

# S. C. A. L. I. JOURNAL

South Carolina Association of Legal Investigators

SCALI Journal October-November-December 2009 - Vol. 25, No. 4



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# SCALI President's Message:



I look forward to 2010 personally. I hope each of you have successes beyond your wildest imagination and that your businesses will flourish. We are happy to have you as a part of SCALI. 2009 saw an increase of over 50 new members and I hope each of you will take the opportunity to be active members and attend conferences to network with the best PIs in South Carolina.

**A**s 2009 ends we have much to celebrate. We had wonderful conferences ending with a fabulous Fall conference in Aiken. Thanks to Tracy Hoshell, Donna Brisbin and their many helpers who did a great job providing location and speakers.

I want to personally thank the members of the Executive Committee who help me in so many ways to provide leadership for our Association. I could not do it without you. To Donna and Ken, continued thanks for your valuable contribution with an always impressive Journal. You Rock!

Don't forget to plan your trip to Charleston for our Spring Conference May 13, 14, 15. Don Wilson is hosting and working hard to provide a great educational and social experience.

Let me know if there is anything I can do for you.

Happy New Year to All!

*Vicki*

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## SCALI JOURNAL

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# From The Editor's Desk:



Well, it's the end of the year and we've only just recently had the Fall 2009 Conference, which seemed to be a great success. There were something like 92 attendees; pretty big for a one day conference. This year also seemed to be a record setter for new members. I can remember when there were only about twenty or so people and only about five or six were the mainstay of the organization. Now, SCALI is a very large group. There have been a lot of growing pains in the past few years, but that always comes with change.

Being that it's the end of one year's worth of Journal volumes and the beginning of another, it is time for members to truly reflect on their reasoning for being a SCALI member and what their role can and should be. Granted, many people originally join because it's the easiest way to meet their SLED requirements. Hopefully, after attending a conference, they meet other professionals and begin to see that this is a good way to network and to move business around the state. Personally, I have been impressed with the quality of some of our newer members.

Our Spring conference will be here in no time. I urge everyone to try and attend the Business

Meeting this year. There are several issues on the agenda (next issue) and it is important that if you have concerns, recommendations, or yes, even some complaints, PLEASE take the time to discuss this with your Regional Coordinator and others in your area. Nothing gets done by not bringing things to light in the proper forum. I attended last year's business meeting for the first time, primarily because Ken and I had agreed for me to come on board with the Journal and I felt compelled to be there for that purpose. It was an eye opener. It was not what I expected, so, I do urge you to attend.

SCALI is a group rich in resources. Everyone in this group should consider themselves a professional in the field and conduct themselves as such, be they new to the business or old to the business. As such, there is room for continued growth individually, and groupwise, so think about what you have to offer SCALI for the upcoming year.

*Donna*

PROPOSED CONSTITUTIONAL AMENDMENTS APPROVED BY THE EXECUTIVE COMMITTEE

Proposed language changes and additions are underlined, deletions have a ~~strike through~~

AMENDMENTS TO THE CONSTITUTION

Add the following new Article

ARTICLE XII. AMENDMENTS TO THE CONSTITUTION

Section 1 The constitution can only be amended by affirmative vote of two-thirds (2/3) of the general membership voting when present at the annual meeting of the association. (May 2010)

Section 2 Any proposed amendments to the SCALI constitution will be submitted to the general membership for voting by the Executive Committee after discussion and approval of the Executive Committee. (May 2010)

APPROVE

YES

NO

ARTICLE IV ORGANIZATIONAL STRUCTURE

Section 2. Whenever the term "Executive Committee" is used in this Constitution, it shall mean and include the State Director, ~~Three (3)~~ Six (6) Regional Directors, and all previous State Directors in good standing. All previous State Directors shall serve without voting privileges at Executive Committee meetings. (May 2010)

APPROVE

YES

NO

ARTICLE VII. ELECTION OF OFFICERS

Section 2. (a) No person shall be eligible to hold ~~any~~ the office of Regional Director unless he or she has been a member in good standing for Three (3) years immediately prior to the annual conference. (May 2010)

(b)(a) No person shall be eligible to hold the office of State Director unless he or she has been a member in good standing for Five (5) years immediately prior to the annual conference. (May 2010)

APPROVE

YES

NO

## **2010 SCALI AWARDS ARE PRESENTED TO ???**

SCALI Members.... Take a few minutes and read the suggested qualifications as you submit your nomination for each award. ( SAMPLE NOMINATION FORM BELOW )

The awards committee's responsibility consists of reviewing all submitted nominees as well as their qualifications in determining who the award recipient should be for 2010. This is certainly not an easy task and we ask that you be detailed in the qualifications of the member you nominate.

We offer suggested qualifications as to the recipient of each award.

### **INVESTIGATOR OF THE YEAR**

The "Investigator of the Year award" is awarded to the individual for outstanding achievements in the SCALI association or the Investigative industry. An individual going beyond the call of duty with Knowledge and accomplishments that would be considered beneficial to fellow associates and in some way enhance our association.

### **WHO'S WHO**

The recipient of the award must first be nominated by SCALI members giving a brief history and reasons why the individual is being nominated. SCALI members are then asked to vote for each nominee. Individuals nominated for this award should be well known for their involvement and achievements within the SCALI association as well as the Investigative Industry. They would have achieved success not only in their expertise but overall success in the association, industry, governing bodies of the industry, local, State or National affiliates of the industry. A leader well known for their involvement within the association and Investigative Industry.

### **PUBLISHER / EDITOR / JOURNALISM AWARD**

The "Publisher/Editor/ Journalism award" is awarded to the individual submitting the most interesting & Informative article (s) In the last four issues of the SCALI Journal. Last three issues in 2009 & the first issue in 2010. (The articles can be viewed on the SCALI web site) <http://www.scalinv.com/Journal.asp>

Submit your nominations to any of the awards committee members by **March 15, 2010.**

### **COMMITTEE MEMBERS**

Guy Johnson  
Tracy Hoshell  
Jack Geren  
Wayne Freeman  
Michael Spane



**SCALI AWARD NOMINATION FORM**  
(Nominee must be a SCALI Member in good standing)

**Nominees Name:** \_\_\_\_\_

I \_\_\_\_\_ nominate the above SCALI Member  
*(Nominating Member)*

To be considered for the: \_\_\_\_\_  
*(Award)*

The reasons I feel the nominee is deserving of the award is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
*(Nominating Member)* PHONE: \_\_\_\_\_

The Coastal Region met in September and will meet again soon in mid March up in Myrtle Beach. Numerous issues have been presented by members and most issues were resolved by the Executive Council. The main thrust of the Coastal Region for 2010 will be to host the Annual Training Conference in May, coming quickly now, and continue meetings at various locations. The Coastal Region split was recently reviewed by the Executive Council and the original map printed in the journal will be the proposal of the EC, and is fully expected to pass and split Coastal into two regions following a ballot vote at the annual meeting in May, so come changes will take place there. Many Coastal folks welcome this due the broad geographical distance of this region; too much driving for meetings. It has been suggested that Coastal North and South Regions may get together as agreed after the split. I hope to see all Coastal folks in Myrtle Beach for our March meeting. Thanks to Coastal members for your continuing support of SCALI.

The Coastal Region held it's quarterly meeting on Tuesday,

September 15, 2009, at Tbonz in Charleston. Attending members had a good time socializing, talking about new gear, work opportunities, rules and so forth. A question was raised about health insurance status for SCALI, which was reported on the table about 4 years ago without action. Hopefully, some new provisions will be forthcoming through health care reform, such as unrestricted group plans to fit self employed detectives. If not, back to the drawing board; nowadays most small group plans are prohibitive in cost and have huge deductibles. No other issues were raised. This meeting was worthwhile.

Attending members are thanked for their effort, time, travel, attendance and participation. Two newer SCALI members, Bill Frontz and Robert Todd, joined the group from Excaliber in Myrtle Beach, announcing they were expanding into sales including Covert Trac GPS with better unit and bundle costs.

The next Coastal Meeting is tentatively scheduled for 11:00 A.M.,

## Coastal Region Don Wilson

Charlestowne Detective Agency  
PO Box 30965  
Charleston SC 29417  
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(843) 571-1420

charlestowne1@aol.com



can make update changes any time.

March 13, 2009, for Myrtle Beach at Tbonz Hwy. 17 Bypass and 21st Avenue, just before Broadway which will precede our Annual meeting May 13-15 at the Charleston Marriott. Please mark your calendars now and plan to attend; this group needs YOUR experience at the table. A timely notice will be sent.

Coastal Region still seeks volunteers to serve on the Awards Committee with Guy Johnson.

All members are encouraged to make sure your contact information on the SCALI web site is correct, and update any changes under MEMBERS, Update; this is now a User function and members

*LATE BREAKING NEWS - It appears FindWhere GPS has closed the Virginia shop without notice. A reseller in Oklahoma is trying to keep the US service afloat. Thanks to Jeff Metts for running down this contact information. Butch, rest easy. (918) 835-8642; JERRI.LAWRENCE@SATELLITEGPS-CENTRAL.COM*

*Jack Geren reports a non-SCALI PI shot in Ridgeland, more information to follow, and offers to help get SLED listings for PI licensed businesses and individuals, to aid recruitment efforts. Thanks, Jack!*



## Upstate Region Marty Henderson

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m-henderson@charter.net

No Report-Monthly Meetings Announced on the SCALI List Serve.



## Midlands Region Dave MacDougall

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dave@informationservices.org  
No Report



## At Large - Frank Rimsek

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No Report

*A few SCALI members met in Aiken, SC for our monthly meeting yesterday and discussed the following items:*

*SCALI Awards:  
Investigator of Year  
The Publisher/Editor Award  
Who's Who Award*

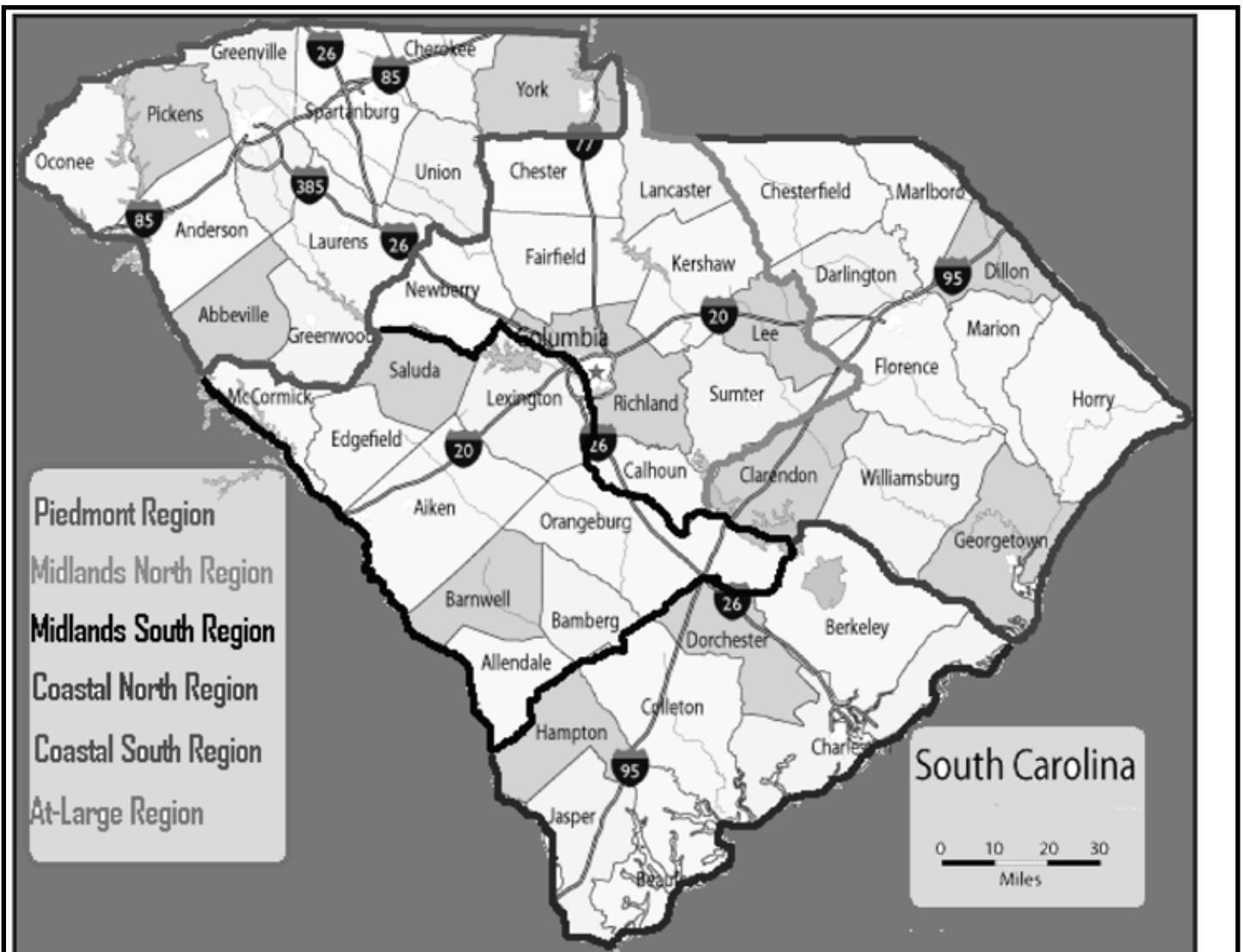
*Discussions and recommendations were noted.  
Upcoming 2010 Annual Conference and Seminar in  
Charleston, SC.*

*Everyone is looking forward to attending.*

*Order for Service of Process in gated neighborhoods. A copy of the order will be distributed for those who wish to have this signed by a judge for their area.*

*We will meet again after the New Year.*

*Thanks,  
Tracy R. Hoshell  
CIS*



## APPROVED REGIONAL CHANGES

The graphic above is the suggested, or as reported in the last Journal “approved” map for redistricting the regions, creating six as opposed to four regions. As you can see by the map, the large Midlands and Coastal regions would be divided into, allowing room for two more Regional Directors.

If you have a comments or concerns about this matter, please contact the Executive Committee. The Regional Directors contact information is provided on their page.

# Open Mind, Closed Case

By: Mike Arrington

*Anyone being in our line of business for much time at all can think of a few interesting and funny stories related to case work.*

Prior to going into the private sector, I was an investigator with the City of Myrtle Beach. I thoroughly enjoyed my time with the City and being a police officer in a resort area certainly presented me with dozens of "war stories" to share with friends and family. In addition to the good stories, my department also offered some very good training opportunities, which have served me well to this day.

One of the most beneficial areas of my training was the courses pertaining to interviews and interrogations. The last thing mentioned by the instructors at the conclusion of the first, week-long course was, "Do not go home and try this out on your wife." "She WILL get mad at you." The instructor's accuracy was astounding! She DID get pretty mad at me. The training gave me the technical knowledge and the hundreds of interviews to follow served to fine tune

and sharpen my newly found skills.

One of the precepts of interviewing techniques is to LISTEN, but I had no idea how important that would be to me, and my client, during an internal theft investigation last summer.

I was contacted by one of my clients to conduct an internal investigation regarding the theft of \$185.00 by an employee. Not an earth-shattering case by anyone's standards, but the client was more concerned with having a dishonest employee and wanted it resolved. The information provided and all of the circumstances pointed to one particular employee, with almost no other possibilities. If the money was actually missing, it appeared that it must have been her.

***No matter what the circumstances indicate or what your client is telling you about the matter: Keep an open mind; listen (allow the suspect to speak freely); never give the suspect too much information; ask open ended questions; and allow the investigation to expand whenever appropriate.***

I met with the client and went over all of the particulars of the case, then went to conduct the interview with the employee who was already waiting in the administrative office. I had already decided, based on the facts that a matter-o-fact

approach was probably going to be my path to the answers dependent upon the employee's initial reaction to my general questions.

When I walked into the office where the employee was seated, I was pleased to see that she was already in a very submissive and open body posture. I sat at the desk and began asking all of her biographical information, noting her physiological and verbal cues. By the end of the general questions, I was feeling pretty confident about the direct approach and giving the impression that I already knew exactly what and how everything happened. I advised the employee exactly who I was and what I did for her employer. I then sat back in the chair and said, "You know why I am here to talk

to you, right?" She replied, "Yes sir." I then said, "Why is that?" to which the employee responded in a very dejected tone, "The money." I immediately followed up with, "That's right.... and." She looked up at me and said, "And the linen." I repeated my previous state-

ment, ending with "and". I will routinely do this unless I know that the issue at hand is most probably isolated to that one particular event. I have often found that the reported incident is only the "tip of the iceberg" and information about other events can be gleaned during the interview process.

After my second response, the employee sank further in her chair and said, "Probably about me clocking back in from a break, but staying on break." I replied, "That's right." Although the "and" idea is handy, it can be overdone and her last admission was on the weak end of the spectrum so I stopped using it at that point. I then asked her, "Okay - where is the money and how much of it do you still have?" I had no idea at that moment how important it was that I had not talked about the amount of money stolen.

The employee looked up at me like a scolded child and said, "It's in my car and I haven't spent any of it." I always try to have the interviewee be specific regarding the facts of the case, so I asked, "So, how much do you have left in your car?" She replied, "It's all there....about \$18,900.00."

My brain was thinking, "Holy crap!" "Where in the

world did you get eighteen thousand dollars?!?" "I sure hope nobody has broken into your car!" I really don't know how, but this somehow came out verbally as, "That's right... now tell me where your car is parked exactly." I'm really not that good at playing poker, but at that moment I would have put my "poker face" up against the best of players in the World Poker Tour! I immediately called the manager on-duty to have two trusted employees guard her car and to contact the police, while I completed the interview.

At this point, I told the employee to tell me about the whole situation. She went on to tell me that when she stole the initial \$185.00, she also stole the keys to the accounting office, went in and stole one of several bank deposit bags from a filing cabinet. She further admitted stealing a couple

hundred dollars worth of linen and cheating the clock for numerous cumulative hours.

No matter what the circumstances indicate or what your client is telling you about the matter: Keep an open mind; listen (allow the suspect to speak freely); never give the suspect too much information; ask open ended questions; and allow the investigation to expand whenever appropriate.

Although this situation has a humorous side to it, this is a clear example of keeping an open mind to help close the case. Needless to say, this client was very happy with the results and paid my invoice promptly.

*Mike Arrington is President of Excalibur Security and Investigations in Myrtle Beach, SC, having been in business since 1996.*

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"Breezing" photo by d.b.brisbin



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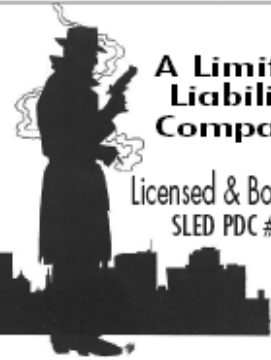
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# FALL CONFERENCE 2009



*With a room full of SCALI members and enlightening speakers, the conference was an enormous success. I thoroughly enjoyed the Hospitality Suite Hotel Aiken provided and the Conference itself, but mostly because of the opportunity to gather and speak with the members of SCALI. We have a great collection of individuals to talk over a few war stories, share ideas and opportunities to assist fellow members with work product.*

*There are so many people to thank. Carol Sutton and Roy Turner whom I believe could handle the registration with their eyes closed, Marty Henderson and Frank Rimsek with their dependable and valuable support that made my situation soooo much easier, and Don Wilson who was always willing to lend a hand (when he wasn't sleeping, haha), and Donna Brooks, snapping photographs here and there. These supporters and many more members is what makes SCALI such a success!!!*

*I'm looking forward to seeing many of you at the 2010 May Conference in Charleston, SC.*

Tracy R. Hoshell  
Consulting And Investigative Services

*Echoes..... The conference was great! The speakers really presented a lot of useful substance!*

*Thanks Tracy/conference organizers*

Robert G. Simons, Jr.(Pro1-IPA)



The Aiken meeting was my 1st SCALI meeting since becoming a member and I must say it was an impressive event. What a great way to network and learn the issues other private investigators have throughout the state. I look forward to additional meetings in 2010.

Doug Ross  
Private Investigator

*Hey, great SCALI people doing great things, as always; superb conference in Aiken. Thanks to Tracy and all previously named persons that helped.*

*I hope to see everyone in Charleston for the spring SCALI 26th Annual Conference, based at the multi-million dollar freshly remodeled Lockwood Marriott (former Sheraton Charleston), which has all guest rooms viewing the scenic Bristol and Ashley Marinas and Bridges; and overlooking Brittlebank Park, the Citadel, Joe Riley baseball Stadium, and 1670 historic Charlestowne Landing (location and views a primary factor in selection), with a negotiated \$3 shuttle downtown (no DUIs), and other events still under negotiations; I guarantee your enjoyment. Thanks to Pres. Vicki Childs for her experienced assistance to date.*

DONALD WILSON  
Coastal Director  
South Carolina Association of Legal Investigators



*Great job to all.*

Lewis E. Mahaffey  
Upstate Carolina Investigations

Tracy Hoshell & Conference organizers

Congratulations...

If awards were given for organizing & spearheading SCALI seminars You would be the recipient.

I would estimate a majority of SCALI members do not realize the amount of time and diligent work involved, not to mention the headaches, to organize a conference.

I, along with many others offer our thanks and appreciation for your time and dedication.

The Thursday evening hospitality was ideal and very well organized. From what I observed this AM at Newberry Hall and the number of attendees, I'm sure the entire day went off without a hitch. I'm glad I took the opportunity to make a short visit..

Thanks Again....  
Guy R. Johnson

I don't want to beat a dead horse but I would like to thank Tracy Hoshell and Donna Brooks Brisbin for a great conference. It was a great way to showcase the town of Aiken to the membership. As always, we had great speakers and fellowship. A special thanks to all who attended and participated in the planning of this event.

Marty K. Henderson  
Carolina Investigations



Thank you Tracy for being a great host and have a great, successful conference. Wish that I could have been there instead of trial in Conway. Kudos to you, Donna, Don, Carol, Roy, Frank, and Marty. You are correct when you say that SCALI has terrific people. I am thrilled that the conference was beneficial to all who attended. We look forward to seeing you in Charleston for the Spring, 2010 conference.

Vicki  
Vicki D. Childs, Director  
South Carolina Assoc. of Legal Investigators



It was a great conference, the food, the place, the speakers, etc. However I was very disappointed with the Aiken Hotel. I felt uneasy as well, as the conditions were nothing like I ever imagined. I heard several people comment on that as well. Don't get me wrong, I love antiques and old buildings, however I don't like sleeping somewhere, where a public bar is open till the am hours with yelling, cursing, and the impossibility to sleep. Complaints were made to the hotel, and the only thing they offered was, "Well, that's the way it is, get another Motel". If ever there is another conference in Aiken, please check around for better accomadations. But on the positive note, The Conference itself was very informative.

Thanks, Donna Robertson, "Morris Investigations"



# Seized-Evidence Lawsuit Filed

*Attorney Sues Authorities, Seeking Return Of Items Taken From Investigator*

By Glenn Smith  
The Post and Courier  
Tuesday, October 13, 2009

**A Charleston judge will be asked today to decide whether police should be barred from sifting through evidence gathered by private detectives involved in the weekend discovery of Katherine Waring's remains on Wadmalaw Island.**

Attorney Andy Savage, a Waring family friend, hired the private investigator who found Katherine Waring's remains.

Private investigators hired by attorney Andy Savage, a Waring family friend, found the missing woman's remains Saturday, ending a four-month search. At the request of Charleston police, county sheriff's deputies seized and searched one investigator's vehicle for evidence, authorities said.

Savage filed a lawsuit Monday against Charleston County Sheriff Al Cannon, Charleston Police Chief Greg Mullen and their respective departments, seeking unspecified damages and the return of photographs, notes and other items taken from private investigator William Capps.

Savage also is seeking a temporary restraining order preventing authorities from viewing, using or sharing the seized items.

The two sides will argue their positions before Circuit Judge Thomas Houghton.

Court documents state that the items seized from Capps contain sensitive, confidential "work product" from the Waring investigation and other cases, and that their release would violate attorney-client privilege.

Savage also told Charleston police that his staff has been advised to avoid speaking with police about activities conducted on behalf of clients. He informed police that he would be dealing directly with 9th Circuit Solicitor Scarlett Wilson on the Waring case.

The Sheriff's Office and Charleston police had no comment on the lawsuit or Savage's stance. Police said they were under a gag order.

Since Waring's disappearance, four private investigators working for the Waring family had been involved in the effort to find her, Savage has said. Among that

group was Capps, a retired Charleston police sergeant.

The private investigators developed information on Friday that pinpointed the exact location of the remains in a general area police had been searching, Savage said. The investigators notified police of this information and invited them to revisit the area on Saturday for another look. Police declined the invitation, so three of the investigators set out on their own, he said.

"We knew Friday night that this was going to happen and that police were looking in the wrong place," Savage said. "It's not like we were going out there to sneak around in the middle of the night."

After investigators found the remains, they immediately called 911 and guided police to the site, Savage said.

Read the summons, complaint and motion for restraining order in Savage lawsuit  
Restraining order (9 page PDF)

The remains were about 30 to 40 feet off the main road into Polly Point Plantation, a secluded development off Bears Bluff Road. Charles-

ton County Coroner Rae Wooten has not released the cause of the death.

While the private investigators worked closely with police detectives throughout the investigation, Mullen and his chief of detectives were "very aggressive" toward the team on Saturday, threatening them with arrest if they didn't provide statements, Savage said. Despite Capps' offer to give police a document they wanted, police opted to seize his vehicle and a host of sensitive information unrelated to the case, he said.

In an effort to preserve evidence, Charleston police asked sheriff's deputies to get a search warrant for Capps' 1994 Jeep Cherokee, sheriff's Maj. John Clark said. Though Charleston police have headed the investigation into Waring's disappearance, the Sheriff's Office has jurisdiction over the site where the remains were found.

Deputies towed Capps' vehicle to the Sheriff's Office and searched it Sunday with city investigators, Clark said. All items taken from the vehicle were turned over to Charleston police, he said.

*Cont. pg. 20*





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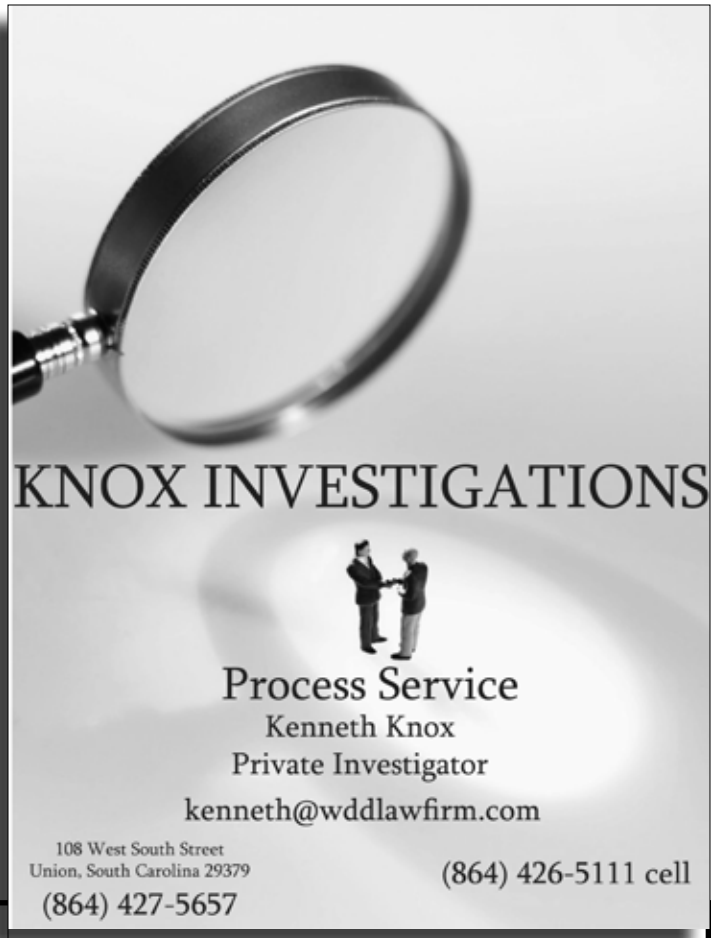
Waring, 28, lived with her parents on Murray Boulevard in Charleston. She vanished after she went to a West Ashley gym, a downtown drugstore and then to Wasabi Japanese Steakhouse. Her cell phone and credit cards haven't been used since.

Charleston police on Wednesday arrested a couple on charges of forgery and obstruction of justice in relation to the case. Ethan Mack, 29, of Pineland Drive on Johns Island and Heather Angelica Kamp, 30, of Riley Road on James Island each are charged with one count of obstruction of justice and one count of forgery. Authorities allege both

suspects gave false statements about events on the night Waring was last seen and that they forged a check drawn on Waring's account. Bail was set Thursday at \$200,000 each.

A memorial service for Waring will be held at 11 a.m. Saturday at St. Michael's Episcopal Church, 71 Broad St., Charleston. Her family will receive friends between 5 and 7 p.m. Friday at Ashley Hall school, 172 Rutledge Ave., Charleston. Stuhr's downtown chapel is handling the arrangements.

Reach Glenn Smith at 937-5556 or [gsmith@postand-courier.com](mailto:gsmith@postand-courier.com)



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# Police, Detectives End Their Dispute

## *Attorney Had Sued Officials Over Seized Evidence*

By Glenn Smith

The Post and Courier

Wednesday, October 14, 2009

**Charleston police and private detectives investigating Katherine Waring's death reached a detente Tuesday, avoiding a messy legal battle over evidence seized over the weekend.**

The squabble erupted Saturday after a team of private detectives discovered Waring's remains on Wadmalaw Island. Police seized the investigators' vehicle and the evidence inside. Lawyer Andy Savage, who had hired the team on behalf of the Waring family, sued police and the Charleston County Sheriff's Office, saying they had violated attorney-client privilege.

Lawyers met behind closed doors at the county courthouse for nearly an hour Tuesday morning. Circuit Judge Thomas Hughston then announced that action on Savage's lawsuit had been postponed indefinitely.

Savage said the disputed items, which included evidence from unrelated cases, remained in the custody of the court. He called the lawsuit a legal issue and

a matter of principle but vowed to continue working with authorities toward a successful prosecution of those involved in Waring's death.

"We are working as one and we will continue to work as one," he said. "We're all on the same side here."

Savage declined to discuss what arrangements had been hashed out inside the meeting, but he said, "I expect we will resolve this issue without ever having to come back to this courthouse."

Charleston police Maj. Tony Elder and Mark Bourdon, the police department's in-house legal adviser, attended the proceeding but said a court-issued gag order prevented them from

discussing the matter. Sheriff's Maj. John Clark also declined comment.

**Police Statement:**  
*Charleston Police Department on Tuesday's court proceedings*

Sources familiar with the discussions, however, said

Charleston police had agreed to return the seized items to Savage and his investigators. Savage and his team, in return, agreed to provide police with whatever items were pertinent to the Waring investigation, sources said.

Later in the day, Charleston police issued a written statement saying that the issues surrounding the lawsuit had been resolved. "The integrity of the evidence related to Kate Waring's disappearance and death has been preserved and will be used in our continuing investigation," the statement read. "We remain committed to working with the Warings and the Solicitor investigating this case in order to bring justice to the person or persons responsible for Kate's death."

Four private investigators -- two retired sheriff's deputies and two former Charleston police officers -- have been working for months on the Waring family's behalf to find the missing woman, who disappeared June 12.

The private investigators developed information late Friday that pinpointed the exact location of the remains in an area police had been searching, Savage said. The investigators notified police of this information and invited them to revisit the area Saturday for another look. Police declined the invitation, so three of the investigators set out and found the body on their own, he said.

The remains were about 30 to 40 feet off the main road into Polly Point Plantation, a secluded development off Bears Bluff Road.

Charleston County Coroner Rae Wooten has not released the cause of the death.

After the team notified authorities, Charleston Police Chief Greg Mullen and his commanders declared that the vehicle the private detectives arrived in was part of the crime scene, Savage said. Police had the vehicle towed and seized the photographs, notes and other evidence inside. Savage responded with a lawsuit and a request for a restraining order to prevent police from viewing, using or sharing the evidence.

*Cont. pg. 22*

Cont. from pg. 21

The case attracted a good deal of attention in the legal community. Lawyers and police officials filled the spectators' rows in the courtroom, anxious to see how the dispute would play out. Mullen and Sheriff Al Cannon, the only law enforcement officials specifically named in the suit, did not attend.

On Tuesday, Savage described the episode as a legal disagreement that had "nothing to do with the Waring case" itself or the sides' shared desire to see those involved in her death brought to justice. Savage said both sides were

prepared to move on in a professional manner.

**Previous Story:**

*Seized-evidence lawsuit filed; Attorney sues authorities, seeking return of items taken from investigator, published 10/13/09*

"Every significant piece of evidence we have found we have turned over to the proper law enforcement agency from the day we got involved," he said. "There is no reason to believe we would want it any other way."

Waring lived with her parents in Charleston. She

vanished after she went to a West Ashley gym, a downtown drugstore and then to Wasabi Japanese Steakhouse. Her cell phone and credit cards haven't been used since.

Charleston police on Oct. 7 arrested a couple on charges of forgery and obstruction of justice in relation to the case. Ethan Mack, 29, of Pineland Drive on Johns Island and Heather Angelica Kamp, 30, of Riley Road on James Island each are charged with one count of obstruction of justice and one count of forgery. Authorities allege both suspects gave false statements about events on the

night Waring was last seen and that they forged a check drawn on Waring's account. Bail was set Thursday at \$200,000 each.

A memorial service for Waring will be held at 11 a.m. Saturday at St. Michael's Episcopal Church, 71 Broad St., Charleston. Her family will receive friends between 5 and 7 p.m. Friday at Ashley Hall school, 172 Rutledge Ave., Charleston. Stuhr's downtown chapel is handling the arrangements.

END

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# Outrageous Insurance Fraud Cases In South Carolina for 2009

*South Carolina Insurance News Service*

***Wild hogs in Walterboro? Run over at the fast-food drive-thru? These are among the most outrageous insurance fraud cases in South Carolina this year. More than 10 percent of property insurance claims are fraudulent, industry studies have found.***

Insurance fraud increases your premiums by hundreds of dollars every year according to the South Carolina Insurance News Service. Fraud is the second most costly white-collar crime in America, after tax evasion. Nov. 9-13 has been proclaimed Insurance Fraud Awareness Week in South Carolina by Gov. Mark Sanford.

What is fraud?

Insurance fraud can be hard or soft. Hard fraud occurs when someone deliberately fakes an accident, injury, theft, arson or other loss to collect insurance money illegally. Soft fraud occurs when someone inflates a claim or gives inaccurate information on an insurance application. The most common types of insurance fraud are:

Misrepresentation of the number of miles on an auto insurance application.  
Failure to report an accu-

rate medical history when applying for health insurance.

Fake or exaggerated injury claims to avoid work and draw workers compensation payouts.

Falsification or overstatement of injuries in an auto accident to obtain a large settlement or damages award.

Staged auto accidents that result in claims for nonexistent or exaggerated injuries.

Fabrication of relationships to obtain life insurance benefits.

Exaggeration of the amount and value of items stolen from a home, business or automobile.

Those who commit insurance fraud risk denial of their claims, loss of their insurance and criminal prosecution. As fraud increases, insurance companies have to cover these losses by increasing insurance rates. Insurance companies have special investigative units dedicated to reducing insurance fraud.

Insurance fraud is a significant challenge facing us today, and fighting it becomes everyone's business, said Brandolyn Thomas Pinkston, administrator of the S.C. Department of Consumer Affairs. It is not just the insurance companies that suffer; good customers are penalized because of fraudulent activity through an increase in premiums.

What is South Carolina doing about it?

The South Carolina Insurance Fraud Investigators (SC-IFI), Attorney General Henry McMaster and the South Carolina Insurance News Service continue their initiative to fight insurance fraud and increase public awareness and participation in fraud prevention efforts.

The attorney generals Insurance Fraud Division reported 815 complaints of insurance fraud in 2008, at a cost of \$3.3 million. Charleston County had both the highest number of complaints made (29) and the highest amount, at \$1 million.

Cases have come from all over the state and break down by region as shown:

Lowcountry: 37 percent (175)  
Pee Dee: 22 percent (106)  
Piedmont: 22 percent (103)  
Midlands: 19 percent (88)

What you can do:

Use the South Carolina Insurance Fraud Hotline to report cases to the attorney generals Insurance Fraud Division. The hotline (1-888-95-FRAUD) is available toll-free, 24 hours a day, seven days a week.

Top 9 Most Outrageous Insurance Fraud Cases of 2009

Wild hogs in the middle

of the road Richard Leon Pinckney of Walterboro pled guilty to insurance fraud involving staged auto wrecks and was sentenced to 17 years in prison. He also pled guilty in federal court to unrelated charges and received a 226 months sentence. Pinckney provided information to SLED regarding a staged accident ring in Colleton County that resulted in 31 guilty pleas and one conviction at trial. The seven fraudulent wrecks to which Pinckney pled guilty involved 21 defendants all of whom pled guilty and more than \$105,000 in restitution ordered by the court. Two of the staged auto wrecks were blamed on the driver swerving to avoid wild hogs in the road.

He looks awfully healthy for a stroke victim with emphysema Russell H. Campbell Jr. applied for a \$50,000, five-year term life insurance policy on the life of his father. On that application, Mr. Campbell, Jr. indicated that his father lived with him, was a non smoker and had none of the listed health problems on the application. In reality, Mr. Campbell Jr.'s father was living in a skilled nursing facility, was a smoker and had several of the listed health conditions on the application including: he had a stroke and was paralyzed on the right side of his body; brain or ner-

*Cont. pg. 26*





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Cont. from pg. 23

vous system disorder; heart disorder; and emphysema. Mr. Campbell Jr. tried to then sell this policy and five other life insurance policies on the life of the father totaling \$375,000 to a life settlement company who discovered the fraud and refused to buy the policies. In March, 2005, the father died. The day after his death, Mr. Campbell Jr. made a claim on the life insurance policy. He was paid \$50,159.74 on the policy.

Not the way to gain your father-in-laws approval Bruce Richardson posed as Russel Dingle for the purpose of buying life insurance from Transamerica and Banner Life Insurance Companies. Richardson was the significant other of Russel Dingle's son. The Transamerica policy was for \$1.75 million and the Banner policy for \$1.25 million - neither policy was paid

out. Richardson represented Russel Dingle as a healthy male when Dingle had been in and out of the hospital in for chest pain and positive cardiac enzymes from years of alcohol and drug abuse. Richardson had Dingle listed as an employee in his tax preparation business making more than \$85,000 per year when Dingle's sister whom he lived with said Dingle did not even know how to use a computer.

Hello, 911!?! Id like to report the woman sitting next to you for arson and fraud On March 8, 2008 at 2:30 a.m. 911 operator Kimberly Corbitt reported to police that an unknown person stole her 2002 Mercury Mountaineer. That same night at 3:42 a.m., the vehicle was found fully engulfed in fire. A witness reported that he had heard Corbitt talking on the phone to another individual mak-

ing plans to have the vehicle burned. Investigation revealed that the vehicle had transmission problems that would be expensive to fix. The defendant stated to the witness that someone was going to take the vehicle and burn it.

Hello, 911!?! Id also like to report... In July Robert Brendon Smith, a former Olanta, SC police officer, reported his 2001 Dodge Dakota Truck as stolen. The truck was valued at over \$8,000. The vehicle was found completely burnt. It was later determined that James David Morris had helped Mr. Smith burn his vehicle because of the vehicle having mechanical problems. The claim to State Farm Insurance Company was eventually withdrawn.

Note to self: police reports are not to be used for Mad Libs Nancy Moser reported

that a burglary occurred at her residence in Lancaster County. She submitted an inventory loss form to Nationwide Insurance for over \$9,000 in losses to include all types of furniture, appliances, and electronic equipment. Investigation revealed that the stores indicated on the loss form did not sell the items listed as stolen. A majority of the items listed as stolen were found at Ms. Moser's daughters home. Ms. Moser also submitted a police report during the claims process. On that report was a handwritten note to indicate other items were stolen that were not listed on the report. This note was signed, Captain Andy Rollins of the Lancaster County Sheriffs Office. Captain Rollins confirmed that he did not write the note. The original police report did not contain this note.

Wow, Mr. Reed, your wife



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must have really wanted that Big Mac, huh? In September, Richard Reed claimed to Nationwide Insurance that he was struck by a car while it was being driven by his wife in a McDonalds parking lot. During the claims process, Mr. Reed presented a forged letter purportedly from Nationwide Insurance stating that Nationwide wanted to settle his claim for \$45,000. Mr. Reed then used this letter to secure a \$5,000 loan from Great Bay Capital, a capital investment company in Hilton Head, SC. Nationwide Insurance denied the claim.

1 in 15 are pretty good odds, but maybe you should stick to slots. Sylvia Jones took out life insurance on 15 individuals with Colonial Penn Life Insurance without their knowledge and forged the names on the policy documents. She was paying on these policies for most of them for over 4 years and eventually paid more than \$20,000 in premiums. Unfortunately one of these individuals

passed away (Ms. Jones had nothing to do with his death). She was able to collect on his \$25,000 life insurance policy. Jones was charged with six counts of forgery. Jones pled guilty to four counts and was ordered to repay the \$25,000 to Colonial Penn Life Insurance.

Her son slipped and fell on a big pile of paperwork. In August Sherry Arrington presented an insurance claim to her insurance company and employer, Colonial Life and Accident Insurance Company. The claim alleged injuries, treatment and hospitalization of her son at a hospital in Virginia. Arrington presented documentation, allegedly from the hospital, to support the claim. Several anomalies in the paperwork led Colonial Life to confront her about the validity of the claim. When confronted, Arrington admitted that the claim was fraudulent and that she had created

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the false documentation. She also admitted that several other claims she had made were fraudulent and included false docu-

mentation. Payment for the fraudulent claims totaled \$11,850. -END

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# Planning a SCALI Seminar

by Guy Johnson

Decide location, dates and topic of seminar.--This should be a central location that can provide lodging and meeting rooms and some form of entertainment for families. ( From 100 to 200 attendees ). Also, take into consideration the pool of speakers that will be available as SCALI, at present, does not pay speakers for their time. If the speaker is not from the area, SCALI may have to pay for their meals and lodging. You may have to inquire into more than one location as price is taken into consideration. Room rates, Meeting room rate for 100 to 200 attendees , Meals for attendees, Hospitality suite rate, Morning coffee & Danish , extras, such as podium, microphone, skirted tables, ice, drinking glasses, projector etc.

Seminars are money makers for Hotels and everything is negotiable, from the number of comp rooms to complimentary breakfast. You do not have to be a negotiator, you just have to ask for comps. The overall price determines the cost to each member for attendance. Personally, I would seek out three (3) good locations and begin my trek. The State Director and the Member or Members planning the seminar should

work in conjunction with each other to iron out any potential problems prior to the beginning date of the seminar. After all is finally negotiated, contracts have to be signed and a retainer forwarded to the location of the seminar. You have to scrutinize the contract as Hotels will attempt to charge for additional items not verbally discussed. They charge for everything at a much higher price than normal.

Usually, a Member or Members will plan some type of

***Planning for good seminar usually begins four or five months prior to the actual date of the seminar. A lot of time and hard work from dedicated Members is devoted to plan and organize SCALI seminars.***

activity, Golfing, Fishing, shopping etc. the day before the seminar begins. If this does not effect the planning of the seminar, the Director and other Members planning the seminar need not be bothered with this. Just make them aware of your plans.

While determining a location, date and price, the speakers, if any, must be sought out to plan the agenda for the chosen topic. Sometime, this is not an easy task to obtain a com-

mitment. Always take into consideration the speaker will have to break their commitment for some reason. Always plan for a backup. I think it is better to have two or three SCALI Members prepared to speak pertaining to their expertise. If you are undecided about the speakers or their topics, ask the SCALI Members for their opinions. What does the majority of the SCALI Members want to learn or listen to for a day and half. My perfect seminar is educational , entertaining and having time to

relax and network with my fellow Members.

After all of the above is in place, printing of registration forms must be completed and mailed to each Member of SCALI along with mailings to some non-members of SCALI. This printed material has to be proofed for mistakes prior to actual printing. Also, the itinerary and or booklet is planned and printed for the attendees of the seminar. After the printing, expect changes to be made and new inserts

have to be prepared.

From that point, the calls, e-mails etc. begin. When is the Seminar ? I lost my registration form, Will you fax me another one. How do I get there? Can I pay at the door? I can't come, can I get a refund? Can I bring a friend? I want to join SCALI, can I get the Members price? I can only come for one day, do I get a discount? Most of the above are constant and daily about two weeks prior to the seminar and after the deadline to submit the registration.

When registration forms and checks begin to come in, some are incorrect and have the incorrect payment attached. Each form and check is processed and the attendee is noted

as , signed up. Letters, e-mails , receipts have to be sent to the attendees. Follow-up messages have to be sent for reminders.

Planning for good seminar usually begins four or five months prior to the actual date of the seminar. A lot of time and hard work from dedicated Members is devoted to plan and organize SCALI seminars.

I have also listed an example of the cost associ-

ated with a SCALI seminar. When planning, use this as a reference tool and may you be the next individual to plan and organize the next SCALI seminar.

### **Costs Associated With Seminars:**

**Meeting Place:** usually Hotel / Motel: (Below figures are approximated)

**Room Rates For Members:** \$75 - \$150 per night

**Conference Room For 50 To 125 Individuals:** \$ 100 - \$200 daily. (Some places are negotiable)

**Podium & Microphone:** \$150 \*\* Skirted tables: \$75 - \$125 \*\* Projector: \$500 - \$700 \*\* Coffee: \$25 - \$50

**Danish:** \$25 - \$50 \*\*

**Ice & Drinking Glasses:** \$25 \*\*

**Hospitality Suite:** \$75 - \$100 per day (Negotiable)

**Hors D'oeu-Vres:** \$75 - \$80 per 50 \*\*

**Colas:** \$1.00 - \$2.00 per can

### **Meals Or Lunch**

**Per Individual:** \$20 - \$25 per person (includes tax & gratuity)

**Printed Itinerary Manuals:** \$500 - \$700 (Depends on type of itinerary booklet or manual)

### **Awards Dinner**

**Per Individual:** \$35 - \$45  
\*\* Separate room cost for **Awards Dinner:** Should be included, maybe not.

### **Lodging For Speakers:**

\$75 - \$150 per night \*\*  
Printed material for registration forms: \$200 - \$275

### **Postage For Registration**

**Forms:** \$350 - \$450 \*\*  
**Printed Material For Name Badges:** \$25 - \$50

### **Trophies, Awards &**

**Certificates:** \$300 - \$500 \*\*  
Telephone tolls: \$50 - \$75  
\*\* Bartender: \$25 - \$50 \*\*  
Cashier: \$25 - \$50 \*\*

**Gratuities:** 15 to 20% added to total bill \*\* Hotel / State Taxes: Approximately 10% of total bill.

This gives an idea the items and cost associated when we have a conference or seminar. Depending on the facility and location, as you may very well know, we may spend less or more. I do not think SCALI nor the Members should lower our standards

from an upscale or nice facility when we gather for our seminars. If we have overnight speakers, the facility, food and entertainment should remain upscale and professional. In the

Members paying a fee to attend. We may have to increase our yearly dues to some extent for this to materialize.

Hopefully, the above infor-

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near future, I would like to see the seminars being paid for from SCALI funds vs. the

mation will help the next Member that is willing to organize or help organize future seminars. **END**

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# What To Do About Those Spam Faxes

*Taken From [www.junkfax.org](http://www.junkfax.org)  
suggested By Austin Troxell*

Here's a checklist of things you can do:

## Step #0

Save all your junk faxes. The more faxes you have, the more "leverage" you'll have in anything you might do in the future where it is to sue directly or join a lawsuit. NEVER throw away your junk faxes. NEVER. For example, if you join a suit that goes after a fax broadcaster or common carrier, you may find hundreds of faxes worth \$2,500 each. At a minimum, the more faxes you have from a given defendant, the more leverage you will have in having your lawyer contacting them threatening to sue.

Sort the faxes by the "response" number. Find the biggest pile. If you have more than 10 faxes from the same response number, call the response number to find out who the company really is and where they are located. You'll have to make them believe you are a real customer before they'll tell you where they are located. Then, contact one of the Junk fax attorneys who are located in the state where your sender is located. The reason for that is because that way, you can use the same attorney for collections (which is most easily handled in the state of the sender) as for the case itself (which can be brought

either where you got the fax or where the sender is located).

## Step #1

See The two secret phone numbers to call to stop most of your junk faxes. If you enter your contact information on this page, we'll 1) tell you the two phone numbers you can call to stop 80% of your junk faxes and 2) keep you updated so that if we discover new numbers that you can call to stop even more junk faxes, we'll let you know via email.

## Step #1.5

Find out who is sending you this by visiting: How to identify the fax broadcaster. It's usually more time effective to go after the fax broadcaster since you can recover more \$ per time invested than going after each fax individually.

## Step #2

If you want to help put them out of business, and don't mind getting about 1 email a month notifying you of "opportunities to help", then please join one of these groups:

If you reside in California: junkfaxCA

If you reside outside California: Yahoo! Groups junkfax

These are "moderator announcement only" groups

so there is no spam and only about 1 message a month. Be sure to set notification options to Individual Emails (otherwise, you'll never get anything).

The announcements will be opportunities for you to help out "I'm suing XXX. If you have faxes that look like the ones on this webpage, you can assign your claim to me and I will use that to help shut them down."

## Step #3

If you are really "into it" and want to exchange stories with other people, you can:

Join the Yahoo group: junk-faxDiscussion.

Note that unlike the groups in **Step #2**, this is an "open forum" for swapping information about the perpetrators. It is not moderated, so you'd want to set your notification preferences as you see fit.

## Step #4

If you want to take matters into your own hands and don't mind spending a bunch of hours to do that, you can sue in small claims court. I can tell you that small claims works. For example, I got 16 faxes from First Chartered Investments and after a 15 minute hearing, walked out with 16 judgments for \$2,500 each, a total of over \$40,000 (see

FirstChartered.pdf). Here's how to do it:

How to get \$2,500 per junk fax in small claims court

How to get \$2,500 per junk fax (California only)

How to sue people (general legal tips)

How to sue in small claims court

Lawsuit tips and tidbits

Collection tips and tidbits

## Step #5

If you don't want to spend the time to learn all that stuff, then you can join an existing lawsuit by registering here: Junkfax registration for lawsuit participation. There are suits right now being drafted against all 3 major broadcasters.

## Step #6

If you got a pump and dump fax, report it: Report a pump and dump junk fax

## Step #7

If you want to know how to handle certain situations, please see the Junk fax Q&A. The Q&A covers the most frequently asked questions like:

I get calls at night. How do I stop them?

I get fax calls on my cell phone. How do I stop them?

## Step #8

You can hire an attorney. Many will work on a contingency basis (i.e., it doesn't

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## Cont. from pg. 32

cost you anything). see Junk fax attorneys

### Step #9

If you are an attorney (or are VERY serious about pursuing junk faxes), you should join the Junk fax plaintiff's litigation support forum [Junkfax-1] at <http://www.oklahoma-isp.net/mailman/listinfo/junkfax-1>.

When I first started out, I used to sue for \$1,500 and settle for \$500. For example, see the \$500 check I got from LoanNow Financial (Fairon & Associates. Today, I sue for \$2,500 per page and settle for \$1,500 if I don't have to go to court. That's a good deal for the Defendant because they can check my court record: in 50 cases, I've never lost a case and I never give up on my collection efforts; they'll pay sooner or later (some dishonest people are good at making themselves hard to collect).

In fact, it's now unusual for people to only get the statutory minimum of \$500 per fax. See 2005-ohio-97 where the Ohio Court of Appeals told a trial court that \$500 per fax was not enough!

**Step #10** Putting a permanent stop to the junk faxes with an injunction

I've been doing this for 3 years and the only way I know about to put these guys permanently out of the illegal junk faxing game is by getting a nationwide injunction prohibiting them from sending any more junk faxes. If they violate

the injunction, they can get slapped with 5 days in jail for each contempt, i.e., for EVERY illegal fax sent after the order issues. You can see why this is so effective!

Another approach is to bring a class action against the phone carrier that is carrying their traffic. You can do that 30 days after notifying them they are carrying illegal traffic if the phone company doesn't stop. You can sue for \$100M or more.

It's not that hard to do and it might only take 30 days from when you first file in court.

You can file in state court or, if you meet diversity and amount of controversy for each plaintiff, federal court. State court is easiest and fastest.

Note it doesn't cost a lot of money because you don't have to spend thousands of dollars on legal expenses trying to get the "perfect brief." You just present your case and if the judge is smart enough, you'll win. If you don't win, you can try again with different faxes and a different judge. Eventually, they will lose and you will win. That's how it is supposed to work: justice is supposed to prevail.

### *Here's how you do it:*

Hire an attorney to do the steps below. You can do it yourself, but attorneys have greater "credibility factor" making it more likely you'll get the preliminary injunction that is critical to putting an end to the illegal faxes.

Even better, you can find excellent attorneys who work for free; it's called contingency and they essentially trade their services for about 35% of the final judgment. If you can't find a contingency attorney, I've found others willing to work for as little as \$100/hr on these cases (since they are quasi "charitable" in nature) even in very pricey areas like San Francisco. Try starting here: Junk fax attorneys.

Identify the junk faxer or broadcaster that is ticking you off (see step 1.5 above) Find a case where your junk faxer has already lost. Your attorney can do that by asking on the junkfax list (see **Step #9**), searching court cases, or looking on TCPA law ([www.tcpalaw.com](http://www.tcpalaw.com)). If you can't find such a case, don't worry because you can still do the process below; it's just easier if you do since it makes it more obvious an injunction is justified.

File a case in your nearest state court in any court that will issue injunctions. Normally, this is not small claims, but is limited jurisdiction or higher. Have your attorney draft your complaint to seek both injunctive relief and monetary (statutory) damages under the TCPA. Make sure you keep the monetary demand in the case to less than \$75,000. Otherwise, you can get removed to federal court and then potentially be transferred back to state court. By keeping it to less than \$75,000, you avoid this commonly used delaying

tactic and save time. If state court doesn't work, then try federal court (if you have enough faxes to qualify) Be sure to name both the company and its officers. Because the company is an tortfeasor, the officers may be personally liable if they authorized the illegal activity (just as happened in the fax.com cases).

The TCPA specifically allows you to get an injunction so it is authorized by statute. Also, it has been done before where a state court orders a defendant (which can be in state or out of state) to stop sending junk faxes to ANYWHERE in the US (see the cases below). Therefore, after you file and serve your case, immediately go in with a noticed motion for a preliminary injunction naming the the company and its officers and anyone else who has notice of the order. Note that the coverage of the injunction will be much broader than just the named Defendants (see real life cases below, e.g., the fax.com injunction). You should be able to get this if you have a good judge. Each state will have a different standard. For California, see TRG: Civil Proc. Before Trial [9:519 ff].

The federal standard is that a preliminary injunction may be granted if the moving party demonstrates either:

a likelihood of success on the merits and the possibility of irreparable injury OR that serious questions going to the merits were

*Cont. pg. 34*

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raised and the balance of hardships tips sharply in its favor.

These are not different tests, but rather represent "two points on a sliding scale in which the required degree of irreparable harm increases as the probability of success on the merits decreases." In addition, if a public interest is involved, the Court should also consider if the grant of a preliminary injunction favors the public interest (see Memorandum of Points & Authority for citations).

This has been done before so you are on solid ground. Also, since there is no oral testimony (other than affidavits and declarations), it is very inexpensive to do. Here are some arguments you can use:

Likelihood of success: If you

found a case they lost, then you've nailed "likelihood of success on the merits" since a court of competent jurisdiction has evaluated both the law and facts and found in your favor. Otherwise, you'll have to bring affidavits, e.g., of their customers who attest that they did things that violate the law. But my favorite argument is this.... You honor, I see they are opposing this motion. Why would they bother to oppose the motion if all their faxes are legal? Balance of hardships: Since you are only asking that they not violate the law, it is pretty hard to argue that they can be harmed in any way since they aren't supposed to be doing anything illegal. That gives you balance of hardships. They could still argue that the law is illegal but with no cases to stand on (every case has determined the oppo-

site), that argument won't fly. Legal remedy must be inadequate: Since the law provides for injunctions, you are on solid ground. Irreparable harm: Since the statute allows for an injunction this shouldn't be a problem. If you are suing a broadcaster, you could note that pump and dump faxes cause people to lose their life savings. That money is gone forever since the scam artists disappear or hide the money offshore. Other faxes wake people up. Sometimes, so many faxes come in that the fax machine will not receive any more faxes resulting in an unknown amount of lost business. Don't try to get a TRO immediately because 1) it's harder to get 2) it's only a few extra days to go for a preliminary injunction, 3) you have to get the Preliminary Injunction anyway so the TRO just adds to

your costs. Then when you win, you seek a permanent injunction. Here's are real life cases to prove it can be done:

**fax/profiles/OptimaPreliminaryInjunction.pdf  
fdc\_CaAGinjunction10-5-04.pdf**

Once you have an injunction, they are dead meat and you continue to try to get \$ damages for your faxes.

There is one big catch....For preliminary injunction, the judge will require you to post a bond to compensate the other party in the event things don't go your way and you lose. That \$ amount might be substantial. If it is, then you make the injunction part of the case and when you win, you have a permanent injunction with no bond requirement. How-

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ever, the bond shouldn't be large at all because you're only enjoining illegal behavior. For example, the Defendant will have to show which customers are adversely affected by the injunction. This means the Defendant will be admitting to the judge they ARE sending unsolicited faxes. So the preliminary injunction, even if unsuccessful, causes the defendant to WANT to admit to you they KNOW they are sending unsolicited faxes. So even if you lose, you can use that evidence later on in your trial, e.g., for a broadcaster, it shows that they had actual notice and failed to stop the transmissions.

If they violate the injunction (which you can show because others are getting

faxes traced back to them; have your attorney contact us for secret techniques they can use to determine this), then they are really hosed. Each junk fax they send out after the injunction means 5 days in jail for each of the people who run the company. So if they send out just 30 junk faxes after the order (we're talking 30 faxes here, not 30 days of faxes), they can get 6 months in jail in one hearing and without the right to a jury trial. If the judge is willing to go through a jury trial, then they can spend a virtually unlimited amount of time in jail on thousands of counts of contempt (each fax constitutes one contempt which is punishable by up to 5 days in jail). Note that in California, contempt is up to 5 days in jail per con-

tempt; your state law may be different. See In federal court, contempt sentences per contempt are unlimited. The fact that the junk faxer is out of state is immaterial. Some of these jokers think they are safe from an out of state court but they aren't if YOU are smart enough. You do an ex parte OSC re: contempt and personally serve it on the contemnors (the court can order substituted service for OSCs). If they appear, they can be sentenced to jail right on the spot. If they don't appear, you simply convince the judge to issue a bench warrant for their arrest and you MUST ensure that the warrant is marked as "extraditable" and have it entered into NCIC (the "National Crime Information Center" which a computerized index of criminal justice information). Make sure the judge talks to the DA about this. This is critical. Without the "extraditable" and NCIC, the bench warrant is worthless. Once the warrant is in NCIC and extraditable, any peace officer can arrest the officers and have them transported back to your state to face their sentence of 6 months (or more) in jail for contempt.

Because out of state civil bench warrants for FTA (failure to appear) have the lowest priority for the cops and sheriff, they may never be arrested. Therefore, you can speed things up by hiring a professional bounty hunter. This isn't that expensive. It's basically \$150 plus expenses. As long as your pals are in NCIC and extraditable, they can

go into any state and find your guy and then transport him to a county within that state that will honor out of state extradition to your state. Call Robert at 808-368-2455 (U.S. Pacific Recovery Services).

If they are in your state and you just have a civil bench warrant that is not extraditable, you can still use a bounty hunter to bring them to court faster than just waiting around. Most bounty hunters do not know how to handle these cases since they normally work for bail bonds companies and just go after people who skip bail. Call Robert at 808-368-2455; they will handle civil bench warrant cases.

The bottom line is that if you get a good lawyer and a good judge, they either stop or they are thrown in jail. Use the contact link if you have trouble with any of the steps, and we can help.

If you get a bad judge (or bad lawyer), you simply repeat the process again and the most you've wasted in your case is one motion. You'll get a different judge and you can re-use your paperwork. You get as many chances to have these guys put out of the junk faxing business as the # of faxes you have. Eventually, you'll get a judge with a good spine and justice will be served.

Therefore, sooner or later, they are out of business due to your efforts...guaranteed. There is no escape; which is why I'm not afraid of

Cont. pg. 36

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*Cont. from pg. 35*

publishing the strategy here. This is how fax.com, formerly the world's largest junk faxer, was put out of business, through the injunction process and the threat of contempt. They chose to quit rather than sit in jail.

Another excellent strategy is to file in state court for \$74,000 on your own faxes and get assigned faxes for over that amount. If they remove to federal court, they'll have to argue the assignment is valid (and the federal court will too)! That would be a huge win. Instead, they'll attack the assignment which keeps you in state court. If you lose, no big deal; you've lost no upside because you just amend your complaint to add them as separate plaintiffs. If you win, it creates a really powerful way to get BIG judgments in the future.

*Here are some injunctions against junk faxers (or TCPA violators):*

**fdc\_CaAGinjunction10-5-04.pdf: fax.com.** This injunction from a federal court, was nationwide.  
**brown\_v\_satex.pdf: Sound Media Group.** This injunction issued by a California state court prevents Sound Media Group, which is based in California, from causing junk faxes to be sent from anywhere in the US to anywhere in the US. **END**

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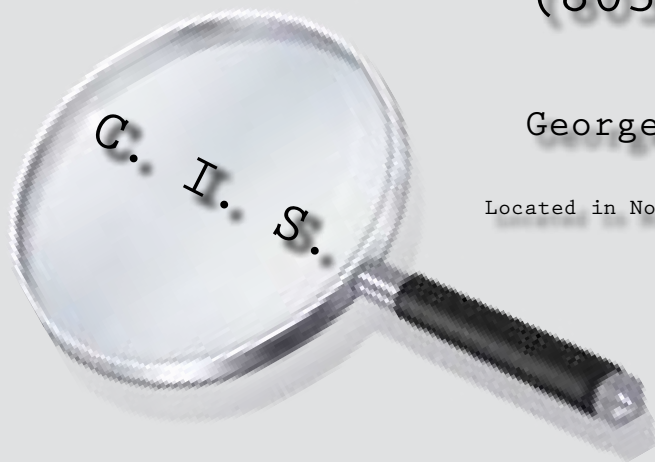
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**South Carolina Association of Legal Investigators, Inc.**

**“The Robert H. Joseph Scholarship Award”  
Guidelines for Applicants**

This scholarship application is to be used by dependant children or members of the South Carolina Association of Legal Investigators, Inc. (SCALI) who wish to apply for the “The Robert H. Joseph Scholarship Award”.

Below is a detailed explanation of the program, outlining the criteria for qualification. Please follow all instructions to complete the application. **There is additional information required to complete your application.** It is your responsibility to request these materials. Deadline for receipt of all applications and accompanying materials is **February 28**. Materials received after this date will not be considered for a scholarship – NO EXCEPTIONS.

**ELIGIBILITY**

Applicants must be either high school seniors, OR freshman attending an accredited, undergraduate college, university or technical college as full time students. Student must be enrolled full-time; part-time students are not eligible for awards.

Applicant must be active SCALI member or a dependant resident child of an active SCALI member. An active SCALI member, parent or grandparent, is defined as a SCALI member who has at least 12 months of active membership in the preceding 12 months and has renewed for the next year of membership. Dependant children include natural children, adopted children, and resident stepchildren.

**QUALIFYING INSTITUTIONS**

Scholarship recipients must plan to attend college in the fall of the year the awards are made. Recipients may attend any accredited public or private, two-year or four-year college, university or technical college.

**REQUIREMENTS**

Applicant is responsible for insuring that all items listed below are submitted to the “The Robert H. Joseph Scholarship Award” Committee and postmarked by **February 28** for the year the award is made.

- Completed and signed application – make Six (6) good copies
- Official transcripts of grades for college, university and high school, including fall of the preceding year.
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- Letter of acceptance for entrance to the Learning Institution
- Required Essays
- Incomplete applications will not be considered.

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**South Carolina Bar Proposal  
To Allow FED EX and UPS To Serve Legal Papers**

The SC BAR proposed a rule change that would allow FED EX and UPS to serve legal papers. This past week NAPPS sent an attorney from New Jersey, who is also a NAPPS member, to the Rules Committee meeting at the Court Administration offices at the Court of Appeals in Columbia SC to show how this would be unconstitutional for the citizens of this state. This is the second time in 4 months that NAPPS has sent someone to SC to fight this rule change.

The Rules Committee voted and the motion was defeated once again. I feel this will kill this idea for a while. Those of us who serve papers owe John Perez of New Jersey Legal and NAPPS great deal of thanks for his effort. NAPPS covered all travel expenses for both of these hearings. My company covered all lodging and incidental expenses once he arrived.

Please keep in mind that SCRP rules can be changed very fast and we are lucky that NAPPS was able to intervene. If you have any questions about this give me a call.

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**Supreme Court Decision**

In the Advance Sheets that were published today the Supreme Court has made a very interesting decision on process service involving service on Corporation when no officer or registered agent is available. I would strongly encourage any of you that serve process to read this decision in its entirety it sure sheds new light when it comes to serving a Corporation in SC, at least I think. The case on the South Carolina Judicial web site is advanced sheets dated 8/24/09 on page 62 the case is Leola Richardson as PR of Estate...v P.V. Inc and Harbor Inn, Inc. this is on appeal from Circuit Court in Georgetown County.

Ed Fewell III

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# New Online Baby-Sitting Services Cater To Modern Needs

By JENNIFER GISH, Staff writer  
First published: Friday, November 13, 2009  
Taken From PI News Roundup

So much for the teenager down the street. Two new baby-sitting services, which offer online scheduling and detailed background checks, have launched in the Capital Region hoping to address parents' desires for safer baby-sitting and cater to an ever-mobile society that can't count on having family or neighbors nearby to help out.

Kidsitcoop.com, an online business that helps parents swap baby-sitting hours, and Seekingsitters.com of the Capital District, a na-

tional franchise with a local service run by a Delmar-based mom of two, both went online this fall.

The businesses are part of a national trend toward baby-sitter services that offer online scheduling and payment and extensive background checks on sitters.

"The teen baby sitter is somewhat a relic of the past," says Deborah Skolnik, a senior editor at Parenting magazine. "Parents these days seem to demand so much background information on a baby sitter than

they ever have before, and also, there's the economy. A lot of adults have been thrown out of work, and all those teenagers are competing with adults who may have raised children or who may be seen by parents as being more responsible."

When it comes to screening, SeekingSitters employs a private investigation company that looks into sitters' and clients' criminal and civil records and scans the Internet for what each person is saying (and possibly showing) on social media Web sites. Kidsitcoop checks public records for all involved parties for any civil, domestic and criminal violations.

"Being a mom, finding safe options for your children is what matters to me the most. For two years, I could not find a baby sitter that I was happy leaving my children with, so I just wanted to provide that kind of service to other families," says Lori Flynn, owner of SeekingSitters of the Capital District and mom to two kids, ages 3 and 8.

"Parents today are looking for somebody that is more mature and that they're going to engage the children with activities other than just video games, and they really want to engage their children," continues Flynn, whose service only

employs sitters age 18 and older. "So I think when you just get the teenager down the road, I don't think that they really understand what it takes to engage your child."

Marilyn Delson, the Lansingburgh-based owner of Kidsitcoop, started her business after reading about the child-care crisis and thinking about her own positive experience with an Ulster County baby-sitting co-op when her son, now in his 20s, was a toddler.

She said parents sometimes live far away from their families and don't have close relationships with their neighbors. A baby-sitting co-op is a way to have parents -- who are more qualified than your average teenager -- care for children, she says, and connect families with their communities.

"It will build neighborhoods," says Delson, who has offered free subscriptions (normally \$52 a year) to the first 200 parents who sign up for the new service. "It will bring families and neighborhoods together where they may have never thought about it before."

There are some costs associated with using Seekingsitters. Besides a \$39.99 one-time membership fee, the service also charges an hourly rate of \$12.95 for one child and a maximum group rate of \$19 an hour. There is also a service

*Next page*



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Cont. from pg. 40

charge of between \$8 to \$15. All told, a 3-4 hours trip out for dinner and a movie can cost \$65 or more if you have a couple of kids. But customers like it so far.

Brianne Ripley, an Albany mother of three boys, ages

8, 4 and 1, just began using Seekingsitters.

"I really liked the idea that you could go online, as well, and sort of just do everything through that and not have to worry about whether someone shows

up on time," she says. "It's hard these days. You never really know who's telling the truth. You can call their references, but who knows if their references are their sister or their best friend saying that they're really great people?"

Jennifer Gish can be reached at 454-5089 or [jgish@timeunion.com](mailto:jgish@timeunion.com). Visit her blog at <http://blog.timeunion.com/parenting>. END

# Busha Indicted By Attorney General

By Rick Spruill  
Originally published  
11:02 a.m.  
September 30, 2009  
Updated 11:02 a.m.,  
September 30, 2009

**ANDERSON COUNTY** — Tim Busha, a former Anderson County chief sheriff's deputy, has been indicted by the South Carolina attorney general for securities fraud of at least \$20,000.

The indictment, handed

down late Tuesday by an Anderson County grand jury, was received Wednesday morning at the Anderson County Clerk of Court's Office.

The indictment follows an attorney general's office investigation into Busha's business practices in connection with United Investigations, LLC, a private investigations firm in Anderson.

The indictment alleges Busha "did knowingly and willfully, in connection with

chase of securities ... Engage in acts, practices, or courses of business which did operate or would operate as a fraud or deceit upon investors."

Mark Plowden, spokesman for the attorney general's office, said today he could not comment beyond the language issued in the indictment.

Neither Busha nor his attorney, J. Calhoun Pruitt Jr., were available for comment Wednesday morning.

In April, Busha was in court after one of his investors, real estate developer Marshall Carithers of Anderson, submitted a petition to the

court asking for the release of a \$252,000 parcel of property being used as collateral for Busha's bonding business, Action Out Bail Bonding.

United Investigations is the parent company of Action Out Bail Bonding.


This morning, a representative of United Investigations said the company was not prepared to comment on the indictment.

Securities fraud of more than \$20,000 is a class E felony. If convicted, Busha faces up to \$50,000 in fines or up to 10 years in prison

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**FOURTEENTH JUDICIAL CIRCUIT**

**ORDER**

**Wanda Lynn Mauney**  
**SCDL: 011399708**

**TO ALL SECURITY OFFICERS AND GATEKEEPERS:**

Pursuant to Rule 4 (C), of the South Carolina Rules of Civil Procedure, **Wanda Lynn Mauney** is hereby named as a designated Process Server for the **14<sup>th</sup> Judicial Circuit**.

Upon the filing of any papers to be served, or upon the issuance of any Order, Subpoena, Mechanics Lien, or legal document required by the court to be served, when such papers are presented by the above named Process Server, said individual shall be given access without delay or escort to enter any Gated Community without Charge to serve such papers, and the persons(s) being served shall not be alerted to the fact that said Process Server is coming.

The Process Server shall show to the person at the gate the title page of the document being served and a signed copy of this Order. The content of the documents being served are not to be reviewed or copied, however a copy of this order will be provided upon request. Should the person at the gate deny admission to the Process Server at any time, or otherwise violates this Order, such person shall give his name and address, and the name and address of his employer to the Process Server who shall report the incident to me so that a contempt proceeding may be commenced against the gate keeper, if such appears appropriate.

This Order shall apply to all gated communities, and remains in effect until further Order of the Court

**AND IT IS SO ORDERED.**

---

**Carmen Tevis Mullen**  
**Circuit Court Judge**  
**14<sup>th</sup> Judicial Circuit.**

**Beaufort, South Carolina**

**This \_\_\_ day of \_\_\_\_\_, 2009.**

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