



ARKANSAS STATE CLAIMS COMMISSION

JUN 3 0 2011

Please Read Instructions on Reverse Side of Yellow copy

Please print in iuk or type

RECEIVED

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

	<u> </u>
WMr.	Do Not Write in These Spaces
O Mrs.	Claim No. 11 = 0827 - CG
OMiss David Charles Sherrell Chimne	
David Onaries Sherrell Claimant	Data Filed Jy > 20, 2011 (Morth) (Filey) (Year)
YS.	Amount of Claus 195, 358.00
State of Arkansas, Respondent AR Game & Fish Commission	Fund AG&FC
COMPLAIN	T Loss of Property/ Loss of
David Charles Sherrell , the above manual Chinage, of 111	Profit/Refund of Expenses 5 Tri Lakes Road. Oxford
1	(Street of R.F.D. & No.) (CRy) provented by Larry J. Steele, Attorney at Law
	(Legal Counsel, if any, for Claim) 870-886-5840 870-886-5873 serys:
or P.O. Box 561, Walnut Ridge, AR 72476 (Street and No.) (City) (State) (Zip Cod	e) (Phone No.) (Pag No.)
State agrancy baredward Arkansas Game and Fish Commission	Amount acquir: \$195,358.00
Month, day, year and place of incident or service: 1995 to present	M. 23
Explanation My name is David Charles Sherrell.	My address is lib fri lakes d
Road, Oxford, Arkansas 72565. In 1995 or	1990, I purchased 33 nead of
Rocky Mountain elk at \$2,250.00 each, for	a total price of \$74,250.00.
My intention was to help the state of Ark copulation and establish a hunting lodge	ansas to replenish the elk
by plans with the Izard County Sheriff.	a total price of \$74,250.00. The ansas to replenish the elk on my 420 acres. I discussed that chasing the elk. Brian
Sometime within the first year of pur	shasing the olk Bully
askins and W.D. Whitehurst, game wardens	
ish Commission, came to my farm and obse	rved my elk One of the game
ardens, I believe Brian Gaskins, informe	
reeder's permit from the state. No one	d me I needed to acquire a stated I was in violation of s certificate. wright with the Arkansas to Calico Rock, Arkansas, about
ny law, but that I did need the breeder'	s certificate.
In 1997 or 1998, I spoke to Mike Cart	wright with the Arkansas
ame and Fish Commission at his office in	Calico Rock, Arkansas, about 5
cquiring the breeder's certificate. Mr.	Cartwright informed me he
ould check into it. Several months late	r, in a telephone conversation
ith Mr. Cartwright, he informed me the A	rkansas Game and Fish Commission
ad decided not it issue me a breeder's c	ertificate. No explanation was
As petts of this compleint, the claimant makes the statements, and answers the following questions, as indicated to whom?	and: (1) Hast claim been presented to any state department or officer thereof? $\operatorname{gt}_{TV}\operatorname{en}$
(Yea or No) (Month) (Day) (Year)	(Department)
and that the following action was taken thereon:	
nd that 5 was paid thereon: (2) Has any third occson or corporation an inte	
nd that S was paid thereon: (2) Has any third posson or corporation an issue	rest in this claim? NO ; if so, state name and address
(Name) (Street or R.F.D. & No.) (Condition of the street o	City) (State) (Zip Code)
and was accounted (a)	Lab AM
	in the following memor:
THE UNDERSIGNED states on onth that he or she is familiar with the matters and things	set forth in the above completes, and that he or she verify helioves
host there are true.	
DAVID C. SHERCELL Dound	C. Sherell
(Print Claimant/Representative Name)	(Signature of Claimant/Representative)
SWORN TO and subscribed before me at B	rockwell AR
to this 9-8-10 SH	(City) (State)
KELLI ORF	- CVIV
DTARY PUBLIC-STATE OF ARKANSAS	(Month) (Year)
IZARD COUNTY B	
My Commission Expires 6-1-2013	(Notary Public)
My Commussion Expires:	2013
	Month) (Dey) (Year)

Approximately five (5) years after I started my business, one of the game wardens told me the Arkansas Game and Fish Commission had passed a regulation requiring a minimum of 500 acres, with 60% dead woods, to establish an elk herd. One of the game wardens told me I could kill and sell the meat to the public, but I could not let the public hunt the elk.

In 2007 or 2008, Officer Chris Majors and Officer Ryan Warner, game wardens with the Arkansas Game and Fish Commission, told me I could be arrested for having the elk illegally. The officers informed me that all I could do with my elk was kill them for my own personal use.

I have been forced to destroy my existing elk herd.

The regulation of the Arkansas Game and Fish Commission requiring 500 acres to raise elk was and is an arbitrary number with no scientific basis which I believed was chosen to specifically eliminate me and my elk operation because the Arkansas Game and Fish Commission knew I had only 420 acres. Numerous articles have been published by the Arkansas Game and Fish Commission which state that "although elk have been back in Arkansas for almost 25 years, little scientific research has been conducted." ("Answers About Elk" by Don White, Jr., Ph.D., Mike Cartwright and Robert C. Weih, Jr., Ph.D., Arkansas Wildlife, November.December 2005).

At the time of the article, the above authors could not answer the question, "Which habitats are used?" *Id* at p. 11. The article continues, "Although our data will not permit us to estimate the minimum area of any vegetation type that is necessary before an area is occupied by bull elk our results will provide information about proportions of vegetation types associated with bull elk home ranged." *Id* at p. 12. "Since elk hunting season began in 1998, through the September 2005 hunt, 180 elk have been legally harvested." *Id* at p. 7.

Elk are native to Arkansas. Elk were reintroduced in 1980. Through the 2007 hunting season, 238 elk had been harvested. ("At Home in the Ozarks" by Michael Cartwright and Don White, Jr., Arkansas Wildlife, September.October 2008, p. 7).

Mr. Cartwright and Mr. White encourage elk production by private landowners. Id at p. 8. One of the stated objectives is to 'manage a limited number of elk on private land. Id at p. 8. The Arkansas Game and Fish Commission even has a private land elk management program with cost-share options in the program for landowners who want to improve habitat on their property for elk and other wildlife. Id at p. 9.

In another article, "Common Questions About Arkansas Elk," by Michael Cartwright and Don White, Jr., *Front Porch*, November December 2008, p. 7, private elk management programs is encouraged.

Because of the Arkansas Game and Fish Commission's arbitrary treatment of my elk breeding business, I have suffered the following damages:

33 original elk purchased at \$2,250.00 each	\$74,250.00
Hay	\$43,316.00
Corn	\$74,440.00
Worm blocks	\$3,150.00
Mineral blocks	\$202.00
TOTAL DAMAGES	\$195,358.00

I am requesting judgment against the Arkansas Game and Fish Commission and/or the State of Arkansas for \$195,358.00.

CLAIMS COMMISSION
JUN 3 0 2011
RECEIVED



ARKANSAS STATE CLAIMS COMMISSION

JUN 3 0 2011

RECEIVED If a joint return, spouse's first name and initial Last name Spouse's social security number FERN SHERRELL Use the IRS Home address (number and street), if you have a P.O. box; see page 11: ----lebel. Apt no. For help finding line was recommended Otherwise. BOX please print City, town or post office, state, and ZIP code. If you have a foreign address, see page 11. 2 and 3 in the booklet or type. OXFORD. AR 72565 Presidential No. Note: Checking Election Campaign Do you want \$3 to go to this fund? change your tax or (See page 11.) If a joint return, does your spouse want \$3 to go to this fund? reduce your refund. Filing Status Married filing joint return (even it only one had income) Married filling separate return, Enter spouse's social security no. above and full trame here. 3 Head of household (with qualifying person). (See Instructions.) If the qualifying person is a child buting your 4 Check only one box. dependent, enter this child's name here. 5 Qualifying wildow(er) with dependent child (year spouse died > 19). (See instructions.) Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax No. of hoxes, Salar Exemptions return, do not check box 6a. thecked on. lines to and the 3 Spouse No. of your (2) Dependent's social Dependents: 3) Occandent's (4) No. of months. children on ilnasecurity number, if domrelationship to-'llydd'in your 🐞 🤾 oman, Jeiff (F) Last name 6c where - i-you home in 1996 . lived with you Kelli L. Sherrell ighter 12 If more than six . Sie not live with Kimberly L. Sherrell daughter You due in divorce." dependents. or superstion. see the (Sec. Instructions): Instructions Dependents en Se for line 6c. not external andve-Add numbers: entered on in Total number of exemptions claimed lines skove 🕨 31,636 Wages, salaries, tips, etc. Attach Form(s) W-2 7 Income Taxable interest. Attach Schedule B if over \$400 52 Tex-exempt interest: DO: NOT include on line 8a ь 86 Attach Copy B of your 9 Dividend income. Attach Schedule B if over \$400 Ó STORY OF THE Forms W-2, Taxable refunds, credits; or offsets of state and local income taxes (see instructions) 10 10 W-2G, and Allmony received 1099-R here. :11 11 11,328 12 Business income or (loss). Attach Schedule C or C-EZ 12 if you did not Capital gain or (loss). If required, attach Schedule D 13 get a W-2. .13 see the Other gains or (losses): Attach Form 4797 14 14 22,494 instructions 154 Total IRA distributions 156 b Taxable amount (see inst.) for line 7. 16a Total penalons and annuities. 16a 186 b. Parable amount (see inst.) Enciose, but do Rental real estate, royalties, partnershipe, S corporations, trusts, etc. Attach Schedule E 17 17 445 not attach, any Farm Income or (loss). Attach Schedule F 18 18 (16,963. payment, Also, 19 please enclose 19 Unemployment compensation Form 1040-V Social security benefits 200 20b 20a b. Taxable amount (see inst.). (see the Other income. List type and amount—see Instructions ... 21 instructions for line 82). 21 22 Add the amounts in the far right column for lines 7 through 21. This is your total income 23: <u> 3,952</u> 23a Your IRA deduction (see instructions) 23ë Adiusted Spouse's IRA deduction (see Instructions) 23b Gross 24 24 Moving expenses. Attach Form 3903 or 3903-F . Income 25 -0-One-half of self-employment tax, Attach Schedule SE 25 26 Self-employed health insurance deduction (see inst.) 26 If line 31 is under 27 Keagh & self-employed SEP plans, if SEP, check ► \$28,495 (under 28 Penalty on early withdrawal of savings \$9,500 if a child

did not live with

Ald Destatable COM ...

(1 VIII 1 VIV)	1	elaB)	Proprietorship)		74.5	1996
*	▶	Partnershipe, joint ve	entures, etc., must fi	ie Form 1065.		Attachment
Department of the Tressury Internal Revenue Service (6)	► Attach to Form	1040 or Form 1041.	> See Instructions	fur Schedule C	(Form 1040).	Sequence No. 09
Name of proprietor					Social security	number (SSN)
חדטבת	SHERRELL					

SCHEDULE C (Form 1040)

Name of proprietor

Profit or Loss From Busines

(Bole Proprietorship

Partnerships, joint ventures, ato., musc file Form

OMB No. 1545-0024

Department of the Treasury Internal Revenue Service (6)

► Attach to Form 1040 or Form 1041. ► See Instructions for Schedule C (Form 1040).

Attachment Sequence No. 09

Social security me DAVID SHERRELL, Principal business or profession, including product or service (see page C-1) L3 Enter principal business code Trucking (see page C-6) ≥ 16 |3 |3 |8 Business name, If no separate business name, leave blank, D Employer ID number (EIN), if am Oxford E٠ Business address (including suite or room no.) > City, town or post office, state, and ZIP code Oxford, AR Accounting method: (1) DE Cash (2) Accruai (3) Other (specify) > G Did you "materially participate" in the operation of this business during 1996? If "No," sas page C-2 for limit on losses. . X Yes If you started or acquired this business during 1996, check here • Gross revelots or sales. Caution: if this income was reported to you on Form W-2 and the 'Stellulory amployee' box on that form was choosed, sad page 0-2 and though here. 1 41.411 2 n/a Subtrect line 2 from line 1 3 41,411 Cost of goods sold (from line 42 on page 2) 4 Gross profit. Subtract line 4 from line 3 41.411 Other income, including Federal and state gasoline or fuel tax credit or refund (see page C-2) ð Gross income. Add lines 5 and 6 41,411 Part II. Expenses. Enter expenses for business use of your home only on line 30. Advertising ġ 8 19 Pension and profit-sharing plans 19 Bad debte from sales or 20 Rent or lease (see page C-4): Services (see page C-3) a Vehicles, machinery, and equipment. 20m 10 Car and truck expenses b Other business property . . 20b (646 page C-3) 10 21 Repairs and maintenance . . 21 8,617 Commissions and fees 11 11 22 Supplies (not included in Part III) Depletion . . . 12 12 23 Taxes and licenses 2,603 13 Depreciation and section 179 24 Travel, meals, and entertainment: expense deduction (not included a Travei . , . . 244 In Part III) (see page C-3) . . 13 711 b Meals and en-Employee benefit programs tertainment . (other than on line 19) ¢ Enter 50% of 15 15 - Insurance (other than health) . li∩e 24b subject 3.509 limitations Interest: (400 page C-4) a Mortgage (paid to banks, etc.) . 164 d Subtract line 24c from line 24b 244 166 b Other 25 Utilities 25 Legal and professional 25 Wages (less employment credits) . 26 services 27 Other expenses (from line 48 on 18 Office expense 18 page 2) 27 12.643 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns 20 30,083 29 Tentative profit (loss). Subtract line 28 from line 7 Expenses for business use of your home. Attach from 8629 30 30 Net profit or (loss). Subtract line 30 from line 29. 31 If a profit, enter on Form 1040, line 12, and ALSO on Schedule SE, line 2 (statutory employees, see page C-5). Estates and trusts, enter on Form 1041, line 3. 31 .328 If a loss, you MUST go on to line 32. 32 If you have a loss, check the box that describes your investment in this activity (see page C-5). e if you checked 32s, enter the loss on Form 1940, line 12, and ALSO on Schedule SE, line 2 32a 🔀 All investment is at risk. (statutory employees, see page C-5). Estates and trusts, enter on Form 1041, line 3. 325 🔲 Same investment is not if you checked 32b, you MUST attach Form \$198. at riek. For Paperwork Reduction Act Natice, see Form 1040 instructions. Cat. No. 11334P Schedule C (Form 1040) 1996

> ARKANSAS STATE CLAIMS COMMISSION

> > JUN **3 0** 2011

SCHEDULE E · (Form 1040)



Supplemental Income P

rom rental real estate; royalties, invient; s corporations, estates, truste, REMICs, atc.)

OMB No. 1545-0074

Candriment of the Treasury Internal Reviews Sensite (AC) Name(s) shown on return DAVID &

Į	Part I Income or Loss From R personal property on Bahed 1 Show the kind and and	lental I	Paul Fall	nd Roy	eitige Not	ti Pana	·	1			
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E)	penses;								1,57	5	
5			1	1							
6	Advertising . Auto and travel (see page E-2)	5	 							- 1	
7	Cleaning and maintenance.	7	 	 -							
8	Commissions	8		+							
9	Insurance	B	/	 -					4	- 1	
10	Legal and other professional fees	10				-			"	ļ	
11	Management fees.			+	· · · · · · · · · · · · · · · · · · ·				•	- {	
12	Mortgage interest paid to hanks	<u> </u>		╀╼╼┤						Į	
	etc. (see page E-2)	12	1,130	1 1		-	Í				
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15	Supplies	15			·						
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17	Utilities	17									
18	Other (list)	į ļ	<u> </u>								
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19	Add lines 5 through 18	19	1,130		· · · · · · · · · · · · · · · · · · ·	╂┈╾┼					
20	Depreciation expense or depletion				~	1		19	1_130	Ц_	 .
(see page E-2)	20			·	1 1	Į	20		i	
21 - 1 22	fotal expenses. And lines 19 and 20	21	1,130		1				1,130		_
II	ncome or (loss) from rental real state or royalty properties.			- 1					11170	1	
۲.	SUDTRECT line 21 from line 3 frents).					1 1	1			1	
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a	(1058), 569 Dage E-2 to find out 1	20	446			1 1					
en n	you must file Form 6196, eductible rental real estate loss,	22	445							1	
Č	aution; Your rental real estate		1							1	
ю	\$\$ on line 22 may be limited. See		ľ		•		1			İ	
P.	ge E-3 to find out if you must			f		1					
ui Di	e Form 8582. Real estate ofessionals must complete line)						
42	CON page 2	23 (1	1/1	į		1				
l In	come. Add positive amounts show	n on lin	# 22. Do not	المرابية المرابية		/ _		<i>₩₩</i>			
	Coc to year to logger that the 22 at	NO CONTA	Padi satuta I					24	445		_
To	tal rental real estate and royally inco Parts II, III, IV, and line 39 on page 2	ome or	(loss), Combi	ne lina:	III BH W %3, E N a 94 ann 14	ner (ne t	Otal losses here .	25 (Į
17 1 11 -	Parts II, III, IV, and line 39 on page 2 17. Otherwise, include this amount	do no	apply to yo	u, also	ear eng 20 enter this s	i kili (e) Monorat	the result here.				
1111	17. Otherwise, include this amoun	it in the	total on line	40 on	מאמח	······································	on Form 1040,				

	Porm 1040) 1998				_		Pag
Part III	Cost of Go	ा देशव हि	page C-5)	······································			
	id(s) used to closing inventory:	■ □ Cost	· .	wer of cost or market	_ •	T	
				ons batween opening and) Q vel colecto	Other (attach ex	planation)
"Yes,"	attach explanation			· · · · · · · · · ·	siosing inv	entory/ II	
ne 1							
35 invent	ory at beginning or	year, it different h	rom last year's closing i	inventory, altach explanatio	n L	35	
36 Purcha	ases less post of ite	ens withdrawn for	r personal use		<u>i</u>	38	
_							
37 Cost o	of tabor. Do not incl	ude salary paid to	yourself , , , ,	• • • • • • • •	}	37	
38 Materi	als and supplies .					38	
				. , ,	. [
39 Other	costs	• • • •		• • •	j	39	
40 Adalin	nes 35 through 39			•	į	40	
	_			• • • • • • •			
45 invento	ory at end of year				-	41	~
2 Cost o	f goode sold. Sub	ract line 41 from	line 40. Enter the result	hereland on page 1, line 4		12	
Part IV	Information (on Your Vehic	cle. Complete this	part ONLY if you are	olaimin	2 22 4 4 4 4 4 4 4 4 4	XDADSAS /
	mine to enional	e not required It if you must f	I IU IIIB CORM 4562	for this business. See	the inst	ructions for line	3 on pag
				usa7. , ,		Yes	יי כ
	have evidence to si					🗀 Yes	□ No
	is the evidence wi					. , 🔲 Yes	-
art V	Other Expense	s. List below I	business expenses	not included on lines	6-26 or	line 30.	No
	el Fuel						
				***************		11,58	14
other	Misc.	************		• • • • • • • • • • • • • • • • • • • •		1,05	9 !
							
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**********)	THE COMMISSION			
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SCHEDULE F (Form 1040)



Profit or Loss From Farming

OMB No. 1845-0074

Department of the Transury Internal Physica Service (6)

► See instructions for Schedule F (Form 1040).

Attachment (14 Sequence No. 14

6.7

Name of proprietor			Social security cumber (896)
DAVID SHERRELL		the first the suppose have con-	S Enter principal agricultural activity
A Principal product. Describe in one or two	a wards your principal crop or soil	Vity for the content tax year.	sode (from page 2) ≥ [2 4 0
Dairy			D Simpleyer ID number (EIN), if any
	//w		
G Accounting method:	(1) 🔀 Cash	(2) Accrual	
E Did you "materially participate" in the	e operation of this business du	ring 1996? If "No," see page F-2 for limit o	in passive losees. 🗹 Yes 🔲 No
		and il (Accrual method taxpayers complete	فيكناك والمستبين
		eeding, sport, or dairy purposes; repo	
1 Sales of livestock and other item		1	
2 Cost or other basis of livestock	•	ne 1 2	i
3 Subtract line 2 from line 1	and other koma reported on m	110	3
4 Sales of Elvestack, produce, grain	ns and other renducts you ref	mad Milk	4 39,274
5a Total cooperative distributions (For		2,180 5b Taxable amour	0 100
6a Agricultural program payments (· · · · · ·	7,410 6b Taxable amour	" A 346"
7 Commodity Credit Comporation (ana handla (m) diministration	OD PAXADIG ENIOUS	"
a CCC loans reported under electi			72
b CCC loans forfeited	***.	7c Taxable amour	·
8 Crop insurance proceeds and ce			"
a Amount received in 1996		1 1 7	85
c if election to defer to 1997 is stt	· · · · · · · · · · · · · · · · · · ·	86 Taxable amour	'`
	· · ·	8d Amount deferred from 1995 ,	g
9 Custom hire (machine work) Inco			·
		dit or refund (see page F-2)	
11 Gross Income. Add amounts in the amount from page 2, line 51	the right options for lines 3 thre	ough 10. If accrual method taxpayer, enter	11 48,864
Par II Ferm Evnenses Cash	and Accrual Method De	not include personal or living expe	111 40,004
repairs, etc., on your ho 12 Car and fruck expenses (see page	me.	25 Pension and profit-sharing	
F-3-elso attach Form 4562)	12	plans	25
13 Chemicals	13	25 Rent or lease (see page F-4):	
14 Conservation expenses (see	1	a Vehicles, machinery, and equip-	
pagé F-3)	14	ment	26a
15 Gustom hire (machine work) .	18	b Other (land, animals, etc.)	26b
18 Depreciation and section 179		27 Repairs and maintenance	27 2,405
expense deduction not claimed	\\ -\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	28 Seeds and plants purchased	28 -
elsewhere (see page F-4)	16 17,808	29 Storage and warehousing	29
17 Employee benefit programs	1 ! !	30 Supplies purchased	30 163
other than on line 25	17	31 Taxes	31
18 Feed purchased	18 22,568	32 Utilities	32 1,942
19 Fartilizers and lime	19	33 Veterinary, breeding, and medicine .	33 1,655
20 Freight and trucking	20	34 Other expenses (specify):	
21 Gasoline, fuel, and oil	21	a milk hauling	344 4,729
22 Insurance (other than health)	22	b Dairy promo.	346 441
23 Interest:		0	. 34e
 Mortgage (paid to banks, etc.) 	23= 14,116	<u>d</u>	34d
b Other	236	•	340
24 Labor hired (less employment credits)	24	f	341
35 Total expenses, Add lines 12 thr	ough 34f		35 65,827
		enter on Form 1040, line 18, and ALSO on	
Schedule SE, line 1. If a loss, you l	MUST go on to line 37 (perstas.	trusts, and partnerships, see page F-5).	36 (16,963.)
		vestment in this activity (see page F-5).	37a All Investment is at risk.
ir you checked 37a, enter the 1088	3 C/1 FO/Mt 1040, fine 18, and	ALSO on Schedule SE, line 1.	
If you checked 37b, you MUST at	tach Form 6192.		376 Some investment is not at risk.

Earned Income U (Qualifying Child Information) Attach to Form 1040A or 1040. 88 instructions on back.

OMB No. 1545-0074

Atlachment

Sequence No. 43 Name(s) shows on return: First and initial(s) Last Your social security number DAVID SHERRELL

Before You Begin ...

So english in • See the instructions for Form 1040A, line 29c, or Form 1040, line 54, to find out if you can take this credit.

Then, you must promitted and attack Schedule EIC only If you have a qualifying child (see boxes on back).

Information About Your Qualifying Child or Children

If you have more than two qualifying children, you only have to list two longet the maximum credit.

CONTRACTOR OF THE STATE OF THE	Feel of substitute	
inion il volta prima di la la compositio di compositio di compositio di compositio di compositio di compositio Prato calvera vi la la compositio di compositio di compositio di compositio di compositio di compositio di comp	(a) Child 1	(b) Obild o
Contract Activity (1988) Activ	Market to the	(b) Child 2
	First name Last name	First neure Last name
hild stoom or the transfer and the second	KELLI SHERRELL	KIMBERLY SHERRELL
"一个人也不是一个人,我们就是一个人的,我们就是一个人的。" "我们是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的		
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bns: 3884/10 209/AUA (#28/1990 1990 1990 1990 1990 1990 1990 1990	Yes	Yes
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and the state of t	A 12 12 12 12 12 12 12 12 12 12 12 12 12	Yes Yes
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HAMPAR H. GOTT IN THE SAME 1996.	120	
see instructions on back	<u> </u>	
8 Offices (elementing to you (for example, son) orangeniles and	Daughter	j Daughter
6 Number of months child lived with	But a Mar	vaugr.cer.
you in the United States in 1995.	1 2 mont	hs 1 2 month
Do you want the earned Income	Credit added to your take see-	pay in 1997? To see if you qualify, g
Form W-5 from your employer or	by calling the IRS at 1-800-TAX-FOR	Pay in 19977 to see if you qualify, o Mill-800-829-3676:
The second control of		and the second of the second o
For Faper Work Reduction Act Notice, see Fo	rm 1040A Cal. No. 13339M	Schedule EIC (Form 1040A or 1040) 1

ON THE WALL BUILDING

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Name(s) sho	on return SHERRELL		Bueine SCH 1	es or activity to wh	ich this form rulab King	.	, j	- 1.6
Part I	Election To	Expense C	ertein Tangible Pr you complete Part	operty (Secti	on 179) (No	te: If you h	ave s	any "listed prope
- Name			iterprise zone busine		of the Instruc	tions	1	\$17,500
			piacad in service. Se				2	4 89 18 500 40
			perty before reduction				3	\$200,000
			ne 3 from line 2. If ze				4	
5 Dolla	er (imitation for t	tax year. Subtr	act line 4 from line 1		, enter -O-: If i		5	
		Description of prop		(b) Cost (business		(d) Elected dos		
6								
7 Liste	d omnedy. Ent	er amount from	n line 27		7			
8 Tota	i elected cost of	f section 179 o	property. Add amoun	s in column (c	, fines 8 and	7	8	
			aller of line 5 or line 8				9	
			from 1995. See pag		uctions		10	1
11 Bus!	ness income limital	tion. Enter the sm	aller of business income	(not less than zer	o) or line 5 (see Ir	etructions)	11	
12 Sect	lien 179 expens	e deduction. A	ldd lines 9 and 10, b	ut de not enter	more than lin	<u>+ 11</u>	12	
13 Carr	vover of disallows	أستا حاماوين المامات المام						
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Part IV Summary (See page 4 of the instructions.)

20 Listed property, Enter amount from line 26.
21 Total, Add deductions on line 12, lines 15 and 16 in column (g), and lines 17 through 20. Enter here and on the appropriate lines of your return. Partnerships and S corporations—see instructions.

21 2,711.

Por assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs

For Peperwork Reduction Act Notice, see page 1 of the separate instructions.

Property subject to section 168(f)(1) election

18

GDS and ADS deductions for assets placed in service in tax years beginning before 1996 .

Cat. No. 12906N

Form 4562 (1995)

ARKANSAS STATE CLAIMS COMMISSION

17

18

Liste_roperty Lustonobiles_Certain Other Vehicles_Cellular Telephones_Certain Computers_an_ Note: For any vehicle for winch you are using the descriptor pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate or deducting lease express_complete and state of the pilleges rate of deduction or state or pilleges rate of deduction and state of the pilleges rate of deduction or state or pilleges rate or deduction or d		9mp 4482 (1	998)							(3							
Note: For any vehicle for which you are using the standard mileage rate or adjucting lease expense, complete only 28, 250, columns (g) through (c) disease Au and Section B. and Section C if applicable. Section A—Dispeciation and Other Information Courtion See page 5 of the form of the information Courtion See page 5 of the form information for information Courtion See page 5 of the form information for information Courtion See page 5 of the form information for information of the in	- 12	24171 V	Liste	- roperty	utom	obiles	, Corta	in Oth	er Veh	-		Tol	lanh			-1	Page
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Amortization of costs that bagins during your 1998 tax year: Amortization of costs that bagins during your 1998 tax year:		Déscrint	(e) ion of nest			ZBŘAL	!				(d)		(4)		·		
Amortization of costs that bagins during your 1996 tax year:				1	begins			ACTION/		ļ	Cace		Amontzat		Amonin	(f) tation (m)	,
Amortization of costs that house had not seen as	A	mortization	1 of cost	s ihat bagins	CUMPO VAI	ر 100g	lav ve-	100	<u></u>	10.000	aeciion eciion	**************************************			inia	.≯e≇r.	
Amortization of costs that began before 1996 Total, Enter here and on "Other Deletition of the Control of the		·			1		ION YES	11.					WINNE		HIIII	THINKS	
Amortization of costs that began before 1996						-										ananii)	in in in in in in in in in in in in in i
Ictal, Enter here and on "Other Coduction"	<u>A</u>	mortizatio	⊓ of cos	ts that bega	n before 1	996											
will did Other Deductions" or "Other Expenses" line of	To	otal. Enter	here ar	nd on "Other	Deduction	13" or	"Other	Expers	pe" Ila	<u> </u>	<u> </u>	·	. 4	1			 -

Depreciation and Amor*'ta(**) Lucluding Information on Lister Proper

O)	/IS No. 1548-0172
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- 5	ecitante No. 67

Department of the Treasury (5) Internal Revenue Service (5)

▶ stee separate instructions. ** ► Attach this form to your return.

Name(s) shown on return Business or activity to which this form relates DAVID SHERRELL SCH "F" Lazy D Farm

Ρ.	Election T	o Expense C Part V before	ertain Tangible Pi you complete Part	roperty (Sect	tion 179) (No	te: If you	have	any "listed property,
1	Maximum dollar iln	nitation, if an e	nterprise zone busine	ess. see page 2	2 of the i	Matruci	tions	1	\$17,500
2			placed in service. S					2	
3	Threshold cost of s	3	\$200,000						
4	Reduction in limital	tien. Subtract !	ine 3 from line 2. If z	ero or less, ent	er -0-	• • •		4	
5	Dollar limitation for	n Demlad	<u> </u>						
_	filing separately, se	e page 2 of the	e instructions				riab (loc)	6	1
		Description of pro		(b) Cost (business		<u> </u>	(c) Elected oc		ANNIAN MARKATANA
6	2 Bull Elk d	ied		3,500			3,500		
		died		7,500			7,500		-
							7,300		
7	Listed property. En				. 7		····	1 -	
8	Total elected cost of	of section 179	property. Add amoun	ts in column (c	c), lines 6	and 7	·	8	11,000
9	Tentative deduction	. Enter the sm	aller of line 5,or line i	8				9	11,000
10	Carryover of disallo	wed deduction	1 from 1995. See pag	e 2 of the inst	ructions .			10	
11	Business income limita	ition. Enter the sin	aller of business income	(not less than ze	ro) or line 5	(500 in	etructions)	11	
12	Section 179 expens	sa deduction. A	Add lines 9 and 10, b	ut do not ente	r m <u>ore th</u>	an Ilne	<u> 11</u>	12	10,000.
13	Carryover of disallow	ed deduction to	1997, Add lines 9 and	10, less line 12	<u>► 13</u>		,000.		
Not	e: Do not use Part II	or Part III balo	w for listed property	(automobiles, c	ertain oti	ter ve	hicles, cellu	ilar te	lephonés,
cert	ain computers, or orc	perty used for	entertainment, regre	etion, or amus	ement). Ir	stead	. use Part	V for .	listed property.
Pa	MACRS De Listed Pro	preciation F	or Assets Placed	in Service O	NLY Dur	ing Y	our 1 996	Tax '	Year (Do Not Include
			Section A-Gener	al Asset Acco	unt Elec	tion	~		
14	If you are making th	e election und	er section 168(I)(4) to				enice dud	ad the	hay year into any
	or more general ass	et accounts, c	hack this box. See p	gue 2 of the in	struction				
4	80	ection B-Gen	eral Depreciation S	vetem (GDA) /	See name	3 01	the instance		<u>····</u> <u>▶ □</u>
		(b) Month and	(c) Base for depreciation	!	Oge page	3 01	ine instruct	igns.	T
(e)	Classification of property	year placed in	(business/investment use	(d) Recovery	(e) Conve	intion	(f) Metro	nd .	(g) Depreciation deduction
150	3-year property	service	only—see instructions)	Herios	 				
									
	5-year property		7)2 121						
	7-year property		35,181	7 yr	S/L		S/L		2,723
	10-year property				i				
	15-year property			<u> </u>	<u> </u>				
	20-year property								
9	25-year property			25,yrs.			S/L		
h'	Residential rental			27.5 yrs.	MIM		S/L		· · · · · · · · · · · · · · · · · · ·
	property			27.5 vrá.	MM				
i	Nonresidential real			39 yrs.	MM		<u> </u>	:	
•	property				MM		S/L		
	Sec	tion C-Altern	stive Depreciation	I (ADE)	(Can non		S/L		<u> </u>
18=	Class life			TABLETTI (VD2)	loss by	9 4 0		เเดกร	-)
	12-year			4 7			<u>\$/L</u>		
	40-year			12 yrs.			S/L		
			B0 - A I - A - A - A - A	40 yrs.	MM		S/L		
Par	other Depr	eciation (Do	Not include Lister	Property.)	See pag	e 4 c	f the instr	uctio	ns.)
17	GDS and ADS deduction	onë for assets pl	aced in service in tax vi	eers beginning b	efore 199	 S		17	4,710
18	Property subject to s	section 168(f)(1) election					18	
	ACRS and other dep	reciation	<u> </u>					19	
Par	IV Summary (S	see page 4 of	the instructions.)						
20	Listed property. Ente				******			20	375
21	Total, Add deductions	on line 15 line	# 15 and 10 ln ==1	ر با با با محمداللمصور (م)	Tábos esta	, <u>.</u>		20	J U
	and on the appropriate	a (înas nê unur	a ru anu ro in column Patran Parteambian	(g), and lines 1	/ through	20. E)	iter here	j	ነጥ ጠጠብ
22	Ent accide about obite	u a mad alamati.	*******	iu a corporatioi	366 II	struct	COS, ,	21	17,808
44	For assets shown about the portion of the best	And Discount in the	r service during the cu	irrent year, ente					
	the portion of the basi			<u> </u>	22		-		
For P	sperwork Reduction A	ct Notice, see p	age 1 of the separate	instructions.	Ç	al. No. 1	2908N		Form 4582 (1994)

Cat. No. 12906N

Form 4562 (1996)

P	H O	2	2

	rt V Listed Prope	rty Used for	· Entertal	inmen	it, Reci	reatio	หา, or A	muserr	rent							-
	Note: /	For any venicie	for which	you a	ere usin	g the	standard	mileage	rati	or :	ರಣದಬ	cting le	ase ex	pensa,	comp	lete on
	23a, 23	3b, columns (a,) through	(c) of 5	ection .	A, ali	of Sectio	n B, and	7 Se	ct/on	C II	appiica	able.		•	****
-	Section A-Der	reciption and	the business	format	lon (Ca	utlon	: See pa	76.2 of	ne ir	istru	ction	for III	mitation	is for a	utomo.	bilas.)
	Do you have evid	lence is support	ile ousilless	Tivesti	iant usa (cialmet	<u>کیا ۲۹۶</u>	No	231	7 . 1 .	Yes."	is the	<u>evidence</u>	writte	1? <u>ICX Y</u>	as 🗌
Ty	(a) pe of property (list vehicles first)	(b) Cata placed in service	Ce) Sualnesa/ investment use use	1	(d) storothe basis		e) lesis for de oi\seenleud o esu	vestmant nly)	Reco	icc	Me Com	(g) thod/ rention		(h) recialion duction		(i) Elected ction 17: cost
4	Property used	more than 50	% In a qu	alifled	busines	s use	(See pag	e 5 of	he ir	atru	ctions	;.):	·		·············	
ן, י	np Truck	9/93	100 %)	1,500).	1,50)0		yr		/[_	1 3	375		
			%													····
_			<u> %</u>					<u></u>								
5	Property used	50% or less in	n a qualifi	ec ous	iness u	se (Se	e page 6	of the	natri	citou	ns.)					
	/		%					·			S/L	_				
			%								<u> 3/L</u>					
_			%				·			i	<u>s.'l</u>					
5	Add amounts	in column (h). I	Enter the	total ha	bne ste	on lin	e 20. oa	ga I				26	1 3	175		
	aplete this section	in calumn (l). E on far vehicles	inter the to So used by a	otal he ection i <i>sole r</i>	B-Info	on line	7. page ion on U	se of V	nors.	than	5% c	· · ·	or rela	, 2		
0/1	aplete this section provided vehicles in provided vehicles in provided vehicles in provided the provided vehicles in provided vehicles	in calumn (l). E on far vehicles to your employees estment miles driv	Enter the to So Used by a so first answa van during	otal he ection I sole p Ir the qui	B-Info	on line or, pa Section	7. page ion on U	se of V	ore e: an	than	5% c lien to (d Vene	wnęr," comple	or rela	IAM A	rscr. Gr thas	e venica (f) hole 6
you	nplete this section provided vehicles in Total business/invite year (DO NOT	in calumn (l). E on far vehicles to your employees estment miles driv !nclude communi	Sinter the to Used by a s. first answa ran during ng miles)	otal he ection I sole p Ir the qui	B-Info croprieti estions in	on line or, pa Section	7. page ion on U itner, or o in C to see (b)	1 se of Ve other "m if you me	ore e: an	than	ilen te (a)	wnęr," comple	or rela	tea pe section	rscr. Gr thas	(1)
7 901 8	roplete this section provided vehicles in Total business/invite year (00 NOT Total commuting r	on for vehicles to your employees estment miles driv !nclude communi niles driven durin	Since the to Since by a since answer anduring ing miles) g the year	otal he ection I sole p Ir the qui	B-Info croprieti estions in	on line or, pa Section	7. page ion on U itner, or o in C to see (b)	1 se of Ve other "m if you me	ore e: an	than	ilen te (a)	wnęr," comple	or rela	tea pe section	rscr. Gr thas	(1)
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on you	Total other per miles driven. Total outperson	on far vehicles to your employees estment miles driv Include communities driven during sonal (noncom	used by a s. first answa ran during ing miles) g the year omuting)	otal he ection I sole p Ir the qui	B-Info croprieti estions in	on line or, pa Section	7. page fon on U (finer, or on on C to see (b) shicle 2	1 se of Ve other "m if you me	ore e: an	than excap	ilen te (a)	wnęr," comple	or rela	tea pe section	rscr. Gr thas	(f) bole 6
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		1 146	NO.
35	Do you maintain a written policy statement that prohibits all personal use of vahicles, including commuting,		
	by your employees?		í
30	Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See page 6 of the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
37	Do you treat all use of vehicles by employees as personal use?	j	
38	Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
39	Do you meet the requirements concerning qualified automobile demonstration use? See page 6 of the instructions Note: If your enswer to 35, 36, 37, 38, or 39 is "Yes," you need not complete Section 6 for the covered vehicles.	202000	
15%	A continued of the covered venicles.	AHHHHA	ann an ann an

(a) Description of casts	(t) Date amortization begina	(c) Amerizable arnount	(ø) Gode section	(e) Amertization period or percentage	(f) Amonization for Inia year
40 Amortization of costs that begin	s during your 1996	tax year:			
41 Amortization of costs that beg	an before 1996			. 41	
42 Total. Enter here and on "Othe	er Deductions" or	"Other Expenses" line of	your return . ,	. 42	

15.			or Y				i	ىشە سى ، ₁
-	AVID_6_	FERN SHEPPI	m the same or at	change of real esta	te reported to you	for 1996 on For	n(a) 1099-5	١.,
Ē	nter here the	gross procesos ire	bu will be includ	ing on line 2, 11, or	22			Seem Oth
						and luvoing	SIA COUASISIO	A LIGHT AND
III.	Than (Casualty of Tr	ettProper	y Held More T	han ? Year		L -641066	IN GAIN
	-				(e) Depreciation	(f) Cost or other basis, plus	H (f) Le more than	(d) plus (e) is more than (f). subtract (f) from t
et C	secription of	(b) Date soquired	(d) Çale Add (mc., day, yr.)	(d) Gross sales price	or silowable since	improvements and expense of sale		subtract () from t
	property	(mai, day, yr.)	filers make 2.4		acquisition		(e) from (f)	anu of (d) sud (
		4/93	4/95	3,200	2,310	6,500		
	Rd Baler		4/96	11,000	5,036	18,802	2,766	ļ <u></u>
	Tank	1/94	4/96	295	1,180	2,063	588	ļ
ے	Equip.	4/92	3/96	2,172	2,407	5,002	423	
CC	PV	1993	3/30				•	<u> </u>
				———————				
					<u> </u>	3		
)	Gain, if any, fr	om Form 4684, lin	ia 39			4		
	Facilian 1931	gain from installitte	ent gales from Fo	orm 5252, Ilria 25 0	73/	5		
	Cartion 1931	nain or (loss) from	like-kind exchar	nges from Farm es	4 ~ ,		MILLION THE	
	Gale Hanu B	rom line 34, from 6	other than casue	ity or theft	<i>.</i>	· · · 7	(4,767)
		4 100 1 100 100 100 100 100 100 100 100				م لحدا و ر		(4,767.
		the sale and the sale	BAA 7 Botes out	in or (inss) here, 201	a ou me abbigbir	ITHE IN TO SEE TOHOWS	helou	
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				der at the a leaster (ANACA)	TOP POPUL 1 1 AUG. 1	TOUR PROPERTY OF THE PROPERTY	A Annual MARKET	
			A 1/44 H 6 7	ARIN SON ING A CUI	COLUMN 1 14 AGAILA			
		•		AMAGINE SA MAG 17	hainw and skio ur	62 3 50 10 10 10 11	A 10 m 2 m (1/6/1)	
	All others	filine 8 is zero or a	L 1053, BRITER VIN	31 losses, or they v	were reconstitued in	an earlier vaar.	enter the gain	
	بالمام بصب ماط	not have any prior	year section 123	31 losses, or they v	OM BIGGED (C. DO ()	41, 54,116 , 7-141		
	MING AND ONE I				A MITS IN A MARKET			
	as a long-ten	n capital gain on S	Schedule D and	skib liues at in mi	G 10 Délaw.		,,,,,,	is contrassentias.
	as a long-ten	n capital gain on	Schedule O 200	skip lines 9, 10, an ierverm face linstifi	etions)		9	HAMIN MINISTER
3	as a long-ten	n capital gain on	Schedule O 200	skip lines 9, 10, an ierverm face linstifi	etions)		9	NAMES AND ASSESSED OF THE PARTY
9	as a long-ten Nonrecapture	m capital gain on t ad net section 123	Schedule O and 1 lasses from pri	skip lines 9, 10, an ior ye <u>ers (see ins</u> tit :=0=. Also enter Of	ctions)	e as follows (see	Instructions): 10	NAME OF THE OWNER, WASHINGTON
-	as a long-ten Nonrecapture Subtract line	m capital gain on t ad net section 123 9 from line 5, if ze	Schedule O and 1 losses from pri 10 or less, enter	ior years (see Institute). -O-, Also enter on	ections)	e as follows (sau	Instructions): 10	
-	as a long-ten Nonrecapture Subtract lice & corporation	m capital gain on the distribution 123 and net section 123 and from line 5, if zero and materials are	Schedule D and 1 losses from pri pro or less, enter ount on Schedul	ior years (see Instru -0-, Also enter on le D (Form 11205), from line 8 on line 1	ations) the appropriate line 13, and akip is below, if line 14	ie as follows (sac inea 12 and 13 t) is more than za	Instructions): 10	
Ģ	as a long-ten Nonrecapture Subtract line & corporation All others—I 13 below, an	n capital gain on the met section 123 grown line 8. If ze and Enter this arm films 10 is zero, and anter the amount anter the amount	Schedule O and I lesses from pri ero or less, enter ount on Schedul nter the arrount at from line 10 as	ior years (see Institute). -O-, Also enter on	ations) the appropriate line 13, and akip is below, if line 14	ie as follows (sac inea 12 and 13 t) is more than za	Instructions): 10	
D	as a long-ten Nonrecepture Subtract lice & corporatio All others—i 13 below, an	n capital gain on a d net section 123 9 from line 5. If ze ins—Enter this am f line 10 is zero, and d anter the amour	1 lesses from pri pro or less, enter ount on Schedul nter the amount at from line 10 au	ior years (see Institu- -0-, Also enter on Ie D (Form 11208), from line 8 on line s a long-lerm capita	ictions)	ie as follows (sau inee 12 and 13 t) is more than ze e D.	instructions): 10 elaw. ro, enter the amour	
2.1	as a long-ten Nonrecapture Subtract lice & corporatio All others 13 below, an 111 Ordinary gain	or capital gain on and net section 123 9 from line 5. if zero, experience of line 10 is zero, exit after the amountary Gains and losses not	Schedule 0 and I lesses from prior or less, enter ount on Schedul nter the amount at from line 10 at I losses included on lines	ior years (see Instru- -0-, Also enter on Ie D (Form 11205), from line 8 on tine 1 a a long-term capita 12 through 18 (Inc	ictions) the appropriate line 13, and skip its below, if line 10 is gain on Schedu	ie as follows (sae inee 12 and 13 t) is more than ze ie D.	instructions): 10 elaw. ro, enter the amour	
2.7	as a long-ten Nonrecapture Subtract lice & corporatio All others 13 below, an 111 Ordinary gain	or capital gain on and net section 123 9 from line 3. If zero, and films 10 is zero, and anter the amountary Gains and losses not 1113 94-95	1 lesses from prior or less, enter ount on Schedul nter the amount at from line 10 at 1,04365 included on lines 4/96	ior years (see Instru- -0-, Also enter on le D (Form 11205), from line 8 on tine 1 a a long-term capita 12 through 18 (inc. 9,579	ictions) the appropriate line 13, and skip 13 below, If line 10 a gain on Schedu hide property heli	ie as follows (sae inea 12 and 13 to) is more than 28 is D. 1 1 year or less):	Instructions): 10 lelaw. ro, enter the amount 12,561.	nt from line 9 an
7 CC	as a long-ten Nonrecapture Subtract lice & corporation All others— 13 below, an 111 Ordinary gain ows, 2 bu	n capital gain on a d net section 123 9 from line 5. If ze ins—Enter this am f line 10 is zero, and d anter the amour	Schedule 0 and I lesses from prior or less, enter ount on Schedul nter the amount at from line 10 at I losses included on lines	ior years (see Instru- -0-, Also enter on Ie D (Form 11205), from line 8 on tine 1 a a long-term capita 12 through 18 (Inc	ictions) the appropriate line 13, and skip its below, if line 10 is gain on Schedu	ie as follows (sae inee 12 and 13 t) is more than ze ie D.	instructions): 10 elaw. ro, enter the amour	nt from line 9 an
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ARKANSAS STATE CLAIMS COMMISSION

JUN 30 2011

125u, 1252, 1254, and 1255 Gain From Disposition of Property Under Sections 1245, (b) Date soquired (mo., day, yr.) di Data sok (a) Description of section 1245, 1250, 1252, 1254, or 1255 property: 991:-1993 4/1996 COVS 32.50 2011 17, 12, 1 stol 1990~1993 4/1996 2 tractors, rake Haymower, 994/1993 gooseneck trailer c Honeywagon manure spreader, A Section 11 Section 1 + Allert St. Co. 40 0 Property C Property C Property B Property A Relate lines 21A through 21D to these celumes . 550 16,421 11,85C 22 Gross sales price (Note: See line 1 before completing.) 22 750 15,400 27.0.223 Cost or other basis plus expense of sale 23 ,348 10,626 12,997 24 Depreciation (or depiction) allowed or allowable . 24 402 <u>4,774</u> 25 14,015 Adjusted_basis. Subtract line 24 from line 23 . 25 7,076 148 2,406 Total gain. Subtract line 25 from line 22 26 If section 1245 property! 10,526 .348 12,997 27a Depreciation allowed or allowable from line 24 1.48 7,076 2,406 27b a Entar the smaller of line 23 or 27a If section 1250 property: If straight line depreciation was used, anter -0+ on line 28g, except for a corporation subject to section 291. a Additional depreciation after 1975 (see instructions) b Applicable percentage multiplied by the smaller of line 26 28b d. Subtract line 28s from line 28. If residential rental property 284 or line 25 is not more than line 28s, skip lines 28d and 28e 28d d. Additional depreciation after 1969 and before 1976 . . . 280 e Enter the smaller of line 28c or 28d 🔒 👝 🔻 281 Section 291 amount (corporations only) . 28g g Add lines 280, 28e, and 28f . 29 If section 1252 property: Skip this section if you did not dispose of farmland or if this form is being completed for a partnership. 29a a Soil, water, and land clearing expenses 29b Line 292 multiplied by applicable percentage (see instructions) 29c c. Enter the emailer of line 25 or 295, ir section 1284 property: a Intangible drilling and development costs, expenditures for development of mines and other natural deposits, and 3Ú# mining exploration costs (see instructions) b Enter the smaller of line 26 or 30a 30b 31 If section 1255 property: a. Applicable percentage of payments excluded from income 318 under section 126 (see Instructions) 31b b Enter the smaller of line 28 or 31a (see instructions) Summary of Part III Gains. Complete property columns A through D through line 31b before going to line 32. 9,630 32 Yotal gains for all properties, Add property columns A through D. line 26 . 9,630 23 Add property columns A through D, lines 27b, 28g, 29c, 30b, and 31b. Enter here and on line 14 , . . Suppract line 33 from line 32. Enter the portion from casualty or theft on Form 4584, line 33. Enter the portion -()from other than casualty or theft on Form 4797, line 6". . . Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or La See instructions. (b) Section (a) Section 280F(b) . 179 35 Section 179 expense deduction or depreciation allowable in prior years. **. ----38 Racapture amount, Subtract line 36 from line 35. See the instructions for where to report 37

DAMO CHERRELL

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ARKANSAS STATE CLAIMS COMMISSION

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ARKANSAS STATE CLAIMS COMMISSION

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DEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

ANSWER AND MOTION TO DISMISS

Comes now Respondent Arkansas Game and Fish Commission ("AGFC"), by and through its undersigned counsel, and for its Answer and Motion to Dismiss Claimant's Complaint, states:

- 1. On July 12, 2011, Claimant served upon AGFC a Complaint, which had been filed with the Claims Commission on June 30, 2011. AGFC is the state agency charged under the Arkansas Constitution with the conservation and management of the fish and wildlife resources of the State of Arkansas. Ark. Const., Amend. 35, § 1.
- 2. AGFC denies each and every material allegation contained in Claimant's Complaint unless specifically admitted herein.
- 3. Claimant alleges his damages arose out of an incident in 1997 or 1998 after Claimant had illegally imported and harbored approximately 33 elk on his property contrary to state wildlife regulations. Thereafter, rather than make arrangements to have the elk transported out of Arkansas, Claimant apparently chose to slaughter his elk. No mention is made in Claimant's Complaint as to whether he kept and/or distributed the elk meat and parts. However, Claimant now seeks compensation from AGFC in the

exorbitant amount of \$195,358.00 representing the original purchase price of the elk (33 elk @ \$2,250.00 each totaling \$74,250.00); hay in the amount of \$43,316.00; corn in the amount of \$74,440.00; worm blocks in the amount of \$3,150.00; and, mineral blocks in the amount of \$202.00.

- 4. AGFC asserts that Plaintiffs' Complaint should be dismissed pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure based upon: (1) failure to state facts upon which relief can be granted and/or (2) Claimant's complaint was filed outside the applicable three (3) year statute of limitations.
- 5. AGFC affirmatively pleads in the alternative that any damages sustained by Claimant are due entirely to his own actions, as Claimant chose voluntarily to slaughter the elk rather than make suitable arrangements to remove the elk from Arkansas. No actions on the part of the AGFC or its employees resulted in any taking of the elk, and Plaintiffs' slaughter of the elk is <u>not</u> a compensable taking as a matter of law.
- 6. Arkansas courts have held that an individual's use and enjoyment of property is always subject to reasonable regulations in order to preserve the welfare of the public at large. See Winters v. State, 301 Ark. 127, 782 S.W.2d 566 (1990) (defendant's horse was required to be branded and quarantined or sold for slaughter; court held "It has already been settled in Arkansas that a police power regulation for the health and welfare of the state which requires destruction of contaminated animals is not a taking, if the regulation is an otherwise valid exercise of the police power and if there is some residual value to the owner."); Yarbrough v. Arkansas State Hwy. Comm'n, 260 Ark. 161 539 S.W.2d 419 (1976) (Regulations promulgated by the State Highway Commission for control of outdoor advertising devices along certain highways did not constitute an

unlawful taking of property without compensation); <u>Bell v. State</u>, 212 Ark. 337, 205 S.W.2d 714 (1947) (Arkansas Supreme Court upheld circuit court's decision ordering destruction of defendants' slot machines, which were seized as contraband subject to state statute making the keeping or exhibiting of any gaming table or gambling device a misdemeanor, punishable by fine and imprisonment).

7. Likewise, the slaughter of elk is not a compensable taking pursuant to applicable federal law either. Federal decisions from other jurisdictions involving claims by owners for property quarantined or destroyed pursuant to the police protection for public health, safety, or welfare, likewise have held that such government action is legitimate and does not result in a compensable taking. See Miller v. Schoene, 276 U.S. 272, 48 S.Ct. 246, 72 L.Ed 568 (1928) (State's destruction of claimant's red cedar trees infected with cedar rust to prevent the spread of the disease to nearby apple orchards did not result in a compensable taking under the U.S. Constitution); Wright v. U.S., 14 Cl. Ct. 819, 824 (U.S. Claims Ct. 1988) ("[W]hen acting under the state police power the destruction of diseased animals requires no compensation."); Empire Kosher Poultry, Inc. v. Hallowell, 816 F.2d 907, 915 (3d Cir. 1987) (Compensation claim under 5th Amendment for poultry losses incurred as a result of quarantine imposed to prevent disease spread denied, citing Miller as authority that government could require slaughter of infected poultry without compensation). Other jurisdictions also have upheld state quarantine measures to prevent the importation of intra-state movement of potentially diseased animals to prevent disease spreading. See Smith v. St. Louis & Southwestern Railway Co. of Texas, 181 U.S. 248, 21 S.Ct. 603, 45 L.Ed. 847 (1901) (Texas Governor's order, pursuant to state livestock regulations, imposing quarantine prohibiting

import of cattle, mules and horses from Louisiana due to anthrax infection in that state held constitutional); *Pacific Northwest Venison Producers v. Smith*, 20 F.3d 1008 (9th Cir. 1996) (Upholding similar elk and cervid prohibition regulations adopted in Oregon).

Other courts have specifically rejected similar claims asserted by elk 8. breeding facility owners, who have challenged on constitutional grounds state regulations that prohibited breeding or releasing of elk due to disease introduction concerns. In Hagener v. Wallace, 309 Mont. 473, 47 P.3d 847 (2002), the Supreme Court of Montana was faced with an operator of an elk farm who wanted to transfer 500 elk to the Crow Indian Tribe for release into the wild on the Crow Reservation in south-central Montana. The trial court granted a preliminary and permanent injunction requested by the Montana Department of Fish, Wildlife and Parks to prevent the transfer and release of the elk. On appeal, the Montana Supreme Court affirmed, holding that the injunction was proper since the elk operator violated state law when attempting the transfer, and the injunction did not violate the Commerce Clause. The court specifically held that the Montana law, which sought to reduce the risk of spreading CWD and prevent other adverse effects upon wildlife, was a quarantine law of the type that has repeatedly been upheld against Commerce Clause challenges by the United States Supreme Court. Id. at 487-88, 47 P.3d at 856-57. Additionally, in Schreiner Farms, Inc. v. Smitch, 87 Wash. App. 27, 940 P.2d 274 (1997), an elk breeding facility operator challenged a state regulation prohibiting possession, sale, transfer, or release of elk as an unconstitutional taking and sought \$845,714 as just compensation for its investment costs and loss of investment opportunity. The Washington Court of Appeals affirmed summary judgment granted in favor of the Washington Department of Wildlife, holding that the regulation did not go

beyond preventing a harm to provide an affirmative public benefit and did not effect a taking under the 5th Amendment. Schreiner Farms, Inc., 87 Wash. App. at 35-38, 940 P.2d at 278-80. The court-specifically noted that the elk facility operator had not been deprived of all economically viable use of his property since it clearly could transport and sell its elk herd out of the state and was capable of using the ranch facility and fixtures to raise other animals.

9. Finally, Claimant's Complaint is barred by the applicable three (3) year statute of limitations as found in Ark. Code Ann. § 16-56-105. Under Arkansas law, an action to recover for injuries to property must be commenced within three (3) years after the cause of action accrues. *Thomas v. Westbrook*, 206 Ark. 841, 177 S.W.2d 931 (1944). The statute of limitations for property damage claims does not begin to run until plaintiff knows, or reasonably should have known, that he has suffered a remedial injury. *Highland Indus. Park, Inc. v. BEI Defense Systems Co.*, 357 F.3d 794 (2004). Claimant alleges in his complaint that AGFC denied him a Wildlife Breeder/Dealer Permit in "1997 or 1998". Accordingly, the applicable three (3) year statute of limitations would have expired, at the very latest, in 2001.

WHEREFORE, Respondent Arkansas Game and Fish Commission prays that this Commission enter an Order dismissing Claimant's Complaint and award Respondent its costs incurred herein, and grant all additional relief to which it may be entitled.

Respectfully submitted,

ARKANSAS GAME AND FISH COMMISSION

By:

James F. Goodhart, ABA # 92080 Robert K. Jackson, ABA #85079 Arkansas Game & Fish Commission Legal Division #2 Natural Resources Drive

Little Rock, AR 72205 Tele: (501) 223-6327 Fax: (501) 223-6463

Attorneys for Respondent

CERTIFICATE OF SERVICE

I, Robert K. Jackson, do hereby certify that on this 29th day of July, 2011, I filed the foregoing Answer and Motion to Dismiss with the Arkansas State Claims Commission and will send notification to the attorney designated below:

Larry J. Steele, Esq.

PO BOX 561

Walnut Ridge, AR 72476

Robert K. Jackson

STAT AIMS COMMISSION D DET

Amount of Claim \$	Claim No. 12-0015-CC
David Charles Sherrell	Attorneys Larry Steele, Attorney
AR Game & Fish Commission	James Goodhart, Attorney & Robert K. Jackson, Attorney Respondent
State of Arkansas Respondent	Respondent
Date Filed June 30, 2011	Type of Claim Loss of Property/ Loss of Profit/ Refund of Expenses

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," for the reasons contained therein and for the Claimant's failure to respond. Therefore, this claim is hereby unanimously denied and dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," for the reasons contained therein and for the Claimant's failure to respond. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing	September 16, 2011	
Date of Disposition	September 16, 2011	Chairman Commissioner Sul James Scommissioner





Larry J. Steele PLC

ATTORNEY AT LAW
115 Abbey Road, P.O. Box 561
WALNUT RIDGE, AR 72476-0561
e-mail: steelelaw7622@sbcglobal.net

PHONE: (870) 886-5840

FAX: (870) 886-5873

CERTIFIED
RETURN RECEIPT REQUESTED
7008 3230 0000 7774 4181

December 20, 2011

Mr. Norman L. Hodges, Jr., Director Arkansas State Claims Commission 101 East Capitol Avenue, Suite 410 Little Rock, AR 72201

RE: David Charles Sherrell v. Arkansas Game and Fish Commission

Claim No. 12-0015-CC

Dear Mr. Hodges:

Please accept this letter as my request to appeal the decision denying and dismissing Mr. Sherrell's claim to the Legislative Sub Committee.

Sincerely,

Larry J. Steele

LJS/jas

cc: Mr. David Sherrell

ARKANSAS STATE CLAIMS COMMISSION

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RECEIVED

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

DAVID CHARLES SHERRELL

CLAIMANT

VS.

v

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

MOTION TO RECONSIDER

Comes now Claimant, David Charles Sherrell, by and through his attorney, Larry

J. Steele, and for his Motion to Reconsider, states:

- 1. On July 12, 2011, the Arkansas State Claims Commission ("Claims Commission") served upon Respondent, Arkansas Game and Fish Commission ("AGFC"), a Complaint which was filed with the Claims Commission on June 30, 2011. AGFC is the state agency charged under the Arkansas Constitution with conservation and management of fish and wildlife resources of the State of Arkansas. Ark. Const., Amend. 35, § 1.
- 2. Respondent states in its Certificate of Service that it filed its Answer and Motion to Dismiss on July 29, 2011; the pleading reflects it was filed August 2, 2011.
 - 3. Respondent states in its Certificate of Service:

"I, Robert K. Jackson, do hereby certify that on this 29th day of July, 2011, I filed the foregoing Answer and Motion to Dismiss with the Arkansas State Claims Commission and will send notification to the attorney designated below:

Larry J. Steele, Esq. PO BOX 561 Walnut Ridge, AR 72476"

ARKANSAS STATE
CLAIMS COMMISSION

SEP 2 1 2011

- 4. Neither the undersigned attorney, nor his office, ever received a copy of Respondent's Answer and Motion to Dismiss.
- 5. No certificate of service or affidavit has been filed, to this attorney's knowledge, stating the Answer and Motion to Dismiss was served on Claimant.
- 6. Claimant respectfully requests the right to respond to Respondent's Motion to Dismiss.

WHEREFORE, Claimant requests the Claims Commission enter an order granting him leave to file his response to Defendant's Motion to Dismiss.

Respectfully submitted,

LARRY J. STEELE PLC

By:

LARRY J STEELE (78146)

P.O. Box 561

Walnut Ridge, AR 72476-0561

(870) 886-5840

(870) 886-5873 fax

email: steelelaw7622@sbcglobal.net

Attorney for Claimant

CERTIFICATE OF SERVICE

I, Larry J. Steele, hereby certify that I have faxed and mailed a copy of the foregoing MOTION TO RECONSIDER to the following by U.S. Mail, postage prepaid, this 2044 day of September, 2011:

Mr. James F. Goodhart Mr. Robert K. Jackson Arkansas Game & Fish Commission Legal Division #2 Natural Resources Drive Little Rock, AR 72205

LARRY J. STEELE

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

RESPONDENT'S RESPONSE TO CLAIMANT'S MOTION TO RECONSIDER

Comes now Respondent Arkansas Game and Fish Commission ("AGFC"), by and through its undersigned counsel, and for its Response to Claimant's Motion to Reconsider, states:

- AGFC denies each and every material allegation contained in Claimant's
 Motion to Reconsider unless specifically admitted herein.
 - 2. AGFC admits paragraph 1 of Claimant's Motion to Reconsider.
- 3. AGFC denies paragraph 2 of Claimant's Motion to Reconsider and asserts its Answer and Motion to Dismiss were, in fact, filed on July 29, 2011, via hand-delivery to the State Claims Commission by the undersigned counsel. See Exhibit 1 attached hereto.
- 4. AGFC admits paragraph 3 of Claimant's Motion to Reconsider and asserts a copy of the transmittal letter with the Answer and Motion to Dismiss was mailed to Claimant's attorney on July 29, 2011. See Exhibit 2 attached hereto.

ARKANSAS STATE CLAIMS COMMISSION

SEP 27 2011

5. AGFC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Claimant's Motion to Reconsider and, therefore, denies same.

6. AGFC has no objection to allowing extra time for Claimant to file his response to AGFC's Answer and Motion to Dismiss as requested in paragraph 5 of Claimant's Motion to Reconsider.

7. Respondent adopts in its entirety and fully incorporates herein the previous Answer and Motion to Dismiss filed by AGFC on July 29, 2011.

WHEREFORE, Respondent Arkansas Game and Fish Commission prays that this Commission enter an Order dismissing Claimant's Complaint and award Respondent its costs incurred herein, and grant all additional relief to which it may be entitled.

Respectfully submitted,

ARKANSAS GAME AND FISH COMMISSION

Ву:__

James F. Goodhart, ABA # 92080

Robert K. Jackson, ABA #85079 Arkansas Game & Fish Commission

Legal Division

#2 Natural Resources Drive

Little Rock, AR 72205

Tele: (501) 223-6327

Fax: (501) 223-6463

Attorneys for Respondent

CERTIFICATE OF SERVICE

I, Robert K. Jackson, do hereby certify that on this 27th day of September, 2011, I filed the foregoing Respondent's Response to Motion to Reconsider and will send notification to the attorney designated below:

Larry J. Steele, Esq.

PO BOX 561

Walnut Ridge, AR 72476

Robert K. Jackson

ARKANSAS STATE CLAIMS COMMISSION

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RECEIVED

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

DAVID CHARLES SHERRELL

CLAIMANT

VS.

. . . .

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS

Comes now Claimant, David Charles Sherrell, by and through his attorney, Larry

J. Steele, and submits the following as his Response to Respondent's Motion to Dismiss:

Respondent has filed its Motion to Dismiss pursuant to Ark. R. Civ. P. 12(b)(6), alleging Claimant's Complaint (1) fails to state facts upon which relief can be granted and/or (2) Claimant's Complaint was filed outside the applicable three (3) year statute of limitations.

The distinction between this motion and a motion for summary judgment is that a 12(b)(6) motion alleges the failure to state a claim, while a motion for summary judgment alleges the failure to have a claim. Joey Brown Interest, Inc. v. Merchants National Bank, 284 Ark. 418, 683 S.W.2d 601 (1985). A motion under Rule 12(b)(6) can be treated by the court as a motion for summary judgment if matters outside the pleading are presented to the court and not excluded by it. If such a motion is treated as a motion for summary judgment, it is improper for the court to consider allegations made in briefs and attached exhibits in ruling upon the motion, since in ruling upon a motion

for summary judgment, proper considerations are the "pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any." Rule 56(c), Ark. R. Civ. P.; *Guthrie v. Tyson Foods, Inc.*, 285 Ark. 95, 685 S.W.2d 164 (1985).

Under Arkansas law, Rule 12(b)(6) is to be read in conjunction with Rule 8(a), Ark. R. Civ. P., which requires that a pleading setting forth a claim for relief shall contain a statement in ordinary and concise language of facts showing that the pleader is entitled to relief, and a demand for the relief to which he considers himself entitled. Therefore, a complaint containing merely conclusions of law is properly dismissed under Rule 12(b)(6). Thompson-Holloway Agency, Inc. v. Gribben, 3 Ark.App. 119, 623 S.W.2d 528 (1981); Rabalaias v. Barnett, 284 Ark. 527, 683 S.W.2d 919 (1985); Big A Warehouse Distributors, Inc. v. Rye Auto Supply, Inc., 19 Ark.App. 286, 719 S.W.2d 716 (1986). However, in testing a pleading under this rule, the facts alleged in the complaint are treated as true and are viewed in the light most favorable to the party seeking relief. McAllister v. Forrest City Street Improvement District, No. 11, 274 Ark. 372, 626 S.W.2d 194 (1981).

In contrast, the federal version of Rule 12(b)(6) provides for dismissal for failure to state a <u>claim</u> upon which relief can be granted, as opposed to a failure to state <u>facts</u>. For example, the Eighth Circuit Court of Appeals has held that a complaint should not be dismissed merely because the allegations of the complaint do not support the particular legal theory advanced, and the trial court is under a duty to examine the complaint to determine if the allegations provide relief on any possible theory. *Bramlet v. Wilson*, 495 F.2d 714 (8th Cir. 1974). In testing a complaint under federal Rule 12(b)(6),

the complaint should be construed favorably to the pleader, and it should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts which would entitle him to relief. Wright v. Anthony, 733 F.2d 575 (8th Cir. 1984).

Claimant's Complaint states:

. 7

My name is David Charles Sherrell. My address is 1115 Tri Lakes Road, Oxford, Arkansas 72565.

In 1995 or 1996, I purchased 33 head of Rock Mountain elk at \$2,250.00 each, for a total price of \$74,250.00. My intention was to help the state of Arkansas to replenish the elk population and establish a hunting lodge on my 420 acres. I discussed my plans with the sheriff of Izard County.

Sometime within the first year of purchasing the elk, Brian Gaskins and W.D. Whitehurst, game wardens with the Arkansas Game and Fish Commission, came to my farm and observed my elk. One of the game wardens, I believe Brian Gaskins, informed me I needed to acquire a breeder's permit from the state. No one stated I was in violation of any law, but that I did need the breeder's certificate.

In 1997 or 1998, I spoke to Mike Cartwright with the Arkansas Game and Fish Commission at his office in Calico Rock, Arkansas, about acquiring the breeder's certificate. Mr. Cartwright informed me he would check into it. Several months later, in a telephone conversation with Mr. Cartwright, he informed me the Arkansas Game and Fish Commission had decided not to issue me a breeder's certificate. No explanation was given.

Approximately five (5) years after I started my business, one of the game wardens told me the Arkansas Game and Fish Commission had passed a regulation requiring a minimum of 500 acres, with 60% dead woods, to establish an elk herd. One of the game wardens told me I could kill and sell the meat to the public, but I could not let the public hunt the elk.

In 2007 or 2008, Officer Chris Majors and Officer Ryan Warner, game wardens with the Arkansas Game and Fish Commission, told me I could be arrested for having the elk illegally. The officers informed me that all I could do with my elk was kill them for my own personal use.

I have been forced to destroy my existing elk herd.

The regulation of the Arkansas Game and Fish Commission requiring 500 acres to raise elk was and is an arbitrary number with no scientific basis which I believed was chosen to specifically eliminate me and my elk operation because the Arkansas Game and Fish Commission knew I had only 420 acres. Numerous articles have been published by the Arkansas Game and Fish Commission which state that "although elk have been back in Arkansas for almost 25 years, little scientific research has been conducted." ("Answers About Elk" by Don White, Jr., Ph.D., Mike Cartwright and Robert C. Weih, Jr., Ph.D., Arkansas Wildlife, November.December 2005).

At the time of the article, the above authors could not answer the question, "Which habitats are used?" *Id* at p. 11. The article continues, "Although our data will not permit us to estimate the minimum area of any vegetation type that is necessary before an area is occupied by bull elk our results will provide information about proportions of vegetation types associated with bull elk home ranged." *Id* at p. 12. "Since elk hunting season began in 1998, through the September 2005 hunt, 180 elk have been legally harvested." *Id* at p. 7.

Elk are native to Arkansas. Elk were reintroduced in 1980. Through the 2007 hunting season, 238 elk had been harvested. ("At Home in the Ozarks" by Michael Cartwright and Don White, Jr., *Arkansas Wildlife*, September.October 2008, p. 7).

Mr. Cartwright and Mr. White encourage elk production by private landowners. *Id* at p. 8. One of the stated objectives is to, "manage a limited number of elk on private land. *Id* at p. 8. The Arkansas Game and Fish Commission even has a private land elk management program with cost-share options in the program for landowners who want to improve habitat on their property for elk and other wildlife. *Id* at p. 9.

In another article, "Common Questions About Arkansas Elk," by Michael Cartwright and Don White, Jr., *Front Porch*, November.December 2008, p. 7, private elk management programs is encouraged.

Because of the Arkansas Game and Fish Commission's arbitrary treatment of my elk breeding business, I have suffered the following damages:

33 original elk purchased at \$2,250.00 each	AT1 250 00
Li	\$74,250.00
Hay	\$43,316.00
Corn	\$74,440.00
Worm blocks	\$3,150.00
Mineral blocks	•
	\$202.00
TOTAL DAMAGES	\$195,358.00

I am requesting judgment against the Arkansas Game and Fish Commission and/or the State of Arkansas for \$195,358.00.

Claimant attempted in good faith to comply with state law by discussing his plans for his elk operation, first with the Izard County Sheriff and within the first year with the Arkansas Game & Fish Commission game wardens, Brian Gaskins and W.D. Whitehurst, who personally observed Claimant's elk. No one stated Claimant was in violation of state law.

Claimant next spoke with Mike Cartwright, Arkansas Game & Fish Commission employee, at his office in Calico Rock, Arkansas, about obtaining a breeder's certificate.

Not until 2007 or 2008, was Claimant informed he was in violation of the law, that all he could do is kill the elk for his personal use. Claimant owns 420 acres. Arkansas Game & Fish Commission regulations require 500 acres to establish an elk herd. The regulation requiring 500 acres is arbitrary at best and is not supported by scientific evidence. (See Claimant's brief in his Complaint.)

The State of Arkansas has encouraged the breeding of elk but has arbitrarily denied Claimant a right to lawfully pursue his business interest. Plaintiff was encouraged through his original contacts with Arkansas Game & Fish Commission personnel and continued his breeding operation under the impression that he would

successfully obtain the required breeder's certificate. Once informed he was in violation of the law, Claimant destroyed the elk.

Plaintiff respectfully requests compensation for his attempt to participate in Arkansas' program of reintroduction of elk to the state.

Claimant has filed his Complaint within three (3) years of being notified he was in violation of the law (believed to be in 2008). Until notification of being in violation, Claimant had hopes of receiving his breeder's certificate. But for the Arkansas Game & Fish Commission's arbitrary requirement of 500 acres, Claimant would have successfully obtained the breeder's certificate and this matter would not now be before the Commission.

Claimant appreciates the opportunity to be heard and present his case.

Respectfully submitted,

LARRY J. STEELE PLC 115 Abbey Road P.O. Box 561 Walnut Ridge, AR 72476-0561 (870) 886-5840 (870) 886-5873 fax email: steelelaw7622@sbcglobal.net

By:

LARRY J. STEELE (78146)
Attorney for Claimant

CERTIFICATE OF SERVICE

I, Larry J. Steele, hereby certify that I have mailed a copy of the foregoing CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS to the following by U.S. Mail, postage prepaid, this 3rd day of November, 2011:

Mr. James F. Goodhart Mr. Robert K. Jackson Arkansas Game & Fish Commission Legal Division #2 Natural Resources Drive Little Rock, AR 72205

الأخرى فأطوح

LARRY J. STEELE

ARKANSAS STATE CLAIMS COMMISSION

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Amount of Claim \$ 195,358.00		Claim No. 12-0015-CC	
David Charles Sherrell	Claimant	Attorneys Larry Steele, Attorney	
AR Game & Fish Commission		James Goodhart, Attorney &	
State of Arkansas	Respondent	Respondent	
Date Filed June 30, 2011		Type of Claim Loss of Property/ Loss of Profit/ Refund of Expenses	

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Claimant's "Motion for Reconsideration." Therefore, this claim will be set for hearing and the parties notified accordingly.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Claimant's "Motion for Reconsideration." Therefore, this claim will be set for hearing and the parties notified accordingly.

Date of Hearing	October 20, 2011	
Date of Disposition	October 20, 2011	Rober May Commissioner Bill Famaser
		Commissioner

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

REPLY TO CLAIMANT'S RESPONSE TO ARKANSAS GAME AND FISH COMMISSION'S MOTION TO DISMISS

Comes now Respondent Arkansas Game and Fish Commission ("AGFC"), by and through its undersigned counsel, and for its Reply to Claimant's Response to Arkansas Game and Fish Commission's Motion to Dismiss, states:

- 1. Claimant's Response is nothing more than a regurgitation of the allegations contained in his Complaint. Claimant's Response contributed no new legal or factual basis to state a cause of action that is cognizable under Arkansas law and, therefore, his Complaint should be summarily dismissed by this Claims Commission for the reasons stated herein and those advanced in AGFC's Answer and Motion to Dismiss previously filed herein.
- 2. AGFC denies each and every material allegation contained in Claimant's Response unless specifically admitted herein.
- 3. Claimant alleges his damages arose out of an incident in 1997 or 1998 after Claimant had illegally imported and harbored approximately 33 elk on his property AFKANSAS STATE wildlife regulations [Emphasis Added]. Thereafter, rather than make

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arrangements to have the elk transported out of Arkansas, Claimant apparently chose to voluntarily slaughter his elk. No mention is made in Claimant's Complaint as to whether he kept, sold and/or distributed the elk meat and parts. However, Claimant now seeks compensation from AGFC in the exorbitant amount of \$195,358.00 representing the original purchase price of the elk (33 elk @ \$2,250.00 each totaling \$74,250.00; hay in the amount of \$43,316.00; corn in the amount of \$74,440.00; worm blocks in the amount of \$3,150.00; and, mineral blocks in the amount of \$202.000).

- 4. AGFC asserts that Plaintiffs' Complaint should be dismissed pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure based upon: (1) failure to state facts upon which relief can be granted and/or (2) Claimant's complaint was filed outside the applicable three (3) year statute of limitations.
- 5. Claimant's Response concedes that any damages sustained by Claimant are due entirely to his own actions, as Claimant chose voluntarily to slaughter the elk rather than make suitable arrangements to remove the elk from Arkansas. No actions on the part of the AGFC or its employees resulted in any physical taking of the elk, and Claimant's slaughter of the elk is <u>not</u> a compensable taking as a matter of law.
- 6. Likewise, the slaughter of elk is not a compensable taking pursuant to applicable federal law. Federal decisions from other jurisdictions involving claims by owners for property quarantined or destroyed pursuant to the police protection for public health, safety, or welfare, likewise have held that such government action is legitimate and does not result in a compensable taking. *See Miller v. Schoene*, 276 U.S. 272, 48 S.Ct. 246, 72 L.Ed 568 (1928) (State's destruction of claimant's red cedar trees infected with cedar rust to prevent the spread of the disease to nearby apple orchards did not result

in a compensable taking under the U.S. Constitution); Wright v. U.S., 14 Cl. Ct. 819, 824 (U.S. Claims Ct. 1988) ("[W]hen acting under the state police power the destruction of diseased animals requires no compensation."); Empire Kosher Poultry, Inc. v. IIallowell, 816 F.2d 907, 915 (3d Cir. 1987) (Compensation claim under 5th Amendment for poultry losses incurred as a result of quarantine imposed to prevent disease spread denied, citing Miller as authority that government could require slaughter of infected poultry without compensation). Other jurisdictions also have upheld state quarantine measures to prevent the importation of intra-state movement of potentially diseased animals to prevent disease spreading. See Smith v. St. Louis & Southwestern Railway Co. of Texas, 181 U.S. 248, 21 S.Ct. 603, 45 L.Ed. 847 (1901) (Texas Governor's order, pursuant to state livestock regulations, imposing quarantine prohibiting import of cattle, mules and horses from Louisiana due to anthrax infection in that state held constitutional); Pacific Northwest Venison Producers v. Smith, 20 F.3d 1008 (9th Cir. 1996) (Upholding similar elk and cervid prohibition regulations adopted in Oregon). In the case at hand, it remains undisputed that Claimant voluntarily slaughtered his elk in lieu of facing possible AGFC Code violations.

7. Other courts have specifically rejected similar claims asserted by elk breeding facility owners, who have challenged on constitutional grounds state regulations that prohibited breeding or releasing of elk due to disease introduction concerns. In *Hagener v. Wallace*, 309 Mont. 473, 47 P.3d 847 (2002), the Supreme Court of Montana was faced with an operator of an elk farm who wanted to transfer 500 elk to the Crow Indian Tribe for release into the wild on the Crow Reservation in south-central Montana. The trial court granted a preliminary and permanent injunction requested by the Montana

Department of Fish, Wildlife and Parks to prevent the transfer and release of the elk. On appeal, the Montana Supreme Court affirmed, holding that the injunction was proper since the elk operator violated state law when attempting the transfer, and the injunction did not violate the Commerce Clause. The court specifically held that the Montana law, which sought to reduce the risk of spreading CWD and prevent other adverse effects upon wildlife, was a quarantine law of the type that has repeatedly been upheld against Commerce Clause challenges by the United States Supreme Court. Id. at 487-88, 47 P.3d at 856-57. Additionally, in Schreiner Farms, Inc. v. Smitch, 87 Wash. App. 27, 940 P.2d 274 (1997), an elk breeding facility operator challenged a state regulation prohibiting possession, sale, transfer, or release of elk as an unconstitutional taking and sought \$845,714 as just compensation for its investment costs and loss of investment opportunity. The Washington Court of Appeals affirmed summary judgment granted in favor of the Washington Department of Wildlife, holding that the regulation did not go beyond preventing a harm to provide an affirmative public benefit and did not effect a taking under the 5th Amendment. Schreiner Farms, Inc., 87 Wash. App. at 35-38, 940 P.2d at 278-80. The court specifically noted that the elk facility operator had not been deprived of all economically viable use of his property since it clearly could transport and sell its elk herd out of the state and was capable of using the ranch facility and fixtures to raise other animals.

8. Finally, Claimant's Complaint is barred by the applicable three (3) year statute of limitations as found in Ark. Code Ann. § 16-56-105. Under Arkansas law, an action to recover for injuries to property must be commenced within three (3) years after the cause of action accrues. *Thomas v. Westbrook*, 206 Ark. 841, 177 S.W.2d 931

(1944). The statute of limitations for property damage claims does not begin to run until plaintiff knows, or reasonably should have known, that he has suffered a remedial injury.

*Itighland-Indus. Park, Inc. v. BEI Defense Systems Co., 357 F.3d 794 (2004). Glaimant alleged in his complaint that AGFC denied him a Wildlife Breeder/Dealer Permit in "1997 or 1998". Accordingly, the applicable three (3) year statute of limitations would have expired, at the very latest, in 2001.

WHEREFORE, Respondent Arkansas Game and Fish Commission prays that this Commission enter an Order dismissing Claimant's Complaint and award Respondent its costs incurred herein, and grant all additional relief to which it may be entitled.

Respectfully submitted,

ARKANSAS GAME AND FISH COMMISSION

By:

James F. Goodhart, ABA # 92080 Robert K. Jackson, ABA #85079 Arkansas Game & Fish Commission

Legal Division

#2 Natural Resources Drive

Little Rock, AR 72205

Tele: (501) 223-6327

Fax: (501) 223-6463

Attorneys for Respondent

--- CERTIFICATE OF SERVICE

I, Robert K. Jackson, do hereby certify that on this 17th day of November, 2011, I filed the foregoing Reply to Claimant's Response to the Arkansas Game and Fish Commission's Answer and Motion to Dismiss and have transmitted same to the attorney designated below:

Larry J. Steele, Esq.

PO BOX 561

Walnut Ridge, AR 72476

Robert K. Jackson

STATE CLAIMS COMMISSION DC JKET OPINION

		OPIN	ION	
Amount of Claim \$ _	195,358.00		Claim No	12-0015-CC
			Attorneys	
David She	mell	. Claimant	Larry J. Steele, Attorney	Claimant
	vs.	. Vielliselik		
	& Fish Commission	espondent	Robert K. Jackson, Assistant Counse James Goodhart, General Counsel	el Respondent
State of Arkansas				_
Date Filed	June 30, 2011		Type of Clain Loss of property, loss of pro- refund of expenses	fit,
		· · · · · · · · · · · · · · · · · · ·		
		FINDING OF	FACTS	
This claim was filed for loss of property, loss of profit, and refund of expenses in the amount of \$195,358.00 against Arkansas Game and Fish Commission.				
Present at an oral arguments hearing only on Respondent's "Motion to Dismiss" December 15, 2011 was the Claimant, represented by Larry J. Steele, Attorney, and the Respondent, represented by Robert K. Jackson, Assistant Counsel.				
The Claims Commission hereby unanimously grants Respondent's "Motion to Dismiss" for reasons contained therein. Therefore, this claim is hereby unanimously denied and dismissed.				
IT IS SO	ORDERED.			
		(See Back of Opi	nion Formi	
(See Back of Opinion Form)				
CONCLUSION				
Upon consideration of all the facts, as stated above, the Claims Commission hereby unanimously denied and dismissed this claim for reasons contained therein.				
Date of Hearing	December 15, 2	2011		
Date of Disposition	December 15, 2	2011	Parmound	Chairman

ARKANSAS STATE CLAIMS COMMISSION

MAR 14 2013

BEFORE THE STATE CLAIMS COMMISSION OF THE STATE OF ARKANSAS

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DAVID CHARLES SHERRELL

CLAIMANT

VS.

NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

Comes the Arkansas Game and Fish Commission (hereafter the "AGFC"), by and through its undersigned attorneys, and for its Motion for Summary Judgment seeking dismissal of the Complaint of the Claimant, David Charles Sherrell, states:

- 1. The evidence in this case, as shown by the pleadings, depositions, answers to interrogatories and admissions on file, and affidavits, conclusively demonstrates that there is no genuine issue of material fact and that AGFC is entitled to a judgment as a matter of law in accordance with Rule 56 of the Arkansas Rule of Civil Procedure for either of the following reasons:
 - A. Claimant has failed to state a claim upon which relief can be granted because Claimant's own voluntary acts, and <u>not</u> any actions of AGFC, caused his alleged damages; and, alternatively,
 - B. Claimant failed to exhaust all applicable administrative remedies; and, alternatively,
 - C. Claimant failed to timely file his Complaint and is now barred from pursuing this claim by the applicable three (3) year statute of limitations in Ark. Code Ann § 16-56-105; and, alternatively,
 - D. Claimant's allegation that AGFC Code 15.04 was arbitrary and capricious is moot.

Accordingly, the Claimant's Complaint must be summarily dismissed. Ark. R. Civ. Proc. 56 (c).

2. AGFC attaches the following documents as exhibits to this motion:

- Exhibit A Deposition of David Sherrell;
- Exhibit B Deposition of Fern Sherrell;
- Exhibit C Affidavit of AGFC Wildlife Officer William Ryan Warner;
- Exhibit D Log Book Records of AGFC Wildlife Officer William Ryan Warner for January 12, 2007 and January 19, 2007;
- Exhibit E January 12, 2007 Incident Report prepared by AGFC Wildlife Officer William Ryan Warner;
- Exhibit F January 19, 2007 Supplementary Report prepared by AGFC Wildlife Officer William Ryan Warner;
- Exhibit G Affidavit of AGFC Wildlife Officer Jerry Smith;
- Exhibit H Affidavit of AGFC Wildlife Officer Christopher Majors;
- Exhibit I -- Affidavit of AGFC Wildlife Officer Brian A. Gaskins;
- Exhibit J July 14, 1999 Letter (with AGFC Regulations attached) to David Sherrell from AGFC Deer/Elk Program Coordinator Michael E. Cartwright; and
- Exhibit K AGFC Minute Order No. 00-130, dated November 16, 2000, with AGFC Captive Wildlife Regulations attached.
- 3. AGFC has contemporaneously filed a memorandum in support of this motion and incorporates that memorandum herein as if set out word-for-word. AGFC also incorporates by reference its previously filed Motion to Dismiss and Memorandum Brief in Support, Reply Brief, and Respondent's Additional Evidence Supporting Denial and Dismissal of Claim as if set out verbatim herein.
- 4. AGFC respectfully reserves the right to supplement, as necessary, its Motion for Summary Judgment prior to the hearing of this matter scheduled for April 11, 2013.

WHEREFORE, Respondent Arkansas Game and Fish Commission prays that the claim of the Claimant David Charles Sherrell, as set forth in the Complaint, be denied and that this

Commission enter judgment in favor of Respondent dismissing said Complaint, and order such other general and equitable relief as may be just and appropriate under the circumstances.

Respectfully submitted,

ARKANSAS GAME AND FISH COMMISSION

James F. Goodhart, ABA #92080

John P. Marks, ABA #2003132

Jennifer R. Jameson, ABA #2007190

Christian N. Parks, ABA #2009179

Arkansas Game and Fish Commission

2 Natural Resources Drive

Little Rock, Arkansas 72205

(501) 223-6327

Attorneys for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion for Summary Judgment was served upon Claimant's attorney by mailing a copy thereof to him at the address below on this 14th day of March, 2013.

Mr. Larry J. Steele
Attorney at Law
P.O. Box 561
Walnut Ridge, Arkansas 72476-0561

Christian N. Parks

ARKANSAS STATE CLAIMS COMMISSION

MAR 14 2013

BEFORE THE STATE CLAIMS COMMISSION OF THE STATE OF ARKANSAS

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DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

RESPONDENT'S PRE-HEARING MEMORANDUM AND MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

MAY IT PLEASE THE COMMISSION:

I. Introduction

Claimant David Charles Sherrell ("Mr. Sherrell" or "Claimant") asserts that AGFC effected a taking of the elk that he purchased for the purpose of establishing a wildlife hunting resort on his land in Izard County by (1) adopting a regulation that effectively denied him the necessary permit(s) to possess the elk and/or operate a wildlife hunting resort and (2) ordering or otherwise requiring him to destroy the elk. Accordingly, Mr. Sherrell seeks to be compensated for this alleged taking. However, AGFC is entitled to summary judgment because Mr. Sherrell: (1) failed to state facts upon which the requested relief may be granted; (2) failed to exhaust his administrative remedies; and (3) because his claims are barred by the statute of limitations. Proof of <u>any</u> one of these three bases merits dismissal of Claimant's Complaint.

II. <u>Undisputed Statements of Fact</u>

1. Mr. Sherrell purchased 420 acres of land in Izard County, Arkansas in 1990. (See Exhibit A (Deposition of David Charles Sherrell) p. 28, lines 5-6).

- 2. Around 1995 and for a few years afterward, Mr. Sherrell acquired approximately 33 head of Rock Mountain Elk, allegedly for \$2,250 each, with the intent of establishing a game hunting preserve on his land and to replenish the State's elk population by selling elk from his herd. (See Complaint, p. 1, and Exhibit A, p. 44, lines 13-16).
- 3. Prior to purchasing the elk and transporting them to his property Mr. Sherrell did not consult with AGFC in any way about existing regulation or permitting process established concerning private elk ownership. (See Exhibit A p. 51, lines 8-18).
- 4. Within a year of his purchase of the elk, AGFC Wildlife Officer Gaskins observed Mr. Sherrell's herd and advised him to apply for and obtain a "breeder's permit" from AGFC. See Exhibit I (Affidavit Bryan Gaskins).
- 5. In 1997 or 1998, Mr. Sherrell requested information from AGFC biologist Mike Cartwright (now retired) at the AGFC Regional Office in Calico Rock, and Mr. Cartwright informed Mr. Sherrell that "he would check into it." (See Complaint, p. 1).
- 6. Mr. Sherrell received a letter dated July 14, 1999, and signed by Mr. Cartwright informing him that he would need to acquire a Commercial Game Breeder's Permit available from the main AGFC office in Little Rock in order to raise any elk for sale. (See Exhibit J). The letter also included information regarding the applicable codes concerning elk hunting and encouraging Mr. Sherrell to use caution in making any investment until he was able to review any upcoming regulations. (See *Id*.)
- 7. In November 2000, AGFC adopted AGFC Code 15.04, which restricted the issuance of Wildlife Commercial Hunting Resort Permits (but not Commercial Game Breeder's Permits) unless the permit applicant possessed 500 or more contiguous acres of high-fenced-enclosed land. (See Exhibit K).

- 8. In late 2000 or early 2001, Mr. Sherrell became aware of AGFC Code 15.04. (See Complaint, p. 2; Exhibit I).
- 9. Mr. Sherrell admits that at some point between January 1, 2000 and December 31, 2008, two AGFC Officers, one of whom was AGFC Corporal Warner, visited with Mr. Sherrell on his land in Izard County regarding the elk. (See Complaint, p. 2).
- 10. On January 19, 2007, AGFC Corporal Warner filed an incident report and made a notation in his log book memorializing contact made with Mr. Sherrell on his property in Izard County on the same date. (See Exhibits D and E).
- 11. The occasion that Corporal Warner and Mr. Sherrell discussed his elk on Claimant's property was the <u>only</u> time that Corporal Warner spoke to Mr. Sherrell about elk. (See Exhibit A, p. 36, lines 12-18).
- 12. The occasion that Corporal Warner and Mr. Sherrell discussed his elk on Mr. Sherrell's property was the <u>only</u> time that any employee, agent, or officer of AGFC spoke to Mr. Sherrell about elk <u>on Mr. Sherrell's land</u> since approximately one year after Mr. Sherrell began acquiring his elk in 1995. (See Exhibit A, p. 36, lines 12-18).
- 13. The occasion of Corporal Warner's visit to Mr. Sherrell's property was the last time that any employee, agent or officer of AGFC communicated with Mr. Sherrell about his elk. (See Exhibit A, p. 66, lines 3-7.)
- 14. Mr. Sherrell <u>never</u> applied to the AGFC for any kind of permit related to his elk. (See Exhibit A, p. 60, lines 12-15 and p. 67, lines 23-25).
- 15. AGFC <u>never</u> denied Mr. Sherrell a permit related to his elk. (See Exhibit A, p. 58, lines 4-6, p. 60, lines 16-20).

16. No employee, officer, or agent of AGFC ever cited, arrested, or threatened to do the same for Mr. Sherrell's failure to acquire the necessary permits to possess and/or sell his elk or to operate a game hunting preserve on his land. (See Exhibit A, p. 38, 19-25, p. 39, lines 1-15 and Exhibits C, G, H, and I).

- 17. No employee, officer, or agent of AGFC ever ordered or told Mr. Sherrell to destroy or slaughter his herd of elk. (See Exhibit A, p. 41, lines 10-12, p. 43, lines 14-16; and Exhibits C, G, H, and I).
- 18. Mr. Sherrell's decision to destroy his heard of elk was his own independent decision made and executed without the knowledge of the AGFC. (See Exhibit A, p. 43, lines 19-25 and Exhibits C, G, H, and I).

III. Summary Judgment Standard.

The standard for summary judgment is now well-settled. The Arkansas Supreme Court has held:

We have ceased referring to summary judgment as a drastic remedy. We now regard it simply as one of the tools in a trial court's efficiency arsenal; however, we only approve the granting of the motion when the state of the evidence as portrayed by the pleadings, affidavits, discovery responses, and admission on file is such that the nonmoving party is not entitled to a day in court, i.e., when there is not any genuine remaining issue of fact and the moving party is entitled to judgment as a matter of law.

Flentje v. First National Bank of Wynne, 340 Ark. 563, 570, 11 S.W.3d 351 (2000) (citing Wallace v. Broyles, 332 Ark. 189, 961 S.W.2d 712 (1998)). Once the moving party establishes that it is entitled to a prima facie entitlement to summary judgment, "... the opposing party must meet proof with proof and demonstrate the existence of a material issue of fact." Morgan v. Turner, 2010 Ark. 245, 368 S.W.3d 888, 892 (2010).

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Here, Claimant's own testimony establishes that he was not denied any right to profit from his elk herd as his own private property. In fact, the Claimant's testimony clearly demonstrates that Claimant never took any action to utilize his elk herd in any commercial way. Moreover, Claimant's testimony clearly demonstrates that any losses he incurred due to the destruction of his elk herd were the direct result of his own actions and not by any action of the AGFC. Finally, even if one were to believe the allegations of the Complaint, the evidence clearly demonstrates that this action was filed outside of the applicable statute of limitations.

IV. Discussion

A. Claimant has not suffered damages as a result of any action on the part of the Respondent.

The nexus of Claimant's Complaint is a theory of liability on the part of the State of Arkansas for the loss of his elk herd. It is not clear from the face of the Complaint specifically what cause of action the Claimant is pleading (although it appears to be a takings theory), but under <u>any</u> cause of action the Claimant is required to prove that some act or omission on the part of the Respondent was the cause of his damages. The undisputed facts of this case do not support any such conclusion.

Claimant purchased his elk in 1995. (See Complaint p. 1 and Exhibit A, p. 44, lines 13-16). Claimant did so without ever communicating to any employee, agent or officer of AGFC his intent to purchase elk or to use them in a commercial manner. (See Exhibit A, p. 51, lines 8-18). In his original filing Claimant alleged that he had been denied a breeder permit by AGFC. (See Complaint p. 1). However, Claimant admits that, despite the fact that he was advised by AGFC personnel to apply for a breeder permit on several occasions, he has never submitted an application for a permit from AGFC for his elk. (See Complaint p.1, ¶ 2, lines 4-5, p. 2, ¶ 1, line 4; Exhibit A, p. 41, lines 13-18, p. 56, lines 21-25, p. 57, lines 1-18, p. 59, lines 16-25, p. 60,

lines 1-15, p. 61, lines 1-4; Exhibit J; Exhibit I). Consequently AGFC has never rejected an application for any permit submitted by the Claimant. (See Exhibit A, p. 58, lines 4-6, p. 60, lines 16-20).

Claimant alleged in his Complaint that in either 2007 or 2008 he was told by AGFC employees that he could only kill his elk for his own personal use and concludes that he was "forced to destroy" his herd of elk. (See Complaint p. 2). However, Claimant admitted in his deposition neither Cpl. Warner nor the other officer who came to visit with him threatened to arrest him or to issue him a citation. (See Exhibit A, p. 38, 19-25 and p. 39, lines 1-15). All AGFC officers relevant to this matter deny that they have ever threatened Claimant or instructed him to slaughter his elk. (See Exhibits C, G, H, and I). Claimant further admitted that neither officer present on that occasion told him that he had to kill his elk. (See Exhibit A, p. 43, lines 14-16). Claimant also acknowledged that he has never received a written communication from AGFC ordering him to kill his elk. (See Exhibit A, p. 41, lines 10-12, and p. 60, lines 16-20). Furthermore, Claimant admitted that one to two months after his encounter with the officers he made his own decision to slaughter his elk herd, and that acting upon his own judgment, he proceeded into his 13-acre pen where, in one day, he shot each one of his approximately 31 elk and then buried them where they lay. (See Exhibit A, p. 29, lines 7-25, p. 30, lines 1-11, p. 31, lines 2-3, p. 41, lines 3-5, and p. 43, lines 19-22). Claimant stated that, during the time pertinent to this claim, he received no further communication of any kind from AGFC and that he did not notify AGFC of his intention to slaughter his elk nor did he inform them when he had. (See Exhibit A, p. 43, lines 23-25, and p. 44, lines 1-4).

In light of these undisputed facts, it is apparent that the Respondent neither acted nor omitted to act in any way that contributed to the destruction of the Claimant's elk herd.

Conversely, it appears from these facts that any loss suffered on the part of the Claimant was a direct result of his own decisions and actions.

B. Claimant failed to exhaust his administrative remedies.

The Arkansas Supreme Court has held that the doctrine of exhaustion of administrative remedies stands for the principal that a party is not entitled to judicial relief for an alleged or threatened injury until that party has exhausted the prescribed statutory administrative remedy. Arkansas Prof'l Bail Bondsman Licensing Bd. v. Frawley, 350 Ark. 444, 450, 88 S.W.3d 418, 421-22 (2002). "A basic rule of administrative procedure requires that an agency be given the opportunity to address a question before a complainant resorts to the courts." Cummings v. Big Mac Mobile Homes, Inc., 335 Ark. 216, 220, 980 S.W.2d 550, 552 (1998). The Supreme Court of Arkansas has long held that a failure to exhaust administrative remedies is grounds for dismissal. Id.

As clearly illustrated in the arguments above, it is undisputed that Claimant never applied for any permits issued by the AGFC. Nor did the AGFC order or instruct the Claimant to destroy his elk herd; nor did it even have knowledge that Claimant intended to or had destroyed that herd. However, it appears from the allegations contained in the Complaint that the Claimant alleges that, because his property did not meet the stated minimum acreage requirements for issuance of a permit to operate a commercial wildlife hunting resort, he was "forced to destroy" his elk herd. This is simply not the case.

Leaving aside the fact that, despite being urged to do so by several AGFC employees, Claimant refused to apply for a breeder's permit which if granted would have allowed him to maintain and potentially profit from his elk herd, the Claimant had other options. If Claimant had applied for a permit to operate a commercial wildlife hunting resort—which he admittedly never

did---and his application was refused, he would have been afforded further due process by the AGFC. AGFC regulations provide in part:

Upon suspension or revocation of any license, permit, tag or stamp, denial of any application or rights attached thereto, the director, or his designated representative, shall notify the holder or applicant in writing. Any holder or applicant desiring a hearing shall notify the Commission in writing within 20 days after receipt of the suspension, revocation or denial notice. Upon receipt of the hearing request, the Commission shall appoint a hearing officer and notify the holder or applicant of the date, time and location of the hearing.

AGFC Code 01.00-L. The code continues on to state that an official record will be made of the proceedings, the parties may be represented by counsel, submit evidence on their behalf. *Id.* Additionally, at the close of the administrative hearing, the hearing officer shall "affirm, rescind, or *modify* the suspension or revocation of the license, permit, tag or stamp, or the denial of the application." AGFC Code 01.00-L (emphasis added).

Had the Claimant attempted to obtain any permit and was denied, he would then have had the right to demand such a hearing. At that hearing, the Claimant would have been granted the opportunity to plead his case based on his own facts. According to the AGFC's own regulations, it is entirely possible, although obviously not guaranteed, that the Claimant might have been granted a variance or received some other type of relief for his alleged grievance. In either case, if the Claimant were still not satisfied with the ruling of his administrative hearing, he would then still have the right the petition for a review of that ruling by the Circuit Court of Pulaski County or in the county which he resides. *Id*.

Unfortunately, Claimant chose not to avail himself of any of these administrative remedies. Instead of simply applying for either a breeder's license or a commercial wildlife hunting resort permit, the Claimant unilaterally decided to destroy his own property without ever having formally notified AGFC of his desire to obtain a permit. In doing so, the Claimant denied

himself the opportunity to be heard and the possibility to receive injunctive relief from the circuit court, as well as denied AGFC the opportunity to address his grievance and possibly provide a more amenable and less costly alternative than the one that Claimant chose for himself. Consequently, Claimant failed to exhaust all of his administrative remedies prior to unilaterally disposing of his property and seeking relief from the Claims Commission. Due to this failure, this honorable Commission should grant Respondent's Motion for Summary Judgment.

C. Claimant is barred from recovery by action of the Statute of Limitations.

I. Action for regulatory taking is barred by statute of limitations

Although Claimant has not specifically alleged that he has been subject to a regulatory taking, the information contained in his Complaint appears to suggest that he believes that the value of his Elk has been destroyed by a regulatory act of the AGFC. The time limit for commencement of actions for the taking of or damage to goods or chattel is governed by Ark. Code Ann. § 16-56-105: "All actions for taking or injuring any goods or chattels...shall be commenced within three years after the cause of action shall accrue, and not after." Id.; See also Thomas v. Westbrook, 206 Ark. 841, 177 S.W.2d 931, 932 (1944) (citing Pope's Digest of the Laws of Arkansas). The statute of limitations does not begin to run until a claimant knows, or reasonably should have known, that he has suffered a remedial injury. Highland Indus. Park, Inc. v. BEI Def. Sys. Co., 357 F.3d 794, 796 (8th Cir. 2004) (interpreting the Arkansas Supreme Court's decision in State v. Diamond Lakes Oil Co., 347 Ark. 618, 623, 66 S.W.3d 613, 616 (2002)).

In the Complaint, Claimant alleges that, when he purchased his elk in 1995, it was his intent to profit from his elk by operating a commercial wildlife hunting resort. (See Complaint page 1, p. 44, lines 13-16.) On November 16, 2000 (approximately 5 years after Claimant

Arkansas Claims Commission

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acquired his elk), AGFC passed AGFC Code 15.04, which restricted the issuance of commercial wildlife permits to, among other requirements, persons possessing 500 or more contiguous acres of high fenced enclosed land. (See Exhibit K; Complaint p. 2). Claimant admits that he became aware of this regulation shortly after its adoption. (See Complaint, p.2). Yet, Claimant alleges that this regulation denied him the value of his elk, although he admits that he never applied for any commercial permit or engaged in commercial hunting prior to the passing of this regulation.

These undisputed facts can only lead to the conclusion that even if the passage of AGFC Code 15.04 were to have operated as to amount to a regulatory taking of the value of Claimant's elk herd as part of a commercial hunting business, his cause of action would have accrued no later than three years after the regulation in question was enacted. Given that the Claimant was aware of his cause of action by at least 2001 it is clear that the statute of limitations had run by the time he filed his Complaint with the Commission on July 12, 2011. (See Complaint p.1).

2. Action for physical taking or conversion is barred by the statute of limitations.

The Claimant alleges that due to an encounter with AGFC officer's at his home he was forced to destroy his herd of captive elk. (See Complaint p. 1). Based on the reasons and undisputed facts previously discussed above in this Memorandum, Claimant's claim should be barred by the applicable statute of limitations. See Ark. Code Ann. § 16-56-105. Even if one were to disregard the undisputed fact the no officer, agent or employee of AGFC ever ordered or instructed the Claimant to destroy his elk herd reasonable minds could not conclude that a genuine issue of fact remains as to whether the occasion wherein Claimant was visited at his home occurred within the relevant time under A.C.A. § 16-56-105.

In his Complaint, Complainant stated that in "2007 or 2008" Officers Chris Majors and Ryan Warner came to his property, and as a result of their statements, he was forced to destroy

his elk. (See Exhibit A, p. 2 ¶ 2). However, at a deposition conducted following the Legislature remanding the Commission's order dismissing the complaint as barred by the statute of limitations Claimant elaborated upon that allegation. According to his testimony at the time he signed his Complaint he was unsure of the date of that occurrence, but that he had since recollected and he was "reasonably sure" that it was in 2008. (See Exhibit A, p. 35, lines 20-25, p. 36, line 1. and p. 62, lines 4-11). Claimant testified that he based his recollection on the basis of where his wife was working at the time the event occurred and the fact that she had quit that job in 2009. (See Exhibit A, p. 62, lines 12-16, and p. 63, lines 17-23). Claimant's wife, Fern Sherrell was also deposed at that time and she corroborated Claimant's testimony stating that she recalled the event occurred in 2008 because she was thinking of quitting her job at Horseshoe Bend Clinic where she worked from 2006 until 2009. (See Exhibit B (Deposition of Fern Sherrell) p. 8, lines 4-12).

Claimant further refined his recollections in his deposition testimony recalling that the occasion of the officer's visit was in July or August of 2008 due to the fact that he recalled it being hot outside. (See Exhibit A, p. 63, lines 3-11). Upon further questioning, Claimant conceded that it could have also occurred in June due to the fact that it is also often warm in June. (See Exhibit A, p. 63, lines 12-16). Claimant further based his recollection at the deposition by presenting an affidavit executed two days prior by a former employee of his, Eugene Bull, who stated that he was present at the meeting of Claimant and the AGFC officers and that event occurred in July or August of 2008. (See Exhibit A, p. 6, lines 17-23, p. 7, lines 1-22, p. 22, lines 2-7).

Claimant also has testified that the occasion of Cpl. Warner's visit to Claimant's property was the last time that any employee, agent or officer of AGFC communicated with Claimant

about his elk. (See Exhibit A, p. 66, lines 3-7). Additionally, it is also undisputed that the Occasion of Cpl. Warner's visit was the only time that Claimant spoke to an employee, agent or officer of AGFC on Claimant's property. (See Exhibit A, p. 64, lines 23-25).

Contrary to Claimant's new-found recollections, Officer Christopher Majors will testify that he has never interacted with the Claimant and to the best of his knowledge has never interacted with him. (See Exhibit H). Cpl. Warner will testify that on January 19, 2007 he, accompanied by AGFC Lieutenant Jerry Smith, visited the Claimant at his (the Claimant's) residence to gather information about Claimant's captive elk herd. Cpl. Warner has also sworn that the incident in question is the only occasion on which he has ever spoke to Claimant at his property. (See Exhibit C). Lt. Smith's recollection corroborates those of Cpl. Warner. (See. Exhibit G). Additionally, on January 19, 2007, Cpl. Warner submitted an incident report to his superior officer reporting his interaction with Claimant at the Claimant's property. (See. Exhibit E). Cpl. Warner also contemporaneously recorded his visit to Claimant's property on the January 19, 2007, in his official log book, just as he had on January 12, 2007, when he had previously visited the property in an unsuccessful attempt to make contact with the Claimant. (See Exhibit D).

In light of the evidence presented, it seems clear that there is not a genuine issue of fact remaining as to when the AGFC Officers discussed the Elk on Mr. Sherrell's property. Mr. Sherrell's vacillating recollection of the date of the occurrence was formed after Respondent's Motion to Dismiss and are based on the unverifiable memory of another person. Respondent's evidence clearly documents that an encounter between Cpl. Warner and Mr. Sherrell occurred on January 19, 2007. When this evidence is viewed in light of Mr. Sherrell's on testimony that there was only one encounter between himself and Cpl. Warner or any other employee of AGFC

during the timeperiod pertinent to Mr. Sherrell's claim, it becomes apparent that the documented encounter of January 19, 2007, is the accurate date from which the applicable statute of limitations should run. Resultantly, Mr. Sherrell's claim is barred and this Honorable Commission should grant Respondent's motion to dismiss.

D. Claimant's allegation that AGFC Code 15.04 was arbitrary and capricious is moot.

The Arkansas Supreme Court has held that as a general rule courts of this state will not review any issue that is moot because to do so would result in the issuance of advisory opinions. Warren Wholesale Co., Inc. v. McLane Co., Inc., 374 Ark. 171, 174, 286 S.W.3d 709, 711 (2008). "A case becomes moot when any judgment rendered would have no practical legal effect upon a then-existing legal controversy." Honeycutt v. Foster, 371 Ark. 545, 548, 268 S.W.3d 875, 878 (2007). In Arkansas there are two recognized exceptions to the mootness doctrine. The first exception occurs when an issue is capable of repetition but has evaded review, and the second concerns issues that raise a substantial public interest which, if addressed, would prevent future litigation. Id.

In the Complaint, Claimant alleges that the requirements for a commercial wildlife hunting resort were arbitrary and were chosen to specifically prevent him from obtaining such a license. In light of the facts discussed above in this Memorandum, these allegations are clearly baseless. Primarily, because aside from a few requests for information that Claimant made to AGFC personnel working at the Calico Rock Regional office, Claimant admittedly made absolutely no effort to formally notify Respondent that he desired to obtain a commercial wildlife hunting permit. (See Exhibit A, p. 41, lines 13-18, p. 56, lines 21-25, p. 57, lines 1-18, p. 59, lines 16-25, p. 60, lines 1-15, and p. 61, lines 1-4). Respondent concedes that Claimant apparently did ask AGFC employee Mike Cartwright for information about commercial

licensing concerning captive elk. However, it is also undisputed that AGFC personnel provided this information to him in writing and Respondent chose not to utilize it by submitting an application for a permit. (See Exhibit J). Additionally, Claimant failed to avail himself of the opportunity to have any of his opinions in opposition to the regulation be heard at the public committee meeting at which the proposed regulation was discussed. (See Exhibit A, p. 72, lines 17-20).

Unfortunately, due to many of the same facts discussed above on Claimant's failure to exhaust his administrative remedies, none of the above facts need to be applied in an analysis of whether Respondent's permit requirements were arbitrary or capricious. As discussed above, if Claimant felt that the regulations in question were arbitrary, he should have applied for a permit, requested an administrative hearing if his application was rejected, and then petitioned the Circuit Court for relief on those grounds. Instead of doing any of those things, Claimant independently and unilaterally elected to destroy his elk without notifying or receiving any such instruction from Respondent. Consequently, any ruling that the regulation was arbitrary and capricious would currently have no practical effect on Claimant because he voluntarily chose to destroy his property prior to instituting any legal action.

Additionally, neither exception to the mootness doctrine is applicable to this matter. This matter does not involve an issue capable of repetition nor does it involve a matter of substantial interest that may prevent future litigation if resolved here. This is necessarily so due to the fact that AGFC no longer issues commercial wildlife hunting resort permits to *any* facility for the hunting of any member of the Family Cervidea that has not been continuously permitted and operated since that date. Code Ark. R. 002 (emphasis added). For the above stated reasons, this honorable Commission should dismiss Complainant's claim due to mootness.

E. Conclusion

Mr. Sherrell's own testimony has sealed his fate. He admits that he never applied for any permit from AGFC. He admits that no employee, agent or officer of AGFC ever instructed or ordered him to destroy his elk. Furthermore, he admits that the decision to destroy his elk herd was his own and done without any knowledge on the part of AGFC. Given these admissions, it is clear that the Respondent is not the cause for any of Mr. Sherrell's alleged damages. In addition, Mr. Sherrell failed to exhaust any of the administrative remedies available to him, and because he chose to destroy his elk rather than pursue those remedies, he should be barred from seeking recovery now. Further, even if Mr. Sherrell could show that AGFC is the cause of his alleged damage and that the exhausted all available administrative remedies, the statute of limitations bars any theory of recovery that Mr. Sherrell could conceivably allege. Finally, any claim based on the allegation that AGFC Code 15.04 was arbitrary is clearly moot. Mr. Sherrell chose not to avail himself of administrative remedies or to challenge the statute and instead slaughtered his elk. Because Mr. Sherrell no longer possesses elk and AGFC no longer issues permits under Code 15.04, the regulation is moot as it applies to him and the public at large. For the above described reasons, AGFC requests that the Commission to dismiss David Sherrell's claim in its entirety and for such relief to which the respondent is entitled.

Respectfully submitted,

ARKANSAS GAME AND FISH COMMISSION

James F. Goodhart, ABA #92080

John P. Marks, ABA #2003132

Jennifer R. Jameson, ABA #2007190 Christian N. Parks, ABA #2009179 Arkansas Game & Fish Commission 2 Natural Resources Drive Little Rock, AR 72205 Tele: (501) 223-6327

Fax: (501) 223-6463

Attorneys for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion for Summary Judgment was served upon Claimant's attorney by mailing a copy thereof to him at the address below on this 14th day of March, 2013.

Mr. Larry J. Steele
Attorney at Law
P.O. Box 561
Walnut Ridge, Arkansas 72476-0561

Christian N. Parks



APR 2 9 2013

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RECEIVED

DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

Comes Claimant, David Charles Sherrell ("Sherrell"), by and through his attorney, Larry J. Steele, and for his Response to Respondent's Motion for Summary Judgment, states:

- 1. This matter is once again before the Claims Commission as a result of the Legislative Committee's vote to return the matter for the taking of testimony. Therefore, any motion to dismiss or for summary judgment is res judicata and moot.
- 2. Respondent's pleading entitled Respondent's Motion for Summary Judgment is a hybrid Ark. R. Civ. Pro. 12 motion for judgment as a matter of law and Ark. R. Civ. Pro. 56 motion for summary judgment.
- 3. Arkansas Game & Fish Commission's ("AGFC") acts over a period of thirteen years, 1995 to 2008, led Claimant Sherrell to rely on its tacit approval of his elk business.
- 4. Claimant exhausted all applicable administrative remedies. Only after thirteen (13) years was Claimant informed he could be arrested for possessing the elk.

- 5. Admittedly, Claimant never formerly filled out an application, but he went through proper channels, Mr. Cartwright of the AGFC, to acquire a breeder's certificate.
- 6. Claimant filed his Complaint within the three-year statute of limitation in Ark. Code Ann. § 16-56-105; AGFC documents, affidavits on the eve of the case being determined, are the only evidence contradicting Claimant.
- 7. AGFC Code 15.04 is arbitrary and capricious pursuant to AGFC's own articles on the subject written by AGFC officials.
- 8. Based on AGFC affidavits a material issue of genuine fact exists as a matter of law.
- 9. In support of his Response to Respondent's Motion for Summary Judgment, Claimant relies on his Statement of Material Facts in Dispute, his Brief in Support of this Response to Respondent's Motion for Summary Judgment, and on the following pleadings and documents:
 - (1) Complaint
 - (2) Deposition of David Charles Sherrell
 - (3) Deposition of Fern Sherrell
 - (4) Affidavit of David Charles Sherrell
 - (5) Letter of Michael Cartwright dated July 14, 1999
 - (6) Tax returns for 2006, 2007 and 2008

WHEREFORE, Claimant prays that Respondent's Motion for Summary Judgment be dismissed and for judgment as prayed in his Complaint.

Respectfully submitted,

LARRY J. STEELE PLC

By

LARRY J. STEELE (78146)

115 Abbey Road P.O. Box 561

Walnut Ridge, AR 72476-0561

(870) 886-5840 (870) 886-5873 fax

email: steelelaw7622@sbcglobal.net

Attorney for Claimant, David Charles Sherrell

CERTIFICATE OF SERVICE

I, Larry J. Steele, hereby certify that a copy of the foregoing CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT, was faxed April 19, 2013, and mailed by U.S. Mail, postage prepaid, this 24/4 day of April, 2013, to the following:

Mr. James F. Goodhart Arkansas Game & Fish Commission Legal Division #2 Natural Resources Drive Little Rock, AR 72205

LARRY I!STEELE

Please print in lak or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

er Mr.	Do Not Write in These Spaces
□ Mrs, □ Ms.	Claim No.
D Miss	
David Charles Sherrell Claimant	Data Filad (Morath) (Day) (Year)
VS.	Amount of Claim S
State of Arkansas, Respondent	Pind
,	
COMPLAIN	T
David Charles Charmall	- m +
David Charles Sherrell the above named Chimnet, of 1116	(Street or R.F.D. & No.) (City)
AR 72565 870-373-0999cm Tzard	• • • • • • • • • • • • • • • • • • • •
AR 72565 870-373-0999County of Izard rep (State) (Zip Code) (Daytime Phone No.)	resented by LETTY J. Steete, Actorney at Law
of P.O. Box 561, Walnut Ridge, AR 72476 (Street and No.) (City) (State) (Zip Code)	(Phone No.) (Par No.)
State agency broaded. Arkansas Game and Fish Commission	
State agency to volved: AT ANTISAS GALLE AND FISH COMMITSSION	Amount accepts: \$195,350.00
Month, day, year and place of incident or services 1995 to present	d)
Explanation: My name is David Charles Sherrell.	My address is 1115 Tri Lakes
Road, Oxford, Arkansas 72565. In 1995 or	1996. I purchased 33 head of
Rocky Mountain elk at \$2,250.00 each, for	a total price of \$74,250.00.
My intention was to help the state of Arka	ansas to replenish the elk
population and establish a hunting lodge of	on my 420 acres. I discussed d
my plans with the Izard County Sheriff.	a total price of \$74,250.00. The ansas to replenish the elk on my 420 acres. I discussed when the elk of the start of the elk of the start of the elk of the start of the elk of
Sometime within the first year of pure	phosing the alk Prior
Gaskins and W.D. Whitehurst, game wardens	**************************************
Fish Commission, came to my farm and obser	ved my eig. One of the game
wardens, I believe Brian Gaskins, informed	me i needed to acquire a
breeder's permit from the state. No one s	stated I was in violation of g
any law, but that I did need the breeder's	
In 1997 or 1998, I spoke to Mike Carty	right with the Arkansas
Game and Fish Commission at his office in	
acquiring the breeder's certificate. Mr.	
would check into it. Several months later	
with Mr. Cartwright, he informed me the Ar	
had decided not it issue me a breeder's ce	ertificate. No explanation was
As parts of this compleint, the claimant makes the statements, and enswers the following questions, as indicate	ed: (1) Han claim beam presented to any state department or officer thereof? Slven . *
No ; when?; to whom?	
(Yes or No) (Month) (Day) (Year)	(Department)
and that \$ was paid thereon: (2) Has any third person or corporation an inter-	net in this claim? NO ; if so, state name and address
The production of the production of the state of the production of the state of the	and the state of t
	sy) (State) (Zip Code)
and that the nature thereof is as follows:	
:andwaracquiredon	in the following meaner:
	·
THE UNDERSIGNED states on eath that he or she is familiar with the matters and things a	et forth in the above complaint, and that he or she verily believes
that they are true.	
DAVID C. SHERCELL Vain	C Shenell
(Print Claimant/Representative Name)	(Signature of Claimant/Representative)
ONIONATIO IL IL IL IL IL IL IL IL IL IL IL IL IL	
SWORN TO and subscribed before me at	ockwell AR
م م مال	(City) (State)
on this -X-10 & day of	Sedember 2010
KELLI ORF	(Month)
NOTARY PUBLIC-STATE OF ARKANSAS	(Month) (Year)
IZARD COUNTY B KCVV WAR	
My Commission Expires 6-1-2013	(Notary Public)
My Commission Expires:	2013 /08
1 7	Month) (Dav) (Veer)

Approximately five (5) years after I started my business, one of the game wardens told me the Arkansas Game and Fish Commission had passed a regulation requiring a minimum of 500 acres, with 60% dead woods, to establish an elk herd. One of the game wardens told me I could kill and sell the meat to the public, but I could not let the public hunt the elk.

In 2007 or 2008, Officer Chris Majors and Officer Ryan Warner, game wardens with the Arkansas Game and Fish Commission, told me I could be arrested for having the elk illegally. The officers informed me that all I could do with my elk was kill them for my own personal use.

I have been forced to destroy my existing elk herd.

The regulation of the Arkansas Game and Fish Commission requiring 500 acres to raise elk was and is an arbitrary number with no scientific basis which I believed was chosen to specifically eliminate me and my elk operation because the Arkansas Game and Fish Commission knew I had only 420 acres. Numerous articles have been published by the Arkansas Game and Fish Commission which state that "although elk have been back in Arkansas for almost 25 years, little scientific research has been conducted." ("Answers About Elk" by Don White, Jr., Ph.D., Mike Cartwright and Robert C. Weih, Jr., Ph.D., Arkansas Wildlife, November.December 2005).

At the time of the article, the above authors could not answer the question, "Which habitats are used?" *Id* at p. 11. The article continues, "Although our data will not permit us to estimate the minimum area of any vegetation type that is necessary before an area is occupied by bull elk our results will provide information about proportions of vegetation types associated with bull elk home ranged." *Id* at p. 12. "Since elk hunting season began in 1998, through the September 2005 hunt, 180 elk have been legally harvested." *Id* at p. 7.

Elk are native to Arkansas. Elk were reintroduced in 1980. Through the 2007 hunting season, 238 elk had been harvested. ("At Home in the Ozarks" by Michael Cartwright and Don White, Jr., Arkansas Wildlife, September. October 2008, p. 7).

Mr. Cartwright and Mr. White encourage elk production by private landowners. Id at p. 8. One of the stated objectives is to "manage a limited number of elk on private land. Id at p. 8. The Arkansas Game and Fish Commission even has a private land elk management program with cost-share options in the program for landowners who want to improve habitat on their property for elk and other wildlife. Id at p. 9.

In another article, "Common Questions About Arkansas Elk," by Michael Cartwright and Don White, Jr., *Front Porch*, November.December 2008, p. 7, private elk management programs is encouraged.

Because of the Arkansas Game and Fish Commission's arbitrary treatment of my elk breeding business, I have suffered the following damages:

33 original elk purchased at \$2,250.00 each	\$74,250.00
Hay	\$43,316.00
Corn	\$74,440.00
Worm blocks	\$3,150.00
Mineral blocks	\$202.00
TOTAL DAMAGES	\$195,358.00

I am requesting judgment against the Arkansas Game and Fish Commission and/or the State of Arkansas for \$195,358.00.

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

<u>AFFIDAVIT</u>

I am David Charles Sherrell, Claimant in this matter. I am over the age of eighteen (18). I affirmatively state that I have never met Jerry Smith and have no idea who he is. As I testified previously, under oath, Ryan Warner and Chris Majors visited my farm and viewed my elk herd in the hot part of the summer of 2008. I strongly dispute that Ryan Warner and Jerry Smith discussed with me on January 19, 2007 my elk herd and AGFC regulations.

I have read the affidavit of William Ryan Warner (Exhibit C dated February 8, 2013, and attached Exhibits D, E and F), the affidavit of Jerry Smith (Exhibit G dated February 12, 2013), and the affidavit of Christopher Majors (Exhibit H dated February 26, 2013), which are attached to the AGFC's Motion for Summary Judgment and dispute their allegations that I met with Ryan Warner and Jerry Smith on or about January 19, 2007.

I repeat my statement, under oath, that I met Ryan Warner and Chris Majors in the summer months of 2008 when they discussed the AGFC regulations concerning elk.

David Charles Sherrell

1-3/45[[=17

ACKNOWLEDGMENT

STATE OF ARKANSAS)
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COUNTY OF)
CIRCODIRED AND S	WORN to before me, a Notary Public, this day of
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April, 2013.	\wedge
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My Commission Expires:	
07-03-2022	AMBER LUNSFORD NOTARY PUBLIC STATE OF ARKANSAS
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	My Commission Expires 07-03-2022 Commission # 12388777

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Arkansas Game & Fish Commission

2 Natural Resources Drive

Little Rock, Arkansas 72205

Scott Henderson
Assistant Director



Scott Yalch
Assistant Director

July 14, 1999

Mr. David Sherrill P.O. Box 57 Brockwell, AR 72517

Dear Mr. Sherrill:

I have checked with our legal counsel in Little Rock, Mr. Jim Goodhart, regarding your request for information on Arkansas regulations pertaining to hunting elk within an enclosure. Mr. Goodhart advised that you would need a Commercial Game Breeder's Permit from the Commission (available from the main AFGC office in Little Rock) to raise for sale any elk in accordance with Commission Code 15.01 (Commercial Game Breeder's Permit Requirements - see attachment).

Our Commission Code 18.16 (Taking of Elk Prohibited – see attachment) specifies that it shall be unlawful to take, attempt to take, or possess an elk or any part thereof at any time with the following exceptions: 1) when legally obtained outside the state and accompanied by verification; 2) in compliance with Commission Code 02.21, Elk Hunting Season (see attachment). It is lawful to possess elk so long as the elk have been obtained from outside the state and accompanied by written verification. The Commission interprets Code 18.16 to require that any taking or attempt to take such elk by means of hunting must also take place in compliance with Commission Code 02.21, which specifies the open seasons for elk hunting.

The Commission currently has no regulations specifying requirements for high fence enclosures or restricting private permitted game breeders from raffling or auctioning the animals that they raise. A private game preserve work group composed of Commission staff and chaired by Mr. Goodhart is presently looking into game farming and is expected to propose regulations within the next six months which could affect the



Mr. David Sherrill July 14, 1999 Page 2

requirements for private game breeding and hunting, possibly including fence enclosure requirements. Currently, there is no way to guarantee that any investment made at this time will necessarily satisfy any future regulations. At present, you can take any action you choose regarding enclosures. Mr. Goodhart advised that you might consider delaying any planned action until after you have an opportunity to review the anticipated regulations if you want to be certain that your plans will conform to any new requirements. Hopefully this information is of some help to you in making future decisions regarding your captive elk herd.

Cordially,

Michael E. Cartwright

Deer/Elk Program Coordinator

MC: mcr Attachments

cc: Mr. Steve N. Wilson

Mr. Scott Henderson

Mr. Scott Yaich

Mr. Donnie Harris

Mr. Don McKenzie

Mr. Bob Conley

Mr. Jim Goodhart

Mr. Loren Hitchcock .

Mr. Brian Gaskins

Mr. Y.D. Whitehurst

Mr. John Crisman

Mr. Jim Hinkle

Elk Committee

Private Game Preserves Work Group

File

(4) An alligator may be possessed for display and educational purposes pursuant to written permit issued by the Commission Chief of Wildlife Management.

PENALTY: \$500.00 to \$1,000.00, and suspension of hunting and fishing privileges may be imposed in accordance with Code 11.05, Revocation of Privileges. Equipment used in such violations (including but not limited to killing devices and lights) may be confiscated by the court, forfeited to the State, and disposed of according to law.

- 18.15 TAKING OF MOUNTAIN LION PROHIBITED.
- 03-90 It shall be unlawful to take, attempt to take, or possess a mountain lion, cougar, or panther (Felis concolor) at any time.

 EXCEPTION:
 - (1) When legally obtained and accompanied by verification and in accordance with USDA regulations.

PENALTY: \$100.00 to \$1,000.00.

- TAKING OF ELK PROHIBITED. It shall be unlawful to take, attempt to take, or possess an elk or any part thereof at any time. EXCEPTION:
 - (1) When legally obtained outside the state and accompanied by verification.
 - (2) In compliance with Commission Code 02.21, Elk Hunting Season.

PENALTY: Not less than \$5,000.00.

- 18.17 WILDLIFE PET RESTRICTIONS. It shall be unlawful to take or attempt to take by any method other than by hands and possess alive any wildlife species other than six (6) each of the animals specified herein, and the sale, purchase, barter, or transporting of such animals from the state or the progeny thereof is prohibited.
 - (A) Bobcat, coyote, deer, gray fox, red fox, opossum, quail, rabbit, raccoon and squirrel.
 - (B) Any native nongame wildlife excluding birds, bats, alligator snapping turtles, ornate box turtles, hellbenders, troglodytic (cavedwelling) species or those animals defined as endangered species.

EXCEPTION:

- (1) Wildlife exchanged with other states by the Commission. **PENALTY:** \$100.00 to \$1,000.00.
- 18.18 WATERFOWL HUNTING RESTRICTIONS ON LAKES HARRIS
 07-80 BRAKE, HAMILTON. It shall be unlawful to take or attempt to take any migratory waterfowl from any watercraft or other floating device on Lake Hamilton in Garland County and Harris Brake Lake in Perry County.
 PENALTY: \$100.00 to \$1,000.00.

Section 15.00Game Breeders

15.01	Commercial Game Breeder's Permit Requirements.
15.02	Commercial Game Breeder's Report Requirements.
15.03	Commercial Wildlife Shipping Requirements.
15.04	Special Commercial Quail Permit Requirements.
15.05	Commercial Nongame Breeder's Permit Requirements.
15.06	Commercial Nongame Breeder's report requirements.

15.01 COMMERCIAL GAME BREEDER'S PERMIT REQUIREMENTS. It shall be unlawful to raise for sale any fur-bearing animals, game animals.

shall be unlawful to raise for sale any fur-bearing animals, game animals, game birds, or bullfrogs, or for bullfrogs to be kept or reared in other than escape-proof pens without first obtaining a Commercial Game Breeder's Permit from the Commission. Such permits may be granted in accordance with Commission requirements which include that the applicant must supply satisfactory evidence that stock will be secured from a legal source other than the wild stock of the state, a bill of sale must be maintained on all stock purchased and sold; and applicable USDA permits must be obtained.

PENALTY: \$100.00 to \$1,000.00. Second offense, penalty not less than \$500.00.

15.02 GAME BREEDER'S REPORT REQUIREMENTS. It shall be

07-80 unlawful for game breeders to fail to mail or deliver to the Commission on the first of each month an itemized inventory of all species covered under Commercial Game Breeder's Permit.

PENALTY: \$100.00 to \$1,000.00. Second offense, penalty not less than \$500.00.

- 15.03
 COMMERCIAL WILDLIFE SHIPPING REQUIREMENTS. It shall be unlawful to ship species possessed under Commercial Game Breeder's Permit or Commercial Nongame Breeder's Permit without label indicating contents, consignor, consignee and shipper's permit number. PENALTY: \$100.00 to \$1,000.00.
- SPECIAL COMMERCIAL QUAIL PERMIT REQUIREMENTS. It shall be unlawful to engage in the business of selling or offering for sale the dressed carcass of pen-raised quail without first obtaining a Special Commercial Quail Permit and stamp in addition to a Commercial Game Breeder's Permit. (Ref: Section 01.00-C "Pen-Raised Quail"). It is further provided that:
 - (1) Quail must be killed by means other than shot;
 - (2) Each dressed carcass must be stamped with special stamp with permit number prior to selling or offering for sale.

PENALTY: \$100.00 to \$1,000.00.

02.20
HUNTING BEAR OVER BAIT PROHIBITED. It shall be unlawful to take or attempt to take bear by hunting on or over a baited area. Bait is considered any substance that may be an attractant. PENALTY: \$100.00 to \$1,000.00.

02.21 <u>ELK HUNTING SEASON</u>. It shall be unlawful to take, attempt to take, or possess elk other than during the open seasons as specified herein:

September 21-25, 1998. No dogs. Four bull permits (valid in elk zones 1 and 4), 2 bull permits (valid in elk zones 2 and 4), 1 bull permit (valid in elk zones 3 and 4).

December 7-11, 1998. No dogs. One bull permit (valid in elk zones 1 and 4), 1 bull permit (valid in elk zones 2 and 4), 1 bull permit (valid in elk zones 3 and 4), 3 antierless permits (valid in elk zone 1), 1 antierless permit (valid in elk zone 2), and 1 antierless permit (valid in elk zone 3).

September 21-25, 1998 and December 7-11, 1998. No dogs. Five antierless permits will be valid for use in elk zone 4.

EXCEPTION:

(1) When legally obtained outside the state and accompanied by verification.

PENALTY: Not less than \$5,000.00.

Department of the Treasury - Internal Revenue Service Form 1040 2006 U.S. Individual Income Tax Return IRS Use Only - Do not write or staple in this space For the year Jan 1 - Dec 31, 2006, or other tax year beginning 2006, andtrig OMB No. 1545-0074 Your social security number Label (See instructions.) David Sherrell If a joint return, spouse's first name Last name Spouse's social security numb Use the IRS label. Sherrell Otherwise, Home address (number and street). If you have a P.O. box, see instructions. Apartment no. TOU MUST CITTET YOUR please print social security 82 Box 61 or type. number(s) above. City, town or post office. If you have a foreign address, see instructions. State ZIP code Checking a box below will not change your tax or refund, Presidential 72565 Oxford AR Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund? (see instructions) You Spouse Single Head of household (with qualifying person), (See Filing Status instructions.) If the qualifying person is a child 2 Married filing jointly (even if only one had income) but not your dependent, enter this child's name here . 3 Married filing separately. Enter spouse's SSN above & full Check only name here 👝 🏲 one box. Qualifying widow(er) with dependent child (see instructions) Exemptions 6a X Yourself. If someone can claim you as a dependent, do not check box 6a ь Х Spouse . No. of children (4) Vit (2) Dependent's (3) Dependent's c Dependents: • lived social security relationship qualifying child for child with you number lo you tax credit (see instrs) did not (1) First name Last name live with you due to divorce Dependents If more than on 6c not four dependents, see instructions. Add numbers d Total number of exemptions claimed 7 Wages; salaries, tips, etc. Attach Form(s) W-2 76.947 Income 8a Taxable interest. Attach Schedule B if required 82 82 9a Ordinary dividends. Attach Schedule B if required Attach Form(s) 9a W-2 here. Also attach Forms Taxable refunds, credits, or offsets of state and local income taxes (see instructions) W-2G and 1099-R Alimony received if tax was withheld. 11 Business income or (loss). Attach Schedule C or C-EZ 12 12 -12,061 If you did not 13 get a W-2. 13 8,250. see instructions. Other gains or (losses). Attach Form 4797 14 15a IRA distributions 15a **b** Taxable amount (see instrs) . 15b 16a Pensions and annuities 16a b Taxable amount (see instrs) . 16_b Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E . 17 3,000. Farm income or (loss). Attach Schedule F..... Enclose, but do 18 -50.874not attach, any 19 payment Also, 20 a Social security benefits 20 a b Taxable amount (see instrs). pléase use 20 b Form 1040-V. 21 Add the amounts in the far right column for lines 7 through 21. This is your total income. 22 25,344. **Adjusted** Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ Gross 24 Income 25 25 26 Moving expenses. Attach Form 3903 26 27 One-half of self-employment tax. Attach Schedule SE...... 27 28 28 Self-employed health insurance deduction (see instructions) 29 29 ⇒(4,15) Penalty on early withdrawal of savings 30 31 a Alimony paid b Recipient's SSN 31 a 32 IRA deduction (see instructions) 32 250 33 Student loan interest deduction (see instructions)..... 33 800 Jury duty pay you gave to your employer

Add lines 23 - 31a and 32 - 35

,050.

Form 1040 (200	D6) David & Fern Sherrell	Page:
	38 Amount from line 37 (adjusted gross income)	38 24,294
Tax and	39a Check You were born before January 2, 1942, Blind. Total boxes	
Credits	if: Spouse was born before January 2, 1942, Blind. checked 39a	
Standard	b If your spouse itemizes on a separate return, or you were a dual-status alien, see instrs and ck here > 39 b	1
Deduction for —		40 10,990.
People who	40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)	41 13,304.
checked any bo	, and the state of	13,304.
on line 39a or 39b or who car	42 If line 38 is over \$112,875, or you provided housing to a person displaced by Hurricane Katrina, see instructions. Otherwise, multiply \$3,300 by the total number of exemptions claimed on line 6d	42 6,600.
be claimed as	43 Taxable income. Subtract line 42 from line 41	
dependent, see instructions.	If line 42 is more than line 41, enter -0-	
instructions.	44 Tax (see instrs). Check if any tax is from: a Form(s) 8814 b Form 4972	44 503.
All others:	45 Alternative minimum tax (see instructions). Attach Form 6251	45 0.
Single or Marrie	ad 46 Add lines 44 and 45	46 503.
filing separately	47 Foreign tax credit. Attach Form 1116 if required	
\$5,150	48 Credit for child and dependent care expenses. Attach Form 2441	1 1
Married filing	49 Credit for the elderly or the disabled. Attach Schedule R 49	
jointly or	50 Education credits. Attach Form 8863	
Qualifying		
widow(er), \$10,300		
Head of household,	53 Child tax credit (see instructions). Attach Form 8901 if required	
\$7,550	54 Credits from: a Form 8396 b Form 8839 c Form 8859 54	
	55 Other credits. Check applicable box(es): a Form 3800	
<u> </u>	b Form c Form 55	
	56 Add lines 47 through 55. These are your total credits	56 503.
	57 Subtract line 56 from line 46. If line 56 is more than line 46, enter -0	
· ·	58 Self-employment tax. Attach Schedule SE	58
Other	59 Social security and Medicare tax on tip income not reported to employer, Attach Form 4137	59
Taxes	60 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	
	61 Advance earned income credit payments from Form(s) W-2, box 9	
	62 Household employment taxes. Attach Schedule H	
• =		63 0.
Payments	64 Federal income tax withheld from Forms W-2 and 1099 64 7, 582.	
If you have a	65 2006 estimated tax payments and amount applied from 2005 return	
qualifying child, attach	b Nontaxable combat pay election 66 b	
Schedule EIC.	67 Excess social security and tier 1 RRTA tax withheld (see instructions)	
	68 Additional child tax credit. Attach Form 8812	·
	69 Amount paid with request for extension to file (see instructions)	
	70 Payments from: a Form 2439 b Form 4136 c Form 8885 70	
	72 Add lines 64, 65, 66s, and 67 through 71.	
	These are your total payments	72 7,622.
Refund		7,622.
Direct deposit?	74a Amount of line 73 you want refunded to you. If Form 8888 is attached, check here >	74a 7,622.
See instructions and fill in 74b.	► b Routing number	
74c, and 74d or	► d Account number	
Form 8888.	75 Amount of line 73 you want applied to your 2007 estimated tax	
Amount		76
You Owe	77 Estimated tax penalty (see instructions)	
Third Party	Do you want to allow another person to discuss this return with the IRS (see instructions)? Yes. Comp	lete the following. X No
Designee	Designee's Phone Pe	rsonal identification
Sign	Under negalities of perjury I declare that I have examined this selves and	
Here	solid, and add, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer	arer has any knowledge.
Joint return?	Your signature Date Your occupation	Daytime phone number
See instructions.	Truck Driver/Farmer	
Кеер а сору	Spouse's signature. If a joint return, both must sign. Date Spouse's occupation	
for your records.	Nurse Practitioner	
	Preparer's Date	Preparer's SSN or PTIN
Paid	signature 2/20/07 Check if self-employed	
Preparer's	Firm's name Melba Cooper (or yours if	•
Use Only	self-employed) F HC 79 Rox 350	
	7/P.code Pineville ap Torse	370_297_8676

SCHEDULE A (Form 1040)

Department of the Treasury Internal Revenue Service (99)

Itemized Deductions

► Attach to Form 1040. ► See Instructions for Schedule A (Form 1040). OMB No. 1545-0074

2006 Attachment Sequence No. 0

Name(s) shown on Form 1040 Your social security number David & Fern Sherrell Caution. Do not include expenses reimbursed or paid by others. Medical 3,238. and Medical and dental expenses (see instructions) . . . Dental Enter amount from Form 1040, line 38 Expenses 1,822 Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-1,416. 5 4,227 State and local income taxes Taxes You Paid 6 80 7 160: Personal property taxes (See instructions.) Other taxes. List type and amount ► 8 Add lines 5 through 8 Q 4,467. Interest 10 Home mtg interest and points reported to you on Form 1098 10 2,116. You Paid Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying number, and address > (See instructions.) 11 Note. Personal 12 interest is 13 Investment interest. Attach Form 4952 if required. not deductible. 13 Add lines 10 through 13 2,116. 14 Gifts to Gifts by cash or check. If you made any gift of \$250 or Charity more, see instrs 15 875. If you made 16 Other than by cash or check. If any gift of \$250 or a gift and got a benefit for it, see more, see instructions. You must attach Form 8283 if over \$500 16 instructions. Carryover from prior year 17 Add lines 15 through 17 18 875. Casualty and Casualty or theft loss(es). Attach Form 4684. (See instructions.) Theft Losses 19 Unreimbursed employee expenses - job travel, union dues, Job Expenses job education, etc. Attach Form 2106 or 2106-EZ if and Certain Miscellaneous required. (See instructions.) Deductions See Statement 20 2,602 21 Other expenses - investment, safe deposit box, etc. List (See instructions.) type and amount -23 Add lines 20 through 22 2,602. Enter amount from Form 1040, line 38 24 Multiply line 24 by 2% (.02) Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-2,116. Other - from list in the instructions. List type and amount > Other Miscellaneous Deductions 27 Total Is Form 1040, line 38, over \$150,500 (over \$75,250 if itemized married filing separately)? Deductions Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 40. 28 10,990. Yes. Your deduction may be limited. See instructions for the amount to enter. 29 If you elect to itemize deductions even though they are less than your standard deduction, check here



- SCHEDULE C (Form 1040)

Profit or Loss From Business (Sole Proprietorship)

OMB No. 1545-0074

Department of the Treasury Internal Revenue Service (99)

► Partnerships, joint ventures, etc, must file Form 1065 or 1065-B. ►Attach to Form 1040, 1040NR, or 1041. ► See Instructions for Schedule C (Form 1040).

Attachment Sequence No. 09

	David Sherrell A Principal business or profession, including				•	
	A Principal business or profession, including					
	•	g product or s	ervice (see instructions)		B Enter code f	rom instructions
	Trucking				► 48412C	···
	C Business name. If no separate business	name, leave b	lank.		D Employer ID	number (EIN), if any
	D S Trucking	,, ,				
	E Business address (including suite or room City, town or post office, state, and ZIP c	n no.)► <u>HC</u> ode Oxf	82 Box 61 ord, AR 725	65		
			(2) Accrual			
		-		ss during 2006? If 'No,' see instruction		
		usiness du	ring 2006, check he	ere	<u> </u>	<u></u>
P	art I income				· 1 1	
	1 Gross receipts or sales. Caution 'Statutory employee' box on tha	n. If this ind t form was	come was reported checked, see the i	to you on Form W-2 and the nstructions and check here	• 1	35,775
	2 Returns and allowances	• • • • • • • • •			2	
	3 Subtract line 2 from line 1		• • • • • • • • • • • • • • • • • • • •			35,775
	4 Cost of goods sold (from line 42	on page 2)			
	•				——————————————————————————————————————	35,775
1	5 Other income, including federal	and state	gasoline or fuel tax	credit or refund	<u>6</u>	
	Gross Income. Add lines 5 and	6		••••••	▶ 7	35,775
				ur home only on line 30.		30,110
-				18 Office expense	18	536
9	•			19 Pension and profit-sharing pla	J	
•	(see instructions)	. 9		20 Rent or lease (see instruction		
10	Commissions and fees	10		Vehicles, machinery, and equ	[, , , ,]	
11	Contract labor			b Other business property	205	
•	(see instructions)	11	13,617.	21 Repairs and maintenance	21	4,917
12		12		22 Supplies (not included in Part	· -	
13	Depreciation and section 179 expense deduction	1		23 Taxes and licenses	2 V	1,334.
	(not included in Part III)			24 Travel, meals, and entertainm	1~	
	(see instructions)	13	928.	a Travel	24a	
14	Employee benefit programs			<u>, , , , , , , , , , , , , , , , , , ,</u>		
15	(other than on line 19)	15	4,314.	b Deductible meals and entertain		
16	Interest:	353	4,314.	25 Utilities		
	Mortgage (paid to banks, etc)	1 1		27 Other expenses (from line 48 on page)	a. I	21 207
	b Other	16b	893.	Could expenses (non this 40 on page	2)	21,297.
17		17	<u></u>			
28	Total expenses before expenses	for busines	s use of home. Ad	d lines 8 through 27 in columns	▶ 28	47,836.
				-		2.,,000.
29	Tentative profit (loss). Subtract lii	ne 28 from	line 7	*************	29	-12,061.
30					30	
31	Net profit or (loss). Subtract line					
	 If a profit, enter on both Form 1 1040NR, line 13 (statutory employ Form 1041, line 3. 	040, line 1 ees, see ii	2, and Schedule Satructions). Estate	E, line 2 or on Form s and trusts, enter on		
	• If a loss, you must go to line 32	2.			31	-12,061.
32	If you have a loss, check the box		bes your investmen	it in this activity (see instructions)		
	• If you checked 32a, enter the to	ss on hoth	Form 1040 line 12	z, and Schedule SE, line 2, or on Fors and trusts, enter on Form 1041, lin	m e 3. 32 a X	All investment is at risk.
	• If you checked 32b, you must a	ttach Form	6198. Your loss m	av be limited.		Some investment
BAA	For Paperwork Reduction Act No	tice, see F	orm 1040 instructi	ons.		is not at risk. C (Form 1040) 2006

	edule C (Form 1040) 2006 David Sherrell			Page
<u>233</u>	rt III Cost of Goods Sold (see instructions)			
	Method(s) used to value closing inventory: a Cost b Lower of cost or market c Other (attack Was there any change in determining quantities, costs, or valuations between opening and closing inventory?	1 ехрі	anation)	
- -	If 'Yes,' attach explanation		Yes	: [] No
35	Inventory at beginning of year. If different from last year's closing inventory, attach explanation	. 35		
36	Purchases less cost of items withdrawn for personal use	36		
37	Cost of labor. Do not include any amounts paid to yourself	37		
38	Materials and supplies	38		
39	Other costs	39		 -
40	Add lines 35 through 39	40		
41	Inventory, at end of year	41		
42	Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on page 1, line 4	42		
Par	Information on Your Vehicle. Complete this part only if you are claiming car or truck expenses required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file F	on lir	ne 9 and are no 4562.	ot
43	When did you place your vehicle in service for business purposes? (month, day, year)			····
	Of the total number of miles you drove your vehicle during 2005, enter the number of miles you used your vehicle Business b Commuting (see instructions) cOther			
45	Do you (or your spouse) have another vehicle available for personal use?			No
46	Was your vehicle available for personal use during off-duty hours?		Yes	☐ No
47 a l	Do you have evidence to support your deduction?	••••	Yes	No
ь.	f 'Yes,' is the evidence written?		□ vee	No
Part	V Other Expenses. List below business expenses not included on lines 8-26 or line 30.		163	JINU
Dies	sel_Fuel		20	,493.
Cell	phone			744.
a <u>x</u>	preparation			60.
<u>-</u>				-
		_		
		_		
	· · · · · · · · · · · · · · · · · · ·			
8 To	otal other expenses. Enter here and on page 1, line 27	3	21,2	297.

SCHEDULE D (Form 1040)

Capital Gains and Losses

► Attach to Form 1040 or Form 1040NR. ► See Instructions for Schedule D (Form 1040).

► Use Schedule D-1 to list additional transactions for lines 1 and 8.

2006

OMB No. 1545-0074

Attachment Sequence No. 12

Department of the Treasury Internal Revenue Service (99)

Name(s) shown on Form 1040

Your social security number

(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr)	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	Subtract (e) from (d)
5 acres land in Baxter		05 /10 /06	20.050	25.00	0 4 050
	09/12/05	05/10/06	29,850.	25,00	0. 4,850
Enter your short-term totals, if any	, from Schedule D-1, I	ine 2 2			7 V
Total short-term sales price amou column (d)			29,850.		
Short-term gain from Form 6252 ar			s 4684, 6781, and 88	324	l e
Net short-term gain or (loss) from p					5
Short-term capital loss carryover. E Worksheet in the instructions		• • • • • • • • • • • • • • • •			,
Net short-term capital gain or (loss). Combine lines 1 thre	ough 6 in columi	ո (f)		4,850
rt II Long-Term Capital G	aine and Loceae	A 11-			
	iailis alla Eusses	- Assets He	eld More Than Oi	ne Year	
(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr)	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) Subtract (e) from (d)
(a) Description of	(b) Date acquired (Mo, day, yr) County, AR	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr) County, AR	(C) Date sold	(d) Sales price	(e) Cost or other basis	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr) County, AR	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr) County, AR	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr) County, AR	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr) County, AR	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr) County, AR 09/12/05	(c) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co) 48 acres land in Baxter (Enter your long-term totals, if any, for the share share share share) Total long-term sales price amount column (d)	(b) Date acquired (Mo, day, yr) County, AR 09/12/05 rom Schedule D-1, lin s. Add lines 8 and 9 in	(C) Date sold (Mo, day, yr) 11/10/06 e 9 9	(d) Sales price (see instructions) 129,900.	(e) Cost or other basis (see instructions) 1.26,500	Subtract (e) from (d)
(a) Description of property (Example: 100 shares XYZ Co) 48 acres land in Baxter (Enter your long-term totals, if any, for the share share property (a) (b) (c) (c) (c) (c) (c) (c) (c) (c) (c) (c	(b) Date acquired (Mo, day, yr) County, AR 09/12/05 rom Schedule D-1, lin s. Add lines 8 and 9 in	(C) Date sold (Mo, day, yr) 11/10/06 e 9 9	(d) Sales price (see instructions) 129,900.	(e) Cost or other basis (see instructions) 1.26,500	Subtract (e) from (d) . 3,400
(a) Description of property (Example: 100 shares XYZ Co) 48 acres land in Baxter (Example: 100 shares XYZ Co) Enter your long-term totals, if any, for the long-term sales price amounts column (d)	(b) Date acquired (Mo, day, yr) County, AR 09/12/05 rom Schedule D-1, lin s. Add lines 8 and 9 in	(C) Date sold (Mo, day, yr) 11/10/06 e 9 9	(d) Sales price (see instructions) 129, 900. 129, 900. and long-term gain or	(e) Cost or other basis (see instructions) 1.26, 500	Subtract (e) from (d) . 3,400
(a) Description of property (Example: 100 shares XYZ Co) 48 acres land in Baxter of the state o	(b) Date acquired (Mo, day, yr) County, AR 09/12/05 rom Schedule D-1, lin s. Add lines 8 and 9 in erm gain from Forms 2	(C) Date sold (Mo, day, yr) 11/10/06 e 9 9 10 2439 and 6252; and 62	(d) Sales price (see instructions) 129,900. 129,900. and long-term gain or or schedules from Schedu	(e) Cost or other basis (see instructions) 1.26, 500 (loss) from 11 ule(s) K-1 12	Subtract (e) from (d) . 3,400
(a) Description of property (Example: 100 shares XYZ Co) 48 acres land in Baxter of the state o	(b) Date acquired (Mo, day, yr) County, AR 09/12/05 rom Schedule D-1, lin s. Add lines 8 and 9 in erm gain from Forms 2 rtnerships, S corporat	(C) Date sold (Mo, day, yr) 11/10/06 e 9 9 10 2439 and 6252; and one, estates, and one, estates, and one of the control of the contro	(d) Sales price (see instructions) 129, 900. 129, 900. and long-term gain or district from Schedu	(e) Cost or other basis (see instructions) 1.26, 500 (loss) from 11 11e(s) K-1 12	Subtract (e) from (d) . 3,400.
(a) Description of property (Example: 100 shares XYZ Co) 48 acres land in Baxter (Enter your long-term totals, if any, for the column (d)	(b) Date acquired (Mo, day, yr) County, AR 09/12/05 rom Schedule D-1, lin s. Add lines 8 and 9 in erm gain from Forms 2 rtnerships, S corporat ter the amount, if any	(c) Date sold (Mo, day, yr) 11/10/06 11/10/06 10 2439 and 6252; and one of the solutions, estates, and of the solutions, from line 15 of the solutions.	(d) Sales price (see instructions) 129, 900. 129, 900. and long-term gain or did trusts from Schedu	(e) Cost or other basis (see instructions) 1.26, 500 1.26, 500 1.26, 500 1.26, 500 1.26, 500 1.27, 500 1.28, 500 1.29, 500 1.29, 500 1.20, 500 1.20, 500 1.21, 500	Subtract (e) from (d) . 3,400.

Sch	edule D (Form 1040) 2006 David & Fern Sherrell		<u> </u>	Page:
Pa	rt III Summary			·
16	Combine lines 7 and 15 and enter the result. If line 16 is a loss, skip lines 17 through 20, and go to line 21. If a gain, enter the gain on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below	. 16	8,	250.
17	Are lines 15 and 16 both gains?			
	X Yes. Go to line 18.			
	No. Skip lines 18 through 21, and go to line 22.			
18	Enter the amount, if any, from line 7 of the 28% Rate Gain Worksheet in the instructions	18		
19	Enter the amount, if any, from line 18 of the Unrecaptured Section 1250 Gain Worksheet in the instructions	19		
20	Are lines 18 and 19 both zero or blank? Yes, Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the Instructions for Form 1040 (or in the Instructions for Form 1040NR). Do not complete lines 21 and 22 below. No. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Schedule D Tax Worksheet in the instructions. Do not complete lines 21 and 22 below.			
21	 If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the smaller of: The loss on line 16 or (\$3,000), or if married filling separately, (\$1,500) 	21		
	Note. When figuring which amount is smaller, treat both amounts as positive numbers.			
22	Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the Instructions for Form 1040 (or in the Instructions for Form 1040NR). No. Complete the rest of Form 1040 or Form 1040NR.			

SCHEDULE E

(Form 1040)

Department of the Treasury Internal Revenue Service (99)

Supplemental Income and Loss (From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc)

Attach to Form 1040, 1040NR, or Form 1041.

See Instructions for Schedule E (Form 1040).

OMB No. 1545-0074

2006

Attachment Sequence No. 13

Name(s) shown on return

Your social security number

	vid & Fern Sherrell art! Income or Loss From Re									
_	property, use Schedule C or C-E			ort farm rental income	or loss from Form 48:			line 40		
					orgoerty listed o				Yes	No
A					— or your family us	se it duri	ing the		i	х
B	. !		· · · · · · · · · · · · · · · · · · ·		tax year for pers	onai pur e greatei	poses of:	A		
0	'				→ 14 days, or	-		В		
Ç	-				• 10% of the to rented at fair	tai days rental va	lue?			
·					(See instructions			c	- [,
_		·····	<u> </u>	Properties				Totals		
Inc	ome:		A	В	С	(Ad	ld colun	nns A,	B, an	d C.)
3	Rents received	. 3	3,000	0.		3			3,0	00.
4	Royalties received	4				4				
Ex	penses:									
5	Advertising					_				
6	Auto and travel (see instructions)					_				
7	Cleaning and maintenance					_	1			
. 8	Commissions		_	- 						
9 10	Insurance Legal and other professional fees	·				-				
10 11	Management fees					-				
	-	·		-		-				
12	Mortgage interest paid to banks, etc (see instructions)	. 12				12				
13						1	†			
14	Repairs	_				7				
15	Supplies	15				_			•	
16	Taxes	16]				
17	Utilities									
18	Other (list)	1				_				
						_				
		J			<u> </u>	_	Î			
- -	- 	-				_				
						-				
		18			-	-				
, -		10				\dashv	ŀ			
			·····			-				
		1				1				
						7				
						7				
19	Add lines 5 through 18	19				19				
20	Depreciation expense or depletion	20								
24	(see instructions)	20		<u> </u>		20				
	Total expenses. Add lines 19 and 20	21		<u> </u>		- 1				
	Income or (loss) from rental real estate or royalty properties. Subtract line 21 from line 3									
	(rents) or line 4 (royalties). If the result is a (loss), see instructions to find out if you must				1					
	file Form 6198	22	3,000	1]					
	Deductible rental real estate loss.	-	3,000	•		-				
	Caution. Your rental real estate loss on line 22									
	may be limited. See instructions to find out if you	- 1								
	must file Form 8582, Real estate professionals must complete line 43 on page 2	23								
	Income. Add positive amounts shown on		22. Do not include an	y losses		24		-	3,00	n
25	Losses. Add royalty losses from line 22 a	nd re	ntal real estate losse	s from line 23. Enter t	otal losses here	25			,, 00	.
26 ⁻	Total rental real estate and royalty income or (Ins	s) Cor	mbine lines 24 and 25 Cm	tar the						
1	esult here. If Parts II, III, IV, and line 40 on page 2 of amount on Form 1040, line 17, or Form 1040NR, line	io not.	apply to your also enter th	ie						
i	n the total on line 41 on page 2	10. UU	ikiwise, include this amol	TUT		20		_	0.0	^
AA I	For Paperwork Reduction Act Notice see		maliana ana			26			,000	J.

SCHEDULE F

(Form 1040)

Department of the Treasury Internal Revenue Service

Name of proprietor

David Sherrell A Principal product. Describe in

Cattle & Elk

Accounting method:

Ε	Did	you	'mat	erially	participa

Part I _ Farm inco. Do not include

- Sales of livestock au-
- 2 Cost or other basis c
- 3 Subtract line 2 from
- 4 Sales of livestock, p.
- 5a Cooperative distribu-
- 6 a Agricultural program
- 7 Commodity Credit C
- a CCC loans reported
- **b** CCC loans forfeited
- 8 Crop insurance prod
- a Amount received in
- c If election to defer i
- 9 Custom hire (machi-
- Other income, inclutax credit or refund
- Gross income. Ad: the amount from P:

Part II Farm Exp Do not include .

- Car and truck expenses (Also attach Form 4562
- Chemicals 13
- Conservation expe-(see instructions).
- Custom hire (macl.
- Depreciation and s expense deduction. elsewhere (see ins.
- Employee benefit is 17 other than on line .
- Feed 18
- Fertilizers and line.
- Freight and trucking
- 21 Gasoline, fuel, and
- Insurance (other II
- 23 Interest:
 - a Mortgage (paid to :
 - **b** Other
- 24 Labor hired (less empi-Total expenses. A
- 36 Net farm profit or
 - If a profit, enter If you file Form
- 37 If you have a loss. If you checked
- If you file Form If you checker.

BAA For Paperwork R.

Profit or Loss From Farming

ch to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B.

See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

14

	Sequence	NO.
		_
antal annual		

				300.2	comy no	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
your principal crop or activity for the	: curren	it lax year.		B Enter	code fro	
				<u> </u>		112111
X Cash	(2)	Accrual		D Empl	oyer ID ni	ember (EIN), if any
a of this business during 2006? If						
Method. Complete Parts stock held for draft, breeding	l and J, spo	II (Accrual me rt, or dairy pur	thod. Complete Par poses. Report these	rts II & III e sales o	, & Pari n Form	t I, line 11.) 4797.
ou bought for resale			1			
other items reported on lin	ie 1 .		2			
					. 3	
, and other products you rai	sed					
1099-PATR) 5a 6a		3,912.	5b Taxable amor		1	3,912.
) loans (see instructions):		<u> </u>	OD PARADIC DITION	Din, , ,		
					. 7a	
76			7c Taxable amou	unt	. 7c	
al crop disaster payments (see ir	nstructions):				
			8b Taxable amou		$\overline{}$	
ed, check here ► [_]		8 d Amo	ount deferred from 2	2005		5 000
<i>†</i>	• • • • •				9	5,000.
state gasoline or fuel					10	
•					10	
· right column for lines 3 th	ough	10. If you use	the accrual method	l, enter 🍃	. 17	8,912.
and Accrual Method			,			0, 512.
ises such as taxes, insurance, or		s on your home.				,
	T					
12	− ₁		profit-sharing plan		25	
13	-		e (see instructions)	:		
14		a Vehicles, ma	ichinery, int		26 a	
5 2,783			animals, etc)		26 b	
	27		maintenance		27	9,074.
	28	Seeds and pl	lants		28.	
6 14,424	_	•	warehousing		29	
			• • • • • • • • • • • • • • • • • • • •		30	
8 4,789	31				31	1,334.
$\frac{8}{j}$ 4,789	33		reeding, and medic		32	450. 181.
.0	34				-	
1,306.		3			34 a	
2 1,400.	7				34 b	
	· [:			34 c	
'3a 23,878.					34 d	
167.	, e	;			34e	· · · · · · · · · · · · · · · · · · ·
-1] f			-	341	·
34f, If line 34f is negative	see	instructions	* * * * * * * * * * * * * * * * * * * *	►	35	59,786.
35 from line 11.		_	7	Ì		
1040, line 18, and also on	Sched	dule SE, line 1.	_	<i>.</i>	36	-50,874.
profit on Form 1040NR, line rusts, and partnerships, see inst	ruction:	s, <u> </u>	_]	•		
box that describes your i			tivity (see instructio	ons).	!	
n Form 1040, line 18, and	aiso	on Schedule S	E, line 1.		_ 37a	X All investment is at risk.
oss on Form 1040NR, line Form 6198. Your loss m	।ਖ਼. ay be	limited.			37 b	Some investment is not at risk.
						10 1101 GL 113N.

, see instructions.

Form **4562**

Department of the Treasury Internal Revenue Service Name(s) shown on return

David & Fern Sherrell

Depreciation and Amortization (Including Information on Listed Property)

► See separate instructions. Attach to your tax return. OMB No. 1545-0172

2006

Attachment Sequence No. 67

Identifying number

Sc	h C Trucking							
Pa	rt I Election To Ex	pense Certain	n Property Under S y, complete Part V befo	ection 179	Part I.			
1	Maximum amount. See th						1	\$108,00
2	Total cost of section 179 p	property placed in	n service (see instructio	ns)	<i></i>		2	
3	Threshold cost of section							\$430,00
4	Reduction in limitation, Su							
5	Dollar limitation for tax ye separately, see instruction	ar. Subtract line	4 from line 1. If zero or	less, enter -0 If	married filin	าด	5	
6		Description of proper		(b) Cost (busine		(C) Elected cos	1	
		 						
7	Listed property. Enter the	amount from line	20		7			
8	Total elected cost of section						8	
9	Tentative deduction. Enter	-		* *		,	9	·
10	Carryover of disallowed de						10	
11	Business income limitation							
• •	Section 179 expense dedu						11	
	Carryover of disallowed de					<u>,,,,</u> ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	12	
	Do not use Part II or Part				13			
ar			nce and Other Dep		ot include li	stad proposty \ \	Coo is	
14	Special allowance for quali	fied New York Lil	herty or Gulf Opportunit	Zone property (ther than li	stod	See ii	suuctions.)
• • •	property) placed in service	during the tax ye	ear (see instructions)	· · · · · · · · · · · · · · · · · · ·		steu	14	
	Property subject to section						15	······································
	Other depreciation (including						16	
art	III MACRS Depred	iation (Do not	include listed property.)	(See instructions)	1		<u>,,, </u>	
				ion A				
7	MACRS deductions for asse	ets placed in serv	rice in tax years beginni	na before 2006			17 T	928
8	If you are electing to group asset accounts, check here	any assets place	ed in service during the	tax year into one	or more ger	neral ►	···	
		• • • • • • • • • • • • • • • • • • • •	in Service During 2006	Tax Year Using t	he General	Depreciation Sy	stem	
	(a) Classification of property	(b) Month and year placed in service	(C) Basis for depreciation (business/investment use only — see instructions)	(d) Recovery period	(e) Convention	(f) Method		(g) Depreciation deduction
9 a 3	3-year property							
	year property				 	-		
	year property						$\neg +$	·
	0-year property				<u> </u>	_		
	5-year property	-				 	+	
	0-year property							
	5-year property			25 yrs		S/L	+	
	tesidential rental			27.5 yrs	MM		-	· · · · · · · · · · · · · · · · · · ·
	roperty			27.5 yrs		S/L		
	onresidential real				MM	S/L		
	roperty		··	39 yrs	MM_	S/L	-	
<u>`</u>		Accete Placed in	Sandas During 2006 Y		MM	S/L		
<u> </u>	lass life	ASSERS FIACEUM	Service During 2006 T	x rear Using the	Alternative		ystem	
						S/L		
	2-year			12 yrs	<u> </u>	S/L		
rt I	V Summant (see ingl)			40 yrs	MM	S/L		
								·
Τo	sted property. Enter amountal, Add amounts from line 12, line	es 14 through 17 line	or 10 and 30 in an union (c)	at the one of the state of		21		
Fo	appropriate lines of your return. I	nlaced in service	during the ever-all wars		· · · · · · · · · · · · · · · · · · ·	22	 	928.
(110	e portion of the basis attribute Paperwork Reduction Ac	itable to section	263A costs	23				. 19
- rc	··· · · · · · · · · · · · · · · · · ·	r worder see sep	parate instructions.	FD(20812	06/22/06			Form 4562 (2006

Department of the Treasury Internal Revenue Service Name(s) shown on return

Depreciation and Amortization (Including Information on Listed Property)

► See separate instructions. ► Attach to your tax return. OMB No. 1545-0172

2006

Attachment Sequence No. 67 Identifying number

	211				 	
Business or activity to which this form rel	ates					
Sch F		. D	170			· · · · · · · · · · · · · · · · · · ·
Part I Election To Ex	pense Certain inv listed properti	Property Under S complete Part V befor	ection 179 e vou complete P	art I.		
1 Maximum amount. See the					1	\$108,00
2 Total cost of section 179 p		•				
3 Threshold cost of section		•	-			\$430,00
4 Reduction in limitation. Su	-					
5 Dollar limitation for tax yes separately, see instruction	ar. Subtract line 4	from line 1. If zero or	ess, enter -0 If r	married filing		
	Description of propert		(b) Cost (busines		(C) Elected cost	
7 Listed property. Enter the	amount from line	29		7		
8 Total elected cost of section	on 179 property. A	Add amounts in column	(c), lines 6 and 7.		<u>.</u> 8	
9 Tentative deduction, Enter	the smaller of lin	e 5 or line 8			9	
10 Carryover of disallowed de	duction from line	13 of your 2005 Form 4	562			
11 Business income limitation	. Enter the small	er of business income (not less than zero) or line 5 (se	e instrs) 11	
12 Section 179 expense deduc						
13 Carryover of disallowed de-						, · · · ·
Note: Do not use Part II or Part				- · · · · · · · · · · · · · · · · · · ·		
Part II Special Depreci	ation Allowar	ce and Other Dep	reciation (Do no	ot include liste	d property.) (See	instructions.)
14 Special allowance for quali	fied New York Lib	erty or Gulf Opportunity	Zone property (o	ther than liste	ď	
property) placed in service	during the tax ye	ar (see instructions)				
15 Property subject to section						
16 Other depreciation (including					16	
Part III MACRS Deprec	iation (Do not in	nclude listed property.)	(See instructions)			
		Secti				
17 MACRS deductions for asset						8,723
18 If you are electing to group	any assets place	d in service during the t	ax year into one o	or more gener	al _	
asset accounts, check here						<u> </u>
(a)	(b) Month and	in Service During 2006 (C) Basis for depreciation				n .
Classification of property	year placed in service	(business/investment use	(d)	(e)		
		only — see instructions)	Recovery period	Convention	(f) Method	(g) Depreciation deduction
		only — see instructions)	Recovery period	Convention		
b 5-year property		57,006.	5.0 yrs	Convention		deduction
				<u> </u>	Meithod	deduction
b 5-year property				<u> </u>	Meithod	deduction
b 5-year property				<u> </u>	Meithod	deduction
b 5-year property				<u> </u>	Meithod	deduction
b 5-year property c 7-year property d 10-year property e 15-year property			5.0 yrs	<u> </u>	Method SL	deduction
b 5-year property			5.0 yrs 25 yrs	<u> </u>	SL S/L	deduction
b 5-year property			5.0 yrs 25 yrs 27.5 yrs	нү	SL S/L S/L	deduction
b 5-year property			25 yrs 27.5 yrs 27.5 yrs	HY MM MM	SL S/L S/L S/L	deduction
b 5-year property			5.0 yrs 25 yrs 27.5 yrs	HY MM MM	S/L S/L S/L S/L S/L	deduction
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property g 25-year property h Residential rental property i Nonresidential real property	Assets Placed in	57,006.	25 yrs 27.5 yrs 27.5 yrs 39 yrs	HY MM MM MM	S/L S/L S/L S/L S/L S/L S/L	5,701
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property h Residential rental property i Nonresidential real property Section C - A	Assets Placed in		25 yrs 27.5 yrs 27.5 yrs 39 yrs	HY MM MM MM	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	5,701
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property h Residential rental property i Nonresidential real property Section C - A	Assets Placed in	57,006.	25 yrs 27.5 yrs 27.5 yrs 39 yrs	HY MM MM MM	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	5,701
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property h Residential rental property i Nonresidential real property Section C = A	Assets Placed in	57,006.	25 yrs 27.5 yrs 27.5 yrs 39 yrs ax Year Using the	MM MM MM MM Alternative D	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	5,701
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property h Residential rental property i Nonresidential real property Section C — 20 a Class life b 12-year c 40-year		57,006.	25 yrs 27.5 yrs 27.5 yrs 39 yrs	HY MM MM MM	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	5,701
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property h Residential rental property i Nonresidential real property Section C - A 0 a Class life b 12-year c 40-year Listed property, Enter amount	ructions)	57,006. Service During 2006 Ta	25 yrs 27.5 yrs 27.5 yrs 39 yrs ax Year Using the	MM MM MM Alternative D	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	5,701
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property h Residential rental property i Nonresidential real property Section C - A 0 a Class life b 12-year c 40-year t Listed property, Enter amount	ructions)	57,006. Service During 2006 Ta	25 yrs 27.5 yrs 27.5 yrs 39 yrs ax Year Using the	MM MM MM Alternative D	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	5,701
b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property h Residential rental property i Nonresidential real property Section C - A Class life b 12-year c 40-year c 40-year Listed property. Enter amount Total. Add amounts from line 12, lin the appropriate lines of your return.	ructions) It from line 28 Ies 14 through 17, line Partnerships and S co	Service During 2006 Tass 19 and 20 in column (g), and reporations — see instructions	25 yrs 27.5 yrs 27.5 yrs 39 yrs IX Year Using the 12 yrs 40 yrs	MM MM MM Alternative D	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	deduction 5, 701
c 7-year property d 10-year property e 15-year property f 20-year property g 25-year property h Residential rental property i Nonresidential real property Section C - A	ructions) at from line 28 les 14 through 17, line Partnerships and S co	Service During 2006 Ta	25 yrs 27.5 yrs 27.5 yrs 39 yrs Ex Year Using the 12 yrs 40 yrs	MM MM MM Alternative D	S/L S/L S/L S/L S/L S/L S/L S/L S/L S/L	5,701

Form 8880

Credit for Qualified Retirement Savings Contributions

► Attach to Form 1040, Form 1040A, or Form 1040NR. ► See instructions. OMB No. 1545-0074

2006

Attachment Sequence No. 125

Your social security number

Department of the Treasury Internal Revenue Service

David & Fern Sherrell

CAUTION: You cannot take this credit if either of the following applies.

- The amount on Form 1040, line 38, Form 1040A, line 22, or Form 1040NR, line 36 is more than \$25,000 (\$37,500 if head of household; \$50,000 if married filing jointly).
- The person(s) who made the qualified contribution or elective deferral (a) was born after January 1, 1989, (b) is claimed as a
 dependent on someone else's 2006 tax return, or (c) was a student (see instructions).

						(a) You		(b) Yo	ur spouse
1			s for 2006. Do not in		1				250.
2	Elective deferrals employee contribu	to a 401(k) or other	qualified employer p 8)(D) plan contribute	olan, voluntary					
	(see instructions)			• • • • • • • • • • • • • • • • • • • •					1,618.
3					3		_		1,868.
4	extensions) of you include both spous	r 2006 tax return (s ses' amounts in bo t	003 and before the du see instructions). If m th columns. See instr	arried filing jointly, ructions for	4				
5	Subtract line 4 from	n line 3. If zero or !	less, enter -0		5				1,868.
6	In each column, er	nter the smaller of i	ine 5 or \$2,000	, , , , , , , , , , , , , , , , , , , ,	6				1,868.
7			op; you cannot take t				7		1,868.
9	Enter the amount f 1040NR, line 36 Enter the applicable		se 38*, or Form 1040/ shown below:	A, line 22, or Form	8	24,29	4.		
	If line	8 is—		And your filing st	atus is—				
	Over-	8ut not over—	Married filing jointly Enter on	Head of household	Single, Ma separal Qualifying	ely, or			
		\$15,000	.5	.5					
	\$15,000	\$16,250	.5	.5	.2	i	1 1		
	\$16,250	\$22,500	.5	.5	.1	4	9	х	0.5000
	\$22,500	\$24,375	.5	.2	.1				
	\$24,375	\$25,000	.5	.1	.1		1 1		
	\$25,000	\$30,000	.5	.1	.0		1 1		
	\$30,000	\$32,500	.2	.1	.0				
	\$32,500	\$37,500	.1	.1	.0				
	\$37,500	\$50,000	.1	.0	.0	1			
	\$50,000	•••	.0	.0	.0	1			
		Note: If line	9 is zero, stop; you o	annot take this cre	dit.	·			
10	Multiply line 7 by lin	e 9					10		934.
11	Enter the amount fro 1040NR, line 43	om Form 1040, line	46, or Form 1040A,	line 28, or Form	11	503			
12	1040 filers: Ente	er the total of your o	credits from lines 47 t	hrough 50.	12				
	1040A filers: Ente	r the total of your o	redits from lines 29 t	hrough 31.	12				
	1040NR filers: Ente	r the total of your o	redits from lines 44 a	and 45.					
13	Subtract line 12 from	n line 11. If zero, st	op; you cannot take	this credit	• • • • • • • • • • • • • • • • • • • •		. 13		503.
14	Credit for qualified r	etirement savings	contributions. Enter 32, or Form 1040NF	the smaller of line	10 or line 13 he	ere and on		··.	303.
	Form 1040, line 51,	or Form 1040A, line	32, or Form 1040NF	R, line 46		•••••••	. 14		503.

*See Publication 590 for the amount to enter if you are filing Form 2555, 2555-EZ, or 4563 or you are excluding income from Puerto Rico.

BAA For Paperwork Reduction Act Notice, see instructions.

Form 8880 (2006)

FDIA9501 10/05/06

a Control number	55555	Void	OMB No. 1545-00	08					
b Employer identification number				,	jes, tips, other	compensation	2	Federal income	tax withheld
					. <u></u>	3,360 1,39		•	5210 84
c Employer's name, acuress, an	d ZIP code			3 Soc	ial security wa		4	Social security t	
kstrm niver de	FALTH 1				445	76. 7		-	3408 54
FO 50F 2197				5 Med	licare wages a	ınd tips	6	Medicare tax wi	hheld
1710 HARRISON	STREET				5,57	776 71			797, 16
ENTERVILLE AP	7450B			7 Soc	ial security tips	3	8	Allocated tips	
d Employee's social security num	ber			9 Adv	ance EIC payr	nent	10	Dependent care	benefits
e Employee's name, address, an	ZIP code			11 Non	qualified plans			See Instructions	for box 12
FERN	SHERR	ELL					1		1612 18
				13 Statutor employs	y Retirement plan	Third-party sick pay	12b	1	
P 0 80% 37					<u> </u>	<u></u>			
				14 Othe	r		12c	1	
ESOCKHELL AR	72517								····································
			;				12d	1	٠.,
							,,,,,,		
15 State Employer's state ID nun	nber 16 St	ate wages, tips, etc.	17 State incom	e tax	18 Local wage	s, tips, etc. 1	9 Loc	al income tax	20 Locality name
AR		52358.5	ľ						
			FT TERM	·		••••••			
	~-								
VAI O Wage and	d Tax		701	ז ר		Department of	the Tre	easury—Internal F	Revenue Service
orm W-Z Statemen	it		200	Jb				Paperwork Red	
ony D - For Employer or						ct Notice, se			

a Control number	OMB No. 1545-0	ar	re requir	mation is being furnished to t ed to file a tax return, a negli ed on you if this income is ta	делсе	penalty or other:	sanction may
b Employer Identification number (EIN)				ages, tips, other compensation 351696		Federal income	
c Employer's name, address, and ZIP code County Of Izand		· · · · · · · · · · · · · · · · · · ·	3 S	ocial security wages 3516.96	4	Social security	tax withheld LB . 04
P. O. Box 95 Mellourne, Arkansas			5 M	Medicare wages and tips 351696		Medicare tax withheld	
	22556 		7 S	oclal security tips	8	Allocated tips	•
d Employee's social security number			9 Ad	ivance EIC payment	10	Dependent care	benefits
e Employee's name, address, and ZIP code	HERRELI	Suff.		onqualified plans	12a	See instructions	for box 12
P. O. BOX 57			13 Statut	ory Retirement Third-party yes plan sick pay	12b		
BROCKWELL, AR	72317		14 Ot	her .	12c		
	18.01.1				12d		
But the second of the second o					3419	160	声 电吸收电流
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income	e tax	18 Local wages, tips, etc.	19 Loc	al income tax	20 Locality name
,				}			,••••

Copy D - For Employer or Copy 1 - For State, City, or Local Tax Department

a Control number	OMB No. 1545-0008	This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you tait to report it.
b Employer identification number (EIN)		1 Wages, tips, other compensation 2 Federal income tax withheld
	•	8005A 50 5710 54
c Employer's name, address, and ZIP code		3 Social security wages 4 Social security tax withheld
WHITE RIVER HEALTH SYSTE	înț	54976, 71 3408 56
PO 80% 2197		5 Medicare wages and tips 6 Medicare tax withheld
1710 HARRISON STREET		54975. 71 797. 15
BATESVILLE AR 72503		7 Social security tips 8 Allocated tips
d Employee's social security number		9 Advance EIC payment 10 Dependent care benefits
e Employee's name, autous, and ZIP code		11 Nonqualified plans 12a See instructions for box 12
FERN SHERRE	'! I	in 1616/18
	- Seas - Seas	13 Statutory Retirement Third-party 12b sick pay C
P 0 BOX 57		14 Other
- BROCKWELL AR 72517		12d
٠,	<i>:</i> .	c c
	•	
15 State Employer's state ID number 16 State	wages, tips, etc. 17 State incom	me tax 18 Local wages, tips, etc. 19 Local Income tox 20 Locality name
<u>ler</u>	59358, 59 305	51.67
	·	
W2 Wage and Tax Statement Conv. C. For EMPLOYEE'S RECORDS (see Notice	20	Department of the Treasury—Internal Revenue Service Safe, accurate, FASTI Use

a Control number	OMB No. 1545-0008	This information is being furnished to the internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fall to report it.
b Employer identification number (EIN)	:	1 Wages, tips, other compensation 2 Federal income tax withheld
c Employer's name, address, and ZIP code	AAS 000 -	3 Social security wages 4 Social security tax withheld
F-0 80+ 438	.*	5 Medicare wages and tips 6 Medicare tax withheld
CAUTOS POCH 1 48 723	: '	7 Social security tips 8 Allocated tips
d Employee's social security number		9 Advance EIC payment 10 Dependent care benefits
e Employee's name, address, and ZIP code		11 Nonqualified plans 12a See instructions for box 12
'ಆರ ಅತೆ ಕ್ರೌನಿ ಅತ ರಜ್ಞಾಡಾರ ಜನೆ ಗ್ರಾಕಿಸಿಕ ()	*	13 Statutory Retirement Third-party 12b c c c c c c c c c c c c c c c c c c c
		14 Other 12c
	·	12d 0 9
	State wages, tips, etc. 17 State inco	ome tax 18 Local wages, tips, etc. 19 Local income tax 20 Locality name

Copy C - For EMPLOYEE'S RECORDS (see Notice to Employee on back of Copy B.)

Dependents: (2) Dependent's (3) Dependent's (4) V V v v v v v v v v	10/0	Department of the Treasury — Internal Revenue Service	007		
You feel amon You feel amon You feel amon You feel amon's marked You marked You marked	Form I'U-1			IRS Use Only —	Do not write or staple in this space.
David Sherrell			2007, ending	, 20	
Use the IRS label Part Telent Spourar's social security mortater Spourar's social security or type. Spourar's social security mortater Spourar's social security mortater Spourar's social security or type. Spourar's social security mortater Spourar's social security mortater Spourar's social security mortater Spourar's social security mortater Spourar's social security		203/ 10/116			Your social security number
Section Species and according to the property of the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please print or type. Species and according to the policy please please print or type. Species and	(See instructions.)	0011011			_
Cherwise Department of selection Type Interes a P.O. box, sas simulacions Type Department to, present and selection Type Department to, present and present to the present of th		if a joint return, spouse's first name Mi Last name			Spouse's social security mumber
Peasiders Copy Co					-
presidential Election		Home address (number and street). If you have a P.O. box, see instructions.		Apartment no.	You must enter your
Presidential Election Campaign Check bird if you, or your spause if filing jointly, want \$3 to go to this fund' (see instructions). To you go you go you go you go you have filing jointly want \$3 to go to this fund' (see instructions). The young go you you go you you go you you go you you go you you go you you go you you go you you go you you go you you go you you go you you go you you go you you go you you go you you you go you you you you you you you you go you you you you you you you you you yo					social security
Campaign Check there if you, or your spouse if filing jointly, want \$3 to go to this fund' (see instructions) Vou Spouse Filing Status 1 Single 2 Married filing separately. Enter spouse's SSN above & full out only you shad income) 3 Married filing separately. Enter spouse's SSN above & full out only you dependent, enter this child's name here. 2 Married filing separately. Enter spouse's SSN above & full out only your dependent, enter this child's name here. 3 Married filing separately. Enter spouse's SSN above & full out only your dependent, enter this child's name here. 5 Qualifying widow(er) with dependent child (see instructions) 5 Qualifying widow(er) with dependent child (see instructions) 6 Married filing separately. Enter spouse's SSN above & full out only your dependent, enter this child's name here. 6 Married filing separately. Enter spouse's SSN above & full out only your dependent, enter this child's name here. 6 Married filing separately. Enter spouse's SSN above & full out of your dependent, enter this child's name here. 6 Married filing separately. Enter spouse's SSN above & full out of your dependent, enter this child's name here. 6 Married filing separately. 6		City, town or post office. If you have a foreign address, see instructions.	Stat	e ZIP code	
Campaign		Oxford	AP	72565	Checking a box below will not change your fax or refund.
Filling Status Single Sin		Check here if you, or your spouse if filing jointly, want \$3 to go to this fund			
Check only one box. Check only one box Check only one had income) Check one had income)	Filing Status	1 Single	4 Head o	of household (with qual	
Check only one box. Section Se	i iiiig Status	2 X Married filing jointly (even if only one had income)	Instruc	tions.) If the qualifying	person is a child
Exemptions Fig. Source Fig.	Obsels and		but not	your dependent, ente	r this child's
Exemptions 6		- I many a symmetry and open a post about a fall			habild (and the section)
Composition Composition					
c Dependents: (1) First name Last name L	Exemptions	Tourself. If someone can claim you as a dependent	, do not check	box 6a	on 6a and 6b 2
C Dependents: Social security Social security C Dyou C C C C C C C C C					
If more than					▼ 11
(1) First name		number		to your child fo	r child with you
fi more than		(1) First name Last name			netert - ule not
If more than four dependents, see instructions. d Total number of exemptions claimed					due to divorce
four dependents, see instructions. d Total number of exemptions claimed					(see instrs)
d Total number of exemptions claimed 2 2 2 3 3 3 3 3 3 3	If more than				on 6c not
Income	see instructions.		 		¬ · · · · · · · · · · · · · · · · · · ·
The come Family		d Total number of exemptions claimed			on lines
### Attach Form(s) b Tax-exempt interest. Do not include on line 8a		7 Wages, salaries, tips, etc. Attach Form(s) W-2			
Attach Form(s) W 2 here. Also W 2 here. Also W 2 here. Also Usubfield dividends. Attach Schedule B if required D qualified dividends (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (see instructions) D Taxable reflunds, credits, or offsets of state and local income taxes (s	Income	8a Taxable interest. Attach Schedule B if required	• • • • • • • • • • • • • •	· · · · · · · · · · · · · · · · · · ·	
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b Qualified dividends (see instrs) 10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions) 11 Taxable refunds, credits, or offsets of state and local income taxes (see instructions) 12 Business income or (loss). Attach Schedule C or C-EZ 13 Capital gain or (loss). Attach Schedule C or C-EZ 14 Other gains or (losses). Attach Form 4797 15 IRA distributions. 15 IRA distributions. 15 IRA distributions. 15 IRA distributions. 16 Pensions and annuities. 16 Pensions and annuities. 17 Rental real estate, royalites, partnerships, S corporations, trusts, etc. Attach Schedule E 18 Farm income or (loss). Attach Schedule F 18 Farm income or (loss). Attach Schedule F 19 Unemployment compensation 20 a Social security benefits. 21 Other income 22 Add the amounts in the far right column for lines 7 through 21. This is your total income. 24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ 24 Moving expenses. Attach Form 3903 25 Educator expenses (see instructions) 26 Moving expenses. Attach Form 3903 26 Self-employed health insurance deduction. Attach Form 8889 27 One-half of self-employment tax. Attach Schedule SE 28 Self-employed health insurance deduction (see instructions) 30 Penalty on early withdrawal of savings 31 Alimony paid b Recipients SSN. 31 First Addines 23 -31 a and 32 - 35 32 Sudernt loan interest deduction. Attach Form 8917 33 Sudernt loan interest deduction (see instructions) 34 Tuition and fees deduction. Attach Form 8917 35 Domestic production activities deduction. Attach Form 8933 36 Add fines 23 -31 a and 32 - 35 37 Subtract line 36 from line 22. This is your adjusted gross income 37 2-4-215	Attach Form(s)	9a Ordinary dividends. Attach Schedule B if required	· · · · · · · · · · · · · · · · · · ·		
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19 Unemployment compensation ayment. Also, lease use orm 1040-V. 20 a Social security benefits		17 Rental real estate, royalties, partnerships, S corporations	, trusts, etc. A	ttach Schedule E	
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Tuition and fees deduction. Attach Form 8917		33 Student loan interest deduction (see instructions)	33	775.	
36 Add lines 23 - 31a and 32 - 35		14 Tuition and fees deduction. Attach Form 8917	34		
37 Subtract line 36 from line 22. This is your adjusted gross income		Domestic production activities deduction, Attach Form 8903	35		
37 Outstact line 30 from line 22. This is your adjusted gross income	•	36 And lines 23 - 31a and 32 - 35			775.
	5 A 172	3/ Subtract line 36 from line 22. This is your adjusted gross in	ncome		

SCHEDULE D (Form 1040)

Capital Gains and Losses

OMB No. 1545-0074

Department of the Treasury Internal Revenue Service Name(s) shown on return

►Attach to Form 1040 or Form 1040NR. ► See Instructions for Schedule D (Form 1040). ► Use Schedule D-1 to list additional transactions for lines 1 and 8.

Attachment Sequence No. 12

David & Fern Sherrell

Your social security number

(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr)	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) Subtract (e) from (d)
1					· · · · · · · · · · · · · · · · · · ·
					
	.				
2 Enter your short-term totals, if any, from	n Schedule D-1	line 2 2			<u> </u>
3 Total short-term sales price amounts. / column (d)	Add lines 1 and 2	2 in ☐	-		
4 Short-term gain from Form 6252 and sh	ort-term gain or				
5 Net short-term gain or (loss) from partner				· · · , 	
6 Short-term capital loss carryover. Enter Worksheet in the instructions	the amount, if a	ny, from line 10 o	of your Capital Loss C	Carryover 6	
7 Net short-term capital gain or (loss). Co	mbine lines 1 thr	ough 6 in column	n (f)	7	
art II Long-Term Capital Gains	s and Losses	– Assets He	ld More Than On	e Year	
(a) Description of	45-				
property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr)	(C) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) Subtract (e) from (d)
property (Example: 100 shares XYZ Co)	(Mo, day, yr)	(Mo, day, yr)	(see instructions)	(see instructions)	Subtract (e) from (d)
property (Example: 100 shares XYZ Co)	(Mo, day, yr)				
property (Example: 100 shares XYZ Co)	(Mo, day, yr)	(Mo, day, yr)	(see instructions)	(see instructions)	Subtract (e) from (d)
property (Example: 100 shares XYZ Co)	(Mo, day, yr)	(Mo, day, yr)	(see instructions)	(see instructions)	Subtract (e) from (d)
property (Example: 100 shares XYZ Co)	(Mo, day, yr)	(Mo, day, yr)	(see instructions)	(see instructions)	Subtract (e) from (d)
property (Example: 100 shares XYZ Co) 8 1 lot in Baxter County,	(Mo, day, yr) AR 09/12/05	(Mo, day, yr)	(see instructions)	(see instructions)	Subtract (e) from (d)
property (Example: 100 shares XYZ Co) 8 1 lot in Baxter County,	(Mo, day, yr) AR 09/12/05 Schedule D-1, lin d lines 8 and 9 ii	(Mo, day, yr)	(see instructions)	(see instructions)	Subtract (e) from (d)
property (Example: 100 shares XYZ Co) 8 1 lot in Baxter County, 9 Enter your long-term totals, if any, from S 6 Total long-term sales price amounts. Ad column (d)	(Mo, day, yr) AR 09/12/05 Schedule D-1, lir d lines 8 and 9 i	(Mo, day, yr) 04/10/07 10 10 10 10 10 10	10,000.	(see instructions) 5, 275.00	Subtract (e) from (d)
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Property (Example: 100 shares XYZ Co) 8 1 lot in Baxter County, 9 Enter your long-term totals, if any, from S 7 Total long-term sales price amounts. Ad column (d) 1 Gain from Form 4797, Part I; long-term g Forms 4684, 6781, and 8824	(Mo, day, yr) AR 09/12/05 Schedule D-1, lir d lines 8 and 9 in rain from Forms:	(Mo, day, yr) 04/10/07 10 10 2439 and 6252; and from line 15 of	10,000.00 10,000.00 10,000. and long-term gain or old trusts from Schedul	(loss) from 11 12 13	Subtract (e) from (d) 4,725.00

Department of the Treasury Internal Revenue Service

Depreciation and Amortization (Including Information on Listed Property)

► See separate instructions. ► Attach to your tax return. OMB No. 1545-0172

2007

Attachment Sequence No. 67

	(s) shown on return						Iden	tifying number
	rid & Fern Sherre		***************************************				·	
	ess or activity to which this form rel							_
	F Sherrell Farm			 	 			
Par		pense Certain	Property Under S	ection 179	0			
1	Maximum amount. See th						. 1	0105 004
2	Total cost of section 179 p							\$125,000
3	Threshold cost of section							\$500.000
_	Reduction in limitation. Su							\$500,000
5	Dollar limitation for tax ve	ar, Subtract line 4	from line 1. If zero or I	less enter -0- i	f married fil	ina		
	separately, see instruction	<u> 15</u>			<u></u>	<u> </u>	. 5	
6	(a)	Description of propert	by	(b) Cost (busin	ness use only)	(C) Elected co	st	
						·-·		
	Listed property. Enter the	amount from line	20					
	Total elected cost of section						8	•
9	Tentative deduction. Enter	the smaller of lin	e 5 or line 8	(c), mics o and		• • • • • • • • • • • • • • • • • • • •	9	
10	Carryover of disallowed de	duction from line	13 of your 2006 Form 4	562			10	
11	Business income limitation	. Enter the small	er of business income (not less than ze	ro) or line 5	(see instrs)	11	
12	Section 179 expense dedu	ction. Add lines 9	and 10, but do not ente	er more than lin	e 11 <u></u>		12	
	Carryover of disallowed de				. • 13			
	Do not use Part II or Part							
Part	ii Speciai Depreci	ation Allowar	nce and Other Dep	reciation (Do	not include	listed property.)	(See in:	structions.)
14	Special allowance for quali property) and cellulosic bid (see instructions)	mass ethanol pla	nt property placed in se	Zone property ervice during the	(other than tax year	listed	14	
	Property subject to section						15	
	Other depreciation (includi						16	···· - · · · · · · · · · · · · · · · ·
Part	III MACRS Depred	iation (Do not i	nclude listed property.)	(See instruction	e)	******************		
			Secti		<u>-,</u>			
17 N	MACRS deductions for asse	ets placed in serv	ice in tax years beginni	ng before 2007			17	17,206
18 I	f you are electing to group	any assets place	d in service during the t	ax vear into one	e or more a	eneral		
	asset accounts, check here				<u></u> .			
	(a)	(b) Month and	in Service During 2007 (c) Basis for depreciation	Tax Year Using (d)			ystem	
	Classification of property	year placed in service	(business/investment use only — see instructions)	Recovery period	(e) Convention	on Method		(g) Depreciation deduction
	year property	•						
	-year property							
	-year property							
	0-year property							
	5-year property	·				<u> </u>		
	0-year property				_			· · · · · · · · · · · · · · · · · · ·
	5-year property			25 yrs	- -	S/L	_	
	esidential rental			27.5 yrs	MM	S/L		
	onresidential real			27.5 yrs	MM	S/L	_	· · · · · · · · · · · · · · · · · · ·
	roperty			39 yrs	MM	S/L		
	<u>, `. ,</u>	Assets Blaced in	Sandan During 2007 T		MM	S/L	!_	
20 a C	lass life	ASSELS PIACEU III	Service During 2007 Ta	ax Year Using ti	ne Alternativ		System	
	2-year	· · · · · · · · · · · · · · · · · · ·		10	ļ	S/L		
)-year			12 yrs	101	S/L	∤	
Part I		ructions)	· <u>·</u>	40 yrs	MM	S/L		
	sted property. Enter amour		*****	· · · · · · · · · · · · · · · · · · ·	-	100		
	stal. Add amounts from line 12, lie appropriate lines of your return.		es 19 and 20 in column (g), ar	nd line 21. Enter her	e and on	21		
23 Fo	or assets shown above and e portion of the basis attrib	placed in service	during the current year	enter	23			17,206.
					<u>د، </u>			* # . * . **

Form **8880**

Credit for Qualified Retirement Savings Contributions

► Attach to Form 1040, Form 1040A, or Form 1040NR.
► See instructions.

OM8 No. 1545-0074

2007
Attachment

(b) Your spouse

Department of the Treasury Internal Revenue Service Name(s) shown on return

Sequence No. 55

(a) You

David & Fern Sherrell

CAUTION! You cannot take this credit if either of the following applies.

- The amount on Form 1040, line 38, Form 1040A, line 22, or Form 1040NR, line 36 is more than \$26,000 (\$39,000 if head of household; \$52,000 if married filing jointly).
- The person(s) who made the qualified contribution or elective deferral (a) was born after January 1, 1990, (b) is claimed as a
 dependent on someone else's 2007 tax return, or (c) was a student (see instructions).

1		nd Roth IRA contribution: ributions			1	• •				
2	employee co	errals to a 401(k) or other intributions, and 501(c)(1 ions)	8)(D) plan contribution	ons for 2007	2					779.
3	Add lines 1 a	and 2			3			7		779.
4	extensions) of include both	butions received after 20 of your 2007 tax return (s spouses' amounts in bot	ee instructions). If m th columns. See instr	arried filing jointly, uctions for	4		·]		
5	Subtract line	4 from line 3. If zero or I	ess, enter -0		5	·		1		779.
6	In each colur	nn, enter the smaller of I	ine 5 or \$2,000	• • • • • • • • • • • • • • • • • • • •	6			1		779.
7	Add the amo	unts on line 6. If zero, st	op; you cannot take t	his credit				7		779.
. 8	Enter the am 1040NR, line	ount from Form 1040, lin	e 38*; Form 1040A, I	ine 22; or Form	8	24,2	215.			12
9	Enter the app	olicable decimal amount :	shown below:						l	
		If line 8 is—		And your filing s	tatus is		_			
		•	Married	Head of	T	Americal Cities	_	i		
	Over-	But not over	filing jointly	household	Sepa	Married filing rately, or				
		Oye1 —	Enter on	line 9—	Qualifyir	ng widow(er)				
		\$15,500	.5	.5		.5				
	\$15,500	\$17,000	.5	.5		.2			ı	
	\$17,000	\$23,250	.5	.5		.1		9	X	0.5000
	\$23,250	\$25,500	.5	.2		.1	1 1			
	\$25,500	\$26,000	.5	.1		.1				
	\$26,000	\$31,000	.5	.1		.0	1 1	ŀ		
	\$31,000	\$34,000	,2	.1		.0				
	\$34,000	\$39,000	.1	.1		.0	1 1	- 1		
	\$39,000	\$52,000	.1	.0		.0] [- 1		
	\$52,000		.0	0		.0]	j		
			9 is zero, stop; you o							
10	Multiply line 7	by line 9		• • • • • • • • • • • • • • • • • • • •]	10		390.
11	Enter the amo 1040NR, line	ount from Form 1040, line 43	46; Form 1040A, lin	e 28; or Form	11		89.			
12	1040 filers:	Enter the total of your of 49, and 51.	credits from lines 47	through	12					
	1040A filers:	Enter the total of your of	credits from lines 29 t	through 31.	· · · · <u> 14 </u>	 	—			
	1040NR filers:	Enter the total of your o	redits from lines 44 a	and 46.						-
13	Subtract line 1	2 from line 11. If zero, st	top; you cannot take	this credit				13		89.
	Credit for quai	lifled retirement savings ie 53; or Form 1040A, line	contributions. Enter	the smaller of line	10 or line 13	here and on		14		89.

*See Publication 590 for the amount to enter if you are filing Form 2555, 2555-EZ, or 4563 or you are excluding income from Puerto Rico.

BAA For Paperwork Reduction Act Notice, see instructions.

Form 8880 (2007)

SCHEDULE A (Form 1040)

Department of the Treasury Internal Revenue Service

Itemized Deductions

► Attach to Form 1040.

OMB No. 1545-0074

 See Instructions for Schedule A (Form 1040). Name(s) shown on Form 1040 Your social security number David & Fern Sherrell Medical Caution. Do not include expenses reimbursed or paid by others. and 1,845 Dental Enter amount from Form 1040, line 38 2 Expenses Multiply line 2 by 7.5% (.075) 3 ,816 Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-29. Taxes You State and local (check only one box): Paid X Income taxes, or 5 3,369. General sales taxes. 2,276 Personal property taxes 7 622 (See instructions.) 8 Other taxes. List type and amount > 8 6,267. Home mtg interest and points reported to you on Form 1098 Interest 10 6,256. You Paid Home mortgage interest not reported to you on Form 1098, if paid to the person from whom you bought the home, see instructions and show that person's name, identifying number, and address > 12 Points not reported to you on Form 1098. See instrs for spcl rules 12 Note. Personal 13 Qualified mortgage insurance premiums (see instructions)...... 13 interest Investment interest. Attach Form 4952 if required. is not deductible. Add lines 10 through 14 6,256. Gifts to Gifts by cash or check. If you made any gift of \$250 or Charity more, see instrs 16 1,765 If you made Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if a gift and got a benefit for it, see over \$500 17 18 Carryover from prior year instructions. 18 Add lines 16 through 18 19 1,765. Casualty and Theft Losses Casualty or theft loss(es). Attach Form 4684. (See instructions.). 20 Unreimbursed employee expenses - job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) > See Statement 21 1,750 22 Tax preparation fees..... 22 23 Other expenses - investment, safe deposit box, etc. List (See instructions.) type and amount -23 24 Add lines 21 through 23 24 1,810. Enter amount from Form 1040, line 38 25 Multiply line 25 by 2% (.02) Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-. 1,326. Other - from list in the instructions. List type and amount > Other Miscellaneous **Deductions** 28 Is Form 1040, line 38, over \$156,400 (over \$78,200 if Total Itemized married filing separately)? **Deductions** Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40. 29 Yes. Your deduction may be limited. See instructions for the amount to enter.

If you elect to itemize deductions even though they are less than your standard deduction, check here

SCHEDULE F (Form 1040)

Department of the Treasury Internal Revenue Service

Profit or Loss From Farming

 Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B. See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

Attachment Sequence No. Name of proprietor | Cooled security number (SSN) David Sherrell A Principal product. Describe in one or two words your principal crop or activity for the current tax year. Enter code from Part IV Cattle & Elk 112111 Accounting method: (1) X Cash Employer ID number (EIN), if any Accrual Did you 'materially participate' in the operation of this business during 2007? If 'No,' see instructions for limit on passive losses Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II & III, & Part I, line 11.) Do not include sales of livestock held for draft, breeding, sport, or dairy purposes. Report these sales on Form 4797. Cost or other basis of livestock and other items reported on line 1 Subtract line 2 from line 1 4 24,650 5a Cooperative distributions (Form(s) 1099-PATR) 5a 5b 5b Taxable amount 6a Agricultural program payments (see instructions) . . . 6b Taxable amount 66 7 Commodity Credit Corporation (CCC) loans (see instructions): b CCC loans forfeited 7b 7c Taxable amount ... 7 ¢ 8 Crop insurance proceeds and federal crop disaster payments (see instructions): 8b Taxable amount c If election to defer to 2008 is attached, check here 84 Custom hire (machine work) income 9 Other income, including federal and state gasoline or fuel 10 lax credit or refund (see instructions) 10 Gross income. Add amounts in the right column for lines 3 through 10. If you use the accrual method, enter the amount from Part III, line 51 24,650. Part II Farm Expenses — Cash and Accrual Method. Do not include personal or living expenses such as taxes, insurance, or repairs on your home. 12 Car and truck expenses (see instructions). Also attach Form 4562 25 25 Pension and profit-sharing plans 13 13 26 Rent or lease (see instructions): Conservation expenses a Vehicles, machinery. (see instructions) and equipment 26 a Custom hire (machine work) 15 6,550. b Other (land, animals, etc) 26 b 27 Repairs and maintenance 27 6,325. Depreciation and section 179 Seeds and plants 28 expense deduction not claimed elsewhere (see instructions) 16 17,206. 29 29 30 Supplies 30 Employee benefit programs 17 17 other than on line 25 31 31 2,105.18 5,540. 32 32 450. 19 Fertilizers and lime 19 33 Veterinary, breeding, and medicine 33 1,075 20 Freight and trucking 20 Other expenses (specify): 21 21 Gasoline, fuel, and oil 2,935. 34 a Insurance (other than health) ... 1,696. 34b 23 Interest: 34 c a Mortgage (paid to banks, etc) ... 30,701 34 d **b** Other 34 e Labor hired (less employment credits) . . . 34 f Total expenses. Add lines 12 through 34f. If line 34f is negative, see instructions . . . 35 74,583. Net farm profit or (loss). Subtract line 35 from line 11. • If a profit, enter the profit on Form 1040, line 18, and also on Schedule SE, line 1. If you file Form 1040NR, enter the profit on Form 1040NR, line 19. 36 -49,933. If a loss, you must go on to line 37. Estates, trusts, and partnerships, see instructions. If you have a loss, you must check the box that describes your investment in this activity (see instructions). If you checked 37a, enter the loss on Form 1040, line 18, and also on Schedule SE, line 1.
If you file Form 1040NR, enter the loss on Form 1040NR, line 19.
If you checked 37b, you must attach Form 6198. Your loss may be limited.

Form 2106-EZ

Unreimbursed Employee Business Expenses

OMB No. 1545-0074

2007

Attachment Sequence No. 54

Department of the Treasury Internal Revenue Service

► Attach to Form 1040 or Form 1040NR.

Fern Sherrell N

Occupation in which you incurred expenses Soc Nurse Practitioner

Social security number

ou May	Use Th	his Form C	nly if All	of the	Following	Apply.
--------	--------	------------	------------	--------	-----------	--------

- You are an employee deducting ordinary and necessary expenses attributable to your job. An ordinary expense is one that is common and
 accepted in your field of trade, business, or profession. A necessary expense is one that is helpful and appropriate for your business. An
 expense does not have to be required to be considered necessary.
- You do not get reimbursed by your employer for any expenses (amounts your employer included in box 1 of your Form W-2 are not
 considered reimbursements for this purpose).
- If you are claiming vehicle expense, you are using the standard mileage rate for 2007.

Caution: You can use the standard mileage rate for 2007 only If: (a) you owned the vehicle and used the standard mileage rate for the first year you placed the vehicle in service, or (b) you leased the vehicle and used the standard mileage rate for the portion of the lease period after 1997.

	period after 1997.	uio portion	Of the lease
Pa	rt I Figure Your Expenses		
1	Vehicle expense using the standard mileage rate. Complete Part II and multiply line 8a by 48.5 ¢ (.485)	1	
2	Parking fees, tolls, and transportation, including train, bus, etc, that did not involve overnight travel or commuting to and from work	2	
3	Travel expense while away from home overnight, including lodging, airplane, car rental, etc. Do not include meals and entertainment	3	
4	Business expenses not included on lines 1 through 3. Do not include meals and entertainment	4	125.
5	Meals and entertainment expenses: \$\ x 50\% (.50) (Employees subject to Department of Transportation (DOT) hours of service limits: Multiply meal expenses incurred while away from home on business by 75% (.75) instead of 50%. For details, see instructions.)	5	
6	Total expenses. Add lines 1 through 5. Enter here and on Schedule A (Form 1040), line 21 (or on Schedule A (Form 1040NR, line 9)). (Armed Forces reservists, fee-basis state or local government officials, qualified performing artists, and individuals with disabilities: See the instructions for special rules on where to enter this amount.)	6	125.
Par			
7	When did you place your vehicle in service for business use? (month, day, year)		>
8	Of the total number of miles you drove your vehicle during 2007, enter the number of miles you used your vehicle	le for:	
a	Business bCommuting (see instr) cOther		
9	Do you (or your spouse) have another vehicle available for personal use?	. Yes	No
10	Was your vehicle available for personal use during off-duty hours?	. Yes	☐ No
112	Do you have evidence to support your deduction?	. Yes	No
b AA	If 'Yes,' is the evidence written? For Paperwork Reduction Act Notice, see separate instructions.		No No

Form 1040	Department of the Treasury — Internal Revenue Service U.S. Individual Income Tax Return 2008	99) IRS Use Only Do not write or staple in this space.
	For the year Jan 1 - Dec 31, 2008, or other tax year beginning , 2008, ending	20
Label	Your first name Mt Last name	, 20 OMB No. 1545-0074 Your social security number
(See instructions.)	DAVID SHERRELL	
	If a joint return, spouse's first name MI Last name	i opouse s social security number
Use the IRS label.	FERN SHERRELL	Spouse's social security number
Otherwise,	FERN SHERRELL Home address (number and street). If you have a P.O. box, see instructions.	Apartment no. 1 TOU RIVER UT
please print or type.	HC 82 BOX 61	Apartment no. 100 mas o ur
or type.	City, town or post office. If you have a foreign address, see instructions. State 2	A number(s) above A
Presidential		Checking a box below will not
Election		72565 change your tax or refund.
Campaign	Check here if you, or your spouse if filing jointly, want \$3 to go to this fund? (see instructions) .	You Spouse
Filing Status		pusehold (with qualifying person). (See
	2 X Married filling jointly (even if only one had income) Instruction	s.) If the qualifying person is a child ur dependent, enter this child's
Check only	3 Married filing separately. Enter spouse's SSN above & full name here	
one box.	name here ► 5 Qualifying wi	dow(er) with dependent child (see instructions)
Exemptions	6a X Yourself. If someone can claim you as a dependent, do not check box	Вохез checked on 6a and 6b
	b X Spouse	on 6a and 6b
	2 Dependents (3) Dep	endent's (4) V if on 6c who:
	· Social security relati	onship qualifying lived child for child with you
	(1) First name Last name	tax credit • did not
		due to divorce
		(see instrs)
If more than		Dependents on 6c not
four dependents, see instructions.		entered above .
see instructions.	d Tatal gyaphay of ayamatiana delinad	Add numbers on ilnes
	d Total number of exemptions claimed	
Income	7 Wages, salaries, tips, etc. Attach Form(s) W-2	
	b Tax-exempt interest. Do not include on line 8a	
Attach Form(s)	9a Ordinary dividends. Attach Schedule B if required	
W-2 here. Also	b Qualified dividends (see instrs)	38
attach Forms W-2G and 1099-R	Taxable refunds, credits, or offsets of state and local income taxes (see instructions)	10 0.
if tax was withheld.	11 Alimony received	
If you did not	12 Business income or (loss). Attach Schedule C or C-EZ	12
get a W-2,	13 Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here	. 13 18,573.
see instructions.	14 Other gains or (losses). Attach Form 4797	
	15a IRA distributions	
	16a Pensions and annuities 16a b Taxable amou	
C	17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach	
Enclose, but do not attach, any	18 Farm income or (loss). Attach Schedule F	
payment. Also,	20 a Social security benefits	
please use Form 1040-V.	21 Other income	21
	22 Add the amounts in the far right column for lines 7 through 21. This is your	total income. > 22 75,448.
	23 Educator expenses (see instructions)	
Adjusted Gross	24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	
income	OF 11 111 1	
	25 Health savings account deduction. Attach Form 8889 25 26 Moving expenses. Attach Form 3903	
	27 One-half of self-employment tax. Attach Schedule SE 27	
	28 Self-employed SEP, SIMPLE, and qualified plans	
	29 Self-employed health insurance deduction (see instructions)	<u> </u>
	30 Penalty on early withdrawal of savings	
	31 a Alimony paid b Recipient's SSN	
	32 IRA deduction (see instructions)	
	33 Student loan interest deduction (see instructions)	
	34 Tuition and fees deduction. Attach Form 8917 34	
	35 Domestic production activities deduction, Attach Form 8903	
	36 Add lines 23 - 31a and 32 - 35	
	37 Subtract line 36 from line 22. This is your adjusted gross income	22

Form 1040 (2008				D
Tax and	38 Amount from line 37 (adjusted gross income)		38	Page 75,448
Credits	39a Check Tou were born before January 2, 1944, Blind, Total how			13,440
	if: Spouse was born before January 2, 1944, Blind. checked	55 ► 39a		
Standard	b If your spouse itemizes on a separate return, or you were a dual-status alien, see instrs and ck here	► 39h		
Deduction	c Check if standard deduction includes real estate taxes or disaster loss (see instructions)	► 30 c		
for —	40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)	336 🗀	40	16 724
 People who checked any box 	41 Subtract line 40 from line 38	*******		16,734
on line 39a, 39b.	42 If line 38 is over \$119.975, or you provided housing to a Midwestern displaced individual and instruction		41	58,714
or 39c or who can be claimed	Otherwise, multiply \$3,300 by the total humber of exemptions claimed on line 64	uris.	42	7,000
as a dependent.	1 45 Takable Incume. Subtract line 47 from line 41			
see instructions.	If line 42 is more than line 41, enter -0- 44 Tax (see instrs). Check if any tax is from: a Form(s) 8814		43	<u>51,714</u> .
• All others:	· · · · · · · · · · · · · · · · · · ·	,		•
	b Form 4972			4,166
Single or Married	45 Alternative minimum tax (see instructions). Attach Form 6251	• • • • • • • • • • • • • • • • • • • •	45	
filing separately, \$5,450			46	4,166.
1	4/			
Married filing	48 Credit for child and dependent care expenses. Attach Form 2441			
jointly or Qualifying	49 Credit for the elderly or the disabled. Attach Schedule R 49			
widow(er),	50 Education credits. Attach Form 8863 50			
\$10,900	51 Retirement savings contributions credit. Attach Form 8880 51			
Head of	52 Child tax credit (see instructions). Attach Form 8901 if required			
household,	53 Credits from Form: a 8396 b 8839 c 5695 53			
\$8,000	54 Other crs from Form: a 3800 b 8801 c 54			
L	-1 55 Add lines 47 through 54. These are your total credits		55	
	56 Subtract line 55 from line 46. If line 55 is more than line 46, enter -0-			4,166.
,	57 Self-employment tax. Attach Schedule SE		57	4,100.
Other	58 Unreported social security and Medicare tax from Form: a 4137 b 8919	·····	59	
Taxes	59 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	····	50	 -
	60 Additional taxes: a AEIC payments b Household employment taxes. Attach Schedule H	····	60	
	61 Add lines 56-60. This is your total tax		61	A 166
Payments	62 Federal income tax withheld from Forms W-2 and 1099 62 10	0,879.	01	4,166.
If you have a	63 2008 estimated tax payments and amount applied from 2007 return	27013.		
qualifying	64a Earned income credit (EIC)			
child, attach Schedule EIC.	b Nontaxable combat pay election 64b			
Scriedule Etc.	65 Excess social security and tier 1 RRTA tax withheld (see instructions)	8.		
	66 Additional child tax credit. Attach Form 8812			
	67 Amount paid with request for extension to file (see instructions) 67			
***	68 Credits from Form: a 2439 b 4136 c 8801 d 8885 . 68			
	69 First-time homebuyer credit. Attach Form 5405			
	70 Recovery rebate credit (see worksheet)	0.		
	71 Add lines 62 through 70. These are your total payments			
Refund	72 If line 71 is more than line 61, subtract line 61 from line 71. This is the amount you overpaid),887.
Direct deposit?	73a Amount of line 72 you want refunded to you. If Form 8888 is attached, check here	<u>.</u>		721.
See instructions	ha ha Danaktara and a d		3a 6	721.
and fill in 73b,	► d Account number	Savings		
73c, and 73d or Form 8888:	74 Amount of line 72 you want applied to your 2009 estimated tax			
	75 Amount you owe. Subtract line 71 from line 61. For details on how to see see instruction			
You Owe	The state of the s	····· <u>^ 7</u>	5	
	lo unu went to ellevi erette en ellevi en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi en ellevi erette en ellevi en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette en ellevi erette ellevi erette en ellevi erette en ellevi erette en ellevi erette ellevi erette elle		<u>고 분기</u>	
Third Party	to you want to allow another person to discuss this return with the IRS (see instructions)? Y	es. Comple	te the following.	X No
<u>Jesignee</u> n	ame Priore	Pers	onal identification ber (PIN)	_
Sign 🖁	nder penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, are elief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of	nd to the best o	of my knowledge and	
loint return? See instructions.	- Tour occupation	ļc	Daytime phone number	
	Spouse's signature. If a joint return, both must sign. Date Source's counsties			
Geep a copy or your records.	epouse's eccupation		<u> </u>	
· · · · · · · · · · · · · · · · · · ·	NURSE PRACTIT	IONER		
	eparer's Date	P	reparer's SSN or PTIN	
	Check if self-employ	ed		
'reparer's 🏗	yoursin Pald Preparer			
	If-employed)	EIN		
	code -	Phone no		
		ድክርበይ ሳሳ		

SCHEDULE A (Form 1040)

Itemized Deductions

OMB No. 1545-0074

Department of the Treasury Internal Revenue Service (99)

► Attach to Form 1040. ► See Instructions for Schedule A (Form 1040).

Name(s) shown	on Fori	n 1040	-			Sequence No. U/
		RN SHERRELL		Tours	OCIZI SE	ecurity number
Medical		Caution. Do not include expenses reimbursed or paid by others.				
and		Medical and dental expenses (see instructions)	1			
Dental Expenses		2 Enter amount from Form 1040, line 38 2	1			
Expenses		3 Multiply line 2 by 7.5% (.075)	2		e e	
•		Subtract line 3 from line 1. If line 3 is more than line 1, enter -0.	3			
Taxes You		5 State and local (check only one box):	 		4	
Paid		a X Income taxes, or				
			_			
				5,723.		
40	_	12.00		1,287.		
(See instructions.)		and the state of t	7	609.		
manuctions.)	•	Other taxes. List type and amount		j		
	ç	Add lines 5 through 8	_ 8			7 (10
Interest	10	Add lines 5 through 8	30	C 020	9	7,619.
You Paid	11		10	6,239.	10	
		from whom you bought the home, see instructions and show that person's name,	No.	•		
		identifying number, and address >				•
			11	1		
Note.	12	Points not reported to you on Form 1098. See instrs for spci rules	12			
Personal			13			
interest is not		Investment interest. Attach Form 4952 if required.				
deductible.		(See instrs.)	14			
	15	Add lines 10 through 14			15	6,239.
Gifts to	16					
Charity ·			16	1,940.		
If you made a gift and	17	Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if				
got a benefit		more, see instructions. You must attach Form 8283 if				
for it, see instructions.	10	over \$500	17			
mad actions.		Carryover from prior year				
Casualty and		Add lines 16 through 18	<u> </u>		19	1,940.
Theft Losses	20	Casualty or theft loss(es). Attach Form 4684. (See instructions.)			20	
	21	Unreimbursed employee expenses – job travel union dues				
		job education, etc. Attach Form 2106 or 2106-EZ if		81		
		required. (See instructions.)		*		
		EMPLOYEE BUSINESS EXPENSE 2,385.	21	2,385.		
	22		22	60.		
(See	23	Other expenses - investment, safe deposit box, etc. List				
instructions.)		type and amount		i i		•
			23			
	24		24	2,445.		
	25	Enter amount from Form 1040, line 38 25 75, 448 .				
	26	Multiply line 25 by 2% (.02)	26	1,509.		•
	27	Subtract line 26 from line 24. If line 26 is more than line 24, enter -0)	2	7	936.
Other	28	Other — from list in the instructions. List type and amount ►		3		
Miscellaneous						
Deductions					8	
otal temized	29	Is Form 1040, line 38, over \$159,950 (over \$79,975 if			_	
eductions		married filing separately)?		.]	-	
		No. Your deduction is not limited. Add the amounts in the far rich for lines 4 through 28. Also, enter this amount on Form 100	ght colun	<u>π</u> η [
		for lines 4 through 28. Also, enter this amount on Form 104 Yes, Your deduction may be limited. See instructions for the	iu, line 4	·0.)	16,734.
	30	Yes. Your deduction may be limited. See instructions for the amo	ount to e	nter		
	30	If you elect to itemize deductions even though they are less than your standard deduction	n, check h	ere 🟲 📗 .		

SCHEDULE D (Form 1040)

Capital Gains and Losses

► Attach to Form 1040 or Form 1040NR. ► See Instructions for Schedule D (Form 1040). ► Use Schedule D-1 to list additional transactions for lines 1 and 8.

OMB No. 1545-0074

Attachment Sequence No.

Department of the Treasury Internal Revenue Service Name(s) shown on return

Your social security number

DAVID & FERN SHERRELL Short-Term Capital Gains and Losses — Assets Held One Year or Less (a) Description of (b) Date acquired (d) Sales price (see instructions) (C) Date sold (e) Cost or other basis (f) Gain or (loss) property (Example: 100 shares XYZ Co) (Mo, day, yr) (Mo, day, yr) Subtract (e) from (d) (see instructions) 2 Enter your short-term totals, if any, from Schedule D-1, line 2 . . . Total short-term sales price amounts. Add lines 1 and 2 in Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824 Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1 5 Short-term capital loss carryover. Enter the amount, if any, from line 8 of your Capital Loss Carryover Worksheet in the instructions ... 6 7 Net short-term capital gain or (loss). Combine lines 1 through 6 in column (f) 7 Long-Term Capital Gains and Losses - Assets Held More Than One Year (a) Description of (b) Date acquired (C) Date sold (d) Sales price (e) Cost or other basis (f) Gain or (loss) property (Example: 100 shares XYZ Co) (Mo, day, yr) (Mo, day, yr) (see instructions) (see instructions) Subtract (e) from (d) 5 LOTS IN BAXTER COUNTY 09/12/05 07/15/08 275,000 256<u>, 427</u> 18,573. Enter your long-term totals, if any, from Schedule D-1, line 9 ... 9 Total long-term sales price amounts. Add lines 8 and 9 in column (d) 10 275,000. Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824 11 Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1 12 13 Capital gain distributions. See instrs 13 Long-term capital loss carryover. Enter the amount, if any, from line 15 of your Capital Loss Carryover Worksheet in the instructions 14 15 Net long-term capital gain or (loss). Combine lines 8 through 14 in column (f). Then go to Part III on <u>18,573.</u> BAA For Paperwork Reduction Act Notice, see Form 1040 or Form 1040NR instructions.

Schedule D (Form 1040) 2008

Summary

16	Combine lines 7 and 15 and enter the result	16	18,	573.
	If line 16 is:			
	A gain, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below.			
	 A loss, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22. Zero, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then to go line 22. 			
17	Are lines 15 and 16 both gains?			
	X Yes. Go to line 18.			
	No. Skip lines 18 through 21, and go to line 22.			
18	Enter the amount, if any, from line 7 of the 28% Rate Gain Worksheet in the instructions ▶	18		
19	Enter the amount, if any, from line 18 of the Unrecaptured Section 1250 Gain Worksheet in the instructions	19		
20	Are lines 18 and 19 both zero or blank?			ė
	Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the Instructions for Form 1040 (or in the Instructions for Form 1040NR). Do not complete lines 21 and 22 below.			
	No. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Schedule D Tax Worksheet in the instructions. Do not complete lines 21 and 22 below.			
21	If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the smaller of:			
	The loss on line 16 or	21	<u></u>	
	• (\$3,000), or if married filing separately, (\$1,500)			
	Note. When figuring which amount is smaller, treat both amounts as positive numbers.			
22	Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b?			
	Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the Instructions for Form 1040 (or in the Instructions for Form 1040NR).			
	No. Complete the rest of Form 1040 or Form 1040NR.			

Schedule D (Form 1040) 2008

SCHEDULE E

(Form 1040)

Department of the Treasury Internal Revenue Service (99)

Supplemental Income and Loss (From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc)

Attach to Form 1040, 1040NR, or Form 1041.

See Instructions for Schedule E (Form 1040).

OMB No. 1545-0074

2008

Attachment Sequence No. 13

Your social security number

Name(s) shown on return

571	VID & FERN SHERRELL Income or Loss From Rer Schedule C or C-EZ (see instructions). If	ital	Real Estate and I	Royalties Note	e. If you are in the	business of rent	ing pers	sonal pro	perty,	use	
<u> </u>	List the type and address of each renta			in tental income of 1055		on page 2, line 4 r each rental real				Yes	No
A	DWELLING				pro	perty listed on li	ne 1, di	d you r		163	110
	HWY 9		OXFORD, AR 72	2565	— — or	your family use i year for persona	t during d nurno	the	Α		X
В				-] for	more than the g	reater o	f: F			
		- -			•	14 days, or 10% of the total	dave		8		
C						ented at fair ren	tal value	?			
			<u> </u>		(Se	e instructions.)			С		l
Inc	ome:			Properties	<u> </u>				otals		
		_	Α	B		С		columi	ıs A,		
	Rents received			•			3			8	300
	Royalties received	4					4				
	Advertising	5									
6	Auto and travel (see instructions)		- 								
7	Cleaning and maintenance										
8	Commissions										
9	Insurance										
10	Legal and other professional fees	-								•	
11	Management fees	11		"							
12		12									
12		13					12		 -		
	Repairs			.							
15	Supplies				<u> </u>						
16		16									
	Utilities		-							•	
	Other (list)										
						i i					
. — —		18									
				ļ. <u>-</u>							
			<u> </u>	<u> </u>							•
				 							
											
19	Add lines 5 through 18	19		 			19				
	Depreciation expense or depletion						-				
	(see instructions)	20				:	20				
21	Total expenses. Add lines 19 and 20	21						_			
	income or (loss) from rental real estate or										
	royalty properties. Subtract line 21 from line 3 (rents) or line 4 (royalties). If the result is a				İ						
į.	loss), see instructions to find out if you must		•) 1					
1	ile Form 6198	22	800.			ja S					
	Deductible rental real estate loss.										
(Caution. Your rental real estate loss on line 22 may be limited. See instructions to find out if you										
1	nust file Form 8582. Real estate professionals	,	į			ř.					
	nust complete line 43 on page 2	23				r i					
:4 :e :	ncome. Add positive amounts shown on it	ine 2	2. Do not include any	losses			4			80	0.
.J (osses. Add royalty losses from line 22 ar	nd re	ntal real estate losses	from line 23. Ent	er total losses	here 2	5				
:6]	otal rental real estate and royalty income or (loss esult here. If Parts II, III, IV, and line 40 on page 2 d). Co	mbine lines 24 and 25. Ente	er the		Ţ 	\top				_
a	INDUNE ON POINT 1040. HIPE 17. OF FORM INDUNER LINE	12 DI	honuisa includa thie amour			ļ					
- 11	the total on line 41 on page 2		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	<u></u>	******	2	6			800	O.
AA F	or Paperwork Reduction Act Notice, see	Inst		11/08/08				E (For	m 10		

SCHEDULE F

(Form 1040)

Name of proprietor

Profit or Loss From Farming

OMB No. 1545-0074

Attachment Sequence No.

Social security number (SSN)

Department of the Treasury Internal Revenue Service

 Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B. ► See Instructions for Schedule F (Form 1040).

DAVID SHERRELL A Principal product, Describe in one or two words your principal crop or activity for the current tax year. D Enter code from Part (V CATTLE AND ELK 112111 C Accounting method: X Cash Accrual Employer ID number (EIN), if any Did you 'materially participate' in the operation of this business during 2008? If 'No,' see instructions for limit on passive losses Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II & III, & Part I, line 11.) Do not include sales of livestock held for draft, breeding, sport, or dairy purposes. Report these sales on Form 4797. Sales of livestock and other items you bought for resale Cost or other basis of livestock and other items reported on line 1 3 Subtract line 2 from line 1 4 18,000. Sales of livestock, produce, grains, and other products you raised. 5a Cooperative distributions (Form(s) 1099-PATR) 5a 5b Taxable amount 6b Taxable amount. 6Ь 6a Agricultural program payments (see instructions) . . . | 6a 7 Commodity Credit Corporation (CCC) loans (see instructions): 7 a 7с 8 Crop insurance proceeds and federal crop disaster payments (see instructions): 8b Taxable amount 8 b c If election to defer to 2009 is attached, check here 8 d 8d Amount deferred from 2007 9 Custom hire (machine work) income Other income, including federal and state gasoline or fuel tax credit or refund (see instructions) 10 Gross income. Add amounts in the right column for lines 3 through 10. If you use the accrual method to figure your income, enter the amount from Part III, line 51 18,000. Farm Expenses — Cash and Accrual Method. Do not include personal or living expenses such as taxes, insurance, or repairs on your home. Car and truck expenses (see instructions). 12 Also attach Form 4562 457. 25 25 Pension and profit-sharing plans ... 13 Chemicals 26 Rent or lease (see instructions): Conservation expenses a Vehicles, machinery, (see instructions) 14 and equipment 26 a 15 6,500. Custom hire (machine work) 26b 15 b Other (land, animals, etc) 27 27 Repairs and maintenance 4,467 Depreciation and section 179 28 Seeds and plants expense deduction not claimed 16 elsewhere (see instructions) . . 14,519. Storage and warehousing 30 Employee benefit programs other than on line 25 17 31 567. 18 18 Feed 7,835. 450. 19 Fertilizers and lime 19 Veterinary, breeding, and medicine 941. 33 20 Freight and trucking 20 Other expenses (specify): 21 21 Gasoline, fuel, and oil 1,200 34 a 22 Insurance (other than health) . . . 22 774. 34b 23 Interest: 34 c a Mortgage (paid to banks, etc) ... 23 a 30,964 34 d 23b 34 e 24 24 Labor hired (less employment credits) . . . 34 f Total expenses. Add lines 12 through 34f. If line 34f is negative, see instructions . 35 68,674. Net farm profit or (loss). Subtract line 35 from line 11. Partnerships, see instructions. • If a profit, enter the profit on both Form 1040, line 18, and Schedule SE, line 1a; on Form 1040NR, line 19; or on Form 1041, line 6. -50,674. If a loss, you must go on to line 37. 37 If you have a loss, you must check the box that describes your investment in this activity (see instructions). If you checked 37a, enter the loss on both Form 1040, line 18, and Schedule SE, line 1a; on Form 1040NR, line 19; or on Form 1041, line 6.

If you checked 37b, you must attach Form 6198. Your loss may be limited. 37 a X All investment 37 b BAA For Paperwork Reduction Act Notice, see instructions.

OMB No. 1545-0184

Identifying number

Sales of Business Property
(Also Involuntary Conversions and Recapture Amounts
Under Sections 179 and 280F(b)(2))

Attach to your tax return.

See separate instructions. Department of the Treasury Internal Revenue Service Name(s) shown on return DAVID & FERN SHERRELL

Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Othe Than Casualty or Theft — Most Property Held More Than 1 Year (see instructions) 2 (a) Description (b) Date sequence (c) Date sed (c) Gross and Conversions (c) Date sed (c) Gross and Conversions (c) Date sed (c) Gross and Conversions (c) Date sed (c) Gross and Conversions (c) Date sed (c) Gross and Conversions (c) Date sed (c) Gross and Conversions (c) Date sed (c) Gross and Conversions (c) Date sed (c) Gross (c) Date sed (c		(or substitute statement) that you are	ncluding on line	: 2, 10, or 20 (se	e instructions)		1	<u>L</u>	·
(a) Description of property (b) Data sequence (month, day, year) (c) Data soil (d) Gross sales price allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed or allowed and allowed and allowed and allowed and allowed and allowed and allowed allowed allowed and allowe		Sales or Exchanges of Than Casualty or Theft	Property Use: - Most Prop	d in a Trade (erty Held Mo	or Business a	and involuntar	y Convers	sions	s From Othe
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37. 5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824 5 Gain, if any, from line 32, from other than casualty or theft. 6 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows. 7 Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1055, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Sklp lines 8, 9, 11, and 12 below. Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9, If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in a earliet year, enter the gain from line 7 as a long-term capital gain on the Schedule D filled with your return senses from prior years (see instructions). 8 Nonrecaptured ent section 1231 losses from prior years (see instructions). 8 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 9 as a long-term capital gain on the Schedule D filled with your return (see instructions). 8 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 9 as a long-term capital gain on the Schedule D filled with your return (see instructions). 9 Subtract line 8 from line 7 or from line 8 or line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filled with your return (see instructions). 10 Ordinary gains and Losses (see instructions). 11 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less): 12 Social Schedule 9 (see instructions). 13 Gain, if any, from line 7 14 Net gain or (loss) from line 484, lines 37 and 44a. 15 Ordinary gain or (loss) from like-kind exchanges from Form 8824. 16 Ordinary gain or (loss) from like-kind exchanges from Form 8824.	2	(a) Description	(b) Date acquired	(c) Date sold	(d) Gross	(e) Depreciation allowed or allowable since	(f) Cost or basis, plus improvement	lus its and	(g) Gain or (loss Subtract (f) from t sum of (d) and (e
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37. 5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824 5 Gain, if any, from line 32, from other than casualty or theft. 6 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows. 7 Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1055, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Sklp lines 8, 9, 11, and 12 below. Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9, If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in a earliet year, enter the gain from line 7 as a long-term capital gain on the Schedule D filled with your return senses from prior years (see instructions). 8 Nonrecaptured ent section 1231 losses from prior years (see instructions). 8 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 9 as a long-term capital gain on the Schedule D filled with your return (see instructions). 8 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 9 as a long-term capital gain on the Schedule D filled with your return (see instructions). 9 Subtract line 8 from line 7 or from line 8 or line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filled with your return (see instructions). 10 Ordinary gains and Losses (see instructions). 11 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less): 12 Social Schedule 9 (see instructions). 13 Gain, if any, from line 7 14 Net gain or (loss) from line 484, lines 37 and 44a. 15 Ordinary gain or (loss) from like-kind exchanges from Form 8824. 16 Ordinary gain or (loss) from like-kind exchanges from Form 8824.									
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5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824 6 Gain, if any, from line 32, from other than casualty or theft 7 Combine lines 2 through 5. Enter the gain or (loss) here and on the appropriate line as follows 7 Partnerships (except electing large partnerships) and 5 corporations. Report the gain or (loss) following the instructions for Form 1056, Schedule K, line 10, or Form 11025, Schedule K, line 10, or Form 11026 Schedule K, line 10, or Form 11026 Schedule K, line 10, or Form 11026 Schedule K, line 10, or Form 11026 Schedule K, line 10, or Form 11026 Schedule L, line 10, or Form 11026 Schedule L, line 10, or Form 11026 Schedule L, line 10, or Form 11026 Schedule D, filed with your return and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses or they were recapitured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below. 8 Nonrecapitured net section 1231 losses from prior years (see instructions). 9 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a 19 per line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a 19 per line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a 19 per line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a 19 per line 12 below. If line 9 is more than zero, enter the gain from line 9 as a 19 per line 12 below. If line 9 is more than zero, enter the sensitive line 12 below. If line 12 below. If line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 line 12 li	3	Gain, if any, from Form 4684, line 45				• • • • • • • • • • • • • • • • • • • •			
6 Gain, if any, from line 32, from other than casualty or theft. 7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows Partnerships (except electing large partnerships) and 5 corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 11205, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below. Individuals, partners, 5 corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below. 8 Nonrecaptured net section 1231 losses from prior years (see instructions). 8 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions). 9 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions). 9 Subtract line 8 from line 7. If zero or less, enter -0. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is zero, enter the gain from line 9 is zero, enter the gain from li		Section 1231 gain from installment sa	ales from Form 62	252, line 26 or 3	7			4	
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 11203, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below. Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below. 8 Nonrecaptured net section 1231 losses from prior years (see instructions) 9 Subtract line 8 from line 7. If zero or less, enter .0 If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 in line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions) 10 Ordinary Gains and Losses (see instructions) 10 Ordinary Gains and losses ont included on lines 11 through 16 (include property held 1 year or less): DLOC BULL DIED 09/20/06 04/22/08 0. 600. 1, 500900 8 COWS DIED 09/01/06 06/10/08 0. 2, 704. 6, 7584, 054 11 Loss, if any, from line 7	5	Section 1231 gain or (loss) from like-	kind exchanges fr	om Form 8824				5	
Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below. 8 Nonrecaptured net section 1231 losses from prior years (see instructions). 8 Subtract line 8 from line 7. If zero or less, enter .0 If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions) 9 Ordinary Gains and Losses (see instructions) 10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less): DLOC BULL DIED	6	Gain, if any, from line 32, from other	than casualty or t	heft				6	
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	BAA	For Paperwork Reduction Act Notice,	see separate inst	ructions.		*********			

Form **4562**

Depreciation and Amortization (Including Information on Listed Property)

► See separate instructions. ► Attach to your tax return. OMB No. 1545-0172

Department of the Treasury Internal Revenue Service Name(s) shown on return Identifying number DAVID & FERN SHERRELL Business or activity to which this form relates Sch F DAVID SHERRELL FARM Election To Expense Certain Property Under Section 179
Note: If you have any listed property, complete Part V before you complete Part I. Maximum amount. See the instructions for a higher limit for certain businesses 1 \$250,000 Total cost of section 179 property placed in service (see instructions)..... 2 Threshold cost of section 179 property before reduction in limitation (see instructions) 3 \$800,000 Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0- 4 Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filling separately, see instructions (a) Description of property Listed property. Enter the amount from line 29 Tentative deduction. Enter the smaller of line 5 or line 8..... 9 10 Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs) ... 11 Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11. Carryover of disallowed deduction to 2009. Add lines 9 and 10, less line 12 ▶ Note: Do not use Part II or Part III below for listed property. Instead, use Part V. Special Depreciation Allowance and Other Depreciation (Do not include listed property.) Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions) 14 Property subject to section 168(f)(1) election 15 16. Other depreciation (including ACRS) MACRS Depreciation (Do not include listed property.) (See instructions) Section A 17 MACRS deductions for assets placed in service in tax years beginning before 2008. 14,519 If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here. Section B -- Assets Placed in Service During 2008 Tax Year Using the General Depreciation System (C) Basis for depreciation (a) (b) Month and (e) Convention (d) (f) Method (g) Depreciation Classification of property (business/investment use year placed in service Recovery period deduction only - see instructions) 19a 3-year property b 5-year property c 7-year property d 10-year property e 15-year property f 20-year property g 25-year property 25 yrs S/L h Residential rental 27.5 yrs MM S/L 27.5 yrs MM S/L I Nonresidential real 39 yrs MM S/L property MM S/L Section C — Assets Placed in Service During 2008 Tax Year Using the Alternative Depreciation System 20 a Class life . . S/L b 12-year 12 yrs S/L c 40-year ... 40 yrs MM S/L Summary (See instructions.)

Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on

the appropriate lines of your return. Partnerships and S corporations — see instructions

21 Listed property. Enter amount from line 28

14,519

21

Listed Property (Include automobiles, certain other vehicles, cellular telephones, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b,

				utlon: See the instr	uctions for lin	nits for passeng	er automobiles.)	
24 a Do you have eviden	ce to support the bu	usiness/investm	ent use claimed?	X Yes	No 24b If 'Y	es,' is the evidence	written? X	Yes No
(a) Type of property (list vehicles first)	(b) Date placed in service	(C) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/Investment use only)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost
25 Special depreci	ation allowanc e 50% in a quali	for qualified fied busi⊓ess	listed property pla s use (see instructi	iced in service durin ons)	g the tax yea	r and 25		
26 Property used r				1	I			
27 Property used 5	0% or less in a	qualified bus	siness use:	<u> </u>				
2004 CHEV PICKUP	05/24/04	6.68						
29 Add amounts in	column (b) !:	o 25 through	27 Enter have an	d == line 21 ==== 1		25		
		_		id on line 21, page 1 page 1			29	
			Section B - Info	rmation on Use of V	ehicles			

30	Total business/investment miles driven during the year (do not include commuting miles)	Vehi	a) cle 1 832	(t Vehi	o) cle 2	1 .	c) icle 3 <u>. </u>	(d Vehi	d) cle 4	1 .	e) cle 5	1	n icle 6
31	Total commuting miles driven during the year								·				
32	Total other personal (noncommuting) miles driven	1:	1,626										-
33	Total miles driven during the year. Add lines 30 through 32	12	2,458										
		Yes	No	Yes	_ No	Yes	No	Yes	No	Yes	No	Yes	No
34	Was the vehicle available for personal use during off-duty hours?	х											
35	Was the vehicle used primarily by a more than 5% owner or related person?	Х				!							·
36	Is another vehicle available for personal use?	х											

Section C — Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

37									
	by your employees?								
38	B Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners								
39		personal use?							
40									
41									
1	Amortization					• 7			
	(a) Description of costs D	(b) ate amortization begins	(c) Amortizable amount	(d) Code section		(f) mortization or this year			
42	Amortization of costs that begins during your 200	B tax vear (see i	nstructions):		, , , , , , , , , , , , , , , , , , , ,	·			
		7		······································					
									
43	Amortization of costs that began before your 2008	3 tax vear		· · · · · · · · · · · · · · · · · · ·					
44	Total. Add amounts in column (f). See the instruc-	tions for where t	o report		43				

ARKANSAS STA CLAIMS COMMISS

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RECEIVED

DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

BRIEF IN SUPPORT OF CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

Respondent's pleading entitled Respondent's Motion for Summary Judgment is a hybrid Ark. R. Civ. Pro. 12(b)(6) motion for judgment as a matter of law and Ark. R. Civ. Pro. 56 motion for summary judgment.

This matter was returned to the Claims Commission by a vote of the Legislative Committee, in essence a reversal of the Claims Commission's previous decision. Issues raised by the Arkansas Game & Fish Commission ("AGFC" or "Respondent") are residudicate and are moot.

II. ARKANSAS RULE OF CIVIL PROCEDURE 12(b)(6)

The Arkansas State Claims Commission "shall make no reward for any claim which, as a matter of law, would be dismissed from a court of law or equity for reasons other than sovereign immunity." Ark. Code Ann. § 19-10-204(b)(3)(A). "Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim."

Ark. Code Ann. § 19-10-205(b)(3)(B). The Arkansas Rules of Civil Procedure apply in cases before the Commission, unless the Commission's Rules of Practice and Procedure are to the contrary. *See* Rule 8.1 of the General Rules of Practice and Procedure Before the Arkansas State Claims Commission.

Created to comply with a constitutional requirement that the legislature provide for payment of all just debts of the state,¹ the Arkansas State Claims Commission has exclusive jurisdiction over all claims against the State of Arkansas and its agencies, departments, and institutions.² Due process is satisfied with the availability of compensation through the State Claims Commission and review of its decisions through the General Assembly.³

The Commission has jurisdiction to hear claims alleging that the State of Arkansas has breached contracts.4

Under Arkansas law, Rule 12(b)(6) is to be read in conjunction with Rule 8(a), Ark. R. Civ. P., which requires that a pleading setting forth a claim for relief shall contain a statement in ordinary and concise language of facts showing that the pleader is entitled to relief, and a demand for the relief to which he considers himself entitled. In testing a pleading under this rule, the facts alleged in the complaint are treated as

¹ Ark. Const. Art. 16 § 2. See James A. Ross, Jr., State Immunity and the Arkansas Claims Commission, 21 Ark. L. Rev. 180, 186 (1967).

² Ark. Code Ann. § 19-10-204.

³ Fireman's Ins. Co. v. Arkansas State Claims Com'n., 301 Ark. 451, 784 S.W.2d 771 (1990, cert. denied 498 U.S. 824, 111 S.Ct. 76, 112 L.Ed.2d 50 (1990).

⁴ Arkansas Tech University v. Link, 341 Ark. 495, 17 S.W.3d 809 (2000) (allegation that university had breached agreement to pay health insurance benefits); Hanley v. Arkansas State Claims Commission, 333 Ark. 159, 970 S.W.2d 198 (1998).

true and are viewed in the light most favorable to the party seeking relief. *McAllister v.*Forrest City Street Improvement District, No. 11, 274 Ark. 372, 626 S.W.2d 194 (1981).

Respondent's motion to dismiss is identical to its previous motion to dismiss and is most by the action taken by the Legislative Committee. Claimant apologizes to the Commission for the redundancy of his Brief, but is required to repeat his prior brief, out of caution, because of the nature of Respondent's motion.

Respondent has filed its motion to dismiss pursuant to Ark. R. Civ. P. 12(b)(6), alleging Claimant's Complaint (1) fails to state facts upon which relief can be granted and/or (2) Claimant's Complaint was filed outside the applicable three (3) year statute of limitations.

The distinction between this motion and a motion for summary judgment is that a 12(b)(6) motion alleges the failure to state a claim, while a motion for summary judgment alleges the failure to have a claim. Joey Brown Interest, Inc. v. Merchants National Bank, 284 Ark. 418, 683 S.W.2d 601 (1985). A motion under Rule 12(b)(6) can be treated by the court as a motion for summary judgment if matters outside the pleading are presented to the court and not excluded by it. If such a motion is treated as a motion for summary judgment, it is proper for the court to consider allegations made in briefs and attached exhibits in ruling upon the motion, since in ruling upon a motion for summary judgment, proper considerations are the "pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any." Rule 56(c), Ark. R. Civ. P.; Guthrie v. Tyson Foods, Inc., 285 Ark. 95, 685 S.W.2d 164 (1985).

Under Arkansas law, Rule 12(b)(6) is to be read in conjunction with Rule 8(a), Ark. R. Civ. P., which requires that a pleading setting forth a claim for relief shall contain a statement in ordinary and concise language of facts showing that the pleader is entitled to relief, and a demand for the relief to which he considers himself entitled. Therefore, a complaint containing merely conclusions of law is properly dismissed under Rule 12(b)(6). Thompson-Holloway Agency, Inc. v. Gribben, 3 Ark.App. 119, 623 S.W.2d 528 (1981); Rabalaias v. Barnett, 284 Ark. 527, 683 S.W.2d 919 (1985); Big A Warehouse Distributors, Inc. v. Rye Auto Supply, Inc., 19 Ark.App. 286, 719 S.W.2d 716 (1986). However, in testing a pleading under this rule, the facts alleged in the complaint are treated as true and are viewed in the light most favorable to the party seeking relief. McAllister v. Forrest City Street Improvement District, No. 11, 274 Ark. 372, 626 S.W.2d 194 (1981).

In contrast, the federal version of Rule 12(b)(6) provides for dismissal for failure to state a <u>claim</u> upon which relief can be granted, as opposed to a failure to state <u>facts</u>. For example, the Eighth Circuit Court of Appeals has held that a complaint should not be dismissed merely because the allegations of the complaint do not support the particular legal theory advanced, and the trial court is under a duty to examine the complaint to determine if the allegations provide relief on any possible theory. *Bramlet v. Wilson*, 495 F.2d 714 (8th Cir. 1974). In testing a complaint under Federal Rule 12(b)(6), the complaint should be construed favorably to the pleader, and it should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts which would entitle him to relief. *Wright v. Anthony*, 733 F.2d 575 (8th Cir. 1984).

Claimant's Complaint states:

My name is David Charles Sherrell. My address is 1115 Tri Lakes Road, Oxford, Arkansas 72565.

In 1995 or 1996, I purchased 33 head of Rock Mountain elk at \$2,250.00 each, for a total price of \$74,250.00. My intention was to help the state of Arkansas to replenish the elk population and establish a hunting lodge on my 420 acres. I discussed my plans with the sheriff of Izard County.

Sometime within the first year of purchasing the elk, Brian Gaskins and W.D. Whitehurst, game wardens with the Arkansas Game and Fish Commission, came to my farm and observed my elk. One of the game wardens, I believe Brian Gaskins, informed me I needed to acquire a breeder's permit from the state. No one stated I was in violation of any law, but that I did need the breeder's certificate.

In 1997 or 1998, I spoke to Mike Cartwright with the Arkansas Game and Fish Commission at his office in Calico Rock, Arkansas, about acquiring the breeder's certificate. Mr. Cartwright informed me he would check into it. Several months later, in a telephone conversation with Mr. Cartwright, he informed me the Arkansas Game and Fish Commission had decided not to issue me a breeder's certificate. No explanation was given.

Approximately five (5) years after I started my business, one of the game wardens told me the Arkansas Game and Fish Commission had passed a regulation requiring a minimum of 500 acres, with 60% dead woods, to establish an elk herd. One of the game wardens told me I could kill and sell the meat to the public, but I could not let the public hunt the elk.

In 2007 or 2008, Officer Chris Majors and Officer Ryan Warner, game wardens with the Arkansas Game and Fish Commission, told me I could be arrested for having the elk illegally. The officers informed me that all I could do with my elk was kill them for my own personal use.

I have been forced to destroy my existing elk herd.

The regulation of the Arkansas Game and Fish Commission requiring 500 acres to raise elk was and is an arbitrary number with no scientific basis which I believed was chosen to specifically eliminate me and my elk operation because the Arkansas Game and Fish Commission

knew I had only 420 acres. Numerous articles have been published by the Arkansas Game and Fish Commission which state that "although elk have been back in Arkansas for almost 25 years, little scientific research has been conducted." ("Answers About Elk" by Don White, Jr., Ph.D., Mike Cartwright and Robert C. Weih, Jr., Ph.D., Arkansas Wildlife, November.December 2005).

At the time of the article, the above authors could not answer the question, "Which habitats are used?" *Id* at p. 11. The article continues, "Although our data will not permit us to estimate the minimum area of any vegetation type that is necessary before an area is occupied by bull elk our results will provide information about proportions of vegetation types associated with bull elk home ranged." *Id* at p. 12. "Since elk hunting season began in 1998, through the September 2005 hunt, 180 elk have been legally harvested." *Id* at p. 7.

Elk are native to Arkansas. Elk were reintroduced in 1980. Through the 2007 hunting season, 238 elk had been harvested. ("At Home in the Ozarks" by Michael Cartwright and Don White, Jr., *Arkansas Wildlife*, September.October 2008, p. 7).

Mr. Cartwright and Mr. White encourage elk production by private landowners. *Id* at p. 8. One of the stated objectives is to, "manage a limited number of elk on private land. *Id* at p. 8. The Arkansas Game and Fish Commission even has a private land elk management program with cost-share options in the program for landowners who want to improve habitat on their property for elk and other wildlife. *Id* at p. 9.

In another article, "Common Questions About Arkansas Elk," by Michael Cartwright and Don White, Jr., *Front Porch*, November.December 2008, p. 7, private elk management programs is encouraged.

Because of the Arkansas Game and Fish Commission's arbitrary treatment of my elk breeding business, I have suffered the following damages:

33 original elk purchased at \$2,250.00 each	\$74,250.00
Hay	\$43,316.00
Corn	\$74,440.00
Worm blocks	\$3,150.00
Mineral blocks	\$202.00
TOTAL DAMAGES	\$195,358.00

I am requesting judgment against the Arkansas Game and Fish Commission and/or the State of Arkansas for \$195,358.00.

Claimant attempted in good faith to comply with state law by discussing his plans for his elk operation, first with the Izard County Sheriff and within the first year with the Arkansas Game & Fish Commission game wardens, Brian Gaskins and W.D. Whitehurst, who personally observed Claimant's elk. No one stated Claimant was in violation of state law.

Claimant next spoke with Mike Cartwright, Arkansas Game & Fish Commission employee, at his office in Calico Rock, Arkansas, about obtaining a breeder's certificate.

Not until 2007 or 2008, was Claimant informed he was in violation of the law, that all he could do is kill the elk for his personal use. Claimant owns 420 acres. Arkansas Game & Fish Commission regulations require 500 acres to establish an elk herd. The regulation requiring 500 acres is arbitrary at best and is not supported by scientific evidence. (See Claimant's brief in his Complaint.)

The State of Arkansas has encouraged the breeding of elk but has arbitrarily denied Claimant a right to lawfully pursue his business interest. Plaintiff was encouraged through his original contacts with Arkansas Game & Fish Commission personnel and continued his breeding operation under the impression that he would successfully obtain the required breeder's certificate. Once informed he was in violation of the law, Claimant destroyed the elk.

Plaintiff respectfully requests compensation for his attempt to participate in Arkansas' program of reintroduction of elk to the state.

Claimant has filed his Complaint within three (3) years of being notified he was in violation of the law (believed to be in 2008). Until notification of being in violation, Claimant had hopes of receiving his breeder's certificate. But for the Arkansas Game & Fish Commission's arbitrary requirement of 500 acres, Claimant would have successfully obtained the breeder's certificate and this matter would not now be before the Commission.

Claimant appreciates the opportunity to be heard and present his case.

III. ARKANSAS RULE OF CIVIL PROCEDURE 56 STANDARDS

A. Standard of Review

Summary judgment is appropriate only when there is no genuine issue of material fact, so that the dispute may be decided solely on legal grounds. *Holloway v. Lockhart*, 813 F.2d 874 (8th Cir. 1987); Fed. R. Civ. P. 56. The Supreme Court has established guidelines to assist trial courts in determining whether this standard has been met:

The inquiry is the threshold inquiry of determining whether there is a need for trial -- whether, in other words, there are genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986).

Claimant is the nonmoving parties and is not obligated to prove his case at this point. Rather, Respondents must present sufficient information to create an inference that Claimant may not be able to make his case at trial. Claimant's burden at the summary judgment stage is to demonstrate that there is sufficient evidence to put a material fact in play.

Summary judgment is only appropriate if the information found in pleadings, depositions, answers to interrogatories, admissions on file, and affidavits show that there is no genuine issue as to any material fact left for final resolution. Fed. R. Civ. P. 56. Only disputes over facts that might affect the outcome of the suit under the governing law will preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted. *Longen v. Waterous Co.*, 347 F.3d 685 (8th Cir. 2003).

The materiality standard is distinct from the evidentiary standard. A materiality determination rests on substantive law that identifies what facts are critical to the outcome of the case. Materiality categorizes factual disputes and is not a basis for evaluating the evidentiary foundation of those disputes. Once a fact is shown to be material, it must have a sufficient evidentiary support.

Summary judgment is not called for if there exists a dispute about a material fact that is "genuine." In other words, granting a summary judgment motion is not appropriate if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986); Fenney v. Dakota Minn. & E. R. R. Co., 327 F.3d 707, 711 (8th Cir. 2003). The burden of showing that there is a genuine issue of material fact for trial is on the party opposing summary judgment. First Nat. Bank of Ariz. v. Cities Service Co., 391 U.S. 253, 270 (1968). Since Claimant is the party opposing the motion, he has the burden, but is also given all favorable inferences.

To determine if Claimant defeats the motion, the Commission should considered the record as a whole, viewing the facts and inferences in the light most favorable to Claimant. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). A motion should be denied if, in reviewing the evidence in this light, reasonable people can differ as to the conclusions to be drawn from it. *Cargill v. Liberty Mutual Ins. Co.*, 488 F.Supp. 49, *affd.* 621 F.2d 275 (8th Cir. 1975); *Greenwood v. Dittimer*, 596 F.Supp. 235 *affd.* 776 F.2d 785 (8th Cir. 1984).

In order to prove that his firing resulted from race discrimination, plaintiff must first establish a prima facie case of disparate treatment. As pointed out earlier, that burden is not heavy. Texas Dept. of Cmty. Affairs v. Burdine, 450 248, 253, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981). In 1973, the Supreme Court first set forth the elements of a prima facie case in McDonnell Douglas Corporation v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). This suggested method of analysis was never intended to be rigid, mechanized, or ritualistic. Rather, it is merely a "sensible, orderly way to evaluate the evidence in light of common experience as it bears on the critical question of discrimination."

The district court in *Richardson v. Sugg*, 325 F.Supp.2d 919, citing *U.S. Postal Service Bd. of Govs. v. Aikens*, 460 U.S. 711, 715, 103 S.Ct. 1478, 75 L.Ed.2d 403 (1983).

Summary judgment is proper if, after viewing the evidence in the light most favorable to Claimant, no genuine issue of material fact exists and Respondent is entitled to judgment as a matter of law. *Nelson v. Corr. Med. Servs.*, 533 F.3d 958, 961 (8th Cir. 2008). Claimant cannot survive the motion for summary judgment merely by pointing to disputed facts; the facts in dispute must be material to the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). If the facts alleged by Claimant, when viewed in the light most favorable to his case, would not allow a

reasonable jury to find in his favor, then summary judgment should be granted in favor of Respondent. *Bloom v. Metro Heart Group of St. Louis, Inc.*, 440 F.3d 1025, 1029 (8th Cir. 2006).

Claimant's Complaint contained sufficient facts which must be accepted as true, which are plausible on its face. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Claimant's claims were plausible as he plead factual content that would allow a court to draw the reasonable inference that Respondent is liable for the misconduct alleged. *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009).

IV. FACTS AND ARGUMENT

An understanding of the facts is crucial to the argument. The one controverted fact that defeats Respondent's Motion for Summary Judgment is whether a conversation between Claimant and AGFC game wardens, Ryan Warner and Chris Majors,⁵ took place in July or August of 2008, or December 19, 2007. A question of law is whether Claimant relied upon representations made by the AGFC officials which implied that he would eventually be successful in acquiring a breeder's certificate for his elk herd. Claimant's strongest evidence that he did rely to his detriment upon representations made by the AGFC is a letter dated July 14, 1999 (Ex.5). This letter was received after consultations with the Izard County Sheriff concerning Claimant's purchase of the elk, observation of Claimant's elk by two game wardens, Brian Gaskins and W.D. "Whitey"

⁵ Respondent contends the second game warden was Jerry Smith, not Chris Majors, and that the conversation took place on December 19, 2007.

Whitehurst, and numerous conversations with Mike Cartwright, AGFC Deer/Elk Program Coordinator. The letter follows:

July 14, 1999

Mr. David Sherrill P.O. Box 57 Brockwell, AR 72517

Dear Mr. Sherrill:

I have checked with our legal counsel in Little Rock, Mr. Jim Goodhart, regarding your request for information on Arkansas regulations pertaining to hunting elk within an enclosure. Mr. Goodhart advised that you would need a Commercial Game Breeder's Permit from the Commission (available from the main AGFC office in Little Rock) to raise for sale any elk in accordance with Commission Code 15.01 (Commercial Game Breeder's permit Requirements – see attachment).

Our Commission Code 18.16 (Taking of Elk Prohibited – see attachment) specifies that it shall be unlawful to take, attempt to take, or possess an elk or any part thereof at any time with the following exceptions: 1) when legally obtained outside the state and accompanied by verification; 2) in compliance with Commission Code 02.21, Elk Hunting Season (see attachment). It is lawful to possess elk so long as the elk have been obtained from outside the state and accompanied by written verification. The Commission interprets Code 18.16 to require that any taking or attempt to take such elk by means of hunting must also take place in compliance with Commission Code 02.21, which specifies the open seasons for elk hunting.

The Commission currently has no regulations specifying requirements for high fence enclosures or restricting private permitted game breeders from raffling or auctioning the animals that they raise. A private game preserve work group composed of Commission staff and chaired by Mr. Goodhart is presently looking into game farming and is expected to propose regulations within the next six months which could affect the requirements for private game breeding and hunting, possible including fence enclosure requirements. Currently, there is no way to guarantee that any investment made at this time will necessarily satisfy and future regulations. At present, you can take any action you choose

regarding enclosures. Mr. Goodhart advised that you might consider delaying any planned action until after you have an opportunity to review the anticipated regulations if you want to be certain that your plans will conform to any new requirements. Hopefully this information is of some help to you in making future decisions regarding your captive elk herd.

Cordially,
/s/ Mike
Michael E. Cartwright
Deer/Elk Program Coordinator
(Ex.5)

The following facts are taken from the sworn testimony, depositions, of David Sherrell and Fern Sherrell, his wife:

The Claimant, David Charles Sherrell, raised beef cattle off and on. (Ex.2,P.4,L.4; P.17,L.18) Claimant Sherrell was elected Izard County Judge in 2010. (Ex.2,P.18,L.25-P.19,L.1)(Ex.2,P.36,L.5-24) Claimant has met and talked with Ryan Warner on more than one occasion. Before being elected Izard County Judge, Claimant was elected Justice of the Peace for 18 years. (Ex.2,P.23,L.6)

Claimant owned 420 acres, all in Izard County, except for sixty something acres in Fulton County. (Ex.2,P.25,L.23) In addition to dairy and beef cattle, Claimant raised elk on his 420 acres. (Ex.2,P.27,L.24) Claimant's intention was to help the State of Arkansas to replenish the elk population and establish a hunting lodge. (Ex.2,P.56,L.2-13) Before Claimant bought the elk he discussed his plans for elk with Jack Yancy, the sheriff in Izard County. (Ex.2,P.50,L.22)

Claimant bought 33 elk in 1995 as an investment, for profit. (*Ex.2,P.44,L.16-18,21*) Claimant bought 22 elk from Rick Hoover in West Plains, Missouri for \$43,000.00. (*Ex.2,P.45,L.8;P.46,L.23*) The rest of the elk came from a woman in Siloam Springs.

(Ex.2, P.46, L.8) Claimant paid \$2,250.00 per head for the elk and borrowed the money to pay for them. (Ex.2, P.47, L.13, 20) There were no regulations on elk at the time Claimant bought the elk. (Ex.2, P.5, L.13)

Within the first year of purchasing the elk, Brian Gaskins and W.D. "Whitey" Whitehurst, game wardens with the AGFC, came to Claimant's farm and observed the elk. (Ex.2, P.56, L.20-P.57, L.1)

Claimant talked to Mike Cartwright, AGFC Deer/Elk Program Coordinator, about obtaining a breeder's permit, to legally have the elk, and called him several times about acquiring a breeder's permit. (Ex.2, P.41, L.16; P.57, L.15) Claimant spoke personally with Mr. Cartwright in his office in Calico Rock, Arkansas about acquiring a breeder's certificate. (Ex.2, P.57, L.20-P.58, L.3) Claimant alleged Mr. Cartwright told him he would inquire into it (the permit). (Ex.2, P.58, L.11) Claimant assumed Mr. Cartwright would have given him an application if one had existed. (Ex.2, P.59, L.6) No one with the AGFC told Claimant to submit an application. (Ex.2, P.42, L.8)

Claimant identified a letter from Michael Cartwright, AGFC Deer/Elk Program Coordinator, dated July 14, 1999. (Ex.2,P.8,L.16;P.9,L.22-P.10,L.1;P.58,L.16)(Ex.5)
According to the letter, Claimant wasn't breaking any laws. (Ex.2,P.41,L.23)

In the summer of 2008, Claimant recalled a visit he had by two representatives of the AGFC, Chris Majors and Ryan Warner, telling him they could arrest him for having elk. (Ex.2,P.8,L.6;P.38,L.14) Eugene Bull, a diesel mechanic who works on Claimant's equipment, was present when the AGFC representatives stated they could arrest Claimant for having elk. (Ex.2,P.8,L.9) Eugene Bull was 15 feet behind Claimant when

the conversation took place. (*Ex.2,P.40,L.22*) Claimant is certain the two game wardens were Officers Majors and Warner. (*Ex.2,P.38,L.22*) When Ryan Warner told Claimant he could arrest him, Claimant said, "You might as well hook me up," and Majors got out of the truck and said, "We're not arresting nobody." (*Ex.2,P.39,L.13*) This was the only time Officers Warner and Majors visited Claimant, when they told him they could have him arrested. (*Ex.2,P.64,L.21-25*)

Claimant identified a statement written by Eugene Bull, (Ex.2,P.6,L.21;P.7,L.2)

The statement corroborated Claimant's recollection of the conversation with Chris

Majors and Ryan Warner.

The Claimant did not sell any elk; he and his wife ate one or two. (Ex.2, P.49, L.11) Based on Ryan Warner's statement, Claimant decided to kill the elk. Claimant killed the elk because the game wardens, Ryan Warner and Chris Majors, told him he could do zero with them. (Ex.2, P.29, L.3; P.38, L.18; P.43, L.5) Claimant buried the elk with a backhoe after destroying them. (Ex.2, P.29, L.25) Claimant killed the elk near the time his wife quit her job in 2009. (Ex.2, P.64, L.9) He shot the elk one or two months after the visit by Officers Warner and Majors. (Ex.2, P.64, L.17)

Claimant fed the elk corn, hay and all grain, and bought feed from at least three different mills. (Ex.2,P.52,L.23;P.54,L.9) He also kept records on costs for the elk for tax purposes. (Ex.2,P.53,L.2)

Claimant contends one of the game wardens told him he could kill and sell the elk meat to the public, but could not let the public hunt the elk. (Ex.2,P.61,L.23) Claimant disagreed with Mr. Warner if Mr. Warner testified the meeting with Claimant

happened in 2007. (Ex.2,P.62,L.24) Claimant has met and talked with Ryan Warner on more than one occasion. (Ex.2,P.36,L.5-24)

Claimant filed a complaint against the AGFC at the advice of W.D. "Whitey" Whitehurst. (Ex.2,P.66,L.11) Claimant did not file a complaint earlier because suing people is not his nature. (Ex.2,P.66,L.20) Mr. Whitehurst told Claimant the AGFC did him wrong. (Ex.2,P.66,L.25-P.67,L.3)

Claimant destroyed his elk because of statements by Mr. Cartwright and Officer Ryan Warner. (Ex.2, P.67, L.16) Claimant calculated the cost of his elk and arrived at the figure in his claim, \$195,000.00. (Ex.2, P.69, L.5) Claimant figured the cost per day and how long he kept the elk. (Ex.2, P.69, L.12) Claimant never told an officer he wanted to get rid of his elk. (Ex.2, P.71, L.8) The AGFC made rules and regulations after Claimant purchased his elk which prevented him from selling them. (Ex.2, P.71, L.15)

Fern Sherrell is the wife of Claimant, David Sherrell. (*Ex.3,P.5,L.5*) Mrs. Sherrell believed her husband paid Twenty-Two Hundred and Fifty Dollars per head for the elk. (*Ex.3,P.5,L.22*)

Mrs. Sherrell knew that her husband had several conversations with AGFC officials on their place, especially when they threatened to arrest him. (*Ex.3,P.6,L.20*) Mrs. Sherrell testified the events/conversations between the AGFC officials and her husband took place in the summer of 2008. (*Ex.3,P.7,L.3*) Mrs. Sherrell knew the visit from the AGFC officials was in 2008 because she was working at Horseshoe Bend Clinic at that time and she was contemplating changing jobs, and she remembers because they said they were going to arrest him. (*Ex.3,P.8,L.5;P.12,L.19*) Mrs. Sherrell also

remembered Eugene Bull was present during the conversations with the AGFC officials. (*Ex.3,P.8,L.19*) Mrs. Sherrell remembered the incident with the AGFC because it was hot weather, June, July or August 2008. (*Ex.3,P.11,L.20;P.12,L.8-10*) The Claimant slaughtered the elk not long after the AGFC threatened to arrest him. (*Ex.3,P.8,L.25-P.9,L.1*)

Claimant offers the following affidavit in addition to his sworn deposition:

I am David Charles Sherrell, Claimant in this matter. I am over the age of eighteen (18). I affirmatively state that I have never met Jerry Smith and have no idea who he is. As I testified previously, under oath, Ryan Warner and Chris Majors visited my farm and viewed my elk herd in the hot part of the summer of 2008. I strongly dispute that Ryan Warner and Jerry Smith discussed with me on January 19, 2007 my elk herd and AGFC regulations.

I have read the affidavit of William Ryan Warner (Exhibit C dated February 8, 2013, and attached Exhibits D, E and F), the affidavit of Jerry Smith (Exhibit G dated February 12, 2013), and the affidavit of Christopher Majors (Exhibit H dated February 26, 2013), which are attached to the AGFC's Motion for Summary Judgment and dispute their allegations that I met with Ryan Warner and Jerry Smith on or about January 19, 2007.

I repeat my statement, under oath, that I met Ryan Warner and Chris Majors in the summer months of 2008 when they discussed the AGFC regulations concerning elk.

/s/ David Sherrell (Ex.4)

A. Claimant has suffered damages as a result of the action of Respondent.

Claimant has documented both by his testimony, corroborated by the evidence submitted by Respondent that he was led to believe he could operate an elk reserve to benefit himself and the State of Arkansas. Numerous articles written by Respondent's representatives encouraged citizens like Claimant to pursue the elk industry. As late as

1999, Claimant was told he could sell the meat. Not until 2008 was Claimant told he was in violation of the law and could be arrested. Respondent's own brief and affidavits, stating no one told Claimant to destroy the elk confirmed his belief he could keep them and fall within state regulations.

Respondent's application of the law to the facts is misplaced. Claimant believed he was getting help from various members of Respondent regarding his breeder's certificate.

B. Claimant exhausted his administrative remedies.

Claimant's purchase and ownership of his elk in 1995 was clearly within the law as observed by Officers Gaskins and Whitehurst with no objection. According to articles written by Respondent's representatives, the elk was a new venture and studies were incomplete on ground and space needed. 500 acres was an arbitrary number which eliminated Claimant with 420 acres. Claimant pursued help from Respondent's Deer/Elk Program Coordinator, Mike Cartwright, and was encouraged with Mr. Cartwright's letter of July 14, 1999, evidentially after Cartwright spoke with Respondent's attorney, Jim Goodhart. Claimant is now pursuing his due process rights, applying for help from the Commission.

Why 500 acres was needed for an elk operation is unclear. Other people in the state were allowed to operate.

C. Claimant is not barred by the statute of limitations.

Claimant was notified in July or August 2008 that he was in violation of the law for possessing elk and could be arrested. Claimant filed his claim in June 2011, within the statute of limitations.

D. AGFC Code 15.04 is arbitrary and capricious.

Respondent's own articles on the subject states that the subject of raising of elk, "little scientific research has been conducted." "Answers About Elk" by Don White, Jr., Ph.D., Mike Cartwright and Robert C. Weih, Jr., Ph.D., *supra*.

V. CONCLUSION

Claimant has testified truthfully. His documents, tax records, created before this claim was presented, corroborate the time line. Claimant's wife's testimony corroborates the time line. Respondent's documents corroborate Claimant's time line, with the exception of affidavits created upon the eve of this matters' briefing schedule. Even the undated photographs appear to have green grass in the background which would not be present in cold month of December 2007.

Respectfully submitted,

LARRY J. STEELE PLC

By

LARRY J. STEELE (78146)

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Attorney for Claimant, David Charles Sherrell

CERTIFICATE OF SERVICE

I, Larry J. Steele, hereby certify that a copy of the foregoing BRIEF IN SUPPORT OF CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT, was faxed April 19, 2013, and mailed by U.S. Mail, postage prepaid, this 全分社 day of April, 2013, to the following:

Mr. James F. Goodhart Arkansas Game & Fish Commission Legal Division #2 Natural Resources Drive Little Rock, AR 72205

LARRY/J. STEELE

ARKANSAS STATE CLAIMS COMMISSION

APR 2 9 2013

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

DAVID CHARLES SHERRELL

CLAIMANT

VS.

CLAIM NO. 12-0015-CC

ARKANSAS GAME & FISH COMMISSION

RESPONDENT

RESPONDENT'S REPLY TO CLAIMANT'S RESPONSE TO ARKANSAS GAME AND FISH COMMISSION'S MOTION FOR SUMMARY JUDGMENT

Respondent Arkansas Game and Fish Commission ("AGFC"), by and through its undersigned counsel, filed on March 14, 2013, its Motion for Summary Judgment, based on evidence acquired in the discovery process which proves that there is no valid cause of action existing between the Claimant, David C. Sherrell, and the AGFC. Mr. Sherrell responded by filing documents styled "Claimant's Response to Respondent's Motion For Summary Judgment," "Brief in Support of Claimant's Response To Respondent's Motion for Summary Judgment," and "Claimant's Statement of Material Facts in Dispute." AGFC now respectfully submits this brief in reply to Mr. Sherrell's Response and renews its request that the Claims Commission dismiss Claimant's Complaint under Ark. R. Civ. Proc. 56(c) because there are no genuine issues of material fact and because AGFC is entitled to a judgment as a matter of law for Claimant's failure to state a claim upon which relief can be granted, for failure to exhaust administrative remedies, for failure to timely file this matter, and for mootness.

ARGUMENT

Despite Mr. Sherrell's mischaracterization of the facts and arguments at issue, the evidence in this matter clearly demonstrates that there are no genuine issues of material fact and that no cause of action exists between Mr. Sherrell and AGFC on the undisputed facts.

Mr. Sherrell attempts to address AGFC's statements of material fact in his document entitled "Claimant's Statement of Material Facts in Dispute," however, even where Mr. Sherrell denies a statement, his explanation of that denial amounts to an admission of the very facts proffered by AGFC. For example, Mr. Sherrell denies in paragraph 10 of his statement of facts that AGFC Officer Warner made a record of his meeting with Mr. Sherrell on January 19, 2007, by stating that, "filing an incident report and actually meeting are two separate facts." Either Mr. Sherrell fails to recognize the distinction between memorializing an event in writing contemporaneously and the event itself, or he is suggesting that Officer Warner, in anticipation of litigation that would not be filed until more than four years in the future, falsified records to provide evidence in this matter, which is blatantly false. In either case, Mr. Sherrell does not deny that the report exists and was dated more than four years before he filed his Complaint on June 30, 2011.

In addition, Mr. Sherrell denies in paragraph 12 of his statement of facts that the occasion of Officer Warner's and Officer Jerry Smith's visit to his property was the only time that Mr. Sherrell spoke with an employee of AGFC on his property about his elk by referring to a letter he received from AGFC well after that event. Mr. Sherrell misunderstands the statement of fact proffered by the Respondent. Obviously a letter received by Mr. Sherrell through the postal service would not constitute an employee physically entering onto his property to speak with

him. Thus, Mr. Sherrell's response is less of a "denial" and more of an avoidance of the actual facts.

Similarly, Mr. Sherrell denies in paragraph 13 of his statement of facts that the occasion of Officer Warner's visit to his property was the last time that any employee of AGFC communicated with him about his elk prior to the filing of this action by stating, "Claimant discussed with Whitey Whitehurst." Mr. Sherrell seems to be unaware of the fact that Officer Y.D. "Whitey" Whitehurst, retired from his employment with AGFC in 2004, and therefore, any conversation with Mr. Whitehurst that may have occurred after Officer Warner's and Officer Smith's visit in January 2007 would clearly not constitute a communication with an employee or agent of AGFC. (See Exhibit A). Again, Mr. Sherrell has side-stepped the material fact.

Moreover, Mr. Sherrell's attempt to manufacture a dispute concerning the date of the meeting does not defeat AGFC's Motion for Summary Judgment. Mr. Sherrell's assertion overlooks the fundamental flaw in his case: the uncontroverted fact that AGFC never took any action towards Mr. Sherrell in any way. Mr. Sherrell denies in paragraph 14 of his statement of facts that Mr. Sherrell never applied to AGFC for any kind of permit related to his elk by stating that, "Claimant wrote letters and discussed with various officials about acquiring a breeder's certificate... This was equivalent to a layperson's application." What Mr. Sherrell does <u>not</u> deny is that, despite being specifically instructed what to do if he was indeed interested in applying for a breeder permit, he never actually obtained an application form from AGFC's Little Rock office, filled it out, and submitted it to AGFC for consideration. Mr. Sherrell does not deny this because, as he admitted in paragraph 5 of his "Response to Respondent's Motion for Summary

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¹ Mr. Sherrell was specifically instructed to obtain an application from the Little Rock office in the 1999 letter sent to him by AGFC Biologist Mike Cartwright. See Exhibit B.

Judgment," "Claimant *never* formerly [sic] filled out an application." Consequently, Mr. Sherrell has admitted that he never *applied* for any permit related to his elk herd, and any assertion to the effect that asking random AGFC employees *about* permits is somehow the same as actually applying for a permit is mistaken and misleading.

Furthermore, when Mr. Sherrell denies in paragraph 15 of his statement of facts that AGFC never denied Mr. Sherrell a permit related to his elk by stating that "AGFC, in effect, denied the claimant the right through arbitrary regulation regarding the 500 acre requirement," Mr. Sherrell is asking this honorable Commission to overlook not only the fact that he, by his own admission, never actually applied for a permit, but he also asks that this Commission overlook that there has never been a five hundred acre requirement for the breeder's permit. This denial is based upon Mr. Sherrell's misunderstanding of AGFC's regulations and his personal decision not to apply for any permit whatsoever. In effect, Mr. Sherrell is stating that he believed that his application for a "Game Hunting Resort Permit" would be rejected due to acreage requirements, and therefore, he chose not to apply for any permit related to his elk. Reading Mr. Sherrell's statements altogether, it is clear that he admits that AGFC never denied him any permits because Mr. Sherrell never applied to AGFC for anything.

Mr. Sherrell denies in paragraph 16 of his statement of facts that no employee of AGFC ever cited, arrested, or threatened to arrest Mr. Sherrell by stating that "Officer Warner stated that he *could* arrest Claimant…" Mr. Sherrell once again is asking this Commission to overlook the plain meaning of common words, as well as his own deposition testimony, when making this denial. Obviously, stating that someone potentially could be arrested for illegal

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² That paragraph goes on to erroneously state that Claimant went through proper channels by speaking to AGFC Biologist Mike Cartwright about permitting despite the fact that the 1999 letter from Mike Cartwright to the Mr. Sherrell informed him that the proper channel for obtaining a permit would be by applying for a permit available at the Little Rock office.

³ There is, however, a 500 acre requirement for game hunting resorts.

conduct is not the same thing as stating that someone actually will be arrested. Additionally when questioned about this matter at his deposition, Mr. Sherrell plainly stated that Officer Warner *did not* say that he was going to arrest him. (See Deposition of David Sherrell, p. 39 lines 11-13). Thus, there is really no dispute about this fact.

Mr. Sherrell denies in paragraph 17 of his statement of facts that no employee of AGFC ever ordered him to destroy his elk by stating, "Although, they never ordered Claimant to kill the elk, this was his only option." This denial not only asks this Commission to overlook the fact that Mr. Sherrell is clearly admitting that he was never ordered to destroy his elk, it also asks the Commission to accept the patently false premise that he did not have the option of simply applying for a breeder's permit and legally operating under the permit conditions as an elk breeder. It is undisputed that Mr. Sherrell had such option but chose to destroy his elk instead.

Mr. Sherrell denies in paragraph 18 of his statement of facts that his decision to destroy his elk was his own independent decision by stating that "Claimant's decision to destroy the elk was not an independent decision, but made with the knowledge that he could be arrested and could do zero with them." This denial asks that the Commission once again accept Mr. Sherrell's unfounded conclusion that he had no other option than to slaughter his elk herd, despite the fact that he admits he had been urged on several occasions to apply for a breeder's permit, which would have allowed him to legally continue breeding elk.

Finally, Mr. Sherrell argues that he exhausted his administrative remedies yet offers no law or facts supporting this assertion. Mr. Sherrell's allegations that AGFC regulations are arbitrary and capricious are wholly irrelevant to this matter, as the State Claims Commission is not an appropriate forum for deciding the validity of duly-adopted state regulations. Mr. Sherrell was free to challenge these regulations, first through the agency administrative review process

and then by appeal to the Pulaski County Circuit Court, but he failed to ever pursue such remedy and, instead, simply opted to destroy his elk and then wait to file this claim for monetary damages some 4-plus years later. He has attempted to create a dispute concerning the date of the encounter between Officer Warner (accompanied by Officer Smith) and Mr. Sherrell, and the date when he destroyed his elk; however, reasonable persons would not find Mr. Sherrell's latest explanation credible in light of the pleadings and deposition testimony in this case.

Mr. Sherrell has failed to provide credible evidence in response to AGFC's proof demonstrating that the 3-year Arkansas statute of limitation applicable to his claim alleging "forced destruction" of his elk had clearly run out before he filed his Complaint on June 30, 2011. He tendered only the unsubstantiated (and unverifiable), general recollections of his wife and a former employee, which are contradicted by his own uncertain, vacillating testimony and his original contrary assertions contained in the Complaint (See Page 2 of the Complaint alleging under oath before a Notary that "In 2007 or 2008 The officers informed me that all I could do with my elk was kill them for my own personal use.").

With there being no genuine issue of material fact as to the questions concerning exhaustion of administrative remedies, the reasonableness of AGFC's regulations, or the statute of limitations -- all of which have all been fully briefed in the Motion for Summary Judgment -- a hearing that would include further testimony is unnecessary to deciding this matter.

CONCLUSION

This honorable Commission has been presented ample evidence upon which to grant AGFC's Motion for Summary Judgment. The Claimant, David C. Sherrell, has not met "proof with proof" as required by Ark. R. Civ. P. 56(c) and has not shown the existence of any genuine issue of material fact. Accordingly, this case should be summarily disposed of based solely on

the undisputed facts gathered from Claimant's sworn statements: (1) Mr. Sherrell never applied for any permit related to his elk herd; (2) AGFC never denied Mr. Sherrell a permit related to his elk herd; and (3) AGFC never ordered Mr. Sherrell to destroy his elk herd. This case can readily be decided based upon a fundamental rule of torts: in order for there to be a cause of action, there must be an "act" caused by the defendant that injured the moving party. The evidence here clearly proves that no such act ever occurred because AGFC took no action, either positively or negatively, towards the Claimant other than to urge him to obtain proper permitting for his elk. Plainly speaking, AGFC did not cause any damage to Mr. Sherrell's property. AGFC did not order him to destroy his elk; it did not threaten to arrest him if he did not destroy his elk; and it did not reject a valid application for a permit concerning his elk. Once those facts are established, it becomes clear that this is purely a matter of the Claimant making a voluntary decision to destroy his elk and then, after waiting more than four years, filing this claim (now barred by the applicable 3-year statute of limitation) with the Commission in an attempt to have the State of Arkansas pay for his own errant actions. Based on the foregoing, Respondent Arkansas Game and Fish Commission is entitled to summary judgment.

Respectfully submitted,

ARKANSAS GAME AND FISH COMMISSION

James F. Goodhart, ABA # 92080

Jennifer R. Jameson, ABA #2007190

Christian N. Parks ABA #2009179

Arkansas Game & Fish Commission

Legal Division

#2 Natural Resources Drive

Little Rock, AR 72205

Tele: (501) 223-6327

Fax: (501) 223-6463

Attorneys for Respondent

CERTIFICATE OF SERVICE

I, Christian N. Parks, do hereby certify that on this 26th day of April, 2013, I filed the foregoing Respondent's Reply to Claimant's Response to Arkansas Game and Fish Commission's Motion for Summary Judgment and have transmitted same to the attorney designated below:

Larry J. Steele, Esq. P.O. Box 561 Walnut Ridge, AR 72476

Christian N. Parks

State of Arkansas

County of Pulaski

AFFIDAVIT OF ANDREW BASS

I, Andrew Bass, am employed by the Arkansas State Game and Fish Commission as Chief of Human Resources. I am competent to testify and have personal knowledge regarding the statements contained in this affidavit.

I have reviewed the Human Resources Records for AGFC and have verified that Officer Y.D. Whitehurst retired from his employment with AGFC effective 8/31/2004.

In witness whereof, I hereunto set my hand this 2674 day of April, 2013.

Andrew Bass

Before the undersigned notary public, duly qualified and acting in and for said county and state, appeared Andrew Bass, who is to me well known to be or who has sufficiently proven to be the affiant herein, who signed this affidavit under oath.

Subscribed to and sworn to before me this day of April, 2013.

Notary Public

R. DIANE BOONE
Notary Public-ArkansasSaline County
My Commission Expires 06-07-2021
Commission # 12383141

Exhibit
Arkansas
Game & Fish Comm

137

Arkansas Game & Fish Commission

2 Natural Resources Drive

Little Rock, Arkansas 72205

tt Henderson
selstant Director

1 C A C 105

1 C C O W Mike

Carwar 19 Ht

Carwar 19 Ht

State Claims Co. 17M1518N



Dear Mr. Sherrill:

I have checked with our legal counsel in Little Rock, Mr. Jim Goodhart, regarding your request for information on Arkansas regulations pertaining to hunting elk within an enclosure. Mr. Goodhart advised that you would need a Commercial Game Breeder's Permit from the Commission (available from the main AFGC office in Little Rock) to raise for sale any elk in accordance with Commission Code 15.01 (Commercial Game Breeder's Permit Requirements - see attachment).

Our Commission Code 18.16 (Taking of Elk Prohibited - see attachment) specifies that it shall be unlawful to take, attempt to take, or possess an elk or any part thereof at any time with the following exceptions: 1) when legally obtained outside the state and accompanied by verification; 2) in compliance with Commission Code 02.21, Elk Hunting Season (see attachment). It is lawful to possess elk so long as the elk have been obtained from outside the state and accompanied by written verification. The Commission interprets Code 18.16 to require that any taking or attempt to take such elk by means of hunting must also take place in compliance with Commission Code 02.21, which specifies the open seasons for elk hunting.

The Commission currently has no regulations specifying requirements for high fence enclosures or restricting private permitted game breeders from raffling or auctioning the animals that they raise. A private game preserve work group composed of Commission staff and chaired by Mr. Goodhart is presently looking into game farming and is expected to propose regulations within the next six months which could affect the

Scott Yalch Assistant Director

Mr. David Sherrill July 14, 1999 Page 2

requirements for private game breeding and hunting, possibly including fence enclosure requirements. Currently, there is no way to guarantee that any investment made at this time will necessarily satisfy any future regulations. At present, you can take any action you choose regarding enclosures. Mr. Goodhart advised that you might consider delaying any planned action until after you have an opportunity to review the anticipated regulations if you want to be certain that your plans will conform to any new requirements. Hopefully this information is of some help to you in making future decisions regarding your captive elk herd.

Cordially,

Michael E. Cartwright
Deer/Elk Program Coordinator

MC: mcr Attachments

cc: Mr. Steve N. Wilson

Mr. Scott Henderson

Mr. Scott Yaich

Mr. Donnie Harris

Mr. Don McKenzie

Mr. Bob Conley.

Mr. Jim Goodhart

Mr. Loren Hitchcock

Mr. Brian Gaskins

Mr. Y.D. Whitehurst

Mr. John Crisman

Mr. Jim Hinkle

Elk Committee

Private Game Preserves Work Group

File

(4) An alligator may be possessed for display and educational purposes pursuant to written permit issued by the Commission Chief of Wildlife Management.

PENALTY: \$500.00 to \$1,000.00, and suspension of hunting and fishing privileges may be imposed in accordance with Code 11.05, Revocation of Privileges. Equipment used in such violations (including but not limited to killing devices and lights) may be confiscated by the court, forfeited to the State, and disposed of according to law.

18.15 TAKING OF MOUNTAIN LION PROHIBITED.

03-90 It shall be unlawful to take, attempt to take, or possess a mountain lion cougar, or panther (Felis concolor) at any time.

EXCEPTION:

(1) When legally obtained and accompanied by verification and in accordance with USDA regulations.

PENALTY: \$100.00 to \$1,000.00.

18.16 TAKING OF ELK PROHIBITED. It shall be unlawful to take, attempt to take, or possess an elk or any part thereof at any time. EXCEPTION:

- (1) When legally obtained outside the state and accompanied by verification.
- (2) In compliance with Commission Code 02.21, Elk Hunting Season.

PENALTY: Not less than \$5,000.00.

- 18.17 WILDLIFE PET RESTRICTIONS. It shall be unlawful to take or attempt to take by any method other than by hands and possess alive any wildlife species other than six (6) each of the animals specified herein, and the sale, purchase, barter, or transporting of such animals from the state or the progeny thereof is prohibited.
 - (A) Bobcat, coyote, deer, gray fox, red fox, opossum, quail, rabbit, raccoon and squirrel.
 - (B) Any native nongame wildlife excluding birds, bats, alligator snapping turtles, ornate box turtles, helibenders, troglodytic (cavedwelling) species or those animals defined as endangered species.

EXCEPTION:

(1) Wildlife exchanged with other states by the Commission. **PENALTY:** \$100.00 to \$1,000.00.

18.18 WATERFOWL HUNTING RESTRICTIONS ON LAKES HARRIS
07-80 BRAKE, HAMILTON. It shall be unlawful to take or attempt to take any migratory waterfowl from any watercraft or other floating device on Lake Hamilton in Garland County and Harris Brake Lake in Perry County.
PENALTY: \$100.00 to \$1,000.00.

•	Section 15.00Game Breeders
15.01 15.02 15.03 15.04 15.05 15.06	Commercial Game Breeder's Permit Requirements. Commercial Game Breeder's Report Requirements. Commercial Wildlife Shipping Requirements. Special Commercial Quail Permit Requirements. Commercial Nongame Breeder's Permit Requirements. Commercial Nongame Breeder's report requirements.

15.01 03-90	commercial game breeder's permit requirements. It shall be unlawful to raise for sale any fur-bearing animals, game animals, game birds, or bullfrogs, or for bullfrogs to be kept or reared in other than escape-proof pens without first obtaining a Commercial Game Breeder's Permit from the Commission. Such permits may be granted in accordance with Commission requirements which include that the applicant must supply satisfactory evidence that stock will be secured from a legal source other than the wild stock of the state, a bill of sale must be maintained on all stock purchased and sold; and applicable USDA permits must be obtained. PENALTY: \$100.00 to \$1,000.00. Second offense, penalty not less than \$500.00.
15.02 07-80	GAME BREEDER'S REPORT REQUIREMENTS. It shall be unlawful for game breeders to fail to mail or deliver to the Commission on the first of each month an itemized inventory of all species covered under Commercial Game Breeder's Permit. PENALTY: \$100.00 to \$1,000.00. Second offense, penalty not less than \$500.00.
15.03 07-80	commercial wildlife shipping requirements. Itshail be unlawful to ship species possessed under commercial Game Breeder's Permit or Commercial Nongame Breeder's Permit without label indicating contents, consignor, consignee and shipper's permit number. PENALTY: \$100.00 to \$1,000.00.
15.04 07-80	SPECIAL COMMERCIAL QUAIL PERMIT REQUIREMENTS. It shall be unlawful to engage in the business of selling or offering for sale the dressed carcass of pen-raised quail without first obtaining a Special Commercial Quail Permit and stamp in addition to a Commercial Game Breeder's Permit. (Ref: Section 01.00-C "Pen-Raised Quail"). It is further provided that:

(1) Quail must be killed by means other than shot;
(2) Each dressed carcass must be stamped with special stamp with permit number prior to selling or offering for sale.

PENALTY: \$100.00 to \$1,000.00.

02.20 04-98

HUNTING BEAR OVER BAIT PROHIBITED. It shall be unlawful to take or attempt to take bear by hunting on or over a baited area. Bait is considered any substance that may be an attractant. PENALTY: \$100.00 to \$1,000.00.

02.2 04-98 ELK HUNTING SEASON. It shall be unlawful to take, attempt to take, or possess elk other than during the open seasons as specified herein:

September 21-25, 1998. No dogs. Four buil permits (valid in elk zones 1 and 4), 2 buil permits (valid in elk zones 2 and 4), 1 bull permit (valid in elk zones 3 and 4).

December 7-11, 1998, No dogs. One bull permit (valid in elk zones 1 and 4), 1 bull permit (valid in elk zones 2 and 4), 1 bull permit (valid in elk zones 3 and 4), 3 antierless permits (valid in elk zone 1), 1 antierless permit (valid in elk zone 2), and 1 antierless permit (valid in elk zone 3).

September 21-25, 1998 and December 7-11, 1998. No dogs. Five antierless permits will be valid for use in elk zone 4.

EXCEPTION:

(1) When legally obtained outside the state and accompanied by verification.

PENALTY: Not less than \$5,000.00.

STATE CLAIMS COMMISSION DC SKET OPINION

OPINION						
Amount of Cl	aim \$ _195,358.00			Claim No.	12-0015-CC_	
			Attorneys			
David Ch	arles Sherrell	Claimant		Steele, Attorney		
	VS.	Claiment		otolo, i tuomoj	Claimant	
AP Com	& Fish Commission	·		G # 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	-	
		_ Respondent	Jame:	James Goodhart, Attorney & Respondent		
State of Arkar			11000			
Date Filed	June 30, 2011		Type of Claim	Loss of Property, Lo Refund of Expenses	ss of Profit &	
		FINDING C	FACTS			
		FINDING	r racis			
	The Claims Commi espondent's "Motion for s earing as scheduled.		imously denies and ont." Therefore, this o			
	IT IS SO ORDERE	D.				
(See Back of Opinion Form)						
CONCLUSION						
The Claims Commission hereby unanimously denies and dismisses the Respondent's "Motion for Summary Judgment." Therefore, this claim will proceed to hearing as scheduled.						
Date of Hearin	May 16, 2013					
				1 / M		
Date of Dispos	May 16, 2013		- Huke	May	Chairman	

Commissioner

Commissioner

Parks, Christian N.

From:

Day, John E (Enforcement)

Sent:

Friday, January 12, 2007 3:43 PM

To:

Gray, Cory; Gallagher, John; Sasse, Blake; Carpenter, Chris; Weatherington, Stephanie;

Carner, Brad; Shook, Doyle L.; Aaron, Ron

Cc:

Legal Division; Hitchcock, Loren; Goad, David

Subject:

FW: 15.01 David Sherrill Elk

Importance:

High

All,

Houston we have a problem....

Look at the provided information. As you can see we are looking at multiple violations of section 15.00 requirements. Please provide Captain Aaron and myself your emailed thoughts concerning violations to cite and methods of cervid disposal.

We need to start resolution of this situation that has obviously existed for a while. John

From: Aaron, Ronald J.

Sent: Friday, January 12, 2007 3:02 PM

To: Day, John E (Enforcement); Weatherington, Stephanie K.

Subject: 15.01 David Sherrill Elk

Arkansas Claims Commission

From: Warner, William R.

Sent: Friday, January 12, 2007 1:28 PM

To: Aaron, Ronald J. Cc: Smith, Jerry D.

Subject: David Sherrill Elk

JUL 03 2013

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B1-43665-048.doc















MVC-016SJPG

MVC-017SJPG

MVC-018S,JPG

HPIM0311.JPG

HPIM0312.JPG

HPIM0313.JPG

HPIM0314.JPG





HPIM0315.JPG

HPIM0316.JPG

MVC-016S, 017S, and 018S are photos taken Oct. 7, 2005

HPIM0312 thru 0316 are photos taken Jan. 12, 2007



This is a map of his farm where the elk/deer are and how to get there from junction of Hwy. 9 and Hwy 354 at Oxford.

Arkansas Claims Commission

JUL 0 3 2013

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INCIDENT REPORT ARKANSAS GAME & FISH COMMISSION **ENFORCEMENT DIVISION** Report No. How Reported Radio Phone Person Mail Other B1-43665-048 Type of Incident Date Occurred: Time **AM** David Sherrill Elk/Fallow Deer Without Permit Date Reported: Time **AM** Location of Incident N36.2512 W091.8861 Code Number 15.01 David Sherrill Residence Just Northeast Of Oxford In Izard County Complainant's Name (Last - First - Mi) Address: Zip: Phone Res: 3 Work: Suspect's Name (Last - First - Mi) Address: Zip: Phone Res: 4 Work: Race Sex D.O.B. Height Weight Hair Eyes Build Complexion Tattoos-Scars-Marks 5 N/A N/A N/A N/A N/A Coat/Jacket Shirt/Blouse Pants/Skirt Foot Wear NCIC Check Driver's Lic. (State & #) 6 N/A Vehicle Year Make & Model Color VIN/Serial Number License Number (Year & State) 7 N/A Owner's Name (Last - First - Mi) Address: Zip: Phone Res: (8 Work: (Type of Evidence and Identifying Numbers **NCIC Check** Evidence Seized 9 N/A N/A Location Where Evidence is Stored (Address) Evidence Tag Number 10 NARRATIVE I have received several reports of David Sherrill having elk and fallow deer without permits. I've tried on several occasions to make contact with him to discuss this matter but have been unsuccessful. On 12th January 2007 I went to where the elk and fallow deer are and photographed them. I then went to Mr. Sherrill's house and rang the doorbell but no one appeared to be home. He has had the elk for several years now (photographs dating back to October 2005) without having a wildlife breeder/dealer permit. I contacted licensing on the 12th January 2007 and they did not have him listed as a wildlife breeder/dealer permit holder.

	Reporting Officers	Date	County/Dis	t.	Reviewing Supvr.	Date Received	
11	Warner	1/12/2007	Izard / B1				
Case Status							
12	Referred to Other Jurisdic	ction 🔲 Cle	ared by Arrest	☐ Closed	□ Pending	☐ Unfounded	

STATE CLAIMS COMMISSION DOCKET OPINION

		OPIN	ON				
Amount of	Claim \$195,358.00			Claim No.	12-00015-CC		
			Attorneys	0.2 140.			
	David Sherrell	Claimant	Larry Steele.	, Attorney			
	VS.	Ciaimant			Claimant		
	AR Game & Fish Commission	spondent	James Good	hart, Attorney			
State of Ar	kansas	spondant.			Respondent		
Date Filed	July 1, 2011		Type of Claim	Loss of property/Re of expenses	fund		
	F	FINDING OF	FACTS	·			
	This claim was filed for loss of \$195,358.00 against Arkansas	of property and Game & Fish	refund of expen Commission.	ses in the amount of			
	Present at a hearing August 16, 2013 was the Claimant, represented by Larry Steele, Attorney and the Respondent, represented by James Goodhart, Attorney.						
	The Arkansas State Claims Commission unanimously finds no liability on the part of the Respondent. The Claimant, Mr. Sherrell, failed to obtain required Arkansas breeder/dealer and commercial hunting permits, even after being notified of the need to do so by the Respondent. The Claimant could have applied to keep the elk for his own use, but hunting of the elk would not have been legal under the Respondent's acreage provisions. The Claimant stated under oath that he never attempted to sell the elk to anyone during the years he owned them or when he decided to dispose of them. The Claimant, acting on his own, chose to destroy the penned herd of 31 elk and in the Commission's opinion was not "forced" by Respondent or anyone else to take such action. In fact, the Claimant's wife testified that she did not know the elk had been shot and buried by her husband (the Claimant) until two or three weeks after the shooting occurred. The Respondent was not responsible for initiating contact with Claimant to explain the permitting process and consequently the Respondent is not liable for damages in this matter and should not be blamed for Claimant's failure to investigate the permitting process or seek legal advice before venturing into an elk raising business effort.						
	Therefore, this claim is hereby unanimously dismissed.						
		See Back of Opin	ion Form				
	IT IS SO ORDERED.						
		CONCLUS	ION				
	Upon consideration of all the denied and dismissed this claim is administrative remedy a	aim for Claim	ant's failure to	file in a timely man			
Date of Hea	ring August 16, 201.	3					
Date of Disp	ositionAugust 16, 201:	3	Parm Sul	Januarte C	Chairman		

Larry J. Steele PLC

ATTORNEY AT LAW 115 Abbey Road, P.O. Box 561 WALNUT RIDGE, AR 72476-0561 e-mail: steelelaw7622@sbcglobal.net

PHONE: (870) 886-5840

FAX: (870) 886-5873

CERTIFIED
RETURN RECEIPT REQUESTED
7010 2780 0002 6167 2182

August 23, 2013

Mr. Norman L. Hodges, Jr., Director Arkansas State Claims Commission 101 East Capitol Avenue, Suite 410 Little Rock, AR 72203-3823

RE: David Charles Sherrell v. Arkansas Game and Fish Commission Claim No. 12-00015-CC

Dear Mr. Hodges:

Please accept this letter as my request to appeal the decision denying and dismissing Mr. Sherrell's claim to the Legislative Sub Committee.

Sincerely,

Larry J. Steele

LJS/jas

cc: Mr. David Sherrell

Arkansas State Claims Commission AUG **26**2013

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