

IN THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA

CASE NO. 2014 CA 2951

WILLIAM DAWS, JR. et al.,

Plaintiffs,

vs.

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION,  
Defendant.

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BEFORE: Judge KAREN GIEVERS

DATE: October 31, 2017

TIME: Commenced at 8:00 a.m.  
Concluded at 8:15 a.m.

LOCATION: Leon County Courthouse  
Tallahassee, FL

REPORTED BY: JUDY CHIN,  
RPR, CRR

ACCURATE STENOGRAPHY REPORTERS, INC  
2894 REMINGTON GREEN LANE  
TALLAHASSEE, FL 32308

## APPEARANCES:

## REPRESENTING PLAINTIFFS:

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and

## REPRESENTING DEFENDANT:

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## REPRESENTING SOUTHEAST DOG HUNTER'S ASSOC.:

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## P R O C E E D I N G S

1 THE COURT: Good morning, everyone.

2 It appears we have everyone we should need.

3 Do you know of anyone you expected to be  
4 present that is not present?

5 MS. DAVIS: No, Your Honor.

6 MR. THERIAQUE: No, Your Honor.

7 THE COURT: State your appearances.

8 MR. THERIAQUE: David Theriaque, on behalf of  
9 the plaintiffs.

10 MS. DAVIS: Rebekah Davis, on behalf of the  
11 defendant.

12 MR HARDY: Ryan Hardy, on behalf of the  
13 Southeast Dog Hunter's Association.

14 THE COURT: Okay.

15 We are here on a motion to intervene.

16 There was some question that my judicial  
17 assistant raised as to whether you all wanted to go  
18 ahead today with the plaintiff's renewed motion for  
19 contempt. I know that's set for tomorrow.

20 We will take care of the motion to intervene  
21 first.

22 You may proceed, counsel.

23 MR HARDY: Good morning, Your Honor.

24 Ryan Hardy, on behalf of the Southeast Dog  
25

1 Hunter's Association.

2 We are a group based out of the Blackwater  
3 area where this case is taking place at. We are  
4 2,000 members who are dog hunting. We are the  
5 people who were hunting the Blackwater area.

6 We have a very direct interest in this  
7 lawsuit. Whatever happens here effects what's  
8 going to happen with us. Those our are members who  
9 are out there hunting.

10 The president of the Southeast Dog Hunter's  
11 Association came to me and informed me of this  
12 lawsuit, gave me the rundown, and asked me, you  
13 know, what we should do. And I told him I thought  
14 they should try to intervene in the lawsuit, so  
15 that's why we are here today.

16 Obviously the suit was filed three years ago.  
17 Southeast Dog Hunter's Association would like to  
18 get in now.

19 We are not trying to delay this action, drag  
20 it out, anything like that. There's no -- our  
21 involvement in this case would not prolong it  
22 whatsoever.

23 But the Southeast Dog Hunter's Association  
24 does have a direct, immediate and significant  
25 interest in the outcome of this; that is the land

1 in the area where they hunt. Clearly, based on  
2 what will happen in this case, Southeast Dog  
3 Hunter's Association will gain or lose.

4 We are not trying to raise issues outside of  
5 what is already going on. It's the same case, same  
6 issues.

7 Your Honor, I know it is in your discretion to  
8 allow us to intervene or not, and it should be  
9 construed liberally. I believe that we do meet the  
10 requirements to intervene in this lawsuit.

11 THE COURT: Thank you.

12 Miss Davis, do you wish to be heard?

13 MS. DAVIS: Just briefly, Your Honor.

14 The Defendant, Florida Fish and Wildlife  
15 Conservation Commission does not object to the  
16 Southeast Dog Hunter's Association motion to  
17 intervene. And based on our review of the case law  
18 and the arguments that they have made, we believe  
19 that they meet the criteria as prescribed by the  
20 Florida case law to intervene in this case.

21 My client, the Commission, is not representing  
22 nor advocating for any specific hunters or  
23 associations of hunters, and so their interests are  
24 different and separate from those of the  
25 Commission.

1           That's all we have, Your Honor.

2           THE COURT: Thank you.

3           Mr. Theriaque.

4           MR. THERIAQUE: Good morning, Your Honor.

5           Thank you.

6           Yes, we do oppose the motion to intervene. I  
7           hope you were able to get the binder that we  
8           delivered yesterday, Your Honor, with the motion --  
9           Great. Thank you -- response.

10          I'm not going to hit all the arguments in our  
11          response other than the key points.

12          I'll remind the Court that we have two counts  
13          at issue, a common law nuisance and inverse  
14          condemnation.

15          The deer dog hunters have no right to use the  
16          plaintiff's property to hunt. There is no direct,  
17          immediate or significant interest in whether our  
18          clients succeed in a nuisance count or succeed in  
19          an inverse condemnation claim.

20          At best the arguments that the intervenor has  
21          made are speculative and contingent.

22          If the Court rules in the plaintiff's favor on  
23          the inverse condemnation, then there is an award of  
24          damages to our clients. That does not affect the  
25          deer dog hunters at all.

1           If the Court agrees that there is a nuisance  
2           and has already entered an injunction requiring FWC  
3           to abate that nuisance, again, there is no direct  
4           result immediate or significant interest that's at  
5           issue.

6           What the Court directed FWC to do is abate the  
7           nuisance, figure out how you are going to do it,  
8           and that could be additional officers, it could be  
9           additional fences, it could be down the road FWC  
10          could decide this portion of Blackwater should not  
11          be deer dog hunted.

12          If that occurs, that's a contingent event and  
13          the intervenors would have a right to address FWC's  
14          decision-making process.

15          None of that is a direct result of the two  
16          counts that the plaintiffs have brought nuisance  
17          and inverse condemnation.

18          I would also point to the Court that there are  
19          two cases I believe we cited in our response that  
20          even if the Court finds that there is a direct,  
21          immediate, significant interest, which we  
22          respectfully submit does not exist, the right to  
23          intervene is discretionary, and if there is another  
24          party that is adequately defending against the  
25          claims the Court has the discretion to deny the

1 request for intervention.

2 I think there is no doubt that FWC is  
3 aggressively and strenuously opposing both counts.  
4 And the Deer Dog Hunter's participation in this  
5 lawsuit does not add to that defense. I don't see  
6 them bringing anything to the table that FWC isn't  
7 already doing.

8 So we would request that the Court deny the  
9 motion to intervene as being legally insufficient.

10 THE COURT: Thank you.

11 Last word, Mr. Hardy.

12 MR HARDY: One second, Your Honor.

13 Your Honor, I believe as far as FWC adequately  
14 protecting the hunters, it's two different  
15 entities.

16 The hunters are not FWC, and the hunters have  
17 rights to hunt that property --

18 THE COURT: Wow. Wow. Wow. Wow. Maybe I'm  
19 in the wrong case.

20 This is private property, and so there's no  
21 right that the hunters have to be on the  
22 plaintiff's property.

23 I want to make sure that I'm not  
24 misunderstanding your argument.

25 MR HARDY: I misspoke. I'm talking about the



1 Blackwater property, not any private property. I  
2 apologize for that.

3 THE COURT: Okay. I've been through a number  
4 of hearings and FWC has pointed out or contended  
5 that it's not FWC that's going on the plaintiff's  
6 property, it's deer dog hunters that are  
7 trespassing and so forth.

8 Go ahead.

9 MR HARDY: We are the people being accused of  
10 causing the problems, that's why we ought to be  
11 allowed in the lawsuit. Exactly what you just  
12 said, deer dog hunters are assumed to be the  
13 problem in this case.

14 I believe we ought to be allowed to be heard  
15 in this case.

16 That's all I have, Your Honor.

17 THE COURT: Thank you.

18 This case has been ongoing since November of  
19 2014. We are coming up, if my count is correct, on  
20 the third hunting -- third round of hunting seasons  
21 affected by the FWC's issuance of permits to folks  
22 that are allowed to use those permits to do deer  
23 dog hunting in the places in which deer dog hunting  
24 is allowed, one of which is the eastern portion of  
25 the Blackwater property.

1           I know there's still -- there are parts of the  
2 case that are still at the appellate court. The  
3 case was scheduled for the December trial docket.  
4 It does not look like that's realistic.

5           But regardless the Court finds that there  
6 seems to be no dispute about the interest of the  
7 Southeast Deer Dog hunting group regarding the  
8 outcome of the case.

9           But given the nature of the case with the two  
10 counts on behalf of the plaintiffs against those  
11 that the plaintiffs see as being the ones that are  
12 allowing the hunting, that being FWC, there really  
13 doesn't -- I was going to say there doesn't seem to  
14 be a reason for the deer dog hunters to have a dog  
15 in the fight, but that's a bad thing to use, so  
16 I will not say that.

17           But I am going to deny your motion and that of  
18 your client, Mr. Hardy, even if there -- and even  
19 acknowledging that there is an interest on the part  
20 of your client with respect to the outcome, your  
21 client members have no rights to be on the  
22 plaintiff's property nor to allow their dogs to  
23 roam free, nor to allow the occasional bullets to  
24 cross the parties at interest, based on the  
25 pleadings that interest are the plaintiffs and the

1 FWC. So the motion is denied.

2 Counsel for the parties, with respect to the  
3 hearing that's tomorrow I believe, renewed motion  
4 for contempt, do you want to leave that on tomorrow  
5 or did you want to go ahead today?

6 Miss Davis?

7 MS. DAVIS: Yes, Your Honor, we prefer to  
8 leave it for tomorrow. That was set --

9 THE COURT: That's fine. That's when it was  
10 noticed for.

11 The other thing that seemed to the Court that  
12 we ought to address is the status of the trial  
13 date. Even if the appellate court were to rule in  
14 the near future and even if there were something to  
15 be tried, we are coming up on November.

16 MS. DAVIS: Your Honor, I would say that we  
17 were never aware that this case was scheduled for  
18 the December trial docket. I don't think there was  
19 ever an order entered.

20 THE COURT: Maybe it was September.

21 MR. THERIAQUE: It was September, Your Honor.

22 THE COURT: That's what I was thinking, the  
23 September docket, and we obviously didn't reach  
24 that.

25 Give some thought between now and tomorrow

1           whether you think it makes sense for me to put you  
2           on the target docket that you can work toward or if  
3           you would rather just stay off the docket.

4           MS. DAVIS:   Yes, Your Honor.

5           THE COURT:   We will see you tomorrow morning.

6           MR. THERIAQUE:   Thank you, Your Honor.

7           THE COURT:   We are in recess.

8           (Thereupon, the hearing was concluded at 8:15  
9           a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, JUDY CHIN, RPR, certify that I was authorized to and did stenographically report the proceedings herein, and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

WITNESS my hand and official seal this 31st day of October, 2017.



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JUDY CHIN, RPR, CRR  
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TALLAHASSEE, FL 32308  
850-878-2221

	<b>4</b>	advocating [1] 5/22
<b>MR HARDY: [5]</b>	433 [1] 2/6	affect [1] 6/24
3/123/238/118/249/8	<b>6</b>	affected [1] 9/21
<b>MR. THERIAQUE:</b>	620 [1] 2/16	again [1] 7/3
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12/5	850-878-2221 [1]	aggressively [1] 8/3
<b>MS. DAVIS: [6]</b>	13/21	ago [1] 4/16
3/105/1211/611/15	850.224.7332 [1] 2/7	agrees [1] 7/1
12/3	850.385.5000 [1] 2/12	ahead [3] 3/199/8
<b>THE COURT: [14]</b>	850.398.6808 [1] 2/22	11/5
<b>1</b>	850.617.9444 [1] 2/17	al [1] 1/5
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<b>2</b>	8:15 [2] 1/1312/8	6/259/16
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