necessary to render an informed opinion</p> <p>17 in this matter?</p> <p>18 A. Today? Yes, ma'am.</p> <p>19 Q. Okay. And - -</p> <p>20 A. Okay. I would - - I - - I did not get - -</p> <p>21 Q. Okay.</p> <p>22 A. -- [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p style="text-align: right;">Page 13</p>



[illegible]

Page 18

[illegible]

Page 19

Response	Percentage
Yes, the U.S. should take action to address climate change	95%
No, the U.S. should not take action to address climate change	5%

20 Q. And I understand that, Doctor, and I'm not trying to argue  
21 with the research because I don't think you can, but I think  
22 what I'm trying to be clear on, there's - - there's no set  
23 way - - there's no way we can know for sure that Mr. Wayne or  
24 anyone else for that matter with [REDACTED]

\_\_\_\_\_

Page 20

Response	Percentage
U.S. should take action to address climate change	95%
U.S. should not take action to address climate change	5%

16 Q. And so - - and so, being a firefighter for over 20 years  
17 and being exposed to carcinogens and things of that sort  
18 wouldn't have made [REDACTED] 2

19 MR. FRANCE: I'm going to object. Asked and answered.

20 We've plowed this ground already.

21 MS. OKORO: Okay.

22 MR. FRANCE: Go ahead and answer.

23 MS. OKORO: (Continuing)

24 Q. You can answer.

25 A. No. I - [REDACTED] - -

Page 21



[illegible]

Country	Number of Publications (approx.)
China	95
USA	85
Germany	75
France	65
UK	55
Canada	45
Italy	35
Spain	30
Japan	25
South Korea	20

11 Q. Okay. I forgot this. This is 3.

12 (Whereupon, Claimant's Exhibit 3, was marked for  
13 identification and introduced into the record without  
14 objection.)

15 MS. OKORO: (Continuing)

16 Q. Dr. Bucolo, can you tell me what that is?

17 A. That's correct. That was signed by Brad Hardin.

18 Q. Okay.

19 A. And that was when? '18 I - -

20 MS. OKORO: Do you need to look at it?

21 MR. FRANCE: I know what it is.

22 THE WITNESS: (Continuing)

23 A. That was like the first - - one of the first cases they  
24 asked me about.

25 Q. Okay. And - - and can you tell me what it is? Do you know

Response	Percentage
U.S. should take action	95%
U.S. should not take action	5%

1 what this document is?

2 A. No.

3 Q. Okay.

4 A. I know it was probably after the meeting. They were going  
5 to write something so - -

6 Q. Okay. And is there a - - is that your recommendation?

7 A. That's correct.

8 Q. Okay. Okay. And can you explain that recommendation in  
9 laymen's terms? I know we've kind of been over it.

10 A. I thought we've done this already, but I'll do it again.

[illegible]

[illegible][illegible]

Rank	Length (approximate percentage of total width)
1	100%
2	95%
3	90%
4	85%
5	80%
6	75%
7	70%
8	65%
9	60%
10	55%
11	50%
12	45%
13	40%
14	35%
15	30%

[illegible]

Page 34

[illegible]

Page 35

[illegible]

Page 36

1 Q. Okay.

2 A. So that's question two. Go back to your first question

3 again. Was there anything - -

4 Q. Do you want - - you want me to read it?

5 A. Yes, please.

6 Q. Uh-huh (yes).

[illegible]

Page 37

[illegible]

1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
5 Q. Thank you.  
6 MR. FRANCE: I don't have any questions for him.  
7 (Thereupon, said deposition concluded at 10:44 a m.)  
8 Signature Waived  
9 \* \* \* \* \*  
10  
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1 CERTIFICATE  
2 STATE OF ARKANSAS )  
3 )ss  
4 COUNTY OF CALHOUN )  
5  
6 I, Kerry L Means, Certified Court Reporter and Notary  
7 Public, do hereby certify that the foregoing proceedings on  
8 pages 1 through 40 are true; and that the foregoing proceedings  
9 were recorded verbatim through the use of the Stenomask and  
10 thereafter transcribed by me or under my direct supervision to  
11 the best of my ability, taken at the time and place set out on  
12 the caption hereto  
13 I FURTHER CERTIFY that I am neither counsel for, related  
14 to, nor employed by any of the parties to the action in which  
15 these proceedings were taken; and further, that I am not a  
16 relative or employee of any attorney or counsel employed by the  
17 parties hereto, nor financially interested, or otherwise, in the  
18 outcome of this action  
19 WITNESS MY HAND AND SEAL this 20th day of May, 2022  
20  
21 \_\_\_\_\_  
22 KERRY L MEANS  
23 Certified Court Reporter #840  
24  
25 My Commission Expires: December 23, 2030



## CERTIFICATE

STATE OF ARKANSAS )

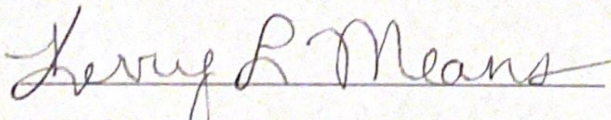
) ss

COUNTY OF CALHOUN )

I, Kerry L. Means, Certified Court Reporter and Notary Public, do hereby certify that the foregoing proceedings on pages 1 through 40 are true; and that the foregoing proceedings were recorded verbatim through the use of the Stenomask and thereafter transcribed by me or under my direct supervision to the best of my ability, taken at the time and place set out on the caption hereto.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

WITNESS MY HAND AND SEAL this 20th day of May, 2022.



KERRY L. MEANS

Certified Court Reporter #840

My Commission Expires: December 23, 2030







[illegible]



[illegible]



[REDACTED]			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



[illegible]

[REDACTED]

<div>[REDACTED]</div>	<div>[REDACTED]</div>	<div>[REDACTED]</div>	<div>[REDACTED]</div>
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[illegible]



**W. L. Rutledge, M.D., P.A.**

The Doctor's Office

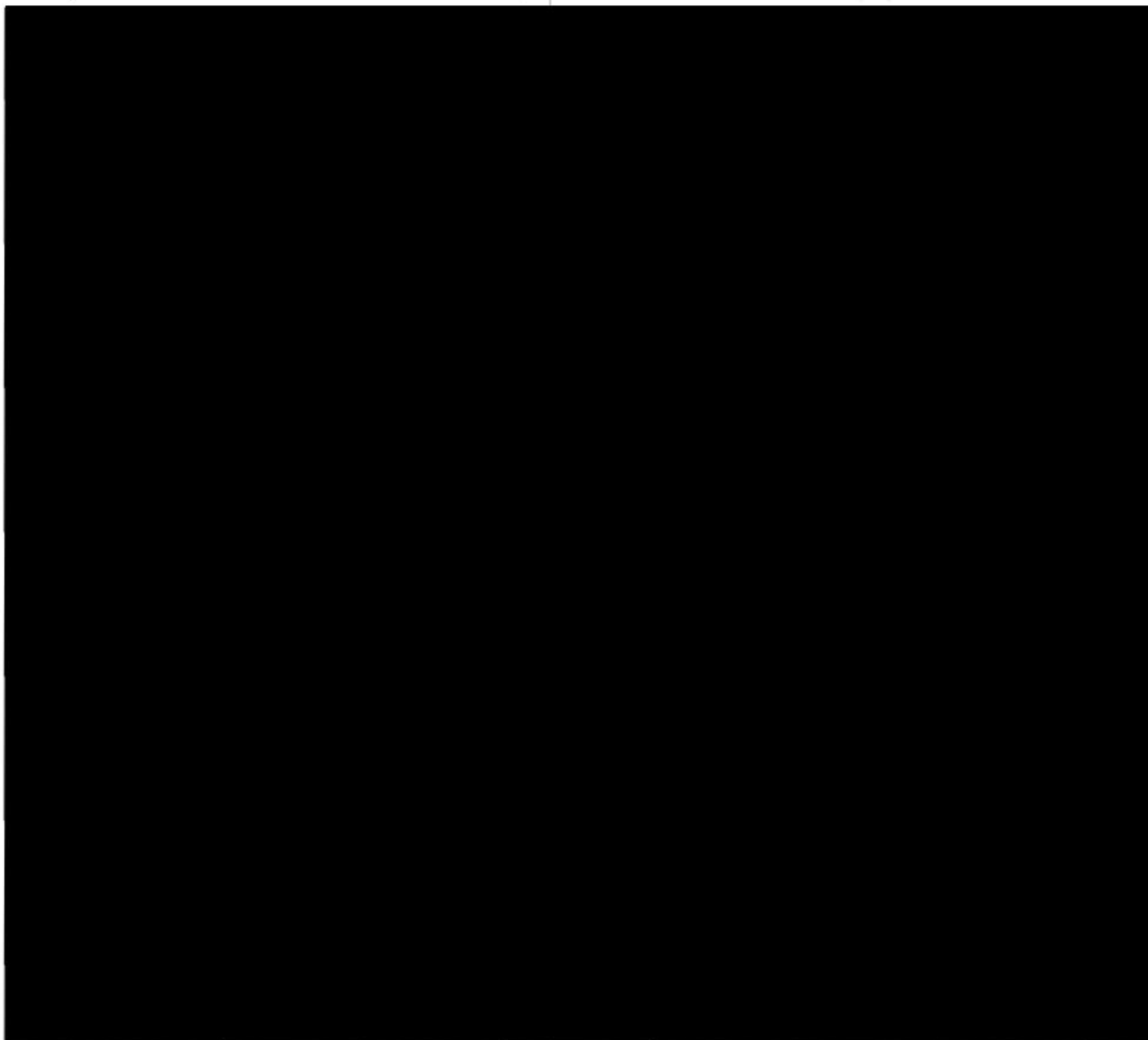
**William L Rutledge, M.D.**

Physician and Surgeon

**PATIENT NAME:** Wayne Sr., Allen Lyn

**DOE:** 09/30/2020

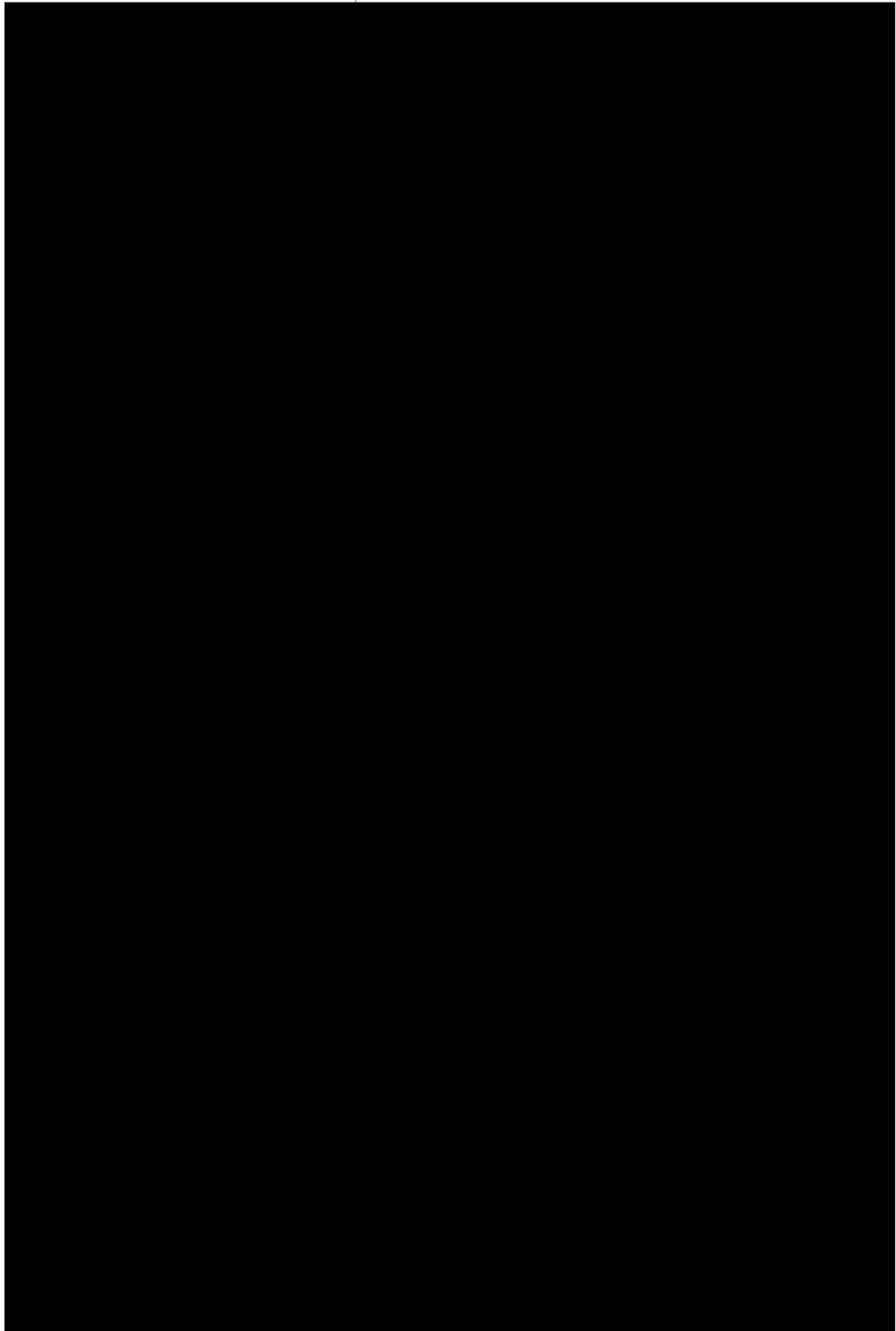
**REVIEW OF MEDICAL RECORDS AND OPINION**



**PATIENT NAME:** Wayne Sr., Allen Lynn

**DOE:** 09/30/2020

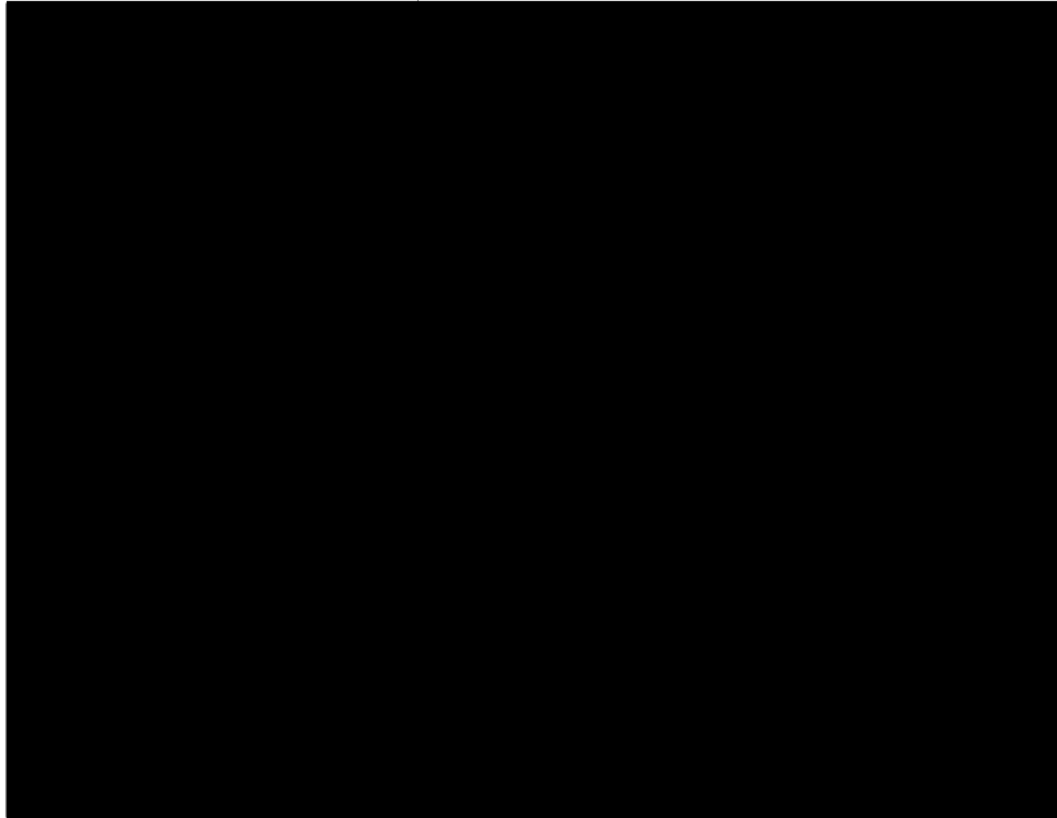
**PAGE TWO**



**PATIENT NAME:** Wayne Sr., Allen Lyn

**DOE:** 09/30/2020

**PAGE THREE**



*W-Rutledge, M.D.*

William Rutledge, M.D.

WR/sb

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

v.

**CLAIM NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Comes Respondent, the State of Arkansas, through Attorney General Tim Griffin and Assistant Attorney General Charles Lyford, and states for its Brief in Support of its Motion for Summary Judgment:

**I. Introduction**

This is a claim for benefits under Ark. Code Ann. § 21-5-705(a)(3), which authorizes payment of \$150,000.00 to survivors of firefighters who are killed by certain cancers that develop as the result of job-related exposures to known carcinogens.<sup>1</sup> The decedent in this case died as the result of [REDACTED] that is not mentioned in section 21-5-705. And the undisputed medical evidence shows that [REDACTED]

---

<sup>1</sup> Claimant also requests educational benefits under Ark. Code Ann. § 6-82-503(a). Post-secondary scholarships are available to the children and spouse of a decedent who “suffers fatal injuries or wounds ... in the performance of a hazardous duty within the scope of his or her employment.” Because the cause of death was a cancer that developed due to a congenital genetic disorder, and not the performance of a hazardous duty, educational benefits should be denied as well. *See also* section 6-82-503(c), requiring the Claims Commission to award scholarships if “any death benefit ... is awarded by the commission under the provisions of § 21-5-701 et seq.”



Respondent does not contest that the decedent was exposed to carcinogens while working as a firefighter. But benefits can only be awarded if that work-related exposure caused the cancer. Here, [REDACTED] The Claims Commission should adopt the recommendation of the Firefighter Benefit Review Panel to deny the claim.

## **II. Standard of Review**

On a motion for summary judgment, the question is whether the “pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.” *See Short v. Westark Community College*, 347 Ark. 497, 65 S.W.3d 440 (quoting Ark. R. Civ. P. 56(c)(2) on summary judgments). If the moving party establishes prima facie entitlement to summary judgment, the “opposing party must meet proof with proof and show that a material fact issue exists.” *Westark Community College*, 347 Ark. 497, 65 S.W.3d 440 (citation omitted). The Arkansas State Claims Commission is bound by the Arkansas Rules of Civil Procedure, and so follows the process outlined above for deciding summary-judgment motions. *See* Claims Comm’n Rule 8.1, Application of Rules of Civil Procedure.

## **III. Undisputed Material Facts**

Decedent Allen Wayne was employed by the Little Rock Fire Department from March of 1984 to June of 2008. Complaint, p. 1. In 2008, Mr. Wayne took medical leave because of [REDACTED] and was transferred to the warehouse of the Department’s Training Facility, where he worked as an equipment-repair technician. Mr. Wayne held that job until he retired from the Department in December of 2014, again due to [REDACTED].

Mr. Wayne died on [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**III. The Commission should adopt the recommendation of the Firefighter Benefit Review Panel and deny the claim.**

The Firefighter Benefit Review Panel made the only determination possible under the clear language of section 21-5-705(a)(3) and the facts of this case: the decedent's cancer was caused by [REDACTED]. While the Claims Commission should adopt the Panel's recommendation to deny the claim, the same result would be reached on examination of the summary-judgment record. There are simply no genuine issues of fact as to medical causation.

Because this is a claim for statutory benefits, the Commission must "determine the meaning and effect" of section 21-5-705(a)(3) by "construing the statute just as it reads, giving the words their ordinary and usually accepted meaning." *Steele v. Lyon*, 2015 Ark. App. 251, 460 S.W.3d 827 (2015) (internal citations omitted). Section 21-5-705(a)(3)(A)(i) states clearly that there are two elements of a successful claim. The decedent must have been "exposed to a known carcinogen ... while in the official line of duty." And that exposure must have caused a cancer that is either listed in the statute, or "that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population."

The first element is not contested. Mr. Wayne was exposed to some level of known carcinogens in 24 years of fighting fires for the City of Little Rock. And because exposure is not

in dispute, the majority of Claimant’s expert opinion is irrelevant. For example, the opinion states that “[e]very substance that is burned causes changes to occur in the chemical structure,” and sometimes smoke “can get under the coats” that firefighters wear. Exhibit B, p. 1. The opinion states that “[h]eat from the fire ... increases the rate of absorption of these harmful chemicals through the skin.” *Id.* at 2. The opinion states that firefighters are “exposed to chemicals such as asbestos and diesel exhaust.” *Id.* at 3. The Commission can disregard these generalized statements, which are not material to deciding this claim.

The second element is causation, where the facts show overwhelmingly that there is no genuine dispute: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

There is absolutely no support for this proposition. According to Dr. Anthony Bucolo, the medical oncologist who reviewed this claim as a member of the Firefighter Benefit Review Panel,

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

While there is no evidence that firefighting caused (or aggravated) Mr. Wayne's

[REDACTED]

By contrast, Claimant's expert opinion on causation is too equivocal to support an award of benefits. Of course, Claimant must prove the required elements by a preponderance of the evidence, which "means evidence of greater convincing force and implies an overbalancing in weight." *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415 (citations omitted). But Claimant's expert calls it a draw, opining that "it is as likely as not (50% probability) that Mr. Wayne's career as a firefighter..." [REDACTED]

[REDACTED] Exhibit B, p. 3. This does not satisfy the preponderance standard. Summary judgment could be granted for this reason alone.

Moreover, Claimant's expert does not opine that the causation element of section 21-5-703(a)(3) actually favors an award of benefits. The opinion states that exposure to carcinogens through firefighting increases the risk of *some* cancers. See Exhibit B, p. 2 ("It is well established that firefighters have an increased incidence of almost all cancers."). But the opinion never states that exposure to carcinogens through firefighting [REDACTED]

[REDACTED]

---

<sup>2</sup> As a result, the opinion fails to address both general causation (“whether a particular agent can cause a particular illness”) and specific causation (“whether that agent in fact caused the particular plaintiff’s illness”). *Richardson v. Union Pac. R. Co.*, 2011 Ark. App. 562, 386 S.W.3d 77 (2011).

#### IV. Conclusion

The Claims Commission should adopt the recommendation of the Firefighter Benefit Review Panel to deny this claim. The cancer that the decedent developed is not listed in section 21-5-705(a)(3), nor is there any causal connection between that cancer and exposure to toxins through firefighting. Summary judgment is appropriate in favor of Respondent.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Charles Lyford  
Ark Bar No. 2010-200  
Assistant Attorney General  
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*Counsel for Respondent*

#### **CERTIFICATE OF SERVICE**

I, Charles Lyford, certify that on March 27, 2023, the foregoing was filed electronically by submission to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov), and served via email to the following:

Crystal J. Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

/s/ Charles Lyford  
Charles Lyford

**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Charles Lyford](#)  
**Subject:** RE: Wayne v. State of Arkansas, 19-0479  
**Date:** Friday, April 7, 2023 10:47:00 AM  
**Attachments:** [image001.jpg](#)

---

Ms. Okoro, here is the link for the August 18 hearing.

[REDACTED]

Please let me know if you need anything else.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Thursday, April 6, 2023 10:37 AM  
**To:** Kathryn Irby <kathryn.irby@arkansas.gov>  
**Cc:** Charles Lyford <charles.lyford@arkansasag.gov>  
**Subject:** Re: Wayne v. State of Arkansas, 19-0479

Ms. Irby,

Can you kindly send me the recording from our hearing held on or about 8/12/2022?

Thank you for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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notify us by telephone, and delete the communication from your system. Thank you.

On Monday, March 27, 2023 at 03:11:58 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

*Gwenover Wayne v. State of Arkansas*

Case No. 19-0479

Good afternoon. Attached on behalf of the Respondent are a Motion for Summary Judgment, exhibits, and a Brief in Support. Given that a hearing in this matter is scheduled for May 19th, the Respondent waives filing a reply brief to any response filed by the Claimant. Thank you.

**Charles Lyford**

Assistant Attorney General

**Office of Arkansas Attorney General Tim Griffin**

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: (501) 682-1314 | Fax: (501) 682-2591

[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Charles Lyford](#)  
**Subject:** Re: Wayne v. State of Arkansas, 19-0479  
**Date:** Monday, April 10, 2023 1:55:43 PM  
**Attachments:** [S1 exten req-gwayne.pdf](#)  
[image001.jpg](#)

---

Please find the attached for filing. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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*Gwenover Wayne v. State of Arkansas*  
Case No. 19-0479

Good afternoon. Attached on behalf of the Respondent are a Motion for Summary Judgment, exhibits, and a Brief in Support. Given that a hearing in this matter is scheduled for May 19th, the Respondent waives filing a reply brief to any response filed by the Claimant. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Arkansas Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
Office: (501) 682-1314 | Fax: (501) 682-2591

[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](https://arkansasag.gov)



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**Claimant's Request for Extension of Time to file Response to the  
Summary Judgment Motion**

Comes Claimant, Gwenever Wayne, by and through counsel, Crystal Okoro for its Request for Extension of Time, states the following:

1. Respondent filed a Summary Judgment Motion on March 27, 2023.
2. Claimant needs additional time to prepare a response, confer, and review Motion with Claimant and expert witnesses. Further, counsel has a federal jury trial setting for April 24, 2023.
3. Counsel requests an additional ten days to respond to said Summary Judgment Motion.
4. The same will allow a response to be filed after the jury trial setting. However, counsel will attempt to make every effort to file before the extension.
5. This request was brought in good faith and is not an attempt to delay the same.

Wherefore, Claimant requests the relief herein and all other relief Claimant may be entitled to.

Respectfully submitted,

By: **GWENEVER A. WAYNE**

Crystal Okoro  
ATTORNEY AT LAW  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com  
/s/ Crystal Okoro  
Crystal Okoro

Ph: 501.859.3424  
Fax: 501.325.1989

**CERTIFICATE OF SERVICE**

I, Charles Lyford, hereby certify that I have served the foregoing through the U.S. Mail postage prepaid, facsimile, or via email on April 10, 2023 the attorney of record for the Claimant at the following:

ATTORNEY FOR THE STATE

Charles Lyford  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201

/S/CRYSTAL OKORO  
CRYSTAL OKORO

**From:** [Kathryn Irby](#)  
**To:** [Charles Lyford](#); [Crystal Okoro](#); [ASCC Pleadings](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** RE: [Possible Phish Fraud]Re: Wayne v. State of Arkansas, 19-0479  
**Date:** Tuesday, April 11, 2023 10:17:00 AM  
**Attachments:** [image001.jpg](#)

---

Thank you for this information. I will note the agreed extension in the claim file.

Kathryn Irby

---

**From:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Sent:** Monday, April 10, 2023 2:22 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; ASCC Pleadings <[ascccpleadings@arkansas.gov](mailto:ascccpleadings@arkansas.gov)>  
**Cc:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** RE: [Possible Phish Fraud]Re: Wayne v. State of Arkansas, 19-0479

*Gwenover Wayne v. State of Arkansas*  
Case No. 19-0479

Director Irby:

The Respondent does not object to the request for a ten-day extension of time to respond to the Motion for Summary Judgment in the above-referenced case. Thank you.

Charles Lyford

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Monday, April 10, 2023 1:56 PM  
**To:** [ascccpleadings@arkansas.gov](mailto:ascccpleadings@arkansas.gov)  
**Cc:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** [Possible Phish Fraud]Re: Wayne v. State of Arkansas, 19-0479

**EXTERNAL EMAIL**

---

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It may pose as a legitimate company, tricking victims into revealing personal information.

If you do not know the sender or cannot verify the integrity of the message, please do not respond or click on links in the message. Depending on the security settings, clickable URLs may have been modified to provide additional security.

---

Please find the attached for filing. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Monday, March 27, 2023 at 03:11:58 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

*Gwenover Wayne v. State of Arkansas*

Case No. 19-0479

Good afternoon. Attached on behalf of the Respondent are a Motion for Summary Judgment, exhibits, and a Brief in Support. Given that a hearing in this matter is scheduled for May 19th, the Respondent waives filing a reply brief to any response filed by the Claimant. Thank you.

**Charles Lyford**

Assistant Attorney General

**Office of Arkansas Attorney General Tim Griffin**

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: (501) 682-1314 | Fax: (501) 682-2591

[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)





**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Charles Lyford](#)  
**Subject:** RE: Wayne v. State of Arkansas, 19-0479  
**Date:** Tuesday, April 11, 2023 10:44:00 AM  
**Attachments:** [HEARING RESCHEDULED Wayne v. State of Arkansas, No. 190479.pdf](#)  
[image001.jpg](#)

---

Ms. Okoro, the hearing scheduled for 9/17/2021 was continued to 1/14/2022 (see attached email). The link for the 1/14/2022 recording is below.

[REDACTED]

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Monday, April 10, 2023 2:08 PM  
**To:** Kathryn Irby <kathryn.irby@arkansas.gov>  
**Cc:** Charles Lyford <charles.lyford@arkansasag.gov>  
**Subject:** Re: Wayne v. State of Arkansas, 19-0479

Ms. Irby, upon review the recording actually needed is the motion to compel hearing held on September 17, 2021. It was held via Zoom as well.

Thank you for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, April 7, 2023 at 10:47:45 AM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro, here is the link for the August 18 hearing.

[REDACTED]

Please let me know if you need anything else.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Thursday, April 6, 2023 10:37 AM  
**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Cc:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** Re: Wayne v. State of Arkansas, 19-0479

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Crystal J. Okoro  
Attorney at Law  
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North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)

F:501-325-1989  
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On Monday, March 27, 2023 at 03:11:58 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

*Gwenover Wayne v. State of Arkansas*  
Case No. 19-0479

Good afternoon. Attached on behalf of the Respondent are a Motion for Summary Judgment, exhibits, and a Brief in Support. Given that a hearing in this matter is scheduled for May 19th, the Respondent waives filing a reply brief to any response filed by the Claimant. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Arkansas Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
Office: (501) 682-1314 | Fax: (501) 682-2591  
[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**GWENEVER A. WAYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 190479**

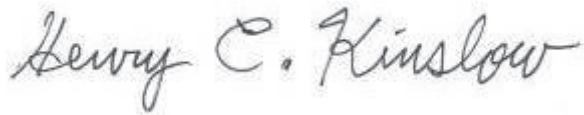
**STATE OF ARKANSAS**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the request by Gwenever A. Wayne (the “Claimant”) seeking an additional ten days to respond to the motion for summary judgment filed by the State of Arkansas (the “Respondent”). Respondent does not oppose Claimant’s request. As such, the Claims Commission GRANTS Claimant’s request and permits Claimant an additional ten days to respond to Respondent’s motion for summary judgment.

IT IS SO ORDERED.



---

ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



---

ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair



---

ARKANSAS STATE CLAIMS COMMISSION  
Sylvester Smith

DATE: April 20, 2023

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Charles Lyford](#)  
**Subject:** Re: Wayne v. State of Arkansas, 19-0479  
**Date:** Wednesday, April 26, 2023 1:30:53 PM  
**Attachments:** [SJ response-gwayne draft F.pdf](#)  
[Exhibit A- Baptist Med 2005.pdf](#)  
[Exhibit B- Dr. Rutledge Rep.pdf](#)  
[image001.jpg](#)

---

Please find the Claimant's Summary Judgment Response and Exhibits.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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*Gwenover Wayne v. State of Arkansas*  
Case No. 19-0479

Good afternoon. Attached on behalf of the Respondent are a Motion for Summary Judgment, exhibits, and a Brief in Support. Given that a hearing in this matter is scheduled for May 19th, the Respondent waives filing a reply brief to any response filed by the Claimant. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Arkansas Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

Office: (501) 682-1314 | Fax: (501) 682-2591  
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**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**Claimant's Response to the Summary Judgment Motion and Brief in  
Support Thereof**

Comes now, the Claimant, by and through counsel, Crystal Okoro, and for her Response to the Summary Judgment Motion and Brief in Support thereof now states:

**Introduction**

The items submitted by the Respondent themselves as contrasted against the Claim and record clearly show that summary disposition is not appropriate in this case. Although the Respondent's exhibits attached to its Summary Judgment filing demonstrate material facts are disputed, the Claimant will delineate specific material facts at issue in the Respondent's Exhibits and other parts of the record.

The Ark. Code Ann. Section 21-5-705 allows for survivors of firefighters to recover benefits where firefighters are killed by certain cancers and other cancers. It specifically provides, " Firefighter killed in the line of duty after January 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, or a cancer that has been found by research and statistics to show higher instances of occurrence in firefighters...." Ark. Code Ann. Section 21-5-705(a)(3). Mr. Wayne had [REDACTED]

[REDACTED] The environmental exposures to carcinogens on Mr. Wayne's job as a firefighter contributed to the manifestation of



[REDACTED]

[REDACTED]

**Summary Judgment Standard**

Claimant points out that Rule 56 and the applicable case law does not favor summary relief. Summary judgment is an extreme remedy, only to be granted when it is absolutely and abundantly clear that there is no way for a plaintiff to prevail at trial on the merits, and that reasonable minds could only believe one way, the Respondents' way about material relevant facts. See also, Wallace v. Broyles, 332 Ark. 189 and Rule 56 of Arkansas Rules of Civil Procedure. That is certainly not the case here. The object of summary judgment proceedings is not to try the issues, but to determine if there are any issues to be tried, and if there is any doubt whatsoever, the motion should be denied." Thomas v. Sessions, 307 Ark. 203, 204. The court has even ruled that Summary Judgment isn't appropriate even, "where evidence, although in no material dispute as to actuality, reveals aspects from which inconsistent hypothesis might reasonably be drawn and reasonable minds might differ. Thomas v. Sessions, 307 Ark. 203, 204. Here, not only are there material facts that are at issue, but different conclusions can be reached and reasonable minds can differ as to the evidence provided by the experts. Further, the panel met on January 14, 2022 and stated not only would this matter go before the panel, but it would be heard without reference to any previous conclusions reached by the Review Board. The Claims Commission cannot merely adopt the recommendation of the Firefighter Review Board. Yet, that is the relief sought now by the Respondents.

**Material facts are at Issue**

Mr. Wayne battled fires from age 24 in 1984 to age 46, in 2008. Mr. Wayne was diagnosed [REDACTED] two years after becoming a firefighter. The Respondents and Dr. Bucculo incorrectly state that Mr. Wayne had [REDACTED]

[REDACTED]

[REDACTED]. Exhibit A p.1. Mr. Wayne fought fires for approximately twenty-one years when this [REDACTED]. Id. It should be noted that Mr. Wayne lived

[REDACTED].

But what separates Mr. Wayne from others with [REDACTED] is his line of work. Mr. Wayne would ultimately develop [REDACTED]. (Exhibit B p. 2)

A material disputed fact is whether environmental factors are capable of making

[REDACTED]. Dr. Bucculo opines it cannot and Dr.

Rutledge posits that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] These are material disputed facts at issue.

Claimant acknowledges that Mr. Wayne's diagnosis of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### **Conclusion**

There are genuine material facts at issue and summary judgment is not appropriate where material facts are at dispute. Therefore, the Respondent's Summary Judgment Motion should be denied.

Respectfully submitted,

By: **GWENEVER A. WAYNE**

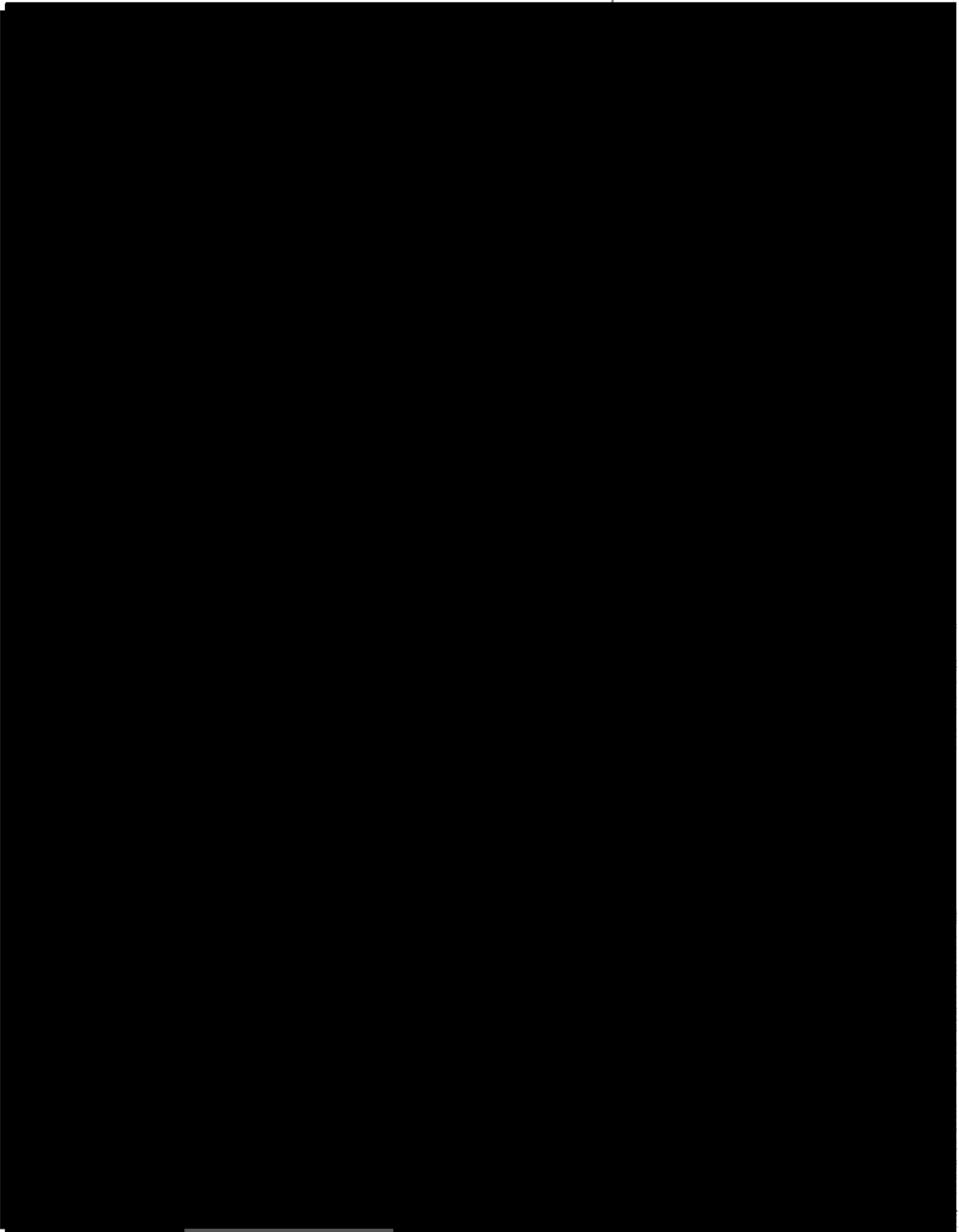
Crystal Okoro  
ATTORNEY AT LAW  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com  
/s/ Crystal Okoro  
Crystal Okoro  
Ph: 501.859.3424  
Fax: 501.325.1989

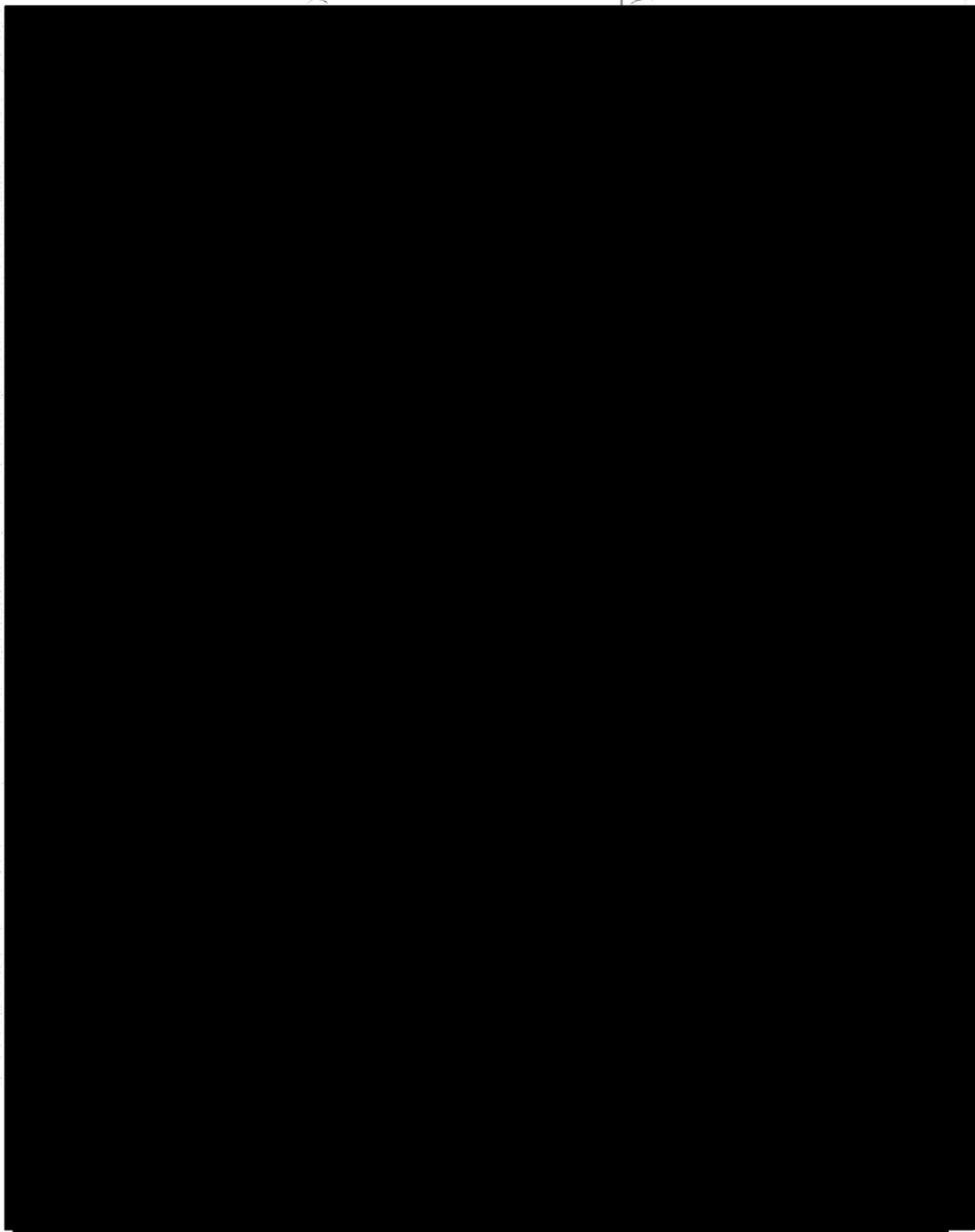
**CERTIFICATE OF SERVICE**

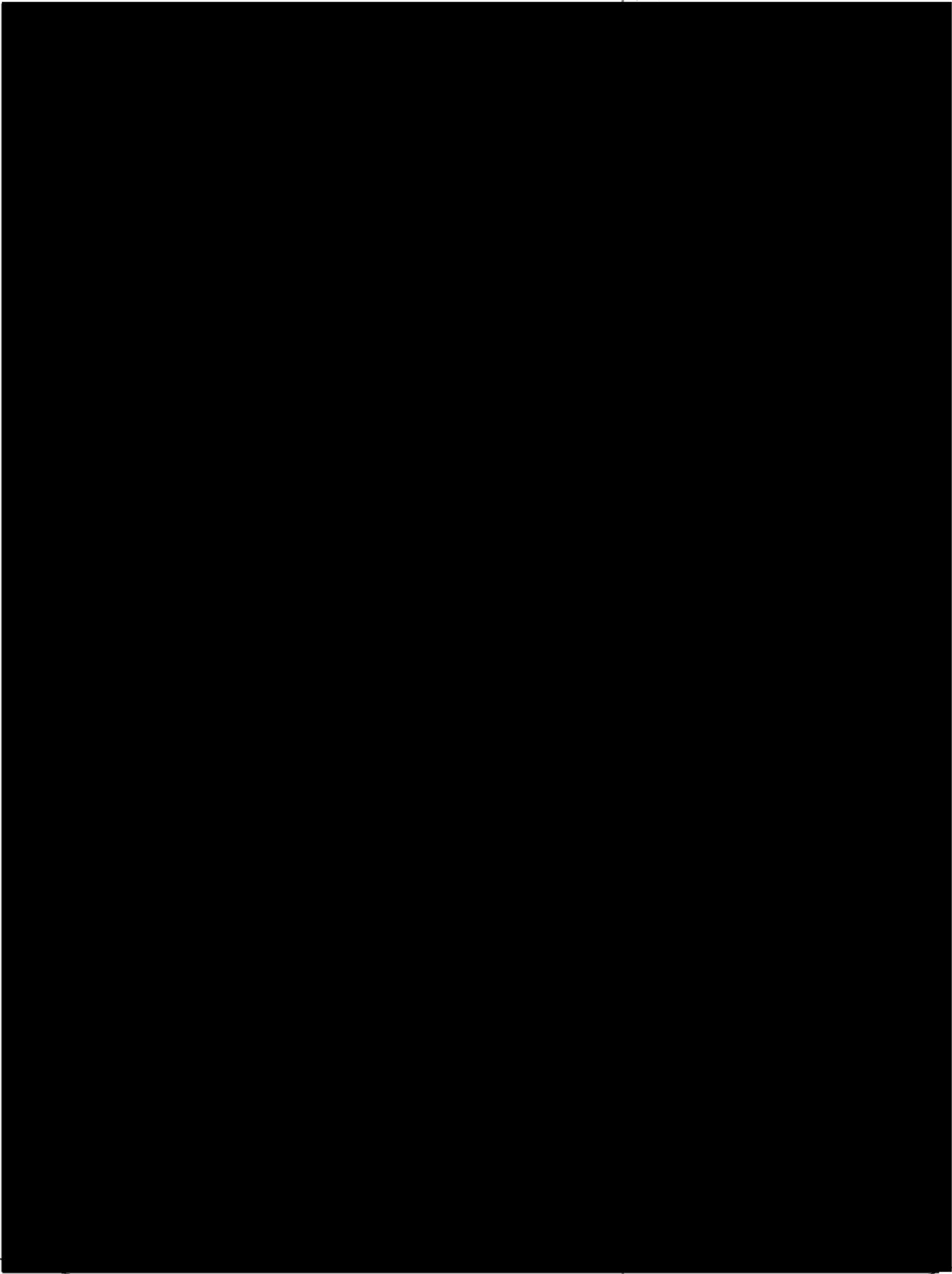
I, Crystal Okoro, hereby certify that I have served the foregoing through the U.S. Mail postage prepaid, facsimile, or via email on April 26, 2023 the attorney of record for the Respondent at the following:

ATTORNEY FOR THE STATE  
Charles Lyford  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201

/S/CRYSTAL OKORO  
CRYSTAL OKORO









**W. L. Rutledge, M.D., P.A.**

The Doctor's Office

**William L. Rutledge, M.D.**

Physician and Surgeon

October 9, 2020

**PATIENT NAME:** Wayne Sr., Allen Lynn

**REVIEW OF MEDICAL RECORDS AND OPINION**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PATIENT NAME: Wayne Sr., Allen Lynn

PAGE TWO

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



PATIENT NAME: Wayne Sr., Allen Lynn  
PAGE THREE

[REDACTED]

[REDACTED]

William Rutledge, M.D.  
WR/ag

**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Charles Lyford](#)  
**Subject:** Exhibit and Witnesses  
**Date:** Thursday, April 27, 2023 7:19:41 PM  
**Attachments:** [epid\\_study\\_FF.pdf](#)  
[Poly Aro Hydro .pdf](#)  
[Cancer Institute- endocr.pdf](#)  
[2023.04.24 witness and exh list-qwayne.pdf](#)  
[Scanned from a Lexmark Multifunction Product04-26-2023-143434.pdf](#)  
[Exhibit B- Dr. Rutledge Rep.pdf](#)  
[Exhibit A- Baptist Med 2005.pdf](#)

---

In addition to any exhibits, that the Respondents may admit, please find Exhibits and Witnesses that may be called and/or admitted in this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**April 24, 2023**

**Possible Witness List**

Dr. Rutledge  
Ex-Fire Chief Greg Summers  
Bo Hagar  
Joe Cuffel  
Vaden Holmes  
Anthony Franklin  
Harold Brown  
Gene Etheridge  
Wade Marshall  
Charlanda Kimble  
Alex Wayne

**Possible Exhibit List**

Dr. Rutledge Report's and research used  
Dr. Buccolo's Report and research used  
Transcript of Deposition of Dr. Buccolo and Exhibits

The claimant reserves the right to supplement the above and call any of the witnesses called by the Respondent.

Cc: Vincent France























































**W. L. Rutledge, M.D., P.A.**

The Doctor's Office

**William L. Rutledge, M.D.**

Physician and Surgeon

October 9, 2020

**PATIENT NAME:** Wayne Sr., Allen Lynn

**REVIEW OF MEDICAL RECORDS AND OPINION**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PATIENT NAME: Wayne Sr., Allen Lynn

PAGE TWO

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

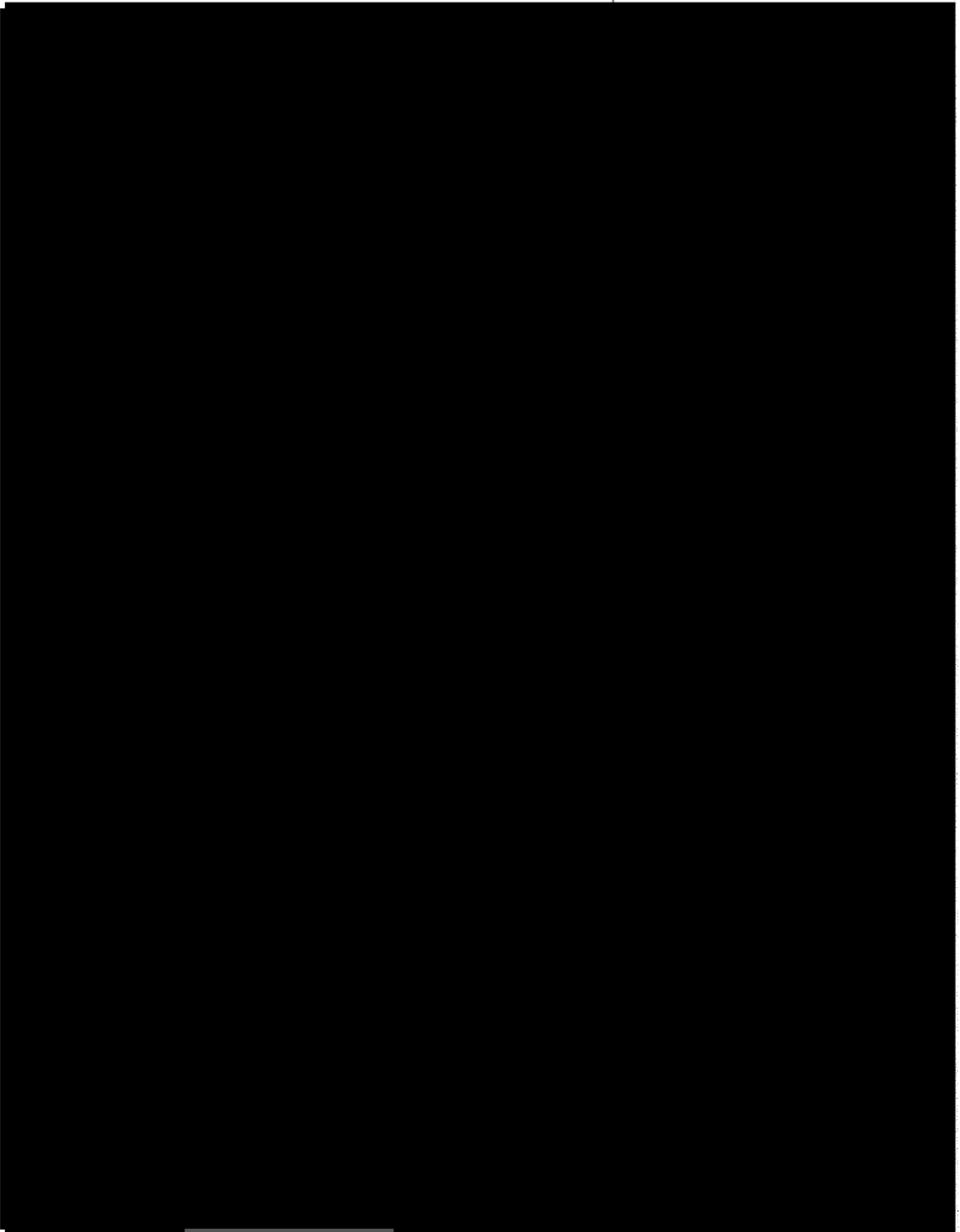
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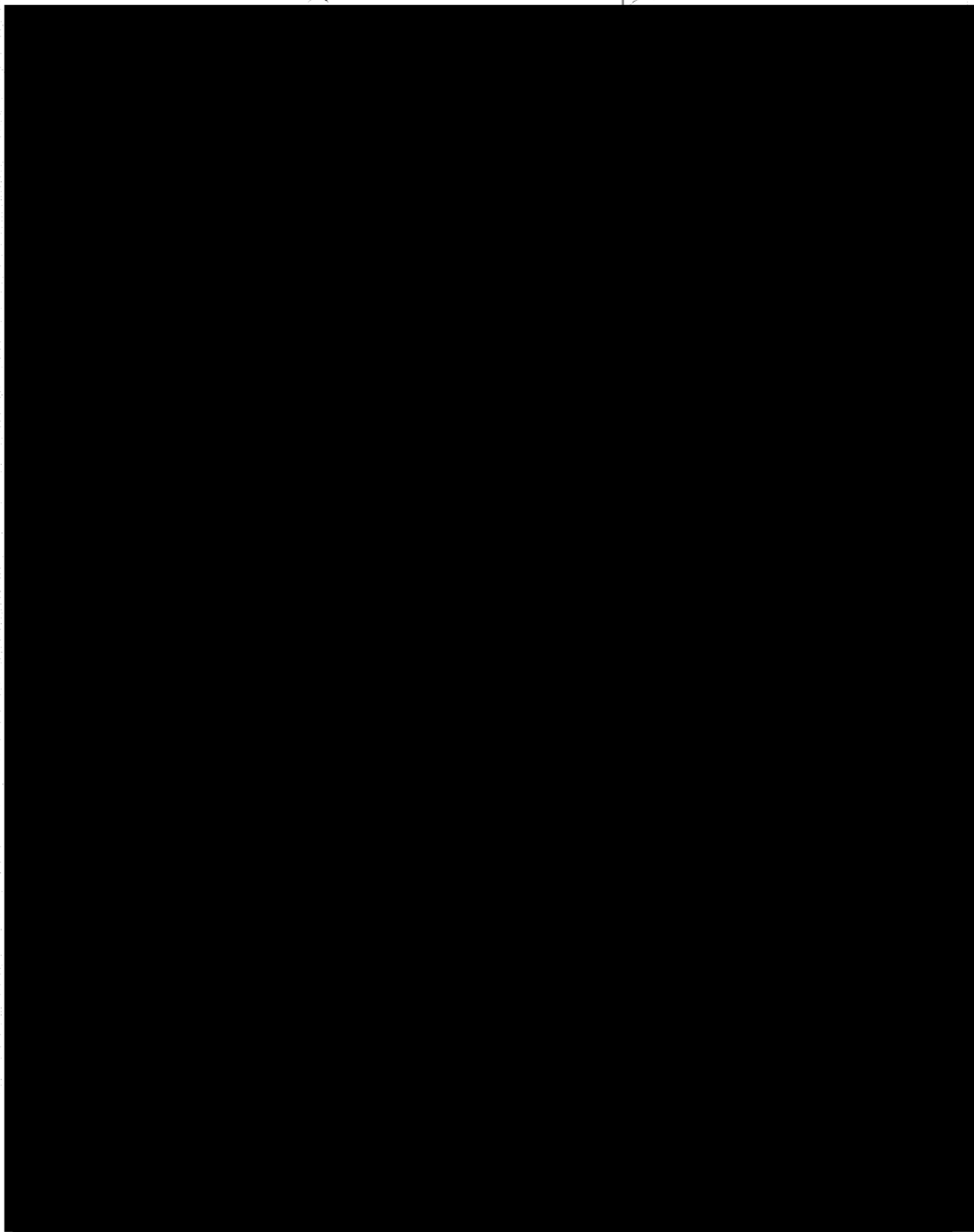
PATIENT NAME: Wayne Sr., Allen Lynn  
PAGE THREE

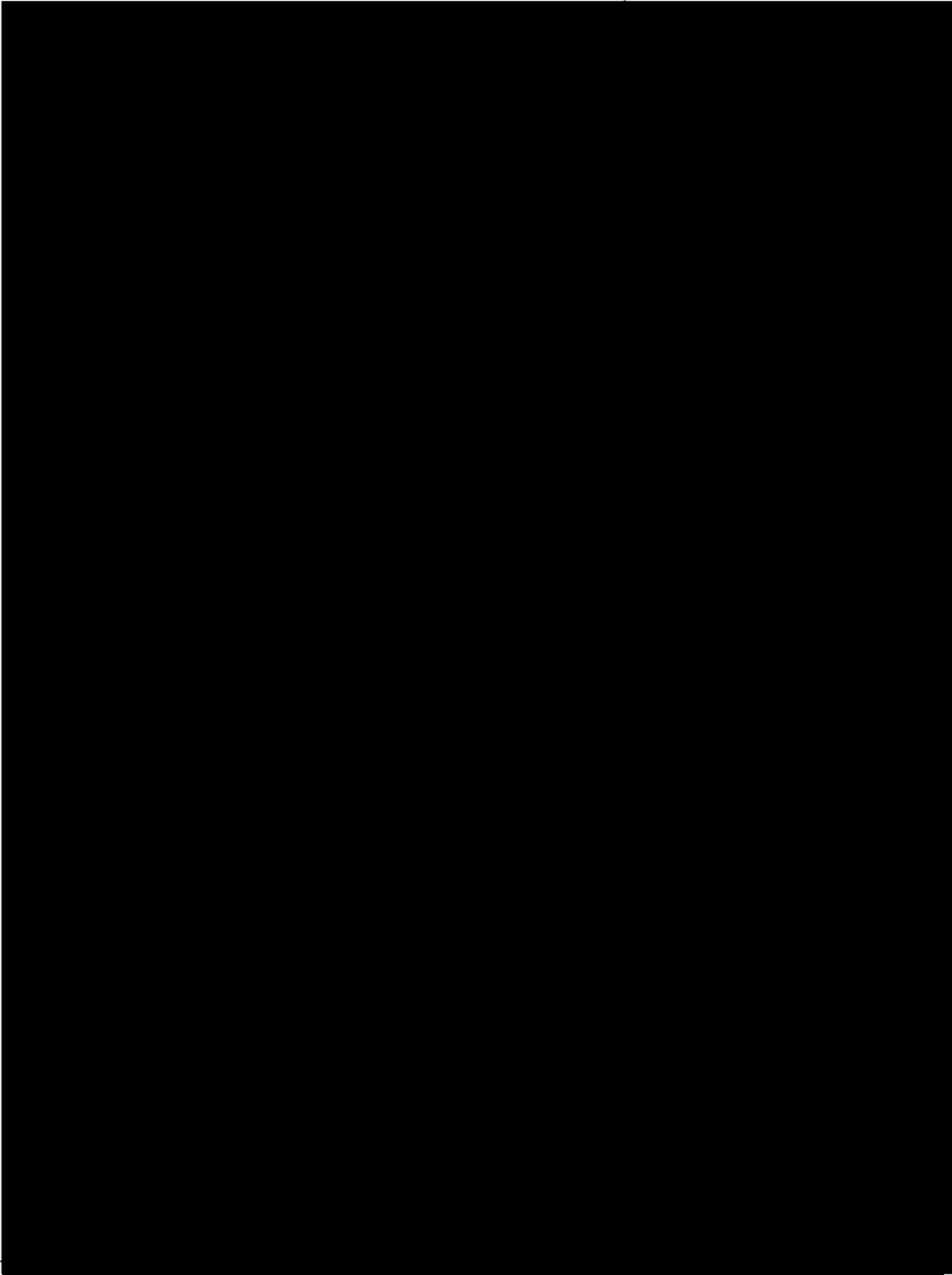
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William Rutledge, M.D.  
WR/ag







**From:** [Kathryn Irby](#) on behalf of [ASCC Pleadings](#)  
**To:** ["Charles Lyford"](#); ["Crystal Okoro"](#)  
**Cc:** ["Johanna Hinkle"](#)  
**Subject:** ORDER: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Friday, April 28, 2023 6:27:00 AM  
**Attachments:** [153-Wayne -- 190479 -- CI's request for extension to respond to MSJ granted.pdf](#)  
[image001.jpg](#)

---

Ms. Okoro and Mr. Lyford, please find the Commission's order related to this agreed extension.

Thanks,  
Kathryn Irby

---

**From:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Sent:** Tuesday, April 11, 2023 10:18 AM  
**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>;  
ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** RE: [Possible Phish Fraud]Re: Wayne v. State of Arkansas, 19-0479

Thank you for this information. I will note the agreed extension in the claim file.

Kathryn Irby

---

**From:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Sent:** Monday, April 10, 2023 2:22 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; ASCC Pleadings <[asccpleadings@arkansas.gov](mailto:asccpleadings@arkansas.gov)>  
**Cc:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** RE: [Possible Phish Fraud]Re: Wayne v. State of Arkansas, 19-0479

*Gwenover Wayne v. State of Arkansas*  
Case No. 19-0479

Director Irby:

The Respondent does not object to the request for a ten-day extension of time to respond to the Motion for Summary Judgment in the above-referenced case. Thank you.

Charles Lyford

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Monday, April 10, 2023 1:56 PM  
**To:** [asccpleadings@arkansas.gov](mailto:asccpleadings@arkansas.gov)  
**Cc:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** [Possible Phish Fraud]Re: Wayne v. State of Arkansas, 19-0479





**EXTERNAL EMAIL**

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It may pose as a legitimate company, tricking victims into revealing personal information.

If you do not know the sender or cannot verify the integrity of the message, please do not respond or click on links in the message. Depending on the security settings, clickable URLs may have been modified to provide additional security.

---

Please find the attached for filing. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

PLEASE NOTE NEW FAX NO.!!!

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On Monday, March 27, 2023 at 03:11:58 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

*Gwenover Wayne v. State of Arkansas*

Case No. 19-0479

Good afternoon. Attached on behalf of the Respondent are a Motion for Summary Judgment, exhibits, and a Brief in Support. Given that a hearing in this matter is scheduled for May 19th, the Respondent

waives filing a reply brief to any response filed by the Claimant. Thank you.

**Charles Lyford**

Assistant Attorney General

**Office of Arkansas Attorney General Tim Griffin**

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: (501) 682-1314 | Fax: (501) 682-2591

[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**GWENEVER A. WAYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 190479**

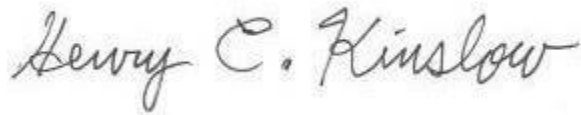
**STATE OF ARKANSAS**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the request by Gwenever A. Wayne (the “Claimant”) seeking an additional ten days to respond to the motion for summary judgment filed by the State of Arkansas (the “Respondent”). Respondent does not oppose Claimant’s request. As such, the Claims Commission GRANTS Claimant’s request and permits Claimant an additional ten days to respond to Respondent’s motion for summary judgment.

IT IS SO ORDERED.



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ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



---

ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair



---

ARKANSAS STATE CLAIMS COMMISSION  
Sylvester Smith

DATE: April 20, 2023

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

**From:** [Charles Lyford](#)  
**To:** [ASCC Pleadings](#); [Kathryn Irby](#); [Crystal Okoro](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** Wayne v. State, witness and exhibit list (1/3)  
**Date:** Friday, April 28, 2023 1:29:01 PM  
**Attachments:** [image001.jpg](#)  
[2023-04-28 Respondent's Witness and Exhibit Lists \(Wayne\).pdf](#)  
[Respondent Exhibits Pt. 1-1 \(Wayne v. State\).pdf](#)

---

Gwenover Wayne v. State of Arkansas  
Claim No. 19-0479

Good afternoon. Attached is the Respondent's Witness and Exhibit List in the above-referenced claim. This is email one of three. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
(501) 682-1314 (Direct)  
(501) 682-2591 (Fax)  
[www.ArkansasAG.gov](http://www.ArkansasAG.gov)





# TIM GRIFFIN

## ATTORNEY GENERAL OF ARKANSAS

Charles Lyford  
Assistant Attorney General

Direct Dial: (501) 682-1314  
Email: [charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)

April 28, 2023

Arkansas State Claims Commission  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas, 72201

VIA EMAIL

Re: *Gwenever Wayne v. State of Arkansas*, Claim No. 19-0479  
Witness and Exhibit List

Director Irby:

The Respondent provides the following list of witnesses and exhibits in *Wayne v. State*, set for an in-person hearing on May 19, 2023. Please contact me at 501-682-1314 with any questions. Thanks as always for your time and consideration.

### **Witnesses**

Claimant;

Any witness identified by Claimant; and

By deposition transcript only - Dr. Anthony Bucolo, oncologist member of the Firefighter Benefit Review Panel.

### **Exhibits**

Any exhibit identified by Claimant;

Respondent Exhibits Pt. 1 (Deposition transcript of Dr. Anthony Bucolo and exhibits to transcript);

Respondent Exhibits Pt. 2 (Medical record of Anthony Wayne); and

Pleadings and motions, including exhibits, on file with the Claims Commission for *Wayne v. State*.

The Respondent reserves the right to introduce exhibits in addition to those listed above for purposes of rebuttal.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Lyford'.

Charles Lyford  
Assistant Attorney General  
*Counsel for Respondent*

cc via email:  
Crystal Okoro  
*Counsel for Claimant*

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ARKANSAS STATE CLAIMS COMMISSION

GWENEVER WAYNE

CLAIMANT

VS.

CLAIM NO. 190479

STATE OF ARKANSAS

RESPONDENT

ORAL DEPOSITION OF DR. ANTHONY BUCOLO

FRIDAY, APRIL 29, 2022

9:36 A.M. - 10:44 A.M.

Page 1



APPEARANCES

ON BEHALF OF PLAINTIFFS:

CRYSTAL JUNIECE OKORO, ESQUIRE  
P.O. BOX 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

ON BEHALF OF DEFENDANTS:

VINCENT P. FRANCE, ESQUIRE  
ASSISTANT ATTORNEY GENERAL  
323 Center Street  
Suite 200  
Little Rock, AR 72201  
vincent.france@ArkansasAG.gov

ALSO PRESENT:

Charlanda Kimble  
Gwenever Wayne

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I N D E X

CAPTION ..... 1

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WITNESS: SAMUEL WAYNE WYATT

Direct Examination by Ms. Okoro..... 5

Introduction of Claimant's Exhibit 1..... 6

Introduction of Claimant's Exhibit 2..... 7

Introduction of Claimant's Exhibit 3..... 28

DEPOSITION CONCLUDED ..... 39

E X H I B I T S

- Claimant's Exhibit 1 (Dr. Bucolo's CV)
- 
- Claimant's Exhibit 2 (Medical Articles)
- 
- Claimant's Exhibit 3 (Claim Denial)

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STIPULATIONS

THE ORAL DEPOSITION OF DR. ANTHONY BUCOLO is being taken on Friday, April 29, 2022, before Kerry L. Means, Certified Court Reporter, beginning at 9:36 a.m., in accordance with the following:

IT IS HEREBY AGREED AND STIPULATED by the parties in the above cause, through their attorneys of record, that the deposition of Dr. Anthony Bucolo, may be taken on oral deposition before Kerry L. Means, CCR, pursuant to the Arkansas Rules of Civil Procedure for use as permitted by the Rules; that the questions and answers so given and propounded shall be transcribed by the reporter; that all formalities in the notifying, taking, transcribing, signing of the deposition are waived; that the right to object to the testimony of the witness on the grounds of competency, relevancy and materiality is expressly reserved, other than the form of the questions as propounded to the witness; and that those such objections may be asserted at the time of trial without the necessity of noting the objection at the taking of the deposition.

IT IS FURTHER AGREED that when the questions and answers are reduced to typewriting, the deposition may be mailed or delivered as follows: one electronic copy to Ms. Okoro; and one electronic copy to Mr. France.

WHEREUPON, there being no further stipulations, the following proceedings were had and done, to-wit:

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P R O C E E D I N G S

(Witness Sworn)

WHEREUPON, DR. ANTHONY BUCOLO, having been duly sworn,  
gave the following testimony to wit:

DIRECT EXAMINATION

BY MS. OKORO:

Q. My name is Crystal Okoro. I represent Ms. Wayne and the  
family in this matter, and Dr. Bucolo, have you given a  
deposition before? I'm sure you have.

A. Yes.

Q. Okay. So, as you already know, it's important that the  
court reporter get - - she gets all the information down. I'm  
sure it's gonna be stuff that I mispronounce with the medical  
jargon, so - -

A. That's quite all right.

Q. Feel free to correct me. Of course, if you don't  
understand something that I'm stating, please let me know, and  
I'll restate my question. Mr. France, he may object, and of  
course you - - I'll stop and allow him to make his objection for  
the record, and then you can continue on and answer the  
question.

COURT REPORTER: And you might've done it, but I'm  
just making sure. That mic right there - - right here,  
this - -

MS. OKORO: Oh, this one right here?

1 COURT REPORTER: Just make sure you don't, like, put  
2 any papers - -

3 MS. OKORO: Yes.

4 COURT REPORTER: - - or anything like that. I  
5 just - - Because it'll cause interference.

6 MS. OKORO: Okay.

7 COURT REPORTER: Thanks.

8 MS. OKORO: No problem.

9 MS. OKORO: (Continuing)

10 Q. Did you have any questions based off of what I - -

11 A. No, ma'am.

12 Q. Okay. And Dr. Bucolo, you were served with a subpoena  
13 yesterday.

14 A. That's correct.

15 Q. Did you bring those items requested?

16 A. I believe. I brought my CV.

17 Q. Okay. And I'm going to go ahead and mark this as Exhibit  
18 1, Claimant's Exhibit 1.

19 (Whereupon, Claimant's Exhibit 1, was marked for  
20 identification and introduced into the record without  
21 objection.)

22 MS. OKORO: (Continuing)

23 Q. The subpoena also requested any documents used in  
24 preparation for when you wrote your report. Did you bring those  
25 items?

1 A. They're all here.

2 Q. Okay. All right. Thank you. And I'm going to mark these  
3 as Claimant's Exhibit 2.

4 COURT REPORTER: Just all together?

5 MS. OKORO: Yes.

6 (Whereupon, Claimant's Exhibit 2, was marked for  
7 identification and introduced into the record without  
8 objection.)

9 MS. OKORO: (Continuing)

10 Q. And Dr. Bucolo, did you need those items for (inaudible)?

11 A. Yes.

12 Q. Okay.

13 COURT REPORTER: He needs them back, or - -

14 MS. OKORO: Yes. Can you -- just for today while he's  
15 giving his deposition?

16 COURT REPORTER: Gotcha. I'll just have to take them  
17 at the end.

18 THE WITNESS: That's fine. And I'll get them back?

19 MS. OKORO: I can - - I can see - -

20 COURT REPORTER: I mean, we can try to - -

21 MS. OKORO: I can see to - - I'll find a way to make  
22 some copies for you.

23 COURT REPORTER: Unless there's a copy - - Yeah, we  
24 can get Sophia to make copies of them.

25 THE WITNESS: Okay.

1 MS. OKORO: I'll see to it that we get copies.

2 COURT REPORTER: And what are those?

3 MS. OKORO: These are the - -

4 THE WITNESS: Medical articles.

5 COURT REPORTER: Okay.

6 MS. OKORO: Yes. That were used in preparing his  
7 report.

8 MS. OKORO: (Continuing)

9 Q. Doctor, can you state your name for the record.

10 A. It's Anthony Phillip Bucolo, Jr.

11 Q. Okay. And can you spell that please?

12 A. B-u-c-o-l-o.

13 Q. And can you state your current occupation and title?

14 A. I'm a medical oncologist at CHI St. Vincents.

15 Q. And how long have you been there?

16 A. I've been there for the last two years, and I practiced  
17 with Arkansas Oncology for 28 years before that.

18 Q. And Dr. Bucolo, how long have you served on the fire panel,  
19 review panel?

20 A. I believe it was 2018.

21 Q. Okay. Is that when you were first appointed?

22 A. Yes. It's on my CV. Let me look. 2018.

23 Q. Okay. And you were appointed by the governor?

24 A. Yes.

25 Q. How many people make up the panel?

1 A. I think there's five or six.

2 Q. Okay.

3 A. It varies depending on the meeting.

4 Q. You said it varies depending on the meeting?

5 A. How many people are at the meeting.

6 Q. Okay. Now, is there a certain amount of panel members that  
7 are needed when you are - -

8 A. Oh, I'm sure. Yeah, it's a quorum. We've always had a  
9 quorum.

10 Q. Okay. And just for the record, just allow me to complete  
11 the question so that way the court reporter can get a complete  
12 record, Doctor. So, can you describe how the panel generally  
13 works?

14 A. We review a case.

15 Q. Okay.

16 A. And decide if it's related to occupation.

17 Q. And how does it work as it relates to rendering a decision?

18 A. You know, I generally - - It's generally -- usually  
19 everyone's in pretty much agreement.

20 Q. Okay.

21 A. One way or the other. Yeah.

22 Q. And what happens when everyone is not in agreement?

23 A. I guess we end up here.

24 Q. Okay. So, does every panel member get a vote?

25 A. Yes, and to be honest with you, you know, I don't know if



1 it has to be unanimous or not.

2 Q. Okay. And every panel member's vote carries the same  
3 amount of weight?

4 A. Yes.

5 Q. Okay. And have you had a chance to review this particular  
6 claim, Mr. Wayne's claim?

7 A. Yeah. Absolutely. I mean, it's clearly [REDACTED].

8 Q. Okay. And I'm sorry. I meant just here recently have you  
9 had - - Did you review the items and - -

10 A. Yes.

11 Q. - - refresh your memory?

12 A. Yes. Oh, yes.

13 Q. Okay. Okay. And in this particular claim, do you remember  
14 the vote in this particular claim?

15 A. No. I do not.

16 Q. Okay. And what - -

17 A. I don't think we ever took a vote.

18 Q. Okay. And was it a unanimous decision?

19 A. The idea was, is this a congenital process or is this a  
20 fire-induced process.

21 Q. Okay.

22 A. Mr. Wayne was diagnosed [REDACTED] -

23 Q. Uh-huh (yes).

24 A. [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

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Q. Okay.

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Q. Okay. Before we get to that - -

9

A. Right.

10

Q. - - I want to go back to the panel. So, when the claim was filed by Mrs. Wayne, did you make a recommendation that this claim should not be heard? Scratch that. It's your testimony that there was not a vote? Correct?

14

A. As I recall, you know, pre-covid - -

15

Q. Uh-huh (yes), uh-huh (yes).

16

A. - - there wasn't a vote because we talked about this being an inherited disorder.

18

Q. Okay. And so - - and how did that - - was that virtually? Was that a virtual meeting?

20

A. No. I - - To be honest with you - -

21

Q. Uh-huh (yes).

22

A. - - I can't recall.

23

Q. Okay.

24

A. I actually think it was in person.

25

Q. Okay. Okay. Okay.

1 A. But it was, you know, several years ago.

2 Q. Okay. And so - - because I'm just trying to make sure I  
3 understand how it worked in this instance. Your recommendation  
4 was or there was a general - - Was it your recommendation that  
5 this was a genetic condition, and therefore it should not be  
6 paid out?

7 A. And - - Okay. My recommendation was that the cause of  
8 death had nothing to do with being a firefighter.

9 Q. Uh-huh (yes).

10 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

14 Q. Uh-huh (yes).

15 A. - - [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED]

18 Q. Okay.

19 A. [REDACTED].

20 Q. Yes, sir. And before we get to that, I'm trying to  
21 understand the panel members' role in the decision. Because I  
22 understand your position, Doctor. I'm trying to understand - -  
23 Since you testified - - since there was not a vote, why was  
24 there not a vote? Did you - -

25 A. I can't recall. I think they relied on my medical

1 expertise - -

2 Q. Okay.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. Okay.

8 A. [REDACTED] - -

9 Q. Uh-huh (yes).

10 A. - - [REDACTED].

11 Q. Okay. So you're - - you're not aware if panel members felt  
12 differently?

13 A. No. I had - - They asked me my opinion, and I gave them my  
14 opinion based on the medical literature.

15 Q. Gotcha. All right. And Dr. Bucolo, did you have all the  
16 information you needed necessary to render an informed opinion  
17 in this matter?

18 A. Today? Yes, ma'am.

19 Q. Okay. And - -

20 A. Okay. I would - - I - - I did not get - -

21 Q. Okay.

22 A. -- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 Q. Okay.

2 A. [REDACTED]

3 [REDACTED]

4 Q. And why would you have needed that information at the time  
5 of the decision?

6 A. Why would I - - I would like to know the entire history.

7 Q. Okay.

8 A. That's all.

9 Q. Okay.

10 A. I mean, I've seen it recorded in the medical records - -

11 Q. Okay.

12 A. - - [REDACTED]

13 [REDACTED]

14 Q. Okay.

15 A. - - at that time --

16 Q. Okay.

17 A. -- [REDACTED] And I think he was a firefighter at  
18 that time for about a year.

19 Q. Okay. So would any of the information that you just  
20 specified, would that have just further inform your decision?

21 A. It would further inform me as to - - I'm always very  
22 interested in [REDACTED] --

23 Q. Uh-huh (yes).

24 A. -- [REDACTED].

25 Q. Uh-huh (yes).

1

A. You know, unfortunately as an oncologist, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

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Page 10 of 10

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20

Q. And I understand that, Doctor, and I'm not trying to argue

21

with the research because I don't think you can, but I think

22

what I'm trying to be clear on, there's - - there's no set

23

way - - there's no way we can know for sure that Mr. Wayne or

24

anyone else for that matter with [REDACTED]

■

■ [REDACTED]



1 Q. Uh-huh (yes).

2 A. - - [REDACTED] - -

3 Q. Okay.

4 A. - - [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] - -

10 Q. Okay.

11 A. - - [REDACTED].

12 Q. And I think you testified - - you mentioned it briefly,

13 Doctor - - [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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COURT REPORTER: Hey. At least he's speaking very  
clear and not speaking fast.

MS. OKORO: Okay.

1 COURT REPORTER: Yeah. That's awesome. Because when  
2 they get in here and start, I'm like oh.

3 MS. OKORO: I know. So I'm glad that you - -

4 COURT REPORTER: No. That's good.

5 MS. OKORO: But I'll be going back over it.

6 MS. OKORO: (Continuing)

7 Q. [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

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11 Q. Okay. I forgot this. This is 3.

12 (Whereupon, Claimant's Exhibit 3, was marked for  
13 identification and introduced into the record without  
14 objection.)

15 MS. OKORO: (Continuing)

16 Q. Dr. Bucolo, can you tell me what that is?

17 A. That's correct. That was signed by Brad Hardin.

18 Q. Okay.

19 A. And that was when? '18 I - -

20 MS. OKORO: Do you need to look at it?

21 MR. FRANCE: I know what it is.

22 THE WITNESS: (Continuing)

23 A. That was like the first - - one of the first cases they  
24 asked me about.

25 Q. Okay. And - - and can you tell me what it is? Do you know

Page 28



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MR. FRANCE: I'm going to object to the form. Awfully

agave, but doctor, if you can, go ahead and answer it.

THE WITNESS: (continuing)

11. I would say that the evidence in any of the

[illegible]

██████████

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■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

MS. OKORO: Can we take about a two minute break? I think we're about done.

COURT REPORTER: Uh-huh (yes).

(OFF THE RECORD)

MS. OKORO: (Continuing)

Q. Okay, Doctor. I just want to be clear. I just have about two more questions. [REDACTED]

[REDACTED]

[REDACTED]

The image is entirely black and contains no visible content.

1 Q. Okay.  
2 A. So that's question two. Go back to your first question  
3 again. Was there anything - -

4 Q. Do you want - - you want me to read it?

5 A. Yes, please.

6 Q. Uh-huh (yes). [REDACTED]

[REDACTED]

[REDACTED]

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Page 10 of 10

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Q. Thank you.

MR. FRANCE: I don't have any questions for him.  
(Thereupon, said deposition concluded at 10:44 a.m.)

Signature Waived

\* \* \* \* \*

## CERTIFICATE

STATE OF ARKANSAS )

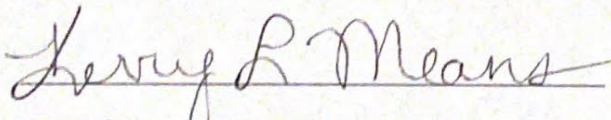
) ss

COUNTY OF CALHOUN )

I, Kerry L. Means, Certified Court Reporter and Notary Public, do hereby certify that the foregoing proceedings on pages 1 through 40 are true; and that the foregoing proceedings were recorded verbatim through the use of the Stenomask and thereafter transcribed by me or under my direct supervision to the best of my ability, taken at the time and place set out on the caption hereto.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

WITNESS MY HAND AND SEAL this 20th day of May, 2022.



KERRY L. MEANS

Certified Court Reporter #840

My Commission Expires: December 23, 2030







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**From:** [Charles Lyford](#)  
**To:** [ASCC Pleadings](#); [Kathryn Irby](#); [Crystal Okoro](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** Wayne v. State, witness and exhibit list (2/3)  
**Date:** Friday, April 28, 2023 1:29:40 PM  
**Attachments:** [image001.jpg](#)  
[Respondent Exhibits Pt. 1-2 \(Wayne v. State\).pdf](#)

---

Gwenover Wayne v. State of Arkansas  
Claim No. 19-0479


Attached is the Respondent's Witness and Exhibit List in the above-referenced claim. This is email two of three. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
(501) 682-1314 (Direct)  
(501) 682-2591 (Fax)  
[www.ArkansasAG.gov](http://www.ArkansasAG.gov)



Anthony Philip Bucolo Jr. M.D.



---

**Education:**

1978-1980	<b>Hospital of the University of Pennsylvania</b> , Philadelphia, PA Medical Fellowship, Hematology and Oncology
1976-1978	<b>Rhode Island Hospital of Brown University</b> , Providence, RI Medical Residency, Internal Medicine
1975-1976	<b>Rhode Island Hospital of Brown University</b> , Providence, RI Medical Internship, Internal Medicine
1971-1975	<b>Georgetown University</b> , Washington, District of Columbia Georgetown University School of Medicine Degree: Doctor of Medicine, June 1975 Alpha Omega Alpha Cahill Surgery Award
1967-1971	<b>Canisius College</b> , Buffalo, New York Degree: Bachelors of Arts Major: Biology Minor: Chemistry Alpha Sigma Nu- National Jesuit Honor Society Beta Beta Beta National Biologic Honor Society Graduated Magna Cum Laude June 1971

Respondent 052



**Clinical Experience:**

2020- Present    CHI SVI Oncology Staff Physician

2018 - Present    Arkansas Foundation for Medical Care: Peer review for medical oncology drug usage

2008- Present    Expert witness, Little Rock, AR

- Expert witness testimony in 64 medical malpractice cases involving coagulation abnormalities, breast, colon, and lung cancer and acute and chronic leukemia  
98% of the testimonies were for the defendants (Medical Doctors)
- Defense of oncology practice in ZPIC contractor government review and recovered 72% of the amount of the fine
- Wrote nine, 20 page reports, each including 300 references for product liability lawsuits involving bisphosphonates for Novartis for national attorneys, none of the cases ever went to trial

1980-2007    **Arkansas Oncology Associates**, Little Rock, AR and North Little Rock, AR

Full time private practice

- Treated on average 35 patients a day in office, ages ranging from 18-90 years of age
- Treated ten hospital patients a day, plus interdisciplinary consultation
- Provided daily patient advocacy via telephone
- Specialized in breast, colon, lung, and acute and chronic leukemia
- Bone marrow and spinal taps conducted in office regularly
- Joined U.S. Oncology in 1995

## Research Experience:

1974-1975

**Brookhaven National Laboratory**, Brookhaven, NY

National Science Foundation

Performed bone marrow cultures in millipore diffusion chambers in irradiated rabbits treated with erythropoietin.

Supervisors: Ann Boyum, M.D., and Arland Carsten M.D.

Administered procedures for data collection, analysis, and interpretation in a double-blind, randomized, multicenter trial comparing the efficacy and tolerability of FASLODEX 250mg (Long-acting ICI 182 780) in combination with 1 mg ARIMIDEX (Anastrozole) in postmenopausal women with advanced breast cancer.

Administered procedures for data collection, analysis, and interpretation in a double-blind, randomized, multicenter trial comparing the efficacy and tolerability of FASLODEX 250mg (Long-acting ICI 182 780) in combination with NOLVADEX 20mg (Tamoxifen) in postmenopausal women with advanced breast cancer.

Administered procedures for data collection, analysis, and interpretation in a double-blind, randomized, multicenter trial comparing ARIMIDEX alone with Nolvadex alone versus Arimidex and Nolvadex in combination as adjuvant treatment in postmenopausal women with breast cancer.

Administered procedures for data collection, analysis, and interpretation in a randomized, double-blind, parallel-group trial to assess the pharmacokinetics of ARIMIDEX alone, NOLVADEX alone, or ARIMIDEX and NOLVADEX in combination, when used as adjuvant treatment for breast cancer in women.

Administered procedures for data collection, analysis, and interpretation in a randomized, double-blind, parallel-group trial to assess quality of life with ARIMIDEX alone, NOLVADEX alone or, ARIMIDEX and NOLVADEX in combination when used as adjuvant treatment for postmenopausal women with breast cancer.

Administered procedures for data collection, analysis, and interpretation in a randomized, double-blind trial to compare the efficacy and safety of Anastrozole (ARIMIDEX 1mg daily) in combination with Tamoxifen Citrate (20mg daily) as first-line therapy for advanced breast cancer in postmenopausal women.



**Publications:**

Bucolo, Anthony M.D., (1980). Germinal Cell Tumors of the Testes. *University of Pennsylvania Cancer Update*, 1-4.

Bucolo, Anthony M.D., Creech, Richard, Finan, Janet, Glick, John M.D., Nowell, Peter Ph.D. (1981). Cytogenic Studies of Bone Marrow in Breast Cancer Patients After Adjuvant Chemotherapy. *Cancer*, 48, 667-673.

**Relevant Field Experience:**

Summer 2013 Zambia Medical Mission,

- Practice general medicine within community of Lusaka

Summer 2008 Honduras Medical Mission, Christ the King Catholic Church, Trujillo, Honduras

- Practiced general medicine with children and adults

Summer 2007 Honduras Medical Mission, Christ the King Catholic Church, Trujillo, Honduras

- Practiced general medicine with children and adults

**Professional Affiliations:**

2018-Present Firefighter Pension Review Board for Arkansas; oncology related illnesses

2014-Present Medical Advisory for the Arkansas Foundation for Prostate Cancer

Present American Cancer Society of Internal Medicine

Present Southern Medical Association

Present Southern Oncology Association

1995-2000 Education Committee of American Cancer Society

1990-1995 Chairman of the Hematology Oncology board of St. Vincent's Hospital

**References:**

Joseph Beck, M.D

[REDACTED]

Robert Ritchie, M.D.

[REDACTED]

Tom Koonce, M.D.

[REDACTED]

Ayub Mazher, M.D.

[REDACTED]

Kent Westbrook, M.D.

[REDACTED]





















































**From:** [Charles Lyford](#)  
**To:** [ASCC Pleadings](#); [Kathryn Irby](#); [Crystal Okoro](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** Wayne v. State, witness and exhibit list (3/3)  
**Date:** Friday, April 28, 2023 1:31:25 PM  
**Attachments:** [image001.jpg](#)  
[Respondent Exhibits Pt. 1-3 \(Wayne v. State\).pdf](#)  
[Respondent Exhibits Pt. 2 \(Wayne v. State\).pdf](#)

---

Gwenover Wayne v. State of Arkansas  
Claim No. 19-0479

Good afternoon. Attached is the Respondent's Witness and Exhibit List in the above-referenced claim. This is email three of three. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
(501) 682-1314 (Direct)  
(501) 682-2591 (Fax)  
[www.ArkansasAG.gov](http://www.ArkansasAG.gov)



































































the 1990s, the number of people in the UK who are aged 65 and over has increased by 1.5 million, and the number of people aged 75 and over has increased by 1 million (Office for National Statistics 1999). The number of people aged 65 and over is projected to increase to 6.5 million by 2011, and the number of people aged 75 and over to 3.5 million (Office for National Statistics 1999).

There is a growing awareness of the need to develop services to meet the needs of older people, and a number of initiatives have been launched in the UK to address this need. The Department of Health has launched the 'Age Friendly' initiative, which aims to make the UK a more age-friendly country by 2010. The initiative is based on the principle that older people should be able to live independently and actively in their own homes and communities. The initiative is being implemented through a number of measures, including: improving the physical environment, improving the social environment, and improving the services available to older people.

The 'Age Friendly' initiative is a multi-departmental effort, involving the Department of Health, the Department of the Environment, and the Department of Transport. The initiative is being implemented through a number of measures, including: improving the physical environment, improving the social environment, and improving the services available to older people. The initiative is being implemented through a number of measures, including: improving the physical environment, improving the social environment, and improving the services available to older people.

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**From:** [Charles Lyford](#)  
**To:** [Crystal Okoro](#); [ASCC Pleadings](#); [Kathryn Irby](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** RE: [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: Wayne v. State, witness and exhibit list (1/3)  
**Date:** Tuesday, May 2, 2023 12:32:08 PM  
**Attachments:** [image001.jpg](#)

---

Understood, thanks.

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Tuesday, May 2, 2023 12:30 PM  
**To:** asccpleadings@arkansas.gov; Kathryn Irby <kathryn.irby@arkansas.gov>; Charles Lyford <charles.lyford@arkansasag.gov>  
**Cc:** Johanna Hinkle <johanna.hinkle@arkansasag.gov>  
**Subject:** [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: Wayne v. State, witness and exhibit list (1/3)

**EXTERNAL EMAIL**

---

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---

Message received, I just wanted to review forthwith. Thanks.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

PLEASE NOTE NEW FAX NO.!!!

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message and any attachments may contain privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and delete the communication from your system. Thank you.

On Tuesday, May 2, 2023 at 12:17:48 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Ms. Okoro,

As stated in emails between the parties, I got a bounce back from your email address, probably because the exhibits attached to Dr. Bucolo's deposition are in a large file format. The thumb drive I offered to mail in lieu of the emails should be arriving soon to your PO Box. The exhibits listed by the Respondent have all been previously disclosed in discovery or filings—deposition transcript of Dr. Bucolo plus exhibits to that transcript, and two pages of medical records. I will also try emailing the exhibits to the gmail address you provided earlier today. Thanks.

Charles

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Tuesday, May 2, 2023 11:57 AM  
**To:** [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov); Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** [Possible Phish Fraud]Re: Wayne v. State, witness and exhibit list (1/3)

**EXTERNAL EMAIL**

---

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If you do not know the sender or cannot verify the integrity of the message, please do not respond or click on links in the message. Depending on the security settings, clickable URLs may have been modified to provide additional security.

---



Good morning. I am a little confused. I only have one email from you, not three and I have not received anything from you via mail, to date.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, April 28, 2023 at 01:28:59 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Gwenover Wayne v. State of Arkansas  
Claim No. 19-0479

Good afternoon. Attached is the Respondent's Witness and Exhibit List in the above-referenced claim. This is email one of three. Thank you.

**Charles Lyford**  
Assistant Attorney General

**Office of Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
(501) 682-1314 (Direct)  
(501) 682-2591 (Fax)  
[www.ArkansasAG.gov](http://www.ArkansasAG.gov)



**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Subject:** witnesses to be called via phone May 19, 2023  
**Date:** Thursday, May 18, 2023 2:42:25 PM

---

Director Irby,

Below are the names and numbers of the witnesses to be called tomorrow on May 19, 2023 to testify via phone. The same was also provided to the State in discovery.

Chief Greg Summers  
[REDACTED]

Bo Hargar  
[REDACTED]

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
okorocrystal@yahoo.com

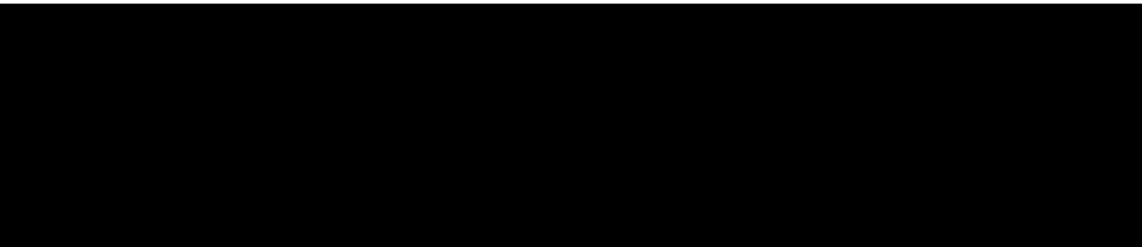
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Application Packet of Allen L. Wayne  
before the  
Arkansas State Claims Commission



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**Office of the Assistant Fire Chief**

Operations Division  
624 South Chester St.  
Little Rock AR 72201-3904  
(501)918-3736  
Fax (501)918-3734

October 16, 2018  
RE: Allen Wayne Sr.

To whom it may Concern:

Allen Wayne Sr. was hired by the Little Rock Fire Department on March 19, 1984, and was in my recruit class. Allen was assigned to Engine 6 out of recruit school on April 7, 1984. Engine 6 was one of the busier engine companies at the time. He spent a total of five years assigned as a firefighter on Engine 6, and was transferred to Truck 7 (now Truck 15) on April 29, 1989. Around 1990, he was transferred in house to Engine 15, where he spent 12 years of his career before transferring to Engine 13 due to being promoted as a Fire Apparatus Engineer on May 5, 2002. Allen was assigned to Engine 13 until transferring to Truck 21 on September 21, 2006. Allen continued to work on Truck 21 while [REDACTED]

[REDACTED] on June 6, 2008. The Little Rock Fire Department hired Allen back on June 6, 2008 as the Fire Equipment Repair Technician working in the Warehouse at the Training Facility. He was forced to permanently retire from the department on July 12, 2014 [REDACTED]

Little Rock Fire Department personnel are currently researching through all of the station logbooks from Allen Wayne's career to verify fires that Allen has fought. Just recently the computer database from 1986 to 2004 was found, and is currently being worked on by the City's I.T Department to extrapolate the data being housed there.

Allen Wayne, Sr. fought fire for 24 years of his life for the Little Rock Fire Department. I can assure you that in 24 years, especially where he was assigned during that time, that Allen fought more fire than most. We will be happy to provide more information as it becomes available through the current research efforts if needed.

Respectfully,

Douglas R. Coney  
Assistant Fire Chief of Operations  
Little Rock Fire Department



**W. L. Rutledge, M.D., P.A.**

The Doctor's Office

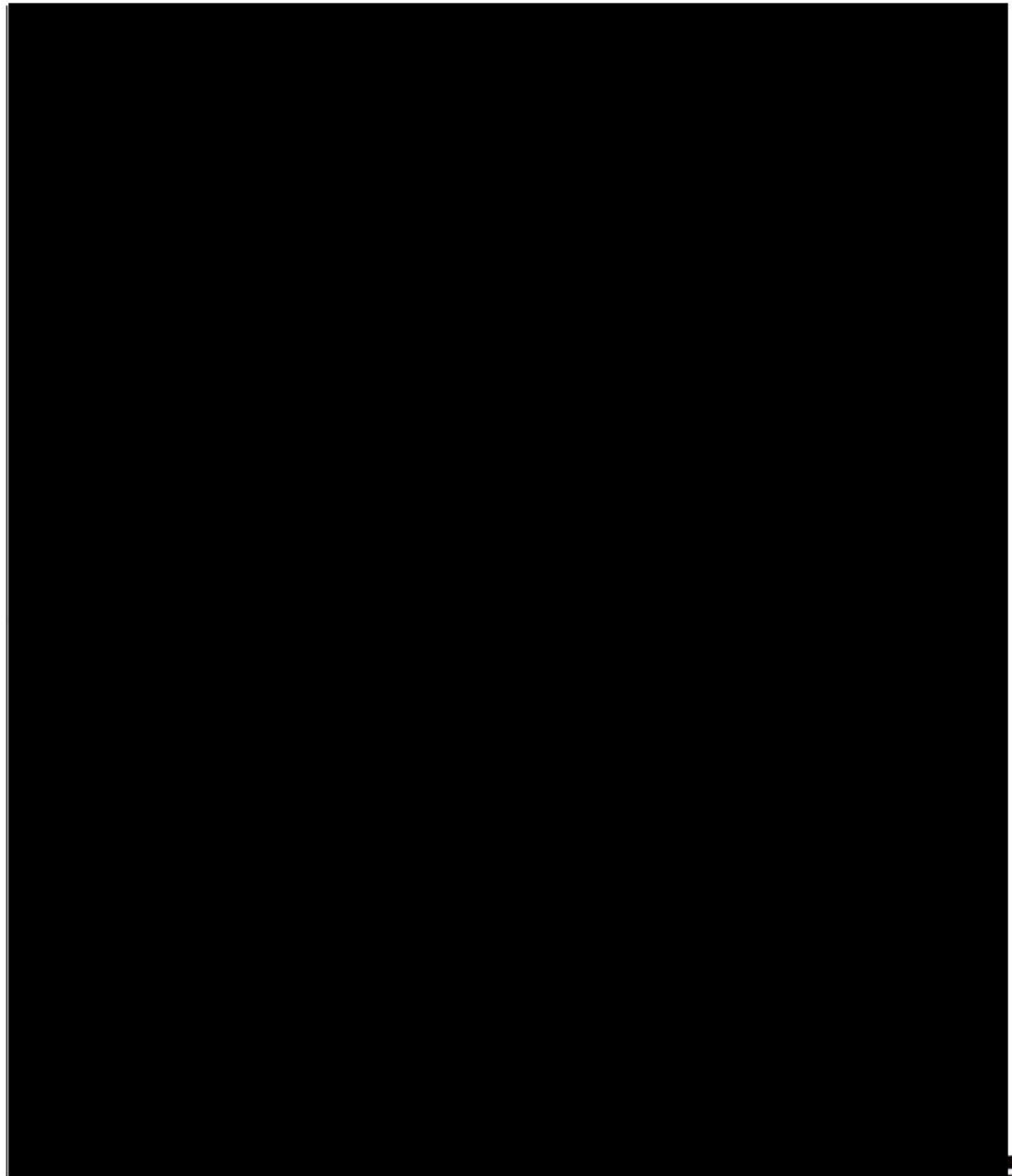
**William L. Rutledge, M.D.**

Physician and Surgeon

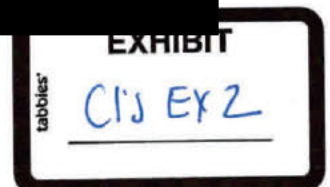
October 9, 2020

**PATIENT NAME:** Wayne Sr., Allen Lynn

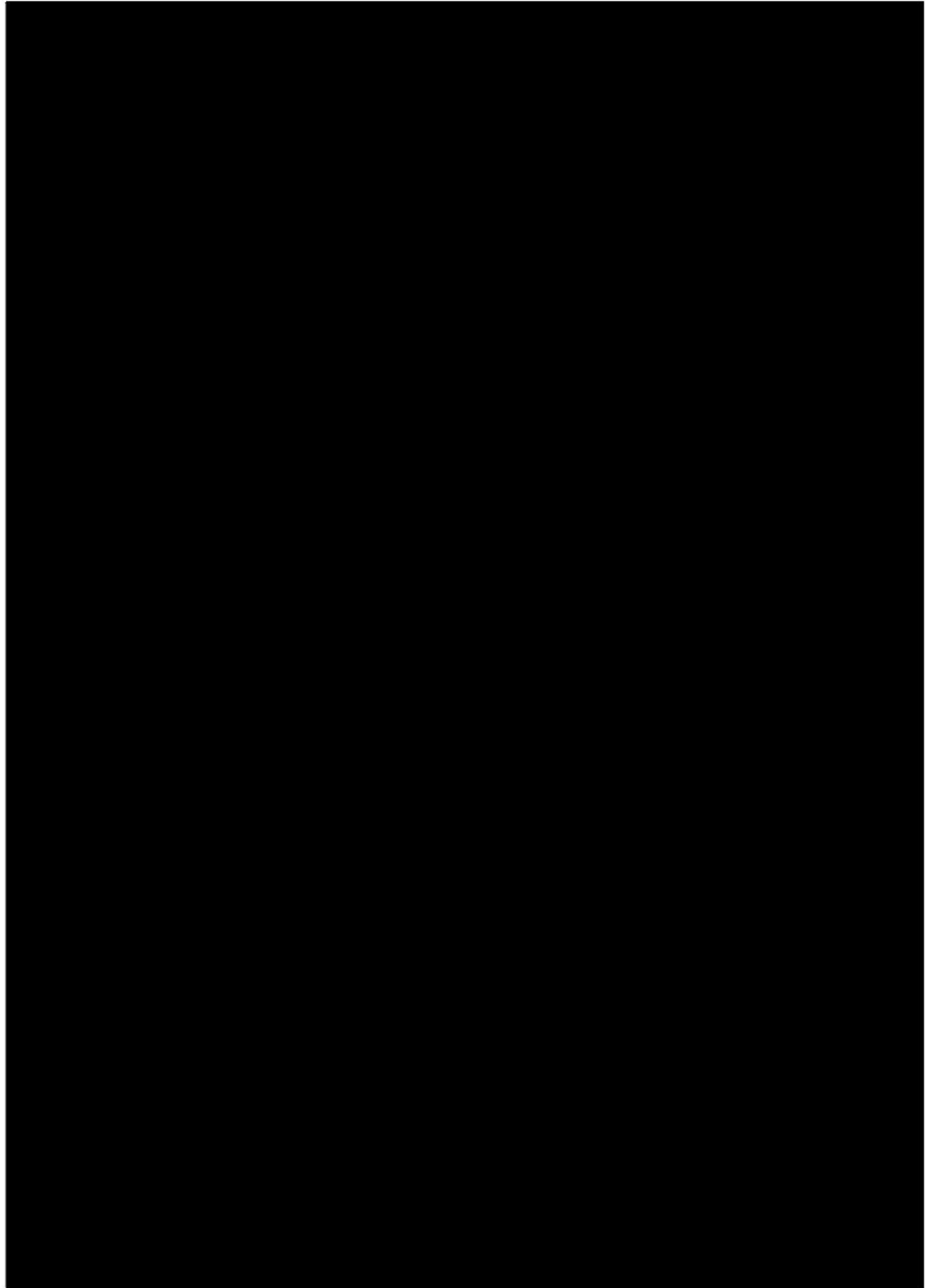
**REVIEW OF MEDICAL RECORDS AND OPINION**



Continued:



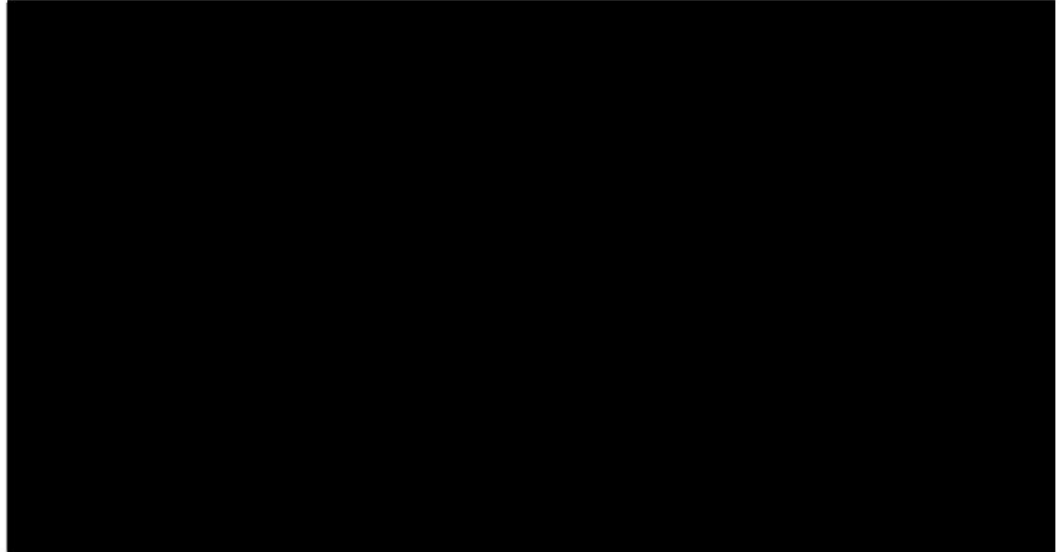
PATIENT NAME: Wayne Sr., Allen Lynn  
PAGE TWO



Continued:



**PATIENT NAME:** Wayne Sr., Allen Lynn  
**PAGE THREE**



William Rutledge, M.D.  
WR/ag

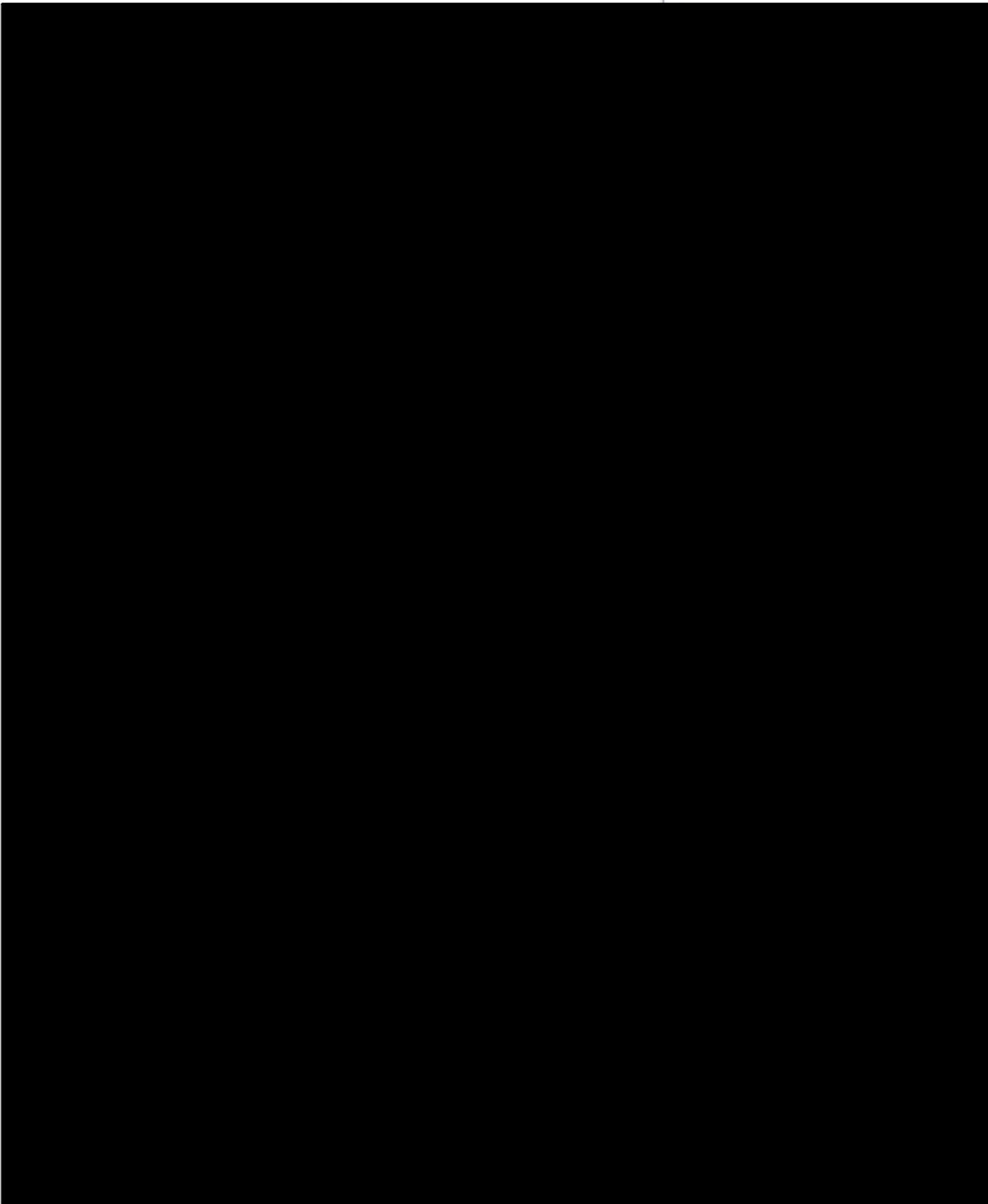
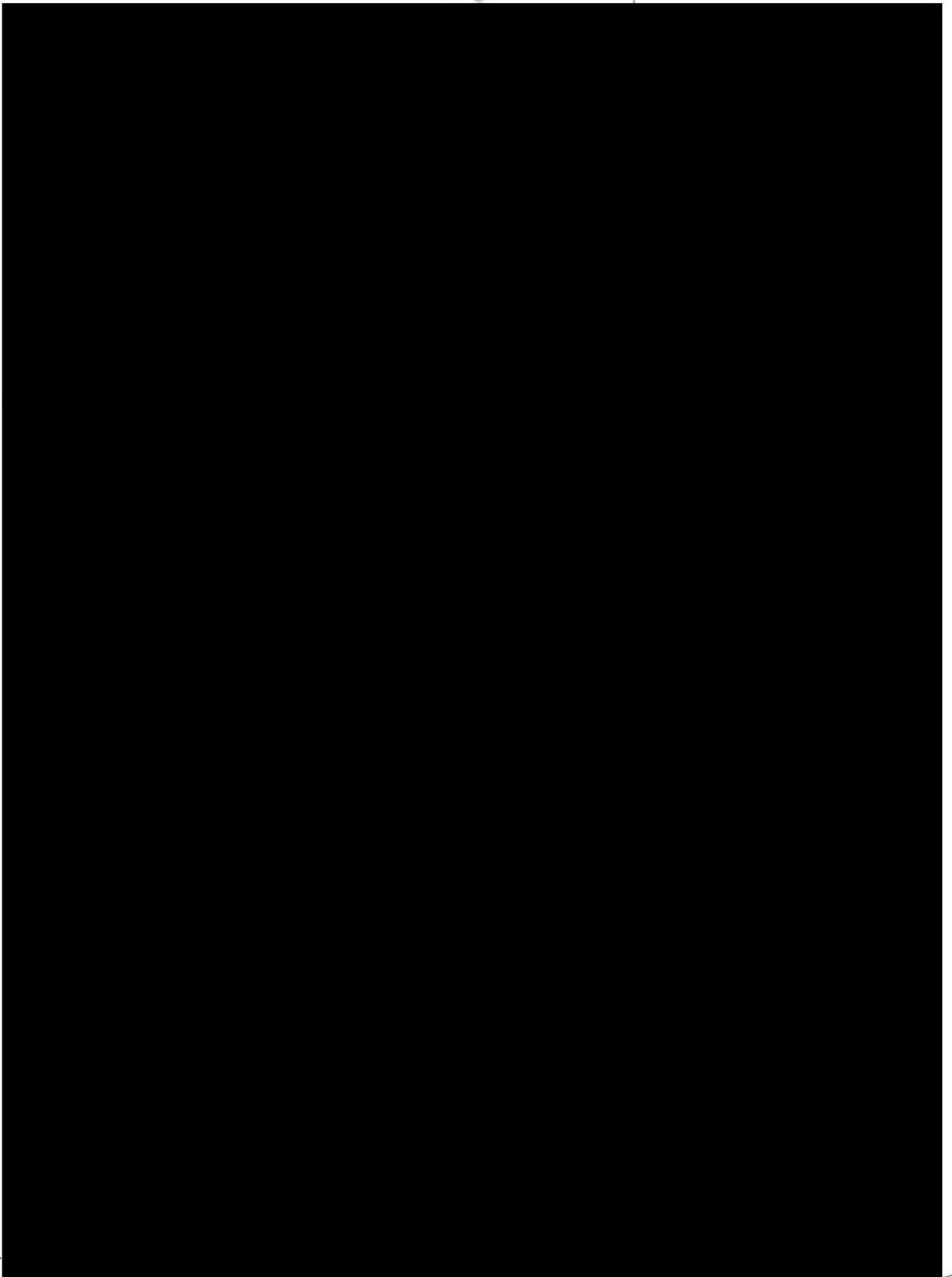


EXHIBIT  
(1) EX 3



**From:** [Crystal Okoro](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [Charles Lyford](#); [REDACTED]  
**Subject:** RE:  
**Date:** Wednesday, May 31, 2023 3:01:24 PM

---

Thank you and no worries. Thanks for sending the clarification!

[Sent from Yahoo Mail on Android](#)

On Wed, May 31, 2023 at 2:45 PM, Kathryn Irby  
<[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)> wrote:

Ms. Okoro, in rereading my previous email, I see that it was poorly written. Apologies for any confusion, and let me start again. Regarding the document attached to your email, I do not know what proceeding that document relates to, but that document did not come from the Claims Commission. The Claims Commission has not issued a decision on Ms. Wayne's claim.

Let me know if you have any questions.

Kathryn Irby

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Wednesday, May 31, 2023 2:13 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Gwen Wayne  
[REDACTED]  
**Subject:** Re:

Ms Okoro, that attachment is related to Ms Wayne's claim before the Claims Commission. The Claims Commission has not issued a decision on Ms Wayne's claim.

Thanks,

Kathryn Irby

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---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Wednesday, May 31, 2023 11:20:29 AM  
**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Cc:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Gwen Wayne  
[REDACTED]  
**Subject:**

Good morning Director Irby.

Mrs. Wayne received this document in the mail and I wanted to confirm that a decision has not been made. It is strange (no pending claim at the Ark Tribunal) and there are a lot of inaccuracies here. Further, it's not even from the Arkansas State Claims Commission, but even so, I know Mrs. Wayne would appreciate the confirmation that a decision has not been issued.

Thank you.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel: 501-859-3424  
F: 501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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----- Forwarded Message -----

**From:** Gwen Wayne [REDACTED]

**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Sunday, May 28, 2023 at 02:20:15 PM CDT

**Subject:**

Sent via the Samsung Galaxy S21 Ultra 5G, an AT&T 5G smartphone

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



KATHRYN IRBY  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

July 3, 2023

Ms. Crystal Okoro  
Attorney at Law  
Post Office Box 1118  
North Little Rock, Arkansas 72115

(via email)

Mr. Charles Lyford  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

(via email)

RE: ***Gwenever Wayne v. State of Arkansas***  
Claim No. 190479

---

Dear Ms. Okoro and Mr. Lyford,

The Commission requests that the parties brief how, if at all, Mr. Wayne's cancer caused his death. The Commission directs that these briefs should point to specific evidence in the record, including references to time periods (given in minute and second format) in the hearing recording.

Each party's brief should be submitted on or before July 17, 2023. To the extent that either party believes it necessary to respond to the other's brief, responses are due July 24, 2023. The briefs should be submitted electronically to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov) and to me.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

**From:** [Kathryn Irby](#)  
**To:** [Charles Lyford](#); [Crystal Okoro](#)  
**Cc:** [Johanna Hinkle](#)  
**Subject:** POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Monday, July 3, 2023 10:08:00 AM  
**Attachments:** [Wayne v. SOA -- 190479 -- ltr re post-hearing briefing.pdf](#)

---

Ms. Okoro and Mr. Lyford, please see attached correspondence. I'm also attaching the audio recording from the May 19 hearing. Let me know if you have any questions.

Thanks,  
Kathryn

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822





**From:** [Charles Lyford](#)  
**To:** [Kathryn Irby](#); [Crystal Okoro](#)  
**Subject:** RE: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Wednesday, July 5, 2023 1:39:04 PM

---

Received, thank you.

Charles Lyford

---

**From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Sent:** Monday, July 3, 2023 10:08 AM  
**To:** Charles Lyford <charles.lyford@arkansasag.gov>; Crystal Okoro <okorocrystal@yahoo.com>  
**Cc:** Johanna Hinkle <johanna.hinkle@arkansasag.gov>  
**Subject:** POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

Ms. Okoro and Mr. Lyford, please see attached correspondence. I'm also attaching the audio recording from the May 19 hearing. Let me know if you have any questions.

Thanks,  
Kathryn

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822



**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#)  
**Cc:** [Charles Lyford](#)  
**Subject:** RE: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Friday, July 14, 2023 1:04:00 PM

---

Ms. Okoro, if the State does not object, then I'll just note the extended date in our database. No need to file a formal request.

Thanks,  
Kathryn Irby

---

**From:** Crystal Okoro <okorocrystal@yahoo.com>  
**Sent:** Friday, July 14, 2023 12:58 PM  
**To:** Kathryn Irby <kathryn.irby@arkansas.gov>  
**Cc:** Charles Lyford <charles.lyford@arkansasag.gov>  
**Subject:** Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

Director Irby, I will be requesting a 20 day business day extension to file my post brief. I've confirmed that the state has no opposition to this request. I will formally file a request, unless instructed otherwise. Thank you.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
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On Friday, July 14, 2023 at 12:23:12 PM CDT, Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)> wrote:

Thank you.

[Sent from Yahoo Mail on Android](#)

On Fri, Jul 14, 2023 at 11:23 AM, Charles Lyford  
<[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Thanks, Crystal. No opposition here.

Charles

Charles Lyford  
Assistant Attorney General  
Office of Attorney General Tim Griffin  
(501) 682-1314

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Friday, July 14, 2023 10:57:10 AM

**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>

**Subject:** [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

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---

Mr. Lyford, would you be opposed to a 20 day business day extension to file this brief? The goal is to get it down a lot sooner. I'm in the middle of winding down my practice. Let me know your thoughts as I would like to put in my extension request before the end of the business day today.

Thank you.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Wednesday, July 5, 2023 at 01:39:00 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Received, thank you.

Charles Lyford

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Monday, July 3, 2023 10:08 AM  
**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

Ms. Okoro and Mr. Lyford, please see attached correspondence. I'm also attaching the audio recording from the May 19 hearing. Let me know if you have any questions.

Thanks,

Kathryn

Kathryn Irby

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

[REDACTED]

[REDACTED]



**From:** [Kathryn Irby](#)  
**To:** [Charles Lyford](#); [Crystal Okoro](#)  
**Subject:** RE: [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Monday, July 17, 2023 11:29:00 AM

---

Those are my calculations.

Kathryn

---

**From:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Sent:** Monday, July 17, 2023 8:24 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>; Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Subject:** RE: [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

Thanks all. Adding 20 business days to 7/17, is 8/14 the new "on or before" date for post-hearing briefs? And replies if needed by 8/21? Just wanted to confirm.

Charles

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Friday, July 14, 2023 1:16 PM  
**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Cc:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

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---

Thank you.

I hope you all enjoy your weekend.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, July 14, 2023 at 01:04:06 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro, if the State does not object, then I'll just note the extended date in our database. No need to file a formal request.

Thanks,

Kathryn Irby

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Friday, July 14, 2023 12:58 PM  
**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Cc:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

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Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, July 14, 2023 at 12:23:12 PM CDT, Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)> wrote:

Thank you.

[Sent from Yahoo Mail on Android](#)

On Fri, Jul 14, 2023 at 11:23 AM, Charles Lyford  
<[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Thanks, Crystal. No opposition here.

Charles

Charles Lyford  
Assistant Attorney General  
Office of Attorney General Tim Griffin  
(501) 682-1314

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Friday, July 14, 2023 10:57:10 AM

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**Subject:** [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim



No. 190479

**EXTERNAL EMAIL**

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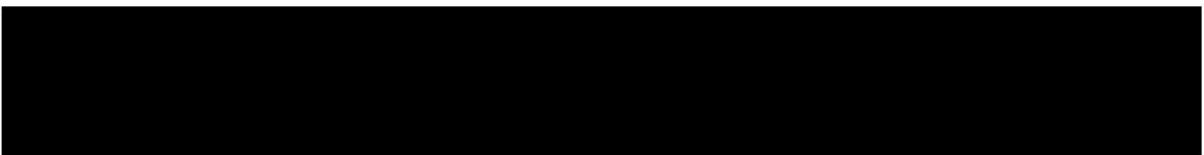
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**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822



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Assistant Attorney General

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[REDACTED]

[REDACTED]

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**Date:** Monday, August 14, 2023 10:21:25 AM  
**Attachments:** [2023-08-14 Post Hearing Brief \(Respondent\).pdf](#)

---

Wayne v. State, Claim No. 19-0479

Director Irby,

Attached is the Respondent's post-hearing brief, as requested by the Commission in its letter of July 3, 2023. Thank you.

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(501) 682-2822

[REDACTED]

[REDACTED]

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 19-0479**

**STATE OF ARKANSAS**

**RESPONDENT**

**POST-HEARING BRIEF ON CAUSATION**

**I. Introduction and Procedural History**

Claimant's husband, Allen Wayne, Sr., died in 2015 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Gwenover Wayne filed a timely claim under Ark. Code Ann. § 21-5-705(a)(3). This statute provides benefits of \$150,000.00 if a firefighter was “exposed to a known carcinogen ... while in the official line of duty.” Ark. Code Ann. § 21-5-705(a)(3)(A)(i). Because there must be a causal connection between firefighting and the decedent’s cancer, the family of a firefighter who was “diagnosed with cancer prior to the start of firefighter service” cannot claim benefits. Ark. Code Ann. § 21-5-705(a)(3)(A)(ii); *see also* subsection 705(a)(2), stating that benefits are available if a firefighter was killed “while responding to, engaging in, or returning from a fire, a rescue incident, a hazardous material or bomb incident, an emergency medical activity, or simulated training thereof.” The cancer that results from carcinogen exposure must be “leukemia, lymphoma,

mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle.” Ark. Code Ann. § 21-5-705(a)(3)(A)(i). Or the claimant may recover if the cancer that results from carcinogen exposure has been “found by research and statistics to show higher instances of occurrence in firefighters than in the general population.” *Id.*

The Firefighter Benefit Review Panel, which “mak[es] recommendations to the Arkansas State Claims Commission regarding determinations of death benefits,” found that Mr. Wayne’s claim should be denied. Ark. Code Ann. § 21-5-705(a)(3)(C). Mr. Wayne “was not killed in the line of duty,” but [REDACTED]

[REDACTED] Panel Letter filed November 26, 2018. The Panel voted unanimously based on the opinion of member Dr. Anthony Bucolo, a licensed oncologist. Claim Hearing at 54:06 to 54:14.

Respondent adopted the Panel’s recommendation in its Answer denying the claim. *See* Answer filed October 30, 2018. Respondent later moved for summary judgment, arguing that the evidence showed beyond any genuine dispute [REDACTED]

[REDACTED]. *See* Motion for Summary Judgment filed March 27, 2023.

A hearing was held on May 19, 2023, particularly to decide the issue of “medical causation.” Commission Order filed September 2, 2022. Respondent offered the expert opinion of oncologist Dr. Bucolo through his deposition. Dr. Bucolo’s unequivocal opinion was [REDACTED] Claim Hearing at 54:06 to 54:33. Claimant offered the expert opinion of Dr. William Rutledge, [REDACTED]

[REDACTED]

[REDACTED]. Rutledge Report at

3.

Following the hearing, the Claims Commission requested additional briefing on the question of “how, if at all, Mr. Wayne’s [REDACTED] [REDACTED].” Commission letter dated July 3, 2023. [REDACTED] as Respondent argued in its Motion for Summary Judgment and demonstrated at the hearing. The Claims Commission should adopt the recommendation of the Firefighter Benefit Review Panel and deny the claim.

**II. The decedent’s sarcoma did not result from exposure to carcinogens in the line of duty.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Claimant failed to carry the burden required by section 21-5-705(a)(3)(A)(i). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**III.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

#### IV. Conclusion

Ultimately, this claim is as simple as the underlying cause of death on the death certificate.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The Claims Commission should adopt the recommendation of the Firefighter Benefit Review Panel to deny this claim.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Charles Lyford  
Ark Bar No. 2010-200  
Senior Assistant Attorney General  
Office of the Arkansas Attorney General  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: [charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)



**CERTIFICATE OF SERVICE**

I, Charles Lyford, certify that on August 14, 2023, the foregoing was filed electronically by submission to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov), and served via email to the following:

Crystal J. Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

Charles Lyford

**From:** [Crystal Okoro](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Charles Lyford](#)  
**Subject:** Re: [Possible Phish Fraud]RE: [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Monday, August 14, 2023 11:51:53 AM  
**Attachments:** [Cl Response 1-combined.pdf](#)

---

Please find the Claimant's Response to the Commission. Thanks for your attention to this matter.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Monday, August 14, 2023 at 10:21:19 AM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

*Wayne v. State*, Claim No. 19-0479

Director Irby,

Attached is the Respondent's post-hearing brief, as requested by the Commission in its letter of July 3, 2023. Thank you.

Charles Lyford

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Monday, July 17, 2023 12:08 PM  
**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** [Possible Phish Fraud]RE: [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

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---

Yes, 8/14. Thank you all. I will get it calendared!

[Sent from Yahoo Mail on Android](#)

On Mon, Jul 17, 2023 at 11:44 AM, Charles Lyford  
<[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Ok, thank you.

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Monday, July 17, 2023 11:30 AM  
**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
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---

Those are my calculations.

Kathryn

---

**From:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Sent:** Monday, July 17, 2023 8:24 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>; Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Subject:** RE: [Possible Phish Fraud]Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

Thanks all. Adding 20 business days to 7/17, is 8/14 the new "on or before" date for post-hearing briefs? And replies if needed by 8/21? Just wanted to confirm.

Charles

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Thank you.

I hope you all enjoy your weekend.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, July 14, 2023 at 01:04:06 PM CDT, Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)> wrote:

Ms. Okoro, if the State does not object, then I'll just note the extended date in our database. No need to file a formal request.

Thanks,  
Kathryn Irby

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**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Friday, July 14, 2023 12:58 PM  
**To:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>  
**Cc:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

Director Irby, I will be requesting a 20 day business day extension to file my post brief. I've confirmed that the state has no opposition to this request. I will formally file a request, unless instructed otherwise. Thank you.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
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On Friday, July 14, 2023 at 12:23:12 PM CDT, Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)> wrote:

Thank you.

[Sent from Yahoo Mail on Android](#)



On Fri, Jul 14, 2023 at 11:23 AM, Charles Lyford

<[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Thanks, Crystal. No opposition here.

Charles

Charles Lyford

Assistant Attorney General

Office of Attorney General Tim Griffin

(501) 682-1314

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Friday, July 14, 2023 10:57:10 AM

**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>

**Subject:** [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

---

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---

Mr. Lyford, would you be opposed to a 20 day business day extension to file this brief? The goal is to get it down a lot sooner. I'm in the middle of winding down my practice. Let me know your thoughts as I would like to put in my extension request before the end of the business day today.

Thank you.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 Tel:501-859-3424  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Wednesday, July 5, 2023 at 01:39:00 PM CDT, Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Received, thank you.

Charles Lyford

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Monday, July 3, 2023 10:08 AM  
**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

Ms. Okoro and Mr. Lyford, please see attached correspondence. I'm also attaching the audio recording from the May 19 hearing. Let me know if you have any questions.

Thanks,

Kathryn

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822





**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**NO. 19-0479-CC**

**STATE OF ARKANSAS**

**RESPONDENT**

**Claimant's Response**

Comes now, the Claimant, by and through counsel, Crystal Okoro, and for its Response to the Panel's question, "How, if at all, did Mr. Wayne's [REDACTED] cause his death?"

The record and hearing audio has been reviewed thoroughly. There were parts of the audio that was not clear, but in an effort to assist the Arkansas Claims Commission with the above question and to provide clarity to the issues presented, the claimant has attached Dr. Rutledge's response (Exhibit 1) to the above question and the Fire Fighter Review Panel's decision provided to the Commission and to the Claimant in discovery. (Exhibit 2)

**Introduction**

[REDACTED]

[REDACTED]

[REDACTED] precluded the Claimant from recovering benefits under the Ark. Code Ann. Section 21-5-705. The Claimant maintains and the abundance of evidence presented confirms it does not.

**Brief**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

Respectfully submitted,

By: **GWENEVER A. WAYNE**

Crystal Okoro  
ATTORNEY AT LAW  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com  
/s/ Crystal Okoro  
Crystal Okoro  
Ph: 501.859.3424  
Fax: 501.325.1989

**CERTIFICATE OF SERVICE**

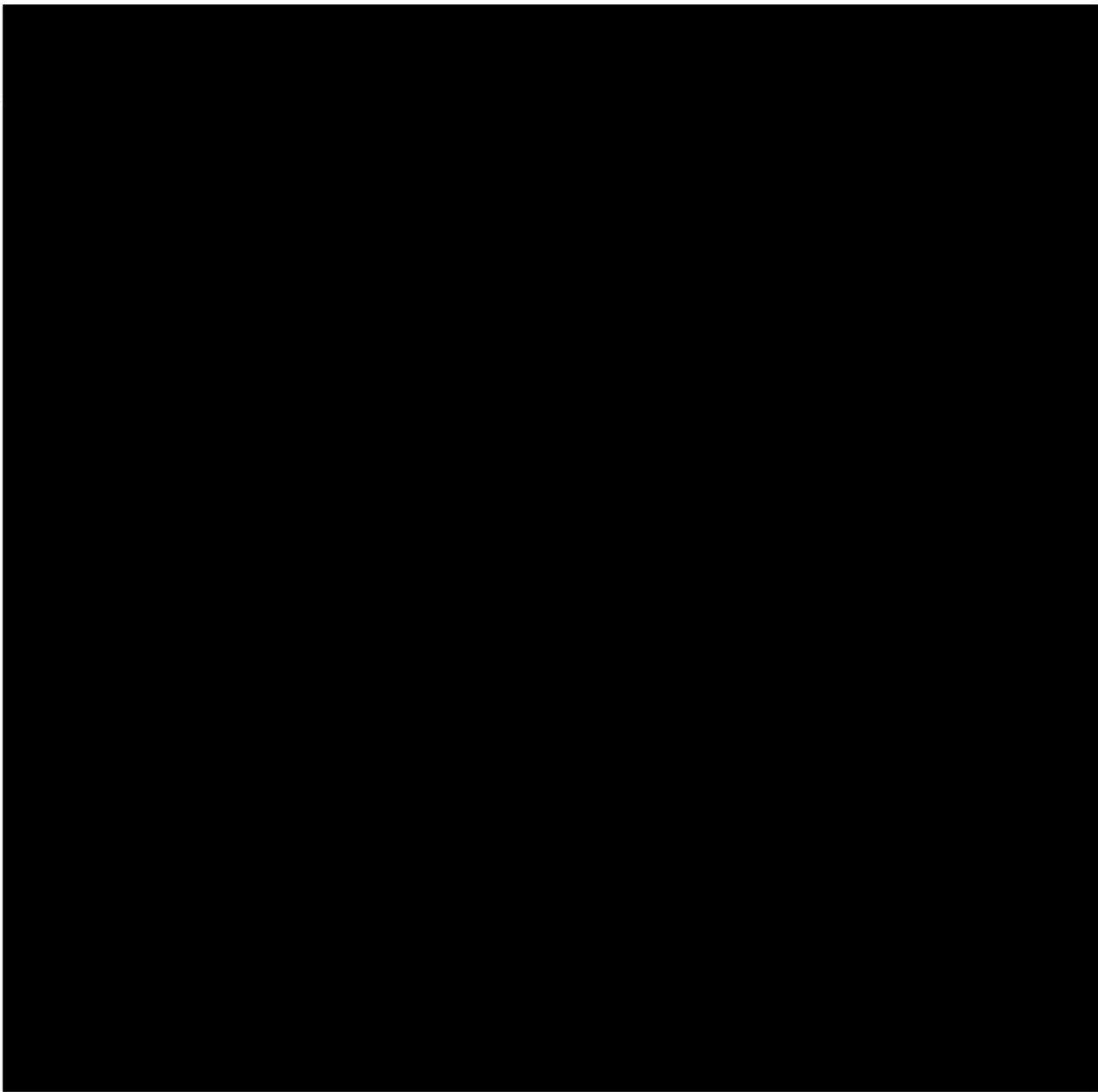
I, Charles Lyford, hereby certify that I have served the foregoing through the U.S. Mail postage prepaid, facsimile, or via email on August 14, 2023, the attorney of record for the Claimant at the following:

ATTORNEY FOR THE STATE  
Charles Lyford  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201

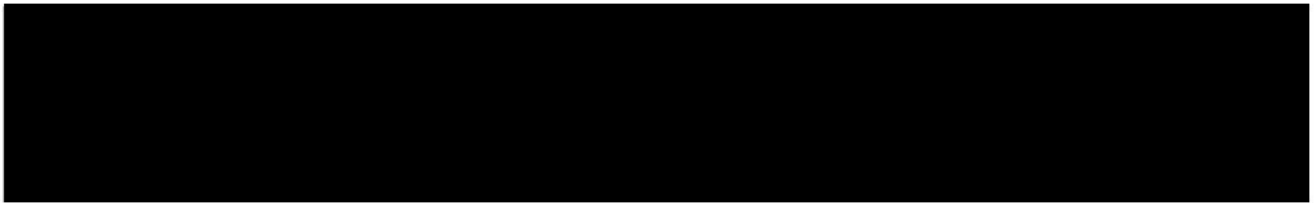
/S/CRYSTAL OKORO  
CRYSTAL OKORO

July 10, 2023

RE: Mr. Allen Wayne Sr.



RE: Mr. Allen Wayne Sr.  
PAGE TWO



*W. Rutledge M.D.*  
William Rutledge, M.D.









-190479

To: Arkansas State Claims Commission

From: Firefighter Benefit Review Panel

Re: Gwenever A. Wayne, Claimant

Arkansas  
State Claims Commission

NOV 26 2018

RECEIVED

The Firefighter Benefit Review Panel met on November 15, 2018, to review the claim filed by Gwenever A. Wayne.

Based on the information provided, the Firefighter Benefit Review Panel finds that Allen L. Wayne was not killed in the line of duty. This finding is based on the recommendation provided by the panel's Oncologist, Dr. Anthony Bucolo:



The Panel recommends to the Arkansas Claims Commission that the claim be denied.

Brad Hardin, Chair

*Brad Hardin* 11/19/18  
Firefighter Benefit Review Panel

**From:** [Charles Lyford](#)  
**To:** [ASCC Pleadings](#); [Kathryn Irby](#)  
**Cc:** [Crystal Okoro](#); [Gabrielle Mays](#)  
**Subject:** Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Monday, August 21, 2023 4:12:18 PM  
**Attachments:** [2023-08-21 Post Hearing Reply \(Respondent\).pdf](#)  
[2023-07-10 A. Bucolo Declaration \(signed\).pdf](#)

---

Director Irby,

Attached are Respondent's Reply Brief on Causation and a declaration from Dr. Anthony Bucolo, submitted per the Commission's request for post-hearing briefs in this claim. Thank you.

Charles Lyford

---

**From:** Misty Scott <[Misty.Scott@arkansas.gov](mailto:Misty.Scott@arkansas.gov)> **On Behalf Of** ASCC Pleadings  
**Sent:** Tuesday, August 15, 2023 3:33 PM  
**To:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>; ASCC Pleadings <[ASCCPleadings@arkansas.gov](mailto:ASCCPleadings@arkansas.gov)>  
**Cc:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>; Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
**Subject:** [Possible Phish Fraud]RE: [Possible Phish Fraud]RE: [Possible Phish Fraud]RE: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

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---

Received on 8-14-23.

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Sent:** Monday, August 14, 2023 11:51 AM  
**To:** ASCC Pleadings <[asccpleadings@arkansas.gov](mailto:asccpleadings@arkansas.gov)>  
**Cc:** Kathryn Irby <[kathryn.irby@arkansas.gov](mailto:kathryn.irby@arkansas.gov)>; Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>  
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Please find the Claimant's Response to the Commission. Thanks for your attention to this

matter.

Sincerely,

Crystal J. Okoro  
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P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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*Wayne v. State*, Claim No. 19-0479

Director Irby,

Attached is the Respondent's post-hearing brief, as requested by the Commission in its letter of July 3, 2023. Thank you.

Charles Lyford

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[Sent from Yahoo Mail on Android](#)

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Ok, thank you.

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**Sent:** Monday, July 17, 2023 11:30 AM

**To:** Charles Lyford [<charles.lyford@arkansasag.gov>](mailto:charles.lyford@arkansasag.gov); Crystal Okoro [<okorocrystal@yahoo.com>](mailto:okorocrystal@yahoo.com)

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Those are my calculations.



Kathryn

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Sincerely,

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P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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Thanks,  
Kathryn Irby

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**Subject:** Re: [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

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Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

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On Friday, July 14, 2023 at 12:23:12 PM CDT, Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)> wrote:

Thank you.

[Sent from Yahoo Mail on Android](#)

On Fri, Jul 14, 2023 at 11:23 AM, Charles Lyford

<[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Thanks, Crystal. No opposition here.

Charles

Charles Lyford

Assistant Attorney General

Office of Attorney General Tim Griffin

(501) 682-1314

---

**From:** Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>

**Sent:** Friday, July 14, 2023 10:57:10 AM

**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>

**Subject:** [Possible Phish Fraud]Re: POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

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---

Mr. Lyford, would you be opposed to a 20 day business day extension to file this brief? The goal is to get it down a lot sooner. I'm in the middle of winding down my practice. Let me know your thoughts as I would like to put in my extension request before the end of the business day today.

Thank you.

Sincerely,

Crystal J. Okoro  
Attorney at Law  
P.O. Box 1118  
North Little Rock, AR 72115 [Tel:501-859-3424](tel:501-859-3424)  
F:501-325-1989  
[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)

PLEASE NOTE NEW FAX NO.!!!

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On Wednesday, July 5, 2023 at 01:39:00 PM CDT, Charles Lyford  
<[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)> wrote:

Received, thank you.

Charles Lyford

---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Monday, July 3, 2023 10:08 AM  
**To:** Charles Lyford <[charles.lyford@arkansasag.gov](mailto:charles.lyford@arkansasag.gov)>; Crystal Okoro <[okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)>  
**Cc:** Johanna Hinkle <[johanna.hinkle@arkansasag.gov](mailto:johanna.hinkle@arkansasag.gov)>  
**Subject:** POST-HEARING BRIEFING: Wayne v. State of Arkansas, Claim No. 190479

**EXTERNAL EMAIL**

Ms. Okoro and Mr. Lyford, please see attached correspondence. I'm also attaching the audio recording from the May 19 hearing. Let me know if you have any questions.

Thanks,

Kathryn

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 19-0479**

**STATE OF ARKANSAS**

**RESPONDENT**

**POST-HEARING REPLY ON CAUSATION**

Claimant's husband, Allen Wayne, Sr., died in 2015

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondent filed a post-hearing brief that “point[ed] to specific evidence in the record, including references to time periods (given in minute and second format) in the hearing recording.”

*Id.* Respondent identified evidence adduced at the hearing that demonstrated, again and again, that

[REDACTED]—not occupational exposure to carcinogens.

Claimant filed a post-hearing brief that attached a new medical opinion, instead of focusing on specific evidence in the record as directed by the Claims Commission. It should also be noted that Claimant's post-hearing brief was filed under the signature of counsel for Respondent. *See*

Claimant's Post-Hearing Brief at 4, Certificate of Service. This error may be representative of the work product as a whole.

In any event, the new opinion attached to Claimant's post-hearing brief merely concludes that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] For this reason alone, the Claims Commission should adopt the recommendation of the Firefighter Benefit Review Panel to deny the claim.

But the Claimant's post-hearing brief makes other errors. Claimant explains that Respondent's expert oncologist, Dr. Bucolo, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]  
[REDACTED]  
[REDACTED] Benefits should be denied.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Charles Lyford  
Ark Bar No. 2010-200  
Senior Assistant Attorney General  
Office of the Arkansas Attorney General  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-1314  
Fax: (501) 682-2591  
Email: charles.lyford@arkansasag.gov

**CERTIFICATE OF SERVICE**

I, Charles Lyford, certify that on August 21, 2023, the foregoing was filed electronically by submission to asccpleadings@arkansas.gov, and served via email to the following:

Crystal J. Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

Charles Lyford

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 19-0479**

**STATE OF ARKANSAS**

**RESPONDENT**

**DECLARATION OF ANTHONY BUCOLO, M.D.**

I, Anthony Bucolo, being competent to testify and having personal knowledge regarding the statements contained in this declaration, do hereby state and verify the following:

1. I am a medical oncologist at CHI St. Vincent in Little Rock, Arkansas. I have practiced with CHI St. Vincent for three years. I practiced with Arkansas Oncology for 28 years prior to that.

2. I am a member of the Firefighter Benefit Review Panel as a licensed oncologist. My appointment to the Panel was in 2018, and I have served continually since then.

3. The claim of Gwenever Wayne, surviving spouse of Allen Wayne, Sr., was sent to the Panel for a recommendation in November of 2018. I reviewed the claim documents, including

[REDACTED]

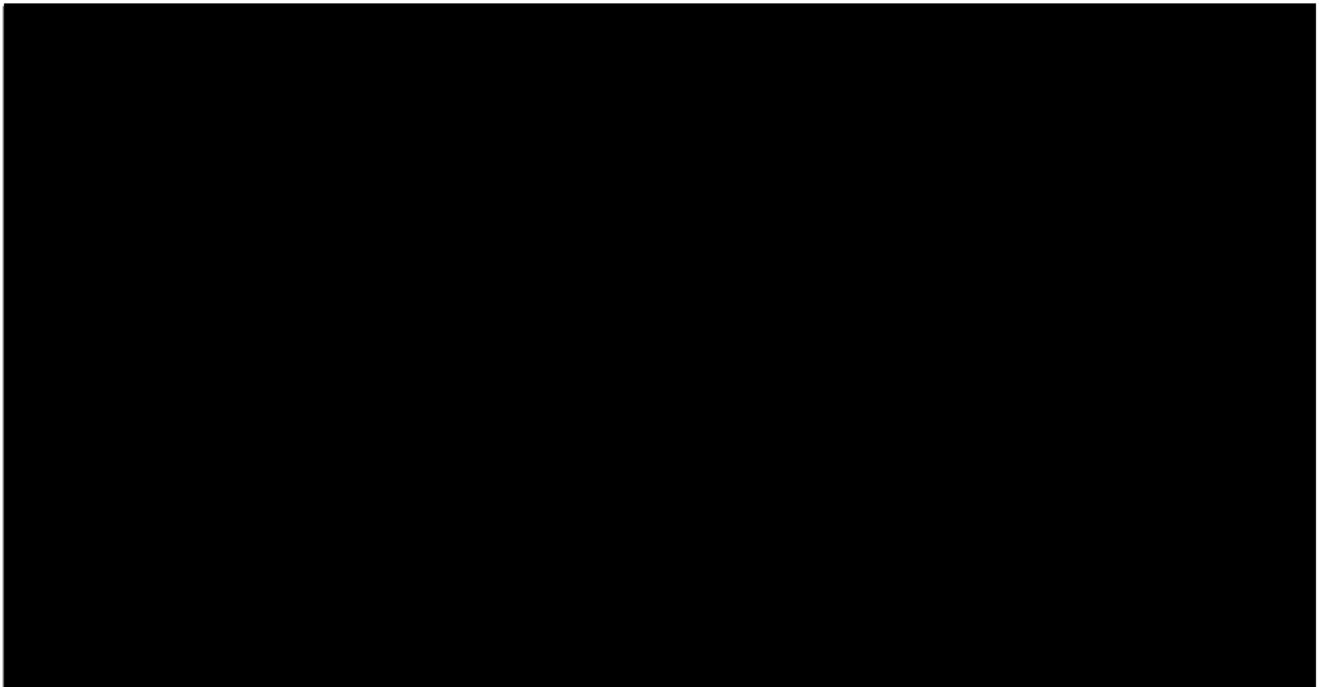
4. The Panel followed the same process in reaching a recommendation for the Allen Wayne claim as it does with other claims. The Panel verifies that the decedent was actively engaged in firefighting during their career with a fire department. Then the Panel decides, based on the relevant documentation, if the decedent's death was caused by a [REDACTED] that resulted from exposure to carcinogens while fighting fires.

5. I provide my opinion as an oncologist when a claim raises questions of medical causation. [REDACTED]

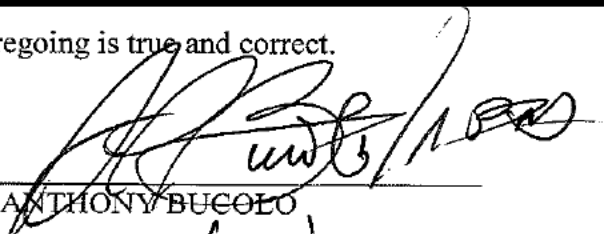
[REDACTED] The Panel therefore recommended that the Claims Commission deny the claim for benefits.

[REDACTED]

[REDACTED]



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

  
ANTHONY BUCOLO

7/10/2023  
DATE



**From:** [Rosalyn Middleton](#)  
**To:** [ASCC Pleadings; "okorocrystal@yahoo.com"](#)  
**Cc:** [Charles Lyford](#); [Gabrielle Mays](#); [Shannon Keele](#)  
**Subject:** Wayne-v-SOA, Claim No. 190479  
**Date:** Thursday, September 7, 2023 4:23:46 PM  
**Attachments:** [image001.jpg](#)  
[2023-09-07 - Wayne Appearance.pdf](#)  
[2023-09-07 - Wayne Mot to Withdraw.pdf](#)

---

Good afternoon.

Please find attached for filing my entry of appearance and the Motion to Withdraw Charles Lyford as counsel for the respondent in the above referenced claim.

Sincerely,

*Rosalyn Middleton*

**Rosalyn Middleton**  
Assistant Attorney General  
Office of the Attorney General Tim Griffin  
323 Center Street | Suite 200 | Little Rock, AR 72201  
Telephone: (501) 682-8122 | Facsimile: (501) 682-2591  
E-mail: [rosalyn.middleton@arkansasag.gov](mailto:rosalyn.middleton@arkansasag.gov)



**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ENTRY OF APPEARANCE**

Assistant Attorney General Rosalyn Middleton respectfully submits her entry of appearance on behalf of the respondent, State of Arkansas. Complete contact information for the undersigned counsel is included in the signature block below.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By:



Rosalyn Middleton  
Ark Bar No. 2001257  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-8122  
Fax: (501) 682-2591  
Email: [rosalyn.middleton@arkansasag.gov](mailto:rosalyn.middleton@arkansasag.gov)

*Attorneys for the Respondent*

**CERTIFICATE OF SERVICE**

I, Rosalyn Middleton, hereby certify that on September 7, 2023, I served the foregoing document via email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

---

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL**

The Respondent by and through counsel, hereby moves the Commission to allow the withdrawal of attorney Charles Lyford as counsel for the Respondent and to substitute Assistant Attorney General Rosalyn Middleton as counsel for the Respondent. Attached hereto is the Notice of Appearance for Assistant Attorney General Rosalyn Middleton.

WHEREFORE the Respondent respectfully request that the Commission grant the motion for withdrawal and substitution of counsel.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By:



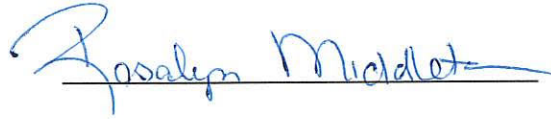
Rosalyn Middleton  
Ark Bar No. 2001257  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-8122  
Fax: (501) 682-2591  
Email: [rosalyn.middleton@arkansasag.gov](mailto:rosalyn.middleton@arkansasag.gov)

*Attorneys for the Respondent*

**CERTIFICATE OF SERVICE**

I, Rosalyn Middleton, hereby certify that on September 7, 2023, I served the foregoing document via email to the following:

Crystal Okoro  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

A handwritten signature in blue ink that reads "Rosalyn Middleton". The signature is written in a cursive style and is positioned above a horizontal line.

**From:** [Lisa Wiedower](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Rosalyn Middleton](#); [Gabrielle Mays](#); [okorocrystal@yahoo.com](mailto:okorocrystal@yahoo.com)  
**Subject:** Wayne v. State of Arkansas Claim No. 190479  
**Date:** Tuesday, September 19, 2023 3:16:02 PM  
**Attachments:** [image001.jpg](#)  
[2023-09-19 - Enc letter to ASCC - Wayne.pdf](#)

---

Good afternoon,

Attached is a Motion to Withdraw and Substitution of Counsel and Notice of Appearance for filing in the above matter.

***Lisa Wilkins Wiedower***

Assistant Attorney General

Civil Division

**Office of Arkansas Attorney General Tim Griffin**

[323 Center Street, Suite 200](#)

[Little Rock, Arkansas 72201](#)

Office: (501) 682-2503 | Fax: (501) 682-2591

[Lisa.wiedower@arkansasag.gov](mailto:Lisa.wiedower@arkansasag.gov) | [ArkansasAG.gov](https://www.arkansasag.gov)





**TIM GRIFFIN**  
ATTORNEY GENERAL

Lisa Wiedower  
Assistant Attorney General

Direct Dial: (501) 682-2503  
Email: [lisa.wiedower@arkansasag.gov](mailto:lisa.wiedower@arkansasag.gov)

September 19, 2023

Sent via email to:

Arkansas State Claims Commission  
101 E. Capitol Ave., Suite 410  
Little Rock, AR 72201  
[ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov)

Re: *Gwenever A. Wayne v. State of Arkansas*  
Case No.: CC-190479

Dear Ms. Irby:

Enclosed you will find a copy of the Motion to Withdraw and Substitution of Counsel and Notice of Appearance in the above matter to be filed herein.

Sincerely,

A handwritten signature in blue ink that reads "Lisa W. Wiedower".

Lisa Wiedower  
Assistant Attorney General

Enclosure

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL**

The Respondent by and through counsel, hereby moves the Commission to allow the withdrawal of attorney Rosalyn Middleton as counsel for the Respondent and to substitute Assistant Attorney General Lisa Wiedower as counsel for the Respondent. Attached hereto is the Notice of Appearance for Assistant Attorney General Lisa Wiedower.

WHEREFORE the Respondent respectfully request that the Commission grant the motion for withdrawal and substitution of counsel.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By:



\_\_\_\_\_  
Lisa Wiedower  
Ark Bar No. 87190  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-2503  
Fax: (501) 682-2591  
Email: lisa.wiedower@arkansasag.gov

*Attorneys for Defendants*



**CERTIFICATE OF SERVICE**

I, Lisa Wiedower, hereby certify that on September 19, 2023, I mailed the foregoing by electronic mail to the following:

Crystal J. Okoro  
Attorney for Claimant  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

Lisa Wiedower

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**GWENEVER A. WAYNE**

**CLAIMANT**

**v.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ENTRY OF APPEARANCE**

Assistant Attorney General Lisa Wiedower respectfully submits her entry of appearance on behalf of the Respondent, State of Arkansas, and requests that all future service and correspondence be sent accordingly. Complete contact information for the undersigned counsel is included in the signature block below.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By:



---

Lisa Wiedower  
Ark Bar No. 87190  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-2503  
Fax: (501) 682-2591  
Email: [lisa.wiedower@arkansasag.gov](mailto:lisa.wiedower@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Lisa Wiedower, hereby certify that on September 18, 2023, I served the foregoing document via email to the following:

Crystal J. Okoro  
Attorney for Claimant  
P.O. Box 1118  
North Little Rock, AR 72115  
okorocrystal@yahoo.com

Lisa Wiedower

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**GWENEVER A. WAYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Commission”) are two motions filed by the State of Arkansas (the “Respondent”) seeking to allow the withdrawal of Charles Lyford and Rosalyn Middleton and to substitute Lisa Wiedower as counsel for Respondent. Based upon a review of the motion, the Commission GRANTS the motion and substitutes Lisa Wiedower as counsel for Respondent instead of Charles Lyford and Rosalyn Middleton.

IT IS SO ORDERED.



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ARKANSAS STATE CLAIMS COMMISSION  
Solomon Graves



---

ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow, Chair



---

ARKANSAS STATE CLAIMS COMMISSION  
Sylvester Smith

DATE: October 19, 2023

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**GWENEVER WAYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 190479**

**STATE OF ARKANSAS**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the claim of Gwenever Wayne (the “Claimant”) against the State of Arkansas (the “Respondent”). At the hearing held on May 19, 2023, Crystal Okoro appeared on Claimant’s behalf, and Charles Lyford appeared on behalf of Respondent.

1. Claimant filed her claim on October 17, 2018, seeking death benefits and scholarship benefits related to the death of Claimant’s husband, Allen Wayne Sr. (the “Decedent”).
2. Respondent filed an answer denying liability.
3. Pursuant to Ark. Code Ann. § 21-5-705(a)(3)(C)(viii), the Firefighter Benefit Review Panel (FFBRP) reviewed the claim and recommended that it be denied.
4. Claimant thereafter requested a hearing and retained counsel.
5. On March 4, 2022, following a hearing, the Commission entered an Order related to two motions to compel filed by Claimant.
6. On September 2, 2022, the Commission held a status conference and subsequently entered an Order scheduling a two-hour hearing on the issue of medical causation. A hearing letter was sent scheduling the hearing for May 19, 2023.
7. On February 23, 2023, Respondent filed a motion to substitute counsel.

8. On March 27, 2023, Respondent filed a motion for summary judgment. On April 20, 2023, the Commission entered an Order regarding Claimant's agreed extension of time to respond to the motion for summary judgment.

9. At the beginning of the hearing, the Commission voted unanimously to substitute Charles Lyford as counsel for Respondent.

10. In response to a question from a commissioner, Respondent agreed that, if the Commission were to award benefits, those benefits would be in the amount of \$150,000. Respondent agreed that there is no discretion in Ark. Code Ann. § 21-5-705 (the "Cancer Benefit Statute"). Claimant's counsel stated that partial benefits could be awarded but did not cite to any statute in support of this argument. Respondent explained (and Claimant's counsel agreed) that Claimant's counsel was referring to a previous claim (*Pinkerton v. State of Ark.*, Claim No. 17-0700-CC), in which the parties settled a death benefit claim for less than \$150,000. The chair commissioner noted, and Respondent agreed, that the settlement in *Pinkerton* was a distinguishing factor not present in the instant claim.

11. In response to a question from a commissioner, Claimant's counsel stated that Claimant was seeking scholarship benefits, as well. Respondent agreed that if the Commission awarded death benefits, Claimant would also be entitled to scholarship benefits.

12. In response to a question from a commissioner, Respondent agreed that, as a firefighter, [REDACTED].

13. In response to a question from a commissioner, Respondent disagreed that the [REDACTED]  
[REDACTED]  
[REDACTED]

14. In response to a question from a commissioner as to whether the Cancer Benefit Statute requires causation, Respondent stated that the Statute does require either that the cancer be from the list in the Cancer Benefit Statute OR that the cancer be more prevalent in the firefighter population than the general population. Respondent stated that the Cancer Benefit Statute was designed to cover firefighters who got cancer by virtue of their exposure to known carcinogens. The chair commissioner stated that the Cancer Benefit Statute does not include a requirement that Claimant prove that the Decedent's cancer be caused by the Decedent's work as a firefighter. The chair commissioner also noted that the Legislature could have realized that causation would be difficult to prove, such that a lesser burden of proof was included in the Cancer Benefit Statute. Respondent stated that the requirement that the Decedent be actively engaged in fighting fires establishes a causal requirement.<sup>1</sup>

15. The parties presented opening statements.

16. In response to a question from a commissioner, Respondent stated that [REDACTED]  
[REDACTED] When asked why Subsection (a)(3)(A)(ii)<sup>2</sup> of the Cancer Benefit Statute applies, Respondent stated that it is evidence of a causal requirement.

17. Commissioner Graves noted that the wife of Respondent's counsel worked for Commissioner Graves in his previous employment position. Claimant's counsel stated that this was not an issue. Respondent agreed.

---

<sup>1</sup> Ark. Code Ann. § 6-82-501(4) defines firefighter as "any firefighter employed on a full-time or volunteer duty status while actually engaged in the performance of his or her duties."

<sup>2</sup> Ark. Code Ann. § 21-5-705(a)(3)(A)(ii) excludes "a firefighter who was diagnosed with cancer prior to the start of firefighter service."



### Testimony of Greg Summers

18. Claimant's counsel called Chief Greg Summers to testify. After being sworn in, Chief Summers stated that he is currently the fire chief of the Waco Fire Department. He was previously the fire chief of the Little Rock Fire Department (LRFD). He served as the Decedent's fire chief at the LRFD. There are measures that have been taken to address the higher risk of cancer among firefighters, including providing wipes for the firefighters to clean the soot off their faces, giving firefighters a second set of gear, having equipment to wash the gear, and moving the gear into a separate room. These safety measures were not in place earlier in his career. The Decedent worked in a warehouse when Chief Summers first became the fire chief for the LRFD.

19. On cross-examination, Chief Summers stated that he is not a medical doctor and is not offering an opinion as to medical causation.

### Testimony of Bo Hagar

20. Claimant's counsel called Bo Hagar to testify. After being sworn in, Mr. Hagar stated that when the Decedent retired, Mr. Hagar was either a firefighter or a fire engineer. The Decedent was the equipment repair technician in the warehouse at that time. In that position, the Decedent helped to repair and maintain firefighter equipment and to fit firefighters for new gear and personal protective equipment. The Decedent took possession of used gear if damaged or in need of replacement. He also handled disposal of gear. Mr. Hagar submitted the exposure statistics to the FFBRP. The exposure statistics were not available for the years that the Decedent served as a firefighter, so Mr. Hagar had to go to the archived logbooks to put together a list of fires to which the Decedent would have responded. Firefighters use foam to fight some types of fires. With line of duty deaths from cancer, Mr. Hagar stated that the issue has been showing that the firefighters were involved in fighting fires and exposed to carcinogens.

21. On cross-examination, Mr. Hagar stated that he is not a medical doctor and does not have a law degree. He is aware that the FFBRP recommended that the claim be denied.

Testimony of Wade Marshall

22. Claimant's counsel called Wade Marshall to testify.

23. Respondent objected to Mr. Marshall's testimony, as he was not listed on Claimant's witness list. Claimant's counsel stated that Mr. Marshall's name and contact information was listed on various emails. The chair commissioner allowed Mr. Marshall to testify and noted Respondent's objection.

24. After being sworn in, Mr. Marshall stated that he is the president of the Arkansas Professional Firefighters Association (APFA). He served previously as the legislative director of APFA when this statute was drafted in 2015. At the time, Arkansas was one of nineteen states that did not have a recognition of the connection between cancer and firefighters. APFA tried to go through the Workers' Compensation Commission (WCC), but the issue always came down to causation and the difficulty associated with showing which specific fire caused the firefighter to develop cancer. Most states recognize that if you can show you were exposed to carcinogens, there is a presumption that it occurred during the line of duty. Because WCC would not budge, APFA worked to have cancer death benefits "wedged" into the current death benefit structure. Mr. Marshall was there for the negotiations and stated that a partial award could be made by the Commission because the Cancer Benefit Statute provides for a "maximum of" \$150,000.<sup>3</sup> With regard to the instant claim, Mr. Marshall talked to Chief Summers and worked with Mr. Hagar to gather documents to establish causation and exposure. Mr. Marshall also helped the family gather, format, and submit the supporting documents to the Commission. The FFBRP votes on the claims,

---

<sup>3</sup> Ark. Code Ann. § 21-5-705(a)(3)(B)(i).

but he does not know how the vote is reported. Mr. Marshall has not attended a FFBRP meeting and does not know whether each panel member has an equal vote. He understands that the FFBRP did not recommend benefits for the Decedent because of Dr. Bucolo's position that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25. On cross-examination, Mr. Marshall stated that [REDACTED] was a paramedic for eighteen years but is not a medical doctor. He explained that the law requires an oncologist to serve on the FFBRP. The oncologist is on the FFBRP to opine as to whether a certain type of cancer is relevant to the firefighter's exposure and to give some technical information regarding other cancers associated with firefighting. Mr. Marshall confirmed that the Cancer Benefit Statute includes an element of causation and that an oncologist is required to be on the FFBRP to offer an opinion as to medical causation. Chief Brad Hardin was also involved in the passage of the Cancer Benefit Statute. Chief Hardin told Mr. Marshall that the vote was unanimous to deny benefits. When asked whether the FFBRP has ever recommended denial of benefits, Mr. Marshall stated that there was one recommendation that led to a settlement but that the FFBRP had not recommended the denial of benefits in any other claim. Mr. Marshall was not aware of any other claims where a decedent had [REDACTED]

26. On redirect, Mr. Marshall stated that the FFBRP voted unanimously to give weight to Dr. Bucolo's opinion that the [REDACTED]. Mr. Marshall was asked whether the FFBRP agreed with Dr. Bucolo (as opposed to voting). Over Respondent's objection, Mr. Marshall stated that he was not present at the FFBRP meeting but that he understood there

was a vote. Mr. Marshall discussed a previous claim, which involved a firefighter with a history of smoking and a settlement for a partial amount.

27. On re-cross, Mr. Marshall confirmed that he was referring to the *Pinkerton* claim. He also confirmed that the FFBRP recommended that the *Pinkerton* claim be paid.

Testimony of Dr. William Rutledge

28. Claimant's counsel called Dr. William Rutledge to testify. After being sworn in, Dr. Rutledge stated that he graduated from medical school in 1975 and returned to Little Rock following a surgical fellowship.

29. Claimant introduced the application packet attached to Claimant's initial claim form as Claimant's Exhibit No. 1. Respondent did not object to this exhibit.

30. Claimant introduced Dr. Rutledge's report as Claimant's Exhibit No. 2. Respondent did not object to this exhibit. Dr. Rutledge stated that the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Dr. Rutledge has reviewed Dr. Bucolo's deposition. Dr. Rutledge took issue with Dr. Bucolo's statement<sup>4</sup> that the [REDACTED]

[REDACTED]

31. Claimant introduced the 2005 medical records attached to the summary judgment response as Claimant's Exhibit No. 3.

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<sup>4</sup> Bucolo Deposition at p. 10, lines 22–24.

32. Dr. Rutledge stated that Claimant's Exhibit No. 3 is documentation of the

[REDACTED]

33. On cross-examination, Dr. Rutledge confirmed that he is a general surgeon, not an oncologist. He does not specialize in the treatment of cancer. [REDACTED]

[REDACTED]

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<sup>5</sup> *Id.* at p. 12, lines 7–8.

<sup>6</sup> *Id.* at p. 19, lines 8–10.

<sup>7</sup> *Id.* at p. 18, line 22, through p. 19, line 1.

[REDACTED]

34. In response to a question from a commissioner, Dr. Rutledge stated that the small bowel is part of the digestive tract.

35. In response to a question from a commissioner, Dr. Rutledge stated that [REDACTED]

[REDACTED]

36. On redirect, Dr. Rutledge stated that [REDACTED]

[REDACTED]

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<sup>8</sup> *Id.* at p. 26, lines 13–20.

37. Respondent objected to the introduction of Claimant's Exhibit Nos. 5 and 6, arguing that these were not previously produced. Claimant's counsel stated that she does not have a document showing that she sent these exhibits previously. Claimant's counsel also stated that these exhibits were relied upon by Dr. Rutledge's in preparing his expert report and that Respondent is not prejudiced by the introduction of these exhibits. In response to a question from a commissioner as to whether Claimant's counsel has a cover letter showing what documents were sent to Respondent, Claimant's counsel stated that she did not. Respondent stated that it is prejudiced because the exhibits were not provided in discovery and that Respondent has not had a chance to review these previously. The Commission unanimously found that without being able to show that the exhibits were previously (and timely) provided to Respondent, the Commission would disallow the exhibits. However, the Commission noted that the exhibits were part of the record, such that the General Assembly will be able to review the exhibits, if needed.

38. Claimant's counsel attempted to raise other matters for the first time on redirect, including the FFBRP's review and voting process. Respondent objected, and the Commission sustained the objection.

39. On re-cross, Dr. Rutledge stated that [REDACTED]

[REDACTED]

40. In response to a question from a commissioner, Dr. Rutledge stated that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Testimony of Charlanda Kimble

41. Claimant's counsel called Charlanda Kimble to testify.

42. Respondent objected to Ms. Kimble's testimony, as her name was not previously provided in Respondent in the course of discovery. The chair commissioner allowed Ms. Kimble to testify and noted Respondent's objection.

43. After being sworn in, Ms. Kimble stated that the Decedent was her father. She has [REDACTED]

44. Respondent declined to cross examine Ms. Kimble.

Testimony of Gwenever Wayne

45. Claimant's counsel called Claimant to testify. After being sworn in, Claimant stated that she is the widow of the Decedent. She filed this claim because she felt that his death was work-related. The Decedent did not have surgery before 2005. Claimant is seeking the maximum amount of benefits. The Decedent is also filing the claim because she has incurred debt related to sending her son to college. [REDACTED]. The Decedent's name has not been put on the wall in Arkansas showing that he was killed in the line of duty, and Claimant wants his name on the wall.

46. Respondent noted that it does not object to the Decedent's name being added to the firefighter memorial on the grounds of the Capitol. However, it is outside the jurisdiction of the Commission to order that the Decedent's name be added. In response to a question from a commissioner, Respondent stated that it is unsure how to have a firefighter's name added to the memorial. The chair commissioner noted that that the Commission cannot order the Decedent's name be added to the memorial but encouraged Claimant to discuss this issue with Mr. Marshall following the hearing.

47. Respondent declined to cross-examine Claimant.



Testimony of Dr. Anthony Bucolo

48. Respondent submitted the deposition transcript of Dr. Bucolo in lieu of live testimony.

49. In his deposition, Dr. Bucolo testified that he is a medical oncologist at CHI St. Vincent's and has practiced medicine in the field of oncology for 30 years.<sup>9</sup> He has served on the FFBRP since 2018.<sup>10</sup>

50. Dr. Bucolo stated that the

<sup>9</sup> Bucolo Deposition at p. 8, lines 13–17.

<sup>10</sup> *Id.* at lines 18–20.

<sup>11</sup> *Id.* at p. 10, line 24, through p. 11, line 4.

<sup>12</sup> *Id.* at p. 12, lines 7–10.

<sup>13</sup> *Id.* at p. 19, lines 8–10; p. 24, line 22, through p. 25, line 22.

<sup>14</sup> Bucolo Deposition at p. 26, line 13, through p. 28, line 6.

<sup>15</sup> *Id.* at p. 28, lines 2–6.

54. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

#### Closing Arguments

57. Claimant's counsel stated that the Decedent did not [REDACTED] after fighting fires for over 20 years. Claimant's counsel urged the Commission to "find a way" to award benefits to Claimant, just like the Commission did in the *Pinkerton* claim.

58. In response to a question from a commissioner, Claimant stated that there are five children of the Decedent and that the youngest is 26 years old.

59. In response to a question from a commissioner, Claimant stated that the youngest son did not complete college.

60. Respondent's counsel quoted Dr. Bucolo, who stated that [REDACTED]  
[REDACTED] Respondent

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<sup>16</sup> *Id.* at p. 31, lines 23–25.

<sup>17</sup> *Id.* at p. 36, lines 2–13.

<sup>18</sup> *Id.*

<sup>19</sup> Bucolo Deposition at p. 37, lines 6–16.

<sup>20</sup> *Id.* at p. 36, lines 22–25.

argued that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].<sup>21</sup> The FFBRP unanimously recommended that Claimant's claim be denied.

### Post-Hearing Briefing

61. Following the hearing, the Commission asked the parties to brief the subject of medical causation.

### Applicable Law

62. Subsection (a)(3) of the Cancer Benefit Statute provides as follows:

- (A) (i) Firefighter killed in the line of duty after January 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, or a cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if he or she was exposed to a known carcinogen as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer while in the official line of duty.
- (ii) Subdivision (a)(3)(A)(i) of this section does not include a firefighter who was diagnosed with cancer prior to the start of firefighter service.
- (B) A death benefit under subdivision (a)(3)(A) of this section shall be limited to:
  - (i) A maximum of one hundred fifty thousand dollars (\$150,000) per individual death, including educational benefits provided in § 6-82-501 et seq.; and
  - (ii) A firefighter who is under sixty-eight (68) years of age.

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<sup>21</sup> Ark. Code Ann. § 21-5-705(a)(3)(A)(i).

### Findings of Fact and Conclusions of Law

63. The Commission notes Respondent's agreement that the [REDACTED] [REDACTED] during his firefighting career. Given this agreement at the beginning of the hearing, while the Commission appreciates Chief Summers' and Mr. Hagar's time, their testimony simply reiterated information that was not in dispute.

64. The Commission herein reaches a unanimous result to deny the claim, but the commissioners rely on different reasons for denial. The reasons depend on whether the Cancer Benefit Statute requires a causal link between [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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<sup>22</sup> As Mr. Marshall testified, the benefits for firefighter cancer deaths were "wedged" into the existing death benefit structure. Other categories of benefits addressed in the Cancer Benefit Statute do require causation. For example, subsection (a)(1) provides for death benefits for specified state employees when a death occurs "[i]n the official line of duty as a result of a criminal or negligent action of another person or persons or as the result of the engagement in exceptionally hazardous duty; or . . . while the officer or employee was performing emergency medical activities." (emphasis added). Similarly, subsection (b)(2)(B) provides for death benefits for specified state employees who are wearing a bulletproof vest and whose occurs "[i]n the official line of duty as the result of a criminal action of another person or persons." (emphasis added). However, unlike subsections (a)(1) and (b)(2)(B), subsection (a)(3) (which addresses the cancer death benefits) does not include that causation language. Simply put, under the Cancer Benefit Statute, the family of a firefighter who was exposed to any known carcinogen and who died from one of the listed types of cancer would be eligible for benefits—there is no specific requirement that the carcinogen be tied to the type of cancer that the firefighter developed. Alternatively, if the firefighter developed a type of cancer that occurs more often in firefighters than in the general population, the firefighter's family would be eligible for benefits—again, there is no specific requirement that the carcinogen be tied to the type of cancer that the firefighter developed.

[REDACTED]

66.

[REDACTED]. The Cancer Benefit Statute states that benefits may be paid if a firefighter dies in the line of duty, “including death

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<sup>23</sup>

[REDACTED]

<sup>24</sup>

[REDACTED]

<sup>25</sup> *Id.*

<sup>26</sup> Bucolo Deposition as p. 31, lines 23–25.

<sup>27</sup> *Id.* at p. 11, lines 1–7.

than in the general population. . . .”<sup>28</sup>

As such, the Commission finds that Claimant's claim is subject to denial.

<sup>28</sup> Ark. Code Ann. § 21-5-705(a)(3)(A)(i).

<sup>29</sup> See Complaint at p. 5.

<sup>30</sup> See *id.* at p. 278.

<sup>31</sup> Bucolo Deposition at p. 26, lines 13–20; *see also* p. 27, line 24, through p. 28, line 6:

(emphasis added).

67. As such, the Commission unanimously votes to DENY Claimant’s claim.

68. As the Commission is not awarding benefits, the Commission need not reach the issue of whether it can award partial benefits under the Cancer Benefit Statute. However, to the extent that this claim may be reviewed by the Legislature, the Commission notes the ambiguity in the Cancer Benefit Statute as to this issue. For example, subsection (a) states unequivocally that if certain criteria are met, “[t]he state shall pay the additional sum of one hundred fifty thousand dollars (\$150,000). . . .”<sup>32</sup> This subsection applies to firefighter cancer death benefits *and* death benefits for other specified state employees. However, subsection (a)(3)(B)(i), which applies *only* to cancer death benefits, states that benefits “shall be limited to . . . [a] maximum of one hundred fifty thousand dollars (\$150,000) per individual death, including educational benefits. . . .”<sup>33</sup>

69. In addition to the question about whether partial benefits can be awarded by the Commission, a question exists regarding the educational benefits referenced in subsection (a)(3)(B)(i). Subsection (a)(3)(B)(i) could be interpreted to mean that educational benefits would come out of the \$150,000 benefit award. Of course, given that there is no limit on the number of children who could receive the award, as well as the inherent difficulty in predicting future college costs (educational benefits can be awarded to a child in infancy), the possible value of the educational benefits could far exceed the \$150,000 award. It seems more likely that the intended purpose of subsection (a)(3)(B)(i) is to indicate that educational benefits may be awarded *in addition to* the \$150,000 benefit, but the wording of the subsection creates ambiguity.

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<sup>32</sup> Ark. Code Ann. § 21-5-705(a)(1) (emphasis added).

<sup>33</sup> Ark. Code Ann. § 21-5-705(a)(3)(A)(i).

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION  
Solomon Graves



ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair

DATE: October 19, 2023

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).



**From:** [Kathryn Irby](#)  
**To:** [Crystal Okoro](#); [Lisa Wiedower](#)  
**Cc:** [Gabrielle Mays](#)  
**Subject:** ORDERS: Wayne v. State of Arkansas, Claim No. 190479  
**Date:** Thursday, October 19, 2023 1:52:00 PM  
**Attachments:** [Wayne -- 190479 -- hearing -- order.pdf](#)  
[90--Wayne v. SOA.pdf](#)

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Ms. Okoro and Ms. Wiedower, please see two attached orders entered today by the Commission.

Thanks,

Kathryn Irby

**Kathryn Irby**  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-2822

**From:** [Shawn Childs](#)  
**To:** [Kathryn Irby](#)  
**Subject:** Notice of Appeal (Claim No. 190479)  
**Date:** Monday, November 20, 2023 3:12:02 PM  
**Attachments:** [Wayne--NoticeAppeal.pdf](#)

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Ms. Kirby,

See the attached correspondence.

--

Shawn G. Childs  
WALKER & CHILDS, PLLC  
1815 S. State Street  
Little Rock, AR 72206  
(Office) (501) 287-8680  
(Fax) (501) 222-8872

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SHAWN CHILDS\*  
LAWRENCE WALKER

\*Licensed to practice in  
Arkansas and Texas

**Via Email**  
**kathryn.irby@arkansas.gov**

November 20, 2023

Kathryn Irby  
Arkansas State Claims Commission  
101 East Capitol Avenue, Suite 410  
Little Rock, AR 72201

Re: *Gwenever Wayne v. State of Arkansas* (Claim No. 190479)

Dear Ms. Kirby:

The claimant Gwenever Wayne has retained me to represent her in her appeal of the Order dated October 19, 2023. Please consider this letter as her Notice of Appeal to the General Assembly.

Sincerely,  
  
Shawn G. Childs

cc: Gwenever Wayne