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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

02 OCT 15 PM 3:59
MECKLENBURG CO., C.S.C.
01-CVD-008298

JACK A. MILLS,

Plaintiff.

vs.

LINDA M. POLLARD,

Defendant.

BY _____

CONTEMPT ORDER
IN RE JAMES M. GOARD

This matter came on for hearing before the undersigned District Court Judge on August 13 and 14, 2002 in Courtroom 301 of the Civil Courts Building. Present were James M. Goard, counsel for Plaintiff, and Keith McNary, counsel for Defendant.

1. This Court finds as fact that this is a case involving issues of motor vehicle negligence and causation. James M. Goard (hereinafter Goard) represents Plaintiff. Keith McNary represents Defendant.
2. On August 13, 2002, this case was duly and properly calendared before the undersigned District Court Judge for trial in Courtroom 301 of the Civil Courts Building. The trial commenced.
3. The Court admonished both attorneys off the record at the close of the first business day. Each attorney was warned that unprofessional conduct toward the other in open court would not be tolerated and that if the Court were required to raise the issue again, the admonitions would be noted on the record.
4. Both attorneys acknowledged the Courts' displeasure and recognized the warning evident in the Courts' comments.
5. On August 14, Goard was warned on the record about an additional instance of discourteous and unprofessional conduct in his reference to opposing counsel. This admonition was made on the record in an effort to maintain the dignity and authority of the Court.
6. Goard proceeded to continue to disregard the Court's admonitions, making loud noises during defense counsels' cross-examination of Plaintiff's witness. Goard continued to sigh, yawn, drop his pen and make facial expressions that registered incredulity, disgust and exasperation at defense counsel's questions.
7. These disruptions and expressions were plainly visible to the jury, serving to undermine the proper respect and solemnity necessary for the court system to meet its mandate. In addition, the Plaintiff's counsels' overt display of his feelings and opinion of defense counsel's questions appeared to be calculated to influence the jury in its consideration of defense counsel's case.

8. The Court sent the jury out to the jury room, and then informed Goard that he was in summary criminal contempt for his outburst. Goard made no response at that time except to protest the contempt ruling. The Court entered a finding of summary contempt and imposed a fine of three hundred (\$300.00) dollars.
9. Later, after the luncheon break, Goard asked to approach the bench. The Court gave its consent and Goard approached, lifting his jacket and shirtsleeves to reveal red, splotchy marks on each arm. To paraphrase Goard, he stated "Your Honor, this is the reason why I am so fidgety. I have tons of spider bites, and they are itching." The Court ordered Goard back to his seat and requested that the jury be brought back in.

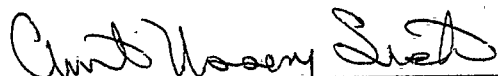
Based on the foregoing, the Court concludes as a matter of law that:

1. James M. Goard is in direct criminal contempt pursuant to N.C.G.S. 5A 13 and 14, said facts being established beyond a reasonable doubt.
2. The sanction was imposed contemporaneously with the contempt.
3. The summary contempt measures imposed by the Court were necessary to restore order and maintain the dignity and authority of the Court.

It is therefore **ORDERED** that:

1. James M. Goard pay a fine of three hundred (\$300.00) to the Clerk of Superior Court within thirty (30) days of the entry of this Order.
2. A certified copy of this Order be forwarded to the North Carolina State Bar. Copies of this Order shall also be forwarded to James M. Goard and Keith McNary.

This 15 day of October, 2002 *nunc pro tunc* August 14, 2002.



The Honorable Avril Ussery Sisk
District Court Judge