

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

**KENNETH WALTON GEORGE,** )  
**DENNIS REED BOWEN, CLYDE** )  
**FREEMAN, GEORGE MOYERS, JIM** )  
**MATTHEWS, and HENRY MILLER, on** )  
**their own behalf and on behalf of a class** )  
**of persons similarly situated,** )

**Plaintiffs,** )

v. )

**DUKE ENERGY RETIREMENT CASH** )  
**BALANCE PLAN and DUKE ENERGY** )  
**CORPORATION,** )

**Defendants.** )

**Case No.: 8:06-cv-00373-RBH**

**MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, Plaintiffs Kenneth Walton George, Dennis Reed Bowen, Clyde Freeman, George Moyers, Jim Matthews and Henry Miller hereby move for partial summary judgment on the meaning of the phrase “rate of an employee’s benefit accrual” in ERISA § 204(b)(1)(H)(i) for the reasons set forth in the accompanying Memorandum of Law in Support of Plaintiffs’ Motion for Partial Summary Judgment.

There is no duty to consult on this dispositive motion per Local Rule 7.02(D).

Dated this 11<sup>th</sup> day of July, 2007.

Respectfully submitted,

s/James R. Gilreath

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