

Key Settlement Highlighted by North Carolina Lawyers Weekly

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A recent report in North Carolina Lawyers Weekly highlighted a substantial settlement that Brooks Pierce partner Brian McMillan negotiated with the North Carolina Department of Transportation on behalf of his client Lane Farms, Inc., which operates the Lane Tree golf course and event center on more than 200 acres in Wayne County, North Carolina.

McMillan was hired by Lane Farms in 2015 after NCDOT's construction of the U.S. Highway 70 Bypass began causing significant problems for Lane Farms. While the bypass was constructed across wooded tracts and farmland north of Lane Farms and not on any of its property, road construction, which replaced the woodlands and farmlands "upstream" with acres of impervious surface, tripled the amount and velocity of the stormwater runoff flowing onto Lane Farms' property, causing flooding and sedimentation damage. Lane Farms was faced with having to spend \$800,000 or more to upgrade its stormwater system to handle the increased flows, as well as an estimated \$600,000 in property damage.

Brooks Pierce filed an inverse condemnation against NCDOT on behalf of Lane Farms, alleging that NCDOT had taken a drainage easement across Lane Farms' property. An inverse condemnation allows property owners to sue the state when it has taken private property without filing an eminent domain proceeding or paying just compensation.

Lane Farms and NCDOT first mediated the case in November 2016, but were unable to reach a settlement at the time. Mediation resumed in April 2017, and Lane Farms and McMillan were successful in settling the case, with NCDOT agreeing to pay Lane Farms more than \$1.8 million.

The North Carolina Lawyers Weekly article highlighting the case and the settlement can be seen with a subscription [here](#).