



STATE OF NORTH CAROLINA

File No.

08 CVS 51

HAYWOOD County

In The General Court Of Justice

Small Claims  District  Superior Court Division

Name Of Plaintiff

HAYWOOD COUNTY, NC et al.

NOTICE OF

VOLUNTARY DISMISSAL

VERSUS

Name Of Defendant

GREGORY TODD FERGUSON et al.

COMPLAINT  
 COUNTERCLAIM  
 OTHER

G.S. 1A-1, Rule 41

Complete the following information if known:

Court Date Time  AM  PM Location

- The plaintiff gives notice of voluntary dismissal  with prejudice  without prejudice in this case as to all of the defendants.
- The plaintiff gives notice of voluntary dismissal  with prejudice  without prejudice in this case only as to the defendants named below and this case remains open as to defendants not listed. (Name of defendants for whom dismissal taken.)

- The defendant gives notice of voluntary dismissal  with prejudice  without prejudice of the counterclaim in this case as to all of the plaintiffs.
- The defendant gives notice of voluntary dismissal  with prejudice  without prejudice in this case only as to the plaintiffs named below and the counterclaim remains open as to plaintiffs not listed. (Name of plaintiffs for whom dismissal taken.)  
ONLY AS TO DEFENDANT GREGORY TODD FERGUSON

Other:

Date

Plaintiff Or Attorney

Date

11/25/2008

Defendant Or Attorney

*[Signature]* J. Jones

**NOTE TO CITY OR COUNTY PLAINTIFF:** If, pursuant to G.S. 7A-317, you were not required to advance costs when filing the complaint to which you are taking a voluntary dismissal, you must pay the costs to the Clerk of Superior Court upon taking a voluntary dismissal. You may not refile this lawsuit without paying the costs. G.S. 1A-1, Rule 41.

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE  
2008 NOV 25 PM 3:55 SUPERIOR COURT DIVISION  
COUNTY OF HAYWOOD File No. 08 CVS 51  
HAYWOOD COUNTY, C.S.C.

HAYWOOD COUNTY, NORTH  
CAROLINA and WILLIAM LUCIUS  
JONES, by his guardian, SAM  
UNDERWOOD,

Plaintiffs,

v.

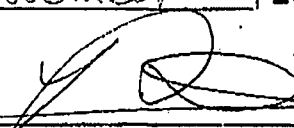
GREGORY TODD FERGUSON,

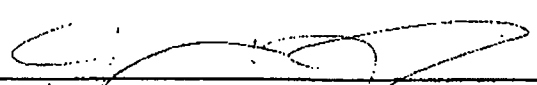
Defendant.

RELEASE OF LIS PENDENS

COMES NOW Defendant, by and through counsel, and hereby releases, withdraws, and cancels his prior Notice of Lis Pendens, which was filed on June 12, 2008 with the Haywood County Clerk of Superior Court and recorded on June 13, 2008 at Book RB 738, Page 1579 with the Haywood County Registry.

DATED this 25<sup>th</sup> day of November, 2008.

  
RUSSELL L. MCLEAN, III, 7220  
Attorney for Defendant  
244 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2896

  
JEFF D. JONES, 27914  
Attorney for Defendant  
232 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2220

STATE OF NORTH CAROLINA,  
HAYWOOD COUNTY.

FILED  
NOV 25 PM 3:34

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No: 08-CVS-51

HAYWOOD COUNTY, NORTH  
CAROLINA, and WILLIAM LUCIUS  
JONES, by his Guardian, SAM M.  
UNDERWOOD,

HAYWOOD COUNTY, C.S.C.

Plaintiffs,

vs.

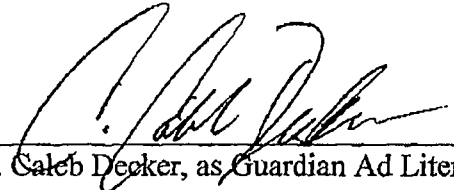
GREGORY TODD FERGUSON,  
Defendant.

ACCEPTANCE OF SERVICE  
BY C. CALEB DECKER AS  
GUARDIAN AD LITEM

C. Caleb Decker does hereby accept the appointment as Guardian Ad Litem to represent the interest of the minor child, Colton Wyatt Ferguson, in the above-captioned proceeding, and service by an officer is expressly waived.

C. Caleb Decker does further make general appearance as Guardian Ad Litem and does voluntarily submit to the jurisdiction of the Court in the above entitled action, hereby waiving his right to file an answer in the above-entitled matter, and further does certify that he is more than 18 years of age and that he is not under any legal disability or restraint.

This the 25<sup>TH</sup> day of November, 2008.

  
C. Caleb Decker, as Guardian Ad Litem

STATE OF NORTH CAROLINA  
HAYWOOD COUNTY

I, June C. Rhinehart, a Notary Public, do hereby certify that C. Caleb Decker, as Guardian Ad Litem of the minor child, Colton Wyatt Ferguson, personally appeared before me this day and acknowledged the due execution of the foregoing Acceptance of Service.

Witness my hand and notarial seal, this 25<sup>TH</sup> day of November, 2008.



June C. Rhinehart  
Printed Name: June C. Rhinehart  
Notary Public  
My Commission Expires 10-24-10

STATE OF NORTH CAROLINA,

IN THE GENERAL COURT OF JUSTICE

HAYWOOD COUNTY,

SUPERIOR COURT DIVISION

File No: 08-CVS-51

HAYWOOD COUNTY, C.S.C.

HAYWOOD COUNTY, NORTH CAROLINA, DENNIS HALL EXECUTOR OF THE ESTATE OF WILLIAM LUCIUS JONES, DECEASED, AND DENNIS HALL, INDIVIDUALLY,

Plaintiffs,

vs.

CONSENT ORDER

GREGORY TODD FERGUSON, C. CALEB DECKER, as Guardian for COLTON WYATT FERGUSON, a minor child,

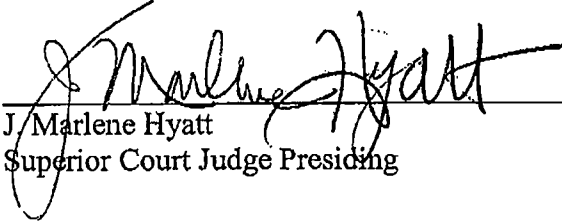
Defendants.

This matter coming on to be heard and being heard before the undersigned Superior Court Judge, upon the Motion by Personal Representative to be Substituted for Deceased Plaintiff, to Join Transferee and for Leave to Amend Complaint filed on the 17th day of September, 2008 and the Joint Motion to Join a Party filed on the 25th of November, 2008.


Upon consent of the parties, it is hereby ordered:


- 1. That Dennis Hall, executor of the Estate of William Lucius Jones, be substituted as a proper plaintiff in the above-captioned action.
2. That Dennis Hall, individually, be added as a party plaintiff in the above-captioned action.
3. That the motion to amend the complaint is hereby allowed and the complaint is amended as set forth in the proposed amended complaint attached to the Motion by Personal Representative to be Substituted for Deceased Plaintiff, to Join Transferee and for Leave to Amend Complaint filed on the 17th day of September, 2008.
4. That C. Caleb Decker, as Guardian ad Litem for Colton Wyatt Ferguson, a minor child, be joined as a party Defendant.

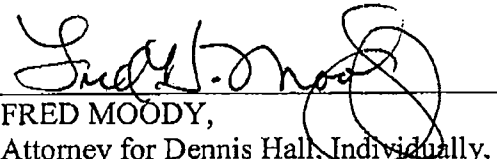
This the 25 day of November, 2008

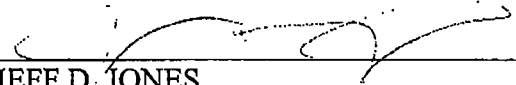
  
J. Marlene Hyatt  
Superior Court Judge Presiding

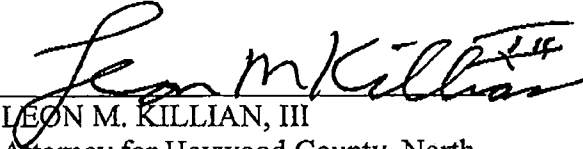
WE CONSENT:

  
T. MICHAEL JORDAN  
Attorney for Dennis Hall, Individually,  
and as Executor of the  
Estate of William Lucius Jones, Plaintiff  
NC Bar #6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

  
RUSSELL L. McLEAN, III  
Attorney for Gregory Todd Ferguson  
NC Bar # 7220  
244 North Main Street  
Waynesville, NC 28786

  
FRED MOODY,  
Attorney for Dennis Hall, Individually,  
and as Executor of the  
Estate of William Lucius Jones, Plaintiff

  
JEFF D. JONES  
Attorney for Gregory Todd Ferguson  
NC Bar # 27614  
232 North Main Street  
Waynesville, NC 28786

  
LEON M. KILLIAN, III  
Attorney for Haywood County, North  
Carolina  
NC Bar #2526  
Nelson Mullins Riley & Scarborough, LLP  
P.O. Box 30519  
Raleigh, NC 27622-0519

STATE OF NORTH CAROLINA,  
HAYWOOD COUNTY.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No: 08-CVS-51

HAYWOOD COUNTY, NORTH )  
CAROLINA, DENNIS HALL )  
EXECUTOR OF THE ESTATE OF )  
WILLIAM LUCIUS JONES, DECEASED, )  
AND DENNIS HALL, INDIVIDUALLY, )

Plaintiffs, )

vs. )

GREGORY TODD FERGUSON, )  
C. CALEB DECKER, as Guardian Ad Litem )  
for COLTON WYATT FERGUSON, )  
a minor child, )

Defendants. )

**ORDER APPROVING  
SETTLEMENT FOR A MINOR  
CHILD AND DISMISSAL**

BY \_\_\_\_\_ )  
C )  
NOV 25 PM 3:54 )  
HAYWOOD COUNTY, N.C. )

THIS MATTER was heard by the undersigned Judge at the November 25, 2008, term of the Superior Court of Haywood County upon Defendant C. Caleb Decker's, as Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, Motion for Approval of Settlement for a minor child and Dismissal.

This action was maintained as a Counterclaim by Defendant C. Caleb Decker, Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, seeking a declaratory judgment, an action to establish the validity of a Deed, an action to quiet title, reformation of a North Carolina Non-Warranty Deed, a constructive/resulting trust and breach of contract. Said counterclaims being derivative of those same counterclaims made by co-Defendant, Gregory Todd Ferguson. It is agreed by the parties that this Court has jurisdiction of the parties and the subject matter of this action and that the Court need not make findings of fact or conclusions of law.

It appeared to the Court that Colton Wyatt Ferguson is a minor and is represented by Defendant, C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, who was duly appointed by this Court, and that the parties have agreed to

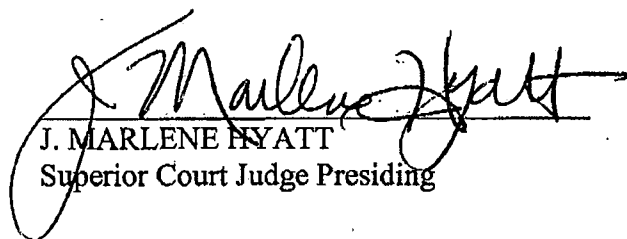
compromise and settle all disputes between Defendant C. Caleb Decker, as Guardian ad Litem for Colton Wyatt Ferguson, a minor child, and the terms of this settlement are set out in the Settlement Agreement and Release provided to the Court.

It further appeared that Defendant C. Caleb Decker's, as Guardian Ad Litem for the minor child, Colton Wyatt Ferguson, a minor child, counterclaim is disputed and that this settlement is in the best interest of Colton Wyatt Ferguson, a minor child.

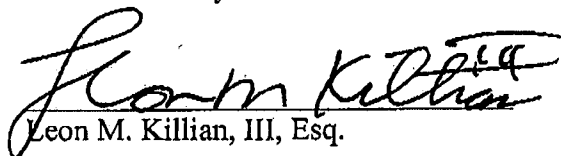
IT IS THEREFORE ORDERED that Defendant C. Caleb Decker's counterclaims be dismissed with prejudice upon payment into the Office of the Clerk of Superior Court of Haywood County, North Carolina to be held for the benefit of Colton Wyatt Ferguson, a minor child, until such time as he attains majority, by Plaintiff the sum of Twenty Five Thousand Dollars (\$25,000.00) and that the terms of the Settlement Agreement and Release executed by the parties are hereby approved.


It is further ordered that this Judgment is in final and complete settlement of any and all claims which have arisen or which may arise in favor of Defendant C. Caleb Decker on behalf of Colton Wyatt Ferguson, a minor child, against Plaintiffs and as are set forth in the pleadings in the above-entitled action.

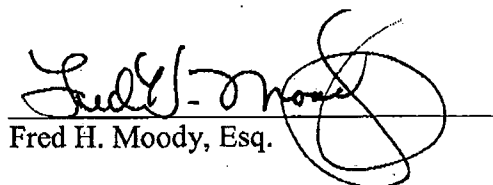
This the 25<sup>th</sup> day of November, 2008

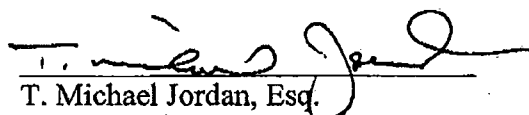
  
J. MARLENE HYATT  
Superior Court Judge Presiding

Consented to by:

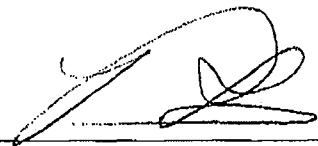
  
Leon M. Killian, III, Esq.

  
C. Caleb Decker, Esq. as Guardian  
Ad Litem of Colton Wyatt Ferguson,  
a minor child.

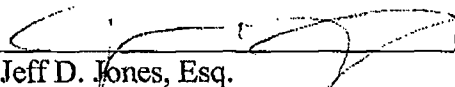
  
Fred H. Moody, Esq.

  
T. Michael Jordan, Esq.



  
\_\_\_\_\_  
Russell L. McLean, III, Esq.

(SEAL)

  
\_\_\_\_\_  
Jeff D. Jones, Esq.

(SEAL)

STATE OF NORTH CAROLINA,  
HAYWOOD COUNTY.

FILED  
NOV 25 PM 3:54  
HAYWOOD COUNTY, C.S.C.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No: 08-CVS-51

HAYWOOD COUNTY, NORTH CAROLINA, DENNIS HALL  
EXECUTOR OF THE ESTATE OF  
WILLIAM LUCIUS JONES, DECEASED,  
AND DENNIS HALL, INDIVIDUALLY,

Plaintiffs,

vs.

GREGORY TODD FERGUSON,  
C. CALEB DECKER, as Guardian Ad Litem  
for COLTON WYATT FERGUSON,  
a minor child,

Defendants.

MOTION FOR APPROVAL  
OF SETTLEMENT FOR A MINOR  
CHILD AND DISMISSAL

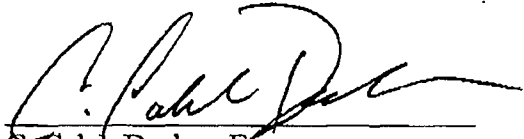
Defendant C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, moves this Court pursuant to Rule 17(e) of the North Carolina Rules of Civil Procedure for an order approving the settlement of this action and dismissing the counterclaims of Defendant C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson. In support of this motion, the parties hereto state:

1. Defendant C. Caleb Decker is the duly appointed guardian ad litem for Colton Wyatt Ferguson, a minor, and has maintained this action seeking a declaratory judgment, an action to establish the validity of a deed, an action to quiet title, a reformation of a North Carolina non-warranty deed, a constructive/resulting trust and breach of contract.
2. All of the counterclaims of Defendant C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, and as set forth in preceding paragraph #1 are derivative of those same counterclaims made by Co-Defendant Gregory Todd Ferguson.
3. Defendant C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, has negotiated a compromise with Plaintiffs and has agreed to accept Twenty-Five Thousand Dollars (\$25,000.00) in full settlement of all counterclaims. The terms of the settlement are reflected in the Settlement Agreement and Release the parties have executed, which has been provided to the Court.

4. C. Caleb Decker believes that this settlement is in the best interest of Colton Wyatt Ferguson in that his counterclaims, as stated previously herein are derivative of those of Co-Defendant Gregory Todd Ferguson. Further, because the counterclaims are derivative, the likelihood of the minor child prevailing is tenuous at best.
5. This settlement, if approved, will resolve all the counterclaims of Defendant C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, and said counterclaims should be dismissed.

WHEREFORE, Defendant C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson, a minor child, prays the Court that the settlement of this action be approved and his Counterclaims dismissed.

This the 25<sup>th</sup> day of November, 2008



C. Caleb Decker, Esq.,  
Guardian Ad Litem  
for Colton Wyatt Ferguson  
258 N. Main Street  
Waynesville, NC 28786

STATE OF NORTH CAROLINA,  
HAYWOOD COUNTY.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2008 NOV 25 PM 3:54  
File No: 08-CVS-51  
HAYWOOD COUNTY, C.S.C.

HAYWOOD COUNTY, NORTH CAROLINA, and WILLIAM LUCIUS JONES, by his Guardian, SAM M. UNDERWOOD, )  
Plaintiffs, )  
vs. )  
GREGORY TODD FERGUSON, )  
C. CALEB DECKER, as Guardian for )  
COLTON WYATT FERGUSON, )  
a minor child, )  
Defendants. )

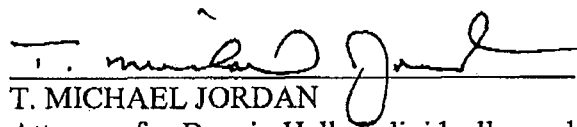
JOINT MOTION TO  
JOIN A PARTY

Now Come the Parties, by and through their undersigned counsel, and move this Court, pursuant to Rule 20(a) of the NC Rules of Civil Procedure, for an order joining C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson as a Defendant, and in support of said motion show unto the Court the following:

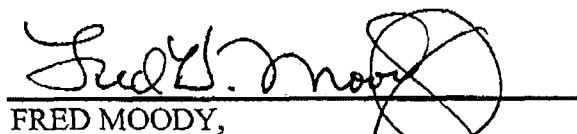
1. The subject matter of the above-captioned action involves a dispute with respect to the legal effect of the terms of a lease agreement entered into by Defendant Gregory Todd Ferguson and William Lucius Jones on September 5, 2001 and recorded at Deed Book 502, Page 203, Haywood County Registry.
2. Said dispute presents a cloud on title of the real property of the Estate of William Lucius Jones, and in addition to that cloud imposed by Defendant Gregory Todd Ferguson, an additional possible cloud exists in that the minor child of Gregory Todd Ferguson, Colton Wyatt Ferguson, is named as an individual with a potential interest in the afore-described lease.
3. The claims against both Gregory Todd Ferguson and Colton Wyatt Ferguson, therefore, arise from the same transaction and involve the same questions of law.

WHEREFORE, the Parties hereto respectfully request the Court issue an order joining C. Caleb Decker, as Guardian Ad Litem for Colton Wyatt Ferguson as a Defendant in the above-captioned action.

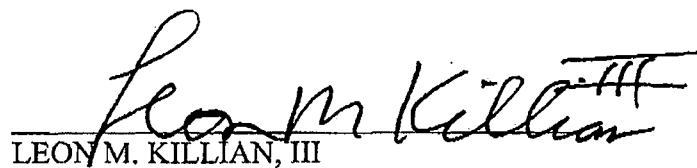
This the 25<sup>th</sup> day of November, 2008



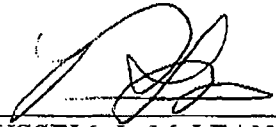
T. MICHAEL JORDAN  
Attorney for Dennis Hall, Individually, and  
as Executor of the Estate of William Lucius  
Jones, Plaintiff



FRED MOODY,  
attorney for Dennis Hall, Individually, and  
as Executor of the Estate of William Lucius  
Jones, Plaintiff

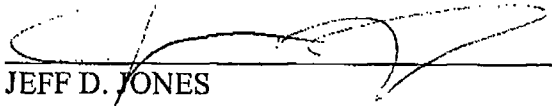


LEON M. KILLIAN, III  
Attorney for Haywood County, North  
Carolina  
NC Bar #2526  
Nelson Mullins Riley & Scarborough, LLP  
P.O. Box 30519  
Raleigh, NC 27622-0519



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RUSSELL L. McLEAN, III  
Attorney for Gregory Todd Ferguson  
NC Bar #7220  
244 North Main Street  
Waynesville, NC 28786



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JEFF D. JONES  
Attorney for Gregory Todd Ferguson  
NC Bar #27914  
232 North Main Street  
Waynesville, NC 28786

STATE OF NORTH CAROLINA, 50

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

HAYWOOD COUNTY. 10:31 AM 25 PM 3:54

File No: 08-CVS-51

HAYWOOD COUNTY, C.S.C.

HAYWOOD COUNTY, NORTH )  
CAROLINA, and WILLIAM LUCIUS )  
JONES, by his Guardian, SAM M. )  
UNDERWOOD, )

Plaintiffs, )

vs. )

GREGORY TODD FERGUSON, )

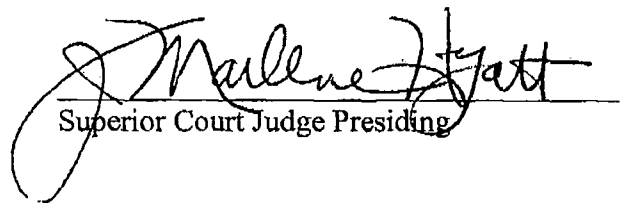
Defendant. )

**ORDER APPOINTING A  
GUARDIAN AD LITEM  
FOR COLTON WYATT FERGUSON  
BORN 12/10/1998**

THIS MATTER coming on to be heard and being heard before the undersigned Superior Court Judge, upon the Motion of the Plaintiffs to appoint a Guardian Ad Litem for the minor child, Colton Wyatt Ferguson, and for the reasons stated in Plaintiffs' Motion,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that pursuant to the authority contained in North Carolina General Statutes 1A-1, Rule 17, and in response to the consent motion of the Parties, C. Caleb Decker, 258 N. Main Street, Waynesville, North Carolina 28786, is hereby appointed as Guardian Ad Litem for Colton Wyatt Ferguson, a minor, for the purpose of representing the interests of the minor child in the above-captioned action.

This the 25th day of November, 2008.

  
Superior Court Judge Presiding

STATE OF NORTH CAROLINA,  
HAYWOOD COUNTY.

NOV 25 PM 3:54

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No: 08-CVS-51

HAYWOOD COUNTY, C.S.C.

HAYWOOD COUNTY, NORTH  
CAROLINA, and WILLIAM LUCIUS  
JONES, by his Guardian, SAM M.  
UNDERWOOD,

C

Plaintiffs,

vs.

GREGORY TODD FERGUSON,

Defendant.

**MOTION TO APPOINT A  
GUARDIAN AD LITEM  
FOR COLTON WYATT FERGUSON  
BORN 12/10/1998**

NOW COME Plaintiffs, Haywood County, North Carolina, and William Lucius Jones, by his Guardian, Sam M. Underwood, by and through their undersigned counsel, and move this Court, pursuant to Rule 17 of North Carolina Rules of Civil Procedure, to appoint a Guardian Ad Litem for the minor child, Colton Wyatt Ferguson, born December 10, 1998, and in support of said motion show unto the Court the following:

1. The above-captioned action includes a claim for relief praying of the Court to declare the parties respective rights as they pertain to a lease dated September 13, 2001, and recorded at Book 502, Page 203, Haywood County Registry.

2. Within the afore-described lease is named, the minor child, Colton Wyatt Ferguson, as an individual with a potential interest in the leasehold.

3. Prior to amending the above-captioned action to include the minor child as a Defendant, Plaintiffs are in need of a Guardian Ad Litem being appointed to represent the interest of the minor child.

4. The minor child, Colton Wyatt Ferguson, has no general guardian.

5. The Plaintiffs, by and through their undersigned counsel, recommend that the Court appoint C. Caleb Decker, attorney-at-law practicing in Haywood County, North Carolina, as Guardian Ad Litem to represent the interest of the minor child, Colton Wyatt Ferguson, in the above-captioned proceeding.



above-captioned proceeding.

6. C. Caleb Decker, 258 N. Main Street, Waynesville, North Carolina 28786, has been contacted and he has verbally agreed to act as Guardian Ad Litem for Colton Wyatt Ferguson.

7. The biological mother and legal guardian of Colton Wyatt Ferguson, Shannon Hayes consents to the appointment of Attorney C. Caleb Decker as the Guardian Ad Litem. The written consent of Shannon Hayes is attached hereto as exhibit "A".

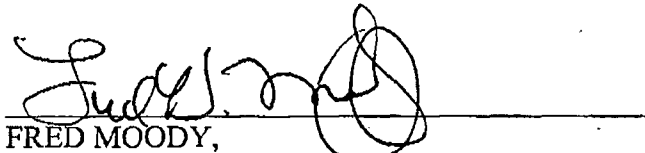
8. Attorneys for Defendant, Gregory Todd Ferguson, Russell L. Mclean, III and Jeff D. Jones, consent to this Motion and the appointment of C. Caleb Decker.

WHEREFORE, Plaintiffs pray that the Court appoint C. Caleb Decker to serve as Guardian Ad Litem for the minor, Colton Wyatt Ferguson, born December 10, 1998, and represent his interest in the above-captioned matter.

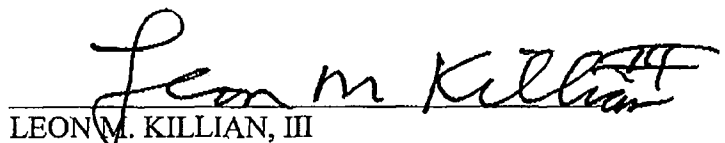
This the 25 day of November, 2008.



T. MICHAEL JORDAN  
Attorney for Dennis Hall, Individually, and as  
Executor of the Estate of William Lucius Jones,  
Plaintiff



FRED MOODY,  
Attorney for Dennis Hall, Individually, and as  
Executor of the Estate of William Lucius Jones,  
Plaintiff



LEON M. KILLIAN, III

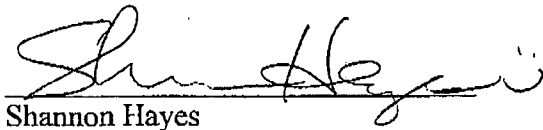
STATE OF NORTH CAROLINA, IN THE GENERAL COURT OF JUSTICE  
HAYWOOD COUNTY. 25 NOV 25 PM 3:54 SUPERIOR COURT DIVISION  
File No: 08-CVS-51

HAYWOOD COUNTY, C.S.C. )  
HAYWOOD COUNTY, NORTH )  
CAROLINA, and WILLIAM LUCIUS )  
JONES, by his Guardian, SAM M. )  
UNDERWOOD, )  
Plaintiffs, )  
vs. ) CONSENT BY LEGAL  
GREGORY TODD FERGUSON, ) GUARDIAN TO APPOINTMENT  
Defendant. ) OF GUARDIAN AD LIETM

Now Comes the undersigned legal guardian of Colton Wyatt Ferguson, a minor child, and states as follows:

1. My name is Shannon Hayes, I am over the age of eighteen (18) years and I am the biological mother of Colton Wyatt Ferguson, born December 10, 1998.
2. Colton Wyatt Ferguson was born of my marriage to Gregory Todd Ferguson, Defendant in the above-captioned matter.
3. Subsequent to the birth of Colton Wyatt Ferguson, myself and Gregory Todd Ferguson divorced and since that time I have been the legal guardian of Colton Wyatt Ferguson.
4. I have been informed of the allegations contained in the above-captioned matter including the potential interest of Colton Wyatt Ferguson.
5. I feel that the interest of Colton Wyatt Ferguson will best be served by the appointment of a Guardian Ad Litem to represent the interest of Colton Wyatt Ferguson in the above-captioned matter.
6. I have met and discussed the above-captioned matter with Attorney C. Caleb Decker and consent to Mr. Decker being appointed as the Guardian Ad Litem for Colton Wyatt Ferguson to represent his interest in the above-captioned matter.

This the 19<sup>th</sup> day November, 2008

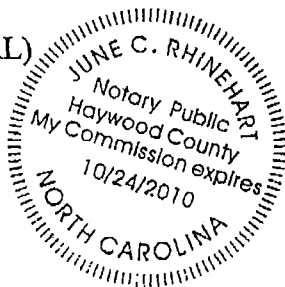
  
Shannon Hayes

STATE OF NORTH CAROLINA, COUNTY OF HAYWOOD

I, June C. Rhinehart a Notary of said State and County,  
do hereby certify that SHANNON HAYES personally appeared before me this day and  
acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 19<sup>th</sup> day of November,  
2008.

(AFFIX SEAL)



June C. Rhinehart  
Notary Public  
Printed Name: June C. Rhinehart  
My Commission Expires: 10-24-10

\*Do not use this form for SP's, M's, R's, Divorces, Estates or Passports (per JLR).

### Haywood County Clerk of Superior Court CIVIL RECEIPTING

08 CVS 57  
File Number

Payor Name: Jones ; William L Est 27  
(Party to Case) last name first name m.i.

Abstract (Judgment) Number

Payee Name: McLean Law Firm  
(Pd by: attorney, interested party, etc.)

Book Page

#### Flag for VCAP = YES

#### Flag for VCAP = NO

##### FILING FEES:

- CVSC Superior \$ \_\_\_\_\_
- CVDC District \$ \_\_\_\_\_
- CVMC Small Claim \$ \_\_\_\_\_

\* Transfer of Jurisdiction (only when requested by Magistrate or Judge)

- District (21220 - \$10.00 & 22220 - \$4.00) \$14.00
- Superior (21120) \$20.00

##### SERVICE FEES:

EXECUTION  and/or  POSSESSION  
(when writ of possession is on a monetary judgment)

21430 \$ \_\_\_\_\_

SHERIFF (22515) \$ \_\_\_\_\_

##### MISCELLANEOUS FEES:

- MISC FILING FEE (21435) \$ \_\_\_\_\_
- COPY (21410) \$ \_\_\_\_\_
- CONFESS JUDGMENT (21400) \$ \_\_\_\_\_
- ARBITRATION APPEAL (24310) \$ 100.00
- CIVIL BONDS (26210) \$ \_\_\_\_\_
- OUT OF STATE ATTY (24625) \$ \* 200.00
- \* plus Out of State Bar Fee (24626) \$ \* 25.00
- TRANSCRIPTS (21440) \$ \_\_\_\_\_
- RENT BOND (26220) \$ \_\_\_\_\_

26310 \$ 25,000.00  
OTHER ACCOUNT #

##### JUDGMENT PAYMENT:

(Abstracted) 26115 \$ \_\_\_\_\_

- \*  Full  Appointment Fee
- \*  Partial

\*Return file to below listed Civil Clerk.

- BOND FORFEITURE (22800) \$ \_\_\_\_\_
- Service & Execution (26115) \$ 40.00

##### FILING FEES:

- E/EO Estates/Estates Other \$ \_\_\_\_\_
- SP Special Proceedings \$ \_\_\_\_\_
- R Registrations \$ \_\_\_\_\_
- CDDC Divorce/Disp. Home \$ \_\_\_\_\_
- DIVB Divorce/Bed & Bd. \$ \_\_\_\_\_
- M Miscellaneous Judgments \$ \_\_\_\_\_

Claim of Liens  
ESC  
IRS  
State Tax

##### SERVICE FEES:

EXECUTION  and/or  POSSESSION  
(when writ of possession is on a non-monetary judgment or old book and page is in existence)

21400 \$ \_\_\_\_\_

SHERIFF (22515) \$ \_\_\_\_\_

##### MISCELLANEOUS FEES:

- MISC FILING FEE (21400) \$ \_\_\_\_\_
- COPY (21410) \$ \_\_\_\_\_
- CONFESS JUDGMENT (21400) \$ \_\_\_\_\_
- PURGE PAYMENT (26410) \$ \_\_\_\_\_
- ALIMONY PAYMENT (26420) \$ \_\_\_\_\_
- CIVIL BONDS (26210) \$ \_\_\_\_\_
- CONDEMNATION (26130) \$ \_\_\_\_\_
- CIVIL TRUST RECEIPT (26310) \$ \_\_\_\_\_
- ARBITRATION FEES (24311) \$ \_\_\_\_\_

\*Only if CVD

- MEDIATION (24315) \$ \_\_\_\_\_
- 30-Day Civil Revocation (24620) \$ 100.00
- Limited Driving Privilege (24335) \$ 100.00
- Misc. Other: \_\_\_\_\_ \$ \_\_\_\_\_

##### JUDGMENT PAYMENT: (Old Docketed)

\*  Full 26110 \$ \_\_\_\_\_

\*  Partial Book \_\_\_\_\_ Page \_\_\_\_\_

CLAIM OF LIEN (26600) \$ \_\_\_\_\_  
(not tax or ESC)

JUDGMENT ATTY FEE (24610) \$ \_\_\_\_\_

\*Return file to Bookkeeping.

Reviewed By: PCH

Date: 11-26-08

HAYWOOD COUNTY CLERK OF COURT

LOS6374

11/26/08 10:55:12

PAYOR: JONES WILLIAM L, EST OF  
PAYEE: MCLEAN LAW FIRM  
CASE#: QBCV5000051 VCAP:N  
CITAH:

26310 TRUSTS 25,000.00

TOTAL PAID 25,000.00

CD TENDERED 25,000.00

CHANGE .00

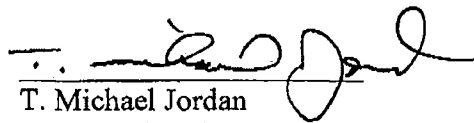
8948 ID C43MSB



CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served Jeff D. Jones 232 North Main Street, Waynesville, NC 28786 and Russell L. McLean, III, 244 North Main Street, Waynesville, NC 28786 in the foregoing matter with a copy of Notice of Hearing by depositing in the United States Mail, a copy of same in properly addressed envelope with adequate postage thereon, in the manner prescribed by Rule 5 of the Rules of Civil Procedure.

This the 20th day of October, 2008.



T. Michael Jordan  
Attorney for Plaintiff  
154 North Main Street, Suite 1  
Waynesville, NC 28786  
828-452-5871

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. 08-CvS-51


HAYWOOD COUNTY NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, BY HIS GUARDIAN, SAM )  
UNDERWOOD, )

Plaintiffs, )

vs. )

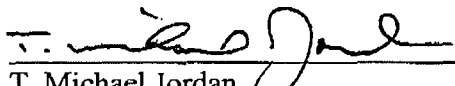
GREGORY TODD FERGUSON, )  
Defendant. )

NOTICE OF HEARING

FILED  
08 OCT 14 AM 10:36  
HAYWOOD COUNTY C.S.C.  
BY 

PLEASE TAKE NOTICE that the Motion by Personal Representative to be Substituted for Deceased Plaintiff, to Join Transferee and for Leave to Amend Complaint will be heard at the Haywood County Justice Center, Waynesville, North Carolina, on the 3rd day of November, 2008 at 10:00 a.m., or as soon thereafter as the matter can be heard.

This the 14th day of October, 2008.

  
T. Michael Jordan  
Attorney for Plaintiff  
154 N. Main Street  
Waynesville, NC 28786  
(828) 452-5871

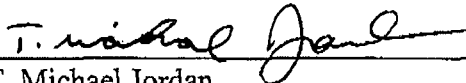


**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served a copy of the foregoing Motion upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 14th day of October, 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786

  
\_\_\_\_\_  
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

FILED  
OCT 14 AM 10:37  
WAYNESVILLE COUNTY C.S.C.

Attorney for the Plaintiffs, Dennis Hall, Executor of the  
Estate of William Lucius Jones and Dennis Hall,  
Individually



8. Plaintiff Jones died on June 1, 2008, and Dennis Hall was appointed as the executor of his estate shortly thereafter.

9. On September 17, 2008, Plaintiffs filed their Motion By Personal Representative to Be Substituted for Deceased Plaintiff, to Join Transferee and for Leave to Amend Complaint (a second proposed amendment nearly identical to the first one).

10. On September 18, 2008, Plaintiff also filed their Motion for Extension of Discovery Period.

11. None of Plaintiffs' motions have been noticed in for hearing or otherwise consented to by Defendant.

12. The discovery period has run, and the case has not been mediated.

13. Plaintiffs' proposed amendment to the complaint is some 172 paragraphs (the initial complaint was 32 paragraphs) and seeks to incorporate new claims which are barred the by statute of limitations, to wit: fraud, misrepresentation, and default on promissory notes.

14. While it is proper to substitute Dennis Hall, as executor for the estate of Plaintiff Jones, Plaintiffs' other motions are interposed for the purpose of delay and the proposed additional claims to be added in an amended complaint would be futile. See, N.C. Gen. Stat. §1-52, and, e.g., Brackett v. SGL Carbon Corporation, 158 N.C. App. 252 (2003) and North Carolina Council of Churches v. State, 120 N.C. App. 24 (1995).

WHEREFORE, Defendant respectfully requests the Court to:

1. Grant the motion to substitute Dennis Hall, as executor, for Plaintiff Jones;
2. Deny the motion to join Dennis Hall individually as a party;
3. Deny Plaintiffs' motion to amend the complaint to add the additional claims of fraud, misrepresentation, and default on promissory notes;
4. Deny Plaintiffs' motion to extend the discovery period;
5. Set this matter on the trial docket; and


6. Such other and further relief as the Court finds appropriate and just.

DATED this 3<sup>rd</sup> day of October, 2008.



---

RUSSELL L. MCLEAN, III, 7220  
244 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2896



---

JEFF/D. JONES, 27914  
232 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2220

Attorneys for Defendant

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that **Defendant's Combined Response to Plaintiffs' Motions to Substitute Parties, to Join a Party, & to Amend the Complaint, & to Extend the Discovery Period** was served upon Plaintiffs by depositing a copy of the same in a postpaid and properly-addressed wrapper in a post office or official depository under the exclusive care and custody of the United State Postal Service this the 3<sup>rd</sup> day of October, 2008, addressed as follows:

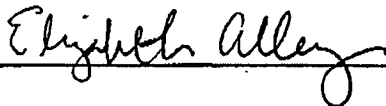
**Attorneys for Dennis Hall, individually, and as Executor**

T. Michael Jordan  
154 North Main Street, Suite 1  
Waynesville, NC 28786

Fred H. Moody, Jr.  
Post Office Box 670  
Bryson City, NC 28713

**Attorneys for Haywood County**

Leon M. Killian, III  
Reed J. Hollander  
Nelson Mullins Riley & Scarborough, LLP  
Glen Lake One  
4140 Parklake Avenue, Suite 200  
Raleigh, North Carolina 27612



---

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

COUNTY OF HAYWOOD

SEP 18 PM 1:20

08 CVS 51

HAYWOOD COUNTY NORTH  
CAROLINA and WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD

Plaintiffs,

**MOTION FOR EXTENSION OF  
DISCOVERY PERIOD**

vs.

GREGORY TODD FERGUSON,

Defendant.

Pursuant to Rule 6(b) of the North Carolina Rules of Civil Procedure and Rule 1(a) of the Amended Case Management Plan for Superior Civil Cases, Judicial District 30B, Haywood and Jackson Counties ("Amended Case Management Plan"), Plaintiffs move the Court to enlarge the discovery period in this matter up to and including December 22, 2008. In support of this motion, Plaintiffs show the Court the following:

1. On January 14, 2008, Plaintiffs commenced this action in the Superior Court of Haywood County, North Carolina, seeking a declaratory judgment.
2. The last pleading – Plaintiffs' Reply to Defendant's Counterclaims – was filed on or about May 22, 2008.
3. Under Rule 1(a) of the Amended Case Management Plan, the 120-day period after the filing of the Answer or last required pleading "shall be reserved exclusively for discovery," and a case can be calendared for trial after the lapse of the 120-day period. However, for good cause shown, the Senior Resident Superior Court Judge can extend the discovery period.

4. Only 10 days after the filing of the last pleading, on June 1, 2008, Plaintiff William Lucius Jones died.

5. Dennis Hall was duly appointed, has duly qualified, and is acting as executor of Mr. Jones's estate.

6. Mr. Hall, as executor, has filed a motion to be substituted as Plaintiff in place of Mr. Jones and Sam Underwood, Mr. Jones's guardian. Additionally, as sole beneficiary under the Last Will and Testament of Mr. Jones, Mr. Hall has filed a motion to be added as a plaintiff in his individual capacity. Plaintiffs have also sought leave to amend the Complaint.

7. There has been no discovery conducted by either party in this matter.

8. Although the parties have been engaged in settlement discussions in an effort to resolve this matter, such discussions have been complicated by the death of Mr. Jones.

9. Orders regarding matters of discovery are addressed to the sound discretion of the trial judge and will not be disturbed on appeal absent a showing of abuse. See Hudson v. Hudson, 34 N.C. App. 144, 237 S.E.2d 479, disc. review denied, 293 N.C. 589, 239 S.E.2d 264 (1977).

10. Plaintiff's counsel has discussed the need for additional time to conduct discovery with Defendant's counsel, and Defendant's counsel does not oppose the extension.

11. This motion is made prior to the expiration of the 120-day discovery period and is not made for the purposes of delay.

WHEREFORE, Plaintiffs request:

1. That the Court extend the deadline for the completion of discovery until December 22, 2008; and

2. That the Court grant such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 18<sup>th</sup> day of September, 2008.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Leon M. Killian

Leon M. Killian

NC Bar No. 2526

E-Mail: chip.killian@nelsonmullins.com

Reed J. Hollander

NC Bar No. 23405

E-Mail: reed.hollander@nelsonmullins.com

4140 Parklake Avenue / GlenLake One

Second Floor

Raleigh, NC 27612

Telephone: (919) 877-3800

Facsimile: (919) 877-3149

Attorneys for the Plaintiff Haywood County, North Carolina

T. Michael Jordan

T. Michael Jordan

NC Bar No. 6697

154 N. Main Street, Suite 1

Professional Building

Waynesville, NC 28786

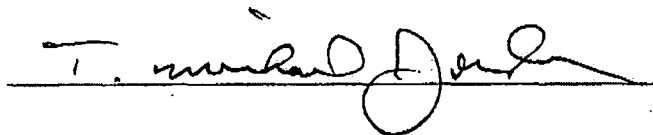
Attorney for Plaintiffs, Dennis Hall, Executor of the Estate of William Lucius Jones and Dennis Hall, Individually

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served a copy of the foregoing document upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 15th day of September 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786

  
\_\_\_\_\_



NORTH CAROLINA  
HAYWOOD COUNTY

GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
08-CVS-51

HAYWOOD COUNTY NORTH CAROLINA  
And WILLIAM LUCIUS JONES, BY HIS  
GUARDIAN, SAM UNDERWOOD,

Plaintiffs

v.

GREGORY TODD FERGUSON,

Defendant

2008 SEP 17 PM 3:32  
CLERK OF SUPERIOR COURT, O.S.C.  
CP

**MOTION BY PERSONAL REPRESENTATIVE TO BE SUBSTITUED FOR DECEASED  
PLAINTIFF, TO JOIN TRANSFEREE AND FOR LEAVE TO AMEND COMPLAINT**

Dennis Hall, executor for the estate of William Lucius Jones, deceased, respectfully shows the court:

1.

Plaintiff William Lucius Jones died on June 1, 2008, and movant was duly appointed executor of his estate, has duly qualified and is acting as such, as shown by letters testamentary.

2.

The nature of this action is for a declaratory judgment and to quiet title to certain real estate.

3.

The cause of action survives the death of plaintiff and the time specified for the presentation of claims in G. S. 28-A-19-3 has not passed.

4.

William Lucius Jones left a Last Will and Testament which has been probated and which names Dennis Hall as his sole beneficiary.

5.

In the event William Lucius Jones owned a portion of the real estate described in the Complaint filed herein, ownership of that real estate passed to Dennis Hall upon the probate of the Will of William Lucius Jones and Dennis Hall should be joined as a party plaintiff in this action.

6.

Movant desires to amend the Complaint filed herein in accordance with the proposed Amended Complaint attached hereto.

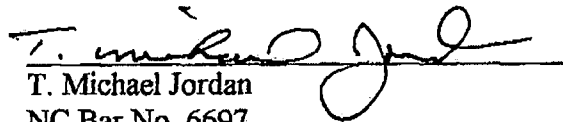
7.

Plaintiff, Haywood County, North Carolina, joins in this Motion.

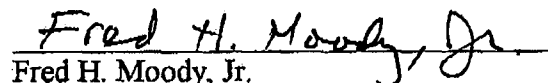
Wherefore, Movant prays the court as follows:

1. That he be substituted as plaintiff in this action pursuant to Rule 25 of the Rules of Civil Procedure.
2. That Dennis Hall, individually, be added as a party plaintiff herein pursuant to Rule 25 of the Rules of Civil Procedure.
3. That he be allowed to amend the Complaint filed herein in accordance with the Amended Complaint attached hereto pursuant to Rule 15 of the Rules of Civil Procedure.

This the 17th day of September, 2008.

  
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite One  
Professional Building  
Waynesville, NC 28786  
Telephone: (828) 452-5871  
Facsimile (828) 452-5872

MOODY & BRIGHAM, PLLC

  
Fred H. Moody, Jr.  
NC Bar No. 3066  
PO Box 670  
Bryson City, NC 28713  
Telephone (828) 488-2147  
Facsimile (828) 488-8775

Attorneys for Dennis Hall, Executor of the  
Estate of William Lucius Jones

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Leon M. Killian

Leon M. Killian

NC Bar No. 2526

E-Mail: [chip.killian@nelsonmullins.com](mailto:chip.killian@nelsonmullins.com)

Reed J. Hollander

NC Bar No. 23405

E-Mail: [reed.hollander@nelsonmullins.com](mailto:reed.hollander@nelsonmullins.com)

4140 Parklake Avenue / GlenLake One

Second Floor

Raleigh, NC 27612

Telephone: (919) 877-3800

Facsimile: (919) 877-3149

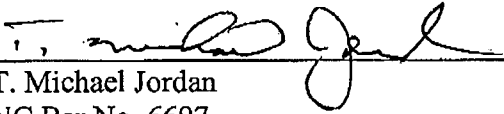
Attorneys for the Plaintiff Haywood County, North Carolina

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served a copy of the foregoing Motion upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 17<sup>th</sup> day of September, 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786

  
\_\_\_\_\_  
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

Attorney for the Plaintiffs, Dennis Hall, Executor of the  
Estate of William Lucius Jones and Dennis Hall,  
Individually

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
08 CVS 51

HAYWOOD COUNTY, NORTH  
CAROLINA, DENNIS HALL,  
EXECUTOR OF THE ESTATE OF  
WILLIAM LUCIUS JONES, DECEASED  
AND DENNIS HALL, INDIVIDUALLY

Plaintiffs,

vs.

GREGORY TODD FERGUSON,

Defendant.

**AMENDED COMPLAINT**

NOW COME the Plaintiffs Haywood County, North Carolina, hereinafter "Haywood County", Dennis Hall, Executor of the Estate of William Lucius Jones, deceased, hereinafter "Executor" and "Jones", and Dennis Hall, Individually, hereinafter "Hall", by and through their respective undersigned counsel, and for their Verified Amended Complaint against Gregory Todd Ferguson ("Ferguson"), state as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff Haywood County is a county under N.C. Gen. Stat. § 153A-10 and by virtue of N.C. Gen. Stat. § 153A-11 brings this action.
2. Plaintiff Dennis Hall was duly qualified and is now acting as Executor of the Estate of William Lucius Jones, deceased.
3. Plaintiff Dennis Hall is the sole beneficiary of the Last Will and Testament of Jones, which was duly probated in Haywood County.
4. Upon information and belief, Defendant Ferguson is an individual residing in Haywood County.

5. All of the events and activities complained of herein occurred in Haywood County, North Carolina.

6. The real property which is the subject of this matter is located in Haywood County, North Carolina.

7. Jurisdiction and venue are proper in the Superior Court of Haywood County, North Carolina.

8. At all times relevant to this matter, prior to August 30, 2007, Jones was the fee simple owner of a parcel of real property comprising approximately 200 acres, more or less, and located in Haywood County. This parcel of property is more particularly described as set forth in Exhibit A (hereinafter, the "Property").

9. The Property had been in Jones' family for many years. On the Property, Jones and his father had operated a dairy farming operation for many years.

10. Jones' father passed away on January 30, 1996.

11. After Jones' father passed away, Jones became less interested in personally operating and managing the dairy farm on the Property.

12. Some time on or about February 19, 1996, Jones was introduced to and got to know Ferguson and his wife, Shannon Price Ferguson ("Shannon").

13. Upon information and belief, Ferguson told Jones that Ferguson wanted to lease the Property from Jones with the intent of continuing the operation of the dairy farm on the Property.

14. On or about March 2, 1996, Ferguson and Jones entered into an oral lease for Ferguson to rent from Jones the Property to run the dairy farm.

15. On or about November 5, 1997, Jones signed a lease with Ferguson and Shannon, titled "Lease Agreement", whereby Jones leased to Ferguson and Shannon the Property for the purpose of operating the dairy farm, a true and accurate copy of which is attached hereto as **Exhibit B** (the "First Lease").

16. The term of the First Lease was for twelve (12) years, commencing on March 1, 1996 and concluding on March 2, 2008. The rent under the First Lease was Nine Hundred Sixteen and 66/100 Dollars (\$916.66) per month.

17. The First Lease was not recorded with the Haywood County Register of Deeds.

18. The First Lease was not notarized or acknowledged.

19. On or about February 19, 1996, Ferguson and Shannon borrowed Twelve Thousand Seven Hundred Fifty Dollars and No/100 (\$12,750.00) from Jones purportedly to purchase a tractor as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as **Exhibit C**.

20. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as **Exhibit C**.

21. On or about February 19, 1996, Ferguson and Shannon borrowed Thirty-Six Thousand One Hundred Dollars and No/100 (\$36,100.00) from Jones purportedly to purchase one hundred twenty-four (124) dairy cattle as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as **Exhibit D**.

22. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as **Exhibit D**.

interest owed under the Promissory Note attached as Exhibit E.

25. On or about March 11, 1998, Ferguson borrowed Six Thousand Five Hundred Dollars and No/100 (\$6,500.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See Promissory Note attached hereto as Exhibit F.

26. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit F.

27. To date, Ferguson still owes to Jones substantial sums under these promissory notes.

28. On or about July 27, 1998, Jones received a letter from the North Carolina Department of Environmental and Natural Resources offering a Special Agreement under the Certified Animal Waste Management Plan for the "Greg Ferguson Dairy", a true and accurate copy of which is attached hereto as Exhibit G.

29. On or about May 17, 2000, Ferguson as applicant and Leslie Smathers as Technical Representative executed the North Carolina Agriculture Cost Sharing Program Conservation Plan of Operation whereby One Hundred Thirty-Three Thousand Nine Hundred One Dollars and No/100 (\$133,901.00) were allocated to be paid to Greg Ferguson Dairy upon



compliance with program requirements, a true and accurate copy of which is attached hereto as

**Exhibit H.**

30. Between 2000 and 2002, Ferguson received several Notices of Violation from Leslie Smathers regarding violations of DENR regulations at the dairy farm on the Property.

31. Ferguson failed to meet the program requirements for the North Carolina Agriculture Cost Sharing Program because his operation of the dairy farm on the Property was so sub-standard.

32. After March 21, 2001, Ferguson essentially abandoned operation of the dairy farm, leaving fences unrepaired, cows to starve and wander the property unrestrained, and otherwise utterly failing to conduct any ongoing dairy farming operations on the Property.

33. On or about April 13, 2002, Carlyle Ferguson, the Chairman of the Haywood Soil & Water Conservation District, wrote a letter to Ferguson cancelling the North Carolina Agriculture Cost Share Program contract stating "since you are no longer operating the dairy at that location" and notifying Ferguson that the funds were being returned to the North Carolina Agriculture Cost Share Program. A true and accurate copy of the letter is attached hereto as

**Exhibit I.**

34. On or about July 10, 2001, Jones executed a will leaving certain property to Hall, a true and accurate copy of which is attached hereto as **Exhibit J.**

35. On or about July 23, 2001, Jones executed a will revoking any and all former Will, codicils and letters of testamentary intent previously made and expressly declared his intention of leaving all of his estate and property to Hall, a true and accurate copy of which is attached hereto as **Exhibit K** ("July 23 Will").

36. In the July 23 Will, Jones expressly granted "all that real property located in Jonathan Creek Township to Dennis Hall subject to a lease to Greg Ferguson for and during his lifetime, to be leased in an amount to be determined in the discretion of Dennis Hall or fair market value whichever is less."

37. On or about February 6, 2002, Jones executed a will revoking any and all former Will, codicils and letters of testamentary intent previously made and expressly declared his intention of leaving all of his estate and property to Hall, a true and accurate copy of which is attached hereto as **Exhibit L**.

38. On or about August 1, 2001, Ferguson executed a General Power of Attorney naming Gayna Woody Edmonds ("Woody") as his attorney-in-fact, the document being recorded in the Haywood County Register of Deeds office in Book 503, Page 565.

39. On or about September 13, 2001, a document was indexed and recorded as a "Lease" at Book 502, Page 203 of the Haywood County Registry and appears in its entirety at Book 502, Pages 203 through 211 (hereinafter, the "Second Lease"). A copy of the Second Lease is attached hereto as **Exhibit M**.

40. The Second Lease purports to have been entered into by and between Jones as Owner or Lessor and Ferguson as Tenant or Lessee, on or about September 5, 2001.

41. The Second Lease was drafted by Woody.

42. Woody is not an attorney and is not licensed to practice law in the State of North Carolina.

43. Woody conspired with Ferguson to attempt to obtain the entire interest of Jones in the Property through use of the "General Agreement" which was included as a part of the Second Lease.

44. Upon information and belief, the Second Lease was signed at the home of Jones on or about September 5, 2001.

45. Upon information and belief, Jones, Ferguson, and Woody were the only people present in the home of Jones when the Second Lease was purportedly signed by Jones.

46. Upon information and belief, C. Colleen Williamson was not present in the home of Jones when the Second Lease was purportedly signed by Jones.

47. Upon information and belief, Jones was not represented by an attorney with reference to the Second Lease at any time prior to or at the signing of the Second Lease.

48. Upon information and belief, Jones was pressured or coerced into signing the "General Agreement" page as part of the Second Lease.

49. Upon information and belief, Jones was tricked or deceived into signing the Second Lease.

50. On or about April 1, 2002, Jones brought a Summary Ejectment action against Ferguson and filed a Complaint in Summary Ejectment in the Haywood County District Court, 02 CVM 198 alleging Ferguson was delinquent with rent in the amount of \$7,650.00, a true and accurate copy of which is attached hereto as Exhibit N (the "Summary Ejectment Complaint").

51. On or about April 1, 2002, the Summary Ejectment Complaint was served upon Ferguson, as evidenced by the Magistrate Summons issued on even date, a true and accurate copy of which is attached hereto as Exhibit O.

52. On or about April 12, 2002, the Judgment in Action for Summary Ejectment was entered by the Court finding that Ferguson was delinquent in rent on the Property in the amount of \$7,650 and ordering that Ferguson be ejected from the Property, a true and accurate copy of which is attached hereto as Exhibit P.

53. On or about April 23, 2002, the Writ of Possession was issued and served on Ferguson requiring Ferguson to leave the Property and to remove any and all of Ferguson's personal property from the Property, a true and accurate copy of which is attached hereto as **Exhibit Q.**

54. A Notice of eviction was served on Ferguson on April 23, 2002, notifying him that he was evicted from the Property. A true and accurate copy of the Notice is attached hereto as **Exhibit R.**

55. On or about April 29, 2002, Jones and Hall executed a lease whereby Jones leased Hall the "farm and house" in return for monthly rent of \$600.00 for a term of ten years, beginning on May 1, 2002. A true and accurate copy of the lease is attached hereto as **Exhibit S.**

56. Upon information and belief, sometime in or around March of 2003 Jones suffered a cerebral hemorrhage.

57. On May 5, 2003 Jones was examined by a physician who diagnosed him as having severe dementia.

58. On May 8, 2003, Jones' first cousin, Ned Jones, filed a Petition for Incompetency, seeking Jones to be declared incompetent and a guardian to be appointed. A true and accurate copy of the petition is attached hereto as **Exhibit T.**

59. On or about May 14, 2003, an Application for Appointment of Guardian was filed seeking to appoint Hall as guardian of Jones. A true and accurate copy of the petition is attached hereto as **Exhibit U.**

60. On or about May 16, 2003, the Court found Jones incompetent and appointed Hall as the Interim Guardian and the Guardian of the Person of Jones, a true and accurate copy of which is attached hereto as **Exhibit V.**

61. On or about June 24, 2003, the Court appointed Sam Underwood, as Guardian of the Estate of Jones, hereinafter "Underwood", a true and accurate copy of which is attached hereto as Exhibit W.

62. On or about May 1, 2007, Underwood filed a Petition by Guardian of the Estate to Sell Real Property Belonging to the Ward to use assets to pay support of Jones. A true and accurate copy of the petition is attached hereto as Exhibit X.

63. On or about May 1, 2007, the Court granted an Order Allowing Sale of Land by Guardian of the Estate whereby Underwood as Guardian was permitted to sell a portion of the Property, a true and accurate copy of which is attached hereto as Exhibit Y.

64. On or about June 2, 2007, Underwood conducted a public sale of a portion of the Property.

65. Between June 2, 2007 and August 2, 2007, there were nine upset bids made on the Property.

66. On or about August 14, 2007, the Court entered into an Order of Confirmation of Sale confirming the sale of a portion of Jones' Property to Haywood County, a true and accurate copy of which is attached hereto as Exhibit Z.

67. On or about August 30, 2007, Jones sold approximately 22 acres of the Property to Haywood County in fee simple, pursuant to a judicial sale for the sum of \$1,114,921.50 in cash. A true and accurate copy of the Non-Warranty Deed is attached hereto as Exhibit AA. From August 30, 2007 to the present, Haywood County continues to own approximately 22 acres of property it acquired from Jones in fee simple.

68. The Second Lease purports to have been entered into by and between Jones as Owner or Lessor and Ferguson as Tenant or Lessee, on or about September 5, 2001.

69. The rights and obligations of the parties to the Second Lease affect the Property which is the subject of this action.

70. The Second Lease includes a portion on pages 205 through 208 purporting to be a "Lease", a portion on page 209 purporting to be a "General Agreement", and a portion on pages 210 and 211 purporting to be a "Notice of Lease".

71. Upon information and belief, Ferguson contends that the "General Agreement" page of the Second Lease conveys to Ferguson some ownership interest in the Property.

72. The "Notice of Lease" pages purportedly summarize the terms of the lease entered into between Jones and Ferguson.

73. The "Notice of Lease" pages state that the "undersigned Lessor and Lessee do hereby provide public notice of the following lease entered into on the 5 day of Sept. 2001, by and between [Jones] and [Ferguson]".

74. The "Notice of Lease" pages identify that the Second Lease contains an "Option to Acquire Property" defined as follows:

William Lucius Jones, being of sound mind and body agrees upon his death that the ownership of the property described in paragraph (3) above be transferred to Gregory Todd Ferguson for the purpose of a farm, not to be mortgaged, sold, etc. to remain in Gregory's family for said farm after Gregory Todd Ferguson's death (at the time of this signing one living child born to Gregory Todd Ferguson, Colton Wyatt Ferguson).

75. Page 205 of the Second Lease identifies situations constituting a breach of the Second Lease, as follows:

11) DEFAULT OR BREACH. Each of the following events shall constitute a default or breach of this lease by Tenant: (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant ... [or] (C) If Tenant shall vacate or abandon the leased premises.

76. In the event of a default under the Second Lease, page 205 of the Second Lease provides that "Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest or [*sic*] Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination...."

77. Ferguson failed to pay rent as required by the Second Lease.

78. After Ferguson failed to pay rent as required by the Second Lease, Jones evicted Ferguson from the Property.

79. On April 12, 2002, Ferguson was ordered ejected from the Property for failure to pay rent and was ordered to pay nine months' back rent to Jones.

80. Since at least April 23, 2002 and continuing to the date of filing of this Complaint, Ferguson has not resided on the Property.

81. Since at least April 23, 2002 and continuing to the date of filing of this Complaint, Ferguson has not paid to Jones any of the judgment entered against Ferguson for unpaid rent under the Second Lease.

82. Ferguson breached his obligations under the Second Lease by failing to pay rent and by vacating the premises.

83. Jones was within his contractual rights to terminate the lease and to cancel all of Ferguson's right, title and interest under the Second Lease, including all right, title and interest under the "General Agreement" contained in the Second Lease.

84. To the extent Ferguson at any time held any right, title or interest in the Property, which is specifically denied, then Ferguson no longer holds and does not now hold any right, title or interest in the Property.

85. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Ferguson.

86. Ferguson and Jones both failed to properly acknowledge the Lease.

87. Upon information and belief, on September 5, 2001, C. Colleen Williamson ("Williamson") executed a statement on the "General Agreement" page of the Second Lease stating "Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001."

88. There is an arrow drawn from Jones' purported signature to the signed statement by Williamson.

89. Upon information and belief, on September 10, 2001, Betty A. Walker ("Walker"), a purported Notary Public, executed a statement on the last page of the Lease stating "Sworn to and subscribed before me this the 10<sup>th</sup> day of September, 2001."

90. There is an arrow drawn from Ferguson's purported signature to the signed statement by Walker.

91. The signed statements made by Williamson and Walker amount to nothing more than an affirmation (otherwise known as a jurat).

92. The signed statements made by Williamson and Walker do not constitute an acknowledgement.

93. The only acknowledgements in the Second Lease are on the "Notice of Lease" pages.

94. The purported acknowledgement by C. Colleen Williamson of the signature of William Lucius Jones shown on Page 210 of the "Notice of Lease" pages was only an acknowledgement of Jones' execution of the "Notice of Lease" pages.



95. The purported acknowledgement by Betty A. Walker of the signature of Gregory Todd Ferguson shown on Page 211 of the "Notice of Lease" pages was only an acknowledgement of Ferguson's execution of the "Notice of Lease" pages.

96. N.C. Gen. Stat. § 47-17 mandates that "[a]ll deeds, contracts or leases, before registration ... shall be acknowledged by the grantor, lessor or the person executing the same...."

97. A deed, contract or lease which is not acknowledged by the grantor or lessor is ineffective to provide actual or constructive notice to subsequent purchasers for value.

98. Haywood County is a subsequent purchaser for value of a portion of the Property.

99. Haywood County did not have legally effective actual or constructive notice of any purported intent by Jones to convey an interest by deed to Ferguson, since Jones' signature on the "General Agreement" page was not acknowledged as required by law.

100. The Non-Warranty Deed attached hereto as Exhibit AA has record priority over any purported real property interest contained in the Second Lease or any page contained therein.

101. Upon information and belief, Ferguson or Woody caused the Second Lease, to be recorded at the Haywood County Register of Deeds office.

102. Upon information and belief, Ferguson or Woody submitted the "Lease", "General Agreement" and the "Notice of Lease" as one document to be recorded in the Haywood County Register of Deeds office.

103. The Haywood County Register of Deeds office indexed the "Lease", "General Agreement" and "Notice of Lease" altogether as "Lease".

104. Neither the "General Agreement" nor the "Notice of Lease" is separately indexed so as to provide any record notice that such writings purport to contain any conveyance other than a lease.

105. Under North Carolina law, if the recorded document is not registered correctly it will be treated as ineffective against innocent purchasers for value.

106. As the "Lease" and the "General Agreement" were not properly acknowledged they are not properly registered and import no actual or constructive notice to Haywood County.

107. Haywood County is an innocent purchaser for value of the portion of the Property set forth in the Non-Warranty Deed attached hereto as Exhibit AA.

108. Under N.C. Gen. Stat. § 47-17.1 there is a requirement that "the register of deeds of any county in North Carolina shall not accept for registration ... any deeds or deeds of trust, executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry showing the name of either the person or law firm who drafted the instrument".

109. To the extent that the "General Agreement" page is given legal effect as a deed, which is specifically denied, the "General Agreement" page does not bear an entry showing the name of either the person or law firm who drafted the "General Agreement" page.

110. To the extent that the "General Agreement" page is given legal effect as a deed, which is specifically denied, the "General Agreement" page fails to meet the requirements of proper recordation.

111. To the extent that the "Notice of Lease" pages are given legal effect as a deed, which is specifically denied, the first page of the "Notice of Lease" does not bear an entry showing the name of either the person or law firm who drafted the "Notice of Lease" pages.

112. To the extent that the "Notice of Lease" pages are given legal effect as a deed, which is specifically denied, the "Notice of Lease" pages fail to meet the requirements of proper recordation.

113. Jones and Ferguson did not have a meeting of the minds in the purported execution of the Second Lease.

114. To the extent that the Second Lease has any validity, Jones' intent was to lease his Property to Ferguson under the same general terms of the First Lease.

115. Jones did not intend to grant Ferguson any type of interest in his Property other than a simple leasehold interest.

116. In the alternative, to the extent Jones intended to grant Ferguson any type of interest in the Property, Jones did not intend to (a) divest himself of his own Property during the term of his own life, nor to (b) grant the Property to Ferguson in perpetuity when Ferguson demonstrated that he was totally unable or unwilling to operate the Property as a dairy farm.

117. Before and after the date of purported execution of the Second Lease, Jones executed several wills all unequivocally leaving his entire estate and his real property to Hall, not Ferguson.

118. The "Notice of Lease" pages call the purported requirement of the "General Agreement" for Jones to convey an interest in the Property to Ferguson upon his death an "Option to Acquire Property", whereas the "General Agreement" page purports to make a future conveyance by will.

119. Different titles are used in the "Lease", "General Agreement" page, and "Notice of Lease" pages to describe Jones as either "Owner" or "Lessor".

120. Different titles are used in the Lease, "General Agreement" page, and "Notice of Lease" pages to describe Ferguson as either "Tenant" or "Lessee".

121. At no time in the "Lease", "General Agreement" page, or "Notice of Lease" pages do the purported parties thereto identify themselves as "Grantor" or "Grantee".

122. At the time the Second Lease was purportedly executed, Ferguson owed Jones thousands of dollars as evidenced by multiple promissory notes.

123. At the time the Second Lease was purportedly executed, Ferguson gave nothing of value to Jones in exchange for the interest allegedly created by the "General Agreement" page.

124. The terms of the Lease called for Ferguson to pay Jones monthly rent of \$916.66.

125. Ferguson failed to pay any rent to Jones from the date the Lease began to the present date.

126. Ferguson failed to upkeep and maintain the dairy farm on the Property.

127. Ferguson allowed the dairy farm, including equipment, facilities and cattle, to deteriorate and go to waste after December 27, 2000.

128. Ferguson did not provide care to Jones sufficient to amount to consideration for the purported conveyance of an interest in the Property.

129. At no time before, during or after the purported execution of the Second Lease did Ferguson pay any valuable consideration to Jones for the interest allegedly created by the "General Agreement" page.

130. There was insufficient consideration given by Ferguson in connection with the "General Agreement" page.

131. There was no consideration given by Ferguson in connection with the "General Agreement" page.

132. The "General Agreement" page and "Notice of Lease" pages contained within the Second Lease purport to transfer to Ferguson an interest in real property "upon [Jones] death".

133. A transfer of an interest in property upon death may only be accomplished by means of a properly executed will.

134. The "General Agreement" and "Notice of Lease" pages were not properly attested by at least two witnesses.

135. The "General Agreement" and "Notice of Lease" pages do not comply with N.C. Gen. Stat. § 31-3.3.

136. Accordingly, the "General Agreement" and "Notice of Lease" pages cannot effect any transfer of an interest in the Property to Ferguson "upon [Jones] death".

137. Upon information and belief, Ferguson exercised undue influence on Jones to procure Jones' signature on the Second Lease, including the "General Agreement" page and the "Notice of Lease" pages.

138. At the time of the execution of the Second Lease Jones was approximately 62 years old.

139. Upon information and belief, at the time of the execution of the Second Lease Jones was susceptible to undue influence.

140. Upon information and belief, near in time and at the time of the execution of the Second Lease others had little opportunity to see Jones.

141. The Second Lease was drafted at the direction of Ferguson by a person who was not a licensed attorney.

142. The Second Lease was made in favor of Ferguson, with whom Jones had no ties of blood.

143. The Second Lease goes directly against Jones' demonstrated testamentary intent in the multiple wills he executed before and after the date of execution of the Second Lease leaving his Property to Hall.

144. Ferguson, as the beneficiary under the Second Lease, was the one that procured the execution of the Second Lease.

145. Jones did not have an attorney present when he purportedly executed the Second Lease.

146. In and about the time of the purported execution of the Second Lease, Ferguson had a propensity toward violent and threatening behavior.

147. In and about the time of the purported execution of the Second Lease, Ferguson had a reputation in the community as a violent and threatening individual.

148. Ferguson's reputation and propensity toward violence at and around the time of the execution of the Second Lease intimidated Jones and placed Jones under duress when he was confronted by Ferguson to sign the Second Lease, including the "General Agreement" page and "Notice of Lease" pages.

149. In the alternative, upon information and belief, Jones may have intended to execute a new Lease with Ferguson so long as the terms were the same terms used in the First Lease.

150. Upon information and belief, Ferguson and Woody conspired between themselves to prepare the Second Lease, consisting of the "Lease", "General Agreement" page, and "Notice of Lease" pages.

151. Upon information and belief, Ferguson and Woody intended to trick Jones into signing the "General Agreement" page by giving Jones all pages of the Second Lease as one document to sign.

152. Upon information and belief, Ferguson presented Jones with all pages of the Second Lease, including the "General Agreement" and "Notice of Lease" pages, under the guise that it consisted of the same terms as the First Lease.

153. Upon information and belief, Ferguson misrepresented to Jones the nature of the Second Lease, attempting to convince Jones that it consisted of the same terms as the First Lease.

154. Upon information and belief, Jones did not intend to sign the "General Agreement" page and "Notice of Lease" pages, which purport to require that Jones convey the Property to Ferguson upon Jones' death.

155. Upon information and belief, Woody drafted the Second Lease and provided it to Ferguson.

156. Woody is not a licensed attorney in the state of North Carolina or in any other state.

157. The Second Lease is a document created by a nonlawyer and is the product of the unlicensed practice of law.

### **CLAIMS FOR RELIEF**

#### **FIRST CLAIM FOR RELIEF (DECLARATORY JUDGMENT)**

158. The Plaintiffs restate the allegations set forth in paragraphs 1 through 157 as if fully set forth herein.

159. For the reasons set forth above, Defendant has never had and does not presently have any interest, contingent or otherwise, in the Property.

160. In the alternative, for the reasons set forth above, any purported interest, contingent or otherwise, of Defendant is invalid, void, or voidable.

161. Plaintiffs seek a declaratory judgment stating that Defendant does not have any interest, contingent or otherwise, in the Property and clarifying the public record regarding the status of Plaintiffs' ownership of the Property.

162. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, the Plaintiffs request that this Court enter a declaratory judgment decreeing that:

- A. Defendant has no present or future right, title or interest to the Property under the Second Lease or otherwise; and
- B. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant.

**SECOND CLAIM FOR RELIEF**  
**(FRAUD AND MISREPRESENTATION)**

163. The Plaintiffs restate the allegations set forth in paragraphs 1 through 162 as if fully set forth herein.

164. Upon information and belief, Ferguson made false statements to Jones as described herein.

165. Upon information and belief, Ferguson knew that his statements to Jones regarding the Second Lease were false.

166. Upon information and belief, Ferguson made the false statements with the intention that they should be relied upon and acted on by Jones.

167. Upon information and belief, Jones reasonably relied upon the representations by Ferguson.

168. Jones has suffered a substantial injury by being tricked into purportedly executing the Second Lease.



169. Jones' estate has suffered substantial legal fee costs, in an amount to be proven at trial, in bringing this action.

170. Ferguson's conduct in attempting to defraud Jones out of his property is reprehensible and outrageous conduct which should be deterred through the imposition of punitive damages in an amount to be proven at trial.

**THIRD CLAIM FOR RELIEF**  
**(DEFAULT ON PROMISSORY NOTES – Plaintiffs Executor and Hall only)**

171. The Plaintiffs restate the allegations set forth in paragraphs 1 through 170 as if fully set forth herein

172. The entire balances of the Promissory Notes attached to this Complaint as Exhibit C, Exhibit D, Exhibit E and Exhibit F are due and payable, and Plaintiffs Executor and Hall do hereby demand payment of same. Defendant Ferguson presently owes Plaintiffs Executor and Hall the unpaid portions of these four promissory notes, and 5% interest on that amount, as specified in the notes, as of February 19, 1996 for the Promissory Notes attached as Exhibits C and D, and as of February 7, 1998 for the Promissory Notes attached as Exhibits E and F, together with all costs of collection and reasonable attorney's fees as may be provided therein.

WHEREAS, the Plaintiffs pray that this Court enter relief as follows:

1. a declaratory judgment that Defendant has no present or future right, title or interest to the Property under the Second Lease or otherwise;
2. a declaratory judgment that the ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant;
3. an award of actual damages to the Jones' estate and Plaintiff Hall individually in an amount to be proven at trial for the costs of bringing this action to quiet title to the Property;

4. an award of judgment in favor of Plaintiffs Executor and Hall against Defendant for unpaid amounts due on four promissory notes, which total the sum of Sixty-Two Thousand Three Hundred Fifty (\$62,350.00) Dollars, plus accrued interest on the unpaid amounts, from February 19, 1996 for the Promissory Notes attached as Exhibits C and D, and from February 7, 1998 for the promissory Notes attached as Exhibits E and F, at the 5% rate specified in those notes;

5. an award of punitive damages to all Plaintiffs in an amount to be proven at trial to punish and deter the reprehensible and outrageous conduct of the Defendant; and

6. an order granting the Plaintiffs such other and further relief as the Court deems just and proper.

Respectfully submitted, this the \_\_\_ day of \_\_\_\_\_, 2008.

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Attorneys for the Plaintiffs, Dennis Hall, Executor of the Estate  
of William Lucius Jones and Dennis Hall, Individually

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Attorneys for the Plaintiff Haywood County, North Carolina

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served a copy of the foregoing document upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the \_\_\_\_ day of \_\_\_\_\_ 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786

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T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

Attorney for the Plaintiffs, Dennis Hall, Executor of the  
Estate of William Lucius Jones and Dennis Hall,  
Individually

Being all of the land and improvements situate thereon owned by Plaintiff, William Lucius Jones in Haywood County, North Carolina, Haywood County parcel identification number 8607-42-6868, including the real property described in the following instruments:

1. Warranty deed from C. A. Campbell and wife, Margaret F. Campbell to L. H. Bramlett and T. R. Bramlett, dated June 30, 1927, and recorded in Deed Book 75, page 184, Haywood County Registry.
2. Warranty deed from Mabel J. Gill (widow of Joe H. Gill, deceased) to L. H. Bramlett, dated February 13, 1945, and recorded in Deed Book 122, page 637, Haywood County Registry.
3. Last Will and Testament of L. H. Bramlett, dated April 26, 1945, found of record in Will Book 6, page 431, in the Office of the Clerk of Court of Haywood County.

EXHIBIT "A"

This instrument prepared by:  
James H. Moore, Jr., Attorney

**HAYWOOD COUNTY  
NORTH CAROLINA**

**LEASE AGREEMENT**

THIS LEASE is made this the 5<sup>th</sup> day of November, 1997, between Gregory Todd Ferguson and wife, Shannon Price Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" [the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.].

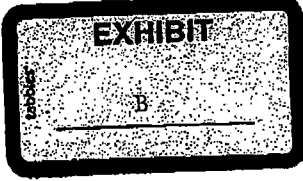
IN CONSIDERATION of the mutual covenants contained herein, the parties agree as follows:

1) **SUBJECT AND PURPOSE.** Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, page 431 of the Haywood County Registry, to Tenant for Tenant's use as a dairy farm.

2) **TERM AND RENT.** Owner leases the above premises for a term of twelve (12) years, commencing March 1, 1996, and terminating on March 2, 2008 at 1:00 o'clock p.m., or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly installments of Nine Hundred Sixteen dollars and Sixty Six cents (\$916.66) in advance on the twentieth (20<sup>th</sup>) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to Owner at 106 Timothy Lane, Waynesville, N.C. 28786.

3) **ADDITIONAL RENT.** All taxes, charges, costs, and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.

4) **ALTERATIONS, ADDITIONS, AND IMPROVEMENTS.** Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural strength, or lessen the value, of the building



on the premises, or change the purposes for which the building, or any part thereof, may be used.

All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.

5) **REPAIRS.** Tenant shall, at all times during the lease and at his own cost and expense, repair, replace, and maintain in a good, safe, and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

6) **TAXES.** Owner shall be responsible for all taxes on said property.

7) **UTILITIES.** All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.

8) **INSURANCE.** During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance:

- a) **FIRE INSURANCE.** Tenant shall keep all buildings, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.
- b) **PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.** Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.
- c) **OTHER INSURANCE.** Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.

9) **UNLAWFUL OR DANGEROUS ACTIVITY.** Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.

10) **INDEMNITY.** Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease, (2) any injury or damage happening on or about the leased premises, (3) failure to comply with any law of any governmental authority, or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.

11) **DEFAULT OR BREACH.** Each of the following events shall constitute a default or breach of this lease by Tenant:

- a) If Tenant shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.
- b) If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Tenant, or if a receiver or trustee shall be appointed for all or substantially all of the property of Tenant.
- c) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant.
- d) If Tenant shall fail to perform or comply with any of the conditions of this lease and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by Owner to Tenant or, if the performance cannot be reasonably had within the fifteen (15) day period, Tenant shall not in good faith have commenced performance with the fifteen (15) day period and shall not diligently proceed to completion of performance.
- e) If Tenant shall vacate or abandon the leased premises.

12) **EFFECT OF DEFAULT.** In the event of any default hereunder, as set forth in Paragraph Eleven, the rights of Owner shall be as follows:



- a) Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest of Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease and the right, title, and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.
- b) Owner may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term, or condition required hereby to be performed by Tenant, and Owner shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, by any expenditure for the correction by Owner shall not be deemed to waive or release the default of Tenant or the right of Owner to take any action as may be otherwise permissible hereunder in the case of any default.

13) **DESTRUCTION OF PREMISES.** In the event of a partial or total destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction shall neither null or void this lease.

14) **CONDEMNATION.** Rights and duties in the event of condemnation are as follows:

- a) If the whole of the leased premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.
- b) If only a portion of the leased premises shall be taken or condemned, this lease and the term hereof shall not cease or terminate.
- c) In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Tenant. Owner assigns to Tenant all his right, title, and interest in any and all such awards.
- d) In the event of a partial taking, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the building on the leased premises to a self-contained architectural unit.

15) **ACCESS TO PREMISES; SIGNS POSTED BY OWNER.** Tenant shall permit Owner, or his agents, to enter the leased premises at all reasonable hours to

inspect the premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this lease, and also to show the premises to prospective buyers.

16) EASEMENTS, AGREEMENTS, OR ENCUMBRANCES. The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the leased premises, and Owner shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17) QUIET ENJOYMENT. Owner warrants that Tenant shall be granted peaceable and quiet enjoyment of the leased premises free from any eviction or interference by Owner if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

18) LIABILITY OF OWNER. Tenant shall be in exclusive control and possession of the leased premises, and Owner shall not be liable for any injury or damages to any property or to any person on or about the leased premises nor for any injury or damage to any property of Tenant. The provisions herein permitting Owner to enter and inspect the leased premises are made to insure that Tenant is in compliance with the terms and conditions hereof and makes repairs that Tenant has failed to make. Owner shall not be liable to Tenant for any entry on the premises for inspection purposes.

19) REPRESENTATIONS BY OWNER. At the commencement of the term, Tenant shall accept the buildings and improvements and any equipment in their existing condition and state of repair, and Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Owner in respect thereto except as contained in the provisions of this lease, and Owner shall in no event be liable for any latent defects.

20) WAIVERS. The failure of Owner to insist on a strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) NOTICE. All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
Address: 106 Timothy Lane  
Waynesville, N.C. 28786

Tenant: Gregory Todd Ferguson and Shannon Price Ferguson  
Address: Route 4, Box 266  
Waynesville, N.C. 28786

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) ASSIGNMENT, MORTGAGE, OR SUBLEASE. Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) SURRENDER OF POSSESSION. Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

#### 24) REMEDIES OF OWNER.

- a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.
- b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) TOTAL AGREEMENT; APPLICABLE TO SUCCESSORS. This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently executed by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals this the 5<sup>th</sup>  
day of November, 1997.

Jacques Jones (seal)

Doug T. Ferguson (seal)

Shannon P. Ferguson (seal)

SATISFACTION: evidenced by this Note has been in full this day of 19 Signed:

PROMISSORY NOTE

Waynesville, N.C.

\$ 12,750.00

February 19, 1996

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to William Lucius Jones

the principal sum of Twelve Thousand, Seven Hundred Fifty and 00/100 DOLLARS (\$ 12,750.00), with interest from March 1, 1996, at the rate of Five per cent (5%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of William Lucius Jones, 106 Timothy Lane, Waynesville, N.C. 28786

or at such place as the legal holder hereof may designate in writing. It is understood and agreed that additional amounts may be advanced by the holder hereof as provided in the instruments, if any, securing this Note and such advances will be added to the principal of this Note and will accrue interest at the above specified rate of interest from the date of advance until paid. The principal and interest shall be due and payable as follows:

see attached amortization schedule equal yearly installments beginning in December, 1996

If not sooner paid, the entire remaining indebtedness shall be due and payable on December 31, 2000. If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial prepayments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust, if any, shall bear interest at the rate of eight per cent (8%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorney's fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the purchase of equipment, and is secured by a 6610 Ford Tractor; Gehl silage feed wagon; and a 6 foot Gill scraper

IN TESTIMONY WHEREOF, each corporate maker has caused this instrument to be executed in its corporate name by its President, attested by its Secretary, and its corporate seal to be hereto affixed, all by order of its Board of Directors first duly given, the day and year first above written.

By: (Corporate Name)

ATTEST: President

Secretary (Corporate Seal)

(Corporate Name)

By: President

ATTEST: Secretary (Corporate Seal)

which is a lien upon the property therein described. IN TESTIMONY WHEREOF, each individual maker has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

Gregory Todd Ferguson (SEAL) Shannon Price Ferguson (SEAL)

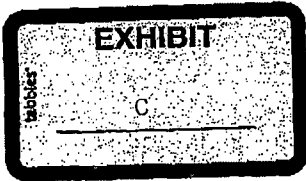
Shannon Price Ferguson (SEAL)

Secretary (Corporate Seal) (SEAL)

(Corporate Name) (SEAL)

President (SEAL)

Secretary (Corporate Seal) (SEAL)



Equipment

Interest Vision  
Amortization Schedule

SPE  
REVISED

Loan or Annuity Variables:

Start Date:	Feb 7, 1996	End Date:	Feb 7, 2001
Start Payment:	Feb 7, 1996	No. of Payments:	5
Start Interest:	Feb 7, 1996	Interest Rate:	5.000%
Payment Freq.:	Annual	Initial Principal:	\$12750.00
Compound Freq.:	Monthly	Payment Amount:	\$2954.45
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Feb 7, 1996	0.00	0.00	0.000	0.00	12750.00
	Mar 7, 1996	0.00	50.51	5.000	-50.51	12800.51
	Apr 7, 1996	0.00	54.21	5.000	-54.21	12854.72
	May 7, 1996	0.00	52.68	5.000	-52.68	12907.41
	Jun 7, 1996	0.00	54.66	5.000	-54.66	12962.07
	Jul 7, 1996	0.00	53.12	5.000	-53.12	13015.19
	Aug 7, 1996	0.00	55.12	5.000	-55.12	13070.31
	Sep 7, 1996	0.00	55.35	5.000	-55.35	13125.66
	Oct 7, 1996	0.00	53.79	5.000	-53.79	13179.46
	Nov 7, 1996	0.00	55.81	5.000	-55.81	13235.27
	Dec 7, 1996	0.00	54.24	5.000	-54.24	13289.51
	Jan 7, 1997	0.00	56.43	5.000	-56.43	13345.95
1	Feb 7, 1997	2954.45	56.67	5.000	2897.77	10448.17
	Mar 7, 1997	0.00	40.08	5.000	-40.08	10488.25
	Apr 7, 1997	0.00	44.54	5.000	-44.54	10532.79
	May 7, 1997	0.00	43.29	5.000	-43.29	10576.07
	Jun 7, 1997	0.00	44.91	5.000	-44.91	10620.99
	Jul 7, 1997	0.00	43.65	5.000	-43.65	10664.63
	Aug 7, 1997	0.00	45.29	5.000	-45.29	10709.92
	Sep 7, 1997	0.00	45.48	5.000	-45.48	10755.40
	Oct 7, 1997	0.00	44.20	5.000	-44.20	10799.60
	Nov 7, 1997	0.00	45.86	5.000	-45.86	10845.46
	Dec 7, 1997	0.00	44.57	5.000	-44.57	10890.04
	Jan 7, 1998	0.00	46.25	5.000	-46.25	10936.28
2	Feb 7, 1998	2954.45	46.44	5.000	2908.01	8028.27 + 6500
	Mar 7, 1998	0.00	30.79	5.000	-30.79	8059.07 3/11/98
	Apr 7, 1998	0.00	34.22	5.000	-34.22	8093.29
	May 7, 1998	0.00	33.26	5.000	-33.26	8126.55
	Jun 7, 1998	0.00	34.51	5.000	-34.51	8161.06
	Jul 7, 1998	0.00	33.54	5.000	-33.54	8194.60
	Aug 7, 1998	0.00	34.80	5.000	-34.80	8229.40
	Sep 7, 1998	0.00	34.95	5.000	-34.95	8264.35
	Oct 7, 1998	0.00	33.96	5.000	-33.96	8298.31
	Nov 7, 1998	0.00	35.24	5.000	-35.24	8333.55
	Dec 7, 1998	0.00	34.25	5.000	-34.25	8367.80
	Jan 7, 1999	0.00	35.53	5.000	-35.53	8403.33

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
36	Jul 1, 1999	681.29	66.34	5.000	614.95	15527.33
37	Aug 1, 1999	681.29	65.94	5.000	615.35	14911.98
38	Sep 1, 1999	681.29	63.32	5.000	617.96	14294.02
39	Oct 1, 1999	681.29	58.74	5.000	622.54	13671.48
40	Nov 1, 1999	681.29	58.06	5.000	623.23	13048.25
41	Dec 1, 1999	681.29	53.62	5.000	627.66	12420.59
42	Jan 1, 2000	681.29	52.60	5.000	628.68	11791.90
43	Feb 1, 2000	681.29	49.94	5.000	631.35	11160.56
44	Mar 1, 2000	681.29	44.22	5.000	637.07	10523.49
45	Apr 1, 2000	681.29	44.57	5.000	636.72	9886.77
46	May 1, 2000	681.29	40.52	5.000	640.77	9246.00
47	Jun 1, 2000	681.29	39.16	5.000	642.13	8603.87
48	Jul 1, 2000	681.29	35.26	5.000	646.02	7957.85
49	Aug 1, 2000	681.29	33.70	5.000	647.58	7310.26
50	Sep 1, 2000	681.29	30.96	5.000	650.33	6659.94
51	Oct 1, 2000	681.29	27.29	5.000	653.99	6005.95
52	Nov 1, 2000	681.29	25.44	5.000	655.85	5350.10
53	Dec 1, 2000	681.29	21.93	5.000	659.36	4690.74
54	Jan 1, 2001	681.29	19.92	5.000	661.37	4029.37
55	Feb 1, 2001	681.29	17.11	5.000	664.17	3365.20
56	Mar 1, 2001	681.29	12.91	5.000	668.38	2696.82
57	Apr 1, 2001	681.29	11.45	5.000	669.83	2026.99
58	May 1, 2001	681.29	8.33	5.000	672.96	1354.03
59	Jun 1, 2001	681.29	5.75	5.000	675.54	678.50
60	Jul 1, 2001	681.29	2.79	5.000	678.50	0.00

SATISFACTION: The debt evidenced by this Note has been satisfied in full this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Signed: \_\_\_\_\_

# PROMISSORY NOTE

Waynesville, N.C.

February 19, 19 96

\$ 36,100.00

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to William Lucius Jones

\_\_\_\_\_ or order.

the principal sum of Thirty-six Thousand One Hundred and 00/100

DOLLARS (\$ 36,100.00 ), with interest from July 1, 1996, at the rate of Five

per cent ( 5 %) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at

the office of William Lucius Jones, 106 Timothy Lane, Waynesville, N.C. 28786

or at such place as the legal holder hereof may designate in writing. It is understood and agreed that additional amounts may be advanced by the holder hereof as provided in the instruments, if any, securing this Note and such advances will be added to the principal of this Note and will accrue interest at the above specified rate of interest from the date of advance until paid. The principal and interest shall be due and payable as follows:

see attached amortization schedule

If not sooner paid, the entire remaining indebtedness shall be due and payable on July 1, 2001

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial prepayments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust,

if any, shall bear interest at the rate of eight per cent ( 8 %) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorney's fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

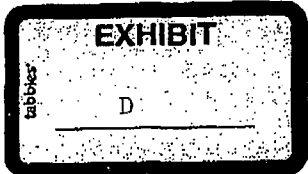
This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the purchase of 124 dairy cattle for the total price of \$51,100.00. A payment of \$15,000.00 has already been received

by the seller, William Lucius Jones

IN TESTIMONY WHEREOF, each corporate maker has caused this instrument to be executed in its corporate name by its \_\_\_\_\_ President, attested by its \_\_\_\_\_ Secretary, and its corporate seal to be \_\_\_\_\_

IN TESTIMONY WHEREOF, each individual maker has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.





*Cove*

Interest Vision  
Amortization Schedule

32,632-93

Loan or Annuity Variables:

Start Date:	Jul 1, 1996	End Date:	Jul 1, 2001
Start Payment:	Jul 1, 1996	No. of Payments:	60
Start Interest:	Jul 1, 1996	Interest Rate:	5.000%
Payment Freq.:	Monthly	Initial Principal:	\$36100.00
Compound Freq.:	Monthly	Payment Amount:	\$681.29
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Jul 1, 1996	0.00	0.00	0.000	0.00	36100.00
1	Aug 1, 1996	681.29	152.88	5.000	528.40	35571.60
2	Sep 1, 1996	681.29	150.64	5.000	530.64	35040.96
3	Oct 1, 1996	681.29	143.61	5.000	537.67	34503.28
4	Nov 1, 1996	681.29	146.12	5.000	535.16	33968.12
5	Dec 1, 1996	681.29	139.21	5.000	542.07	33426.05
6	Jan 1, 1997	681.29	141.95	5.000	539.34	32886.71
7	Feb 1, 1997	681.29	139.66	5.000	541.63	32345.08
8	Mar 1, 1997	681.29	124.06	5.000	557.22	31787.85
9	Apr 1, 1997	681.29	134.99	5.000	546.30	31241.56
10	May 1, 1997	681.29	128.39	5.000	552.90	30688.66
11	Jun 1, 1997	681.29	130.32	5.000	550.96	30137.70
12	Jul 1, 1997	681.29	123.85	5.000	557.43	29580.27
13	Aug 1, 1997	681.29	125.61	5.000	555.67	29024.60
14	Sep 1, 1997	681.29	123.26	5.000	558.03	28466.57
15	Oct 1, 1997	681.29	116.99	5.000	564.30	27902.27
16	Nov 1, 1997	681.29	118.49	5.000	562.80	27339.47
17	Dec 1, 1997	681.29	112.35	5.000	568.93	26770.54
18	Jan 1, 1998	681.29	113.68	5.000	567.60	26202.94
19	Feb 1, 1998	681.29	111.27	5.000	570.01	25632.93
20	Mar 1, 1998	681.29	98.32	5.000	582.97	25049.96
21	Apr 1, 1998	681.29	106.38	5.000	574.91	24475.05
22	May 1, 1998	681.29	100.58	5.000	580.70	23894.35
23	Jun 1, 1998	681.29	101.47	5.000	579.82	23314.53
24	Jul 1, 1998	681.29	95.81	5.000	585.47	22729.06
25	Aug 1, 1998	681.29	96.52	5.000	584.76	22144.29
26	Sep 1, 1998	681.29	94.04	5.000	587.25	21557.05
27	Oct 1, 1998	681.29	88.59	5.000	592.69	20964.35
28	Nov 1, 1998	681.29	89.03	5.000	592.26	20372.09
29	Dec 1, 1998	681.29	83.72	5.000	597.56	19774.53
30	Jan 1, 1999	681.29	83.97	5.000	597.31	19177.22
31	Feb 1, 1999	681.29	81.44	5.000	599.85	18577.37
32	Mar 1, 1999	681.29	71.26	5.000	610.03	17967.34
33	Apr 1, 1999	681.29	76.30	5.000	604.99	17362.35
34	May 1, 1999	681.29	71.35	5.000	609.93	16752.42
35	Jun 1, 1999	681.29	71.14	5.000	610.14	16142.28

*SEE ENCL*

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
36	Jul 1, 1999	681.29	66.34	5.000	614.95	15527.33
37	Aug 1, 1999	681.29	65.94	5.000	615.35	14911.98
38	Sep 1, 1999	681.29	63.32	5.000	617.96	14294.02
39	Oct 1, 1999	681.29	58.74	5.000	622.54	13671.48
40	Nov 1, 1999	681.29	58.06	5.000	623.23	13048.25
41	Dec 1, 1999	681.29	53.62	5.000	627.66	12420.59
42	Jan 1, 2000	681.29	52.60	5.000	628.68	11791.90
43	Feb 1, 2000	681.29	49.94	5.000	631.35	11160.56
44	Mar 1, 2000	681.29	44.22	5.000	637.07	10523.49
45	Apr 1, 2000	681.29	44.57	5.000	636.72	9886.77
46	May 1, 2000	681.29	40.52	5.000	640.77	9246.00
47	Jun 1, 2000	681.29	39.16	5.000	642.13	8603.87
48	Jul 1, 2000	681.29	35.26	5.000	646.02	7957.85
49	Aug 1, 2000	681.29	33.70	5.000	647.58	7310.26
50	Sep 1, 2000	681.29	30.96	5.000	650.33	6659.94
51	Oct 1, 2000	681.29	27.29	5.000	653.99	6005.95
52	Nov 1, 2000	681.29	25.44	5.000	655.85	5350.10
53	Dec 1, 2000	681.29	21.93	5.000	659.36	4690.74
54	Jan 1, 2001	681.29	19.92	5.000	661.37	4029.37
55	Feb 1, 2001	681.29	17.11	5.000	664.17	3365.20
56	Mar 1, 2001	681.29	12.91	5.000	668.38	2696.82
57	Apr 1, 2001	681.29	11.45	5.000	669.83	2026.99
58	May 1, 2001	681.29	8.33	5.000	672.96	1354.03
59	Jun 1, 2001	681.29	5.75	5.000	675.54	678.50
60	Jul 1, 2001	681.29	2.79	5.000	678.50	0.00

To be known to all that this is a legal & binding agreement between Greg Ferguson and his wife, Shannon Ferguson, as borrowers and Lucius Jones as lender as of the 9<sup>th</sup> day of January 1998. Borrowers owe lender the sum ~~7~~<sup>7.7</sup> 000<sup>00</sup> to be paid in monthly installments as per attached amortization schedule until repaid, beginning February 1998 signed & notarized on the 9<sup>th</sup> day of January, 1998.

if notary  
notary attests  
signed that  
all members  
present placed  
united seal  
on agreement

notary seal \_\_\_\_\_

notary name Vicky K. Edwards  
notary signature Vicky K. Edwards

Notary Expires 10-28-2002

lender seal Lucius Jones  
borrower Greg F. Ferguson  
borrower Shannon K. Ferguson



Promissory Note

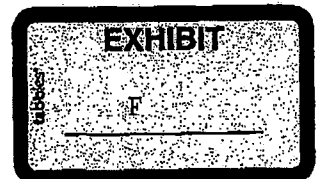
Be it hereby known that this is a legal and binding document / agreement entered into this day 3-17-98 between Lucius Jones, lender, and Greg Ferguson, borrower. This document certifies that Greg Ferguson has borrowed \$6500.00 from Lucius Jones - the amount to be repaid in equal installments on a yearly basis per attached ammortization schedule over a period of 5 years at an interest rate of 5%. This agreement was entered into freely by both parties and by signing below, both parties are acknowledging agreement with the terms above.

Lucius Jones  
Lucius Jones, (lender)

Greg Ferguson  
Greg Ferguson, (borrower)

Mike L. Edwards  
Notary

10-28-2005 Commissioner  
Epps



\*in addition to amount borrowed previously \*

6

## Interest Vision

### Amortization Schedule

Loan or Annuity Variables:

Start Date:	Feb 7, 1998	End Date:	Feb 7, 2003
Start Payment:	Feb 7, 1998	No. of Payments:	5
Start Interest:	Feb 7, 1998	Interest Rate:	5.000%
Payment Freq.:	Annual	Initial Principal:	\$14528.27
Compound Freq.:	Monthly	Payment Amount:	\$3366.43
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Feb 7, 1998	0.00	0.00	0.000	0.00	14528.27
	Mar 7, 1998	0.00	55.72	5.000	-55.72	14583.99
	Apr 7, 1998	0.00	61.93	5.000	-61.93	14645.93
	May 7, 1998	0.00	60.19	5.000	-60.19	14706.12
	Jun 7, 1998	0.00	62.45	5.000	-62.45	14768.57
	Jul 7, 1998	0.00	60.69	5.000	-60.69	14829.26
	Aug 7, 1998	0.00	62.97	5.000	-62.97	14892.23
	Sep 7, 1998	0.00	63.24	5.000	-63.24	14955.47
	Oct 7, 1998	0.00	61.46	5.000	-61.46	15016.93
	Nov 7, 1998	0.00	63.77	5.000	-63.77	15080.70
	Dec 7, 1998	0.00	61.98	5.000	-61.98	15142.68
	Jan 7, 1999	0.00	64.30	5.000	-64.30	15206.98
1	Feb 7, 1999	3366.43	64.58	5.000	3301.85	11905.13
	Mar 7, 1999	0.00	45.66	5.000	-45.66	11950.79
	Apr 7, 1999	0.00	50.75	5.000	-50.75	12001.54
	May 7, 1999	0.00	49.32	5.000	-49.32	12050.87
	Jun 7, 1999	0.00	51.17	5.000	-51.17	12102.04
	Jul 7, 1999	0.00	49.73	5.000	-49.73	12151.77
	Aug 7, 1999	0.00	51.60	5.000	-51.60	12203.38
	Sep 7, 1999	0.00	51.82	5.000	-51.82	12255.20
	Oct 7, 1999	0.00	50.36	5.000	-50.36	12305.56
	Nov 7, 1999	0.00	52.26	5.000	-52.26	12357.82
	Dec 7, 1999	0.00	50.79	5.000	-50.79	12408.61
	Jan 7, 2000	0.00	52.55	5.000	-52.55	12461.16
2	Feb 7, 2000	3366.43	52.77	5.000	3313.66	9147.50
	Mar 7, 2000	0.00	36.24	5.000	-36.24	9183.74
	Apr 7, 2000	0.00	38.89	5.000	-38.89	9222.63
	May 7, 2000	0.00	37.80	5.000	-37.80	9260.43
	Jun 7, 2000	0.00	39.22	5.000	-39.22	9299.65
	Jul 7, 2000	0.00	38.11	5.000	-38.11	9337.76
	Aug 7, 2000	0.00	39.55	5.000	-39.55	9377.30
	Sep 7, 2000	0.00	39.71	5.000	-39.71	9417.02
	Oct 7, 2000	0.00	38.59	5.000	-38.59	9455.61
	Nov 7, 2000	0.00	40.04	5.000	-40.04	9495.65
	Dec 7, 2000	0.00	38.92	5.000	-38.92	9534.57
	Jan 7, 2001	0.00	40.49	5.000	-40.49	9575.06

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
3	Feb 7, 2001	3366.43	40.66	5.000	3325.77	6249.29
	Mar 7, 2001	0.00	23.97	5.000	-23.97	6273.26
	Apr 7, 2001	0.00	26.64	5.000	-26.64	6299.90
	May 7, 2001	0.00	25.89	5.000	-25.89	6325.79
	Jun 7, 2001	0.00	26.86	5.000	-26.86	6352.65
	Jul 7, 2001	0.00	26.11	5.000	-26.11	6378.76
	Aug 7, 2001	0.00	27.09	5.000	-27.09	6405.85
	Sep 7, 2001	0.00	27.20	5.000	-27.20	6433.05
	Oct 7, 2001	0.00	26.44	5.000	-26.44	6459.49
	Nov 7, 2001	0.00	27.43	5.000	-27.43	6486.92
	Dec 7, 2001	0.00	26.66	5.000	-26.66	6513.58
	Jan 7, 2002	0.00	27.66	5.000	-27.66	6541.24
4	Feb 7, 2002	3366.43	27.78	5.000	3338.65	3202.58
	Mar 7, 2002	0.00	12.28	5.000	-12.28	3214.87
	Apr 7, 2002	0.00	13.65	5.000	-13.65	3228.52
	May 7, 2002	0.00	13.27	5.000	-13.27	3241.79
	Jun 7, 2002	0.00	13.77	5.000	-13.77	3255.55
	Jul 7, 2002	0.00	13.38	5.000	-13.38	3268.93
	Aug 7, 2002	0.00	13.88	5.000	-13.88	3282.81
	Sep 7, 2002	0.00	13.94	5.000	-13.94	3296.75
	Oct 7, 2002	0.00	13.55	5.000	-13.55	3310.30
	Nov 7, 2002	0.00	14.06	5.000	-14.06	3324.36
	Dec 7, 2002	0.00	13.66	5.000	-13.66	3338.02
	Jan 7, 2003	0.00	14.18	5.000	-14.18	3352.20
5	Feb 7, 2003	3366.43	14.24	5.000	3352.20	0.00

State of North Carolina  
Department of Environment  
and Natural Resources  
Division of Water Quality

James B. Hunt, Jr., Governor  
Wayne McDevitt, Secretary  
A. Preston Howard, Jr., P.E., Director



July 27, 1998

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Lucius Jones  
3131 Rabbit Skin Road  
Waynesville NC 28786

Subject: Special Agreement  
Certified Animal Waste Management Plan  
Greg Ferguson Dairy  
Facility Number: 44-55  
Haywood County

Dear Lucius Jones:

As per Senate Bill 1217, which was ratified on June 21, 1996, and your application for Special Agreement which was received on March 20, 1998, the Environmental Management Commission (EMC) hereby proposes to enter into a special agreement with Lucius Jones in order to allow additional time for Lucius Jones to obtain and implement a certified animal waste management plan (CAWMP) for the subject facility.

Please find enclosed the proposed Special Agreement. If you agree to abide by the dates and terms of the attached schedule, you must sign, date and return the enclosed documents to the attention of "Shannon Langley" at the letterhead address within fourteen (14) calendar days of your receipt of this letter.

If you have already implemented your CAWMP or do not wish to enter into the Special Agreement, please provide us with a response to Mr. Shannon Langley within fourteen (14) calendar days of your receipt of this letter.

Please be advised that nothing in this letter should be taken as removing from you the responsibility or liability for failure to comply with all terms and conditions of the North Carolina General Statutes 143-215.1 and the relevant rules promulgated thereunder. All dates and conditions of this agreement that are not met shall be subject to civil penalties, criminal penalties, injunctions and all other enforcement tools available to the Division of Water Quality.

EXHIBIT

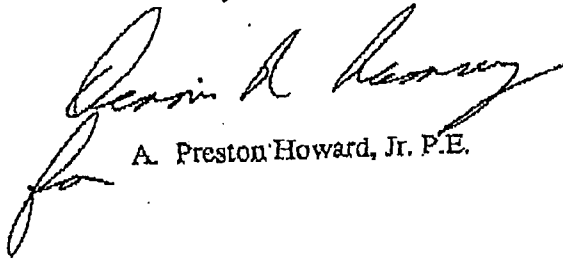
P.O. Box 29535, Raleigh, North Carolina 27626-0535  
An Equal Opportunity Affirmative Action Employer

Telephone 919-733-5083 Fax 919-715-6048  
50% recycled/10% post-consumer paper

Therefore, in order to avoid such enforcement actions, I urge you to read the Agreement carefully, make sure you understand your commitments under the Agreement, and contact Mr. Langley, if you do not understand or are confused about any condition of the agreement.

If you have any questions concerning this matter, please do not hesitate to contact Mr. Shannon Langley at (919) 733-5083 ext. 581 or Ms. Sonya Avant at (919) 733-5083 ext. 571.

Sincerely,



A. Preston Howard, Jr. P.E.

Attachment

cc: Facility File -- Non-Discharge Compliance/Enforcement Unit  
DWQ Regional Office  
Dewey Botts -- Division of Soil and Water  
Shannon Langley  
Central Files



NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

COUNTY OF HAYWOOD

IN THE MATTER OF

SPECIAL AGREEMENT FACILITY NUMBER: 44-55

LUCIUS JONES

Pursuant to provisions of North Carolina General Statutes (G.S.) 143-215.2(a) this Special Agreement is entered into by Lucius Jones, hereinafter referred to as "OWNER", and the North Carolina Environmental Management Commission, an agency of the State of North Carolina created by G.S. 143B-282, and hereinafter referred to as the Commission:

- 1. "OWNER" and the Commission hereby stipulate the following:
(a) "OWNER" has previously been deemed permitted in accordance with 15A NCAC 2H .0217 for the operation of an animal waste treatment works, but was unable to comply with 15A NCAC2H .0217 (a)(1)(E) requiring an approved animal waste management plan to be submitted by December 31, 1997.
(b) Failure to obtain and implement a Certified Animal Waste Management Plan in accordance with 15A NCAC 2H .0217(a)(1)(E) is a violation of State Water Quality Regulations and "OWNER" is within the jurisdiction of the Commission as set forth in G.S. Chapter 143, Article 21.
(c) "OWNER" desires to continue to operate the animal waste treatment works as a Non-Discharge system.
(d) "OWNER" has secured assistance from a certified technical specialist to develop an animal waste management system which, once certified, will meet or exceed all applicable guidelines and standards and will be able to comply with all aspects of the Commissions animal waste general permit.
(e) During the term of this Agreement there will be no increase in Steady State Live Weight (SSLW) at the facility. Any new construction will be designed to accommodate only the SSLW for which the facility was registered in accordance with 15A NCAC 2H .0217(a)(1)(D).
(f) Since this Special Agreement is by Consent, neither party will file a petition for a contested case or for judicial review concerning its terms.
(g) Nothing in this Special Agreement shall be taken as absolving or relieving "OWNER" from any responsibility or liability for discharges of animal waste to surface waters of the State of North Carolina.
2. "OWNER" desiring to comply with the Permit identified in paragraph 1(a) above, hereby agrees to do the following:
(a) Undertake all necessary activities in order to obtain and implement a certified animal waste management plan by December 31, 1999.

Farm Number: 44-55  
 Special Agreement  
 Page 2

- (b) "OWNER" shall comply with all terms and conditions of the North Carolina General Statutes 143-215.1 and the relevant rules promulgated thereunder except 15A NCAC 2H .0217(a)(1)(E).
- (c) No later than fourteen (14) calendar days after the date identified in 2(a) above, submit to the Director of DWQ written notice of compliance or noncompliance therewith. In the case of noncompliance, the notice shall include a statement of the reason(s) for noncompliance, remedial action(s) taken, and a statement identifying the extent to which subsequent dates or times for accomplishment of listed activities may be affected.

3. "OWNER" agrees that unless excused under paragraph four (4), "OWNER" will pay the Director of DWQ, by check payable to the North Carolina Department of Environment and Natural Resources, stipulated penalties according to the following schedule for failure to meet the deadline set out in paragraph 2(a) above.

Failure to obtain and fully implement a Certified Animal Waste Management Plan by the date identified in 2(a)

\$100.00 for the first seven days past the date identified in 2(a) above; \$500.00 for each additional day

4. "OWNER" and the Commission agree that stipulated penalties are not due if "OWNER" satisfies the Division of Water Quality that noncompliance was caused solely by:
- An act of God;
  - An act of war;
  - An intentional act or omission of a third party, but this defense shall not be available if the act or omission is that of an employee or agent of the defendant or if the act or omission occurs in connection with a contractual relationship with the "OWNER";
  - An extraordinary event beyond the "OWNER'S" control. Contractor delays or failure to obtain funding will not be considered as events beyond the "OWNER's" control; or
  - Any combination of the above causes.

Failure within thirty (30) days of receipt of written demand to pay the penalties, or challenge them by a contested case petition pursuant to G.S. 150B-23, will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. The only issue in such an action will be whether the thirty (30) days has elapsed.

5. This Special Agreement and any terms and conditions contained herein, hereby supersedes 15A NCAC 2H .0217(a)(1)(E).
6. Noncompliance with the terms of this Special Agreement are subject to enforcement action in addition to the above stipulated penalties, including injunctive relief pursuant to G.S. 143-215.6(C).

Farm Number: 44-55  
Special Agreement  
Page 3

- 7. The "OWNER", upon signature of this Special Agreement, will be expected to comply with all schedule dates, terms, and conditions of this document.
- 8. This Special Agreement shall expire upon owners submittal of a certified animal waste management plan.

For Greg Ferguson Dairy

WILLIAM LUCIUS JONES  
Print Name of Owner

Lucius Jones  
Signature of Owner

Date 8-20-98

For the North Carolina Environmental Management Commission:

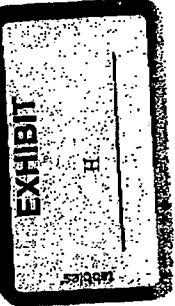
\_\_\_\_\_  
Chairman of the Commission

Date \_\_\_\_\_

NC DENR  
DSWC

NORTH CAROLINA  
AGRICULTURE COST SHARE PROGRAM  
CONSERVATION PLAN OF OPERATION (CPO)

NC-ACSP-11  
(12/98)



NAME: Greg Ferguson ADDRESS: P.O. Box 1976 Maggie Valley, NC 28751						AGREEMENT NUMBER 44-2000-21-05		
BMP ITEM NO.	TRACT/ FIELD NO.	PLANNED TREATMENT	EST. AMOUNTS (UNITS)	AVERAGE COST \$	COST SHARE %	ESTIMATED COST SHARE AND TIME SCHEDULE BY PROGRAM YEAR (INCLUDE OTHER COST SHARED FUNDING SOURCES) PY 2000 PY PY		
II	I	Feed Lot Roof Structure						
		roofing	10,000 sqft	\$6/sqft	75%	\$45,000		
III	I	Waste Water System						
		pipe (by invoice)	500'	\$8/ft	75%	\$3,000		
		manhole (by invoice)	2	\$800 ea	75%	\$1,200		
		boring under road	1	\$16,000	75%	\$12,000		
IV	I	Clean Water Protection System						
		storm water conduit	250'	\$24/ft	75%	\$4,500		
		fill dirt	600 cuyd	\$2/cuyd	75%	\$900		
		catch basin	2	\$600	75%	\$900		
V	I	Holding Area Roof Structure						
		roof (over existing lot)	4,600sqft	\$6/sqft	75%	\$20,700		

WAYNESVILLE AREA OFF

8284527031

04/23/2008 15:23

Technical Representative Lidia Smathers

Date 5/17/00

NORTH CAROLINA  
AGRICULTURE COST SHARE PROGRAM  
CONSERVATION PLAN OF OPERATION (CPO)

NC-ACSP-11  
(12/98)

NAME: Greg Ferguson ADDRESS: P.O. Box 1976 Maggie Valley, NC 28751						AGREEMENT NUMBER 44-2000-21-05		
BMP ITEM NO.	TRACT/ FIELD NO.	PLANNED TREATMENT	EST. AMOUNTS (UNITS)	AVERAGE COST \$	COST SHARE %	ESTIMATED COST SHARE AND TIME SCHEDULE BY PROGRAM YEAR (INCLUDE OTHER COST SHARED FUNDING SOURCES)		
						PY 2000	PY _____	PY _____
I	I	Dry Stack Facility						
		roof	5000sqft	\$600/sqft	75%	\$22,500		
		footing concrete	36 cuyd	\$250/cyd	75%	\$6,750		
		concrete for floor	40 cuyd	\$100/cyd	75%	\$3,000		
		concrete for wall	30 cuyd	\$250/cyd	75%	\$5,625		
		concrete for loading pad	15 cuyd	\$100/cyd	75%	\$1,125		
		reinforcing bar	6107 lbs	\$0.74/lb	75%	\$3,389		
		washed stone	15 tons	\$14.40/ft	75%	\$162		
		excavation	1,100yds		75%	\$1,650		
		push off ramp	1	\$2,000	75%	\$1,500		

WAYNESVILLE AREA OFF  
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04/28/2008 15:23

Technical Representative Leslie Matthews

Date 5/17/00

NORTH CAROLINA AGRICULTURE COST SHARE PROGRAM  
CONSERVATION PLAN OF OPERATION (CPO) SUMMARY

NC DENR  
SWC

NAME: Greg Ferguson ADDRESS: P.O. Box 1976 Maggie Valley, NC 28751			AGREEMENT NUMBER 44-2000-21-05	TOTAL ACRES AFFECTED 250	ANIMAL TYPE AND NUMBER 120 dairy		
TOTAL COST	ANNUAL COST BY PROGRAM YEAR		TOTAL SOIL LOSS REDUCTION* TONS/YR	TOTAL NUTRIENT LOSS REDUCTION*		TOTAL WASTE MANAGED	
	PY 2000	PY _____		PY _____	LBS/YR N	LBS/YR P	LBS/YR N
\$133,901.00	\$133,901.00						

Highest level of design approval: FIELD OFFICE  AREA OFFICE  STATE OFFICE  OTHER

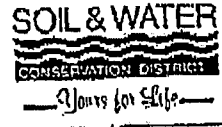
The Cooperator(s) has reviewed the agreement and CPO and agrees to apply the planned treatment according to the standards and specifications as approved by the Division of Soil and Water Conservation. Failure to carry out the un-numbered contract items (UN) does not constitute non-compliance with the contract. The Cooperator(s) agrees to maintain the stripcropping system for 5 years, long term no-till for 5 years, nutrient management plan for 3 years, sod-based rotation for a minimum \_\_\_\_\_ months in sod, and all other practices for 10 years, except conservation tillage, which is an annual practice. The Cooperator(s) also agrees to fully implement the Waste Management Plan (WMP) that is part of the CPO. CPO and payment contingent on approval by NPS Section, Division of Soil and Water Conservation, NC DENR. Funding for this CPO is contingent upon final annual allocation of State funds to the District. Installation may not begin prior to receiving approval from the Division.

Applicant: X Greg Ferguson  
 Landowner (if applicable): \_\_\_\_\_  
 Technical Representative: Heidi Smathers  
 Design Approval Authority: \_\_\_\_\_  
 (Can be submitted separately from 11A)  
 District Chair: Ken L. Lewis

Date: 5/17/00  
 Date: \_\_\_\_\_  
 Date: 5/17/00  
 Date: \_\_\_\_\_  
 Date: 18 May 00

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04/29/2008 15:23  
WAYNESVILLE AREA OFF

\*Or attach Resource Impact Summary. (Hansard/Sugg worksheet cannot be substituted.) of



Haywood Soil and Water Conservation District  
 589 Raccoon Road Suite 203 Waynesville, NC 28786  
 (828) 452-2741 (828) 452-5132 Ext. 3  
 (828) 452-7031 FAX

April 15, 2002

Mr. Greg Ferguson  
 3131 Rabbit Skin Road  
 Waynesville, NC 28786

Dear Greg:

At the Haywood Soil & Water District Board Meeting held on April 10, 2002, the Supervisors discussed your North Carolina Agriculture Cost Share Program contract. The funds were to be used to get the dairy you were operating certified for the .0200 program. However, since you are no longer operating the dairy at that location, the contract must be canceled and the funds returned to the North Carolina Cost Share program.

This letter is official notification that the contract has been canceled and the funds returned to the NC Cost Share program.

If you have any questions, or if we can be of further assistance, please do not hesitate to call.

Yours truly,

*Carlisle Ferguson*  
 Carlisle Ferguson, Chairman  
 Haywood Soil & Water Conservation District

cc: Gayna Woody  
 Lucius Jones

CF/gr



Original letter sent to Greg Ferguson on 4/17/02 via registered mail.

Copies sent to:

Lucius Jones  
60 Timothy Lane  
Waynesville, NC 28786

Gayna Woody  
P.O. Box 116  
Leicester, NC 28748



July 10, 2001

STATE OF NORTH CAROLINA

COUNTY/CITY OF Haywood

I, William M. Howell Notary Public for Haywood County, hereby certify that William Lucius Jones the declarant, appeared before me and swore to me and to the witnesses in my presence that this instrument is a last will and testament, and that he willingly and voluntarily made and executed it as his free act and deed for the purposes expressed in it.

I further certify that Greg Rydelek and Sarah Rydelek witnesses, appeared before me and swore that they witnessed William Lucius Jones declarant, sign the attached declaration, believing him to be of sound mind; and also swore that at the time they witnessed the signing they were not related within the third degree to the declarant, and they did not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon the declarant's death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it provided at that time and they did not have a claim against the declarant. I further certify that I am satisfied as to the genuineness and due execution of the instrument.

I, William Lucius Jones do hereby will said property, as listed below to Rufus Dennis Hall Rufus Dennis Hall

House, property and contents of said location-  
60 Timothy Lane  
Waynesville, North Carolina 28786

Debt for house and property  
located on Boyd Ave.  
Book 412, Page 2444  
Will be erased upon declarant  
death.

Acreage property of said location-  
Property on Dellwood Road  
Consisting of One and A half Acres.  
Waynesville, North Carolina

Annuity held through  
American General Annuity  
Agent: First Union Mortgage  
Contract # FD018250

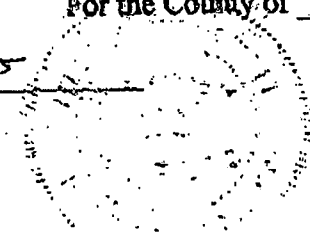
Greg Rydelek  
Witness

Sarah B. Rydelek  
Witness

This is the 10th day of July

William M. Howell  
Notary Public  
For the County of Haywood

My Commission expires 2-14-2005



# LAST WILL AND TESTAMENT

OF

WILLIAM LUCIUS JONES

I, WILLIAM LUCIUS JONES, a citizen of Haywood County, North Carolina, being of sound mind and disposing memory, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all former Wills, codicils and letters of testamentary import by me made.

## ITEM ONE

I desire and direct my Executor herein named and appointed, to pay from my probate estate all of the expenses of my last illness, funeral expenses, costs of administration, legal expenses, and other proper charges against my estate.

## ITEM TWO

I hereby give, devise, and bequeath all that real property located in Jonathan Creek Township to Dennis Hall subject to a lease to Greg Ferguson for and during his lifetime, to be leased in an amount to be determined in the discretion of Dennis Hall or fair market value whichever is less.

## ITEM THREE

I hereby give, devise and bequeath all of my estate and property, including all property of which I shall die seized and possessed, and all property to which I shall be otherwise entitled at the time of my decease, of whatsoever kind and nature and wheresoever situated, be it real, personal or mixed, to DENNIS HALL, as his sole and absolute property, per stirpes.

## ITEM FOUR

I hereby nominate and appoint DENNIS HALL, as Executor of this my Last Will and Testament. I direct that no bond or security of any kind be required of my said Executor, his substitutes or successors, the same being specifically waived hereby.

W L J

incorporated by reference and granted to my Executor his successors or substitutes, subject to the restrictions of General Statutes Sec. 32-26(b).

I, WILLIAM LUCIUS JONES, the Testator, sign my name to this instrument this 23 day of July, 2001, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign it for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

William Lucius Jones (SEAL)  
WILLIAM LUCIUS JONES, Testator

We, J.W. Kirkpatrick III and Linda Correal, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his Last Will in our presence and that he signs it willingly (or willingly directs another to sign it for him), and that each of us, at the request of the Testator, and in the presence and hearing of the Testator, and in the presence and hearing of each other, hereby signs this Last Will as witness to the Testator's signing, and to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

J.W. Kirkpatrick III of WAYNESVILLE, NC  
Linda Correal of Waynesville, NC

STATE OF NORTH CAROLINA, COUNTY OF HAYWOOD

Subscribed, sworn to and acknowledged before me by WILLIAM LUCIUS JONES, the Testator, and subscribed and sworn to before me by J.W. Kirkpatrick III and Linda Correal, witnesses, this 23 day of July, 2001.

My commission expires:  
8-11-04

Harlow Muel Cramer  
Notary Public

# Last Will and Testament

OF

WILLIAM LUCIUS JONES

I, WILLIAM LUCIUS JONES, a citizen of Haywood County, North Carolina, being of sound mind and disposing memory, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all former Wills, codicils and letters of testamentary import by me made.

## ITEM ONE

I desire and direct my Executor herein named and appointed, to pay from my probate estate all of the expenses of my last illness, funeral expenses, costs of administration, legal expenses, and other proper charges against my estate.

## ITEM TWO

I hereby give, devise and bequeath all of my estate and property, including all property of which I shall die seized and possessed, and all property to which I shall be otherwise entitled at the time of my decease, of whatsoever kind and nature and wheresoever situated, be it real, personal or mixed, to DENNIS HALL, as his sole and absolute property, per stirpes.

## ITEM THREE

I hereby nominate and appoint DENNIS HALL, as Executor of this my Last Will and Testament. I direct that no bond or security of any kind be required of my said Executor, his substitutes or successors, the same being specifically waived hereby.

## ITEM FOUR

The powers enumerated in North Carolina General Statutes Sec. 32-27 are hereby incorporated by reference and granted to my Executor his successors or substitutes, subject to the restrictions of General Statutes Sec. 32-26(b).

I, WILLIAM LUCIUS JONES, the Testator, sign my name to this instrument this 6 day of February, 2002, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willinolv direct another to sign it for me), that I execute it as my free and voluntary act for the

William Lucius Jones (SEAL)  
WILLIAM LUCIUS JONES, Testator

We, C. Anthony Sexton and Linda Correal, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his Last Will in our presence and that he signs it willingly (or willingly directs another to sign it for him), and that each of us, at the request of the Testator, and in the presence and hearing of the Testator, and in the presence and hearing of each other, hereby signs this Last Will as witness to the Testator's signing, and to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

C. Anthony Sexton of Clyde, N.C.  
Linda Correal of Waynesville, N.C.

STATE OF NORTH CAROLINA, COUNTY OF HAYWOOD

Subscribed, sworn to and acknowledged before me by WILLIAM LUCIUS JONES, the Testator, and subscribed and sworn to before me by C. Anthony Sexton and Linda Correal, witnesses, this 6 day of February, 2002.

My commission expires:  
8-11-02

Kathleen Muel (Carman)  
Notary Public

BK 0502 PG 0203

Haywood County--Register of Deeds

Ann R. Murray

Inst #553735

Book 502 Page 203

09/13/2001

09:24:48am

**HAYWOOD COUNTY  
NORTH CAROLINA**

**LEASE AGREEMENT**

**THIS LEASE** is made this the 5th day of September, 2001, between Gregory Todd Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" (the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.)

**IN CONSIDERATION** of the mutual covenants contained herein, the parties agree as follows:

1) **SUBJECT AND PURPOSE.** Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, Page 431 of the Haywood County Registry, to Tenant for Tenant's use as an operating farm.

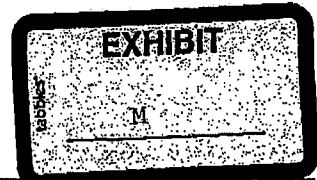
2) **TERM AND RENT.** Owner leases the above premises for a term of twelve (12) years, commencing June 15, 2001, and terminating on June 15, 2013 at 1:00 o'clock P.M. or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly installments of Nine Hundred Sixteen Dollars and Sixty Six Cents (\$916.66) in advance on the twentieth (20th) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to owner at 106 Timothy Lane, Waynesville, North Carolina 28786.

3) **ADDITIONAL RENT.** All taxes, charges, costs and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.

4) **ALTERATIONS, ADDITIONS AND IMPROVEMENTS.** Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural length, or lessen the value, of the building on the premises, or change the purposes for which the building, or any part thereof, may be used.

All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.

5) **REPAIRS.** Tenant shall at all times during the lease and at his own cost and



10) **INDEMNITY.** Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease; (2) any injury or damage happening on or about the leased premises; (3) failure to comply with any law of any governmental authority; or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.

9) **UNLAWFUL OR DANGEROUS ACTIVITY.** Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.

c) **OTHER INSURANCE.** Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.

b) **PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.** Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.

a) **FIRE INSURANCE.** Tenant shall keep all building, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.

8) **INSURANCE.** During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance.

7) **UTILITIES.** All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.

6) **TAXES.** Owner shall be responsible for all taxes on said property.

expense, repair, replace, and maintain in a good, safe and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

11) **DEFAULT OR BREACH.** Each of the following events shall constitute a default or breach of this lease by Tenant:

- (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant.
- (B) If Tenant shall fail to perform or comply with any of the conditions of this lease and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by Owner to Tenant or, if the performance cannot be reasonably had within the fifteen (15) day period, Tenant shall not in good faith have commenced performance with the fifteen (15) day period and shall not diligently proceed to completion of performance.
- (C) If Tenant shall vacate or abandon the leased premises.

12) **EFFECT OF DEFAULT.** In the event of any default hereunder, as set forth in Paragraph Eleven, the rights of Owner shall be as follows:

- (a) Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest of Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease and the right, title and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.
- (b) Owner may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term, or condition required hereby to be performed by Tenant, and Owner shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, by an expenditure for the correction by Owner shall not be deemed to waive or release the default of Tenant or the right of Owner to take any action as may be otherwise permissible hereunder in the case of any default.

13) **DESTRUCTION OF PREMISES.** In the event of a partial or total destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction shall neither null or void this lease.

14) **CONDEMNATION.** Rights and duties in the event of condemnation are as follows:

- a) If the whole or the leased premises shall be taken or condemned by any competent



authority for any public or quasi-public use or purpose, this lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.

- b) If only a portion of the leased premises shall be taken or condemned, this lease and the term hereof shall not cease or terminate.
- c) In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Tenant. Owner assigns to Tenant all his right, title and interest in any and all such awards.
- d) In the event of a partial taking, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the building on the leased premises to a self-contained architectural unit.

15) ACCESS TO PREMISES; SIGNS POSTED BY OWNER. Tenant shall permit Owner, or his agents, to enter the leased premises at all reasonable hours to inspect the premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this lease, and also to show the premises to prospective buyers.

16) EASEMENTS, AGREEMENTS, OR ENCUMBRANCES. The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the leased premises, and Owner shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17) QUITE ENJOYMENT. Owner warrants that Tenant shall be granted peaceable and quiet enjoyment of the leased premises free from any eviction or interference by Owner if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

18) LIABILITY OF OWNER. Tenant shall be in exclusive control and possession of the leased premises, and Owner shall not be liable for any injury or damages to any property or to any person on or about the leased premises nor for any injury or damage to any property of Tenant. The provisions herein permitting Owner to enter and inspect the leased premises are made to insure that Tenant is in compliance with the terms and conditions hereof and makes repairs that Tenant has failed to make. Owner shall not be liable to Tenant for any entry on the premises for inspection purposes.

19) REPRESENTATIONS BY OWNER. At the commencement of the term, Tenant shall accept the buildings and improvements and any equipment in their existing condition and state of repair, and Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Owner in respect thereto except as contained in the provisions of this lease, and Owner shall in no event be liable for any latent defects.

20) WAIVERS. The failure of Owner to insist on a strict performance of any of the

terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) **NOTICE.** All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
106 Timothy Lane  
Waynesville NC 28786

Tenant: Gregory Todd Ferguson  
Post Office Box 1976  
Maggie Valley, NC 28751

and also to be mailed to:

Gregory Todd Ferguson  
3131 Rabbit Skin Road  
Waynesville, NC 28785

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) **ASSIGNMENT, MORTGAGE, OR SUBLEASE.** Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) **SURRENDER OF POSSESSION.** Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

24) **REMEDIES OF OWNER.**

- a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) TOTAL AGREEMENT, APPLICABLE TO SUCCESSORS. This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently execute by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals this the 5 of Sept, 2001.

William Lucius Jones  
William Lucius Jones, Owner

Gregory Todd Ferguson  
Gregory Todd Ferguson, Tenant

Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001.

C. Colleen Williamson, Notary Public

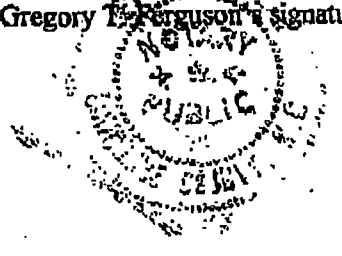
My Commission Expires: 09-21-2003



Subscribed before me this the 10 day of September, 2001

Scott Walker, Notary Public

My Commission Expires: 12-22-05  
(Notarizing Gregory T. Ferguson's signature)



GENERAL AGREEMENT Inst # 553735 Book 502 Page: 209

BE IT KNOWN, for value received, the undersigned William Lucius Jones of 106 Timothy Lane, Waynesville, North Carolina 28786 hereby unconditionally and irrevocably assigns and transfers full ownership upon my (William Lucius Jones) death unto Gregory Todd Ferguson for the purpose of a farm to be handed down to his child (at the time of signing one living child Colton Wyatt Ferguson) and to their heirs to remain farm property, not to be sold or mortgaged, etc. of 3131 Rabbit Skin Road, Waynesville, North Carolina 28786, (alternate mailing address Post Office Box 1976, Maggie Valley, NC 28751) all rights, titles and interest in and to the following: The real property described in the Lease Agreement between William Lucius Jones and Gregory Todd Ferguson executed the 5 day of ~~August~~<sup>Sept.</sup>, 2001 which is presently leased by Gregory Todd Ferguson until June 15, 2013 at 1:00 o'clock P.M. This property is located on Jonathan Creek Road, Waynesville, N.C. 28786.

The undersigned fully warrants that he, William Lucius Jones is the sole owner and has full rights and authority to enter into this agreement and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

This Agreement was entered while I, William Lucius Jones, was in my sound mind and body.

This Agreement shall be enforced under the laws of the State of North Carolina.

Executed this the 5 day of ~~August~~<sup>Sept.</sup>, 2001.

Owner: William Lucius Jones

X William Lucius Jones

Sworn to and subscribed before me this the 10 day of September, 2001

Notary Public Beth A. White  
My Commission Expires: 2-2-2005

Lessee: Gregory Todd Ferguson

Gregory J. Ferguson

Sworn to and subscribed before me this the 5th day of Sept., 2001.

Notary Public: C. Colleen Williamson My commission expires: 09-21-2003

NOTICE OF LEASE Inst # 553735 Book 502 Page: 210

The undersigned Lessor and Lessee do hereby provide public notice of the following lease entered into on the 5 day of August <sup>Sept</sup> 2001, by and between William Lucius Jones and Gregory Todd Ferguson.

1. Lessor: William Lucius Jones
2. Lessees: Gregory Todd Ferguson
3. Leased Premises: Refer to paragraph (1) in attached lease.
4. Term of Lease: Lease expires on June 15, 2013 at 1:00 o'clock P.M.
5. Options to renew and / or extend lease: William Lucius Jones, being of sound mind and body agrees to renew and/or extend said aforementioned lease at the end of the terms mentioned in item (4) upon conditions of the same term.
6. Option to Acquire Property: William Lucius Jones, being of sound mind and body agrees upon his death that the ownership of the property described in paragraph (3) above be transferred to Gregory Todd Ferguson for the purpose of a farm, not to be mortgaged, sold, etc. to remain in Gregory's family for said farm after Gregory Todd Ferguson's death (at the time of this signing one living child born to Gregory Todd Ferguson, Colton Wyatt Ferguson).

[Signature]  
Lessor, William Lucius Jones

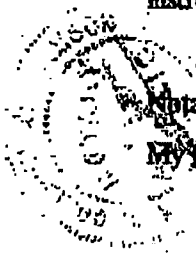
[Signature]  
Lessee, Gregory Todd Ferguson

State of North Carolina, County of Haywood

On, 09-05-01, before me, William Lucius Jones, and Gregory Todd Ferguson personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

Notary Public Signature: C. Colleen Williamson  
My Commission Expires: 09-21-2003

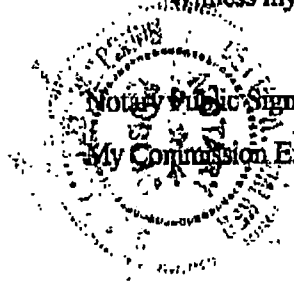


Notary Affidavit for Notice of Lease between Lucius Jones and Gregory Todd Ferguson

State of North Carolina, County of Haywood

On, 9/10/01, before me, Gregory Todd Ferguson, personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.



Notary Public Signature: Betty A. Walker

My Commission Expires: 2-22-05

State of North Carolina, Haywood County  
The Foregoing Certificate(s) of C COLLEEN WILLIAMSON, BETTY A WALKER

Is (are) Certified to be Correct.  
This instrument was filed for Registration on this 13th Day of September, 2001 in the Book and Page shown on the First Page hereof.

Register of Deeds  
By Colleen Williamson

File No. **TA CVM 198**

**STATE OF NORTH CAROLINA**  
Haywood County  
In The General Court Of Justice  
District Court Division-Small Claims

**COMPLAINT  
IN SUMMARY EJECTMENT**  
G.S. 7A-216, 7A-232; Ch. 42, Art. 3 and 7

1. The defendant is a resident of the county named above.  
2. The defendant entered into possession of premises described below as a lessee of plaintiff.

Name And Address Of Plaintiff  
*William Lucius Jones  
60 Timothy Lane  
Waynesville N.C 28786*

Description Of Premises (Include Location)  
*Farm - Tractor on Lucias Jones Dairy farm on Jonathan's Creek*  
Rate Of Rent  Month  Week Date Rent Due *12th each month* Date Lease Ended *6/12/01*  
\$ *850.00* per  Oral  Written  
 Conventional  
 Public Housing  
 Section 8

Social Security No./Taxpayer ID No.

3.  The defendant failed to pay the rent due on the above date and the plaintiff made demand for the rent and waited the 10-day grace period before filing the complaint.  
 The lease period ended on the above date and the defendant is holding over after the end of the lease period.  
 The defendant breached the condition of the lease described below for which re-entry is specified.  
 Criminal activity or other activity has occurred in violation of G.S. 42-63 as specified below.

County *Haywood* Telephone No.

**VERSUS**

Name And Address Of Defendant 1  
*Gregory Todd Ferguson  
Rt 4 Box 266  
Waynesville N.C. 28786*

Description Of Breach/Criminal Activity (give names, dates, places and illegal activity)

County *Haywood* Telephone No.

Name And Address Of Defendant 2

4. The plaintiff has demanded possession of the premises from the defendant, who has refused to surrender it, and the plaintiff is entitled to immediate possession.  
5. The defendant owes the plaintiff the following:

Description Of Any Property Damage

Amount Of Damage (If Known) Amount Of Rent Past Due Total Amount Due  
\$ \$ *7,650.00* \$

County Telephone No.

Name And Address Of Plaintiff's Attorney Or Agent

6. I demand to be put in possession of the premises and to recover the total amount listed above and daily rental until entry of judgment plus interest and reimbursement for court costs.

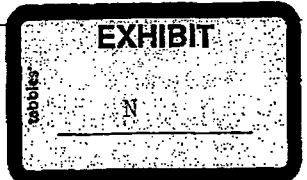
**FILED**  
**02 APR 5 AM 8:41**  
**HAYWOOD COUNTY C.S.C.**  
BY

Date *4-10-02* Signature Of Plaintiff/Attorney/Agent *Lucius Jones*

**CERTIFICATION WHEN COMPLAINT SIGNED BY AGENT OF PLAINTIFF**

I certify that I am an agent of the plaintiff and have actual knowledge of the facts alleged in this Complaint.

Date Signature



# Summary Ejectment

C 2002/266

STATE OF NORTH CAROLINA

Haywood County

RECEIVED

In The General Court Of Justice  
District Court Division-Small Claims

APR 01 2008

File No.

02 CVM 198

Plaintiff(s)  
William Decius Jones

## MAGISTRATE SUMMONS

ALIAS AND PLURIES SUMMONS

G.S. 7A-217, -232; 1A-1, Rule 4

VERSUS

Defendant(s)  
Gregory Todd Ferguson

Date Last Summons Issued

TO:

TO:

Name And Address Of Defendant 1

Gregory Todd Ferguson  
Rt 4 box 266  
Waynesville N.C. 28786

Name And Address Of Defendant 2

off J. Clerk

### A Small Claim Action Has Been Commenced Against You!

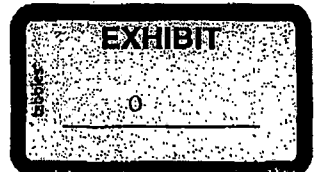
You are notified to appear before the magistrate at the specified date, time and location of trial listed below. You will have the opportunity at the trial to defend yourself against the claim stated in the attached complaint.

You may file a written answer, making defense to the claim, in the office of the Clerk of Superior Court at any time before the time set for trial. Whether or not you file an answer, the plaintiff must prove the claim before the magistrate.

If you fail to appear and defend against the proof offered, the magistrate may enter a judgment against you.

Date of Trial <u>April 2, 2008</u>	Time Of Trial <u>9:00</u>	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Location Of Court <u>Magistrates Courtroom</u>
Name And Address Of Plaintiff Or Plaintiff's Attorney			Date Issued <u>4-1-08</u>
			Signature <u>Risa Hornum</u>
			<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

BY \_\_\_\_\_  
FILED  
02 APR -2 PM 2:37  
HAYWOOD COUNTY C.S.C.





RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served

Name Of Defendant

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With)

Other manner of service; (specify).

Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served

Name Of Defendant

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With)

Other manner of service; (specify).

Defendant WAS NOT served for the following reason:

FOR USE IN SUMMARY EJECTMENT CASES ONLY

Service was made by mailing by first class mail a copy of the summons and complaint to the defendant(s) and by posting a copy of the summons and complaint at the following premises.

Date Served

4-1-02

Name(s) Of The Defendant(s) Served By Posting

Gregory Todd Ferguson

Address Of Premises Where Posted

Rt 4 Box 246 Waynesville NC

Service Fee

\$

5.00

Date Received

Name Of Sheriff

R. E. Alexander

By

P

Date Of Return

4-1-02

County

Waynes

Deputy Sheriff Making Return

*[Signature]*

File No. 02 CVM 198

Film No. 2002-7-60

Judgment Docket Book And Page No.

STATE OF NORTH CAROLINA

Haywood County

In The General Court Of Justice District Court Division-Small Claims

This action was tried before the undersigned on the cause stated in the complaint. The record shows that the defendant was given proper notice of the nature of the action and the date, time and location of trial.

JUDGMENT IN ACTION FOR SUMMARY EJECTMENT G.S. 7A-210(2), 7A-224; 42-30

Name And Address Of Plaintiff William Lucius Jones 60 Timothy Lane Waynesville, N.C. 28786

Social Security No./Taxpayer ID No.

County Haywood Telephone No.

VERSUS

Name And Address Of Defendant 1 Gregory Todd Ferguson Rt. 4, Box 266 Waynesville, N.C. 28786

County Haywood Telephone No.

Name And Address Of Defendant 2

County Telephone No.

Name And Address Of Plaintiff's Attorney

FINDINGS

- The Court finds that: 1. [X] a. the plaintiff has proved the case by the greater weight of the evidence. [ ] b. the plaintiff has failed to prove the case by the greater weight of the evidence. 2. the defendant(s) [ ] was [X] was not present at trial. (Posted 4/1/02) 3. [X] a. there is no dispute as to the amount of rent in arrears, and the amount is \$ 7,650.00. [ ] b. there is an actual dispute as to the amount of rent in arrears. The defendant(s) claims the amount of rent in arrears is \$ \_\_\_\_\_, and this amount is the undisputed amount of rent in arrears. 4. Other:

ORDER

- It is ORDERED that: [X] 1. the defendant(s) be removed from and the plaintiff be put in possession of the premises described in the complaint. [ ] 2. this action be dismissed with prejudice. [ ] 3. this action be dismissed with prejudice because the defendant tendered the rent due and the court costs of this action. [ ] 4. the plaintiff recover rent of the defendant(s) at the rate listed below, plus damages in the amount indicated. The plaintiff is also entitled to interest on the total principal sum from this date until the judgment is paid. [ ] 5. Other: (specify) [X] 6. Costs of this action are taxed to the [ ] plaintiff. [X] defendant.

Rate Of Rent \$ per [ ] Mo. [ ] Wk. Amt. Of Rent In Arrears (Owed To Date) \$ [X] Judgment Announced And Signed In Open Court

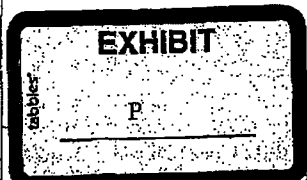
Amount Of Other Damages \$ Date 4/12/02 Signature Of Magistrate

TOTAL AMOUNT \$ Name Of Party Announcing Appeal In Open Court

CERTIFICATION

(NOTE: To be used when magistrate does not announce and sign this Judgment in open court at the conclusion of the trial.) I certify that this Judgment has been served on each party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date Signature Of Magistrate



HAYWOOD COUNTY, N.C. APR 12 AM 11:00 FILED

STATE OF NORTH CAROLINA

File No. 02 JVM 198

Film No.

Haywood County

FILED

In The General Court Of Justice

Name And Address Of Plaintiff  
William Lucius Jones  
Leo Timothy Lerie  
Waynesville N.C. 28786

02 APR 23 AM 10:50

HAYWOOD COUNTY N.C.

WRIT OF POSSESSION  
REAL PROPERTY

G.S. 1-313(4); 42-36.2

VERSUS

BY

Name And Address Of Defendant 1  
Gregory Judd Ferguson  
Rt 4 Box 266  
Waynesville N.C. 28786

Name And Address Of Defendant 2

To The Sheriff Haywood County:

A judgment in favor of the plaintiff was rendered in this case for the possession of the real property described below; and you are commanded to remove the defendant(s) from, and put the plaintiff in possession of those premises.

Description Of Property (include location)

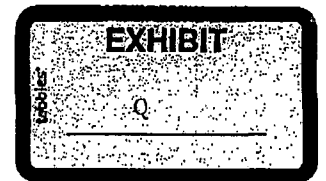
Lucius Jones Dairy Farm on Jonathan Creek.  
1 unit House vacated, Trailers removed from property,  
and any farm equipment owned by Gregory Judd Ferguson

Date Of Judgment  
4-12-02

Date Writ Issued  
4-23-02

Signature  
Carolyn S. Osborne

Deputy CSC  Assistant CSC  Clerk Of Superior Court



HAYWOOD COUNTY SHERIFF'S OFFICE

R. Tom Alexander  
Sheriff

File # 02 CVM 198

NOTICE

To: Gregory Todd Ferguson  
Rt. 4 Box 266  
Waynesville, NC 28786

The Haywood County Sheriff's Office has received a Writ of Possession from the Court that requires us to take possession of the property listed on the attached copy.

         Please call or come by the Sheriff's Office within the next week so that we can make arrangements to take possession of this property with a minimum of inconvenience to you.

EVICTON NOTICE

  ✓   You should move from the premises immediately. If you have not removed yourself and all your property by April 30, 2002

at 1:30, a deputy from this office will come at approximately that time and remove you and all your property from the premises or lock the premises. Any questions may be directed to the deputy handling this writ at 452-6666.

\*\*\*\*\*You must request the landlord to return any of your property left on the premises within 10 days after this office carries out the writ. If you fail to request possession of your property within 10 days, the landlord may throw away, dispose of or sell the property.

Date Notice Given: April 23, 2002

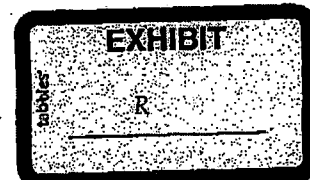
R. T. Alexander

Sheriff, Haywood County

Deputy: Lt. Bob Suttles

or

Sgt. Tim Nelson



4-29-02

To be known that this is a legal & binding agreement between Dennis Hall & Lucius Jones to lease the farm & house on Jonathan Creek across the mountain to Wellwood at \$1000.<sup>00</sup> a month (as is) for ten years beginning 5-1-2002 - 2012 with the understanding the lease can be renewed.

X Lucius Jones

X Dennis Hall

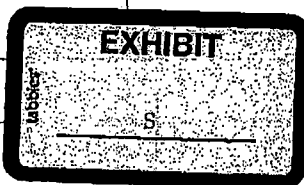
THE ABOVE PERSONS KNOWN TO ME PERSONALLY APPEARED BEFORE ME AND SIGNED THIS DOCUMENT THIS 29TH DAY OF APRIL 2002. I GRADY LEATHERWOOD A NOTARY PUBLIC OF HAYWOOD COUNTY N.C. MY COMMISSION EXPIRES 1-20-2007

Grady Leatherwood

Notary Public

My Commission Expires

1-20-2007



STATE OF NORTH CAROLINA

File No.

03 SP 120

HAYWOOD

County

FILED

In the General Court of Justice  
Superior Court Division  
Before The Clerk

IN THE MATTER OF:

2003 MAY - 8 PM 4:44

PETITION FOR ADJUDICATION  
OF INCOMPETENCE AND  
APPLICATION FOR  
APPOINTMENT OF GUARDIAN

Name And Address Of Respondent

WILLIAM LUCIUS JONES  
60 Timothy Lane  
Waynesville, NC, 28786

HAYWOOD COUNTY, C.S.C.

BY

AND INTERIM GUARDIAN

County Of Residence Of Respondent

Haywood

Age

63

G.S. 35A-1105, 35A-1114, 35A-1210

Name And Address Of Petitioner

Neel Jones  
81 Jones  
Waynesville, NC, 28786

Name And Address Of Attorney For Petitioner

Wm. I. Millar  
144 Montgomery St., Waynesville, NC 28786

County Of Residence Of Petitioner

Haywood

Telephone No.  
456-9582

Telephone No.  
456-7353

Petitioner's Relationship To Respondent Or Interest In Proceeding

1st Cousin

Respondent Indigent

Jury Trial Requested

Name And Address Of Treatment Facility If Respondent Is An Inpatient In This County

Haywood Regional Medical Center, 262 Leroy George Dr., Clyde, NC 28721

The undersigned, being duly sworn, requests that the Court, after notice and hearing, adjudicate the respondent named above to be incompetent, and also applies for the appointment of the person(s) named below to serve, in the capacity indicated, as guardian(s) of the respondent.

In support of this Petition, the undersigned states:

1. The respondent is  a resident of this county  domiciled in this county  an inpatient in the facility named above or  present in this county, it being impossible to determine his county of residence or domicile.
2. The respondent is incompetent in that:
  - he lacks sufficient capacity to manage his own affairs or to make or communicate important decisions concerning his person, family or property, as shown by the following facts: (Set forth the facts which tend to show that the respondent is incompetent. Include cause of incompetence, which may be mental illness, mental retardation, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or other cause, and give facts demonstrating lack of capacity. Be specific.)

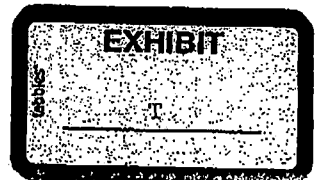
Cerebral Hemorrhage leaving Respondent confused, unable to sit up or walk.  
Confused speech.

he was adjudicated incompetent in another state in the proceeding identified below:  
(NOTE: Attach certified copy of order to this Petition.)

Date Of Adjudication

State And County

File Or Other ID No.



3. The respondent's next of kin, if any, and other persons known to have an interest in this proceeding are:

<b>Name And Address</b> Billy Jones 203 Dayton Dr. Waynesville, NC 28786		<b>Name And Address</b> Evelyn Jones Ketner 45 Crowfield Rd. Maggie Valley, NC 28751	
<b>County Of Residence</b> Haywood	<b>Telephone No.</b> 926-1778	<b>County Of Residence</b> Haywood	<b>Telephone No.</b> 926-1560
<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin		<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin	
<b>Name And Address</b> Margaret Jones Stamey 70 Stamey Rd. Candler, NC 28715		<b>Name And Address</b> Shirley Jones Myers Oak Park Dr. Clyde, NC 28721	
<b>County Of Residence</b> Buncombe		<b>County Of Residence</b> Haywood	
<b>Telephone No.</b> 667-3809		<b>Telephone No.</b> 627-1360	
<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin		<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin	

4. General statement of respondent's assets and liabilities, including any income and receivables to which he is entitled:

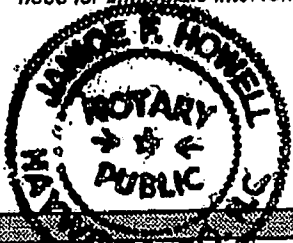
Assets	Liabilities	Income And Receivables
House and Real Property 200+ acre \$223,293	Mortgage Loans \$none	Wages And Salaries \$unk
Tangible Personal Property \$unk	Other Secured Loans \$unk	Rents \$
Other Personal Property \$unk	Unsecured Loans \$unk	Pensions \$
		Allowances \$
		Insurance And Compensation \$
		Other \$

5. The applicant recommends that the guardian(s) be:

<b>Name And Address Of Proposed Guardian</b> Ned Jones 81 Jones Dr. Waynesville, NC 28786	<b>Name And Address Of Proposed Guardian</b> _____
<input type="checkbox"/> Of The Estate <input type="checkbox"/> Of The Person <input checked="" type="checkbox"/> General Guardian	<input type="checkbox"/> Of The Estate <input type="checkbox"/> Of The Person <input type="checkbox"/> General Guardian

**MOTION FOR APPOINTMENT OF INTERIM GUARDIAN**

The petitioner also moves that the Court appoint an interim guardian because there is reasonable cause, as shown by the following facts, to believe that the respondent is incompetent, and needs an interim guardian to intervene on his behalf prior to the adjudication hearing in that:  he is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well being and requires immediate intervention.  there is or reasonably appears to be an imminent or foreseeable risk of harm to his estate that requires immediate intervention in order to protect the respondent's interest. (Set forth facts, in addition to those above, which demonstrate need for immediate intervention. Be specific.)



**VERIFICATION**

I, the undersigned petitioner, have read this Petition and state that its contents are true to my own knowledge except those matters stated on information and belief, which I believe are true.

<b>SWORN AND SUBSCRIBED TO BEFORE ME</b>		<b>Date</b> 5/8/03
<b>Date</b> 5/8/03	<b>Signature Of Person Authorized To Administer Oath</b> <i>James F. Howell</i>	<b>Signature Of Petitioner</b> <i>Ned Jones</i>
<b>Title</b> Notary Public	<b>Date Commission Expires</b> 2/2/08	<b>Name Of Petitioner (Type Or Print)</b> _____

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT, DIVISION  
BEFORE THE CLERK  
FILE: 03 SP 120 COUNTY, C.S.C.

BY     LW    

IN THE MATTER OF:            )  
  )  
WILLIAM LUCIUS JONES        )

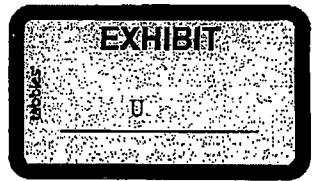
APPLICATION FOR APPOINTMENT  
OF GUARDIAN

NOW COMES the undersigned and shows unto the Court the following:

1. That a Notice of Hearing on Incompetence is scheduled for June 2, 2003.
2. That the undersigned Petitioner hereby requests if and in the event that the Court should determine by clear, cogent and convincing evidence that the Respondent William Lucius Jones is incompetent, then the Petitioner requests that the Petitioner, Dennis R. Hall, be appointed as Guardian of the Respondent Jones and shows in support thereof:
  - (a) That he has known Respondent Jones for 27 years.
  - (b) That he has helped to care for Respondent Jones for the last several years.
  - (c) That he is a close personal friend of Respondent Jones.
  - (d) That he is the named beneficiary of his Last Will and Testament.
  - (e) That he has the ability and wherewithal to keep the Respondent Jones in a safe and secure environment, to-wit, his home located off Sulphur Springs Road in Waynesville, and can provide the necessary care and support to manage the health and safety of the Respondent William Lucius Jones, and is an otherwise fit and proper person as defined by law to serve as guardian.
  - (f) That the Petitioner is over 18 years of age and of good character.

WHEREFORE, having fully prayed, the Petitioner seeks:

1. That if and in the event that the Court shall determine by clear, cogent and convincing evidence that William Lucius Jones is incapable of managing his own affairs, that the Court appoint Dennis R. Hall as the Guardian of the person and property of the Respondent Jones.





2. For such other and further relief as the Court may deem just and proper.

This the 4<sup>th</sup> day of May, 2003.

McLEAN LAW FIRM, P.A.

---

Russell L. McLean III  
Attorney for Petitioner  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

DENNIS R. HALL, being first duly sworn, upon his oath, deposes and says:  
That he is the Petitioner in the foregoing action and as such has read or heard read the foregoing Application for Appointment of Guardian Ad Litem; that the same is true of his own knowledge except as to matters and things therein stated upon information and belief, and as to those matters he believes it to be true.

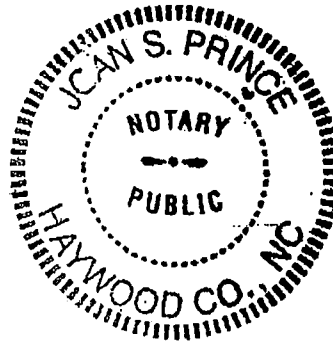
Dennis R. Hall  
DENNIS R. HALL

SWORN TO and SUBSCRIBED  
before me this 14<sup>th</sup> day of May, 2003.

Jean S. Prince  
Notary Public

My commission expires:

7-9-7



**CERTIFICATE OF SERVICE**

This is to certify that I have this day served:

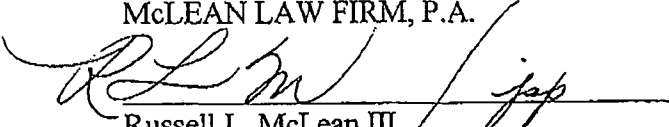
William I. Millar, Esq.  
Attorney for Petitioner Ned Jones  
144 Montgomery Street  
Waynesville, North Carolina 28786

T. Michael Jordan  
Attorney for Guardian Ad Litem  
154 North Main Street  
Waynesville, North Carolina 28786

with a copy of Application for the Appointment of Guardian by depositing same in the United States mail with adequate postage thereon.

This 7<sup>th</sup> day of May, 2003.

McLEAN LAW FIRM, P.A.

  
Russell L. McLean III  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896

STATE OF NORTH CAROLINA

File No.

03-SP 120

HAYWOOD County

FILED

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

IN THE MATTER OF:

Name Of Respondent(s)

2003 MAY 16 AM 10:02

ORDER ON MOTION FOR  
APPOINTMENT OF  
INTERIM GUARDIAN

WILLIAM LUCIUS JONES

HAYWOOD COUNTY, NC

BY

G.S. 35A-1114

A hearing on the petitioner's Motion for the Appointment of an Interim Guardian was held before me on this day. From the evidence presented at the hearing, the Court makes the following specific findings of fact:  
*(Set forth facts which support conclusion that grounds for immediate intervention exist.)*  
That Respondent is unable to care for himself due to a stroke. That this Court is advised that he no longer needs acute hospital care and is ready for immediate transfer to a long term healthcare facility.

- 1. Based on these specific findings of fact, the Court concludes that there is reasonable cause to believe that the respondent is incompetent, and that:
  - a. the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to the respondent's physical well-being, and there is immediate need for a guardian to provide consent or take other steps to protect the respondent.
  - b. there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate, and immediate intervention is required in order to protect the respondent's interest.
- 2. The Court does not find that grounds exist for the appointment of an interim guardian.

It is ORDERED that:

- 1. the person named below is appointed interim guardian of the  person  estate for the respondent. Upon qualifying, the interim guardian shall have the powers and duties specifically set forth below. These powers and duties shall extend only so long as is necessary to meet the condition necessitating this appointment. In any event, this interim guardianship shall terminate on the earliest of the following: the expiration date specified below, if any; 45 days from the date of this Order; when any guardian is appointed following an adjudication of incompetence; or when the petition in this case is dismissed by the Court.
- 2. the motion for the appointment of an interim guardian is denied.

Name And Address Of Interim Guardian

Dennis Hall  
1326 Jonathan Creek Road, Waynesville, NC 28786

Relationship To Respondent

NONE

Telephone No.

(828) 506-4079

Powers And Duties Of Interim Guardian

Admit Respondent to a long-term healthcare facility as arranged by Haywood Regional Medical Center personnel in discretion of the attending physician.

Date Of Order

05-16-2003

Signature

Assistant CSC

Clerk Of Superior Court

Expiration Date

06-02-2003

EXHIBIT

STATE OF NORTH CAROLINA

File No.

03--E-219

HAYWOOD County

In The General Court Of Justice  
Superior Court Division  
Before the Clerk

IN THE MATTER OF THE ESTATE OF:

Name Of Ward

WILLIAM LUCIUS JONES

LETTERS OF APPOINTMENT  
GUARDIAN OF THE ESTATE

Incompetent Person

Minor

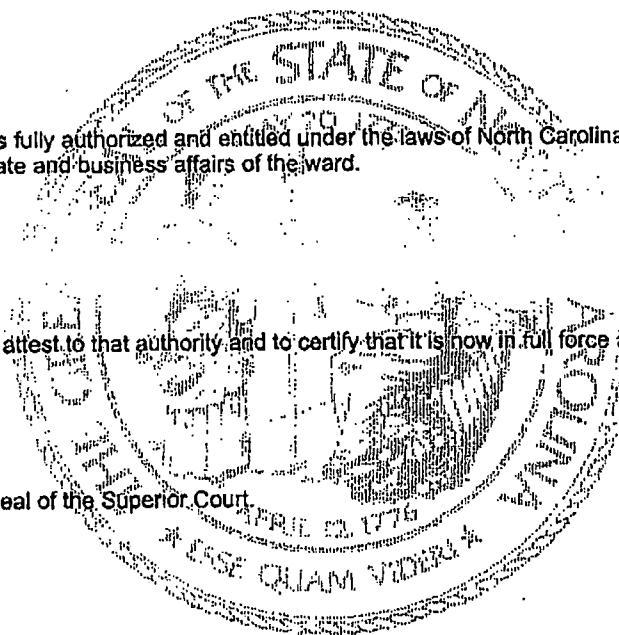
G.S. 35A-1203, -1206, -1251; 34-2.1

The Court in the exercise of its jurisdiction for the appointment of guardians of incompetent persons and minors, and upon proper application, has appointed the person named below as Guardian of the Estate of the ward named above and has ordered that these Letters Of Appointment be issued.

The guardian of the estate is fully authorized and entitled under the laws of North Carolina to receive, manage and administer the property, estate and business affairs of the ward.

These Letters are issued to attest to that authority and to certify that it is now in full force and effect.

Witness my hand and the Seal of the Superior Court



Name And Address Of Guardian Of The Estate

SAM M UNDERWOOD, CPA  
154 N MAIN  
WAYNESVILLE, NC 28786

Date Of Qualification

06-24-2003

Clerk Of Superior Court

JUNE L. RAY

EX OFFICIO JUDGE OF PROBATE

Date Of Issuance

05-10-2006

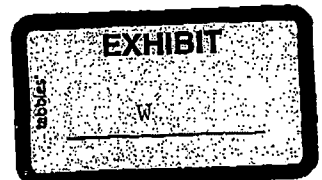
Signature

Jammi G. Lowe

Deputy CSC

Assistant CSC

SEAL



STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
BEFORE THE CLERK

2007 MAY -1 P 3: 39 FILE NO. 03-SP-285

07 SP 135

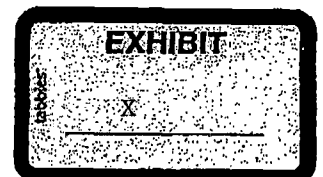
HAYWOOD COUNTY, C.S.C.  
IN THE MATTER OF THE ESTATE  
OF WILLIAM LUCIUS JONES,  
INCOMPETENT BY \_\_\_\_\_

**PETITION BY GUARDIAN OF THE  
ESTATE TO SELL REAL PROPERTY  
BELONGING TO THE WARD**

Now comes Sam M. Underwood, the duly appointed and acting Guardian of the Estate of William Lucius Jones, and respectfully shows the Court:

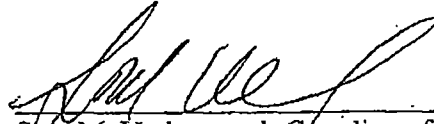
1. That the cash assets of the Estate as reported by your Guardian of the Estate have been substantially depleted by the payment of hospital and medical bills for services rendered to his Ward, and only \$13,592.50 remains on hand;
2. That approximately \$3,000 - \$3,500 is required each month to pay nursing care for his Ward;
3. That other bills accrue, including ad valorem taxes, other medical bills, legal fees, and court costs;
4. That his Ward's monthly income from all sources is \$1,133.10;
5. That based upon the foregoing the cash assets will be exhausted in about 4 months, at which time his Ward is likely to become a charge upon the County's welfare roll;
6. That his Ward owns a parcel of real property in Haywood County, namely, 207.2 acres of farmland, pastureland, and mountain land (PIN 8607-42-9859) stretching from Jonathan Creek Valley over a mountain to Dellwood Road which has a tax valuation of \$731,190; the Jonathan Creek property is desirable and highly marketable, particularly those acres adjacent to the farm of Dick Medford; that none of this property is being effectively utilized to produce income.

WHEREFORE, your Guardian of the Estate petitions the Court to find that a sale of 22.091 acres (legal description and plat attached) of the Ward's property on Jonathan Creek, Waynesville, NC (portion of PIN 8607-42-9859) by the Guardian of the Estate is in the best interests of the Ward and that the Court order a sale of said Jonathan Creek property at public or private sale upon such terms as may be most advantageous to his



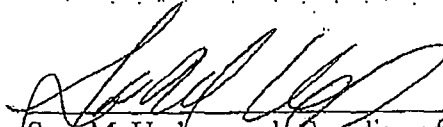
Ward, such sale to be conducted as provided by Article 29A of Chapter 1 of the General Statutes.

This the 1st day of May, 2007.

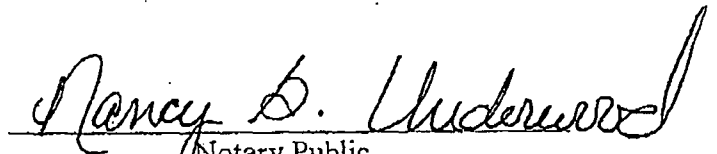
  
\_\_\_\_\_  
Sam M. Underwood, Guardian of the Estate  
of William Lucius Jones, Incompetent

NORTH CAROLINA  
HAYWOOD COUNTY

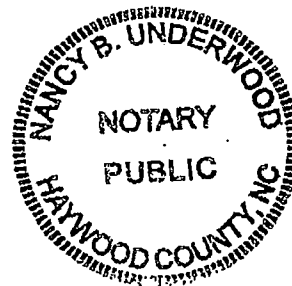
Sam M. Underwood, being first duly sworn, deposes and say that he is the duly appointed and acting Guardian of the Estate of William Lucius Jones, Incompetent; that he has read the foregoing Petition by Guardian of the Estate to Sell Real Property Belonging to the Ward; that the contents thereof are true of his own knowledge, except as to matters stated on information and belief, and as to those matters he believes them to be true.

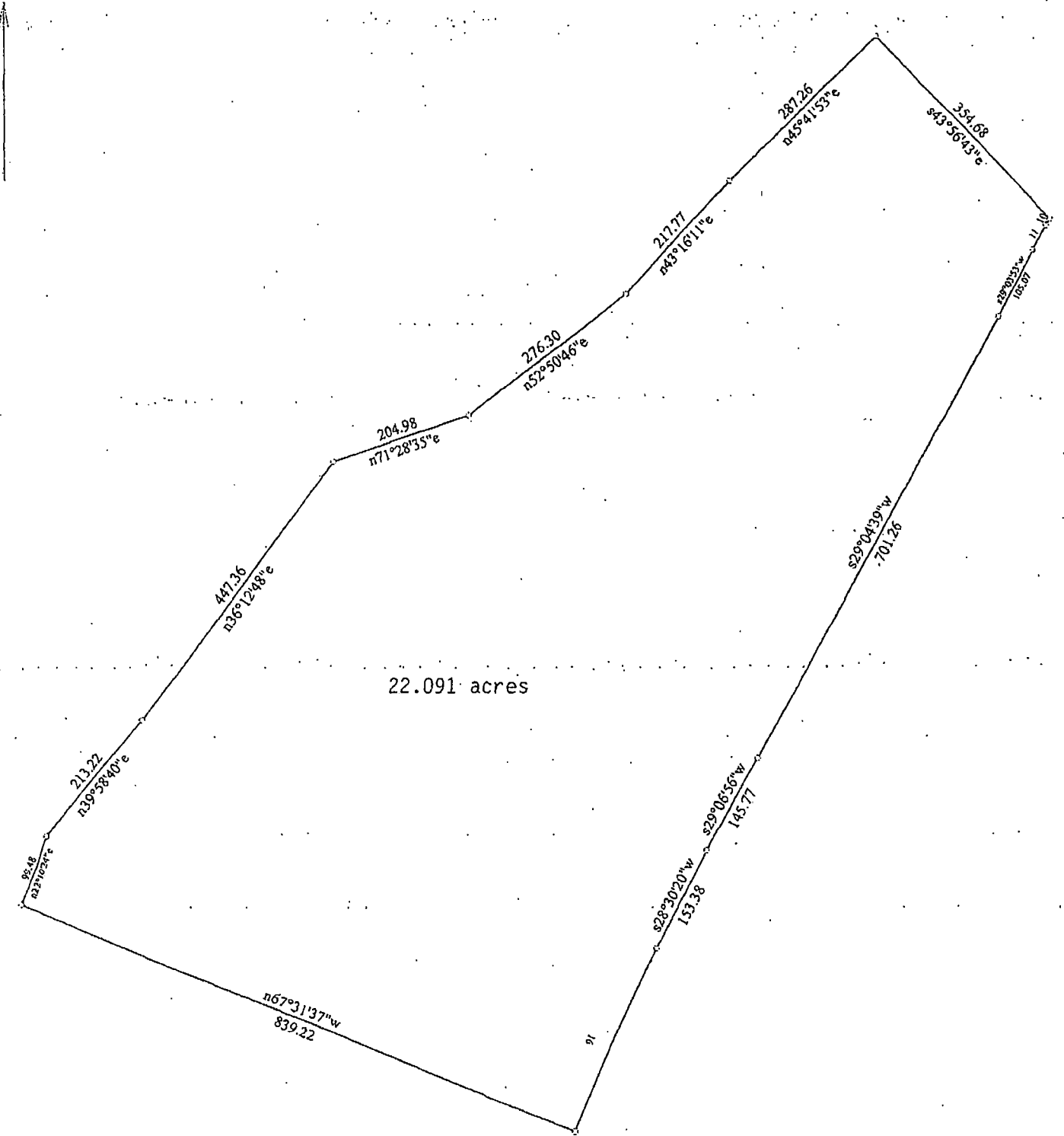
  
\_\_\_\_\_  
Sam M. Underwood, Guardian of the Estate  
of William Lucius Jones, Incompetent

Sworn to and subscribed before me, this 1 day of May, 2007.

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

My Commission Expires: 5-23-2011





Title: Lucius Jones J Creek		Date: 05-01-2007
Scale: 1 inch = 200 feet	File: Lucius Jones J Creek.des	



WILLIAM LUCIUS JONES property on Jonathan Creek Road

## EXHIBIT "A"

BEGINNING at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southerly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Potts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Potts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Potts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument; (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the BEGINNING, containing 22.091 acres, per survey and plat of L. Kevin Ensley, PLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

SUBJECT TO the aforesaid USDOT Drainage Easement and the easement for Potts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2007 MAY -1 P 3: 39

BEFORE THE CLERK

FILE NO. ~~03-SP-285~~

07 SP 135

HAYWOOD COUNTY, C.S.C.

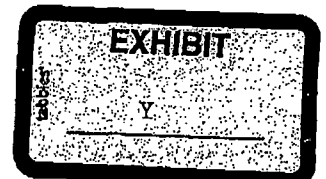
IN THE MATTER OF THE ESTATE  
OF WILLIAM LUCIUS JONES,  
INCOMPETENT

**ORDER ALLOWING SALE OF LAND  
BY GUARDIAN OF THE ESTATE**

This matter coming on to be heard and being heard before the Clerk upon the Petition of the Guardian of the Estate to sell real property belonging to the Ward, the Clerk, upon satisfactory proof, makes the following

**FINDINGS OF FACT**

1. The Ward's personal estate has been substantially consumed by nursing, hospital and medical bills to the point where only \$13, 592.50 remains;
2. Taxes, other medical bills, legal and court expense will require approximately \$5 - 10,000.00 additionally;
3. Continuing nursing care runs \$3,000 -3,500 per month;
4. The Ward's monthly income is \$1,133.10;
5. That the Ward owns a parcel of real property in Haywood County, namely 207.2 acres of farmland, pastureland, and mountain land (PIN 8607-42-9859) stretching from Jonathan Creek Valley over a mountain to Dellwood Road which has a tax valuation of \$731, 190; the Jonathan Creek property is desirable and highly marketable, particularly those acres adjacent to the farm of Dick Medford; that none of this property is being effectively utilized to produce income.
6. The Ward's estate will be exhausted in about four months and the Ward will become a charge upon the welfare roll of Haywood County unless some of the Ward's real property is sold.

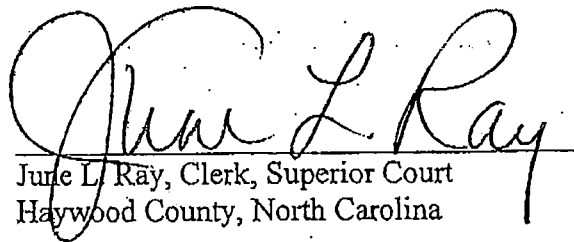


Based upon the foregoing Findings of Fact, the Clerk enters the following.

**ORDER OF SALE**

A. That the Guardian of the Estate sell at public auction or private sale the Jonathan Creek property, more particularly described in Exhibit "A" attached hereto, to provide funds for the care and maintenance of his Ward; that if sold as a public sale such sale shall be held as a public auction, and conducted as provided by Article 29A of Chapter 1 of the General Statutes.

This the 1 day of May, 2007

  
June L. Ray, Clerk, Superior Court  
Haywood County, North Carolina

STATE OF NORTH CAROLINA

File No. 07 SP 135

2007 AUG 14 P 5: 16 In the General Court of Justice

HAYWOOD COUNTY

HAYWOOD COUNTY, C.S.C.

In the matter of the Estate of William Lucious Jones, incompetent

BY JLR ORDER OF CONFIRMATION OF SALE

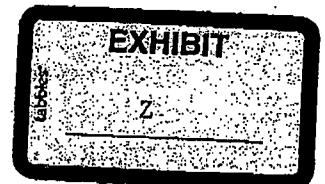
This matter coming on upon the Petition of the Guardian of the Estate of William Lucious Jones to sell real property of the Ward to provide funds for his care and upkeep; and upon the Order of the Clerk of Superior Court of Haywood County permitting such sale, and after due advertisement of the sale, a public auction was held on the premises on June 2, 2007 at which time and place the advertised parcel of land containing 22.091 acres lying along Jonathan Creek was sold to the highest bidder as set forth in the Report of Sale dated June 4, 2007, as filed herein; that thereafter several upset bids were filed with the Clerk of Court; that the last and highest upset bid is that of Haywood County, a body politic, in the amount of \$1,114,921.50; that said bid of Haywood County lay open for 10 days without additional upset bid and thus is the Final Bid.

NOW THEREFORE, pursuant to North Carolina General Statute 1-339.28, said Clerk of Superior Court finds that the sale is in the best interests of the Incompetent and does hereby CONFIRM said sale to Haywood County;

AND WHEREAS this matter has been reviewed by the Resident Superior Court Judge, who finds that the sale is in the best interests of the Incompetent and does hereby CONFIRM said sale to Haywood County.

June L. Ray  
June L. Ray, Clerk Superior Court  
Haywood County, North Carolina  
Date: August 14, 2007

J. Marlene Hyatt  
J. Marlene Hyatt, Senior Resident Superior  
Court Judge for Judicial District 30B  
Date: August 14, 2007



TRANSFER MADE ON RECORD

Date 8-31-07

By SOB  
8607-42-9859



**2007666051**  
HAYWOOD CO, NC FEE \$23.00  
STATE OF NC REAL ESTATE EXTX  
\$2230.00

RECORDED & RECORDED:  
08-31-2007 11:37:27 AM  
AMY R. MURRAY  
REGISTER OF DEEDS  
BY AMY MURRAY  
REGISTER OF DEEDS

BK: RB 715  
PG: 657-660

**HAYWOOD COUNTY TAX CERTIFICATION**

There are no delinquent taxes due that are a lien against parcel number(s) 8607-42-9859

David B. Francis, Haywood County Tax Collector

Date: 8/31/07 By: [Signature]

Excise Tax \$2,230.00

Tax Lot No. 8607-42-9859 Parcel Identifier No. \_\_\_\_\_  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to Leon M. Killian, P.O. Box 30518, Raleigh, NC 27622-0519

This instrument was prepared by William I. Miller

Brief Description for the index 22.091 acres Jonathan Creek

**NORTH CAROLINA NON-WARRANTY DEED**

THIS DEED made August 30, 2007, by and between \_\_\_\_\_

**GRANTOR**

WILLIAM LUCIUS JONES, by and through  
SAM M. UNDERWOOD, the duly appointed and  
Acting Guardian of the Estate of WILLIAM  
LUCIUS JONES, an incompetent adult

**GRANTEE**

HAYWOOD COUNTY,  
a body politic (a subdivision of the State of North  
Carolina), whose address is:  
215 N. Main Street  
Waynesville, NC 28786

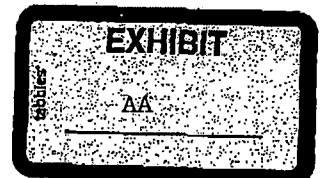
Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Ivy Hill Township, Haywood County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and made a part hereof by reference incorporated herein as if fully set forth.

Exhibit B



This deed is made pursuant to an Order of Confirmation executed by the Clerk of Superior Court of Haywood County and executed by the Senior Resident Superior Court Judge for Judicial District 30-B in the matter of the Real Property of William Lucius Jones File No. 07-SP-135 where in SAM M. UNDERWOOD was authorized by the Clerk of Superior Court on May 1, 2007, to make the sale of the property described herein; that the sale was duly advertised for sale, that the sale was by public auction on June 2, 2007, that the final high bidder was Haywood County at the sum of \$1,114,921.50.

The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_ page \_\_\_\_\_.

A map showing the above described property is recorded in Book \_\_\_\_\_, Page \_\_\_\_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the property hereinabove described. IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed and delivered.

\_\_\_\_\_  
(Entity Name)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
WILLIAM LUCIUS JONES (SEAL)

\_\_\_\_\_  
By: Sam M. Underwood (SEAL)  
Guardian of the Estate of William  
Lucius Jones, Incompetent

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

State of North Carolina - County of Haywood

I, the undersigned Notary Public of the County and State aforesaid, certify that SAM M. UNDERWOOD, Guardian of the Estate of William Lucius Jones, Incompetent, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 20 day of AUGUST, 2007.

My Commission Expires: 08-02-2011  
\_\_\_\_\_  
Notary Public

William I. Miller  
Notary Public  
Haywood County, NC

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he/she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

State of North Carolina -- County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that

Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_

Notary Public

The foregoing Certificate(s) of \_\_\_\_\_ is/are certified to be correct.

This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Register of Deeds for \_\_\_\_\_ County  
By: \_\_\_\_\_ Deputy/Assistant - Register of Deeds

Exhibit B

NORTH CAROLINA  
HAYWOOD COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO: 08 Cvs 51

03 JUN 12 PM 11:51

HAYWOOD COUNTY, NORTH, )  
CAROLINA and WILLIAM LUCIUS JONES )  
BY HIS GUARDIAN SAM UNDERWOOD, )  
BY PH )

Plaintiffs, )

vs )

NOTICE OF LIS PENDENS


GREGORY TODD FERGUSON, )

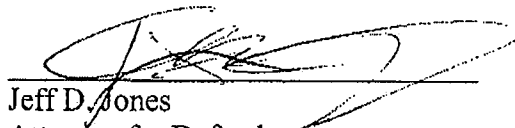
Defendant. )

Notice is hereby given that an action entitled *Haywood County, North Carolina and William Lucius Jones by his Guardian Sam Underwood vs. Gregory Todd Ferguson* has been commenced and is now pending in the Superior Court of the County of Haywood, State of North Carolina, by the above-named Plaintiffs against the above-named Defendant based on the ownership interest in the property and the following is a description of the real estate affected by the action: the property described in Deed Book 75 at Page 184 and Deed Book 122 at Page 637 Haywood County Registry and the Last Will and Testament of L. H. Bramlett found of record in Will Book 6, page 431, in the Clerk of Court of Haywood County.

This the 12 day of June, 2008.

McLEAN LAW FIRM, P.A.

  
Russell L. McLean, III  
Attorney for Defendant  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896  
State Bar Number 7220

  
Jeff D. Jones  
Attorney for Defendant  
232 North Main Street  
Waynesville, NC 28786




CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel of record or the opposing party/parties in the foregoing matter with a copy of this pleading by:

- Depositing it in the United States Postal Service in a properly addressed envelope with adequate postage attached thereto.  
OR  
 Sending by telefacsimile transmittal for receipt by 5:00 p.m. Eastern Time on a regular business day, as evidenced by a telefacsimile receipt confirmation.  
OR  
 Leaving it at his or her office with a responsible partner or employee.  
OR  
 Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each.

This the 12 day of June, 2008.

McLEAN LAW FIRM, P.A.

  
\_\_\_\_\_  
Russell L. McLean, III  
Attorney for Defendant  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896  
State Bar Number 7220

T. Michael Jordan  
154 North Main Street, Suite 1  
Waynesville, NC 28786

Leon M. Killian  
Reed J. Hollander  
4140 Parklake Avenue/GlenLake One  
Second Floor  
Raleigh, NC 27612

2 0

U8 E 288

**STATE OF NORTH CAROLINA**

File No. **08-CVS-000051**

**HAYWOOD COUNTY**

In the General Court of Justice  
Superior Court Division

*Name Of Plaintiff(s)*  
COUNTY OF HAYWOOD NC  
JONES, WILLIAM, LUCIUS  
UNDERWOOD, SAM

**ORDER FOR MEDIATED SETTLEMENT  
CONFERENCE IN SUPERIOR COURT AND  
TRIAL CALENDAR NOTICE**

*Name Of Plaintiff's Attorney(s)*  
JORDAN, T, MICHAEL  
KILLIAN, LEON, M  
HOLLANDER, REED, J

G.S. 7A-38.1; Rules 1 and 2 of Mediated Settlement Conferences

*Deadline For Completion Of Mediated Settlement Conference*  
09/24/2008

**VERSUS**

*Tentative Trial Date*  
11/03/2008

*Name Of Defendant(s)*  
FERGUSON, GREGORY, TODD

*Name And Address Of Other Interested Party(ies) And Possible Lienholders*

*Name Of Defendant's Attorney(s)*  
JONES, JEFF, DOUGLAS  
MCLEAN, RUSSELL, L, III

*Name And Address Of Attorney(s), if Applicable*

In accordance with the Rules Implementing Mediated Settlement Conferences, it is ORDERED that this case be referred to a mediated settlement conference, which shall be completed before the deadline shown above.

Within twenty-one (21) days after the date of this Order, the parties may, by agreement, select a certified mediator to conduct their mediated settlement conference. Within twenty-one (21) days after the date of this Order, the plaintiff or plaintiff's attorney shall notify the Court of the selection of a certified mediator. Notice shall be on form AOC-CV-812. (Fillable form <http://www.nccourts.org/Forms/Documents/313.pdf>)

As an aid to mediator selection, the NC Dispute Resolution Commission maintains a list of certified superior court mediators on its website: [www.nccourts.org/Citizens/Cprograms/MSM/Mediators/Default.asp](http://www.nccourts.org/Citizens/Cprograms/MSM/Mediators/Default.asp) (You may search for mediators by name of mediator, by city, or by court district. Once a mediator's name appears on your screen, click on it for a complete contact and availability listing.)

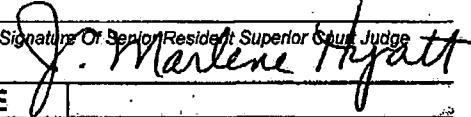
A mediator selected by agreement of the parties shall be compensated at the rate agreed upon between the mediator and the parties. A court-appointed mediator shall be compensated at the rate of \$125 per hour for time spent in the mediated settlement conference, to be billed in quarter-hour segments. The conference fee shall be paid as provided for in Rule 7.F. In addition, a \$125 administrative fee shall be paid pursuant to Rule 7.B.

All persons required by Rule 4.A(1) to attend the conference shall be physically present unless such physical presence is excused pursuant to the agreement of all parties and persons required to attend and the mediator or by an order of the Senior Resident Superior Court Judge, upon motion of a party and with notice to all parties and persons required to attend and the mediator.

The mediator shall schedule the date, time and location of the conference and timely notify all attorneys and unrepresented parties. The conference shall be completed by the deadline for completion set forth above and the mediator shall report the results on form AOC-CV-813 to the court within ten (10) days after the conference is completed.

*Date Of Order*  
5/27/2008

*Name Of Senior Resident Superior Court Judge (Type Or Print)*  
J. Marlene Hyatt

*Signature Of Senior Resident Superior Court Judge*  


**TENTATIVE CALENDARING NOTICE**

[This section is optional, to be used at the discretion of the Senior Resident Superior Court Judge; however, mediated settlement not delay other proceedings, including trial (Rule 3E).]

Parties notified of the following tentative calendaring schedule adopted by the Court. Final calendar notice will be provided through a published calendar, should settlement not be reached.

*Tentative Date For Hearing Of Motions*

**CASE NO. 08-CVS-51**

**ATTORNEYS FOR PLAINTIFFS:**

Mr. T. Michael Jordan  
154 N. Main Street, Suite 1  
Waynesville, NC 28786  
Telephone: 828-452-5871

Mr. Leon M. Killian  
Mr. Reed J. Hollander  
Nelson, Mullins, Riley & Scarborough  
Glen Lake One  
4140 ParkLake Avenue  
Raleigh, NC 27612  
Telephone: 919-877-3800

**ATTORNEYS FOR DEFENDANT:**

Mr. Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786  
Telephone: 828-452-2220

Mr. Russell L. McLean, III  
244 N. Main Street  
Waynesville, NC 28786  
Telephone: 828-452-2896

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
08 CVS 51

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,

Plaintiffs,

vs.

GREGORY TODD FERGUSON,

Defendant.

**MOTION FOR LEAVE TO FILE**  
**AMENDED COMPLAINT**

RECEIVED  
DISTRICT COURT  
N.C.S.C.  
MAY 28 11:19:50

NOW COME the Plaintiffs Haywood County, North Carolina, and William Lucius Jones, incompetent, by guardian of his estate, Sam Underwood, by and through their respective undersigned counsel, and respectfully submit this Motion for Leave to File Amended Complaint.

1. Plaintiffs filed their Complaint against Defendant on January 14, 2008.
2. Defendant filed a Motion to Transfer to Superior Court Division on March 19, 2008.
3. Defendant filed an Answer, Counterclaims, & Demand for Trial by Jury on March 19, 2008.
4. Plaintiffs' Reply to the Counterclaims was filed on May 23, 2008.
5. Pursuant to Rule 15(a) of the North Carolina Rules of Civil Procedure, Plaintiffs now seek leave of Court to file the Amended Complaint attached hereto as **Exhibit A** as counsel has obtained additional information since the time of filing of the original complaint which information gives rise to additional causes of action. According to Rule 15(a), leave to amend a party's pleading "shall be freely given when justice so requires." *See also* Mauney v. Morris,

316 N.C. 67, 72, 340 S.E.2d 397, 400 (1986) (“amendments should be freely allowed unless some material prejudice to the other party is demonstrated.”).

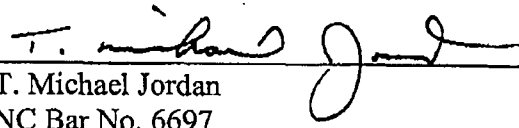
6. According to the North Carolina Court of Appeals, “[r]easons warranting a denial of leave to amend include ‘(a) undue delay, (b) bad faith, (c) undue prejudice, (d) futility of amendment, and (e) repeated failure to cure defects by previous amendments.’” Walker v. Sloan, 137 N.C. App. 387, 402, 529 S.E.2d 236, 247 (2000).

7. Furthermore, “[t]he burden is upon the opposing party to establish that that party would be prejudiced by the amendment.” See Mauney, 316 N.C. at 72, 340 S.E.2d at 400 (holding that the defendants failed to establish that they were prejudiced by the filing of an amended complaint and the addition of a new cause of action.).

8. As it is still very early in this case and no discovery has been taken by any of the parties, Plaintiffs’ motion is not unduly delayed and will not result in undue prejudice to defendant.

WHEREFORE Plaintiffs hereby request that this Court enter an Order granting Plaintiffs leave to file their Amended Complaint, and that upon entry of such Order, Plaintiffs’ Amended Complaint shall be deemed filed with the Court and served upon Defendant.

Respectfully submitted, this the 28<sup>th</sup> day of May, 2008.

By:   
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786  
Telephone: (828) 452-5871  
Facsimile: (828) 452-5872

Attorney for the Plaintiff, William Lucius Jones, by his  
Guardian, Sam Underwood

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Leon M. Killian #1

Leon M. Killian

NC Bar No. 2526

E-Mail: [chip.killian@nelsonmullins.com](mailto:chip.killian@nelsonmullins.com)

Reed J. Hollander

NC Bar No. 23405

E-Mail: [reed.hollander@nelsonmullins.com](mailto:reed.hollander@nelsonmullins.com)

4140 Parklake Avenue / GlenLake One

Second Floor

Raleigh, NC 27612

(919) 877-3800

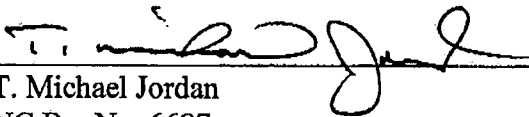
Attorneys for the Plaintiff, Haywood County, North Carolina

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served a copy of the foregoing Motion upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 28<sup>th</sup> day of May, 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786

  
\_\_\_\_\_  
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786  
Telephone: (828) 452-5871  
Facsimile: (828) 452-5872

REC'D  
MAY 29 11:10:30  
FBI - WAYNESVILLE, N.C.



STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

COUNTY OF HAYWOOD

08 CVS 51

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,

Plaintiffs,

AMENDED COMPLAINT

vs.

GREGORY TODD FERGUSON,

Defendant.

This complaint seeks to prevent Defendant from taking 200+ acres of property from an elderly, infirm dairy farmer. In 2001, Defendant and his accomplice purportedly obtained the signature of 62 year old farmer Lucius Jones on a "General Agreement" document that was slipped into a lease agreement. The General Agreement purports to require Jones to give his entire property to Defendant upon Jones' death or, as Defendant would have this court believe, Jones allegedly gave up his entire property to Defendant back in 2001. There are numerous reasons why Defendant's position that he is the present or future fee simple owner of Jones' property is utterly without merit: the purported agreement was terminated by Defendant's breach of the lease, no consideration was given for the purported agreement, the purported agreement was not acknowledged, there was no meeting of the minds on the purported agreement, the purported agreement is a will that does not meet the legal requirements of a will, the purported agreement was obtained through fraud and misrepresentation, and the purported agreement was obtained through undue influence and duress. Defendant's attempt to strip a senile elderly man of his one remaining valuable asset should be rejected by this Court.



NOW COME the Plaintiffs Haywood County, North Carolina ("Haywood County"), and William Lucius Jones, incompetent, by guardian of his estate, Sam Underwood ("Jones"), by and through their respective undersigned counsel, and for their Verified Amended Complaint against Gregory Todd Ferguson ("Ferguson"), state as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff Haywood County is a county under N.C. Gen. Stat. § 153A-10 and by virtue of N.C. Gen. Stat. § 153A-11 brings this action.

2. William Lucius Jones is an individual residing in Haywood County.

3. On or about May 16, 2003, Jones was adjudicated incompetent.

4. On or about June 24, 2003, Sam Underwood was duly appointed as the guardian of the estate of William Lucius Jones.

5. Sam Underwood brings this action solely in his capacity as guardian of the estate of William Lucius Jones and not in his individual capacity.

6. Upon information and belief, Defendant Ferguson is an individual residing in Haywood County.

7. All of the events and activities complained of herein occurred in Haywood County, North Carolina.

8. The real property which is the subject of this matter is located in Haywood County, North Carolina.

9. Jurisdiction and venue are proper in the Superior Court of Haywood County, North Carolina.

## FACTUAL ALLEGATIONS

10. At all times relevant to this matter, prior to August 30, 2007, Jones was the fee simple owner of a parcel of real property comprising approximately 200 acres, more or less, and located in Haywood County. This parcel of property is more particularly described as set forth in Exhibit A (hereinafter, the "Property").

11. The Property had been in Jones' family for many years. On the Property, Jones and his father had operated a dairy farming operation for many years.

12. Jones' father passed away on January 30, 1996.

13. After Jones' father passed away, Jones became less interested in personally operating and managing the dairy farm on the Property.

### JONES LEASES THE PROPERTY TO FERGUSON TO RUN THE DAIRY FARM

14. Some time on or about February 19, 1996, Jones was introduced to and got to know Ferguson and his wife, Shannon Price Ferguson ("Shannon").

15. Upon information and belief, Ferguson told Jones that Ferguson wanted to lease the Property from Jones with the intent of continuing the operation of the dairy farm on the Property.

16. On or about March 2, 1996, Ferguson and Jones entered into an oral lease for Ferguson to rent from Jones the Property to run the dairy farm.

17. On or about November 5, 1997 Jones signed a lease with Ferguson and Shannon, titled "Lease Agreement", whereby Jones leased to Ferguson and Shannon the Property for the purpose of operating the dairy farm, a true and accurate copy of which is attached hereto as Exhibit B (the "First Lease").

18. The term of the First Lease was for twelve (12) years, commencing on March 1, 1996 and concluding on March 2, 2008. The rent under the First Lease was Nine Hundred Sixteen and 66/100 Dollars (\$916.66) per month.

19. The First Lease was not recorded with the Haywood County Register of Deeds.

20. The First Lease was not notarized or acknowledged.

FERGUSON BORROWED SUBSTANTIAL SUMS FROM JONES  
WHICH WERE NOT REPAID

21. On or about February 19, 1996 Ferguson and Shannon borrowed Twelve Thousand Seven Hundred Fifty Dollars and No/100 (\$12,750.00) from Jones purportedly to purchase a tractor as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as Exhibit C.

22. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit C.

23. On or about February 19, 1996 Ferguson and Shannon borrowed Thirty-Six Thousand One Hundred Dollars and No/100 (\$36,100.00) from Jones purportedly to purchase one hundred twenty-four (124) dairy cattle as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as Exhibit D.

24. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit D.

25. On or about January 9, 1998 Ferguson and Shannon borrowed Seven Thousand Dollars and No/100 (\$7,000.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See promissory note attached hereto as Exhibit E.

26. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit E.

27. On or about March 11, 1998 Ferguson borrowed Six Thousand Five Hundred Dollars and No/100 (\$6,500.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. See Promissory Note attached hereto as Exhibit F.

28. Upon information and belief, Ferguson did not repay all of the principal and interest owed under the Promissory Note attached as Exhibit F.

29. To date, Ferguson still owes to Jones substantial sums under these promissory notes.

FERGUSON'S FAILURE TO COMPLY WITH STATE ENVIRONMENTAL REGULATIONS FOR ANIMAL WASTE MANAGEMENT ILLUSTRATES HIS POOR EFFORTS TO OPERATE AND UPKEEP THE DAIRY FARM ON THE PROPERTY

30. On or about July 27, 1998, Jones received a letter from the North Carolina Department of Environmental and Natural Resources offering a Special Agreement under the Certified Animal Waste Management Plan for the "Greg Ferguson Dairy", a true and accurate copy of which is attached hereto as Exhibit G.

31. On or about May 17, 2000, Ferguson as applicant and Leslie Smathers as Technical Representative executed the North Carolina Agriculture Cost Sharing Program Conservation Plan of Operation whereby One Hundred Thirty-Three Thousand Nine Hundred One Dollars and No/100 (\$133,901.00) were allocated to be paid to Greg Ferguson Dairy upon compliance with program requirements, a true and accurate copy of which is attached hereto as Exhibit H.

32. Between 2000 and 2002, Ferguson received several Notices of Violation from Leslie Smathers regarding violations of DENR regulations at the dairy farm on the Property.

33. Ferguson failed to meet the program requirements for the North Carolina Agriculture Cost Sharing Program because his operation of the dairy farm on the Property was so sub-standard.

34. After Shannon left Ferguson (as detailed below), Ferguson essentially abandoned operation of the dairy farm, leaving fences unrepaired, cows to starve and wander the property unrestrained, and otherwise utterly failing to conduct any ongoing dairy farming operations on the Property.

35. During the 2000 to 2002 time frame, Leslie Smathers had occasion to visit the home of Lucius Jones and found it in filthy condition.

36. During the 2000 to 2002 time frame, Leslie Smathers had occasion to talk with Lucius Jones and found that Mr. Jones' statements often did not make sense.

37. On or about April 13, 2002, Carlyle Ferguson, the Chairman of the Haywood Soil & Water Conservation District, wrote a letter to Ferguson cancelling the North Carolina Agriculture Cost Share Program contract stating "since you are no longer operating the dairy at that location" and notifying Ferguson that the funds were being returned to the North Carolina Agriculture Cost Share Program. A true and accurate copy of the letter is attached hereto as **Exhibit I.**

**FERGUSON'S PURPORTED INTEREST IN OBTAINING THE PROPERTY FOR THE  
BENEFIT OF HIS SON WAS INCONSISTENT WITH FERGUSON'S FAILURE TO  
PROVIDE FOR THE SUPPORT OF HIS SON.**

38. On or about December 27, 2000, Shannon separated from Ferguson and moved out of their home with Colton Wyatt Ferguson, the son of Ferguson and Shannon.

39. On or about March 21, 2001, Ferguson and Shannon executed a Separation Agreement, requiring a Three Hundred and No/100 Dollars (\$300.00) monthly child support payment and allowing Ferguson supervised visitation with his son.

40. Upon information and belief, Ferguson never paid child support to Shannon and rarely visited his son.

41. However, on page 209 of the Second Lease (as defined herein below), Ferguson purported to be acquiring the Property "for the purpose of a farm to be handed down to his child (at the time signing one living child Colton Wyatt Ferguson) and to their heirs to remain farm property...."

BOTH BEFORE AND AFTER THE PURPORTED TRANSFER OF AN INTEREST IN THE PROPERTY TO FERGUSON, JONES EXECUTED WILLS LEAVING THE PROPERTY TO DENNIS HALL.

42. On or about July 10, 2001, Jones executed a will leaving certain property to Rufus Dennis Hall ("Hall"), a true and accurate copy of which is attached hereto as Exhibit J.

43. On or about July 23, 2001, Jones executed a will revoking any and all former Will, codicils and letters of testamentary intent previously made and expressly declared his intention of leaving all of his estate and property to Dennis Hall ("Hall"), a true and accurate copy of which is attached hereto as Exhibit K ("July 23 Will").

44. In the July 23 Will, Jones expressly granted "all that real property located in Jonathan Creek Township to Dennis Hall subject to a lease to Greg Ferguson for and during his lifetime, to be leased in an amount to be determined in the discretion of Dennis Hall or fair market value whichever is less."

45. On or about February 6, 2002, Jones executed a will revoking any and all former Will, codicils and letters of testamentary intent previously made and expressly declared his

54. Upon information and belief, C. Colleen Williamson was not present in the home of Jones when the Lease, including the General Agreement, was purportedly signed by Jones.

55. Upon information and belief, Jones was not represented by an attorney with reference to the Second Lease at any time prior to or at the signing of the Second Lease.

56. Upon information and belief, Jones was of weak mind and not possessed of his full mental faculties at the time of signing of the Second Lease.

57. Upon information and belief, Jones was pressured or coerced into signing the General Agreement as part of the Second Lease.

58. Upon information and belief, Jones was tricked or deceived into signing the Second Lease.

**JONES EVICTED FERGUSON FROM THE PROPERTY FOR FAILURE TO PAY RENT ON FERGUSON'S LEASE OF THE PROPERTY, AND THEREAFTER LEASED THE PROPERTY TO DENNIS HALL**

59. On or about April 1, 2002, Jones brought a Summary Ejectment action against Ferguson and filed a Complaint in Summary Ejectment in the Haywood County District Court, 02 CVM 198 alleging Ferguson was delinquent with rent in the amount of \$7,650.00, a true and accurate copy of which is attached hereto as **Exhibit N** (the "Summary Ejectment Complaint").

60. On or about April 1, 2002, the Summary Ejectment Complaint was served upon Ferguson, as evidenced by the Magistrate Summons issued on even date, a true and accurate copy of which is attached hereto as **Exhibit O**.

61. On or about April 12, 2002, the Judgment In Action for Summary Ejectment was entered by the Court finding that Ferguson was delinquent in rent on the Property in the amount of \$7,650 and ordering that Ferguson be ejected from the Property, a true and accurate copy of which is attached hereto as **Exhibit P**.



62. On or about April 23, 2002, the Writ of Possession was issued and served on Ferguson requiring Ferguson to leave the Property and to remove any and all of Ferguson's personal property from the Property, a true and accurate copy of which is attached hereto as Exhibit Q.

63. A Notice of eviction was served on Ferguson on April 23, 2002, notifying him that he was evicted from the Property. A true and accurate copy of the Notice is attached hereto as Exhibit R.

64. On or about April 29, 2002, Jones and Hall executed a lease whereby Jones leased Hall the "farm and house" in return for monthly rent of \$600.00 for a term of ten years, beginning on May 1, 2002. A true and accurate copy of the lease is attached hereto as Exhibit S.

JONES SUFFERS FROM SEVERE DEMENTIA AND WAS DECLARED INCOMPETENT

65. Upon information and belief, sometime in or around March of 2003 Jones suffered a cerebral hemorrhage.

66. On May 5, 2003 Jones was examined by a physician who diagnosed him as having severe dementia.

67. On May 8, 2003, Jones' first cousin, Ned Jones, filed a Petition for Incompetency, seeking Jones to be declared incompetent and a guardian to be appointed. A true and accurate copy of the petition is attached hereto as Exhibit T.

68. On or about May 14, 2003, an Application for Appointment of Guardian was filed seeking to appoint Hall as guardian of Jones. A true and accurate copy of the petition is attached hereto as Exhibit U.

69. On or about May 16, 2003, the Court found Jones incompetent and appointed Hall as the Interim Guardian and the Guardian of the Person of Jones, a true and accurate copy of which is attached hereto as Exhibit V.

70. On or about June 24, 2003, the Court appointed Sam Underwood as Guardian of the Estate of Jones ("Underwood"), a true and accurate copy of which is attached hereto as Exhibit W.

JONES' GUARDIAN SOLD A PORTION OF THE PROPERTY TO HAYWOOD COUNTY  
TO OBTAIN FUNDS TO PAY FOR THE COSTS OF CARE FOR JONES

71. On or about May 1, 2007, Underwood filed a Petition by Guardian of the Estate to Sell Real Property Belonging to the Ward to use assets to pay support of Jones. A true and accurate copy of the petition is attached hereto as Exhibit X.

72. On or about May 1, 2007, the Court granted an Order Allowing Sale of Land by Guardian of the Estate whereby Underwood as Guardian was permitted to sell a portion of the Property, a true and accurate copy of which is attached hereto as Exhibit Y.

73. On or about June 2, 2007, Underwood conducted a public sale of a portion of the Property.

74. Between June 2, 2007 and August 2, 2007, there were nine upset bids made on the Property.

75. On or about August 14, 2007, the Court entered into an Order of Confirmation of Sale confirming the sale of a portion of Jones' Property to Haywood County, a true and accurate copy of which is attached hereto as Exhibit Z.

76. On or about August 30, 2007, Jones sold approximately 22 acres of the Property to Haywood County in fee simple, pursuant to a judicial sale. A true and accurate copy of the Non-Warranty Deed is attached hereto as Exhibit AA.

77. From August 30, 2007 to the present, Haywood County continues to own approximately 22 acres of property it acquired from Jones in fee simple.

78. From August 30, 2007 to the present, Jones continues to own in fee simple the remaining portion of the Property not sold to Haywood County consisting of approximately 180 acres of land.

79. Sam Underwood, as Guardian of the Estate of Jones, may have need in the future to sell additional portions of the Property in order to provide for Jones' care and maintenance.

### ***GROUNDNS FOR RELIEF***

#### **A. DEFAULT UNDER THE SECOND LEASE**

80. The Second Lease purports to have been entered into by and between Jones as Owner or Lessor and Ferguson as Tenant or Lessee, on or about September 5, 2001.

81. The rights and obligations of the parties to the Second Lease affect the Property which is the subject of this action.

82. The Second Lease is a document which is purportedly comprised of three separate instruments, consisting of an instrument titled "Lease Agreement", an instrument titled "General Agreement", and an instrument titled "Notice of Lease".

83. Book 502, Page 209 of the Second Lease, captioned "General Agreement", purports to require that Jones convey the Property to Ferguson upon Jones' death.

84. The "Notice of Lease" instrument purportedly summarizes the terms of the lease entered into between Jones and Ferguson.

85. The "Notice of Lease" instrument states that the "undersigned Lessor and Lessee to hereby provide public notice of the following lease entered into on the 5 day of Sept. 2001, by and between [Jones] and [Ferguson]".

86. The "Notice of Lease" instrument identifies that the Second Lease contains an "Option to Acquire Property" defined as follows:

William Lucius Jones, being of sound mind and body agrees upon his death that the ownership of the property described in paragraph (3) above be transferred to Gregory Todd Ferguson for the purpose of a farm, not to be mortgaged, sold, etc. to remain in Gregory's family for said farm after Gregory Todd Ferguson's death (at the time of this signing one living child born to Gregory Todd Ferguson, Colton Wyatt Ferguson).

87. Book 502, Page 205 of the Second Lease identifies situations constituting a breach of the Second Lease, as follows:

11) DEFAULT OR BREACH. Each of the following events shall constitute a default or breach of this lease by Tenant: (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant ... [or] (C) If Tenant shall vacate or abandon the leased premises.

88. In the event of a default under the Second Lease, the Second Lease states at Book 502, Page 205 that "Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest or [sic] Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination...."

89. Ferguson failed to pay rent as required by the Second Lease.

90. After Ferguson failed to pay rent as required by the Second Lease, Jones evicted Ferguson from the Property.

91. On April 12, 2002, Ferguson was ordered ejected from the Property for failure to pay rent and was ordered to pay nine months' back rent to Jones.

92. Since at least April 23, 2002 and continuing to the date of filing of this Complaint, Ferguson has not resided on the Property.

93. Since at least April 23, 2002 and continuing to the date of filing of this Complaint, Ferguson has not paid to Jones any of the judgment entered against Ferguson for unpaid rent under the Second Lease.

94. Ferguson breached his obligations under the Second Lease by failing to pay rent and by vacating the premises.

95. Jones was within his contractual rights to terminate the lease and to cancel all of Ferguson's right, title and interest under the Second Lease, including all right, title and interest under the General Agreement instrument contained in the Second Lease.

96. To the extent Ferguson at any time held any right, title or interest in the Property, which is specifically denied, then Ferguson no longer holds and does not now hold any right, title or interest in the Property.

97. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Ferguson.

**B. FAILURE TO PROPERLY ACKNOWLEDGE THE "GENERAL AGREEMENT"**

98. Ferguson and Jones both failed to properly acknowledge the Lease.

99. Upon information and belief, on September 5, 2001, C. Colleen Williamson ("Williamson") executed a statement on the last page of the General Agreement portion of the Second Lease stating "Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001."

100. There is an arrow drawn from Jones' purported signature to the signed statement by Williamson.

101. Upon information and belief, on September 10, 2001, Betty A. Walker ("Walker"), a purported Notary Public, executed a statement on the last page of the Lease stating "Sworn to and subscribed before me this the 10<sup>th</sup> day of September, 2001."

102. There is an arrow drawn from Ferguson's purported signature to the signed statement by Walker.

103. The signed statements made by Williamson and Walker amount to nothing more than an affirmation (otherwise known as a jurat).

104. The signed statements made by Williamson and Walker do not constitute an acknowledgement.

105. The only acknowledgements in the Second Lease are on the Notice of Lease instrument.

106. The purported acknowledgement by C. Colleen Williamson of the signature of William Lucius Jones shown on Book 502, Page 210 in the Notice of Lease instrument was only an acknowledgement of Jones' execution of the Notice of Lease.

107. The purported acknowledgement by Betty A. Walker of the signature of Gregory Todd Ferguson shown on Book 502, Page 211 in the Notice of Lease instrument was only an acknowledgement of Ferguson's execution of the Notice of Lease.

108. N.C. Gen. Stat. § 47-17 mandates that "[a]ll deeds, contracts or leases, before registration ... shall be acknowledged by the grantor, lessor or the person executing the same...."

109. A deed, contract or lease which is not acknowledged by the grantor or lessor is ineffective to provide actual or constructive notice to subsequent purchasers for value.

110. Haywood County is a subsequent purchaser for value of a portion of the Property.

111. Haywood County did not have legally effective actual or constructive notice of any purported intent by Jones to convey an interest by deed to Ferguson, since Jones' signature on the General Agreement instrument was not acknowledged as required by law.

112. The Non-Warranty Deed attached hereto as Exhibit AA has record priority over any purported real property interest contained in the Second Lease or any instrument contained therein.

**C. DEFECTS IN RECORDATION**

113. Upon information and belief, Ferguson or Woody caused the Lease, General Agreement and the Notice of Lease to be recorded at the Haywood County Register of Deeds office.

114. Upon information and belief, Ferguson or Woody submitted the Lease, General Agreement and the Notice of Lease as one document to be recorded in the Haywood County Register of Deeds office.

115. The Haywood County Register of Deeds office indexed the Lease, General Agreement and Notice of Lease altogether as "Lease".

116. Neither the General Agreement nor the Notice of Lease are separately indexed so as to provide any record notice that those documents purport to contain any conveyance other than a lease.

117. Under North Carolina law, if the recorded document is not registered correctly it will be treated as ineffective against innocent purchasers for value.

118. As the Lease and the General Agreement were not properly acknowledged they are not properly registered and import no actual or constructive notice to Haywood County.

119. Haywood County is an innocent purchaser for value of the portion of the Property set forth in the Non-Warranty Deed attached hereto as Exhibit AA.

120. Under N.C. Gen. Stat. § 47-17.1 there is a requirement that "the register of deeds of any county in North Carolina shall not accept for registration ... any deeds or deeds of trust,

executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry showing the name of either the person or law firm who drafted the instrument”.

121. To the extent that the General Agreement instrument is given legal effect as a deed, which is specifically denied, the first page of the General Agreement instrument does not bear an entry showing the name of either the person or law firm who drafted the General Agreement instrument.

122. To the extent that the General Agreement instrument is given legal effect as a deed, which is specifically denied, the General Agreement instrument fails to meet the requirements of proper recordation.

123. To the extent that the Notice of Lease instrument is given legal effect as a deed, which is specifically denied, the first page of the Notice of Lease instrument does not bear an entry showing the name of either the person or law firm who drafted the Notice of Lease instrument.

124. To the extent that the Notice of Lease instrument is given legal effect as a deed, which is specifically denied, the Notice of Lease instrument fails to meet the requirements of proper recordation.

**D. NO MEETING OF THE MINDS OF THE PARTIES**

125. Jones and Ferguson did not have a meeting of the minds in the purported execution of the Second Lease.

126. To the extent that the Second Lease has any validity, Jones' intent was to lease his Property to Ferguson under the same general terms of the First Lease.

127. Jones did not intend to grant Ferguson any type of interest in his Property other than a simple leasehold interest.



128. In the alternative, to the extent Jones intended to grant Ferguson any type of interest in the Property, Jones did not intend to (a) divest himself of his own Property during the term of his own life, nor to (b) grant the Property to Ferguson in perpetuity when Ferguson demonstrated that he was totally unable or unwilling to operate the Property as a dairy farm.

129. Before and after the date of purported execution of the Second Lease, Jones executed several wills all unequivocally leaving his entire estate and his real property to Hall, not Ferguson.

130. There is internal inconsistency with the General Agreement and Notice of Lease in that the General Agreement uses present tense to purportedly convey an interest in the Property, whereas the Notice of Lease uses future, testamentary language.

131. The Notice of Lease calls the purported requirement of the General Agreement for Jones to convey an interest in the Property to Ferguson upon his death an "Option to Acquire Property", whereas the General Agreement purports to make a future conveyance by will.

132. Different titles are used in the Lease, General Agreement, and Notice of Lease to describe Jones as either "Owner" or "Lessor".

133. Different titles are used in the Lease, General Agreement, and Notice of Lease to describe Ferguson as either "Tenant" or "Lessee"

134. At no time in the Lease, General Agreement, or Notice of Lease do the purported parties thereto identify themselves as "Grantor" or "Grantee".

#### **E. INSUFFICIENT CONSIDERATION**

135. At the time the Second Lease was purportedly executed, Ferguson owed Jones thousands of dollars as evidenced by multiple promissory notes.

136. At the time the Second Lease was purportedly executed, Ferguson gave nothing of value to Jones in exchange for the interest allegedly created by the General Agreement.

137. The terms of the Lease called for Ferguson to pay Jones monthly rent of \$916.66.

138. Ferguson failed to pay any rent to Jones from the date the Lease began to the present date.

139. Ferguson failed to upkeep and maintain the dairy farm on the Property.

140. Shannon, rather than Ferguson, ran the day-to-day operations of the dairy farm on the Property until the time she left Ferguson on or about December 27, 2000.

141. Ferguson allowed the dairy farm, including equipment, facilities and cattle, to deteriorate and go to waste after December 27, 2000.

142. Ferguson did not provide care to Jones sufficient to amount to consideration for the purported conveyance of an interest in the Property.

143. At no time before, during or after the purported execution of the Second Lease did Ferguson pay any valuable consideration to Jones for the interest allegedly created by the General Agreement.

144. There was insufficient consideration given by Ferguson in connection with the General Agreement.

145. There was no consideration given by Ferguson in connection with the General Agreement.

**F. FAILURE TO COMPLY WITH STATUTORY REQUIREMENTS**

146. The General Agreement and Notice of Lease documents contained within the Second Lease purport to transfer to Ferguson an interest in real property "upon [Jones] death".

147. A transfer of an interest in property upon death may only be accomplished by means of a properly executed will.

148. The General Agreement and Notice of Lease documents were not properly attested by at least two witnesses.

149. The General Agreement and Notice of Lease documents do not comply with N.C. Gen. Stat. § 31-3.3.

150. Accordingly, the General Agreement and Notice of Lease documents cannot effect any transfer of an interest in the Property to Ferguson "upon [Jones] death".

#### **G. UNDUE INFLUENCE AND DURESS**

151. Upon information and belief, Ferguson exercised undue influence on Jones to procure Jones' signature on the Second Lease, including the General Agreement and the Notice of Lease.

152. At the time of the execution of the Second Lease Jones was approximately 62 years old.

153. Upon information and belief, at the time of the execution of the Second Lease Jones was mentally weak and susceptible to influence.

154. Upon information and belief, near in time and at the time of the execution of the Second Lease others had little opportunity to see Jones.

155. The Second Lease was drafted at the direction of Ferguson by a person who was not a licensed attorney.

156. The Second Lease was made in favor of Ferguson, with whom Jones had no ties of blood.

157. The Second Lease goes directly against Jones' demonstrated testamentary intent in the multiple wills he executed before and after the date of execution of the Second Lease leaving his Property to Dennis Hall.

158. The Second Lease disinherits the natural objects of Jones' bounty, consisting of Jones' cousins and other relatives.

159. Ferguson, as the beneficiary under the Second Lease, was the one that procured the execution of the Second Lease.

160. Jones did not have an attorney present when he purportedly executed the Second Lease.

161. In and about the time of the purported execution of the Second Lease, Ferguson had a propensity toward violent and threatening behavior.

162. In and about the time of the purported execution of the Second Lease, Ferguson had a reputation in the community as a violent and threatening individual.

163. Ferguson's reputation and propensity toward violence at and around the time of the execution of the Second Lease intimidated Jones and placed Jones under duress when he was confronted by Ferguson to sign the Second Lease, including the General Agreement.

**H. FRAUD OR MISREPRESENTATION REGARDING**  
**"GENERAL AGREEMENT"**

164. In the alternative, upon information and belief, Jones may have intended to execute a new Lease with Ferguson so long as the terms were the same terms used in the First Lease.

165. Upon information and belief, Ferguson and Woody conspired between themselves to prepare the Second Lease, consisting of the Lease, General Agreement, and Notice of Lease.

166. Upon information and belief, Ferguson and Woody intended to trick Jones into signing the General Agreement by giving Jones all three instruments as one document to sign.

167. Upon information and belief, Ferguson presented Jones with one document consisting of the Lease, General Agreement, and Notice of Lease under the guise that it consisted of the same terms as the First Lease.

168. Upon information and belief, Ferguson misrepresented to Jones the nature of the document consisting of the Lease, General Agreement, and Notice of Lease instruments, attempting to convince Jones that it consisted of the same terms as the First Lease.

169. Upon information and belief, Jones did not intend to sign the General Agreement, which purports to require that Jones convey the Property to Ferguson upon Jones' death.

#### **I. UNLICENSED PRACTICE OF LAW**

170. Upon information and belief Woody drafted the Second Lease and provided it to Ferguson.

171. Woody is not a licensed attorney in the state of North Carolina nor in any other state.

172. The Second Lease is a document created by a nonlawyer and is the product of the unlicensed practice of law.

#### **CLAIMS FOR RELIEF**

##### **FIRST CLAIM FOR RELIEF (DECLARATORY JUDGMENT)**

173. The Plaintiffs restate the allegations set forth in paragraphs 1 through 172 as if fully set forth herein.

174. For the reasons set forth above, Defendant has never had and does not presently have any interest, contingent or otherwise, in the Property.

175. In the alternative, for the reasons set forth above, any purported interest, contingent or otherwise, of Defendant is invalid, void, or voidable.

176. Plaintiffs seek a declaratory judgment stating that Defendant does not have any interest, contingent or otherwise, in the Property and clarifying the public record regarding the status of Plaintiffs' ownership of the Property.

177. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, the Plaintiffs request that this Court enter a declaratory judgment decreeing that:

- A. Defendant has no present or future right, title or interest to the Property under the Second Lease or otherwise; and
- B. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant.

**SECOND CLAIM FOR RELIEF**  
**(FRAUD AND MISREPRESENTATION)**

178. The Plaintiffs restate the allegations set forth in paragraphs 1 through 177 as if fully set forth herein.

179. Upon information and belief, Ferguson made false statements to Jones as described herein.

180. Upon information and belief, Ferguson knew that his statements to Jones regarding the Second Lease and the General Agreement were false.

181. Upon information and belief, Ferguson made the false statements with the intention that they should be relied upon and acted on by Jones.

182. Upon information and belief, Jones reasonably relied upon the representations by Ferguson.

183. Jones has suffered a substantial injury by being tricked into purportedly executing the General Agreement.

184. Jones' estate has suffered substantial legal fee costs, in an amount to be proven at trial, in bringing this action to quiet title to the Property so that portions of the Property may be sold to provide for the care of Jones in his old age.

185. Ferguson's conduct in attempting to defraud an elderly man out of his property is reprehensible and outrageous conduct which should be deterred through the imposition of punitive damages in an amount to be proven at trial.

**THIRD CLAIM FOR RELIEF**  
**(DEFAULT ON PROMISSORY NOTES – Plaintiff Jones only)**

186. The Plaintiffs restate the allegations set forth in paragraphs 1 through 185 as if fully set forth herein

187. On or about February 19, 1996 Ferguson and Shannon borrowed Twelve Thousand Seven Hundred Fifty Dollars and No/100 (\$12,750.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. Upon information and belief, Ferguson did not repay the principal and interest owed under that Promissory Note attached as **Exhibit C**.

188. On or about February 19, 1996 Ferguson and Shannon borrowed Thirty-Six Thousand One Hundred Dollars and No/100 (\$36,100.00) from Jones as evidenced by a Promissory Note executed on even date from Ferguson and Shannon in favor of Jones. Upon information and belief, Ferguson did not repay the principal and interest owed under that Promissory Note attached as **Exhibit D**.

189. Defendant Ferguson has failed to pay these two promissory notes when due and is therefore in default on both of these promissory notes.

190. The entire balance is due and payable, and Plaintiff Jones does hereby demand payment of same. Defendant Ferguson presently owes Plaintiff Jones the unpaid portions of these two promissory notes, and 5% interest on that amount, as specified in the notes, as of February 19, 1996, together with all costs of collection and reasonable attorney's fees.

WHEREAS, the Plaintiffs pray that this Court enter relief as follows:

1. a declaratory judgment that Defendant has no present or future right, title or interest to the Property under the Second Lease or otherwise;
2. a declaratory judgment that the ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant;
3. an award of actual damages to the Jones' estate in an amount to be proven at trial for the costs of bringing this action to quiet title to the Property;
4. an award of judgment in favor of William Lucius Jones, by his guardian Sam Underwood, against Defendant for unpaid amounts due on two promissory notes, which total the sum of Forty-Eight Thousand Eight Hundred Fifty (\$48,850.00) Dollars, plus accrued interest on the unpaid amounts, from February 19, 1996, at the 5% rate specified in those notes;
5. an award of punitive damages to both Plaintiffs in an amount to be proven at trial to punish and deter the reprehensible and outrageous conduct of the Defendant; and
6. an order granting the Plaintiffs such other and further relief as the Court deems just and proper.



Respectfully submitted, this the \_\_\_\_ day of \_\_\_\_\_, 2008.

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WILLIAM LUCIUS JONES property on Jonathan Creek Road

**EXHIBIT "A"**

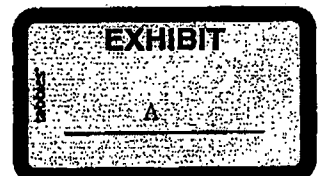
BEGINNING at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southernly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Pitts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Pitts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Pitts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument, (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the BEGINNING, containing 22.091 acres, per survey and plat of L. Kevin Ensley, FLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

SUBJECT TO the aforesaid USDOT Drainage Easement and the easement for Pitts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637

Exhibit B



This instrument prepared by:  
James H. Moore, Jr., Attorney

**HAYWOOD COUNTY  
NORTH CAROLINA**

**LEASE AGREEMENT**

THIS LEASE is made this the 5<sup>th</sup> day of November, 1997, between Gregory Todd Ferguson and wife, Shannon Price Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" [the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.].

IN CONSIDERATION of the mutual covenants contained herein, the parties agree as follows:

1) **SUBJECT AND PURPOSE.** Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, page 431 of the Haywood County Registry, to Tenant for Tenant's use as a dairy farm.

2) **TERM AND RENT.** Owner leases the above premises for a term of twelve (12) years, commencing March 1, 1996, and terminating on March 2, 2008 at 1:00 o'clock p.m., or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly installments of Nine Hundred Sixteen dollars and Sixty Six cents (\$916.66) in advance on the twentieth (20<sup>th</sup>) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to Owner at 106 Timothy Lane, Waynesville, N.C. 28786.

3) **ADDITIONAL RENT.** All taxes, charges, costs, and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.

4) **ALTERATIONS, ADDITIONS, AND IMPROVEMENTS.** Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural strength, or lessen the value, of the building



on the premises, or change the purposes for which the building, or any part thereof, may be used.

All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.

5) **REPAIRS.** Tenant shall, at all times during the lease and at his own cost and expense, repair, replace, and maintain in a good, safe, and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

6) **TAXES.** Owner shall be responsible for all taxes on said property.

7) **UTILITIES.** All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.

8) **INSURANCE.** During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance:

- a) **FIRE INSURANCE.** Tenant shall keep all buildings, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.
- b) **PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.** Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.
- c) **OTHER INSURANCE.** Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.

9) **UNLAWFUL OR DANGEROUS ACTIVITY.** Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.

10) **INDEMNITY.** Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease, (2) any injury or damage happening on or about the leased premises, (3) failure to comply with any law of any governmental authority, or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.

11) **DEFAULT OR BREACH.** Each of the following events shall constitute a default or breach of this lease by Tenant:

- a) If Tenant shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.
- b) If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Tenant, or if a receiver or trustee shall be appointed for all or substantially all of the property of Tenant.
- c) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant.
- d) If Tenant shall fail to perform or comply with any of the conditions of this lease and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by Owner to Tenant or, if the performance cannot be reasonably had within the fifteen (15) day period, Tenant shall not in good faith have commenced performance with the fifteen (15) day period and shall not diligently proceed to completion of performance.
- e) If Tenant shall vacate or abandon the leased premises.

12) **EFFECT OF DEFAULT.** In the event of any default hereunder, as set forth in Paragraph Eleven, the rights of Owner shall be as follows:

- a) Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest of Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease and the right, title, and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.
- b) Owner may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term, or condition required hereby to be performed by Tenant, and Owner shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, by any expenditure for the correction by Owner shall not be deemed to waive or release the default of Tenant or the right of Owner to take any action as may be otherwise permissible hereunder in the case of any default.

13) **DESTRUCTION OF PREMISES.** In the event of a partial or total destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction shall neither null or void this lease.

14) **CONDEMNATION.** Rights and duties in the event of condemnation are as follows:

- a) If the whole of the leased premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.
- b) If only a portion of the leased premises shall be taken or condemned, this lease and the term hereof shall not cease or terminate.
- c) In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Tenant. Owner assigns to Tenant all his right, title, and interest in any and all such awards.
- d) In the event of a partial taking, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the building on the leased premises to a self-contained architectural unit.

15) **ACCESS TO PREMISES; SIGNS POSTED BY OWNER.** Tenant shall permit Owner, or his agents, to enter the leased premises at all reasonable hours to

inspect the premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this lease, and also to show the premises to prospective buyers.

16) **EASEMENTS, AGREEMENTS, OR ENCUMBRANCES.** The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the leased premises, and Owner shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17) **QUIET ENJOYMENT.** Owner warrants that Tenant shall be granted peaceable and quiet enjoyment of the leased premises free from any eviction or interference by Owner if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

18) **LIABILITY OF OWNER.** Tenant shall be in exclusive control and possession of the leased premises, and Owner shall not be liable for any injury or damages to any property or to any person on or about the leased premises nor for any injury or damage to any property of Tenant. The provisions herein permitting Owner to enter and inspect the leased premises are made to insure that Tenant is in compliance with the terms and conditions hereof and makes repairs that Tenant has failed to make. Owner shall not be liable to Tenant for any entry on the premises for inspection purposes.

19) **REPRESENTATIONS BY OWNER.** At the commencement of the term, Tenant shall accept the buildings and improvements and any equipment in their existing condition and state of repair, and Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Owner in respect thereto except as contained in the provisions of this lease, and Owner shall in no event be liable for any latent defects.

20) **WAIVERS.** The failure of Owner to insist on a strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) **NOTICE.** All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
Address: 106 Timothy Lane  
Waynesville, N.C. 28786

Tenant: Gregory Todd Ferguson and Shannon Price Ferguson  
Address: Route 4, Box 266  
Waynesville, N.C. 28786

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) **ASSIGNMENT, MORTGAGE, OR SUBLEASE.** Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) **SURRENDER OF POSSESSIN.** Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

24) **REMEDIES OF OWNER.**

- a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.
- b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) **TOTAL AGREEMENT; APPLICABLE TO SUCCESSORS.** This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently execute by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.



IN WITNESS WHEREOF, the parties have set their hands and seals this the 5<sup>th</sup>  
day of November, 1997.

Lucius Jones (seal)

Dyde T. Foy (seal)

Stanna P. Ferguson (seal)

SATISFACTION: Debt evidenced by this Note has been satisfied in full this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
Signed: \_\_\_\_\_

# PROMISSORY NOTE

Waynesville, N.C.

\$ 12,750.00

February 19, 19 96

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to William Lucius Jones

the principal sum of Twelve Thousand, Seven Hundred Fifty and 00/100

DOLLARS (\$ 12,750.00 ), with interest from March 1, 1996, at the rate of Five

per cent ( 5 %) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at

the office of William Lucius Jones, 106 Timothy Lane, Waynesville, N.C. 28786

or at such place as the legal holder hereof may designate in writing. It is understood and agreed that additional amounts may be advanced by the holder hereof as provided in the instruments, if any, securing this Note and such advances will be added to the principal of this Note and will accrue interest at the above specified rate of interest from the date of advance until paid. The principal and interest shall be due and payable as follows:

see attached amortization schedule  
equal yearly installments beginning in December, 1996

If not sooner paid, the entire remaining indebtedness shall be due and payable on December 31, 2000

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial prepayments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust, if any, shall bear interest at the rate of eight per cent ( 8 %) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorney's fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the purchase of equipment, and is secured by a

6610 Ford Tractor; Gehl silage feed wagon; and a 6 foot Gill scraper

which is a \_\_\_\_\_ lien upon the property therein described.

IN TESTIMONY WHEREOF, each corporate maker has caused this instrument to be executed in its corporate name by its \_\_\_\_\_

IN TESTIMONY WHEREOF, each individual maker has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

\_\_\_\_\_  
President, attested by its

\_\_\_\_\_  
Secretary, and its corporate seal to be hereto affixed, all by order of its Board of Directors first duly given, the day and year first above written.

Gregory Todd Ferguson (SEAL)  
Gregory Todd Ferguson

\_\_\_\_\_  
(Corporate Name)

Shannon Price Ferguson (SEAL)  
Shannon Price Ferguson

By: \_\_\_\_\_

\_\_\_\_\_  
President

\_\_\_\_\_  
(SEAL)

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Secretary (Corporate Seal)

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(Corporate Name)

By: \_\_\_\_\_

\_\_\_\_\_  
President

\_\_\_\_\_  
(SEAL)

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Secretary (Corporate Seal)

\_\_\_\_\_  
(SEAL)



Interest Vision

Amortization Schedule

SPE  
REVISED

Loan or Annuity Variables:

Start Date:	Feb 7, 1996	End Date:	Feb 7, 2001
Start Payment:	Feb 7, 1996	No. of Payments:	5
Start Interest:	Feb 7, 1996	Interest Rate:	5.000%
Payment Freq.:	Annual	Initial Principal:	\$12750.00
Compound Freq.:	Monthly	Payment Amount:	\$2954.45
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Feb 7, 1996	0.00	0.00	0.000	0.00	12750.00
	Mar 7, 1996	0.00	50.51	5.000	-50.51	12800.51
	Apr 7, 1996	0.00	54.21	5.000	-54.21	12854.72
	May 7, 1996	0.00	52.68	5.000	-52.68	12907.41
	Jun 7, 1996	0.00	54.66	5.000	-54.66	12962.07
	Jul 7, 1996	0.00	53.12	5.000	-53.12	13015.19
	Aug 7, 1996	0.00	55.12	5.000	-55.12	13070.31
	Sep 7, 1996	0.00	55.35	5.000	-55.35	13125.66
	Oct 7, 1996	0.00	53.79	5.000	-53.79	13179.46
	Nov 7, 1996	0.00	55.81	5.000	-55.81	13235.27
	Dec 7, 1996	0.00	54.24	5.000	-54.24	13289.51
	Jan 7, 1997	0.00	56.43	5.000	-56.43	13345.95
1	Feb 7, 1997	2954.45	56.67	5.000	2897.77	10448.17
	Mar 7, 1997	0.00	40.08	5.000	-40.08	10488.25
	Apr 7, 1997	0.00	44.54	5.000	-44.54	10532.79
	May 7, 1997	0.00	43.29	5.000	-43.29	10576.07
	Jun 7, 1997	0.00	44.91	5.000	-44.91	10620.99
	Jul 7, 1997	0.00	43.65	5.000	-43.65	10664.63
	Aug 7, 1997	0.00	45.29	5.000	-45.29	10709.92
	Sep 7, 1997	0.00	45.48	5.000	-45.48	10755.40
	Oct 7, 1997	0.00	44.20	5.000	-44.20	10799.60
	Nov 7, 1997	0.00	45.86	5.000	-45.86	10845.46
	Dec 7, 1997	0.00	44.57	5.000	-44.57	10890.04
	Jan 7, 1998	0.00	46.25	5.000	-46.25	10936.28
2	Feb 7, 1998	2954.45	46.44	5.000	2908.01	8028.27 + 6500
	Mar 7, 1998	0.00	30.79	5.000	-30.79	8059.07
	Apr 7, 1998	0.00	34.22	5.000	-34.22	8093.29
	May 7, 1998	0.00	33.26	5.000	-33.26	8126.55
	Jun 7, 1998	0.00	34.51	5.000	-34.51	8161.06
	Jul 7, 1998	0.00	33.54	5.000	-33.54	8194.60
	Aug 7, 1998	0.00	34.80	5.000	-34.80	8229.40
	Sep 7, 1998	0.00	34.95	5.000	-34.95	8264.35
	Oct 7, 1998	0.00	33.96	5.000	-33.96	8298.31
	Nov 7, 1998	0.00	35.24	5.000	-35.24	8333.55
	Dec 7, 1998	0.00	34.25	5.000	-34.25	8367.80
	Jan 7, 1999	0.00	35.53	5.000	-35.53	8403.33

3/11/98

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
36	Jul 1, 1999	681.29	66.34	5.000	614.95	15527.33
37	Aug 1, 1999	681.29	65.94	5.000	615.35	14911.98
38	Sep 1, 1999	681.29	63.32	5.000	617.96	14294.02
39	Oct 1, 1999	681.29	58.74	5.000	622.54	13671.48
40	Nov 1, 1999	681.29	58.06	5.000	623.23	13048.25
41	Dec 1, 1999	681.29	53.62	5.000	627.66	12420.59
42	Jan 1, 2000	681.29	52.60	5.000	628.68	11791.90
43	Feb 1, 2000	681.29	49.94	5.000	631.35	11160.56
44	Mar 1, 2000	681.29	44.22	5.000	637.07	10523.49
45	Apr 1, 2000	681.29	44.57	5.000	636.72	9886.77
46	May 1, 2000	681.29	40.52	5.000	640.77	9246.00
47	Jun 1, 2000	681.29	39.16	5.000	642.13	8603.87
48	Jul 1, 2000	681.29	35.26	5.000	646.02	7957.85
49	Aug 1, 2000	681.29	33.70	5.000	647.58	7310.26
50	Sep 1, 2000	681.29	30.96	5.000	650.33	6659.94
51	Oct 1, 2000	681.29	27.29	5.000	653.99	6005.95
52	Nov 1, 2000	681.29	25.44	5.000	655.85	5350.10
53	Dec 1, 2000	681.29	21.93	5.000	659.36	4690.74
54	Jan 1, 2001	681.29	19.92	5.000	661.37	4029.37
55	Feb 1, 2001	681.29	17.11	5.000	664.17	3365.20
56	Mar 1, 2001	681.29	12.91	5.000	668.38	2696.82
57	Apr 1, 2001	681.29	11.45	5.000	669.83	2026.99
58	May 1, 2001	681.29	8.33	5.000	672.96	1354.03
59	Jun 1, 2001	681.29	5.75	5.000	675.54	678.50
60	Jul 1, 2001	681.29	2.79	5.000	678.50	0.00

SATISFACTION: The debt evidenced by this Note has been satisfied in full this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
Signed: \_\_\_\_\_

## PROMISSORY NOTE

Waynesville, N.C.  
February 19, 19 96

\$ 36,100.00

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to William Lucius Jones

\_\_\_\_\_ or order,  
the principal sum of Thirty-six Thousand One Hundred and 00/100  
DOLLARS (\$ 36,100.00), with interest from July 1, 1996, at the rate of Five  
per cent (5 %) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at  
the office of William Lucius Jones, 106 Timothy Lane, Waynesville, N.C. 28786

or at such place as the legal holder hereof may designate in writing. It is understood and agreed that additional amounts may be advanced by the holder hereof as provided in the instruments, if any, securing this Note and such advances will be added to the principal of this Note and will accrue interest at the above specified rate of interest from the date of advance until paid. The principal and interest shall be due and payable as follows:

see attached amortization schedule

If not sooner paid, the entire remaining indebtedness shall be due and payable on July 1, 2001

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial prepayments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust, if any, shall bear interest at the rate of eight per cent (8 %) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorney's fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the purchase of 124 dairy cattle for the total price of \$51,100.00. A payment of \$15,000.00 has already been received

by the seller, William Lucius Jones

IN TESTIMONY WHEREOF, each corporate maker has caused this instrument to be executed in its corporate name by its  
\_\_\_\_\_  
President, attested by its

IN TESTIMONY WHEREOF, each individual maker has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

\_\_\_\_\_  
Secretary, and its corporate seal to be

01 9.11 2



*Cow*

Interest Vision  
Amortization Schedule

32,632.93

Loan or Annuity Variables:

Start Date:	Jul 1, 1996	End Date:	Jul 1, 2001
Start Payment:	Jul 1, 1996	No. of Payments:	60
Start Interest:	Jul 1, 1996	Interest Rate:	5.000%
Payment Freq.:	Monthly	Initial Principal:	\$36100.00
Compound Freq.:	Monthly	Payment Amount:	\$681.29
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Jul 1, 1996	0.00	0.00	0.000	0.00	36100.00
1	Aug 1, 1996	681.29	152.88	5.000	528.40	35571.60
2	Sep 1, 1996	681.29	150.64	5.000	530.64	35040.96
3	Oct 1, 1996	681.29	143.61	5.000	537.67	34503.28
4	Nov 1, 1996	681.29	146.12	5.000	535.16	33968.12
5	Dec 1, 1996	681.29	139.21	5.000	542.07	33426.05
6	Jan 1, 1997	681.29	141.95	5.000	539.34	32886.71
7	Feb 1, 1997	681.29	139.66	5.000	541.63	32345.08
8	Mar 1, 1997	681.29	124.06	5.000	557.22	31787.85
9	Apr 1, 1997	681.29	134.99	5.000	546.30	31241.56
10	May 1, 1997	681.29	128.39	5.000	552.90	30688.66
11	Jun 1, 1997	681.29	130.32	5.000	550.96	30137.70
12	Jul 1, 1997	681.29	123.85	5.000	557.43	29580.27
13	Aug 1, 1997	681.29	125.61	5.000	555.67	29024.60
14	Sep 1, 1997	681.29	123.26	5.000	558.03	28466.57
15	Oct 1, 1997	681.29	116.99	5.000	564.30	27902.27
16	Nov 1, 1997	681.29	118.49	5.000	562.80	27339.47
17	Dec 1, 1997	681.29	112.35	5.000	568.93	26770.54
18	Jan 1, 1998	681.29	113.68	5.000	567.60	26202.94
19	Feb 1, 1998	681.29	111.27	5.000	570.01	25632.93
20	Mar 1, 1998	681.29	98.32	5.000	582.97	25049.96
21	Apr 1, 1998	681.29	106.38	5.000	574.91	24475.05
22	May 1, 1998	681.29	100.58	5.000	580.70	23894.35
23	Jun 1, 1998	681.29	101.47	5.000	579.82	23314.53
24	Jul 1, 1998	681.29	95.81	5.000	585.47	22729.06
25	Aug 1, 1998	681.29	96.52	5.000	584.76	22144.29
26	Sep 1, 1998	681.29	94.04	5.000	587.25	21557.05
27	Oct 1, 1998	681.29	88.59	5.000	592.69	20964.35
28	Nov 1, 1998	681.29	89.03	5.000	592.26	20372.09
29	Dec 1, 1998	681.29	83.72	5.000	597.56	19774.53
30	Jan 1, 1999	681.29	83.97	5.000	597.31	19177.22
31	Feb 1, 1999	681.29	81.44	5.000	599.85	18577.37
32	Mar 1, 1999	681.29	71.26	5.000	610.03	17967.34
33	Apr 1, 1999	681.29	76.30	5.000	604.99	17362.35
34	May 1, 1999	681.29	71.35	5.000	609.93	16752.42
35	Jun 1, 1999	681.29	71.14	5.000	610.14	16142.28

*32,632.93*

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
36	Jul 1, 1999	681.29	66.34	5.000	614.95	15527.33
37	Aug 1, 1999	681.29	65.94	5.000	615.35	14911.98
38	Sep 1, 1999	681.29	63.32	5.000	617.96	14294.02
39	Oct 1, 1999	681.29	58.74	5.000	622.54	13671.48
40	Nov 1, 1999	681.29	58.06	5.000	623.23	13048.25
41	Dec 1, 1999	681.29	53.62	5.000	627.66	12420.59
42	Jan 1, 2000	681.29	52.60	5.000	628.68	11791.90
43	Feb 1, 2000	681.29	49.94	5.000	631.35	11160.56
44	Mar 1, 2000	681.29	44.22	5.000	637.07	10523.49
45	Apr 1, 2000	681.29	44.57	5.000	636.72	9886.77
46	May 1, 2000	681.29	40.52	5.000	640.77	9246.00
47	Jun 1, 2000	681.29	39.16	5.000	642.13	8603.87
48	Jul 1, 2000	681.29	35.26	5.000	646.02	7957.85
49	Aug 1, 2000	681.29	33.70	5.000	647.58	7310.26
50	Sep 1, 2000	681.29	30.96	5.000	650.33	6659.94
51	Oct 1, 2000	681.29	27.29	5.000	653.99	6005.95
52	Nov 1, 2000	681.29	25.44	5.000	655.85	5350.10
53	Dec 1, 2000	681.29	21.93	5.000	659.36	4690.74
54	Jan 1, 2001	681.29	19.92	5.000	661.37	4029.37
55	Feb 1, 2001	681.29	17.11	5.000	664.17	3365.20
56	Mar 1, 2001	681.29	12.91	5.000	668.38	2696.82
57	Apr 1, 2001	681.29	11.45	5.000	669.83	2026.99
58	May 1, 2001	681.29	8.33	5.000	672.96	1354.03
59	Jun 1, 2001	681.29	5.75	5.000	675.54	678.50
60	Jul 1, 2001	681.29	2.79	5.000	678.50	0.00



by testimony  
of witnesses  
at a hearing  
held on  
10-28-2002

10-28-2002

notary  
Vicky L. Edwards  
notary signature  
Vicky L. Edwards

~~Lucas Jones~~  
~~Simon Ferguson~~  
~~Simon Ferguson~~

To be known to all that this is a legal

binding agreement between Greg Ferguson

and his wife, Simon Ferguson, as borrower and

Lucas Jones as lender as of the 9th day of

January 1998. Borrower owe lender the

sum of \$7,000.00 to be paid on monthly

installments as per attached amortization

schedule until repairs beginning February 1998

signed & notarized on the 9th day of January, 1998



Promissory Note

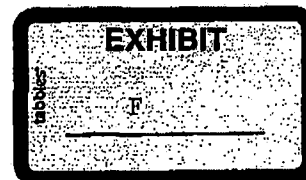
Be it hereby known that this is a legal and binding document / agreement entered into this day 3-11-98 between Lucius Jones, lender, and Greg Ferguson, borrower. This document certifies that Greg Ferguson has borrowed \$6500.00 from Lucius Jones - the amount to be repaid in equal installments on a yearly basis per attached ammortization schedule over a period of 5 years at an interest rate of 5%. This agreement was entered into freely by both parties and by signing below, both parties are acknowledging agreement with the terms above.

Lucius Jones  
Lucius Jones, (lender)

Greg Ferguson  
Greg Ferguson, (borrower)

Walter L. Edwards  
Notary

10-28-2005: Commissioner  
Office



\*in addition to amount borrowed previously +  
\$2,000.00

Interest Vision

Amortization Schedule

Loan or Annuity Variables:

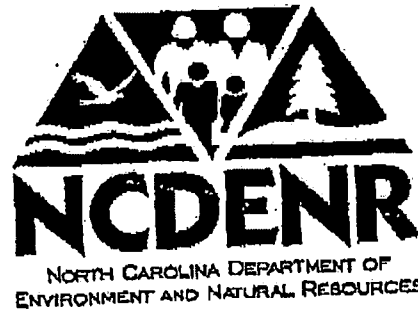
Start Date:	Feb 7, 1998	End Date:	Feb 7, 2003
Start Payment:	Feb 7, 1998	No. of Payments:	5
Start Interest:	Feb 7, 1998	Interest Rate:	5.000%
Payment Freq.:	Annual	Initial Principal:	\$14528.27
Compound Freq.:	Monthly	Payment Amount:	\$3366.43
Days in Mo./Yr.:	Actual No.	Balloon:	\$0.00
Payment Mode:	In Arrears	Amortization Method:	Simple Int.

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
	Feb 7, 1998	0.00	0.00	0.000	0.00	14528.27
	Mar 7, 1998	0.00	55.72	5.000	-55.72	14583.99
	Apr 7, 1998	0.00	61.93	5.000	-61.93	14645.93
	May 7, 1998	0.00	60.19	5.000	-60.19	14706.12
	Jun 7, 1998	0.00	62.45	5.000	-62.45	14768.57
	Jul 7, 1998	0.00	60.69	5.000	-60.69	14829.26
	Aug 7, 1998	0.00	62.97	5.000	-62.97	14892.23
	Sep 7, 1998	0.00	63.24	5.000	-63.24	14955.47
	Oct 7, 1998	0.00	61.46	5.000	-61.46	15016.93
	Nov 7, 1998	0.00	63.77	5.000	-63.77	15080.70
	Dec 7, 1998	0.00	61.98	5.000	-61.98	15142.68
	Jan 7, 1999	0.00	64.30	5.000	-64.30	15206.98
1	Feb 7, 1999	3366.43	64.58	5.000	3301.85	11905.13
	Mar 7, 1999	0.00	45.66	5.000	-45.66	11950.79
	Apr 7, 1999	0.00	50.75	5.000	-50.75	12001.54
	May 7, 1999	0.00	49.32	5.000	-49.32	12050.87
	Jun 7, 1999	0.00	51.17	5.000	-51.17	12102.04
	Jul 7, 1999	0.00	49.73	5.000	-49.73	12151.77
	Aug 7, 1999	0.00	51.60	5.000	-51.60	12203.38
	Sep 7, 1999	0.00	51.82	5.000	-51.82	12255.20
	Oct 7, 1999	0.00	50.36	5.000	-50.36	12305.56
	Nov 7, 1999	0.00	52.26	5.000	-52.26	12357.82
	Dec 7, 1999	0.00	50.79	5.000	-50.79	12408.61
	Jan 7, 2000	0.00	52.55	5.000	-52.55	12461.16
2	Feb 7, 2000	3366.43	52.77	5.000	3313.66	9147.50
	Mar 7, 2000	0.00	36.24	5.000	-36.24	9183.74
	Apr 7, 2000	0.00	38.89	5.000	-38.89	9222.63
	May 7, 2000	0.00	37.80	5.000	-37.80	9260.43
	Jun 7, 2000	0.00	39.22	5.000	-39.22	9299.65
	Jul 7, 2000	0.00	38.11	5.000	-38.11	9337.76
	Aug 7, 2000	0.00	39.55	5.000	-39.55	9377.30
	Sep 7, 2000	0.00	39.71	5.000	-39.71	9417.02
	Oct 7, 2000	0.00	38.59	5.000	-38.59	9455.61
	Nov 7, 2000	0.00	40.04	5.000	-40.04	9495.65
	Dec 7, 2000	0.00	38.92	5.000	-38.92	9534.57
	Jan 7, 2001	0.00	40.49	5.000	-40.49	9575.06

No.	Date	Payment Amount	Interest Amount	Interest Rate/Yr.	Principal	Balance
3	Feb 7, 2001	3366.43	40.66	5.000	3325.77	6249.29
	Mar 7, 2001	0.00	23.97	5.000	-23.97	6273.26
	Apr 7, 2001	0.00	26.64	5.000	-26.64	6299.90
	May 7, 2001	0.00	25.89	5.000	-25.89	6325.79
	Jun 7, 2001	0.00	26.86	5.000	-26.86	6352.65
	Jul 7, 2001	0.00	26.11	5.000	-26.11	6378.76
	Aug 7, 2001	0.00	27.09	5.000	-27.09	6405.85
	Sep 7, 2001	0.00	27.20	5.000	-27.20	6433.05
	Oct 7, 2001	0.00	26.44	5.000	-26.44	6459.49
	Nov 7, 2001	0.00	27.43	5.000	-27.43	6486.92
	Dec 7, 2001	0.00	26.66	5.000	-26.66	6513.58
	Jan 7, 2002	0.00	27.66	5.000	-27.66	6541.24
4	Feb 7, 2002	3366.43	27.78	5.000	3338.65	3202.58
	Mar 7, 2002	0.00	12.28	5.000	-12.28	3214.87
	Apr 7, 2002	0.00	13.65	5.000	-13.65	3228.52
	May 7, 2002	0.00	13.27	5.000	-13.27	3241.79
	Jun 7, 2002	0.00	13.77	5.000	-13.77	3255.55
	Jul 7, 2002	0.00	13.38	5.000	-13.38	3268.93
	Aug 7, 2002	0.00	13.88	5.000	-13.88	3282.81
	Sep 7, 2002	0.00	13.94	5.000	-13.94	3296.75
	Oct 7, 2002	0.00	13.55	5.000	-13.55	3310.30
	Nov 7, 2002	0.00	14.06	5.000	-14.06	3324.36
	Dec 7, 2002	0.00	13.66	5.000	-13.66	3338.02
	Jan 7, 2003	0.00	14.18	5.000	-14.18	3352.20
5	Feb 7, 2003	3366.43	14.24	5.000	3352.20	0.00

State of North Carolina  
Department of Environment  
and Natural Resources  
Division of Water Quality

James B. Hunt, Jr., Governor  
Wayne McDevitt, Secretary  
A. Preston Howard, Jr., P.E., Director



July 27, 1998

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Lucius Jones  
3131 Rabbit Skin Road  
Waynesville NC 28786

Subject: Special Agreement  
Certified Animal Waste Management Plan  
Greg Ferguson Dairy  
Facility Number: 44-55  
Haywood County

Dear Lucius Jones:

As per Senate Bill 1217, which was ratified on June 21, 1996, and your application for Special Agreement which was received on March 20, 1998, the Environmental Management Commission (EMC) hereby proposes to enter into a special agreement with Lucius Jones in order to allow additional time for Lucius Jones to obtain and implement a certified animal waste management plan (CAWMP) for the subject facility.

Please find enclosed the proposed Special Agreement. If you agree to abide by the dates and terms of the attached schedule, you must sign, date and return the enclosed documents to the attention of "Shannon Langley" at the letterhead address within fourteen (14) calendar days of your receipt of this letter.

If you have already implemented your CAWMP or do not wish to enter into the Special Agreement, please provide us with a response to Mr. Shannon Langley within fourteen (14) calendar days of your receipt of this letter.

Please be advised that nothing in this letter should be taken as removing from you the responsibility or liability for failure to comply with all terms and conditions of the North Carolina General Statutes 143-215.1 and the relevant rules promulgated thereunder. All dates and conditions of this agreement that are not met shall be subject to civil penalties, criminal penalties, injunctions and all other enforcement tools available to the Division of Water Quality.

EXHIBIT

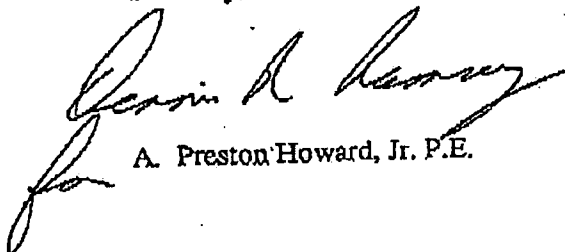
P.O. Box 29535, Raleigh, North Carolina 27626-0535  
An Equal Opportunity Affirmative Action Employer

Telephone 919-733-5083 Fax 919-715-6048  
50% recycled/10% post-consumer paper

Therefore, in order to avoid such enforcement actions, I urge you to read the Agreement carefully, make sure you understand your commitments under the Agreement, and contact Mr. Langley, if you do not understand or are confused about any condition of the agreement.

If you have any questions concerning this matter, please do not hesitate to contact Mr. Shannon Langley at (919) 733-5083 ext. 581 or Ms. Sonya Avant at (919) 733-5083 ext. 571.

Sincerely,



A. Preston Howard, Jr. P.E.

Attachment

cc: Facility File - Non-Discharge Compliance/Enforcement Unit  
DWQ Regional Office  
Dewey Botts - Division of Soil and Water  
Shannon Langley  
Central Files

**NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT COMMISSION**

COUNTY OF HAYWOOD

IN THE MATTER OF

SPECIAL AGREEMENT  
FACILITY NUMBER: 44-55

LUCIUS JONES

Pursuant to provisions of North Carolina General Statutes (G.S.) 143-215.2(a) this Special Agreement is entered into by Lucius Jones, hereinafter referred to as "OWNER", and the North Carolina Environmental Management Commission, an agency of the State of North Carolina created by G.S. 143B-282, and hereinafter referred to as the Commission:

1. "OWNER" and the Commission hereby stipulate the following:
  - (a) "OWNER" has previously been deemed permitted in accordance with 15A NCAC 2H .0217 for the operation of an animal waste treatment works, but was unable to comply with 15A NCAC2H .0217 (a)(1)(E) requiring an approved animal waste management plan to be submitted by December 31, 1997.
  - (b) Failure to obtain and implement a Certified Animal Waste Management Plan in accordance with 15A NCAC 2H .0217(a)(1)(E) is a violation of State Water Quality Regulations and "OWNER" is within the jurisdiction of the Commission as set forth in G.S. Chapter 143, Article 21.
  - (c) "OWNER" desires to continue to operate the animal waste treatment works as a Non-Discharge system.
  - (d) "OWNER" has secured assistance from a certified technical specialist to develop an animal waste management system which, once certified, will meet or exceed all applicable guidelines and standards and will be able to comply with all aspects of the Commission's animal waste general permit.
  - (e) During the term of this Agreement there will be no increase in Steady State Live Weight (SSLW) at the facility. Any new construction will be designed to accommodate only the SSLW for which the facility was registered in accordance with 15A NCAC 2H .0217(a)(1)(D).
  - (e) Since this Special Agreement is by Consent, neither party will file a petition for a contested case or for judicial review concerning its terms.
  - (f) Nothing in this Special Agreement shall be taken as absolving or relieving "OWNER" from any responsibility or liability for discharges of animal waste to surface waters of the State of North Carolina.
2. "OWNER" desiring to comply with the Permit identified in paragraph 1(a) above, hereby agrees to do the following:
  - (a) Undertake all necessary activities in order to obtain and implement a certified animal waste management plan by December 31, 1999.

Farm Number: 44-55  
 Special Agreement  
 Page 2

- (b) "OWNER" shall comply with all terms and conditions of the North Carolina General Statutes 143-215.1 and the relevant rules promulgated thereunder except 15A NCAC 2H .0217(a)(1)(E).
- (c) No later than fourteen (14) calendar days after the date identified in 2(a) above, submit to the Director of DWQ written notice of compliance or noncompliance therewith. In the case of noncompliance, the notice shall include a statement of the reason(s) for noncompliance, remedial action(s) taken, and a statement identifying the extent to which subsequent dates or times for accomplishment of listed activities may be affected.

3. "OWNER" agrees that unless excused under paragraph four (4), "OWNER" will pay the Director of DWQ, by check payable to the North Carolina Department of Environment and Natural Resources, stipulated penalties according to the following schedule for failure to meet the deadline set out in paragraph 2(a) above.

Failure to obtain and fully implement a Certified Animal Waste Management Plan by the date identified in 2(a)

\$100.00 for the first seven days past the date identified in 2(a) above; \$500.00 for each additional day

4. "OWNER" and the Commission agree that stipulated penalties are not due if "OWNER" satisfies the Division of Water Quality that noncompliance was caused solely by:
- An act of God;
  - An act of war;
  - An intentional act or omission of a third party, but this defense shall not be available if the act or omission is that of an employee or agent of the defendant or if the act or omission occurs in connection with a contractual relationship with the "OWNER";
  - An extraordinary event beyond the "OWNER'S" control. Contractor delays or failure to obtain funding will not be considered as events beyond the "OWNER's" control; or
  - Any combination of the above causes.

Failure within thirty (30) days of receipt of written demand to pay the penalties, or challenge them by a contested case petition pursuant to G.S. 150B-23, will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. The only issue in such an action will be whether the thirty (30) days has elapsed.

5. This Special Agreement and any terms and conditions contained herein, hereby supersedes 15A NCAC 2H .0217(a)(1)(E).
6. Noncompliance with the terms of this Special Agreement are subject to enforcement action in addition to the above stipulated penalties, including injunctive relief pursuant to G.S. 143-215.6(C).

Farm Number: 44-55  
Special Agreement  
Page 3

- 7. The "OWNER", upon signature of this Special Agreement, will be expected to comply with all schedule dates, terms, and conditions of this document.
- 8. This Special Agreement shall expire upon owners submittal of a certified animal waste management plan.

For Greg Ferguson Dairy

WILLIAM LUCIUS JONES  
Print Name of Owner

Lucius Jones  
Signature of Owner

Date 8-20-98

For the North Carolina Environmental Management Commission:

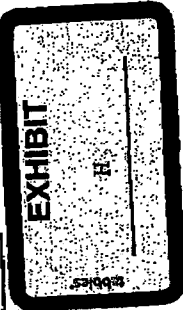
\_\_\_\_\_  
Chairman of the Commission

Date \_\_\_\_\_



NORTH CAROLINA  
AGRICULTURE COST SHARE PROGRAM  
CONSERVATION PLAN OF OPERATION (CPO)

NC-ACSP-11  
(12/98)



NAME: Greg Ferguson ADDRESS: P.O. Box 1976 Maggie Valley, NC 28751						AGREEMENT NUMBER 44-2000-21-05		
BMP ITEM NO.	TRACT/ FIELD NO.	PLANNED TREATMENT	EST. AMOUNTS (UNITS)	AVERAGE COST \$	COST SHARE %	ESTIMATED COST SHARE AND TIME SCHEDULE BY PROGRAM YEAR (INCLUDE OTHER COST SHARED FUNDING SOURCES)		
						PY 2000	PY	PY
II	I	Feed Lot Roof Structure						
		roofing	10,000 sqft	\$6/sqft	75%	\$45,000		
III	I	Waste Water System						
		pipe (by invoice)	500'	\$8/ft	75%	\$3,000		
		manhole (by invoice)	2	\$800 ea	75%	\$1,200		
		boring under road	1	\$16,000	75%	\$12,000		
IV	I	Clean Water Protection System						
		storm water conduit	250'	\$24/ft	75%	\$4,500		
		fill dirt	600 cuyd	\$2/cuyd	75%	\$900		
		catch basin	2	\$600	75%	\$900		
V	I	Holding Area Roof Structure						
		roof (over existing lot)	4,600sqft	\$6/sqft	75%	\$20,700		

WAYNESVILLE AREA OFF

8284527031

04/23/2008 15:23

Technical Representative Lidia Smothers

Date 5/17/00

NORTH CAROLINA  
AGRICULTURE COST SHARE PROGRAM  
CONSERVATION PLAN OF OPERATION (CPO)

NC-ACSP-11  
(12/98)

NAME: Greg Ferguson  
ADDRESS: P.O. Box 1976  
Maggie Valley, NC 28751

AGREEMENT NUMBER

44-2000-21-05

ESTIMATED COST SHARE AND TIME  
SCHEDULE BY PROGRAM YEAR (INCLUDE  
OTHER COST SHARED FUNDING SOURCES)  
PY 2000 PY PY

BMP ITEM NO.	TRACT/ FIELD NO.	PLANNED TREATMENT	EST. AMOUNTS (UNITS)	AVERAGE COST \$	COST SHARE %			
1	1	Dry Stack Facility						
		roof	5000sqft	\$600/sqft	75%	\$22,500		
		footing concrete	36 cuyd	\$250/cyd	75%	\$6,750		
		concrete for floor	40 cuyd	\$100/cyd	75%	\$3,000		
		concrete for wall	30 cuyd	\$250/cyd	75%	\$5,625		
		concrete for loading pad	15 cuyd	\$100/cyd	75%	\$1,125		
		reinforcing bar	6107 lbs	\$0.74/lb	75%	\$3,389		
		washed stone	15 tons	\$14.40/t	75%	\$162		
		excavation	1,100yds		75%	\$1,650		
		push off ramp	1	\$2,000	75%	\$1,500		

WAYNESVILLE AREA OFF. 8284527031

04/23/2008 15:23

Technical Representative Leslie Spather

Date 5/17/00

PAGE 11/18  
 WAYNESVILLE AREA OFFICE  
 8284527831  
 04/29/2008 15:23

NC DENR  
 SWC

NORTH CAROLINA AGRICULTURE COST SHARE PROGRAM  
 CONSERVATION PLAN OF OPERATION (CPO) SUMMARY

NC-ACSP-11A  
 (12/98)

NAME: Greg Ferguson ADDRESS: P.O. Box 1976 Maggie Valley, NC 28751			AGREEMENT NUMBER 44-2000-21-05	TOTAL ACRES AFFECTED 250	ANIMAL TYPE AND NUMBER 120 dairy		
TOTAL COST	ANNUAL COST BY PROGRAM YEAR		TOTAL SOIL LOSS REDUCTION*	TOTAL NUTRIENT LOSS REDUCTION*		TOTAL WASTE MANAGED	
	PY 2000	PY _____	TONS/YR	LBS/YR N	LBS/YR P	LBS/YR N	LBS/YR P (P2O5)
\$133,901.00	\$133,901.00						

Highest level of design approval: FIELD OFFICE  AREA OFFICE  STATE OFFICE  OTHER

The Cooperator(s) has reviewed the agreement and CPO and agrees to apply the planned treatment according to the standards and specifications as approved by the Division of Soil and Water Conservation. Failure to carry out the un-numbered contract items (UN) does not constitute non-compliance with the contract. The Cooperator(s) agrees to maintain the stripcropping system for 5 years, long term no-till for 5 years, nutrient management plan for 3 years, sod-based rotation for a minimum \_\_\_\_\_ months in sod, and all other practices for 10 years, except conservation tillage, which is an annual practice. The Cooperator(s) also agrees to fully implement the Waste Management Plan (WMP) that is part of the CPO. CPO and payment contingent on approval by NPS Section, Division of Soil and Water Conservation, NC DENR. Funding for this CPO is contingent upon final annual allocation of State funds to the District. Installation may not begin prior to receiving approval from the Division.

Applicant: X Greg Ferguson  
 Landowner (if applicable): \_\_\_\_\_  
 Technical Representative: Heidi Matthews  
 Design Approval Authority: \_\_\_\_\_  
 (Can be submitted separately from 11A)  
 District Chair: Ron L...

Date: 5/17/00  
 Date: \_\_\_\_\_  
 Date: 5/17/00  
 Date: \_\_\_\_\_  
 Date: 18 May 00

\*Or attach Resource Impact Summary. (Hansard/Sugg worksheet cannot be substituted.) Of

**SOIL & WATER**

CONSERVATION DISTRICT

— Yours for Life —

**Haywood Soil and Water Conservation District**  
559 Raccoon Road Suite 203 Waynesville, NC 28786  
(828) 452-2741 (828) 458-5132 Ext. 3  
(828) 452-7031 FAX

April 15, 2002

Mr. Greg Ferguson  
3131 Rabbit Skin Road  
Waynesville, NC 28786

Dear Greg:

At the Haywood Soil & Water District Board Meeting held on April 10, 2002, the Supervisors discussed your North Carolina Agriculture Cost Share Program contract. The funds were to be used to get the dairy you were operating certified for the .0200 program. However, since you are no longer operating the dairy at that location, the contract must be canceled and the funds returned to the North Carolina Cost Share program.

This letter is official notification that the contract has been canceled and the funds returned to the NC Cost Share program.

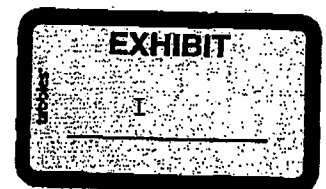
If you have any questions, or if we can be of further assistance, please do not hesitate to call.

Yours truly,

*Carlyle Ferguson*  
Carlyle Ferguson, Chairman  
Haywood Soil & Water Conservation District

cc: Gayna Woody  
Lucius Jones

CF/gr



Original letter sent to Greg Ferguson on 4/17/02 via registered mail.

Copies sent to:

Lucius Jones  
60 Timothy Lane  
Waynesville, NC 28786

Gayna Woody  
P.O. Box 116  
Leicester, NC 28748

July 10, 2001

STATE OF NORTH CAROLINA

COUNTY/CITY OF Haywood

I, ~~William M. Howell~~ Notary Public for Haywood County, hereby certify that William Lucius Jones the declarant, appeared before me and swore to me and to the witnesses in my presence that this instrument is a last will and testament, and that he willingly and voluntarily made and executed it as his free act and deed for the purposes expressed in it.

I further certify that Greg Rydelek and Sarah Rydelek witnesses, appeared before me and swore that they witnessed William Lucius Jones declarant, sign the attached declaration, believing him to be of sound mind; and also swore that at the time they witnessed the signing they were not related within the third degree to the declarant, and they did not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon the declarant's death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it provided at that time and they did not have a claim against the declarant. I further certify that I am satisfied as to the genuineness and due execution of the instrument.

I, William Lucius Jones do hereby will said property, as listed below to Rufus Dennis Hall *Rufus Dennis Hall*

House, property and contents of said location-  
60 Timothy Lane  
Waynesville, North Carolina 28786

Debt for house and property  
located on Boyd Ave.  
Book 412, Page 2444  
Will be erased upon declarant  
death.

Acreage property of said location-  
Property on Dellwood Road  
Consisting of One and A half Acres.  
Waynesville, North Carolina

Annuity held through  
American General Annuity  
Agent: First Union Mortgage  
Contract # FD018250

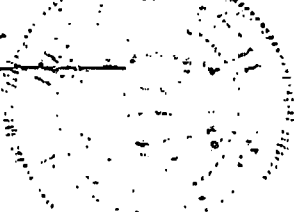
Greg Rydelek  
Witness

Sarah B. Rydelek  
Witness

This is the 10th day of July

William M. Howell  
Notary Public  
For the County of Haywood

My Commission expires 2-14-2005



WILLIAM LUCIUS JONES

OF

WILLIAM LUCIUS JONES

I, WILLIAM LUCIUS JONES, a citizen of Haywood County, North Carolina, being of sound mind and disposing memory, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all former Wills, codicils and letters of testamentary import by me made.

ITEM ONE

I desire and direct my Executor herein named and appointed, to pay from my probate estate all of the expenses of my last illness, funeral expenses, costs of administration, legal expenses, and other proper charges against my estate.

ITEM TWO

I hereby give, devise, and bequeath all that real property located in Jonathan Creek Township to Dennis Hall subject to a lease to Greg Ferguson for and during his lifetime, to be leased in an amount to be determined in the discretion of Dennis Hall or fair market value whichever is less.

ITEM THREE

I hereby give, devise and bequeath all of my estate and property, including all property of which I shall die seized and possessed, and all property to which I shall be otherwise entitled at the time of my decease, of whatsoever kind and nature and wheresoever situated, be it real, personal or mixed, to DENNIS HALL, as his sole and absolute property, per stirpes.

ITEM FOUR

I hereby nominate and appoint DENNIS HALL, as Executor of this my Last Will and Testament. I direct that no bond or security of any kind be required of my said Executor, his substitutes or successors, the same being specifically waived hereby.

W L J

incorporated by reference and granted to my Executor his successors or substitutes, subject to the restrictions of General Statutes Sec. 32-26(b).

I, WILLIAM LUCIUS JONES, the Testator, sign my name to this instrument this 23 day of July, 2001, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign it for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

William Lucius Jones (SEAL)  
WILLIAM LUCIUS JONES, Testator

We, J.W. Kirkpatrick III and Linda Correal, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his Last Will in our presence and that he signs it willingly (or willingly directs another to sign it for him), and that each of us, at the request of the Testator, and in the presence and hearing of the Testator, and in the presence and hearing of each other, hereby signs this Last Will as witness to the Testator's signing, and to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

J.W. Kirkpatrick III of WAYNESVILLE, NC  
Linda Correal of Waynesville, NC

STATE OF NORTH CAROLINA, COUNTY OF HAYWOOD

Subscribed, sworn to and acknowledged before me by WILLIAM LUCIUS JONES, the Testator, and subscribed and sworn to before me by J.W. Kirkpatrick III and Linda Correal, witnesses, this 23 day of July, 2001.

My commission expires:  
8-11-04

Sharon Muel Cranna  
Notary Public



# Last Will and Testament

OF

WILLIAM LUCIUS JONES.

I, WILLIAM LUCIUS JONES, a citizen of Haywood County, North Carolina, being of sound mind and disposing memory, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all former Wills, codicils and letters of testamentary import by me made.

## ITEM ONE

I desire and direct my Executor herein named and appointed, to pay from my probate estate all of the expenses of my last illness, funeral expenses, costs of administration, legal expenses, and other proper charges against my estate.

## ITEM TWO

I hereby give, devise and bequeath all of my estate and property, including all property of which I shall die seized and possessed, and all property to which I shall be otherwise entitled at the time of my decease, of whatsoever kind and nature and wheresoever situated, be it real, personal or mixed, to DENNIS HALL, as his sole and absolute property, per stirpes.

## ITEM THREE

I hereby nominate and appoint DENNIS HALL, as Executor of this my Last Will and Testament. I direct that no bond or security of any kind be required of my said Executor, his substitutes or successors, the same being specifically waived hereby.

## ITEM FOUR

The powers enumerated in North Carolina General Statutes Sec. 32-27 are hereby incorporated by reference and granted to my Executor his successors or substitutes, subject to the restrictions of General Statutes Sec. 32-26(b).

I, WILLIAM LUCIUS JONES, the Testator, sign my name to this instrument this 6 day of February, 2002, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign it for me), that I execute it as my free and voluntary act for the

William Lucius Jones (SEAL)  
WILLIAM LUCIUS JONES, Testator

We, C. Anthony Sexton and Linda Correal, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his Last Will in our presence and that he signs it willingly (or willingly directs another to sign it for him), and that each of us, at the request of the Testator, and in the presence and hearing of the Testator, and in the presence and hearing of each other, hereby signs this Last Will as witness to the Testator's signing, and to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

C. Anthony Sexton of Clyde, N.C.  
Linda Correal of Waynesville, N.C.

STATE OF NORTH CAROLINA, COUNTY OF HAYWOOD

Subscribed, sworn to and acknowledged before me by WILLIAM LUCIUS JONES, the Testator, and subscribed and sworn to before me by C. Anthony Sexton and Linda Correal, witnesses, this 6 day of February, 2002.

My commission expires:  
8-11-06

Kathleen M. Lee  
Notary Public

BK 0502 PG 0203

Haywood County--Register of Deeds  
Ray R. Murray  
Inst #553735 Book 502 Page 203  
09/13/2001 09:24:48am

**HAYWOOD COUNTY  
NORTH CAROLINA**

**LEASE AGREEMENT**

**THIS LEASE** is made this the 5th day of September, 2001, between Gregory Todd Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" (the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.)

**IN CONSIDERATION** of the mutual covenants contained herein, the parties agree as follows:

- 1) **SUBJECT AND PURPOSE.** Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, Page 431 of the Haywood County Registry, to Tenant for Tenant's use as an operating farm.
- 2) **TERM AND RENT.** Owner leases the above premises for a term of twelve (12) years, commencing June 15, 2001, and terminating on June 15, 2013 at 1:00 o'clock P.M. or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly installments of Nine Hundred Sixteen Dollars and Sixty Six Cents (\$916.66) in advance on the twentieth (20th) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to owner at 106 Timothy Lane, Waynesville, North Carolina 28786.
- 3) **ADDITIONAL RENT.** All taxes, charges, costs and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.
- 4) **ALTERATIONS, ADDITIONS AND IMPROVEMENTS.** Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural length, or lessen the value, of the building on the premises, or change the purposes for which the building, or any part thereof, may be used.  
  
All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.
- 5) **REPAIRS.** Tenant shall at all times during the lease and at his own cost and

EXHIBIT

M

expense, repair, replace, and maintain in a good, safe and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

6) **TAXES.** Owner shall be responsible for all taxes on said property.

7) **UTILITIES.** All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.

8) **INSURANCE.** During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance.

a) **FIRE INSURANCE.** Tenant shall keep all building, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.

b) **PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.** Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.

c) **OTHER INSURANCE.** Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.

9) **UNLAWFUL OR DANGEROUS ACTIVITY.** Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.

10) **INDEMNITY.** Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease, (2) any injury or damage happening on or about the leased premises, (3) failure to comply with any law of any governmental authority, or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.



authority for any public or quasi-public use or purpose, this lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.

- b) If only a portion of the leased premises shall be taken or condemned, this lease and the term hereof shall not cease or terminate.
- c) In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Tenant. Owner assigns to Tenant all his right, title and interest in any and all such awards.
- d) In the event of a partial taking, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the building on the leased premises to a self-contained architectural unit.

15) **ACCESS TO PREMISES; SIGNS POSTED BY OWNER.** Tenant shall permit Owner, or his agents, to enter the leased premises at all reasonable hours to inspect the premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this lease, and also to show the premises to prospective buyers.

16) **EASEMENTS, AGREEMENTS, OR ENCUMBRANCES.** The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the leased premises, and Owner shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17) **QUIET ENJOYMENT.** Owner warrants that Tenant shall be granted peaceable and quiet enjoyment of the leased premises free from any eviction or interference by Owner if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

18) **LIABILITY OF OWNER.** Tenant shall be in exclusive control and possession of the leased premises, and Owner shall not be liable for any injury or damages to any property or to any person on or about the leased premises nor for any injury or damage to any property of Tenant. The provisions herein permitting Owner to enter and inspect the leased premises are made to insure that Tenant is in compliance with the terms and conditions hereof and makes repairs that Tenant has failed to make. Owner shall not be liable to Tenant for any entry on the premises for inspection purposes.

19) **REPRESENTATIONS BY OWNER.** At the commencement of the term, Tenant shall accept the buildings and improvements and any equipment in their existing condition and state of repair, and Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Owner in respect thereto except as contained in the provisions of this lease, and Owner shall in no event be liable for any latent defects.

20) **WAIVERS.** The failure of Owner to insist on a strict performance of any of the

terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) NOTICE. All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
106 Timothy Lane  
Waynesville NC 28786

Tenant: Gregory Todd Ferguson  
Post Office Box 1976  
Maggie Valley, NC 28751

and also to be mailed to:

Gregory Todd Ferguson  
3131 Rabbit Skin Road  
Waynesville, NC 28785

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) ASSIGNMENT, MORTGAGE, OR SUBLEASE. Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) SURRENDER OF POSSESSION. Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

24) REMEDIES OF OWNER.

a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) TOTAL AGREEMENT, APPLICABLE TO SUCCESSORS. This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently execute by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals this the 5 of Sept, 2001.

William Lucius Jones  
William Lucius Jones, Owner

Gregory Todd Ferguson  
Gregory Todd Ferguson, Tenant

Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001.

C. Colleen Williamson, Notary Public

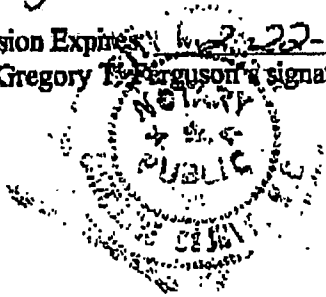
My Commission Expires: 09-21-2003



Subscribed before me this the 10 day of Septmeber, 2001

Brad Walk, Notary Public

My Commission Expires 12-22-05  
(Notarizing Gregory T. Ferguson's signature)





GENERAL AGREEMENT Inst W 553735 Book 502 Page: 209

BE IT KNOWN, for value received, the undersigned William Lucius Jones of 106 Timothy Lane, Waynesville, North Carolina 28786 hereby unconditionally and irrevocably assigns and transfers full ownership upon my (William Lucius Jones) death unto Gregory Todd Ferguson for the purpose of a farm to be handed down to his child (at the time of signing one living child Colton Wyatt Ferguson) and to their heirs to remain farm property, not to be sold or mortgaged, etc. of 3131 Rabbit Skin Road, Waynesville, North Carolina 28786, (alternate mailing address Post Office Box 1976, Maggie Valley, NC 28751) all rights, titles and interest in and to the following: The real property described in the Lease Agreement between William Lucius Jones and Gregory Todd Ferguson executed the 5 day of ~~August~~<sup>Sept.</sup>, 2001 which is presently leased by Gregory Todd Ferguson until June 15, 2013 at 1:00 o'clock P.M. This property is located on Jonathan Creek Road, Waynesville, N.C. 28786.

The undersigned fully warrants that he, William Lucius Jones is the sole owner and has full rights and authority to enter into this agreement and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

This Agreement was entered while I, William Lucius Jones, was in my sound mind and body.

This Agreement shall be enforced under the laws of the State of North Carolina.

Executed this the 5 day of August, 2001.

Owner: William Lucius Jones

X William Lucius Jones

Sworn to and subscribed before me this the 10 day of September, 2001

Notary Public Battelle White  
My Commission Expires: 2-20-05

Lessee: Gregory Todd Ferguson

Gregory J. Ferguson

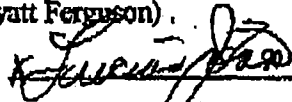
Sworn to and subscribed before me this the 5th day of Sept., 2001.

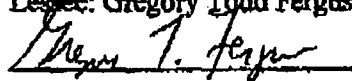
Notary Public: C. Colleen Williams My commission expires: 09-21-2003

NOTICE OF LEASE Inst # 553735 Book 302 Page: 210

The undersigned Lessor and Lessee do hereby provide public notice of the following lease entered into on the 5 day of ~~August~~ <sup>Sept</sup> 2001, by and between William Lucius Jones and Gregory Todd Ferguson.

1. Lessor: William Lucius Jones
2. Lessees: Gregory Todd Ferguson
3. Leased Premises: Refer to paragraph (1) in attached lease.
4. Term of Lease: Lease expires on June 15, 2013 at 1:00 o'clock P.M.
5. Options to renew and / or extend lease: William Lucius Jones, being of sound mind and body agrees to renew and/or extend said aforementioned lease at the end of the terms mentioned in item (4) upon conditions of the same term..
6. Option to Acquire Property: William Lucius Jones, being of sound mind and body agrees upon his death that the ownership of the property described in paragraph (3) above be transferred to Gregory Todd Ferguson for the purpose of a farm, not to be mortgaged, sold, etc. to remain in Gregory's family for said farm after Gregory Todd Ferguson's death (at the time of this signing one living child born to Gregory Todd Ferguson, Colton Wyatt Ferguson) .

  
Lessor, William Lucius Jones

\_\_\_\_\_  
Lessee: Gregory Todd Ferguson  


State of North Carolina, County of Haywood

On, 09-05-01, before me, William Lucius Jones, and Gregory Todd Ferguson personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

Notary Public Signature: C. Colleen Williamson

My Commission Expires: 09-21-2003

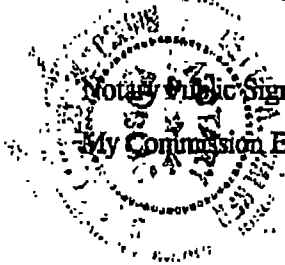


Notary Affidavit for Notice of Lease between Lucius Jones and Gregory Todd Ferguson

State of North Carolina, County of Haywood

On, 9/10/01, before me, Gregory Todd Ferguson, personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.



Notary Public Signature: Betty A. Walker  
My Commission Expires: 2-22-05

State of North Carolina, Haywood County  
The Foregoing Certificate(s) of C COLLEEN WILLIAMSON, BETTY A WALKER

is (are) Certified to be Correct.  
This Instrument was filed for Registration on this 13th Day of September, 2001 in the Book and Page shown on the First Page hereof.

~~\_\_\_\_\_~~  
Amy K. \_\_\_\_\_ Register of Deeds  
By Colleen Williamson

WILLIAM LUCIUS JONES property on Jonathan Creek Road

**EXHIBIT "A"**

BEGINNING at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southerly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Potts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Potts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Potts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument; (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the BEGINNING, containing 22.091 acres, per survey and plat of L. Kevin Ensley, PLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

SUBJECT TO the aforesaid USDOT Drainage Easement and the easement for Potts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637

Exhibit B

File No. **DA CVM 198**

**COMPLAINT  
IN SUMMARY EJECTMENT**

G.S. 7A-216, 7A-232; Ch. 42, Art. 3 and 7

Name And Address Of Plaintiff  
*William Lucius Jones  
60 Timothy Lane  
Waynesville N.C 28786*

Social Security No./Taxpayer ID No.

County *Haywood* Telephone No.

**VERSUS**

Name And Address Of Defendant 1  
*Gregory Todd Ferguson  
Rt 4 Box 266  
Waynesville n.c. 28786*

County *Haywood* Telephone No.

Name And Address Of Defendant 2

County *Haywood* Telephone No.

Name And Address Of Plaintiff's Attorney Or Agent

FILED  
02 APR AM 8:41  
HAYWOOD COUNTY C.S.C.  
BY

**STATE OF NORTH CAROLINA**

*Haywood* County

In The General Court Of Justice  
District Court Division-Small Claims

1. The defendant is a resident of the county named above.

2. The defendant entered into possession of premises described below as a lessee of plaintiff.

Description Of Premises (Include Location)  
*Farm - Tractor on Lucias Jones Dairy Farm on Jonathan's Creek*

Rate Of Rent *\$ 850.00* per  Month  Week Date Rent Due *12<sup>th</sup> each month* Date Lease Ended *6/12/01*

Type Of Lease  Conventional  Public Housing  Section 8  Oral  Written

3.  The defendant failed to pay the rent due on the above date and the plaintiff made demand for the rent and waited the 10-day grace period before filing the complaint.

The lease period ended on the above date and the defendant is holding over after the end of the lease period.

The defendant breached the condition of the lease described below for which re-entry is specified.

Criminal activity or other activity has occurred in violation of G.S. 42-63 as specified below.

Description Of Breach/Criminal Activity (give names, dates, places and illegal activity)

4. The plaintiff has demanded possession of the premises from the defendant, who has refused to surrender it, and the plaintiff is entitled to immediate possession.

5. The defendant owes the plaintiff the following:

Description Of Any Property Damage

Amount Of Damage (If Known) \$	Amount Of Rent Past Due \$ <i>7,650.<sup>00</sup></i>	Total Amount Due \$
-----------------------------------	--	------------------------

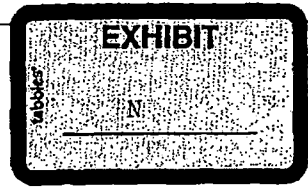
6. I demand to be put in possession of the premises and to recover the total amount listed above and daily rental until entry of judgment plus interest and reimbursement for court costs.

Date *4-10-2* Signature Of Plaintiff/Attorney/Agent *Lucius Jones*

**CERTIFICATION WHEN COMPLAINT SIGNED BY AGENT OF PLAINTIFF**

I certify that I am an agent of the plaintiff and have actual knowledge of the facts alleged in this Complaint.

Date \_\_\_\_\_ Signature \_\_\_\_\_



Summary Ejectment

C 2002/266

<b>STATE OF NORTH CAROLINA</b>		File No. <b>02 CVM 198</b>
<i>Haywood</i> County		<b>RECEIVED</b> In The General Court Of Justice District Court Division-Small Claims
		APR 01 2007

Plaintiff(s)  
*William Darius Jones*

**MAGISTRATE SUMMONS**

ALIAS AND PLURIES SUMMONS

G.S. 7A-217, -232; 1A-1, Rule 4

VERSUS

Defendant(s)  
*Gregory Todd Ferguson*

Date Last Summons Issued

TO:

Name And Address Of Defendant 1  
*Gregory Todd Ferguson  
Rt 4 box 266  
Waynesville N.C. 28786*

TO:

Name And Address Of Defendant 2  
*off J. creek*

**A Small Claim Action Has Been Commenced Against You!**

You are notified to appear before the magistrate at the specified date, time and location of trial listed below. You will have the opportunity at the trial to defend yourself against the claim stated in the attached complaint.

You may file a written answer, making defense to the claim, in the office of the Clerk of Superior Court at any time before the time set for trial. Whether or not you file an answer, the plaintiff must prove the claim before the magistrate.

If you fail to appear and defend against the proof offered, the magistrate may enter a judgment against you.

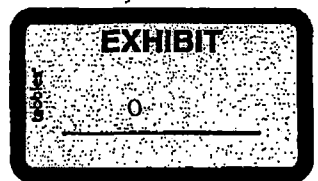
Date of Trial <i>April 12, 2007</i>	Time Of Trial <i>9:00</i> AM <input checked="" type="checkbox"/> PM <input type="checkbox"/>	Location Of Court <i>Magistrate's Courtroom</i>
Name And Address Of Plaintiff Or Plaintiff's Attorney		Date Issued <i>4-1-07</i>
		Signature <i>Risa Hannah</i>
		<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

BY \_\_\_\_\_

HAYWOOD COUNTY C.S.C.

02 APR -2 PM 2:37

FILED



AOC-CVM-100, Rev. 3/98  
 1998 Administrative Office of the Ct.

Service was made by mailing by first class mail a copy of the summons and complaint to the defendant(s) and by posting a copy of the summons and complaint at the following premises:  
 Name(s) Of The Defendant(s) Served By Posting: Lawrence Todd Ferguson  
 Address Of Premises Where Posted: 4-1-02  
 Date Served: 4-1-02  
 Name Of Sheriff: W. J. Alexander  
 County: W. J. Alexander  
 Deputy Sheriff Making Return: W. J. Alexander

**FOR USE IN SUMMARY EJECTMENT CASES ONLY**

Defendant WAS NOT served for the following reason:  
 Other manner of service: (specify):  
 Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With):  
 As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.  
 By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.  
 By delivering to the defendant named above a copy of the summons and complaint.

Date Served: \_\_\_\_\_  
 Name Of Defendant: **DEFENDANT 2**

Defendant WAS NOT served for the following reason:  
 Other manner of service: (specify):  
 Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With):  
 As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.  
 By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.  
 By delivering to the defendant named above a copy of the summons and complaint.

Date Served: \_\_\_\_\_  
 Name Of Defendant: **DEFENDANT 1**

I certify that this Summons and a copy of the complaint were received and served as follows:

**RETURN OF SERVICE**

File No. 02 CVM 198

Film No. 2002-7-60

Judgment Docket Book And Page No.

STATE OF NORTH CAROLINA

Haywood County

In The General Court Of Justice District Court Division-Small Claims

This action was tried before the undersigned on the cause stated in the complaint. The record shows that the defendant was given proper notice of the nature of the action and the date, time and location of trial.

JUDGMENT IN ACTION FOR SUMMARY EJECTMENT

G.S. 7A-210(2), 7A-224; 42-30

Name And Address Of Plaintiff William Lucius Jones 60 Timothy Lane Waynesville, N.C. 28786

Social Security No./Taxpayer ID No.

County Haywood Telephone No.

VERSUS

Name And Address Of Defendant 1 Gregory Todd Ferguson Rt. 4, Box 266 Waynesville, N.C. 28786

County Haywood Telephone No.

Name And Address Of Defendant 2

County Telephone No.

Name And Address Of Plaintiff's Attorney

FINDINGS

The Court finds that:

- 1. [X] a. the plaintiff has proved the case by the greater weight of the evidence. [ ] b. the plaintiff has failed to prove the case by the greater weight of the evidence. 2. the defendant(s) [ ] was [X] was not present at trial. (Posted 4/1/02) 3. [X] a. there is no dispute as to the amount of rent in arrears, and the amount is \$ 7,650.00 [ ] b. there is an actual dispute as to the amount of rent in arrears. The defendant(s) claims the amount of rent in arrears is \$ \_\_\_\_\_, and this amount is the undisputed amount of rent in arrears. 4. Other:

ORDER

It is ORDERED that:

- [X] 1. the defendant(s) be removed from and the plaintiff be put in possession of the premises described in the complaint. [ ] 2. this action be dismissed with prejudice. [ ] 3. this action be dismissed with prejudice because the defendant tendered the rent due and the court costs of this action. [ ] 4. the plaintiff recover rent of the defendant(s) at the rate listed below, plus damages in the amount indicated. The plaintiff is also entitled to interest on the total principal sum from this date until the judgment is paid. [ ] 5. Other: (specify) [X] 6. Costs of this action are taxed to the [ ] plaintiff. [X] defendant.

Rate Of Rent \$ per [ ] Mo. [ ] Wk. Amt. Of Rent In Arrears (Owed To Date) \$ [X] Judgment Announced And Signed In Open Court

Amount Of Other Damages \$ Date 4/12/02 Signature Of Magistrate

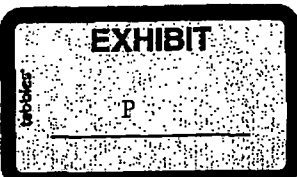
TOTAL AMOUNT \$ Name Of Party Announcing Appeal In Open Court

CERTIFICATION

(NOTE: To be used when magistrate does not announce and sign this Judgment in open court at the conclusion of the trial.) I certify that this Judgment has been served on each party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date Signature Of Magistrate

HAYWOOD COUNTY C.S. APR 12 AM 11:00 FILED





STATE OF NORTH CAROLINA

File No.

02 JVM 198

Film No.

Haywood County

FILED

In The General Court Of Justice

Name And Address Of Plaintiff

02 APR 23 AM 10:50

William Lucius Jones  
Leo Timothy Lerie  
Waynesville N.C. 28786

HAYWOOD COUNTY N.C.

WRIT OF POSSESSION  
REAL PROPERTY

G.S. 1-313(4); 42-36.2

VERSUS

BY

Name And Address Of Defendant 1

Name And Address Of Defendant 2

Gregory Todd Ferguson  
Rt 4 Box 266  
Waynesville N.C. 28786

To The Sheriff Haywood County:

A judgment in favor of the plaintiff was rendered in this case for the possession of the real property described below; and you are commanded to remove the defendant(s) from, and put the plaintiff in possession of those premises.

Description Of Property (include location)

Lucius Jones Dairy Farm on Jonathan Creek.  
W/ front house vacated, Trailer removed from property,  
and any farm equipment owned by Gregory Todd Ferguson

Date Of Judgment

4-12-02

Date Writ Issued

4-23-02

Signature

Cassidy S. Osborne



Deputy CSC



Assistant CSC



Clerk Of Superior Court



HAYWOOD COUNTY SHERIFF'S OFFICE

R. Tom Alexander  
Sheriff

File # 02 CVM 198

NOTICE

To: Greedy Todd Ferguson  
Rt. 4 Box 266  
Waynesville, NC 28786

The Haywood County Sheriff's Office has received a Writ of Possession from the Court that requires us to take possession of the property listed on the attached copy.

         Please call or come by the Sheriff's Office within the next week so that we can make arrangements to take possession of this property with a minimum of inconvenience to you.

EVICITION NOTICE

  ✓   You should move from the premises immediately. If you have not removed yourself and all your property by April 30, 2002 at 1:30, a deputy from this office will come at approximately that time and remove you and all your property from the premises or lock the premises. Any questions may be directed to the deputy handling this writ at 452-6666.

~~.....~~ You must request the landlord to return any of your property left on the premises within 10 days after this office carries out the writ. If you fail to request possession of your property within 10 days, the landlord may throw away, dispose of or sell the property.

Date Notice Given: April 22, 2002

R. T. Alexander

Sheriff, Haywood County

Deputy: Lt. Bob Suttles

OR

Sgt. Tim Henson



4-29-02

- I do know that this is a legal & binding agreement between Dennis Hill & James Jones to lease the farm & house on Southon Street across the mountains to Shellwood at \$100.00 a month (as is) for ten years beginning 5-1-2002 - 2012 with the understanding the lease can be renewed.

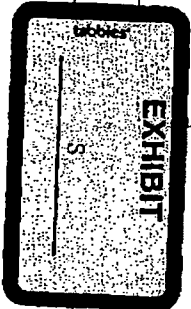
Kathleen Jones

X Dennis Hill

THE ABOVE PERSONS KNOWN TO ME PERSONALLY APPEARED BEFORE ME AND SIGNED THIS DOCUMENT THIS 29TH DAY OF APRIL 2002. I GRADY LEATHERWOOD A NOTARY PUBLIC OF HAYWOOD COUNTY NC. MY COMMISSION EXPIRES 1-20-2007

*Grady Leatherwood*  
Notary Public

My Commission Expires  
1-20-2007



STATE OF NORTH CAROLINA

File No. 03 SP 120

HAYWOOD

County

FILED

In the General Court of Justice  
Superior Court Division  
Before The Clerk

IN THE MATTER OF:

2003 MAY - 8 PM 4:44

PETITION FOR ADJUDICATION  
OF INCOMPETENCE AND  
APPLICATION FOR  
APPOINTMENT OF GUARDIAN

AND INTERIM GUARDIAN

Name And Address Of Respondent

WILLIAM LUCIUS JONES  
60 Timothy Lane  
Waynesville, NC 28786

HAYWOOD COUNTY, C.S.C.

BY

G.S. 35A-1105, 35A-1114, 35A-1210

County Of Residence Of Respondent

Haywood

Age

63

Name And Address Of Petitioner

Wm. I. Jones  
81 Jones Ave.  
Waynesville, NC 28786

Name And Address Of Attorney For Petitioner

Wm. I. Millar  
144 Montgomery St., Waynesville, NC 28786

County Of Residence Of Petitioner

Haywood

Telephone No.

456-9582

Telephone No.

456-7353

Petitioner's Relationship To Respondent Or Interest In Proceeding

1st Cousin

Respondent Indigent

Jury Trial Requested

Name And Address Of Treatment Facility If Respondent Is An Inpatient In This County

Haywood Regional Medical Center, 262 Leroy George Dr., Clyde, NC 28721

The undersigned, being duly sworn, requests that the Court, after notice and hearing, adjudicate the respondent named above to be incompetent, and also applies for the appointment of the person(s) named below to serve, in the capacity indicated, as guardian(s) of the respondent.

In support of this Petition, the undersigned states:

- The respondent is  a resident of this county  domiciled in this county  an inpatient in the facility named above or  present in this county, it being impossible to determine his county of residence or domicile.
- The respondent is incompetent in that:
  - he lacks sufficient capacity to manage his own affairs or to make or communicate important decisions concerning his person, family or property, as shown by the following facts: (Set forth the facts which tend to show that the respondent is incompetent. Include cause of incompetence, which may be mental illness, mental retardation, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or other cause, and give facts demonstrating lack of capacity. Be specific.)

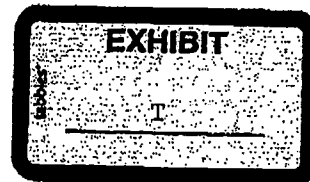
Cerebral Hemorrhage leaving Respondent confused, unable to sit up or walk.  
Confused speech.

he was adjudicated incompetent in another state in the proceeding identified below:  
(NOTE: Attach certified copy of order to this Petition.)

Date Of Adjudication

State And County

File Or Other ID No.



3. The respondent's next of kin, if any, and other persons known to have an interest in this proceeding are:

<b>Name And Address</b> Billy Jones 203 Dayton Dr. Waynesville, NC 28786		<b>Name And Address</b> Evelyn Jones Ketner 45 Crowfield Rd. Maggie Valley, NC 28751	
<b>County Of Residence</b> Haywood	<b>Telephone No.</b> 926-1778	<b>County Of Residence</b> Haywood	<b>Telephone No.</b> 926-1560
<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin		<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin	
<b>Name And Address</b> Margaret Jones Stamey 70 Stamey Rd. Candler, NC 28715		<b>Name And Address</b> Shirley Jones Myers Oak Park Dr. Clyde, NC 28721	
<b>County Of Residence</b> Buncombe		<b>County Of Residence</b> Haywood	
<b>Telephone No.</b> 667-3809		<b>Telephone No.</b> 627-1360 627-3190	
<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin		<b>Relationship To Respondent Or Interest In Proceeding</b> 1st Cousin	

4. General statement of respondent's assets and liabilities, including any income and receivables to which he is entitled:

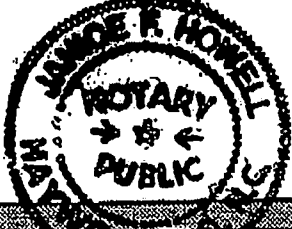
Assets	Liabilities	Income And Receivables
Real Property 200+ acre \$223,293	Mortgage Loans \$none	Wages And Salaries \$unk
Tangible Personal Property \$unk	Other Secured Loans \$unk	Rents \$
Other Personal Property \$unk	Unsecured Loans \$unk	Pensions \$
		Allowances \$
		Insurance And Compensation \$
		Other \$

5. The applicant recommends that the guardian(s) be:

<b>Name And Address Of Proposed Guardian</b> Ned Jones 81 Jones Dr. Waynesville, NC 28786	<b>Name And Address Of Proposed Guardian</b> _____
<input type="checkbox"/> Of The Estate <input type="checkbox"/> Of The Person <input checked="" type="checkbox"/> General Guardian	<input type="checkbox"/> Of The Estate <input type="checkbox"/> Of The Person <input type="checkbox"/> General Guardian

**MOTION FOR APPOINTMENT OF INTERIM GUARDIAN**

The petitioner also moves that the Court appoint an interim guardian because there is reasonable cause, as shown by the following facts, to believe that the respondent is incompetent, and needs an interim guardian to intervene on his behalf prior to the adjudication hearing in that:  he is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well being and requires immediate intervention.  there is or reasonably appears to be an imminent or foreseeable risk of harm to his estate that requires immediate intervention in order to protect the respondent's interest. (Set forth facts, in addition to those above, which demonstrate need for immediate intervention. Be specific.)



**VERIFICATION**

I, the undersigned petitioner, have read this Petition and state that its contents are true to my own knowledge except those matters stated on information and belief, which I believe are true.

<b>SWORN AND SUBSCRIBED TO BEFORE ME</b>		<b>Date</b> 5/8/03
<b>Date</b> 5/8/03	<b>Signature Of Person Authorized To Administer Oath</b> <i>James F. Howell</i>	<b>Signature Of Petitioner</b> <i>Ned Jones</i>
<b>Title</b> Notary Public	<b>Date Commission Expires</b> 2/2/08	<b>Name Of Petitioner (Type Or Print)</b> _____

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT, DIVISION  
BEFORE THE CLERK  
FILE: 03 SP 120 COUNTY, C.S.C.

BY LW

IN THE MATTER OF: )  
 )  
WILLIAM LUCIUS JONES )

APPLICATION FOR APPOINTMENT  
OF GUARDIAN

NOW COMES the undersigned and shows unto the Court the following:

1. That a Notice of Hearing on Incompetence is scheduled for June 2, 2003.
2. That the undersigned Petitioner hereby requests if and in the event that the Court should determine by clear, cogent and convincing evidence that the Respondent William Lucius Jones is incompetent, then the Petitioner requests that the Petitioner, Dennis R. Hall, be appointed as Guardian of the Respondent Jones and shows in support thereof:
  - (a) That he has known Respondent Jones for 27 years.
  - (b) That he has helped to care for Respondent Jones for the last several years.
  - (c) That he is a close personal friend of Respondent Jones.
  - (d) That he is the named beneficiary of his Last Will and Testament.
  - (e) That he has the ability and wherewithal to keep the Respondent Jones in a safe and secure environment, to-wit, his home located off Sulphur Springs Road in Waynesville, and can provide the necessary care and support to manage the health and safety of the Respondent William Lucius Jones, and is an otherwise fit and proper person as defined by law to serve as guardian.
  - (f) That the Petitioner is over 18 years of age and of good character.

WHEREFORE, having fully prayed, the Petitioner seeks:

1. That if and in the event that the Court shall determine by clear, cogent and convincing evidence that William Lucius Jones is incapable of managing his own affairs, that the Court appoint Dennis R. Hall as the Guardian of the person and property of the Respondent Jones.



2. For such other and further relief as the Court may deem just and proper.

This the 17<sup>th</sup> day of May, 2003.

  
McLEAN LAW FIRM, P.A.

---

Russell L. McLean III  
Attorney for Petitioner  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896

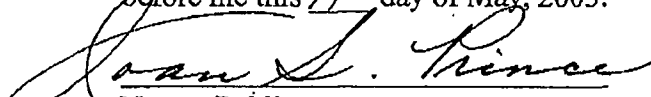
STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

DENNIS R. HALL, being first duly sworn, upon his oath, deposes and says:  
That he is the Petitioner in the foregoing action and as such has read or heard read the foregoing Application for Appointment of Guardian Ad Litem; that the same is true of his own knowledge except as to matters and things therein stated upon information and belief, and as to those matters he believes it to be true.

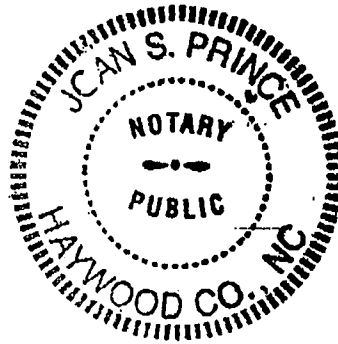
  
DENNIS R. HALL

SWORN TO and SUBSCRIBED  
before me this 14<sup>th</sup> day of May, 2003.

  
Notary Public

My commission expires:

7-9-7





**CERTIFICATE OF SERVICE**

This is to certify that I have this day served:

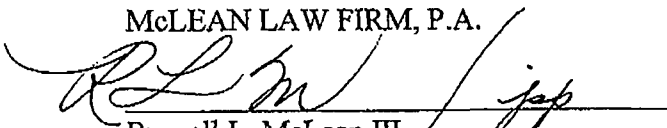
William I. Millar, Esq.  
Attorney for Petitioner Ned Jones  
144 Montgomery Street  
Waynesville, North Carolina 28786

T. Michael Jordan  
Attorney for Guardian Ad Litem  
154 North Main Street  
Waynesville, North Carolina 28786

with a copy of Application for the Appointment of Guardian by depositing same in the United States mail with adequate postage thereon.

This 7<sup>th</sup> day of May, 2003.

McLEAN LAW FIRM, P.A.

  
\_\_\_\_\_  
Russell L. McLean III  
244 North Main Street  
Waynesville, North Carolina 28786  
(828) 452-2896

STATE OF NORTH CAROLINA

File No.

03-SP 120

HAYWOOD County

FILED

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

IN THE MATTER OF:

Name Of Respondent(s)

2003 MAY 16 AM 10:02

ORDER ON MOTION FOR  
APPOINTMENT OF  
INTERIM GUARDIAN

WILLIAM LUCIUS JONES

HAYWOOD COUNTY, NC

BY

G.S. 35A-1114

A hearing on the petitioner's Motion for the Appointment of an Interim Guardian was held before me on this day. From the evidence presented at the hearing; the Court makes the following specific findings of fact:

(Set forth facts which support conclusion that grounds for immediate intervention exist.)

That Respondent is unable to care for himself due to a stroke. That this Court is advised that he no longer needs acute hospital care and is ready for immediate transfer to a long term healthcare facility.

- 1. Based on these specific findings of fact, the Court concludes that there is reasonable cause to believe that the respondent is incompetent, and that:
  - a. the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to the respondent's physical well-being, and there is immediate need for a guardian to provide consent or take other steps to protect the respondent.
  - b. there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate, and immediate intervention is required in order to protect the respondent's interest.
- 2. The Court does not find that grounds exist for the appointment of an interim guardian.

It is ORDERED that:

- 1. the person named below is appointed interim guardian of the  person  estate for the respondent. Upon qualifying, the interim guardian shall have the powers and duties specifically set forth below. These powers and duties shall extend only so long as is necessary to meet the condition necessitating this appointment. In any event, this interim guardianship shall terminate on the earliest of the following: the expiration date specified below, if any; 45 days from the date of this Order; when any guardian is appointed following an adjudication of incompetence; or when the petition in this case is dismissed by the Court.
- 2. the motion for the appointment of an interim guardian is denied.

Name And Address Of Interim Guardian

Dennis Hall  
1326 Jonathan Creek Road, Waynesville, NC 28786

Relationship To Respondent

NONE

Telephone No.

(828) 506-4079

Powers And Duties Of Interim Guardian

Admit Respondent to a long-term healthcare facility as arranged by Haywood Regional Medical Center personnel in discretion of the attending physician.

Date Of Order

05-16-2003

Signature

Expiration Date

06-02-2003

Assistant CSC

Clerk Of Superior Court

EXHIBIT

7  
ice of the Courts

(See reverse side for Order Extending Interim Guardianship)

STATE OF NORTH CAROLINA

File No.

03--E-219

HAYWOOD County

In The General Court Of Justice  
Superior Court Division  
Before the Clerk

IN THE MATTER OF THE ESTATE OF:

Name Of Ward

WILLIAM LUCIUS JONES

LETTERS OF APPOINTMENT  
GUARDIAN OF THE ESTATE

Incompetent Person

Minor

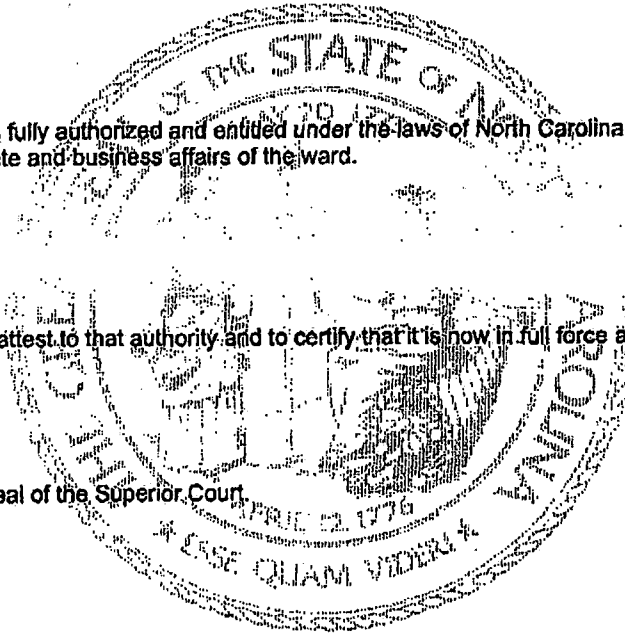
G.S. 35A-1203, -1206, -1251; 34-2.1

The Court in the exercise of its jurisdiction for the appointment of guardians of incompetent persons and minors, and upon proper application, has appointed the person named below as Guardian of the Estate of the ward named above and has ordered that these Letters Of Appointment be issued.

The guardian of the estate is fully authorized and entitled under the laws of North Carolina to receive, manage and administer the property, estate and business affairs of the ward.

These Letters are issued to attest to that authority and to certify that it is now in full force and effect.

Witness my hand and the Seal of the Superior Court



Name And Address Of Guardian Of The Estate

SAM M UNDERWOOD, CPA  
154 N MAIN  
WAYNESVILLE, NC 28786

Date Of Qualification

06-24-2003

Clerk Of Superior Court

JUNE L. RAY

EX OFFICIO JUDGE OF PROBATE

SEAL

Date Of Issuance

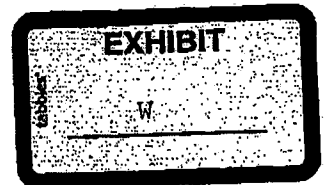
05-10-2006

Signature

*Jammi G. Lowe*

Deputy CSC

Assistant CSC



STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

BEFORE THE CLERK

2007 MAY -1 P 3: 39 FILE NO. 03-SP-285-

07 SP 135

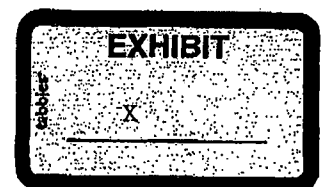
HAYWOOD COUNTY, C.S.C.  
IN THE MATTER OF THE ESTATE  
OF WILLIAM LUCIUS JONES,  
INCOMPETENT BY \_\_\_\_\_

**PETITION BY GUARDIAN OF THE  
ESTATE TO SELL REAL PROPERTY  
BELONGING TO THE WARD**

Now comes Sam M. Underwood, the duly appointed and acting Guardian of the Estate of William Lucius Jones, and respectfully shows the Court:

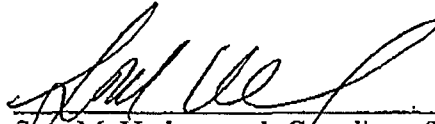
1. That the cash assets of the Estate as reported by your Guardian of the Estate have been substantially depleted by the payment of hospital and medical bills for services rendered to his Ward, and only \$13,592.50 remains on hand;
2. That approximately \$3,000 – \$3,500 is required each month to pay nursing care for his Ward;
3. That other bills accrue, including ad valorem taxes, other medical bills, legal fees, and court costs;
4. That his Ward's monthly income from all sources is \$1,133.10;
5. That based upon the foregoing the cash assets will be exhausted in about 4 months, at which time his Ward is likely to become a charge upon the County's welfare roll;
6. That his Ward owns a parcel of real property in Haywood County, namely, 207.2 acres of farmland, pastureland, and mountain land (PIN 8607-42-9859) stretching from Jonathan Creek Valley over a mountain to Dellwood Road which has a tax valuation of \$731,190; the Jonathan Creek property is desirable and highly marketable, particularly those acres adjacent to the farm of Dick Medford; that none of this property is being effectively utilized to produce income.

WHEREFORE, your Guardian of the Estate petitions the Court to find that a sale of 22.091 acres (legal description and plat attached) of the Ward's property on Jonathan Creek, Waynesville, NC (portion of PIN 8607-42-9859) by the Guardian of the Estate is in the best interests of the Ward and that the Court order a sale of said Jonathan Creek property at public or private sale upon such terms as may be most advantageous to his



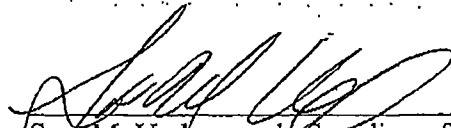
Ward, such sale to be conducted as provided by Article 29A of Chapter 1 of the General Statutes.

This the 1<sup>st</sup> day of May, 2007.

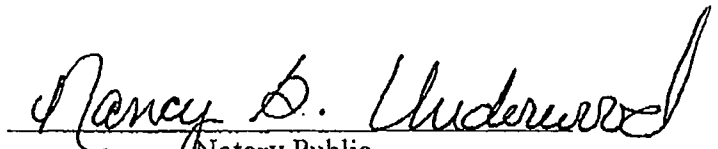
  
\_\_\_\_\_  
Sam M. Underwood, Guardian of the Estate  
of William Lucius Jones, Incompetent

NORTH CAROLINA  
HAYWOOD COUNTY

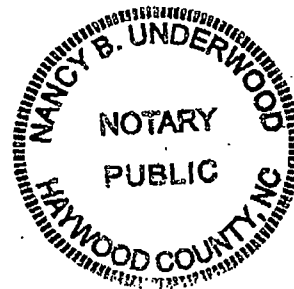
Sam M. Underwood, being first duly sworn, deposes and say that he is the duly appointed and acting Guardian of the Estate of William Lucius Jones, Incompetent; that he has read the foregoing Petition by Guardian of the Estate to Sell Real Property Belonging to the Ward; that the contents thereof are true of his own knowledge, except as to matters stated on information and belief, and as to those matters he believes them to be true.

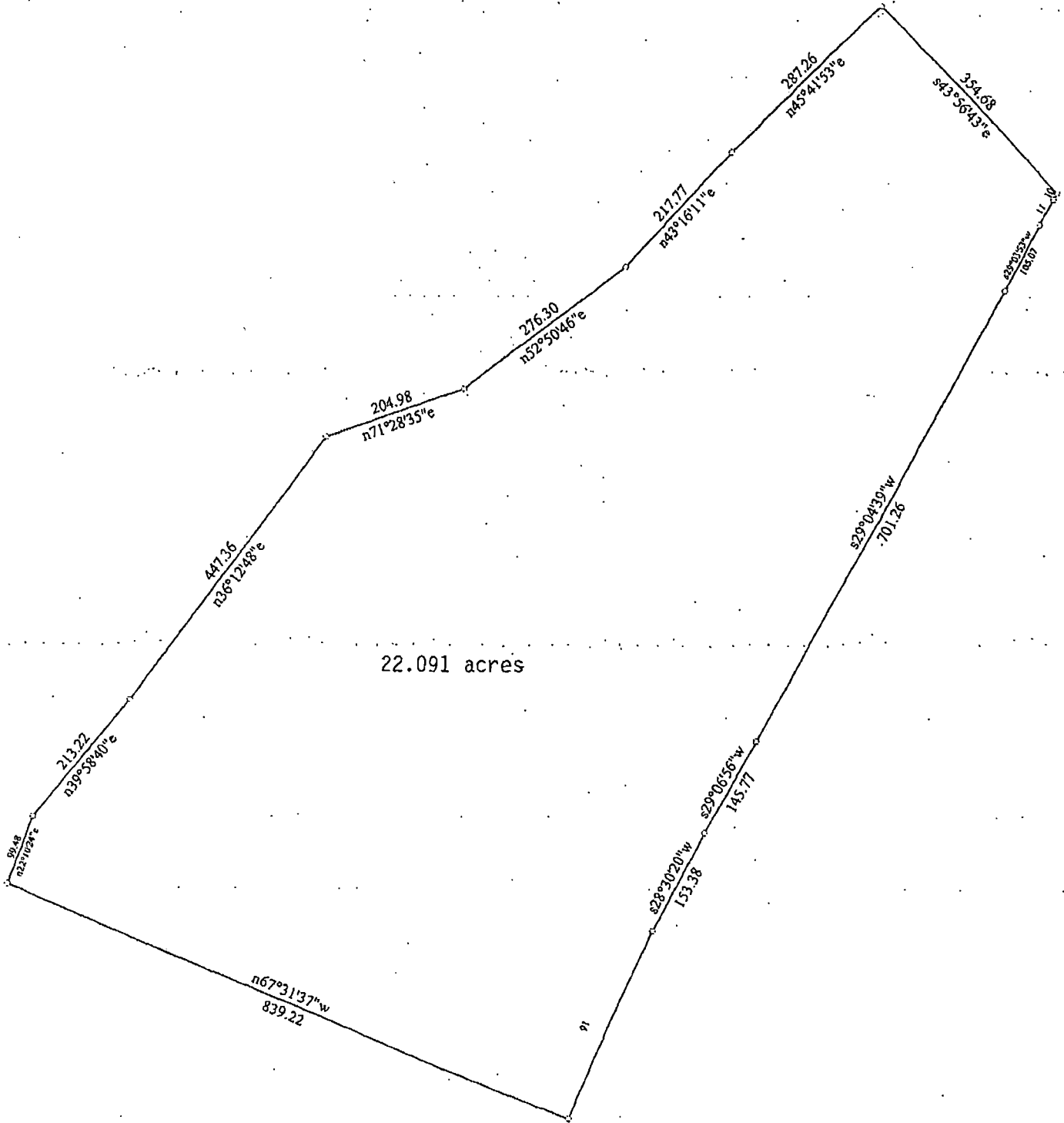
  
\_\_\_\_\_  
Sam M. Underwood, Guardian of the Estate  
of William Lucius Jones, Incompetent

Sworn to and subscribed before me, this 1 day of May, 2007.

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

My Commission Expires: 5-23-2011





Title: Lucius Jones J Creek		Date: 05-01-2007
Scale: 1 inch = 200 feet	File: Lucius Jones J Creek.des	

WILLIAM LUCIUS JONES property on Jonathan Creek Road

## EXHIBIT "A"

BEGINNING at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southerly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Potts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Potts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Potts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument; (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the BEGINNING, containing 22.091 acres, per survey and plat of L. Kevin Ensley, PLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

SUBJECT TO the aforesaid USDOT Drainage Easement and the easement for Potts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

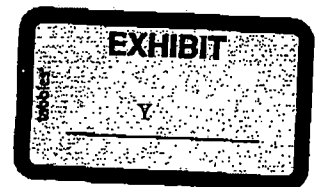
Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637

**ORDER ALLOWING SALE OF LAND**  
**BY GUARDIAN OF THE ESTATE**

This matter coming on to be heard and being heard before the Clerk upon the Petition of the Guardian of the Estate to sell real property belonging to the Ward, the Clerk, upon satisfactory proof, makes the following

**FINDINGS OF FACT**

1. The Ward's personal estate has been substantially consumed by nursing, hospital and medical bills to the point where only \$13, 592.50 remains;
2. Taxes, other medical bills, legal and court expense will require approximately \$5 - 10,000.00 additionally;
3. Continuing nursing care runs \$3,000 -3,500 per month;
4. The Ward's monthly income is \$1,133.10;
5. That the Ward owns a parcel of real property in Haywood County, namely 207.2 acres of farmland, pastureland, and mountain land (PIN 8607-42-9859) stretching from Jonathan Creek Valley over a mountain to Dellwood Road which has a tax valuation of \$731, 190; the Jonathan Creek property is desirable and highly marketable, particularly those acres adjacent to the farm of Dick Medford; that none of this property is being effectively utilized to produce income.
6. The Ward's estate will be exhausted in about four months and the Ward will become a charge upon the welfare roll of Haywood County unless some of the Ward's real property is sold.



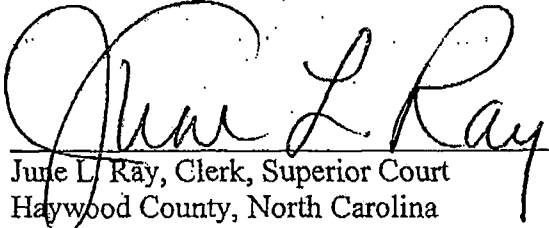


Based upon the foregoing Findings of Fact, the Clerk enters the following.

**ORDER OF SALE**

A. That the Guardian of the Estate sell at public auction or private sale the Jonathan Creek property, more particularly described in Exhibit "A" attached hereto, to provide funds for the care and maintenance of his Ward; that if sold as a public sale such sale shall be held as a public auction, and conducted as provided by Article 29A of Chapter 1 of the General Statutes.

This the 1 day of May, 2007

  
June L. Ray, Clerk, Superior Court  
Haywood County, North Carolina

HAYWOOD COUNTY

2007 AUG 14 P 5: 16 In the General Court of Justice

In the matter of the Estate of William Lucious Jones, incompetent

HAYWOOD COUNTY, C.S.C.

BY JLR ORDER OF CONFIRMATION OF SALE

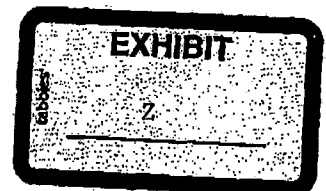
This matter coming on upon the Petition of the Guardian of the Estate of William Lucious Jones to sell real property of the Ward to provide funds for his care and upkeep; and upon the Order of the Clerk of Superior Court of Haywood County permitting such sale, and after due advertisement of the sale, a public auction was held on the premises on June 2, 2007 at which time and place the advertised parcel of land containing 22.091 acres lying along Jonathan Creek was sold to the highest bidder as set forth in the Report of Sale dated June 4, 2007, as filed herein; that thereafter several upset bids were filed with the Clerk of Court; that the last and highest upset bid is that of Haywood County, a body politic, in the amount of \$1,114,921.50; that said bid of Haywood County lay open for 10 days without additional upset bid and thus is the Final Bid.

NOW THEREFORE, pursuant to North Carolina General Statute 1-339.28, said Clerk of Superior Court finds that the sale is in the best interests of the Incompetent and does hereby CONFIRM said sale to Haywood County;

AND WHEREAS this matter has been reviewed by the Resident Superior Court Judge, who finds that the sale is in the best interests of the Incompetent and does hereby CONFIRM said sale to Haywood County.

June L. Ray  
June L. Ray, Clerk Superior Court  
Haywood County, North Carolina  
Date: August 14, 2007

J. Marlene Hyatt  
J. Marlene Hyatt, Senior Resident Superior  
Court Judge for Judicial District 30B  
Date: August 14, 2007



TRANSFER MADE ON RECORD

Date 8-31-07

By SA  
8607-429859

HAYWOOD COUNTY TAX CERTIFICATION  
There are no delinquent taxes due that are a lien against parcel number(s) 8607-42-9859  
David H. Francis, Haywood County Tax Collector  
Date: 8/31/07 By: [Signature]



**2007666051**  
HAYWOOD CO, NO FEE \$23.00  
STATE OF NC REAL ESTATE EXTX  
\$2230.00  
PRESENTED & RECORDED:  
08-31-2007 11:37:27 AM  
JIMMY R. MURRAY  
REGISTER OF DEEDS  
BY: AMY MURRAY  
REGISTER OF DEEDS  
BK: RB 715  
PG: 657-660

Excise Tax \$2,230.00

Tax Lot No. 8607-42-9859 Parcel Identifier No. \_\_\_\_\_  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to Leon M. Killian, P.O. Box 30518, Raleigh, NC 27622-0519  
This instrument was prepared by William I. Miller  
Brief Description for the index 22.091 acres Jonathan Creek

**NORTH CAROLINA NON-WARRANTY DEED**

THIS DEED made August 30, 2007, by and between \_\_\_\_\_

GRANTOR

GRANTEE

WILLIAM LUCIUS JONES, by and through  
SAM M. UNDERWOOD, the duly appointed and  
Acting Guardian of the Estate of WILLIAM  
LUCIUS JONES, an incompetent adult

HAYWOOD COUNTY,  
a body politic (a subdivision of the State of North  
Carolina), whose address is:  
215 N. Main Street  
Waynesville, NC 28788

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Ivy Hill Township, Haywood County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and made a part hereof by reference incorporated herein as if fully set forth.

Exhibit B



This deed is made pursuant to an Order of Confirmation executed by the Clerk of Superior Court of Haywood County and executed by the Senior Resident Superior Court Judge for Judicial District 30-B in the matter of the Real Property of William Lucius Jones File No. 07-SP-135 where in SAM M. UNDERWOOD was authorized by the Clerk of Superior Court on May 1, 2007, to make the sale of the property described herein; that the sale was duly advertised for sale, that the sale was by public auction on June 2, 2007, that the final high bidder was Haywood County at the sum of \$1,114,921.50.

The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_ page \_\_\_\_\_.

A map showing the above described property is recorded in Book \_\_\_\_\_, page \_\_\_\_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the property hereinabove described. IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed and delivered.

\_\_\_\_\_  
(Entity Name)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

*William Lucius Jones*  
WILLIAM LUCIUS JONES (SEAL)

*Sam M. Underwood*  
By: Sam M. Underwood (SEAL)  
Guardian of the Estate of William  
Lucius Jones, Incompetent

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

State of North Carolina - County of HAYWOOD

I, the undersigned Notary Public of the County and State aforesaid, certify that SAM M. UNDERWOOD, Guardian of the Estate of William Lucius Jones, Incompetent, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 10<sup>th</sup> day of AUGUST, 2007.

My Commission Expires: 08-02-2011  
\_\_\_\_\_  
Notary Public

William I. Millar  
Notary Public  
Haywood County, NC

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he/she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

# CORRECTION

This deed is made pursuant to an Order of Confirmation executed by the Clerk of Superior Court of Haywood County and executed by the Senior Resident Superior Court Judge for Judicial District 30-B in the matter of the Real Property of William Lucius Jones File No. 07-SP-135 where in SAM M. UNDERWOOD was authorized by the Clerk of Superior Court on May 1, 2007, to make the sale of the property described herein; that the sale was duly advertised for sale, that the sale was by public auction on June 2, 2007, that the final high bidder was Haywood County at the sum of \$1,114,921.50.

The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_ page \_\_\_\_\_.

A map showing the above described property is recorded in Book \_\_\_\_\_, page \_\_\_\_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the property hereinabove described. IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed and delivered.

\_\_\_\_\_  
(Entity Name)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

*William Lucius Jones*  
WILLIAM LUCIUS JONES (SEAL)

*Sam M. Underwood*  
By: Sam M. Underwood (SEAL)  
Guardian of the Estate of William  
Lucius Jones, Incompetent

State of North Carolina - County of HAYWOOD

I, the undersigned Notary Public of the County and State aforesaid, certify that SAM M. UNDERWOOD, Guardian of the Estate of William Lucius Jones, Incompetent, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 20<sup>th</sup> day of AUGUST, 2007.

My Commission Expires: 08-02-2011  
\_\_\_\_\_  
Notary Public

**William I. Miller**  
Notary Public  
Haywood County, NC

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he/she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that

Witness my hand and Notarial stamp or seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires: \_\_\_\_\_

Notary Public

The foregoing Certificate(s) of \_\_\_\_\_ is/are certified to be correct.

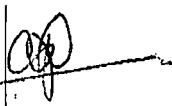
This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By: \_\_\_\_\_ Register of Deeds for \_\_\_\_\_ County  
Deputy/Assistant - Register of Deeds

Exhibit B

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE  
COUNTY OF HAYWOOD 08 MAY 23 AM 11:51 SUPERIOR COURT DIVISION  
08 CVS 51  
HAYWOOD COUNTY C.S.C.

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,



Plaintiffs,

**PLAINTIFFS' REPLY TO  
DEFENDANT'S COUNTERCLAIMS**

vs.

GREGORY TODD FERGUSON,

Defendant.

Plaintiffs Haywood County, North Carolina ("Haywood County"), and William Lucius Jones, incompetent, by guardian of his estate, Sam Underwood ("Jones") (collectively, "Plaintiffs"), replying to and answering the allegations contained in the Answer, Counterclaims and Demand for Trial by Jury of Defendant Gregory Todd Ferguson ("Ferguson" or "Defendant"), allege and say as follows:

**RESPONSE TO COUNTERCLAIMS  
(Parties and Jurisdiction)**

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted.
6. Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of Paragraph 6, and therefore it is denied.
7. Paragraph 7 is admitted.



8. Paragraph 8 is admitted.
9. Paragraph 9 is admitted.
10. Paragraph 10 is admitted.

**RESPONSE TO COUNTERCLAIMS  
(General Factual Allegations)**

11. In response to the allegations contained in Paragraph 11, Plaintiffs restate and incorporate herein by reference their responses to Paragraphs 1 through 10 of this Reply to Defendant's Counterclaims, as set forth above.

12. Taking into account the Defendant's Response to Plaintiff's *[sic]* Motion For More Definite Statement, filed with the Court on May 19, 2008, whereby the Defendant stated in paragraph 3 on page 1 that "[t]he defined term "Lease Agreement" contained in paragraph 12 on page 5 of Defendant's Answer, Counterclaims, & Demand for Trial By Jury pleading, filed March 19, 2008 (hereinafter referred to as 'Answer & Counterclaims'), consists of those portions of Exhibit C which are marked by the Register of Deeds as 'Book 502 Page 203' through 'Book 502 Page 209', inclusive", Paragraph 12 is denied, except that Plaintiffs admit to the existence of a document titled "Lease Agreement" which purports to be entered into between Jones and Ferguson on or about September 5, 2001. Upon information and belief, a complete copy of this document in its entirety is attached to Plaintiffs' Complaint as Exhibit C.

13. Taking into account the Defendant's Response to Plaintiff's *[sic]* Motion For More Definite Statement, filed with the Court on May 19, 2008, whereby the Defendant stated in paragraph 4 of page 1 that "[t]he defined term "Future Interest Instrument" contained in paragraph 13 on page 5 of Defendant's Answer & Counterclaims consists of that portion of Exhibit C which is marked by the Register of Deeds as 'Book 502 Page 209'", Paragraph 13 is denied.

14. Paragraph 14 is denied, except that Plaintiffs admit that a document described by the register of deeds as "Lease" was recorded in the Haywood County Registry commencing at Book 502, Page 203.

15. Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of Paragraph 15, and therefore Paragraph 15 is denied.

16. Paragraph 16 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 16 is denied.

17. Plaintiffs deny the assertion that the Deed was only "purportedly" conveyed. Plaintiffs admit the remainder of Paragraph 17.

18. Paragraph 18 is admitted.

19. Paragraph 19 is denied.

20. Paragraph 20 is denied.

**RESPONSE TO COUNTERCLAIM I  
(Declaratory Judgment)**

21. In response to the allegations contained in Paragraph 21, Plaintiffs restate and incorporate herein by reference their responses to Paragraphs 1 through 20 of this Reply to Defendant's Counterclaims, as set forth above.

22. Paragraph 22 is admitted.

23. Paragraph 23 is admitted.

**RESPONSE TO COUNTERCLAIM II  
(Action to Establish Validity of Deed)**

24. In response to the allegations contained in Paragraph 24, Plaintiffs restate and incorporate herein by reference their responses to Paragraphs 1 through 23 of this Reply to Defendant's Counterclaims, as set forth above.

25. Paragraph 25 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 25 is denied.

26. Paragraph 26 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 26 is denied.

27. Paragraph 27 is denied, except that Plaintiffs are without knowledge or information sufficient to form a belief as to whether any instrument purporting to convey a future interest was duly executed.

28. Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of Paragraph 28, and therefore Paragraph 28 is denied.

29. Paragraph 29 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 29 is denied.

30. Paragraph 30 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 30 is denied.

31. Paragraph 31 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 31 is denied.

32. Paragraph 32 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 32 is denied.

**RESPONSE TO COUNTERCLAIM III  
(Action to Quiet Title)**

33. In response to the allegations contained in Paragraph 33, Plaintiffs restate and incorporate herein by reference their responses to Paragraphs 1 through 32 of this Reply to Defendant's Counterclaims, as set forth above.

34. Paragraph 34 is denied.

35. Paragraph 35 is denied, except that Plaintiff Haywood County admits that its Non-Warranty Deed is adverse to Defendant's alleged interest in the Property described in Exhibit A to Plaintiffs' Complaint ("Property"), and admits that Defendant's alleged interest in the Property is a cloud upon Plaintiff Haywood County's interest and title to the Property.

**RESPONSE TO COUNTERCLAIM IV  
(Reformation of North Carolina Non-Warranty Deed)**

36. In response to the allegations contained in Paragraph 36, Plaintiffs restate and incorporate herein by reference their responses to Paragraphs 1 through 35 of this Reply to Defendant's Counterclaims, as set forth above.

37. Paragraph 37 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 37 is denied.

38. Plaintiffs object to Paragraph 38, because Defendant has failed to identify a time period or identify specific dates in the allegation, and therefore Plaintiffs are without knowledge or information sufficient to respond. To the extent a response is required, Paragraph 38 is denied.

39. Plaintiffs object to Paragraph 39, because Defendant has failed to identify a time period or identify specific dates in the allegation, and therefore Plaintiffs are without knowledge or information sufficient to respond. To the extent a response is required, Paragraph 39 is denied.

40. Paragraph 40 is denied, except that Plaintiffs admit that Haywood County entered into a North Carolina Non-Warranty Deed on August 30, 2007.

41. Paragraph 41 is denied.

42. Paragraph 42 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 42 is denied.

**RESPONSE TO COUNTERCLAIM V  
(Constructive/Resulting Trust)**

43. In response to the allegations contained in Paragraph 43, Plaintiffs restate and incorporate herein by reference their responses to Paragraphs 1 through 42 of this Reply to Defendant's Counterclaims, as set forth above.

44. Plaintiff Haywood County admits that it gained a fee simple interest in the Property by way of the August 30, 2007 Non-Warranty Deed. All contrary allegations contained in Paragraph 44 are denied.

45. Paragraph 45 is denied.

46. Paragraph 46 is denied.

**RESPONSE TO COUNTERCLAIM VI  
(Breach of Contract)**

47. In response to the allegations contained in Paragraph 47, Plaintiffs restate and incorporate herein by reference their responses to Paragraphs 1 through 46 of this Reply to Defendant's Counterclaims, as set forth above.

48. Paragraph 48 calls for a legal conclusion and therefore no response is required. To the extent a response is required, Paragraph 48 is denied.

49. Paragraph 49 is denied.

50. Paragraph 50 is denied, except that Plaintiffs admit, upon information and belief, that the tax value of the tract of the Property, which is described in Exhibit A to Plaintiffs' Complaint and described by Defendant as the "Dairy Farm", is in excess of \$700,000 and the 22-Acre portion purchased by Plaintiff Haywood County sold for more than \$1,100,000.

51. No response is required for Paragraph 51.

### **FIRST AFFIRMATIVE DEFENSE**

FOR A FIRST FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that pursuant to the terms of the Second Lease (including, as more fully set forth in the Amended Complaint: the Lease, the General Agreement, and the Notice of Lease), Ferguson's breach of the Second Lease resulted in the termination of any right, title, or interest conveyed by the Second Lease, including any purported future interest conveyed by the Future Interest Instrument.

### **SECOND AFFIRMATIVE DEFENSE**

FOR A SECOND FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that there was no meeting of the minds between Plaintiff Jones and Defendant Ferguson regarding the character of the three components of the Second Lease, and there was no meeting of the minds regarding the nature and scope of the interest transferred or purportedly transferred by the execution of these components of the Second Lease.

### **THIRD AFFIRMATIVE DEFENSE**

FOR A THIRD FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that Defendant Ferguson gave insufficient or no consideration in exchange for any purported transfer of interest in the Property purportedly conveyed by the Second Lease.

### **FOURTH AFFIRMATIVE DEFENSE**

FOR A FOURTH FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that any future interest in the Property purportedly conveyed to Defendant pursuant to the Second Lease was fraudulently obtained or obtained through misrepresentation.

### **FIFTH AFFIRMATIVE DEFENSE**

FOR A FIFTH FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that the instruments comprising the Second Lease were not acknowledged, were improperly recorded and

were improperly registered, and therefore they did not provide effective notice against Plaintiff Haywood County, a purchaser for value.

**SIXTH AFFIRMATIVE DEFENSE**

FOR A SIXTH FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that Defendant Ferguson exerted undue influence on Jones or coerced Jones to procure his signature on the Second Lease.

**SEVENTH AFFIRMATIVE DEFENSE**

FOR A SEVENTH FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that any purported future interest conveyed by the Future Interest Instrument fails as it does not meet the proper legal requirements or formalities required for a will under North Carolina law.

**EIGHTH AFFIRMATIVE DEFENSE**

FOR AN EIGHTH FURTHER ANSWER AND DEFENSE, Plaintiffs allege and say that Plaintiffs reserve the right to assert additional affirmative defenses as may be disclosed during the course of discovery in this action.

WHEREAS, the Plaintiffs pray that this Court enter relief as follows:

1. a declaratory judgment that Defendant has no present or future right, title or interest to the Property under the Second Lease or otherwise;
2. a declaratory judgment that the ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant;
3. an award of actual damages to the Jones' estate in an amount to be proven at trial for the costs of bringing this action to quiet title to the Property;

4. an award of punitive damages to both Plaintiffs in an amount to be proven at trial to punish and deter the reprehensible and outrageous conduct of the Defendant; and

5. an order granting the Plaintiffs such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 22<sup>nd</sup> day of May, 2008.

By: Michael Jordan / by RJH

T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

Attorney for Plaintiff William Lucius Jones, by his Guardian,  
Sam Underwood

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Reed J. Hollander

Leon M. Killian  
NC Bar No. 2526  
E-Mail: chip.killian@nelsonmullins.com  
Reed J. Hollander  
NC Bar No. 23405  
E-Mail: reed.hollander@nelsonmullins.com  
4140 Parklake Avenue / GlenLake One  
Second Floor  
Raleigh, NC 27612  
(919) 877-3800

Attorneys for the Plaintiff Haywood County, North Carolina



CERTIFICATE OF SERVICE

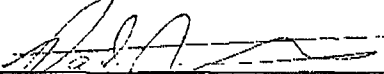
The undersigned hereby certifies that he has served a copy of the foregoing **PLAINTIFFS' REPLY TO DEFENDANT'S COUNTERCLAIMS** upon counsel of record by facsimile and by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 22<sup>nd</sup> day of May, 2008, addressed as follows:

FILED  
08 MAY 23 AM 11:51  
HAYWOOD COUNTY, N.C.

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786  
Facsimile: (828) 452-2234

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786  
Facsimile: (828) 452-5968

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:  \_\_\_\_\_

Leon M. Killian  
NC Bar No. 2526  
E-Mail: chip.killian@nelsonmullins.com  
Reed J. Hollander  
NC Bar No. 23405  
E-Mail: reed.hollander@nelsonmullins.com  
4140 Parklake Avenue / GlenLake One  
Second Floor  
Raleigh, NC 27612  
(919) 877-3800

Attorneys for the Plaintiff Haywood County, North Carolina

**FILED**

STATE OF NORTH CAROLINA  
HAYWOOD COUNTY ON THE GENERAL COURT OF JUSTICE  
COUNTY OF HAYWOOD BY 10 Sam 5/19/08 SUPERIOR COURT DIVISION  
08 CVS 51

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,

Plaintiffs,

**CONSENT ORDER**

vs.

GREGORY TODD FERGUSON,

Defendant.

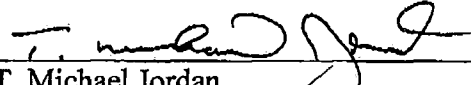
THIS CAUSE was heard by the undersigned Superior Court Judge on motion of Plaintiffs for an order requiring a more definite statement of the Counterclaims. It appears to the Court that counsel for Plaintiffs and Defendant announced in open Court that the parties have consented to the entry of this Consent Order.

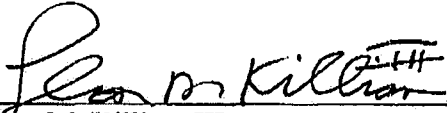
IT IS THEREFORE ORDERED by and with the consent of counsel for the parties that Defendant, within twenty (20) days hereafter, make a more definite statement of the claims alleged in his Counterclaims by providing Plaintiffs with specificity as to which pages or parts of Exhibit C are included in his definition of the "Lease Agreement" and which pages or parts of Exhibit C are included in his definition of the "Future Interest Instrument".

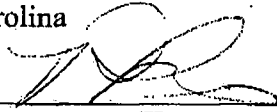
This the 19th day of May, 2008.

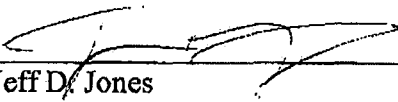
  
\_\_\_\_\_  
Superior Court Judge Presiding

CONSENTED TO ON BEHALF OF  
THE PARTIES BY:

  
\_\_\_\_\_  
T. Michael Jordan  
Attorney for Plaintiff, William Lucius  
Jones, by his Guardian, Sam Underwood

  
\_\_\_\_\_  
Leon M. Killian, III  
Attorney for Haywood County,  
North Carolina

  
\_\_\_\_\_  
Russell L. McLean, III  
Attorney for Defendant, Gregory Todd  
Ferguson

  
\_\_\_\_\_  
Jeff D. Jones  
Attorney for Defendant, Gregory Todd  
Ferguson

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

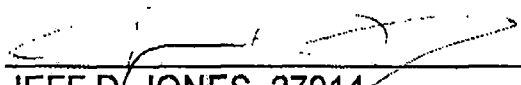
IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No. 08 CVS 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, by his guardian, SAM )  
UNDERWOOD, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GREGORY TODD FERGUSON, )  
 )  
Defendant. )

CERTIFICATE OF SERVICE

FILED  
08 MAY 19 PM 1:17  
HAYWOOD COUNTY, N.C.  
BY \_\_\_\_\_

The undersigned hereby certifies that **Defendant's Response to Plaintiff's Motion for More Definite Statement** was served upon each Plaintiff by personally handing a copy of the same to Plaintiff Haywood County's attorney, Leon M. Killian, III, and by also personally handing a copy of the same to Plaintiff Jones' attorney, T. Michael Jordan, this the 19<sup>th</sup> day of May, 2008. A copy of this Certificate of Service was also mailed to opposing counsel this same day.

  
\_\_\_\_\_  
JEFF D. JONES, 27914  
Attorney for Defendant  
232 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2220

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE  
COUNTY OF HAYWOOD SUPERIOR COURT DIVISION  
File No. 08 CVS 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUGIUS )  
JONES, by his guardian, SAM )  
UNDERWOOD, )

Plaintiffs, )

v. )

GREGORY TODD FERGUSON, )

Defendant. )

**DEFENDANT'S RESPONSE TO  
PLAINTIFF'S MOTION  
FOR MORE DEFINITE STATEMENT**

COMES NOW Defendant, by and through counsel, and, in response to Plaintiff's Motion for More Definite Statement, filed May 1, 2008, hereby states as follows:

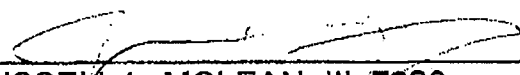
1. A copy of Plaintiffs' Exhibit C – which is attached to Plaintiff's Verified Complaint for Declaratory Judgment – is attached hereto as **Exhibit 1**, which is hereby incorporated herein by this reference.

2. The pages which comprise Exhibit C have book and page numbers at the margin which were, upon information and belief, placed upon the original, recorded documents by the Office of the Register of Deeds of Haywood County at the time of recording.

3. The defined term "Lease Agreement" contained in paragraph 12 on page 5 of Defendant's Answer, Counterclaims, & Demand for Trial By Jury pleading, filed March 19, 2008 (hereinafter referred to as "Answer & Counterclaims"), consists of those portions of Exhibit C which are marked by the Register of Deeds as "Book 502 Page 203" through "Book 502 Page 208", inclusive.

4. The defined term "Future Interest Instrument" contained in paragraph 13 on page 5 of Defendant's Answer & Counterclaims consists of that portion of Exhibit C which is marked by the Register of Deeds as "Book 502 Page 209".

DATED this 19<sup>th</sup> day of May, 2008.



---

RUSSELL L. MCLEAN, III, 7220  
244 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2896

JEFF D. JONES, 27914  
232 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2220

Attorneys for Defendant

**HAYWOOD COUNTY  
NORTH CAROLINA**

**LEASE AGREEMENT**

**THIS LEASE** is made this the 5th day of September, 2001, between Gregory Todd Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" (the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.)

**IN CONSIDERATION** of the mutual covenants contained herein, the parties agree as follows:

1) **SUBJECT AND PURPOSE.** Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, Page 431 of the Haywood County Registry, to Tenant for Tenant's use as an operating farm.

2) **TERM AND RENT.** Owner leases the above premises for a term of twelve (12) years, commencing June 15, 2001, and terminating on June 15, 2013 at 1:00 o'clock P.M. or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly instalments of Nine Hundred Sixteen Dollars and Sixty Six Cents (\$916.66) in advance on the twentieth (20th) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to owner at 106 Timothy Lane, Waynesville, North Carolina 28786.

3) **ADDITIONAL RENT.** All taxes, charges, costs and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.

4) **ALTERATIONS, ADDITIONS AND IMPROVEMENTS.** Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural length, or lessen the value, of the building on the premises, or change the purposes for which the building, or any part thereof, may be used.

All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.

5) **REPAIRS.** Tenant shall at all times during the lease and at his own cost and



expense, repair, replace, and maintain in a good, safe and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

- 6) **TAXES.** Owner shall be responsible for all taxes on said property.
- 7) **UTILITIES.** All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.
- 8) **INSURANCE.** During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance.
  - a) **FIRE INSURANCE.** Tenant shall keep all building, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.
  - b) **PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.** Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.
  - c) **OTHER INSURANCE.** Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.
- 9) **UNLAWFUL OR DANGEROUS ACTIVITY.** Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.
- 10) **INDEMNITY.** Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease, (2) any injury or damage happening on or about the leased premises, (3) failure to comply with any law of any governmental authority, or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.



11) **DEFAULT OR BREACH.** Each of the following events shall constitute a default or breach of this lease by Tenant:

- (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant.
- (B) If Tenant shall fail to perform or comply with any of the conditions of this lease and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by Owner to Tenant or, if the performance cannot be reasonably had within the fifteen (15) day period, Tenant shall not in good faith have commenced performance with the fifteen (15) day period and shall not diligently proceed to completion of performance.
- (C) If Tenant shall vacate or abandon the leased premises.

12) **EFFECT OF DEFAULT.** In the event of any default hereunder, as set forth in Paragraph Eleven, the rights of Owner shall be as follows:

- (a) Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest of Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease and the right, title and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.
- (b) Owner may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term, or condition required hereby to be performed by Tenant, and Owner shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, by an expenditure for the correction by Owner shall not be deemed to waive or release the default of Tenant or the right of Owner to take any action as may be otherwise permissible hereunder in the case of any default.

13) **DESTRUCTION OF PREMISES.** In the event of a partial or total destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction shall neither null or void this lease.

14) **CONDEMNATION.** Rights and duties in the event of condemnation are as follows:

- a) If the whole or the leased premises shall be taken or condemned by any competent

authority for any public or quasi-public use or purpose, this lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.

- b) If only a portion of the leased premises shall be taken or condemned, this lease and the term hereof shall not cease or terminate.
- c) In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Tenant. Owner assigns to Tenant all his right, title and interest in any and all such awards.
- d) In the event of a partial taking, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the building on the leased premises to a self-contained architectural unit.

15) **ACCESS TO PREMISES; SIGNS POSTED BY OWNER.** Tenant shall permit Owner, or his agents, to enter the leased premises at all reasonable hours to inspect the premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this lease, and also to show the premises to prospective buyers.

16) **EASEMENTS, AGREEMENTS, OR ENCUMBRANCES.** The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the leased premises, and Owner shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17) **QUITE ENJOYMENT.** Owner warrants that Tenant shall be granted peaceable and quiet enjoyment of the leased premises free from any eviction or interference by Owner if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

18) **LIABILITY OF OWNER.** Tenant shall be in exclusive control and possession of the leased premises, and Owner shall not be liable for any injury or damages to any property or to any person on or about the leased premises nor for any injury or damage to any property of Tenant. The provisions herein permitting Owner to enter and inspect the leased premises are made to insure that Tenant is in compliance with the terms and conditions hereof and makes repairs that Tenant has failed to make. Owner shall not be liable to Tenant for any entry on the premises for inspection purposes.

19) **REPRESENTATIONS BY OWNER.** At the commencement of the term, Tenant shall accept the buildings and improvements and any equipment in their existing condition and state of repair, and Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Owner in respect thereto except as contained in the provisions of this lease, and Owner shall in no event be liable for any latent defects.

20) **WAIVERS.** The failure of Owner to insist on a strict performance of any of the

terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) **NOTICE.** All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
106 Timothy Lane  
Waynesville NC 28786

Tenant: Gregory Todd Ferguson  
Post Office Box 1976  
Maggie Valley, NC 28751

and also to be mailed to:

Gregory Todd Ferguson  
3131 Rabbit Skin Road  
Waynesville, NC 28785

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) **ASSIGNMENT, MORTGAGE, OR SUBLEASE.** Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) **SURRENDER OF POSSESSION.** Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

24) **REMEDIES OF OWNER.**

a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) TOTAL AGREEMENT, APPLICABLE TO SUCCESSORS. This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently execute by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals this the 5 of ~~June~~ Sept, 2001.

X William Lucius Jones  
William Lucius Jones, Owner

Gregory Todd Ferguson  
Gregory Todd Ferguson, Tenant

Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001.

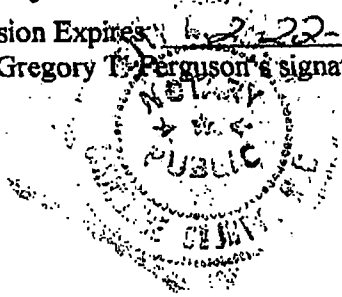
C. Colleen Williamson, Notary Public

My Commission Expires: 09-21-2003

Subscribed before me this the 10 day of Septmeber, 2001.

Boyd Walker, Notary Public

My Commission Expires: 6-22-05  
(Notarizing Gregory T. Ferguson's signature)



BE IT KNOWN, for value received, the undersigned William Lucius Jones of 106 Timothy Lane, Waynesville, North Carolina 28786 hereby unconditionally and irrevocably assigns and transfers full ownership upon my (William Lucius Jones) death unto Gregory Todd Ferguson for the purpose of a farm to be handed down to his child (at the time of signing one living child Colton Wyatt Ferguson) and to their heirs to remain farm property, not to be sold or mortgaged, etc. of 3131 Rabbit Skin Road, Waynesville, North Carolina 28786, (alternate mailing address Post Office Box 1976, Maggie Valley, NC 28751) all rights, titles and interest in and to the following: The real property described in the Lease Agreement between William Lucius Jones and Gregory Todd Ferguson executed the 5 day of ~~August~~<sup>Sept.</sup>, 2001 which is presently leased by Gregory Todd Ferguson until June 15, 2013 at 1:00 o'clock P.M. This property is located on Jonathan Creek Road, Waynesville, N.C. 28786.

The undersigned fully warrants that he, William Lucius Jones is the sole owner and has full rights and authority to enter into this agreement and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

This Agreement was entered while I, William Lucius Jones, was in my sound mind and body.

This Agreement shall be enforced under the laws of the State of North Carolina.

Executed this the 5 day of ~~August~~<sup>Sept.</sup>, 2001.

Owner: William Lucius Jones

x William Lucius Jones

Sworn to and subscribed before me this the 10 day of September, 2001

Notary Public Battle Walker  
My Commission Expires: 2-27-03

Lessee: Gregory Todd Ferguson

Gregory J. Ferguson

Sworn to and subscribed before me this the 5th day of Sept., 2001.

Notary Public: C. Colleen Williams My commission expires: 09-21-2003

NOTICE OF LEASE Inst # 553735 Book 502 Page: 210

The undersigned Lessor and Lessee do hereby provide public notice of the following lease entered into on the 5 day of ~~August~~ <sup>Sept</sup> 2001, by and between William Lucius Jones and Gregory Todd Ferguson.

1. Lessor: William Lucius Jones
2. Lessees: Gregory Todd Ferguson
3. Leased Premises: Refer to paragraph (1) in attached lease.
4. Term of Lease: Lease expires on June 15, 2013 at 1:00 o'clock P.M.
5. Options to renew and / or extend lease: William Lucius Jones, being of sound mind and body agrees to renew and/or extend said aforementioned lease at the end of the terms mentioned in item (4) upon conditions of the same term..
6. Option to Acquire Property: William Lucius Jones, being of sound mind and body agrees upon his death that the ownership of the property described in paragraph (3) above be transferred to Gregory Todd Ferguson for the purpose of a farm, not to be mortgaged, sold, etc. to remain in Gregory's family for said farm after Gregory Todd Ferguson's death (at the time of this signing one living child born to Gregory Todd Ferguson, Colton Wyatt Ferguson).

[Signature]  
Lessor, William Lucius Jones

[Signature]  
Lessee, Gregory Todd Ferguson

State of North Carolina, County of Haywood

On, 09-05-01, before me, William Lucius Jones, and Gregory Todd Ferguson personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

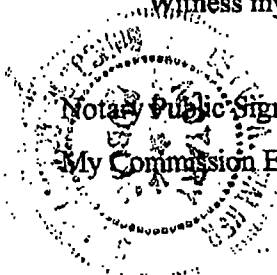
Notary Public Signature: C. Calleen Williamson  
My Commission Expires: 09-21-2003

Notary Affidavit for Notice of Lease between Lucius Jones and Gregory Todd Ferguson

State of North Carolina, County of Haywood

On, 9/10/01, before me, Gregory Todd Ferguson, personally appeared and proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that their signatures on the instrument the persons or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.



Notary Public Signature: Betty A. Walker  
My Commission Expires: 2-22-05

State of North Carolina, Haywood County  
The Foregoing Certificate(s) of C COLLEEN WILLIAMSON, BETTY A WALKER

Is (are) Certified to be Correct.  
This Instrument was filed for Registration on this 13th Day of September, 2001 in the Book and Page shown on the First Page hereof.

~~\_\_\_\_\_~~  
Amy R. [unclear] Register of Deeds  
By Colleen Williamson

Inst # 553735 Book 502 Page: 211

Exhibit C

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

08 MAY -9 PM 1:56

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. 08-CvS-51

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN SAM  
UNDERWOOD,

Plaintiff,

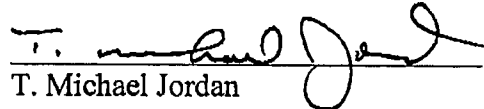
vs.

GREGORY TODD FERGUSON,  
Defendant.

NOTICE OF HEARING

PLEASE TAKE NOTICE that Plaintiff's Motion for More Definite Statement will be heard at the Haywood County Courthouse, Waynesville, North Carolina, on the 19<sup>th</sup> day of May, 2008 at 10:00 a.m., or as soon thereafter as the matter can be heard. A copy of the Motion for More Definite Statement is attached hereto.

This the 9<sup>th</sup> day of May, 2008.



T. Michael Jordan  
Attorney for Plaintiff  
154 N. Main Street  
Waynesville, NC 28786  
(828) 452-5871

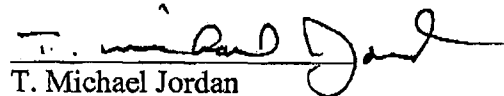


CERTIFICATE OF SERVICE

FILED  
09 MAY -9 PM 1:46  
WAYNE COUNTY C.S.C.

This is to certify that the undersigned has this date served Jeff D. Jones 232 North Main Street, Waynesville, NC 28786 and Russell L. McLean, III, 244 North Main Street, Waynesville, NC 28786 in the foregoing matter with a copy of Notice of Hearing by depositing in the United States Mail, a copy of same in properly addressed envelope with adequate postage thereon, in the manner prescribed by Rule 5 of the Rules of Civil Procedure.

This the 9<sup>th</sup> day of May, 2008.



T. Michael Jordan  
Attorney for Plaintiff  
154 North Main Street, Suite 1  
Waynesville, NC 28786  
828-452-5871

STATE OF NORTH CAROLINA FILED  
COUNTY OF HAYWOOD 08 MAY -1 PM 2:12 IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
HAYWOOD COUNTY C.S.C. 08 CVD 51

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,

Plaintiffs,

vs.

GREGORY TODD FERGUSON,

Defendant.

**MOTION FOR MORE DEFINITE  
STATEMENT**

NOW COME the Plaintiffs Haywood County, North Carolina ("Haywood County"), and William Lucius Jones, incompetent, by guardian of his estate, Sam Underwood ("Jones"), by and through their respective undersigned counsel and move the Court pursuant to Rule 12(e) of the North Carolina Rules of Civil Procedure for an Order requiring Defendant and Counterclaim Plaintiff Gregory Todd Ferguson ("Ferguson") to file a more definite statement of his Counterclaims.

In support of its motion, the Plaintiffs show unto the Court the following:

1. In paragraph 12 of Ferguson's Counterclaims, Ferguson alleges "[t]hat, on or about September 5, 2001, Plaintiff Jones and Defendant entered into a document entitled 'Lease Agreement' whereby Defendant renewed a lease of the Dairy Farm from Plaintiff Jones (hereinafter referred to as the 'Lease Agreement')." Ferguson further alleges that "[t]his Lease Agreement is attached to the Complaint as a portion of Exhibit C, and Defendant adopts that exhibit as his own by this reference."

2. In paragraph 13 of Ferguson's Counterclaims, Ferguson alleges "[t]hat, on or about September 5, 2001, Plaintiff Jones and Defendant entered into a second document which conveyed a fee simple future interest in the Dairy Farm from Plaintiff Jones (hereinafter referred to as the 'Future Interest Instrument')." Ferguson further alleges that "[t]his Future Interest Instrument is attached to the Complaint as a portion of Exhibit C, and Defendant adopts that exhibit as his own by this reference."

3. Exhibit C of the Complaint consists of nine (9) pages and three (3) separate instruments titled "Lease Agreement", "General Agreement", and "Notice of Lease" respectively ("Exhibit C").

4. Ferguson fails to explain in the Counterclaim which pages or parts of Exhibit C are included in his definition of the "Lease Agreement" and which pages or parts are included in his definition of the "Future Interest Instrument".

5. Ferguson uses the defined terms "Lease Agreement" and "Future Interest Instrument" throughout his Counterclaim.

6. Identification by Ferguson of which specific pages or parts of Exhibit C constitute the "Lease Agreement" and the "Future Interest Instrument", as these terms are used in the Counterclaim, is essential to the Plaintiffs' ability to accurately respond to Ferguson's Counterclaim.

7. Ferguson's allegations that the "Lease Agreement" and the "Future Interest Instrument" are contained in "portions of Exhibit C" are so vague and ambiguous that Plaintiffs cannot reasonably be required to frame a responsive pleading.

WHEREFORE, Plaintiffs pray the Court for an Order requiring Ferguson to file a more definite statement providing Plaintiffs with specificity as to which pages or parts of Exhibit C are

included in his definition of the "Lease Agreement" and which pages or parts of Exhibit C are included in his definition of the "Future Interest Instrument".

Respectfully submitted, this the 15<sup>th</sup> day of May, 2008.

By: T. Michael Jordan  
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

Attorneys for the Plaintiff, William Lucius Jones, by his  
Guardian, Sam Underwood

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Leon M. Killian  
Leon M. Killian  
NC Bar No. 2526  
E-Mail: chip.killian@nelsonmullins.com  
Reed J. Hollander  
NC Bar No. 23405  
E-Mail: reed.hollander@nelsonmullins.com  
4140 Parklake Avenue / GlenLake One  
Second Floor  
Raleigh, NC 27612  
(919) 877-3800

Attorneys for the Plaintiff, Haywood County, North Carolina

CERTIFICATE OF SERVICE

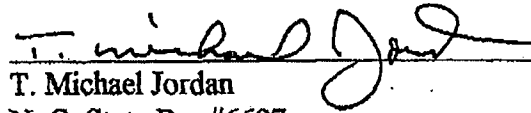
FILED

The undersigned hereby certifies that he has served a copy of the foregoing document upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 15<sup>th</sup> day of May, 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

BY \_\_\_\_\_

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786




T. Michael Jordan  
N. C. State Bar #6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No. 08 CVS 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, by his guardian, SAM )  
UNDERWOOD, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GREGORY TODD FERGUSON, )  
 )  
Defendant. )

**CONSENT ORDER TO TRANSFER  
TO SUPERIOR COURT DIVISION**

BY   
HAYWOOD COUNTY, N.C.  
2008 MAY -5 AM:55

THIS MATTER coming on for hearing, and having been heard, the Court finds the following:

**FINDINGS OF FACTS**

1. That this action was commenced by Plaintiffs in the Haywood County District Court Division on January 14, 2008;
2. That the Complaint seeks a declaratory judgment regarding the extent and nature of Defendant's interest in approximately 207 +/- acres of land situated in Haywood County, North Carolina;
3. That the tax value of this land is in excess of \$700,000.00;
4. That Plaintiff Jones, by and through guardian Sam Underwood, executed a North Carolina Non-Warranty Deed to Plaintiff Haywood County which purportedly conveys a fee simple interest in approximately 22 acres of this land for a purchase price in excess of \$1,100,000.00;
5. That, in a pre-answer filing, Defendant filed his Motion to Transfer to Superior Court Division on March 19, 2008 at or about 10:58 a.m.;
6. That, on March 19, 2008 at or about 4:09 p.m., Defendant filed his Answer, Counterclaims, & Demand for a Trial By Jury. Therein, Defendant preserved his right to object to the proper division pursuant to N.C. Gen. Stat. §1A-1,

Rule 12(b)(3); and

7. That the amount in controversy exceeds \$10,000.00.

BASED UPON THE FOREGOING, the Court makes the following:

**CONCLUSIONS OF LAW**

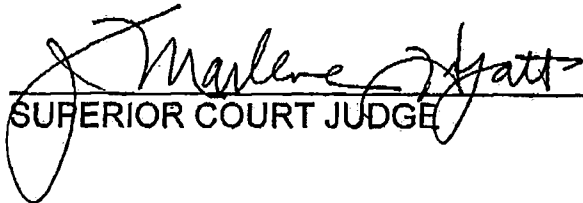
1. That the Court has jurisdiction over the parties and the subject matter of this action;

2. That, pursuant to N.C. Gen. Stat. §7A-243, this action properly lies in the Superior Court Division and not in the District Court Division.

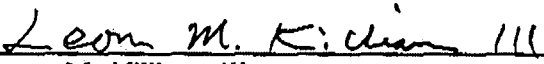
**ORDER**


THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED that this action be transferred to the Superior Court Division for further proceedings.

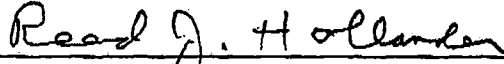
SO ORDERED this the 1st day of May, 2008.

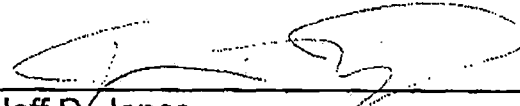
  
\_\_\_\_\_  
SUPERIOR COURT JUDGE

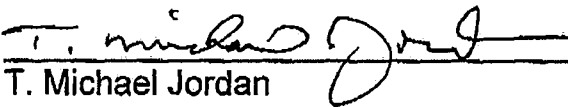
By and through counsel, the parties to this action give their consent to the foregoing Consent Order to Transfer to Superior Court Division.

  
\_\_\_\_\_  
Leon M. Killian, III  
Attorney for Plaintiff Haywood County

  
\_\_\_\_\_  
Russell L. McLean, III  
Attorney for Defendant

  
\_\_\_\_\_  
Reed J. Hollander  
Attorney for Plaintiff Haywood County

  
\_\_\_\_\_  
Jeff D. Jones  
Attorney for Defendant

  
\_\_\_\_\_  
T. Michael Jordan  
Attorney for Plaintiff Jones



STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF HAYWOOD

DISTRICT COURT DIVISION

File No. 08 CVD 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, by his guardian, SAM )  
UNDERWOOD, )

Plaintiffs, )

v. )

GREGORY TODD FERGUSON, )

Defendant. )

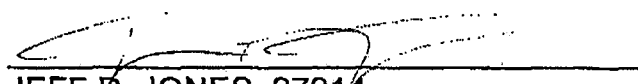
**CERTIFICATE OF SERVICE**

2008 MAY -5 AM 10:35  
HAYWOOD COUNTY, C.S.C.  
C-11-1110

The undersigned hereby certifies that the Consent Order to Transfer to Superior Court Division was served upon Plaintiffs by depositing a copy of the same in a postpaid and properly-addressed wrapper in a post office or official depository under the exclusive care and custody of the United State Postal Service this the 5<sup>th</sup> day of May, 2008, addressed as follows:

T. Michael Jordan  
Attorney for Plaintiff Jones  
154 North Main Street, Suite 1  
Waynesville, North Carolina 28786

Leon M. Killian, III  
Reed J. Hollander  
Attorneys for Plaintiff Haywood County  
Nelson Mullins Riley & Scarborough, LLP  
Glen Lake One  
4140 Parklake Avenue, Suite 200  
Raleigh, North Carolina 27612



**JEFF D. JONES, 27914**  
Attorney for Defendant  
232 North Main Street  
Waynesville, NC 28786  
Tel: (828) 452-2220

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

HAYWOOD COUNTY, NORTH  
CAROLINA AND WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD,

Plaintiffs,

vs.

GREGORY TODD FERGUSON,

Defendant.

FILED IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
08 MAY -1 PM 2:08  
HAYWOOD COUNTY C.S.C. 08 CVD 51

**MOTION FOR MORE DEFINITE  
STATEMENT**

NOW COME the Plaintiffs Haywood County, North Carolina ("Haywood County"), and William Lucius Jones, incompetent, by guardian of his estate, Sam Underwood ("Jones"), by and through their respective undersigned counsel and move the Court pursuant to Rule 12(e) of the North Carolina Rules of Civil Procedure for an Order requiring Defendant and Counterclaim Plaintiff Gregory Todd Ferguson ("Ferguson") to file a more definite statement of his Counterclaims.

In support of its motion, the Plaintiffs show unto the Court the following:

1. In paragraph 12 of Ferguson's Counterclaims, Ferguson alleges "[t]hat, on or about September 5, 2001, Plaintiff Jones and Defendant entered into a document entitled 'Lease Agreement' whereby Defendant renewed a lease of the Dairy Farm from Plaintiff Jones (hereinafter referred to as the 'Lease Agreement')." Ferguson further alleges that "[t]his Lease Agreement is attached to the Complaint as a portion of Exhibit C, and Defendant adopts that exhibit as his own by this reference."

2. In paragraph 13 of Ferguson's Counterclaims, Ferguson alleges "[t]hat, on or about September 5, 2001, Plaintiff Jones and Defendant entered into a second document which conveyed a fee simple future interest in the Dairy Farm from Plaintiff Jones (hereinafter referred to as the 'Future Interest Instrument')." Ferguson further alleges that "[t]his Future Interest Instrument is attached to the Complaint as a portion of Exhibit C, and Defendant adopts that exhibit as his own by this reference."

3. Exhibit C of the Complaint consists of nine (9) pages and three (3) separate instruments titled "Lease Agreement", "General Agreement", and "Notice of Lease" respectively ("Exhibit C").

4. Ferguson fails to explain in the Counterclaim which pages or parts of Exhibit C are included in his definition of the "Lease Agreement" and which pages or parts are included in his definition of the "Future Interest Instrument".

5. Ferguson uses the defined terms "Lease Agreement" and "Future Interest Instrument" throughout his Counterclaim.

6. Identification by Ferguson of which specific pages or parts of Exhibit C constitute the "Lease Agreement" and the "Future Interest Instrument", as these terms are used in the Counterclaim, is essential to the Plaintiffs' ability to accurately respond to Ferguson's Counterclaim.

7. Ferguson's allegations that the "Lease Agreement" and the "Future Interest Instrument" are contained in "portions of Exhibit C" are so vague and ambiguous that Plaintiffs cannot reasonably be required to frame a responsive pleading.

WHEREFORE, Plaintiffs pray the Court for an Order requiring Ferguson to file a more definite statement providing Plaintiffs with specificity as to which pages or parts of Exhibit C are

included in his definition of the "Lease Agreement" and which pages or parts of Exhibit C are included in his definition of the "Future Interest Instrument".

Respectfully submitted, this the 15<sup>th</sup> day of May, 2008.

By: T. Michael Jordan  
T. Michael Jordan  
NC Bar No. 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

Attorneys for the Plaintiff, William Lucius Jones, by his  
Guardian, Sam Underwood

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Leon M. Killian  
Leon M. Killian  
NC Bar No. 2526  
E-Mail: chip.killian@nelsonmullins.com  
Reed J. Hollander  
NC Bar No. 23405  
E-Mail: reed.hollander@nelsonmullins.com  
4140 Parklake Avenue / GlenLake One  
Second Floor  
Raleigh, NC 27612  
(919) 877-3800

Attorneys for the Plaintiff, Haywood County, North Carolina

CERTIFICATE OF SERVICE

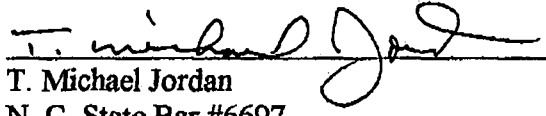
FILED  
MAY 21 PM 2:12

The undersigned hereby certifies that he has served a copy of the foregoing document upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 15<sup>th</sup> day of May, 2008, and addressed as follows:

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786

BY \_\_\_\_\_

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786



T. Michael Jordan  
N. C. State Bar #6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

STATE OF NORTH CAROLINA

FILED

COUNTY OF HAYWOOD

08 APR 18 AM 11:07

HAYWOOD COUNTY C.S.C.

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

File No. 08 CVD 51

HAYWOOD COUNTY, NORTH  
CAROLINA and WILLIAM LUCIUS  
JONES, by his guardian, SAM  
UNDERWOOD,



Plaintiffs,

v.

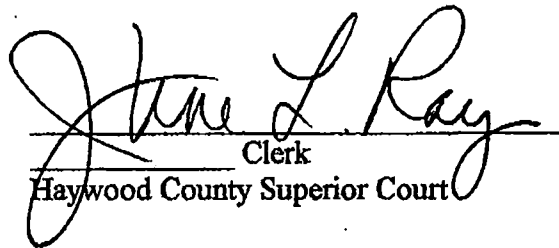
GREGORY TODD FERGUSON,

Defendant.

**ORDER GRANTING PLAINTIFFS' MOTION FOR EXTENSION OF TIME**

Based on good cause shown, the undersigned hereby orders that Plaintiffs Haywood County, North Carolina's and William Lucius Jones, by his guardian, Sam Underwood's (collectively, the "Plaintiffs") motion for extension of time to answer the counterclaims is hereby GRANTED. Plaintiffs shall file and serve their replies to Defendant's counterclaims on or before May 22, 2008.

SO ORDERED, this 18 day of April, 2008.

  
Clerk  
Haywood County Superior Court

STATE OF NORTH CAROLINA FILED

IN THE GENERAL COURT OF JUSTICE

COUNTY OF HAYWOOD

08 APR 18 AM 11:05

DISTRICT COURT DIVISION

File No. 08 CVD 51

HAYWOOD COUNTY, NORTH  
CAROLINA and WILLIAM LUCIUS  
JONES, by his guardian, SAM  
UNDERWOOD,

HAYWOOD COUNTY C.S.C.

Plaintiffs,

v.

GREGORY TODD FERGUSON,

Defendant.

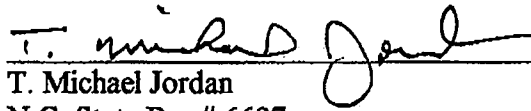
**PLAINTIFFS' MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6(b) of the North Carolina Rules of Civil Procedure, Plaintiffs Haywood County, North Carolina and William Lucius Jones, by his guardian, Sam Underwood (collectively, the "Plaintiffs"), by and through its undersigned attorneys, come now and request that the Court enter an Order extending the time within which they may answer or otherwise respond to Defendant's Counterclaim. In support of this request, Plaintiffs show unto the Court the following:

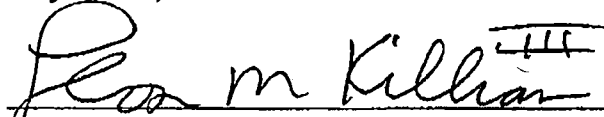
1. On March 20, 2008, Plaintiffs were served with Defendant's Answer and Counterclaims.
2. The time for Plaintiffs to reply to the Counterclaims has not yet expired.
3. This motion is made in good faith and not for the purpose of delay.

WHEREFORE, Plaintiffs request that this Court enter an Order extending the time for Plaintiffs in this action to answer or otherwise respond to the Counterclaim up to and including May 22, 2008.

Respectfully submitted, this the 18<sup>th</sup> day of April, 2008.



T. Michael Jordan  
N.C. State Bar # 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786



Leon M. Killian, III  
N.C. State Bar # 2526  
Reed J. Hollander  
NC State Bar # 23405  
NELSON MULLINS RILEY & SCARBOROUGH LLP  
4140 Parklake Avenue / GlenLake One  
Second Floor  
Post Office Box 30519 (27622-0519)  
Raleigh, NC 27612  
Attorneys for Plaintiff Haywood County, North Carolina



**CERTIFICATE OF SERVICE**

FILED

The undersigned hereby certifies that the foregoing Plaintiffs' Motion for Extension of Time  
was this day served upon the below-named counsel and parties by hand delivery to:

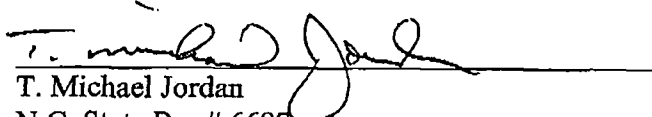
WAYNE COUNTY C.S.C.

Russell L. McLean, III  
244 North Main Street  
Waynesville, NC 28786  
Attorney for Defendant

BY \_\_\_\_\_

Jeff D. Jones  
232 North Main Street  
Waynesville, NC 28786  
Attorney for Defendant

This 18th day of April, 2008.



T. Michael Jordan  
N.C. State Bar # 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
File No. 08 CVD 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, by his guardian, SAM )  
UNDERWOOD, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GREGORY TODD FERGUSON, )  
 )  
Defendant. )

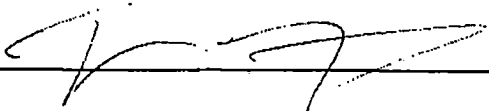
**CERTIFICATE OF SERVICE**

BY \_\_\_\_\_  
HAYWOOD COUNTY, N.C.S.C.  
MAR 20 AM 9:46  
11 07

The undersigned hereby certifies that Defendant's: (1) Motion to Transfer to Superior Court Division; (2) Answer, Counterclaims, & Demand for Trial By Jury; and (3) this Certificate of Service was served upon Plaintiffs by depositing a copy of the same in a postpaid and properly-addressed wrapper in a post office or official depository under the exclusive care and custody of the United State Postal Service this the 20<sup>th</sup> day of March, 2008, addressed as follows:

T. Michael Jordan  
Attorney for Plaintiff Jones  
154 North Main Street, Suite 1  
Waynesville, North Carolina 28786

Leon M. Killian, III  
Reed J. Hollander  
Attorneys for Plaintiff Haywood County  
Nelson Mullins Riley & Scarborough, LLP  
Glen Lake One  
4140 Parklake Avenue, Suite 200  
Raleigh, North Carolina 27612



STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
File No. 08 CVD 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, by his guardian, SAM )  
UNDERWOOD, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GREGORY TODD FERGUSON, )  
 )  
Defendant. )

**ANSWER, COUNTERCLAIMS,  
& DEMAND FOR TRIAL BY JURY**

FILED  
MAR 11 09  
HAYWOOD COUNTY C.S.C.  
01

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COMES NOW Defendant, by and through counsel, and, without waiving Defendant's objection to this matter remaining in the District Court Division (see previously-filed Motion to Transfer to Superior Court Division), hereby answers Plaintiffs' Verified Complaint for Declaratory Judgment (hereinafter referred to as the "Complaint") as follows:

1. Paragraph 1 of the Complaint is admitted.
2. Paragraph 2 of the Complaint is admitted.
3. Paragraph 3 of the Complaint is admitted.
4. Paragraph 4 of the Complaint is admitted.
5. With respect to Paragraph 5 of the Complaint, Defendant is without sufficient knowledge to admit or deny the allegations contained therein, and so Defendant denies the same.
6. Paragraph 6 of the Complaint is admitted.
7. Paragraph 7 of the Complaint is admitted.
8. Paragraph 8 of the Complaint is admitted.

9. Paragraph 9 of the Complaint is admitted, except that it is specifically denied that District Court is the proper division for this action. This matter should be transferred to Haywood County Superior Court.

10. Paragraph 10 of the Complaint correctly identifies the real property in question. The balance of paragraph 10 is denied.

11. With respect to Paragraph 11 of the Complaint, it is admitted that Plaintiff Jones conveyed, or attempted to convey, by and through Sam Underwood, some interest of some sort in the Property (as that term is defined in the Complaint) to Plaintiff Haywood County. The balance of paragraph 11 is denied.

12. Paragraph 12 of the Complaint is denied.

13. Paragraph 13 of the Complaint is denied.

14. Paragraph 14 of the Complaint is speculative and does not require a response and, accordingly, it is denied.

15. Paragraph 15 of the Complaint is admitted except that the Lease Agreement ends at Page 208 in Book 502, and a separate and distinct instrument appears at Book 502, Page 209 and continues through and including Page 211. It is specifically denied that the instrument appearing at Pages 209 through 211 is a part of the Lease Agreement.

16. With respect to Paragraph 16 of the Complaint, the Lease Agreement speaks for itself. No response is necessary for paragraph 16 and, accordingly, it is denied.

17. With respect to Paragraph 17 of the Complaint, it is admitted that the subject matter of the Lease Agreement was the Property (as that term is defined in the Complaint). The balance of paragraph 17 is denied.

18. Paragraph 18 of the Complaint is denied.

19. With respect to Paragraph 19 of the Complaint, the Lease Agreement speaks for itself. No response is necessary for paragraph 19 and, accordingly, it is denied.

20. With respect to Paragraph 20 of the Complaint, the Lease Agreement speaks for itself. No response is necessary for paragraph 20 and, accordingly, it

is denied.

21. Paragraph 21 of the Complaint is denied in that Plaintiff Jones told Defendant not to pay the rent.

22. With respect to Paragraph 22 of the Complaint, the court file numbered 02 CVM 198 speaks for itself. No response is necessary for paragraph 22 and, accordingly, it is denied.

23. With respect to Paragraph 23 of the Complaint, the court file numbered 02 CVM 198 speaks for itself. No response is necessary for paragraph 23 and, accordingly, it is denied.

24. Paragraph 24 of the Complaint is admitted.

25. Paragraph 25 of the Complaint is admitted.

26. With respect to Paragraph 26 of the Complaint, it calls for a legal conclusion and, accordingly, it does not require a response and is therefore denied.

27. Paragraph 27 of the Complaint is denied.

28. Paragraph 28 of the Complaint is denied.

29. With respect to Paragraph 29 of the Complaint, Defendant restates his previous answers to the allegations contained in paragraphs 1 through 28 as though fully set forth herein.

30. Paragraph 30 of the Complaint is denied.

31. Paragraph 31 of the Complaint does not require a response and, accordingly, it is denied.

32. That any allegation not specifically admitted in the Complaint is hereby expressly denied by Defendant.

**COUNTERCLAIMS**  
**Parties and Jurisdiction**

1. That, pursuant to N.C. Gen. Stat. §153A-10, Plaintiff Haywood County is a county of the State of North Carolina.

2. That, pursuant to N.C. Gen. Stat. §153A-11, the inhabitants of Haywood County are a body politic and corporate.

3. That, pursuant to N.C. Gen. Stat. §153A-11, §153A-158, and §153A-176, Haywood County is vested with the right to sue and be sued and the right to acquire, hold, and dispose of real property, among other various rights, powers, and duties conferred by law.

4. That Plaintiff William Lucius Jones is an individual human being who is a resident and citizen of Haywood County, North Carolina, and has been so at all relevant times with respect to this action.

5. That Sam Underwood is an individual human being who is a resident and citizen of Haywood County, North Carolina, and has been so at all relevant times with respect to this action.

6. That Defendant is an individual human being who is a resident and citizen of Haywood County, North Carolina, and has been so at all relevant times with respect to this action.

7. That, upon information and belief and on or about May 16, 2003, Plaintiff Jones was declared incompetent in file number 03 SP 120 (filed with Haywood County Clerk of Superior Court).

8. That, upon information and belief and on or about June 24, 2003, Sam Underwood was appointed as the guardian over the estate of Plaintiff Jones in file number 03 E 219 (filed with Haywood County Clerk of Superior Court).

9. That, upon information and belief and on or about April 26, 1945, Plaintiff Jones become the owner of certain real property located in Haywood County, North Carolina and more particularly described at Will Book 6, Page 431 in the Haywood County Registry (hereinafter referred to as the "Dairy Farm" and which is the identical property described in Exhibit A of the Complaint).

10. That the Court has jurisdiction over the persons and subject matter of this action, and venue properly lies in Haywood County, North Carolina.

**COUNTERCLAIMS**  
**General Factual Allegations**

11. That the prior paragraphs are incorporated herein by this reference as

though fully set forth below.

12. That, on or about September 5, 2001, Plaintiff Jones and Defendant entered into a document entitled "Lease Agreement" whereby Defendant renewed a lease of the Dairy Farm from Plaintiff Jones (hereinafter referred to as the "Lease Agreement"). This Lease Agreement is attached to the Complaint as a portion of Exhibit C, and Defendant adopts that exhibit as his own by this reference.

13. That, on or about September 5, 2001, Plaintiff Jones and Defendant entered into a second document which conveyed a fee simple future interest in the Dairy Farm from Plaintiff Jones to Defendant (hereinafter referred to as the "Future Interest Instrument"). This Future Interest Instrument is also attached to the Complaint as a portion of Exhibit C, and Defendant adopts that exhibit as his own by this reference.

14. That, on or about September 13, 2001, both the Lease Agreement and the Future Interest Instrument documents were recorded in the Haywood County Registry commencing at Book 502, Page 203.

15. That, upon information and belief, the Lease Agreement became frustrated due to alleged violations of EPA regulations (relating to the operation of the Dairy Farm as a dairy farm), and Defendant vacated the Dairy Farm.

16. That the Lease Agreement and the Future Interest Instrument are distinct and separate instruments by their own terms.

17. That, on or about August 30, 2007, Plaintiff Jones and Plaintiff Haywood County entered into a North Carolina Non-Warranty Deed which purportedly conveyed approximately 22 acres of the Dairy Farm to Plaintiff Haywood County (hereinafter referred to as the "22-Acre Portion" of the Dairy Farm). This North Carolina Non-Warranty Deed is attached to the Complaint as Exhibit B, and Defendant adopts that exhibit as his own by this reference. Any reference herein to the "Dairy Farm" includes this 22-Acre Portion.

18. That, on or about August 31, 2007, this North Carolina Non-Warranty Deed was recorded in the Haywood County Registry commencing at Book 715, Page 657.

19. That Defendant's interest in the Dairy Farm consists of a fee simple estate in the form of a future possessory interest created by Plaintiff Jones and conveyed to Defendant in the Future Interest Instrument.

20. That Defendant's interest in the Dairy Farm is an indefeasibly vested remainder insomuch as it was conveyed to a born and ascertainable person ( *i.e.*, Defendant) and this future interest is not subject to a condition precedent other than the natural expiration of the prior estate, to wit: the imminent death of Plaintiff Jones.

**COUNTERCLAIM I**  
**Declaratory Judgment**

21. That the prior paragraphs are incorporated herein by this reference as though fully set forth below.

22. That an actual controversy exists among the parties as to the nature and extent of any and all interests of the parties in the Dairy Farm, including the 22-Acre Portion thereof.

23. That, pursuant to N.C. Gen. Stat. §1-253 *et seq.*, the Court is empowered to declare the rights and interests of all parties in the Dairy Farm, including the 22-Acre Portion, and the parties are in need of certainty with respect to this real property issue.

**COUNTERCLAIM II**  
**Action to Establish Validity of Deed**

24. That the prior paragraphs are incorporated herein by this reference as though fully set forth below.

25. That the Future Interest Instrument is in fact a real property deed insomuch as it identifies the parties, the subject real property, the interest to be conveyed, contains general warranty language, and runs with the land.

26. That the Future Interest Instrument satisfies the Statute of Frauds.

27. That the Future Interest Instrument was duly executed by Plaintiff Jones and properly acknowledged by Plaintiff Jones before an official authorized by law to take such acknowledgments.

28. That the Future Interest Instrument was delivered to Defendant, who accepted the same.

29. That Future Interest Instrument was properly recorded, and Plaintiff



Haywood County thereby had notice of what it was purchasing on August 30, 2007.

30. That the Future Interest Instrument conveyed to Defendant a fee simple estate in the form of a future possessory interest in the Dairy Farm, to wit: a indefeasibly vested remainder.

31. That the Future Interest Instrument created a life estate in the Dairy Farm for the benefit of Plaintiff Jones, which life estate is measured by the life span of Plaintiff Jones.

32. That Plaintiff Haywood County can only take what Plaintiff Jones can convey, and so Plaintiff Haywood County has a life estate in that portion of the Dairy Farm measured by the life span of Plaintiff Jones.

**COUNTERCLAIM III**  
**Action to Quiet Title**

33. That the prior paragraphs are incorporated herein by this reference as though fully set forth below.

34. That Plaintiff Haywood County's claim in the 22-Acre Portion of the Dairy Farm is not valid either in law or in fact in that Plaintiff Haywood County does not have title in fee simple as claimed in the Complaint or as stated in the August 30, 2007 North Carolina Non-Warranty Deed.

35. That Plaintiff Haywood County's claim to an estate or interest in the 22-Acre Portion of the Dairy Farm is adverse to Defendant, and it is a cloud upon Defendant's interest and title to the 22-Acre Portion of the Dairy Farm.

**COUNTERCLAIM IV**  
**Reformation of North Carolina Non-Warranty Deed**

36. That the prior paragraphs are incorporated herein by this reference as though fully set forth below.

37. That the August 30, 2007 North Carolina Non-Warranty Deed in fact and in law only conveys a life estate to Plaintiff Haywood County.

38. That Plaintiff Jones, by and through his guardian, Sam Underwood, knew or should have known of Defendant's interest in the Dairy Farm.

39. That Plaintiff Haywood County knew or should have known of Defendant's interest in the Dairy Farm.

40. That, upon information and belief, Plaintiffs entered into the August 30, 2007 North Carolina Non-Warranty Deed with the actual or constructive knowledge that said deed could only convey a life estate to Plaintiff Haywood County and yet proceeded to close the transaction by an instrument purporting to convey an interest in fee simple.

41. That, upon information and belief and by closing the transaction, Plaintiffs were mutually mistaken as to what interest could be conveyed or, in the alternative, one or both Plaintiffs knowingly misrepresented the state and marketability of the title of the Dairy Farm and proceeded to close the transaction with the intent to deceive one another and/or Defendant, and either Plaintiff and/or Defendant was actually deceived and relied to their detriment.

42. That this North Carolina Non-Warranty Deed should be reformed to show what it actually conveys (to wit: a life estate measured by the life span of Plaintiff Jones) and not what it purports to convey.

**COUNTERCLAIM V**  
**Constructive/Resulting Trust**

43. That the prior paragraphs are incorporated herein by this reference as though fully set forth below.

44. Plaintiff Haywood County gained some sort of interest in the 22-Acre Portion of the Dairy Farm by way of the August 30, 2007 Non-Warranty Deed.

45. Plaintiff Haywood County would be unjustly enriched if it was permitted to retain its purported interest in the 22-Acre Portion.

46. The conduct of Plaintiff Haywood County, Plaintiff Jones, and/or Sam Underwood has deprived Defendant of a beneficial interest in the 22-Acre Portion of the Dairy Farm to which Defendant is entitled.

**COUNTERCLAIM VI**  
**Breach of Contract**

47. That the prior paragraphs are incorporated herein by this reference as though fully set forth below.

48. That, in the alternative, the Future Interest Instrument is a contract to create a will or codicil, whereby Plaintiff Jones agreed to will and devise the Dairy Farm to Defendant upon his death for consideration.

49. That, by conveying the 22-Acre Portion of the Dairy Farm to Plaintiff Haywood County, Plaintiff Jones has substantially and materially breached the terms and conditions of the Future Interest Instrument.

50. That, as a result of this breach, Defendant has suffered damages in excess of \$10,000.00 in that the tax value of the Dairy Farm is in excess of \$700,000.00 and the 22-Acre Portion sold for more than \$1,100,000.00.

### **DEMAND FOR A TRIAL BY JURY**

51. Pursuant to N.C. Gen. Stat. §1-1A, Rule 38, Defendant hereby demands a trial to a jury for all triable issues of fact.

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WHEREFORE, Defendant respectfully prays the Court to:

1. Enter a declaratory judgment that the Future Interest Instrument is in fact a deed;
2. Enter an Order that this deed is valid and properly recorded, thereby giving notice to Plaintiff Haywood County;
3. Enter an Order that this deed conveys to Defendant an indefeasibly vested remainder in the Dairy Farm;
4. Enter an Order that the "sale" of the 22-Acre portion to Plaintiff Haywood County is void or, in the alternative, only conveys a life estate measured by the life span of Plaintiff Jones;
5. Enter an Order that, upon the death of Plaintiff Jones, Defendant takes all of the Dairy Farm in fee simple;
6. Enter an Order quieting the title to the 22-Acre Portion of the Dairy Farm in Defendant's favor;
7. Enter an Order reforming the August 30, 2007 Non-Warranty Deed to correctly state that a life estate was conveyed instead of a fee simple estate;

8. Enter an Order that imposes a constructive or resulting trust upon the Dairy Farm and/or the 22-Acre Portion thereof for the benefit of Defendant.

9. Enter an Order that, in the alternative, the Future Interest Instrument is a binding and legal contract between Plaintiff Jones and Defendant;

10. Enter an Order that, in the event it is a contract, Plaintiff Jones substantially and materially breached the same and thereby caused damage and injury to Defendant in an amount to be determined at trial, but, in any event, said amount is in excess of \$10,000.00;

11. Tax the costs of this action, including reasonable attorneys' fees, to the Plaintiffs, jointly and severally; and

12. Grant such other and further relief as the Court deems just and appropriate.

DATED this 19<sup>th</sup> day of March, 2008.

  
\_\_\_\_\_  
JEFF D. JONES, 27914

Attorney for Defendant  
232 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2220

RUSSELL L. MCLEAN, III, 7220  
Attorney for Defendant  
244 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2896

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
File No. 08 CVD 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, by his guardian, SAM )  
UNDERWOOD, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GREGORY TODD FERGUSON, )  
 )  
Defendant. )

**MOTION TO TRANSFER  
TO SUPERIOR COURT DIVISION**

FILED  
08 MAR 19 AM 10:58  
HAYWOOD COUNTY C.S.C.  
BY 

COMES NOW Defendant, by and through counsel and in a pre-answer filing, and hereby respectfully moves the Court to transfer the above-captioned action from the District Court Division to the Superior Court Division and, as grounds therefore, states as follows:

1. Plaintiffs' Verified Complaint for Declaratory Judgment (hereinafter referred to as the "Complaint") is an action for a declaratory judgment affecting Defendant's interest in a 207 +/- acres parcel of land with a tax value of over \$700,000.00.

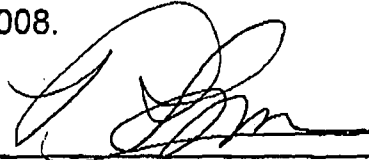
2. Moreover, upon information and belief, Plaintiff Jones conveyed or attempted to convey some sort of interest in a 22-acre portion of this real property to Plaintiff Haywood County for more than \$1,100,000.00 in August of 2007.

3. Pursuant to N.C. Gen. Stat. §7A-243, the District Court Division is improper as the value of the real property and, consequently, the amount in controversy, exceeds \$10,000.00. Accordingly, the proper division is in the Superior Court Division.

4 Pursuant to N.C. Gen. Stat. §1A-1, Rule 12(b)(3), Defendant may, at his option, file this Motion prior to filing or serving his Answer or other responsive pleadings.

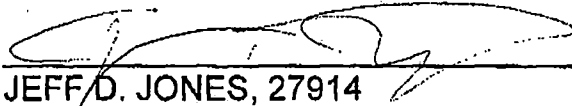
WHEREFORE, Defendant respectfully moves that this matter be forthwith transferred to the Superior Court Division of the 30<sup>th</sup> Judicial District in the General Court of Justice.

DATED this 19<sup>th</sup> day of March, 2008.



---

RUSSELL L. MCLEAN, III, 7220  
Attorney for Defendant  
244 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2896



---

JEFF D. JONES, 27914  
Attorney for Defendant  
232 North Main Street  
Waynesville, North Carolina 28786  
Tel: (828) 452-2220

FILED

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

STATE OF NORTH CAROLINA      CB FEB 15 AM 9:56  
COUNTY OF HAYWOOD      HAYWOOD COUNTY C.S.C. File No. 08 CVD 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, BY HIS GUARDIAN, SAM )  
UNDERWOOD )  
    Plaintiffs, )  
v. )  
GREGORY TODD FERGUSON, )  
    Defendant. )

**ORDER GRANTING  
DEFENDANT'S MOTION FOR  
ENLARGEMENT OF TIME**

UPON Defendant's Motion for Enlargement of Time to Answer Complaint, and it appearing to the Court that the time to file and serve a responsive pleading has not yet expired, and upon finding good cause has been shown,

IT IS THEREFORE ORDERED that Defendant shall have up to and including **March 19, 2008** to file an Answer and other responsive pleadings in this matter.

DATED this 15<sup>th</sup> day of February, 2008.

*WTT Martha Mason*  
\_\_\_\_\_  
CLERK OF SUPERIOR COURT

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing order was served upon counsel for the Plaintiffs by depositing the same enclosed in a postpaid and properly-addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service on this 15 day of February, 2008 and by faxing copy of same to counsel for the Plaintiffs.

*Gregory T. Ferguson*  
\_\_\_\_\_

FILED

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE  
08 FEB 15 AM 9:52 DISTRICT COURT DIVISION  
COUNTY OF HAYWOOD HAYWOOD COUNTY C.S.G. File No. 08 CVD 51

HAYWOOD COUNTY, NORTH )  
CAROLINA and WILLIAM LUCIUS )  
JONES, BY HIS GUARDIAN, SAM )  
UNDERWOOD )  
Plaintiffs, )  
v. )  
GREGORY TODD FERGUSON, )  
Defendant. )

**MOTION FOR  
ENLARGEMENT OF TIME  
TO ANSWER COMPLAINT**

COMES NOW Defendant, pursuant to N.C. Gen. Stat. §1A-1, Rule 6(b), and hereby moves the Court for an enlargement of time to file and serve his Answer and other responsive pleadings and, as grounds therefore, states as follows:

1. On January 14, 2008, Plaintiffs filed their Complaint and Summons in this matter.
2. On January 19, 2008, Defendant was served with the Complaint and Summons.
3. Pursuant to N.C. Gen. Stat. §1A-1, Rule 12(a)(1), Defendant's Answer or other responsive pleadings are due February 18, 2008 by 5:00 p.m.
4. The time to answer the Complaint or to file other responsive pleadings has not expired as of the date of filing of this Motion.
5. Defendant needs more time to hire counsel, prepare an answer, and investigate possible counterclaims.
6. Plaintiffs would not be prejudiced by an enlargement of time in which Defendant may file his Answer or other responsive pleadings.

WHEREFORE, Defendant respectfully requests that, pursuant to N.C. Gen. Stat. §1A-1, Rule 6(b), the Court:



1. Enlarge the time to file an Answer and other responsive pleadings for an additional thirty (30) days, up to and including **March 19, 2008**; and

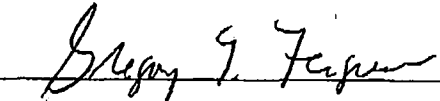
2. And such other and further relief that the Court deems just and appropriate.

DATED this 15 day of February, 2008.

  
\_\_\_\_\_  
GREGORY/TODD FERGUSON

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing notice, filing, or pleading was served upon counsel for the Plaintiffs by depositing the same enclosed in a postpaid and properly-addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service on this 15 day of February, 2008 and also by faxing a copy of same to counsel for the Plaintiffs.

  
\_\_\_\_\_

020080123

STATE OF NORTH CAROLINA

File No. 8CV 00051

HAYWOOD County

In The General Court Of Justice
District Superior Court Division

2008 JAN 14 AM 11:16

Name Of Plaintiff: Haywood Co., NC & William Lucius Jones, by his Guardian, Sam Underwood
Address 1: Glen Lake One, Suite 200, 4140 Parklake Ave. Raleigh, NC 27612
Address 2: 154 North Main Street, Suite 7, Waynesville NC, 28786

HAYWOOD COUNTY, C.S.C.

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Name Of Defendant(s): GREGORY TODD FERGUSON

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1: GREGORY TODD FERGUSON, 3131 RABBIT SKIN ROAD, WAYNESVILLE, NC 28786 or P.O. Box 1976, Maggie Valley, NC 28751

Name And Address Of Defendant 2: RECEIVED JAN 14 2008 BY:

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff): Leon M. Killian, III, Glen Lake One, Suite 200, 4140 Parklake Ave. Raleigh, NC 27612
T. Michael Jordan, 154 N. Main Street, Suite One, Waynesville, NC 28786

Date Issued: 01/14/08 Time: 11:16 AM

Signature: Rebecca Taylor
Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT: This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement Time: AM PM

Signature: Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

Date Served <i>1-19-2008</i>	Time Served <i>8:15</i> <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant <i>Greg T. Ferguson</i>
---------------------------------	---	--

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

Defendant WAS NOT served for the following reason.

2008 JAN 22 AM 11:45  
 HAYWOOD COUNTY, C.S.C.  
 [Signature]  
 [Signature]

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return <i>[Signature]</i>
Date Received <i>1-19-2008</i>	Name Of Sheriff (Type Or Print) <i>B. T. Alexander</i>
Date Of Return <i>1-19-2008</i>	County Of Sheriff <i>Haywood</i>

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
08 CVD **8CV 00051**

HAYWOOD COUNTY, NORTH  
CAROLINA and WILLIAM LUCIUS  
JONES, BY HIS GUARDIAN, SAM  
UNDERWOOD

Plaintiffs,

vs.

GREGORY TODD FERGUSON

Defendant.

**VERIFIED COMPLAINT FOR  
DECLARATORY JUDGMENT**

FILED  
HAYWOOD COUNTY, N.C.  
JUN 16 2003  
11:17

NOW COME the Plaintiffs Haywood County, North Carolina ("Haywood County"), and William Lucius Jones, incompetent, by the guardian of his estate, Sam Underwood ("Jones"), by and through their respective undersigned counsel, and for their Verified Complaint against Gregory Todd Ferguson ("Ferguson"), state as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff Haywood County is a county under N.C. Gen. Stat. § 153A-10 and by virtue of N.C. Gen. Stat. § 153A-11 brings this action.
2. William Lucius Jones is an individual residing in Haywood County.
3. On or about May 16, 2003, Jones was adjudicated incompetent.
4. On or about June 24, 2003, Sam Underwood was duly appointed as the guardian of the estate of William Lucius Jones.
5. Sam Underwood brings this action solely in his capacity as guardian of the estate of William Lucius Jones and not in his individual capacity.
6. Upon information and belief, Defendant Ferguson is an individual residing in Haywood County.

7. All of the events and activities complained of herein occurred in Haywood County, North Carolina.

8. The real property which is the subject of this matter is located in Haywood County, North Carolina.

9. Jurisdiction and venue are proper in the District Court of Haywood County, North Carolina.

### **FACTUAL ALLEGATIONS**

10. At all times relevant to this matter, prior to August 30, 2007, Jones was the fee simple owner of a parcel of real property comprising approximately 200 acres, more or less, and located in Haywood County. This parcel of property is more particularly described as set forth in **Exhibit A** (hereinafter, the "Property")

11. On August 30, 2007, Jones sold approximately 22 acres of the Property to Haywood County in fee simple, pursuant to a judicial sale. See Non-Warranty Deed attached hereto as **Exhibit B**.

12. From August 30, 2007 to the present, Haywood County continues to own the approximately 22 acres of property it acquired from Jones in fee simple.

13. From August 30, 2007 to the present, Jones continues to own in fee simple the remaining portion of the Property not sold to Haywood County, consisting of approximately 180 acres of land.

14. Sam Underwood, as Guardian of the Estate of Jones, may have need in the future to sell additional portions of the Property in order to provide for Jones' care and maintenance.

15. On or about September 13, 2001, a document styled "Lease Agreement" was indexed and recorded at Book 502, Page 203 of the Haywood County Registry and appears in its entirety at

Book 502, Pages 203 through 211 (hereinafter, the "Lease Agreement"). A copy of the Lease Agreement is attached hereto as Exhibit C.

16. The Lease Agreement purports to have been entered into by and between Jones as Owner or Lessor and Ferguson as Tenant or Lessee, on or about September 5, 2001.

17. The rights and obligations of the parties to the Lease Agreement all relate to and affect the Property which is the subject of this action.

18. Book 502, Page 209 of the Lease Agreement purports to require that Jones convey the Property to Ferguson upon Jones' death, by means of a will.

19. However, Book 502, Page 205 of the Lease Agreement provides "11) DEFAULT OR BREACH. Each of the following events shall constitute a default or breach of this lease by Tenant: (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant ... [or] (C) If Tenant shall vacate or abandon the leased premises."

20. In the event of a default under the Lease Agreement, it provides at Book 502, Page 205 that "Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest or [*sic*] Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination...."

21. Ferguson failed to pay rent as required by the Lease Agreement.

22. After Ferguson failed to pay rent as required by the Lease Agreement, Jones brought an action to evict Ferguson from the Property. See Haywood County Case No. 02 CVM 198.

23. On April 12, 2002, Ferguson was ordered ejected from the Property for failure to pay rent and was ordered to pay nine months' back rent to Jones. See Judgment in Action for Summary Ejectment, attached hereto as Exhibit D.

26. As Ferguson breached his obligations under the Lease Agreement by failing to pay rent and by vacating the premises, Jones was within his contractual rights to terminate the lease and to cancel all of Ferguson's right, title and interest under the Lease Agreement.

27. To the extent Ferguson at any time held any right, title or interest in the Property, which is specifically denied, then Ferguson no longer holds and does not now hold any right, title or interest in the Property.

28. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Ferguson.

**CLAIM FOR RELIEF**  
**(DECLARATORY JUDGMENT)**

29. The Plaintiffs restate the allegations set forth in paragraphs 1 through 28 as if fully set forth herein.

30. As Defendant does not have any present or future interest, contingent or otherwise, in the Property, Plaintiffs seek a declaratory judgment in order to clarify the public record regarding the status of their ownership of the Property.

31. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, the Plaintiffs request that this Court enter a declaratory judgment decreeing that:

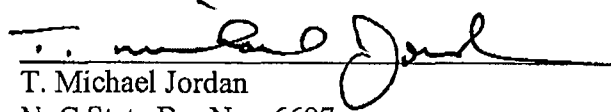
- A. Defendant has no present or future right, title or interest to the Property under the Lease Agreement or otherwise; and

B. The ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant.

WHEREAS, the Plaintiffs pray that this Court enter a declaratory judgment:

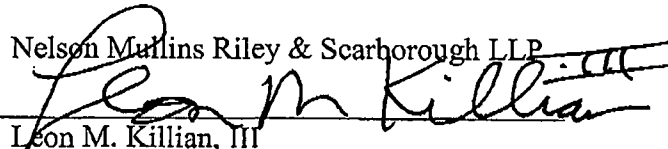
1. that Defendant has no present or future right, title or interest to the Property under the Lease Agreement or otherwise;
2. that the ownership of Plaintiffs in their respective portions of the Property is free and unencumbered by any right, title, interest or claims of Defendant; and
3. granting the Plaintiffs such other and further relief as the Court deems just and proper.

This the 4th day of January, 2008.



T. Michael Jordan  
N. C State Bar No.: 6697  
154 N. Main Street, Suite 1  
Professional Building  
Waynesville, NC 28786  
Attorney for the Plaintiff, William Lucius  
Jones, by his Guardian, Sam Underwood

By:

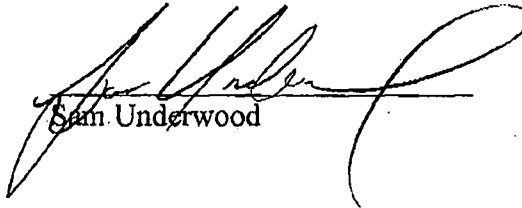


Leon M. Killian, III  
N.C. State Bar No.: 2526  
Reed J. Hollander  
N.C. State Bar No.: 23405  
Nelson Mullins Riley & Scarborough, L.L.P.  
Glen Lake One  
Suite 200  
4140 Parklake Avenue  
Raleigh, NC 27612  
Attorneys for the Plaintiff Haywood County,  
North Carolina



VERIFICATION

Sam Underwood, being first duly sworn, deposes and says that he has read the VERIFIED COMPLAINT filed in this action and is acquainted with all of the facts and circumstances stated therein; that the same are true of his own knowledge except as to those matters and things stated and alleged upon information and belief, and as to those matters and things he believes them to be true.

  
Sam Underwood

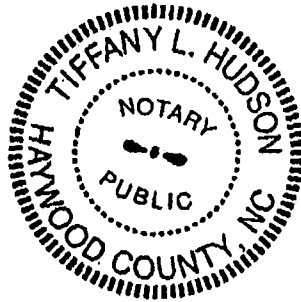
HAYWOOD COUNTY  
NORTH CAROLINA

Sworn to and subscribed before me this day by Sam Underwood.

Date: 1/4/08

  
Notary Public Signature

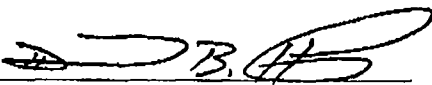
Tiffany L. Hudson  
Notary Public Printed Name



My Commission expires:  
Aug. 21, 2010

VERIFICATION

DAVID B. COTLER being first duly sworn, deposes and says that [she/he] is the EQUITY MANAGER for Haywood County, North Carolina; that [s/he] has read the VERIFIED COMPLAINT filed in this action and is acquainted with all of the facts and circumstances stated therein; that the same are true of [his/her] own knowledge except as to those matters and things stated and alleged upon information and belief, and as to those matters and things [she/he] believes them to be true.

  
[NAME]

HAYWOOD COUNTY  
NORTH CAROLINA

Sworn to and subscribed before me this day by Zondra Robinson [NAME].

Date: 11/8/08

Zondra Robinson  
Notary Public Signature

Zondra Robinson  
Notary Public Printed Name

My Commission expires: 11/24/09

Being all of the land and improvements situate thereon owned by Plaintiff, William Lucius Jones in Ivy Hill Township, Haywood County, North Carolina, Haywood County parcel identification number 8607-42-6868, including the real property described in the following instruments:

1. Warranty deed from C. A. Campbell and wife, Margaret F. Campbell to L. H. Bramlett and T. R. Bramlett, dated June 30, 1927, and recorded in Deed Book 75, page 184, Haywood County Registry.

2. Warranty deed from Mabel J. Gill (widow of Joe H. Gill, deceased) to L. H. Bramlett, dated February 13, 1945, and recorded in Deed Book 122, page 637, Haywood County Registry.

3. Last Will and Testament of L. H. Bramlett, dated April 26, 1945, found of record in Will Book 6, page 431, in the Office of the Clerk of Court of Haywood County.

**EXHIBIT "A"**

TRANSFER MADE ON RECORD

Date 8-31-07

By SR

8607-42-9859

HAYWOOD COUNTY TAX CERTIFICATION

There are no delinquent taxes due that are a lien against parcel number(s) 8607-42-9859

David B. Francis, Haywood County Tax Collector

Date: 10/31/07 By: [Signature]



2007666051

HAYWOOD CO, NC FEE \$23.00  
STATE OF NC REAL ESTATE EXTX  
\$2230.00

PRESENTED & RECORDED:  
08-31-2007 11:37:27 AM

AMY R. MURRAY  
REGISTER OF DEEDS

BY: AMY MURRAY  
REGISTER OF DEEDS  
BK: RB 715  
PG: 657-660

Excise Tax \$2,230.00

Tax Lot No. 8607-42-9859 Parcel Identifier No. \_\_\_\_\_  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20  
by \_\_\_\_\_

Mail after recording to Leon M. Killian, P.O. Box 30519, Raleigh, NC 27622-0519

This instrument was prepared by William I. Millar

Brief Description for the Index 22.081 acres Jonethan Creek

NORTH CAROLINA NON-WARRANTY DEED

THIS DEED made August 30, 2007, by and between

GRANTOR

WILLIAM LUCIUS JONES, by and through  
SAM M. UNDERWOOD, the duly appointed and  
Acting Guardian of the Estate of WILLIAM  
LUCIUS JONES, an incompetent adult

GRANTEE

HAYWOOD COUNTY,  
a body politic (a subdivision of the State of North  
Carolina), whose address is:  
215 N. Main Street  
Waynesville, NC 28786

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Ivy Hill Township, Haywood County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and made a part hereof by reference incorporated herein as if fully set forth.

This deed is made pursuant to an Order of Confirmation executed by the Clerk of Superior Court of Haywood County and executed by the Senior Resident Superior Court Judge for Judicial District 30-B in the matter of the Real Property of William Lucius Jones File No. 07-SP-135 where in SAM M. UNDERWOOD was authorized by the Clerk of Superior Court on May 1, 2007, to make the sale of the property described herein; that the sale was duly advertised for sale, that the sale was by public auction on June 2, 2007, that the final high bidder was Haywood County at the sum of \$1,114,921.50.

The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_ page \_\_\_\_\_.

A map showing the above described property is recorded in Book \_\_\_\_\_, page \_\_\_\_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the property hereinabove described. IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed and delivered.

_____	<i>William Lucius Jones</i> WILLIAM LUCIUS JONES (SEAL)
(Entity Name)	
By: _____	<i>Sam M. Underwood, Guardian</i> By: Sam M. Underwood (SEAL)
Title: _____	Guardian of the Estate of William Lucius Jones, Incompetent
_____	_____ (SEAL)
By: _____	_____ (SEAL)
Title: _____	

State of North Carolina - County of HAYWOOD

I, the undersigned Notary Public of the County and State aforesaid, certify that SAM M. UNDERWOOD, Guradian of the Estate of William Lucius Jones, Incompetent, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 20<sup>th</sup> day of AUGUST, 2007.

My Commission Expires: 08-02-2011  
*[Signature]*  
Notary Public

William I. Millar  
Notary Public  
Haywood County, NC

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he/she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that

Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_

Notary Public

The \_\_\_\_\_ foregoing \_\_\_\_\_ Certificate(s) \_\_\_\_\_ of \_\_\_\_\_ is/are certified to be correct.

This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Register of Deeds for \_\_\_\_\_ County

By: \_\_\_\_\_ Deputy/Assistant - Register of Deeds

**HAYWOOD COUNTY  
NORTH CAROLINA****LEASE AGREEMENT**

**THIS LEASE** is made this the 5th day of September, 2001, between Gregory Todd Ferguson, herein referred to as "Tenant", and William Lucius Jones, herein referred to as "Owner" (the designations Owner and Tenant shall include the parties, their heirs, successors and assigns. As used herein, the singular shall include the plural and gender shall be interchangeable.)

**IN CONSIDERATION** of the mutual covenants contained herein, the parties agree as follows:

1) **SUBJECT AND PURPOSE.** Owner leases the buildings, dairy equipment, and approximately 207 acres of land located in Jonathan Township, Haywood County, North Carolina, that property acquired by Owner in Will Book 6, Page 431 of the Haywood County Registry, to Tenant for Tenant's use as an operating farm.

2) **TERM AND RENT.** Owner leases the above premises for a term of twelve (12) years, commencing June 15, 2001, and terminating on June 15, 2013 at 1:00 o'clock P.M. or sooner as provided herein, at the annual rental of Eleven Thousand dollars (\$11,000.00) payable in equal monthly installments of Nine Hundred Sixteen Dollars and Sixty Six Cents (\$916.66) in advance on the twentieth (20th) day of each month for that month's rental, during the term of this lease. All rental payments shall be made to owner at 106 Timothy Lane, Waynesville, North Carolina 28786.

3) **ADDITIONAL RENT.** All taxes, charges, costs and expenses that Tenant agrees to pay hereunder together with all interest and penalties that may accrue thereon and all other costs that Owner may suffer by reason of any failure by Tenant to comply with the terms of this lease shall be deemed to be additional rent, and, in the event of nonpayment, Owner shall have all the rights and remedies as herein provided for failure to pay rent.

4) **ALTERATIONS, ADDITIONS AND IMPROVEMENTS.** Subject to the limitations that no substantial portion of the building on the leased premises shall be demolished or removed by Tenant without the prior written consent of Owner, Tenant may at any time during the lease term, at his own expense, make any alterations to the leased premises and the building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural length, or lessen the value, of the building on the premises, or change the purposes for which the building, or any part thereof, may be used.

All alterations on or in the leased premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the leased premises and the sole property of Owner. All moveable trade fixtures installed by Tenant shall be and remain the property of Tenant.

5) **REPAIRS.** Tenant shall at all times during the lease and at his own cost and

expense, repair, replace, and maintain in a good, safe and substantial condition, all buildings and any improvements, additions, and alterations thereto, on the leased premises, and shall use all reasonable precaution to prevent waste, damage, or injury to the leased premises.

- 6) **TAXES.** Owner shall be responsible for all taxes on said property.
- 7) **UTILITIES.** All applications and connections for necessary utility services on the leased premises shall be made in the name of the Tenant only, and Tenant shall be responsible for sewer, water, gas, electricity, and telephone services.
- 8) **INSURANCE.** During the term of the lease and for any further time that Tenant shall hold the leased premises, Tenant shall obtain and maintain at his expense the following types and amount of insurance.
  - a) **FIRE INSURANCE.** Tenant shall keep all building, improvements, and equipment on the leased premises, including all alterations, additions, and improvements, insured against loss or damage by fire. The insurance shall be in an amount sufficient to prevent Owner and Tenant from becoming co-insurers under provisions of applicable policies of insurance, but in any event in an amount not less than 100% of the full insurable value of the leased premises, including the cost of excavation of foundations.
  - b) **PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.** Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Owner, shall be provided by Tenant.
  - c) **OTHER INSURANCE.** Tenant shall provide and keep in force other insurance in amounts that may from time to time be required by Owner against other insurable hazards as are commonly insured against for the type of business activity that Tenant will conduct.
- 9) **UNLAWFUL OR DANGEROUS ACTIVITY.** Tenant shall neither use nor occupy the leased premises or any part thereof for any unlawful, disreputable, or ultrahazardous business purpose nor operate or conduct his business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultrahazardous use, take action to halt such activity.
- 10) **INDEMNITY.** Tenant shall indemnify Owner against all expenses, liabilities, and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by Tenant to perform any of the terms or conditions of this lease, (2) any injury or damage happening on or about the leased premises, (3) failure to comply with any law of any governmental authority, or (4) any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of buildings or improvements thereon.



11) **DEFAULT OR BREACH.** Each of the following events shall constitute a default or breach of this lease by Tenant:

- (A) If Tenant shall fail to pay Owner any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days after notice thereof by Owner to Tenant.
- (B) If Tenant shall fail to perform or comply with any of the conditions of this lease and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by Owner to Tenant or, if the performance cannot be reasonably had within the fifteen (15) day period, Tenant shall not in good faith have commenced performance with the fifteen (15) day period and shall not diligently proceed to completion of performance.
- (C) If Tenant shall vacate or abandon the leased premises.

12) **EFFECT OF DEFAULT.** In the event of any default hereunder, as set forth in Paragraph Eleven, the rights of Owner shall be as follows:

- (a) Owner shall have the right to cancel and terminate this lease, as well as all of the right, title, and interest of Tenant hereunder, by giving the Tenant not less than fifteen (15) days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease and the right, title and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.
- (b) Owner may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term, or condition required hereby to be performed by Tenant, and Owner shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, by an expenditure for the correction by Owner shall not be deemed to waive or release the default of Tenant or the right of Owner to take any action as may be otherwise permissible hereunder in the case of any default.

13) **DESTRUCTION OF PREMISES.** In the event of a partial or total destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction of the leased premises during the term from any cause, Tenant shall forthwith repair the same. Any destruction shall neither null or void this lease.

14) **CONDEMNATION.** Rights and duties in the event of condemnation are as follows:

- a) If the whole or the leased premises shall be taken or condemned by any competent

authority for any public or quasi-public use or purpose, this lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.

- b) If only a portion of the leased premises shall be taken or condemned, this lease and the term hereof shall not cease or terminate.
- c) In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Tenant. Owner assigns to Tenant all his right, title and interest in any and all such awards.
- d) In the event of a partial taking, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the building on the leased premises to a self-contained architectural unit.

15) **ACCESS TO PREMISES; SIGNS POSTED BY OWNER.** Tenant shall permit Owner, or his agents, to enter the leased premises at all reasonable hours to inspect the premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this lease, and also to show the premises to prospective buyers.

16) **EASEMENTS, AGREEMENTS, OR ENCUMBRANCES.** The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the leased premises, and Owner shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17) **QUITE ENJOYMENT.** Owner warrants that Tenant shall be granted peaceable and quiet enjoyment of the leased premises free from any eviction or interference by Owner if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

18) **LIABILITY OF OWNER.** Tenant shall be in exclusive control and possession of the leased premises, and Owner shall not be liable for any injury or damages to any property or to any person on or about the leased premises nor for any injury or damage to any property of Tenant. The provisions herein permitting Owner to enter and inspect the leased premises are made to insure that Tenant is in compliance with the terms and conditions hereof and makes repairs that Tenant has failed to make. Owner shall not be liable to Tenant for any entry on the premises for inspection purposes.

19) **REPRESENTATIONS BY OWNER.** At the commencement of the term, Tenant shall accept the buildings and improvements and any equipment in their existing condition and state of repair, and Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Owner in respect thereto except as contained in the provisions of this lease, and Owner shall in no event be liable for any latent defects.

20) **WAIVERS.** The failure of Owner to insist on a strict performance of any of the

terms and conditions hereof shall be deemed a waiver of the rights or remedies that Owner may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

21) **NOTICE.** All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified as follows:

Owner: William Lucius Jones  
106 Timothy Lane  
Waynesville NC 28786

Tenant: Gregory Todd Ferguson  
Post Office Box 1976  
Maggie Valley, NC 28751

and also to be mailed to:

Gregory Todd Ferguson  
3131 Rabbit Skin Road  
Waynesville, NC 28785

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22) **ASSIGNMENT, MORTGAGE, OR SUBLEASE.** Neither Tenant nor his successors or assigns shall assign, mortgage, pledge, or encumber this lease or sublet the leased premises in whole or in part, or permit the premises to be used or occupied by others, nor shall this lease be assigned or transferred by operation of law, without the prior consent in writing of Owner in each instance.

23) **SURRENDER OF POSSESSION.** Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the lease, peaceably and quietly surrender and deliver the leased premises to Owner free of subtenancies, including all buildings, additions, and improvements constructed or placed thereon by Tenant, including trade fixtures, all in good condition and repair.

24) **REMEDIES OF OWNER.**

a) In the event of a breach or threatened breach by Tenant of any of the terms or conditions hereof, Owner shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

b) The rights and remedies given to Owner in this lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Owner, shall be deemed to be in exclusion of any of the others herein, by law, or by equity provided.

25) TOTAL AGREEMENT, APPLICABLE TO SUCCESSORS. This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently execute by the parties hereto. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals this the 5 of ~~June~~ Sept, 2001.

William Lucius Jones  
William Lucius Jones, Owner

Gregory Todd Ferguson  
Gregory Todd Ferguson, Tenant

Sworn to and subscribed before me this the 5<sup>th</sup> day of September, 2001.

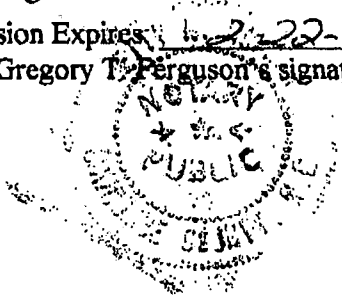
C. Colleen Williamson, Notary Public

My Commission Expires: 09-21-2003

Subscribed before me this the 10 day of Septmeber, 2001

Beth A. Walker, Notary Public

My Commission Expires: 6-22-05  
(Notarizing Gregory T. Ferguson's signature)



BE IT KNOWN, for value received, the undersigned William Lucius Jones of 106 Timothy Lane, Waynesville, North Carolina 28786 hereby unconditionally and irrevocably assigns and transfers full ownership upon my (William Lucius Jones) death unto Gregory Todd Ferguson for the purpose of a farm to be handed down to his child (at the time of signing one living child Colton Wyatt Ferguson) and to their heirs to remain farm property, not to be sold or mortgaged, etc. of 3131 Rabbit Skin Road, Waynesville, North Carolina 28786, (alternate mailing address Post Office Box 1976, Maggie Valley, NC 28751) all rights, titles and interest in and to the following: The real property described in the Lease Agreement between William Lucius Jones and Gregory Todd Ferguson executed the 5 day of ~~August~~<sup>Sept.</sup>, 2001 which is presently leased by Gregory Todd Ferguson until June 15, 2013 at 1:00 o'clock P.M. This property is located on Jonathan Creek Road, Waynesville, N.C. 28786.

The undersigned fully warrants that he, William Lucius Jones is the sole owner and has full rights and authority to enter into this agreement and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

This Agreement was entered while I, William Lucius Jones, was in my sound mind and body.

This Agreement shall be enforced under the laws of the State of North Carolina.

Executed this the 5 day of ~~August~~<sup>Sept.</sup>, 2001.

Owner: William Lucius Jones

X William Lucius Jones

Sworn to and subscribed before me this the 10 day of September, 2001

Notary Public Rattle & White  
My Commission Expires: 2-27-05

Lessee: Gregory Todd Ferguson

Gregory J. Ferguson

Sworn to and subscribed before me this the 5th day of Sept., 2001.

Notary Public: C. Colleen Williams My commission expires: 09-21-2003



\*Do not use this form on SP's, M's, R's, Divorces, Estates or Passports (per JLR).

Haywood County Clerk of Superior Court  
CIVIL RECEIPTING

08 CVD 51  
File Number

Payor Name: Ferguson, Gregory J.  
(Party to Case) last name first name m.i.

Abstract (Judgment) Number

Payee Name: J. Michael Jordan  
(Pd by: attorney, interested party, etc.)

Book Page

Flag for VCAP = YES

Flag for VCAP = NO

FILING FEES:

- CVSC Superior \$ \_\_\_\_\_
- CVDC District \$ 89.00
- Appeal to Superior (21120) \$ 15.00
- CVMC Small Claim \$ \_\_\_\_\_
- Appeal to District (21220 - \$11.00 & 22220 - \$4.00) \$ 15.00

FILING FEES:

- E/EO Estates/Estates Other \$ \_\_\_\_\_
- SP Special Proceedings \$ \_\_\_\_\_
- R Registrations \$ \_\_\_\_\_
- CDDC Divorce/Disp. Home \$ \_\_\_\_\_
- DIVB Divorce/Bed & Bd. \$ \_\_\_\_\_
- M Miscellaneous Judgments \$ \_\_\_\_\_
- Claim of Liens
- ESC
- IRS
- State Tax

SERVICE FEES:

EXECUTION  and/or  POSSESSION  
(when writ of possession is on a monetary judgment)  
 21430 \$ \_\_\_\_\_

SERVICE FEES:

EXECUTION  and/or  POSSESSION  
(when writ of possession is on a non-monetary judgment or old book and page is in existence)  
 21400 \$ \_\_\_\_\_  
 SHERIFF (22515) \$ \_\_\_\_\_

MISCELLANEOUS FEES:

- MISC FILING FEE (21435) \$ \_\_\_\_\_
- COPY (21410) \$ \_\_\_\_\_
- CONFESS JUDGMENT (21400) \$ \_\_\_\_\_
- ARBITRATION APPEAL (24310) \$ 100.00
- CIVIL BONDS (26210) \$ \_\_\_\_\_
- OUT OF STATE ATTY (24625) \$ \* 200.00
- \* plus Out of State Bar Fee (24626) \$ \* 25.00
- TRANSCRIPTS (21440) \$ \_\_\_\_\_
- RENT BOND (26220) \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_
- OTHER ACCOUNT # \_\_\_\_\_

MISCELLANEOUS FEES:

- MISC FILING FEE (21400) \$ \_\_\_\_\_
- COPY (21410) \$ \_\_\_\_\_
- CONFESS JUDGMENT (21400) \$ \_\_\_\_\_
- PURGE PAYMENT (26410) \$ \_\_\_\_\_
- ALIMONY PAYMENT (26420) \$ \_\_\_\_\_
- CIVIL BONDS (26210) \$ \_\_\_\_\_
- CONDEMNATION (26130) \$ \_\_\_\_\_
- CIVIL TRUST RECEIPT (26310) \$ \_\_\_\_\_
- ARBITRATION FEES (24311) \$ \_\_\_\_\_
- \*Only if CVD
- MEDIATION (24315) \$ \_\_\_\_\_
- VISA, REGISTRATION, PASS-PORTS, ETC. (21400) \$ \_\_\_\_\_
- Misc. Other: \$ \_\_\_\_\_

JUDGMENT PAYMENT:

(Abstracted) 26115 \$ \_\_\_\_\_  
\*  Full  Appointment Fee  
\*  Partial  
\*Return file to below listed Civil Clerk.  
 BOND FORFEITURE (22800) \$ \_\_\_\_\_  
Service & Execution (26115) \$ 40.00

JUDGMENT PAYMENT:

(Old Docketed) 26110 \$ \_\_\_\_\_  
\*  Full  
\*  Partial Book \_\_\_\_\_ Page \_\_\_\_\_  
 CLAIM OF LIEN (26600) \$ \_\_\_\_\_  
(not tax or ESC)  
 JUDGMENT ATTY FEE (24610) \$ \_\_\_\_\_  
\*Return file to Bookkeeping.

Reviewed By: Roy

Date: 01/14/08

HAYWOOD COUNTY CLERK OF COURT

L041272

01/14/08 11:25:49

PAYOR: FERGUSON GREGORY T

PAYEE: JORDAN, T, MICHAEL

CASE#: 08CV0000051 VCAP:Y

21220 DC-CIVIL FEES	70.00
21221 DC-CV JDA FEES	3.00
22220 CO FAC FEE D CV	16.00

TOTAL PAID	89.00
CO TENDERED	89.00
CHANGE	.00

6085 ID 043M68



Monroe A. Miller, Jr.  
2200 Camp Branch Road  
Waynesville, NC 28786

FEB 8 2019

HAYWOOD COUNTY CLERK OF COURT

L142798 02/08/19 11:37:26

PAYOR: MILLER, MONROE  
PAYEE: COPY OF FILE 08CV851  
CASE#: VCAP:N  
CITA#:

21410 COPY FEES	77.00
TOTAL PAID	77.00
CC TENDERED	77.00
CHANGE	.00

6147 ID C43BCB

\*\*\*CREDIT CARD FEES NOT INCLUDED.\*\*\*  
\*SEE CREDIT CARD RECEIPT FOR FEES.\*

