

**VIRGINIA: IN THE CIRCUIT COURT FOR BRUNSWICK COUNTY**

**LEONARD TRACY CLARY,**  
*Appellant,*

v.

Case No. \_\_\_\_\_

**VIRGINIA DEPARTMENT OF  
MOTOR VEHICLES,** an agency of  
the Commonwealth of Virginia

Serve: Werner Versch, II  
Secretary of Department of Motor Vehicles  
2300 West Broad Street  
Richmond, Virginia 23269

*Respondent.*

**PETITION FOR APPEAL**

COMES NOW the Appellant, Leonard Tracy Clary, by and through the undersigned counsel, Fred D. Taylor, Esq., Participating Attorney for The Rutherford Institute, and submits pursuant to Va. Code § 2.2-4026 and Va. Supreme Court Rule 2:A:4, this Petition for Appeal. In support of this Petition, the Appellant alleges and avers as follows:

1. The instant Petition seeks review and reversal of the case decision of the Commonwealth of Virginia's Department of Motor Vehicles cancelling, recalling and demanding the return of license plates previously issued to the Appellant.
2. The Appellant is a resident of the County of Brunswick, Virginia, and jurisdiction and venue properly lies with this Court under Va. Code §§ 2.2-4003, 2.2-4026, and 8.01-261(a).
3. The case decision subject of the instant Petition is set forth in a letter to the Appellant from Richard D. Holcomb, Commissioner of the Department of Motor Vehicles dated September 4, 2015. A true and correct copy of this letter is attached to this Petition as Exhibit A.

4. Pursuant to Virginia Supreme Court Rule 2::2, the Appellant on September 30, 2015 timely filed with the Secretary of the Department of Motor Vehicles a Notice of Appeal of the case decision set forth in Exhibit A.

5. As grounds for this Appeal, Appellant hereby avers and alleges that the decision cancelling, recalling and demanding the return of the license plates, which are specialty license plates bearing the name and logo of the Sons of Confederate Veterans, is unlawful and was made without authority under the laws and statutes of the Commonwealth of Virginia.

6. Under Va. Code § 46.2-713, license plates issued by the Department of Motor Vehicles may be revoked, cancelled or repossessed only as “provided in this title” of the Code of Virginia.

7. The decision of the Department of Motor Vehicles as set forth in Exhibit A fails to cite any provision of Title 46.2 of the Code of Virginia authorizing or allowing the cancellation, revocation, or repossession of the Appellant’s Sons of Confederate Veterans license plates.

8. Appellant alleges and avers that no statutory authority exists under Title 46.2 of the Code of Virginia or any other law of the Commonwealth of Virginia authorizing the cancellation, revocation or repossession of the Appellant’s Sons of Confederate Veterans license plates.

9. The decisions and order of the United States Supreme Court and the United States District Court for the Western District of Virginia, referenced in Exhibit A, do not provide the Department of Motor Vehicles with legal authority to cancel, revoke and repossess the Appellant’s Sons of Confederate Veterans license plates as said decisions only resulted in the

vacation and dissolution of an injunction requiring the Department of Motor Vehicles to issue Sons of Confederate Veterans license plates bearing the logo of that organization.

10. The case decision of the Department of Motor Vehicles cancelling, revoking and/or recalling the Appellant's Sons of Confederate License Plate is unlawful in that it is not in compliance with statutory authority, jurisdiction or right as provided in the laws governing the Department of Motor Vehicles and the cancellation of license plates as set forth in Title 46.2 of the Code of Virginia and other statutes and laws of the Commonwealth of Virginia.

WHEREFORE, Plaintiff requests that this Court enter a judgment reversing the decision of the Department of Motor Vehicles cancelling, revoking and/or recalling the Sons of Confederate Veterans license plates issued to the Appellant and declaring that the Department of Motor Vehicles is without authority to cancel, revoke or repossess those license plates.

Respectfully Submitted,

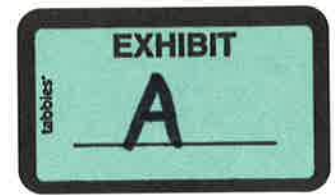
**LEONARD TRACY CLARY**



BY COUNSEL

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*Attorney for Plaintiff*

Participating Attorney for  
THE RUTHERFORD INSTITUTE



September 30, 2015

Werner Versch, II  
Secretary of the Virginia Department of Motor Vehicles  
Virginia Department of Motor Vehicles  
P.O. Box 27412  
Richmond, VA 23269

**RE: Notice of Appeal of Leonard Tracy Clary  
Code of Virginia § 46.2-611 and Va. Sup. Ct. Rule 2A:2 /**

Dear Secretary Versch:

Pursuant to Code of Virginia § 46.2-611, Leonard Tracy Clary does hereby submit this Notice of Appeal from the decision of the Virginia Department of Motor Vehicles cancelling and recalling license plates issued to L. Tracy Clary, as set forth in the letter attached to this Notice of Appeal from Commissioner Richard D. Holcomb and dated September 4, 2015. The license plates that are the subject of the cancellation and recall decision are Type SCV2 and the Plate Number is BRNSWK.

The name of the Appellant is:           **Leonard Tracy Clary**

The address of the Appellant is:       **P.O. Box 838**  
  **Lawrenceville, VA 23868-0838**

The appeal is taken to:                   **Circuit Court of Brunswick County**

Respectfully Submitted,

# BUSH & TAYLOR, P.C.

ATTORNEYS AT LAW

**Leonard Tracy Clary**



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BY COUNSEL

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*Attorney for the Appellant*

*Participating Attorney for  
The Rutherford Institute*

Cc: L. Tracy Clary

Enclosure

## CERTIFICATE

The undersigned hereby certifies that a copy of this Notice of Appeal has been mailed to each party to these proceedings.



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Fred D. Taylor



## COMMONWEALTH of VIRGINIA

Department of Motor Vehicles  
2300 West Broad StreetRichard D. Holcomb  
CommissionerPost Office Box 27412  
Richmond, VA 23269-0001

September 4, 2015

Dear Sons of Confederate Veterans License Plate Holder,

Enclosed you will find a new set of Sons of Confederate Veterans (SCV) plates, decals, and a registration card for your vehicle. These replace your current plates with a new design.

The design of the SCV plate has been the subject of recent decisions by the U.S. Supreme Court and the U.S. District Court for the Western District of Virginia. Based on these court rulings and current Virginia law, the Department of Motor Vehicles (DMV) must recall your current license plates and will no longer issue this plate series with a logo. The design of the enclosed plates meets the requirements of Virginia law and are being sent to you free of charge.

Your current license plates have been cancelled, and your new plates must be displayed within 30 days of the date on this letter. A pre-paid envelope has been provided for returning your cancelled plates. If you do not wish to use the enclosed plates, you may request a standard Virginia plate or one of the other specialty plates available in the Commonwealth. Specialty plate fees and personalization fees apply. These plates may be obtained through DMV's website [www.DMVnow.com](http://www.DMVnow.com), or by visiting your nearest DMV Customer Service Center.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Holcomb".

Richard D. Holcomb