

STATE OF NEW YORK
SUPREME COURT COUNTY OF ESSEX

LEWIS FAMILY FARM, INC.,

Petitioner,

-against-

ADIRONDACK PARK AGENCY,

Respondent.

**SECOND AFFIDAVIT OF
SALIM "SANDY" B. LEWIS
IN SUPPORT OF
ATTORNEY'S FEES**

Index No. 315-08
RJI No.: 15-1-2008-0109
Hon. Richard B. Meyer

ADIRONDACK PARK AGENCY,

Plaintiff,

-against-

LEWIS FAMILY FARM, INC., SALIM B. LEWIS
and BARBARA LEWIS,

Defendants.

COUNTERCLAIM

Index No.: 332-08
Hon. Richard B. Meyer

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

SALIM "SANDY" B. LEWIS, being sworn, deposes and says:

1. I am one of two officers and a shareholder of Lewis Family Farm, Inc., ("Lewis Family Farm"). I submit this second affidavit in support of the Lewis Family Farm's motion to recover attorney's fees and expenses pursuant to the Equal Access to Justice Act (Article 86 of the CPLR).

2. At every single procedural turn, for nearly three years, Adirondack Park Agency ("Agency") and Attorney General Andrew M. Cuomo's assistants have protracted this litigation and driven up Lewis Family Farm's costs and those of the government in our challenge of the

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Agency's illegal actions. Government in Albany is purposeful and the pattern is clear to those familiar with this litigation. The record, in its entirety, is found at <http://www.sblewis.com> - for the press and the public's education.

3. Now, in opposition to the pending motion to recover attorney fees and expenses, the Agency and Attorney General – himself an undeclared, life-long candidate for governor - have sought relief from the scrutiny of this County Court at an open hearing in the County of Essex as ordered by this Court. The loss of an open hearing on this issue, while most unfortunate, may prove insignificant. The people of the North Country know the truth about the Agency, this Attorney General and the government's complex agenda – working in concert with certain 501(c)(3)'s as noted in the press, other cases and here.

4. Now, the Agency that mounts its government financed, debilitating attack from Albany with the Attorney General's huge staff of experienced counsel, trained exclusively to task, challenges our constitutional right to select Albany counsel seemingly more than equivalent to the task at hand. Having impoverished The North Country, Albany directs the indigenious to retain among the slim pickings of North Country counsel, firm in the knowledge that said "counsel" will seek their client's government prosecutor and sworn enemy for guidance – as practice shows. The Agency calls into question the nature of our relationship with counsel, including the cost of that counsel. This crosses a sacred line in The United States of America. The relationship between a man and his wife, and theirs to their counsel, are not anyone's business – and that includes New York State government as directed by Attorney General Andrew Mark Cuomo. We must wonder why the Attorney General has not asked what New York Farm Bureau pays it's appeal counsel, and why he sought to block the farm industry from protecting one of its own. Farming is the largest industry in New York State.

5. For ten years, I served as founding managing partner of S B Lewis & Company, a small New York Stock Exchange Member Firm and general partnership that enjoyed great success. For the decade 1980-90 the firm worked with several well-known law firms in New York City and elsewhere. Our billings with these firms routinely exceeded \$1 million *per month*. Just as S B Lewis & Company had the unfettered right to retain counsel of choice, Lewis Family Farm Inc., has the same here. We note, government does not ask about the citizen's cost when government prevails. The citizen can spend what's needed to lose; but when government loses, government asks. We have the unfettered right to dissolve a relationship with a law firm for any reason. I dissolved relationships with New York City firms for conduct unbecoming without comment. We have done so here.

6. Contrary to experience with other firms, I have not experienced dishonesty, incompetence or misconduct in John J. Privitera, Esq., or Jacob F. Lamme, Esq., counsel to Lewis Family Farm in this matter. Rather, we have experienced devotion to justice, to us, and to the farm.

7. I review performance. Despite occasional disagreement with counsel on aspects of litigation, my assessment of counsel's performance here is good.

8. My relationship with John J. Privitera, Esq., dates to 1999 for matters with New York State, in which the Lewis Family Farm was falsely accused of deliberately harming a wetland. We did no such thing – and government has lied about this repeatedly. Mr. Privitera resolved that without civil penalty. I came to trust Mr. Privitera. I find him bright, honest, communicative, analytical, responsive, strategic and devoted to the client's interest. He is also humorous and shares our devotion to the environment and organic farming.

9. After that wetland dispute in 1999, we paid counsel's bill for John Privitera's services. Again, I reviewed performance. The invoice amount was not our concern then, and is not now.

10. In 2007, as the Agency took inappropriate enforcement action against the Lewis Family Farm the second time, ostensibly for our decision to commence construction of farm worker housing without APA permits we did not need, Barbara Lewis was in charge. We jointly deferred to her for this project. We have been together as a couple since July 1957. Barbara A. Lewis is an equal shareholder and an officer of Lewis Family Farm, Inc. She directed construction, and she selected counsel. We had a relationship with Nixon Peabody, LLP. She turned there in this matter for us.

11. The Lewis Family Farm terminated Nixon Peabody, LLP as counsel. Subsequently, I discussed this case with attorneys local and national to determine counsel for the Farm in this matter.

12. The Lewis Family Farm enjoys relationships among others, with John T. Manning, Esq., of Willsboro for real certain estate matters and with Joseph R. Brennan, Esq., of Queensbury, who also represents us, but neither felt himself equipped to defend the Lewis Family Farm against the Agency at the administrative level or to prosecute an Article 78 proceeding against the Agency in Court in Essex County or in Albany on appeal.

13. We considered New York City counsel and others. Ultimately, we settled with McNamee, Lochner, Titus & Williams, P.C. and John J. Privitera, Esq. We relied on previous experience, trust and the record of performance.

14. The Lewis Family Farm resists retainer agreements with counsel.

15. We have paid McNamee for service. As the prevailing party in these consolidated actions, Lewis Family Farm is entitled to an award of its reasonable attorneys fees and other expenses as demanded.

16. It is my belief that the Agency and Attorney General wish to stifle and crush the indigenous residents and any hope of self-sustaining economy inside Adirondack Park. I base this belief on 50 years of living in the North Country and our experience here. See <http://www.sblewis.com>, a website which we created at personal expense to support disclosure in this case. This most incomplete record is but a taste of the last 40 years.

17. The Lewis Family Farm has been fighting the Agency over farm worker housing since the spring of 2007. During the litigation, the Agency's effort to destroy Lewis Family Farm has been obvious. The Agency's damage to the Farm and its owners extends far beyond attorney fees at issue on the motion. The Agency issued an illegal cease and desist order, then obtained a stay against the farm employee house construction when pause would have destroyed. APA stranded these farm buildings and the farm itself as nonperforming assets sat idle for over **three years**. The Agency attacked us personally in Court and with an official's e-mailed broadcast slander. The illegal activity in this case successfully stagnated and stifled the Lewis Family Farm and its two owners while millions in capital and a great little farm was held hostage. This was not a momentary pause. The harm continues. The uncompleted houses stand idle. We seek recovery from the illegal, yet successful sabotage of the Farm's business plan by the Agency. Award of fees and expenses in this case is but a *modicum* of the justice we deserve.

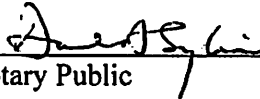
WHEREFORE, I respectfully request that this Court enter an Order pursuant to Article 86 of the CPLR awarding the Lewis Family Farm its reasonable attorneys fees and expenses, plus any additional fees the Lewis Family Farm incurs in relation to the State of New York

appeal of this Court's ruling on the instant motion, and granting such other relief that the Court deems proper.



Salim "Sandy" B. Lewis

Sworn to before me this
3rd day of March, 2010.



Notary Public

DANN D. SCAGLIONE
NOTARY PUBLIC-STATE OF NEW YORK
NO: 81-468867 ~~ESSE X~~
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 12, ~~1999~~
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