

STATE OF NEW YORK
SUPREME COURT COUNTY OF ESSEX

LEWIS FAMILY FARM, INC.,

Petitioner,

-against-

ADIRONDACK PARK AGENCY,

Respondent.

AFFIDAVIT

ACTION NO. 1

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.

ACTION NO. 2 /
COUNTERCLAIM

Index No.: 332-08
RJI No.: 15-1-2008-0117
Hon. Richard B. Meyer

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

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

1. I am an officer and shareholder of Lewis Family Farm, Inc, ("Lewis Family Farm"), and I submit this 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. The above-referenced action concluded in the recognition of the Lewis Family Farm's right to construct "agricultural use structures" in accordance with the New York State

Constitution and New York State Right-to-Farm Law without submitting to the jurisdiction of the Adirondack Park Agency ("Agency"), which has no authority to regulate farming.

3. Final judgment in this action was entered by the Supreme Court, Appellate Division, Third Judicial Department on July 16, 2009. A copy of the Appellate Division's Memorandum and Order, dated July 16, 2009, is attached to the annexed affirmation of John J. Privitera, Esq. and is incorporated herein by reference.

4. The Lewis Family Farm was the prevailing party in the above-captioned action.

5. The Lewis Family Farm has never had more than a handful of employees. Throughout this dispute, including 2006, 2007, 2008 and through today, the Lewis Family Farm has employed fewer than one hundred (100) people.

6. The Lewis Family Farm incurred counsel fees and expenses in connection with challenging and defending the illegal and unconstitutional actions taken by the Agency against the Lewis Family Farm.

7. In September 2007, the Lewis Family Farm retained McNamee, Lochner, Titus & Williams, P.C., as to be managed through the services of John J. Privitera, Esq., to defend the Lewis Family Farm against the administrative enforcement action that was commenced by the Agency on September 5, 2007.

8. Since that time, as of August 10, 2009, the Lewis Family Farm has incurred fees and is obliged to pay \$287,292.69 to McNamee, Lochner, Titus & Williams, P.C. for its services in connection with this matter, as is more fully documented in the accompanying Affirmation of John J. Privitera, Esq.

9. Of the attorneys fees and expenses incurred to date, the Lewis Family Farm incurred counsel fees and expenses in the amount of \$78,522.63 defending itself in the Agency's

frivolous administrative action and \$208,770.06 in the above-captioned civil action, which was commenced to seek judicial review of the Agency's illegal and punitive administrative determination of March 25, 2008.

10. The Lewis Family Farm has no liquid net worth beyond a few thousand dollars.


11. The Lewis Family Farm does not have the money to finish the remaining two farm worker houses that were at the center of this dispute.

12. The Lewis Family Farm's obligation to pay the counsel fees and expenses documented in the accompanying Affirmation of John J. Privitera, Esq. has devastated the farm financially.

13. The Lewis Family Farm's business plans have been devastated by the Agency.

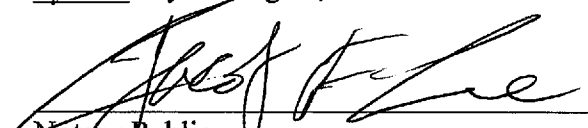
14. As the prevailing party in these consolidated actions, the Lewis Family Farm is entitled to an award of its reasonable attorneys fees and other expenses in the amount of \$208,770.06, as set forth in the annexed itemized statements of John J. Privitera, Esq.

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 in the amount of \$208,770.06, plus any additional fees the Lewis Family Farm incurs if the State of New York opposes this motion, and granting such other relief that the Court deems proper.



Salim B. Lewis

Sworn to before me this
13th day of August, 2009.



Notary Public
JACOB F. LAMME
Notary Public, State of New York
Qualified in Albany County
No. 02LA6150759
Commission Expires Aug. 7, 2010