

3.

Jurisdiction and venue are proper in this Court.

Factual Background

4.

Named Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-3 as if set forth herein verbatim.

5.

Named Plaintiffs are residents of and own property located in Glynn County Georgia.

6.

For tax years 2006, 2007, 2008, 2009, 2010, 2011 and 2012 the ad valorem tax bills issued to and paid by Named Plaintiffs were based on an incorrect application of the Glynn County homestead exemption for county and school taxes found in HB 1690 and HB 1691 enacted May 1, 2000 (“Scarlett Williams Exemption”).

7.

The Scarlett Williams Exemption provides that:

Each resident of Glynn County is granted an exemption on that person’s homestead from all Glynn County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of that homestead

and that

Each resident of the Glynn County School District is granted an exemption on that person’s homestead from all Glynn County School District taxes for educational purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of the homestead.

8.

The Scarlett Williams Exemption section 1(a)(2) states that “base year” is “the taxable year immediately preceding the taxable year in which the exemption under this Act is first granted to the most recent owner of such homestead.”

9.

In short, the Scarlett Williams exemption provides for exemption from ad valorem taxes for county and school purposes on the increase in value of property after the exemption is granted.

10.

Named Plaintiffs purchased the property on or about July 21, 2005 and applied for and were granted the Scarlett Williams exemption on or about February 28, 2006.

11.

Despite the plain language of the Scarlett Williams Exemption stating that the “base year” should be the tax year “immediately preceding” the tax year that the homestead exemption was granted to the most recent owner, the Glynn County Tax Commissioner treated 2006 as the base year rather than 2005.

12.

Named Plaintiffs’ “base year” should be the 2005 tax year value of \$70,006 (equating to a fair market value of \$175,015) rather than the 2006 assessed value of \$133,800 (equating to a fair market value of \$334,500).

13.

By utilizing the incorrect 2006 value as the base value for the Scarlett Williams Exemption, Glynn County has subjected Named Plaintiffs to illegal and erroneous taxes

based on the difference between the 2006 assessed value and the 2005 assessed value in calculating tax bills for 2006-2012.

14.

The use of the incorrect year has resulted in the payment by Named Plaintiffs and collection by Glynn County of illegal and erroneous taxes in the following amounts:

2006	\$1,495.74
2007	\$1,374.69
2008	\$1,444.12
2009	\$1,608.42
2010	\$1,428.86
2011	\$1,239.47
2012	\$1,517.60

15.

Named Plaintiffs are entitled to refunds of these improperly and illegally billed and collected taxes plus interest as provided by Georgia law.

16.

On or about November 10, 2011, Named Plaintiffs applied for a refund based on the illegally and erroneously assessed taxes paid for 2008, 2009 and 2010 pursuant to O.C.G.A. § 48-5-380 by issuing a written request for said refund to the governing authority of Glynn County, Georgia dated November 9, 2011, a copy of which is attached hereto as **Exhibit "A"**.

17.

The request for refund was neither approved nor denied within one year of filing.

CLASS ACTION ALLEGATIONS

18.

Named Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-17 as if set forth herein verbatim.

19.

This action is brought by Named Plaintiffs as a class action, on their own behalf and on behalf of all others similarly situated, under the provisions of O.C.G.A. § 9-11-23 for damages, and relief incident and subordinate thereto, including attorney's fees, and costs.

20.

The class represented by Named Plaintiffs in this action, and of which Named Plaintiffs are members, consists of taxpayers who, like Named Plaintiffs, applied for and received the Scarlett Williams Exemption, who the Glynn County Tax Commissioner improperly utilized the year in which the exemption was applied for as the base year for the exemption rather than the "taxable year immediately preceding the taxable year in which the exemption under this Act is first granted" and who as a result paid excessive ad valorem taxes from January 1, 2001 to the present.

21.

This class so described is comprised of numerous members who have yet to be refunded monies related for illegally and erroneously assessed taxes for 2006, 2007, 2008, 2009, 2010, 2011 and 2012.

22.

The class is so numerous that joinder of individual members herein is impracticable.

23.

There are common questions of law and fact in the action that relate to and affect the rights of each member of the class and the relief sought is common to the entire class, namely that each class member was uniformly overcharged for their 2006, 2007, 2008, 2009, 2010, 2011 and 2012 ad valorem taxes based on the improper use of the year in which class members applied for the Scarlett Williams Exemption as the base year rather than the preceding year as required by the Scarlett Williams Exemption and as a result were billed for and paid more ad valorem taxes than legally owed.

24.

The claims of Named Plaintiffs, as set forth herein, who are representatives of the class herein are typical of the claims of the class, in that the claims of all members of the class, including Named Plaintiffs, depend on the showing of the acts and/or omissions of Defendant or its agents or instrumentalities giving rise to the right of Named Plaintiffs to the relief sought herein. There is no conflict as between Named Plaintiffs and other members of the class with respect to this action, or with respect to the claims for relief herein set forth.

25.

This action is properly maintained as a class action pursuant to O.C.G.A. § 9-11-23(b)(1)(A) because the prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to

individual members of the class which would establish incompatible standards of conduct for any party opposing the class.

26.

This action is properly maintained as a class action pursuant to O.C.G.A. § 9-11-23(b)(1)(B) in that prosecution of separate actions by individual members of the class would create a risk of adjudications with respect to individual members of the class that would as a practical matter be dispositive of the interest of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

27.

This action is property maintained as a class action pursuant to O.C.G.A. § 9-11-23 (b)(2) as Defendant acted or refused to act on grounds applicable to the class as a whole making declaratory relief with request to the class as a whole appropriate.

28.

This action is properly maintained as a class action pursuant to O.C.G.A. § 9-11-23(b)(3) inasmuch as the questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

29.

Named Plaintiffs are the representative parties for the class, and are able to, and will, fairly and adequately protect the interests of the class. The attorneys for Named Plaintiffs are experienced in class action litigation and have successfully represented

claimants in other class litigation. Of the attorneys designated as counsel for Named Plaintiffs, those undersigned attorneys will actively conduct and be responsible for Named Plaintiffs' case herein as well as the case of all other members of the class.

30.

The class so represented by Named Plaintiffs in this action, and of which Named Plaintiffs are members, seek a refund of the taxes improperly billed and paid for 2006, 2007, 2008, 2009, 2010, 2011 and 2012 based on the use of the incorrect base year for the Scarlett Williams Exemption in calculating taxes owed.

COUNT I- REFUND UNDER O.C.G.A. § 48-5-380

31.

Named Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-30 as if set forth herein verbatim.

32.

The use of the incorrect base year in calculating the ad valorem tax bills for Named Plaintiffs and all others similarly situated has resulted in the payment of illegally and erroneously assessed taxes.

33.

Named Plaintiffs applied to the Glynn County Board of Commissioners, Glynn County Tax Commissioner and Glynn County Attorney requesting a refund of the illegally and erroneously assessed taxes for 2008, 2009, and 2010 based on the use of the improper base year.

34.

The refund request was neither approved nor denied within one year.

35.

Named Plaintiffs and purported class members have satisfied all conditions precedent to bringing the instant action.

36.

Under O.C.G.A. § 48-5-380, Named Plaintiffs and all others similarly situated are entitled to a refund of all illegally and erroneously assessed taxes based on the use of the incorrect base year in calculating the Scarlett Williams Exemption for 2008, 2009, and 2010.

COUNT II- DECLARATORY JUDGMENT

37.

Named Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-36 as if set forth herein verbatim.

38.

Plaintiff asserts this action for declaratory judgment pursuant to O.C.G.A. § 9-4-1 *et seq.*

39.

As a result of the use of the improper year as the base year for the purpose of calculating the Scarlett Williams Exemption, Named Plaintiffs and all others similarly situated are uncertain as to their rights, interests, status, and legal relations in regards to the proper year which should be utilized as the base year for calculating the Scarlett Williams Exemption and the amount of taxes which should have been paid for 2001-

2012 and the amount of taxes which should be paid based on this exemption going forward.

40.

Accordingly, Named Plaintiffs and all others similarly situated are entitled to a declaration that the year prior to the year in which the Scarlett Williams Exemption was first granted should be used as the base year in calculating the exemption amount, and that Defendant must refund all named Plaintiffs' and all class members' improperly billed and collected taxes for tax years 2001- 2012 based on the use of the correct base years in calculating the Scarlett Williams exemption.

COUNT III- MANDAMUS

41.

Named Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-40 as if set forth herein verbatim.

42.

Glynn County has only the power to tax as authorized by the Georgia legislature.

43.

All taxation carried out by Glynn County must be performed in compliance with the Georgia Constitution, Georgia state laws and applicable regulations.

44.

By issuing and collecting ad valorem taxes from Named Plaintiffs and all others similarly situated based on the use of the incorrect base year resulting in the incorrect calculation of the Scarlett Williams Exemption, Glynn County has violated the statutory

rights of Named Plaintiffs and all others similarly situated in violation of the due process and equal protection clauses of the 14th Amendment to the United States Constitution and Article 1, Section 1, Paragraph 1 of the Constitution of the State of Georgia.

45.

As a result of Glynn County's unlawful taxation a defect of legal justice has ensued as Named Plaintiffs and all others similarly situated have been billed and paid ad valorem taxes for tax years 2001 through 2012 in violation of the applicable Georgia laws.

46.

Named Plaintiffs and all others similarly situated have no specific legal remedy to compel Glynn County to refund the unlawfully levied taxes for tax years 2001 through 2007 other than to seek a Writ of Mandamus compelling Glynn County to return all unlawfully assessed taxes to Named Plaintiffs and all others similarly situated.

**COUNT IV- ATTORNEY'S FEES FOR BAD FAITH AND STUBBORN
LITIGIOUSNESS**

47.

Named Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-46 as if set forth herein verbatim.

48.

Defendant has acted in bad faith, been stubbornly litigious and has caused Plaintiffs unnecessary trouble and expenses, entitling Named Plaintiffs to recover their

costs of this litigation, including reasonable attorneys' fees and expenses pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, having filed this Verified Complaint Named Plaintiffs pray that:

- a) A class as described herein be certified;
- b) That Defendant be ordered to refund Named Plaintiffs and all other members the erroneously and illegally assessed 2008, 2009, and 2010 ad valorem taxes pursuant to O.C.G.A. § 48-5-380 based on the use of the incorrect base year in calculating the Scarlett Williams Exemption;
- c) That this Court enter an order requiring Defendant to pay to Named Plaintiffs and all other members of the class for all attorney's fees and costs of litigation associated with this action; and
- d) That process issue and be served on Defendant in accordance with Georgia law;
- e) That the Court issue a judgment declaring that the base year for the Scarlett Williams Exemption for Named Plaintiffs and all other class members is the tax year preceding the year in which the Scarlett Williams Exemption is granted and declaring that Defendant must refund Named Plaintiffs and all other class members all improperly billed and collected taxes for 2001-2012 based on the use of the incorrect based year in calculating the Scarlett Williams exemption;
- f) That the Court issue a mandamus nisi to Defendant requiring it to

show cause at a time and place to be designated by the Court not less than ten days, nor more than thirty days from this date, why a mandamus should not be issued against them requiring them reject or approve Named Plaintiffs' and all other class members' request;

- g) That this Court issue a Writ of Mandamus requiring Defendant to refund to Named Plaintiffs and all other class members all improperly billed and collected ad valorem taxes for 2001-2012 based on the use of the incorrect base year in calculating the Scarlett Williams Exemption;
- h) That Named Plaintiffs and all other class members have all other and further relief deemed just and appropriate by this Court.

RESPECTFULLY SUBMITTED, this 20 day of November, 2012.

ROBERTS TATE, LLC

BY: 

James L. Roberts, IV
State Bar No. 608580
Jason M. Tate
State Bar No. 140827

ATTORNEYS FOR PLAINTIFFS

P.O. Box 21828
St. Simons Island, GA 31522

11/9/11

To: Glynn County Tax Commissioner

TAX
FIVE
NOV 10 2011
Florence Dees

From: Matthew Coleman
349 Major Wright Rd.
St. Simons Island, Ga.
C 9126173631

RE: Base Year Adjustment and Tax Refund Request for
Property Description 04-01187 002900000120 28 DUNBAR AC, TRACT

To whom it may concern,

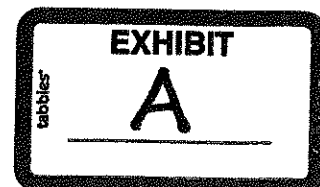
I have informally spoken with the Tax Commissioners office, including Florence Dees, a couple of times in the past 6 years concerning the base year assessed value of my property. I believe that the base year assessed value should be the 2005 tax year value of \$70,006 (equating to a fair market value of \$175,015) rather than the 2006 assessed value of \$133,800 (equating to a fair market value of \$334,500). I was granted homestead exemption on my property in 2006. The law HB1690 clearly states the base year should be the tax year immediately preceding the tax year that the homestead exemption was granted to the most recent owner of the property.

In accordance with O.C.G.A. 48-5-380, this is my formal request for an adjustment of my base year assessed value and for a refund of the improperly billed property taxes that I have paid for the tax years of 2008, 2009, and 2010. According to my calculations I am entitled to a refund of at least \$1,444.80 per year for years 2008, 2009 and 2010 plus interest as provided under Georgia law.

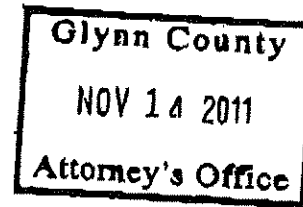
I am available to discuss this matter if any further discussion is necessary. Otherwise, I ask for a formal timely response to this matter.

Thanks for your time and consideration.

Respectfully submitted,
Matthew Coleman



11/9/11



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 St. Simons Island, Ga.
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 Matthew Coleman

11/9/11

RECEIVED

To: Glynn County Tax Commissioner

NOV 14 2011

From: Matthew Coleman
349 Major Wright Rd.
St. Simons Island, Ga.
C 9126173631

BY: *CP/Walkelin*

RE: Base Year Adjustment and Tax Refund Request for
Property Description 04-01187 002900000120 28 DUNBAR AC, TRACT

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Respectfully submitted,
Matthew Coleman

IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

J. MATTHEW COLEMAN, IV and
ELIZABETH BLAIR COLEMAN

Plaintiffs,

v.

GLYNN COUNTY, GEORGIA

Defendant.

)
)
)
)
)
)
) Civil Action Number: _____
)
)
)
)

VERIFICATION AND CONSENT TO ACT AS CLASS REPRESENTATIVE

Personally appeared before me, an officer duly authorized to administer oaths, J. MATTHEW COLEMAN, IV, who states under oath that the foregoing Complaint is true and correct and hereby consents to act a class representative in this class action.


J. MATTHEW COLEMAN, IV

Sworn to and subscribed before me
This 26th day of November, 2012


Notary Public



IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

J. MATTHEW COLEMAN, IV and
ELIZABETH BLAIR COLEMAN

Plaintiffs,

v.

GLYNN COUNTY, GEORGIA

Defendant.

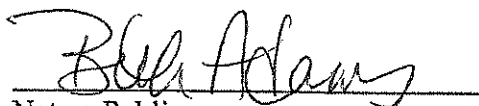
)
)
)
)
)
)
) Civil Action Number: _____
)
)
)
)

VERIFICATION AND CONSENT TO ACT AS CLASS REPRESENTATIVE

Personally appeared before me, an officer duly authorized to administer oaths, ELIZABETH BLAIR COLEMAN, who states under oath that the foregoing Complaint is true and correct and hereby consents to act a class representative in this class action.


ELIZABETH BLAIR COLEMAN

Sworn to and subscribed before me
This 20th day of November, 2012.


Notary Public



General Civil Case Filing Information Form (Non-Domestic)

Court

Superior

State

County GLYNN

Date Filed _____

MM-DD-YYYY

Docket # _____

Plaintiff(s)

Coleman, IV, J. Matthew

Last First Middle I. Suffix Prefix Maiden

Coleman, Elizabeth Blair

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Plaintiffs 2

Defendant(s)

Glynn County, Georgia

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Defendants 1

Plaintiff/Petitioner's Attorney

Pro Se

Roberts, IV James L

Last First Middle I. Suffix

Bar # 608580

Check Primary Type (Check only ONE)

- Contract/Account
- Wills/Estate
- Real Property
- Dispossessory/Distress
- Personal Property
- Equity
- Habeas Corpus
- Appeals, Reviews
- Post Judgment Garnishment, Attachment, or Other Relief
- Non-Domestic Contempt
- Tort (If tort, fill in right column)
- Other General Civil Specify _____

If Tort is Case Type:

(Check no more than TWO)

- Auto Accident
- Premises Liability
- Medical Malpractice
- Other Professional Negligence
- Product Liability
- Other Specify _____

Are Punitive Damages Pleaded? Yes No

General Civil Case Final Disposition Form (Non-Domestic)

Court Superior State County GLYNN Date Disposed _____ MM-DD-YYYY
Docket # _____

Reporting Party _____
Last First Middle I. Suffix Prefix Maiden Title

Name of Plaintiff/Petitioner(s)

Coleman, IV J. Matthew
Last First Middle I. Suffix Prefix Maiden

Plaintiff/Petitioner's Attorney Pro Se

Roberts, IV James L.
Last First Middle I. Suffix

Bar # 608580

Name of Defendant/Respondent(s)

Glynn County, Georgia
Last First Middle I. Suffix Prefix Maiden

Defendant/Respondent's Attorney Pro Se

Last First Middle I. Suffix

Bar # _____

Type of Disposition (Check all that apply)

- Pre-Trial Dismissal (Specify which type)
 - Involuntary
 - Voluntary (without prejudice)
 - Voluntary (with prejudice)
- Pre-Trial Settlement
- Default Judgment
- Summary Judgment
- Transferred/Consolidated
- Bench Trial
- Jury Trial (specify outcome further)
 - Dismissal after jury selected
 - Settlement during trial
 - Judgment on Verdict
 - Directed Verdict or JNOV

1. Judgment on Verdict. Was the verdict:

- For Plaintiff(s) [all]
- For Defendant(s) [all]
- Other: (Explain)

AWARD

- If verdict for Plaintiff, how much was awarded?

\$		Compensatory
\$		Punitive

- If verdict on cross or counter claims, how much was awarded?

\$		Compensatory
\$		Punitive

- Did the court modify the award?
 Yes No
- Were attorneys fees awarded?
 Yes No

ADR

- Was ADR utilized?
 Yes No
- If yes, was it (check if applicable)
 court annexed?
 court mandated?
- Did the matter settle after trial for other than judgment? (If known at the time of this submission)
 Yes No