

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

SANDY PHILLIPS, individually and as  
surviving parent of Jessica Ghawi, decedent;  
LONNIE PHILLIPS, individually and as  
surviving parent of Jessica Ghawi, decedent

Plaintiffs

v.

BRIAN PLATT, d/b/a BTP Arms, *et al.*

Defendants

Civil Action No. 1:14-cv-02822-RPM

**AFFIDAVIT OF PHILLIP R. ZUBER, ESQ.**  
**IN SUPPORT OF PLATT’S MOTION FOR ATTORNEYS’ FEES UNDER**  
**RULE 54(d) AND D.C.COLO.LCivR 54.3**

Affiant, Phillip R. Zuber, being first duly sworn, states the following on his own personal knowledge:

1. My name is Phillip R. Zuber. I am partner in the law firm of Sasscer, Clagett & Bucher (“SCB”), 5407 Water Street, Suite 101, Upper Marlboro, MD 20772. My phone number is (301) 627-5500.

2. I acted as lead counsel in the defense of Brian T. Platt (“Platt”) in this matter.

3. Aside from a second review of the Motion to Dismiss by firm member William N. Zifchak, a 40+ year member of the Maryland Bar, with a distinguished and long career devoted to the defense of personal injury, products liability, and insurance coverage litigation, two persons from SCB provided substantial legal services for Platt in the defense of this matter: (1) Phillip R. Zuber, Esq., and (2) Joan V. Wilde (paralegal)

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4. I have been a member of the Maryland bar for 36+ years. I am also a member in good standing of the U.S. District Courts for the Districts of Maryland, the District of Columbia and Colorado. I am a fellow in the American College of Trial Lawyers. I have tried cases in the U.S. District Court for the District of Maryland and in numerous circuit courts in the State of Maryland. Most of my legal career has been devoted to the defense of professional liability, medical malpractice, tort and products liability actions. I am an invited member of the Fourth Circuit Judicial Conference. My CV, which is attached to this Affidavit, provides further information regarding my relevant qualifications and experience.

5. Platt was charged \$300.00 per hour for the services that I provided in the defense of this matter.

6. Joan V. Wilde is a paralegal at Sasscer, Clagett & Bucher. Ms. Wilde worked directly under my supervision as to all tasks performed in the defense of this case. Ms. Wilde has worked full time as a paralegal for the firm for over 12 years. She has a paralegal program diploma (2003) and received a paralegal certification in 2014. She has extensive experience in federal practice and filing requirements, citation and pleading formatting, document organization, management and review.

7. Platt was charged \$125.00 per hour for the services provided by Ms. Wilde in the defense of this matter.

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8. A general description of the services provided by me includes meeting with the client at length; developing a plan of action; reviewing documents provided by the client; communicating multiple times at length with counsel for the co-defendants regarding removal and the issues raised in the Amended Complaint; reviewing and analyzing the lengthy Amended Complaint; identifying and assisting in the retention of local counsel; conducting extensive legal research relating to state laws governing tear gas sales; reviewing various Colorado statutes; researching and reviewing numerous Colorado cases involved issues of negligence (duty and causation), negligent entrustment, nuisance and injunctive relief; drafting and revising (multiple times) the Motion To Dismiss and Memorandum of Law; conferring with local counsel regarding the substance and form of the Motion; communicating with the client regarding the proposed Motion to Dismiss; reviewing and analyzing the draft Motion to Dismiss by counsel for Lucky Gunner; making further modifications to the draft Motion to Dismiss; reviewing and analyzing the Motions To Dismiss filed by Lucky Gunner and Sportsmen's Guide; reviewing and analyzing Plaintiffs' Answer Opposing the Motions to Dismiss; conferring with the client regarding the Opposition; conferring with counsel for the co-defendants regarding the Opposition; conducting extensive legal research regarding various issues raises in the Opposition; drafting and revising a Reply Memorandum; conferring with the client and local counsel regarding the Reply Memorandum; preparing for argument on the Motions to Dismiss; traveling to Denver

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and meeting with local counsel; attending argument on the Motions to Dismiss; review of the Memorandum Opinion of the Court; conferring with the client regarding the Court's decision.

9. The services of Ms. Wilde may be generally described as follows: drafting memoranda to co-defendant's counsel re consent for removal; drafting Notice of Entry of Appearance for Phillip R. Zuber, Esq.; formatting and revising (multiple times) Motion to Dismiss and Memorandum of Law Supporting Motion to Dismiss; Shepardizing cases cited in Memorandum of Law; drafting Points & Authorities (statutes, codes, and cases) to Motion to Dismiss; drafting proposed Order; finalizing Motion to Dismiss, Memorandum of Law, and proposed Order; formatting, revising and finalizing Reply Memorandum; draft memoranda to client re motions hearing and entry of default as to Gold E Strike.

10. Platt incurred \$22,480.00 in legal fees and \$1,234.99 in expenses charged by SCB in the defense of this matter. The legal fees and expenses charged to the client were all related to and reasonably necessary for the defense of this matter.

11. The rates charged for legal and paralegal services are reasonable and customary and, on information, investigation and belief, consistent with and at or below rates for legal fees charged by attorneys in similar matters in the Denver metropolitan area.

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12. The time devoted to the defense of Platt, including the investigation, research, preparation and drafting of the Motion to Dismiss and Memorandum of Law and the Reply Memorandum and preparation for and attendance at the hearing on the Motions to Dismiss, is reasonable, appropriate and in proportion to the claims made against Platt.

13. The following table summarizes the total fees charged to Platt by SCB for the defense of this matter:

INDIVIDUAL	POSITION	HOURS EXPENDED	TOTAL BILLED
PHILLIP R ZUBER	ATTORNEY	69.60	\$20,880
JOAN V WILDE	PARALEGAL	12.8	\$1,600.00
<b>LEGAL SERVICE TOTALS</b>			\$22,480.00
<b>COSTS INCURRED</b>			\$1,234.99
<b>TOTAL</b>			<b>\$23,714.99</b>

14. I estimate that an additional 6 hours has been and will be devoted to submission of the Motion For Attorneys' Fees and this Affidavit.

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Further Affiant sayeth naught.

APRIL 9, 2015  
Date

*Phillip R. Zuber*  
Phillip R. Zuber, Esquire

STATE OF MARYLAND

COUNTY/CITY *Calvert* ss:

On this 9 day of April 2015, personally appeared before me, a notary public in and for the aforesaid jurisdiction, PHILLIP R. ZUBER, known to me, or satisfactorily proven, to be the person whose name is subscribed to the within instrument and who acknowledges that he executed the same for the purposes therein contained.

*Marilyn Shaner*  
Notary Public

My Commission Expires: 8-7-18

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### **CERTIFICATE OF SERVICE**

I certify that on this 10<sup>th</sup> day of April 2015, a true and correct copy of the foregoing **AFFIDAVIT OF PHILLIP R. ZUBER, ESQ. FOR ATTORNEYS' FEES AND COSTS** was electronically served via Lexis Nexis File & Serve on all counsel of record.

*/s/ Kylee Ashmore*

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*This document was filed electronically pursuant to C.R.C.P. 121 § 1-26. Duly signed original on file at the offices of Messner Reeves, LLP*

**PHILLIP R. ZUBER, ESQUIRE**

5407 Water Street, Suite 101  
Upper Marlboro, Maryland 20772  
(301) 627-5500  
pzuber@scblawyers.com

**PERSONAL:**

Date of Birth: October 12, 1953  
Place of Birth: Glendale, California  
Marital Status: Married, Janna D. Zuber (41 years)  
Family: Five Children

**EDUCATION:**

1975-1978 University of Maryland School of Law, Juris Doctor with honors.  
1974-1975 University of Maryland, College Park, B.A., with high honors.  
1971-1973 Bryn Athyn College, Bryn Athyn, Pennsylvania.

**WORK EXPERIENCE:**

1985-present Partner, Sasscer, Clagett & Bucher, Upper Marlboro, Md.  
1980-1985 Associate, Sasscer, Clagett & Bucher  
1978-1980 Associate, Goldman, Nichols, Kovelant, Pedersen & Hurtt

Since 1978, I have served as lead litigation counsel in a wide variety of cases, primarily for insurers, businesses and public entities, concentrating in the litigation of insurance, personal injury, electric utility liability, medical, hospital and legal malpractice and attorney grievance matters. I have also acted as products liability counsel for a large Maryland manufacturer, and as the managing partner for the oldest law firm in Prince George's County

**PROFESSIONAL WRITINGS:**

Note, Adoption of Strict Liability In Tort, 37 Md.L.Rev. 158 (1977)

**BAR MEMBERSHIPS:**

Maryland (1978)  
U.S. District Court, District of Maryland (1979)  
U.S. Court of Appeals, Fourth Circuit (1993)

**PROFESSIONAL MEMBERSHIPS:**

Maryland State Bar Association  
Prince George's County Bar Association



Master, J. Dudley Digges Inns of Court (Treasurer '02 – '05)  
Fellow, American College of Trial Lawyers (2006)

**REPRESENTATIVE REPORTED CASES:**

*Sadler v. Dimensions Health Corp.*, 378 Md. 509, 836 A.2d 655 (2003);  
*Coates v. Southern Maryland Elec. Co-op., Inc.*, 354 Md. 499, 731 A.2d 931 (1999);  
*Port East Transfer, Inc. v. Liberty Mutual Insurance Co.*, 330 Md. 376, 624 A.2d 520 (1993);  
*Chesapeake Physicians Professional Association v. Home Insurance Co.*, 92 Md. App. 385, 608 A.2d 822 (1992);  
*Oroian v. Allstate Insurance Co.*, 62 Md. App. 654, 490 A.2d 1321 (1985);  
*Ramos v. Southern Maryland Elec. Co-op, Inc.*, 996 F.2d 52 (4th Cir. 1993).

**REPRESENTATIVE CLIENTS:**

Dimensions Health Corporation  
Dixon Value & Coupling Company  
Federated Rural Electric Insurance Company  
Legal Mutual Liability Insurance Company  
Potomac Electric Power Company  
Southern Maryland Electric Cooperative, Inc.  
Minnesota Lawyers Mutual Insurance Company

**INVITED LECTURES:**

Numerous lectures given on tort liability, insurance, and medical and legal malpractice to claims representatives of insurance companies and to physicians, nurses, attorneys and judges including:

- X *Important Civil Decisions in 2013.* (Charles County Bar Association, 2014)
- X *Informed Consent, What Does It Really Mean?* (Grand Rounds, Prince George's Hospital Center, February 2012)
- X *Social Media – Evidentiary and Ethical Issues* (J. Dudley Digges Inns of Court, Baltimore, Maryland, February 2011)
- X *Attorney Liability for Personal Injury Settlements* (National Association of Bar Related Insurance Companies, Baltimore, Maryland, Sept. 2001)
- X *Liens: What They Are and What They Are Not.* (Allstate Insurance Company)
- X *Legal Malpractice: Facts, Figures, The Law and How to Avoid the Whole Mess.* (Attorneys and Prince George's County Bar Association)

- X *Products Liability Topics: Subsequent Remedial Changes in Products, Admissibility of Reports and Studies, Economic Loss Distinction.* (Judicial Conference)
- X *The Permissive User.* (Allstate Insurance Company)
- X *The Duty to Defend.* (Nationwide Insurance Company)
- X *Recurrent Issues in Bad Baby Cases.* (November 4, 1998, Maryland Society for Healthcare Risk Management)
- X *Maryland Tort Damages.* (Allstate Insurance Company)
- X *Duties & Liabilities of Attorneys in Settlement of Personal Injury Actions.* (Maryland State Bar Association, J. Dudley Digges Inns of Court)
- X *Attorney Liabilities in Family Law Matters.* (Legal Mutual Insurance Company)
- X *The Role of the OB and Nursery Nurse: The Good, the Bad & the Ugly.* (Prince George's Hospital Center and Laurel Hospital Center nurses)

**NON-LAW RELATED ACTIVITIES:**

Board of Trustees, Bryn Athyn College, Bryn Athyn, Pennsylvania (2001 – 2011)(serving as Chairman, Legal Advisory Committee)

Board Member, New Church Challenge (non-profit for children with physical or mental disabilities).

Appeared on television news stories, written articles and letters to the editor for the Alliance on Consumer Education on the dangers of “huffing.”