

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

FILED  
2008 AUG -4 PM 3:30

FILE NO. 08-CVS-72

CURRITUCK COUNTY CLERK

2008-5-9999

JOHN H. SNOWDEN, III  
D/B/A THE INDEPENDENT

Plaintiff,

vs.

THE CURRITUCK COUNTY BOARD OF  
COMMISSIONERS:

(BARRY C. NELMS - CHAIRMAN  
GENE A. GREGORY - VICECHAIRMAN:  
ERINIE BOWDEN - MEMBER  
J. OWEN ETHERIDGE - MEMBER  
JANET TAYLOR - MEMBER)

AND

DANIEL F. SCANLON, II in his  
Capacity as Currituck County  
Manager

Defendants.

CONSENT JUDGMENT

THIS CAUSE, coming on to be heard before the undersigned Superior Court Judge Presiding, it having been stipulated by the parties and the Court finding as fact the following:

1. Plaintiff John H. Snowden, III, D/B/A/ The Independent, is a sole proprietorship doing business in Currituck County, North Carolina.

2. Defendant, Currituck County Board of Commissioners, is the governing body for Currituck County, North Carolina, a body corporate and politic existing pursuant to the laws of the State of North Carolina and consisting of the following named Defendants: Barry C. Nelms, Gene A. Gregory, Ernie Bowden, J. Owen Etheridge and Janet Taylor.

3. On Monday, January 14, 2008, Defendants Barry C. Nelms,

Gene A. Gregory and J. Owen Etheridge attended a tour of the Port of Virginia along with Currituck County Manger Daniel F. Scanlon, II, Currituck County Economic Development Director Peter Bishop, Currituck Planning Director Ben Woody, Currituck County Engineer Eric Weatherly, Currituck County Economic Development Board Member Kevin Burwell and county resident Bryan Bass.

4. Because a majority of the Defendant Currituck County Board of Commissioners attended the Port of Virginia tour such tour constituted an official meeting pursuant to N.C. Gen. Stat. §143-318.10(d) and pursuant to N.C. Gen. Stat. §143-318.12(b)(2) required public notice of the time and place of the tour 48 hours in advance of the tour.

5. The Defendant Currituck County Board of Commissioners did not give, or cause to be given, pubic notice of the time and place of the Port of Virginia tour as required by N.C. Gen. Stat. §143-318.12(b)(2).

6. On February 28, 2007, Defendants Barry C. Nelms, Gene A. Gregory and J. Owen Etheridge attended a meeting with Currituck County's legislative delegation in Raleigh, North Carolina along with Currituck County Manger Daniel F. Scanlon, II and Currituck County Engineer Eric Weatherly.

7. Because a majority of the Defendant Currituck County Board of Commissioners attended the meeting with Currituck County's legislative delegation in Raleigh, North Carolina such meeting constituted an official meeting pursuant to N.C. Gen. Stat. §143-318.10(d) and pursuant to N.C. Gen. Stat. §143-318.12(b)(2) required public notice of the time and place of the meeting 48 hours in advance of the meeting.

8. The Defendant Currituck County Board of Commissioners did not give, or cause to be given, public notice of the time and place of the meeting with Currituck County's legislative delegation in Raleigh, North Carolina as required by N.C. Gen. Stat. §143-318.12(b)(2).

Based on the foregoing stipulated FINDINGS OF FACT, the Court CONCLUDES AS A MATTER OF LAW that the Defendant Currituck County Board of Commissioners did not comply with the provisions of N.C. Gen. Stat. §143-318.12(b)(2) when it failed to give public notice of the time and place of the tour to the Port of Virginia 48 hours in advance of the January 14, 2008 tour and by failing to give public notice of the time and place of the meeting in Raleigh, North Carolina with the Currituck County legislative delegation forty-eight hours in advance of the meeting.

NOW THEREFORE, it is ORDERED, ADJUDGED and DECREED as follows:

A. The Defendants shall hereafter comply with the official meeting notice requirements provided in N.C. Gen. Stat. §143-318.12.

B. The Defendant Currituck County Board of Commissioners shall pay to the Plaintiff the filing fee for initiation of this action and attorney's fees incurred by Plaintiff as verified by receipts evidencing Plaintiff's payment of attorney's fees in this matter.

C. Counsel for the Defendants represents by his signature below that he has been authorized by his respective clients to execute, and that his respective clients consent to entry of,

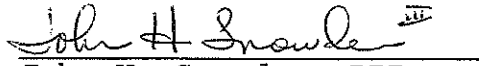
this Consent Judgment out of court and out of session.  
Plaintiff, appearing pro se, represents by his signature below  
that he consents to entry of this Consent Judgment out of court  
and out of session.

Entered the 30 day of July, 2008.

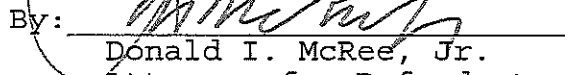
  
JUDGE PRESIDING

Consented To:

Plaintiff, John H. Snowden, III,  
D/B/A The Independent

  
John H. Snowden, III

Defendants, Currituck County Board of Commissioners,  
Barry C. Nelms, Gene A. Gregory, Ernie Bowden,  
J. Owen Etheridge and Janet Taylor

By:   
Donald I. McRee, Jr.  
Attorney for Defendants

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this Consent Judgment upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or other official depository under the exclusive care and custody of the United States Post Office Department, properly addressed as follows:

John H. Snowden, III  
P.O. Box 752  
Maple, NC 27956-0752

This the 4th day of August, 2008.

  
\_\_\_\_\_  
Of Counsel for Defendants

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

CURRIUTUCK COUNTY

SUPERIOR COURT DIVISION

FILE NO. 08-CVS-72

JOHN H. SNOWDEN, III  
D/B/A THE INDEPENDENT

Plaintiff

vs.

THE CURRITUCK COUNTY BOARD OF  
COMMISSIONERS:  
(BARRY C. NELMS - CHAIRMAN  
GENE A. GREGORY - VICECHAIRMAN:  
ERINIE BOWDEN - MEMBER  
J. OWEN ETHERIDGE - MEMBER  
JANET TAYLOR - MEMBER)

AND

DANIEL F. SCANLON, II in his  
Capacity as Currituck County  
Manager

Defendants.

ORDER

Upon timely motion by Defendants, The Currituck County Board of Commissioners, et al. and Daniel F. Scanlon, II, and for good cause shown, it is ORDERED that the Defendant, shall have additional time, to and including the 28th day of April, 2008 in which to serve motion, answer or other responsive pleadings to the Complaint herein.

This 24<sup>th</sup> day of March, 2008.

*Judi L. J. [Signature]* Asst. CSC  
CLERK OF SUPERIOR COURT

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

CURRIUTUCK COUNTY

SUPERIOR COURT DIVISION

FILE NO. 08-CVS-72

JOHN H. SNOWDEN, III  
D/B/A THE INDEPENDENT

Plaintiff

vs.

THE CURRITUCK COUNTY BOARD OF  
COMMISSIONERS:  
(BARRY C. NELMS - CHAIRMAN  
GENE A. GREGORY - VICECHAIRMAN:  
ERINIE BOWDEN - MEMBER  
J. OWEN ETHERIDGE - MEMBER  
JANET TAYLOR - MEMBER)

AND

DANIEL F. SCANLON, II in his  
Capacity as Currituck County  
Manager

Defendants.

MOTION FOR  
ENLARGEMENT OF TIME

FILED  
08 MAR 24 PM 4:55  
CURRITUCK CO., C.S.C.  
BY JCT

Pursuant to Rule 6 of the North Carolina Rules of Civil Procedure and before the time for service of responsive pleadings has expired, the Defendants, The Currituck County Board of Commissioners, et al. and Daniel F. Scanlon, II, move the Court for an order enlarging time for service of responsive pleadings to the complaint for thirty (30) days on the grounds that the undersigned requires such additional time to prepare and serve responsive pleadings in behalf of the Defendants.

This 24th day of March, 2008.

HORNTHAL, RILEY, ELLIS & MALAND, L.L.P.

BY: 

Donald I. McRee, Jr.  
N.C. State Bar No. 13922  
2502 South Croatan Highway  
P. O. Box 310  
Nags Head, NC 27959-0310  
Telephone (919) 441-0871  
Facsimile (919) 441-8822  
Attorneys for Defendant

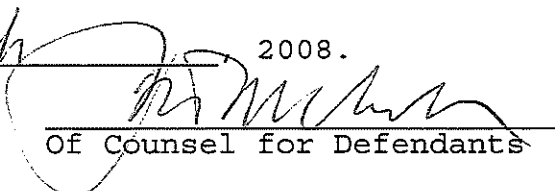


CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this Motion for Enlargement of Time upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or other official depository under the exclusive care and custody of the United States Post Office Department, properly addressed as follows:

John H. Snowden, III  
P.O. Box 752  
Maple, NC 27956-0752

This the 24th day of March 2008.

  
\_\_\_\_\_  
Of Counsel for Defendants

08-CVS-72

FILED

03 FEB 28 AM 11:25

CURRITUCK CO., O.S.C.

BY duk

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Currituck Co. Board of Commissioners  
 Janet Taylor  
 P.O. Box 39  
 Currituck, NC 27929

2. Article Number

(Transfer from service label)

7007 1490 0001 2150 4799

PS Form 3811, February 2004

Domestic Return Receipt

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

Danny Jordan☐ Agent☐ Addressee

B. Received by (Printed Name)

Danny Jordan

C. Date of Delivery

2-27-08D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

70280-02-M-1540

08-CVS-72

FILED

09 FEB 28 AM 11:25

CUMMINGS CO., C.S.C.

BY \_\_\_\_\_

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <i>Danny Jordan</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><i>Currituck Co. Board of Commissioners</i></p> <p><i>Daniel F. Scanlon, II</i></p> <p><i>P.O. Box <del>39</del> 39</i></p> <p><i>Currituck, NC 27929</i></p>		<p>B. Received by (Printed Name) <i>Danny Jordan</i> C. Date of Delivery <i>2-27-08</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
<p>2. Article Number            (Transfer from service label)</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>7007 1490 0001 2150 4782</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

08-CVS-72

FILED

00 FEB 28 AM 11:25

CURRITUCK CO., C.S.C.

BY duke

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  <input checked="" type="checkbox"/> <u>Danny Jordan</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)  <u>DANNY JORDAN</u></p> <p>C. Date of Delivery  <u>2-27-08</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p><u>Currituck Co. Board of Commissioners</u>  <u>Barry C. Nelms - Chairman</u>  <u>P.O. Box 39</u>  <u>Currituck, NC 27929</u></p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number  (Transfer from service label)</p>		<p><u>7007 1490 0001 2150 4836</u></p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

08-CVS-72

FILED

08 FEB 28 AM 11:25

CURRITUCK CO., C.S.C.

BY dk

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Currituck Co. Board of Commissioners  
 Gene A. Gregory - Vice Chairman  
 P.O. Box 39  
 Currituck, NC 27929

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

Danny Jordan☐ Agent☐ Addressee

B. Received by (Printed Name)

Danny Jordan

C. Date of Delivery

2-27-08

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7007 1490 0001 2150 4829

PS Form 3811, February 2004

Domestic Return Receipt

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08-CVS-72

FILED

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CURRITUCK CO., C.S.C.

BY dhk

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><u>Danny Jordan</u></p>	
<p>1. Article Addressed to:</p> <p><u>Currituck Co. Board of Commissioners</u></p> <p><u>Ernie Bowden</u></p> <p><u>P.O. Box 39</u></p> <p><u>Currituck, NC 27929</u></p>		<p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p> <p><u>Danny Jordan</u> <u>2-27-08</u></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
		<p>7007 1490 0001 2150 4812</p>	

08-CVS-72

FILED

08 FEB 28 AM 11:25

CURRITUCK CO., C.S.C.

BY dk

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> <u>Danny Jordan</u> <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Danny Jordan</u> C. Date of Delivery <u>2-27-08</u></p>
<p>1. Article Addressed to:</p> <p><u>Currituck Co. Board of Commissioners</u>  <u>J. Owen Etheridge</u>  <u>P.O. Box 39</u>  <u>Currituck, NC 27929</u></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>2. Article Number          (Transfer from service label)</p>	<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7007 1490 0001 2150 4805</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

# STATE OF NORTH CAROLINA

File No.

08-CVS-72

CURRITUCK County

In The General Court Of Justice  
☐ District ☐ Superior Court Division

Name Of Plaintiff

JOHN H. SNOWDEN, III D/B/A THE INDEPENDENT

Address

P.O. BOX 752

City, State, Zip

MAPLE, NC 27956-0752

VERSUS

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Name Of Defendant(s)

THE CURRITUCK COUNTY BOARD OF COMMISSIONERS

Date Original Summons Issued

☒ Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

CURRITUCK COUNTY BOARD OF COMMISSIONERS

P.O. BOX 39

CURRITUCK, N.C. 27929

Name And Address Of Defendant 2

J. OWEN ETHERIDGE - MEMBER

P.O. BOX 39

CURRITUCK, N.C. 27929

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

JOHN H SNOWDEN, III

P.O. BOX 752

MAPLE, N.C. 27956-0752

Date Issued

02-26-2008

Time

1:20

☐ AM ☒ PM

Signature

*Eugene Saylor Pexler*

☒

Deputy CSC

☐

Assistant CSC

☐

Clerk Of Superior Court

### ☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐

Deputy CSC

☐

Assistant CSC

☐

Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.



# STATE OF NORTH CAROLINA

File No.

08-CVS-72

CURRITUCK County

In The General Court Of Justice  
☐ District ☐ Superior Court Division

Name Of Plaintiff

JOHN H. SNOWDEN, III D/B/A THE INDEPENDENT

Address

P.O. BOX 752

City, State, Zip

MAPLE, NC 27956-0752

VERSUS

Name Of Defendant(s)

THE CURRITUCK COUNTY BOARD OF COMMISSIONERS

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

+ Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

CURRITUCK COUNTY BOARD OF COMMISSIONERS  
P.O. BOX 39  
CURRITUCK, N.C. 27929

Name And Address Of Defendant 2

JANET TAYLOR - MEMBER  
P.O. BOX 39  
CURRITUCK, N.C. 27929

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if None, Address Of Plaintiff)

JOHN H SNOWDEN, III  
P.O. BOX 752  
MAPLE, N.C. 27956-0752

Date Issued

02-26-2008

Time

1:20

☐ AM ☒ PM

Signature

*Eugene Taylor*

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT

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Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

# STATE OF NORTH CAROLINA

File No.

08-CVS-72

CURRITUCK County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name Of Plaintiff

JOHN H. SNOWDEN, III D/B/A THE INDEPENDENT

Address

P.O. BOX 752

City, State, Zip

MAPLE, NC 27956-0752

**VERSUS**

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Name Of Defendant(s)

THE CURRITUCK COUNTY BOARD OF COMMISSIONERS

Date Original Summons Issued

☒ Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

CURRITUCK COUNTY BOARD OF COMMISSIONERS

P.O. BOX 39

CURRITUCK, N.C. 27929

Name And Address Of Defendant 2

ERNIE BOWDEN - MEMBER

P.O. BOX 39

CURRITUCK, N.C. 27929

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

JOHN H SNOWDEN, III

P.O. BOX 752

MAPLE, N.C. 27956-0752

Date Issued

02-26-2008

Time

1:20

☐ AM

☒ PM

Signature

*Eugene Taylor Perkins*

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

# STATE OF NORTH CAROLINA

File No.

08-CVS-72

CURRITUCK County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name Of Plaintiff

JOHN H. SNOWDEN, III D/B/A THE INDEPENDENT

Address

P.O. BOX 752

City, State, Zip

MAPLE, NC 27956-0752

VERSUS

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Name Of Defendant(s)

THE CURRITUCK COUNTY BOARD OF COMMISSIONERS

Date Original Summons Issued

☒ Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

CURRITUCK COUNTY BOARD OF COMMISSIONERS

P.O. BOX 39

CURRITUCK, N.C. 27929

Name And Address Of Defendant 2

GENE A. GREGORY - VICE CHAIRMAN

P.O. BOX 39

CURRITUCK, N.C. 27929

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

JOHN H SNOWDEN, III

P.O. BOX 752

MAPLE, N.C. 27956-0752

Date Issued

02-26-2008

Time

1:20

☐ AM

☒ PM

Signature

*Eugene Taylor Beckers*

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

# STATE OF NORTH CAROLINA

File No.

08-CVS-72

CURRITUCK County

In The General Court Of Justice  
☐ District ☐ Superior Court Division

Name Of Plaintiff

JOHN H. SNOWDEN, III D/B/A THE INDEPENDENT

Address

P.O. BOX 752

City, State, Zip

MAPLE, NC 27956-0752

VERSUS

Name Of Defendant(s)

THE CURRITUCK COUNTY BOARD OF COMMISSIONERS

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

☒ Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

CURRITUCK COUNTY BOARD OF COMMISSIONERS  
P.O. BOX 39  
CURRITUCK, N.C. 27929

Name And Address Of Defendant 2

BARRY C. NELMS - CHAIRMAN  
P.O. BOX 39  
CURRITUCK, N.C. 27929

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

JOHN H SNOWDEN, III  
P.O. BOX 752  
MAPLE, N.C. 27956-0752

Date Issued

02-26-2008

Time

1:20

☐ AM ☒ PM

Signature

*Eugene J. Taylor*

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT

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Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

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# STATE OF NORTH CAROLINA

File No.

08-CVS-72

CURRITUCK County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name Of Plaintiff

JOHN H. SNOWDEN, III D/B/A THE INDEPENDENT

Address

P.O. BOX 752

City, State, Zip

MAPLE, NC 27956-0752

**VERSUS**

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Name Of Defendant(s)

THE CURRITUCK COUNTY BOARD OF COMMISSIONERS

Date Original Summons Issued

☒ Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

CURRITUCK COUNTY BOARD OF COMMISSIONERS

P.O. BOX 39

CURRITUCK, N.C. 27929

Name And Address Of Defendant 2

DANIEL F. SCANLON, II - CURRITUCK COUNTY MANAGER

P.O. BOX 39

CURRITUCK, N.C. 27929

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

JOHN H SNOWDEN, III

P.O. BOX 752

MAPLE, N.C. 27956-0752

Date Issued

02-26-2008

Time

1:20

☐ AM ☒ PM

Signature

☒ Deputy CSC

☒ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

CURRITUCK COUNTY  
STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 08-CVS-72

2008-5-9999

JOHN H. SNOWDEN, III  
D/B/A THE INDEPENDENT

Plaintiff

v.

COMPLAINT  
(COMP)

THE CURRITUCK COUNTY BOARD OF  
COMMISSIONERS:

(BARRY C. NELMS - CHAIRMAN  
GENE A. GREGORY - VICE CHAIRMAN  
ERNIE BOWDEN - MEMBER  
J. OWEN ETHERIDGE - MEMBER  
JANET TAYLOR - MEMBER)

AND

DANIEL F. SCANLON, II in his capacity  
as Currituck County Manager

Defendants

FILED  
2008 FEB 26 PM 1:20  
CURRITUCK COUNTY, N.C.  
BY *mc*

NOW COMES the Plaintiff, John H. Snowden, III D/B/A The Independent (the Plaintiff) and hereby alleges and sets forth his Complaint against Defendants, The Currituck County Board of Commissioners, and Daniel F. Scanlon, II in his capacity as Currituck County Manager (collectively "Defendants").

1. This is a declaratory judgment action filed pursuant to N.C.G.S. § 143-318.16A and an action for an injunction prohibiting the Defendants from meeting without properly advertising any such meetings pursuant to NCGS 143-318.12(b)(2).

2. Plaintiff John H. Snowden, III D/B/A The Independent, is a sole proprietorship doing business in Currituck County. He publishes a weekly newspaper of general circulation in Currituck County.

3. Defendant, The Currituck County Board of Commissioners is a body politic, representing Currituck County, a political subdivision of the State of North Carolina.

4. Defendant, Nelms is chairman of the Currituck County Board of Commissioners

5. Defendant, Gregory is vice chairman of the Currituck County Board of Commissioners.

6. Defendant, Bowden is a member of the Currituck County Board of Commissioners

7. Defendant, Etheridge is a member of the Currituck County Board of Commissioners

8. Defendant, Taylor is a member of the Currituck County Board of Commissioners

9. Defendant, Scanlon is the County Manager of Currituck County

10. Venue of this action is proper in Currituck County.

11. Defendants may be sued and held liable in a civil action.

12. On Monday, January 14, 2008, three members of the Currituck County Board of Commissioners (Nelms, Gregory, & Etheridge), the Currituck County Manager (Daniel F. Scanlon, II), the Currituck County Economic Development Director Peter Bishop), the Currituck County Planning Director Ben Woody, the Currituck County Engineer Eric Weatherly, Currituck County Economic Development Board Member Kevin Burwell, and Moyock Resident Bryan Bass attended a tour of the Port of Virginia, Norfolk Terminal (hereinafter referred to as "THE TOUR").

13. The Currituck County Board of Commissioners consists of five board members.

14. THE TOUR constituted an official meeting, hereinafter referred to as THE MEETING, of the Defendant, as a quorum (3 of 5) of the Board members were present.

15. The Defendants had a reasonable understanding that such a meeting of the Board of Commissioners, in their official capacity, must be adequately advertised to the public.

16. The Defendants failed to advertise this official meeting as required pursuant to N.C.G.S. § 143-318.12(b)(2).

17. The Defendants knew of the meeting as early as the evening of Monday, January 7, 2008, and had sufficient time to provide adequate advance notice for the meeting to be advertised as required by N.C.G.S. § 143-318.12(b)(2).

18. On February 28, 2007, Currituck Board of Commissioners Chairman Barry Nelms, Vice Chair Gene Gregory, Commissioner Owen Etheridge, County Manager Dan Scanlon and County Engineer Eric Weatherly took a trip, similar to THE TOUR, to Raleigh to meet with Representative W.C. "Bill" Owens, and Senator Marc Basnight to discuss legislative goals for the county.

19. That the February 28, 2007 meeting, like the recent one to THE TOUR was not advertised to the public or media.

20. That Daniel F. Scanlon, II, Currituck County Manager, acknowledged in an email dated March 16, 2007 (See Exhibit A attached hereto) "*yes, we should have advertised this meeting.*" - with regards to the February 28, 2007 meeting.

21. That Scanlon also stated that the Defendants would "*from this point forward properly advertise*

*our trips pursuant to the requirements of the Open Meetings Law.”*

22. In light of the failure to properly advertise the February 28, 2007 meeting, and the most recent failure to properly advertise the January 14, 2008 meeting, the Defendants exhibit a recurring pattern of violation of the requirements to adequately advertise public meetings pursuant to N.C.G.S. § 143-318.12(b)(2).

### **REQUEST FOR DECLARATORY JUDGMENT**

23. The allegations of the previous paragraphs are hereby reasserted and incorporated by reference.

24. Plaintiff has a direct and substantial interest in having a judicial determination that the Monday, January 14, 2008 meeting (THE TOUR) held at the Port of Virginia, Norfolk Terminal was an official meeting of the Defendant, which was not advertised to the public.

25. Plaintiff may seek judicial remedy pursuant to N.C.G.S. § 143-318.16A(a).

26. Plaintiff meets burden of N.C.G.S. § 143-318.16A(b).

27. Plaintiff seeks a judgment declaring that the January 14, 2008 meetings of the Currituck County Board of Commissioners were not properly advertised pursuant to N.C.G.S. § 143-318.12(b)(2).

28. As a result of the foregoing, the parties have an ongoing and actual controversy between the parties related to their rights and obligations regarding the matters set forth in this complaint.

### **REQUEST FOR INJUNCTION**

29. The allegations of the previous paragraphs are hereby reasserted and incorporated by reference.

30. Plaintiff seeks and is entitled to an injunction prohibiting the Defendants from conducting any official meetings without properly advertising said meetings pursuant to NCGS 143-318.12(b)(2).

WHEREFORE, Plaintiff request as follows:

1. That the court enter a judgment declaring the Monday, January 14, 2008 meeting held by the Defendant at the Port of Virginia, Norfolk Terminal in violation of N.C.G.S. § 143-318.12(b)(2).

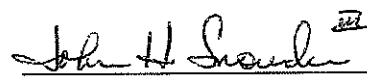
2. That the court pursuant to N.C.G.S 143-318.16C set this action for immediate hearing, with subsequent proceedings in such actions accorded priority.

3. That the court enter preliminary and permanent injunctions prohibiting the Defendant from further violation of N.C.G.S. § 143-318.12(b)(2)



4. That Plaintiff recover cost of this action , pursuant to N.C.G.S. § 143-318.16B, including attorney's fees as permitted by law; and
5. For such other further relief as the Court may deem just and proper.

Respectfully Submitted this the 26<sup>th</sup> day of February, 2008.

  
\_\_\_\_\_  
John H. Snowden, III  
D/B/A The Independent

**EXHIBIT A**

*From: Dan Scanlon  
To: The Independent  
Sent: Friday, March 16, 2007 10:24 AM  
Subject: RE: Please inform the board...*

*John – This issue has just been brought to our attention. Gwen has contacted David Lawrence and yes, we should have advertised this meeting. To my knowledge, Currituck County has never advertised these trips to meet with our local legislative delegation and I do not really recall ever reading an advertisement from any other jurisdiction that has done the same. I know ignorance of the law is not a defense and we will from this point forward properly advertise our trips pursuant to the requirements of the Open Meetings Law.*

*Dan Scanlon, County Manager  
Currituck County, North Carolina*