

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

STEVEN HEWETT, )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF KING, NORTH CAROLINA, )  
Defendant. )  
 )  
THE AMERICAN LEGION AND )  
AMERICAN LEGION POST 290 )  
OF KING, NORTH CAROLINA, )  
Movant-Intervenors. )  
\_\_\_\_\_ )

Civil Case No. 1:12-CV-1179

**AFFIDAVIT OF CARL F. (“BUTCH”) CALLOWAY IN SUPPORT OF DEFENDANT-  
INTERVENORS AMERICAN LEGION AND AMERICAN LEGION POST 290  
RESPONSE TO PLAINTIFF’S MOTION TO FILE AND SUPPLEMENTAL BRIEF  
IN SUPPORT OF OBJECTIONS TO MOTION TO INTERVENE**

Carl F. (“Butch”) Calloway, being first duly sworn, states as follows:

1. My address is 144 Calloway Road, King, North Carolina 27021. This address is also the business address for Butch’s Portable Welding, a business owned and operated by me.
2. I am currently the Trustee of American Legion Post 290. My duties include managing the business interests of American Legion Post 290 in accordance with the organization’s bylaws and policies.
3. I am providing this affidavit in support of American Legion and American Legion Post 290’s Opposition to Plaintiff’s Motion to File and Supplemental Brief in Support of Objections to Motion to Intervene.
4. I have knowledge of the matters discussed in this affidavit, including information regarding the planning and fabrication of the statue of a United States Military service member kneeling before a cruciform headstone (“Statue”) situated in the City of King Veterans’



Memorial that is located in the City of King Central Park and which constitutes the subject of the Defendant-Intervenors' Motion to Intervene, the Plaintiff's Objections to Order Granting Intervention, and the underlying lawsuit.

5. During March 2010, I agreed with the City of King Community Appearance Advisory Commission ("CAAC") to procure all necessary materials for the construction of the Statue and to fabricate the Statue. The CAAC provided me with an actual-size template of the Statue which the CAAC procured from The Winfield Collection. I agreed to use the template to fabricate the Statue. The agreement with the CAAC provided for recovery of the cost of the materials used in fabricating the Statue, but did not provide compensation for the time or labor expended in fabricating the Statue. Donation of the costs for my time and labor are not customary, and in this instance were motivated by my desire to contribute to the construction of the Statue.

6. On March 29, 2010, I procured the materials for the Statue, including sheet metal and paint, through my business, Butch's Portable Welding. I then fabricated the Statue using these materials and the template provided to me. Costs for these materials were charged to the CAAC through an invoice from Butch's Portable Welding dated April 8, 2010. I did not charge the CAAC or the City of King any money for the time and labor necessary to fabricate the Statue as part of this invoice. Instead, I donated the time and labor necessary to fabricate the Statue by choice and in my capacity as an officer and member of American Legion Post 290.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Executed on 24 July, 2013.

*Mr. Carl F. ("Butch") Calloway*  
Mr. Carl F. ("Butch") Calloway