

ARKANSAS STATE CLAIMS COMMISSION  
-Claim Form-

Please note that all sections must be completed, or this form will be returned to you, which will delay the processing of your claim.

1. Claimant's Legal Counsel - ☒ (If representing yourself (Pro Se) please check this box and proceed to section 2)

Martin	Aaron	aaron@martinlawpartners.com		
(last name)	(first name)	(email)		
P.O. Box 3597	Fayetteville, AR. 72702	479-442-2244		
(address)	(city)	(state)	(zip)	(primary phone)

Arkansas Bar Number: 2002086

*If not licensed to practice law in Arkansas, please contact the Claims Commission for more information.*

2. Claimant

Davey Rhyne

(title/last name/first name or company)

(email)

(address)

(city)

(state)

(zip)

(primary phone)

3. State Agency Involved: (must be an Arkansas state agency. The Arkansas Claims Commission has no jurisdiction over county, city, or other municipalities)

14th Judicial District

(state agency involved)

4. Incident Date

August 12, 2019

5. Claim Type

Please provide a brief explanation of your claim. If additional space is required please attach additional statements to this form.

The claimant provided services for towing and storage of seized and forfeited property for the Respondent and has not been paid.  
See Complaint Narrative for further details.

- 5a. Check here if this claim involves damage to a motor vehicle. ☒

- 5b. Check here if this claim involves damage to property other than a motor vehicle. ☐

All property damage claims require a copy of your insurance declarations covering the property or motor vehicle at the time of damage.

I did not have insurance covering my property/motor vehicle at the time of damage. ☐

All property damage claims require ONE of the following (please attach):

1. Invoice(s) documenting repair costs, OR
2. Three (3) estimates for repair of the damaged property, OR
3. An explanation why repair bill(s) or estimate(s) cannot be provided.

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State Claims Commission  
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6. Was a state vehicle involved? (If Yes, please complete the following section)

(type of state vehicle involved)

(license number)

(driver)

7. Check here if this claim involves personal injury.

All personal injury claims require a copy of your medical insurance information and relevant medical bills in place at the time of the incident.

I do not have health insurance ☒

8. Amount Sought: \$85,616.01 and additional storage fees

The undersigned certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Davey Rhyme  
Claimant

Arkansas  
State Claims Commission

SEP 17 2021

ACKNOWLEDGEMENT

State of Arkansas  
County of Newton

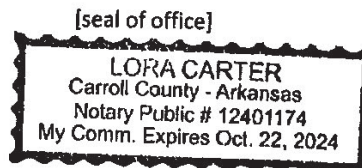
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On this the 14<sup>th</sup> day of July, 2021, before me, the undersigned notary, personally appeared Davey Rhyme known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Lora Carter  
Signature of Notary Public

My Commission expires: 10/22/24





Arkansas  
State Claims Commission  
SEP 17 2021

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BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

DAVEY RHYNE, d/b/a  
DAVEY'S AUTO BODY AND SALES,

Claimant

vs.

Claim No: \_\_\_\_\_

Date Filed: \_\_\_\_\_

PROSECUTING ATTORNEY FOR THE  
14<sup>th</sup> JUDICIAL DISTRICT;  
14<sup>th</sup> JUDICIAL DISTRICT; and  
STATE OF ARKANSAS,

Respondent

---

COMPLAINT NARRATIVE

---

The Claimant, by and through its undersigned attorney, states the following in support of this Complaint:

**Parties**

1. That the Claimant is and was at all relevant times, a citizen and resident of the State of Arkansas, doing business in the form of a sole proprietorship as Davey's Auto Body and Sales within the State of Arkansas.
2. That the Prosecuting Attorney for the 14<sup>th</sup> Judicial District is an Officer of the State of Arkansas.
3. That the Prosecuting Attorney for the 14th Judicial District was at all times relevant to this Complaint, acting within the scope of his employment and his official capacity as a State officer.
4. That the 14th Judicial District is a Division of the State of Arkansas.

5. That the Respondent is therefore the State of Arkansas and/or its Agencies, Departments, and Institutions.

#### **Jurisdiction**

6. That this is a claim against the State of Arkansas and/or its Agencies, Departments, and Institutions.
7. That this cause of action is barred by the doctrine of sovereign immunity from being litigated in a Court of general jurisdiction.
8. That the Arkansas State Claims Commission has jurisdiction pursuant to Ark. Code Ann. §19-10-204.
9. That pursuant to Ark. Code Ann. §19-10-223, there are no other known State or Administrative remedies available to the Claimant.

#### **Allegations of Fact**

10. That on or about October 16, 2017, the Newton County Sheriff's Office and the 14<sup>th</sup> Judicial District Drug Task Force executed a search warrant on the residence of [REDACTED] and discovered marijuana in his house, vehicles and property.
11. That the Newton County Sheriff's office contacted the Claimant and directed him to tow and store [REDACTED] seized property. The seized property included: 1) Honda Pioneer UTV, 2) Honda Recon ATV, 3) 2010 Chevy 2500 Truck, 4) 2009 Chevy 1500 Truck.

12. That the Claimant complied and towed the seized property to his business' storage facility.
13. That on December 14, 2017, the Respondent filed a Complaint in the Circuit Court of Newton County Civil Division, seeking forfeiture of [REDACTED] [REDACTED] seized property pursuant to Ark. Code Ann. §5-64-505 (EX. A).
14. That on January 17, 2019, the Circuit Court of Newton County filed an Agreed Order that forfeited [REDACTED] 2009 Chevy 1500 Truck to the "14<sup>th</sup> Judicial District, State of Arkansas" and released the remaining vehicles to [REDACTED] (*except the Honda Pioneer UTV, which was to be returned to owner [REDACTED]*) (EX. B).
15. That on January 17, 2019, the Court also entered a Sentencing Order in the criminal charges against [REDACTED] which did not Order him to pay for the reasonable recovery, towing and storage fees of the seized property (EX. C).
16. That on or around February 12, 2019, Newton County Sheriff, Glenn Wheeler called the Claimant and told him that he had to release the Honda Recon ATV and 2010 Chevy 2500 Truck to [REDACTED] The Claimant replied that he would not release the property until he was paid for services. Sheriff Wheeler responded that the property had to be released or the Claimant would be in contempt of Court. Sheriff Wheeler stated that [REDACTED]

██████████ would have to pay for towing of his two vehicles (2010 Chevy Truck 2500 and Honda Recon ATV) and that they would pay the remaining charges.

17. That on or around February 13, 2019, ██████████ came to the Claimant's business to pick up his 2010 Chevy 2500 and Honda Recon ATV. ██████████ paid \$300.63 for mileage, tow, labor and taxes for the 2010 Chevy 2500, but refused to pay for the charges for his Honda Recon ATV. The Claimant chose to waive the tow charges for the Honda Recon ATV to avoid further confrontation (*The Claimant mistakenly noted payment on invoice 5133 for the 2009 Chevy 1500 instead of the 2010 Chevy 2500*).
18. That the Respondent was aware of the Claimant's posted prices for the services he performs or may perform related to the towing and storage of any vehicle for the Respondent (EX. D).
19. That the Claimant mailed an invoice for the remaining charges, voluntarily discounted to \$21,041.88, to the Newton County Sheriff's office and they received the invoice on March 12, 2019. However, the Claimant received no response (EX. E).
20. That the Claimant mailed a second notice of invoice, voluntarily discounted to \$21,041.88 to the Newton County Sheriff's office and they received this



notice on May 3, 2019. However, the Claimant received no response (EX. F).

21. That the Claimant mailed a third notice of invoice, again voluntarily discounted to \$21,041.88 to the Newton County Sheriff's office and they received the notice on June 25, 2019. However, the Claimant again received no response (EX. G).

22. That on or about August 12, 2019, the prosecuting attorney for the 14<sup>th</sup> Judicial District of Arkansas, David Ethredge, and Newton County Sheriff Glen Wheeler called the Claimant about the invoices received and they refused to pay.

23. To date, these invoices have not been paid and the Respondent's 2009 Chevy 1500 received through forfeiture remains at the Claimant's storage facility and continuing to accrue charges at the posted rate of \$40.00 a day. The claimant has received no payment for the services claimed.

**First Cause of Action - Violation of Ark. Code Ann. §5-64-505**

24. That all actions in favor of and in which the State is interested shall be brought in the name of the State and shall be prosecuted by the prosecuting attorney under Ark. Code Ann. §16-106-101(a).

25. That the Respondent brought a Complaint in the interest of and in name of the State of Arkansas through the prosecuting attorney for the 14<sup>th</sup> Judicial

District, seeking forfeiture of [REDACTED] property to the Respondent pursuant to Ark. Code Ann. §5-64-505 (EX. A).

26. That [REDACTED] property was seized and forfeited pursuant to Ark. Code Ann. §5-64-505 *et. seq.* (EX. B).

27. That Ark. Code Ann. §5-64-505(i)(1)(B), states that the prosecuting attorney shall distribute moneys from the asset forfeiture fund for the expenses of seizure and maintenance of custody for property that is seized and forfeited under Ark. Code Ann. §5-64-505 *et seq.*

28. That the Respondent incurred expenses for the seizure and maintenance of [REDACTED] property, which was seized and forfeited under Ark. Code Ann. §5-64-505 *et. seq.* That these expenses included the Claimant's services for the towing and storage of [REDACTED] property seized and forfeited under Ark. Code Ann. §5-64-505 *et. seq.*

29. That the Respondent failed to distribute moneys for its expenses in the seizure and maintenance of custody of [REDACTED] seized and forfeited property in this case.

30. That the Respondent's failure to distribute money from the asset forfeiture fund for the expenses for the seizure and custody of the property in this case was in violation of Ark. Code Ann. §5-64-505(i).

### **Second Cause of Action – Unjust Enrichment**

31. That the Plaintiff provided services of towing and storing the seized property for the Defendant and the Defendant received the benefit of these services.
32. That the Plaintiff reasonably expected to be paid for the value of his services of towing and storing the seized property.
33. That the Defendant was aware that the Plaintiff was providing the services of towing and storing the seized property with the expectation of being paid, and the Defendant accepted these services.
34. That the reasonable value of these services was the posted prices in EX. D as itemized below.

### **DEMAND FOR DAMAGES**

35. The following is an itemization outline of damages through February 14, 2019:

<u>INVOICE</u>	<u>VEHICLE/SERVICE</u>	<u>CHARGES</u>
5133	<b>2009 Chevy 1500</b>	
	Mileage	Paid by owner
	Tow	Paid by owner
	Labor	Paid by owner
	Storage	\$19,440.00
	Legal Notice	\$25.00
	Legal Notice	\$25.00
	Taxes	\$1,510.48
	<b>TOTAL</b>	<b>\$21,000.48</b>

5134	<b>2010 Chevy 2500</b>	
	Mileage	\$119.00
	Tow	\$120.00
	Storage	\$19,440.00
	Legal Notice	\$25.00
	Legal Notice	\$25.00
	Taxes	\$1,529.00
	<b>TOTAL</b>	<b>\$21,258.00</b>
5135	<b>Honda Recon ATV</b>	
	Mileage	Waived by Claimant
	Towing	Waived by Claimant
	Labor	Waived by Claimant
	Storage	\$19,440.00
	Legal Notice	\$25.00
	Legal Notice	\$25.00
	Taxes	\$1,510.48
	<b>TOTAL</b>	<b>\$21,000.48</b>
5136	<b>Honda Pioneer UTV</b>	
	Mileage	\$119.00
	Towing	\$120.00
	Storage	\$20,460.00
	Legal Notice	\$25.00
	Legal Notice	\$25.00
	Taxes	\$1,608.05
	<b>TOTAL</b>	<b>\$22,357.05</b>

**GRAND TOTAL: \$85,616.01**

36. That the Respondent's 2009 Chevy 1500 has remained at the Claimant's storage facility since February 14, 2019 and incurring posted storage charges at the rate of \$40.00 a day.



**WHEREFORE**, the Claimant prays that this Commission find in favor of the Claimant and refer this claim to the General Assembly for the State Treasury to pay the Claimant **\$85,616.01** plus an additional \$40.00 a day from February 14, 2019 until the Respondent removes its 2009 Chevy 1500 from Claimant's property, pre- and post-judgment interest at the applicable rate, and all other appropriate relief in the interest of justice. In the alternative, the Claimant prays that this Commission find in favor of the Claimant and in accordance with Ark. Code Ann. §19-10-213, prays that the Director notify the Prosecuting Attorney for the 14<sup>th</sup> District to pay the Claimant \$85,616.01 plus an additional \$40.00 a day from February 14, 2019 until the 2009 Chevy 1500 is removed from Claimant's property, and pre- and post-judgment interest at the applicable rate from the asset forfeiture fund, and all other appropriate relief.

Respectfully Submitted

By: 

Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

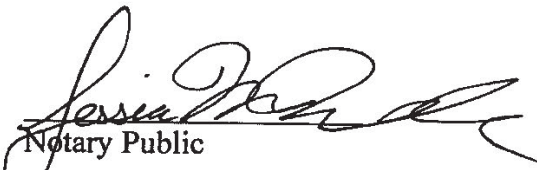
VERIFICATION OF CLAIMANT'S COUNSEL

STATE OF ARKANSAS       )  
  ) SS  
COUNTY OF WASHINGTON)

I, Aaron L. Martin, certify that I have read this pleading, that I am authorized to file it, and that to the best of my knowledge, the information and belief there is good ground for it, and with respect to this Complaint, that it is filed with the distinct knowledge and specific consent of my client, Davey Rhyne.

  
\_\_\_\_\_  
Aaron L. Martin

Subscribed and Sworn to before me, the undersigned Notary Public, on this  
13<sup>th</sup> day of August, 2021.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: June 8, 2027



VERIFICATION OF CLAIMANT

STATE OF ARKANSAS )  
COUNTY OF Boone ) SS

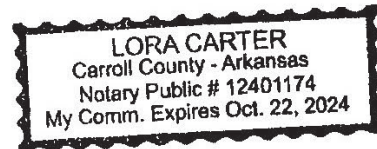
I, Davey Rhyne, certify that I have read this pleading, that I authorize attorney Aaron L. Martin to file it, and that the allegations of fact are correct to the best of my knowledge, and that it is filed with my distinct knowledge and specific consent.

Davey Rhyne  
Davey Rhyne

Subscribed and Sworn to before me, the undersigned Notary Public, on this 14<sup>th</sup> day of July, 2021.

Lora Carter  
Notary Public

My Commission Expires: 10/22/24





Arkansas  
State Claims Commission  
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**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

## SMALL WRECKER LIST OF CHARGES

*Effective as of January 21, 2020*

Rollback.....	(Monday – Friday 8:00 AM till 5:00 PM) .....	\$90.00
Rollback.....	(All other times) .....	\$125.00
Wrecker.....	(Monday – Friday 8:00 AM till 5:00 PM) .....	\$90.00
Wrecker.....	(All other times) .....	\$125.00
Service Call.....		\$50.00
Mileage.....	(per mile traveled).....	\$1.75
Winch.....	(per hr.- ½ hr. min.).....	\$85.00
Debris Clean-Up.....	(per hr. - ½ hr. min.).....	\$60.00
Extra Man.....	(per hr. - 1 hr. min.).....	\$60.00
Dollies.....		\$35.00
No Keys.....	(At time of service).....	\$42.50
Stand By.....	(per hr. – ½ hr. min.).....	\$60.00
Labor.....	(per hour).....	\$60.00
Security Storage Outside.....	(per day 1 day min.).....	\$40.00
Security Storage Inside.....	(per day 1 day min.).....	\$60.00
First Legal Notice.....	(As required by Act 1830 of 2001).....	\$35.00
Second Legal Notice.....	(As required by Act 1830 of 2001).....	\$35.00
Oil Dry.....	(40 lb. Spread).....	\$35.00
Foul Weather Conditions.....	(All charges increase 50%).....	Bill Total
Extra Trip to Storage Lot.....	(Not picking up auto).....	\$40.00
Night/Weekend release/call out.....		\$40.00
Waste Disposal.....	(per 36 gal. trash bag - 1 bag min.).....	\$20.00
Biohazard Protection.....	(per employee).....	\$20.00
Un-Lock Service.....	(non-tow).....(+ \$1.75 per mile).....	\$50.00
Animal Care and/or Boarding.....	(per day).....	\$25.00
Haz-Mat Spill.....		Unlimited

These are standard rates requested by the Arkansas State police,  
All services, which apply, will be charged.

Discounts may apply; Call (870) 743-1172 or (870) 577-0091 for special pricing.





IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS

State Drug Tracking # Forthcoming

DEFENDANT

\$11,471.00 in U.S. Currency

Remington 870 Express Shotgun, SN: [REDACTED]

Colt .380 Pistol, SN: [REDACTED]

Ruger Single Six .32, SN: [REDACTED]

Unknown Make .22 Rifle, SN: [REDACTED]

Stevens Shotgun, SN: [REDACTED]

Webley 45-55 Pistol, SN: [REDACTED]

Westernfield .22 Rifle, SN: [REDACTED]

Ruger .22 Pistol, SN: [REDACTED]

Smith & Wesson .357 Pistol, SN: [REDACTED]

Vehicle Title to 2010 Chevrolet Truck, [REDACTED]

2010 Chevrolet Truck, [REDACTED]

2009 Chevrolet Truck, [REDACTED]

Honda Pioneer 500UTV, [REDACTED]

Honda Recon ATV, [REDACTED]

FILED  
OFFICE OF THE CIRCUIT CLERK  
NEWTON COUNTY ARKANSAS

DEC 14 2017

11:10 A.M. P.M.

POTENTIAL CLAIMANT

COMPLAINT

Comes now the State of Arkansas, by and through Brad Brown, Deputy Prosecuting Attorney for the  
14<sup>TH</sup> Judicial District, and alleges:

1. That this action is an *in rem* forfeiture of the following described property:

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN: [REDACTED]
- c. Colt .380 Pistol, SN: [REDACTED]
- d. Ruger Single Six .32, SN: [REDACTED]
- e. Unknown Make .22 Rifle, SN: [REDACTED]
- f. Stevens Shotgun, SN: [REDACTED]
- g. Webley 45-55 Pistol, SN: [REDACTED]
- h. Westernfield .22 Rifle, SN: [REDACTED]
- i. Ruger .22 Pistol, SN: [REDACTED]
- j. Smith & Wesson .357 Pistol, SN: [REDACTED]
- k. Vehicle Title to 2010 Chevrolet Truck, [REDACTED]
- l. 2010 Chevrolet Truck, [REDACTED]
- m. 2009 Chevrolet Truck, [REDACTED]
- n. Honda Pioneer 500UTV, [REDACTED]
- o. Honda Recon ATV, [REDACTED]

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2. That this Court has jurisdiction over the parties and subject matter hereto and this is the proper venue

for this action.

3. That the defendant's property is located within the jurisdiction of this Court and is in the custody of the Drug Task Force / Newton County Sheriff's Office.

4. That on or about October 16, 2017, in Newton County, Arkansas the property listed in paragraph #1, letter a. through o., above was possessed by Potential Claimant(s), [REDACTED], simultaneously with an amount of drugs under facts, circumstances and presumptions that said controlled substance and drug paraphernalia were used in **SIMULTANEOUS POSSESSION OF DRUGS AND FIREARMS, 5-74-106(a)(1), CLASS Y FELONY; POSSESSION OF SCHEDULE VI CONTROLLED SUBSTANCE WITH PURPOSE TO DELIVER, 5-64-436(a)(6), CLASS C FELONY; and, POSSESSION OF DRUG PARAPHERNALIA, 5-64-443(c), CLASS D FELONY** and subject under A.C.A. 5-64-419 and 5-64-505 to forfeiture.

5. That notice of this seizure was given to the above named potential claimant, [REDACTED] did not sign the report. A copy of the confiscation report is attached hereto and incorporated into this complaint as if set out word for word.

6. Under the provisions of A.C.A. 5-64-505 *et seq.*, the above described defendant property should be forfeited to the plaintiff, State of Arkansas.

WHEREFORE, Plaintiff prays that the Court adjudge the above described defendant property condemned and forfeited to the State of Arkansas, that the Court order said property disposed of as provided by law, and for such further relief as the Court may deem proper.

DAVID L. ETHREDGE  
PROSECUTING ATTORNEY



Brad Brown  
Deputy Prosecuting Attorney  
AR Bar No. 2007050  
P.O. Box 483  
414 West Central  
Harrison AR 72601  
(870) 741-6361 Fax: (870) 741-6120

CERTIFICATE OF SERVICE

I, Brad Brown, Deputy Prosecuting Attorney for the Fourteenth Judicial District, hereby certify that the above complaint has been duly served by placing a true copy thereof with the Newton County Sheriff's Office on this date for service upon the below listed individual. A copy of the foregoing was also provided to counsel for the Potential Claimant / Defendant at the address indicated below.



Mr. David Cannon  
Cannon Law Firm  
425 W. Broadway  
Suite A  
North Little Rock, Arkansas 72114

  
\_\_\_\_\_  
Brad Brown, Dep. Prosecuting Att.

12-13-12  
Dated

IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS

DEFENDANT

\$11,471.00 in U.S. Currency  
Remington 870 Express Shotgun, SN: [REDACTED]  
Colt .380 Pistol, SN: [REDACTED]  
Ruger Single Six .32, SN: [REDACTED]  
Unknown Make .22 Rifle, SN: [REDACTED]  
Stevens Shotgun, SN: [REDACTED]  
Webley 45-55 Pistol, SN: [REDACTED]  
Westernfield .22 Rifle, SN: [REDACTED]  
Ruger .22 Pistol, SN: [REDACTED]  
Smith & Wesson .357 Pistol, SN: [REDACTED]  
Vehicle Title to 2010 Chevrolet Truck,  
2010 Chevrolet Truck, [REDACTED]  
2009 Chevrolet Truck, [REDACTED]  
Honda Pioneer 500UTV, [REDACTED]  
Honda Recon ATV, [REDACTED]

POTENTIAL  
CLAIMANT

AGREED ORDER OF FORFEITURE

Comes now the State of Arkansas, by and through Brad Brown, Deputy Prosecuting Attorney for the 14<sup>TH</sup> Judicial District, and the Defendant/ Potential Claimant herein, [REDACTED] by and through his counsel, Mr. David Cannon, and based upon the agreement of the parties and all things now known to the Court, the Court Finds and Orders as follows:

1. That this action is an *in rem* forfeiture of the following described property:

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN: [REDACTED]
- c. Colt .380 Pistol, SN: [REDACTED]
- d. Ruger Single Six .32, SN: [REDACTED]
- e. Unknown Make .22 Rifle, SN: [REDACTED]
- f. Stevens Shotgun, SN: [REDACTED]
- g. Webley 45-55 Pistol, SN: [REDACTED]
- h. Westernfield .22 Rifle, SN: [REDACTED]
- i. Ruger .22 Pistol, SN: [REDACTED]
- j. Smith & Wesson .357 Pistol, SN: [REDACTED]





- k. Vehicle Title to 2010 Chevrolet Truck, [REDACTED]
- l. 2010 Chevrolet Truck, [REDACTED]
- m. 2009 Chevrolet Truck, [REDACTED]
- n. Honda Pioneer 500UTV, [REDACTED]
- o. Honda Recon ATV, [REDACTED]

2. That this Court has jurisdiction over the parties and subject matter hereto, and this is the proper venue for this action.
3. That this action is brought pursuant to Arkansas Code Annotated 5-64-505 *et seq.*, which states the following property is subject to forfeiture, "any conveyance, including an aircraft, vehicle, or vessel that is used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale or receipt of property" [that is a controlled substance] and "anything of value, including firearms, furnished or intended to be furnished in exchange for a controlled substance or counterfeit substance in violation of this chapter, any proceeds or profits traceable to the exchange, and any money, negotiable instrument, or security used, or intended to be used, to facilitate any violation" of Chapter 64 of Title 5 of the Arkansas Code.
4. That the defendant's property is located within the jurisdiction of this Court and is in the custody of the Newton County Sheriff's Office.
5. That on or before October 16, 2017, in Newton County, Arkansas the property listed in paragraph #1 above was possessed by Potential Claimant, [REDACTED] under circumstances and presumptions that said property was used in the commission of **POSSESSION OF SCHEDULE VI CONTROLLED SUBSTANCE WITH PURPOSE TO DELIVER, 5-64-436(a)(6), CLASS C FELONY**; and, **POSSESSION OF DRUG PARAPHERNALIA, 5-64-443(d), CLASS D FELONY**, and is therefore subject to forfeiture.
6. That the Defendant entered a plea agreement in Newton County Circuit Case No. [REDACTED] in which the defendant agreed to forfeit all interest he has in the following property, with the following exceptions:

**Property to Be Forfeited**

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN: [REDACTED]
- c. Colt .380 Pistol, SN: [REDACTED]
- d. Ruger Single Six .32, SN: [REDACTED]
- e. Unknown Make .22 Rifle, SN: [REDACTED]
- f. Stevens Shotgun, SN: [REDACTED]
- g. Webley 45-55 Pistol, SN: [REDACTED]

- b. Westernfield .22 Rifle, SN: [REDACTED]
- i. Ruger .22 Pistol, SN: [REDACTED]
- j. Smith & Wesson .357 Pistol, SN: [REDACTED]
- ~~k. Vehicle Title to 2010 Chevrolet Truck,~~ [REDACTED]
- m. 2009 Chevrolet Truck, [REDACTED]

JA  
SUD DRC

Exception: Property to be Returned to [REDACTED]

- l. 2010 Chevrolet Truck, [REDACTED] and
- o. Honda Recon ATV, [REDACTED]
- ~~k. Vehicle Title to 2010 Chevrolet Truck,~~ [REDACTED]

JA  
SUD DRC

Exception: Property to be Returned to [REDACTED]

- n. Honda Pioneer 500UTV, [REDACTED]

7. Further, the defendant provided a sworn factual basis for his guilty plea to drug charges in Newton County Circuit Court Case No. [REDACTED] having the same factual basis as the allegations giving rise to this forfeiture complaint, and as part of that plea agreement agreed to forfeit the property listed in paragraph number 6.

8. Under the provisions of A.C.A. 5-64-505 *et seq.*, and by agreement of the parties, the above described defendant property is hereby ordered forfeited to the plaintiff, 14<sup>th</sup> Judicial District, State of Arkansas.

Approved as to form:

[REDACTED]

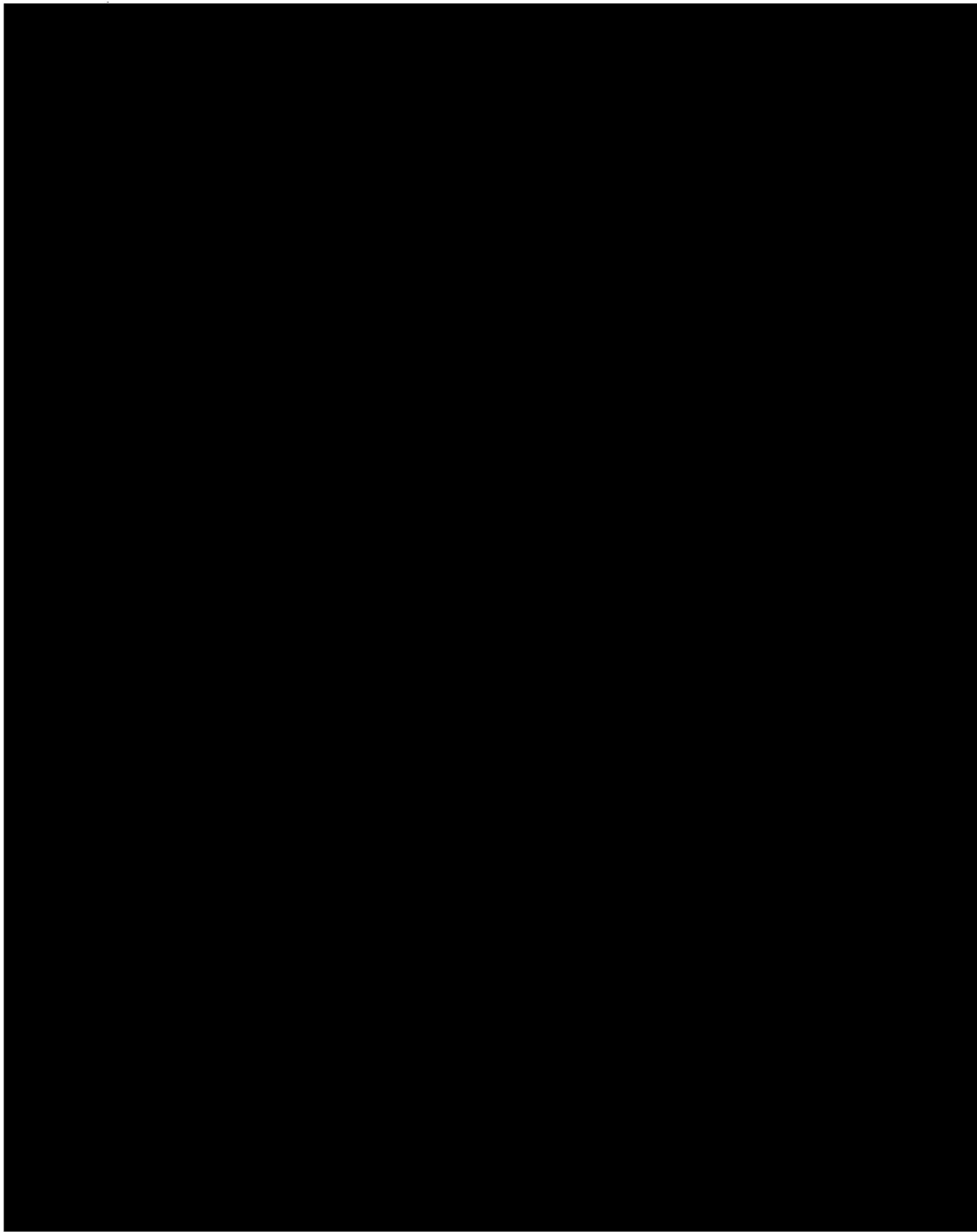
David K. Cannon  
David Cannon, Attorney for  
Potential Claimant

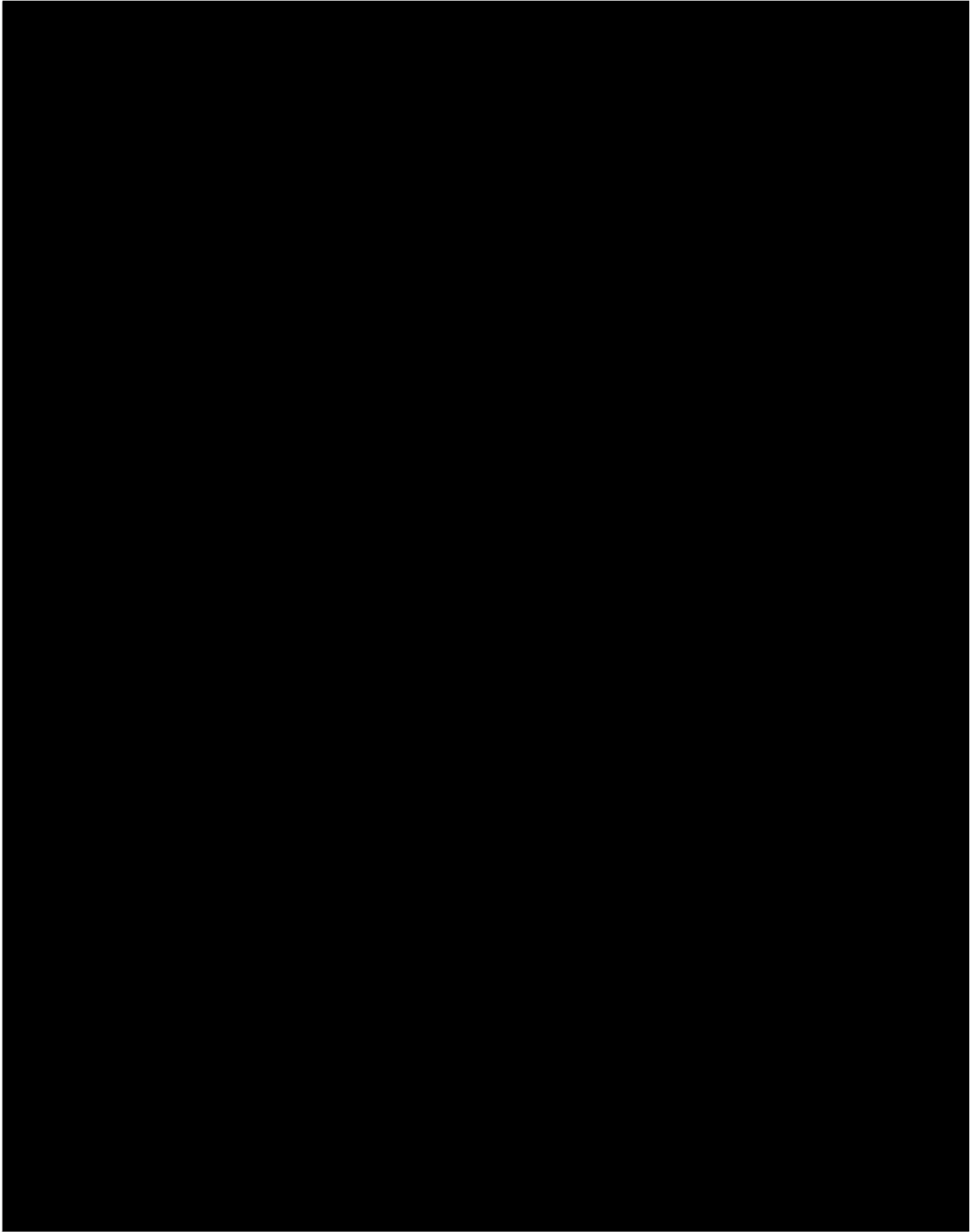
IT IS SO ORDERED AND FOUND.

John Putman  
Hon. John Putman, Circuit Judge

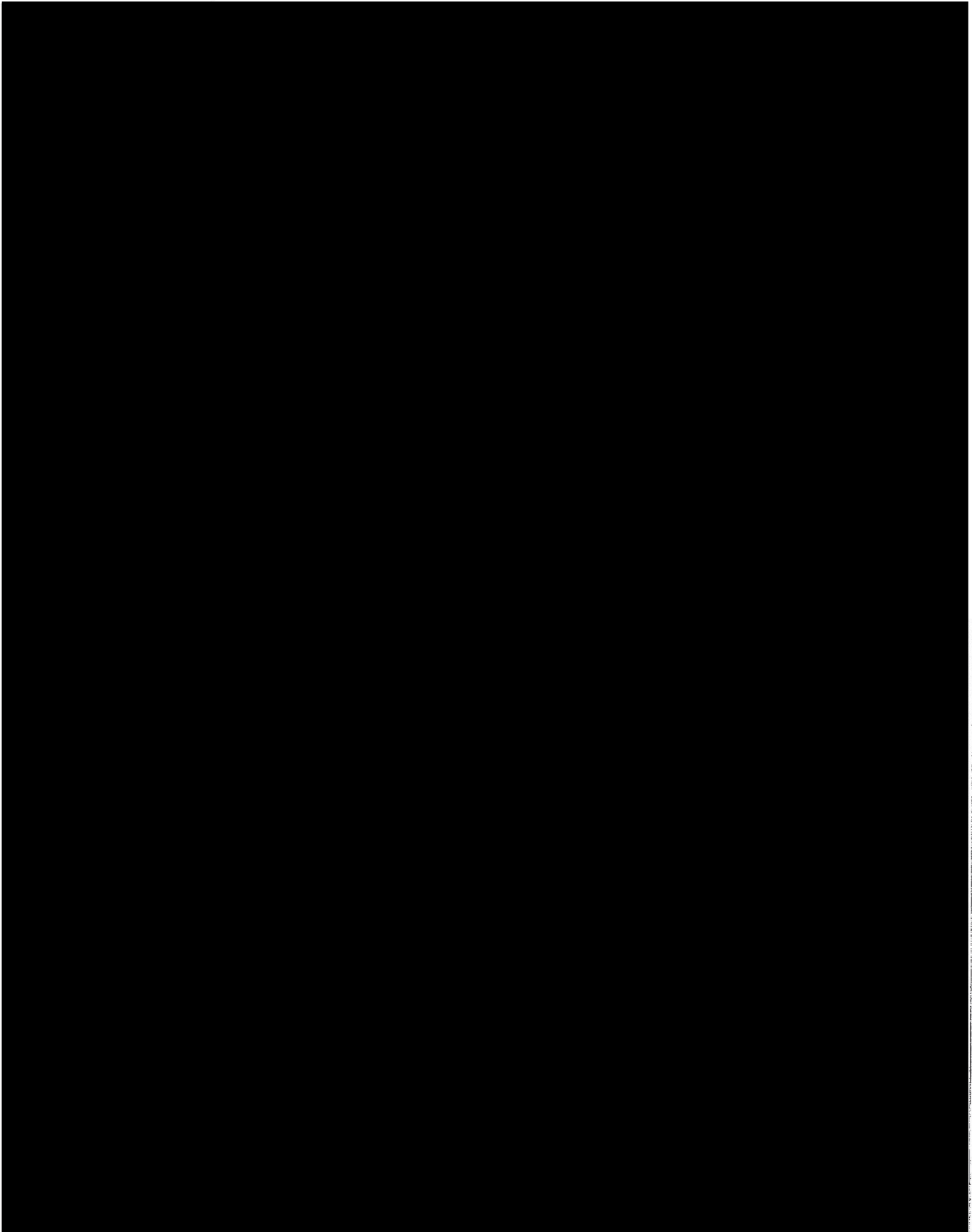
01-17-2019  
Dated

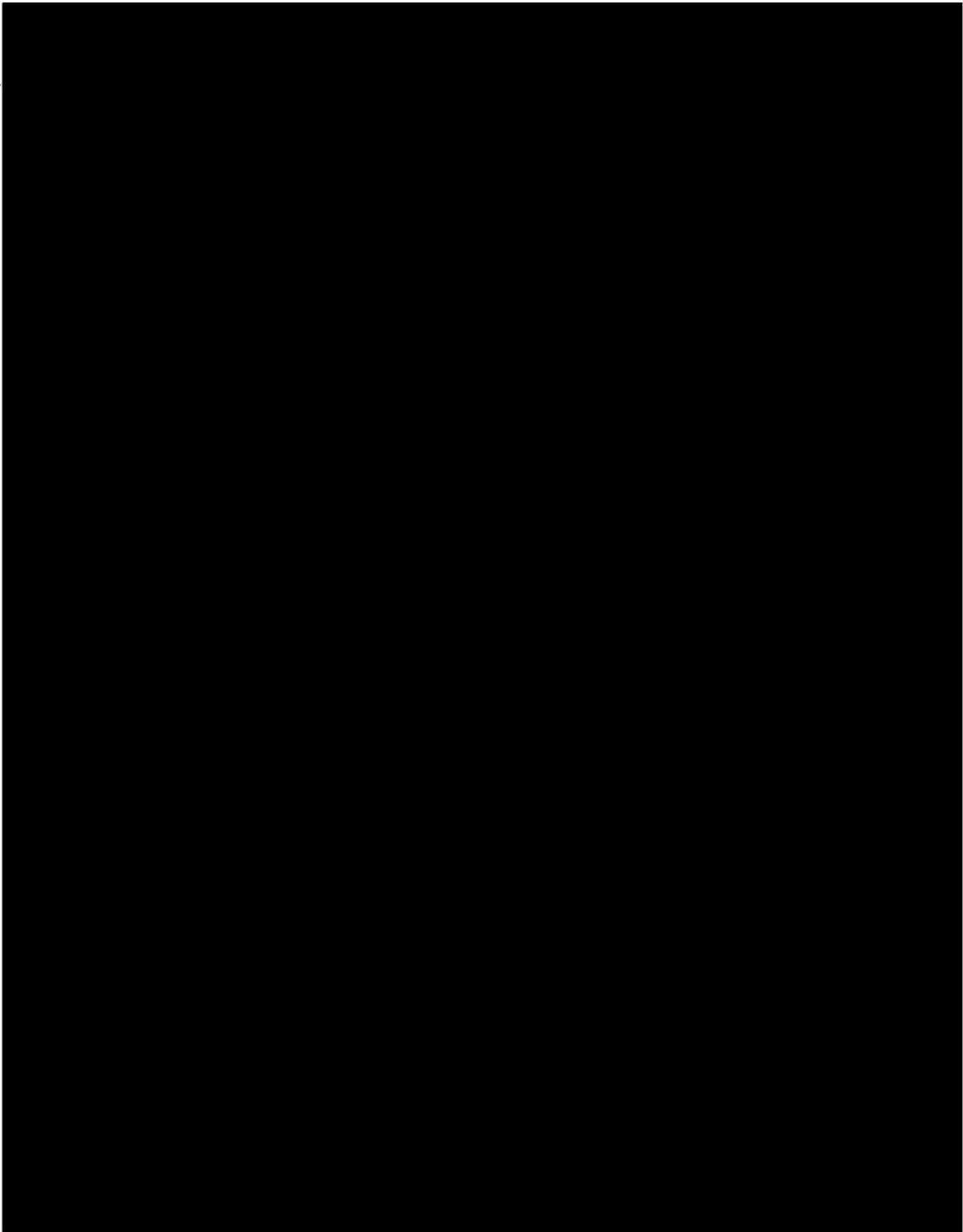














Arkansas Judiciary

**Case Title:** STATE V [REDACTED]  
**Case Number:** [REDACTED]  
**Type:** SENTENCING ORDER

So Ordered

A handwritten signature in cursive script that reads "John Putman".

Judge John Putman

Electronically signed by JRPUTMAN on 2019-02-05 14:59:17 page 6 of 6



**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

1st notice  
Arkansas  
State Claims Commission

SEP 17 2021

**INVOICE 5133, 5134, 5135, 5136**

**RECEIVED**

May 2019 Statement

**\$21,041.88**

**PAYMENT DUE UPON RECEIPT**

**Newton County Sheriff's Office**  
PO Box 312  
Jasper, AR 72641-0312

**Davey's Auto Body and Sales**  
3714 Hwy 65 N  
Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage discounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage discounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	

USD TOTAL \$21,401.88

**PAYMENT DETAILS**

#N/A  
#N/A  
#N/A  
#N/A  
#N/A

Payment Reference: 5133, 5134, 5135, 5136

**OTHER INFORMATION**

Davey Rhyne  
Phone: 870-743-1172

<http://www.daveysautobody.com/>  
[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

**PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES**



**U.S. Postal Service<sup>™</sup>**  
**CERTIFIED MAIL<sup>®</sup> RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com).

**FOR OFFICIAL USE**

Certified Mail Fee \$3.50

Extra Services & Fees (check box, add fee if applicable)

☐ Return Receipt (hardcopy) \$3.00

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$6.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.70

Total Postage and Fees \$7.00

Newton County Sheriff's Office

Attn: Glen Wheeler P.O. Box 312

Jasper, Arkansas 72641-0312

PS Form 3811, April 2015 PSN 7530-02-000-9053

See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Newton County Sheriff's Office  
 Attn: Sheriff Glen Wheeler  
 P.O. Box 312  
 Jasper, Arkansas 72641-0312



9590 9401 0006 5071 4430 16

2. Article Number (Transfer from service label)

7017 0660 0000 7466 4798

PS Form 3811, April 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION FOR DELIVERY**

A. Signature *[Signature]* Agent ☐ Addressee ☒

B. Received by (Printed Name) Beth McCoy C. Date of Delivery 3-13-19

D. Is delivery address different from item 1? ☐ Yes ☒ No

If YES, enter delivery address below:

3. Service Type:
- ☐ Adult Signature
  - ☐ Adult Signature Restricted Delivery
  - ☐ Certified Mail
  - ☐ Certified Mail Restricted Delivery
  - ☐ Collect on Delivery
  - ☐ Collect on Delivery Restricted Delivery
  - ☐ Insured Mail
  - ☐ Insured Mail Restricted Delivery
  - ☐ Priority Mail Express<sup>®</sup>
  - ☐ Registered Mail<sup>™</sup>
  - ☐ Registered Mail Restricted Delivery
  - ☐ Return Receipt for Merchandise
  - ☐ Signature Confirmation<sup>™</sup>
  - ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>	TIME <b>8:00 P.M.</b>	A.M. <b>P.M.</b>	REQUESTED BY <b>Newton Co. SC</b>																		
LOCATION OF VEHICLE <b>Dec: Ar</b>																					
<div style="background-color: black; height: 30px; width: 100%;"></div>																					
MILEAGE		SERVICE TIME																			
FINISH	FINISH	FINISH	FINISH																		
START	START	START	START																		
TOTAL	TOTAL	TOTAL	TOTAL																		
YEAR <b>2017</b>	MAKE / MODEL / COLOR <b>Honda</b>	DRIVER																			
STATE <b>AR</b>	LIC NO. <b>[REDACTED]</b>																				
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY																			
VEHICLE TOWED TO <b>Impound Lot - Dec: Ar</b>																					
REMARKS <b>Accident Cash only Hold per Newton County SO. 341 days @ \$60.00 Inside storage motor cycle</b>		<table border="1"> <tr> <td>MILEAGE CHARGE</td> <td><b>119.00</b></td> </tr> <tr> <td>TOWING CHARGE</td> <td><b>120.00</b></td> </tr> <tr> <td>LABOR CHARGE</td> <td></td> </tr> <tr> <td>STORAGE CHARGE</td> <td><b>20,460.00</b></td> </tr> <tr> <td>1st License</td> <td><b>25.00</b></td> </tr> <tr> <td>2nd License</td> <td><b>25.00</b></td> </tr> <tr> <td>Sub total</td> <td><b>20,799.00</b></td> </tr> <tr> <td>Tax</td> <td><b>1,607.05</b></td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>22,357.05</b></td> </tr> </table>		MILEAGE CHARGE	<b>119.00</b>	TOWING CHARGE	<b>120.00</b>	LABOR CHARGE		STORAGE CHARGE	<b>20,460.00</b>	1st License	<b>25.00</b>	2nd License	<b>25.00</b>	Sub total	<b>20,799.00</b>	Tax	<b>1,607.05</b>	<b>TOTAL</b>	<b>22,357.05</b>
MILEAGE CHARGE	<b>119.00</b>																				
TOWING CHARGE	<b>120.00</b>																				
LABOR CHARGE																					
STORAGE CHARGE	<b>20,460.00</b>																				
1st License	<b>25.00</b>																				
2nd License	<b>25.00</b>																				
Sub total	<b>20,799.00</b>																				
Tax	<b>1,607.05</b>																				
<b>TOTAL</b>	<b>22,357.05</b>																				
OPERATOR'S SIGNATURE <b>Davey Rhye</b>		AUTHORIZED SIGNATURE <b>Bill to Newton County</b>																			
5136 Sheriff's Office per Clem Wheeler		<b>Road Service</b> PRODUCE 513 <b>Charge 666/1055</b>																			

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17		TIME 8:00	A.M. P.M.	REQUESTED BY Newton Co. So																											
LOCATION OF VEHICLE Deer Ar.																															
PHONE [REDACTED]																															
MILEAGE		SERVICE TIME		EXTRA PERSON																											
FINISH		FINISH		FINISH																											
START		START		START																											
TOTAL		TOTAL		TOTAL																											
YEAR	MAKE MODEL COLOR	DRIVER																													
	Honda Recon 4x Red																														
STATE	LIC. NO.	[REDACTED]																													
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY																													
VEHICLE TOWED TO Impound lot Davey's																															
REMARKS Arrest Cash only 486 chrs @ 40.00 68 @ 1.75		<table border="1"> <tr> <td>MILEAGE CHARGE</td> <td>119</td> <td>00</td> </tr> <tr> <td>TOWING CHARGE</td> <td>120</td> <td>00</td> </tr> <tr> <td>LABOR CHARGE</td> <td></td> <td></td> </tr> <tr> <td>STORAGE CHARGE</td> <td>19,444</td> <td>00</td> </tr> <tr> <td>1st Legal</td> <td>35</td> <td>00</td> </tr> <tr> <td>2nd Legal</td> <td>35</td> <td>00</td> </tr> <tr> <td>Sub Total</td> <td>19,733</td> <td>00</td> </tr> <tr> <td>Tax</td> <td>1,529</td> <td>31</td> </tr> <tr> <td>TOTAL</td> <td>21,262</td> <td>31</td> </tr> </table>			MILEAGE CHARGE	119	00	TOWING CHARGE	120	00	LABOR CHARGE			STORAGE CHARGE	19,444	00	1st Legal	35	00	2nd Legal	35	00	Sub Total	19,733	00	Tax	1,529	31	TOTAL	21,262	31
MILEAGE CHARGE	119	00																													
TOWING CHARGE	120	00																													
LABOR CHARGE																															
STORAGE CHARGE	19,444	00																													
1st Legal	35	00																													
2nd Legal	35	00																													
Sub Total	19,733	00																													
Tax	1,529	31																													
TOTAL	21,262	31																													
OPERATOR'S SIGNATURE [Signature]																															
AUTHORIZED SIGNATURE Chase to work Payment against 5135 ON Invoice # 5133, and 5134		<b>Road Service</b> Loss / Chase to go																													

# Davey's AUTO BODY & SALES

~ 24 HOUR TOWING ~

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. P.M.	REQUESTED BY C. S. C.
LOCATION OF VEHICLE Deer A		PHONE	
MILEAGE		SERVICE TIME	
FINISH	FINISH	FINISH	
START	START	START	
TOTAL	TOTAL	TOTAL	
YEAR 2010	MAKE • MODEL • COLOR Chevy 2500 white	DRIVER	
STATE AR		CITY	
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY	
		<input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY	
VEHICLE TOWED TO Inbound Lot Davey's			
REMARKS Accident Cash only		68 @ 1.75 48 @ 20.00	
		MILEAGE CHARGE 119.00 TOWING CHARGE 120.00 LABOR CHARGE STORAGE CHARGE 9720.00 1st Light Mt 125.00 2nd Light 25.00 Tax	
OPERATOR'S SIGNATURE		TOTAL	
AUTHORIZED SIGNATURE			

**Road Service**

Sub total \$10,009.00  
 775.70  
 10,784.70

5134 Storage Discounted 50% From 40.00 per day  
 To 20.00 per day

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE: 10-16-17		TIME: 8:00		A.M. / REQUESTED BY: [Signature]	
LOCATION OF VEHICLE: [Redacted]					
MILEAGE: [Redacted]					
FINISH: [Redacted]		SERVICE TIME: [Redacted]		EXTRA PERSON: [Redacted]	
START: [Redacted]		FINISH: [Redacted]		START: [Redacted]	
TOTAL: [Redacted]		TOTAL: [Redacted]		TOTAL: [Redacted]	
YEAR: 2009		MAKE: Chevy		MODEL: 1500	
COLOR: White		VEHICLE NO: [Redacted]		DRIVER: [Redacted]	
<input type="checkbox"/> SINGLE/JOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY		<input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY	
REMARKS: Towed to Davey's					
65¢ x 1.75 = 119.00 TOWING CHARGE 120.00 LARSON CHARGE 40.00 STORAGE CHARGE 9,720.00 1st Equip 75.00 2nd Equip 25.00					
OPERATOR'S SIGNATURE		TOTAL			
AUTHORIZED SIGNATURE		Road Service			

To Be  
PAID BY  
JAN ADAMS  
AFTER HOURS ON  
2-13-19

279.00  
21.63  
\$300.63

9,770.00  
757.18  
TAX 10,527.18

BILL TO  
NEWTON COUNT  
SHERIFF'S  
OFFICE  
Per phone  
Conversation on  
2-13-19 @ 4:13

5133

Storage Discounted 50% From \$40.00  
per DAY to \$20.00 per DAY AS Billed





- 24 HOUR TOWING -

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

Arkansas  
State Claims Commission

SEP 17 2021

INVOICE 5133, 5134, 5135, 5136

(2nd RECEIVED Notice)

May 2019 Statement

\$21,041.88

PAYMENT DUE UPON RECEIPT

Newton County Sheriff's Office  
PO Box 312  
Jasper, AR 72641-0312

Davey's Auto Body and Sales  
3714 Hwy 65 N  
Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage discounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage discounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	
		USD TOTAL	\$21,401.88

PAYMENT DETAILS

#N/A  
#N/A  
#N/A  
#N/A  
#N/A

Payment Reference: 5133, 5134, 5135, 5136

OTHER INFORMATION

Davey Rhyne  
Phone: 870-743-1172

<http://www.daveysautobody.com/>  
[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES





**U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)™.

**OFFICIAL USE**

Certified Mail Fee \$3.50 0203 23

Extra Services & Fees (check box, add fee)  
☐ Return Receipt (hardcopy) \$0.00  
☐ Return Receipt (electronic) \$0.00  
☐ Certified Mail Restricted Delivery \$0.00  
☐ Adult Signature Required \$0.00  
☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.70

Total Postage and Fees \$7.00

Sent To Newton Co SO

Street and no. or P.O. Box No. P.O. Box 312

City, State Jasper AR 72641-0312

PS Form 3811, April 2015 PSN 7530-02-000-9053

See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Newton Co. Sheriff's Office  
 Attn: Sheriff Glenn Wheeler  
 P.O. Box 312  
 Jasper, AR 72641-0312



9590 9402 4555 8278 2496 03

2. Article Number (Transfer from service label)

7017 3040 0000 7156 6289

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature *[Signature]*  
 B. Received by (Printed Name) \_\_\_\_\_  
 C. Date of Delivery \_\_\_\_\_

D. Is delivery address different from item 1? ☐ Yes ☐ No  
 If YES, enter delivery address below:

3. Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☐ Certified Mail  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Insured Mail  
☐ Insured Mail Restricted Delivery  
☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☐ Return Receipt for Merchandise  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. P.M.	REQUESTED BY Newton C. SO														
LOCATION OF VEHICLE Deer Arkansas																	
<div style="background-color: black; height: 40px; width: 100%;"></div>																	
MILEAGE	SERVICE TIME	EXTRA PERSON															
FINISH	FINISH	FINISH															
START	START	START															
TOTAL	TOTAL	TOTAL															
YEAR 2009	MAKE / MODEL / COLOR Chevy 1500 White	DRIVER															
STATE Ar	<div style="background-color: black; height: 20px; width: 100%;"></div>																
<input type="checkbox"/> SLING/MOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY															
VEHICLE TOWED TO Impound Lot Dargis																	
REMARKS Arrest cash only  486 @ 20.00 per day DAYS		<table border="1"> <tr> <td>MILEAGE CHARGE</td> <td>119.00</td> </tr> <tr> <td>TOWING CHARGE</td> <td>120.00</td> </tr> <tr> <td>AFTER HOURS CHARGE</td> <td>40.00</td> </tr> <tr> <td>STORAGE CHARGE</td> <td>9720.00</td> </tr> <tr> <td>1st Light</td> <td>15.00</td> </tr> <tr> <td>2nd Light</td> <td>25.00</td> </tr> <tr> <td><b>TOTAL</b></td> <td></td> </tr> </table>		MILEAGE CHARGE	119.00	TOWING CHARGE	120.00	AFTER HOURS CHARGE	40.00	STORAGE CHARGE	9720.00	1st Light	15.00	2nd Light	25.00	<b>TOTAL</b>	
MILEAGE CHARGE	119.00																
TOWING CHARGE	120.00																
AFTER HOURS CHARGE	40.00																
STORAGE CHARGE	9720.00																
1st Light	15.00																
2nd Light	25.00																
<b>TOTAL</b>																	
OPERATOR'S SIGNATURE																	
AUTHORIZED SIGNATURE																	

**Road Service**

PRODUCT 813

5133

STORAGE Discounted 50% From \$40.00  
 per DAY to \$20.00 per DAY AS Billed

To Be  
 PAID By  
 JAN ADAMS  
 After Hours on  
 2-13-19

279.00  
 21.63  
 \$300.63

9,770.00  
 757.18  
 TAX \$10,527.18

BILL to  
 Newton County  
 SHERIFF'S  
 OFFICE  
 per phone  
 conversation on  
 2-13-19 @ 4:13 P.M.

# 

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>		TIME <b>8:00</b>		A.M. <b>PM</b>		REQUESTED BY <b>Norton Co. SD</b>	
LOCATION OF VEHICLE <b>Deer Ar</b>							
MILEAGE		SERVICE TIME		EXTRA PERSON			
FINISH _____		FINISH _____		FINISH _____			
START _____		START _____		START _____			
TOTAL _____		TOTAL _____		TOTAL _____			
YEAR <b>2010</b>	MAKE / MODEL / COLOR <b>Chevy 2500 white</b>			DRIVER			
STATE <b>Ar</b>							
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY		SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY			
VEHICLE TOWED TO <b>Freemound Lot Drivers</b>							
REMARKS <b>Arrest Cash only</b>		<b>68 @ 1.75</b>		MILEAGE CHARGE		<b>119 00</b>	
				TOWING CHARGE		<b>120 00</b>	
				LABOR CHARGE			
				STORAGE CHARGE		<b>9720 00</b>	
				1st Legal Rd		<b>25 00</b>	
		2nd Legal		<b>25 00</b>			
				TAX			
OPERATOR'S SIGNATURE				TOTAL			
AUTHORIZED SIGNATURE							

Sub total \$10,009.00  
775.70  
**10,784.70**

## Road Service

**5134**

STORAGE Discounted 50% From 40.00 per day  
 To 20.00 per DAY

# 

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <u>10-16-17</u>		TIME <u>8:00</u>	A.M. <input type="checkbox"/> P.M. <input checked="" type="checkbox"/>	REQUESTED BY <u>Newton Co. SO</u>		
LOCATION OF VEHICLE <u>1</u>						
[REDACTED]						
MILEAGE		SERVICE TIME		EXTRA PERSON		
FINISH _____		FINISH _____		FINISH _____		
START _____		START _____		START _____		
TOTAL _____		TOTAL _____		TOTAL _____		
YEAR _____	MAKE/MODEL/COLOR <u>Honda Recon Atv Red</u>			DRIVER _____		
STATE _____	LIC. NO. _____	VEHICLE ID NO. [REDACTED]				
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> SLING/HOIST TOW  <input type="checkbox"/> WHEEL LIFT  <input type="checkbox"/> FLAT BED/RAMP  <input type="checkbox"/> START  <input type="checkbox"/> LOCK OUT         </div> <div style="width: 30%;"> <input type="checkbox"/> FLAT TIRE  <input type="checkbox"/> OUT OF GAS  <input type="checkbox"/> WRECK  <input type="checkbox"/> RECOVERY         </div> <div style="width: 35%;"> <b>SPECIAL EQUIPMENT</b>  <input type="checkbox"/> SINGLE LINE WINCHING  <input type="checkbox"/> DUAL LINE WINCHING  <input type="checkbox"/> SNATCH BLOCKS  <input type="checkbox"/> SCOTCH BLOCKS  <input type="checkbox"/> DOLLY         </div> </div>						
VEHICLE TOWED TO <u>Imperial Lot Davy's</u>						
REMARKS  <u>Arrest</u> <u>Cash only</u>  <u>68 @ 1.75</u>  <u>486 charge 40.00</u>		MILEAGE CHARGE	<u>119</u>	<u>00</u>		
		TOWING CHARGE	<u>120</u>	<u>00</u>		
		LABOR CHARGE				
		STORAGE CHARGE	<u>1944</u>	<u>00</u>		
		1st Hour	<u>25</u>	<u>00</u>		
		2nd Hour	<u>25</u>	<u>00</u>		
		Sub Total	<u>19733</u>	<u>00</u>		
TAX		<u>1,529</u>	<u>31</u>			
TOTAL		<u>21,262</u>	<u>31</u>			
<div style="display: flex; justify-content: space-between;"> <div style="width: 40%;">           OPERATOR'S SIGNATURE <u>[Signature]</u> </div> <div style="width: 60%;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">           1st Hour <u>25.00</u>            2nd Hour <u>25.00</u>            Sub Total <u>19,733.00</u>            TAX <u>1,529.31</u>            TOTAL <u>21,262.31</u> </td> <td style="width: 50%; vertical-align: top;"> <b>Road Service</b>            PRODUCT BY <u>Loss / Chas Hb</u> </td> </tr> </table> </div> </div>					1st Hour <u>25.00</u> 2nd Hour <u>25.00</u> Sub Total <u>19,733.00</u> TAX <u>1,529.31</u> TOTAL <u>21,262.31</u>	<b>Road Service</b> PRODUCT BY <u>Loss / Chas Hb</u>
1st Hour <u>25.00</u> 2nd Hour <u>25.00</u> Sub Total <u>19,733.00</u> TAX <u>1,529.31</u> TOTAL <u>21,262.31</u>	<b>Road Service</b> PRODUCT BY <u>Loss / Chas Hb</u>					

AUTHORIZED SIGNATURE  
Chas Hb with Payment agent  
5135 ON Invoice # 5133, and #5134

**Road Service**

PRODUCT BY Loss / Chas Hb



# Dawey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>		TIME <b>8:00</b>		A.M. / P.M. <b>PM</b>		REQUESTED BY <b>Newton Co. SO</b>	
LOCATION OF VEHICLE <b>Deer Ar</b>							
NAME <div style="background-color: black; width: 100%; height: 20px;"></div>							
MILEAGE		SERVICE TIME		EXTRA PERSON			
FINISH _____		FINISH _____		FINISH _____			
START _____		START _____		START _____			
TOTAL _____		TOTAL _____		TOTAL _____			
YEAR <b>2017</b>	MAKE / MODEL / COLOR <b>Honda</b>			DRIVER <b>green</b>			
STATE <b>AR</b>	LIC. NO. <div style="background-color: black; width: 100%; height: 20px;"></div>						
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY		SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY			
VEHICLE TOWED TO <b>Impound Lot Dawey's</b>							
REMARKS <b>Arrest</b> <b>cash only</b> <b>Hold per Newton County SO.</b> <b>341 days @ \$60.00</b> <b>Inside storage motor cycle</b> <b>Dawey's</b>				MILEAGE CHARGE		<b>119.00</b>	
				TOWING CHARGE		<b>120.00</b>	
				LABOR CHARGE			
				STORAGE CHARGE		<b>20,460.00</b>	
				1st Legal Motor		<b>2.50</b>	
				2nd Legal Motor		<b>2.50</b>	
				Sub Total		<b>20,749.00</b>	
TAX		<b>1,608.05</b>					
TOTAL		<b>22,357.05</b>					
OPERATOR'S SIGNATURE <b>Dawey's</b>				AUTHORIZED SIGNATURE <b>Bill to Newton County</b>			
				<b>5136 Sheriff's Office per Clem Wheeler</b>			
				<b>Road Service</b> <small>PRODUCT 819</small> <b>Charge 066/1055</b>			





**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

Newton County Sheriff's Office

Attn: Sheriff Glenn Wheeler

PO Box 312

Jasper, AR 729641

*3rd notice / FINAL notice*

Arkansas  
State Claims Commission

SEP 17 2021

**RECEIVED**

Date: June 12, 2019

**URGENT: PLEASE RECTIFY THIS MATTER IMMEDIATELY**

Dear Sheriff Glenn Wheeler,

*Despite our previous reminders, the above amount due remains unpaid. As such, we would appreciate you making this payment as soon as possible.*

**DUE AMOUNT: \$21,401.88**

**PLEASE REMIT PAYMENT TO: Davey's Auto Body & Sales 3714 Hwy 65 N Harrison, AR 72601**

**We regret to advise that unless payment is received by July 15, 2019 this collection will**

**be passed over to our debt collection agency/lawyer and any and all discounts will be void at this time making the full amount of \$85,877.84 due immediately.**

**This could seriously affect your credit rating and therefore urge you contact us immediately to make payment or arrange an alternative before this date.**

**You have the right to dispute this debt by submitting written notice within thirty (30) days of receiving this letter. If this letter is not disputed within the thirty (30) day time-frame then the collection will be**

**considered accepted by the debtor.**

Sincerely,

Davey Rhyne



**U.S. Postal Service<sup>TM</sup>**  
**CERTIFIED MAIL<sup>®</sup> RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**NO OFFICIAL USE**

Certified Mail Fee \$3.50  
 Extra Services & Fees (check box, add fee to postage)  
☐ Return Receipt (hardcopy) \$0.00  
☐ Return Receipt (electronic) \$0.00  
☐ Certified Mail Restricted Delivery \$0.00  
☐ Adult Signature Required \$0.00  
☐ Adult Signature Restricted Delivery \$0.00  
 Postage \$0.70  
 Total Postage and Fees \$7.00  
 Sent to Newton Co. S.O. Attn: Sheriff's Office  
P.O. Box 512  
Gasper, AR 72644  
 Date of Delivery 06/24/2019  
 PS Form 3811, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions

4769 9512 0000 0406 2702

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Newton Co. S.O.  
Attn: Sheriff's Office  
P.O. Box 512  
Gasper, AR 72644

9590 9402 4555 8278 2494 12

2. Article Number (Transfer from service label)  
7017 3040 0000 7158 6364

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature ☒ Agent ☐  
[Signature]  
 B. Received by (Printed Name) ☐ Addressee  
Beck, K. [Signature]  
 C. Date of Delivery 6/23/19  
 D. Is delivery address different from item 1? ☐ Yes ☐ No  
 If YES, enter delivery address below:

3. Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☐ Certified Mail  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Insured Mail  
☐ Insured Mail Restricted Delivery (over \$500)  
☐ Priority Mail Express<sup>®</sup>  
☐ Registered Mail<sup>®</sup>  
☐ Registered Mail Restricted Delivery  
☐ Return Receipt for Merchandise  
☐ Signature Confirmation<sup>TM</sup>  
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

# INVOICE 5133, 5134, 5135, 5136

May 2019 Statement

**\$21,041.88**

**PAYMENT DUE UPON RECEIPT**

**Newton County Sheriff's Office**  
PO Box 312  
Jasper, AR 72641-0312

**Davey's Auto Body and Sales**  
3714 Hwy 65 N  
Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage discounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage discounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	

**USD TOTAL \$21,401.88**

## PAYMENT DETAILS

#N/A  
#N/A  
#N/A  
#N/A  
#N/A

Payment Reference: 5133, 5134, 5135, 5136

## OTHER INFORMATION

Davey Rhyne  
Phone: 870-743-1172

<http://www.daveysautobody.com/>  
[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

**PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES.**

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>	TIME <b>8:00</b>	A.M. REQUESTED BY <b>CPM: 1/10/17 C. S.C.</b>
LOCATION OF VEHICLE <b>De</b>		
[REDACTED]		
MILEAGE	SERVICE TIME	EXTRA PERSON
FINISH	FINISH	FINISH
START	START	START
TOTAL	TOTAL	TOTAL
MAKE MODEL COLOR <b>2017 Honda</b>	DRIVER [REDACTED]	
<div> <input type="checkbox"/> SLING-HOIST TOW  <input type="checkbox"/> WHEEL LIFT  <input type="checkbox"/> FLAT BED RAMP  <input type="checkbox"/> START  <input type="checkbox"/> LOCK OUT         </div> <div> <input type="checkbox"/> FLAT TIRE  <input type="checkbox"/> OUT OF GAS  <input type="checkbox"/> WRECK  <input type="checkbox"/> RECOVERY         </div> <div> <input type="checkbox"/> SINGLE LINE WINCHING  <input type="checkbox"/> DUAL LINE WINCHING  <input type="checkbox"/> SNATCH BLOCKS  <input type="checkbox"/> SCOTCH BLOCKS  <input type="checkbox"/> DOLLY         </div>		

EMERGENCY TO

REMARKS

**6001.75**  
 A. C. C.  
 341 days @ 60.00  
 Inside storage motor cycle

MILEAGE CHARGE **119.00**  
 TOWING CHARGE **120.00**  
 LABOR CHARGE  
 STORAGE CHARGE **2046.00**  
 1st Legal notice **25.00**  
 2nd Legal notice **25.00**  
 Sub total **2079.00**  
 Tax **160.05**  
**TOTAL 22357.05**

OPERATOR'S SIGNATURE

AUTHORIZED SIGNATURE

**Dealt to Newton County**  
**5136 Sheriff's Office for**  
**Clean vehicle**

**Road Service**

**Chavez/Lois**



# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE: 10-16-17 TIME: 8:00 AM REQUESTED BY: [Redacted]  
 MAKE: Dodge MODEL: Ram AIR: Red  
 [Redacted]

MILEAGE		SERVICE TIME		EXTRA PERSON	
FINISH		FINISH		FINISH	
START		START		START	
TOTAL		TOTAL		TOTAL	

MAKE: Dodge MODEL: Ram AIR: Red  
 [Redacted]

SPECIAL EQUIPMENT	
<input type="checkbox"/> SINGLE MOIST TOW	<input type="checkbox"/> FLAT TIRE
<input type="checkbox"/> WHEEL LIFT	<input type="checkbox"/> OUT OF GAS
<input type="checkbox"/> FLAT BED RAMP	<input type="checkbox"/> WRECK
<input type="checkbox"/> START	<input type="checkbox"/> RECOVERY
<input type="checkbox"/> LOCK OUT	<input type="checkbox"/> SPECIAL EQUIPMENT
	<input type="checkbox"/> SINGLE LINE WINCHING
	<input type="checkbox"/> DUAL LINE WINCHING
	<input type="checkbox"/> SNATCH BLOCKS
	<input type="checkbox"/> SCOTCH BLOCKS
	<input type="checkbox"/> DOLLY

REMARKS: 68E 1.75  
 Accident  
 Cash only  
 486 chuse 4200

MILEAGE CHARGE	119 00
TOWING CHARGE	170 00
LABOR CHARGE	
STORAGE CHARGE	1944 00
1st Legal	25 00
2nd Legal	25 00
Sub Total	1973 00
TAX	139 31
TOTAL	21262 31

OPERATOR'S SIGNATURE: [Signature]

5135 CHASE AT WASH DEPT AGENT  
 5133 1st 5134 LOSS / [Signature]

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE: 12-16-17 TIME: 8:00 A.M. REQUESTED BY: [Redacted]

[Redacted]

MILEAGE	SERVICE TIME	EXTRA PERSON
FINISH	FINISH	FINISH
START	START	START
TOTAL	TOTAL	TOTAL

200 Chevy 2500 miles [Redacted]

STANDARD EQUIPMENT		
SLING/HOIST TOW	FLAT TIRE	SINGLE LINE WINCHING
WHEEL LIFT	OUT OF GAS	DUAL LINE WINCHING
FLAT BED RAMP	WRECK	SNATCH BLOCKS
START	RECOVERY	SCOTCH BLOCKS
LOCK TILT		DOLLY

REMARKS: [Redacted] 636 1.75

MILEAGE CHARGE	119.00
TOWING CHARGE	120.00
LABOR CHARGE	
STORAGE CHARGE	9720.00
1st Light 1st	1.75
2nd Light	1.75
TAX	

Sub Total \$10,009.00  
775.00  
10,784.00

OPERATOR SIGNATURE: [Redacted] TOTAL

**Road Service**

5134 Storage Discounted 50% From 40.00 per day...  
To 20.00 per day



- 24 HOUR TOWING -

10-17-17

\_\_\_\_\_

MILEAGE

**SERVICE TIME**

EXTRA PERSON

$\#1 \times 1/2$        $F_{H_2S}$        $F_{H_2O}$

START \_\_\_\_\_ START \_\_\_\_\_ START \_\_\_\_\_

TOTAL: \_\_\_\_\_

*[Faint, illegible text at the bottom of the page]*

[REDACTED]

SPECIAL EQUIPMENT  
SPECIAL TRAINING

1. <u>DATE</u> 2. <u>TIME</u> 3. <u>LOCATION</u> 4. <u>TYPE</u> 5. <u>REMARKS</u> 6. <u>SIGNATURE</u> 7. <u>OFFICE</u> 8. <u>PHONE</u> 9. <u>TELETYPE</u> 10. <u>TELEFAX</u> 11. <u>TELEVISION</u> 12. <u>RADIO</u> 13. <u>MAIL</u> 14. <u>TELEPHONE</u> 15. <u>TELETYPE</u> 16. <u>TELEFAX</u> 17. <u>TELEVISION</u> 18. <u>RADIO</u> 19. <u>MAIL</u> 20. <u>TELEPHONE</u> 21. <u>TELETYPE</u> 22. <u>TELEFAX</u> 23. <u>TELEVISION</u> 24. <u>RADIO</u> 25. <u>MAIL</u> 26. <u>TELEPHONE</u> 27. <u>TELETYPE</u> 28. <u>TELEFAX</u> 29. <u>TELEVISION</u> 30. <u>RADIO</u> 31. <u>MAIL</u> 32. <u>TELEPHONE</u> 33. <u>TELETYPE</u> 34. <u>TELEFAX</u> 35. <u>TELEVISION</u> 36. <u>RADIO</u> 37. <u>MAIL</u> 38. <u>TELEPHONE</u> 39. <u>TELETYPE</u> 40. <u>TELEFAX</u> 41. <u>TELEVISION</u> 42. <u>RADIO</u> 43. <u>MAIL</u> 44. <u>TELEPHONE</u> 45. <u>TELETYPE</u> 46. <u>TELEFAX</u> 47. <u>TELEVISION</u> 48. <u>RADIO</u> 49. <u>MAIL</u> 50. <u>TELEPHONE</u> 51. <u>TELETYPE</u> 52. <u>TELEFAX</u> 53. <u>TELEVISION</u> 54. <u>RADIO</u> 55. <u>MAIL</u> 56. <u>TELEPHONE</u> 57. <u>TELETYPE</u> 58. <u>TELEFAX</u> 59. <u>TELEVISION</u> 60. <u>RADIO</u> 61. <u>MAIL</u> 62. <u>TELEPHONE</u> 63. <u>TELETYPE</u> 64. <u>TELEFAX</u> 65. <u>TELEVISION</u> 66. <u>RADIO</u> 67. <u>MAIL</u> 68. <u>TELEPHONE</u> 69. <u>TELETYPE</u> 70. <u>TELEFAX</u> 71. <u>TELEVISION</u> 72. <u>RADIO</u> 73. <u>MAIL</u> 74. <u>TELEPHONE</u> 75. <u>TELETYPE</u> 76. <u>TELEFAX</u> 77. <u>TELEVISION</u> 78. <u>RADIO</u> 79. <u>MAIL</u> 80. <u>TELEPHONE</u> 81. <u>TELETYPE</u> 82. <u>TELEFAX</u> 83. <u>TELEVISION</u> 84. <u>RADIO</u> 85. <u>MAIL</u> 86. <u>TELEPHONE</u> 87. <u>TELETYPE</u> 88. <u>TELEFAX</u> 89. <u>TELEVISION</u> 90. <u>RADIO</u> 91. <u>MAIL</u> 92. <u>TELEPHONE</u> 93. <u>TELETYPE</u> 94. <u>TELEFAX</u> 95. <u>TELEVISION</u> 96. <u>RADIO</u> 97. <u>MAIL</u> 98. <u>TELEPHONE</u> 99. <u>TELETYPE</u> 100. <u>TELEFAX</u> 101. <u>TELEVISION</u> 102. <u>RADIO</u> 103. <u>MAIL</u> 104. <u>TELEPHONE</u> 105. <u>TELETYPE</u> 106. <u>TELEFAX</u> 107. <u>TELEVISION</u> 108. <u>RADIO</u> 109. <u>MAIL</u> 110. <u>TELEPHONE</u> 111. <u>TELETYPE</u> 112. <u>TELEFAX</u> 113. <u>TELEVISION</u> 114. <u>RADIO</u> 115. <u>MAIL</u> 116. <u>TELEPHONE</u> 117. <u>TELETYPE</u> 118. <u>TELEFAX</u> 119. <u>TELEVISION</u> 120. <u>RADIO</u> 121. <u>MAIL</u> 122. <u>TELEPHONE</u> 123. <u>TELETYPE</u> 124. <u>TELEFAX</u> 125. <u>TELEVISION</u> 126. <u>RADIO</u> 127. <u>MAIL</u> 128. <u>TELEPHONE</u> 129. <u>TELETYPE</u> 130. <u>TELEFAX</u> 131. <u>TELEVISION</u> 132. <u>RADIO</u> 133. <u>MAIL</u> 134. <u>TELEPHONE</u> 135. <u>TELETYPE</u> 136. <u>TELEFAX</u> 137. <u>TELEVISION</u> 138. <u>RADIO</u> 139. <u>MAIL</u> 140. <u>TELEPHONE</u> 141. <u>TELETYPE</u> 142. <u>TELEFAX</u> 143. <u>TELEVISION</u> 144. <u>RADIO</u> 145. <u>MAIL</u> 146. <u>TELEPHONE</u> 147. <u>TELETYPE</u> 148. <u>TELEFAX</u> 149. <u>TELEVISION</u> 150. <u>RADIO</u> 151. <u>MAIL</u> 152. <u>TELEPHONE</u> 153. <u>TELETYPE</u> 154. <u>TELEFAX</u> 155. <u>TELEVISION</u> 156. <u>RADIO</u> 157. <u>MAIL</u> 158. <u>TELEPHONE</u> 159. <u>TELETYPE</u> 160. <u>TELEFAX</u> 161. <u>TELEVISION</u> 162. <u>RADIO</u> 163. <u>MAIL</u> 164. <u>TELEPHONE</u> 165. <u>TELETYPE</u> 166. <u>TELEFAX</u> 167. <u>TELEVISION</u> 168. <u>RADIO</u> 169. <u>MAIL</u> 170. <u>TELEPHONE</u> 171. <u>TELETYPE</u> 172. <u>TELEFAX</u> 173. <u>TELEVISION</u> 174. <u>RADIO</u> 175. <u>MAIL</u> 176. <u>TELEPHONE</u> 177. <u>TELETYPE</u> 178. <u>TELEFAX</u> 179. <u>TELEVISION</u> 180. <u>RADIO</u> 181. <u>MAIL</u> 182. <u>TELEPHONE</u> 183. <u>TELETYPE</u> 184. <u>TELEFAX</u> 185. <u>TELEVISION</u> 186. <u>RADIO</u> 187. <u>MAIL</u> 188. <u>TELEPHONE</u> 189. <u>TELETYPE</u> 190. <u>TELEFAX</u> 191. <u>TELEVISION</u> 192. <u>RADIO</u> 193. <u>MAIL</u> 194. <u>TELEPHONE</u> 195. <u>TELETYPE</u> 196. <u>TELEFAX</u> 197. <u>TELEVISION</u> 198. <u>RADIO</u> 199. <u>MAIL</u> 200. <u>TELEPHONE</u> 201. <u>TELETYPE</u> 202. <u>TELEFAX</u> 203. <u>TELEVISION</u> 204. <u>RADIO</u> 205. <u>MAIL</u> 206. <u>TELEPHONE</u> 207. <u>TELETYPE</u> 208. <u>TELEFAX</u> 209. <u>TELEVISION</u> 210. <u>RADIO</u> 211. <u>MAIL</u> 212. <u>TELEPHONE</u> 213. <u>TELETYPE</u> 214. <u>TELEFAX</u> 215. <u>TELEVISION</u> 216. <u>RADIO</u> 217. <u>MAIL</u> 218. <u>TELEPHONE</u> 219. <u>TELETYPE</u> 220. <u>TELEFAX</u> 221. <u>TELEVISION</u> 222. <u>RADIO</u> 223. <u>MAIL</u> 224. <u>TELEPHONE</u> 225. <u>TELETYPE</u> 226. <u>TELEFAX</u> 227. <u>TELEVISION</u> 228. <u>RADIO</u> 229. <u>MAIL</u> 230. <u>TELEPHONE</u> 231. <u>TELETYPE</u> 232. <u>TELEFAX</u> 233. <u>TELEVISION</u> 234. <u>RADIO</u> 235. <u>MAIL</u> 236. <u>TELEPHONE</u> 237. <u>TELETYPE</u> 238. <u>TELEFAX</u> 239. <u>TELEVISION</u> 240. <u>RADIO</u> 
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[illegible]

RECOVERY

[illegible]

1.  $\frac{1}{2} + \frac{1}{3} = \frac{3}{6} + \frac{2}{6} = \frac{5}{6}$

100-1-75 MILEAGE CHARGE 119 67

TOYING CHARGE 120 00

*After this point*

ABOB CHARGE

*40 cc*

486. (2) 2-13-44 STORAGE CHARGE 972C

245 1st Log 25-00

*[Handwritten signature]*

DATE	DESCRIPTION	AMOUNT	TOTAL
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10/2/54	...	...	...
10/3/54	...	...	...
10/4/54	...	...	...
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10/31/54	...	...	...
TOTAL			...

## Road Service

TOTAL

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**Road Service**

5133

STORAGE. Discounted 50% From \$40.00  
PER DAY to \$20.00 per DAY AS ORDERED

To Go  
 Paid By  
 279.00 JAM ADAMS  
 21.63  
 250.63  
 2-13-19  
 9,770.00 BILL to  
 757.15 Newell Co.  
 SHEPHERD  
 OFFICE  
 per phone  
 10,527.15  
 Collected on  
 2-13-19 @ 4:15

# 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

September 17, 2021

Aaron Martin  
Martin Law Firm  
Post Office Box 3597  
Fayetteville, Arkansas 72702

*(via email)*

RE: **Claim No. 220317 – deficient filing**

---

Dear Mr. Martin,

The Claims Commission is in receipt of your claim documents. However, you do not state which state agency or department you believe to be responsible for your damages. If your claim is against a state agency or department, please indicate as such on the Complaint form near the top of the form on the line labeled "State agency involved" and return the completed form to our office. If your claim is not agency a state agency or department, you will need to file your claim elsewhere.

Sincerely,

Kathryn Irby

ES: cmcdaniel

Enclosure

ARKANSAS STATE CLAIMS COMMISSION  
-Claim Form-

Please note that all sections must be completed, or this form will be returned to you, which will delay the processing of your claim.

1. Claimant's Legal Counsel - ☐ (If representing yourself (Pro Se) please check this box and proceed to section 2)

Martin Aaron aaron@martinlawpartners.com  
(last name) (first name) (email)  
P.O. Box 3597 Fayetteville, AR. 72702 479-442-2244  
(address) (city) (state) (zip) (primary phone)

Arkansas Bar Number: 2002086

*If not licensed to practice law in Arkansas, please contact the Claims Commission for more information.*

2. Claimant

Davey Rhyne

(title/last name/first name or company)

(email)

(address) (city) (state) (zip) (primary phone)

3. State Agency Involved: (must be an Arkansas state agency. The Arkansas Claims Commission has no jurisdiction over county, city, or other municipalities)

Arkansas Department of Transportation

(state agency involved)

Arkansas  
State Claims Commission

SEP 28 2021

4. Incident Date

August 12, 2019

RECEIVED

5. Claim Type

Please provide a brief explanation of your claim. If additional space is required please attach additional statements to this form.

The claimant provided services for towing and storage of seized and forfeited property for the Respondent and has not been paid.  
See Complaint Narrative for further details.

5a. Check here if this claim involves damage to a motor vehicle. ☐

5b. Check here if this claim involves damage to property other than a motor vehicle. ☐

All property damage claims require a copy of your insurance declarations covering the property or motor vehicle at the time of damage.

I did not have insurance covering my property/motor vehicle at the time of damage. ☐

All property damage claims require ONE of the following (please attach):

1. Invoice(s) documenting repair costs, OR
2. Three (3) estimates for repair of the damaged property, OR
3. An explanation why repair bill(s) or estimate(s) cannot be provided.

6. Was a state vehicle involved? (If Yes, please complete the following section)

(type of state vehicle involved)

(license number)

(driver)

7. Check here if this claim involves personal injury.

All personal injury claims require a copy of your medical insurance information and relevant medical bills in place at the time of the incident.

I do not have health insurance ☐

8. Amount Sought: \$85,616.01 and additional storage fees

The undersigned certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Davey Rhyme  
Claimant

ACKNOWLEDGEMENT

State of Arkansas  
County of Newton

On this the 24<sup>th</sup> day of Sept, 2021, before me, the undersigned notary, personally appeared Davey Rhyme known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Lora Carter  
Signature of Notary Public



[seal of office]

My Commission expires: 10/22/24

# MARTIN | LAW FIRM

MARK L. MARTIN  
AARON L. MARTIN  
ADRIENNE KINCAID MURPHY

2059 GREEN ACRES ROAD • P.O. BOX 3597 • FAYETTEVILLE, ARKANSAS 72702  
TELEPHONE: 479.442.2244 • FACSIMILE: 479.442.0134  
WWW.MARTINLAWPARTNERS.COM

September 27, 2021

**Arkansas  
State Claims Commission**

SEP 28 2021

Arkansas State Claims Commission  
101 E. Capitol Ave., Ste 410  
Little Rock, AR. 72201-3823

**RECEIVED**

**RE: Davey Rhyne v. State of Arkansas**

Dear Ms. Irby,

I am in receipt of your letter dated September 17, 2021 noting that we did not properly identify the state agency or department. I spoke to an assistant in your office and she said that she reviewed our complaint and determined that the proper agency/department was the Arkansas Department of Transportation and advised that we simply change the claim form with this information. Upon that advice, please find enclosed a modified claim form.

Thank you for your attention to this matter.

Sincerely,

*/s/Aaron L. Martin*

enc. Claim Form

cc: Davey Rhyne, 3714 Hwy 365 N., Harrison, AR. 72601



**From:** [ASCC New Claims](#)  
**To:** [Rita.Looney@ardot.gov](mailto:Rita.Looney@ardot.gov); [Trella.Sparks@ardot.gov](mailto:Trella.Sparks@ardot.gov); [Blakley, Sharon](#)  
**Cc:** [Kathryn Irby](#)  
**Subject:** Davey Rhyne v. ARDOT, Claim No. 220317  
**Date:** Monday, October 4, 2021 2:31:00 PM  
**Attachments:** [ArDOT agency ltr Davey Rhyne \(att represent\).pdf](#)  
[Davey Rhyne Claim.pdf](#)  
[Davey Rhyne DEfet.pdf](#)  
[Davey Rhyne UPdatedClaim.pdf](#)

---

Please see attached. Contact Kathryn Irby if you have any questions.

Thank you,  
Caitlin

**Caitlin McDaniel**

*Administrative Specialist II*

**Arkansas State Claims Commission**

101 East Capitol Avenue Suite 410

Little Rock, 72201

(501) 682-1619

**Caitlin.McDaniel@arkansas.gov**

# 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 4, 2021

Ms. Rita Looney  
Arkansas Department of Transportation  
Post Office Box 2261  
Little Rock, Arkansas 72209

(via email)

RE: ***Davey Rhyne v. Arkansas Department of Transportation***  
**Claim No. 220317**

---

Dear Ms. Looney,

Enclosed please find a copy of the above-styled claim filed against the Arkansas Department of Transportation. 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

ES: cmcdaniel

cc: Aaron Martin, *Counsel for Claimant* (w/o encl.) (via email)

<p><b>Note to Claimant or Claimant's counsel:</b> 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.</p>
--

**From:** [Kathryn Irby](#)  
**To:** [Aaron Martin](#)  
**Cc:** "[Sparks, Trella A.](#)"; "[Looney, Rita S.](#)"; "[Blakley, Sharon](#)"  
**Subject:** RE: Davey Rhyne v. ARDOT, Claim No. 220317  
**Date:** Monday, October 11, 2021 1:15:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Mr. Martin, I am following up on this claim. I am going to place this claim in a holding status until you confirm the agency against which you would like to file a claim. If you confirm that you would like to file this claim against ArDOT, I will send the claim to ArDOT at that time. If you file a corrected or new complaint identifying another state agency, I will send the claim to that state agency.

Ms. Sparks, because I do not know how long Mr. Martin will need to research these issues, you may disregard the Claims Commission's October 4 email to ArDOT transmitting this claim. I will resend it to you if Mr. Martin determines that he does, in fact, want to file a claim against ArDOT.

Thanks,  
Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Wednesday, October 6, 2021 12:08 PM  
**To:** Aaron Martin <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Cc:** Sparks, Trella A. <[Trella.Sparks@ardot.gov](mailto:Trella.Sparks@ardot.gov)>; Looney, Rita S. <[Rita.Looney@ardot.gov](mailto:Rita.Looney@ardot.gov)>; Blakley, Sharon <[Sharon.Blakley@ardot.gov](mailto:Sharon.Blakley@ardot.gov)>  
**Subject:** RE: Davey Rhyne v. ARDOT, Claim No. 220317

Mr. Martin, thank you for this information.

Kathryn Irby

---

**From:** Aaron Martin <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Sent:** Wednesday, October 6, 2021 11:47 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Subject:** RE: Davey Rhyne v. ARDOT, Claim No. 220317

Ms. Irby,  
Thank you for the information. I just got back in town and will research this issue and let you know if that is agreeable.  
Sincerely,

**Aaron L. Martin**  
(Attorney/Partner)



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Wednesday, October 6, 2021 10:56 AM  
**To:** Sparks, Trella A. <[Trella.Sparks@ardot.gov](mailto:Trella.Sparks@ardot.gov)>; ASCC New Claims <[ASCC.New.Claims@arkansas.gov](mailto:ASCC.New.Claims@arkansas.gov)>; Looney, Rita S. <[Rita.Looney@ardot.gov](mailto:Rita.Looney@ardot.gov)>; Blakley, Sharon <[Sharon.Blakley@ardot.gov](mailto:Sharon.Blakley@ardot.gov)>  
**Cc:** [aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
**Subject:** RE: Davey Rhyne v. ARDOT, Claim No. 220317

Mr. Martin, I'm following up on my October 4 email to you.

Thanks,  
Kathryn Irby

---

**From:** Kathryn Irby  
**Sent:** Monday, October 4, 2021 3:23 PM  
**To:** Sparks, Trella A. <[Trella.Sparks@ardot.gov](mailto:Trella.Sparks@ardot.gov)>; ASCC New Claims <[ASCC.New.Claims@arkansas.gov](mailto:ASCC.New.Claims@arkansas.gov)>; Looney, Rita S. <[Rita.Looney@ardot.gov](mailto:Rita.Looney@ardot.gov)>; Blakley, Sharon <[Sharon.Blakley@ardot.gov](mailto:Sharon.Blakley@ardot.gov)>

Cc: [aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

Subject: RE: Davey Rhyne v. ARDOT, Claim No. 220317

Trella, our new front desk employee did not understand the limitations on what we can help claimants with – the information she provided to Mr. Martin was a mistake. We do not provide advice to claimants. We only provide information regarding the process. That said, we are shortstaffed and training a new employee. This mistake should not occur again. Thank you for letting me know.

Mr. Martin, if you are wanting to pursue a claim against the Arkansas Department of Transportation on behalf of your client, please confirm. As stated in my September 17, 2021, letter to you, if your claim is not against a state agency or department, you will need to file your claim elsewhere. Please disregard the information provided to you on the telephone about the applicable agency. We cannot help you determine which agency to file a claim against.

Please call me with any additional questions.

Kathryn Irby

**Kathryn Irby**

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822

---

**From:** Sparks, Trella A. <[Trella.Sparks@ardot.gov](mailto:Trella.Sparks@ardot.gov)>

**Sent:** Monday, October 4, 2021 3:06 PM

**To:** ASCC New Claims <[ASCC.New.Claims@arkansas.gov](mailto:ASCC.New.Claims@arkansas.gov)>; Looney, Rita S. <[Rita.Looney@ardot.gov](mailto:Rita.Looney@ardot.gov)>; Blakley, Sharon <[Sharon.Blakley@ardot.gov](mailto:Sharon.Blakley@ardot.gov)>

**Cc:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>; [aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

**Subject:** RE: Davey Rhyne v. ARDOT, Claim No. 220317

Kathryn,

This claim is clearly not against ARDOT. It is against the 14<sup>th</sup> Judicial District and Prosecutor. Claimants should not be advised who to make a claim against, Claimant's counsel should not take legal advice from office staff, and this absolutely should not have been sent to ARDOT! I am returning this claim to the Claims Commission for proper processing.

Thank you,

Trella Sparks

Attorney for ARDOT



---

**From:** ASCC New Claims <[ASCC.New.Claims@arkansas.gov](mailto:ASCC.New.Claims@arkansas.gov)>

**Sent:** Monday, October 4, 2021 2:31 PM

**To:** Looney, Rita S. <[Rita.Looney@ardot.gov](mailto:Rita.Looney@ardot.gov)>; Sparks, Trella A. <[Trella.Sparks@ardot.gov](mailto:Trella.Sparks@ardot.gov)>; Blakley, Sharon <[Sharon.Blakley@ardot.gov](mailto:Sharon.Blakley@ardot.gov)>

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

**Subject:** Davey Rhyne v. ARDOT, Claim No. 220317

**CAUTION:** This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see attached. Contact Kathryn Irby if you have any questions.

Thank you,  
Caitlin

**Caitlin McDaniel**  
*Administrative Specialist II*  
**Arkansas State Claims Commission**  
101 East Capitol Avenue Suite 410  
Little Rock, 72201  
(501) 682-1619  
[Caitlin.McDaniel@arkansas.gov](mailto:Caitlin.McDaniel@arkansas.gov)



**From:** [Aaron Martin](#)  
**To:** [Kathryn Irby](#)  
**Cc:** ["Davey Rhyne"](#)  
**Subject:** Rhyne v. Arkansas  
**Date:** Thursday, February 10, 2022 10:56:00 AM  
**Attachments:** [image001.png](#)  
[State Claims Commission.2.10.22-20220210-.PDF](#)

---

Ms. Irby,  
Please find enclosed letter and claimant's Second Amended Claim Form.  
Thanks,

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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# MARTIN

# LAW FIRM

MARK L. MARTIN  
AARON L. MARTIN  
ADRIENNE KINCAID MURPHY

2059 GREEN ACRES ROAD • P.O. BOX 3597 • FAYETTEVILLE, ARKANSAS 72702  
TELEPHONE: 479.442.2244 • FACSIMILE: 479.442.0134  
WWW.MARTINLAWPARTNERS.COM

February 10, 2022

Arkansas State Claims Commission  
101 E. Capitol Ave., Ste 410  
Little Rock, AR. 72201-3823

Sent Via E-Mail:  
[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)

**RE: Davey Rhyne v. State of Arkansas**

Dear Ms. Irby,

As you know, claimant originally filed his Claim Form, Complaint Narrative and Exhibits A-G along with four (4) copies in September of last year. After filing the claim, claimant amended his Claim Form to identify the Arkansas Department of Transportation. The Department responded that they were not the appropriate authority and your last correspondence stated that the claim would be placed on a holding status until we could confirm the appropriate agency.

Since that time, we have been in negotiations but were ultimately unable to resolve this dispute. As such, please find enclosed claimant's Second Amended Claim Form. Please let me know if this claim was placed on hold and if the Commission still has claimant's original Complaint Narrative and Exhibits, or if they need to be resubmitted.

Thank you for your attention to this matter.

Sincerely,

*/s/Aaron L. Martin*

enc. Second Amended Claim Form

cc: Davey Rhyne

ARKANSAS STATE CLAIMS COMMISSION

-Claim Form-

Please note that all sections must be completed, or this form will be returned to you, which will delay the processing of your claim.

**1. Claimant's Legal Counsel -** ☐ (If representing yourself (Pro Se) please check this box and proceed to section 2)

Martin	Aaron	aaron@martinlawpartners.com		
(last name)	(first name)	(email)		
P.O. Box 3597	Fayetteville, AR. 72702	479-442-2244		
(address)	(city)	(state)	(zip)	(primary phone)

Arkansas Bar Number: 2002086

*If not licensed to practice law in Arkansas, please contact the Claims Commission for more information.*

**2. Claimant**

Davey Rhyne	<div style="background-color: black; width: 100%; height: 1.2em;"></div>			
(title/last name/first name or company)	(email)			
<div style="background-color: black; width: 100%; height: 1.2em;"></div>				
(address)	(city)	(state)	(zip)	(primary phone)

**3. State Agency Involved: (must be an Arkansas state agency. The Arkansas Claims Commission has no jurisdiction over county, city, or other municipalities)**

Prosecuting Attorney for the 14th Judicial District

(state agency involved)

**4. Incident Date**

August 12, 2019

**5. Claim Type**

Please provide a brief explanation of your claim. If additional space is required please attach additional statements to this form.

The claimant provided services for towing and storage of seized and forfeited property for the Respondent and has not been paid.  
See Complaint Narrative for further details.

**5a. Check here if this claim involves damage to a motor vehicle.** ☐

**5b. Check here if this claim involves damage to property other than a motor vehicle.** ☐

**All property damage claims require a copy of your insurance declarations covering the property or motor vehicle at the time of damage.**

I did not have insurance covering my property/motor vehicle at the time of damage. ☐

**All property damage claims require ONE of the following (please attach):**

1. Invoice(s) documenting repair costs, OR
2. Three (3) estimates for repair of the damaged property, OR
3. An explanation why repair bill(s) or estimate(s) cannot be provided.

6. Was a state vehicle involved? (If Yes, please complete the following section)

(type of state vehicle involved)

(license number)

(driver)

7. Check here if this claim involves personal injury.

All personal injury claims require a copy of your medical insurance information and relevant medical bills in place at the time of the incident.

I do not have health insurance ☐

8. Amount Sought: \$85,616.01 and additional storage fees

The undersigned certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Davey Rhyme  
Claimant

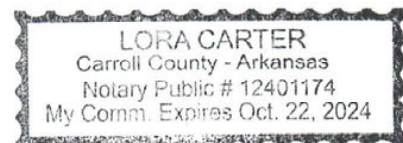
ACKNOWLEDGEMENT

State of Arkansas  
County of Newton

On this the 10<sup>th</sup> day of Dec, 2021, before me, the undersigned notary, personally appeared Davey Rhyme known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Lora Carter  
Signature of Notary Public



[seal of office]

My Commission expires: 10/22/24

**From:** [ASCC New Claims](#)  
**To:** [Renae.Hudson@arkansasag.gov](mailto:Renae.Hudson@arkansasag.gov); [katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov)  
**Cc:** [Kathryn Irby](#)  
**Subject:** CLAIM: Davey Rhyne v. PCO, Claim No. 220317  
**Date:** Wednesday, February 23, 2022 9:37:00 AM  
**Attachments:** [Davey Rhine v. PCO \(1\).pdf](#)  
[Davey Rhyne Claim form and supporting doc.pdf](#)  
[Davey Rhyne Deficient Letter.pdf](#)  
[Davey Rhyne Claim form with updated agency.pdf](#)  
[ArDOT agency ltr Davey Rhyne \(att represent\).pdf](#)  
[RE Davey Rhyne v. ARDOT Claim No. 220317.msg](#)  
[State Claims Commission.2.10.22-20220210-.PDF](#)

---

Please see attached. Contact Kathryn Irby with any questions.

Thank you,  
Caitlin

**Caitlin McDaniel**

*Administrative Specialist II*

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-1619

[Caitlin.McDaniel@arkansas.gov](mailto:Caitlin.McDaniel@arkansas.gov)



# 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

February 23, 2022

Mr. Bob McMahan  
Office of the Prosecutor Coordinator  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

RE: ***Davey Rhyne v. Office of the Prosecutor Coordinator***  
**Claim No. 220317**

---

Dear Mr. McMahan,

Enclosed please find a copy of the above-styled claim filed against the Office of the Prosecutor Coordinator. 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

ES: cmcdaniel

cc: Aaron Martin, *counsel for Claimant* (w/o encl.) (*via email*)

Enclosure

<p><b>Note to Claimant or Claimant's counsel:</b> 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.</p>
--

**From:** [ASCC New Claims](#)  
**To:** ["aaron@martinlawpartners.com"](mailto:aaron@martinlawpartners.com)  
**Bcc:** ["Kathryn Irby"](#)  
**Subject:** Davey Rhyne v. PCO, Claim No. 220317  
**Date:** Wednesday, February 23, 2022 9:37:00 AM  
**Attachments:** [Davey Rhine v. PCO \(1\).pdf](#)

---

Dear Mr. Martin,

Attached please find a copy of the letter sent with your claim to the Office of the Prosecutor Coordinator.

Thank you,  
Caitlin

**Caitlin McDaniel**

*Administrative Specialist II*

**Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-1619

[Caitlin.McDaniel@arkansas.gov](mailto:Caitlin.McDaniel@arkansas.gov)

**From:** [Julius J. Gerard](#)  
**To:** [Renae Hudson](#); [Caitlin McDaniel](#); [Kathryn Irby](#)  
**Cc:** [Katie Wilson](#)  
**Subject:** Re: CLAIM: Davey Rhyne v. PCO, Claim No. 220317  
**Date:** Thursday, February 24, 2022 11:44:14 PM

---

Got it. Thanks

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---

**From:** Renae Hudson <renae.hudson@arkansasag.gov>  
**Sent:** Thursday, February 24, 2022 8:46:52 PM  
**To:** 'Caitlin.mcdaniel@arkansas.gov' <Caitlin.mcdaniel@arkansas.gov>; 'Kathryn Irby' (Kathryn.Irby@arkansas.gov) <Kathryn.Irby@arkansas.gov>  
**Cc:** Julius J. Gerard <julius.gerard@arkansasag.gov>; Katie Wilson <katie.wilson@arkansasag.gov>  
**Subject:** FW: CLAIM: Davey Rhyne v. PCO, Claim No. 220317

Good afternoon,

I have assigned this matter to AAG Jay Gerard.

Thanks,

Renae

---

**From:** ASCC New Claims <ASCC.New.Claims@arkansas.gov>  
**Sent:** Wednesday, February 23, 2022 9:38 AM  
**To:** Renae Hudson <renae.hudson@arkansasag.gov>; Katie Wilson <katie.wilson@arkansasag.gov>  
**Cc:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Subject:** CLAIM: Davey Rhyne v. PCO, Claim No. 220317

**EXTERNAL EMAIL**

Please see attached. Contact Kathryn Irby with any questions.

Thank you,  
Caitlin

**Caitlin McDaniel**  
*Administrative Specialist II*  
**Arkansas State Claims Commission**  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201  
(501) 682-1619  
[Caitlin.McDaniel@arkansas.gov](mailto:Caitlin.McDaniel@arkansas.gov)

**From:** [Julius J. Gerard](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Johanna Hinkle](#); [Kathryn Irby](#)  
**Subject:** Rhyne, Davey CC-220317 Respondent Initial Pleadings  
**Date:** Thursday, March 24, 2022 11:17:56 AM  
**Attachments:** [NOA Rhyne.CC220317.Gerard.pdf](#)  
[Rhyne Davey.MTD.Gerard.pdf](#)  
[Rhyne Davey.MTD.BIS.Gerard.pdf](#)

---

Attached are my Notice of Appearance, Motion to Dismiss, and Brief in Support of Motion to Dismiss for Respondent in Case # CC-220317. Thanks!

**Julius “Jay” Gerard**

Assistant Attorney General, Civil Division  
Office of Arkansas Attorney General Leslie Rutledge  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.3676 / Fax: 501.682.2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

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**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**V.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**NOTICE OF APPEARANCE**

Assistant Attorney General Julius J. Gerard hereby enters his appearance as counsel for Respondent, Prosecuting Attorney for the 14<sup>th</sup> Judicial District, and respectfully asks 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: Julius J. Gerard  
Ark Bar No. 2017178  
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: Julius.Gerard@ArkansasAG.gov

*Attorneys for Respondent*



**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on March 24, 2022, I electronically mailed the foregoing to the following participant:

Aaron Martin

Email: aaron@martinlawpartners.com

Attorney for Claimant

*Julius J. Gerard*

**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**V.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**MOTION TO DISMISS**

Comes Respondent, David Ethredge, the Prosecuting Attorney for the Fourteenth Judicial District of Arkansas, by and through his attorneys, Attorney General Leslie Rutledge and Assistant Attorney General Julius J. Gerard, and for its Motion to Dismiss, states:

1. Claimant, Davey Rhyne, filed this claim on February 24, 2022, with the Arkansas State Claims Commission. He seeks monetary damages in the amount of \$85,616.01 plus expenses due to the Prosecuting Attorney filing an action to seize and forfeit property found in possession of [REDACTED]. *See* Complaint Narrative, p. 3. Claimant alleges that he was directed by the Newton County Sheriff's Office to tow and store four separate vehicles from [REDACTED] residence. *See* Complaint Narrative, p. 2. Claimant alleges he never received just compensation for these services. *See* Complaint Narrative, p. 7.

2. Claimant's Complaint should be dismissed in its entirety against Respondent David Ethredge for the following reasons: (1) prosecuting attorneys enjoy absolute immunity from suit when acting in the performance of their duties; (2) as an employee of the state of Arkansas, Respondent has statutory immunity for actions

occurring within the course and scope of their employment; and (3) Claimant fails to state facts upon which relief can be granted pursuant to Ark. R. Civ. P. 12(b)(6).

3. A brief in support of Defendants' Motion to Dismiss is being filed contemporaneously.

4. Defendants reserves the right to plead further in the event this motion is denied and to assert all applicable affirmative defenses including those pled in this motion, all applicable doctrines of immunity pursuant to federal and state law, issue and claim preclusion, statutory immunity, statute of limitations, and any other affirmative defense that becomes apparent through the course of this proceeding.

WHEREFORE, Respondent respectfully requests that the Commission dismiss the complaint filed against him with prejudice and grant all other relief to which he may be entitled.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By: Julius J. Gerard  
Ark. Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-3676  
Fax: (501) 682-2591  
Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on March 24, 2022, I electronically mailed the foregoing to the following participant:

Aaron Martin

Email: aaron@martinlawpartners.com

Attorney for Claimant

*/s/ Julius J. Gerard*

IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

V.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT

RESPONDENT

**BRIEF IN SUPPORT OF MOTION TO DISMISS**

Comes Respondent, David Ethredge, the Prosecuting Attorney for the Fourteenth Judicial District of Arkansas, by and through his attorneys, Attorney General Leslie Rutledge and Assistant Attorney General Julius J. Gerard, and for its Brief in Support of Motion to Dismiss, states:

**I. INTRODUCTION**

Claimant, Davey Rhyne, filed this claim on February 24, 2022, with the Arkansas State Claims Commission. He alleges that he was contacted by the Newton County Sheriff's Office on or about October 16, 2017, to tow and store four vehicles seized in a raid on an [REDACTED] property. *Complaint Narrative*, pp. 10,11. Claimant then alleges on December 14, 2017, Respondent filed a civil forfeiture complaint for the aforementioned vehicles. *Id.* ¶ 13. Ultimately, three of the vehicles were released to their respective owners (a 2010 Chevy truck and Honda ATV to [REDACTED] and another ATV to a third party). *Id.* ¶ 14. Claimant alleges that the Newton County Sheriff told Claimant he would pay for any remaining charges once Claimant released the vehicles belonging to [REDACTED]. *Id.* ¶ 16. The fourth vehicle, a 2009 Chevy 1500, allegedly sits on Claimant's lot to this day, since it was forfeited to the state via court proceedings. *Id.* ¶ 23. Claimant claims that he sent multiple



invoices to the Newton County Sheriff's Office for towing and storage of the seized vehicles and was told via phone call by both Respondent and Sheriff Wheeler that they would not pay him. Claimant seeks damages against Respondent alone under theories of statutory violation and unjust enrichment.

Claimant's Complaint should be dismissed in its entirety against Respondent David Ethredge for the following reasons: (1) prosecuting attorneys enjoy absolute immunity from suit when acting in the performance of their duties; (2) as an employee of the state of Arkansas, Respondent has statutory immunity for actions occurring within the course and scope of his employment; and (3) Claimant fails to state facts upon which relief can be granted pursuant to Ark. R. Civ. P. 12(b)(6).

## **II. STANDARD OF REVIEW**

Arkansas requires fact pleading: a complaint must contain "a statement in ordinary and concise language of facts showing . . . that the pleader is entitled to relief." Ark. R. Civ. P. 8(a)(1); *Ark. Dep't of Envtl. Quality v. Brighton Corp.*, 352 Ark. 396, 403, 102 S.W.3d 458, 462 (2003). The complaint may not rely on conclusions. *See Ray & Sons Masonry Contractors v. U.S. Fid. & Guar. Co.*, 353 Ark. 201, 212-13, 114 S.W.3d 189, 196 (2003). On a Rule 12(b)(6) motion, "[o]nly the facts are treated as true, not the plaintiff's theories, speculation, or statutory interpretation." *Davis v. City of Blytheville*, 2011 Ark. App. 651, at 2; *Wallis v. Ford Motor Co.*, 362 Ark. 317, 325, 208 S.W.3d 153, 159 (2005). A plaintiff must show, "beyond mere conclusions and beliefs, that the facts in the complaint sound in a cause of action." *Davis*, 2011 Ark. App. 651, at 3 (citing *Harvey v. Eastman Kodak*, 271 Ark. 783, 610 S.W.2d 582 (1981)). A plaintiff may not file a complaint that is

factually insufficient with the hopes of obtaining discovery to ascertain whether a cause of action exists. *Treat v. Kruetzer*, 290 Ark. 532, 534, 720 S.W.2d 716, 717 (1986).

### III. ARGUMENT

#### A. Absolute Immunity

Respondent, Prosecuting Attorney David Ethredge of the 14<sup>th</sup> Judicial District, is barred from suit because he was performing his job when he litigated proceedings to have [REDACTED] vehicles forfeited.

Prosecuting attorneys have absolute immunity from suit for acts committed in the performance of the duties of their office. *See Hall v. Jones*, 2015 Ark. 2, 4 (2015); *Culpepper v. Smith*, 302 Ark. 558, 792 S.W.2d 293 (1990). It has long been held that public policy demands such immunity for prosecutors and has permitted no diminution or erosion of this defense when the acts complained of are committed within the scope of the duties of the prosecuting attorney's office. *See Culpepper*, 302 Ark. 558, 792 S.W.2d 293 (1990). Pursuant to Arkansas Code Annotated section 5–64–505(g)(1)(A), the prosecuting attorney shall initiate forfeiture proceedings by filing a complaint with the circuit clerk of the county where the property was seized. *Hall v. Jones*, 2015 Ark. 2, 5, (2015).

In *Hall v. Jones*, 2015 Ark. 2 (2015), the Supreme Court of Arkansas held that the Miller County Prosecuting Attorney had such immunity in a proceeding where appellant sued the judge, prosecutor, and clerk regarding a civil forfeiture of his property. Appellant sued all three officials for not receiving adequate notice of pleadings, an untimely in rem complaint on behalf of the prosecutor, and improper

service. *Id* at 5. The Court did not address any of the claims on the merits as A.C.A. §5-64-505(g)(1)(A) assigns forfeiture proceedings to state prosecutors. “These allegations clearly involve the prosecuting attorney’s role as the advocate for the State in seeking foreclosure rather than as an administrator or investigator. Thus, the prosecuting attorney was entitled to absolute immunity from suit.” *Id*.

Here, Count 1 of Claimant’s Complaint alleges that Respondent failed to distribute funds from the asset forfeiture fund for the maintenance and custody of the seized vehicles pursuant A.C.A. §5-64-505(i). Any acts or omissions under this statute are squarely within the prosecutors’ official duties as held by the Supreme Court of Arkansas, thus, Count 1 must fail. Count 2, unjust enrichment, fails under absolute immunity as well; being a count in a lawsuit against a prosecutor for services performed in furtherance of an official proceeding designated to that prosecutor.

## **B. Statutory Immunity**

Respondent’s actions are also protected under statutory immunity for Claims Commission cases. “Officers and employees of the State of Arkansas are immune from liability and from suit, except to the extent that they may be covered by liability insurance, for damages for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment. A.C.A. §19-10-305(a). Here, Respondent was clearly acting within the course and scope of his employment, as the Supreme court has ruled that civil forfeiture proceedings are part of their official duties. Thus, he is also protected via statutory immunity.

### **C. Failure to State a Claim for Which Relief Can be Granted**

Finally, Claimant also fails to state facts upon which relief can be granted pursuant to Ark. R. Civ. P. 12(b)(6). Claimant alleges that Sheriff Wheeler directed him to tow the vehicles, not Respondent Ethredge. *Complaint Narrative*, ¶ 11. Claimant alleges that Sheriff Wheeler promised to pay outstanding charges for the vehicles, not Respondent Ethredge. *Id.* ¶ 16. Claimant alleges that he sent all three invoices to the Newton County Sheriff's Office, not the Prosecuting Attorney's Office. *Id.* ¶¶ 19, 20, 21. Maybe Claimant has a legitimate grievance with the Newton County Sheriff's Office, but not with Respondent. He states no facts which give rise to this being the proper party for relief.

### **IV. CONCLUSION**

For all the reasons stated herein, Plaintiff's lawsuit against Respondent should be dismissed in its entirety. WHEREFORE, Respondent respectfully requests that the Commission dismiss the complaint filed against him with prejudice and grant all other relief to which he may be entitled.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

By: Julius J. Gerard  
Ark. Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-3676  
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Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on March 24, 2022, I electronically mailed the foregoing to the following participants:

Aaron Martin

Email: [aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

Attorney for Claimant

*/s/ Julius J. Gerard*



**From:** [Nora Henriquez](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov); "[Aaron Martin](#)"  
**Subject:** Davey Rhyne v. Prosecuting Attorney for the 14th Judicial District (220317)  
**Date:** Monday, April 4, 2022 2:20:22 PM  
**Attachments:** [image001.png](#)  
[K.Irby AR State Claims Commission 4.22.22.pdf](#)  
[Response in Opposition.pdf](#)  
[Brief in Support.pdf](#)

---

Ms. Irby,

Please see the attached from Mr. Martin regarding Davey Rhyne.

Sincerely,

**Nora Henriquez**  
*Legal Assistant*



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
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[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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# MARTIN

# LAW FIRM

MARK L. MARTIN  
AARON L. MARTIN  
ADRIENNE KINCAID MURPHY

2059 GREEN ACRES ROAD • P.O. BOX 3597 • FAYETTEVILLE, ARKANSAS 72702  
TELEPHONE: 479.442.2244 • FACSIMILE: 479.442.0134  
WWW.MARTINLAWPARTNERS.COM

April 4, 2022

Arkansas State Claims Commission  
**ATTN: Katherine Irby, Dir.**  
101 E Capitol Ave # 410,  
Little Rock, AR 72201

E-MAIL: [Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)

**RE: Davey Rhyne v. Prosecuting Attorney for the 14<sup>th</sup> Judicial District (220317)**

Dear Ms. Irby,

Please find enclosed the Claimant's Response in Opposition to the Respondent's Motion to Dismiss and Brief in Support. A copy of these pleadings is also being served upon Respondent's attorney.

Thank you for your attention to this matter.

Sincerely,

*/s/Aaron L. Martin*

cc: Julius J. Gerard ([Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov))

enc. Claimant's Response in Opposition / Brief in Support



Local 105

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

DAVEY RHYNE, d/b/a  
DAVEY'S AUTO BODY AND SALES, Claimant

vs. CASE: CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>th</sup> JUDICIAL DISTRICT; and  
STATE OF ARKANSAS, Respondent

---

**CLAIMANT'S OPPOSITION TO RESPONDENT'S MOTION TO DISMISS**

---

The Claimant, by and through undersigned counsel states the following in support of his Opposition to Respondent's Motion to Dismiss:

1. That the Claimant did file his claim with the Arkansas State Claims Commission on February 24, 22 seeking damages.
2. That the Complaint should not be dismissed because the Respondent enjoys immunity. The Respondent's sovereign immunity for acts/omissions taken within the course and scope of employment is the very reason this Commission has jurisdiction over this claim.
3. That the Complaint should not be dismissed for failure to state a claim upon which relief can be granted under Ark. R. Civ. P. 12(b)(6). The Complaint Narrative properly identified and alleged the Respondent violated Ark. Code Ann. §5-64-505. The Complaint Narrative also properly identified and alleged every element of Unjust Enrichment.

4. That the Claimant is contemporaneously filing a Brief in Support of this Opposition to Respondent's Motion to Dismiss.

WHEREFORE, the Claimant respectfully requests that this Commission properly deny the Respondent's Motion to Dismiss.

Respectfully Submitted

By:



Aaron L. Martin (AR2002086)

MARTIN LAW FIRM

P.O. Box 3597

Fayetteville, AR. 72702

479-442-2244

[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

#### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 4th day of April, 2022 to the following:

Respondent's Attorney:

Julius Gerard at [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

DAVEY RHYNE, d/b/a  
DAVEY'S AUTO BODY AND SALES, Claimant

vs. CASE: CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>th</sup> JUDICIAL DISTRICT; and  
STATE OF ARKANSAS, Respondent

---

**CLAIMANT'S BRIEF IN SUPPORT OF CLAIMANT'S OPPOSITION TO  
RESPONDENT'S MOTION TO DISMISS**

---

The Claimant, by and through undersigned counsel states the following in support of his Opposition to Respondent's Motion to Dismiss and its Brief in Support.

**I. INTRODUCTION**

The Respondent's Motion and Brief in support first argues that this claim is precluded by "absolute" and "statutory immunity." The Claimant argues that the Respondent's immunity is the very reason that this Commission has jurisdiction. Second, the Respondent's Motion and Brief argues that the Claimant failed to state a claim upon which relief can be granted. The Claimant's Complaint Narrative properly alleged facts that if found to be true by this Commission would establish

valid claims for relief. Therefore, the Claimant requests that the Respondent's Motion to Dismiss be properly denied.

## **II. STANDARD OF REVIEW**

The standard of review for a Motion to Dismiss is well settled. This Commission is to treat the facts alleged in the Complaint as true and view them in the light most favorable to the Claimant. *Deer/Mt. Judea Sch. Dist. v. Kimbrell*, 2013 Ark. 393, 430 S.W.3d 29 (2013). Also, all reasonable inferences must be resolved in favor of the Claimant and the Complaint should be liberally construed. *Baptist Health v. Murphy*, 2010 Ark. 358, 373 S.W.3d 269.

## **III. LEGAL ARGUMENT**

### **A. Claims Commission Jurisdiction**

This Commission of course has jurisdiction over any claim or action that is otherwise barred by the doctrine of sovereign immunity in Article 5 §20 of the Arkansas Constitution. *See* Ark. Code Ann. §19-10-204(a)(1). Sovereign immunity is of course a legal standard whereby the State cannot be sued by its citizens.<sup>1</sup> Article 5 §20 of the Arkansas Constitution established sovereign immunity for the State of Arkansas and its agents acting within their official capacity.

---

<sup>1</sup> Black's Law Dictionary 2<sup>nd</sup> Ed. <https://thelawdictionary.org/?s=sovereign+immunity>



## **B. Absolute Immunity**

The Respondent first argues that it has “absolute immunity” as a prosecuting attorney and because of that immunity, the Claimant’s claim should be dismissed. The Claimant agrees that the Respondent enjoys “absolute immunity” and for that reason, this Commission has jurisdiction.

The Respondent’s Brief first cites the case of *Hall v. Jones*, 2015 Ark. 2 (2015) and *Culpepper v. Smith*, 302 Ark. 558, 792 S.W.2d 293 (1990) and argued that these cases support its position that it has “absolute immunity.” The *Hall* case cited *Culpepper* in confirming that prosecuting attorneys have absolute immunity from suit for actions taken in the performance of their official duties. *Hall* at 677. In the case of *Newton v. Etoch*, 332 Ark. 325, 965 S.W.2d 96 (1998), the Arkansas Supreme Court discussed the *Culpepper* decision and explained the reason for this “absolute immunity.” In the *Newton* case, the appellee had originally brought a cause of action against an Arkansas State Police Officer and the Prosecuting Attorney for the First Judicial District in their official capacity. In the *Newton* case, the Court explained that a suit against an agent of the State in the performance of their official duties is a suit against the State of Arkansas. The Court further noted that when the State is the real party in interest, the State is of course protected by “sovereign immunity.” *Id.* at 333.

The reason the Respondent has “absolute immunity” in this case is because the Respondent was acting within his official duties. Because the Respondent was acting within his official duties, the real cause of action in this case is the State of Arkansas (as explained in the *Newton* decision). The State of Arkansas of course enjoys sovereign immunity and this case would be barred by Article 5, §20 of the Arkansas Constitution. Because this case is barred by the doctrine of sovereign immunity under Article 5 §20 of the Arkansas Constitution, this Commission would clearly have jurisdiction over this claim pursuant to Ark. Code Ann. §19-10-204(a)(1).

### **C. Statutory Immunity**

The Respondent next argues that this case should be dismissed because it enjoys “statutory immunity” under Ark. Code Ann. §19-10-305(a). The Claimant again agrees with the Respondent’s position that it has immunity and again argues that this is the very reason the Commission has jurisdiction under Ark. Code Ann. §19-10-204(a)(1).

Ark. Code Ann. §19-10-305(a) first confirms that agents of the State are immune from liability for actions occurring within the course and scope of their employment, but then waived this immunity for instances where there was available liability insurance or where the agent’s acts and/or omissions were

malicious. As the Court in *Newton* states, by enactment of Ark. Code Ann. §19-10-305(a), “the General Assembly has clearly waived State’s sovereign immunity for certain actions taken by its officers and employees.” *Id.* at 333. While the Respondent’s Brief seemed to argue that Ark. Code Ann. §19-10-305(a) provided an additional “statutory immunity,” this statute actually limited sovereign immunity for instances where there was insurance available or where the agent’s acts/omissions were malicious. Regardless, the immunity recognized in Ark. Code Ann. §19-10-305(a) was simply sovereign immunity for State agents acting within the performance of their official duties. Again, Ark. Code Ann. §19-10-305(a) did not create an additional “statutory immunity” beyond sovereign immunity, and instead limited sovereign immunity in specific instances. Because the Respondent was performing his official duties, this case would be barred by the doctrine of sovereign immunity under Article 5 §20 of the Arkansas Constitution and this Commission would again have jurisdiction over this claim pursuant to Ark. Code Ann. §19-10-204(a)(1).

#### **D. Failure to State a Claim**

Finally, the Respondent argues that the Complaint should be dismissed pursuant to Ark. R. Civ. P. 12(b)(6) because the Claimant failed to even allege facts upon which relief can be granted. In support, the Respondent argues that it

was Newton County that directed the Claimant to tow and store the vehicles and that the Claimant sent his invoices to Newton County. The Commission may find that the Respondent did not violate State statute and that it was not unjustly enriched at the expense of the Claimant. However, the Claimant's Complaint Narrative in the very least alleged valid causes of action that preclude an outright dismissal under Ark. R. Civ. P. 12(b)(6) without further consideration.

In the First Cause of Action, the Claimant properly alleged that the Respondent violated Ark. Code Ann. §5-64-505. The Claimant's Complaint Narrative noted that Ark. Code Ann. §6-64-505(i)(1)(B) states that a prosecuting attorney shall distribute moneys from the asset forfeiture fund for the expenses of seizure and maintenance of custody for property that is seized and forfeited under Ark. Code Ann. §5-64-505 *et seq.* (Complaint Narrative ¶ 27). The Claimant's Complaint Narrative then alleged that the Respondent did incur expenses for the seizure and maintenance of property seized and forfeited under Ark. Code Ann. §5-64-505 *et seq* and failed to distribute moneys for these expenses (Complaint Narrative ¶¶28-30). Therefore, the Claimant of course properly alleged a cause of action for violation of Ark. Code Ann. §5-64-505 and Claimant's First Cause of Action clearly cannot be dismissed for failure to state facts upon which relief can be granted pursuant to Ark. R. Civ. P. 12(b)(6).

In the Second Cause of Action, the Claimant properly alleged a case of unjust enrichment. Arkansas Model Jury Instruction 2445 for a claim of Unjust Enrichment specifically lists the four elements unjust enrichment:

1. That the Claimant provided services to the Respondent who received the benefit of such services.
2. The circumstances were such that Claimant reasonably expected to be paid for the value of such services.
3. The Respondent was aware that the Claimant was providing such services with the expectation of being paid.
4. The reasonable value of such services received by the Respondent.

In the Complaint Narrative, the Claimant clearly alleged all four elements of unjust enrichment against the Respondent (Complaint Narrative ¶ 31-34). Therefore, the Claimant's Second Cause of Action clearly cannot be dismissed for failure to even state facts upon which relief can be granted pursuant to Ark. R. Civ. P. 12(b)(6).

In the alternative, the Claimant did allege that on or about October 16, 2017, the Newton County Sheriff's Office and the Respondent executed a search warrant on the residence of [REDACTED] (Complaint Narrative ¶10). On December 14, 2017, the Respondent stated that [REDACTED] property was currently in the possession of the Respondent and the Newton County Sheriff's office (Complaint

Narrative EX. A). However, it was the Respondent alone who filed a Complaint for forfeiture seeking that [REDACTED] property be forfeited to the State of Arkansas (Complaint Narrative EX. A). Also, it was the Respondent alone who entered into an agreed Order of forfeiture of [REDACTED] property whereby [REDACTED] 2009 Chevrolet Truck was forfeited to the Respondent (Complaint Narrative EX. B). As alleged in the Claimant's Complaint Narrative, the Respondent's 2009 Chevrolet Truck has remained in the maintenance and custody of the Claimant ever since (Complaint Narrative ¶¶23, 36). Ultimately, the currently available facts suggest that Newton County was working in conjunction with the Respondent in the original arrest and seizure of [REDACTED] property. However, it was the Respondent alone that initiated forfeiture of [REDACTED] property to the State of Arkansas. Either way, these facts would have to be further developed and ultimately decided at the hearing if relevant.

The fact that Newton County may have directed the Claimant to tow [REDACTED] property is ultimately irrelevant. There is no dispute that [REDACTED] vehicles were seized and forfeited pursuant to Ark. Code Ann. §5-64-505. Under Ark. Code Ann. §5-64-505(i)(1)(B) it clearly states that the prosecuting attorney shall distribute moneys from the asset forfeiture fund for the expenses of seizure and maintenance of custody for property that is seized and forfeited under Ark.



Code Ann. §5-64-505. Regardless of any other facts, the Respondent is clearly responsible to pay for the Claimant's expenses detailed in ¶35, 36 of the Complaint Narrative.

#### **IV. CONCLUSION**

This Commission must again treat the facts alleged in the Claimant's Complaint as true, view them in the light most favorable to the Claimant, and all reasonable inferences must be resolved in favor of the Claimant. In applying this standard of review, it is clear that the Respondent's Motion to Dismiss should be properly denied.

First, it is clear that this Commission has jurisdiction over this claim because it would otherwise be barred by sovereign immunity. The Respondent argues that this case should be dismissed because the Respondent enjoys "absolute" and "statutory immunity." As explained in this brief and in accordance with the *Newton* case, the "absolute" and "immunity" claimed by the Respondent is simply sovereign immunity provided in Article 5 §20 of the Arkansas Constitution. Because this case is barred by the doctrine of sovereign immunity provided in Article 5 §20 of the Arkansas Constitution, this Commission has jurisdiction pursuant to Ark. Code Ann. §19-10-204(a)(1).

Next, a complaint can only be dismissed pursuant to Ark. R. Civ. P. 12(b)(6) if it fails to even allege facts upon which relief can be granted. The Claimant's Complaint Narrative alleges a clear violation of State statute and also alleges each element of unjust enrichment. Even if Newton County alone directed the Claimant to tow [REDACTED] vehicles, the Respondent is still statutorily mandated to pay for the seizure and storage costs from its asset forfeiture fund. Again, while this Commission may ultimately find that the Respondent did not violate State statute or that the Respondent was not unjustly enriched, the Claimant did not fail to allege facts in support of these actions and a pre-hearing dismissal pursuant to Ark. R. Civ. P. 12(b)(6) is clearly unjust and unwarranted.

WHEREFORE, based on the reasons cited in this Brief and all other issues identified by this Commission, the Claimant respectfully requests that it properly deny the Respondent's Motion to Dismiss.

Respectfully Submitted

By: 

Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 4th day of April, 2022 to the following:

Respondent's Attorney:

Julius Gerard at [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

**From:** [Kathryn Irby](#)  
**To:** [Nora Henriquez](#)  
**Cc:** [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov); "[Aaron Martin](#)"  
**Subject:** HEARING SCHEDULED: Rhyne v. Office of Prosecutor Coordinator, Claim No. 220317  
**Date:** Monday, April 4, 2022 2:43:00 PM  
**Attachments:** [image001.png](#)  
[Rhyne v. OPC -- 220317 -- hearing ltr.pdf](#)

---

Mr. Martin and Mr. Gerard, please see attached hearing letter.

Mr. Martin, please send future pleadings to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov) to be electronically filed. I'm always happy for you to copy me on emails, but if you can primarily send it to our ascpleadings email, you will receive confirmation of receipt (serving as your filemarked copy) from that email – that's a more efficient process for us. That said, for your filing today, I am confirming receipt, and you do not need to send it to the ascpleadings email. Let me know if you have any questions about this process.

Thanks,  
Kathryn Irby

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

---

**From:** Nora Henriquez <nora@martinlawpartners.com>  
**Sent:** Monday, April 4, 2022 2:20 PM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** Julius.gerard@arkansasag.gov; 'Aaron Martin' <aaron@martinlawpartners.com>  
**Subject:** Davey Rhyne v. Prosecuting Attorney for the 14th Judicial District (220317)

Ms. Irby,

Please see the attached from Mr. Martin regarding Davey Rhyne.

Sincerely,

**Nora Henriquez**  
*Legal Assistant*



**MARTIN LAW FIRM**  
P.O. Box 3597

Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[nora@martinlawpartners.com](mailto:nora@martinlawpartners.com) (E)  
[www.Martinlawpartners.com](http://www.Martinlawpartners.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

April 4, 2022

Mr. Aaron Martin  
Martin Law Firm  
Post Office Box 3597  
Fayetteville, Arkansas 72702

(via email)

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

(via email)

RE: ***Davey Rhyne v. Office of the Prosecutor Coordinator***  
Claim No. 220317

---

Dear Mr. Martin and Mr. Gerard,

The Claims Commission has scheduled a hearing on the pending motion to dismiss for **Thursday, May 12, 2022**. 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 April 8, 2022. The Zoom invitation is enclosed herein.

No prehearing submissions are requested by the Claims Commission.

Please contact me with any questions.

Sincerely,

Kathryn Irby

ES: kmirby



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

Topic: Claims Commission -- hearings

Time: May 12, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/81603889456?pwd=VlRXbC8wejNJQzJFdEZETHVaNW9xZz09>

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Passcode: 9QHQxx

One tap mobile

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+13017158592,,81603889456#,,, \*514525# US (Washington DC)

Dial by your location

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+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: 816 0388 9456

Passcode: 514525

Find your local number: <https://us06web.zoom.us/j/keJL2jE0PH>

**From:** [Kathryn Irby](#)  
**To:** [Nora Henriquez](#)  
**Cc:** [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov); "Aaron Martin"  
**Subject:** HEARING TIME CHANGED: Rhyne v. Office of Prosecutor Coordinator, Claim No. 220317  
**Date:** Monday, May 9, 2022 12:44:00 PM  
**Attachments:** [image001.png](#)

---

Mr. Martin and Mr. Gerard, the Claims Commission needs to change the hearing date on Thursday from 9am to 8am. If that will be an issue, please let me know. Otherwise, the same Zoom invitation will work. I'm also setting it out below.

Thanks,  
Kathryn Irby

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+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 816 0388 9456

Passcode: 514525

Find your local number: <https://us06web.zoom.us/j/keJL2jEOPH>

---

**From:** Kathryn Irby  
**Sent:** Monday, April 4, 2022 2:43 PM  
**To:** Nora Henriquez <nora@martinlawpartners.com>  
**Cc:** Julius.gerard@arkansasag.gov; 'Aaron Martin' <aaron@martinlawpartners.com>  
**Subject:** HEARING SCHEDULED: Rhyne v. Office of Prosecutor Coordinator, Claim No. 220317

Mr. Martin and Mr. Gerard, please see attached hearing letter.

Mr. Martin, please send future pleadings to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov) to be electronically filed. I'm always happy for you to copy me on emails, but if you can primarily send it to our ascpleadings email, you will receive confirmation of receipt (serving as your filemarked copy) from that email – that's a more efficient process for us. That said, for your filing today, I am confirming receipt, and you do not need to send it to the ascpleadings email. Let me know if you have any questions about this process.

Thanks,  
Kathryn Irby

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

---

**From:** Nora Henriquez <[nora@martinlawpartners.com](mailto:nora@martinlawpartners.com)>  
**Sent:** Monday, April 4, 2022 2:20 PM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov); 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Subject:** Davey Rhyme v. Prosecuting Attorney for the 14th Judicial District (220317)

Ms. Irby,

Please see the attached from Mr. Martin regarding Davey Rhyme.

Sincerely,

**Nora Henriquez**  
*Legal Assistant*



MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[nora@martinlawpartners.com](mailto:nora@martinlawpartners.com) (E)  
[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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**From:** [Jay Gerard](#)  
**To:** [Aaron Martin](#); [Kathryn Irby](#); ["Nora Henriquez"](#)  
**Subject:** RE: HEARING TIME CHANGED: Rhyne v. Office of Prosecutor Coordinator, Claim No. 220317  
**Date:** Monday, May 9, 2022 2:43:14 PM  
**Attachments:** [image001.png](#)

---

Good for the state!

---

**From:** Aaron Martin <aaron@martinlawpartners.com>  
**Sent:** Monday, May 9, 2022 2:35 PM  
**To:** 'Kathryn Irby' <Kathryn.Irby@arkansas.gov>; 'Nora Henriquez' <nora@martinlawpartners.com>  
**Cc:** Jay Gerard <julius.gerard@arkansasag.gov>  
**Subject:** RE: HEARING TIME CHANGED: Rhyne v. Office of Prosecutor Coordinator, Claim No. 220317

**EXTERNAL EMAIL**

Ms. Irby,  
Received and that'll work for us.  
Thanks,

**Aaron L. Martin**  
(Attorney/Partner)



**MARTIN LAW FIRM**

P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
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---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Monday, May 9, 2022 12:45 PM  
**To:** Nora Henriquez <[nora@martinlawpartners.com](mailto:nora@martinlawpartners.com)>

**Cc:** [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov); 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>

**Subject:** HEARING TIME CHANGED: Rhyne v. Office of Prosecutor Coordinator, Claim No. 220317

Mr. Martin and Mr. Gerard, the Claims Commission needs to change the hearing date on Thursday from 9am to 8am. If that will be an issue, please let me know. Otherwise, the same Zoom invitation will work. I'm also setting it out below.

Thanks,  
Kathryn Irby

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Find your local number: <https://us06web.zoom.us/j/keJL2jE0PH>

---

**From:** Kathryn Irby

**Sent:** Monday, April 4, 2022 2:43 PM

**To:** Nora Henriquez <[nora@martinlawpartners.com](mailto:nora@martinlawpartners.com)>

**Cc:** [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov); 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>

**Subject:** HEARING SCHEDULED: Rhyne v. Office of Prosecutor Coordinator, Claim No. 220317

Mr. Martin and Mr. Gerard, please see attached hearing letter.



Mr. Martin, please send future pleadings to [ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov) to be electronically filed. I'm always happy for you to copy me on emails, but if you can primarily send it to our ascpleadings email, you will receive confirmation of receipt (serving as your filemarked copy) from that email – that's a more efficient process for us. That said, for your filing today, I am confirming receipt, and you do not need to send it to the ascpleadings email. Let me know if you have any questions about this process.

Thanks,  
Kathryn Irby

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

---

**From:** Nora Henriquez <[nora@martinlawpartners.com](mailto:nora@martinlawpartners.com)>  
**Sent:** Monday, April 4, 2022 2:20 PM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov); 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Subject:** Davey Rhyne v. Prosecuting Attorney for the 14th Judicial District (220317)

Ms. Irby,

Please see the attached from Mr. Martin regarding Davey Rhyne.

Sincerely,

**Nora Henriquez**  
*Legal Assistant*



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[nora@martinlawpartners.com](mailto:nora@martinlawpartners.com) (E)  
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**From:** [Kathryn Irby](#)  
**To:** [Aaron Martin](#); [Julius J. Gerard](#)  
**Subject:** INFO NEEDED: Rhyne, Claim No. 220317  
**Date:** Wednesday, May 25, 2022 10:06:00 AM  
**Attachments:** [Rhyne v. OPC -- 220317 -- ltr re ASCC additional info requested.pdf](#)

---

Mr. Martin and Mr. Gerard, please see attached correspondence.

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

May 25, 2022

Mr. Aaron Martin  
Martin Law Firm  
Post Office Box 3597  
Fayetteville, Arkansas 72702

(via email)

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

(via email)

RE: ***Davey Rhyne v. Prosecuting Attorney for the Fourteenth Judicial District***  
Claim No. 220317

---

Dear Mr. Martin and Mr. Gerard,

As explained at the May 12, 2022, hearing, the Claims Commission would like for the parties to confer and to submit a letter or brief describing how a towing company is typically paid when forfeiture proceedings are initiated in conjunction with the seizure of property. The Claims Commission requests that this information be submitted within 30 days of the date of this letter.

Should the parties have additional information or argument to present after hearing the Claims Commission's questions, that additional information or argument can be submitted within 30 days of the date of this letter, as well.

Sincerely,

Kathryn Irby

ES: kmirby

**From:** [Jay Gerard](#)  
**To:** [Kathryn Irby](#); [Aaron Martin](#)  
**Subject:** RE: INFO NEEDED: Rhyne, Claim No. 220317  
**Date:** Wednesday, May 25, 2022 11:50:14 AM

---

Thank you!

---

**From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Sent:** Wednesday, May 25, 2022 10:06 AM  
**To:** Aaron Martin <aaron@martinlawpartners.com>; Jay Gerard <julius.gerard@arkansasag.gov>  
**Subject:** INFO NEEDED: Rhyne, Claim No. 220317

**EXTERNAL EMAIL**

Mr. Martin and Mr. Gerard, please see attached correspondence.

Thanks,  
Kathryn Irby

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

**From:** [Aaron Martin](#)  
**To:** [Kathryn Irby](#); "[Julius J. Gerard](#)"  
**Subject:** RE: INFO NEEDED: Rhyne, Claim No. 220317  
**Date:** Thursday, May 26, 2022 9:14:41 AM  
**Attachments:** [image001.png](#)

---

Received – thank you

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
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**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Wednesday, May 25, 2022 10:06 AM  
**To:** Aaron Martin <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; Julius J. Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Subject:** INFO NEEDED: Rhyne, Claim No. 220317

Mr. Martin and Mr. Gerard, please see attached correspondence.

Thanks,  
Kathryn Irby

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

**From:** [Jay Gerard](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Johanna Hinkle](#)  
**Subject:** Response to Court Request in Rhyne, CC-220317  
**Date:** Thursday, June 23, 2022 3:14:03 PM  
**Attachments:** [Declaration of David Ethredge for Claims Commission.pdf](#)

---

Attached is the declaration from Defendant in Rhyne v. Fourteenth Judicial District, No. CC-220317. This is in response to the Court's request for documentation on the civil forfeiture procedure in that district. Thanks!

**Julius "Jay" Gerard**

Assistant Attorney General, Civil Division  
Office of Arkansas Attorney General Leslie Rutledge  
323 Center Street, Suite 200  
Little Rock, Arkansas, 72201  
Office: 501.682.3676 / Fax: 501.682.2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

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IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

v.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT

RESPONDENT

DECLARATION OF DAVID ETHREDGE

I, David Ethredge, 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 currently the 14<sup>th</sup> Judicial District Prosecuting Attorney. I was elected to this position and have held office since 2015.

2. My office files criminal informations in criminal cases involving the possession, distribution and manufacture of controlled substances. My office also files civil forfeiture complaints seeking the forfeiture of items, which are the proceeds from the sale of controlled substances or which were used to facilitate felony violations of the Arkansas Uniform Controlled Substances Act.

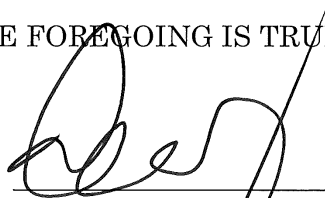
3. That the process for the forfeiture of items in my district is as follows:

The initial determination that property will be seized is made by the law enforcement agency conducting the investigation which discovered the item or items of property to be seized. As an example, if a Sheriff's Deputy finds a large quantity of a controlled substance along with a large amount of cash in a vehicle being used as a means of transporting the controlled substance, the Deputy may decide to seize the vehicle. At this point, the Deputy would have the vehicle towed to a lot owned

by the county or his law enforcement agency. The Deputy would then execute a confiscation report notifying the owner or person in possession of the vehicle that it is being confiscated. That confiscation report would then be provided to my office, and one of our Deputy Prosecutors would sign it to acknowledge receiving it. That confiscation report would then be sent to the Civil Forfeiture Office at the Arkansas State Police where it would be assigned a tracking number. That tracking number and the document evidencing its having been issued is then provided to my office. Next, my office files a civil forfeiture action seeking the forfeiture of the confiscated property.

As to the issue of payment for towing, neither my office nor the 14<sup>th</sup> Judicial District Drug Task Force has ever paid a tow bill of any kind. There are four counties in my judicial district and none of the tow operators in my district has ever billed my office for towing a seized vehicle. Respectfully, I cannot answer any questions as to the process of payment, because my office has never made payment for towing services of any kind.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

  
\_\_\_\_\_  
David Ethredge  
Prosecuting Attorney  
14<sup>th</sup> Judicial District  
State of Arkansas  
6/23/22  
\_\_\_\_\_  
Date

**From:** [Aaron Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); ["Julius J. Gerard"](#); ["Nora Henriquez"](#)  
**Subject:** Davey Rhyne v. 14th Judicial District (CC-220317)  
**Date:** Thursday, June 23, 2022 4:39:57 PM  
**Attachments:** [image001.png](#)  
[Claimant Supplemental Brief and Affidavit-20220623-.PDF](#)

---

Please find enclosed Claimant's Supplemental Brief and Claimant's Affidavit in response to the Commission's letter dated 5/25/22.

**Aaron L. Martin**  
**(Attorney/Partner)**



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BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

DAVEY RHYNE, d/b/a  
DAVEY'S AUTO BODY AND SALES, Claimant

vs. CASE: CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>th</sup> JUDICIAL DISTRICT;  
14<sup>th</sup> JUDICIAL DISTRICT; and  
STATE OF ARKANSAS, Respondent

---

**CLAIMANT'S SUPPLEMENTAL BRIEF**

---

The Claimant, by and through undersigned counsel submits the following  
Supplemental Brief in support of his Opposition to Respondent's Motion to  
Dismiss.

**I. INTRODUCTION**

The Respondent filed a motion to dismiss this case on the grounds of  
absolute immunity and failure to state a claim upon which relief could be granted.  
The Claimant filed a response in opposition and brief in support. The parties  
appeared before the Commission for a hearing on Respondent's Motion on May  
12, 2022. At the hearing, the parties argued the issue of absolute immunity, and  
the Commission requested additional information on what normally occurs in  
situations where law enforcement seizes and seeks forfeiture of property. The

Commission submitted a letter dated May 25, 2022, confirming its request for additional information describing how a towing company is typically paid when forfeiture proceedings are initiated. The letter also stated that should the parties have additional information or arguments to present, that it could be submitted as well. In response, the Claimant submits this Supplemental Brief as its additional information and argument on the Respondent's motion to dismiss.

## **II. ARGUMENT**

### **A. Absolute Immunity**

At the hearing, the Respondent argued that this case should be dismissed because it enjoys absolute immunity. Claimant's counsel recalls that Chairman Paul Morris commented that the Respondent would not have absolute immunity in a contract dispute. Chairman Morris' statement was correct and certainly applicable to the facts of this case.

There is a common law history of absolute immunity for prosecutors in the performance of their traditional prosecutorial roles such choosing to bring criminal charges and of course the prosecution of those charges. However, the Arkansas Supreme Court stated in *Newton v. Etoch*, 332 Ark. 325, 965 S.W.2d 96 (1998) that this absolute immunity does not extend beyond these traditional prosecutorial roles. This was later emphasized in the *Hall v. Jones*, 2015 Ark. 2, 5, 453 S.W.3d

674, 677 (2015) decision where the Arkansas Supreme Court noted the important distinction between the prosecutor's role as an advocate and their role as an administrator. The *Hall* decision confirmed that absolute immunity only applied to the prosecutor's traditional roles as an advocate and not to the prosecutor's administrative roles. *Id.* at 677

This case of course does not involve the Respondent's traditional roles as a prosecutor. Instead, this case concerns the Respondent's administrative role as the bookkeeper for the 14th judicial district's asset forfeiture fund under Ark. Code Ann. §5-64-505 and its statutory obligation to pay for the expenses for seizure and custody of property pursuant to the Uniformed Controlled Substances Act (hereinafter referred to as the CSA). Therefore, common law absolute immunity clearly does not apply in this case.

## **B. Typical Situation**

Davey Rhyne submits the attached affidavit in response to the Commission's request for information describing how a towing company is typically paid when forfeiture proceedings are initiated in conjunction with the seizure of property (EX. A). Mr. Rhyne's affidavit explains that when law enforcement directs him to tow a vehicle in conjunction with a seizure and forfeiture that he is usually directed to tow the vehicle to the law enforcement agency's impound lot. This makes sense

because the law enforcement agency is seeking ownership of the vehicle. In these cases, Mr. Rhyne explains that he normally does not charge the law enforcement agency for the tow. In this case Mr. Rhyne was instead directed to tow [REDACTED] property to the Claimant's storage facility because the Respondent did not have room at its impound lot.

Mr. Rhyne was not previously aware of the applicable statutes under the CSA and because he had a working relationship with law enforcement agencies, he simply did not charge agencies for towing property seized and towed to the agency's own storage facility. However, Mr. Rhyne's past ignorance of the law and his generosity does not change the clear provisions of the CSA requiring the Respondent to pay for the proper towing and storage expenses in these cases.

There is a separate code that applies for vehicles that are abandoned and/or illegally parked. Ark. Code Ann. §27-50-1201 *et. seq.* controls your typical case where law enforcement needs to remove an abandoned or unattended vehicle. This includes vehicles that are parked illegally, involved in an accident, or were "operated to a place of apprehension by law enforcement." Ark Code Ann. §27-50-1202(13)(C). In these cases, the vehicle owner is liable for the towing and storage fees. *See* Ark Code Ann. §27-50-1204. Also, the towing company has a first-priority possessory lien on the vehicle in these cases and the towing company



can sell the vehicle to recoup the towing and storage expenses. *See* Ark. Code Ann. §27-50-1208. However, this case did not involve an abandoned or unattended vehicle, and instead involved the seizure and forfeiture of a vehicle alleged to have been used for the transport of a controlled substance under the CSA.

The Respondent's Complaint to the Circuit Court of Newton County alleged that [REDACTED] property was in its custody and subject to forfeiture pursuant the CSA and specifically referenced "A.C.A. 5-64-419 and 5-64-505" (Exhibit A of the Complaint Narrative). Of course, Ark. Code Ann. §5-64-419 and §5-64-505 both fall squarely under the CSA. Therefore, [REDACTED] property was clearly seized and forfeited under the CSA and the CSA would therefore control. The CSA states that the prosecuting attorney shall distribute moneys from the asset forfeiture fund for the expenses of seizure and maintenance of custody for property that is seized and forfeited under the CSA. *See* Ark. Code Ann. §5-64-505(i)(1)(B). Simply put, [REDACTED] property was admittedly seized and forfeited pursuant to the CSA and the CSA clearly states that the Respondent shall pay for the towing and storage in these cases.

### **C. Authority to Direct Respondent to Pay the Claim**

At the hearing, Claimant's attorney argued that the Commission had authority to simply direct the Respondent to pay this claim from the 14<sup>th</sup> Judicial District asset forfeiture fund, as opposed to using funds from the State Treasury. Chairman Morris asked for a citation and Claimant's attorney noted that it was alleged in the Complaint Narrative. In the prayer for relief, the Complaint Narrative asked this Commission to direct the Respondent to pay the claim from the 14<sup>th</sup> Judicial District's asset forfeiture pursuant to Ark. Code Ann. §19-10-213. The statute specifically states that "when a claim or action is determined to be a valid claim or action against the state under this chapter and the claim or action is to be paid from funds not in the State Treasury, the Director of the Arkansas State Claims Commission shall notify the state agency against which the claim or action is to be charged of the amount of the claim or action." (*emphasis added*) Ark. Code Ann. §19-10-213(a)(1). Then upon receipt of that notice, the state agency shall deliver a check to the Director for that amount and payment is ultimately issued to the claimant. Ark. Code Ann. §19-10-213(a)(2).

Ark. Code Ann. §5-64-505 directs that the Respondent's expenses of seizure and custody from property seized and forfeited under the CSA shall come from its asset forfeiture fund, and not necessarily from funds in the State Treasury.

Claimant's counsel has a good faith belief that Ark. Code Ann. §19-10-213(a) authorizes the State Claims Commission to direct the Respondent to issue payment from its asset forfeiture fund to the Claims Commission Director to then disburse that amount to the Claimant.

**D. Writ of Mandamus**

The Respondent's Motion to Dismiss originally alleged that 1) it was protected by absolute and statutory immunity and 2) that the Claimant failed to even allege a valid claim. For the first time at the hearing, the Respondent raised a separate argument that the Claimant failed to exhaust an administrative remedy and commented that a writ of mandamus would be another available remedy. The Claimant was of course not prepared for this new argument raised for the first time at the hearing and if this new defense is now being raised and considered by the Commission, the Claimant would of course request a chance to respond.

Ark. Code Ann. § 19-10-223 does state that the Commission can dismiss a claim without prejudice if the claimant failed to *submit* that it has exhausted all available state or administrative remedies. However, the claimant of course properly *submitted* that there were no other remedies available in ¶ 9 of the Complaint Narrative. This was of course true at the time and the Claimant argues

that it is still true because he does not yet have an established right that could be enforced through a writ of mandamus.

A writ of mandamus is a Court Order to enforce an *established* right. See *Brown v. Gibson*, 2012 Ark. 285 at 2, 423 S.W.3d 34, 35. The writ is issued where 1) the duty to be compelled is ministerial and not discretionary; 2) the petitioner has shown a clear and certain right to the relief sought; and 3) the petitioner lacks any other adequate remedy (*emphasis added*). *Safe Surgery Arkansas v. Thurston*, 2019 Ark. 403, 7, 591 S.W.3d 293, 297 (2019), *citing Lonoke County v. City of Lonoke*, 2013 Ark. 465, 2, 430 S.W.3d 669, 670. A writ of mandamus is not available in this case because the amount owed is discretionary and the Claimant does not yet have an established right as to the amount owed.

First, the amount owed to the Claimant is discretionary and to be determined. The Claimant's first cause of action alleged that the Respondent had a statutory obligation to pay the Claimant its expenses for the seizure and maintenance of custody of [REDACTED] property pursuant to Ark. Code Ann. §5-5-05(i)(1)(B) (Complaint Narrative ¶27). However, §5-64-505(i)(1)(B)(ii) does specifically state that the Respondent shall only pay for "any proper expense" for the seizure and maintenance of custody of property seized under the CSA. In the case of *Bunting v. Tedford*, 261 Ark. 638, 642–43, 550 S.W.2d 459, 462 (1977),

the Supreme Court properly denied a writ of mandamus because the amount claimed, “calls for independent judgment and discretion,” which could not be determined through a petition for a writ of mandamus. *Id.* at 462. Because these expenses for the seizure and maintenance of custody must be “proper” under the statute, they are discretionary (calls for an independent judgment) and would therefore be precluded from enforcement through a writ of mandamus.

Second, because the amount owed to the Claimant is undetermined, he does not yet have a clear and certain right. Again, the amount owed to the Claimant for the “proper expense” for seizure and maintenance of custody has not yet been determined. Because the amount owed to the Claimant has not been determined, he does not yet have a clear and certain right to enforce through a writ of mandamus. In the Claimant’s prayer for relief, he *claimed* \$85,616.01 and \$40 a day from February 14, 2019 forward in damages. If this Commission rules that the Respondent owes the Claimant a specific amount and directs the Respondent to pay that amount from its asset forfeiture fund but the Respondent refuses to comply, the Claimant would then and only then have a clear and certain right to enforce through a writ of mandamus.

Finally, the Claimant’s claims arise from contract law. The Claimant’s first claim that he performed services for the Respondent and the Respondent failed to

follow State statute requiring the payment of these expenses for the seizure and maintenance of custody falls within contract law. The Claimant's second cause of action for unjust enrichment clearly falls within contract law, and all cases lying in contract cannot be presented through a writ of mandamus and must instead be brought to the State Claims Commission. *Arkansas Tech University v. Link*, 17 S.W.3d 809, 341 Ark. 495 (2000).

### **III. CONCLUSION**

To summarize, the Respondent does not have absolute immunity in this case. The Arkansas Supreme Court has clearly limited the Respondent's absolute immunity to traditional prosecutorial roles such as choosing to bring charges and the prosecution of those charges. See *Hall v. Jones*, 2015 Ark. 2, 5, 453 S.W.3d 674, 677 (2015). This case clearly does not involve the Respondent's traditional prosecutorial role. Next, regardless of the parties' past practices, the law clearly states that in cases where a vehicle is seized and forfeited under the CSA, the prosecuting attorney is to pay for the costs of seizure and custody from the asset forfeiture fund. The Respondent has refused to pay for its incurred expenses and the Claimant argues that this Commission has the authority to force the Respondent to pay this claim from the Respondent's asset forfeiture fund as opposed to depleting funds from the State Treasury. Finally, the amount owed to

the Claimant must be “proper” and that amount has not yet been determined. As such, the Claimant does not have a clear and certain right to enforce through a writ of mandamus and has no other options at this point. The Claimant again respectfully asks that this Commission properly deny the Respondent’s Motion to Dismiss and if the Commission has sufficient evidence, to approve this claim and award the benefits sought.

Respectfully Submitted

By:

  
\_\_\_\_\_  
Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

#### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the respondent on this 23rd day of June, 2022 to the following:

Julius Gerard

[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

DAVEY RHYNE, d/b/a  
DAVEY'S AUTO BODY AND SALES,

Claimant

vs.

CASE: CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>th</sup> JUDICIAL DISTRICT; and  
STATE OF ARKANSAS,

Respondent

---

CLAIMANT'S AFFIDAVIT

---

I, Davey Rhyne, do hereby swear and affirm to the following:

1. That I have owned and operated Davey's Auto Body and Sales in Harrison, Arkansas since 1992.
2. That from 1992 to the present, I have towed several vehicles at the direction of the Respondent and other local law enforcement agencies.
3. That in most cases involving the seizure of a vehicle by a law enforcement agency, I would be directed to tow the vehicle to the agency's impound lot. Then the vehicle owner would come to my office and pay for the towing, take the receipt to the agency to confirm payment, and the agency would then release the vehicle to the owner.
4. That in some cases involving the seizure of a vehicle by a law enforcement agency as part of investigation, I would be directed to tow the property to

1 of 4





my storage facility and instructed that the vehicle was on an “investigative hold.” The “investigative hold” normally lasts no more than a week. In these cases, the owner would later come to my office and pay for the towing and storage costs once the “investigative hold” is released and the vehicle would then be released to the owner.

5. That in cases where the law enforcement agency intends to seek forfeiture in conjunction with the seizure of a vehicle, the agency will notify me that they are seeking forfeiture and direct me to tow the vehicle to the agency’s impound lot, and I understand that I will simply not be paid for the tow.
6. That on October 16, 2017, Commander Robert Braden of 14th Judicial District Drug Task Force and Newton County Sheriff’s Deputy Anthony Kent notified me that they intended to seek forfeiture of the property but directed me to tow [REDACTED] property to my storage facility because they did not have room at the impound lot.
7. That I complied with the officers’ directions and towed the following property to my storage facility: 1) Honda Pioneer UTV, 2) Honda Recon ATV, 3) 2010 Chevy 2500 Truck, 4) 2009 Chevy 1500 Truck.
8. That I was later notified that [REDACTED] was not the owner of the Honda Pioneer UTV and that the UTV had to be released to the actual

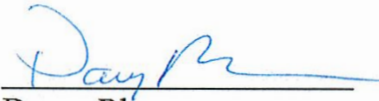
owner. The actual owner later came by to pick up his UTV but did not pay for the towing and storage.

9. That in February of 2019 I was notified that the Respondent had only forfeited [REDACTED] 2009 Chevy 1500 and that the remaining property had to be released to [REDACTED]. That soon thereafter, [REDACTED] came to my business to pick up his 2010 Chevy 2500 and Honda Recon ATV but only paid for the towing of the 2010 Chevy 2500.
10. The unusual circumstances in the [REDACTED] case was that a) I was directed to tow the property to my storage facility instead of the agency's impound lot and b) the property was on hold for almost two years pending forfeiture proceedings.
11. That to this day, the forfeited 2009 Chevy 1500 remains on my lot taking up valuable space and costing my business money to insure.

VERIFICATION OF AFFIANT

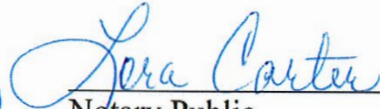
STATE OF ARKANSAS                    )  
  ) SS  
COUNTY OF CARROLL            )

I, Davey Rhyne, certify that I have read this Affidavit, that I authorize attorney Aaron L. Martin to file it, and that the allegations of fact are correct to the best of my knowledge, and that it is filed with my distinct knowledge and specific consent.

  
Davey Rhyne

Subscribed and Sworn to before me, the undersigned Notary Public, on this 14<sup>th</sup> day of June, 2022.



  
Notary Public

CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 23 day of June, 2022 as follows:

Julius Gerard

Julius.gerard@arkansasag.gov

/s/Aaron L. Martin

**From:** [Aaron Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** ["Davey Rhyne"; "Jay Gerard"](#)  
**Subject:** Rhyne v. 14th Judicial District (220317)  
**Date:** Wednesday, November 9, 2022 8:23:44 AM  
**Attachments:** [image001.png](#)  
[Claims Commission.11.9.22-20221109-.PDF](#)

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Please find enclosed Claimant's request to remove this case from abeyance status.

**Aaron L. Martin**  
**(Attorney/Partner)**



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# MARTIN

# LAW FIRM

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AARON L. MARTIN  
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November 9, 2022

Arkansas State Claims Commission  
101 E. Capitol Ave., Ste 410  
Little Rock, AR. 72201-3823

Sent Via E-Mail:  
[ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov)

**RE: Davey Rhyne v. State of Arkansas**

To Whom it May Concern:

We filed our Amended Claim Form on 2/10/22. Respondent filed a Motion to Dismiss on 3/24/22 and we filed a Response in Opposition on 4/4/22. We had a hearing before the Commission on 5/12/22 to hear the Respondent's Motion to Dismiss and the Commission requested additional information from both parties. The Claimant provided the requested information on 6/23/22 and Respondent provided additional information on 6/24/22.

I called the Commission on 11/1/22 to check the status of this claim and was told that it was being held in abeyance to receive additional information. However, the requested information was already submitted in June. As such, the Claimant requests that this claim be removed from abeyance status and the Commission rule on the Respondent's Motion.

Thank you for your attention to this matter.

Sincerely,

*/s/Aaron L. Martin*

cc: Davey Rhyne

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the motion filed by the Prosecuting Attorney for the Fourteenth Judicial District (the “Respondent”) to dismiss the claim of Davey Rhyne (the “Claimant”). At the hearing on the motion held on May 12, 2022, Claimant was represented by Aaron Martin, and Jay Gerard appeared on behalf of Respondent. Based upon a review of motion and response, as well as the arguments of the parties, the supplemental briefing submitted by the parties, and the law of the State of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed the instant claim seeking \$85,616.01 plus additional storage fees related the towing and storage of four vehicles.
2. Respondent filed a motion to dismiss, arguing (1) that Respondent has absolute prosecutorial immunity; (2) Respondent has statutory immunity as a state employee; and (3) that Claimant’s complaint failed to state facts upon which relief can be granted.
3. Claimant responded, opposing dismissal.
4. At the hearing, Respondent reiterated its arguments.
5. Upon a question from a commissioner, Respondent agreed that immunity does not extend to breach of contract. Respondent stated that Claimant could pursue a writ of mandamus to compel a state employee to take a particular action.

6. Upon a question from a commissioner as to the normal process for the payment of towing and storage charges, Respondent stated that it did not know.

7. Upon a question from a commissioner as to whether the towing companies like Claimant should tow and store vehicles for free, Respondent confirmed that Claimant should be compensated for services performed but did not know who should pay the charges.

8. Claimant argued that under Ark. Code Ann. § 5-64-505, the money to pay these expenses comes from the Fourteenth Judicial District's Asset Forfeiture Fund (the "Fund"). Claimant also argued that he is asking the Claims Commission for an order directing Respondent to pay the money from the Fund pursuant to Ark. Code Ann. § 19-10-213. As to Respondent's immunity arguments, Claimant stated that a prosecutor's immunity exists in the performance of the traditional prosecutorial role as an advocate, not in the prosecutor's role as an administrator and bookkeeper of the Fund.

9. Upon a question from a commissioner as to the difference between the amount of the invoice submitted to the Newton County Sheriff and the damages sought in the instant claim, Claimant stated that he originally sent a discounted invoice to the Newton County Sheriff and that additional storage fees have been incurred since that invoice was originally sent.

10. Upon a question from a commissioner as to why Claimant is not pursuing a lawsuit against the Newton County Sheriff, Claimant stated that under Ark. Code Ann. § 5-64-505, Respondent administers the Fund and is directed to pay these expenses.

11. Upon a question from a commissioner as to what normally happens in these situations, Claimant did not know but noted that there was no court order for the defendant to pay for towing and storage.

12. Respondent argued that this claim falls within the prosecutor's traditional role, such that the prosecutor enjoys absolute immunity. Respondent also argued that Claimant has other remedies.

13. At the hearing, and also by letter following the hearing, the Claims Commission asked the parties to submit a letter or brief describing how a towing company is typically paid when forfeiture proceedings are initiated in conjunction with the seizure of property.

14. Respondent subsequently submitted a declaration of David Ethredge, who serves as the Prosecuting Attorney for the Fourteenth Judicial District. In his declaration, Mr. Ethredge stated that he does not know how payment should be processed, as his office has never made payment for towing services of any kind.

15. Claimant filed a supplemental brief, detailing Respondent's statutory obligation to pay these expenses out of the Fund. In explaining what typically happens in situations like this, Claimant stated that he usually tows vehicle to the law enforcement agency's impound lot, not to his own storage facility. In that case, he does not normally charge law enforcement for the tow. However, in this instance, the law enforcement agency's impound lot was full, and Claimant was asked to tow the vehicle to Claimant's storage facility. Claimant disagreed that a writ of mandamus was a procedural option, given the undetermined amount owed to Claimant.

16. Ark. Code Ann. § 5-64-505(i)(1)(B) provides, in pertinent part, that:

The prosecuting attorney shall administer expenditures from the asset forfeiture fund which is subject to audit by Arkansas Legislative Audit. Moneys distributed from the asset forfeiture fund shall only be used for law enforcement and prosecutorial purposes. Moneys in the asset forfeiture fund shall be distributed in the following order:

- (i) For satisfaction of any bona fide security interest or lien;
- (ii) For payment of any proper expense of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

(emphasis added).



17. The Claims Commission finds that dismissal of this claim is premature. The Claims Commission is unpersuaded that Respondent has immunity in this instance, given the administrative nature of the process described in Ark. Code Ann. § 5-64-505(i)(1)(B). The Claims Commission also finds it significant that Claimant is typically asked by law enforcement to tow vehicles to a law enforcement impound lot (as opposed to being asked to tow vehicles to his own storage facility, which is what happened here) and suspects that this claim may simply represent an unusual situation where the payment process is not well established. Both parties appear to agree that Claimant is entitled to compensation for services rendered, with the only dispute being whether Respondent is the proper party to pay Claimant.

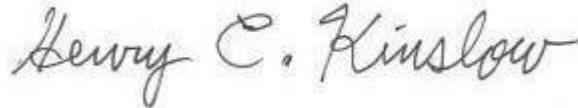
18. Respondent's motion is DENIED, and this claim will be set for hearing in sufficient time to allow the parties to conduct any necessary discovery.

IT IS SO ORDERED.



---

ARKANSAS STATE CLAIMS COMMISSION  
Dexter Booth



---

ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



---

ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair

DATE: December 1, 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:** [Aaron Martin](#)  
**Cc:** ["Jay Gerard"](#)  
**Subject:** ORDER: Rhyne, Claim No. 220317  
**Date:** Monday, December 5, 2022 1:58:00 PM  
**Attachments:** [Rhyne v. Pros Atty -- 220317 -- order.pdf](#)

---

Mr. Martin and Mr. Gerard, please see attached order.

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:** [Aaron Martin](#); [Julius J. Gerard](#)  
**Subject:** HEARING SCHEDULED: Rhyne v. Prosecuting Atty for 14th Judicial Dist., Claim No. 220317  
**Date:** Wednesday, December 28, 2022 12:28:00 PM  
**Attachments:** [Rhyne v. OPC -- 220317 -- hearing ltr.pdf](#)

---

Mr. Martin and Mr. Gerard, please see attached hearing letter and Zoom invitation.

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

December 28, 2022

Mr. Aaron Martin  
Attorney at Law  
Post Office Box 3597  
Fayetteville, Arkansas 72702

(via email)

Mr. Julius J. Gerard  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201

(via email)

RE: ***Davey Rhyne v. Prosecuting Attorney for the Fourteenth Judicial District***  
Claim No. 220317

---

Dear Mr. Martin and Mr. Gerard,

The Claims Commission has scheduled this claim for hearing on **Friday, May 19, 2023**, beginning at 9:00 a.m. All parties will attend virtually via Zoom. If either party objects to a Zoom format, a written objection must be submitted via email (kathryn.irby@arkansas.gov) or mail no later than January 3, 2023. The Zoom invitation is enclosed herein.

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.

If a party would prefer to electronically file any prehearing materials or motions, those filings can be emailed to [asccpleadings@arkansas.gov](mailto:asccpleadings@arkansas.gov). If you do not receive confirmation of receipt within 24 hours of sending, please call our office to confirm that your filing was received.

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

The 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)

Join Zoom Meeting

<https://us06web.zoom.us/j/86985320722?pwd=dHJPUHZHdEdIaExsUXBOT2FOT2t2UT09>

Meeting ID: 869 8532 0722

Passcode: hZ468v

One tap mobile

+13092053325,,86985320722#,,, \*572710# US

+13126266799,,86985320722#,,, \*572710# US (Chicago)

Dial by your location

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 931 3860 US

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+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

+1 564 217 2000 US

+1 669 444 9171 US

Meeting ID: 869 8532 0722

Passcode: 572710

Find your local number: <https://us06web.zoom.us/j/kPTzI6J8F>

**From:** [Jay Gerard](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Katie Wilson](#)  
**Subject:** Answer in Rhyne v. Prosecuting Attorney, CC-20317  
**Date:** Tuesday, March 14, 2023 6:53:07 PM  
**Attachments:** [image001.jpg](#)  
[Answer.Rhyne.CC20317.pdf](#)

---

See attached Answer in CC-20317, Rhyne v. Prosecuting Attorney.

**Julius “Jay” Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**V. CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**ANSWER TO COMPLAINT**

Comes Respondent, the Prosecuting Attorney for the 14<sup>th</sup> Judicial District, by and through Attorney General Tim Griffin and Assistant Attorney General Julius J. Gerard, and for its Answer to Complaint, states the following:

**CLAIM FORM**

1. Respondent denies each and every material factual allegation of Claimant's Complaint except to the extent specifically admitted herein.
2. Respondent admits that Aaron Martin is the attorney representing Claimant, as stated in paragraph 1 of the Complaint.
3. Respondent admits the facts asserted in paragraph 2 of Claimant's Complaint, regarding Davey Rhyne's contact information.
4. Respondent admits the factual assertion in paragraph 3 of the Complaint, that the 14th Judicial District is the state agency involved.
5. Respondent denies the factual allegations contained in paragraph 5 of the complaint, that Claimant was providing services directly to the named Prosecutor in this matter.



6. Paragraphs 5a and 5b of the complaint do not require a response as they are left blank and this case does not pertain to property damage. To any extent a response is required, Respondent denies same.

7. Paragraph 6 of the complaint does not require a response as it is left blank and a state vehicle was not involved. To the extent a response is required, Respondent denies same.

8. Paragraph 7 of the complaint does not require a response as this case does not involve personal injury. To the extent a response is required, Respondent denies same.

9. Respondent denies the material allegation contained in paragraph 8 of the complaint, regarding amount sought from Respondent. Respondent denies all liability in this matter.

#### **COMPLAINT NARRATIVE**

10. Respondent admits the factual assertion in paragraph 1 of the complaint narrative.

11. Respondent admits the factual assertion in paragraph 2 of the complaint narrative.

12. Respondent denies the material allegation contained in paragraph 3 of the complaint narrative, as characterized. Respondents dispute that Respondent was “acting within the scope of his employment” at “all times” relevant to this Complaint. Respondent denies any liability in this matter.

13. Respondent admits the factual assertion contained in paragraph 4 of the complaint narrative.

14. Respondent admits the factual assertion contained in paragraph 5 of the complaint narrative.

15. Respondent admits the factual assertion contained in paragraph 6 of the complaint narrative.

16. Respondent admits the factual allegation contained in paragraph 7 of the complaint narrative.

17. Respondent denies the factual allegation contained in paragraph 8 of the complaint narrative. Respondent claims absolute immunity.

18. Respondent is without sufficient information to admit or deny Claimant's other possible remedies, as alleged in paragraph 9 of the complaint narrative. Therefore, Respondent denies same.

19. Respondent is without sufficient information to admit or deny the material allegation contained in paragraph 10 of the complaint narrative, therefore, Respondent denies same.

20. Respondent is without sufficient information to admit or deny the material allegation contained in paragraph 11 of the complaint narrative, therefore, Respondent denies same.

21. Respondent is without sufficient information to admit or deny the material allegation contained in paragraph 12 of the complaint narrative, therefore, Respondent denies same.

22. Respondent admits the material allegation contained in paragraph 13 of the complaint narrative.

23. Respondent admits the factual allegation contained in paragraph 14 of the complaint narrative, as described by Exhibit B of the complaint.

24. Respondent admits the material facts asserted in paragraph 15 of the complaint narrative, regarding the contents of the Sentencing Order of [REDACTED].

25. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 16 of the complaint narrative, therefore, Respondent denies same.

26. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 17 of the complaint narrative, therefore, Respondent denies same.

27. Respondent denies the material allegations contained in paragraph 18 of the complaint narrative.

28. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 19 of the complaint narrative, therefore, Respondent denies same.

29. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 20 of the complaint narrative, therefore, Respondent denies same.

30. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 21 of the complaint narrative, therefore, deny same.

31. Respondent denies the material allegations contained in paragraph 22 of the complaint narrative.

32. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 23 of the complaint narrative, therefore, denies same.

33. Respondent admits the statutory language cited in paragraph 24 of the complaint narrative.

34. Respondent admits the statutory language cited in paragraph 25 of the complaint narrative.

35. Respondent admits the factual allegation contained in paragraph 26 of the complaint narrative.

36. Respondent admits the statutory language cited in paragraph 27 of the complaint narrative.

37. Respondent denies being a liable party, therefore, denies the material allegations contained in paragraph 28 of the complaint narrative.

38. Respondent denies the material allegations contained in paragraph 29 of the complaint narrative.

39. Respondent denies the material allegations contained in paragraph 30 of the complaint narrative.

40. Respondent denies the material allegations contained in paragraph 31 of the complaint narrative.

41. Respondent is without sufficient information or knowledge to admit or deny the material allegation contained in paragraph 32 of the complaint narrative, therefore, denies same.

42. Respondent denies the material allegations contained in paragraph 33 of the complaint narrative.

43. Respondent denies the material allegations contained in paragraph 34 of the complaint narrative.

44. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 35 of the complaint narrative.

45. Respondent is without sufficient information or knowledge to admit or deny the material allegations contained in paragraph 36 of the complaint narrative.

46. Respondent denies that they are in any way liable for the damages sought on page 9 of the complaint narrative, the “Wherefore” section (page 11 of the complaint overall). Respondents deny any wrongdoing or liability in this matter.

47. The remaining pages of the complaint, pages 12-45, contain the exhibits mentioned in the body of Claimant’s complaint narrative. These have already been addressed and do not require further response. To the extent a response is required, Respondent denies same.

### **AFFIRMATIVE DEFENSES**

48. Affirmatively pleading, Claimant has failed to state a claim upon which relief may be granted, pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure.

49. Affirmatively pleading, Respondent is entitled to absolute immunity in this matter.

50. Affirmatively pleading, there is a lack of jurisdiction due to Respondent's absolute immunity.

51. Affirmatively pleading, this action is barred by waiver, estoppel, laches, and unclean hands.

52. Affirmatively pleading, this action is barred by the doctrine *res judicata*, to the extent any claims have been previously litigated.

WHEREFORE, Respondent respectfully requests that this Court dismiss the claims against him in this lawsuit and for all other just and proper relief to which he may be entitled.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark Bar No. 2017178  
Assistant Attorney General  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
P: (501) 682-3676  
F: (501) 682-2591

E: Julius.gerard@arkansasag.gov

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on March 14, 2023, I electronically filed the foregoing with the Claims Commission and forwarded a copy to opposing counsel in this matter:

Aaron Martin  
aaron@martinlawpartners.com

*Julius J. Gerard*

**From:** [Kathryn Irby](#)  
**To:** [Jay Gerard](#); [Aaron Martin](#)  
**Cc:** [Katie Wilson](#)  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Atty for 14th Judicial Dist., Claim No. 220317  
**Date:** Thursday, March 16, 2023 3:33:00 PM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)

---

This one has been pending for awhile – I do not anticipate continuing it.

Thanks,  
Kathryn Irby

---

**From:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Sent:** Thursday, March 16, 2023 12:57 PM  
**To:** Aaron Martin <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Katie Wilson <[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov)>  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Atty for 14th Judicial Dist., Claim No. 220317

I concur with Mr. Martin's two-hour estimate. Given the full docket; should we anticipate a new setting?

Thanks,

**Julius "Jay" Gerard**  
Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



---

**From:** Aaron Martin <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Sent:** Wednesday, March 15, 2023 3:03 PM  
**To:** 'Kathryn Irby' <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>; Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Atty for 14th Judicial Dist., Claim No. 220317

**EXTERNAL EMAIL**

Ms. Irby,



The case has not settled and I just spoke to Mr. Gerard and we are currently estimating a total of three witnesses and 2 hours if that is agreeable.

Thanks,

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**

P.O. Box 3597

Fayetteville, AR. 72702

479-442-2244 (W)

479-442-0134 (F)

[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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---

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

**Sent:** Tuesday, March 14, 2023 5:54 PM

**To:** Aaron Martin <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; Julius J. Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>

**Subject:** INFO NEEDED: Rhyne v. Prosecuting Atty for 14th Judicial Dist., Claim No. 220317

Mr. Martin and Mr. Gerard, please advise whether the parties have been able to resolve this matter. If not, please advise how long the parties expect the hearing to take. The Commission's May 19 docket is very, very full, so I am checking on each of the claims set for that day.

Thanks,  
Kathryn Irby

---

**From:** Kathryn Irby

**Sent:** Wednesday, December 28, 2022 12:28 PM

**To:** Aaron Martin <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; Julius J. Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>

**Subject:** HEARING SCHEDULED: Rhyne v. Prosecuting Atty for 14th Judicial Dist., Claim No. 220317

Mr. Martin and Mr. Gerard, please see attached hearing letter and Zoom invitation.

Thanks,  
Kathryn Irby

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

**From:** [Jay Gerard](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Katie Wilson](#); ["Aaron Martin"](#)  
**Subject:** Rhyne v. Prosecuting Attorney; CC-220317: MSJ Motion, Exhibits, SUMF, and MSJ Brief  
**Date:** Friday, April 7, 2023 5:12:57 PM  
**Attachments:** [image001.jpg](#)  
[Rhyne\\_MSJ Motion.jg.pdf](#)  
[Ex. A - Declaration of David Ethredge.pdf](#)  
[Ex. B - Affidavit of Davey Rhyne.pdf](#)  
[Ex. C - Bill of Sale.pdf](#)  
[Rhyne\\_MSJ SUMF.jg.pdf](#)  
[Rhyne\\_BIS Merits.jg.pdf](#)

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Respondent, David Ethredge, hereby files his Motion for Summary Judgment, Exhibits A-C, Summary of Material Facts, and Brief in Support in the matter of Davey Rhyne v. 14<sup>th</sup> Judicial District Prosecuting Attorney, CC-220317.

I am copying Mr. Aaron Martin on this email, counsel for Claimant.

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

v.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT

RESPONDENT

RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

Comes Respondent, David Ethredge, by and through his attorneys, Attorney General Tim Griffin and Assistant Attorney General Julius J. Gerard, and for his Motion for Summary Judgment, states:

1. Claimant, Davey Rhyne, originally filed this claim on September 17, 2021, with the Arkansas State Claims Commission.

2. Claimant alleges that Respondent, 14<sup>th</sup> Judicial District Prosecuting Attorney David Ethredge, owes in excess of \$85,000 for the towing and storage of four vehicles. To justify his damages, Claimant relies on A.C.A. § 5-64-505(i) and a theory of unjust enrichment.

3. A.C.A § 5-64-505(i) denotes how a local agency, such as a prosecuting attorney's office, is to allocate funds received through the sale of forfeited vehicles.

4. A.C.A. § 5-64-505(i)(1)(B) only allows payment from the asset forfeiture fund, "for satisfaction of any **bona fide security interest or lien**; and any **proper expense** of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs..." (i)-(ii) (emphasis added).

5. To survive a theory of unjust enrichment, Claimant must prove all of the following elements: (1) that Claimant provided services to Respondent, who received the benefit of such services; (2) that the circumstances were such that Claimant reasonably expected to be paid the value of such services by Respondent; (3) that Respondent was aware that Claimant was providing such services with the expectation of being paid and accepted the services; and (4) the reasonable value of such services received by the Respondent.

6. Respondent is entitled to summary judgment and owes nothing to Claimant.

7. Summary judgment is to be granted by a trial court if 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. Ark. R. Civ. P. 56(c)(2); *see also Pfeifer v. City of Little Rock*, 346 Ark. 449, 457 (2001).

8. Summary judgment is viewed not as a drastic remedy, but as one of the tools in a trial court's efficiency arsenal. *Chavers v. General Motors Corp.*, 349 Ark. 550, 558 (2002).

9. The purpose of summary judgment is not to try the issues, but to determine whether there are any issues to be tried. *Stephens v. Petrino*, 350 Ark. 268, 274 (2002).

10. There are no issues to be tried.

11. Claimant failed to perfect a possessory lien for any vehicles against Respondent under the requirements of A.C.A. § 27-50-1208 (part of the “towing statutes”). Therefore, Claimant does not have a bona fide security interest or lien for purposes of A.C.A. § 5-64-505(i)(1)(B)(i).

12. A.C.A. §5-64-505(i)(1)(B)(ii) states that any *proper expense* of the proceeding for forfeiture and sale shall be administered from the asset forfeiture fund.

13. Claimant does not seek proper expenses. Proper expenses in this matter cannot exceed the sale proceeds of the 2009 Chevrolet truck, which is now owned by the Newton County Sheriff.

14. Claimant cannot establish unjust enrichment as he fails to prove that he expected payment from Respondent and fails to prove that Respondent knew that Claimant expected payment from him.

15. Further, Respondent is shielded by the defense of laches and unclean hands as Claimant inexplicably sued the wrong party and waited until a bill for tens of thousands of dollars accrued before demanding payment from Respondent.

16. Claimant’s only proper recourse is to seek transfer of title for the 2009 Chevrolet truck from the Newton County Sheriff.

17. All material facts are undisputed; Claimant has no claim against Respondent as a matter of law.

18. Contemporaneously with this Motion for Summary Judgment, Respondent is filing a Brief in Support and a Statement of Undisputed Material Facts with the following exhibits attached hereto:

- Exhibit A, Declaration of David Ethredge
- Exhibit B, Affidavit of Davey Rhyne; and
- Exhibit C, Bill of Sale

WHEREFORE, Respondent respectfully requests that the Commission grant Respondent's Motion for Summary Judgment and dismiss Claimant's claim with prejudice.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark. Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-3676  
Fax: (501) 682-2591  
Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*

### **CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on April 7, 2023, I electronically mailed the foregoing to the following participant:

Aaron Martin  
Email: [aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
Attorney for Claimant

***Julius J. Gerard***

IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

v.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT

RESPONDENT

DECLARATION OF DAVID ETHREDGE

I, David Ethredge, 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 currently the 14<sup>th</sup> Judicial District Prosecuting Attorney. I was elected to this position and have held office since 2015.

2. My office files criminal informations in criminal cases involving the possession, distribution and manufacture of controlled substances. My office also files civil forfeiture complaints seeking the forfeiture of items, which are the proceeds from the sale of controlled substances or which were used to facilitate felony violations of the Arkansas Uniform Controlled Substances Act.

3. That the process for the forfeiture of items in my district is as follows:

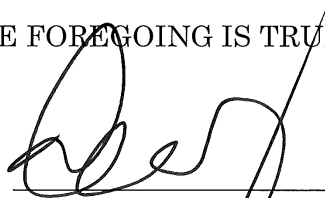
The initial determination that property will be seized is made by the law enforcement agency conducting the investigation which discovered the item or items of property to be seized. As an example, if a Sheriff's Deputy finds a large quantity of a controlled substance along with a large amount of cash in a vehicle being used as a means of transporting the controlled substance, the Deputy may decide to seize the vehicle. At this point, the Deputy would have the vehicle towed to a lot owned



by the county or his law enforcement agency. The Deputy would then execute a confiscation report notifying the owner or person in possession of the vehicle that it is being confiscated. That confiscation report would then be provided to my office, and one of our Deputy Prosecutors would sign it to acknowledge receiving it. That confiscation report would then be sent to the Civil Forfeiture Office at the Arkansas State Police where it would be assigned a tracking number. That tracking number and the document evidencing its having been issued is then provided to my office. Next, my office files a civil forfeiture action seeking the forfeiture of the confiscated property.

As to the issue of payment for towing, neither my office nor the 14<sup>th</sup> Judicial District Drug Task Force has ever paid a tow bill of any kind. There are four counties in my judicial district and none of the tow operators in my district has ever billed my office for towing a seized vehicle. Respectfully, I cannot answer any questions as to the process of payment, because my office has never made payment for towing services of any kind.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

  
\_\_\_\_\_  
David Ethredge  
Prosecuting Attorney  
14<sup>th</sup> Judicial District  
State of Arkansas  
6/23/22  
\_\_\_\_\_  
Date

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

DAVEY RHYNE, d/b/a  
DAVEY'S AUTO BODY AND SALES,

Claimant

vs.

CASE: CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>th</sup> JUDICIAL DISTRICT; and  
STATE OF ARKANSAS,

Respondent

---

CLAIMANT'S AFFIDAVIT

---

I, Davey Rhyne, do hereby swear and affirm to the following:

1. That I have owned and operated Davey's Auto Body and Sales in Harrison, Arkansas since 1992.
2. That from 1992 to the present, I have towed several vehicles at the direction of the Respondent and other local law enforcement agencies.
3. That in most cases involving the seizure of a vehicle by a law enforcement agency, I would be directed to tow the vehicle to the agency's impound lot. Then the vehicle owner would come to my office and pay for the towing, take the receipt to the agency to confirm payment, and the agency would then release the vehicle to the owner.
4. That in some cases involving the seizure of a vehicle by a law enforcement agency as part of investigation, I would be directed to tow the property to

1 of 4



my storage facility and instructed that the vehicle was on an “investigative hold.” The “investigative hold” normally lasts no more than a week. In these cases, the owner would later come to my office and pay for the towing and storage costs once the “investigative hold” is released and the vehicle would then be released to the owner.

5. That in cases where the law enforcement agency intends to seek forfeiture in conjunction with the seizure of a vehicle, the agency will notify me that they are seeking forfeiture and direct me to tow the vehicle to the agency’s impound lot, and I understand that I will simply not be paid for the tow.
6. That on October 16, 2017, Commander Robert Braden of 14th Judicial District Drug Task Force and Newton County Sheriff’s Deputy Anthony Kent notified me that they intended to seek forfeiture of the property but directed me to tow [REDACTED] property to my storage facility because they did not have room at the impound lot.
7. That I complied with the officers’ directions and towed the following property to my storage facility: 1) Honda Pioneer UTV, 2) Honda Recon ATV, 3) 2010 Chevy 2500 Truck, 4) 2009 Chevy 1500 Truck.
8. That I was later notified that [REDACTED] was not the owner of the Honda Pioneer UTV and that the UTV had to be released to the actual

owner. The actual owner later came by to pick up his UTV but did not pay for the towing and storage.

9. That in February of 2019 I was notified that the Respondent had only forfeited [REDACTED] 2009 Chevy 1500 and that the remaining property had to be released to [REDACTED]. That soon thereafter, [REDACTED] came to my business to pick up his 2010 Chevy 2500 and Honda Recon ATV but only paid for the towing of the 2010 Chevy 2500.
10. The unusual circumstances in the [REDACTED] case was that a) I was directed to tow the property to my storage facility instead of the agency's impound lot and b) the property was on hold for almost two years pending forfeiture proceedings.
11. That to this day, the forfeited 2009 Chevy 1500 remains on my lot taking up valuable space and costing my business money to insure.

VERIFICATION OF AFFIANT

STATE OF ARKANSAS            )  
  ) SS  
COUNTY OF CARROLL        )

I, Davey Rhyne, certify that I have read this Affidavit, that I authorize attorney Aaron L. Martin to file it, and that the allegations of fact are correct to the best of my knowledge, and that it is filed with my distinct knowledge and specific consent.

  
Davey Rhyne

Subscribed and Sworn to before me, the undersigned Notary Public, on this 14<sup>th</sup> day of June, 2022.



  
Notary Public

CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 23 day of June, 2022 as follows:

Julius Gerard

Julius.gerard@arkansasag.gov

/s/Aaron L. Martin



**DAVID L. ETHREDGE**  
**PROSECUTING ATTORNEY**  
**STATE OF ARKANSAS**  
**FOURTEENTH JUDICIAL DISTRICT**  
**BAXTER – BOONE – MARION – NEWTON**



Main Office: 301 E. 6th St., Ste. 170, Mountain Home, AR 72653, ph. (870) 425-2595, fax (870) 425-2596  
Boone / Newton County Office: 414 Central Ave., P.O. Box 483, Harrison, AR 72601, ph. (870) 741-6361, fax (870) 741-6120

September 14, 2021

Hon. Glenn Wheeler  
Sheriff of Newton County  
300 N. Spring Street  
Jasper, Arkansas 72641


RE: Intent to Transfer Vehicle to Newton County Sheriff's Office

Dear Sheriff Wheeler,

I am writing this letter to inform you that the 14<sup>th</sup> Judicial District Drug Task Force is hereby transferring the following vehicle to the Newton County Sheriff's Office, which was seized and forfeited to the State of Arkansas as proceeds from the sale of illegal drugs: 2009 Chevy Silverado 1500, [REDACTED]

This transfer is being made to assist the Sheriff's Office in its mission to enforce the laws of this State.

Best Regards,

  
David L. Ethredge  
Prosecuting Attorney  
14<sup>th</sup> Judicial District  
State of Arkansas



Print Form

## STATE OF ARKANSAS VEHICLE BILL OF SALE/ODOMETER DISCLOSURE STATEMENT

Clear Form

## Section 1 - Vehicle Identification Number (VIN)

--

If buyer is a company rather than individuals, go directly to Section 3 - Company Name.

## Section 2 - Buyer Information

First Name Newton County Sheriff's Office	Middle Initial	Last Name
Address 300 N. Spring Street		
City, State, Zip Jasper, Arkansas 72641		

☐

Check this box if there are multiple owners

## Section 3 - Company Information

Company Name
Company Address
City, State, Zip

## Section 4 - Dealer/Seller Name and Address

Dealer/Seller Name State of Arkansas, 14th Judicial District, Drug Task Force
Address 414 W. Central Suite A
City, State, Zip Harrison, Arkansas 72601

## Section 5 - Purchase Date

September 14, 2021

## Section 6 - Description of Vehicle Purchased and Vehicle Trade-In

Vehicle Purchased Chevy 1500	Make Chevy	Model Silverado	Year 2009	Primary Color White	Secondary Color (If applicable)
Vehicle Trade-In	Make	Model	Year	Vehicle Identification Number of Trade-In	

## Section 7 - Odometer Disclosure

I, \_\_\_\_\_ (seller's printed name) hereby state that the Odometer now reads \_\_\_\_\_ (no tenths) miles, and the best of my knowledge that it reflects the actual miles, **UNLESS** one of the items below is checked:

☐

1. **EXCEEDS MECHANICAL LIMITS** - I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

☒

2. **WARNING - ODOMETER DISCREPANCY** - I hereby certify that the odometer reading is not the actual mileage.

## Section 8 - Sales Price Information - Signatures

Full Sales Price of Vehicle	\$1.00	Printed Name of Seller David Ethredge, Prosecuting Att., 14th Judicial District, State of Arkansas
Less Trade-In		Signature of Seller
Net Taxable Income		Printed Name of Buyer Glenn Wheeler, Sheriff, Newton County Sheriff's Office
		Signature of Buyer

## SECTION 9 - WARNING

**WARNING:** It is a **FELONY** for any taxpayer to willfully attempt to evade or defeat the payment of any tax, penalty, or interest due under state law; **OR** for any person to willfully assist a taxpayer in evading or defeating the payment of any tax, penalty, or interest due under state law.

This form may be reproduced so long as the format and language are not changed from the original.

10-313

**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**RESPONDENT'S STATEMENT OF UNDISPUTED MATERIAL FACTS**

Comes now Respondent, David Ethredge, and for his Statement of Undisputed Material Facts, states as follows:

1. On October 16, 2017, eleven items of property were seized from the possession of a criminal suspect, [REDACTED]. Claim, pp. 15-17.

2. The initial determination that property will be seized is made by the law enforcement agency conducting the investigation. Ex. A, Declaration of David Ethredge, ¶ 3.

3. A Complaint was filed by the Prosecuting Attorney's office on December 14, 2017, seeking *in rem* forfeiture of these items. Claim, pp. 15-17.

4. The eleven items were listed as being in the custody of "the Drug Task Force / Newton County Sheriff's Office." Claim, pp. 15-17.

5. There is no mention in the forfeiture complaint that any of the eleven items were located at Davey Rhyne's Auto Body Shop. Claim, pp. 15-17.

6. If a sheriff's deputy decides to seize a vehicle, the deputy would have the vehicle towed to a lot owned by the county or his law enforcement agency. Ex. B, Declaration of David Ethredge, ¶ 3.



7. When law enforcement agencies intend to seek forfeiture in conjunction with the seizure of a vehicle, the agency will notify Davey Rhyne that they are seeking forfeiture and direct him to tow the vehicle to the agency's impound lot, and he understands that he will simply not be paid for the tow. Affidavit of Davey Rhyne, ¶ 5.

8. Neither the Prosecutor's Office nor the 14<sup>th</sup> Judicial District Drug Task Force has ever paid a tow bill of any kind. Ex. B, Declaration of David Ethredge, ¶ 3.

9. There are four counties in the 14<sup>th</sup> Judicial District and none of the tow operators in this district have ever billed the Prosecuting Attorney's Office for towing a seized vehicle. Ex. B, Declaration of David Ethredge, ¶ 3.

10. Keith Slape was the Newton County Sheriff on the date the eleven items were seized.

11. Glenn Wheeler did not become Newton County Sheriff until January 1, 2019.

12. An Agreed Order of Forfeiture was entered into the Newton County Circuit Court on January 17, 2019. Claim, pp. 18-20.

13. The eleven items in question were listed as being in the custody of the Newton County Sheriff's Office. Claim; p. 19, ¶ 4.

14. Of the four vehicles seized (2009 Chevrolet truck, 2010 Chevrolet truck, Honda Pioneer UTV, and Honda Recon ATV), only one was forfeited to the 14<sup>th</sup> Judicial District, the 2009 Chevrolet Truck. Claim; pp. 19-20, ¶ 6.

15. Two of the other three vehicles were ordered to be released to [REDACTED] [REDACTED] (2010 truck and Honda ATV), with the Honda UTV going to [REDACTED]. Claim, pp. 18-20.

16. On February 13, 2019, Davey Rhyne released the 2010 Chevy 2500 and Honda Recon ATV to [REDACTED] after accepting \$300.63 for mileage, tow, labor, and taxes. Rhyne waived any remaining charges. Claim, p. 6, ¶ 17.

17. Davey Rhyne sent his first invoice for payment of vehicle storage on March 12, 2019, seeking payment from the Newton County Sheriff for storage costs of all four vehicles, dating back to October 16, 2017. Claim, pp. 27-32.

18. Davey Rhyne sent his first invoice solely to the Newton County Sheriff's Office. Claim, pp. 27-28.

19. Davey Rhyne requested \$21,041.88 in his first invoice as a "voluntary discount". Claim; ¶ 6, pp. 27-32.

20. Three of the vehicles listed in Davey Rhyne's first invoice were not forfeited to the 14<sup>th</sup> Judicial District. Claim, pp. 29-32.

21. Davey Rhyne sent a second invoice on May 3, 2019, seeking payment from the Newton County Sheriff. Claim, p. 33-38.

22. Davey Rhyne sent the second invoice solely to the Newton County Sheriff's Office. Claim, pp. 33-34.

23. Three of the vehicles listed in Davey Rhyne's second invoice were not forfeited to the 14<sup>th</sup> Judicial District. Claim, pp. 35-38.

24. Davey Rhyne sent a third and final invoice on June 24, 2019, seeking payment from the Newton County Sheriff. Claim, pp. 39-45.

25. Davey Rhyne sent the final invoice solely to the Newton County Sheriff's Office. Claim, pp. 39-40.

26. Three of the vehicles listed in Davey Rhyne's third invoice were not forfeited to the 14<sup>th</sup> Judicial District. Claim, pp. 42-45.

27. The final invoice included a letter, dated June 12, 2019, stating that if Sheriff Glenn Wheeler did not pay \$21,401.88 by July 15, 2019, Davey Rhyne would pass collection to a debt agency and Sheriff Wheeler would immediately owe \$85,877.84. Claim, p. 39.

28. Davey Rhyne never sent an invoice to the Prosecuting Attorney's Office for the 14<sup>th</sup> Judicial District.

29. Davey Rhyne never sent notice to the Prosecuting Attorney's Office of any kind.

30. On September 14, 2021, ownership of the 2009 Chevrolet truck was transferred to the Newton County Sheriff's Office. Ex. C, Bill of Sale.

31. Davey Rhyne originally filed this claim against Respondent on September 17, 2021.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard

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*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on April 7, 2023, I filed the foregoing via email to the Arkansas State Claims Commission and sent a copy, via email, to the following:

Aaron Martin  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
Attorney for Claimant

***Julius J. Gerard***

IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

v.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT

RESPONDENT

**BRIEF IN SUPPORT OF RESPONDENT'S**  
**MOTION FOR SUMMARY JUDGMENT**

**I. INTRODUCTION & SUMMARY OF FACTS**

The facts of this case are straightforward. On December 14, 2017, the 14<sup>th</sup> Judicial District Prosecuting Attorney's Office filed a complaint seeking forfeiture of eleven items of property seized from criminal defendant [REDACTED]. *SUMF*, 3. These items included US Currency, several firearms, and four vehicles (two trucks, an ATV, and a UTV). On January 17, 2019, an Order of Forfeiture was entered, ultimately only forfeiting one of the vehicles, a 2009 Chevrolet truck, to the 14<sup>th</sup> Judicial District. *SUMF*, 14.

Contrary to established customs and unbeknownst to the Prosecuting Attorney's Office, the vehicles had mysteriously remained on the lot of Davey's Auto Body & Sales since October 16, 2017. Mr. Rhyne admits that when law enforcement intends to seek forfeiture in conjunction with the seizure of a vehicle, the agency will notify him they are seeking forfeiture and direct him to tow the vehicle to the agency's impound lot, and he understands that he will simply not be paid for the tow. *SUMF*, ¶ 7.

Despite the understood arrangement, Mr. Rhyne waited nearly 18 months to send the first of three invoices to the Newton County Sheriff on March 12, 2019, asking for \$21,041.88 from Sheriff Wheeler for long-term towing and storage. *SUMF*, 17-19. Mr. Rhyne has never sought payment for these vehicles from the Prosecuting Attorney's Office. This lawsuit is the first time Mr. Rhyne has formally sought payment from the Prosecutor for *any* vehicle (*SUMF*, 9) and now he is demanding \$85,616.01, plus \$40 per day until the truck is removed. Respondent brings this claim under A.C.A. § 5-64-505(i) and a theory of unjust enrichment.

Respondent is entitled to summary judgment on Mr. Rhyne's claims. A.C.A. § 5-64-505(i) states that the civil asset forfeiture fund can only be used for *bona fide liens* or *proper expenses* of forfeiture. There was no lien perfected by Mr. Rhyne on the 2009 Chevrolet truck or any vehicle. On February 13, 2019, Mr. Rhyne *released* two of the vehicles to [REDACTED] after accepting payment of \$300.63 (*SUMF*, 16) and simply doesn't mention what happened to the Honda Pioneer UTV, despite suing for its storage costs. \$85,616.01 is not a proper expense for forfeiture and Mr. Rhyne is suing the wrong party. Mr. Rhyne normally tows forfeiture vehicles to a county lot with no expectation of payment by law enforcement. He provides no contract showing a deviation in this custom (allowing him to hold four vehicles privately for over a year). The Prosecuting Attorney's Office should not be on the hook for Mr. Rhyne's deceptive practices.

The 14<sup>th</sup> Judicial District became the owner of the 2009 Chevrolet truck on January 17, 2019. Mr. Rhyne has been holding the State's property hostage since that

time with unconscionable demands. The truck was finally transferred to the Newton County Sheriff, Glenn Wheeler, on September 14, 2021 (*SUMF*, 28) and now Mr. Rhyne is suing David Ethredge. Mr. Rhyne is guilty of laches and unclean hands. Summary judgment should be granted in favor of Respondent and the claim against him should be dismissed with prejudice.

## **II. STATEMENT OF FACTS**

Respondent has submitted a separate Statement of Undisputed Material Facts (“*SUMF*”), which is incorporated by reference.

## **III. STANDARD OF REVIEW**

Summary judgment pursuant to Arkansas Rule of Civil Procedure 56 is appropriate if no issues of material fact exist for trial. *Neal v. Sparks Reg’l Med. Ctr.*, 2012 Ark. 328, at 7 (2012). Once the moving party makes a *prima facie* showing of its entitlement to summary judgment, the non-moving party must meet proof with proof and demonstrate the existence of an issue of material fact. *Id.* Summary judgment is used to promote judicial efficiency and economy. *See Parkerson v. Lincoln*, 347 Ark. 29, 31; *see also Outdoor Cap. Co. v. Benton County Treasurer*, 2014 Ark. 536, 3 (2014). Arkansas courts no longer refer to summary judgment as a “drastic remedy;” rather, summary judgment is simply considered “one of the tools in a circuit court’s efficiency arsenal.” *Marlar v. Daniel*, 368 Ark. 505, 507 (2007).

## **IV. ARGUMENT**

**A. Claimant never perfected a lien against Respondent.**

Davey Rhyne never provided notice nor perfected a lien against the Prosecuting Attorney's Office. Therefore, the first prong of Mr. Rhyne's first theory of recovery fails. A.C.A. 5-64-505(i)(1)(B)(i) provides that the prosecuting attorney shall use funds from the asset forfeiture fund to pay for a "bona fide security interest or lien." Mr. Rhyne did not follow any steps to perfect a lien on any vehicle in this case, therefore he cannot recover under this prong.

A.C.A. § 27-50-1201, et seq. (the "towing statutes") apply to those who engage in towing or storage of vehicles in the State of Arkansas. *See* § 27-50-1201(a). In order for a towing operator to perfect a possessory lien, the operator must maintain possession *and* mail notice to the owner or owners and lienholders. A.C.A. § 27-50-1208(b)(2). The notice shall be mandatory and by certified mail. It shall be posted between two to eight business days upon receipt of vehicle. (c)(1)-(2). Among other requirements, the notice shall inform the owner that unless claimed within forty-five days, the vehicle and its contents will be dismantled, destroyed, or sold at public sale to the highest bidder. (e)(1)(F).

Upon the date of forfeiture, January 17, 2019, the 14<sup>th</sup> Judicial District became the owner of the 2009 Chevrolet truck. Mr. Rhyne never sent notice to David Ethredge or any such agent of the 14<sup>th</sup> Judicial District Prosecuting Attorney's Office. Instead, Rhyne sent an invoice, labeled "1<sup>st</sup> Notice" to the Newton County Sheriff on March 12, 2019. *SUMF*, 17. The first invoice only describes the vehicles (all four seized by Newton County), gives contact information, and lists a price for services. Claim, pp.



27-32. The invoice contains none of the other information required for a notice under the statute.

Mr. Rhyne sent two additional “notices” to the Newton County Sheriff’s Office. *SUMF*, 21-24. The second invoice mirrors the first, lacking many requirements under the statute. The third and final notice is a demand letter attached to an invoice, threatening to garnish the Sheriff’s wages in the amount of \$85,877.84 if he does not pay a “voluntarily discounted” price of \$21,401.88. This smells like extortion. Whatever it is, it has nothing to do with David Ethredge or the 14<sup>th</sup> Judicial District. It is clear that prior to this lawsuit, Mr. Rhyne never attempted to perfect a lien and has only sought payment from the Newton County Sheriff.

*If* an owner is properly noticed and *if* the owner has not reclaimed the vehicle within forty-five days, A.C.A. § 27-50-1209 details how a towing operator must foreclose the lien on a vehicle. “[T]he towing and storage firm...that holds a perfected possessory lien on any vehicle and its contents not redeemed by its owner or security lienholder within the time frame provided by this section shall sell the vehicle and its contents at a nonjudicial public sale for cash.” *Id.* at (b)(1). Mr. Rhyne ignores the statute and never attempts to do this. He is required to sell the vehicle if it is not reclaimed by the owner. He assumes the Newton County Sheriff is liable, but instead of attempting to gain title to the remaining truck on his lot, Mr. Rhyne threatens to garnish the Sheriff’s wages at an exorbitant cost. Again, he goes after the sheriff and not David Ethredge or anyone from the 14<sup>th</sup> Judicial District.

Mr. Rhyne did not perfect a possessory lien against any vehicle he allegedly towed by command of the Newton County Sheriff. More importantly, Mr. Rhyne never once attempted to send notice to David Ethredge or the 14<sup>th</sup> Judicial District that their 2009 Chevrolet truck was sitting on his lot, silently accruing storage fees. Mr. Rhyne has no “bona fide security interest or lien” under A.C.A. § 5-64-505(i)(1)(B)(i). Mr. Rhyne is entitled to nothing from Respondent.

**B. Claimant seeks improper damages.**

The primary subsection of A.C.A. § 5-64-505 that Mr. Rhyne relies on states that money in the asset forfeiture fund shall be distributed “for payment of any **proper expense** of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.” *Id.* at (i)(1)(B)(ii). The expenses that Mr. Rhyne demands in this lawsuit are at least *improper*, if not outrageous.

Mr. Rhyne seeks \$85,616.01 *and counting*, primarily through storage fees for four vehicles dating back to 2017. Three of these were never forfeited to the State. Mr. Rhyne never sent notice or otherwise made it known to the 14<sup>th</sup> Judicial District that Rhyne was expecting payment for storage. According to Respondent and Davey Rhyne *himself*, any payment for a vehicle seized subject to forfeiture is coordinated through a law enforcement agency and he is normally directed to tow the vehicle to the *agency’s impound lot* and that he “will simply not be paid for the tow.” *SUMF*, ¶ 7. Rather than adhere to the established business customs between himself and the Sheriff’s Office, Mr. Rhyne inexplicably allowed the vehicles to sit on his own lot for

over a year. He presents no written contract from the former sheriff authorizing such unusual arrangement. Simply put, Mr. Rhyne is attempting to exploit statutory language to receive a windfall for his own misdeeds.

*1. The Arkansas Court of Appeals sides against Claimant.*

Even if established that Mr. Rhyne deserves some payment for services rendered, his damages are capped by statute and case law. In *Payne v. Donaldson*, 2010 Ark. App. 255, action was brought concerning fees owed to a towing company, which stored an all-terrain vehicle (ATV) at the request of the sheriff's department after it was recovered during the course of a marijuana-eradication project. A Yamaha four-wheeler was towed on July 19, 2006 and stored by Donaldson by request of the Chicot County Sheriff's Department as stolen property. *Id.* at 2. The rightful owner of the vehicle (Payne) was never put on notice that his recovered vehicle was being held by Donaldson Wrecker Service. Payne eventually contacted authorities and provided proof of ownership. The hold on the vehicle was released by the sheriff. *D.* at 6. When Payne arrived at Donaldson's to pick up his vehicle on September 6, 2006, Payne was informed that he would have to pay \$1,831.50 worth of storage fees (each day starting from when the vehicle was first towed) before his vehicle would be released. *Id.* at 7.

Further, Donaldson demanded an additional \$27.57 per day until the vehicle was claimed. At trial on August 8, 2007, Donaldson was awarded \$10,636.25 and \$27.57 per day until Payne claimed the ATV or it was disposed of at sale. The trial

court also ruled that Payne owed any outstanding balance not covered by the proceeds of the sale. Donaldson later sold the ATV at auction for \$500. *Id.* at 12.

Payne appealed this decision. Payne asserted that Donaldson never perfected his lien on the vehicle and acted in bad faith by employing a “stall tactic” while failing to comply with statutory notice requirements. The Arkansas Court of Appeals agreed and reversed the trial court’s decision, holding that Donaldson was not entitled to retain possession of Payne’s ATV without providing the required statutory notice. Moreover, the appellate court found that the sale of the ATV satisfied any debt under an alternate theory of a lien gained through “work, labor, and storage on motor vehicles” (A.C.A. § 18-45-201, et seq.). The trial court’s monetary award was dismissed and Donaldson was only permitted to keep the \$500 from the sale of the vehicle.

The facts in the case at hand are remarkably similar. Mr. Rhyne employed a similar “stall tactic” by letting all these months and years pass without ever sending proper statutory notice to the 14<sup>th</sup> Judicial District. Given that Mr. Rhyne failed to perfect a possessory lien, he has impermissibly held the 2009 Chevrolet truck for ransom since early 2019. Even if Mr. Rhyne had perfected a lien on the truck after the forfeiture on January 17, 2019, he still would have been required to take title and sell the vehicle to satisfy any outstanding debts.

The 14th Judicial District transferred its interest in the 2009 Chevrolet truck to the Newton County Sheriff’s Office on September 14, 2021. *SUMF*, 30. Thus, the only permissible remedy Mr. Rhyne has available is to seek a lien of the truck against

Newton County and sell it at auction. Under A.C.A. 5-64-505(i)(1)(B)(ii), Mr. Rhyne is barred from seeking damages against Respondent as his demands for expenses are improper.

**C. Respondent was not aware that Claimant towed and stored the 2009 Chevrolet truck with the expectation of being paid.**

Mr. Rhyne's second and final claim against Respondent is unjust enrichment. This claim fails on the surface. Rhyne must prove the following elements: [First], that Claimant provided services to Respondent, who received the benefit of such services; [Second], that the circumstances were such that Claimant reasonably expected to be paid the value of such services by Respondent; [Third], that Respondent was aware that Claimant was providing such services with the expectation of being paid and accepted the services; and [Fourth], the reasonable value of such services received by the Respondent. Ark. Model Jury Instr., Civil AMI 2445; *see also Farmer v. Riddle*, 2011 Ark. App. 120, at 2-4; *Sparks Reg'l Med. Ctr. V. Blatt*, 55 Ark. App. 311, 316-17 (1996).

The first and fourth elements would require longer debate, but Mr. Rhyne clearly fails to meet elements two and three. Element two requires Rhyne to prove that he acted in expectation of being paid by Mr. Ethredge. This is disingenuous because Mr. Rhyne freely admits that he normally does not expect to get paid whatsoever for towing vehicles if they are being seized for eventual forfeiture. Thus, it is arguable that Rhyne fails the first prong of element two (expectation of payment) by his own admission.

Moving to the latter prong of the second element and viewing the facts in the light most favorable to Rhyne, however, it is conceivable that under these circumstances he expected payment from someone. That certain someone would certainly not be David Ethredge of the 14<sup>th</sup> Judicial District. Mr. Rhyne has admitted through his words and actions (serving notices) that he clearly expected to be paid by Sheriff Wheeler. Mr. Rhyne never had an expectation in 2017 that the 14<sup>th</sup> Judicial District would cut him a check. Even when the Chevrolet truck was forfeited to Respondent in 2019, Mr. Rhyne still demanded payment from the sheriff on three occasions and threatened to garnish his wages. *SUMF*, 27. Rhyne's expectations were clear. Accordingly, Mr. Rhyne cannot establish a *prima facie* argument for element two. Since all elements must be proved, Mr. Rhyne cannot succeed on a theory of unjust enrichment.

The burden of proving element three is equally fatal to Mr. Rhyne's claim. Rhyne must prove that David Ethredge was aware that Rhyne was providing towing and storage services with the expectation of being paid and accepted the services. Similar to the analysis on the second element, Rhyne admits that he normally does business with local law enforcement and expects nothing in return. Mr. Rhyne never claims that he did business directly with the prosecuting attorney. Mr. Ethredge only deals with the court proceedings when it comes to civil forfeiture. Ex. A, ¶¶ 2-3. Additionally, the Agreed Forfeiture Agreement filed on January 17, 2019, lists "Newton County Sheriff" as the custodian of the four vehicles. *SUMF*, 13. There is no proof, documented or alleged, that the 14<sup>th</sup> Judicial District Prosecuting Attorney's

Office had any indication whatsoever that Davey Rhyne even had these vehicles, let alone expected payment. Mr. Rhyne cannot make a good faith argument for the third element of unjust enrichment; therefore, Rhyne's claim fails as a matter of law.

### **CONCLUSION**

Claimant, Davey Rhyne, never perfected a lien against Respondent, David Ethredge. Claimant acted with unclean hands and demands damages that are unreasonable and improper. His claim of unjust enrichment fails on its face. Even if Claimant has a legitimate claim for damages, he is prohibited from seeking more than the proceeds from the sale of the 2009 Chevrolet truck. In order to enact this remedy, he would need to bring action against the Newton County Sheriff's Office, the current owner of the vehicle.

Respondent does not owe damages to Claimant as a lien was never perfected, the damages requested are improper, he has no argument for unjust enrichment, and only the Newton County Sheriff can provide relief to Claimant at this time. For the foregoing reasons, this action should be dismissed with prejudice.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
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*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on April 7, 2023, I filed the foregoing via email to the Arkansas State Claims Commission and sent a copy, via email, to the following:

Aaron Martin  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
Attorney for Claimant

***Julius J. Gerard***



**From:** [Kathryn Irby](#)  
**To:** [Jay Gerard](#)  
**Cc:** [Katie Wilson](#); ["Aaron Martin"](#)  
**Subject:** SCOPE OF HEARING CLARIFIED: Rhyne v. Prosecuting Attorney; CC-220317: MSJ Motion, Exhibits, SUMF, and MSJ Brief  
**Date:** Tuesday, April 18, 2023 4:22:00 PM  
**Attachments:** [image001.jpg](#)

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Mr. Gerard and Mr. Martin, the Claims Commission will take up this motion at the May 19 hearing, in addition to the claim itself.

Thanks,  
Kathryn Irby

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

---

**From:** Jay Gerard <julius.gerard@arkansasag.gov>  
**Sent:** Friday, April 7, 2023 5:13 PM  
**To:** ASCC Pleadings <ascoupleadings@arkansas.gov>  
**Cc:** Katie Wilson <katie.wilson@arkansasag.gov>; 'Aaron Martin' <aaron@martinlawpartners.com>  
**Subject:** Rhyne v. Prosecuting Attorney; CC-220317: MSJ Motion, Exhibits, SUMF, and MSJ Brief

Respondent, David Ethredge, hereby files his Motion for Summary Judgment, Exhibits A-C, Summary of Material Facts, and Brief in Support in the matter of Davey Rhyne v. 14<sup>th</sup> Judicial District Prosecuting Attorney, CC-220317.

I am copying Mr. Aaron Martin on this email, counsel for Claimant.

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



**From:** [Aaron Martin](#)  
**To:** [Kathryn Irby](#); ["Jay Gerard"](#)  
**Cc:** ["Katie Wilson"](#)  
**Subject:** RE: SCOPE OF HEARING CLARIFIED: Rhyne v. Prosecuting Attorney; CC-220317: MSJ Motion, Exhibits, SUMF, and MSJ Brief  
**Date:** Monday, April 24, 2023 3:21:52 PM  
**Attachments:** [image002.png](#)  
[image003.jpg](#)

---

Thank you Ms. Irby,

The Claimant will be filing his response in opposition as well as his pre-hearing brief.

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**

P.O. Box 3597

Fayetteville, AR. 72702

479-442-2244 (W)

479-442-0134 (F)

[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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---

**From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Sent:** Tuesday, April 18, 2023 4:22 PM  
**To:** Jay Gerard <julius.gerard@arkansasag.gov>  
**Cc:** Katie Wilson <katie.wilson@arkansasag.gov>; 'Aaron Martin' <aaron@martinlawpartners.com>  
**Subject:** SCOPE OF HEARING CLARIFIED: Rhyne v. Prosecuting Attorney; CC-220317: MSJ Motion, Exhibits, SUMF, and MSJ Brief

Mr. Gerard and Mr. Martin, the Claims Commission will take up this motion at the May 19 hearing, in addition to the claim itself.

Thanks,  
Kathryn Irby

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

---

**From:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Sent:** Friday, April 7, 2023 5:13 PM  
**To:** ASCC Pleadings <[ascoupleadings@arkansas.gov](mailto:ascoupleadings@arkansas.gov)>  
**Cc:** Katie Wilson <[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Subject:** Rhyne v. Prosecuting Attorney; CC-220317: MSJ Motion, Exhibits, SUMF, and MSJ Brief

Respondent, David Ethredge, hereby files his Motion for Summary Judgment, Exhibits A-C, Summary of Material Facts, and Brief in Support in the matter of Davey Rhyne v. 14<sup>th</sup> Judicial District Prosecuting Attorney, CC-220317.

I am copying Mr. Aaron Martin on this email, counsel for Claimant.

**Julius “Jay” Gerard**  
Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



**From:** [Katie Wilson](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [Jay Gerard](#)  
**Subject:** RE: Rhyne, Davey v. Prosecuting Attorney Office CC-220317  
**Date:** Tuesday, April 25, 2023 8:37:11 AM  
**Attachments:** [image001.jpg](#)

---

Thank you!

**Katie Wilson**  
Lead Legal Assistant – Civil Department

**Office of Arkansas Attorney General Tim Griffin**  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
Office: (501) 682-0790 | Fax: (501) 682-2591  
[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



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---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, April 25, 2023 8:36 AM  
**To:** Katie Wilson <[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov)>  
**Cc:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Subject:** Re: Rhyne, Davey v. Prosecuting Attorney Office CC-220317

**EXTERNAL EMAIL**

Yes, requests for admission should be filed to comply with Ark. Rule Civ. Proc. 36.

Kathryn

Get [Outlook for iOS](#)

---

**From:** Katie Wilson <[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov)>

**Sent:** Tuesday, April 25, 2023 8:32:18 AM

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

**Cc:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>

**Subject:** RE: Rhyne, Davey v. Prosecuting Attorney Office CC-220317

Good Morning Director Irby,

I was looking over the rules and need a little help with a discovery question. Rule 8.1 applies the Rules of Civil Procedure used in State Circuit Courts with two exceptions regarding subpoenas, and interrogatories and requests for production. Since it does not state anything about requests for admissions, I am needing to know are the requests for admissions to be filed with the claims commission as well?

Thank you,

**Katie Wilson**

Lead Legal Assistant – Civil Department

**Office of Arkansas Attorney General Tim Griffin**

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: (501) 682-0790 | Fax: (501) 682-2591

[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)



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**From:** [Aaron Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** ["Jay Gerard"](#); ["Katie Wilson"](#); ["Nora Henriquez"](#)  
**Subject:** Davey Rhyne v. Pros Att. for the 14th Judicial District (220317)  
**Date:** Thursday, April 27, 2023 4:26:38 PM  
**Attachments:** [image001.png](#)  
[Claimants Witness List.pdf](#)  
[Claimants Exhibit Index.pdf](#)  
[Claimant Exhibits.pdf](#)

---

You don't often get email from [aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com). [Learn why this is important](#)

Please find enclosed Claimant's Witness List, Claimant's Exhibit Index and Claimant's Exhibits.

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT'S WITNESS LIST**

Davey Rhyne (Claimant)

David Ethredge (Respondent)

Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

**CERTIFICATE OF SERVICE**

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 27th day of April, 2023 to the following:

Julius Gerard  
[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT'S EXHIBIT LIST**

<b><u>EXHIBIT</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>PAGES</u></b>
Exhibit A	Forfeiture Complaint	1-3
Exhibit B	Agreed Order of Forfeiture	4-6
Exhibit C	Sentencing Order	7-12
Exhibit D	Claimant's Posted Charges	13
Exhibit E	Claimant's First Invoice	14-19
Exhibit F	Claimant's Second Invoice	20-25
Exhibit G	Claimant's Third Invoice	26-32
Exhibit H	Criminal Affidavit	33, 34
Exhibit I	Text Message with Sheriff Wheeler	35



Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
*aaron@martinlawpartners.com*

CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 27th day of April, 2023 to the following:

Julius Gerard  
[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin

IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS

State Drug Tracking # Forthcoming

\$11,471.00 in U.S. Currency

DEFENDANT

Remington 870 Express Shotgun, SN: [REDACTED]

Colt .380 Pistol, SN: [REDACTED]

Ruger Single Six .32, SN: [REDACTED]

Unknown Make .22 Rifle, SN: [REDACTED]

Stevens Shotgun, SN: [REDACTED]

Webley 45-55 Pistol, SN: [REDACTED]

Westernfield .22 Rifle, SN: [REDACTED]

Ruger .22 Pistol, SN: [REDACTED]

Smith & Wesson .357 Pistol, SN: [REDACTED]

Vehicle Title to 2010 Chevrolet Truck, [REDACTED]

2010 Chevrolet Truck, [REDACTED]

2009 Chevrolet Truck, [REDACTED]

Honda Pioneer 500UTV, [REDACTED]

Honda Recon ATV, [REDACTED]

FILED  
OFFICE OF THE CIRCUIT CLERK  
NEWTON COUNTY ARKANSAS

DEC 14 2017

11:10 A.M. P.M.

POTENTIAL CLAIMANT

COMPLAINT

Comes now the State of Arkansas, by and through Brad Brown, Deputy Prosecuting Attorney for the  
14<sup>TH</sup> Judicial District, and alleges:

1. That this action is an *in rem* forfeiture of the following described property:

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN: [REDACTED]
- c. Colt .380 Pistol, SN: [REDACTED]
- d. Ruger Single Six .32, SN: [REDACTED]
- e. Unknown Make .22 Rifle, SN: [REDACTED]
- f. Stevens Shotgun, SN: [REDACTED]
- g. Webley 45-55 Pistol, SN: [REDACTED]
- h. Westernfield .22 Rifle, SN: [REDACTED]
- i. Ruger .22 Pistol, SN: [REDACTED]
- j. Smith & Wesson .357 Pistol, SN: [REDACTED]
- k. Vehicle Title to 2010 Chevrolet Truck, [REDACTED]
- l. 2010 Chevrolet Truck, [REDACTED]
- m. 2009 Chevrolet Truck, [REDACTED]
- n. Honda Pioneer 500UTV, [REDACTED]
- o. Honda Recon ATV, [REDACTED]



2. That this Court has jurisdiction over the parties and subject matter hereto and this is the proper venue

for this action.

3. That the defendant's property is located within the jurisdiction of this Court and is in the custody of the Drug Task Force / Newton County Sheriff's Office.

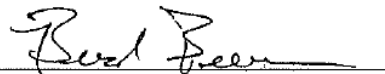
4. That on or about October 16, 2017, in Newton County, Arkansas the property listed in paragraph #1, letter a. through o., above was possessed by Potential Claimant(s), [REDACTED] simultaneously with an amount of drugs under facts, circumstances and presumptions that said controlled substance and drug paraphernalia were used in **SIMULTANEOUS POSSESSION OF DRUGS AND FIREARMS, 5-74-106(a)(1), CLASS Y FELONY; POSSESSION OF SCHEDULE VI CONTROLLED SUBSTANCE WITH PURPOSE TO DELIVER, 5-64-436(a)(6), CLASS C FELONY; and, POSSESSION OF DRUG PARAPHERNALIA, 5-64-443(c), CLASS D FELONY** and subject under A.C.A. 5-64-419 and 5-64-505 to forfeiture.

5. That notice of this seizure was given to the above named potential claimant, [REDACTED] did not sign the report. A copy of the confiscation report is attached hereto and incorporated into this complaint as if set out word for word.

6. Under the provisions of A.C.A. 5-64-505 *et seq.*, the above described defendant property should be forfeited to the plaintiff, State of Arkansas.

WHEREFORE, Plaintiff prays that the Court adjudge the above described defendant property condemned and forfeited to the State of Arkansas, that the Court order said property disposed of as provided by law, and for such further relief as the Court may deem proper.

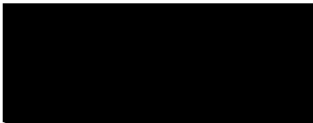
DAVID L. ETHREDGE  
PROSECUTING ATTORNEY



Brad Brown  
Deputy Prosecuting Attorney  
AR Bar No. 2007050  
P.O. Box 483  
414 West Central  
Harrison AR 72601  
(870) 741-6361 Fax: (870) 741-6120

**CERTIFICATE OF SERVICE**

I, Brad Brown, Deputy Prosecuting Attorney for the Fourteenth Judicial District, hereby certify that the above complaint has been duly served by placing a true copy thereof with the Newton County Sheriff's Office on this date for service upon the below listed individual. A copy of the foregoing was also provided to counsel for the Potential Claimant / Defendant at the address indicated below.



Mr. David Cannon  
Cannon Law Firm  
425 W. Broadway  
Suite A  
North Little Rock, Arkansas 72114

A handwritten signature in cursive script, appearing to read "Brad Brown", written over a horizontal line.

Brad Brown, Dep. Prosecuting Att.

12-13-12

Dated

IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS

[REDACTED]

\$11,471.00 in U.S. Currency

DEFENDANT

Remington 870 Express Shotgun, SN: [REDACTED]

Colt .380 Pistol, SN: [REDACTED]

Ruger Single Six .32, SN: [REDACTED]

Unknown Make .22 Rifle, SN: [REDACTED]

Stevens Shotgun, SN: [REDACTED]

Webley 45-55 Pistol, SN: [REDACTED]

Westernfield .22 Rifle, SN: [REDACTED]

Ruger .22 Pistol, SN: [REDACTED]

Smith & Wesson .357 Pistol, SN: [REDACTED]

Vehicle Title to 2010 Chevrolet Truck

2010 Chevrolet Truck

2009 Chevrolet Truck

Honda Pioneer 500UTV

Honda Recon ATV, [REDACTED]

[REDACTED]

POTENTIAL  
CLAIMANT

AGREED ORDER OF FORFEITURE

Comes now the State of Arkansas, by and through Brad Brown, Deputy Prosecuting Attorney for the 14<sup>TH</sup> Judicial District, and the Defendant/ Potential Claimant herein, [REDACTED] by and through his counsel, Mr. David Cannon, and based upon the agreement of the parties and all things now known to the Court, the Court Finds and Orders as follows:

1. That this action is an *in rem* forfeiture of the following described property:

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN: [REDACTED]
- c. Colt .380 Pistol, SN: [REDACTED]
- d. Ruger Single Six .32, SN: [REDACTED]
- e. Unknown Make .22 Rifle, SN: [REDACTED]
- f. Stevens Shotgun, SN: [REDACTED]
- g. Webley 45-55 Pistol, SN: [REDACTED]
- h. Westernfield .22 Rifle, SN: [REDACTED]
- i. Ruger .22 Pistol, SN: [REDACTED]
- j. Smith & Wesson .357 Pistol, SN: [REDACTED]



- k. Vehicle Title to 2010 Chevrolet Truck, [REDACTED]
- l. 2010 Chevrolet Truck, [REDACTED]
- m. 2009 Chevrolet Truck, [REDACTED]
- n. Honda Pioneer 500L/TV, [REDACTED]
- o. Honda Recon ATV, [REDACTED]

2. That this Court has jurisdiction over the parties and subject matter hereto, and this is the proper venue for this action.
3. That this action is brought pursuant to Arkansas Code Annotated 5-64-505 *et seq.*, which states the following property is subject to forfeiture, "any conveyance, including an aircraft, vehicle, or vessel that is used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale or receipt of property" [that is a controlled substance] and "anything of value, including firearms, furnished or intended to be furnished in exchange for a controlled substance or counterfeit substance in violation of this chapter, any proceeds or profits traceable to the exchange, and any money, negotiable instrument, or security used, or intended to be used, to facilitate any violation" of Chapter 64 of Title 5 of the Arkansas Code.
4. That the defendant's property is located within the jurisdiction of this Court and is in the custody of the Newton County Sheriff's Office.
5. That on or before October 16, 2017, in Newton County, Arkansas the property listed in paragraph #1 above was possessed by Potential Claimant, [REDACTED] under circumstances and presumptions that said property was used in the commission of **POSSESSION OF SCHEDULE VI CONTROLLED SUBSTANCE WITH PURPOSE TO DELIVER, 5-64-436(a)(6), CLASS C FELONY**; and, **POSSESSION OF DRUG PARAPHERNALIA, 5-64-443(d), CLASS D FELONY**, and is therefore subject to forfeiture.
6. That the Defendant entered a plea agreement in Newton County Circuit Case No. [REDACTED] in which the defendant agreed to forfeit all interest he has in the following property, with the following exceptions:

**Property to Be Forfeited**

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN [REDACTED]
- c. Colt .380 Pistol, SN: [REDACTED]
- d. Ruger Single Six .32, SN [REDACTED]
- e. Unknown Make .22 Rifle, SN [REDACTED]
- f. Stevens Shotgun, SN [REDACTED]
- g. Webley 45-55 Pistol, SN [REDACTED]

h. Westernfield .22 Rifle, SN: [REDACTED]

i. Ruger .22 Pistol, SN: [REDACTED]

j. Smith & Wesson .357 Pistol, SN: [REDACTED]

~~k. Vehicle Title to 2010 Chevrolet Truck~~

m. 2009 Chevrolet Truck [REDACTED]

IA  
SUD DRC

Exception: Property to be Returned to [REDACTED]

l. 2010 Chevrolet Truck, [REDACTED] and

o. Honda Recon ATV, [REDACTED]

~~k. Vehicle Title to 2010 Chevrolet Truck~~

IA  
SUD DRC


Exception: Property to be Returned to [REDACTED]

n. Honda Pioneer 500UTV [REDACTED]


7. Further, the defendant provided a sworn factual basis for his guilty plea to drug charges in Newton County Circuit Court Case No. [REDACTED] having the same factual basis as the allegations giving rise to this forfeiture complaint, and as part of that plea agreement agreed to forfeit the property listed in paragraph number 6.

8. Under the provisions of A.C.A. 5-64-505 *et seq.*, and by agreement of the parties, the above described defendant property is hereby ordered forfeited to the plaintiff, 14<sup>th</sup> Judicial District, State of Arkansas.

Approved as to form:

  
David Cannon, Attorney for  
Potential Claimant

IT IS SO ORDERED AND FOUND.

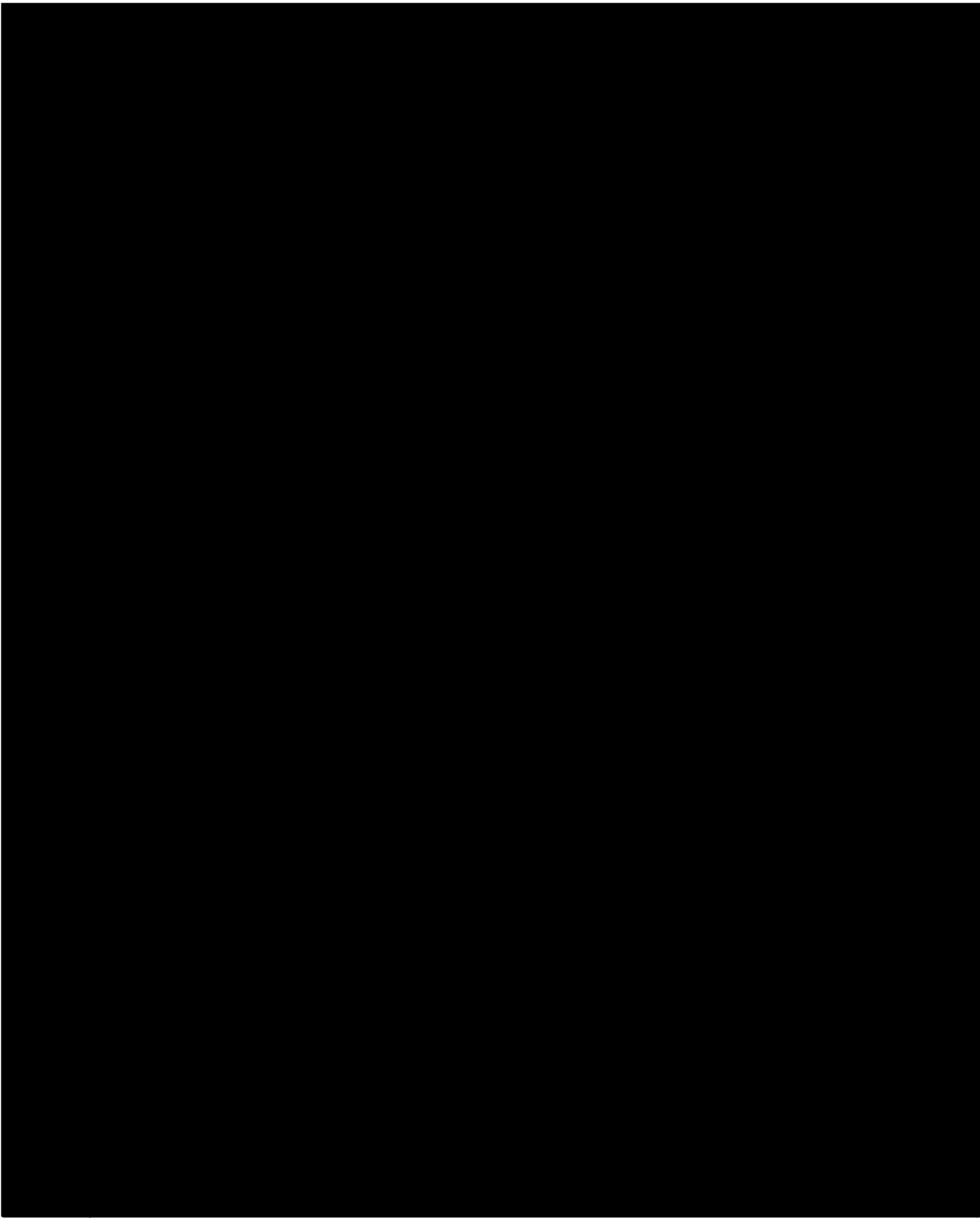
  
Hon. John Pulman, Circuit Judge

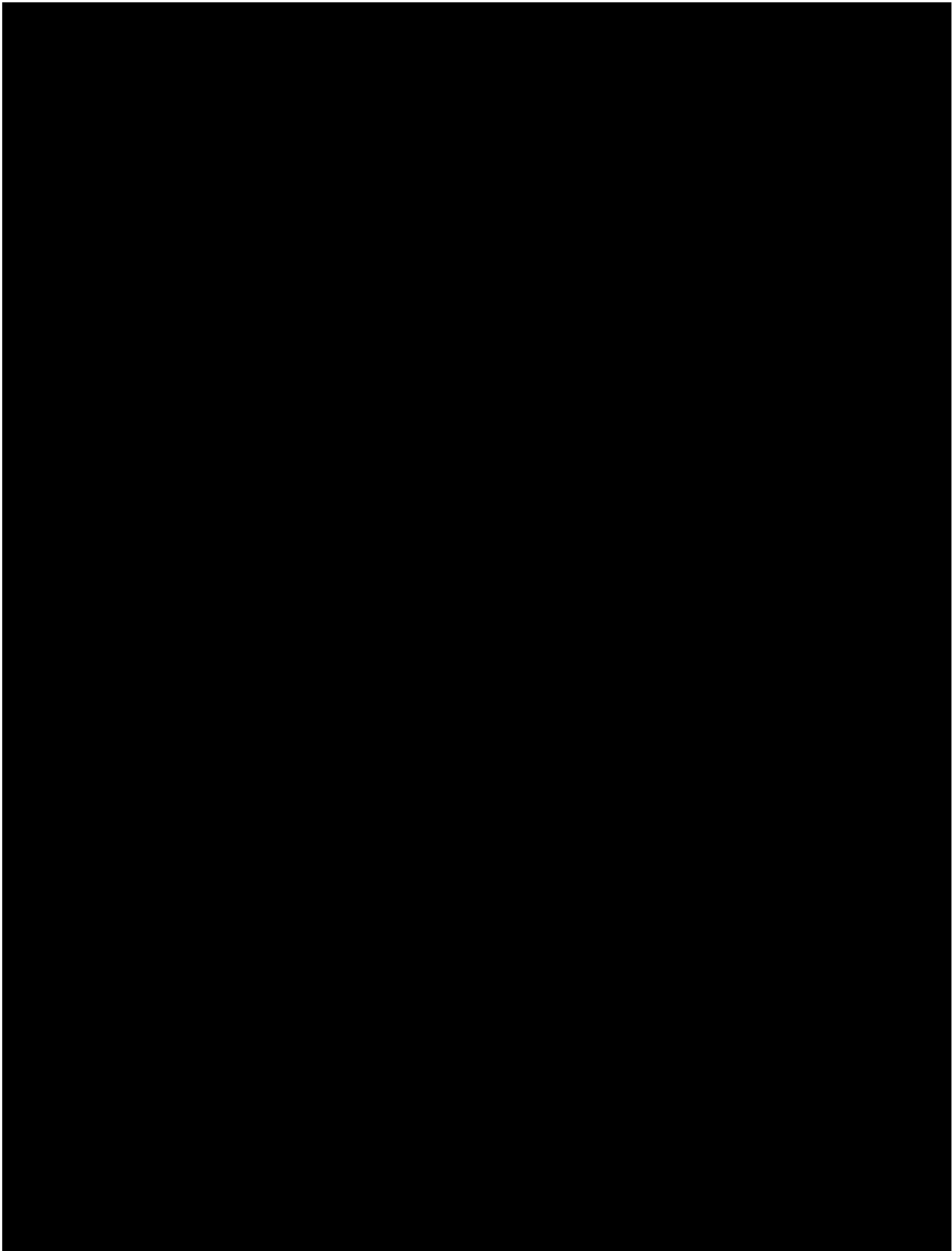
Dated

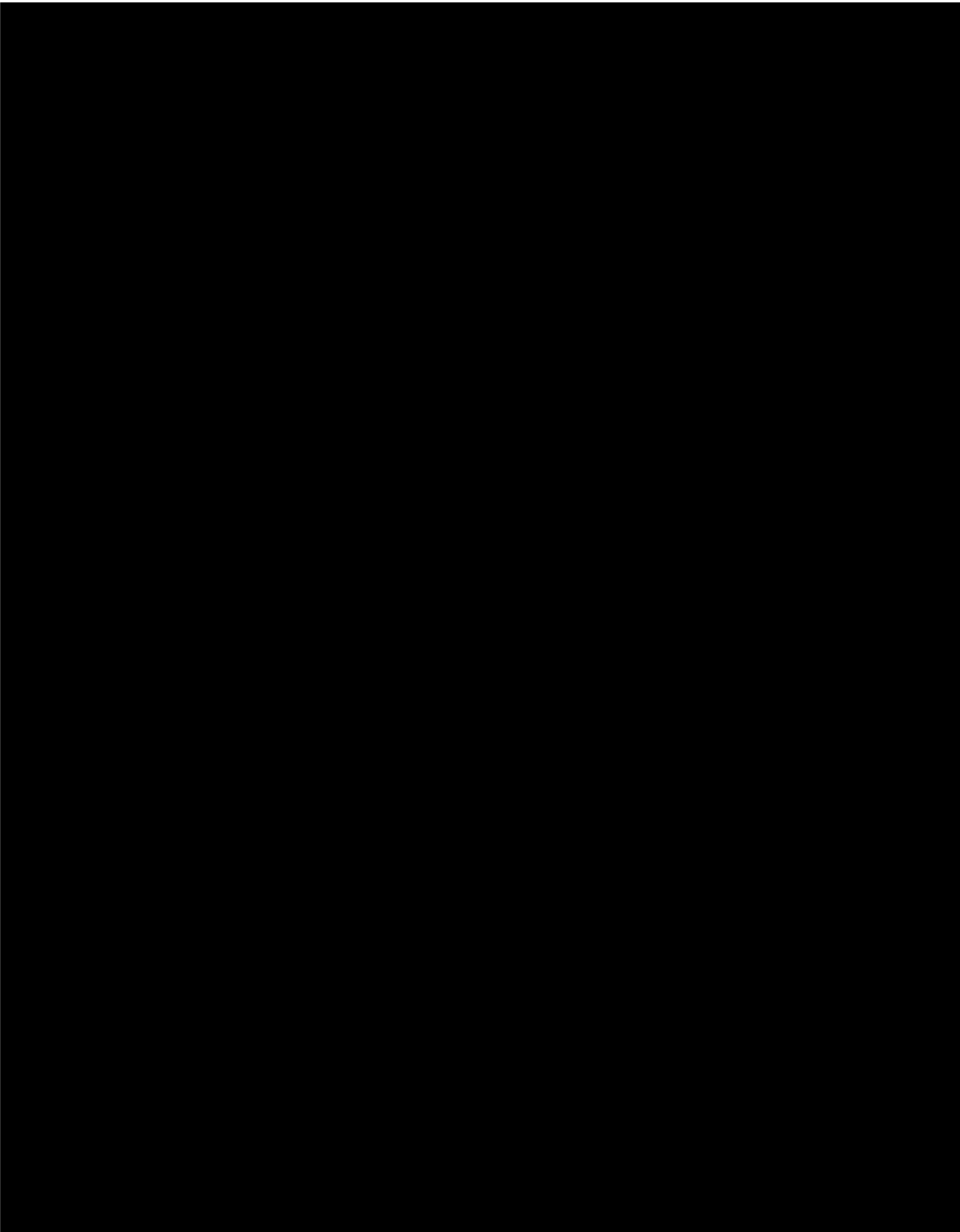
01-17-2019

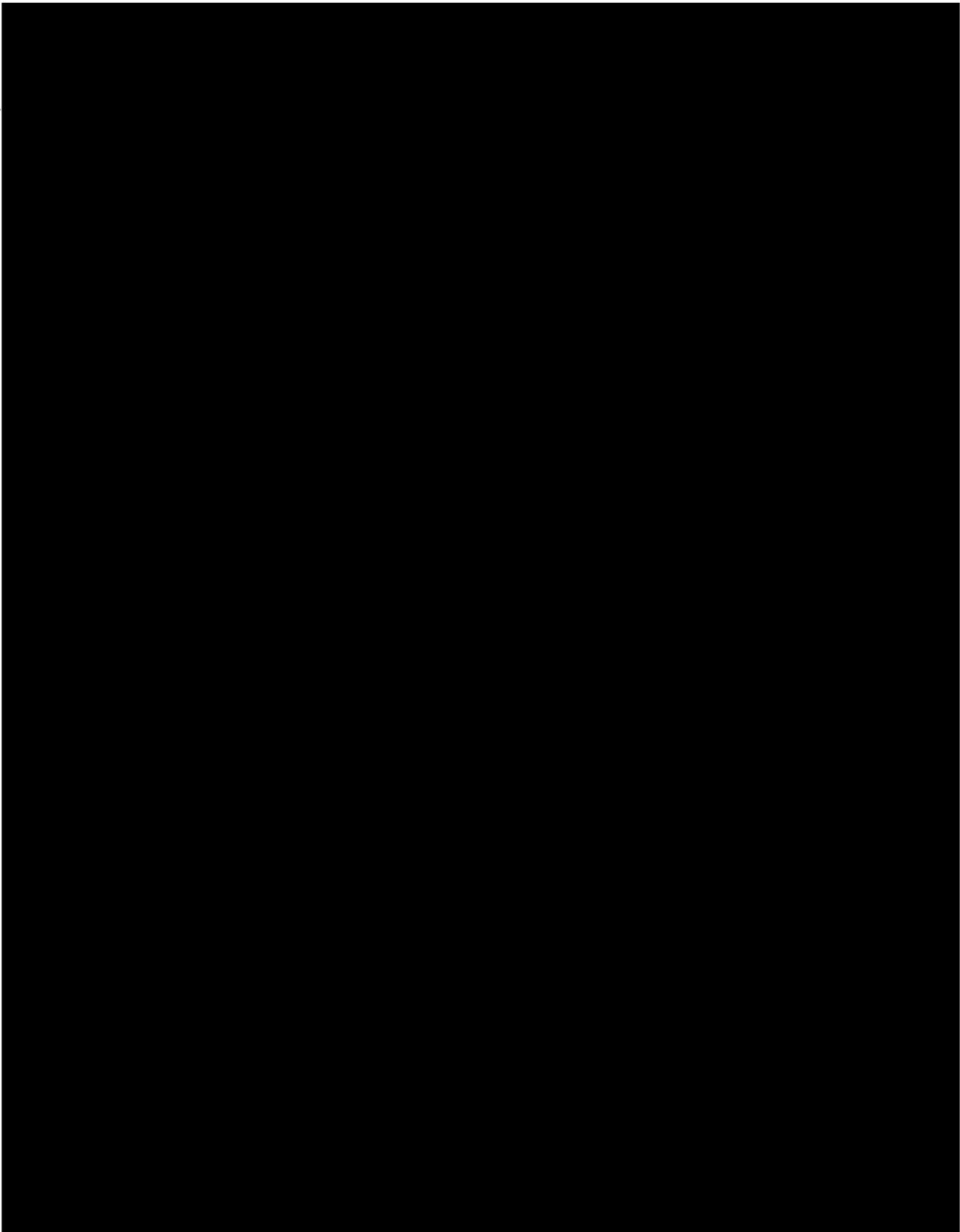
PENGAD 800-631-6889  
EXHIBIT  
C











Revised: January 26, 2018



Arkansas Judiciary

**Case Title:** STATE V [REDACTED]  
**Case Number:** [REDACTED]  
**Type:** SENTENCING ORDER

So Ordered

A handwritten signature in cursive script that reads "John Putman".

Judge John Putman

Electronically signed by JRPUTMAN on 2019-02-05 14:59:17 page 6 of 6



**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

## SMALL WRECKER LIST OF CHARGES

*Effective as of January 21, 2020*

Rollback.....	(Monday – Friday 8:00 AM till 5:00 PM) .....	\$90.00
Rollback.....	(All other times) .....	\$125.00
Wrecker.....	(Monday – Friday 8:00 AM till 5:00 PM) .....	\$90.00
Wrecker.....	(All other times) .....	\$125.00
Service Call.....		\$50.00
Mileage.....	(per mile traveled).....	\$1.75
Winch.....	(per hr.- ½ hr. min.).....	\$85.00
Debris Clean-Up.....	(per hr. - ½ hr. min.).....	\$60.00
Extra Man.....	(per hr. - 1 hr. min.).....	\$60.00
Dollies.....		\$35.00
No Keys.....	(At time of service).....	\$42.50
Stand By.....	(per hr. – ½ hr. min.).....	\$60.00
Labor.....	(per hour).....	\$60.00
Security Storage Outside.....	(per day 1 day min.).....	\$40.00
Security Storage Inside.....	(per day 1 day min.).....	\$60.00
First Legal Notice.....	(As required by Act 1830 of 2001).....	\$35.00
Second Legal Notice.....	(As required by Act 1830 of 2001).....	\$35.00
Oil Dry.....	(40 lb. Spread).....	\$35.00
Foul Weather Conditions....	(All charges increase 50%).....	Bill Total
Extra Trip to Storage Lot.....	(Not picking up auto).....	\$40.00
Night/Weekend release/call out.....		\$40.00
Waste Disposal.....	(per 36 gal. trash bag - 1 bag min.).....	\$20.00
Biohazard Protection.....	(per employee).....	\$20.00
Un-Lock Service.....	(non-tow).....(+ \$1.75 per mile).....	\$50.00
Animal Care and/or Boarding.....	(per day).....	\$25.00
Haz-Mat Spill.....		Unlimited

These are standard rates requested by the Arkansas State police,  
All services, which apply, will be charged.

Discounts may apply; Call (870) 743-1172 or (870) 577-0091 for special pricing.





- 24 HOUR TOWING -

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

1st notice

## INVOICE 5133, 5134, 5135, 5136

May 2019 Statement

\$21,041.88

### PAYMENT DUE UPON RECEIPT

Newton County Sheriff's Office

PO Box 312

Jasper, AR 72641-0312

Davey's Auto Body and Sales

3714 Hwy 65 N

Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage dicounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage dicounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	
		USD TOTAL	\$21,401.88

### PAYMENT DETAILS

#N/A

#N/A

#N/A

#N/A

#N/A

Payment Reference: 5133, 5134, 5135, 5136

### OTHER INFORMATION

Davey Rhyne

Phone: 870-743-1172

<http://www.daveysautobody.com/>

[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES



**U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

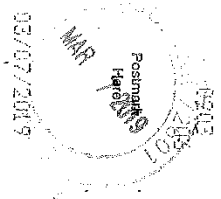
**POSTAL SERVICE SPECIAL USE**

Certified Mail Fee \$2.50

Extra Services & Fees (check box, add fee as appropriate)  
☐ Return Receipt (hardcopy) \$2.80  
☐ Return Receipt (electronic) \$4.00  
☐ Certified Mail Restricted Delivery \$8.00  
☐ Adult Signature Required \$1.00  
☐ Adult Signature Restricted Delivery \$1.00

Postage \$0.70

Total Postage and Fees \$7.00



7017 0660 0000 7468 4798

Newton County Sheriff's Office  
 Sent and Aft. No. or Box No.  
 RETURN TO: NEW HAVEN, CT 06512  
 City, State, ZIP+4®  
 06512-0312  
 PS Form 3800, April 2015 PSN 7530-02-000-9033 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Newton County Sheriff's Office  
 Attn: Sheriff Glenn Wheeler  
 P.O. Box 312  
 Jasper, Arkansas 72641-0312



2. Article Number (transfer from service label)

7017 0660 0000 7468 4798

PS Form 3811, April 2015 PSN 7530-02-000-9033

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*[Signature]* ☒ Agent ☐ Addressee

B. Received by (Printed Name)

Reth McCoy

C. Date of Delivery

3-12-19

D. Is delivery address different from item 1? ☐ Yes ☒ No  
 If YES, enter delivery address below:

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. P.M.	REQUESTED BY Newton Co. SO.
LOCATION OF VEHICLE Deer A.			
[REDACTED]			
FINISH	FINISH	FINISH	
START	START	START	
TOTAL	TOTAL	TOTAL	
YEAR 2017	MAKE / MODEL / COLOR Honda	DRIVER [REDACTED]	
STATE LA	LIC NO. [REDACTED]	[REDACTED]	
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY	
VEHICLE TOWED TO Impound Lot Davey's			
REMARKS Arrest Cash only Hold per Newton County SO. Inside storage infra code Davey's		68 @ 1.75 341 days @ 60.00 1st Log Loader 25.00 2nd Log Loader 25.00 Sub total 20799.00 Tax 1602.05 <b>TOTAL 22,357.05</b>	
OPERATOR'S SIGNATURE [Signature]		AUTHORIZED SIGNATURE [Signature]	
Bill to Newton County 5136 Sheriff's office per Adam Wheeler		<b>Road Service</b> PRODUCED BY Charge 666/1055	

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17		TIME 8:00	A.M. P.M.	REQUESTED BY Newton Co. So																		
LOCATION OF VEHICLE Deer Ar. [Redacted]																						
FINISH		FINISH		FINISH																		
START		START		START																		
TOTAL		TOTAL		TOTAL																		
YEAR	MAKE MODEL COLOR Honda Recon Atv Red		DRIVER																			
STATE	LIC TAG		[Redacted]																			
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/>		SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY																		
VEHICLE TOWED TO Impound lot Davis																						
REMARKS Arrest Cash only 486 chrs @ 40.00		<table border="1"> <tr> <td>MILEAGE CHARGE</td> <td>119.00</td> </tr> <tr> <td>TOWING CHARGE</td> <td>120.00</td> </tr> <tr> <td>LABOR CHARGE</td> <td></td> </tr> <tr> <td>STORAGE CHARGE</td> <td>19,444.00</td> </tr> <tr> <td>1st Legal</td> <td>35.00</td> </tr> <tr> <td>2nd Legal</td> <td>35.00</td> </tr> <tr> <td>Sub Total</td> <td>19,733.00</td> </tr> <tr> <td>Tax</td> <td>1,339.31</td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>21,262.31</b></td> </tr> </table>			MILEAGE CHARGE	119.00	TOWING CHARGE	120.00	LABOR CHARGE		STORAGE CHARGE	19,444.00	1st Legal	35.00	2nd Legal	35.00	Sub Total	19,733.00	Tax	1,339.31	<b>TOTAL</b>	<b>21,262.31</b>
MILEAGE CHARGE	119.00																					
TOWING CHARGE	120.00																					
LABOR CHARGE																						
STORAGE CHARGE	19,444.00																					
1st Legal	35.00																					
2nd Legal	35.00																					
Sub Total	19,733.00																					
Tax	1,339.31																					
<b>TOTAL</b>	<b>21,262.31</b>																					
OPERATOR'S SIGNATURE [Signature]		AUTHORIZED SIGNATURE Chase HB with Payment agent																				
5135 ON Invoice # 5133, Ad #5134		<b>Road Service</b> LOSS / Chase HB																				

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. P.M.	REQUESTED BY Craige Co. SO
LOCATION OF VEHICLE Deer A			
PHONE			
MILEAGE			
FINISH			
START			
TOTAL			
YEAR 2010	MAKE / MODEL / COLOR Chevy 2500 white	DRIVER	
<input type="checkbox"/> SLING/CRIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT			
<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY			
<input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY			
VEHICLE TOWED TO Impound Lot Davey's			
REMARKS Accident Cash only			
68 @ 1.75 48 @ 20.00			
MILEAGE CHARGE		119 00	
TOWING CHARGE		120 00	
LABOR CHARGE			
STORAGE CHARGE		9720 00	
1st 1 hour		25 00	
2nd 1 hour		25 00	
Tax			
TOTAL			
OPERATOR'S SIGNATURE			
AUTHORIZED SIGNATURE			

**Road Service**

Sub total \$10,009 00  
 775 70  
 10,784 70

5134

Storage Discounted 50% From 40.00 per day  
 To 20.00 per day

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. REQUESTED BY C.M.D. David L. Se
LOCATION OF VEHICLE [REDACTED]		
MILEAGE	SERVICE TIME	
FINISH	FINISH	FINISH
START	START	START
TOTAL	TOTAL	TOTAL
YEAR 2009	MAKE MODEL COLOR Chevrolet 1500 White	DRIVER
STATE AR	[REDACTED]	
<input type="checkbox"/> SINGLE WIRE TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT <input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY		
REMARKS Towing lot Davey's House Cash only 486 CD. Per day Days		
MILEAGE CHARGE 119.00 TOWING CHARGE 120.00 LABOUR CHARGE 40.00 STORAGE CHARGE 9770.00 1st Equip 75.00 2nd Equip 25.00		

To Be  
PAID BY  
IAN ADAMS  
After Hours on  
2-13-19

279.00  
21.63  
\$300.63

9,770.00  
757.18  
\$10,527.18

BILL to  
Newtown County  
SHERIFF'S  
OFFICE  
Per phone  
Conversation on  
2-13-19 @ 4:13

OPERATOR'S SIGNATURE  
AUTHORIZED SIGNATURE  
TOTAL  
Road Service

5133

STORAGE Discounted 50% From \$40.00  
per pay to \$20.00 per DAY AS Billed



- 24 HOUR TOWING -

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

INVOICE 5133, 5134, 5135, 5136

(2nd Notice)

May 2019 Statement

\$21,041.88

PAYMENT DUE UPON RECEIPT

Newton County Sheriff's Office

PO Box 312

Jasper, AR 72641-0312

Davey's Auto Body and Sales

3714 Hwy 65 N

Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage dicounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage dicounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	
		USD TOTAL	\$21,401.88

PAYMENT DETAILS

#N/A

#N/A

#N/A

#N/A

#N/A

Payment Reference: 5133, 5134, 5135, 5136

OTHER INFORMATION

Davey Rhyne

Phone: 870-743-1172

<http://www.daveysautobody.com/>

[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES



**U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**JASPER AR 72644**

Certified Mail Fee \$3.50

Extra Services & Fees (check box, and fee)

☐ Return Receipt (hardcopy) \$0.00

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$4.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.70

Total Postage and Fees \$7.00

Sent To Newton Co SO

Street and PO Box No. PO Box 312

City, State ZIP+4® Jasper AR 72644-0312

PS Form 3800, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions

7017 3040 0000 7158 6289

**SENDER: COMPLETE THIS SECTION**

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Newton Co. Sheriff's Office  
Attn: Sheriff Glenn Wheeler  
P.O. Box 312  
Jasper, AR 72644-0312

9590 9402 4555 8278 2496 03

2. Article Number (transfer from service label)

7017 3040 0000 7158 6289

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*[Signature]*

☐ Agent ☐ Addressee

Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below: ☐ Yes ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

Domestic Return Receipt

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. P.M.	REQUESTED BY Newton C. SO
LOCATION OF VEHICLE Deer Arkansas			
<div style="background-color: black; height: 40px; width: 100%;"></div>			
MILEAGE	SERVICE TIME	EXTRA PERSON	
FINISH	FINISH	FINISH	
START	START	START	
TOTAL	TOTAL	TOTAL	
YEAR 2009	MAKE / MODEL / COLOR Chevy 1500 white	DRIVER	
STATE Ar	<div style="background-color: black; height: 20px; width: 100%;"></div>		
<input type="checkbox"/> SLING/MOIST TOW	<input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> SINGLE LINE WINCHING	
<input type="checkbox"/> WHEEL LIFT	<input type="checkbox"/> OUT OF GAS	<input type="checkbox"/> DUAL LINE WINCHING	
<input type="checkbox"/> FLAT BED/RAMP	<input type="checkbox"/> WRECK	<input type="checkbox"/> SNATCH BLOCKS	
<input type="checkbox"/> START	<input type="checkbox"/> RECOVERY	<input type="checkbox"/> SCOTCH BLOCKS	
<input type="checkbox"/> LOCK OUT	<input type="checkbox"/>	<input type="checkbox"/> DOLLY	
VEHICLE TOWED TO Impound Lot Davey's			
REMARKS Arrest cash only 68 @ 1.75 486 @ 20.00 per day Days			
OPERATOR'S SIGNATURE		TOTAL	
AUTHORIZED SIGNATURE		TOTAL	

**Road Service**

PRODUCT 013

5133

Storage Discounted 50% From \$40.00  
 per DAY to \$20.00 per DAY AS Billed

To Be  
 PAID By  
 JAN ADAMS  
 After Hours on  
 2-13-19

279.00  
 21.63  
 \$300.63

9,770.00 Bill to  
 Newton County  
 SHERIFF'S  
 OFFICE  
 per phone  
 conversation on  
 2-13-19 @ 4:13 P.

Tax 757.18

\$10,527.18

# 

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>	TIME <b>8:00</b>	A.M. <b>P.M.</b>	REQUESTED BY <b>Waxton Co. SO</b>
LOCATION OF VEHICLE <b>Deer Ar</b>			
MILEAGE	SERVICE TIME	EXTRA PERSON	
FINISH _____	FINISH _____	FINISH _____	
START _____	START _____	START _____	
TOTAL _____	TOTAL _____	TOTAL _____	
YEAR <b>2010</b>	MAKE / MODEL / COLOR <b>Chevy 2500 white</b>		DRIVER _____
STATE <b>Ar</b>			
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> _____	
SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY <input type="checkbox"/> _____			
VEHICLE TOWED TO <b>Impound Lot, Davay's</b>			
REMARKS <b>Accret</b> <b>Cash only</b>  <b>68 @ 1.75</b>  <b>486 days @ 20.00</b>		MILEAGE CHARGE	<b>119.00</b>
		TOWING CHARGE	<b>120.00</b>
		LABOR CHARGE	
		STORAGE CHARGE	<b>9720.00</b>
		1st Legal Fee	<b>125.00</b>
		2nd Legal	<b>35.00</b>
		TAX	
		TOTAL	
OPERATOR'S SIGNATURE _____			
AUTHORIZED SIGNATURE _____			

Sub total \$10,009.00  
 775.70  
 10,784.70

## Road Service

PRODUCT 612

**5134**

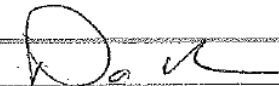
Storage Discounted 50% From 40.00 per day  
 To \$20.00 per day



# 

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>	TIME <b>8:00</b>	A.M. <b>PM</b>	REQUESTED BY <b>Newton Co. SO</b>
LOCATION OF VEHICLE <b>Deer Ar.</b>			
[REDACTED]			
MILEAGE		SERVICE TIME	
FINISH _____	FINISH _____	FINISH _____	
START _____	START _____	START _____	
TOTAL _____	TOTAL _____	TOTAL _____	
YEAR	MAKE / MODEL / COLOR <b>Honda Recon ATV Red</b>		DRIVER
STATE	LIC. NO.	[REDACTED]	
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY	
VEHICLE TOWED TO <b>Impound Lot Dawey's</b>			
REMARKS  <b>68 @ 1.75</b>  <b>Arrest</b> <b>Cash only</b>  <b>486 chgs @ 40.00</b>		MILEAGE CHARGE	<b>119 00</b>
		TOWING CHARGE	<b>120 00</b>
		LABOR CHARGE	
		STORAGE CHARGE	<b>1944 00</b>
		1st Legal	<b>25 00</b>
		2nd Legal	<b>25 00</b>
Sub Total		<b>19733 00</b>	
TAX		<b>1,529 31</b>	
TOTAL		<b>21,262 31</b>	
OPERATOR'S SIGNATURE 			

AUTHORIZED SIGNATURE  
**Chase HB with Payment agreement**  
**5135'ON Invoice # 5133, And #5134**  
**Road Service**  
 PRODUCT BY **Loss / Chase HB**

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>		TIME <b>8:00</b>		A.M. / P.M. <b>CEM</b>		REQUESTED BY <b>Newton Co. SO</b>	
LOCATION OF VEHICLE <b>Deer Ar</b>							
MILEAGE		SERVICE TIME		EXTRA PERSON			
FINISH _____		FINISH _____		FINISH _____			
START _____		START _____		START _____			
TOTAL _____		TOTAL _____		TOTAL _____			
YEAR <b>2017</b>	MAKE / MODEL / COLOR <b>Honda</b>						
STATE <b>AR</b>	LIC. NO. <b></b>						
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT			<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY			SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY	
VEHICLE TOWED TO <b>Impound Lot Davey's</b>							
REMARKS  <b>Accred.</b> <b>Cash only</b> <b>Hold per Newton County SO.</b> <b>341 days @ \$60.00</b> <b>Inside storage motor cycle</b> <b>Davey Rhys</b>				MILEAGE CHARGE		<b>119.00</b>	
				TOWING CHARGE		<b>120.00</b>	
				LABOR CHARGE			
				STORAGE CHARGE		<b>20,460.00</b>	
				1st Legal notice		<b>25.00</b>	
				2nd Legal notice		<b>25.00</b>	
				Sub total		<b>20,740.00</b>	
TAX		<b>1,609.05</b>					
TOTAL		<b>22,357.05</b>					
OPERATOR'S SIGNATURE <b>Davey Rhys</b>				<b>Road Service</b> PRODUCT 613 <b>Charge 066/1055</b>			
AUTHORIZED SIGNATURE							
<b>Bill to Newton County</b> <b>5136 Sheriff's office per</b> <b>Clem Wheeler</b>							



- 24 HOUR TOWING -

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

Newton County Sheriff's Office

Attn: Sheriff Glenn Wheeler

PO Box 312

Jasper, AR 729641

*3rd notice / FINAL notice*

Date: June 12, 2019

**URGENT: PLEASE RECTIFY THIS MATTER IMMEDIATELY**

Dear Sheriff Glenn Wheeler,

*Despite our previous reminders, the above amount due remains unpaid. As such, we would appreciate you making this payment as soon as possible.*

**DUE AMOUNT: \$21,401.88**

**PLEASE REMIT PAYMENT TO: Davey's Auto Body & Sales 3714 Hwy 65 N Harrison, AR 72601**

We regret to advise that unless payment is received by July 15, 2019 this collection will

be passed over to our debt collection agency/lawyer and any and all discounts will be void at this time making the full amount of \$85,877.84 due immediately.

This could seriously affect your credit rating and therefore urge you contact us immediately to make payment or arrange an alternative before this date.

You have the right to dispute this debt by submitting written notice within thirty (30) days of receiving this letter. If this letter is not disputed within the thirty (30) day time-frame then the collection will be

considered accepted by the debtor.

Sincerely,

Davey Rhyne



**U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

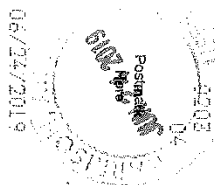
For delivery information, visit our website at [www.usps.com](http://www.usps.com).

**NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES**

7017 3040 0000 7158 6364

**Extra Services & Fees** (attach box, add fee for any extra service)  
☐ Return Receipt (hardcopy) \$ 2.50  
☐ Return Receipt (electronic) \$ 0.00  
☐ Certified Mail Restricted Delivery \$ 0.00  
☐ Adult Signature Required \$ 0.00  
☐ Adult Signature Restricted Delivery \$ 0.00

**Postage**  
 \$ 0.70  
**Total Postage and Fees**  
 \$ 7.00



Sent to: Norton Co. S.O. Attn: Shelly Glenn  
 Street and Apt. No. or PO Box No. PO Box 312  
 City, State, ZIP+4® 60504 AR 71641  
 PS Form 3801, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Norton Co. S.O.  
Attn: Shelly Glenn Wheeler  
P.O. Box 312  
Cooper, AR 71641  
9590 9402 4555 8278 2494 12

2. Article Number (Transfer from service label)

7017 3040 0000 7158 6364

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature ☒ Agent ☐ Addressee  
Shelly Glenn  
 B. Received by (Printed Name) Shelly Glenn C. Date of Delivery 6/25/19  
 D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☐ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Insured Mail  
☐ Insured Mail Restricted Delivery (over \$500)  
☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☐ Return Receipt for Merchandise  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

# INVOICE 5133, 5134, 5135, 5136

May 2019 Statement

\$21,041.88

**PAYMENT DUE UPON RECEIPT**

Newton County Sheriff's Office  
PO Box 312  
Jasper, AR 72641-0312

Davey's Auto Body and Sales  
3714 Hwy 65 N  
Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage discounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage discounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	
		USD TOTAL	\$21,401.88

## PAYMENT DETAILS

#N/A  
#N/A  
#N/A  
#N/A  
#N/A

Payment Reference: 5133, 5134, 5135, 5136

## OTHER INFORMATION

Davey Rhyne  
Phone: 870-743-1172

<http://www.daveysautobody.com/>  
[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

**PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES.**

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17 TIME 8:00 A.M. 8:00 P.M. 8:00 P.M. 8:00 P.M.

LOCATION OF VEHICLE Dec

MILEAGE

FINISH	START	TOTAL

MAKE MODEL COLOR 3517 Honda

SPECIAL EQUIPMENT

<input type="checkbox"/> SLING/HOIST TOW	<input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> SINGLE LINE WINCHING
<input type="checkbox"/> WHEEL LIFT	<input type="checkbox"/> OUT OF GAS	<input type="checkbox"/> DUAL LINE WINCHING
<input type="checkbox"/> FLAT BED/RAMP	<input type="checkbox"/> WRECK	<input type="checkbox"/> SNATCH BLOCKS
<input type="checkbox"/> START	<input type="checkbox"/> RECOVERY	<input type="checkbox"/> SCOTCH BLOCKS
<input type="checkbox"/> LOCK OUT		<input type="checkbox"/> DOLLY

REMARKS Impound car

6801.75

MILEAGE CHARGE	<u>119.00</u>
TOWING CHARGE	<u>120.00</u>
LABOR CHARGE	
STORAGE CHARGE	<u>2046.00</u>
1st Legal notice	<u>25.00</u>
2nd Legal notice	<u>25.00</u>
Sub total	<u>20749.00</u>
Tax	<u>1602.05</u>
TOTAL	<u>22357.05</u>

OPERATOR'S SIGNATURE Davey Davey

AUTHORIZED SIGNATURE Bill de Newton County

5136 Sheriff's office for

Chambers/Los

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE: 10-16-17 TIME: 8:00 A.M. REQUESTED BY: [Redacted]  
LOCATION: [Redacted]

[Redacted]

MILEAGE	SERVICE TIME	EXTRA FEE
FINISH	FINISH	FINISH
START	START	START
TOTAL	TOTAL	TOTAL
MAKE MODEL COLOR	DRIVER	
1998 Honda Accord 4dr Red	[Redacted]	

SPECIAL EQUIPMENT	
<input type="checkbox"/> SLING-HOIST TOW	<input type="checkbox"/> SINGLE LINE WINCHING
<input type="checkbox"/> WHEEL LIFT	<input type="checkbox"/> DUAL LINE WINCHING
<input type="checkbox"/> FLAT BED RAMP	<input type="checkbox"/> SNATCH BLOCKS
<input type="checkbox"/> START	<input type="checkbox"/> SCOTCH BLOCKS
<input type="checkbox"/> LOCK OUT	<input type="checkbox"/> DOLLY
<input type="checkbox"/> FLAT TIRE	
<input type="checkbox"/> OUT OF GAS	
<input type="checkbox"/> WRECK	
<input type="checkbox"/> RECOVERY	

REMARKS: 2nd time for Davey's  
Accident  
Cash only  
486 dose 40.00

MILEAGE CHARGE	119 00
TOWING CHARGE	720 00
LABOR CHARGE	
STORAGE CHARGE	1944 00
1st Legal	25 00
2nd Legal	25 00
Sub Total	14733 00
Tax	1589 31
TOTAL	21262 31

DATE: 10-16-17  
SIGNATURE: [Redacted]

Charges to be paid by patient against  
5135 on invoice # 5133, 5134  
Road Service  
Loss / [Redacted]

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 12-16-17 TIME 8:00 AM EST SC  
 COUNTY CLARK AR  
 CITY CLARK AR

VEHICLE MAKE [REDACTED] MODEL [REDACTED] YEAR [REDACTED] COLOR [REDACTED]  
 LICENSE [REDACTED] VIN [REDACTED]

MILEAGE	SERVICE TIME	PERSON
FROM <u>[REDACTED]</u>	FROM <u>[REDACTED]</u>	FROM <u>[REDACTED]</u>
TO <u>[REDACTED]</u>	TO <u>[REDACTED]</u>	TO <u>[REDACTED]</u>
TOTAL	TOTAL	TOTAL

VEHICLE MAKE [REDACTED] MODEL [REDACTED] YEAR [REDACTED] COLOR [REDACTED]  
 LICENSE [REDACTED] VIN [REDACTED]

EQUIPMENT	CHARGE
<input type="checkbox"/> SINGLE LINE WINCHING	
<input type="checkbox"/> DUAL LINE WINCHING	
<input type="checkbox"/> SNATCH BLOCKS	
<input type="checkbox"/> SCOTCH BLOCKS	
<input type="checkbox"/> DOLLY	
<input type="checkbox"/> SLING HOIST TOW	
<input type="checkbox"/> WHEEL LIFT	
<input type="checkbox"/> FLAT BED RAMP	
<input type="checkbox"/> START	
<input type="checkbox"/> LOCK OUT	
<input type="checkbox"/> FLAT TIRE	
<input type="checkbox"/> OUT OF GAS	
<input type="checkbox"/> WRECK	
<input type="checkbox"/> RECOVERY	

REMARKS Engine not running  
Accident  
Clunking  
68 E 1.75  
486 450.00  
 MILEAGE CHARGE 119.00  
 TOWING CHARGE 120.00  
 LABOR CHARGE  
 STORAGE CHARGE 9720.00  
 1st Light 125.00  
 2nd Light 25.00  
 TOTAL 10,784.00

OPERATOR SIGNATURE \_\_\_\_\_  
 CUSTOMER SIGNATURE \_\_\_\_\_  
**Road Service**

5134 STORAGE Discounted 50% From 40.00 per day  
 To 20.00 per day



# Davey's AUTO BODY & SALES

24 HOUR TOWING

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

2-16-17 8:00 AM 3:00 PM 15.00 Miles

[Redacted Customer Information]

MILEAGE		SERVICE TIME		RATES - PER HOUR	
FINISH	FINISH	FINISH	FINISH	FINISH	FINISH
START	START	START	START	START	START
TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL
MILE TOTAL COLLECT		TOTAL		TOTAL	

EQUIPMENT		EQUIPMENT		EQUIPMENT	
<input type="checkbox"/> BLIND NO ST TOW	<input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> SINGLE LINE WINCHING	<input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> SINGLE LINE WINCHING	<input type="checkbox"/> FLAT TIRE
<input type="checkbox"/> JAMBELL FT	<input type="checkbox"/> OUT OF GAS	<input type="checkbox"/> DUAL LINE WINCHING	<input type="checkbox"/> JAMBELL FT	<input type="checkbox"/> DUAL LINE WINCHING	<input type="checkbox"/> JAMBELL FT
<input type="checkbox"/> FLAT BED RAMP	<input type="checkbox"/> WRECK	<input type="checkbox"/> SNATCH BLOCKS	<input type="checkbox"/> FLAT BED RAMP	<input type="checkbox"/> SNATCH BLOCKS	<input type="checkbox"/> FLAT BED RAMP
<input type="checkbox"/> START	<input type="checkbox"/> RECOVERY	<input type="checkbox"/> SCOTCH BLOCKS	<input type="checkbox"/> START	<input type="checkbox"/> SCOTCH BLOCKS	<input type="checkbox"/> START
<input type="checkbox"/> LOCK OUT		<input type="checkbox"/> DOLLY	<input type="checkbox"/> LOCK OUT		<input type="checkbox"/> LOCK OUT

REMARKS: 1st Log 2nd Log

486 CHARGE 2-13-17 486 CHARGE 2-13-17

486 CHARGE 2-13-17 486 CHARGE 2-13-17

TOTAL

**Road Service**

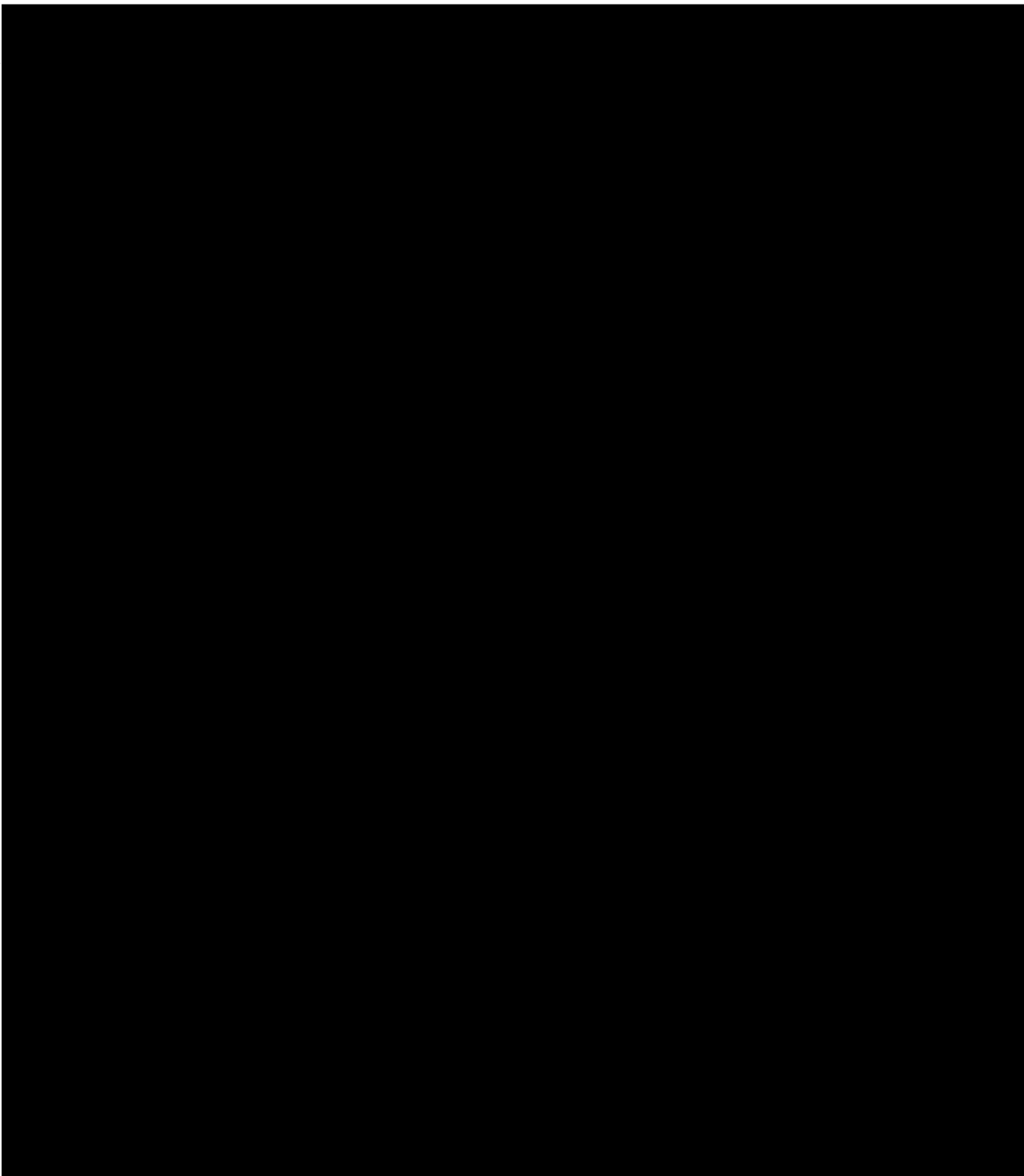
5133

STORAGE DISCOUNT 50% FROM \$40.00 PER DAY TO \$20.00 PER DAY AS ALLOWED

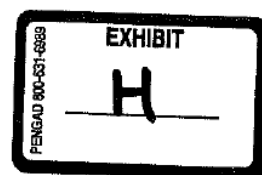
TO BE PAID BY JAM ADAMS APR 13 1979

279.00  
21.63  
250.37

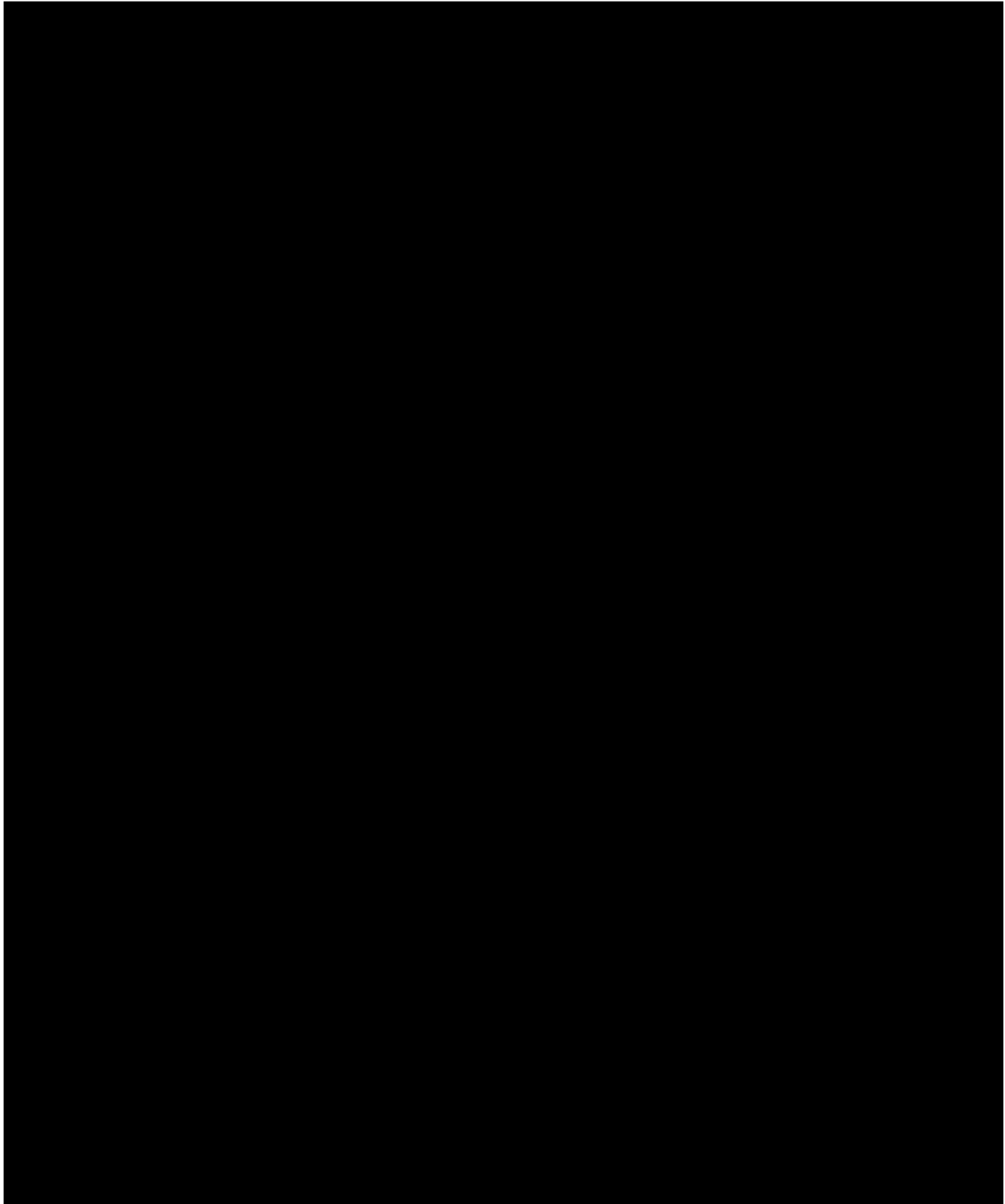
9,770.00 BILL TO NEWARK COUNTY  
757.15 SPECIFIC OFFICE  
810,527.18 PER PHONE  
2-13-17 @ 4:13



Page 1 of 2



218



3:41



GW

Glenn >

pick

I bet.

I put him in his place,

Good. Sounds like he needed it. I'm so tired of this case. LOL.

Me too and i feel bad over it! I just want to be fair and cover some of my cost I am not able to absorb this much by myself and asking for help is not something that I feel good about.

I understand. Don't feel bad.

Thu, Feb 14, 11:45 AM

Hold off on that other truck. Prosecutor says I can't sign that over because it was awarded to the Drug Task Force fund and I can't sign it over.



Text Message



**From:** [Jay Gerard](#)  
**To:** [ASCC Pleadings](#); [Kathryn Irby](#); ["Aaron Martin"](#)  
**Cc:** [Katie Wilson](#)  
**Subject:** Respondent's Pre-Hearing Materials for Rhyne v. Prosecuting Attorney, CC-220317  
**Date:** Friday, April 28, 2023 5:08:20 PM  
**Attachments:** [image001.jpg](#)  
[Ex. A.pdf](#)  
[Ex. B.pdf](#)  
[Ex. C.pdf](#)  
[Ex. D.pdf](#)  
[Ex. E.pdf](#)  
[Ex. F.pdf](#)  
[Rhyne\\_Resp Pre Hearing Brief.pdf](#)  
[Rhyne\\_Respondent Exhibit List.pdf](#)  
[Rhyne\\_Respondent Witness List.pdf](#)

---

Attached please find Respondent's witness, list, exhibit list, Exhibits A-F, and Pre-Hearing Brief in the above-styled case.

Thank you.

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS

[REDACTED]

\$11,471.00 in U.S. Currency

DEFENDANT

Remington 870 Express Shotgun, SN: [REDACTED]

Colt .380 Pistol, SN: [REDACTED]

Ruger Single Six .32, SN: [REDACTED]

Unknown Make .22 Rifle, SN: [REDACTED]

Stevens Shotgun, SN: [REDACTED]

Webley 45-55 Pistol, SN: [REDACTED]

Westernfield .22 Rifle, SN: [REDACTED]

Ruger .22 Pistol, SN: [REDACTED]

Smith & Wesson .357 Pistol, SN: [REDACTED]

Vehicle Title to 2010 Chevrolet Truck, [REDACTED]

2010 Chevrolet Truck, [REDACTED]

2009 Chevrolet Truck, [REDACTED]

Honda Pioneer 500UTV, [REDACTED]

Honda Recon ATV, [REDACTED]

FILED  
OFFICE OF THE CIRCUIT CLERK  
NEWTON COUNTY ARKANSAS

DEC 14 2017

11:10 A.M. P.M.

POTENTIAL CLAIMANT

[REDACTED]

COMPLAINT

Comes now the State of Arkansas, by and through Brad Brown, Deputy Prosecuting Attorney for the

14<sup>TH</sup> Judicial District, and alleges:

1. That this action is an *in rem* forfeiture of the following described property:

a. \$11,471.00 in U.S. Currency

b. Remington 870 Express Shotgun, SN: [REDACTED]

c. Colt .380 Pistol, SN: [REDACTED]

d. Ruger Single Six .32, SN: [REDACTED]

e. Unknown Make .22 Rifle, SN: [REDACTED]

f. Stevens Shotgun, SN: [REDACTED]

g. Webley 45-55 Pistol, SN: [REDACTED]

h. Westernfield .22 Rifle, SN: [REDACTED]

i. Ruger .22 Pistol, SN: [REDACTED]

j. Smith & Wesson .357 Pistol, SN: [REDACTED]

k. Vehicle Title to 2010 Chevrolet Truck, [REDACTED]

l. 2010 Chevrolet Truck, [REDACTED]

m. 2009 Chevrolet Truck, [REDACTED]

n. Honda Pioneer 500UTV, [REDACTED]

o. Honda Recon ATV, [REDACTED]

2. That this Court has jurisdiction over the parties and subject matter hereto and this is the proper venue

for this action.

3. That the defendant's property is located within the jurisdiction of this Court and is in the custody of the Drug Task Force / Newton County Sheriff's Office.


4. That on or about October 16, 2017, in Newton County, Arkansas the property listed in paragraph #1, letter a. through o., above was possessed by Potential Claimant(s), [REDACTED] simultaneously with an amount of drugs under facts, circumstances and presumptions that said controlled substance and drug paraphernalia were used in **SIMULTANEOUS POSSESSION OF DRUGS AND FIREARMS, 5-74-106(a)(1), CLASS Y FELONY; POSSESSION OF SCHEDULE VI CONTROLLED SUBSTANCE WITH PURPOSE TO DELIVER, 5-64-436(a)(6), CLASS C FELONY; and, POSSESSION OF DRUG PARAPHERNALIA, 5-64-443(c), CLASS D FELONY** and subject under A.C.A. 5-64-419 and 5-64-505 to forfeiture.

5. That notice of this seizure was given to the above named potential claimant, [REDACTED] did not sign the report. A copy of the confiscation report is attached hereto and incorporated into this complaint as if set out word for word.

6. Under the provisions of A.C.A. 5-64-505 *et seq.*, the above described defendant property should be forfeited to the plaintiff, State of Arkansas.

WHEREFORE, Plaintiff prays that the Court adjudge the above described defendant property condemned and forfeited to the State of Arkansas, that the Court order said property disposed of as provided by law, and for such further relief as the Court may deem proper.

DAVID L. ETHREDGE  
PROSECUTING ATTORNEY

  
Brad Brown  
Deputy Prosecuting Attorney  
AR Bar No. 2007050  
P.O. Box 483  
414 West Central  
Harrison AR 72601  
(870) 741-6361 Fax: (870) 741-6120



**CERTIFICATE OF SERVICE**

I, Brad Brown, Deputy Prosecuting Attorney for the Fourteenth Judicial District, hereby certify that the above complaint has been duly served by placing a true copy thereof with the Newton County Sheriff's Office on this date for service upon the below listed individual. A copy of the foregoing was also provided to counsel for the Potential Claimant / Defendant at the address indicated below.



Mr. David Cannon  
Cannon Law Firm  
425 W. Broadway  
Suite A  
North Little Rock, Arkansas 72114

A handwritten signature in blue ink, appearing to read "Brad Brown", written over a horizontal line.

Brad Brown, Dep. Prosecuting Att.

12-13-12

Dated



IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS

\$11,471.00 in U.S. Currency

DEFENDANT

Remington 870 Express Shotgun, SN:

Colt .380 Pistol, SN:

Ruger Single Six .32, SN:

Unknown Make .22 Rifle

Stevens Shotgun, SN:

Webley 45-55 Pistol, SN:

Westernfield .22 Rifle, SN:

Ruger .22 Pistol, SN:

Smith & Wesson .357 Pistol, SN:

Vehicle Title to 2010 Chevrolet Truck,

2010 Chevrolet Truck,

2009 Chevrolet Truck,

Honda Pioneer 500UTV,

Honda Recon ATV,

IAN PAUL ADAMS

POTENTIAL  
CLAIMANT

AGREED ORDER OF FORFEITURE

Comes now the State of Arkansas, by and through Brad Brown, Deputy Prosecuting Attorney for the 14<sup>TH</sup> Judicial District, and the Defendant/ Potential Claimant herein, by and through his counsel, Mr. David Cannon, and based upon the agreement of the parties and all things now known to the Court, the Court Finds and Orders as follows:

1. That this action is an *in rem* forfeiture of the following described property:

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN:
- c. Colt .380 Pistol, SN:
- d. Ruger Single Six .32, SN:
- e. Unknown Make .22 Rifle
- f. Stevens Shotgun, SN:
- g. Webley 45-55 Pistol, SN:
- h. Westernfield .22 Rifle, SN:
- i. Ruger .22 Pistol, SN:
- j. Smith & Wesson .357 Pistol, SN:

- k. Vehicle Title to 2010 Chevrolet Truck, [REDACTED]
- l. 2010 Chevrolet Truck, [REDACTED]
- m. 2009 Chevrolet Truck, [REDACTED]
- n. Honda Pioneer 500UTV, [REDACTED]
- o. Honda Recon ATV, [REDACTED]

2. That this Court has jurisdiction over the parties and subject matter hereto, and this is the proper venue for this action.
3. That this action is brought pursuant to Arkansas Code Annotated 5-64-505 *et seq.*, which states the following property is subject to forfeiture, "any conveyance, including an aircraft, vehicle, or vessel that is used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale or receipt of property" [that is a controlled substance] and "anything of value, including firearms, furnished or intended to be furnished in exchange for a controlled substance or counterfeit substance in violation of this chapter, any proceeds or profits traceable to the exchange, and any money, negotiable instrument, or security used, or intended to be used, to facilitate any violation" of Chapter 64 of Title 5 of the Arkansas Code.
4. That the defendant's property is located within the jurisdiction of this Court and is in the custody of the Newton County Sheriff's Office.
5. That on or before October 16, 2017, in Newton County, Arkansas the property listed in paragraph #1 above was possessed by Potential Claimant, [REDACTED] under circumstances and presumptions that said property was used in the commission of **POSSESSION OF SCHEDULE VI CONTROLLED SUBSTANCE WITH PURPOSE TO DELIVER, 5-64-436(a)(6), CLASS C FELONY**; and, **POSSESSION OF DRUG PARAPHERNALIA, 5-64-443(d), CLASS D FELONY**, and is therefore subject to forfeiture.
6. That the Defendant entered a plea agreement in Newton County Circuit Case No. [REDACTED] in which the defendant agreed to forfeit all interest he has in the following property, with the following exceptions:

**Property to Be Forfeited**

- a. \$11,471.00 in U.S. Currency
- b. Remington 870 Express Shotgun, SN: [REDACTED]
- c. Colt .380 Pistol, SN: [REDACTED]
- d. Ruger Single Six .32, SN: [REDACTED]
- e. Unknown Make .22 Rifle, [REDACTED]
- f. Stevens Shotgun, SN: [REDACTED]
- g. Webley 45-55 Pistol, SN: [REDACTED]



- h. Westernfield .22 Rifle, SN: [REDACTED]
- i. Ruger .22 Pistol, SN: [REDACTED]
- j. Smith & Wesson .357 Pistol, SN: [REDACTED]
- ~~k. Vehicle Title to 2010 Chevrolet Truck, [REDACTED]~~
- m. 2009 Chevrolet Truck, [REDACTED]

IA  
Swp. DRC

**Exception: Property to be Returned to [REDACTED]**

- l. 2010 Chevrolet Truck, [REDACTED] and
- o. Honda Recon ATV, [REDACTED]
- k. Vehicle Title to 2010 Chevrolet Truck

IA  
Swp. DRC

**Exception: Property to be Returned to [REDACTED]**

- n. Honda Pioneer 500UTV, [REDACTED]

7. Further, the defendant provided a sworn factual basis for his guilty plea to drug charges in Newton County Circuit Court Case No. [REDACTED] having the same factual basis as the allegations giving rise to this forfeiture complaint, and as part of that plea agreement agreed to forfeit the property listed in paragraph number 6.

8. Under the provisions of A.C.A. 5-64-505 *et seq.*, and by agreement of the parties, the above described defendant property is hereby ordered forfeited to the plaintiff, 14<sup>th</sup> Judicial District, State of Arkansas.

Approved as to form:

[REDACTED]

David K. Cannon  
David Cannon, Attorney for  
Potential Claimant

IT IS SO ORDERED AND FOUND.

John Putman  
Hon. John Putman, Circuit Judge

01-17-2019  
Dated



**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

1st notice  
Arkansas  
State Claims Commission

SEP 17 2021

**INVOICE 5133, 5134, 5135, 5136**

**RECEIVED**

May 2019 Statement

**\$21,041.88**

**PAYMENT DUE UPON RECEIPT**

**Newton County Sheriff's Office**  
PO Box 312  
Jasper, AR 72641-0312

**Davey's Auto Body and Sales**  
3714 Hwy 65 N  
Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage discounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage discounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	

USD TOTAL \$21,401.88

**PAYMENT DETAILS**

#N/A  
#N/A  
#N/A  
#N/A  
#N/A

Payment Reference: 5133, 5134, 5135, 5136

**OTHER INFORMATION**

Davey Rhyne  
Phone: 870-743-1172

<http://www.daveysautobody.com/>  
[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

**PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES**



**U.S. Postal Service<sup>™</sup>**  
**CERTIFIED MAIL<sup>®</sup> RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com).

**FOR OFFICIAL USE**

Certified Mail Fee \$3.50

Extra Services & Fees (check box, add fee if applicable)

☐ Return Receipt (hardcopy) \$3.00

☐ Return Receipt (electronic) \$4.00

☐ Certified Mail Restricted Delivery \$6.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.70

Total Postage and Fees \$7.00

Newton County Sheriff's Office

Attn: Glen Wheeler PO Box 312

Jasper, Arkansas 72641-0312

PS Form 3811, April 2015 PSN 7530-02-000-9053

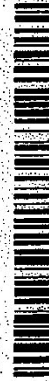
See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Newton County Sheriff's Office  
 Attn: Sheriff Glen Wheeler  
 P.O. Box 312  
 Jasper, Arkansas 72641-0312



9590 9401 0006 5071 4430 16

2. Article Number (Transfer from service label)

7017 0660 0000 7466 4798

PS Form 3811, April 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION FOR DELIVERY**

A. Signature *[Signature]* Agent ☐ Addressee ☒

B. Received by (Printed Name) Beth McCoy C. Date of Delivery 3-13-19

D. Is delivery address different from item 1? ☐ Yes ☒ No

If YES, enter delivery address below:

3. Service Type:
- ☐ Adult Signature
  - ☐ Adult Signature Restricted Delivery
  - ☐ Certified Mail
  - ☐ Certified Mail Restricted Delivery
  - ☐ Collect on Delivery
  - ☐ Collect on Delivery Restricted Delivery
  - ☐ Insured Mail
  - ☐ Insured Mail Restricted Delivery
  - ☐ Priority Mail Express
  - ☐ Registered Mail
  - ☐ Registered Mail Restricted Delivery
  - ☐ Return Receipt for Merchandise
  - ☐ Signature Confirmation
  - ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>	TIME <b>8:00 P.M.</b>	REQUESTED BY <b>Newton Co. SC</b>																		
LOCATION OF VEHICLE <b>Dec. Ar.</b>																				
[REDACTED]																				
MILEAGE	SERVICE TIME	ESTIMATE PERSON																		
FINISH	FINISH	FINISH																		
START	START	START																		
TOTAL	TOTAL	TOTAL																		
YEAR <b>2017</b>	MAKE / MODEL / COLOR <b>Honda SXS 500 17-UTL BLUE</b>	DRIVER																		
STATE <b>LA</b>	LIC NO. [REDACTED]																			
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> FLAT TIRE <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> WRECK <input type="checkbox"/> START <input type="checkbox"/> RECOVERY <input type="checkbox"/> LOCK OUT <input type="checkbox"/>																				
<input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY																				
VEHICLE TOWED TO <b>Impound Lot Dec. Ar.</b>																				
REMARKS <b>Accident cash only Hold per Newton County SO. 341 days @ \$60.00 Inside storage motor cycle</b>																				
<table border="1"> <tr> <td>MILEAGE CHARGE</td> <td><b>119.00</b></td> </tr> <tr> <td>TOWING CHARGE</td> <td><b>120.00</b></td> </tr> <tr> <td>LABOR CHARGE</td> <td></td> </tr> <tr> <td>STORAGE CHARGE</td> <td><b>20,460.00</b></td> </tr> <tr> <td>1st Lightening</td> <td><b>25.00</b></td> </tr> <tr> <td>2nd Lightening</td> <td><b>25.00</b></td> </tr> <tr> <td>Sub Total</td> <td><b>20,799.00</b></td> </tr> <tr> <td>Tax</td> <td><b>1,600.05</b></td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>22,357.05</b></td> </tr> </table>			MILEAGE CHARGE	<b>119.00</b>	TOWING CHARGE	<b>120.00</b>	LABOR CHARGE		STORAGE CHARGE	<b>20,460.00</b>	1st Lightening	<b>25.00</b>	2nd Lightening	<b>25.00</b>	Sub Total	<b>20,799.00</b>	Tax	<b>1,600.05</b>	<b>TOTAL</b>	<b>22,357.05</b>
MILEAGE CHARGE	<b>119.00</b>																			
TOWING CHARGE	<b>120.00</b>																			
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Sub Total	<b>20,799.00</b>																			
Tax	<b>1,600.05</b>																			
<b>TOTAL</b>	<b>22,357.05</b>																			
OPERATOR'S SIGNATURE <b>Davey Rhye</b>																				
AUTHORIZED SIGNATURE <b>Bill to Newton County 5136 Sheriff's Office per Adam Wheeler</b>																				
<b>Road Service</b> PRODUCE BY <b>Charge 066/205</b>																				

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>	TIME <b>8:00</b>	A.M. <b>P.M.</b>	REQUESTED BY <b>Newman Co. SO</b>																		
LOCATION OF VEHICLE <b>Davey's</b>																					
<div style="background-color: black; height: 30px; width: 100%;"></div>																					
MILEAGE		SERVICE TIME	EXTRA PERSON																		
FINISH _____		FINISH _____	FINISH _____																		
START _____		START _____	START _____																		
TOTAL _____		TOTAL _____	TOTAL _____																		
YEAR _____	MAKE MODEL COLOR <b>Honda Recon ATV Red</b>	DRIVER _____																			
STATE _____	LIC. NO. _____	<div style="background-color: black; height: 20px; width: 100%;"></div>																			
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> _____																			
		SPECIAL EQUIPMENT <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY <input type="checkbox"/> _____																			
VEHICLE TOWED TO <b>Impound lot Davey's</b>																					
REMARKS <b>Arrest Cash only 486 chse 40.00</b>		<table border="1"> <tr> <td>MILEAGE CHARGE</td> <td><b>119 00</b></td> </tr> <tr> <td>TOWING CHARGE</td> <td><b>120 00</b></td> </tr> <tr> <td>LABOR CHARGE</td> <td></td> </tr> <tr> <td>STORAGE CHARGE</td> <td><b>1944 00</b></td> </tr> <tr> <td><b>1st Legal</b></td> <td><b>35 00</b></td> </tr> <tr> <td><b>2nd Legal</b></td> <td><b>35 00</b></td> </tr> <tr> <td><b>Sub Total</b></td> <td><b>19733 00</b></td> </tr> <tr> <td><b>Tax</b></td> <td><b>1329 31</b></td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>21262 31</b></td> </tr> </table>		MILEAGE CHARGE	<b>119 00</b>	TOWING CHARGE	<b>120 00</b>	LABOR CHARGE		STORAGE CHARGE	<b>1944 00</b>	<b>1st Legal</b>	<b>35 00</b>	<b>2nd Legal</b>	<b>35 00</b>	<b>Sub Total</b>	<b>19733 00</b>	<b>Tax</b>	<b>1329 31</b>	<b>TOTAL</b>	<b>21262 31</b>
MILEAGE CHARGE	<b>119 00</b>																				
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STORAGE CHARGE	<b>1944 00</b>																				
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<b>Sub Total</b>	<b>19733 00</b>																				
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<b>TOTAL</b>	<b>21262 31</b>																				
OPERATOR'S SIGNATURE 																					
AUTHORIZED SIGNATURE <b>Chase HB with Payment against</b>		<b>Road Service</b>																			
<b>5135 ON Invoice # 5133, and 5134</b>		<b>Loss / Chase HB</b>																			

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. P.M.	REQUESTED BY Carter Co. SC
LOCATION OF VEHICLE Dear A		PHONE	
MILEAGE		SERVICE TIME	
FINISH	FINISH	FINISH	
START	START	START	
TOTAL	TOTAL	TOTAL	
YEAR 2010	MAKE / MODEL / COLOR Chevy 2500 white	DRIVER	
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> START <input type="checkbox"/> LOCK OUT		<input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY	
		<input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY	
VEHICLE TOWED TO Inbound Lot Davey's			
REMARKS Accident Cash only		MILEAGE CHARGE 119.00 TOWING CHARGE 120.00 LABOR CHARGE STORAGE CHARGE 9720.00 1st Light Mt 25.00 2nd Light 25.00 TAX TOTAL	
OPERATOR'S SIGNATURE			
AUTHORIZED SIGNATURE			

**Road Service**

Sub total \$10,009.00  
 775.70  
 10,784.70

5134

Storage Discounted 50% From 40.00 per day  
 To \$20.00 per day



# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 2-16-17	TIME 8:00	A.M. REQUESTED BY FBI
LOCATION OF VEHICLE New Albany, Tenn		
[REDACTED]		
MILEAGE	SERVICE TIME	
FINISH	FINISH	FINISH
START	START	START
TOTAL	TOTAL	TOTAL
YEAR 2009	MAKE Chevy	MODEL 1500
STATE Ar	[REDACTED]	
EQUIPMENT		
<input type="checkbox"/> SINGLE/JOIST TOW	<input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> SINGLE LINE WINCHING
<input type="checkbox"/> WHEEL LIFT	<input type="checkbox"/> OUT OF GAS	<input type="checkbox"/> DUAL LINE WINCHING
<input type="checkbox"/> FLAT BED/RAMP	<input type="checkbox"/> WRECK	<input type="checkbox"/> SNATCH BLOCKS
<input type="checkbox"/> START	<input type="checkbox"/> RECOVERY	<input type="checkbox"/> SCOTCH BLOCKS
<input type="checkbox"/> LOCK OUT		<input type="checkbox"/> DOLLY
REMARKS Towed to Davey's Arrest Cash only	MILEAGE CHARGE 119.00 TOWING CHARGE 120.00 LABS CHARGE 40.00 STORAGE CHARGE 9,720.00 1st Log 75.00 2nd Log 25.00	
OPERATOR'S SIGNATURE	TOTAL	
AUTHORIZED SIGNATURE	Road Service	

To Be  
PAID BY  
IAN ADAMS  
After Hours ON  
2-13-19

279.00  
21.63  
\$300.63

9,770.00  
757.18  
Tax 10,527.18

BILL to  
Newton County  
SHERIFF'S  
OFFICE  
per phone  
conversation on  
2-13-19 @ 4:15

5133

Storage Discounted 50% From \$40.00  
per DAY to \$20.00 per DAY AS Billed



- 24 HOUR TOWING -

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

Arkansas  
State Claims Commission

SEP 17 2021

INVOICE 5133, 5134, 5135, 5136

(2nd) RECEIVED  
Notice

May 2019 Statement

\$21,041.88

PAYMENT DUE UPON RECEIPT

Newton County Sheriff's Office  
PO Box 312  
Jasper, AR 72641-0312

Davey's Auto Body and Sales  
3714 Hwy 65 N  
Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage discounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage discounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05

Discount \$43,619.36

Net Total \$21,401.88

Tax

USD TOTAL \$21,401.88

PAYMENT DETAILS

#N/A

#N/A

#N/A

#N/A

#N/A

Payment Reference: 5133, 5134, 5135, 5136

OTHER INFORMATION

Davey Rhyne

Phone: 870-743-1172

<http://www.daveysautobody.com/>

[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & S



**U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)™.

**OFFICIAL USE**

Certified Mail Fee \$3.50 0203 23

Extra Services & Fees (check box, add fee)  
☐ Return Receipt (hardcopy) \$0.00  
☐ Return Receipt (electronic) \$0.00  
☐ Certified Mail Restricted Delivery \$0.00  
☐ Adult Signature Required \$0.00  
☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.70  
 Total Postage and Fees \$7.00

Sent To Newton Co SO  
 Street and/or PO Box No PO Box 312  
 City, State, ZIP+4® Jasper AR 72641-0312  
 PS Form 3811, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions

Postmark  
Here

05/03/2019

6929 9512 0000 7156 6289

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:  
Newton Co. Sheriff's Office  
Attn: Sheriff Glenn Wheeler  
P.O. Box 312  
Jasper, AR 72641-0312



9590 9402 4555 8278 2496 03

2. Article Number (Transfer from service label)

7017 3040 0000 7156 6289

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
[Signature]  
 Received by (Printed Name)

☐ Agent  
☐ Addressee

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☐ Certified Mail  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Insured Mail  
☐ Insured Mail Restricted Delivery  
☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☐ Return Receipt for Merchandise  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

PS Form 3811, July 2015 PSN 7530-02-000-9053

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE 10-16-17	TIME 8:00	A.M. P.M.	REQUESTED BY Newton C. SO
LOCATION OF VEHICLE Deer Arkansas			
[REDACTED]			
MILEAGE	SERVICE TIME	EXTRA PERSON	
FINISH	FINISH	FINISH	
START	START	START	
TOTAL	TOTAL	TOTAL	
YEAR 2009	MAKE/MODEL/COLOR Chevy 1500 white	DRIVER	
STATE Ar	[REDACTED]		
<input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> FLAT TIRE <input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> WRECK <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> START <input type="checkbox"/> RECOVERY <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> LOCK OUT <input type="checkbox"/> DOLLY			
VEHICLE TOWED TO Impound Lot Dargy			
REMARKS Arrest cash only 486 @ 20.00 per day DAYS			
MILEAGE CHARGE		119.00	
TOWING CHARGE		120.00	
LABOR CHARGE		40.00	
STORAGE CHARGE		9,770.00	
1st Legal		15.00	
2nd Legal		25.00	
TOTAL			

**Road Service**

PRODUCT 613

5133

STORAGE Discounted 50% From \$40.00  
 per DAY to \$20.00 per DAY AS Billed

To Be  
 PAID By  
 JAN ADAMS  
 After Hours on  
 2-13-19  
 279.00  
 21.63  
 \$300.63  
 9,770.00  
 757.18  
 TAX  
 \$10,527.18  
 BILL to  
 Newton County  
 SHERIFF'S  
 OFFICE  
 per phone  
 conversation on  
 2-13-19 @ 4:13 P.M.

# 

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>		TIME <b>8:00</b>		A.M. <b>P.M.</b>		REQUESTED BY <b>Norton Co. SD</b>	
LOCATION OF VEHICLE <b>Deer</b>							
MILEAGE		SERVICE TIME		EXTRA PERSON			
FINISH _____		FINISH _____		FINISH _____			
START _____		START _____		START _____			
TOTAL _____		TOTAL _____		TOTAL _____			
YEAR <b>2010</b>	MAKE / MODEL / COLOR <b>Chevy 2500 white</b>			DRIVER _____			
STATE <b>Ar</b>							
<input type="checkbox"/> SLING/HOIST TOW		<input type="checkbox"/> FLAT TIRE		<input type="checkbox"/> SINGLE LINE WINCHING			
<input type="checkbox"/> WHEEL LIFT		<input type="checkbox"/> OUT OF GAS		<input type="checkbox"/> DUAL LINE WINCHING			
<input type="checkbox"/> FLAT BED/RAMP		<input type="checkbox"/> WRECK		<input type="checkbox"/> SNATCH BLOCKS			
<input type="checkbox"/> START		<input type="checkbox"/> RECOVERY		<input type="checkbox"/> SCOTCH BLOCKS			
<input type="checkbox"/> LOCK OUT		<input type="checkbox"/> _____		<input type="checkbox"/> DOLLY			
VEHICLE TOWED TO <b>Irmaound Lot Deers</b>							
REMARKS <b>Arrest</b> <b>Cash only</b>  <b>68 @ 1.75</b>  <b>486 days @ 20.00</b>		MILEAGE CHARGE		<b>119</b>		<b>00</b>	
		TOWING CHARGE		<b>120</b>		<b>00</b>	
		LABOR CHARGE					
		STORAGE CHARGE		<b>9720</b>		<b>00</b>	
		1st Legal Rd		<b>25</b>		<b>00</b>	
		2nd Legal		<b>25</b>		<b>00</b>	
		TAX					
OPERATOR'S SIGNATURE		TOTAL					
AUTHORIZED SIGNATURE							

Sub total \$10,009.00  
 775.70  
10,784.70

## Road Service

**5134**

STORAGE Discounted 50% From 40.00 per day  
 To \$20.00 per DAY

# 

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <u>10-16-17</u>		TIME <u>8:00</u>	A.M. <input checked="" type="checkbox"/> P.M. <input checked="" type="checkbox"/>	REQUESTED BY <u>Newton Co. SO</u>
LOCATION OF VEHICLE <u>Deer Ar</u>				
MILEAGE		SERVICE TIME		EXTRA PERSON
FINISH _____		FINISH _____		FINISH _____
START _____		START _____		START _____
TOTAL _____		TOTAL _____		TOTAL _____
YEAR _____	MAKE / MODEL / COLOR <u>Honda Recon ATV Red</u>			DRIVER _____
STATE _____	LIC. NO. _____			_____
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> SLING/HOIST TOW  <input type="checkbox"/> WHEEL LIFT  <input type="checkbox"/> FLAT BED/RAMP  <input type="checkbox"/> START  <input type="checkbox"/> LOCK OUT             </div> <div style="width: 30%;"> <input type="checkbox"/> FLAT TIRE  <input type="checkbox"/> OUT OF GAS  <input type="checkbox"/> WRECK  <input type="checkbox"/> RECOVERY             </div> <div style="width: 30%;"> <b>SPECIAL EQUIPMENT</b>  <input type="checkbox"/> SINGLE LINE WINCHING  <input type="checkbox"/> DUAL LINE WINCHING  <input type="checkbox"/> SNATCH BLOCKS  <input type="checkbox"/> SCOTCH BLOCKS  <input type="checkbox"/> DOLLY             </div> </div>				
VEHICLE TOWED TO <u>Imperial Lot Davy's</u>				
REMARKS <u>Arrest</u> <u>Cash only</u> <u>68 @ 1.75</u> <u>486 chgs @ 40.00</u>		MILEAGE CHARGE <u>119</u> <u>00</u>		
		TOWING CHARGE <u>120</u> <u>00</u>		
		LABOR CHARGE _____		
		STORAGE CHARGE <u>1944</u> <u>00</u>		
		1st Legal <u>25</u> <u>00</u>		
		2nd Legal <u>25</u> <u>00</u>		
		Sub Total <u>19733</u> <u>00</u>		
OPERATOR'S SIGNATURE <u>[Signature]</u>		TAX <u>1,529</u> <u>31</u>		
		TOTAL <u>21,262</u> <u>31</u>		

AUTHORIZED SIGNATURE Chas Hb with Payment against  
5135 ON Invoice # 5133, And  
#5134

**Road Service**  
 PRODUCT # Loss / chas Hb

# **Davey's** **AUTO BODY** **& SALES**

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE <b>10-16-17</b>	TIME <b>8:00</b>	A.M. <b>P.M.</b>	REQUESTED BY <b>Newton Co. SO</b>																		
LOCATION OF VEHICLE <b>Deer Ar</b>																					
[REDACTED]																					
MILEAGE	SERVICE TIME	EXTRA PERSON																			
FINISH	FINISH	FINISH																			
START	START	START																			
TOTAL	TOTAL	TOTAL																			
YEAR <b>2017</b>	MAKE / MODEL / COLOR <b>Honda SX5500P UTV green</b>	DRIVER																			
STATE	LIC. NO.	[REDACTED]																			
<div> <input type="checkbox"/> SLING/HOIST TOW         <input type="checkbox"/> FLAT TIRE         <input type="checkbox"/> SINGLE LINE WINCHING       </div> <div> <input type="checkbox"/> WHEEL LIFT         <input type="checkbox"/> OUT OF GAS         <input type="checkbox"/> DUAL LINE WINCHING       </div> <div> <input type="checkbox"/> FLAT BED/RAMP         <input type="checkbox"/> WRECK         <input type="checkbox"/> SNATCH BLOCKS       </div> <div> <input type="checkbox"/> START         <input type="checkbox"/> RECOVERY         <input type="checkbox"/> SCOTCH BLOCKS       </div> <div> <input type="checkbox"/> LOCK OUT         <input type="checkbox"/> <input type="checkbox"/> DOLLY       </div>																					
VEHICLE TOWED TO <b>Impound Lot Davey's</b>																					
REMARKS <b>Arrest cash only Hold per Newton County SO. 341 days @ \$60.00 Inside storage motor cycle Davey Rhine</b>		<table border="1"> <tr> <td>MILEAGE CHARGE</td> <td><b>119.00</b></td> </tr> <tr> <td>TOWING CHARGE</td> <td><b>120.00</b></td> </tr> <tr> <td>LABOR CHARGE</td> <td></td> </tr> <tr> <td>STORAGE CHARGE</td> <td><b>20,460.00</b></td> </tr> <tr> <td>1st Legal Motor</td> <td><b>2.50</b></td> </tr> <tr> <td>2nd Legal Motor</td> <td><b>2.50</b></td> </tr> <tr> <td>Sale Tax</td> <td><b>20,749.00</b></td> </tr> <tr> <td>TAX</td> <td><b>1,602.05</b></td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>22,357.05</b></td> </tr> </table>		MILEAGE CHARGE	<b>119.00</b>	TOWING CHARGE	<b>120.00</b>	LABOR CHARGE		STORAGE CHARGE	<b>20,460.00</b>	1st Legal Motor	<b>2.50</b>	2nd Legal Motor	<b>2.50</b>	Sale Tax	<b>20,749.00</b>	TAX	<b>1,602.05</b>	<b>TOTAL</b>	<b>22,357.05</b>
MILEAGE CHARGE	<b>119.00</b>																				
TOWING CHARGE	<b>120.00</b>																				
LABOR CHARGE																					
STORAGE CHARGE	<b>20,460.00</b>																				
1st Legal Motor	<b>2.50</b>																				
2nd Legal Motor	<b>2.50</b>																				
Sale Tax	<b>20,749.00</b>																				
TAX	<b>1,602.05</b>																				
<b>TOTAL</b>	<b>22,357.05</b>																				
OPERATOR'S SIGNATURE <b>[Signature]</b>		AUTHORIZED SIGNATURE <b>Bill to Newton County</b>																			
5136 Sheriff's Office per Clem Wheeler		<b>Road Service</b> PRODUCT 819 <b>Charge 066/1055</b>																			



**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

Newton County Sheriff's Office

Attn: Sheriff Glenn Wheeler

PO Box 312

Jasper, AR 729641

*3rd notice / FINAL notice*

**Arkansas  
State Claims Commission**

SEP 17 2021

**RECEIVED**

Date: June 12, 2019

**URGENT: PLEASE RECTIFY THIS MATTER IMMEDIATELY**

Dear Sheriff Glenn Wheeler,

*Despite our previous reminders, the above amount due remains unpaid. As such, we would appreciate you making this payment as soon as possible.*

**DUE AMOUNT: \$21,401.88**

**PLEASE REMIT PAYMENT TO: Davey's Auto Body & Sales 3714 Hwy 65 N Harrison, AR 72601**

**We regret to advise that unless payment is received by July 15, 2019 this collection will**

**be passed over to our debt collection agency/lawyer and any and all discounts will be void at this time making the full amount of \$85,877.84 due immediately.**

**This could seriously affect your credit rating and therefore urge you contact us immediately to make payment or arrange an alternative before this date.**

**You have the right to dispute this debt by submitting written notice within thirty (30) days of receiving this letter. If this letter is not disputed within the thirty (30) day time-frame then the collection will be**

**considered accepted by the debtor.**

Sincerely,

Davey Rhyne



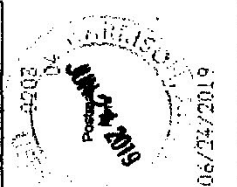


**U.S. Postal Service<sup>®</sup>**  
**CERTIFIED MAIL<sup>®</sup> RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com).

**OFFICIAL USE**

Certified Mail Fee \$3.50  
 Extra Services & Fees (check box, add fee to postage)  
☐ Return Receipt (hardcopy) \$2.80  
☐ Return Receipt (electronic) \$0.00  
☐ Certified Mail Restricted Delivery \$3.00  
☐ Adult Signature Required \$3.00  
☐ Adult Signature Restricted Delivery \$3.00  
 Postage \$0.70  
 Total Postage and Fees \$7.00  
 Sent to Newton Co. S.O. Attn: Sheriff's Office  
P.O. Box 312  
Gasper, AR 72644  
 Date of Delivery 06/24/2019  
 PS Form 3811, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions



7158 3040 0000 0000 0000 0000

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Newton Co. S.O.  
Attn: Sheriff's Office  
P.O. Box 312  
Gasper, AR 72644

9590 9402 4555 8278 2494 12

2. Article Number (Transfer from service label)  
7017 3040 0000 7158 6364

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature [Signature] ☐ Agent ☐ Addressee  
 B. Received by (Printed Name) Beck, K. L. C. Date of Delivery 6/23/19  
 D. Is delivery address different from item 1? ☐ Yes ☐ No  
 If YES, enter delivery address below:

3. Service Type  
☐ Adult Signature ☐ Certified Mail  
☐ Certified Mail Restricted Delivery ☐ Collect on Delivery  
☐ Insured Mail ☐ Registered Mail  
☐ Registered Mail Restricted Delivery ☐ Signature Confirmation<sup>™</sup>  
☐ Signature Confirmation<sup>™</sup> Restricted Delivery ☐ Return Receipt for Merchandise  
☐ Return Receipt for Merchandise Restricted Delivery

Domestic Return Receipt



**- 24 HOUR TOWING -**

3714 Hwy. 65 N., Harrison, AR • (870) 743-1172 OR (870) 577-0091

## INVOICE 5133, 5134, 5135, 5136

May 2019 Statement

**\$21,041.88**

**PAYMENT DUE UPON RECEIPT**

Newton County Sheriff's Office  
PO Box 312  
Jasper, AR 72641-0312

Davey's Auto Body and Sales  
3714 Hwy 65 N  
Harrison, AR 72601

870-743-1172

870-446-5124

INVOICE	DETAILS	UNIT PRICE	LINE TOTAL
8133	See attached Invoice copy (storage discounted on inv. )	10,527.18	10,527.18
8134	See attached Invoice copy (storage discounted on inv. )	10,784.70	10,874.70
8135	See attached Invoice copy (Discounted below)	21,262.31	21,262.31
8136	See attached Invoice copy (Discounted below)	22,357.05	22,357.05
		Discount	\$43,619.36
		Net Total	\$21,401.88
		Tax	

USD TOTAL **\$21,401.88**

### PAYMENT DETAILS

#N/A  
#N/A  
#N/A  
#N/A  
#N/A

Payment Reference: 5133, 5134, 5135, 5136

### OTHER INFORMATION


Davey Rhyne  
Phone: 870-743-1172

<http://www.daveysautobody.com/>  
[daveystowing@gmail.com](mailto:daveystowing@gmail.com)

**PAYMENT SHOULD BE MADE BY CREDIT CARD OR CHECK MADE PAYABLE TO DAVEY'S AUTO BODY & SALES.**

**- 24 HOUR TOWING -**

DATE 10-16-17 TIME 8:00 A.M. REQUESTED BY [Signature] C. S. C.

MILEAGE		SERVICE TIME	EXTRA PERSON
FINISH	FINISH	FINISH	
START	START	START	
TOTAL	TOTAL	TOTAL	
YEAR MAKE MODEL COLOR 85 17 Honda 529-5507-17 Spain		DRIVER 	
SLING/HOIST TOW WHEEL LIFT FLAT BED RAMP START LOCK OUT		SPECIAL EQUIPMENT SINGLE LINE WINCHING DUAL LINE WINCHING SNATCH BLOCKS SCOTCH BLOCKS DOLLY	

ENCLOSURE

REMARKS

11

Hold per Northern  
County So.

Inside storage proton cycle

*James R. [illegible]*  
DEPUTY

SECRETOR 33617.4E

20090926 5:32 PM CTS

5136 Bail to Newton County  
Shreveport, La. for  
Elmer Wheeler

MILEAGE CHARGE 119 cD

TOWING CHARGE: 120.00

LABOR CHARGE

STORAGE CHARGE 20 460 50

1st 2nd 3rd 4th 5th 6th 7th 8th 9th 10th 11th 12th 13th 14th 15th 16th 17th 18th 19th 20th 21st 22nd 23rd 24th 25th 26th 27th 28th 29th 30th 31st 32nd 33rd 34th 35th 36th 37th 38th 39th 40th 41st 42nd 43rd 44th 45th 46th 47th 48th 49th 50th 51st 52nd 53rd 54th 55th 56th 57th 58th 59th 60th 61st 62nd 63rd 64th 65th 66th 67th 68th 69th 70th 71st 72nd 73rd 74th 75th 76th 77th 78th 79th 80th 81st 82nd 83rd 84th 85th 86th 87th 88th 89th 90th 91st 92nd 93rd 94th 95th 96th 97th 98th 99th 100th

2nd 6/25/66 notice 25 CB

Sub. Index 20/79

TOTAL 27157.05

100

## Road Service

Changab/Los)

- 24 HOUR TOWING -

10-16-17 8:00 AM. Linton Co. So.  
Deer: Ar

MILEAGE		SERVICE TIME	EXTRA PERSON
FINISH _____	FINISH _____	FINISH _____	
START _____	START _____	START _____	
TOTAL _____	TOTAL _____	TOTAL _____	
MAKE _____	NAME MODEL COLOR _____	PRICE _____	
YEAR _____	1964	Recon Air Red	
			EQUIPMENT

GENERAL EQUIPMENT		SPECIAL EQUIPMENT	
SLING/HOIST TOW	FLAT TIRE	SINGLE LINE WINCHING	
WHEEL LIFT	OUT OF GAS	DUAL LINE WINCHING	
FLAT BED RAMP	WRECK	SNATCH BLOCKS	
START	RECOVERY	SCOTCH BLOCKS	
LOCK OUT		DOLLY	

REMARKS 686175 MILEAGE CHARGE 119 00

Accret  
Cash only

486 dwt 92

TOWING CHARGE 172 00  
LABOR CHARGE  
STORAGE CHARGE 194 00

110-

STUNNER CHARGE 11.11 00  
1st Ligne 05 00  
2nd Ligne 05 00  
Sub. 10.33 00  
Tax 1.59 31  
TOTAL 21.22 31

OPERATOR: 8072471 PC

Phone to your nearest agent  
5135 in Brazil # 5133, # 5134

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE: 10-16-17 TIME: 8:00 A.M. REQUESTED BY: CSM. Carter Co. Sp  
CITY: Dec 4

[Redacted Address]

MILEAGE	SERVICE TIME	EXTRA PERSON
FINISH	FINISH	FINISH
START	START	START
TOTAL	TOTAL	TOTAL
DRIVER		

200 Chevy 2500 wheel

SPECIAL EQUIPMENT		
<input type="checkbox"/> SING HOIST TOW	<input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> SINGLE LINE WINCHING
<input type="checkbox"/> WHEEL LIFT	<input type="checkbox"/> OUT OF GAS	<input type="checkbox"/> DUAL LINE WINCHING
<input type="checkbox"/> FLAT BED RAMP	<input type="checkbox"/> WRECK	<input type="checkbox"/> SNATCH BLOCKS
<input type="checkbox"/> START	<input type="checkbox"/> RECOVERY	<input type="checkbox"/> SCOTCH BLOCKS
<input type="checkbox"/> LOCK TIE		<input type="checkbox"/> DOLLY

REMARKS: 1st light 1.75  
2nd light 1.75  
486 4x4 10.00  
TAX

MILEAGE CHARGE	119.00
TOWING CHARGE	120.00
LABOR CHARGE	
STORAGE CHARGE	9720.00
1st light 1.75	
2nd light 1.75	

Sub total \$10,009.00  
775.00  
10,784.00

OPERATOR SIGNATURE: TOTAL

**Road Service**

5134 Storage Discounted 50% From 40.00 per day  
To 20.00 per day

# Davey's AUTO BODY & SALES

- 24 HOUR TOWING -

3714 Hwy 65 N Harrison, AR • (870) 743-1172 OR (870) 577-0091

DATE: 2-16-17 TIME: 8:00 A.M. SERVICE: TOWING  
 FROM: [REDACTED] TO: [REDACTED]  
 [REDACTED]

MI. LEAGE	SERVICE TIME	DATE
FINISH	FINISH	FINISH
START	START	START
TOTAL	TOTAL	TOTAL
ORDER	ORDER	ORDER

☐ SINGLE LINE WINCHING  
☐ DUAL LINE WINCHING  
☐ SNATCH BLOCKS  
☐ SCOTCH BLOCKS  
☐ DOLLY  
☐ FLAT TIRE  
☐ OUT OF GAS  
☐ WRECK  
☐ RECOVERY  
☐ START  
☐ LOCK OUT  
☐ SLING HOIST TOW  
☐ WHEEL LIFT  
☐ FLAT BED RAMP

256.175  
 486 (2) 13-249  
 DAYS  
 MILEAGE CHARGE 119.00  
 TOWING CHARGE 120.00  
 STORAGE CHARGE 97.00  
 1st Lgn 25.00  
 2nd Lgn 25.00

279.00  
 21.63  
 300.63  
 9,770.00  
 757.15  
 10,527.15  
 Paid By JAN ADAMS  
 After 4:15 PM  
 2-13-17  
 BILL to Newton County  
 SHERIFF'S OFFICE  
 per phone  
 conversation on  
 2-13-17 @ 4:13

TOTAL  
**Road Service**

5133

STORAGE Discounted 50% From \$40.00  
 per PAY to \$20.00 per DAY AS Billed



**DAVID L. ETHREDGE**  
**PROSECUTING ATTORNEY**  
**STATE OF ARKANSAS**  
**FOURTEENTH JUDICIAL DISTRICT**  
**BAXTER – BOONE – MARION – NEWTON**



Main Office: 301 E. 6th St., Ste. 170, Mountain Home, AR 72653, ph. (870) 425-2595, fax (870) 425-2596  
Boone / Newton County Office: 414 Central Ave., P.O. Box 483, Harrison, AR 72601, ph. (870) 741-6361, fax (870) 741-6120

September 14, 2021

Hon. Glenn Wheeler  
Sheriff of Newton County  
300 N. Spring Street  
Jasper, Arkansas 72641


RE: Intent to Transfer Vehicle to Newton County Sheriff's Office

Dear Sheriff Wheeler,

I am writing this letter to inform you that the 14<sup>th</sup> Judicial District Drug Task Force is hereby transferring the following vehicle to the Newton County Sheriff's Office, which was seized and forfeited to the State of Arkansas as proceeds from the sale of illegal drugs: 2009 Chevy Silverado 1500, [REDACTED]

This transfer is being made to assist the Sheriff's Office in its mission to enforce the laws of this State.

Best Regards,

  
David L. Ethredge  
Prosecuting Attorney  
14<sup>th</sup> Judicial District  
State of Arkansas

[Print Form](#)

## STATE OF ARKANSAS VEHICLE BILL OF SALE/ODOMETER DISCLOSURE STATEMENT

[Clear Form](#)

## Section 1 - Vehicle Identification Number (VIN)

If buyer is a company rather than individuals, go directly to Section 3 - Company Name.

## Section 2 - Buyer Information

First Name Newton County Sheriff's Office	Middle Initial	Last Name
Address 300 N. Spring Street		
City, State, Zip Jasper, Arkansas 72641		

☐

Check this box if there are multiple owners

## Section 3 - Company Information

Company Name
Company Address
City, State, Zip

## Section 4 - Dealer/Seller Name and Address

Dealer/Seller Name State of Arkansas, 14th Judicial District, Drug Task Force
Address 414 W. Central Suite A
City, State, Zip Harrison, Arkansas 72601

## Section 5 - Purchase Date

September 14, 2021

## Section 6 - Description of Vehicle Purchased and Vehicle Trade-In

Vehicle Purchased Chevy 1500	Make Chevy	Model Silverado	Year 2009	Primary Color White	Secondary Color (If applicable)
Vehicle Trade-In	Make	Model	Year	Vehicle Identification Number of Trade-In	

## Section 7 - Odometer Disclosure

I, \_\_\_\_\_ (seller's printed name) hereby state that the Odometer now reads \_\_\_\_\_ (no tenths) miles, and the best of my knowledge that it reflects the actual miles, **UNLESS** one of the items below is checked:

☐1. **EXCEEDS MECHANICAL LIMITS** - I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.☒2. **WARNING - ODOMETER DISCREPANCY** - I hereby certify that the odometer reading is not the actual mileage.

## Section 8 - Sales Price Information - Signatures

Full Sales Price of Vehicle	\$1.00	Printed Name of Seller David Ethredge, Prosecuting Att., 14th Judicial District, State of Arkansas
Less Trade-In		Signature of Seller
Net Taxable Income		Printed Name of Buyer Glenn Wheeler, Sheriff, Newton County Sheriff's Office
		Signature of Buyer

## SECTION 9 - WARNING

**WARNING:** It is a **FELONY** for any taxpayer to willfully attempt to evade or defeat the payment of any tax, penalty, or interest due under state law; **OR** for any person to willfully assist a taxpayer in evading or defeating the payment of any tax, penalty, or interest due under state law.

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10-313



**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**RESPONDENT'S PRE-HEARING BRIEF**

The issue before the Claims Commission involves an unprecedented situation where Claimant is seeking unreasonable damages that should have been mitigated years ago.

Any time a vehicle is seized at the direction of law enforcement, Claimant deals directly with the officers who were in charge of conducting the seizure. If any payment is made to Claimant, it comes from a private owner after the mandatory notices under the “towing statutes” have been perfected (§ 27-50-1201, *et seq.*). If any vehicles are expected to be forfeited to the State, Claimant takes the vehicle(s) to a county impound lot. The prosecuting attorney may bring charges that necessitate seizure, but Respondent has never received a towing bill from any towing operator, including Claimant.

Even if the acting sheriff of Newton County directed Claimant to take seized vehicles to Claimant’s own lot on October 16, 2017, as Claimant argues, it is apparently because the county lot was full *that day*. Claimant provides no evidence that he ever followed up with the sheriff to move these vehicles to a county impound

lot between the day they were seized and the day one of the four vehicles was forfeited to the State, 15 months later.

On February 13, 2019, Claimant released two of the four vehicles (2010 Chevy and Honda ATV) to their original owner in exchange for \$300.63. A third vehicle (Honda UTV) was presumably released to its original owner as well.

Claimant then began sending a series of invoices to the Newton County Sheriff for storage fees (on all four vehicles) for a total of no less than \$21,041.88 (Claimant referred to this as a “discount”). Claimant also threatened to garnish the sheriff’s wages in the amount \$85,877.84 unless he came up with an immediate lump sum of \$21,401.88. *See* Complaint, Ex. G.

Claimant abandoned the idea of seeking payment through the sheriff, and instead demanded \$85,877.84 from the prosecuting attorney, immediately due and growing every day. This Claim should be dismissed because the amount demanded far exceeds anything “proper” under the governing statute, A.C.A. § 5-64-505.

#### **I. Claimant seeks improper relief**

Claimant relies on A.C.A. § 5-64-505(i)(B) in seeking payment from Respondent for an amount in excess of \$85,000. This is flawed for multiple reasons.

First, Claimant never sent notice to Respondent seeking “proper expenses” until this lawsuit was filed. Claimant did not perfect a lien as required by § 27-50-1208(c)(1), furthermore, so he is not entitled to the storage fees that would stem from that lien. *See also Payne v. Donaldson*, 2010 Ark. App. 255, 9-10 (“We hold that the lien available under section 27-50-1208 for towing and storage at the direction of law

enforcement, being in the absence of a contract with the owner, can be perfected only by satisfying the notice requirements therein”).

Second, Claimant’s damages are limited by statute. Once the 14th Judicial District became the owner of the 2009 Chevy truck on January 17, 2019, the value of the truck at auction is the maximum amount Claimant could have recovered from Respondent. There is a simple timeline here that cohesively binds the language of both A.C.A. 5-64-505(i)(B), the “forfeiture fund statute”, and § 27-50-1208, the “notice statute”. As follows: (1) vehicle is forfeited to the 14th Judicial District, (2) Claimant must send notice to the Respondent within 2-8 days with the required language, (3) Respondent has 45 days to pay the proper fees on the vehicle, then (4) if Respondent does not claim the vehicle, Claimant can sell the vehicle at auction. These are the steps Claimant should have taken. If he had, Respondent would be required to use asset forfeiture funds to pay any proper fees within the statutory timeframe. If Respondent had failed to do so, Claimant would have been entitled to sell the 2009 Chevy.

## **II. Unjust Enrichment**

As Respondent argued in his Motion for Summary Judgment, Claimant cannot make a *prima facie* claim of unjust enrichment. Both parties agree that the four elements are: (1) that Claimant provided services to Respondent and Respondent received the benefits of that service, (2) the circumstances were such that Claimant reasonably expected to be paid the value of such services, (3) Respondent was aware that Claimant was providing services with the expectation of being paid, and (4) the

reasonable value of such services. Elements two and three are fatal to Claimant's argument. It is clear from the record that Claimant does not expect to get paid for this type of service (Respondent's MSJ, Ex. B) and if he did expect payment in this instance, it is clear that he expected payment from the sheriff. Additionally, Respondent both never deals with towing companies and had no knowledge that Claimant was keeping this particular 2009 Chevy truck. *See Id.*, Ex. A.

### **III. Conclusion**

The damages that Claimant seeks are improper. Testimony will show that the disputed "asset forfeiture fund" is not a statewide slush fund where \$85,000 won't be missed. These are local accounts funded through sale proceeds of forfeited vehicles. As it stands, Claimant may wish to seek a claim against Newton County under Chapter 23 of the Arkansas Code, which established county court proceedings that are outside the jurisdiction of the Claims Commission. *See* A.C.A. § 14-23-203. This claim should be dismissed.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-3676  
Fax: (501) 682-2591  
Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on April 28, 2023, I filed the foregoing via email to the Arkansas State Claims Commission and sent a copy, via email, to the following:

Aaron Martin  
aaron@martinlawpartners.com  
Attorney for Claimant

***Julius J. Gerard***

IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

v.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT

RESPONDENT

**RESPONDENT'S EXHIBIT LIST**

1. Exhibit A – Agreed Order of Forfeiture
2. Exhibit B – Claimant's First Invoice
3. Exhibit C – Claimant's Second Invoice
4. Exhibit D – Claimant's Third Invoice
5. Exhibit E – Bill of Sale

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark. Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-3676  
Fax: (501) 682-2591  
Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on April 28, 2023, I electronically mailed the foregoing to the following participant:

Aaron Martin

Email: aaron@martinlawpartners.com

Attorney for Claimant

***Julius J. Gerard***

IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

v.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT

RESPONDENT

RESPONDENT'S WITNESS LIST

1. Davey Rhyne, Claimant
2. David Ethredge, Respondent
3. Tracy Watson, Interim Director of the Arkansas Towing & Recovery Board
4. Glenn Wheeler, Newton County Sheriff
5. Brad Brown, Deputy Prosecuting Attorney for the 14th Judicial District

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark. Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-3676  
Fax: (501) 682-2591  
Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*



**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on April 28, 2023, I electronically mailed the foregoing to the following participant:

Aaron Martin

Email: aaron@martinlawpartners.com

Attorney for Claimant

***Julius J. Gerard***

**From:** [Aaron Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** ["Jay Gerard"; "Katie Wilson"; nora@martinlawpartners.com](#)  
**Subject:** Davey Rhyne v. Pros Att. for the 14th Judicial District (220317)  
**Date:** Friday, April 28, 2023 9:24:43 AM  
**Attachments:** [image001.png](#)  
[Claimant Response to Respondent SUMF.pdf](#)  
[Claimant Response in Opposition to MSJ.pdf](#)  
[Claimant Brief in Support.pdf](#)

---

You don't often get email from aaron@martinlawpartners.com. [Learn why this is important](#)

Please find enclosed the following pleadings to be filed:

1. Claimant's Response to Respondent's SUMF
2. Claimant's Response in Opposition to MSJ
3. Claimant's Brief in Support

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT’S RESPONSE TO RESPONDENT’S STATEMENT OF  
UNDISPUTED MATERIAL FACTS**

Claimant, Davey Rhyne, by and through undersigned counsel states the following in response to Respondent’s Statement of Undisputed Material facts:

1. On October 16, 2017, eleven items of property were seized from the possession of a criminal suspect, [REDACTED]. Claim, pp. 15-17.

RESPONSE: Admit. To qualify this admission, EX. A to the Complaint Narrative listed fifteen items of property seized.

2. The initial determination that property will be seized is made by the law enforcement agency conducting the investigation. Ex. A, Declaration of David Ethredge, ¶ 3.

RESPONSE: The Claimant cannot truthfully admit or deny and therefore denies. The Claimant understands that David Ethredge stated under oath that the initial determination that property will be seized is made by the law enforcement agency conducting the investigation, but the Claimant does not personally know this to be true or false.

3. A Complaint was filed by the Prosecuting Attorney's office on December 14, 2017, seeking *in rem* forfeiture of these items. Claim, pp. 15-17.

RESPONSE: Admit.

4. The eleven items were listed as being in the custody of "the Drug Task Force / Newton County Sheriff's Office." Claim, pp. 15-17.

RESPONSE: Admit. To qualify this admission, EX A to the Complaint narrative listed fifteen items that the Respondent alleged were in the custody of the Newton County Sheriff's Office.

5. There is no mention in the forfeiture complaint that any of the eleven items were located at Davey Rhyne's Auto Body Shop. Claim, pp. 15-17.

RESPONSE: Admit

6. If a sheriff's deputy decides to seize a vehicle, the deputy would have the vehicle towed to a lot owned by the county or his law enforcement agency. Ex. B, Declaration of David Ethredge, ¶ 3.

RESPONSE: The Claimant cannot truthfully admit or deny and therefore denies. To qualify this denial, the Claimant understands that David Ethredge states under oath that if a sheriff's deputy decides to seize a vehicle, the deputy would have the vehicle towed to a lot owned by the county or his law enforcement agency, but the Claimant does not personally know this to be true or false.

7. When law enforcement agencies intend to seek forfeiture in conjunction with the seizure of a vehicle, the agency will notify Davey Rhyne that they are seeking forfeiture and direct him to tow the vehicle to the agency's impound lot, and he understands that he will simply not be paid for the tow. Affidavit of Davey Rhyne, ¶5.

RESPONSE: Admit

8. Neither the Prosecutor's Office nor the 14<sup>th</sup> Judicial District Drug Task Force has ever paid a tow bill of any kind. Ex. B, Declaration of David Ethredge, ¶ 3.

RESPONSE: The Claimant cannot truthfully admit or deny and therefore denies. To qualify this denial, the Claimant understands that David Ethredge states under oath that neither the Prosecutor's Office nor the 14<sup>th</sup> Judicial District Drug Task Force has ever paid a tow bill of any kind, but the Claimant does not personally know this to be true or false.

9. There are four counties in the 14<sup>th</sup> Judicial District and none of the tow operators in this district have ever billed the Prosecuting Attorney's Office for towing a seized vehicle. Ex. B, Declaration of David Ethredge, ¶ 3.

RESPONSE: The Claimant cannot truthfully admit or deny and therefore denies. To qualify this denial, the Claimant understands that David Ethredge states under oath that none of the tow operators in this district have

ever billed the Prosecuting Attorney's Office for towing a seized vehicle, but the Claimant does not personally know this to be true or false.

10. Keith Slape was the Newton County Sheriff on the date the eleven items were seized.

RESPONSE: Admit. To qualify this admission, it is the Claimant's well reasoned belief that Keith Slape was the Sheriff of Newton County on October 16, 2017.

11. Glenn Wheeler did not become Newton County Sheriff until January 1, 2019.

RESPONSE: Claimant cannot truthfully admit or deny and therefore denies it. The Claimant has made reasonable inquiry and that the information known or readily obtainable shows that Glen Wheeler originally took office as Newton County Sheriff in 2019 but does not provide a specific date.

12. An Agreed Order of Forfeiture was entered into the Newton County Circuit Court on January 17, 2019. Claim, pp. 18-20.

RESPONSE: Admit

13. The eleven items in question were listed as being in the custody of the Newton County Sheriff's Office. Claim; p. 19, ¶ 4.

RESPONSE: Admit. To qualify this admission, EX. B to the Complaint Narrative notes fifteen items, including the four vehicles that are the subject

of this claim and Respondent claimed that these fifteen items were in the custody of Newton County Sheriff's Office.

14. Of the four vehicles seized (2009 Chevrolet truck, 2010 Chevrolet truck, Honda Pioneer UTV, and Honda Recon ATV), only one was forfeited to the 14<sup>th</sup> Judicial District, the 2009 Chevrolet Truck. Claim; pp. 19-20, ¶ 6.

RESPONSE: Admit

15. Two of the other three vehicles were ordered to be released to [REDACTED] (2010 truck and Honda ATV), with the Honda UTV going to [REDACTED]. Claim, pp. 18-20.

RESPONSE: Admit

16. On February 13, 2019, Davey Rhyne released the 2010 Chevy 2500 and Honda Recon ATV to [REDACTED] after accepting \$300.63 for mileage, tow, labor, and taxes. Rhyne waived any remaining charges. Claim, p. 6, ¶ 17.

RESPONSE: Admit in part and deny in part. The Claimant admits that On February 13, 2019, Davey Rhyne released the 2010 Chevy 2500 and Honda Recon ATV to [REDACTED] after accepting \$300.63 for mileage, tow, labor, and taxes. The Claimant denies that he waived all remaining charges.

17. Davey Rhyne sent his first invoice for payment of vehicle storage on March 12, 2019, seeking payment from the Newton County Sheriff for storage

costs of all four vehicles, dating back to October 16, 2017. Claim, pp. 27-32.

RESPONSE: Admit

18. Davey Rhyne sent his first invoice solely to the Newton County Sheriff's Office. Claim, pp. 27-28.

RESPONSE: Admit

19. Davey Rhyne requested \$21,041.88 in his first invoice as a "voluntary discount". Claim; ¶ 6, pp. 27-32.

RESPONSE: Admit

20. Three of the vehicles listed in Davey Rhyne's first invoice were not forfeited to the 14<sup>th</sup> Judicial District. Claim, pp. 29-32.

RESPONSE: Admit

21. Davey Rhyne sent a second invoice on May 3, 2019, seeking payment from the Newton County Sheriff. Claim, p. 33-38.

RESPONSE: Admit

22. Davey Rhyne sent the second invoice solely to the Newton County Sheriff's Office. Claim, pp. 33-34.

RESPONSE: Admit

23. Three of the vehicles listed in Davey Rhyne's second invoice were not forfeited to the 14<sup>th</sup> Judicial District. Claim, pp. 35-38.

RESPONSE: Admit



24. Davey Rhyne sent a third and final invoice on June 24, 2019, seeking payment from the Newton County Sheriff. Claim, pp. 39-45.

RESPONSE: Admit

25. Davey Rhyne sent the final invoice solely to the Newton County Sheriff's Office. Claim, pp. 39-40.

RESPONSE: Admit

26. Three of the vehicles listed in Davey Rhyne's third invoice were not forfeited to the 14<sup>th</sup> Judicial District. Claim, pp. 42-45.

RESPONSE: Admit

27. The final invoice included a letter, dated June 12, 2019, stating that if Sheriff Glenn Wheeler did not pay \$21,401.88 by July 15, 2019, Davey Rhyne would pass collection to a debt agency and Sheriff Wheeler would immediately owe \$85,877.84. Claim, p. 39.

RESPONSE: Admit

28. Davey Rhyne never sent an invoice to the Prosecuting Attorney's Office for the 14<sup>th</sup> Judicial District.

RESPONSE: Admit in part and deny in part. The Claimant admits that Exhibits E, F, and G to Claimant's Complaint Narrative were addressed solely to the Newton County Sheriff's Office. The Claimant denies that he never sent an invoice to the Respondent because the Claimant attached these

invoices to his Complaint Narrative as EX. E, F, and G.

29. Davey Rhyne never sent notice to the Prosecuting Attorney's Office of any kind.

RESPONSE: Admit in part and deny in part. The Claimant admits that Exhibits E, F, and G to Claimant's Complaint Narrative were addressed solely to the Newton County Sheriff's Office. The Claimant denies that he never sent an invoice to the Respondent because the Claimant attached these invoices to his Complaint Narrative as EX. E, F, and G.

30. On September 14, 2021, ownership of the 2009 Chevrolet truck was transferred to the Newton County Sheriff's Office. Ex. C, Bill of Sale.

RESPONSE: Admit in part and deny in part. The Claimant admits that EX. C to Respondent's Motion to Dismiss represents a letter dated September 14, 2021, sent from Respondent to the Newton County Sheriff's Office stating it was transferring ownership of the 2009 Chevrolet truck. The Claimant cannot truthfully admit or deny whether this letter alone was sufficient to legally transfer ownership and EX. C to Respondent's Motion to Dismiss was not signed by the alleged buyer and therefore denies.

31. Davey Rhyne originally filed this claim against Respondent on September 17, 2021.

RESPONSE: Admit

Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
*aaron@martinlawpartners.com*

### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 28th day of April, 2023 to the following:

Julius Gerard  
[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT’S RESPONSE IN OPPOSITION TO RESPONDENT’S  
MOTION TO DISMISS**

Claimant, Davey Rhyne, by and through undersigned counsel states the following in support of his Opposition to Respondent’s Motion to Dismiss:

1. Claimant, Davey Rhyne, originally filed this claim on September 17, 2021, with the Arkansas State Claims Commission.
2. Claimant alleged in his Complaint Narrative that Respondent owes in excess of \$85,000 for the towing and storage of four vehicles pursuant to Ark. Code Ann. § 5-64-505(i)(1)(B)(ii) and common law unjust enrichment.
3. A.C.A. §5-64-505(i) lists the rules for distribution of moneys received from the asset forfeitures under the Uniform Controlled Substances Act (UCSA)
4. A.C.A. §5-64-505(i)(1)(B) states that the prosecuting attorney shall distribute money’s from the asset forfeiture fund to (i) first pay off any security interests or liens on the property, then to (ii) pay for any proper expenses for the seizure and maintenance of custody, and (iii, iv) any remaining balance over

\$250,000.00 must be distributed accordingly.

5. In addition, the Claimant will prove: 1) that Claimant provided services of towing and storage of the seized vehicles and Respondent received the benefit of these services, 2) that Claimant expected to be paid for his services, 3) that Respondent was aware that the Claimant provided these services and accepted these services, and 4) the reasonable value of these services was the Claimant's posted prices in Exhibit D to the Complaint Narrative.
6. The Respondent is required by law to pay the Claimant for the proper expenses for seizure and maintenance of custody from the Respondent's asset forfeiture fund.
7. A motion for summary judgment should only be granted when, in light of the pleading, and other documents before the circuit court, there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. Ark. R. Civ. P. 56(c) (2006).
8. All proof submitted must be viewed in a light most favorable to the Claimant, and any doubts and inferences must be resolved against the Respondent.  
*Flentje v. First Nat. Bank of Wynne*, 340 Ark. 563, 11 S.W.3d 531 (2000).
9. The purpose of summary judgment is not to try the issues, but to determine whether there are any issues to be tried. *Stephens v. Petrino*, 350 Ark. 268, 274 (2002).
10. There remains issues of fact and important issues of law to be decided by this

Commission following the scheduled hearing.

11. The Claimant did perfect a lien by maintaining possession under Ark. Code Ann. §27-50-1208(b)(1). More importantly, even if the Claimant did not have a bona fide security interest or a lien under A.C.A. §5-64-505(i)(1)(B)(i), he had expenses for seizure and maintenance of custody to be paid in accordance with §5-64-505(i)(1)(B)(ii).
12. A.C.A. §5-64-505(i)(1)(B)(ii) requires the Respondent to pay for all proper expenses for the seizure and maintenance of custody.
13. The Claimant's expenses for the seizure and maintenance of custody in this case were proper and in accordance with his posted charges. Claimant's compensation is not limited to the sale proceeds of the 2009 Chevrolet truck whose ownership is still in question.
14. The Claimant is also entitled to recovery under common law unjust enrichment. The Claimant of course expected payment for his services, Respondent was aware of these services and the Claimant's expectation of payment.
15. Respondent is not shielded by the defense of laches and/or unclean hands and the Claimant filed his Claim against the proper party. Respondent placed a hold on these vehicles and filed a Complaint seeking forfeiture on December 14, 2017 (EX. A to Complaint Narrative). These vehicles were on hold for over a year until the Respondent finally entered an Agreed Order of forfeiture

on January 17, 2019 (EX. B to Complaint Narrative). It was the Respondent's own actions or inaction that resulted in the total storage fees in this case.

16. Claimant's only proper recourse was to file this Claim with the Commission.

17. The material facts in dispute are noted in the Claimant's Response to Respondent's Statement of Undisputed Material Facts. More importantly, the relevant facts in this case and §5-64-505(i)(1)(B)(ii) directs the Respondent to pay for the damages sought in this claim.

18. The Claimant is filing a Brief in Support of this Opposition to Respondent's Motion for Summary Judgment and his Response to Respondent's Statement of Undisputed Material Facts separately.

Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
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*aaron@martinlawpartners.com*

### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 28<sup>th</sup> day of April, 2023 to the following:

Julius Gerard

[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin



**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT’S BRIEF IN SUPPORT OF HIS OPPOSITION TO  
RESPONDENT’S MOTION FOR SUMMARY JUDGMENT**

**I. INTRODUCTION**

The relevant facts in this case are simple, and the law is clear. Respondent incurred expenses for the seizure and maintenance of custody of property seized under the Uniformed Controlled Substances Act (UCSA). The law states that Respondent shall distribute moneys from its asset forfeiture fund for the expenses of seizure and maintenance under the UCSA. However, the Respondent is refusing to pay and has now filed this Motion for Summary Judgment to try and prevent the Claimant’s day in Court. Respondent’s Motion for Summary Judgment presents a misinterpretation of the law. Claimant is a small business owner who provided services for the Respondent and instead of paying the Claimant what is owed, the Respondent is using its full weight and authority to try and get out of paying its debt and has even resorted to personal attacks. There clearly remains some factual disputes in this case, most significant being the “proper expenses,” and Respondent’s Motion for Summary Judgement should clearly be denied.

## II. STANDARD OF REVIEW

Summary judgment is a very difficult standard to prove in any case. A motion for summary judgment should only be granted when, in light of the pleading, and other documents, there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. Ark. R. Civ. P. 56(c) (2006). The burden of sustaining a motion for summary judgment is on the Respondent, all proof submitted must be viewed in a light most favorable to the Claimant and any doubts and inferences must be resolved against the Respondent. *Flentje v. First Nat. Bank of Wynne*, 340 Ark. 563, 11 S.W.3d 531 (2000). The object of summary judgment proceedings is not to try the case, but to determine if there are any issues to be tried, and if there is any doubt whatsoever the motion should be denied. *Buie v. Certain Underwriters at Lloyds of London*, 79 Ark. App. 344, 87 S.W.3d 832 (2002).

## III. ARGUMENT

The Respondent has failed to reach its high burden of proof to warrant summary judgment in this case. The Respondent's Motion essentially presents two arguments. First, the Respondent argues that the Claimant is owed nothing because he failed to perfect a lien. This argument is a mischaracterization of law. The law clearly states that the Respondent shall first pay off any liens on the property, then pay for towing and storage expenses. The Claimant maintained a possessory lien, but even if he did not perfect a lien, he had towing and storage expenses that should

have been paid. Second, the Respondent argues that Claimant's expenses are unreasonable and not a "proper expense." Whether the Claimant's expenses are "proper" is of course a question of fact in dispute that alone precludes summary judgment. The evidence will confirm that the damages claimed were proper and in accordance with Claimant's posted charges. The Respondent made several personal attacks against the Claimant and even goes so far as to allege extortion. However, the truth is it was the Respondent's own failures that led to the extended storage charges in this case.

#### **A. Claimant Provided Services for Seizure and Custody**

The Respondent's first argument is a misrepresentation of law. The Claimant's first cause of action alleged that the Respondent violated §5-64-505(i)(1)(B), which specifically states:

**(B) The prosecuting attorney shall administer expenditures from the asset forfeiture fund which is subject to audit by Arkansas Legislative Audit. Moneys distributed from the asset forfeiture fund shall only be used for law enforcement and prosecutorial purposes. Moneys in the asset forfeiture fund shall be distributed in the following order:**

**(i) For satisfaction of any bona fide security interest or lien;**

**(ii) For payment of any proper expense of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;**

(iii) Any balance under two hundred fifty thousand dollars (\$250,000) shall be distributed proportionally so as to reflect generally the contribution of the appropriate local or state law enforcement or prosecutorial agency's participation in any activity that led to the seizure or forfeiture of the property or deposit of moneys under this chapter; and

(iv) Any balance over two hundred fifty thousand dollars (\$250,000) shall be forwarded to the Arkansas Drug Director to be transferred to the State Treasury for deposit into the Special State Assets Forfeiture Fund for distribution as provided in subdivision (i)(3) of this

section (emphasis added).

This section of the statute states that the prosecuting attorney is charged with the expenditures from the asset forfeiture fund and moneys in this fund shall be distributed in “the following order:” (i) first to pay off security interests or liens on the property, then to (i) pay expenses for seizure and maintenance of custody of the property, and (iii, iv) all remaining balances over \$250,000.00 must be distributed accordingly. However, the Respondent’s Motion presents a completely different interpretation.

The Respondent appears to argue that moneys from the asset forfeiture fund can only be used to pay security interests or liens and because the Claimant did not perfect a lien, he is not entitled to payment. This is a complete misrepresentation of the law. The statute clearly does not state that the Respondent shall only pay liens. The statute again states that the prosecuting attorney shall first pay off liens and security interests on the property, then pay for any proper expense incurred for the seizure and maintenance of custody of the property, and any balance over \$250,000.00 must be distributed accordingly. Ark. Code Ann. §5-64-505(i)(1)(B). The Respondent’s legal argument is confusing, misplaced and simply wrong.

In continuing with this misinterpretation, the majority of Respondent’s argument focuses on how the Claimant failed to perfect a lien under Ark. Code Ann. §27-50-1201 *et seq.* First and foremost, the Claimant was again not required to

perfect a lien to be compensated for his expenses for the seizure and maintenance of custody of the property under Ark. Code Ann. §5-64-505(i)(1)(B)(ii). Second, Ark. Code Ann. §27-50-1201 *et seq* falls under Title 27 *Transportation*, Subchapter 12 *Removal or Immobilization of Unattended or Abandoned Vehicles*. The vehicles at issue in this case were not removed or immobilized because they were *unattended* or *abandoned*; they were seized under the Uniform Controlled Substances Act (UCSA) and therefore Ark. Code Ann. §27-50-120 *et seq.* is not applicable. Finally, even if Ark. Code Ann. §27-50-1201 *et seq* does apply, this statute does states that a “lien shall be perfected” by simply “maintaining possession” and the Claimant still has possession of the 2009 Chevy truck. Ark. Code Ann. § 27-50-1208(b)(1). The Respondent’s extensive argument that the Claimant did not perfect a lien is mainly irrelevant, but also inaccurate.

#### **B. Claimant’s Damages were Proper Expenses.**

The Respondent’s second argument is that the Claimant’s claim for damages is improper. First, whether the Claimant’s damages are proper is a question of fact in dispute that would alone preclude summary judgment. Second, the damages claimed were justified in this case. The Respondent makes several unprofessional attacks against the Claimant alleging “stall tactics,” seeking a “windfall,” and even going so far as alleging criminal extortion. However, the truth is that it was the Respondent’s own failures that resulted in the damages in this case.

There are two separate time frames to consider. The first time frame is the fifteen (15) months from October 16, 2017 through January 17, 2019. On October 16, 2017, the Newton County Sheriff's Office along with the 14<sup>th</sup> Judicial Drug Task Force executed a search warrant at the [REDACTED] residence in conjunction with offenses including possession of controlled substances and firearms (EX. A to Claimant's Brief in Support of his Opposition to Respondent's Motion to Dismiss). The Claimant was directed to tow and store four vehicles from the residence including: 1) Honda Pioneer UTV, 2) Honda Recon ATV, 3) 2010 Chevy 2500 Truck and 4) 2009 Chevy 1500 Truck. A hold was placed on these vehicles and two months later, the Respondent filed a Complaint seeking forfeiture (ownership) of these four vehicles in addition to several other items seized in the arrest (EX. A to Complaint Narrative). These vehicles remained on hold for almost a year and a half until the Respondent and [REDACTED] finally entered an agreed Order forfeiting the 2009 Chevy 1500 truck to the Respondent on January 17, 2019 (EX. B to Complaint Narrative).

The Respondent argues that the Claimant should have immediately filed a lien on these vehicles and sold them at auction to recoup his expenses under Ark. Code Ann. §27-50-1209. First, A.C.A. §27-50-1209 *et seq.* again applies to vehicles that are abandoned or left unattended. The vehicles in this case were instead seized and forfeited under the UCSA. Second, these vehicles were seized as part of multiple

criminal charges, and the Respondent filed a Complaint seeking ownership of these vehicles. If the Respondent is making the incredible claim that the Claimant could have sold evidence in an ongoing criminal investigation as well as property that the Respondent was seeking to acquire through forfeiture, then it needs to cite the applicable statute. The law as well as general common-sense dictates that the Claimant could not have sold these vehicles while they were on hold in a criminal investigation as well as vehicles that the Respondent was seeking to acquire through forfeiture.

The second time frame is from January 17, 2019 to the present. On January 17, 2019, the Respondent again signed an agreed Order finally releasing the following three (3) vehicles to [REDACTED] 1) Honda Pioneer UTV, 2) Honda Recon ATV, 3) 2010 Chevy 2500 Truck, and forfeiting the 2009 Chevy 1500 truck to the Respondent (EX. B to Complaint Narrative). Respondent's 2009 Chevy 1500 truck has remained on Claimant's storage facility ever since because no one ever provided the Claimant the required notice or instruction on what to do with the vehicle. If Respondent is correct and Ark. Code Ann. §27-50-1201 *et seq* does apply in this case, then the Respondent remains liable for the storage fees. A.C.A. §27-50-1206(a)(3)(B) states that when a hold on a vehicle is released, the law enforcement officer or other official who issued the hold shall provide written notice of the release to the towing and storage firm. Also, any law enforcement agency that without

reasonable justification fails to provide information to the towing and storage firm within twenty-four (24) hours as shall be liable to the towing and storage firm for any accrued storage fees between the expiration of the twenty-four-hour period and such time as the information is provided. Ark. Code Ann. §27-50-1204(b). To this day, the Respondent has yet to provide the Claimant the proper written notice or proof of the actual owner of the vehicle.

Exhibit C to Respondent's Motion to Dismiss represents a letter from Respondent to Sheriff Wheeler dated September 14, 2021 (three days before filing this claim) stating that it was transferring the 2009 Chevy truck to the Newton County Sheriff's Office. The first problem is that the Respondent never notified the Claimant that the vehicle had been released, that it acquired ownership through forfeiture on January 17, 2019 or that it allegedly transferred ownership to Newton County on September 14, 2021. The second problem is that the "buyer" never signed the transfer. The ownership of this truck has apparently changed multiple times and at no point was the Claimant ever properly notified of the true owner which remains a mystery to this day.

To further complicate the legal status of the 2009 Chevy truck, it is not clear if the Respondent has complied with the law concerning the disposition of the truck. The Uniform Controlled Substances Act (UCSA) states that seized property may not be retained for more than two years without Court approval. Ark. Code Ann. §5-64-



505(h). At the end of the two-year retention period, the property must be sold or transferred to a school district for use in driver education. *Id.* In this case, Respondent acquired the 2009 Chevy truck through forfeiture on January 17, 2019 (EX. B to Complaint Narrative). Instead of attempting to sell the vehicle after two years or transferring the truck to a school district as required by the statute, the Respondent supposedly transferred the vehicle to the Newton County Sheriff's Office over two years later on September 14, 2021 (EX. C to Respondent's Motion to Dismiss). The Respondent's failure to comply with the UCSA creates even further confusion as to the legal status of this truck.

### **C. Unjust Enrichment**

The Claimant's second cause of action was for unjust enrichment. Respondent's Brief correctly notes that Claimant must prove the following four elements: 1) that Claimant provided services to Respondent and Respondent received the benefits of that service, 2) the circumstances were such that Claimant reasonably expected to be paid the value of such services, 3) Respondent was aware that Claimant was providing services with the expectation of being paid, 4) the reasonable value of such services (Respondent's Brief pg. 9). The Respondent's argument is that Claimant did not expect to be paid and Respondent was not aware that such services were being provided. In support of this argument, the Respondent first used the Claimant's previous generosity against him. The Claimant's affidavit explained that he would

on occasion assist local law enforcement and not charge them for tows. The Claimant's affidavit also specifically stated that in some cases where law enforcement sought forfeiture, the Claimant would be directed to tow the vehicle to the agency's own impound lot (EX. B to Respondent's Motion for Summary Judgment). However, this case presented an unusual situation. First, the Claimant was instructed to tow four separate vehicles from [REDACTED] residence in [REDACTED] which is about an hour away from the Claimant's business in Harrison, AR. Second, in this case the Claimant was not directed to tow the vehicles to the agency's impound lot and instead asked to tow the vehicles to Claimant's storage facility. Most importantly, the Claimant clearly expected to be paid because he sent multiple invoices for payment (EX. E, F, to Complaint Narrative). Therefore, the Claimant clearly expected to be paid for these services.

Next, the Respondent argued that Respondent was not aware that the Claimant was performing these services because the Claimant never did business directly with the prosecuting attorney, the Prosecuting Attorney for the 14<sup>th</sup> Judicial District, only deals with court proceedings, and the Agreed Order of Forfeiture listed Newton County Sheriff as the custodian of the property. First, these claims alone are of course not definitive proof that Respondent was not aware of Claimant's services. Second, there is additional evidence that certainly suggests that the Respondent was aware that these vehicles were towed and stored. Deputy Prosecuting Attorney for

the Respondent confirmed that the 14<sup>th</sup> Judicial District Drug Task force issued a search warrant on [REDACTED] residence and therefore the Respondent's agents were clearly present when the vehicles were seized and transported (EX. A to Claimant's Brief in Support). As far as the vehicles' location, the law requires the Respondent to file a confiscation report stating the location of the property being withheld. *See* Ark. Code Ann. §5-64-505(f)(3)(E). Presuming the Respondent complied with the applicable law, the Respondent would have listed the Claimant's storage facility as the location of this property and would have therefore of course known the location of the vehicles. Ultimately, whether the Respondent knew that the Claimant had towed and stored the seized property is at least a question of fact that precludes summary judgment.

### **CONCLUSION**

The Respondent failed to prove that it is entitled to summary judgment. The Respondent's first claim that the law limits payment to lienholders only is either a mistaken interpretation or an intentional misrepresentation of the law. The law clearly states that funds shall be distributed first to lienholders, then to pay expenses for towing and storage. The Respondent's argument that the Claimant did not have a lien was therefore irrelevant, but also inaccurate as well. The damages in this case were reasonable and in accordance with the Claimant's publicly posted charges. However, if the storage charges are high, it was due to the Respondent's own

inactions. The Claimant therefore prays that this Commission properly deny Respondent's Motion for Summary Judgment.

Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
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[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

#### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 28th day of April, 2023 to the following:

Julius Gerard  
[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin

IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS

POTENTIAL DEFENDANT:

OFFENSES:

Simultaneous Possession of Drugs and Firearms 5-74-106  
Class Y Felony

Possession of a Schedule VI controlled substance with purpose to deliver 5-64-436  
Class C Felony

Possession of Drug Paraphernalia 5-64-443  
Class D Felony

**Comes now the undersigned and, pursuant to rule 7.1 of the Arkansas Rules of Criminal Procedure, makes affidavit under oath to the following facts upon which affiant (s) reasonably believes that the above listed potential defendant (s) has committed the above listed offense (s) as follows:**

On October 16<sup>th</sup>, 2017 the Newton County Sheriff's Office along with the 14<sup>th</sup> Judicial Drug Task Force executed a search warrant at the Ian Adams residence (HC31 Box 389A Deer AR). During the course of that search, Investigators found more than 4oz and less than 10lbs of dried and processed marijuana in [REDACTED] house, vehicle, and property. Investigators also found several firearms in the immediate vicinity of the suspected marijuana as well as equipment (heat lamps, electric heat pad, power source, etc...) that had been used in a manner as to grow, cultivate, process, or distribute marijuana.

IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS

POTENTIAL DEFENDANT:

OFFENSES:

Simultaneous Possession of Drugs and Firearms 5-74-106  
Class Y Felony

Possession of a Schedule VI controlled substance with purpose to deliver 5-64-436  
Class C Felony

Possession of Drug Paraphernalia 5-64-443  
Class D Felony

I swear of affirm that the allegations herein are a true and correct statement of fact to the best of my knowledge and belief.

Inv. Anthony Kent  
Investigator Anthony Kent

Subscribed and sworn to before me this 1st day of October, 2017.

October 01, 2023  
My Commission Expires



[Signature]  
Notary Public

I hereby find this sworn affidavit reasonable cause for the issuance of an arrest warrant for the above name individual for the above stated offense (s).

Bond \$ 75,000.00 c/p

[Signature]  
County Judge of Newton  
County Signed for verification of  
probable cause.

**From:** [Aaron Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** ["Jay Gerard"; "Katie Wilson"; nora@martinlawpartners.com](#)  
**Subject:** Davey Rhyne v. Pros Att. for the 14th Judicial District (220317)  
**Date:** Friday, April 28, 2023 9:25:43 AM  
**Attachments:** [image001.png](#)  
[Claimant Pre Hearing Brief.pdf](#)

---

You don't often get email from aaron@martinlawpartners.com. [Learn why this is important](#)

Please find enclosed Claimant's Pre-Hearing Brief to be filed in the above case.

**Aaron L. Martin**  
**(Attorney/Partner)**



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**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT'S PRE-HEARING BRIEF**

This is actually a simple case that Respondent has complicated to try and avoid payment. The Uniform Controlled Substance Act (UCSA) authorizes law enforcement to seize and forfeit vehicles believed to have been used or intended to be used to transport controlled substances. Seized vehicles can be used by the law enforcement agency for up to two years and must then be sold at auction. All sales proceeds are deposited into an asset forfeiture fund. The district prosecuting attorney administers the asset forfeiture fund and is required by law to pay moneys from this fund to pay for any reasonable expenses for the seizure and custody of vehicles seized under the UCSA. *See* Ark. Code Ann. §5-64-505.

Both parties agree there were four vehicles that were seized under the UCSA. Both parties agree that the Claimant seized and towed these vehicles to his storage facility. Both parties will agree that a hold was placed on these vehicles and the Respondent filed a Complaint two months later seeking forfeiture of all four vehicles. Both parties agree that over a year later, the Respondent entered into



an Agreed Order forfeiting the 2009 Chevrolet truck to the Respondent and releasing the remaining three vehicles to the previous owner. Based on these simple undisputed facts, the Respondent is required by law to pay for the towing and storage of these vehicles from the asset forfeiture fund.

As to damages, the Claimant filed this claim seeking compensation for the towing and storage of these four vehicles from the date that the vehicles were received until the date of the Agreed Order. In addition, the Respondent's 2009 Chevy remains at the Claimant's storage facility to this date because the Respondent never attempted to pick up the truck, never provided written notice that the truck was released, and the legal status of the truck remains a mystery. To avoid paying this debt, the Respondent has tried to complicate this simple case by pointing the finger at the Newton County Sheriff's Office, mischaracterizing the law, arguing irrelevant statutes, and he even went so far as to accuse the Claimant of criminal extortion. The remainder of this Brief argues the Respondent's attempts to complicate this simple case.

#### **A. Respondent is the Proper Party**

First, Respondent argues that it is not the proper party and instead implicates the Newton County Sheriff's Office. In his Motion for Summary Judgment, the Respondent notes that it listed the Newton County Sheriff as the custodian of the property in its Forfeiture Complaint, the Claimant sent his invoices *solely* to the Newton County Sheriff's office, and Claimant has never sent any kind of notice to

the Respondent. However, none of these facts are relevant because the Newton County Sheriff's Office falls under the Respondent's jurisdiction.

Any law enforcement agency can seize and forfeit property under the Uniformed Controlled Substances Act (USCA). *See* A.C.A. §5-64-505(c).

Generally, vehicles seized may be used for law enforcement purposes for two years and thereafter must be sold or given to a school district. *See* A.C.A. §5-64-505(h)

The proceeds of any sale and any moneys forfeited or obtained by judgment or settlement must be deposited into an asset forfeiture fund administered by the district prosecuting attorney. A.C.A. §5-64-505(i)(1)(A). As the administrator of the asset forfeiture fund, the prosecuting attorney is required to pay off any liens or security interests on the property and then pay for expenses for the seizure and maintenance of custody from the asset forfeiture fund. A.C.A. §5-64-505(i)(B).

Respondent is the prosecuting attorney for the 14th Judicial District. The 14<sup>th</sup> District covers the counties of Baxter, Boone, Marion as well as Newton County. Ark. Code Ann. §16-13-2201. So, if property is seized by any law enforcement agency in Baxter, Boone, Marion or Newton County, the sales proceed would go to the Respondent's asset forfeiture fund, and the Respondent would be required to pay for the costs of the seizure and maintenance of custody from the asset forfeiture fund. Therefore, even if Newton County Sheriff's Office was *solely* responsible for the total costs of seizure and maintenance of custody in this case, the Respondent would clearly be required to pay for those costs from the

asset forfeiture fund because Newton County falls within the Respondent's jurisdiction.

### **B. Claimant was Not Required to Perfect a Lien**

The Respondent's next defense is that the Claimant is owed nothing because he did not perfect a lien. This issue is further detailed in Claimant's Brief in Support of his Opposition to Respondent's Motion to Dismiss. To summarize Claimant's argument on this issue, the applicable statute clearly states that the Respondent is to disburse moneys from the asset forfeiture fund "in the following order:" i) for satisfaction of any bona fide security interest or lien, and then ii) for payment of any proper expenses for seizure and maintenance of custody. Ark. Code Ann. §5-64-505(i)(B). However, the Respondent argues that this statute instead states that moneys in the asset forfeiture fund shall only be used to pay off liens and because Claimant did not perfect a lien, he is owed nothing. First and foremost, this is a clear misinterpretation of the statute. Second, even if this was the correct interpretation, the Claimant has perfected a lien by maintaining possession pursuant to Ark. Code Ann. § 27-50-1208(b)(1).

### **C. Claimant's Expenses are Reasonable**

The storage fees in this case are high but justified under these unusual circumstances. The expenses for the seizure and towing of the four vehicles was consistent with Claimant's posted charges, they were included in his invoices and further detailed in the Damages section of his Complaint Narrative (§ 35). The

Respondent's pleadings do not appear to challenge the costs for these towing services totaling \$487.00, but instead focuses on the storage fees.

The storage fees are also reasonable, consistent with the Claimant's publicly posted charges, listed in his invoices and detailed in the Damages section of his Complaint Narrative (¶35). The Respondent argues that the storage costs are unreasonable and amount to extortion. However, as detailed in Claimant's Brief in Support of his Opposition to Respondent's Motion to Dismiss, it was the Respondent's own actions (or inactions) that resulted in the high storage fees.

As noted in Claimant's Brief in Support of his Opposition to Respondent's Motion to Dismiss, there are two time frames to consider. The first time frame was from October 16, 2017 through January 17, 2019. The four vehicles in this case were seized and towed to the Claimant's storage facility on October 16, 2017. A hold was placed on these vehicles and the Respondent filed a Complaint seeking forfeiture of the four vehicles on December 15, 2017. The vehicles then remained at the Claimant's storage facility until the Respondent entered into an Agreed Order releasing three of the vehicles to the owner and forfeiting the 2009 Chevrolet truck to the Respondent. Clearly, the Claimant could not have filed a lien and attempted to sell these four vehicles that were placed on hold in a criminal investigation. In addition, the Claimant had no authority to file a lien and attempt to sell these vehicles that the Respondent was seeking ownership through forfeiture. Therefore, it was the Respondent's own actions or inactions that caused the storage fees during

this first time frame.

The second time frame to consider is from January 17, 2019 to the present. Again, the Respondent entered into an Agreed Order over a year later on January 17, 2019 returning three vehicles to the owner and forfeiting the 2009 Chevy to Respondent. Since that time, the Respondent has never attempted to pick up its truck, provide written notice that the hold was released, or prove the legal status of this truck. The 2009 Chevy was forfeited to the Respondent on January 17, 2019. The truck was then apparently “transferred” to the Newton County Sheriff’s office in 2021. After this claim was filed, the Claimant was provided a letter from Respondent to the Newton County Sheriff’s Office allegedly transferring ownership of the 2009 Chevy on September 14, 2021. This letter also included a Bill of Sale that did not include a signature from the alleged buyer (Newton County Sheriff’s Office). To further complicate matters, the law states that vehicles can only be retained for two years without a Court Order. *See* A.C.A. §5-64-505(h). Respondent allegedly maintained ownership of the 2009 Chevy for more than two years (January 17, 2019 through September 14, 2021) so the legal status of this truck is still a mystery. Regardless, it was the Respondent’s actions (or inactions) that caused the extended storage fees in this case and it was certainly not due to the Claimant’s alleged criminal extortion.

#### **D. Unjust Enrichment**

In the alternative, Claimant argues that he is entitled to compensation under a

theory of unjust enrichment. Unjust enrichment is a common law claim to prevent inequities through the legal system. As detailed in the Complaint Narrative, it is the Claimant's position that he provided services for the Respondent, he expected to be paid for the services, Respondent knew or should have known of these services and accepted these services through acquiescence. Finally, the Claimant again argues that the damages sought were a reasonable value for these services as previously argued and therefore entitled to compensation through unjust enrichment.

#### **E. Authority of the Commission**

Finally, this Commission of course has authority to direct payment of this claim from the State Treasury. However, the Complaint Narrative argued in the alternative that this Commission also had authority to direct the Respondent to pay this claim from the Respondent's asset forfeiture fund. Ark. Code Ann. §19-10-213 states that when a claim is found to be valid and to be paid from State funds not in the State Treasury, the Director of the Commission shall notify the appropriate State agency to deliver payment to be deposited into the Miscellaneous Revolving Fund, from which the director shall disburse that amount to the Claimant. The Claimant argues in the alternative that the Respondent's asset forfeiture fund is the proper State fund to pay this claim and the Commission has authority to mandate payment from the Respondent.

## Conclusion

This was an admittedly unusual situation for both parties. The Claimant has towed vehicles for local law enforcement to their storage facilities and waived his costs for good will. However, in this case, Claimant had to travel an hour to pick up multiple vehicles and was directed to store the vehicles at his own storage facility. Respondent agrees that vehicles seized under the USCA are normally stored at the law enforcement's own storage facility and his office has apparently never paid for towing or storage fees from the asset forfeiture fund. However, because the vehicles in this case were seized under the USCA, the Respondent is clearly required to pay the towing and storage fees from the asset forfeiture fund. The law is clear and the Respondent is a licensed attorney and a prosecuting attorney charged with the administration of the asset forfeiture fund. Respondent should have known of his legal requirements under the USCA and should have known what to do in this case. Ignorance of the law is never a valid defense.

Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
*aaron@martinlawpartners.com*

### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 28th day of April, 2023 to the following:

Julius Gerard

[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin



**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**V.**

**CLAIM NO. 220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the claim filed by Davey Rhyne (the “Claimant”) against the Prosecuting Attorney for the Fourteenth Judicial District (the “Respondent”). At the conclusion of the May 19, 2023, claim hearing, the Commission unanimously voted to delay issuance of its decision on this claim by 30 days and asked the parties to work to resolve this matter. The Commission also encourages the Newton County Sheriff’s Office to participate in these discussions. The Commission noted concerns about this matter, including the potential depletion of Respondent’s Asset Forfeiture Fund and the fact that Claimant has not received payment of any kind related to the towing and storage for the vehicle at issue. The Commission also noted that it cannot order the vehicle to be sold.

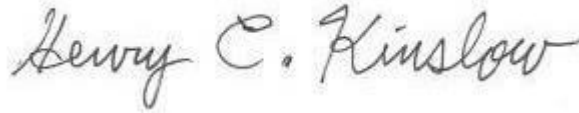
As such, the Commission directs the parties to try to resolve this matter and to submit an update to the Commission director by email no later than June 20, 2023.

IT IS SO ORDERED.



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ARKANSAS STATE CLAIMS COMMISSION  
Solomon Graves



---

ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



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ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair

DATE: May 30, 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:** [Aaron Martin](#)  
**Cc:** ["Jay Gerard"](#); ["Katie Wilson"](#); [nora@martinlawpartners.com](mailto:nora@martinlawpartners.com)  
**Subject:** ORDER: Rhyne v. Pros Att. for the 14th Judicial District, Claim No. 220317  
**Date:** Tuesday, May 30, 2023 9:40:00 AM  
**Attachments:** [Rhyne v. Pros Atty -- 220317 -- order.pdf](#)

---

Mr. Martin and Mr. Gerard, please see attached order.

Thanks,  
Kathryn Irby

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

**From:** [Aaron Martin](#)  
**To:** [Kathryn Irby](#)  
**Subject:** RE: ORDER: Rhyne v. Pros Att. for the 14th Judicial District, Claim No. 220317  
**Date:** Tuesday, May 30, 2023 9:43:00 AM

---

Received – thank you

---

**From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Sent:** Tuesday, May 30, 2023 9:40 AM  
**To:** Aaron Martin <aaron@martinlawpartners.com>  
**Cc:** 'Jay Gerard' <julius.gerard@arkansasag.gov>; 'Katie Wilson' <katie.wilson@arkansasag.gov>; nora@martinlawpartners.com  
**Subject:** ORDER: Rhyne v. Pros Att. for the 14th Judicial District, Claim No. 220317

Mr. Martin and Mr. Gerard, please see attached order.

Thanks,  
Kathryn Irby

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

**From:** [Jay Gerard](#)  
**To:** [Kathryn Irby](#); [ASCC Pleadings](#)  
**Cc:** [David Ethredge](#); [Amber Schubert](#); [Katie Wilson](#)  
**Subject:** Motion to Extend; Rhyne v. Prosecuting Attorney, CC-220317  
**Date:** Tuesday, June 20, 2023 5:42:54 PM  
**Attachments:** [image001.jpg](#)  
[Rhyne\\_Mtn\\_Extend\\_Status.pdf](#)

---

Ms. Irby,

Attached please find Respondent's Motion to Extend Status Report Deadline. I have copied opposing counsel, Mr. Martin. Thank you.

Respectfully,

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**V.**

**CASE NO. CC-220317**

**DAVID ETHREDGE**

**RESPONDENT**

**RESPONDENT'S MOTION FOR EXTENSION OF STATUS REPORT DEADLINE**

Comes Respondent, David Ethredge, by and through his attorneys, Attorney General Tim Griffin and Assistant Attorney General Julius J. Gerard, and for his Motion for Extension of Status Report Deadline, states:

1. On May 19, 2023, a hearing was held and a decision on the merits was taken under advisement so as to allow the parties to enter settlement discussions.
2. On May 30, 2023, the Commission issued an Order compelling the parties to provide a status update by June 20, 2023.
3. As of June 20, 2023, despite good faith efforts, the parties have been unable to reach an agreement.
4. It has come to Respondent's attention that the funds from which Claimant seeks payment are likely county funds over which the Claims Commission has no jurisdiction or control. *See* A.C.A. 5-64-505(i)(1).
5. The statute specifically differentiates between the fund identified in subsection 5-64-505(i)(1) and (i)(3), the "Special State Assets Forfeiture Fund", which is a fund controlled by the state.

6. Respondent has had initial conversations with the Department of Finance & Administration regarding this issue, and requires additional time to research.

7. If the Commission were to order payment out of a fund not controlled by the State Treasury, that order would be unenforceable. *See* A.C.A. § 19-10-204(b)(1).

8. Respondent requests a mere two weeks to further research this issue and report back to the Commission. Respondents specifically request a deadline of July 6, 2023 in consideration of the July 4th holiday.

9. Respondents are not requesting this extension for purposes of delay.

10. Claimant will not be prejudiced by such extension.

WHEREFORE, Respondent respectfully requests that the Commission grant Respondent's Motion for Extension of Status Report Deadline and allow Respondent to report its findings by July 6, 2023.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark. Bar No. 2017178  
Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-3676  
Fax: (501) 682-2591  
Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on June 20, 2023, I electronically mailed the foregoing to the following participant:

Aaron Martin

Email: aaron@martinlawpartners.com

Attorney for Claimant

*/s/ Julius J. Gerard*



**From:** [Jay Gerard](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [Katie Wilson](#); [Amber Schubert](#)  
**Subject:** RE: Potential Motion to Extend Status Update in Rhyne, CC-220317  
**Date:** Tuesday, June 20, 2023 2:09:49 PM  
**Attachments:** [image001.jpg](#)

---

Thank you, Kathryn. About to call opposing counsel and will update you promptly.

Thanks,

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, June 20, 2023 2:05 PM  
**To:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Cc:** Katie Wilson <[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov)>; Amber Schubert <[amber.schubert@arkansasag.gov](mailto:amber.schubert@arkansasag.gov)>  
**Subject:** RE: Potential Motion to Extend Status Update in Rhyne, CC-220317

**EXTERNAL EMAIL**

Jay, will you talk to Mr. Martin and see if he objects to you asking the Commission for more time? If he doesn't, just send me a letter advising that more time is needed before a status update is given to the Commission. If he does object, then you may need a motion.

Kathryn

---

**From:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Sent:** Tuesday, June 20, 2023 10:49 AM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Katie Wilson <[katie.wilson@arkansasag.gov](mailto:katie.wilson@arkansasag.gov)>; Amber Schubert <[amber.schubert@arkansasag.gov](mailto:amber.schubert@arkansasag.gov)>  
**Subject:** Potential Motion to Extend Status Update in Rhyne, CC-220317

Good morning, Kathryn.

I left a voicemail, but Respondent intends to file a motion to extend the deadline for a status update in Rhyne v. Prosecuting Attorney. There are some technical/jurisdictional questions we're seeking answers on before we submit a final response to the commission. Just a heads up that I will be submitting a motion this afternoon.

Thanks,

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



**From:** [Aaron Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** ["Jay Gerard"](#)  
**Subject:** Davey Rhyne v. 14th Judicial District (220317)  
**Date:** Tuesday, June 20, 2023 4:59:59 PM  
**Attachments:** [image001.png](#)  
[ASCC.6.20.23.pdf](#)

---

Ms Irby,

Please find enclosed Claimant's Status Update in the above case.

Thanks,

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**

P.O. Box 3597

Fayetteville, AR. 72702

479-442-2244 (W)

479-442-0134 (F)

[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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# MARTIN | LAW FIRM

2059 GREEN ACRES ROAD • P.O. BOX 3597 | FAYETTEVILLE, ARKANSAS 72702  
TELEPHONE: 479.442.2244 | FACSIMILE: 479.442.0134  
WWW.MARTINLAWPARTNERS.COM

June 20, 2023

Arkansas State Claims Commission  
101 E. Capitol Ave., Ste 410  
Little Rock, AR. 72201-3823

Sent Via E-Mail:  
[ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov)

**RE: Davey Rhyne v. State of Arkansas**  
**Claim No: 220317**

## STATUS UPDATE

To Whom it May Concern:

The parties appeared for a hearing before the Commission on May 19, 2023. At the conclusion of the hearing, the Commission issued an Order dated May 30, 2023 directing the parties to try and resolve this matter and submit an update no later than June 20, 2023. This letter is the parties' update to the Commission.

The parties did try to resolve this matter and were unable to agree to a settlement. As such, the Claimant requests that the Commission proceed with a decision in this case.

Thank you for your attention to this matter.

Sincerely,

*/s/Aaron L. Martin*

cc: Julius Gerard at [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

**From:** [Aaron Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); ["Jay Gerard"](#)  
**Subject:** Davey Rhyne v. 14th Judicial District (220317)  
**Date:** Thursday, June 22, 2023 5:31:15 PM  
**Attachments:** [image001.png](#)  
[Claimant Response to Respondent Motion for Extension.pdf](#)

---

Please find enclosed Claimant's Response to Respondent's Motion for Extension for consideration.  
Thanks,

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244 (W)  
479-442-0134 (F)  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
[www.Martinlawpartners.com](http://www.Martinlawpartners.com)

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**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT’S RESPONSE TO RESPONDENT’S  
MOTION FOR EXTENSION**

The Claimant, by and through undersigned counsel, states the following in response to Respondent’s Motion for Extension:

1. That this Claim was filed on September 17, 2021.
2. That Respondent filed a Motion to Dismiss arguing defenses of prosecutorial immunity and failure to state facts upon which relief could be granted under Ark. R. Civ. P. Rule 12(b)(6).
3. That this Commission denied the Respondent’s Motion to Dismiss.
4. That this Commission submitted a Scheduling Order stating the deadline “*to file a motion of any kind*” was before April 28, 2023.
5. That the Respondent timely filed a Motion for Summary Judgment on April 12, 23 and Claimant timely filed a Response in Opposition on April 28, 2023.
6. That the hearing was held on May 19, 2023 and following the hearing, the Commission entered an Order directing the parties to try and resolve this

matter and submit an update no later than June 20, 2023.

7. That on June 20, 2023, the Claimant submitted his status update confirming that the parties were unable to settle this matter.
8. That on June 20, 2023, the Respondent filed a Motion for an Extension, arguing that it needed additional time to research whether the Commission had authority to direct the Respondent to pay an Award from its asset forfeiture fund.
9. First, the Claimant contends that post-hearing Motions are untimely, exceeds the Commission's Scheduling Order, and Respondent's potential new defense should have been raised in a timely fashion.
10. Second, the Respondent's asset forfeiture fund was established through the Uniform Controlled Substances Act (UCSA) and the Respondent is solely charged with the administration of the fund. *See* Ark. Code Ann. §5-64-505.
11. That there is no dispute that the Respondent is an employee and/or agent of the State and the Respondent's asset forfeiture fund should therefore clearly be under the control of the State of Arkansas.
12. In the alternative, if this Commission finds that it does not have authority to direct the Respondent to pay an Award from its asset forfeiture fund that the Commission simply direct that an Award be paid from the State Treasury.

WHEREFORE, the Claimant prays that this Commission: 1) deny additional Motions as untimely, 2) or find that the Respondent's asset forfeiture fund is a State

controlled account, 3) or, if the Commission is concerned that it does not have authority to direct the Respondent to pay an Award from its asset forfeiture fund that the Commission direct that an Award be paid from the State Treasury.

Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

#### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 22nd day of June, 2023 to the following:

Julius Gerard  
[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin



**From:** [Jay Gerard](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Katie Wilson](#); [Amber Schubert](#); [David Ethredge](#)  
**Subject:** Rhyne v. Prosecuting Attorney; Respondent's MTD for lack of MSJ  
**Date:** Thursday, July 6, 2023 4:23:48 PM  
**Attachments:** [image001.jpg](#)  
[Rhyne\\_Complete MTD for lack of SMJ.pdf](#)

---

Good afternoon,

Attached please find Respondent's Motion and Incorporated Brief for Dismissal under Ark. R. Civ. P. 12(b)(1), for the matter of Rhyne v. Prosecuting Attorney, CC-220317 (one document). Claimant's counsel, Aaron Martin, has been copied.

Thanks,

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**MOTION AND INCORPORATED BRIEF FOR DISMISSAL UNDER  
ARKANSAS RULE OF CIVIL PROCEDURE 12(b)(1)**

For his Motion and Incorporated Brief for Dismissal under Arkansas Rule of Civil Procedure 12(b)(1), Respondent David Ethredge states the following:

**INTRODUCTION**

The Arkansas State Claims Commission lacks subject matter jurisdiction to issue a final ruling in this case. The question of subject matter jurisdiction can be raised at any time, even on appeal. *See Arkansas Dep't of Fin. & Admin. v. 2600 Holdings, LLC*, 2022 Ark. 140, 9 (2022); *see also Gates v. State*, 353 Ark. 333, 335 (2003).

On May 19, 2023, a hearing on the merits was held. At the conclusion of the hearing, the Commission took this matter under advisement and compelled both sides to enter settlement negotiations. During the course of negotiations, it came to Respondent's attention that the funds from which Claimant seeks payment are outside the Commission's jurisdiction since they are not state funds. For the reasons stated below, Respondent is entitled to the dismissal of the claim against him under Ark. R. Civ. P. 12(b)(1).

**STANDARD OF REVIEW**

Ark. R. Civ. Pro 12(b)(1) states that lack of jurisdiction over the subject matter is a defense that can be made by motion. Unlike other defenses, the defense of lack of jurisdiction over the subject matter is never waived and may be raised at any time. Ark. R. Civ. P. 12(h)(2). Whenever

it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court *shall* dismiss the action. Ark. R. Civ. P. 12(h)(3) (emphasis added).

Subject matter jurisdiction is a defense that cannot be waived by the parties at any time nor can it be conferred by the parties' consent. *Douglas v. City of Cabot*, 347 Ark. 1, 4 (2001). The question of subject matter jurisdiction is always open and can be raised at any time (*Arkansas Dep't of Fin. & Admin. v. 2600 Holdings, LLC*, 2022 Ark. 140, 9), even on appeal ((*Gates v. State*, 353 Ark. 333, 335 (2003))).

### **ARGUMENT**

This claim must be dismissed because the Arkansas State Claims Commission lacks subject matter jurisdiction. The Commission only has authority to hear claims or actions barred by the doctrine of sovereign immunity, i.e., actions against the State of Arkansas. A.C.A. § 19-10-204(a)(1). The Commission has no jurisdiction over a claim against a municipality, county, school district, or any other political subdivision of the state. A.C.A. § 19-10-204(b)(1). The asset forfeiture funds Claimant seeks under A.C.A. 5-64-505(i)(1) are funds raised and spent solely within the 14th Judicial District, which encompasses Newton, Boone, Marion, and Baxter counties. Exhibit A, Third Declaration of David Ethredge, ¶ 2 (hereinafter "Ex. A"). Declarations from both Respondent and the Deputy Director of Budget for the Arkansas Department of Finance and Administration, Robert Brech, confirm these are not state funds.

Respondent, Prosecuting Attorney David Ethredge, is solely responsible for managing the asset forfeiture funds for the 14th Judicial District, as described under A.C.A. § 5-64-505(i)(1). Ex. A, ¶ 3. The asset forfeiture fund for his district is funded through the proceeds of any sale and any money forfeited or obtained by judgment from civil asset forfeiture proceedings within the counties of his district. Ex. A, ¶ 4. Every check issued to purchase anything with asset forfeiture

funds is ultimately approved and signed by Respondent. Ex. A, ¶ 7. The funds he controls (which are the funds Claimant seeks under the statute) are raised and spent within the counties of the 14th Judicial District only; they are not state funds. Ex. A, ¶ 8. There are no state-related fund codes or appropriation codes available for Respondent's asset forfeiture account. Ex. A, ¶ 9. Attached to Respondent's declaration is a check previously used to purchase equipment for law enforcement purposes. It shows the name of Respondent's account ("14th Judicial District Prosecuting Attorney Forfeiture Fund"), his bank (Arvest Bank), and Respondent's signature. Ex. A-1.

Robert Brech, Deputy Director of Budget for the Arkansas Department of Finance and Administration ("DFA"), oversees the operation of DFA's Budget Division as well as its Economic Analysis and Tax Research Division. Exhibit B, Declaration of Robert Brech, ¶ 1 (hereinafter "Ex. B"). Brech analyzed the statute on asset forfeitures, A.C.A. § 5-64-505(i) and the four separate types of funds it creates. Subsection 505(i)(1) creates "Asset Forfeiture Funds". Subsection 505(i)(2) creates "Drug Control Funds". Subsection 505(i)(3) creates the "Special State Assets Forfeiture Fund". Finally, subsection 505(i)(4) creates funds for federal forfeitures. Ex. B, ¶ 2.

Of the funds established under 5-64-505(i), only the Special State Assets Forfeiture Fund is a state fund administered by DFA. The Special State Assets Forfeiture Fund is "established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State." A.C.A. § 5-64-505(i)(3)(A). The Chief Fiscal Officer of the State is the Secretary of the DFA. Ex. B, ¶ 3. The Special State Assets Forfeiture Fund consists of revenues from asset forfeiture funds that exceed \$250,000, and revenues from federal funds that exceed \$250,000. A.C.A. §§ 5-64-505(i)(1)(B)(iv); 5-64-505(i)(3)(B)(i); 5-64-505(i)(4)(B)(i). Ex. B, ¶ 4.

Unlike the Special State Assets Forfeiture Fund, asset forfeiture funds created under subsection 505(i)(1) are administered and maintained by the prosecuting attorneys for judicial districts across the state. Asset forfeiture funds are “deposited into the asset forfeiture fund of the prosecuting attorney.” A.C.A. § 5-64-505(i)(1)(A). Asset forfeiture funds are not established on the books of the Treasurer of State, the Auditor of State, or DFA. Ex. 1, ¶ 6. Because asset forfeiture funds are not state funds, there is no state agency number, state fund code, state appropriation code, state internal order number, or other such information. Ex. 1, ¶ 8.

The asset forfeiture funds Claimant seeks are raised, collected, and utilized by the four counties of the 14th Judicial District. They are not state funds. They are either county funds or funds from a “political subdivision of the state”, either of which are outside the jurisdiction of the Claims Commission.

### **CONCLUSION**

Claimant seeks funds from the 14th Judicial District’s asset forfeiture funds, pursuant to A.C.A. 5-64-505(i)(1). These funds are controlled by the counties of the 14th Judicial District. The Arkansas State Claims Commission only has subject matter jurisdiction over state funds. These are *not* state funds. Therefore, the Commission lacks jurisdiction to continue hearing this case. This issue can be raised at any time, as it is now. This claim must be dismissed under Ark. R. Civ. P. 12(b)(1).

Respectfully submitted,

TIM GRIFFIN  
Attorney General

By: Julius J. Gerard  
Ark. Bar No. 2017178  
Assistant Attorney General

Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201  
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Email: [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on July 6, 2023, I electronically mailed the foregoing to the following participant:

Aaron Martin  
Email: [aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)  
Attorney for Claimant

***Julius J. Gerard***

**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**THIRD DECLARATION OF DAVID ETHREDGE**

I, David Ethredge, 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 currently the 14th Judicial District Prosecuting Attorney. I was elected to this position and have held office since 2015.

2. The 14th Judicial District encompasses Newton, Boone, Marion, and Baxter counties.

3. I am solely responsible for managing the asset forfeiture fund for my district, as described under A.C.A. § 5-64-505(i)(1).

4. The asset forfeiture fund for my district is funded through the proceeds of any sale and any moneys forfeited or obtained by judgment from civil asset forfeiture proceedings within the counties of my district.

5. Per statute, I am authorized to spend forfeiture funds for law enforcement or prosecutorial purposes.

6. For example, if a police department in my district needs new body armor, I may authorize the department to make such purchases and have them send me the invoice. The amount of the invoice is then debited out of the fund via check.

7. Any check issued to purchase anything with asset forfeiture funds is ultimately approved and signed by me.


8. The funds I have control over are raised and spent within my district only; they are not state funds.

9. There is no state-related fund code or appropriation code available for this account.

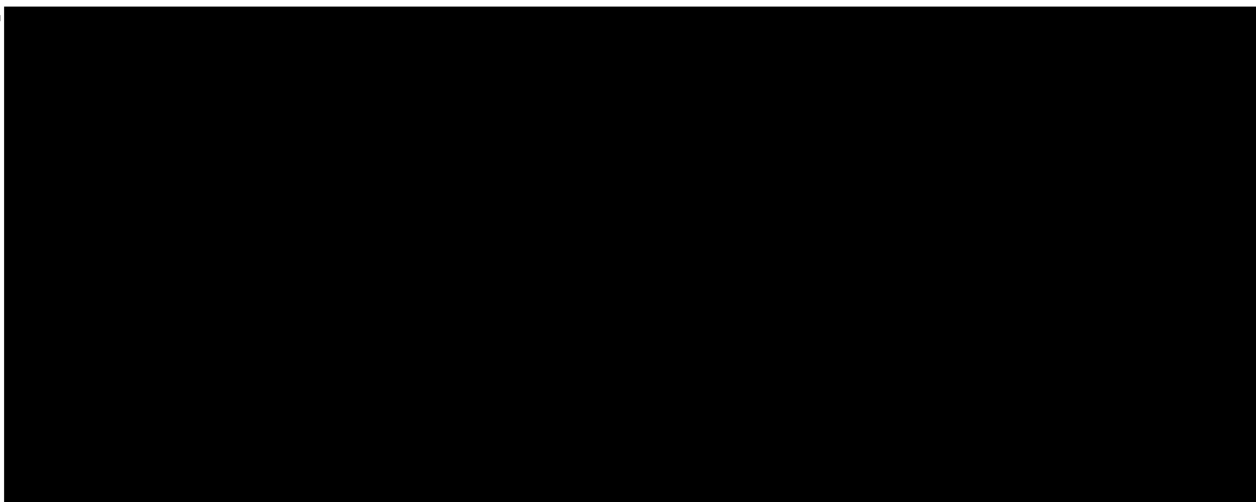
10. Attached to this declaration is a check (Exhibit "1") previously used to purchase equipment for law enforcement purposes. Sensitive information has been redacted; however, it is a standard-issue check from my Prosecuting Attorney Forfeiture Fund account through Arvest Bank. The top left shows the account name, the name of the bank is above the memo line, and my signature is affixed to the bottom right corner.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

  
\_\_\_\_\_  
DAVID ETHREDGE

  
\_\_\_\_\_  
DATE





**IN THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. 22-0317**

**PROSECUTING ATTORNEY FOR THE  
14<sup>TH</sup> JUDICIAL DISTRICT**

**RESPONDENT**

**DECLARATION OF ROBERT BRECH**

I, Robert Brech, 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 the Deputy Director of Budget for the Arkansas Department of Finance and Administration ("DFA"). As Deputy Director of Budget, I oversee the operation of DFA's Budget Division as well as its Economic Analysis and Tax Research Division. I am very familiar with the state funds that DFA monitors and administers.

2. Specific to the above-referenced case involving asset forfeitures, Ark. Code Ann. § 5-64-505(i) establishes four separate funds. Subsection 505(i)(1) creates Asset Forfeiture Funds. Subsection 505(i)(2) creates Drug Control Funds. Subsection 505(i)(3) creates the Special State Assets Forfeiture Fund. And subsection 505(i)(4) creates funds for federal forfeitures.

3. Of the funds established under section 5-64-505(i), only the Special State Assets Forfeiture Fund is a State fund administered by DFA. The Special State Assets Forfeiture Fund is "established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State." Ark. Code Ann. § 5-64-505(i)(3)(A). The Chief Fiscal Officer of the State is the Secretary of DFA.

4. The Special State Assets Forfeiture Fund consists of revenues from Asset Forfeiture Funds that exceed \$250,000.00, and revenues from federal forfeiture funds that exceed \$250,000.00. Ark. Code Ann. §§ 5-64-505(i)(1)(B)(iv); 5-64-505(i)(3)(B)(i); 5-64-505(i)(4)(B)(i).

5. The Special State Assets Forfeiture Fund can only be used for drug interdiction, eradication, education, rehabilitation, the State Crime Laboratory, and drug courts, consistent with rules established by the Arkansas Drug Director. Ark. Code Ann. § 5-64-505(i)(3)(D).

6. Unlike the Special State Assets Forfeiture Fund, Asset Forfeiture Funds created under subsection 505(i)(1) are administered and maintained by the prosecuting attorneys for judicial districts across the State. Asset Forfeiture Funds are "deposited into the asset forfeiture fund of the prosecuting attorney." Ark. Code Ann. § 5-64-505(i)(1)(A). Asset Forfeiture Funds are not established on the books of the Treasurer of State, the Auditor of State, or DFA.

7. Asset Forfeiture Funds may be used for the satisfaction of bona fide security interests or liens connected to asset forfeitures; or for payment of any proper expense of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. Ark. Code Ann. §§ 5-64-505(i)(1)(B)(i, ii).

8. Because Asset Forfeiture Funds are not State funds, there is no State agency number, State fund code, State appropriation code, State internal order number, or other such information associated with Asset Forfeiture Funds.

9. The remaining funds created under section 5-64-505(i), Drug Control Funds and federal forfeiture funds, are not established on the books of the Treasurer of State, Auditor of State, or DFA. Drug Control Funds and federal forfeiture funds are "established on the books of law enforcement agencies and prosecuting attorneys." Ark. Code. Ann. §§ 5-64-505(i)(2); 5-64-505(i)(4)(A)(i)(a).

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

  
\_\_\_\_\_  
ROBERT BRECH

7-5-23  
\_\_\_\_\_  
DATE

**From:** [Aaron L. Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov); [daveystowing@gmail.com](mailto:daveystowing@gmail.com)  
**Subject:** Davey Rhyne v. 14th Judicial District (220317)  
**Date:** Friday, February 2, 2024 4:01:39 PM  
**Attachments:** [image001.png](#)  
[ASCC.2.2.24.pdf](#)

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**Aaron L. Martin**  
**(Attorney/Partner)**



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February 2, 2024

Arkansas State Claims Commission  
101 E. Capitol Ave., Ste 410  
Little Rock, AR. 72201-3823

Sent Via E-Mail:  
[ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov)

**RE: Davey Rhyne v. State of Arkansas**  
**Claim No: 220317**

## REQUEST FOR STATUS UPDATE AND RULING

To Whom it May Concern:

A hearing was held on May 19, 2023. Following the hearing, the Commission issued an Order on May 30, 2023, directing the parties to try and resolve this matter and submit an update no later than June 20, 2023.

The Claimant filed his status report on June 20, 2023, stating that the parties were unable to resolve this claim and requested the Commission move forward with the issuance of its decision. In lieu of filing a status report, the Respondent filed a Motion for Extension on June 20, 2023, requesting an extension to file its status report and findings no later than July 6, 2023. The Claimant filed his Response in Opposition on June 22, 2023.

The Commission has not yet ruled on the Respondent's Motion for Extension, nor has the Respondent reported its findings by July 6, 2023, as requested in its Motion. Therefore, the Claimant prays that the Commission deny the Respondent's Motion and move forward with a final determination in this case.

Thank you for your attention to this matter.

Sincerely,

*/s/Aaron L. Martin*

cc: Julius Gerard at [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

**From:** [Aaron L. Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Jay Gerard](#); [daveystowing@gmail.com](mailto:daveystowing@gmail.com)  
**Subject:** Davey Rhyne v. 14th Judicial District (220317)  
**Date:** Monday, February 5, 2024 10:43:14 AM  
**Attachments:** [image001.png](#)  
[ASCC.2.5.24.pdf](#)

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February 5, 2024

Arkansas State Claims Commission  
101 E. Capitol Ave., Ste 410  
Little Rock, AR. 72201-3823

Sent Via E-Mail:  
[ascpleadings@arkansas.gov](mailto:ascpleadings@arkansas.gov)

**RE: Davey Rhyne v. State of Arkansas**  
**Claim No: 220317**

## NOTICE OF FILING RESPONSE IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS

To Whom it May Concern:

I submitted a letter to the Commission dated 2/2/24 requesting a denial of Respondent's Motion for Extension and a ruling on this case with the understanding that Respondent had not submitted its findings by 7/6/23, as requested.

Later that day I received an e-mail from Respondent's counsel that included a copy of its Motion to Dismiss that was apparently filed on 7/6/23. However, the Claimant was not served a copy of this Motion on 7/6/23. I spoke with Respondent's counsel and he confirmed that Respondent inadvertently did not include me on the e-mail, and Claimant was not served a copy of Respondent's Motion to Dismiss on 7/6/23.

Claimant contends that he was not served a copy of Respondent's Motion to Dismiss until 2/2/24 and is notifying the Commission that he will be filing a Response in Opposition within 14 days from service. As such, the Claimant requests that the Commission not rule on Respondent's Motion to Dismiss without receiving and considering Claimant's Response in Opposition.

Thank you for your attention to this matter.

Sincerely,

*/s/Aaron L. Martin*

cc: Julius Gerard at [Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

**From:** [Aaron L. Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Jay Gerard](#); [daveystowing@gmail.com](mailto:daveystowing@gmail.com)  
**Subject:** Davey Rhyne v. Prosecuting Attorney for the 14th Judicial (220317)  
**Date:** Wednesday, February 14, 2024 12:28:30 PM  
**Attachments:** [image001.png](#)  
[Response in Opposition to MTD.pdf](#)

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Please find enclosed Claimant's Response in Opposition to Respondent's Motion to Dismiss.

**Aaron L. Martin**  
**(Attorney/Partner)**



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**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**CLAIMANT’S RESPONSE IN OPPOSITION TO  
RESPONDENT’S MOTION TO DISMISS**

The Claimant, by and through undersigned counsel, states the following for his response in Opposition to Respondent’s Motion to Dismiss.

**PROCEDURAL HISTORY**

This Claim was originally filed on September 17, 2021. The Respondent filed his first Motion to Dismiss on March 24, 2022, arguing prosecutorial immunity and failure to state facts upon which relief could be granted under Ark. R. Civ. P. Rule 12(b)(6). The Commission properly denied the Motion and issued a Scheduling Order stating the deadline “*to file a motion of any kind*” was before April 28, 2023. The Respondent timely filed a Motion for Summary Judgment on April 12, 2023, and the Claimant filed his Response in Opposition on April 28, 2023. A hearing was held on May 19, 2023 and following the hearing, the Commission entered an Order directing the parties to try and resolve this matter and submit an update no later than June 20, 2023. The Respondent made no good faith

offers and on June 20, 2023, the Claimant submitted his status update confirming that the parties were unable to settle this matter. On June 20, 2023, the Respondent filed a Motion for an Extension, arguing that he needed additional time to research whether the Commission had authority to direct the Respondent to pay an Award from its asset forfeiture fund. The Commission did not rule on the Respondent's Motion for an Extension. However, assuming that his Motion for an Extension would be granted and ignoring the Commission's Scheduling Order, the Respondent filed another Motion to Dismiss on July 6, 2023, but inadvertently did not serve the Claimant until February 2, 2024. The Claimant timely files this Response in Opposition.

### **LEGAL ARGUMENT**

The Commission has jurisdiction over this claim. This Commission has jurisdiction over all claims against the State of Arkansas and its agents. This is a claim against the Respondent as an agent of the State. This claim alleged that the Respondent failed to follow state law and is seeking an award for proper compensation. While the Commission of course does not have authority to hear claims against a county, the Claimant did not file a claim against a county or a county fund and has made zero allegations against a county or county fund. Therefore, the Commission clearly has jurisdiction over this claim.

The Respondent's Motion has complicated this simple construct by either

arguing that this claim is somehow a claim against a county or a county fund, or the more likely argument that while this Commission may have jurisdiction over this claim, it does not have authority to direct the Respondent to pay the Award from the 14th Judicial District's asset forfeiture fund (hereinafter referred to as the Asset Forfeiture Fund). The Claimant disagrees with these arguments and again confirms that this is a claim against an agent of the State and argues that the law does not preclude the Commission from directing the Respondent to pay an award from its Asset Forfeiture Fund.

The Claimant agrees with the Respondent's points of law. The Claimant agrees that this Commission has jurisdiction over claims against the State of Arkansas and its agents but does not have jurisdiction over claims against a county. *See* Ark. Code Ann. §19-10-204. The Claimant also agrees that the Respondent was solely responsible for managing the Asset Forfeiture Fund under Ark. Code Ann. §5-64-405(i)(1). The Claimant would add that as part of his responsibility in managing the Asset Forfeiture Fund, the Respondent was required by law to distribute moneys from the Asset Forfeiture Fund to pay the Claimant for the expenses of seizure and maintenance of custody for property. *See* Ark. Code Ann. §5-64-505(i)(1)(B).

Next, the Claimant unfortunately does not have the resources to directly dispute the Respondent's factual allegations. The Respondent essentially alleges

through Affidavits from its own agents that the Asset Forfeiture Fund are not “state funds.” The Respondent then jumps to the conclusion that because the Asset Forfeiture Fund are not “state funds,” the Commission has no jurisdiction over the entire claim without making any legal arguments or citing any authority. The Respondent’s factual allegations have little to no bearing on this claim. Even if the Commission does not have direct authority over the Asset Forfeiture Fund, there is no dispute that the Commission has authority over the Respondent.

The Commission again has jurisdiction over claims against the State of Arkansas and its agents. Ark. Code Ann. §19-10-204(a)(1). There is no dispute that the Respondent is an employee and/or agent of the State. If there was any doubt, this fact was admitted in paragraph 11 of Respondent’s Answer to the Complaint Narrative. This claim was not filed against a county or the Asset Forfeiture fund, and the Claimant has made zero allegations against any county or the Asset Forfeiture Fund. The Asset Forfeiture Fund did nothing wrong. Instead, the Claimant has repeatedly argued that the Respondent has disregarded state law that says he “**shall distribute moneys from the asset forfeiture fund for the expenses of seizure and maintenance of custody for property**” (*emphasis added*) Ark. Code Ann. §5-64-505(i)(1)(B). Again, the Commission clearly has jurisdiction over this claim.

Because the Commission clearly has jurisdiction over this claim, the

Respondent's argument may instead be that the Commission simply does not have authority to direct the Respondent to pay an Award from its Asset Forfeiture Fund. Of course, the Respondent again made no legal argument or cited any authority for this position, and there is no law precluding the Commission from directing the Respondent to pay the award from its Asset Forfeiture Fund. However, even if the Commission did not have authority to direct payment from the Asset Forfeiture Fund, the Commission would still have jurisdiction over this claim and authority to award compensation from another source.

The law states that when the Commission finds a claim or action to be valid, the Director has authority to notify the appropriate state agency and they shall issue payment to the Director to deposit the funds in the miscellaneous revolving fund to then distribute to the claimant. *See* Ark. Code Ann. § 19-10-213. The law makes no distinction as whether the appropriate funds are “state funds” or “county funds” or “municipal funds.” If a state agent has authority over the appropriate funds, then the Director should have authority to direct payment from that fund. A county is not a sovereign entity and is simply a political subdivision of the State. *See* Ark. Code Ann. §14-14-501. Also, the State may exercise “absolute control over all revenues collected by subordinate branches of the state government” *Sanderson v. Texarkana*, 103 Ark. 529, 146 S.W. 105, 106 (1912). Therefore, the Commission should have authority to direct payment from the Asset Forfeiture Fund.

In the alternative, if the Commission finds that it somehow does not have authority to direct the Respondent to pay the award from its Asset Forfeiture Fund, then the Commission does have authority to issue an Award up to \$15,000.00 or refer the claim to the General Assembly for an amount exceeding \$15,000.00. *See* Ark. Code Ann. § 19-10-215(a). The Claimant performed a service for the State of Arkansas with the expectation of payment and has had to fight for three years now to force the State to pay its debt.

### **CONCLUSION**

The Respondent has filed a Motion to Dismiss that was denied, a Motion for Summary Judgment that should be denied and has now filed a second Motion to Dismiss beyond the Commission's Scheduling Order. Instead of paying its debt, or even trying to resolve this claim in good faith, the Respondent has instead made every effort to try and avoid paying a small business owner who did nothing wrong other than perform a service for the State. The Commission clearly has jurisdiction over this claim against an agent of the State, and the only question is whether the Commission has authority to direct the Respondent to pay the award from its Asset Forfeiture Fund. There is no law precluding the Commission from directing the Respondent to follow state law and pay for the "expenses of seizure and maintenance of custody for property" from the Asset Forfeiture Fund pursuant to Ark. Code Ann. §5-64-505(i)(1)(B).

The Claimant prays that this Commission deny the Respondent's Motion to Dismiss, issue an Award in favor of the Claimant and either direct the Respondent to pay an Award from its Asset Forfeiture Fund or direct that the Award be paid from the State Treasury or other appropriate fund.

Respectfully Submitted

By: /s/Aaron L. Martin  
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ATTORNEY FOR CLAIMANT

#### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 14th day of February, 2024 to the following:

Julius Gerard  
[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin  
Aaron L. Martin

**From:** [Jay Gerard](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Ayanna Austin](#); ["Aaron Martin"](#); [David Ethredge](#)  
**Subject:** Rhyne v. Prosecuting Attorney, CC-220317 [Reply to Claimant's Response to MTD]  
**Date:** Friday, February 16, 2024 1:09:11 PM  
**Attachments:** [image003.jpg](#)  
[Rhyne Reply to Claimant Response.pdf](#)

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Claims Commission,

Attached is Respondent's Reply to Claimant's Response to Motion to Dismiss. Opposing counsel, Aaron Martin, was served a copy in a previous email correspondence on this date. Mr. Martin is also being copied on this email submission.

Thank you,

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

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IN THE ARKANSAS STATE CLAIMS COMMISSION

DAVEY RHYNE

CLAIMANT

v.

CASE NO. CC-220317

PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT

RESPONDENT

**REPLY TO CLAIMANT’S RESPONSE TO RESPONDENT’S MOTION TO DISMISS**

Comes now, Respondent David Ethredge, by and through undersigned counsel, and for his Reply to Claimant’s Response to Respondent’s Motion to Dismiss, states the following:

1. Respondent does not dispute that the Claims Commission (“Commission”) set a motion deadline of April 28, 2023. *See Response*, p. 1. However, Respondent’s inability to challenge jurisdiction prior to the motion deadline is irrelevant.

2. A hearing was held on May 19, 2023, and a final decision on the merits has not been reached. Rules 12(h)(2) and 12(h)(3) of the Arkansas Rules of Civil Procedure are clear that the defense of lack of jurisdiction over the subject matter may be raised *at any time* and a court *shall* dismiss an action if it appears that subject matter jurisdiction is lacking. Jurisdiction can even be challenged on appeal. *Gates v. State*, 353 Ark. 333, 335 (2003). Claimant appears to be arguing that the Commission, armed with knowledge that they lack subject matter jurisdiction to hear this matter, should ignore the law and render a decision on the merits regardless.

3. Claimant erroneously states that this Commission has jurisdiction over “all claims against the State of Arkansas and its agents.” *Response*, p. 2. On the contrary, the Commission only has jurisdiction to hear claims that are barred by the doctrine of sovereign immunity from being tried in a court of general jurisdiction. *See* A.C.A. § 19-10-204(a)(1).

4. In determining whether sovereign immunity applies, the Court should determine if a judgment for the plaintiff will operate to control the action of the State or subject it to liability. If so, the suit is one against the State and is barred by the doctrine of sovereign immunity. *Arkansas Department of Human Services v. Fort Smith School District*, 2015 Ark. 81, 6.

5. The Court has recognized three ways in which a claim of sovereign immunity may be waived: (1) where the State is the moving party seeking specific relief; (2) where an act of the legislature has created a specific waiver of sovereign immunity; and (3) where the state agency is acting illegally or if a state-agency officer refuses to do a purely ministerial action required by statute. *Id.*, see also *Ark. Dep't of Cmty. Con. v. City of Pine Bluff*, 2013 Ark. 36.

6. Claimant argues that it does not matter whether the Asset Forfeiture Fund, controlled by the Fourteenth Judicial District Prosecuting Attorney, is a county fund or state fund. *Response*, pp. 2-4. Claimant is wrong. This is actually the crux of the jurisdictional question. The State of Arkansas must be liable for the relief sought for sovereign immunity to apply. Here, the State is not liable because Claimant seeks *county funds*. Therefore, this case would not be subject to dismissal by a court of general jurisdiction under sovereign immunity.

7. Claimant admits that a county is a political subdivision of the state. *Response*, p. 5. The Commission expressly lacks jurisdiction to hear claims against political subdivisions of the state. See A.C.A. § 19-10-204(b)(1).

8. Even if the Commission accepts Claimant's argument that Respondent can be ordered in his official capacity to disburse funds from the Fourteenth Judicial District's Asset Forfeiture Fund under A.C.A. § 5-64-505(i)(1)(B), this means that sovereign immunity is defeated because it represents a "state-agency officer refus[ing] to do a purely ministerial action required

by statute.” *Dep’t of Human Services*, at 6. Therefore, Claimant is not barred from seeking relief in a court of general jurisdiction.

9. Claimant finally argues that even if the Commission finds it cannot direct Respondent to pay from the Asset Forfeiture Fund, they should award judgment against him regardless. Not only is this the first time Claimant has asked the Commission to find against Respondent in his individual capacity or through any source outside the Asset Forfeiture Fund, but it is also jurisdictionally barred.

10. State officers and employees receive statutory or “qualified” immunity from liability and suit “for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment.” *See Rutledge v. Remmel*, 2022 Ark. 86, 7 ((citing A.C.A. § 19-10-305(a)). Claimant has litigated this claim on the basis of money being owed him from the Fourteenth Judicial District’s civil asset forfeiture fund. He has not alleged that Respondent, David Ethredge, has acted maliciously within the scope of his duties. Respondent’s entitlement to qualified immunity in his individual capacity is separate entirely from the doctrine of sovereign immunity for state-liability claims.

### **CONCLUSION**

This claim is not barred by sovereign immunity. We look to see if the State is being compelled to act (injunctive relief) or if the State is liable for damages (monetary relief). If the Commission finds that Claimant’s claim compels Prosecuting Attorney Ethredge to perform the ministerial duty of distributing funds pursuant to statute, sovereign immunity is waived. Second, the State is not liable for monetary damages because the funds Claimant seeks are county funds; therefore, sovereign immunity is inapplicable. The Claims Commission must dismiss this action because they lack subject matter jurisdiction to reach a decision on the merits.

Respectfully submitted,

TIM GRIFFIN  
Attorney General

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*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Julius J. Gerard, hereby certify that on February 16, 2024, I electronically mailed the foregoing to the following participant:

Aaron Martin  
Email: aaron@martinlawpartners.com  
Attorney for Claimant

***Julius J. Gerard***

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE d/b/a DAVEY'S  
AUTO BODY AND SALES**

**CLAIMANT**

**V.**

**CLAIM NO. 220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the “Commission”) is the claim filed by Davey Rhyne d/b/a Davey’s Auto Body and Sales (collectively referred to herein as the “Claimant”) against the Prosecuting Attorney for the Fourteenth Judicial District (the “Respondent”). At the May 19, 2023, claim hearing, Aaron Martin appeared on behalf of Claimant, and Jay Gerard appeared on Respondent’s behalf. Following the claim hearing, the Commission directed the parties to work on resolving this matter for 30 days. When that was unsuccessful, Respondent filed a motion for extension to provide a status update and a motion to dismiss. Based upon a review of the claim file, including the testimony, evidence, and argument presented by the parties at the claim hearing, and the law of the State of Arkansas, the Commission hereby finds as follows:

1. Claimant filed this claim seeking “\$85,616.01 and additional storage fees” related to towing and storage services that Claimant provided at the request of the Newton County Sheriff’s Office in October 2017.<sup>1</sup> Four vehicles (the “Four Vehicles”) were towed by Claimant to his storage facility<sup>2</sup>: a 2009 Chevrolet 1500 Truck (the “2009 Truck”), a 2010 Chevrolet 2500 Truck (the “2010 Truck”), a Honda Recon ATV (the “Honda ATV”), and a Honda Pioneer UTV

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<sup>1</sup> See Complaint. See also Complaint Narrative at ¶¶ 10–12.

<sup>2</sup> Complaint Narrative at ¶ 11–12.

(the “Pioneer”). In December 2017, Respondent filed a complaint in Newton County Circuit Court seeking the forfeiture of the Four Vehicles.<sup>3</sup> The owner of the residence from which the vehicles were seized, [REDACTED], was a party to the forfeiture action.<sup>4</sup> An agreed order was entered by the Newton County Circuit Court in January 2019 forfeiting the 2009 Truck and releasing the other three.<sup>5</sup> The Newton County Circuit Court sentenced [REDACTED] but did not order him to pay the towing and storage fees for the Four Vehicles.<sup>6</sup> [REDACTED] picked up the 2010 Truck and the Honda ATV and paid \$300.63 to Claimant for “mileage, tow, labor, and taxes.”<sup>7</sup> Claimant alleged that the Newton County Sheriff, Glenn Wheeler, told Claimant that [REDACTED] would pay for the towing of the 2010 Truck and the Honda ATV and that “they would pay the remaining charges.”<sup>8</sup> Claimant thereafter sent numerous invoices (which were discounted) to Sheriff Wheeler with no response.<sup>9</sup> In August 2019, Respondent and Sheriff Wheeler called Claimant and “refused to pay.”<sup>10</sup> To date, the 2009 Truck remains at Claimant’s storage facility.<sup>11</sup> Claimant filed this claim alleging (1) a violation of Ark. Code Ann. § 5-64-505 and (2) unjust enrichment.

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<sup>3</sup> Complaint Narrative at ¶ 13.

<sup>4</sup> Complaint Narrative at ¶¶ 10 and 13. *See also* Respondent’s forfeiture complaint attached to the Complaint Narrative as Exhibit A.

<sup>5</sup> Complaint Narrative at ¶ 14. *See also* Agreed Order attached to the Complaint Narrative as Exhibit B. The Newton County Circuit Court released the 2010 Truck and the Honda ATV to [REDACTED] and ordered the Pioneer returned to its owner, [REDACTED]. Complaint Narrative at ¶ 14.

<sup>6</sup> Complaint Narrative at ¶ 15. *See also* Sentencing Order, which is attached to the Complaint Narrative as Exhibit C.

<sup>7</sup> Complaint Narrative at ¶ 17. Claimant clarified that he waived the tow charges for the Honda Recon ATV “to avoid further confrontation” with [REDACTED]. *Id.*

<sup>8</sup> *Id.* at ¶ 16.

<sup>9</sup> *Id.* at ¶¶ 19–21. *See also* letters and invoices attached to the Complaint Narrative as Exhibits E, F, and G.

<sup>10</sup> Complaint Narrative at ¶ 22.

<sup>11</sup> *Id.* at ¶ 23.

2. Respondent filed a motion to dismiss the claim, which was denied by the Commission on December 1, 2022, following a hearing.

3. Ahead of the May 19, 2023, claim hearing, Respondent filed a motion for summary judgment, arguing, *inter alia*, that Claimant's towing and storage costs on the Four Vehicles are not "bona fide liens" or "proper expenses" under Ark. Code Ann. § 5-64-505. Respondent also argued that it became the owner of the 2009 Truck in January 2019 and that Claimant did not transfer the vehicle to Sheriff Wheeler until September 14, 2021.

4. Claimant filed a response to the motion, arguing that Respondent misinterpreted Arkansas law and that there are questions of material fact precluding summary judgment.

5. At the hearing, the parties agreed that their prehearing briefs would serve as the parties' opening statements.

6. Following the presentation of witness testimony, the parties presented closing arguments.

#### Testimony of Davey Rhyne

7. Claimant's counsel called Claimant Davey Rhyne to testify.

8. After being sworn in, Claimant stated that he has operated his business in Harrison since 1992. His business provides collision repair, towing and recovery services. Claimant has provided services to law enforcement and to the public. He has worked for numerous law enforcement agencies related to the towing of vehicles. In criminal matters, including matters involving drugs, Claimant typically towed vehicles to the law enforcement agency's impound lot. Claimant noted that he usually does not get paid in these situations.

9. In October 2017, after being notified by the Newton County dispatch, Claimant and another employee took tow trucks to the scene and loaded the Four Vehicles. At that time, Claimant was directed to take the Four Vehicles to his facility because Newton County did not have a place

to store them at that time. Claimant recalled seeing Newton County Officer Anthony Kent, Bobby Braden (Coordinator for Fourteenth Judicial District Drug Task Force), and Matt Odom (assigned to the Drug Task Force) on the scene. This was the first time Claimant was instructed to take seized vehicles to his storage facility.

10. When law enforcement puts a “hold” on a vehicle, Claimant cannot touch or access the vehicle. There was a hold on the Four Vehicles towed to Claimant’s facility.

11. Referring to Claimant’s Exhibit A, which is the forfeiture complaint filed in Newton County Circuit Court in December 2017, the vehicles listed as items l, m, n, and o were the Four Vehicles.

12. Referring to Claimant’s Exhibit B, which is the agreed order entered by the Newton County Circuit Court in January 2019, Claimant stated that the Pioneer was previously returned to its owner<sup>12</sup> in September 2018. During the pendency of the forfeiture action, Claimant was not told that the vehicles were released. Respondent did not notify Claimant of the agreed order. Claimant did not recall when he learned of the agreed order. When [REDACTED] contacted Claimant to pick up the 2010 Truck and the Honda ATV, Claimant informed [REDACTED] that there was a hold on both vehicles and that Claimant would need to contact the Newton County Sheriff’s Office. After contacting the Newton County Sheriff’s Office, Claimant released the 2010 Truck and the Honda ATV to [REDACTED] in February 2019. The 2009 Truck is still on Claimant’s lot.

13. Referring to Claimant’s Exhibit I, Claimant stated that the exhibit shows text messages between Claimant and Sheriff Wheeler. At the bottom of the text thread, Sheriff Wheeler texted the following about the 2009 Truck:

Hold off on that other truck. Prosecutor says I can’t sign that over because it was awarded to the Drug Task Force fund and I can’t sign it over.

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<sup>12</sup> The owner of the Pioneer was [REDACTED]. See *infra* at fn. 5.



14. Referring to Claimant's Exhibit E, Claimant stated that it is the first invoice that Claimant sent to the Newton County Sheriff. Claimant noted that the invoice was deeply discounted to \$21,401.88 to try to get the invoice paid. Claimant did not get a response to this invoice.

15. Referring to Claimant's Exhibit F, Claimant stated that it is the second invoice that Claimant sent to the Newton County Sheriff. Claimant did not get a response to this invoice.

16. Referring to Claimant's Exhibit G, Claimant stated that it is the third and final invoice that Claimant sent to the Newton County Sheriff, which included a demand for payment. Claimant did not get a response to this invoice.

17. After the third invoice, David Etheridge, Prosecutor for the Fourteenth Judicial District, called Claimant and told him that the invoice was too high and for "a ridiculous amount."

18. Regarding the invoices, Claimant sent the invoices to the Newton County Sheriff. He did not know that he was supposed to send the invoice to Respondent. He had provided services to Respondent many times in the past. He did not know that he could bill Respondent for providing those services.

19. Claimant was not familiar with the Asset Forfeiture Fund (the "AFF") or the Uniform Controlled Substances Act (UCSA) until he hired his attorney.

20. Claimant stated that the 2009 Truck is still on Claimant's lot. Respondent did not try to come retrieve the 2009 Truck after the agreed order was entered in January 2019. Someone from Respondent's office came to take pictures of the 2009 Truck, but no one from Respondent's office called Claimant about the 2009 Truck.

21. Referring to Respondent's Exhibit F, which is a September 14, 2021, letter from Respondent to Sheriff Wheeler transferring ownership of the 2009 Truck to the Newton County

Sheriff's Office. Claimant did not receive a copy of this letter until Claimant's counsel showed it to him.

22. Claimant researched the ownership of the 2009 Truck several times. In 2017, [REDACTED] was listed as the owner. According to the Arkansas Department of Revenue, as recently as April 15, 2023, [REDACTED] was listed as the owner of the 2009 Truck. Claimant does not know how [REDACTED] could still be the owner in light of the forfeiture. Claimant does not know who the owner of the 2009 Truck is.

23. Storing the 2009 Truck has cost Claimant money. The 2009 Truck is stored in a secure facility. Every day that the 2009 Truck stays in Claimant's secure facility is costing Claimant money. If Respondent or Sheriff Wheeler came to pick up the 2009 Truck, Claimant said that he would give it to them. Claimant has no interest in the 2009 Truck. He cannot sell it because he does not know who the owner is.

24. Referring to Claimant's Exhibit D, Claimant stated that this exhibit is his posted list of wrecker charges. He is required to submit a copy of this posted list to law enforcement each year so that law enforcement will know what the current rates are. The rates listed in Claimant's Exhibit D are from 2020, but the charges were the same or very similar in 2017.

25. Claimant provided details of the amount of damages incurred as of the date of the hearing, which totaled \$152,850.92:

- a. For the Pioneer, the towing charge was \$257.52 including tax. This vehicle had to be stored inside because it was brand new. It was stored for 341 days at a rate of \$60 per day. The total for storage is \$22,045.65 including tax. The total for towing and storage is \$22,235.05.

- b. For the Honda ATV, the towing charge was \$257.52 including tax. This vehicle was stored outside for 486 days at a rate of \$40 per day. The total for storage is \$20,946.60 including tax. The total for towing and storage is \$21,258.
- c. For the 2010 Truck, the towing charge was \$257.52 including tax. This vehicle was stored outside for 486 days at a rate of \$40 per day. The total for storage is \$20,946.60 including tax. The total for towing and storage is \$21,258.
- d. For the 2009 Truck, the towing charge was \$257.52 including tax. The total for towing and storage as of the date of the hearing was \$88,278.50. Had the 2009 Truck been picked up on September 14, 2021 (when Respondent gave it to the Newton County Sheriff's Office), the total would have been \$65,989.90.

26. Two complaints were filed with the towing board related to this claim. The first was in August 2019. John Williams from the towing board called Claimant. The second was in April 2023, and Tracy Watson from the towing board called Claimant. Nothing came of either complaint.

27. Claimant asked the Commission to get this matter resolved.

28. On cross-examination, Claimant stated that an officer on the scene told Claimant to store the Four Vehicles on Claimant's lot because there was no space in the Newton County lot. In every other similar situation, Claimant had taken vehicles to a law enforcement agency's lot. He testified that he does not store vehicles for free. Claimant clarified that while he had previously not been paid by law enforcement for towing, storage was a different matter. From October 2017 through January 2019, he did not call any of the law enforcement agencies to see if there was room in their impound lots because it was not part of his job description. He did send an invoice in March 2019 for the storage fees. The Newton County Sheriff's Office had Claimant's posted rates on file. Claimant testified that he would send notice to the owners of abandoned vehicles on his

lot that he was charging storage fees, but he did not do so in this matter because the vehicles were not abandoned. Claimant did not send an invoice to the Newton County Sheriff's Office until March 2019 because he did not know he was supposed to do so. When asked whether Sheriff Wheeler or Respondent should be responsible, Claimant stated that someone is responsible for the invoice. Claimant disagreed that it was unreasonable for him to charge storage fees without giving notice to Sheriff Wheeler or Respondent.

29. In February 2019, he released the 2010 Truck and Honda ATV to [REDACTED] for approximately \$300. The Pioneer was picked up by its owner,<sup>13</sup> and Claimant did not receive any money for those towing and storage fees because he was told that he could not charge the owner for those fees. Claimant did not recall who told him that. Claimant did not charge [REDACTED] for the storage fees because he understood that [REDACTED] was not liable for the storage fees associated with the 2010 Truck and Honda ATV. Claimant expected that the Newton County Sheriff's Office would be responsible for the storage fees during the pendency of the forfeiture action. He did not have an agreement with the Newton County Sheriff's Office during the October 2017–January 2019 time period. Claimant did not try to get the vehicles off his lot because he did not know who the owners of the vehicles were.

30. Because law enforcement put a hold on the vehicles, Claimant could not do anything with those vehicles. Claimant noted that “they” knew where the vehicles were. In February 2019, Claimant learned that the holds were released on the 2010 Truck and the Honda ATV, which is when [REDACTED] retrieved those vehicles from Claimant's lot. Claimant did not recall if he was also told that the holds on the 2009 Truck and Pioneer were released or that the 2009 Truck was forfeited to the state.

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<sup>13</sup> See *infra* at fn. 5.

31. Claimant did not know if Mr. Etheridge was on scene when Claimant initially towed the vehicles to his lot. Claimant sent three invoices to Sheriff Wheeler. The third invoice was sent with a letter with a standard demand for payment. Claimant did not send notice to Respondent. He sued Respondent instead of Sheriff Wheeler because Respondent is responsible for paying this invoice. Claimant had not previously sent an invoice to Respondent because he did not know that he could. Claimant did not send a demand letter to Respondent. Storage fees continue to accrue on the 2009 Truck. The agencies were “very aware” that the vehicles were at Claimant’s storage facility, as shown by Sheriff’s Wheeler text message. When asked about the text message that Claimant sent to Sheriff Wheeler stating “I put him in his place,”<sup>14</sup> Claimant explained that [REDACTED]’ attorney had called Claimant and threatened him. The 2010 Truck and Honda ATV were released to [REDACTED] after Claimant talked to Sheriff Wheeler. Even though a text message from Sheriff Wheeler stated that the 2009 Truck was “awarded to the Drug Task Force fund,” that did not answer the question of ownership because the Arkansas Department of Finance and Administration still showed [REDACTED] as the owner of the 2009 Truck as of April 2023.

32. Upon a question from a commissioner, Claimant stated that the Pioneer was picked up in September 2018, and the Honda ATV and 2010 Truck were picked up in February 2019.

33. Upon a question from a commissioner, Claimant stated that the applicable sales tax rate is 7.75%.

34. Upon a question from a commissioner, Claimant stated that the tow charges for each of the vehicles were the same, \$257.52.

35. Upon a question from a commissioner, Claimant stated that his indoor storage facility can hold 15 vehicles. His outdoor storage could hold approximately 20 vehicles. During

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<sup>14</sup> Claimant Exhibit I.

the time he was storing these vehicles, he recalled having to “make other arrangements” for the storage of a vehicle due to lack of space.

36. Upon a question from a commissioner as to how he calculated the discount on his invoices, Claimant stated that he did not recall. He kept discounting the invoice until he got to a number that he thought would be resolved. Claimant considered that invoice to be a fair resolution to the matter.

37. Upon a question from a commissioner, Claimant stated that he has done work for law enforcement for fifteen to twenty years. Most of the time, the owners of the vehicles towed by Claimant are responsible for the bills, so Claimant did not have to discuss billing with law enforcement agencies other than submitting a rate sheet every year.

38. Upon a question from a commissioner, Claimant stated that he has never previously been asked to store seized vehicles by law enforcement.

39. On re-cross (from the commissioners’ questions of Claimant), Claimant stated that abandoned vehicles can be auctioned to pay for the storage fees. The same rule does not apply to seized vehicles because of the hold that law enforcement puts on those vehicles. Claimant stated that he would be in “trouble” if he tried to auction a vehicle with a law enforcement hold.

#### Testimony of David Etheridge

40. Claimant’s counsel called David Etheridge to testify.

41. After being sworn in, Mr. Etheridge stated that he is currently the prosecutor for the Fourteenth Judicial District. The Fourteenth Judicial District includes Baxter, Boone, Marion, and Newton counties. The Fourteenth Judicial Drug Task Force is within Mr. Etheridge’s jurisdiction.

42. Mr. Etheridge testified that he is well aware of the UCSA and how it is funded. He has enforced the UCSA.

43. Referring to Exhibit A to Respondent's motion to dismiss, Mr. Etheridge confirmed that it was his affidavit. Mr. Etheridge stated that his affidavit set out the forfeiture process. A law enforcement agency can seize items under the UCSA, but Respondent's office handles the civil portion of the forfeiture proceedings. If a vehicle is seized, forfeited, and sold, those funds are deposited into the AFF pursuant to Ark. Code Ann. § 5-64-505(i)(1)(A).<sup>15</sup> If a vehicle is forfeited and sold at auction, the proceeds from the sale of the forfeited vehicle would be deposited in the AFF. Those funds are to be used for law enforcement and prosecutorial purposes.

44. A confiscation report lists the item seized. A confiscation report would have been filed in [REDACTED]' case. The confiscation report does not always include the location of the seized items, but Mr. Etheridge agreed that Ark. Code Ann. § 5-64-505(f)(3)(E)<sup>16</sup> requires that this information be provided in the confiscation report. He explained that there can be defects in the confiscation reports received from law enforcement. He does not know whether, in this particular case, the confiscation report contained the location information.

45. To Mr. Etheridge's knowledge, Respondent has never paid a towing or storage bill. Respondent's task force does not direct where a vehicle should be taken.

46. Mr. Etheridge did not know the customary towing and storage fees. He had no reason to believe that Claimant's posted charges were higher than normal.

47. Referring to Claimant's Exhibit A, Mr. Etheridge's office filed a forfeiture complaint that specified that the Four Vehicles were "in the custody of the Drug Task Force/Newton County Sheriff's Office." Mr. Etheridge stated his office believed that the property was in Newton County, Arkansas.

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<sup>15</sup> "The proceeds of any sale and any moneys forfeited or obtained by judgment or settlement under this chapter shall be deposited into the asset forfeiture fund of the prosecuting attorney. . . ."

<sup>16</sup> "The confiscation report shall contain the following information: Where the property will be held."

48. Referring to Claimant's Exhibit B, the agreed order specified that the 2009 Truck was forfeited to Respondent. As of January 17, 2019, which is the date of the agreed order, Respondent knew that the 2009 Truck was in a storage facility based on information received from law enforcement. Respondent never takes possession of forfeited vehicles. When a vehicle is forfeited, it typically sits in a "sheriff's yard" or other storage facility pending sale at auction.

49. Referring to Respondent's Exhibit F, Respondent transferred ownership of the 2009 Truck to Sheriff Wheeler's office to be used for law enforcement purposes. Mr. Etheridge believed that he had previously transferred forfeited vehicles to the Newton County Sheriff's Office. Mr. Etheridge stated that the August 2021 letter from Claimant's counsel or conversations with Claimant's counsel about this claim were not the "motivating factor" for Respondent's September 14, 2021, transfer of ownership of the 2009 Truck to the Newton County Sheriff's Office. The second page of Respondent's Exhibit F is a bill of sale with Mr. Etheridge's signature at the bottom. Mr. Etheridge is not aware of a version of the bill of sale that also has Sheriff Wheeler's signature as the "buyer." Respondent did not normally file anything with the DMV.

50. When asked who the owner of the 2009 Truck is, Mr. Etheridge stated that the owner is the Newton County Sheriff's Office and that the Newton County Sheriff's Office can transfer ownership at any point.

51. Mr. Etheridge recalled speaking with Claimant about the invoice. Respondent's office never understood why the vehicles went to Claimant's facility. According to Mr. Etheridge, the vehicles should have been taken to the "Newton County yard."

52. On cross-examination, Mr. Etheridge stated that the Newton County storage lot is "huge." Respondent's office first learned that the vehicles were in Claimant's storage facility in approximately 2019 when there was a question about an odometer reading. To Mr. Etheridge's knowledge, Respondent has never paid a towing or storage bill like this. Mr. Etheridge has served



in his role for over eight years. Prior to this claim, Mr. Etheridge has had no communication with Claimant. The AFF is funded through the sale of vehicles and other seized property. If Sheriff Wheeler wanted to sell the 2009 Truck and deposit the funds into the AFF, that would be his choice. If the AFF was used to pay Claimant, Mr. Etheridge would have to “ask Audit” to make sure that there were no issues. Mr. Etheridge stated that he has no objection. He also stated that if the 2009 Truck were sold to satisfy the debt, that would be a fair outcome. This is a very unusual situation. Mr. Etheridge stated that the AFF contains \$35,000–\$40,000 and would not cover the amount sought by Claimant. The AFF must be used for specific purposes by statute to assist small law enforcement agencies with expenses like training, safety equipment, or body armor. Respondent is a separate entity from the Newton County Sheriff’s Office. The Newton County Sheriff is a county employee, whereas Mr. Etheridge is a state employee. Respondent is a state entity. This situation was caused by a previous sheriff telling Claimant to put the vehicles at his storage facility. There is nothing preventing Claimant from moving the 2009 Truck to the Newton County Sheriff’s Office lot. Respondent was not involved in the 2017 decision to tell Claimant to put the vehicles at Claimant’s storage facility.

53. On redirect, Mr. Etheridge agreed that Ark. Code Ann. § 5-64-505(i)(1)(B) permitted the AFF to be used for the “satisfaction of any bona fide security interest or lien” or “payment of any proper expense of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.”<sup>17</sup>

54. Upon a question from a commissioner, Mr. Etheridge stated that Claimant is entitled to a reasonable amount. However, Respondent was not involved in the seizure or storage

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<sup>17</sup> (emphasis added).

of the vehicles. It is unreasonable for a truck worth less than \$5000 to cost the State what Claimant is seeking.

55. Upon a question from a commissioner, Mr. Etheridge stated that Respondent is not obligated to pay an award to Claimant, especially given that the billing was not sent to Respondent.

56. Upon a question from a commissioner, Mr. Etheridge stated that he learned of this situation when Sheriff Wheeler received the third invoice from Claimant.

57. Upon a question from a commissioner, Mr. Etheridge stated that Newton County had sufficient locations to store the vehicles without any problem.

58. Upon a question from a commissioner, Mr. Etheridge stated that the commander of the Drug Task Force is selected by the sheriffs and police chiefs in the Judicial District. The current commander has been serving in that role for approximately twenty years. The Drug Task Force participants are vetted by their respective sheriffs or police chiefs.

59. Upon a question from a commissioner, Mr. Etheridge stated that the deputy who instructed Claimant to take the Four Vehicles to Claimant's storage facility has not served as a member of the Drug Task Force.

60. On redirect, Mr. Etheridge testified that he was not present in October 2017 when the Four Vehicles were seized. The Four Vehicles were originally taken as evidence of a crime, then ultimately seized under the UCSA. Mr. Etheridge agreed that Ark. Code Ann. § 5-64-505(i)(1)(B) directs him to "administer expenses" including the "maintenance of custody" of seized property.

#### Testimony of Glenn Wheeler

61. Respondent's counsel called Sheriff Glenn Wheeler to testify.

62. After being sworn in, Sheriff Wheeler testified that he has been the sheriff in Newton County, Arkansas since 2019.

63. When the Four Vehicles were seized in 2017, Sheriff Wheeler was an employee of the Newton County Sheriff's Office but was not on scene when the seizure took place. He did not direct Claimant to store the Four Vehicles at his storage facility.

64. Since Sheriff Wheeler took office, the Newton County Sheriff's Office does not typically use the road department's lot to store vehicles. Instead, the Newton County Sheriff's Office has a fenced lot that will hold approximately a half-dozen vehicles. If needed, they spill over to the road department lot. Had Claimant asked to bring the Four Vehicles to the Newton County Sheriff's Office lot, Sheriff Wheeler would have said yes. To Sheriff Wheeler's knowledge, he believed that there was space in that lot between 2017 and 2019.

65. He did not recall Claimant asking him whether the Four Vehicles could be moved to the Newton County Sheriff's Office lot.

66. Sheriff Wheeler stated that after listening to the testimony at the hearing, he does not dispute that he is the owner of the 2009 Truck. He does not have any problem with the 2009 Truck being sold to satisfy the debt.

67. Sheriff Wheeler has not been involved with the Court of County Claims. He does not know whether that would be the appropriate venue for this claim.

68. On cross-examination, referring to Respondent's Exhibit F, Sheriff Wheeler did not recall receiving the letter from Mr. Etheridge transferring ownership of the 2009 Truck to him. He did not recall signing the bill of sale. He stated that he is "not sure" whether the Newton County Sheriff's Office is the owner of the 2009 Truck. He did not register anything with the DMV related to the 2009 Truck.

69. Upon a question from a commissioner, if a deputy were to direct a tow truck operator to tow a vehicle to the operator's lot, Sheriff Wheeler stated that he would expect there to be a fee and that he would instruct the deputy not to do that.

70. Upon a question from a commissioner, a criminal investigator would have been empowered to direct a tow truck operator where to take a towed vehicle.

#### Post-Hearing Discussion and Motion

71. At the conclusion of the hearing, the commissioners unanimously voted to request that the parties discuss the possibility of settlement over the thirty days following the hearing. The chair commissioner noted that the Commission has no authority to order the 2009 Truck to be sold. The Commission subsequently entered an order to this effect on May 30, 2023. In that order, the Commission directed the parties to submit an update to the Commission director by June 20, 2023.

72. On June 20, 2023, Respondent filed a motion to extend the status report deadline. Claimant opposed the motion.

73. On July 6, 2023, Respondent filed a motion to dismiss, arguing that the Commission lacks subject matter jurisdiction because the funds from which Claimant is seeking payment are county funds, not state funds.

74. Claimant responded<sup>18</sup> to the motion, arguing, *inter alia*, that Respondent's motion is untimely, that the Commission has jurisdiction over claims against Respondent as an agent of the State of Arkansas, that Respondent has disregarded the direction in Ark. Code Ann. § 5-64-505(i)(1)(B) that Respondent "shall distribute moneys from the asset forfeiture fund for the expenses of seizure and maintenance of custody for property," and that the Commission would still be able to award compensation from another source even if it could not from the AFF.

75. Respondent filed a reply brief, arguing, *inter alia*, that subject matter jurisdiction may be raised at any time, that Claimant's claim could be heard by a court of general jurisdiction

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<sup>18</sup> Respondent inadvertently failed to serve Claimant with the motion until February 2, 2024. Claimant filed its response on February 14, 2024.

because Claimant is seeking county funds, and that Respondent has qualified immunity for a claim from a source other than the AFF.

#### Relevant Law

76. Ark. Code Ann. § 5-64-505(i) provides, in pertinent part:<sup>19</sup>

DISPOSITION OF MONEYS RECEIVED. Subject to the provisions of subdivision (f)(5) of this section, the proceeds of sales conducted pursuant to subdivision (h)(1)(B) of this section and any moneys forfeited or obtained by judgment or settlement pursuant to this chapter shall be deposited and distributed in the manner set forth in this subsection. Moneys received from a federal forfeiture shall be deposited and distributed pursuant to subdivision (i)(4) of this section.

(1) ASSET FORFEITURE FUND.

...

(B) The prosecuting attorney shall administer expenditures from the asset forfeiture fund which is subject to audit by Arkansas Legislative Audit. Moneys distributed from the asset forfeiture fund shall only be used for law enforcement and prosecutorial purposes. Moneys in the asset forfeiture fund shall be distributed in the following order:

- (i) For satisfaction of any bona fide security interest or lien;
- (ii) For payment of any proper expense of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;
- (iii) Any balance under two hundred fifty thousand dollars (\$250,000) shall be distributed proportionally so as to reflect generally the contribution of the appropriate local or state law enforcement or prosecutorial agency's participation in any activity that led to the seizure or forfeiture of the property or deposit of moneys under this chapter; and
- (iv) Any balance over two hundred fifty thousand dollars (\$250,000) shall be forwarded to the Arkansas Drug Director to be transferred to the State Treasury for deposit into the Special State Assets Forfeiture Fund for distribution as provided in subdivision (i)(3) of this section.

...

(3) SPECIAL STATE ASSETS FORFEITURE FUND.

(A) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the

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<sup>19</sup> (emphasis added).

State a fund to be known as the “Special State Assets Forfeiture Fund”.

(B)(i) The Special State Assets Forfeiture Fund shall consist of revenues obtained under subdivision (i)(1)(B)(iv) of this section and any other revenue as may be provided by law.

(ii) Moneys from the Special State Assets Forfeiture Fund may not supplant other local, state, or federal funds.

(C) The Special State Assets Forfeiture Fund is not subject to the provisions of the Revenue Stabilization Law, § 19-5-101 et seq., or the Special Revenue Fund Account of the State Apportionment Fund, § 19-5-203(b)(2)(A).

(D)(i) The Arkansas Drug Director shall establish through rules a procedure for proper investment, use, and disposition of state moneys deposited into the Special State Assets Forfeiture Fund in accordance with the intent and purposes of this chapter.

(ii) State moneys in the Special State Assets Forfeiture Fund shall be distributed by the Arkansas Alcohol and Drug Abuse Coordinating Council and shall be distributed for drug interdiction, eradication, education, rehabilitation, the State Crime Laboratory, and drug courts.

#### (4) FEDERAL FORFEITURES.

(A)(i)(a) Any moneys received by a prosecuting attorney or law enforcement agency from a federal forfeiture shall be deposited and maintained in a separate account.

(b) However, any balance over two hundred fifty thousand dollars (\$250,000) shall be distributed as set forth in subdivision (i)(4)(B) of this section.

(ii) No other moneys may be maintained in the account except for any interest income generated by the account.

(iii) Moneys in the account shall only be used for law enforcement and prosecutorial purposes consistent with governing federal law.

(iv) The account is subject to audit by Arkansas Legislative Audit.

(B)(i) Any balance over two hundred fifty thousand dollars (\$250,000) shall be forwarded to the Division of Arkansas State Police to be transferred to the State Treasury for deposit into the Special State Assets Forfeiture Fund in which it shall be maintained separately and distributed consistent with governing federal law and upon the advice of the Arkansas Alcohol and Drug Abuse Coordinating Council.

...

77. Ark. Code Ann. § 27-50-1207(a)(1) states that “[a] law enforcement agency that directs the removal of an . . . impounded or seized vehicle shall adopt a written vehicle remove policy. . . .”

78. Ark. Code Ann. § 27-50-1208(a)(1) provides that a “towing and storage firm shall have a first priority possessory lien on the vehicle . . . for towing, recovery, and storage for which the owner is liable.” Subsection (b) states that the lien shall be perfected by “[m]aintaining possession.”

79. Ark. Code Ann. § 27-50-1209(b)(1) provides that a “towing and storage firm . . . or county that holds a perfected possessory lien on any vehicle . . . shall sell the vehicle . . . at a nonjudicial public sale for cash.” The sale cannot take place “later than ninety . . . days after perfection of the lien or forty-five . . . days after the release of any law enforcement hold . . . whichever is later.” Ark. Code Ann. § 27-50-1209(b)(2).

80. Ark. Code Ann. § 27-50-1209(c) provides that where a vehicle is held at a county storage lot, the “county may defer the public sale and make use of the vehicle for law enforcement purposes,” if certain criteria, set out in subsection (c), are met.

81. In *El Paso Production Co. v. Blanchard*, the Arkansas Supreme Court considered an unjust enrichment claim, holding that:

To find unjust enrichment, a party must have received something of value, to which he or she is not entitled and which he or she must restore. There must also be some operative act, intent, or situation to make the enrichment unjust and compensable.

. . .

In short, an action based on unjust enrichment is maintainable where a person has received money or its equivalent under such circumstances that, in equity and good conscience, he or she ought not to retain.

371 Ark. 634, 646, 269 S.W.3d 362, 372 (2007) (internal citations omitted).

82. Ark. Code Ann. § 19-10-213(a) provides that

(1) When a claim or action is determined to be a valid claim or action against the state under this chapter and the claim or action is to be paid from funds not in the State Treasury, the Director of the Arkansas State Claims Commission shall notify the state agency against which the claim or action is to be charged of the amount of the claim or action.

(2) Upon receipt of the notification under subdivision (a)(1) of this section, the state agency shall deliver a check to the director who shall deposit the funds as a nonrevenue receipt into the Miscellaneous Revolving Fund from which the director shall disburse the amount of the claim or action to the claimant.

(emphasis added).

83. “A suit against the State is barred by the sovereign-immunity doctrine if a judgment for the plaintiff will operate to control the action of the State or subject it to liability.” *Bd. of Trs. of Univ. of Ark. v. Andrews*, 2018 Ark. 12, \*5, 535 S.W.3d. 616, 619 (citing to *Ark. State Med. Bd. v. Byers*, 2017 Ark. 213, 521 S.W.3d 459); *see also Ark. Dept. of Cnty. Corr. v. City of Pine Bluff*, 2013 Ark. 36, 425 S.W.3d 731.

#### **Findings of Fact and Conclusions of Law**

84. The Commission finds that the motion for summary judgment filed by Respondent prior to the hearing must be denied, given the questions of material fact discussed at the hearing.

85. The Commission finds that Respondent’s motion for extension is moot.

86. The Commission finds that Claimant’s complaint included a cause of action based upon Respondent’s alleged violation of Ark. Code Ann. § 5-64-505 and another cause of action for unjust enrichment.

87. The Commission finds that there is no dispute over the relevant dates in this matter. The Four Vehicles were towed by Claimant to his storage facility on October 16, 2017.<sup>20</sup> By order of the Newton County Circuit Court on January 17, 2019, the 2009 Truck was forfeited to

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<sup>20</sup> See Claimant’s Complaint Narrative at ¶ 10. *See also* Respondent’s Statement of Undisputed Material Facts at ¶ 1.



Respondent.<sup>21</sup> The 2010 Truck and Honda ATV were returned to [REDACTED], and the Pioneer was returned to [REDACTED] pursuant to the Newton County Circuit Court order.<sup>22</sup> As to the 2010 Truck, Honda ATV, and the Pioneer, Claimant has recovered only \$300.63 (which was paid by [REDACTED] to Claimant for towing expenses related to the 2010 Truck).<sup>23</sup>

88. The Commission finds that Claimant's testimony that he was directed to tow the Four Vehicles to his storage facility was unrefuted. While Glenn Wheeler, the current Newton County Sheriff, testified as to the number of vehicles that the county impound lot would hold and the backup lot available if the impound lot was filled, the Commission finds that to be immaterial in light of the unrefuted testimony that Claimant was instructed to take the Four Vehicles to Claimant's facility.

89. The Commission finds that this claim represents an unusual set of circumstances that appears to be caused by a significant (and avoidable) lack of communication by Newton County, Respondent, and Claimant. Newton County did not reach out to Claimant once space became available in the county impound lot. Respondent did not reach out to Claimant to confirm the location of the Four Vehicles or to have the Four Vehicles moved while preparing the forfeiture complaint. Once the 2009 Truck was forfeited to Respondent, Respondent did not attempt to take possession of the vehicle from Claimant. However, Claimant did not reach out to Newton County or Respondent regarding the expected plan for the Four Vehicles from October 2017 until [REDACTED] came to pick up the 2009 Truck and the Honda ATV in February 2019.

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<sup>21</sup> See Claimant's Complaint Narrative at ¶ 14. See also Respondent's Statement of Undisputed Material Facts at ¶¶ 12, 14.

<sup>22</sup> See Claimant's testimony, *infra*, at ¶¶ 12, 28. See also Respondent's Statement of Undisputed Material Facts at ¶¶ 15–16.

<sup>23</sup> See *id.*

90. Given Claimant's first priority possessory lien pursuant to Ark. Code Ann. § 27-50-1208 on the Four Vehicles while the vehicles were in his possession, Claimant could have followed up with the Newton County Sheriff's Office to determine when the law enforcement hold would be released so that the Four Vehicles could be sold pursuant to Ark. Code Ann. § 27-50-1209(b).

91. Conversely, however, had Newton County had the Four Vehicles moved to its storage facility, then it could have pursued the sale of the vehicles or made use of the vehicles under Ark. Code Ann. § 27-50-1209(b)–(c).

92. As to the 2010 Truck, Honda ATV, and the Pioneer, the Commission finds that it cannot award damages to Claimant. Claimant released the 2010 Truck and Honda ATV to [REDACTED] for only \$300.63, representing the towing expenses related to the 2010 Truck only. Claimant released the Pioneer to its owner for no cost. It was incumbent upon Claimant to learn (or to retain counsel to assist him in determining) what, if anything, [REDACTED] and [REDACTED] were required to pay for storage when picking up the vehicles. To the extent that [REDACTED] or [REDACTED] were liable for the storage fees, Claimant's failure to collect those amounts from [REDACTED] or [REDACTED] does not shift the liability to Newton County or Respondent.

93. As to the 2009 Truck, the Commission finds that Claimant's claimed damages could have been mitigated and that Respondent was negligent in failing to collect the 2009 Truck following the entry of the January 2019 agreed order. As such, the Commission finds that Claimant is entitled to an amount representing a reasonable value of the 2009 Truck. From a review of Kelley Blue Book, the Commission finds that a reasonable value of the 2009 Truck is \$7,000.

94. Alternatively, the Commission finds that Respondent was unjustly enriched in the amount of \$7,000, representing the value of the 2009 Truck, by Claimant's storage of the 2009 Truck from entry of the January 2019 agreed order, in which the 2009 Truck was forfeited to

Respondent, until Respondent's September 2021 transfer of the 2009 Truck to Newton County. *El Paso Prod. Co. v. Blanchard*, 371 Ark. 634, 269 S.W.3d 362 (2007).

95. Regarding Respondent's post-hearing motion to dismiss, the Commission finds that the motion should be denied. The AFF is monitored by Arkansas Legislative Audit and is controlled by a state actor (Respondent).<sup>24</sup> Moreover, funds outside of the State Treasury can still be considered state funds within the jurisdiction of the Commission, as evidenced by Ark. Code Ann. § 19-10-213, which specifies how the Commission is to notify a state agency when a claim "is to be paid from funds not in the State Treasury."

### **Conclusion**

96. The Commission finds that Respondent is liable to Claimant for \$7,000. Claimant's claim for any other amount is denied.

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<sup>24</sup> Ark. Code Ann. § 5-64-505(i)(1)(B).

IT IS SO ORDERED.



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ARKANSAS STATE CLAIMS COMMISSION  
Solomon Graves



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ARKANSAS STATE CLAIMS COMMISSION  
Henry Kinslow



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ARKANSAS STATE CLAIMS COMMISSION  
Paul Morris, Chair

DATE: March 12, 2024

**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:** [Jay Gerard](#)  
**Cc:** [Ayanna Austin](#); ["Aaron Martin"](#)  
**Subject:** ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317  
**Date:** Tuesday, March 12, 2024 1:49:00 PM  
**Attachments:** [Rhyne v. Pros Atty -- 220317 -- hearing -- order.pdf](#)

---

Mr. Martin and Mr. Gerard, please see attached order entered 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:** [Jay Gerard](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [Ayanna Austin](#); ["Aaron Martin"](#)  
**Subject:** RE: ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317  
**Date:** Tuesday, March 12, 2024 1:55:56 PM  
**Attachments:** [image001.jpg](#)

---

Received, thank you.

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, March 12, 2024 1:49 PM  
**To:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Cc:** Ayanna Austin <[ayanna.austin@arkansasag.gov](mailto:ayanna.austin@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Subject:** ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317

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Thanks,  
Kathryn Irby

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

**From:** [Aaron L. Martin](#)  
**To:** [Kathryn Irby](#); [Jay Gerard](#)  
**Cc:** [Ayanna Austin](#)  
**Subject:** RE: ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317  
**Date:** Tuesday, March 12, 2024 3:28:34 PM  
**Attachments:** [image001.png](#)

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Received – thank you

**Aaron L. Martin**  
**(Attorney/Partner)**



**MARTIN LAW FIRM**  
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479-442-2244 (W)  
479-442-0134 (F)  
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---

**From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Sent:** Tuesday, March 12, 2024 1:49 PM  
**To:** Jay Gerard <julius.gerard@arkansasag.gov>  
**Cc:** Ayanna Austin <ayanna.austin@arkansasag.gov>; Aaron L. Martin <aaron@martinlawpartners.com>  
**Subject:** ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317

Mr. Martin and Mr. Gerard, please see attached order entered 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:** [Kathryn Irby](#)  
**To:** ["Jay Gerard"](#)  
**Cc:** ["Ayanna Austin"](#); ["Aaron Martin"](#); [SaBreana Hyche](#)  
**Subject:** INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317  
**Date:** Tuesday, March 19, 2024 5:47:00 AM  
**Attachments:** [agency letter.pdf](#)

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**Mr. Martin and Mr. Gerard**, to follow up on a phone call from Mr. Gerard yesterday, this claim is now in a 40-day hold period per Ark. Code Ann. 19-10-211. Barring a filing under 19-10-211, then the Commission will request a check for the amount awarded to Mr. Rhyne at the end of the 40 day period.

**Mr. Gerard**, I have reviewed the MTD originally filed by the agency, and I do not see the agency number, fund code, appropriation code, and activity/section/unit/element information requested in the Commission's letter transmitting the claim to the agency (see attached). This information will be needed in order for the Commission to request a check. **Please reply all with this information on or before April 10, 2024.**

If there are any questions, please let me know. I'll be out of the office through March 22, but I may have some intermittent access to email.

Thanks,  
Kathryn Irby

---

**From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Sent:** Tuesday, March 12, 2024 1:49 PM  
**To:** Jay Gerard <julius.gerard@arkansasag.gov>  
**Cc:** Ayanna Austin <ayanna.austin@arkansasag.gov>; 'Aaron Martin' <aaron@martinlawpartners.com>  
**Subject:** ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317

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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:** [Jay Gerard](#)  
**Cc:** [Ayanna Austin](#); ["Aaron Martin"](#); [SaBreana Hyche](#); [David Ethredge](#)  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317  
**Date:** Monday, March 25, 2024 11:04:00 AM  
**Attachments:** [image001.jpg](#)

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Jay, thanks for this information. Because the money would be paid from funds not in the State Treasury, we do not need any funding codes. Assuming that neither party utilizes its remedies under Ark. Code Ann. 19-10-211, at the end of the 40 days, the Commission will issue a check to Claimant and his attorney and will notify Respondent that a check for the award amount should be delivered to the Commission to replace those funds.

Kathryn Irby

---

**From:** Jay Gerard <julius.gerard@arkansasag.gov>  
**Sent:** Tuesday, March 19, 2024 12:23 PM  
**To:** Kathryn Irby <Kathryn.Irby@arkansas.gov>  
**Cc:** Ayanna Austin <ayanna.austin@arkansasag.gov>; 'Aaron Martin' <aaron@martinlawpartners.com>; SaBreana Hyche <SaBreana.Hyche@arkansas.gov>; David Ethredge <dethredge@14thpa.com>  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317

Good morning, Ms. Irby.

This case is unusual in that there aren't any appropriation codes associated with the source of the money. The Respondent may have initially been identified as the Office of the Prosecutor Coordinator; however, it was determined (and styled as such in pleadings) to be a claim against the Civil Asset Forfeiture Fund of the Prosecuting Attorney for the Fourteenth Judicial District. In its final order, the Commission ordered the funds to be paid from this source (p. 23, ¶ 95; "AFF" = Asset Forfeiture Fund). The Commission also acknowledges in paragraph 95 that these funds are outside of the State Treasury but can nonetheless be collected as they are controlled by a state actor.

Should payment become mandated at the expiration of the 40-day post-judgment appeal window, Respondent would have to write a check from the account housing these funds. Please let me know if you have any further questions.

Thank you,

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591

[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, March 19, 2024 5:48 AM  
**To:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Cc:** Ayanna Austin <[ayanna.austin@arkansasag.gov](mailto:ayanna.austin@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; SaBreana Hyche <[SaBreana.Hyche@arkansas.gov](mailto:SaBreana.Hyche@arkansas.gov)>  
**Subject:** INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317

**Mr. Martin and Mr. Gerard,** to follow up on a phone call from Mr. Gerard yesterday, this claim is now in a 40-day hold period per Ark. Code Ann. 19-10-211. Barring a filing under 19-10-211, then the Commission will request a check for the amount awarded to Mr. Rhyne at the end of the 40 day period.

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If there are any questions, please let me know. I'll be out of the office through March 22, but I may have some intermittent access to email.

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Kathryn Irby

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**Cc:** Ayanna Austin <[ayanna.austin@arkansasag.gov](mailto:ayanna.austin@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Subject:** ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317

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Thanks,  
Kathryn Irby

**Kathryn Irby**  
**Arkansas State Claims Commission**

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(501) 682-2822

**From:** [Jay Gerard](#)  
**To:** [Kathryn Irby](#)  
**Cc:** [Ayanna Austin](#); ["Aaron Martin"](#); [SaBreana Hyche](#); [David Ethredge](#)  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317  
**Date:** Monday, March 25, 2024 11:32:20 AM  
**Attachments:** [image003.jpg](#)  
[image001.jpg](#)

---

Thanks, Kathryn!

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



---

**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Monday, March 25, 2024 11:04 AM  
**To:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Cc:** Ayanna Austin <[ayanna.austin@arkansasag.gov](mailto:ayanna.austin@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; SaBreana Hyche <[SaBreana.Hyche@arkansas.gov](mailto:SaBreana.Hyche@arkansas.gov)>; David Ethredge <[dethredge@14thpa.com](mailto:dethredge@14thpa.com)>  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317

Jay, thanks for this information. Because the money would be paid from funds not in the State Treasury, we do not need any funding codes. Assuming that neither party utilizes its remedies under Ark. Code Ann. 19-10-211, at the end of the 40 days, the Commission will issue a check to Claimant and his attorney and will notify Respondent that a check for the award amount should be delivered to the Commission to replace those funds.

Kathryn Irby

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**From:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Sent:** Tuesday, March 19, 2024 12:23 PM  
**To:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Cc:** Ayanna Austin <[ayanna.austin@arkansasag.gov](mailto:ayanna.austin@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; SaBreana Hyche <[SaBreana.Hyche@arkansas.gov](mailto:SaBreana.Hyche@arkansas.gov)>; David Ethredge <[dethredge@14thpa.com](mailto:dethredge@14thpa.com)>  
**Subject:** RE: INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317

Good morning, Ms. Irby.

This case is unusual in that there aren't any appropriation codes associated with the source of the money. The Respondent may have initially been identified as the Office of the Prosecutor Coordinator; however, it was determined (and styled as such in pleadings) to be a claim against the Civil Asset Forfeiture Fund of the Prosecuting Attorney for the Fourteenth Judicial District. In its final order, the Commission ordered the funds to be paid from this source (p. 23, ¶ 95; "AFF" = Asset Forfeiture Fund). The Commission also acknowledges in paragraph 95 that these funds are outside of the State Treasury but can nonetheless be collected as they are controlled by a state actor.

Should payment become mandated at the expiration of the 40-day post-judgment appeal window, Respondent would have to write a check from the account housing these funds. Please let me know if you have any further questions.

Thank you,

**Julius "Jay" Gerard**

Assistant Attorney General  
Civil Litigation Department

323 Center Street, Suite 200  
Little Rock, AR 72201  
Office: (501) 682-3676 | Fax: (501) 682-2591  
[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)



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**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, March 19, 2024 5:48 AM  
**To:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Cc:** Ayanna Austin <[ayanna.austin@arkansasag.gov](mailto:ayanna.austin@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>; SaBreana Hyche <[SaBreana.Hyche@arkansas.gov](mailto:SaBreana.Hyche@arkansas.gov)>  
**Subject:** INFO NEEDED: Rhyne v. Prosecuting Attorney, Claim No. 220317

**Mr. Martin and Mr. Gerard**, to follow up on a phone call from Mr. Gerard yesterday, this claim is now in a 40-day hold period per Ark. Code Ann. 19-10-211. Barring a filing under 19-10-211, then the Commission will request a check for the amount awarded to Mr. Rhyne at the end of the 40 day period.

**Mr. Gerard**, I have reviewed the MTD originally filed by the agency, and I do not see the agency number, fund code, appropriation code, and activity/section/unit/element information requested in the Commission's letter transmitting the claim to the agency (see attached). This information will be

needed in order for the Commission to request a check. **Please reply all with this information on or before April 10, 2024.**

If there are any questions, please let me know. I'll be out of the office through March 22, but I may have some intermittent access to email.

Thanks,  
Kathryn Irby

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**From:** Kathryn Irby <[Kathryn.Irby@arkansas.gov](mailto:Kathryn.Irby@arkansas.gov)>  
**Sent:** Tuesday, March 12, 2024 1:49 PM  
**To:** Jay Gerard <[julius.gerard@arkansasag.gov](mailto:julius.gerard@arkansasag.gov)>  
**Cc:** Ayanna Austin <[ayanna.austin@arkansasag.gov](mailto:ayanna.austin@arkansasag.gov)>; 'Aaron Martin' <[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)>  
**Subject:** ORDER: Rhyne v. Prosecuting Attorney, Claim No. 220317

Mr. Martin and Mr. Gerard, please see attached order entered 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:** [Aaron L. Martin](#)  
**To:** [ASCC Pleadings](#)  
**Cc:** [Kathryn Irby](#); [Jay Gerard](#); [daveystowing@gmail.com](mailto:daveystowing@gmail.com)  
**Subject:** Davey Rhyne v. 14th Judicial District (220317)  
**Date:** Wednesday, April 10, 2024 5:10:07 PM  
**Attachments:** [image001.png](#)  
[Notice of Appeal.pdf](#)

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**Aaron L. Martin**  
**(Attorney/Partner)**



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**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**DAVEY RHYNE**

**CLAIMANT**

**v.**

**CASE NO. CC-220317**

**PROSECUTING ATTORNEY FOR THE  
FOURTEENTH JUDICIAL DISTRICT**

**RESPONDENT**

**NOTICE OF APPEAL**

The Claimant, by and through undersigned counsel, states the following for this Notice of Appeal to the General Assembly pursuant to Ark. Code Ann. §19-10-211(a)1(A):

1. That this Commission issued its Final Order in this case on March 12, 2024.
2. That the Claimant has timely filed this Notice of Appeal to the General Assembly within forty (40) days from the issuance of the Commission's Final Order.

WHEREFORE, the Claimant prays that this Commission accept this Notice of Appeal to the General Assembly as timely and transmit this Notice and the Commission file to the General Assembly for consideration.

Respectfully Submitted

By: /s/Aaron L. Martin  
Aaron L. Martin (AR2002086)  
MARTIN LAW FIRM  
P.O. Box 3597  
Fayetteville, AR. 72702  
479-442-2244  
[aaron@martinlawpartners.com](mailto:aaron@martinlawpartners.com)

#### CERTIFICATE OF SERVICE

I do hereby swear and affirm that I have caused this pleading to be served on the Respondent on this 10th day of April, 2024 by e-mail as follows:

Julius Gerard  
[Julius.gerard@arkansasag.gov](mailto:Julius.gerard@arkansasag.gov)

/s/Aaron L. Martin