

UNITED STATES DISTRICT COURT
OF THE DISTRICT OF COLUMBIA

MARCUS BYNUM, et al

Plaintiffs

v.

GOVERNMENT OF THE DISTRICT
OF COLUMBIA,

Defendant

Civil Action No: **02-956 (RCL)**

Next Event: 1/20/05
Final Fairness Hearing

AFFIDAVIT OF WILLIAM CLAIBORNE IN SUPPORT OF FEE PETITION

1. My name is William Claiborne. I am Class Counsel in this case, Bynum v. Government of the District of Columbia, 05-1502 (RCL).
2. This affidavit is in support of Class Counsel's fee petition.

Training And Experience

3. I am an attorney licensed to practice in the State of Georgia (admitted to bar in 1988) and the District of Columbia (admitted to bar in 1995). I am a sole practitioner and maintain offices at 717 D Street, NW, Suite 210, Washington, DC 20004-2813, phone 202/824-0700, fax 202/824-0745.

4. In 1984 I received a B.A. in Greek and Latin from St. Louis University, St. Louis, Missouri (Phi Beta Kappa). I graduated magna cum laude from the University of Georgia Law School in 1987.
5. I clerked for Justice George T. Smith of the Supreme Court of Georgia after my first year of Law School, and I clerked for Justice Albert Rendlen of the Missouri Supreme Court after Law School (1987-1988).
6. From 1988 to 1990 I was an associate in corporate and international banking at Shaw, Pittman in Washington, D.C. From 1994 I practiced in Taipei, Taiwan in the offices of Ding Mao Song. The majority of the practice involved representing Taiwan governmental entities such as Taiwan Power (the island's only utility) and DORTS (an agency responsible for constructing and operating a mass transit light rail system) in contract disputes with U.S. and European vendors. The practice was directly relevant to litigation because it involved evaluating claims and preparing them for arbitration subject to New York law.
7. In 1994/1995 I was an associate at Skadden, Arps in the New York/ Beijing offices representing lenders in project finance transactions and representing independent power producers in establishing plants in Mainland China. The practice involved drafting and negotiating documents for the financing of power plants. The practice was directly relevant to complex federal litigation because a typical financing document involved 20-30 parties and 150-160 exhibits.

8. In 1998 I attended a two week trial college at the National Criminal Defense College through Mercer Law School in Macon Georgia. I am on the CJA panel for the Superior Court of the District of Columbia. I have tried over 35 bench and jury trials over the past 15 years. This year, the CLE classes I am attending include: (1) 41st Annual [Deborah T. Creek Criminal Practice Institute \(CPI\) conference](#) District of Columbia Public Defender Service all day seminar of criminal defense law, (2) Advanced E-Discovery Institute: Practical Concerns, Pragmatic Advice, Emerging Trends 2005, offered by Georgetown Univ. Law Center, (3) Annual Litigation Under § 42 U.S.C. 1983 Skills Seminar on December 9, 2005 in Atlanta, Georgia sponsored by the Institute of Continuing Legal Education in Georgia (speaker also).

9. Since 1995 I have been in private practice in the District of Columbia representing plaintiffs in civil rights and personal injury cases and defendants in criminal cases. My practice over the last 5-6 years is devoted mainly to complex federal civil rights litigation. Since 2002 I have specialized in civil rights class actions and some consumer class actions.

10. I try in my practice to accept fee generating cases that will change an egregious situation, and will also achieve a recovery for clients who could not otherwise afford a lawyer and bring a case. For example, over the last few years I have represented and obtained recovery for several clients who alleged that Officer

Homer Littlejohn of the District of Columbia Metropolitan Police Department forced them to pull down their pants in public, and then inserted his finger in their anus. Officer Littlejohn is now on non-contact status after being tried for perjury. I also represented clients shot by the Metropolitan Police Department in situations where officers they shot into moving cars, a practice the Metropolitan Police Department no longer follows.

In Elliott v. Smart Professional Photocopy Corp., 02ca3321 (Judge Rankin, District of Columbia Superior Court), a class action that successfully challenged the price a medical records copying company charged patients for copies of their own medical records, a cy pres fund for unclaimed funds was established for the benefit of the Whitman-Walker Clinic (which had provided counseling services to the named plaintiff).

Academic

11. I have been invited to deliver two sections (overdetentions and strip searches) at the Annual Litigation Under § 42 U.S.C. 1983 Skills Seminar on December 9, 2005 in Atlanta, Georgia sponsored by the Institute of Continuing Legal Education in Georgia. Participants who attend the whole seminar will receive CLE credits.

Billing Practices And Hours Expended In This Case

12. My practice depends for fees on contingency fees and fees derived from fee shifting statutes. I do not have any clients that I bill by the hour for services. Up until approximately May, 2004, I kept contemporaneous billing records by making contemporaneous time entries daily calendars and on time sheets. In May, 2004, I began keeping billing records by entering some but not all of my time in Excel spreadsheets. The rest of the time I maintained by continuing to make contemporaneous time entries into daily calendars and on time sheets.

To calculate the time I billed for the partial year 2002, and the entire year 2003, I had a recent law graduate transfer the handwritten entries from the daily calendars into Excel spreadsheets, and then calculated the totals electronically. The totals for 2002 and 2003 are as follows: year 2002, 660 hours; year 2003, 727.4 hours.

To calculate the time I billed for the entire year 2004, and the partial year 2005, I reviewed the timesheets and daily calendars, counted the time without entering it into a spreadsheet, and then added it to the time I had kept in spreadsheets. The totals for 2004 and 2005 are as follows: year 2004, 704 hours; year 2005 to date, 351 hours. The total number of hours I billed on the case is 2,442.4.

Experience litigating complex federal cases including civil rights cases

PENDING AND SETTLED CLASS ACTION CASES IN WHICH I AM

LEAD/MANAGING COUNSEL

Powell v. Barrett, 04-1100 (RSW)(challenging overdetections and illegal strip searches in the Fulton County Jail), N. D. Ga.

Jones v. Murphy, CCB 05 CV 1287 (D. Maryland)(challenging overdetections and illegal strip searches in Central Booking in Baltimore, MD)

Holloway v. District of Columbia, 05-1502 (RCL)(challenging Department of Corrections' practice of holding inmates in DC Jail and CTF after a judicial officer has ordered their placement in a halfway house)

Elliott v. Smart Professional Photocopy Corp., 02ca3321 (Judge Rankin, District of Columbia Superior Court) (consumer rights) (class action settled and approved, and proceeds distributed)

Ford v. ChartONE, Inc., 02ca1331 (Judge Blackburne-Rigsby, District of Columbia Superior Court) (consumer rights)(appeal pending, case argued to District of Columbia Court of Appeals on October 7, 2005)

Petersan v. ChartONE, Inc., 03ca8328 (Judge Terrell, District of Columbia Superior Court) (consumer rights)(pending)(representative action, DC version of California's 17200) (pending)

Johnson v. District of Columbia, 02-2364 (RMC) (plaintiffs challenge District of Columbia's and Marshals' practice of strip searching all women arrestees taken to

Superior Court for presentment)(defendants stopped practice and case in mediation)

SOME SETTLED AND PENDING CIVIL RIGHTS CASES AND COMPLEX FEDERAL CASES

McDowell v. District of Columbia, 02-1119 (JMF/RWR) (false arrest, illegal search, § 1983)(challenges District of Columbia MPD's practice of conducting field intimate body strip searches of suspects and arrestees)

Clarke v. District of Columbia, 03-1604 (JMF/GK) (false arrest, illegal search, § 1983)(challenges District of Columbia MPD's practice of conducting field intimate body strip searches of suspects and arrestees where officers touch genitalia and anus with hands) (offer of judgment accepted)

Ford v. District of Columbia, 02cv1337 (CKK) (false arrest, excessive force, § 1983) (offer of judgment accepted)

Sesay v. District of Columbia, 02cv343 (CKK)(arrested wrong warrant, illegally strip searched and overdetailed at DC Jail)(settled)

Carter v. District of Columbia, 01-cv-1050(GK)(JMF) (false arrest, first amendment retaliation, § 1983)

Horn v. District of Columbia, 2001cv225(GK)(DAR) (false arrest, illegal search, § 1983)(challenges District of Columbia MPD's practice of conducting field intimate body strip searches of suspects and arrestees where officers touch genitalia and anus with hands)

Moore v. Howard University, 2cv728(RWR) (sexual harassment, § 1983)

Doe v. District of Columbia, 02-342, (school principal and teachers took schoolchildren to DC Jail and instructed guards to subject children to strip and visual body cavity searches)

Walker v. Metiver and District of Columbia, 99ca6954 (police shooting)

Taylor v. AMTRAK, 99ca9067 (police shooting)

Robinson v. AMTRAK, 01cv705(CKK) (false arrest, excessive force)

Elliott v. Barham, et al., 00cv2047A (Eastern District of Virginia) (medical malpractice, dismissed pursuant to confidential agreement)

Smith v. Perry and District of Columbia, 2000cv199(GK) (false arrest, excessive force, settled for \$195,000)

Newby v. District of Columbia, 98cv429 (SS, CKK), (Judge Sporkin granted directed verdict for plaintiff at close of all evidence on all claims including § 1983)

municipal liability claim)(judgment paid)(Newby v. District of Columbia, 59 F. Supp. 2d 35 (D.D.C. 1999))

Pryor v. District of Columbia, 98cv419 (SS, GK) (settled)

Williams v. District of Columbia, 98cv829 (CKK) (settled)

Whitmore v. Virginia, E. D. Va. C.A. 96-980-A, (§ 1983/religious discrimination case, unwanted proselytizing by co-workers, treatment by co-workers rendered plaintiff's previously a-symptomatic schizophrenia symptomatic)

Doe v. The MEGA Life and Health Insurance Co., 96 CV 02236 (TPJ)(Bad faith insurance claim for denial of claim of plaintiff for hospital and medical expenses incurred as a result of suicide attempt)

OTHER COMPLEX CASES

Young v. FST Enterprises (McDonald's), (D.C. Superior Court). Lead counsel, premises liability. Plaintiff was young woman who witnessed execution style murder of 3 co-workers in robbery at fast food restaurant that caused her severe emotional damages and post traumatic stress syndrome. Case dismissed pursuant to confidential agreement.

United States v. Evans, involuntary intoxication defense to domestic violence charges based on reactions of a bi-polar police woman to steroid based asthma medication.

I, William Claiborne, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on November 7, 2005.

/sig/
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