

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION**

CFRE, LLC and Sherry T. Ray, individually )  
and on behalf of others similarly situated, )  
)  
Plaintiffs, )  
)  
vs. )

Debbie H. Adkins individually and in her )  
official capacity as Greenville County )  
Assessor, Real Property Services, Jill Kintigh )  
in her official capacity as Greenville County )  
Treasurer, Joseph Kernell in his official )  
capacity as Greenville County Administrator, )  
and John/Jane Doe individually and in )  
his/her/their official capacities, )  
)  
Defendants. )

**COMPLAINT  
(Class Action)  
(A jury trial is respectfully demanded)**

**PRELIMINARY STATEMENT**

This action is brought by Plaintiffs on behalf of themselves and the proposed class due to Defendants' violations and deprivations of clearly established and well known rights, privileges, and immunities secured by the United States Constitution and federal statutes while acting under the color of state law. This case is intended to redress those violations and deprivations by declaratory relief, disgorgement/restitution, interest, injunctive relief, damages, prospective remedies, attorney's fees, and costs, all ensuing directly and proximately from Defendants' engenderment, planning, and conduct described hereafter.

Plaintiffs and the proposed class have suffered injury. There is a realistic and imminent threat that Plaintiffs and the proposed class will again be subjected to the same or similar misconduct. A favorable decision on the merits will remedy the injuries sustained to date and prevent future harm. A trial by jury is respectfully demanded pursuant to Rules 38 and 39, Fed. R. Civ. P. (hereafter, unless specified otherwise, all references refer to the Federal Rules of Civil Procedure).

## **JURISDICTION AND VENUE**

Plaintiffs, complaining of Defendants, hereby allege and would respectfully show to the Court:

1. This Court has personal jurisdiction of all Defendants; this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331, 1343(a)(1), 1343(a)(2), 1343(a)(3), and 1343(a)(4); this Court has supplemental jurisdiction under 28 U.S.C. §1367(a).
2. Venue in this District and in this Division is proper pursuant to 28 U.S.C. §1391(b)(1) and (c)(1), and Local Civil Rule 3.01(A)(1) (a natural defendant resides in Anderson County). Moreover, Judges of the Greenville Division may be subject to benefit from this action, thereby creating the potential for a conflict of interest and/or the appearance of impropriety.

## **PARTIES**

3. CFRE, LLC (“CFRE”) is a single member, single asset, limited liability company duly organized under the laws of the state of South Carolina; its sole asset is fee simple ownership of a single parcel of residential real property in Greenville County.
4. Sherry T. Ray (“Ray”) is an individual resident of Greenville County and is CFRE’s single member; she retains a life tenancy and resides upon the parcel noted in paragraph 3 above.
5. CFRE and Ray (collectively “Plaintiffs”) bring this action individually and as proposed representatives of that class of persons and entities who own or owned the approximately 200,000+/- parcels of real property in Greenville County who were injured as described herein and who are similarly situated (see, more specifically, Class Allegations, *infra*).
6. Debbie H. Adkins (“Adkins”) is a resident of Anderson County and is made a Defendant individually and in her official capacity as the unelected Assessor and chief executive of the Greenville County Real Property Services Department (“RPS”); for well over two (2) decades, Adkins has been and continues to be the executive, administrative and final policymaking authority for the day-to-day operations of RPS; Adkins supervises, directs, and makes use of County employees, accommodations and resources of Greenville County.

7. RPS is made a Defendant in its official capacity as the county agency/department/division empowered to properly appraise Greenville County real estate, to properly perform its duties pursuant to constitutional and statutory restrictions, to properly and timely conduct the initial stages of required administrative procedure for real property disputes, to properly expedite such disputes, and to properly and impartially apply proper property values solely pursuant to and fully limited by pertinent state law and subject to all federal rights and privileges.
8. Jill Kintigh (“Kintigh”) is made a Defendant in her official capacity as the Treasurer of Greenville County because her office is designated by Greenville County and state law to remit disgorgement, restitution, and damages to which Plaintiffs and the class are entitled.
9. Joseph Kernell (“Kernell”) is made a Defendant in his official capacity as the unelected Administrator of Greenville County and because he is responsible for the day-to-day operation of Greenville County government and all its employees and all its departments; he is accountable for formulating and carrying out policies and procedures, and he directs and coordinates operational and administrative activities, including direct oversight of Defendants Adkins, RPS, and Doe.
10. Moreover, Kernell, in his official capacity, he allowed, approved, ratified, and received a pecuniary windfall from the customs, policies and practices that resulted in the widespread and flagrant deprivation of rights described hereafter; with Kernell’s approval, County facilities, assets and resources house, support and compensate Defendants; Kernell allowed Defendants to make full use of employees and resources of Greenville County and, despite actual notice, constructive notice, and knowledge of the deprivation of rights described hereafter, Kernell allowed such misconduct to continue, condoned it, ratified it, benefited from it, and continues to derive benefit from it.
11. Defendants John/Jane Doe (“Doe”) are made Defendants both individually and in their official capacities; Doe describes that person or persons, male or female, whose identit(ies)

are unknown to date, who also serve(s) at the pleasure of Kernell, and who conspired and combined with Adkins and RPS to circumvent state and federal law and who facilitated, approved, ratified, and/or participated in the misconduct described hereafter.

12. At all times described hereafter, every Defendant was acting under color of state law; all were engaged in administrative, clerical, and/or ministerial functions in furtherance of the policies and practices of Defendants; Defendants were acting beyond their authority; and their conduct directly and proximately caused the deprivation of Plaintiffs' and the proposed class' federally protected constitutional and statutory rights.

### GENERAL ALLEGATIONS

13. Pertinent law and legal precepts are clear, long established, well known, and settled.
14. No plain, speedy, efficient, or adequate remedy has been provided under state law.
15. Plaintiffs have exhausted the administrative process.
16. In April of 2007, the S.C. Constitution was amended to require that assessment of all property in the state be **equal and uniform**. *S.C. Const.*, Art. X, § 1; emphasis added.
17. The state Constitution was also amended to provide that, **beginning in 2007**, each parcel of real property is to have a maximum value that **does not exceed its fair market value** (hereafter, "FMV"). *S.C. Const.*, Art. X, § 6; emphasis added.
18. The state Constitution also mandates that the FMV of each parcel of real property, with two listed exceptions, **is not to increase more than fifteen percent (15%) every five (5) years**. *S.C. Const.*, Art. X, § 6; emphasis added.
19. In furtherance, the General Assembly codified those mandates.
20. "All property must be assessed uniformly and equitably throughout the State." S.C. Code §12-43-210(A).

21. The **fair market value of real property** is the value determined at the later of the “**base year**” or a “**countywide reassessment**” (pursuant to Section 12-43-217, *infra*). S.C. Code §12-37-3140(A)(1)(a), (A)(1)(d); emphasis added.
22. The “**base year**” is **2007**. S.C. Code §12-37-3140(C); emphasis added.
23. Thereafter, all **increases in FMV are limited** as provided in subsection (B). S.C. Code §12-37-3140(A)(1)(d); emphasis added.
24. Subsection (B) mandates that **any increase in the FMV** implemented pursuant to a **countywide reassessment is limited to fifteen percent within the five-year period**. S.C. Code §12-37-3140(B); emphasis and underscore added.
25. Notwithstanding **any other provision of law, once every fifth year** a county may reassess and implement. S.C. Code §12-43-217(A); emphasis and underscore added.
26. As may be seen from reported and unreported cases, Defendants have a history of disregarding “plain language” statutes for the sole purpose of monetary self-benefit.
27. In Greenville County, the 2007 base year and the countywide reassessment described in the foregoing paragraphs exactly coincided.
28. The real property parcel owned by Plaintiffs in Greenville County was determined to have a 2007/base year FMV of \$353,644.00.
29. There has been no subsequent improvement to Plaintiffs’ property.
30. There has been no subsequent addition to Plaintiffs’ property
31. There has been no subsequent assessable transfer of interest of Plaintiffs’ property.
32. In 2010, Defendants engaged in another countywide assessment.
33. Defendants willfully and irrationally raised the FMV of Plaintiffs’ parcel from the 2007 FMV of \$353,644.00 to \$588,640.00.
34. That increase constituted a patently unlawful increase of 66%.
35. Plaintiffs timely and properly contested the unlawful change.

36. Thereupon, Defendants summarily reduced Plaintiffs' FMV to \$498,460.00.
37. That figure represented a still unlawful 41% increase.
38. Multiple administrative delays, solely at Defendants' discretion, followed.
39. During an administrative procedure meeting with RPS pursuant to a continuation of Plaintiffs' protest, Defendants conceded to a \$450,000.00 FMV for Plaintiffs' parcel.
40. That figure represented a still unlawful increase of 27% over the 2007 base.
41. As required by administrative procedures, Plaintiffs sought review by the County Board of Assessment Appeals, a non-judicial, un-elected body, appointed by Defendants.
42. At the hearing, Plaintiffs submitted the law and facts described in paragraphs 16-26, supra, to the Board and requested application of the "plain language" of those mandates.
43. Before the Board, for the first time and clear in retaliation for Plaintiffs' appeal, Adkins, RPS and Doe asserted a totally new FMV of \$557,950.00 for Plaintiffs' parcel.
44. That figure is a patently unlawful increase in FMV of 58%.
45. Hereafter, the conduct described in paragraphs 32-44 is termed "reassessment scheme".
46. Via determination dated November 1, 2012 and received on November 2, 2012, Plaintiffs were first notified that the Board majority had, with minority dissent, erroneously sustained, approved, adopted, and ratified the reassessment scheme of Defendants.
47. Continuing required administrative procedures, on November 30, 2012, Plaintiffs filed and served a Request for Contested Case Hearing in the Administrative Law Court ("ALC").
48. Defendants formally responded in furtherance of their invalid and improperly initiated and maintained reassessment scheme proceeding against Plaintiffs.
49. Plaintiffs and Defendants promptly engaged in discovery and, pursuant to published ALC procedures, discovery was complete on March 6, 2013.
50. On April 25, 2013, Plaintiffs filed and served a Motion for Summary Judgment including detailed undisputed facts and a memorandum of law.

51. Defendants declined to file or serve a Return and Plaintiffs submitted an Order.
52. Plaintiffs have exhausted state administrative procedures.
53. Plaintiffs have been denied a plain, speedy and efficient remedy in state court.
54. With notice and knowledge of the foregoing mandates and that all such conduct was contested, Defendants implemented, continued, furthered, benefited, and continue to benefit from the unlawful reassessment scheme to the date hereof.
55. Thereby, Defendants succeeded in acquiring a sizable and unwarranted pecuniary windfall.
56. Defendants' reassessment scheme and conduct in furtherance thereof is ongoing.
57. Defendants' reassessment scheme has already and will continue to negatively impact Plaintiffs and all proposed class members in future years.
58. As a consequence, Plaintiffs and the proposed class have been harmed and injured by the violations and deprivations delineated in the causes of action delineated hereafter.
59. Plaintiffs and the proposed class have suffered direct and proximate pecuniary losses.
60. Plaintiffs have been forced to expend monies in court costs, filing fees, and attorney fees.
61. Plaintiffs and the proposed class have incurred other nominal, actual and special damages.

#### **CLASS ACTION ALLEGATIONS AND PROPOSED CLASS DEFINITION**

62. This action is brought by Plaintiffs individually and on behalf of other similarly situated persons and entities designated hereafter as "the proposed class" or "class members".
63. Class certification is sought pursuant to Rules 23(a) and 23(b)(2) (reference is made to the Motion for Class Certification, of record, as if restated verbatim herein).
64. Plaintiffs seek to represent that certain class comprised of and generally defined as:

All natural persons and other entities a) owning real property within the confines and boundaries of Greenville County, b) at any time during the period extending from January 1, 2007 to December 31, 2009, inclusive, c) who retained such ownership into 2010, and d) were thereby subjected to Defendants' 2010 reassessment scheme; but

e) excluding those natural persons and other entities (i) whose Greenville County real property FMV was reduced in 2010, if any, and (ii) all Defendants and their dependents, spouses, partners, and/or real property co-owners.

65. Members of the proposed class are numerous:

- a. There are over 200,000 parcels of real estate in Greenville County;
- b. Class members number in, at least, the hundreds (e.g., there are no less than eighty-seven (85) putative class members on Plaintiffs' residential street, alone); and
- c. With hundreds, perhaps thousands, of Greenville County property owners, joinder of all class members is impracticable if not literally impossible.

66. The actual number and identities of the proposed class is exclusively within Defendants' records, custody, and control.

67. Issues of both law and fact are common to Plaintiffs and the class in that:

- a. Plaintiffs and the class were subjected to a reassessment which was invalid;
- b. Plaintiffs and the class were subjected to a 2010 FMV increase of over fifteen percent (15%) above 2007 FMV which was unlawful, invalid, and void, *ab initio*;
- c. Plaintiffs and the class are entitled to declaratory relief so stating;
- d. Plaintiffs and the class are entitled to a detailed accounting from Defendants;
- e. Plaintiffs and the class are entitled to disgorgement into a common fund of all amounts ensuing from the reassessment scheme along with pre-Judgment interest;
- f. Plaintiffs and the class have been constitutionally deprived and harmed as a direct and proximate result of the reassessment scheme and are entitled to damages secondary to but flowing directly from the Defendants' unlawful conduct;
- g. All such injuries can be redressed by the requested relief in a single action;
- h. Plaintiffs and the class are entitled to a recovery of costs and attorneys fees; and
- i. A determination by this Court will resolve the issues central to Plaintiffs' and the class' claims.



68. All such common issues of law and fact are capable of classwide resolution via this case.

69. Moreover, the questions of law and fact common to Plaintiffs and the class predominate over any individualized injury that might have ensued from the reassessment scheme.

70. Plaintiffs' claims are typical of the claims of the proposed class:

- a. Defendants have acted and refused to act in a manner and on grounds that apply generally and consistently to both Plaintiffs and the class;
- b. Defendants' liability does not present any individualized questions of causation or reliance;
- c. Plaintiffs and the class members have suffered the same injuries springing forth from the same conduct and contentions described herein;
- d. The requested legal and equitable relief is appropriate respecting both Plaintiff and the class as a whole;
- e. All injuries accruing from Defendants' conduct are capable of classwide resolution;
- f. The relief and curative measures sought are based in the same factual, legal, and remedial precepts applicable to Plaintiffs and all class members;
- g. The pecuniary loss caused to Plaintiffs and each class member resulting from the reassessment scheme is relatively small and proceeding as a class action removes economic and other barriers preventing Plaintiffs and class members from pursuit of their interests and remedy;
- h. As a result, the interests of Plaintiffs and class members in redressing such injuries are cohesive and homogenous without meaningful divergence; and
- i. Defendants' conduct applied generally to Plaintiffs and the class as a whole.

71. The declaratory relief requested within this Complaint will uniformly benefit and is appropriate for Plaintiffs and the class as a whole, thus obviating inquiry into individual circumstances or characteristics of class members.
72. The equitable relief requested within this Complaint will uniformly benefit and is appropriate for Plaintiffs and the class as a whole, thus obviating inquiry into individual circumstances or characteristics of class members.
73. The disgorgement/restitution requested within this Complaint will be uniformly applicable to and appropriate for Plaintiffs and the class as a whole in that such sums were calculated in a uniform, formulaic manner by Defendants and recovery thereof should not require individualized proof or analysis.
74. The injunctive relief requested within this Complaint will be uniformly applicable and appropriate to Plaintiffs and the class as a whole, thus obviating inquiry into individual circumstances or characteristics of class members.
75. The damages requested within this Complaint are incidental to, ancillary to, and intertwined with the declaratory, injunctive and restitutionary relief sought, and will be uniformly applicable to and appropriate for Plaintiffs and the class as a whole in that such damages should not require individualized proof or analysis.
76. There are no pending individual or other cases concerning this controversy.
77. Therefore, proceeding as a class action removes economic and other barriers preventing Plaintiffs and class members from pursuit of their interests and remedy.
78. Prosecution of a host of separate actions by individual members would harm judicial economy and create an unnecessary risk of inconsistent and varying adjudications, making the concentration of this litigation in this forum proper and desirable.
79. Therefore, adjudication of this matter via a class action is a far superior, efficient, fair, and equitable method of resolving this controversy.

80. Plaintiffs can and will fairly and adequately represent and protect class members because:

- a. Plaintiffs and the class members are similarly if not identically situated;
- b. Plaintiffs have a personal stake in the outcome of this controversy and their interests are fully congruent with the class they seek to represent;
- c. Plaintiffs have suffered similar injuries as the class members;
- d. Plaintiffs interests are co-extensive with the class members and they have none that conflict with, are adverse to, or are antagonistic toward the class;
- e. The individual plaintiff is a respected citizen of the community with over forty-eight (48) total years residence in Greenville County;
- f. The individual plaintiff is fully apprised and aware of her duties to the best interests of her fellow class members; and
- g. Plaintiffs have retained the undersigned counsel to vigorously pursue this action.

81. Plaintiffs are willing and prepared to serve this Court and the class in a representative capacity and will fairly and adequately protect the interests of the class.

82. Plaintiffs have engaged the services of the two (2) firms undersigned.

83. They are experienced in Federal court, in complex litigation, in jury trials, and in real property reassessment law including a leading state Supreme Court opinion in this area.

84. Such firms will vigorously prosecute this action and will assert, pursue, protect the rights of, and otherwise zealously represent Plaintiffs and class members.

**FOR A FIRST CAUSE OF ACTION  
(42 U.S.C. §1983 and 28 U.S.C. §2201)**

85. Plaintiffs hereby incorporate all other allegations as fully as if restated verbatim.

86. This Court is authorized and empowered pursuant to 28 U.S.C. §2201 to enter declaratory relief with respect to the issues raised herein.

87. While acting under color of state law, Defendants contrived, implemented, reaped the proceeds, and directly benefited from the windfall ensuing from the reassessment scheme.

88. Defendants callously disregarded readily apparent, clearly established, and well known constitutional rights, privileges, and related statutory precepts detailed herein.
89. Plaintiffs and class members have been unlawfully and unreasonably deprived of property interests at the initiation of Adkins, RPS and Doe, and with the condonation, approval and ratification of remaining Defendants, to the benefit of all Defendants.
90. Plaintiffs and class members have been denied plain, speedy and efficient state law recourse.
91. As described herein, via the reassessment scheme, Defendants violated due process and equal protection among other long established rights of Plaintiffs and all class members.
92. The environment, customs, procedures, and unlawful actions described herein were created and conducted by Adkins, RPS, and Doe, and all were ratified by Doe and Kernell in violation of clear, well-established law and well known constitutional rights.
93. In light of such well known pre-existing rights and long established legal precepts, and with constructive notice, actual notice, knowledge, callous disregard, and deliberate indifference of Defendants, the unlawfulness of their conduct was, and remains, readily apparent and objectively unreasonable.
94. All such conditions, and the misconduct and over-reaching described herein, persists to date and, on information and belief, all of the policies, procedures, customs and conditions that promoted such violations remain ongoing to date.
95. All Defendants remain employed and retain their respective positions of authority and management, rendering the violations described herein likely for repetition due to the high pecuniary value to Defendants if Defendants are allowed to evade review by this Court.
96. Therefore, Plaintiffs and the class are entitled to an Order of this Court declaring that:
- a. The countywide reassessment of 2010 was void and invalid, *ab initio*;
  - b. Every increase in FMV ensuing solely from the countywide reassessment of 2010 was also void and invalid, *ab initio*;

- c. Every increase in FMV ensuing solely from the countywide reassessment of 2010 that exceeded fifteen percent (15%) above the 2007 “base year” FMV was unlawful, void and invalid, *ab initio*;
- d. The windfall pecuniary benefit to Defendants that ensued from the foregoing is proper for disgorgement/restitution, *infra*, plus payment of statutory interest; and
- e. All Greenville County real property FMVs are frozen at the 2007 “base year” FMV or the current FMV, whichever is lower, until further Order of this Court.

**FOR A SECOND CAUSE OF ACTION  
(Accounting)**

- 97. Plaintiffs hereby incorporate all other allegations as fully as if restated verbatim.
- 98. The relationship between Defendants vis-à-vis Plaintiffs and the class is one of dominance and systemic secrecy by Defendants who enjoy virtually unlimited resources.
- 99. Defendants have improperly acquired a windfall from Plaintiffs and members of the class in furtherance of the reassessment scheme.
- 100. Defendants’ conduct renders this case one for which a detailed accounting is necessary.
- 101.** Thereby, Plaintiffs and the class are entitled to a full and detailed accounting, under oath and subject to the scrutiny of this Court, such that the total sum subject to disgorgement from Defendants, and other remedies sought, can be accurately determined.

**FOR A THIRD CAUSE OF ACTION  
(Disgorgement)**

- 102. Plaintiffs hereby incorporate all other allegations as fully as if restated verbatim.
- 103. The environment, policies, customs, conduct and windfall described herein were created by Adkins, RPS, and Doe, directly engendering the conduct described, and resulted in the deprivation of rights and resulting monetary damage to Plaintiffs and the class.
- 104.** All violations described herein are capable and likely of repetition due to the high pecuniary value of such conduct if Defendants are allowed to evade disgorgement/restitution.

105. Plaintiffs and the class are entitled to an Order are entitled to an Order of this Court:

- a. Directing the disgorgement of all sums ensuing from the reassessment scheme with payment into a common fund for distribution to Plaintiffs and the class; and
- b. Requiring the payment of statutory pre-Judgment interest on all such sums, also into the common fund for distribution and restitution to Plaintiffs and the class.

**FOR A FOURTH CAUSE OF ACTION  
(Violation of the 5<sup>th</sup> and 14<sup>th</sup> Amendments – 42 U.S.C. §1983)**

106. Plaintiffs hereby incorporate all other allegations as fully as if restated verbatim.

107. Adkins, RPS and Doe engendered, established, administered, approved, implemented, furthered by direct participation, and engaged in the policy, customs, and practices that resulted in the deprivation of Federal rights described herein.

108. Plaintiffs and the class have been unlawfully and unreasonably deprived of real and personal property interests at the instigation and initiation of Adkins, RPS and Doe, with the approval and ratification of other Defendants, all to the financial windfall of Defendants.

109. Defendants violated the due process rights afforded to all citizens by the 5<sup>th</sup> and 14<sup>th</sup> Amendments, a long established constitutional right and well known protection.

110. Such conduct violates a fundamental right and warrants strict scrutiny by this Court.

111. Plaintiffs and class members have been denied plain, speedy and efficient recourse.

112. Thereby, Defendants are liable and Plaintiffs and the class are further entitled to nominal, actual, and punitive damages in a sum set by the jury, and all costs.

**FOR A FIFTH CAUSE OF ACTION  
(Violation of the 14<sup>th</sup> Amendment – 42 U.S.C. §1983)**

113. Plaintiffs hereby incorporate the previous allegations as fully as if restated verbatim.

114. State law requires that property assessment be “equal and uniform” throughout the state.

115. However, Greenville County Plaintiffs and class members have been singled out for the treatment described herein on a retaliatory and/or otherwise irrational basis.

- 116. Such conduct violates a fundamental right and warrants strict scrutiny by this Court.
- 117. As a consequence, Plaintiffs and the class have been directly and proximately damaged.
- 118. Thereby, Defendants are liable and Plaintiffs and the class are entitled to nominal, actual, and punitive damages in a sum set by the jury and all costs.

**FOR A SIXTH CAUSE OF ACTION  
(Violation of the 14<sup>th</sup> Amendment – 42 U.S.C. §1983)**

- 119. Plaintiffs hereby incorporate the previous allegations as fully as if restated verbatim.
- 120. Defendants had actual and constructive notice and knowledge that Adkins, RPS and Doe were refusing to adhere, apply and properly implement state law.
- 121. By neglecting to train Adkins, RPS and Doe in the rudimentary clerical and ministerial skills pertaining to the reading and application of statutory “plain language”, by neglecting to require a demonstration of minimal proficiency, and by neglecting to require adherence thereto, Defendants created, condoned, approved, ratified, and allowed the conditions whereby Plaintiffs’ and class members’ rights could be and were likely to be violated.
- 122. By their failure to supervise and scrutinize, by their failure to minimally review and prevent the reassessment scheme, by their failure to correct unlawfully high FMV increases, by their failure to ascertain the accuracy of records and the propriety of public sales, by their failure to ascertain and apply appropriate legal and constitutional standards, and by their failure to assure subordinates’ compliance with established duties, Adkins and other Defendants promoted, condoned, and exacerbated an environment whereby Plaintiffs’ and all class members’ rights were objectively likely to be violated.
- 123. Defendants created and approved the dangerous situation that resulted in the violation of rights and the harm and injury directly and proximately resulting therefrom.
- 124. Having creating such dangerous conditions and environment, Defendants had an affirmative duty to protect Plaintiffs’ and all class members’ rights, but failed to do so.

125. Thereby, Defendants are liable and Plaintiffs and the class are further entitled to nominal, actual, special and punitive damages in a sum set by the jury and all costs.

**FOR A SEVENTH CAUSE OF ACTION  
(Violation of 42 U.S.C. §1985)**

126. Plaintiffs hereby incorporate all other allegations as fully as if restated verbatim.

127. By conscious agreement, combination, and furtherance by their overt conduct, Adkins, RPS, Doe and perhaps Kernell conspired and acted in concert to commit objectively unlawful acts by unlawful means for the purpose of harming Plaintiffs and the class, and to improperly coerce monies from Plaintiffs and the class, all to the benefit of Defendants.

128. Such additional overt acts in furtherance of the combination and conspiracy were intended, and succeeded, in denying to Plaintiffs and the class the rights and liberties provided under the Constitution and state law described herein.

129. As a product of Defendants' combination and acts in furtherance, Plaintiffs and class members have been injured and will continue to suffer harm, injury, and special damages including but not limited to costs, expenses, and attorneys fees in defense of the misconduct of Defendants, and lost interest ensuing therefrom and continuing to date.

130. Such combination and conduct deprived Plaintiffs and the class of rights, property interests, protections, and liberties afforded by the Constitution and federal law.

131. Thereby, Defendants are liable and Plaintiffs and the class are entitled to further nominal, actual, special and punitive damages in a sum set by the jury and all costs.

**FOR AN EIGHTH CAUSE OF ACTION  
(Violation of 4<sup>th</sup> Amendment and 42 U.S.C. §§1983, 1986)**

132. Plaintiffs hereby incorporate all other allegations as fully as if restated verbatim.

133. Defendants failed to adequately train themselves and their subordinates in the skills necessary to perform the rudimentary clerical, administrative, and ministerial task of determining the invalidity of the reassessment scheme.



134. In addition, Defendants failed to adequately train themselves and their subordinates in the skills necessary to perform the rudimentary clerical, administrative and ministerial task of calculating the “fifteen percent” limit of any increase to the FMV of Plaintiffs and the class.
135. Moreover, at all times pertinent hereto, Defendants had actual and constructive notice and knowledge that some if not all were engaged in a course of conduct that posed a pervasive and unreasonable risk of Constitutional injury.
136. Nonetheless, Defendants acquiesced, approved, and ratified such misconduct and no Defendant did anything to prevent, inhibit, or discourage such misconduct to the point of willful and deliberate indifference to the objectively obvious violations of Plaintiffs’ and class members’ rights under well known pre-existing law.
137. Instead, Defendants’ response was non-existent or so inadequate as to demonstrate authorization, ratification, and deliberate indifference to the malfeasance detailed herein.
138. Such neglect constitutes an affirmative causal link to Constitutional injury and damages.
139. Moreover, Defendants have failed, and continue to refuse, to take or require any remedial action since such violations were directly called to their attention.
140. Defendants have persisted in imposing unlawful FMVs and remain deliberately indifferent to the past and foreseeable prospective injuries and damage to Plaintiffs and the class.
- 141.** Thereby, Defendants are liable and Plaintiffs and the class are entitled to further nominal, actual, special and punitive damages in a sum set by the jury and all costs.

**FOR A NINTH CAUSE OF ACTION  
(Prospective Relief)**

142. Plaintiffs hereby incorporate all other allegations as fully as if restated verbatim.
143. Defendants violated clear and well-established statutory and constitutional rights.
144. In light thereof, and with both notice and knowledge of Defendants, the unlawfulness of their conduct was, and remains, readily apparent and objectively unreasonable.

145. Reasonable officials would customarily know and understand that the conduct described, singly and collectively, violated those rights.
146. Reasonable officials would know and understand that such conduct established and maintained an environment posing a pervasive and unreasonable risk of such violations.
147. All such conditions were allowed to continue after constructive notice and actual notice to Defendants and with the knowledge of Defendants.
148. Such policies, procedures, customs and conditions persist and remain ongoing to date.
149. All violations described herein are both capable and likely of repetition due to the pecuniary value of such conduct if Defendants are allowed to evade review by this Court.
150. Also as of this date, all individual Defendants continue to enjoy employment and occupy their respective positions of authority.
151. As a consequence thereof, Defendants are liable and Plaintiffs and the class are entitled to an Order of this Court restructuring Defendants' customs, policies and procedures to prevent future misconduct and requiring that Defendants demonstrate to the satisfaction of this Court that policies, procedures, training and supervision are in place and properly implemented to prevent further and future violations of the same or similar nature.
152. Plaintiffs and the class are entitled an Order restructuring RPS in remediation of its policies and procedures to ensure that:
  - a. Adkins, Doe, RPS personnel, and Defendants' non-lawyer personnel are fully trained and in all pertinent and related constitutional and statutory precepts found in the federal and state Constitutions, federal and state statutes, District of South Carolina and Fourth Circuit rulings, and U.S. Supreme Court Opinions;
  - b. More specifically, that Adkins, Doe, RPS employees, their selected Board of Assessment Appeals, and even peripherally related personnel are fully trained and in current compliance with the requisites of due process, equal protection, impartiality,

property owner rights, “plain language” statutory review and implementation, and other fundamental precepts found in paragraph a., next above;

- c. All such constitutional and statutory precepts have become the announced, written, published, and readily available policies, procedures and customs of all Defendants;
- d. All Greenville County personnel have proper and attentive access, supervision and oversight by a constitutionally competent South Carolina licensed staff attorney; and
- e. All such employees are thoroughly trained in ministerial duties ranging from the calculation of the minimum period between countywide reassessments to the calculation of the maximum fifteen (15%) increase in FMV.

153. Plaintiffs and the class are also entitled to an Order of this Court:

- a. Enjoining Defendants from other or further similar conduct;
- b. Directing that the policies, procedures, callous disregard and deliberate indifference that provoked, engendered, implemented, and failed to prevent harm and protect Plaintiffs and the class from the reassessment scheme are to be revoked, annulled and publicly repudiated by Defendants;
- c. Permanently vacating every 2010 FMV that exceeded the 2007 base year FMV; and
- d. Restraining and prohibiting any further changes in the real property FMV of Plaintiffs and the class until this case and any appeal is concluded with finality.

WHEREFORE, Plaintiffs pray for Judgment and recovery for themselves and the class as follows:

- 1. An Order certifying the class pursuant to Rule 23, Fed. R. Civ. P., confirming Plaintiffs as class representatives, and appointing the undersigned law firms as class counsel.
- 2. An Order awarding the declaratory relief described in the First Cause of Action.
- 3. An Order directing the accounting described in the Second Cause of Action.
- 4. An Order directing Defendant Kintigh to disgorge all sums described in the Third Cause of Action into a common fund for the distribution to and benefit of the class.

5. An award of liquidated and unliquidated, nominal, actual, compensatory, and special damages as determined by a jury pursuant to Causes of Action Four through Eight.
6. An award of pre-Judgment interest on all such liquidated or easily calculable sums.
7. An award of exemplary/punitive damages in an amount determined by the jury to be sufficient to deter Defendants and all others from the disregard of federally protected rights and Constitutional violations described herein.
8. An Order remediating and enjoining as described in the Ninth Cause of Action.
9. An award of attorney's fees and costs under 42 U.S.C. §1988 and S.C. Code §16-5-60.
10. An Order directing that post-Judgment interest accrue on all sums until paid in full.
11. An award of such other and further legal and equitable relief favoring Plaintiffs and the class as is just and proper.

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September 30, 2014