

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF ARKANSAS  
RICHARD SHEPPARD ARNOLD UNITED STATES COURTHOUSE  
500 W. CAPITOL, ROOM D444  
LITTLE ROCK, ARKANSAS 72201-3325  
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**December 3, 2008**

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Re: *Flannigan, et al v. Ark. Game & Fish, et al.*, 3:02-CV-00404-WRW  
Motion for Attorneys' Fees and Costs (Doc. No. 83)

Dear Counsel:

Because the Eighth Circuit Court of Appeals issued an opinion in this case on December 1, 2008, Plaintiff's Motion for Attorneys' Fees is now ripe.

I have, again, reviewed Plaintiff's motion and Defendant Clyde Eason's response.<sup>1</sup> Defendant's response raises several interesting points regarding Plaintiff's motion -- *e.g.*, waiver for failure to timely file the motion, Arkansas law limiting attorney's fees in grantee-covenantee cases, fees from state court case, missing affidavit, and Rule 68 Offer of Judgment. Defendant also takes the position that if the Court determines that Plaintiffs are entitled to fees, it would be only as to the breach of warranty deed issue.

Plaintiff is directed to file a reply addressing all (not just the ones listed above) of the relevant issues raised in Defendant's response by 5 p.m., Monday, December 15, 2008.

If necessary, Defendants may file a short sur-reply by 5 p.m., Friday, December 19, 2008.

Cordially,

/s/ Wm. R. Wilson, Jr.

Original to the Clerk of the Court  
cc: Other Counsel of Record

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<sup>1</sup>Doc. Nos. 83, 85.