

STATE OF ALABAMA
ELMORE COUNTY

MAY 26, 2016

TO: WSFA-TV
ATTN: JENNIFER HORTON

FROM: JUDGE JOHN E. ENSLEN
PROBATE JUDGE OF ELMORE COUNTY

RESPONSE OF JUDGE JOHN E. ENSLEN
TO OPEN RECORDS REQUEST
SUBMITTED BY WSFA-TV

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I. WSFA-TV'S REQUEST

The probate office received the following documents request by e-mail through WSFA-TV's reporter Jennifer Horton on April 27, 2016. The request was originally submitted to the Elmore County Commission under date of April 26, 2016. This response is being made available to WSFA-TV within 30 days of my receipt of WSFA-TV's request, subject to WSFA-TV's payment of the statutorily authorized fee for copies. Charge is being made only for copies of the existing documents that fit into the subject matter of WSFA-TV's request. I have personally researched and word processed the answers to your requests, avoiding the use of busy employees' time. There is no charge for my research or response time.

Here is WSFA-TV's three-category list of requested items:

1. List of all contracts entered into by Enslin since his entering office in January 2013 whether approved by the Commission or not including incentive pay contracts
2. How many net bonuses/additional pay have been extended by Enslin, with amounts, and employee names receiving bonus/additional pay
3. Payments approved by Enslin/Elec Sp/Chief Clerk regarding election duties with any county employee, employee name, # of hours worked, amount paid to these employees

Your request asks for "lists" and "how many." The probate office does not possess comprehensive documentary "lists" or documents showing "how many." A legal response to WSFA-TV's request could be: "We have no such documents as requested." In other words, the law does not require me to create new documents (lists) or conduct analytical studies (how many) in order to respond to a request which the law limits to existing records.

However, it has been, and continues to be, my policy throughout my administration to be fully transparent in every respect. It is in the public interest to do so. Therefore, I have created the requested "lists," conducted the research, and will now provide full and complete disclosure for each requested item in a way that will paint as full and complete and

accurate a picture as possible in regard to the requested information. I will also be glad to entertain follow-up requests if desired by WSFA-TV.

I have a deep appreciation for investigative journalism, and there is far too little of it produced by the media, especially in our local area where one entity owns all three of the oldest local newspapers and receives large sums of money from the county commission for the printing of voters lists (\$22,949.76 for this most recent primary election only) and for other election-related legal notices (\$1,904.49 for this most recent primary election only). Those figures do not include the legal notices relating to probate court for estates and conservatorships. So in order for this response to receive the widest circulation possible, I intend to post it on Facebook and on a website that I personally maintain for accurately informing the public.

The information I provide herein will contain lots of fodder for some quality investigative reports by WSFA-TV and other media, but hopefully the reports will not be centered on the type of incomplete, inaccurate, one-sided story that your anonymous tipster anticipates. Any newsworthy report relating to incentive pay to probate office employees would need to include a comparison of the salaries paid to county commission staff workers as compared to salaries paid to probate office, along with a comparison of the respective duties of the employee positions.

May I suggest a thought for your consideration as you review these materials. I am not a career politician. I do not have and will not have a state retirement based on even 10 years of service. I am not and will never be a candidate for another public office. I am a one-termer from the beginning. I will be 70 years of age in November and am sacrificing some of the best years of my retirement simply because I love our American system of government as envisioned by our forefathers, and I want to see it operate in accordance with their inspired vision. I despise corruption, government waste, self-serving politicians, and incompetent public officials. I am a 7th generation Elmore Countian and know as well as anyone the tremendous potential for high quality of life that could exist here in Elmore County if our local government leaders used the taxpayers' resources in a manner that served the overall best interest of the citizens and not a re-election agenda.

II. UNDERSTANDING THE LEGAL AND POLITICAL ENVIRONMENT IN WHICH THE PROBATE OFFICE MUST OPERATE

You have asked for "all contracts" entered into by me since taking office more than three years ago. That is a far-reaching request. The probate office has ancillary locations in Millbrook, Tallassee, and Wetumpka, in addition to the old courthouse location in downtown Wetumpka. The probate office is responsible for the sale of hunting, fishing, business, drivers, boat, and, off and on, marriage licenses. (Sections 30-1-9 and 45-26-81.40, Code of Alabama, make it clear that the Probate Judge of Elmore County is not required to sell marriage licenses.) The probate office is responsible for the sale of personal and commercial vehicular tags and mobile home decals. The probate judge is further responsible for conducting elections, maintaining and preserving the public records, and presiding over probate court which handles will probate and estate administrations, guardianships, conservatorships, eminent domain proceedings, adoptions, name changes, commitments of the mentally ill for treatment, sales of jointly owned real property for division of the proceeds amongst the owners, and other judicial matters.

Consequently, the probate office is the recipient- beneficiary under many contracts. For example, there exist contracts for such services as copy machine maintenance, supplying bottled water to our water fountains, software maintenance for the sale of vehicular tags and mobile home decals, software maintenance for the public records system, the leasing of office space, the leasing of voting machines, the purchase of voting supplies, providing voting machine mechanics for election day, information technology assistance, telephone service, utilities, janitorial service, and couriers for bank deposits. Contracts are made for the purchase of a myriad of supplies ranging from paper, pens, pencils, and printers to various printed license forms, furniture, and fans.

All of those contracts for services, space, and supplies are approved by and entered into exclusively by the Elmore County Commission. The commission unilaterally establishes annually the three budgets which directly affect the probate office---(1) the elections budget, (2) the tag department budget, and (3) the probate court /public records retention/ licensing functions budget. Using the county's general fund, the commission pays for all of such services and supplies from such budgeted funds.

The probate judge is not a party or signatory on any of those contracts and has no authority to cancel or modify them. Generally speaking, the

probate judge is legally subservient to the desires of the county commission in those monetary/financial contractual matters. All expenditures from the general fund must be approved by the county commission. The general fund is the county commission's "discretionary fund" and other county officials are at the county commission's mercy for their needs. Probate judges are unable to enter into contracts whose payments will stem from the county general fund. For better or for worse, that is the way the Alabama Legislature has set up local government in Alabama.

The major legal requirement relating to expenditures by the county commission is Section 11-8-3(c), Code of Alabama, which directs the county commission to use its resources to "reasonably" fund the operations of county government. That statute reads as follows and defines the governmental relationship between the county commission and each department of government that is managed by a county-wide elected public official---i.e., the probate judge, sheriff, and revenue commissioner:

"The budget adopted, at a minimum, shall include ... reasonable expenditures for the operation of the offices of the judge of probate, tax officials, sheriff, county treasurer, the county jail, the county courthouse, and other offices as required by law."

At least according to the *Handbook for Alabama County Commissioners*, Eleventh Edition, p. 172, "Counties in Alabama may appropriate funds only for such purposes as are required or authorized by law. They have no inherent authority to expend public funds."

Having been informed of problems in the past, the Alabama Legislature through the years has passed other local acts which apply specifically to the Elmore County Commission. These local acts are more detailed in their mandates to the county commission to provide for the needs of the county-wide elected officials who have personal liability exposure for fulfilling the vital duties of their offices.

Two of those local acts read unconditionally as follows: "The ... county commissioners ... shall provide the judge of probate, sheriff, tax assessor, tax collector, clerk of the circuit court, and register of the circuit court with the books, stationery, office equipment, supplies, postage, and other conveniences as may be necessary for the proper and efficient conduct of the affairs of [his office]...." Section 45-26-71, *Code of Alabama* (1962 Act); "The county commission shall furnish suitable quarters and provide the

necessary forms, books, stationery, records, equipment, and supplies." Section 45-26-81.40, *Code of Alabama* (1999 Act).

Unfortunately, there is no practical means available for the three county-wide elected officials (probate judge, sheriff, and revenue commissioner) or the public to hold the county commission accountable for wasting funds on the one hand and then on the other hand failing to adequately fund the operations of local government. The only practical accountability is an election held every four years wherein a commissioner can be replaced by the voters if the voters feel he or she is not fulfilling his or her duties in a proper manner. Three incumbents were defeated in the recent primary election, and another incumbent faces stiff opposition in November.

As an aside, I would add that there are plenty of tax monies available in Elmore County, more than enough, to adequately fund all of the operations of county government---probate office, sheriff's office, revenue commission office, highway department, emergency management, and county commission staff, **IF** those tax monies were appropriately managed for the primary purposes for which they were collected. The clamor for more taxes like that heretofore contained on the county commission's official website is meritless.

There is no legal mandate for the commission to give away monies to private or charitable organizations and ventures, which by the way have no accountability for how those funds are spent. Private and charitable organizations are not audited by public examiners. Outright gifts of taxpayers' monies to charities such as boys clubs, or promoting events like fishing and golfing tournaments, or using a county vehicle for commission staff members to go to lunch, or paying for a European trip for a commissioner to promote "economic development" are just some of the misuses of the taxpayers' monies.

Here is a transcript of a talk I gave to the county commission on this subject on October 28, 2013. To place the situation in context, at that time Elmore County was the only county in the state where the county commission had outsourced to an independent contractor the work of an election specialist to assist the probate judge as chief elections officer of the county. All other counties use an employee who can be supervised by the probate judge. The independent contractor was receiving \$125 for each of the 34 voting machines and \$100 for each of the 28 auto-mark machines on each election day.

REMARKS DELIVERED BY
PROBATE JUDGE JOHN E. ENSLEN
TO THE MEMBERS OF THE ELMORE COUNTY COMMISSION
AT A REGULAR MEETING OF THE COMMISSION
HELD AT THE OLD COURTHOUSE
ON OCTOBER 28, 2013

(The context for the address is the county commission's continued refusal to provide an elections employee to assist with the elections in Elmore County)

There is nothing more fundamental to safeguarding our system of government by the people than fair and efficient elections. None of my duties supersede my position as Chief Elections Officer of Elmore County.

First, let me say that we will have honest, fair, and efficient elections in Elmore County, even if I have to work until midnight three nights a week, as I have been doing the past few weeks preparing for a special election. I am taken from my other duties because I am the only probate judge in Alabama that does not have an elections employee. The upcoming special election will not be perfect because there has never been a perfect election, but the job will get done. The 2014 elections present a much more complex challenge.

We have not had a functioning elections specialist in the county since the end of the 2012 elections. As I have previously told you, since Cyndi Mann was your independent contractor with a lucrative contract, a system no other county in the state has ever utilized, I could not manage or supervise her. I could not compel her to simply fulfill her contractual obligations with you---like training her replacement or keeping the poll workers list updated. I am convinced that she felt protected in her unwillingness to work because of a very close personal relationship which she had with one of you commissioners.

When she finally chose to resign last April or May instead of doing her job, the commission decided to teach me a lesson for messing with their system. But when the commission makes vendetta decisions about adequately funding any county public office, you do not personally hurt the elected official responsible for that office. You only hurt the citizens of

Elmore County who expect you to be wise stewards of your power and the public treasury.

I know that the commission has a strong desire to "appear" frugal with the taxpayers' money by declining to fund the hiring of an elections specialist—but you are anything but passionate about not wasting the taxpayers' money.

In the very meeting on July 22 that the sheriff, the circuit clerk, and I requested an employee to handle elections, the commission was thanked for making a gift of \$25,000 to the Wetumpka Boys Club, which is nothing more than an after school babysitting service without a baby sitter, and there is no public accountability for how that money was spent.

In the meeting on August 12 when you unanimously and proudly voted to deny anyone to assist with elections, you voted to donate \$5,000 of the people's tax monies for a fishing tournament. That was in addition to \$15,000 that you had already budgeted for a different fishing tournament.

In the last fiscal year, the county's revenues---- the funds that you manage as a sacred trust for the taxpayers, was 26 million dollars. With that money you have been voting to give away foreign aid---\$15,000 to the Ladies Professional Golf Association which is 80% foreign nationals.

The commission budgeted \$10,000 for the Wetumpka Crater Dream when the City of Wetumpka has a larger surplus in its budget than the county.

There is no requirement for the commissioners to hire their own personal lobbyist with the taxpayers' money, but you do. There is no requirement for the commission to spend a continuously increasing amount of money on a "survey" or "study" or "consulting contract" to tell the commission about the county's future needs. The future arrived about 30 years ago and the needs are more than obvious.

Here is the worst. You funded a private corporation, not a governmental agency that has accountability for expenditures, purportedly for promoting economic development. You financially propped up a career politician/lobbyist with a 90 thousand dollar-plus salary and gave him high

priced office rental space and a staff of employees, at least one of whom made a trip to China.

Now the citizens have to pay for a special election, and due to the delayed and postponed official resignation, the person elected will likely miss the legislative session in early 2014, leaving most of Elmore County unrepresented in the legislature.

The county commission budgeted \$229,000 for that private corporation in the most recently completed fiscal year. With two months still remaining in that fiscal year, the commission had already given ECEDA \$319,650! I have my doubts whether you passed any legal resolutions to exceed the budget by 40%.

Here is the point: That figure of \$319,650 is more than half of the entire annual budget of the entire Elmore County Probate Office, and we actually collect for you almost \$10 million dollars a year. (There is a separate budget for the tag office.) The whole wasteful affair has been a glorified crony welfare system with no real benefit to the citizens.

[If the commission were truly frugal, the people of Millbrook would already have the upgraded satellite office that I have urged the commission to approve since taking office.]

Your hypocrisy in claiming not to have the funds for a \$36,000 college educated elections specialist knows no bounds.

Less government and less government waste needs to start in our own backyard. The essential, fundamental functions of local government---like conducting elections, should be adequately funded, and if there is excess, then lower the taxes that are collected and return the money to the citizens, instead of using the money to purchase influence for your re-election.

The Code of Alabama sets forth the proper relationship which you have with the probate office and other constitutional offices:

ALA. CODE § 11-8-3 (1975)

“The budget adopted, at a minimum, shall include ... reasonable expenditures for the operation of the [office] of the judge of probate.”

That's exactly what the law says. Zero is not a reasonable expenditure for an elections employee.

Please notice that the code did not say anything about your micromanaging the probate office through your purse strings or outsourced independent contracts or any other corrupt manner. My goodness, you're seeking to employ your fourth county administrator in five years and you recently fired the assistant administrator who is threatening to sue you for her wrongful termination----and you want to micromanage the probate office instead of simply adequately funding the probate office?

I am asking you on behalf of the citizens of Elmore County to now advertise for the budgeted position of elections specialist so we can put someone to work on the 2014 elections as soon as practical. If you will not abide your own budget that you unanimously passed in the last meeting held in September, then revise the budget and allot whatever you are going to allot. If that figure is zero, then the circuit court will decide if zero is reasonable, and the commission will waste more of the taxpayers' money defending that lawsuit.

Thank you for your time and attention.

***The probate office is the only county office that occupies the same courthouse space it was given in 1931 when the old courthouse was dedicated. Herbert Hoover was President and the Bibb Graves Bridge did not exist. Since 1931, the population has almost tripled and the probate office has been charged with the additional responsibilities of selling car tags (former Revenue Commission duty) and issuing drivers licenses (former Department of Public Safety duty). The group that did the ridiculously expensive "future needs" survey never visited the probate office or talked with me or my staff.

Under current law there is no mandate for a county commission to engage in or support "economic development." There is only pressure to do so from special interest groups. Cities are empowered with that authority. The Elmore County Economic Development Authority is an unaudited private non-profit enterprise and not a governmental agency. As I write, this private organization is hatching a plan to ask the county commission to donate one million dollars to our state government as an enticement to locate a new prison in Elmore County. Has America actually raised a generation to believe that a bidding war between counties is the best method for state government to utilize in the selection of prison sites? As a practical matter, there is no power that will be able to stop the growth that is coming to Elmore County, and we don't need politician's claiming to take credit for it.

Please notice that law does not grant to the county commission the authority to manage the probate office or the sheriff office or the revenue commission office. Attempts by the Association of County Commissions of Alabama (ACCA) to obtain legislation granting such management authority have thus far failed, including a bill proposed in 2014. Here is a copy of a letter dated March 27, 2014, to my fellow probate judges which I provided to our legislative delegation regarding that bill:

JOHN E. ENSLEN
JUDGE OF PROBATE OF ELMORE COUNTY
ELMORE COUNTY COURTHOUSE
100 EAST COMMERCE STREET
P. O. BOX 280 * WETUMPKA, AL 36092 * (334-567-1140)

March 27, 2014

To: Probate Judges of Alabama

From: Probate Judge John E. Enslin, Elmore County

Re: SBB 367 and the Operational Relationship Between County
Commissions and Probate Offices

My Fellow Probate Judges:

Due to a court hearing, I was not able to participate in the conference call this morning relating to SB 367 (Marsh). I have, however, read the proposed legislation.

Our legislature needs to carefully consider whether it is wise for the day to day operations of the probate office/tag office/license department/public records department/elections management department/probate court (all probate office functions in Elmore County) to be managed and supervised directly by a fulltime probate judge elected by the people, or whether it is more wise for those day to day operations to be managed by part-time (two nights a month) county commissioners whose identities will change during the probate judge's one term. It is really just that simple.

My father served as probate judge for 24 years between 1970 and 1994. Very fortunately for him, that was before our county commission adopted a "personnel policies and procedures" manual. He could control the day to day operations of his office. He could quickly hire good employees, discipline or fire bad ones, and control leave and vacation time, all without interference from the county commission. The existing state statutes gave the probate judge that authority.

SB 367 has language that might be fine if one is thinking county commission and its highway department, or its emergency management department, or its own personnel staff. But that same language is terribly intrusive and encroaching if one is thinking county commission and the probate judge's probate office. That intrusive and encroaching language includes, by way of non-exclusive example only, the county commission's power to establish "programs, policies, and procedures relating to county personnel," "establishment of a county(wide) personnel system," and "management of county offices."

I know that all of us can speak from personal experiences similar to mine. Please allow me to mention just three of mine since taking office a little over one year ago.

Please take a look at AG Opinion 2013-043 to see a recent real life example of how a county personnel policy can disrupt the operations of the probate office. The local act I relied upon for relief is worded similarly to Section 12-13-40(4), Code of Alabama, which is available to every probate judge.

I recently followed our personnel policies and procedures manually very carefully in firing a dishonest employee in our tag department. The dishonesty was obvious and clearly proven. Ignoring its own policies and procedures manual, the county commission ex-post-facto reconfigured the appeals board, apparently to achieve a predetermined outcome, and then ordered me to reinstate the dishonest employee. I pointed out to the commission, two of whom had put themselves on the appeals board, that it created an illegal appeals board for this one appeal and no known dishonest employee was ever going to handle the public's money in my office. When I refused to reinstate, the commission paid the employee four months back pay and created a new county job for the employee in another department.

May I provide just one more example of several that you or I could easily provide. My chief clerk, by commission-approved contract at my request, serves at my will and pleasure, and his employment automatically terminates with my term in office. He is, by its terms, exempt from the county's personnel policies and procedures manual. I directly supervise him and unilaterally decide his leave and vacation and work hours, which far exceed 40 hours a week. He accumulates no benefits. He is a political

appointee and is exempt under the FLSA so long as he is not subject to a personnel policies and procedures manual which protects his employment from my unilateral actions. (See 29 C.F.R. Section 553.11) The county commission insists that my chief clerk waste time completing meaningless time sheets and personal leave and sick leave records, and two commissioner's tried to fire him for missing work to take the bar exam, for which he had my permission and encouragement.

It is no big secret that county commissioners, who generally know little of the internal operations of the probate office, will naturally attempt to micromanage probate offices through all available means, including the "county employee/personnel policy" connections and the "budgeting/purse strings process." They can create one management headache after another and destroy the efficiency of the probate office. They are looking for the legislature to aid and abet them with SB 367.

SB 367 will adversely affect the operations of the probate offices. If there is a need for legislation with regard to the interaction between the county commissions and the probate offices, it is legislation that will restore operational independence to the probate office. Probate judges should be provided with the laws that will allow them to manage their own offices free and clear of interference from the county commission. Probate judges are accountable to the people every six years. The sole authority and duty of the county commission, as it relates to the probate office, should be to adequately fund the probate office, not to micromanage it. The probate offices need more independence, not more encroachment by the county commissions.

Please feel free to share my letter with your legislators. I am providing it to mine.

With appreciation for all you do to make Alabama a better place to live and work,

/s/ John E. Enslin

John E. Enslin
Probate Judge of Elmore County

Cc: Elmore County Legislative Delegation

The county commission to a significant extent is able to control the offices of elected officials through its power over the purse. For instance, the commission can force an elected official to use the IT service provider or the type of phone system or the janitorial service or the courier service or the internet service with which the commission chooses to contract, notwithstanding the elected public official might prefer to contract with other competent service providers at a much lesser cost.

Just to demonstrate the bureaucratic nightmare that the county commission has established for the purchase of a box of printer paper, I set forth the required procedure. It does not have to be this complex:

1. An employee in the probate office prepares an electronic requisition request;
2. The probate judge goes onto the internet and personally approves the electronic requisition request;
3. The approved electronic requisition request is submitted to the county commission;
4. Unless the request is illegal (Section 11-8-9, Code of Alabama) or insufficient budgeted funds are available (Section 11-8-10, Code of Alabama), the county commission approves the electronic requisition request;
5. The county commission encumbers money in the general fund budget and issues a purchase order number to the probate office;
6. The probate office proceeds to make the duly approved purchase by providing the vendor with the purchase order number issued to the probate office by the county commission;
7. The vendor completes the transaction and submits a detailed invoice referencing the purchase order number to the county commission for payment;
8. The county commission remits payment to the vendor; and
9. The encumbered money is deducted from the county general fund and the probate office budget as an authorized expenditure.

Another way the county commission inserts itself into the management of the probate office is through the adoption of an employee personnel policy manual which dictates the employer/employee relationship and imposes restrictions on how the public official can best make use of his employees. An actual egregious example of the adverse effects of county commission management of probate office personnel is provided in a

subsequent section titled "Promoting Dishonesty In Government." Another example is set forth below in the section titled "Fixing What Ain't Broke."

Common sense dictates that the probate office can be better managed by the public official that the people elected to manage the office, as opposed to being managed by part-time commissioners (they attend two meetings per month) elected from only 1/5th of the county and who have no experience with the complex internal operations of the separate public offices.

The general perception is that the county commission funds the probate office from its general fund. But in an ironic twist that portrays reality, it is the probate office that originally funds the county commission's general fund. The county commission has no general fund monies to spend other than those that are forwarded to the county commission from the collections made by the probate office and the revenue commission office---ad valorem taxes on land, vehicles, and mobile homes; recording fees on the recording of public documents; court costs collected by the probate court; and license fees for hunting, fishing, drivers, business, boat, and marriage licenses. Wisdom dictates that the commission should exert reasonable efforts to help make those two revenue-collecting offices as efficient as possible.

All of the foregoing leads me to say: If WSFA-TV's "all contracts" request seeks information relating to any of those types of contracts that are entered into by the county commission, please submit that request directly to the county commission.

A. PROMOTING DISHONESTY IN GOVERNMENT

Upon taking office I inherited an employee in the Millbrook tag office named Roshunda Moseley. She had previously been reprimanded by Judge Jimmy Stubbs and her supervisor for being late with the taking of bank deposits to the bank. We are talking about days late.

On March 21, 2013, the tag office in Millbrook collected \$865.13 in cash and \$5,356.70 in checks---totaling \$6,221.83. Of course, the checks were all dated March 21, 2013. This money should have been deposited on Friday, March 22, 2013. Only two employees were in the tag office that day, Roshunda Moseley being one of them.

On April 3, 2013, twelve days late, Roshunda Moseley deposited the \$6,221.83 that should have been deposited on March 22, 2013. The funds that should have been deposited on April 3, 2013, were deposited on April 24, 2013, and the funds that should have been deposited on April 24, 2013, were never found because an open investigation had commenced.

Further investigation revealed that Roshunda Moseley claimed, and was paid for, mileage for a deposit she allegedly made on March 15, 2013. However, no deposit was made on that date.

As a result of the incident, we hired off-duty county deputies as couriers to begin making our deposits.

Following the personnel policy guidelines, both procedurally and substantively, I terminated Roshunda Moseley on September 4, 2013. She was terminated for making a false mileage claim (Rule 9.6.4 and Rule 9.6.5), which provides for "dismissal upon the first occurrence of such conduct." (Rule 9.6 and Rule 9.7) I also terminated Roshunda Moseley for withholding a deposit for 12 days, this being her second offense after warning. (Rule 9.6.12, Rule 9.6.21, and Rule 9.6.22).

Roshunda Moseley appealed to the appeals board. The personnel policy and procedures manual in effect at the time of the infractions should have been the applicable law with respect to the appeal. The appeals board should have been the one established in 2007.

While the investigation was known to have been underway----an incident report having been filed with the sheriff's office on May 28, 2013, the county commission commenced modifying the appeals board.

On July 22, 2013, without complying with the requirement to post in the probate office and other offices an intent to amend the personnel policy, Commissioner Stephanie Smoke moved to amend the composition of the appeals board so as to be composed of Commissioner Smoke as the commissioner over personnel matters and four other persons selected by

Commissioner Smoke, including two other commissioners. Her motion passed unanimously.

Three commissioners meeting together privately constituted a violation of the Open Meeting Law, and on September 23, 2013, Commissioner Smoke moved to modify the appeals board by replacing one of the three commissioners with any citizen of Commissioner Smoke's choosing. This motion passed unanimously. Again, the commission failed to post the 10-day notice in the probate office or any other office prior to modifying the manual.

Roshunda Moseley moved to postpone her appeal which was set for October 10, 2013, due to her being on a cruise. The appeal hearing did not take place until January 14, 2014. The board which heard the appeal contained two persons not authorized under the 2007 resolution. One was commissioner Trey Taylor who had an obvious bias as a former county employee who had been terminated and who had instituted an unsuccessful lawsuit against the county.

Although the personnel policy manual provided for me as the terminating official to present the case against Roshunda Moseley, I was told by the county attorney that I would not be allowed to prosecute the action and that I would be called as a witness if they needed me.

I was not surprised to learn that Roshunda Moseley had been acquitted of any wrongdoing and reinstated. She was paid by the county commission her back wages, including her cruise time.

I refused to reinstate Roshunda Moseley. The county commission gave her a new job in the Emergency Management Department with a likely raise in pay.

Here are my three letters to the county commission in response to their demands that I reinstate Roshunda Moseley.

JOHN E. ENSLEN

PROBATE JUDGE OF ELMORE COUNTY

ELMORE COUNTY COURTHOUSE

100 EAST COMMERCE STREET

P. O. BOX 280 * WETUMPKA, AL 36092 * (334-567-1140)

Monday, February 3, 2014

Hon. Jeff Courtney, County Attorney for Elmore County
P. O. Box 100
Wetumpka, AL 36092

Re: Appeal Board Proceeding for Roshunda Moseley

Dear Mr. Courtney:

Late last Friday afternoon, January 31, 2014, I was provided by County Administrator Grace McDuffie with your letter of that same date, addressed to me and advising of the recent ruling issuing from the 5-member Elmore County Appeal Board. You indicated that my September 4, 2013, dismissal of Millbrook tag office employee Roshunda Moseley had been reversed, and that she was being reinstated to her prior position of employment in my office.

Please allow me to respectfully explain why I will neither honor nor accept that ruling as an official legal action of the Elmore County Appeal Board.

The incidents giving rise to this disciplinary action of dismissal occurred on the following dates:

1. Ms. Moseley's double violation of Group Two Offenses, "Falsification" [Section 9.6.4] and "Dishonesty" [Section 9.6.5], in the form of presenting a false claim for mileage reimbursement and receiving subsequent payment, normally requiring dismissal upon the first occurrence according to the *Elmore County Personnel Policies and Procedure Manual* [see Sections 9.6; 9.7; and 9.11.1], took place on or about March 15, 2013.

2. Ms. Moseley's repeated, second offense, post-warning violation of a well-established administrative rule requiring that deposits be made in a timely manner took place on March 22, 2013. [See Sections 8.7(c), 8.7.3, and 1.1.4] This rule violation consisted of her wrongfully withholding a bank deposit of \$6,221.83 which should have been timely deposited in the bank on March 22, 2013. Ms. Moseley eventually made that bank deposit 12 days late on April 3, 2013.

(Ms. Moseley had previously been warned in May of 2009 not to make untimely deposits. That warning was issued by both my predecessor, Judge Jimmy Stubbs, and the tag department supervisor, Lori White, as appears in a writing contained in Ms. Moseley's personnel file in the probate office. Similarly to the instant case, those earlier multiple failures to make timely deposits had taken place on days that Christina Womble was absent from the office. Section 9.11.1 expressly provides that "normally a dismissal will be warranted when an employee repeatedly commits a group one type offense or upon the first occurrence of a group two type offense.")

3. Another Group Two Offense of "Falsification" [Section 9.6.4], normally requiring dismissal on the first offense [see Sections 9.6; 9.7; and 9.11.1], was in the form of a personal misrepresentation to an investigating officer, Sergeant James Talley, who was investigating the deposit-kiting scheme that had taken place in the Millbrook Tag Office. I have no records as to the exact date of Officer Talley's interview or interviews with Ms. Moseley, but the officer's *Alabama Uniform Incident/Offense Report* is dated May 28, 2013.

Based on those dates, the appropriate composition of the Appeal Board authorized to hear the appeal would be the composition of the Appeal Board that existed at the time of the foregoing infractions. Both the dismissed employee and the appointing authority are entitled to rely on the *Elmore County Personnel Policies and Procedure Manual* that was in existence at the time of the alleged wrongful employee conduct. An *ex post facto* modification of the Appeal Board's composition that allowed the county commissioner over personnel, Commissioner Stephanie Smoke, to select **all other members** of the Appeal Board smacks heavily of stacking the board to achieve a pre-determined result sought by the sole appointing commissioner, the same commissioner, by the way, who introduced the *ex post facto* motion to modify the composition of the Appeal Board.

The Appeal Board which met on January 14, 2014, consisted of two unauthorized persons:

(1) One was Commissioner Trey Taylor. This appointee of Commissioner Stephanie Smoke did not fit into any appropriate category based on the applicable rule describing membership qualifications for the Appeal Board. Commissioner Trey Taylor further possessed an obvious bias as a former county employee who had been dismissed from county employment and who had unsuccessfully sued the county for such dismissal. [See *James Melvin Taylor III v. Elmore County Commission*, Case No. CV-2009-900065.00, Circuit Court of Elmore County, Alabama, dismissed on June 8, 2009]

(2) Another was Ms. Kami Scarborough. This appointee of Commissioner Stephanie Smoke did not fit into any appropriate category based on the applicable regulation describing membership qualifications for the Appeal Board.

The Appeal Board which met on January 14, 2014, more than four months after the dismissal, had been wrongfully organized under a new resolution that was passed by the county commission on September 23, 2013, a date that was subsequent to both the infraction dates and the dismissal date of September 4, 2014.

The legally constituted Appeal Board that should have been impaneled for Ms. Moseley's appeal is set forth in an amendment to the *Elmore County Personnel Policies and Procedure Manual* that was unanimously approved by resolution of the Elmore County Commission on September 10, 2007. I quote that resolution from the official minutes of the meeting:

Commissioner Whorton moved to approve the following modifications to the positions named to the Personnel Appeals Board as follows: County Commissioner over Personnel, County Administrator, County Attorney, a Department Manager from a Department other than the Department in which the employee filing the appeal works (to be chosen by the County Administrator), and one peer with the same ranking from a Department other than the Department in which the employee filing the appeal works

(to be chosen by the County Administrator). The motion was seconded by Commissioner Reeves and passed unanimously.

As a matter of history, the above resolution countermanded an original provision in the 2001 *Elmore County Personnel Policies and Procedure Manual* that forbade an elected county official, like a county commissioner or probate judge, from serving on the Appeal Board. [Section 13.2.5] Auburn University was paid a large sum of money to produce a non-political personnel manual which created a permanent impartial Appeal Board, not a new Appeal Board for each separate appeal selected by a single elected official subsequent to the alleged infractions. Originally, employees were to select one of the board members, the county commission was to select two of the board members, and the other elected county officials were to select the remaining two board members. Board members were to serve staggered terms.

Be that history as it may, here is my position. Until such time as a legally constituted and authorized Appeal Board is convened----i.e., a legal Appeal Board based upon the existing rules at the time of the infractions, and said Appeal Board issues a ruling that is in accordance with the provisions of the *Elmore County Personnel Policies and Procedure Manual*, I will not honor the ruling as being legally valid or binding.

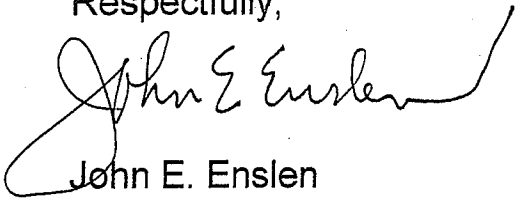
I hereby provide notice as the subject employee's appointing authority that I wish to exercise my rights under Section 10.2.5 of the *Elmore County Personnel Policies and Procedure Manual* to "address the board and present my positions..." I may also request that the board interview "other individuals," depending upon the identity of those whom the board chooses to interview. I further request that the board, as required by Section 10.2.6 of the *Elmore County Personnel Policies and Procedure Manual*, make findings of fact with regard to the facts upon which Ms. Moseley's dismissal was based. In other words, did Ms. Moseley file and receive payment for a false mileage claim or not, a Group Two Offense that standing alone normally calls for immediate dismissal as stated three different times in the written guidelines set forth in the *Elmore County Personnel Policies and Procedure Manual*? [Sections 9.6; 9.7; and 9.11.1]

I further request that a different department head and a different peer employee be appointed. Those who previously served in this matter would be tainted by their involvement in the prior unauthorized proceeding.

There are other irregularities associated with the manner in which this appeal was handled at the appellate stage, but there is no need for me to go into details because the one reason I have given---the illegal composition of the board, is sufficient to make the entire action taken by the Appeal Board null and void.

I look forward to working with you as together we implement the following principle as contained in Section 9.1 of the *Elmore County Personnel Policies and Procedure Manual*: "The maintenance of high standards of honesty, integrity and conduct is essential to assure the proper performance of county business, while maintaining the confidence of its citizens."

Respectfully,



John E. Enslin
Probate Judge of Elmore County

Cc: Members of the Elmore County Commission
County Administrator
Ms. Millie Ballard
Mr. Kevin Boone
Ms. Kami Scarborough
Ms. Jacqui Austin

JOHN E. ENSLEN
PROBATE JUDGE OF ELMORE COUNTY
ELMORE COUNTY COURTHOUSE
100 EAST COMMERCE STREET
P. O. BOX 280 * WETUMPKA, AL 36092 * (334-567-1140)

February 7, 2014

Hon. Jeffrey J. Courtney
P. O. Box 100
Wetumpka, AL 36092

Re: Roshunda Moseley

Dear Mr. Courtney:

This letter is in response to your letter of an hour or so ago regarding the county commission's instruction that I reinstate next Monday Roshunda Moseley to her prior position in the tag department of the probate office.

It appears to me that you and I have a genuine disagreement as to the law. I know that my disagreement is genuine, and I assume that yours is also genuine and not a mere placation of your client.

The July 22, 2013, resolution of the county commission, of which I was already aware and upon which you so heavily rely, was just as *ex post facto* as the September 23, 2013, resolution because the events giving rise to the disciplinary action occurred prior to both of those resolutions.

In addition, the July 22, 2013, resolution upon which you so heavily rely was void *ab initio* as a violation of the state's sunshine law. Three commissioners sitting with two other private citizens in a secret meeting is not allowable, something you acknowledge in your letter.

I assume you are saying you were not eligible to serve on the Appeal Board at the time that it met on January 14, 2014, because you are a resident of Montgomery County. The fact that you were not eligible to serve on the Appeal Board at the time of the Appeal Board hearing did not require a reconstitution of the entire Appeal Board in derogation of the

applicable Appeal Board. Your ineligibility to serve did not require even an amendment to any part of the applicable Appeal Board for that matter. The personnel policy manual clearly states that there would have been a quorum even without your serving because of your ineligibility.

The County Administrator was in place on the date the Appeal Board hearing was conducted, and she should have been allowed to participate and to select the other members of the Appeal Board as provided by the applicable provision of the personnel policy manual in force at the time of the employee infractions.

My assistant and I came to the Appeal Board hearing on January 14, 2014, prepared to address the board and present my positions in the nature of a standard prosecution. You called us into a private area prior to the hearing and said I would not be able to be present for the hearing and that if the board needed me as a witness, they would call me. Your action was a violation of the policy and procedures manual which allows me to address the Appeal Board and present my positions.

I was totally unaware of the makeup of the Appeal Board until I was asked to step into the room and briefly testify. The commission had never sent to me any notice as to the makeup of the Appeal Board for the Roshunda Moseley appeal.

The Appeal Board's order fails to find as a fact that the employee did or did not falsify a mileage reimbursement request. Of course, we both perfectly well know that the employee did exactly just that, a Group Two Offense allowing for immediate dismissal, even absent the other infractions involved and her past disciplinary history. Your conclusory statement that the Appeal Board's ruling was based on findings of fact consistent with its ruling does not equate the recitation of any actual "findings of fact" as required by the personnel policy manual.

My observation of illegalities in this letter is not exhaustive. It is more than sufficient to point out, as I say, that we have a genuine disagreement on the status of the law. I will, of course, honor the ruling of a last resort judge of competent jurisdiction in this matter. In the meantime, there is no reason for Roshunda Moseley to report for work at my office. Perhaps she is more suited for working directly for the county commission.

Please know that I will do everything within my legal power to protect the taxpayers of Elmore County from the acts of dishonest employees.

Respectfully,

/s/ John E. Enslin

John E. Enslin
Probate Judge of Elmore County

JOHN E. ENSLEN
JUDGE OF PROBATE OF ELMORE COUNTY
ELMORE COUNTY COURTHOUSE
100 EAST COMMERCE STREET
P. O. BOX 280 * WETUMPKA, AL 36092 * (334-567-1140)

February 18, 2014

Chairman David Bowen
Elmore County Commission
100 East Commerce Street, Suite 207
Wetumpka, AL 36092

Re: Roshunda Moseley

Dear Chairman Bowen:

I am in receipt of your letter of today urging me to reconsider the reinstatement of a dishonest employee who, among other clear violations, indisputably falsified a mileage reimbursement request, a Group Two Offense warranting immediate dismissal under the policies and procedures manual. Her false mileage reimbursement request was a violation that no other co-worker of Roshunda Moseley committed. Her differentiating dishonesty, and not her race, was my sole motivation for her dismissal.

For the reasons previously provided in my prior correspondence to you, neither Roshunda Moseley nor any other dishonest employee will be allowed to work in the probate office.

Please know that I do not attach anything personal to my disagreement of law with the members of the county commission in this matter. To the contrary, I assume that all of us are making our respective decisions based exclusively on what we sincerely believe to be in the best interests of the people we were elected to serve.

Thanking you for your public service to the people, I am

Respectfully yours,

/s/ John E. Enslin

John E. Enslin
Probate Judge of Elmore County

The deposit kiting scheme left the taxpayers short in the amount of \$10,317.59, but \$7,588.10 of that was in missing checks. The probate office spent the many hours necessary to contact each check writer, some multiple times, and ultimately obtained all replacement checks. That left the \$2,729.49 in cash as the only loss from the incident.

I found that the probate office was covered by a fidelity insurance policy that protected us against the acts of dishonest employees. When we brought that matter to the attention of the county commission, they refused to comply with any of our requests related to completing a proof of loss with the insurance company. The county administrator requested us not to pursue the insurance collection.

I ignored this illegal request and filed a claim. After a long independent investigation, the insurance company repaid the \$2,729.49 less a \$500.00 deductible.

In an audit by the public examiner's office overseen by Chief Examiner Ron Jones, I witnessed one of the most asinine governmental rulings in my lifetime. The examiner did not charge Roshunda Moseley with the missing \$500.00 represented by the deductible. He charged her alleged supervisor Christina Womble with the responsibility for repaying the \$500.00. At the current time Christina Womble is appealing that decision.

B. FIXING WHAT AIN'T BROKE

As a result of the missing deposit in Millbrook, I instituted a new, more secure process for making deposits. I began to utilize the services of a local professional courier service. Payment for their services was made on a monthly basis out of the general fund. The courier service employed off-duty deputies of the sheriff's department to make deposits for the probate office and tag department each afternoon, plus travel to Millbrook to pick up the daily collections and return them to Wetumpka for safekeeping until they were balanced the next business day. We knew the deputies. They knew us. The process worked like a well-oiled machine and we enjoyed working with the courier company. Other counties also effectively used off-duty deputies as couriers.

Then, without reason or warning, Commissioner David Bowen, chairman of the county commission, interjected himself into the daily operations of the probate office. He terminated the local courier service without any notice to or input from me and despite my protests after the fact. Commissioner Bowen's unjustified termination of the courier resulted in my having to pull three employees away from their duties in order to get the deposits made and travel to Millbrook to pick up the daily collections and return them to Wetumpka for safekeeping. This inconvenient interruption hindered our ability to provide efficient services to the public, and the inconvenience lasted for months.

Chairman Bowen's planned first solution to the self-inflicted problem included the use of an armored vehicle, a solution that would cost a lot more than the courier service I used and would fund a national, not local, company. Chairman Bowen eventually allowed my office to utilize on-duty deputies to handle the deposit and travel to Millbrook to pick up the daily collections and return them to Wetumpka for safekeeping.

Rather than the county commission funding the ordinary and routine operations of my office as required by law, I was told that my discretionary fund would have to pay a portion of the cost for the use of deputies to handle the daily deposits and travel from Millbrook to Wetumpka. Again I protested. But understanding that the county commission would likely be replaced in two years, and understanding that unless I complied I would likely have to continue to use three employees on a daily basis, which would cause horrible disruptions in service to the taxpayers, I simply conceded. I am presently honoring my reluctant agreement to pay the deputies out of my discretionary account, but will request a change that is

more in compliance with the law once the new county commission takes office.

C. SIX ZEROS

In Alabama, fiscal years run from October 1 to September 31 of the following year. For example, fiscal year 2016 runs from October 1, 2015, to September 31, 2016. Alabama law requires county elected officials to provide an annual report to the county commission of anticipated revenues and expenditures for the upcoming fiscal year to assist the county commission with the general fund budgeting process.

Each year in June the county commission sends a letter to my office with a rather short deadline for the reporting of anticipated revenues and expenditures for the upcoming fiscal year. My office has complied with the county commission's request in a timely manner each year since I've been in office. Because I oversee three general fund budgets and eight discretionary accounts, the job of providing accurate information takes more than a 30-day period. That's why my office works throughout the year to track revenues and expenditures so that I can provide a detailed, line by line itemization of anticipated expenditures.

I send my reports of anticipated revenues and expenditures to the county administrator. In theory, my reports are then passed along to the five county commissioners. Typically, however, I spin my wheels in front of the county administrator. Commissioners do not pour over the many pages of detailed information I provide. The county administrator proposes a budget for the commission's approval. I am then invited to a public county commission meeting to ostensibly discuss my financial needs which I had previously provided in writing in great detail.

Ultimately, it is the county commission that possesses total and absolute legal authority to set my general fund budget expenditure limit each fiscal year. Last year, after having provided the county commission with more than 60 pages of anticipated expenditures itemized by line item, the county administrator met with me once. During our meeting, the county administrator expressed her confidence that the county commission would do as she recommended. The recommended budget for my office had six zeros in it.

My goal in representing the citizens of Elmore County is not to pander to the county administrator or the county commission. I think that fact is more than obvious based on the first three years of my administration. Calling out the county commission, of course, incurs its natural fallout. There is more than pushback. There is retribution and vindictiveness.

For example, after submitting my detailed budget proposal for fiscal year 2016, the county commission's recommended budget allotted me six zeros in six different "ordinary-expense" line items.

The first zero dealt with probate court. Despite sending about \$50,000.00 a year to the county commission general fund from probate court fees, which correlates directly to an increase in caseload and the proper collection of court costs, the county commission allotted zero for an electronic court management software program that would cost \$700 a month and postpone the need to hire a probate court clerk. The county commission voted unanimously to deny my request for either a software program or an additional clerk. Like our forefathers, we continue to operate the probate court on paper instead of digitally. I had to delete a tag clerk position, which brings its own set of problems, in order to create a probate clerk position.

Other zeros in the recommended budget included no allotment for temporary or part-time salaries, knowing that it is inevitable that we will have employees who are sick or on vacation.

Amazingly, there was no allotment for the rental of voting machines for the 2016 presidential election cycle.

There was no allotment for a clocker and scanner (\$2,000 total) that would preserve permanent election records, like campaign finance disclosures, in a digital format and make them more easily accessible by the public.

There was no allotment for broadcasting real time online election results on election night.

While the county commission voted unanimously to deny most of my requests, they did partially fund the rental of election machines and, recognizing the error of their ways due to public demand, funded the broadcast of real time online election results on election night.

Perhaps the most egregious zero was in my professional services line item. On a practical note, as a judge I sometimes have need of legal assistance. For instance, I may need to ask an attorney to research the correct recording taxes on a large, complex multi-state real estate transaction, or I may have a question about the application of the American Disabilities Act or the Fair Labor Standards Act, or a records retention issue, or a question about the emerging law of same-sex common law marriage in Alabama. I may need to file actions in circuit court dealing with my election duties. While past appropriations averaged \$13,000 a year, the county commission allotted zero in professional services for my office for fiscal year 2016.

The county commission's proposed zero allotment for my legal expenses was nothing more than an attempt to prevent me from prosecuting the presently pending lawsuit against the county commission dealing with whether or not the commission is wrongfully withholding \$880,000 from a probate office discretionary fund.

In the end, the commission voted to award me a mere \$1,500 in professional services for the entire year, which is \$5,190.75 less than the monthly average the commission has expended in attorney's fees in fiscal year 2015, and that excludes the attorney fees paid by their insurer.

The lack of a budget for attorney fees has caused me to hire my chief clerk, a licensed attorney, to do a great deal of legal work from his home after hours. He is already familiar with the operations of the office and I save the cost of having to educate him like I would with outside legal counsel. Also, his hourly rate is much lower than the county's attorney. I have been able to save the county general fund a large sum of money by not hiring outside legal counsel, even in the ongoing same-sex marriage litigation at which I was front and center. I am forced to use discretionary funds for these ordinary expenses, and the general fund has paid none of my legal expenses for the outstanding legal work done by Brent Helms.

D. JUST GETTING DECENT CHAIRS

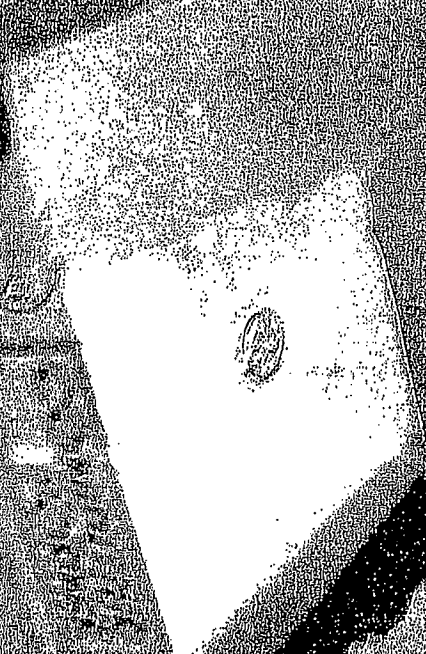
Until recently, the average age of office chairs in my office was nine years old, and the nine-year-old chairs were cheap to begin with. Because my employees sit for eight hours a day and some even eat lunch at their desks, the nine-year-old chairs had been used at least four times their intended life span. That's why, in fiscal year 2013-14, knowing that I would return more than \$115,000 in unexpended funds to the county general fund, I requested the purchase of office chairs from the surplus in my general fund budget. However, despite my surplus of funds and the dire need for new chairs, the county commission, without legal or any other justifiable cause, denied my purchase order request for new chairs. To this day I have not received an explanation from them as to why my purchase order was denied.

My employees were the ones who suffered at the hands of the commission's unjustified decision to deny my request for new office chairs. For example, Pauline Ash, a long-time employee of the tag department had back surgery and reported that one of the reasons she was unable to continue to work for the tag department was the uncomfortableness of her chair. Multiple employees went to the doctor due to back problems stemming from sitting in old, uncomfortable chairs all day. The result: many of my employees purchased their own office chair at their own personal expense and brought it to work.

After the denial of my purchase order for chairs, and after the commission published an article in the Wetumpka Herald about county budget cuts, one of my employees constructed a chair out of boxes and cardboard and posted a sign thereon which read: "Thanks to the Commission's budget cuts, this is the only new chair we can afford." In an effort to communicate the good-natured and jovial intent with which my employee acted, she included a smiley face on the sign. Someone outside of my office apparently took a picture of the makeshift chair and sign and brought it to the attention of Grace McDuffie, the county administrator and a major role player behind the denial of my chair request.

Here is a photo of the mock chair:

Thanks to the
Commission's
Budget cuts,
this is the only
new chair we can
afford! ☹️



0-88
2-674-1111
4-591-6666
Purchased on 5/22/04
2 desk - 2,300.00
2-674-1111
2-653-1111
15-701-1111
Denied

Mrs. McDuffie, the county administrator, quickly blew the incident out of proportion. Notwithstanding the mock chair sign does not mention the county administrator, she called me into her office and demanded that I severely discipline Vicki Stewart, even suggesting that she be terminated. I actually went further than I legally should have in disciplining Vicki for exercising her free political speech, and Vicki's attorney properly corrected me. I modified the discipline to better fit the circumstances.

The incident did not result in new chairs. Eventually, the chair situation came to a head. I had no other choice than to purchase chairs from my discretionary funds for several thousand dollars, notwithstanding chairs are an ordinary expense that should be budgeted and paid for by the county commission through the general fund budgeting process.

So, I purchased chairs for the tag department from my discretionary funds. When it came time to purchase chairs for the probate office, knowing that I would return more than \$97,000 in unexpended funds to the county general fund, I submitted a purchase order for the purchase of office chairs for the probate office. My purchase order was approved and then, after the order and delivery of the chairs was completed, my purchase order was denied because the seller, over whom I had no control, failed to submit an invoice as timely as the county administrator desired.

Finally, in March of 2016, seven months after the order was placed for the chairs, Mrs. McDuffie changed her position and honored the legal approval of my initial purchase order and remitted funds for their payment, for which I was grateful.

III. A COMPLETE LIST OF THE PROBATE JUDGE'S DISCRETIONARY FUNDS

In public meetings, some county commissioners have been critical of the way in which I have expended my discretionary funds, although they are woefully unknowledgeable on the subject. I will take this opportunity to disclose more than you want to know on this subject, including a complete list of all of my discretionary funds.

Discretionary funds are created by the Alabama legislature, signed into law by the Governor, codified as Alabama law, and earmarked for specific spending purposes. In short, discretionary funds are public fund accounts established by law and made available to a public official for his or her discretionary spending, so long as the discretionary spending is in accordance with the earmarked purposes outlined in the law. All contracts signed by me are paid from one of my discretionary fund accounts. I have the complete authority to enter into such contracts and am not required to obtain the advance approval of the county commission. In fact, discretionary funds are not even subject to the bid laws.

Expenditures from the probate office discretionary funds are audited by the Office of the Examiner of Public Accounts. A recent detailed audit of the probate office by the chief examiner's office found absolutely no improper expenditures from discretionary funds.

Because the county commission is charged with the responsibility of reasonably funding the operations of the probate office, discretionary funds by law are not intended for the usual and ordinary expenses of operating the probate office. Discretionary funds should be reserved for unforeseen and unbudgeted demands, or special projects. But the mindset of the county commission is to withhold adequate funding and force the probate judge to use his discretionary funds for the usual and ordinary expenses of operating the office. This prevents the probate judge from being able to "use his discretion" to make extraordinary improvements or implement programs that would modernize the operations of the probate office. Such inappropriate forced spending of the probate office discretionary accounts range from the use of discretionary funds to replace worn out 10 year old chairs throughout the office to the use of discretionary funds for the payment of courier services for the making of regular bank deposits.

The law provides the Probate Judge of Elmore County with eight discretionary funds which I will describe:

1. First is discretionary fund 782, commonly referred to as the "\$1 manufactured home decal fee discretionary fund." This fund is derived

from Section 40-12-255(a), Code of Alabama, which established this state-wide discretionary fund in 1961. The probate judge is entitled to \$1 of a \$5 issuance fee for manufactured home decals. The fund is earmarked "for performance of official duties." It is anticipated that the probate office will collect approximately \$3,670 for this discretionary fund during fiscal year 2015-16.

2. Second is discretionary fund 781, commonly referred to as the "\$15.00 manufactured home citation fee." This fund is derived from Section 40-12-255(b), Code of Alabama, which established this state-wide discretionary fund in 1961. The probate judge is entitled to a \$15 citation fee for an owner's failure to register a manufactured home within the time allowed by law. Expenditures from the fund are earmarked "for performance of the issuing official's official duties." It is anticipated that the probate office will collect approximately \$14,267 in fiscal year 2015-16.

3. Third is discretionary fund 784, commonly referred to as the "special fund of the official from 10% of interest collected." This fund is derived from Section 40-1-47, Code of Alabama, which established this state-wide discretionary fund in 1989. The probate office is entitled to 10% of the interest earned on the short term investment of ad valorem taxes collected between time of collection and time of distribution to appropriate entities, not to exceed \$10,000 in a fiscal year. The fund is earmarked "for any and all reasonable and necessary expenses incurred in carrying out . . . official duties" including "education of employees," but not for "usual and ordinary expenses of operating the office otherwise furnished" by the county commission. It is anticipated that the probate office will collect approximately \$28 in fiscal year 2015-16.

4. Fourth is discretionary fund 779, commonly referred to as the "special licensing official's fund." This fund is derived from Section 32-7A-12(f), Code of Alabama, which established this state-wide discretionary fund in 2000. With regard to a citizen's failure to maintain vehicle insurance in circumstances where the tag department collects the reinstatement fee, the probate office is entitled to 5% of the reinstatement fee of \$200 (first offense), which equals \$10, or 5% of the reinstatement fee of \$400 (second offense), which equals \$20. The fund is earmarked "for improvement of equipment and operations . . . at sole discretion of license plate issuing official." It is anticipated that the probate office will collect approximately \$2,805 in fiscal year 2015-16.

5. Fifth is discretionary account 721, commonly referred to as the "\$1 recording fee discretionary fund." This fund is derived from Section 45-26-81.21, Code of Alabama, which established this local-act discretionary fund

in 1981. The probate judge is entitled to a \$1 recording fee on all recorded instruments. The fund is earmarked "for improvement of equipment and operations of office . . . supplement salaries, [and] pay commercial advertising." It is anticipated that the probate office will collect approximately \$14,002 in fiscal year 2015-16.

6. Sixth is discretionary account 722, commonly referred to as the "Probate Judge \$3 recording fee imaging fund." This fund is derived from Section 45-26-81.22(a), Code of Alabama, which established this local-act discretionary fund in 1999. The probate office is entitled to a \$3 recording fee on every recorded instrument. The fund is earmarked "for preservation and restoration of court records and documents, to develop, purchase, install, upgrade, and maintain computerized system for recording, indexing, imaging, and storing of real and personal property records." It is anticipated that the probate office will collect \$43,665 in fiscal year 2015-16. This is the only discretionary fund which requires the joint approval of the county commission prior to the expenditure of the funds.

7. Seventh is discretionary account 780, commonly referred to as the "motor vehicle special training fund." This fund is derived from Section 40-12-260(a)(5), Code of Alabama, which established this state-wide discretionary fund in 1935. The probate judge is entitled to a \$15 late payment penalty for the late registration of a vehicle. The fund is earmarked "for all reasonable and necessary official and educational expenses of official and employees [which are] directly related to the assessment and collection of taxes on motor vehicles or registration and titling of motor vehicles." It is anticipated that the probate office will collect \$3,000 in fiscal year 2015-16. The narrow earmarking results in very little of this money being spent.

8. Eighth is discretionary account 003, commonly referred to as the "Probate Judge \$1 copy fee fund." This fund is derived from Section 45-26-81.22(d), which originally established a narrowly earmarked fund for the general fund in 1999. The narrow earmarking resulted in an accumulation of the fund over a period of 15 years, so the law was amended in 2014. The new law converted the unusable, narrowly earmarked accumulated fund and all new collections into a discretionary fund for the probate office with expanded uses. The probate judge is entitled to \$1 for copies of digitized records, obtained both in the office and remotely over the internet. As of the 2014 amendment, the fund is earmarked "for acquiring and maintaining equipment, improving the efficiency of the operations of the office, supplementing salaries, and acquiring and maintaining office space." It is anticipated that the probate office will collect \$112,412 in fiscal year

2015-16. This is by far the largest discretionary fund and the primary financial source for an ongoing 1.2 million dollar records-digitization/preservation program as will be explained later. The past accumulated fund, amounting to almost \$900,000, is the current subject of a pending lawsuit between the probate judge and the county commission. A history of this discretionary fund and an explanation of this lawsuit will be separately provided hereafter.

IV. THE SOURCE OF FUNDING FOR DISCRETIONARY ACCOUNT 003

The largest discretionary fund by far, and the one with the most expansive uses, is Discretionary Account 003. The sole source of funding for that discretionary account is the sale of copies of public documents, and that is why my largest use of the fund has been to preserve the archived public documents in the probate office----consistent with the original statutorily earmarked purpose for copy costs. WSFA-TV's required payment for the copies of the contracts that are provided herewith in response to its request will go into that account. State law sets the charge for the copies at \$1.00 per page.

My first official change after I took office was to require all employees to issue a written receipt for the sale of copies to the public, instead of their merely turning in at the end of the work day the amounts they said they had collected. There was no measureable difference in collections and I am confident that those collecting the money for the purchase of copies were being honest. However, such a practice is not an appropriate business or accounting practice, especially in dealing with public monies.

After being in office a short while, I noticed that our printers were printing a large number of copies for which we were not receiving any payment. The difference was around 500 copies per month for the couple of months that I watched it. I was eventually able to determine that a long-time employee had been gratuitously providing to professional abstracters the secret printer code reserved for employees. The employee was terminated. The loss in copy costs over an extended period of time was undoubtedly substantial.

I next pursued a goal of placing all of our public records on the internet as a convenience to the public. I knew that doing such had the potential of cutting down on the foot traffic in the office and ultimately reducing the number of employees needed to service patrons. (I had already done

something similar by setting up a system for the electronic filing of deeds and mortgages from remote locations offsite.)

Having no funds appropriated by the county commission for placing our public records on the internet, and knowing that none would be forthcoming, I asked the software company that managed our records system to put our public records online. They agreed to do so conditioned upon their being able to charge the viewers a graduated fee, based on the number of pages that were viewed. Under this arrangement, the probate office has been able to sell copies of the documents remotely to patrons anywhere on planet earth where access to the internet is available.

The numbers of copies being sold over the internet is growing and will likely soon reach 50% of all funds being deposited into Discretionary Account 003. So this is the way it works over the internet: The county commission's general fund does not buy a printer, does not maintain a printer, does not provide electricity to the printer, does not purchase paper, does not purchase ink, and does not pay an employee to make a copy on the printer. Yet the citizens of Elmore County receive the benefit of the \$1.00 for a copy purchased by John Doe in Istanbul, Turkey. That is the growing source for the funds which I expend at my discretion for improving the efficiency of the office or incentivizing my employees.

Amazingly, placing the public records on the internet met with immediate opposition from the county commission. One commissioner claimed that his social security number and identity had been stolen from the internet site, and other commissioners expressed concern that the same would happen to them. As a temporary accommodation to their feelings, the public records website was shut down in order to investigate the matter. The whole stolen-identity episode turned out to be a hoax.

Here is my letter of report to the commissioners dated August 30, 2013, which will explain the results of my investigation into the claim that a commissioner had been the victim of an identity theft because the public records had been placed on the internet:

Probate Office of Elmore County
P. O. Box 280
Wetumpka, AL 36092

August 30, 2013, Friday

To: Chairman Joe Faulk and Commissioners Mark Hragyil, David Bowen, Stephanie Smoke, and Trey Taylor of the Elmore County Commission

cc: Lynda Feaga, County Administrator; Patrick Pinkston, County Attorney

Re: Web Access To Public Records in the Probate Office of Elmore County

This is a follow-up to the privacy issues brought to my attention by Commissioner Mark Hragyil through county attorney Patrick Pinkston on Monday, August 26, 2013. (Please see copy of my e-mail of August 27, 2013, which was addressed to Syscon.)

Please know that I take very seriously my official responsibility to establish the policies and procedures under which our public records will be made accessible to the general public. I must balance various competing interests and consider all of the factors at my disposal in formulating policies and procedures that are in the best interest of the citizens of Elmore County.

I have met extensively with two officers of Syscon and discussed the matter thoroughly with them. I have conducted considerable legal research. I have talked to officials in other probate offices. I have talked with our personnel in our office who are most familiar with the ramifications relating to access to public documents.

Please allow me to address first the individual concern of Commissioner Hragyil, and I think perhaps the concern of another commissioner or two. A Syscon representative provided me with the following information regarding

3. Without the remote public web access system in place, Syscon's many customers would not be able to file deeds and other documents in our probate office electronically, sometimes called e-filing. That is a new service we are now offering as a convenience to the public.

The entire judicial system in Alabama, with the exception of probate offices, already uses e-filing exclusively. A near-paperless society is the future. The proposal to include probate offices is already in the advanced consideration stages and is a future inevitability. The added convenience of e-filing to masses of people is obvious. Judicial e-filing results in all types of private information being made available to members of the public disconnected with the case in which the e-filing was made.

4. Identity theft prevention continues to become more advanced and sophisticated, and the time will soon come, if it has not already come, that merely possessing another person's social security number is not going to allow for the theft of that other person's identity for the purpose of stealing their assets.

5. As you may or may not be aware, the Elmore County Probate Office is the only county office that still occupies the same physical space that it was allotted when the courthouse was dedicated in 1931, and in 1931 the probate office did not sell drivers licenses. That year of 1931 was less than two years removed from the great stock market crash of 1929 and President Herbert Hoover was the President of the United States. The population of Elmore County since that time has almost tripled. I am forced to find ways to cut down on patron traffic in our limited physical space, and modern technology provides some opportunities to do just that. Business conducted from a home or office computer will reduce the foot traffic and provide a more convenient service to the people.

6. I am moving in the same direction as the modern business and government world is moving. We eventually would be forced to move in that direction anyway if we did not voluntarily do so now. In fact, we are actually behind already, at least from a national perspective.

7. If the probate office were to wait until the necessary resources were provided to our office so that we could redact social security numbers from all of the public documents housed in the probate office prior to their being

a detailed investigation which he undertook after receiving my e-mail and discussing the matter with me. These are his words:

“I researched all the records accessible through the remote access (I got signed on to the Elmore Co. remote access server just as any remote subscriber would, and was looking at exactly what any remote user would see) for each of the Commissioners, using the following names for the searches: Joe Faulk, Joseph P. Faulk, Joseph Faulk, Stephanie Daniels Smoke, Stephanie Daniels-Smoke, James Taylor, James Melvin Taylor III, James M Taylor III, J M Taylor III, Trey Taylor, David Bowen, David J Bowen, David Jerome Bowen, Mark Hragyil, Mark A Hragyil, and Mark Anthony Hragyil.

In all I reviewed about 300 instruments (every page in each instrument) for all the commissioners. As a result, I found 5 instruments with SSN viewable on the instrument. For Mark Hragyil there were 3 - Current recordings - UCC 45797 in UCC Bk 2, 389 (recorded in 2001 and the one that was supposedly found on line), Legacy records - Real Bk 157(roll) Pg 2306(frame) with the actual page (frame) with the SSN Pg 2311; and Real Bk 183 Pg 35 with the actual page with the SSN Pg 40. Both of the legacy instruments are real property land (mortgage) records. For David Bowen there were 2 - Current recording - UCC 40590 in UCC Bk 1 Pg 299, Legacy records - Real Bk 209 Pg 989.

Now, the interesting result is that our records of remote access searches for the book and page numbers of the 5 instruments I found show that only 1 person had viewed those records remotely - ME. In other words, whoever told the commissioners that their SSN's were publicly available did not search for them remotely. If anything, they found those records in the record room on the public computers. It probably was someone who does not want the records to be available by remote access for fear of losing

business either by not being asked to do as much title work in the record room or an attorney who has built his business on title preparation and recording that he is afraid will be taken over by bigger companies.”

If you do a Google search for ‘Mark Hragyil,’ there are numerous information sources out there for him. Some of them have marriage records that may include his SSN and other personal information. If someone were really interested in stealing his identity, there would be easier ways than signing up for the Syscon remote access records search.”

Here are some important facts that in my opinion bear on this issue:

1. There is nothing available on the internet that is not already fully available to the public in the probate office. There are three differences:

(a) A walk-in patron can obtain a document from the probate office and we have no way of knowing the identity of the person who obtained the document. In fact, the patron can write down a social security number and not even purchase a document. Whereas, any patron who obtains or views the same document remotely from the web access point must supply his user name and password which is traceable to the subscriber of the service and thus identifiable. Why would a criminal want to choose the latter over the former?

(b) The second difference is that the web user must pay extra charges in the way of subscription and viewing fees that are not paid by a walk-in patron---adding another layer of discouragement.

(c) The third difference is that the walk-in patron still has direct access to the original hard copies of the documents and is not required to use the computer index at all.

2. The web records are not searchable by SSN or any wildcard search feature to find SSN's. The same index is used for the web system that is used for the walk-in system.

placed on the world-wide-web, I would venture to say that the records might never be placed on the world wide web.

I feel we have better communications when we provide reasons for our official actions, and I am hopeful that this information will help each of you to understand the reasons for my decision to allow for full web access of all of our public records that are already viewable in the probate office by the public without restriction. In my opinion, the overall benefit to the public far outweighs the very limited risk of harm. And I believe that which I am saying despite the fact that my own social security number is imbedded in those records.

I nevertheless want you to know that I am reserving the right in our Memorandum of Agreement with Syscon to change this official policy of the probate office on short notice, and I will especially be inclined to review or reconsider this policy if a commissioner or other member of the public becomes a genuine victim of identity theft as a result of web access to our public records. That has yet to happen to the knowledge of Syscon, and there are nine Alabama counties already in its system.

I would be glad to try and answer any specific questions you may have.

Respectfully,

/s/ John E. Enslin

John E. Enslin
Probate Judge of Elmore County

V. THE PENDING LAWSUIT AGAINST THE ELMORE COUNTY COMMISSION

The probate judge has been accused of filing a lawsuit every time he does not get his way with the county commission. In truth, I have filed only one lawsuit against the county commission. It is still pending. It deals with about \$880,000 that the commission is wrongfully withholding from the probate office's Discretionary Account 003. The funds are needed to complete a 1.2 million dollar project to convert all deteriorating paper public records into a digitized format for preservation and easier dissemination, as well as for numerous other appropriate uses.

The Elmore County Probate Office has placed more public records on the internet in the last two years than any other county in the state, and the sole source of funds for doing so has been the probate office discretionary funds derived from the sale of copies of recorded public documents to interested purchasers of those documents from all over the world.

A history of the events leading to the filing of the lawsuit is set forth in my letter to the county commission dated February 6, 2014. Here is that letter:

JOHN E. ENSLEN

JUDGE OF PROBATE OF ELMORE COUNTY
P.O. BOX 280 • WETUMPKA, ALABAMA 36092 • (334) 567-1140

February 6, 2015

To: Members of the Elmore County Commission
Chairman David Bowen, Commissioners Faulk, Taylor, Hragyil, and
Smoke

From: John E. Enslin, Probate Judge

Re: Discretionary Account 003

Dear Commissioners:

I hope this letter finds everyone enjoying good health, a priceless possession.

As you know, we cannot all legally meet together except in a public meeting. After giving it some thought, I felt the best way to communicate with all of you on this important topic is by direct snail mail.

The subject for this letter will require a short history. When I took office in January of 2013, I began to study the probate office discretionary accounts that had been established by local laws. I ran across Section 45-26-81.22(d) which said that the \$1 copy costs collected in the probate office must be earmarked exclusively by the county commission for "establishing and maintaining the archival and indexing equipment" in the probate office. That code section became effective in May of 1999.

Additional research showed that the archival and indexing equipment in the probate office, consisting mainly of scanners and clockers, had always been furnished through a lease of the equipment from Syscon, our software provider, and that the lease contract with Syscon had been paid for through the years with a probate judge discretionary account, Discretionary Account No. 722. (That's another story that is not relevant here.)

I requested an opinion from the Attorney General to see if the earmarked \$1 copy cost fund could be used by the county commission for purposes other than "archival and indexing" equipment. I attach the request for that opinion and the response I received from the attorney general, AG Opinion 2013-070. The simple answer was that the copy cost funds could only be used for archival and indexing equipment in the probate office.

Since the probate office had restricted, narrowly earmarked, and unused copy cost funds just sitting idle in the general fund, I requested a local act that would expand the uses to which the funds might be used in the probate office. I submitted uses to mirror or match the uses already allowed by existing Discretionary Account No 721. I think you are familiar with the major part of the history dealing with that local act request. The result was the passage of Act No. 2014-106, a copy of which I enclose. The only change in the former act appears in the lined-through portion on page 3 of the new act.

I did not know how much money was in the earmarked account, and I don't think the commission staff did either. I began a quest to determine the amount of \$1 copy cost money collected and paid into the general fund monthly beginning in May of 1999. I assigned one of my staff to assimilate all available data based on our monthly disbursement records to the commission. I learned that the total accumulated amount since the act went into effect in 1999 was approximately one million dollars.

After the local act went into effect, I approached the county administrator with a copy of the accounting we had produced. At that time, the commission was planning to construct a brick and mortar satellite probate office in Millbrook in partnership with the City of Millbrook. I suggested the possibility of my donating the largest chunk of the fund toward that project and requested the administrator to let the commission know of my offer.

The county administrator, in looking out for the interest of the commission, as expected, decided that she would transfer to Discretionary Fund 003 only the \$1 copy costs that had been collected since I took office in January of 2013, and all of the prior collections she apparently reserved for the unrestricted use of the general fund.

Thereafter, I requested an opinion from the attorney general regarding the portion held back by the county administrator. I enclose a copy of my request and the recent response, Attorney General Opinion 2015-023 dated December 23, 2014. The attorney general has ruled that the prior accumulated \$1 copy cost funds should be transferred into the new Discretionary Account No. 003.

I enclose the best accounting that the probate office can produce for the \$1 copy cost collections that were paid to the county commission between July 1999 and December 2012. The total amount comes to approximately \$878,000.

Just as a matter of information, the current estimate for converting the remaining paper documents in the probate office to digital format for easy access and viewing by the public is approximately 1.2 million dollars. It certainly seems fitting and appropriate to use the \$1 per copy that the public pays for digital-image copies to convert more of our deteriorating paper documents to digital-image format. The accomplishment of that complete task would move Elmore County to the very forefront of counties so far as the preservation and archival of its important public documents – providing easy and free viewing access for everyone inside of the courthouse. That would be a significant achievement for an appreciative posterity in which all of us could justly take pride as county officials.

Based on the facts presented, I am hereby respectfully requesting that \$877,937.59 be transferred from the general fund or some general fund reserve account into probate office Discretionary Fund No. 003. This transfer will comply with the ruling of the attorney general and allow me to move ahead with the archival work which is already well under way.

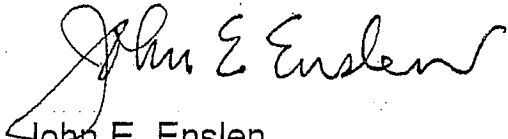
It is my understanding of the law that no vote of the county commission is required for this transfer to take place because this is not a matter that lies within the discretion of the county commission. It is simply a matter of complying with existing law. Of course, if you still want me to address this situation in a public meeting, I would be glad to do so.

Please know that I have never claimed to anyone that the \$1 copy costs funds were misappropriated by this county commission or any prior

county commission. The general fund has always had a sufficient amount to cover the monthly \$1 copy costs paid into the general fund. Perhaps they should have been separated by account number through the years, but I deem that deficiency to have been a totally innocent one.

Of course, I would be glad to try and answer any questions or discuss this matter with any of you individually, or even two of you at a time as the maximum number the law allows.

With appreciation for the difficult work which you do,

A handwritten signature in cursive script that reads "John E. Enslin". The signature is written in black ink and is positioned above the printed name.

John E. Enslin
Probate Judge of Elmore County

FACTS:

Section 12-19-90(a)(25), *Code of Alabama*, states:

"The following fees for service provided by the probate offices shall be charged and paid into the county treasury or to the judge of probate as may be authorized or required by law: *** Copy of an instrument, per page.....\$1.00."

Section 12-19-90(d), *Code of Alabama*, states:

"This section [Section 12-19-90] shall not repeal, amend nor affect any local law or general law of local application prescribing fees for judges of probate."

The Probate Office of Elmore County has been collecting the \$1.00 per page since the above statute took effect. The Probate Office of Elmore County has been submitting those funds monthly to the county treasury as a line item remittance since the \$1.00 per page charge has been in existence.

Subsections (c) and (d) of Section 45-26-81.22, *Code of Alabama*, a local law applicable to Elmore County, read in relevant parts as follows:

"(c) Records archived and retained on optic disks, or the like, shall constitute official records of the office of the judge of probate and of the probate court and may be compiled and certified and sold to the public in accordance with applicable statutes. All funds collected for copies ... shall be paid to the county general fund.

(d) The judge of probate from time to time shall establish a policy on the sale of or access to ... digitized images maintained in the office of the judge of probate and in the probate court. All funds received from the sale of the ... images shall be paid to the county general fund **for purposes of establishing and maintaining the archival and indexing equipment.**"

The probate office policy that has been in effect since the inception of the digitizing of documents is as follows: Copies of all digitized documents that are public documents are available for purchase by the general public.

The fee charge policy of \$1.00 per page, per the above statute, has been the amount of the charge, and notice of this fee charge has been posted in writing by the Probate Judge of Elmore since the inception of the \$1.00 charge. This posting has been in accordance with Section 12-19-40 of the Code of Alabama:

“Probate judges must keep posted, in a conspicuous place in their respective offices, a complete list of all the fees allowed by law to them and must furnish a copy thereof on application.”

QUESTION:

Are the funds received for the sale of copies of digitized public documents in the Probate Office of Elmore County earmarked exclusively for the “purposes of establishing and maintaining the archival and indexing equipment” in the said probate office, or may such funds be treated as a part of the “general fund” and used at the discretion of the county commission for any purpose whatsoever according to the discretion of the county commission?



2013-070

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

September 16, 2013

Honorable John E. Enslin
Probate Judge of Elmore County
Post Office Box 10
Wetumpka, Alabama 36092

CORRECTED COPY

Probate Courts - Fees - County
Funds - County Commissions

The funds received for the sale of copies of digitized public documents in the Probate Office of Elmore County are to be deposited in the general fund of the county for the purposes of establishing and maintaining archival and indexing equipment within the Elmore County Probate Judge's Office.

Dear Judge Enslin:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Are the funds received for the sale of copies of digitized public documents in the Probate Office of Elmore County earmarked exclusively for the "purposes of establishing and maintaining the archival and indexing equipment" in the said probate office, or may such funds be treated as a part of the "general fund" and used at the discretion of the county commission for any purpose whatsoever according to the discretion of the county commission?

FACTS AND ANALYSIS

Section 12-19-90(b)(25) of the Code of Alabama provides for a certain schedule of fees by the Office of Probate. This provision reads, in pertinent part, as follows:

(a) The following fees for service provided by the probate offices shall be charged and paid into the county treasury or to the judge of probate as may be authorized or required by law:

* * *

(b) Fees for services other than those specified in subsection (a) shall be:

* * *

(25) Copy of an instrument, per page 1.00

ALA. CODE § 12-19-90 (2012). This particular provision authorizes the funds received pursuant to the copying of an instrument by the probate judge to be distributed to either the county treasury or the judge of probate "as may be authorized or required by law." *Id.*

Elmore County passed a local law, which is codified in section 45-26-81.22 of the Code of Alabama that is relevant to your particular inquiry. This provision states, in pertinent part, as follows:

(d) The judge of probate from time to time shall establish a policy on the sale of or access to computerized index information and digitized images maintained in the office of the judge of probate and in the probate court. *All funds received from the sale of the information and images shall be paid to the county general fund for purposes of establishing and maintaining the archival and indexing equipment.*

ALA. CODE § 45-26-81.22(d) (emphasis added).

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to

Honorable John E. Enslin

Page 3

interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000). Accordingly, any fees collected pursuant to section 45-26-81.22(d) of the Code are to be deposited into the county general fund, and those monies are to be expended solely for the purpose of establishing and maintaining archival and indexing equipment within the Office of the Elmore County Probate Judge. Moreover, any fees that are collected pursuant to section 12-19-90(b)(25), to which neither section 45-26-81.22(d) nor any other law is applicable, should be deposited into the county general fund for use by the county without restriction.

CONCLUSION

The funds received for the sale of copies of digitized public documents in the Probate Office of Elmore County are to be deposited in the general fund of the county for the purposes of establishing and maintaining archival and indexing equipment within the Elmore County Probate Judge's Office.

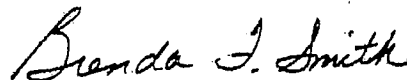
I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE

Attorney General

By:



BRENDA F. SMITH

Chief, Opinions Division

LS/MMG
1629567/173021



2013-070

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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September 16, 2013

Honorable John E. Enslin
Probate Judge of Elmore County
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FACTS AND ANALYSIS

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(a) The following fees for service provided by the probate offices shall be charged and paid into the county treasury or to the judge of probate as may be authorized or required by law:

* * *

(b) Fees for services other than those specified in subsection (a) shall be:

* * *

(25) Copy of an instrument, per page 1.00

ALA. CODE § 12-19-90 (2012). This particular provision authorizes the funds received pursuant to the copying of an instrument by the probate judge to be distributed to either the county treasury or the judge of probate "as may be authorized or required by law." *Id.*

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ALA. CODE § 45-26-81.22(d) (emphasis added).

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Honorable John E. Enslen

Page 3

interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000). Accordingly, any fees collected pursuant to section 45-26-81.22(d) of the Code are to be deposited into the county general fund, and those monies are to be expended solely for the purpose of establishing and maintaining archival and indexing equipment within the Office of the Elmore County Probate Judge. Moreover, any fees that are collected pursuant to section 12-19-90(b)(25), to which neither section 45-26-81.22(d) nor any other law is applicable, should be deposited into the county general fund for use by the county without restriction.

CONCLUSION

The funds received for the sale of copies of digitized public documents in the Probate Office of Elmore County are to be deposited in the general fund of the county for the purposes of establishing and maintaining archival and indexing equipment within the Elmore County Probate Judge's Office.

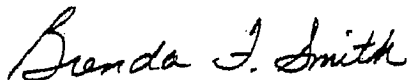
I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE

Attorney General

By:



BRENDA F. SMITH

Chief, Opinions Division

LS/MMG
1629567/173021

1
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HB92
155666-2

ACT #2014-106

By Representative Beckman (N & P)

RFD: Local Legislation

First Read: 14-JAN-14

PFD: 01/06/2014



1
2 ENROLLED, An Act,

3 Relating to Elmore County; to amend Section
4 45-26-81.22 of the Code of Alabama 1975, authorizing the judge
5 of probate to establish a policy on the sale of or access to
6 computerized index information or digitized images; to provide
7 further for the use of funds received from the sale of such
8 information.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 45-26-81.22 of the Code of
11 Alabama 1975, is amended to read as follows:

12 "\$45-26-81.22.

13 "(a) In Elmore County, a special recording fee of
14 three dollars (\$3) shall be collected by the office of the
15 judge of probate on each real or personal property, Uniform
16 Commercial Code, judicial, or other instrument recorded or
17 filed for record. The special recording fees shall be in
18 addition to all other fees, taxes, and other charges required
19 by law to be paid upon the recording or filing for record of
20 any real or personal property, Uniform Commercial Code,
21 judicial, or other instrument. All fees collected shall be
22 deposited by the judge of probate in any depository in the
23 county as designated by the county governing body.

24 "(b) The fees collected under this section shall be
25 expended at the discretion of the judge of probate with the

1 approval of the county commission for the preservation and
2 restoration of court records and documents and to develop,
3 purchase, install, upgrade, and maintain a computerized system
4 for recording, indexing, imaging, and storing of real and
5 personal property records, Uniform Commercial Code filings,
6 judicial proceedings, financial accounts, and any other
7 records required to be maintained by the office of the judge
8 of probate and the probate court.

9 "(c) The judge of probate may retain all or parts of
10 court records for archival purposes utilizing optical disks,
11 or other acceptable computerized methods for records storage,
12 or any combination thereof. The use of microfilm to retain and
13 archive court records in the county may be discontinued and
14 replaced with digitized or scanned images of records committed
15 to optic disks, or the like. Records archived and retained on
16 optic disks, or the like, shall constitute official records of
17 the office of the judge of probate and of the probate court
18 and may be compiled and certified and sold to the public in
19 accordance with applicable statutes. All funds collected for
20 copies and certifications shall be paid to the county general
21 fund.

22 "(d) The judge of probate from time to time shall
23 establish a policy on the sale of or access to computerized
24 index information and digitized images maintained in the
25 office of the judge of probate and in the probate court. All

1 funds received from the sale of the information and images
2 shall be paid to the county general fund ~~for purposes of~~
3 ~~establishing and maintaining the archival and indexing~~
4 ~~equipment and expended at the discretion of the judge of~~
5 probate for acquiring and maintaining equipment, improving the
6 efficiency of the operations of the office, supplementing
7 salaries, and acquiring and maintaining office space.

8 "(e) This section is cumulative. Nothing contained
9 in this section shall alter or change an existing law relating
10 to charges and fees to be collected by the Judge of Probate of
11 Elmore County."

12 Section 2. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.

~~_____~~

Speaker of the House of Representatives

Ray Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 16-JAN-14.

Jeff Woodard
Clerk

Senate

25-FEB-14

Passed

APPROVED March 3, 2014

TIME 11:15 a.m.

Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2014-106
Bill Num....: H-92

Recv'd 03/03/14 01:52pmSLF

DATE: 1-14 2014
RD 1 RFD 11

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DATE: 1-14 2014
RD 1 RFD 11

REPORT OF STANDING COMMITTEE
 This bill having been referred by the House to its standing committee on _____ was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) w/sub _____ this _____ day of _____, 2014.
 _____, Chairperson

DATE: 1-15 2014
 RF RD 2 CAL

DATE: 20____
 RE-REFERRED RE-COMMITTED
 Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill,
 HB 92
 YEAS 33 NAYS 0
 JEFF WOODARD,
 Clerk

FURTHER HOUSE ACTION (OVER)

DATE: 1-19 2014
RD 1 RFD 11

This Bill was referred to the Standing Committee of the Senate on _____ and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) _____ w/sub _____ w/eng sub _____ by a vote of _____ yeas _____ nays _____ abstain _____ this 30 day of Jan 20 14
 _____, Chairperson

DATE: 1-30 2014
 RF FAV RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill,
 HB 92
 YEAS 17 NAYS 0 AB 3
 PATRICK HARRIS,
 Secretary

DATE: 2-25-14 RD 3 at length
 PASSED PASSED AS AMENDED
 YEAS 17 NAYS 0 AB 3

And was ordered returned forthwith to the House.
 PATRICK HARRIS,
 Secretary

DATE: 20____
 INDEFINITELY POSTPONED YEAS NAYS

DATE: 20____
 RECONSIDERED YEAS NAYS

FURTHER SENATE ACTION (OVER)

FACTS:

In 1999, the Alabama Legislature passed Act 99-531 which was codified in relevant part as Section 45-26-81.22(d). The original local act provided in relevant part as follows:

(d) "The judge of probate from time to time shall establish a policy on the sale of or access to computerized index information and digitized images maintained in the office of the judge of probate and in the probate court. All funds received from the sale of the information and images shall be paid to the county general fund **for purposes of establishing and maintaining the archival and indexing equipment.**" (emphasis added)

The cost for a digital copy of a public document was already set by state statute, Section 12-19-90(b)(25), at \$1.00 per page, and the probate office accepted the already-authorized \$1.00 per page as its policy. The \$1.00 per page has been consistently collected for digital copies sold to the public. These collected funds have been separately identified and submitted monthly to the county commission for deposit into the general fund to be earmarked for "establishing and maintaining the archival and indexing equipment" in the probate office. Under this original law, such earmarked funds were not to be used for any other purpose. See Attorney General Opinion No. 2013-70 dealing with this exact statute.

In practice, the county commission and the probate office had used for years a separate discretionary fund of the probate office to pay for the "archival and indexing equipment." Thus, all of the collections from the \$1.00 copy costs for "archival and indexing equipment" under Section 45-26-81.22(d) had been accumulating and sitting idle in the general fund since the inception of the statute.

Because the accumulated \$1.00 copy cost funds were narrowly earmarked and not being used for any purpose, the probate judge sought remedial legislation from the Alabama Legislature---asking that the accumulated copy cost funds be converted to a discretionary fund for the probate judge. Following the recommendation of the probate judge and a favorable supportive vote of the county commission, the Alabama Legislature in 2014

passed Act No. 2014-106. That remedial statute, which took effect by its terms on June 1, 2014, converted the old \$1.00 copy cost fund earmarked for "establishing and maintaining the archival and indexing equipment" into an expanded-use discretionary fund for the probate judge. Act No. 2014-106, which amended Section 45-26-81.22(d), reads in relevant part as follows:

(d) "The judge of probate from time to time shall establish a policy on the sale of or access to computerized index information and digitized images maintained in the office of the judge of probate and in the probate court. All funds received from the sale of the information and images shall be paid to the county general fund and expended **at the discretion of the judge of probate for acquiring and maintaining equipment [encompassing the old use], improving the efficiency of the operations of the office, supplementing salaries, and acquiring and maintaining office space.**"

Although the county commission had correctly deposited the \$1.00 copy costs funds into the county general fund monthly, as required by the old statute, the commission had never given the post-1999 \$1.00 copy cost fees a separate account number. However, the correct accumulated amount of such earmarked fund is and was easily identifiable from existing official financial records and has been so identified and established without dispute.

The probate office is an essential part or department of a single county government. The probate office and its staff, all county employees, rely exclusively on the county commission and its staff for centralized financial budgeting, financial management, and financial accounting functions applicable to the probate office----the same as with other county offices. It was not the responsibility of the probate office to assign the separate account number for the earmarked copy cost fund.

No person has ever claimed, nor does any person now claim, that the \$1 copy cost funds were misappropriated or in any way improperly expended by the county commission. There has always been more money in the county general fund than the amount represented by the accumulated

collection of \$1 copy cost fees. There has been no invasion or misuse of the accumulated copy cost fees, either intentional or negligent. Separately unidentified, they have remained unspent in the county commission general fund.

Until an opinion from the Attorney General's Office can be secured on the question herein presented, the county administrator and the current probate judge amiably agreed to temporarily place into the probate judge's new \$1.00 copy cost discretionary fund (Account 003) those \$1.00 copy cost collections which were collected subsequent to the current probate judge's taking office on January 16, 2013. Based on that date, the amount placed into the new discretionary account was derived from the aforementioned existing official financial records of the county.

The identified pre-January 2013 accumulated \$1.00 copy cost funds remain for the time being in the county general fund, still without assigning to them as of yet a unique accounting identification number.

Specific Question:

Subsequent to June 1, 2014, the effective date of the amended Section 45-26-81.22(d), what is the appropriate legal manner in which to treat the pre-June 2014 accumulated \$1.00 copy cost funds originally earmarked under old Section 45-26-81.22(d) exclusively for "archival and indexing equipment?"

In other words, are the pre-June 2014 accumulated \$1.00 copy cost funds now a part of the new expanded-use discretionary account created by the remedial legislation passed by the Alabama Legislature as Act 2014-106?

Or must the pre-June 2014 accumulated \$1.00 copy cost funds remain as originally earmarked for "archival and indexing equipment" exclusively under old Section 45-26-81.22(d), thus making them currently available to the probate office only for that narrowly earmarked purpose---the very problem sought to be cured by the remedial amendment that expanded the available uses?

Or, should the pre-June 2014 accumulated \$1.00 copy cost funds be retained by the county general fund to be used by the county commission as non-earmarked funds for any purpose the county commission deems appropriate?



2015-023

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

December 23, 2014

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

Honorable John E. Enslin
Probate Judge of Elmore County
Post Office Box 10
Wetumpka, Alabama 36092

Probate Courts - County Funds - County
Commissions - Discretionary Funds -
Elmore County

The pre-June 2014 accumulated \$1.00
copy-cost funds are now a part of the new
expanded-use discretionary account created
by remedial legislation passed by the
Alabama Legislature in Act 2014-106.

Dear Judge Enslin:

This opinion of the Attorney General is issued in response to your
request.

QUESTION

Are the pre-June 2014 accumulated \$1.00 copy-
cost funds now a part of the new expanded-use
discretionary account created by the remedial
legislation passed by the Alabama Legislature in Act
2014-106?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that, in 2013, this
Office issued an opinion to you regarding section 45-26-81.22(d) of the Code of
Alabama. See opinion to Honorable John E. Enslin, Probate Judge of Elmore
County, dated September 16, 2013, A.G. No. 2013-070. In that opinion, this
Office determined that the \$1.00 copy-cost funds should be deposited into the
county general fund and that those monies should be used solely for the purpose

Honorable John E. Enslèn

Page 2

of establishing and maintaining archival and indexing equipment within the office of the Elmore County Probate Judge. Since the issuance of that opinion, the provisions of section 45-26-81.22 of the Code have been amended by the passage of Act 2014-106. Currently, you question how the pre-June 2014 copy-cost funds should be treated in relation to the post-June 2014 copy-cost funds.

Prior to the implementation of Act 2014-106, section 45-26-81.22(d) of the Code stated as follows:

The judge of probate from time to time shall establish a policy on the sale of or access to computerized index information and digitized images maintained in the office of the judge of probate and in the probate court. All funds received from the sale of the information and images shall be paid to the county general fund for purposes of establishing and maintaining the archival and indexing equipment.

ALA. CODE § 45-26-81.22(d) (2011).

As a result of Act 2014-106, section 45-26-81.22(d) now states the following:

The judge of probate from time to time shall establish a policy on the sale of or access to computerized index information and digitized images maintained in the office of the judge of probate and in the probate court. All funds received from the sale of the information and images shall be paid to the county general fund and expended at the discretion of the judge of probate for acquiring and maintaining equipment, improving the efficiency of the operations of the office, supplementing salaries, and acquiring and maintaining office space.

ALA. CODE § 45-26-81.22(d) (Supp. 2014).

In analyzing statutory provisions, a common rule of statutory construction is that a court is under a duty to ascertain and effectuate legislative intent as expressed in the statute, which may be gleaned from the language used, the reason and necessity for the act and the purpose sought to be obtained. *Shelton v. Wright*, 439 So. 2d 55, 57 (Ala. 1983) citing *Rinehart v. Reliance Ins. Co.*, 273 Ala. 535, 538, 142 So. 2d 254, 256 (1962). An apparent reason for the

changes instituted through the passage of Act 2014-106 would be to provide the probate judge with greater latitude with respect to the use of funds received from the sale of information and images maintained by the probate judge. The particular changes set out in the act are procedural in nature.

Generally, retroactivity is disfavored in the law. Opinion to Honorable Elizabeth Thompson, Attorney, Real Estate Appraisers Board, dated May 5, 1999, A.G. No. 99-00198. As such, "courts have uniformly been reluctant to construe statutes as having retroactive operation, even though non-offensive constitutionally, unless the intent of the legislature that a statute is to operate retroactively is made certain, either by actual words, or by clear and necessary implication." Opinion to Honorable Ella B. Bell, Executive Director, Alabama Family Trust, dated June 28, 2001, A.G. No. 2001-208, *quoting Alabama Power Co. v. Director of Indus. Relations*, 36 Ala. App. 218, 221, 54 So. 2d 786, 788 (1951).

Recently, in *Alabama Ins. Guaranty Association v. Mercy Med. Ass'n*, 120 So. 3d 1063, 1068 (Ala. 2013), the Alabama Supreme Court discussed when provisions within a statute may be applied retroactively. The Court stated the following:

[W]hether a statute may be applied retroactively turns on whether the statute affects substantive or procedural rights. Substantive laws are those that create, enlarge, diminish, or destroy vested rights. "Substantive law" is "[t]he part of law that creates, defines, and regulates the rights, duties and powers of parties," as opposed to "adjective, procedural, or remedial law," which is "favored by the courts, and [its] retrospective application is not obnoxious to the spirit and policy of the law," and which is "exemplified by [laws] that 'impair no contract or vested right, [and do not disturb past transactions,] but preserve and enforce the right and heal defects in existing laws prescribing remedies.'"

Id. (internal citations omitted).

Act 2014-106 does not disturb any substantive rights. Instead, Act 2014-106 is remedial in nature and deals with matters of procedure with respect to monies that are accumulated in the copy-cost fund of the probate judge. Further, no substantive rights are impaired by the expanded use of these funds. Accordingly, it is the opinion of this Office that the pre-June 2014 copy-cost

Honorable John E. Enslin
Page 4

funds may be commingled and expended in the same manner as the post-June 2014 copy-cost funds that are to be expended in accordance with the provisions of Act 2014-106. *See, generally, Ex Parte Burks*, 487 So. 2d 905, 907 (Ala. 1985).

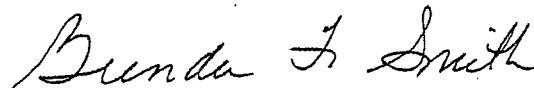
CONCLUSION

The pre-June 2014 accumulated \$1.00 copy-cost funds are now a part of the new expanded-use discretionary account created by remedial legislation passed by the Alabama Legislature in Act 2014-106.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

LS/MMG
1866764/181424

ONE DOLLAR COPY COST FEES JUL 1999 - DEC 2012

PROBATE OFFICE OF ELMORE COUNTY

Year	Month	Amt	CK#	2009	2010	2011	2012
Jan.	Amt	\$ 2,099.75		\$ 5,803.00	\$ 6,063.75	\$ 5,289.25	\$ 5,342.25
	CK#		5557	4402	4646	5066	5312
Feb.	Amt	\$ 2,857.00		\$ 7,010.00	\$ 3,066.00	\$ 6,351.75	\$ 8,248.00
	CK#		5573	4414	4675	5089	5332
Mar.	Amt	\$ 2,501.25		\$ 8,533.75	\$ 8,745.50	\$ 4,054.50	\$ 5,769.75
	CK#		5592	4435	4683	5112	5356
Apr.	Amt	\$ 4,470.75		\$ 8,540.95	\$ 6,949.50	\$ 4,652.00	\$ 5,318.75
	CK#		5629	4451	4704	5131	5375
May	Amt	\$ 4,192.75		\$ 5,319.25	\$ 5,712.65	\$ 7,444.15	\$ 5,947.25
	CK#		5634	4472	4727	5150	5398
Jun.	Amt	\$ 4,471.20		\$ 8,641.35	\$ 6,666.50	\$ 6,085.10	\$ 5,982.25
	CK#		5653	4490	4741	5169	5431
Jul.	Amt	\$ 2,280.70		\$ 7,899.25	\$ 5,906.25	\$ 4,108.75	\$ 10,150.50
	CK#		5673	4520	4759	5194	5451
Aug.	Amt	\$ 2,650.97		\$ 6,807.75	\$ 7,319.75	\$ 8,673.30	\$ 6,705.50
	CK#		5691	4539	4786	5218	5470
Sept.	Amt	\$ 1,888.25		\$ 6,013.50	\$ 7,689.12	\$ 6,405.25	\$ 10,665.25
	CK#		5711	4564	4806	5235	5489
Oct.	Amt	\$ 2,585.75		\$ 7,006.00	\$ 5,907.50	\$ 6,521.00	\$ 7,533.75
	CK#		5731	4312	4576	5011	5509
Nov.	Amt	\$ 2,433.00		\$ 6,524.75	\$ 4,701.00	\$ 5,510.75	\$ 6,812.00
	CK#		5747	4350	4612	5031	5527
Dec.	Amt	\$ 2,110.25		\$ 4,490.75	\$ 6,174.50	\$ 5,244.25	\$ 5,921.50
	CK#		5763	4366	4625	5048	5542
Total		\$ 13,948.92		\$ 79,862.20	\$ 78,672.75	\$ 76,840.42	\$ 87,371.90

Grand Total for 1999-2012 \$ 877,937.59

* Estimate based on 4 nearest months for which we have record.

ONE DOLLAR COPY COST FEES JUL 1999 - DEC 2012

PROBATE OFFICE OF ELMORE COUNTY

		1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Jan.	Amt		\$ 2,099.75	\$ 3,623.75	\$ 3,673.50	\$ 4,063.98*	\$ 4,709.76*	\$ 4,067.00	\$ 5,916.50	\$ 6,600.75	\$ 7,451.00	\$ 5,803.00	\$ 6,063.75	\$ 5,289.25	\$ 5,342.25
	Ck#							3209	3513	4129	4402	4646	5066	5312	5557
Feb.	Amt		\$ 2,857.00	\$ 2,053.50	\$ 4,124.25	\$ 4,063.98*	\$ 4,709.76*	\$ 6,225.75	\$ 4,715.75	\$ 6,388.50	\$ 5,137.75	\$ 7,010.00	\$ 3,066.00	\$ 6,351.75	\$ 8,248.00
	Ck#							3228	3532	4150	4414	4675	5089	5332	5573
Mar.	Amt		\$ 2,501.25	\$ 5,742.75	\$ 3,503.25	\$ 4,063.98*	\$ 4,709.76*	\$ 5,897.00	\$ 8,157.62	\$ 7,353.94	\$ 6,565.50	\$ 8,533.75	\$ 8,745.50	\$ 4,054.50	\$ 5,769.75
	Ck#							3251	3554	4168	4435	4683	5112	5356	5592
Apr.	Amt		\$ 4,470.75	\$ 3,968.50	\$ 3,789.75	\$ 4,063.98*	\$ 4,709.76*	\$ 4,506.25	\$ 6,368.00	\$ 5,813.88	\$ 8,540.95	\$ 6,949.50	\$ 4,652.00	\$ 5,318.75	\$ 7,296.25
	Ck#							3267	3581	4196	4451	4704	5131	5375	5629
May	Amt		\$ 4,192.75	\$ 4,205.75	\$ 3,160.50	\$ 4,063.98*	\$ 4,709.76*	\$ 6,660.84	\$ 5,544.50	\$ 8,576.20	\$ 5,319.25	\$ 5,712.65	\$ 5,879.00	\$ 7,444.15	\$ 5,947.25
	Ck#							3292	3604	4215	4472	4727	5150	5398	5634
Jun.	Amt		\$ 4,471.20	\$ 3,546.75	\$ 2,345.00	\$ 5,256.39	\$ 4,709.76*	\$ 5,883.23	\$ 9,629.75	\$ 5,961.05	\$ 8,592.25	\$ 8,641.35	\$ 6,666.50	\$ 6,085.10	\$ 5,982.25
	Ck#							3319	3630	4236	4490	4741	5169	5431	5653
Jul.	Amt	\$ 2,280.70	\$ 4,173.45	\$ 4,090.00	\$ 3,844.75	\$ 5,262.80	\$ 4,709.76*	\$ 3,334.00	\$ 6,463.00	\$ 6,918.00	\$ 7,899.25	\$ 5,906.25	\$ 5,468.00	\$ 4,108.75	\$ 10,150.50
	Ck#	1494							4007	4255	4520	4759	5194	5451	5673
Aug.	Amt	\$ 2,650.97	\$ 2,631.00	\$ 3,061.50	\$ 3,869.92	\$ 8,956.60	\$ 4,709.76*	\$ 6,963.25	\$ 6,874.42	\$ 7,035.00	\$ 6,807.75	\$ 7,319.75	\$ 8,673.30	\$ 6,705.50	\$ 7,159.00
	Ck#	1539						3362	4029	4280	4539	4786	5218	5470	5691
Sept.	Amt	\$ 1,888.25	\$ 4,447.25	\$ 3,494.50	\$ 5,120.50	\$ 3,740.00	\$ 4,476.25	\$ 4,387.65	\$ 8,927.00	\$ 6,059.48	\$ 5,527.00	\$ 6,013.50	\$ 7,689.12	\$ 6,405.25	\$ 10,665.25
	Ck#	1590					3091	3415	4050	4312	4564	4806	5235	5489	5711
Oct.	Amt	\$ 2,585.75	\$ 3,818.50	\$ 3,646.00	\$ 3,646.00	\$ 6,628.81	\$ 3,994.00	\$ 6,385.00	\$ 6,833.65	\$ 6,973.77	\$ 7,006.00	\$ 5,907.50	\$ 6,500.00	\$ 6,521.00	\$ 7,533.75
	Ck#						3117	3436	4070	4336	4576	5011	5262	5509	5731
Nov.	Amt	\$ 2,433.00	\$ 2,896.50	\$ 3,722.00	\$ 3,722.00	\$ 4,709.76*	\$ 3,654.00	\$ 5,796.75	\$ 6,776.00	\$ 5,303.75	\$ 6,524.75	\$ 4,701.00	\$ 8,193.00	\$ 5,510.75	\$ 6,812.00
	Ck#						3151	3463	4088	4350	4612	5031	5278	5527	5747
Dec.	Amt	\$ 2,110.25	\$ 2,678.00	\$ 3,014.75	\$ 3,014.75	\$ 4,709.76*	\$ 6,397.75	\$ 5,713.00	\$ 5,463.25	\$ 6,046.25	\$ 4,490.75	\$ 6,174.50	\$ 5,244.25	\$ 5,921.50	\$ 6,465.65
	Ck#						3173	3489	4107	4366	4625	5048	5294	5542	5763
Total		\$ 13,948.92	\$ 41,237.40	\$ 44,169.75	\$ 43,814.17	\$ 59,584.02	\$ 56,200.08	\$ 65,819.72	\$ 81,669.44	\$ 79,030.57	\$ 79,862.20	\$ 78,672.75	\$ 76,840.42	\$ 69,716.25	\$ 87,371.90
														Grand Total for 1999-2012 \$ 877,937.59	
*Estimate based on 4 nearest months for which we have record.															

The county commission reacted to my letter request by asking their county attorney to seek an attorney general opinion which reversed the previous attorney general opinion. The basis for the reversal was a self-indictment to the effect that the county commission had misappropriated the funds more than a year before suit was filed. Thus, the statute of limitations alleviated the commission from having to pay the money into the probate office discretionary account as required by the statute. The county commission's official letter request to the attorney general states that a misappropriation had occurred: "the county [commission] deposited and combined the funds with unrestricted funds maintained in the county general fund and used those funds each year to pay the County's general obligations without regard to the statutory limitations on the use of the funds. Those funds are now gone."

I do not believe there has been a misappropriation. I have never claimed that there was a misappropriation by the county commission. I believe the general fund and the general fund reserves have always contained more money than the accumulated copy cost collections due to the probate office.

VI. THE ILLEGAL FREEZING OF DISCRETIONARY ACCOUNT 003 BY THE COUNTY COMMISSION

Knowing that the probate judge was using the funds in Discretionary Account 003 to pay his attorneys to prosecute the lawsuit for \$880,000 against the county commission, the Elmore County Commission first reduced the probate office's budget for professional legal services to \$1500. That was after submitting a proposed budget showing the amount to be ZERO.

Next, on December 14, 2015, the county commission passed Resolution 2015-12-14 which withheld from the probate judge all access to the accumulated monies contained at that time in his Discretionary Account 003. That amount was approximately \$97,000.00.

Within the pending legal action against the county commission, a motion was filed by me in the Circuit Court of Elmore County, requesting that the county commission's illegal freezing of the account be reversed.

On March 7, 2016, Judge John Bush entered an order holding the freezing of the account to have been illegal. The judge ordered the county commission to immediately pay all of the withheld funds over to the probate judge for his discretionary management and uses. Neither WSFA-TV nor any other media outlet provided any coverage for Judge Bush's ruling in this important matter of public interest.

The account had remained frozen for almost three months, hampering the normal operations of the probate office. At the time the county commission froze the account, the probate office owed Syscon about \$86,000 on completed digitizing projects. Syscon was fortunately patient with the breach of contract, but they withdrew their machine and operator from the probate office and the records preservation project was set back as a result of the county commission's illegal action in freezing the account.

The entire court file is a matter of public record and available to any interested members of the public. The court case is Case No. 29-CV-2015-900262.00 in the Circuit Court of Elmore County, Alabama.

Here is a letter I sent to the commission following Judge Bush's order:

JOHN E. ENSLEN

JUDGE OF PROBATE OF ELMORE COUNTY

ELMORE COUNTY COURTHOUSE

100 EAST COMMERCE STREET

P. O. BOX 280 * WETUMPKA, AL 36092 * (334-567-1140)

March 9, 2016

Dear Chairman Bowen and Commissioners Smoke, Taylor, Hragyil, and Faulk:

Please allow me to explain the urgency in the county commission's expeditious compliance with Judge John Bush's order of March 7, 2016, to release to the probate office the \$95,763.51 contained in Discretionary Fund 003.

At the time the commission chose to freeze this particular probate office discretionary account, we had in full operation the most successful records preservation program in the history of Elmore County. We were completing one preservation contract after another, digitizing old deteriorating paper records and placing the digitized version on the internet for public viewing and copying.

Within one month of December 14, 2015, when the commission by unanimous resolution chose to deny probate office access to this discretionary fund, the probate office contractually owed Syscon, Inc., the company doing the digitization work, the sum of \$86,739.60 for two completed contracts. Pursuant to these two contracts, Syscon had digitized 94,738 pages of real estate mortgage records and 9,191 pages of Civil War Pension records. The probate office remains unable to pay Syscon due to the freezing of the fund and find ourselves in a serious breach of contract situation, not to mention the already added interest and penalties. Syscon's potential breach of contract action, with the additional cost of their attorney fees, will embroil the county in a third-party lawsuit if payment is not promptly made.

Perhaps the most disastrous result of the freezing of the fund has been Syscon's removal of their unique digitizing machine and its operator from the probate office as a result of non-payment. This machine is in high demand and has now been placed in operation in another county. The length of this unfortunate disruption in the probate office's records preservation program is not yet known.

Until the county commission complies with the court order and pays these funds to the probate office, the breach of contract will remain uncured.

Respectfully,

/s/ John E. Enslin

Probate Judge of Elmore County

**VII. ERRONEOUS PAYMENTS
BY THE COUNTY COMMISSION
FROM DISCRETIONARY ACCOUNT 003**

Discretionary Account 003 was used by the county commission to pay persons disconnected to the probate office. The payments were unknown to me and unauthorized by me. I can only assume that these payments were some type of inadvertent clerical error. The payments were \$278.79 to DeAnn Ward, \$278.79 to Deborah Garrett, and \$49.69 to Randall Houston. These payments were made on October 8, 2015.

VIII. PURPOSES FOR WHICH THE PROBATE JUDGE'S DISCRETIONARY FUNDS HAVE BEEN USED

Your request seems to be focused on documents relating to the incentive pay for employees which I have authorized. That information will be provided in extreme detail in a later section of this response. But you have also asked for "all contracts," so in the interest of providing a full response, I will set forth below the subject matter of expenditures from all of my discretionary accounts, even those not done pursuant to a contract. Where contracts are involved, I will be glad to furnish copies of the same if you are interested. (This particular list does not include the incentive pay contracts that will be covered in detail in another section later.)

Discretionary funds have been used at one time or another for the purchase of the following products or services, almost all of which should have been provided for by the county commission through the probate office budget because they are reasonable and ordinary expenses of the office. These are the non-incentive pay uses made of my discretionary funds. If WSFA-TV desires further documentation on any of these non-incentive pay expenditures I will be glad to provide the same. Often, no contract is involved. Notation is made where contracts are in existence and available.

1. Syscon, Inc., has been paid the bulk of my discretionary funds. They are involved in an on-going records preservation project that will cost in excess of 1.2 million dollars. All old paper records are being converted to digitized records. To date, Syscon has been paid \$234,272.20. One contract follows another as discretionary funds from the sale of copies become available. The project is hampered by my having to use some of the discretionary funds for normal operations, and by the county commission's withholding of the pre-2013 accumulated copy costs----the subject of the pending lawsuit. [The 10 contracts with Syscon can be made available upon request.]

2. Clockers, scanners, and software maintenance for the public records system.

3. The entire salary and benefits for a new county archivist placed in charge of preserving the paper-based public records of Elmore County going back to 1866, many of which paper records are in a state of deterioration. With a county archivist in place, we have moved forward with the most aggressive public records preservation program of any county in the state.

4. Remodeling of an unused bathroom in the old courthouse basement so that it could be used to store to-be-sold vehicle tags.

5. The salary of an experienced temporary part-time employee, Hattie Jean Duke, to train a new employee, Vicki Stewart, who has been assigned the duty of remitting our monthly tax and fee collections to appropriate recipients. (CFO-type responsibilities)

6. Payment of a supplement to the county commission of \$250 per month to pay a portion of the routine daily courier services for the bank deposits from two tag offices and the probate office. (No other elected official is required to use his discretionary funds for such courier services. These should be paid 100% by the county commission as an ordinary expense of the probate office. See above story titled "Don't Fix What Ain't Broke.")

7. The salary of a temporary part-time worker to assist the Board of Registrars with converting voters to their proper reapportioned districts.

8. The salary of four temporary part-time workers to verify the names and residences of thousands of voters who signed petitions to place third party candidates for sheriff and coroner on the November 2014 ballot.

9. The mileage expenses of several free law student interns who have assisted with the backlog of cases in the probate court. Due to a shortage of employee help in the probate court, and the county commission's refusal to allow more than two employee positions in the probate court and no software management program, we had to find some type of solution. The probate court was able to secure the free services of law student interns from Jones Law School. We have used 10 different law students to work for us at no cost to the taxpayers. [Contracts can be made available upon request.] We owe a debt of gratitude to the following students:

Summer 2014

Mallory Brown
Hugh Farnsworth
Jase Sayre

Fall 2014

Mallory Brown

Winter 2015

Mallory Hatfield

Summer 2015

Jonathan Riley
Bryce Mercer
Britany Smith

Fall 2015

Jake Shamblin
Haylie Gutierrez

Winter 2016 (Jan & Feb)

Yanina Mueller
Bryce Mercer

I used my discretionary funds to reimburse part of the mileage expenses incurred by these free interns in traveling to work in Elmore County.

10. The salary of two part-time temporary employees, Beverly Martin and Shelley Avila, to scan and index deteriorating old public documents.

11. The purchase of notary bonds and seals for tag department employees.

12. Professional accounting work done on inherited non-bonded and insolvent conservatorship and estate cases that could not otherwise be closed.

13. Professional legal services to prosecute a civil action against the Elmore County Commission for its failure to comply with a statutory mandate to convey about \$880,000 in accumulated copy cost collections into Discretionary Account 003 so that a 1.2 million dollar records digitization and archival project can be completed.

14. Previous mention has been made of the fact that we had to use discretionary funds to replace worn out chairs throughout the tag office.

15. The cost of having real time election returns live-streamed online on all election nights---the first county in the State of Alabama to do such.

16. The purchase from the Millbrook Independent for \$1,568.00 of a digitized version of the Millbrook Independent Newspaper covering January 2003 through June 2014 (11.5 years) for inclusion into the archived public records.

17. The establishment of an elections-related website, elmorecountyelections.org, as an information source for voters, including the costs of establishment, maintenance, hosting, and domain name. No general fund monies have been used in the establishment or maintenance of this website.

18. Purchase from Linda Blankenship for \$8,000.00 of all physical and intellectual property rights to 19 large volumes of archival records, including indices, personally researched and compiled by her over the course of more than two decades, including abstracted old newspapers, birth and death records, and cemetery records. This personal work product was purchased so that the same could be archived into the public records and made available to the general public in the probate office for viewing at no cost. (More than 3,786 hours of Linda Blankenship's personal time had been expended to produce these 19 volumes of records.) [Contract can be made available upon request.]

19. Purchase from National Legal Research of legal research dealing with probate court and probate office legal matters. Using this method is a lot cheaper than hiring attorneys to conduct the same research and the product in most cases is superior.

20. Some of the registration fees and conference expenses for mandatory training sponsored by the Alabama Probate Judges Association.

21. Payment to Bryce Mercer in the amount of \$1,500.00 for the creation of a new software program used to collect statutory court costs in probate court, resulting in an immediate 25% increase in court cost collections and repaying the cost of the new software program in less than 90 days.

22. Payment of \$2,500.00 to Ingenuity, Inc., to modify the existing software accounting functions for driver license sales paid for by credit card so as NOT to collect a "convenience fee" of 2.7% of the transaction from purchasers of drivers licenses. It took me more than two years to finally convince the county commissioners to remove this 2.7% convenience fee placed upon credit card users. It is more efficient for our office to be able to take credit card payments. (Unfortunately, the fee remains on all other transactions with the probate office.)

IX. DISCRETIONARY PAYMENTS TO EMPLOYEES FOR PASSING TAG DEPARTMENT CERTIFICATION TEST

I would venture to guess that just about every family in Elmore County has to deal with the tag department on an annual basis, and sometimes more than once. Knowledge, efficiency, and productivity are all key to my office successfully handling tens of thousands of transactions and millions of dollars a year in the tag department. To help my office maximize its potential, I created the Elmore County Probate Office Multiple-Choice Licensing Course and Examination ("Exam"). The Exam consists of an in-person educational course and 100-question multiple-choice cross-training exam derived from the Code of Alabama and the Administrative Code of Alabama that pertains strictly to the assessment and collection of taxes on motor vehicles or registration and titling of motor vehicles and the issuance of mobile home decals.

Instead of simply offering the Exam to tag department clerks, I opened the Exam up to probate office clerks as well. The purpose of the Exam was to cross-train every clerk under my stewardship to perform the duties of a tag clerk with a higher degree of knowledge, efficiency, and expertise. My goal was to improve the overall performance of every clerk in my office.

As a prerequisite to taking the Exam, however, I required all of my clerks to sign a contract. The contract required all participating clerks to attend an official, in-person cross-training educational study course administered by my Chief Clerk, Brent Helms. Additionally, all participating clerks agreed to study the Code of Alabama and Administrative Code of Alabama outside of business hours and away from the probate office. And finally, the contract required all participating clerks to score a 90% (each question being worth one point) or better in order to become "certified." A "certified" clerk would also receive a one-time incentive payment of \$1,250 upon passing with a 90% grade or better.

The outcome of the Exam was an increase in efficiency and productivity. The benefactors of the Exam were the residents of Elmore County who now deal with more knowledgeable, efficient, and productive clerks. Overall, you would not believe all of the calls I receive from residents who sing the praises of my clerks.

During the last part of July and first part of August in 2014, the following employees passed the test with a score of 90% or better: Christina Womble, Alma Walker-Sims, April Canales, Hannah Pose, Linda Baker, Donna Bingham, Linda Blankenship, Melissa Boutwell, Talaine Cannon,

Callie Cook, Stephanie Davis, Tateeyanna Edwards, Bridget Lewis, Ann Webb, Lori White, Vicki Stewart, Latishia Elmore, Shirley Moseley, and Sherri Markos.

There was a separate contract entered into with each employee. All of the contracts read the same, and the test is a part of the contract. In order to save WSFA-TV a substantial amount of money, I include herewith only one prototype contract with the employee and one copy of the examination:

State of Alabama)
Elmore County)

**AGREEMENT TO TAKE THE ELMORE COUNTY
PROBATE OFFICE MULTIPLE-CHOICE
LICENSING COURSE AND EXAMINATION**

This Agreement to take the Elmore County Probate Office Multiple-Choice Licensing Course and Examination ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and

Melissa Boutwell

("Clerk"), this 8th day of July, 2014.

Clerk is hereby registered to take the Elmore County Probate Office Multiple-Choice Licensing Course and Examination ("Exam"). Said Exam is a 100-question multiple-choice cross-training exam derived from the Code of Alabama and Administrative Code of Alabama that pertains strictly to the assessment and collection of taxes on motor vehicles or registration and titling of motor vehicles and the issuance of mobile home decals.

This contract is consistent with and entered into pursuant to an incentive based compensation program established by the Elmore County Probate Office and available to all fulltime employees on an optional, non-mandatory basis.

NOW, THEREFORE, Judge and Clerk do hereby express their agreement as follows:

PURPOSE AND GOAL OF THE EDUCATIONAL COURSE. The purpose of the cross-training educational course is to prepare the Clerk to perform the duties of a tag

clerk with a higher degree of expertise and knowledge with respect to the laws of Alabama that relate to the assessment of ad valorem taxes on vehicles and the registration of manufactured homes. Improving the performance of the Clerk is the major goal of this contract. Increase efficiency and productivity is the expected outcome.

1. CLERK'S RESPONSIBILITIES. Clerk shall:

- Attend an official, in-person cross-training educational study session and review the Code of Alabama and Administrative Code of Alabama as it pertains to the assessment and collection of taxes on motor vehicles or registration and titling of motor vehicles and the issuance of mobile home decals.
- Clerk must attend all sessions of the cross-training educational course provided by the Probate Office and further agrees to study during their own personal time away from the office all materials that are provided to Clerk, including the relevant statutes and rules.
- Take the Exam within 90 days of receipt of said Exam from Judge or Brent Helms, Chief Clerk of the Probate Office of Elmore County. There is no limit on the number of times that the exam may be taken so long as the exams are taken within 90 days of the completion of the course. Only one payment will be made to a single employee for successfully completing the exam.
- Earn at least 90 questions correct (90% or better) to "pass" and thus become eligible for the certificate and the incentive pay provided for successful completion of the program.

2. COMPENSATION. Clerk shall be compensated as follows:

- **Amount.** Incentive-pay compensation under this Agreement shall be \$1,250.00. This amount will be paid upon successful completion of the course and passing of the exam. This amount will be paid as regular income with all of the deductions applicable to regular income.
- **Payment.** For work under this Agreement, payment shall be made in full within 30-60 days of successful passage of said exam. Payment shall be made from any discretionary account from which Judge may choose to make payment in full or in part.

3. TERMINATION. Judge and Clerk shall each have the right to terminate this Agreement after July 8, 2014, without cause, by hand delivering fourteen days' written notice to the other party. Should a notice of termination of this Agreement be delivered by either party, Clerk shall not be compensated for any work completed under this Agreement, other than for passage of the exam.

4. MODIFICATION. This Agreement constitutes the entire agreement between Judge and Clerk and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Clerk.

5. ALABAMA LAW. This Agreement shall be construed in accordance with the laws of the State of Alabama. Any action commenced about this Agreement shall be filed in the Elmore County District Court.

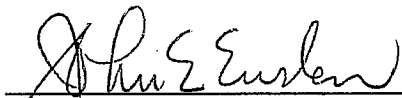
6. **INTERPRETATION.** This Agreement shall be interpreted as though it were prepared by both parties.

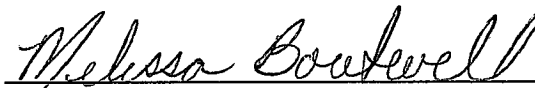
7. **PRESERVATION OF AGREEMENT.** Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS WHEREOF, the Judge and Clerk have executed this Agreement on the date below.

Judge

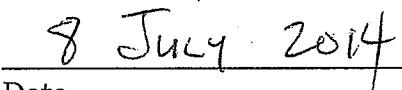
Clerk

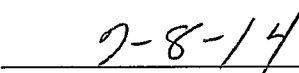




Signature

Signature





Date

Date

Elmore County Probate Office
Multiple-Choice Licensing Examination



Name of Examinee

Description of the Examination

The Elmore County Probate Office Multiple-Choice Licensing Examination is a 100-question multiple-choice cross-training exam derived from the Code of Alabama and Administrative Code of Alabama as it pertains strictly to the assessment and collection of ad valorem taxes on motor vehicles or registration and titling of motor vehicles and the issuance of mobile home decals. This examination is consistent with an incentive-based compensation program established by the Elmore County Probate Office and available to all full-time employees on an optional, non-mandatory basis. The purpose of the examination is to prepare examinees to perform the duties of a tag clerk with a higher degree of expertise and knowledge with respect to the laws of Alabama that relate to the assessment of ad valorem taxes on vehicles and the registration of mobile home decals. Improving an examinee's performance is the major goal of the examination. It is anticipated that successful completion of this examination will result in increased efficiency and productivity.

It is contemplated that examinees will attend an official, in-person cross-training educational study session and review the Code of Alabama and Administrative Code of Alabama as it pertains to the assessment and collection of ad valorem taxes on vehicles and the registration of mobile home decals during their own personal time away from the probate office. Examinees have 90 days to complete the examination from the time of the in-person cross-training educational study session. Examinees may obtain a copy of the examination from the Probate Judge or Chief Clerk of the Probate Office. Completed examinations must be returned only to the Probate Judge or Chief Clerk of the Probate Office. There is no limit on the number of times that the examination may be taken so long as the examinations are taken within 90 days of the completion of the in-person cross-training educational study session.

Successful completion of the examination requires a score of 90 percent or better. Each of the 100 questions is worth one point. Therefore, examinees must earn at least 90 questions correct to "pass." Successful examinees are awarded a certificate and become eligible for incentive pay of \$1,250.00. Incentive pay will be paid as regular income with all of the deductions applicable to regular income. Examinees can expect incentive pay to be made in full within 30-60 days of successful completion of the examination.

Every question on the examination is followed by answer choices. Examinees should choose the best, most correct answer from the answer choices. Examinees should circle only one answer for each question; multiple or indistinguishable answers will be scored as incorrect. Since scores are based on the number of questions answered correctly, examinees are advised to answer every question. If a question seems too difficult, examinees are advised to go on to the next question and come back to the skipped question later.

Examinations are to be submitted in person only to the Probate Judge or Chief Clerk of the Probate Office. Examinations will be graded within five business days of submission. Examinees will be notified by email of the results of the examination.

Examinees are entitled to dispute questions and/or answer choices. To file a dispute, examinees should speak with the Probate Judge or Chief Clerk of the Probate Office.

Any and all questions about the examination should be directed to the Probate Judge or Chief Clerk of the Probate Office.

Good luck!

HONOR PLEDGE

I pledge on my honor that I have not received or given any unauthorized assistance in this examination.

Signature of Examinee

1. According to Code of Alabama § 32-6-61, "all persons who acquire a motor vehicle which is located in this state and required to be registered in this state . . . shall register the vehicle with the judge of probate" within _____ from the date of purchase.

- A. 10 calendar days
- B. 10 business days
- C. 20 calendar days
- D. 20 business days
- E. 30 calendar days
- F. 30 business days
- G. None of the above

2. Code of Alabama § 32-6-63 reads, in part, as follows:

- A. "A person changing his or her county of residence shall be required to purchase a license plate indicating his or her new county of residence upon expiration of the license period covered by his or her present license plate or validation device and shall turn in his or her old license plate."
- B. "A person changing his or her county of residence shall be required to purchase a license plate indicating his or her new county of residence upon expiration of the license period covered by his or

her present license plate or validation device, but shall not be required to turn in his or her old license plate."

C. "A person changing his or her county of residence shall be required to purchase a license plate indicating his or her new county within 20 calendar days after his or her establishment of residence in the new county and shall turn in his or her old license plate."

D. "A person changing his or her county of residence shall be required to purchase a license plate indicating his or her new county within 30 calendar days after his or her establishment of residence in the new county and shall turn in his or her old license plate."

E. "A person changing his or her county of residence shall not be required to purchase a license plate indicating his or her new county of residence upon expiration of the license period covered by his or her old license plate or validation device and shall not turn in his or her old license plate, but shall be required to purchase and properly affix a stamp, tab, or sticker to the old license plate with the first three letters of the new county printed on the bottom portion of the stamp, tab, or sticker."

F. None of the above

3. Pursuant to Code of Alabama § 32-6-65, "a penalty of _____ dollars shall be assessed by the officer charged with issuing motor vehicle licenses for the late registration of a motor vehicle."

- A. 5
 - B. 10
 - C. 15
 - D. 20
 - E. 25
 - F. None of the above
 - G. Other:
-

4. According to Code of Alabama § 32-6-65, "late registration of a motor vehicle"

- A. Can be waived by the Judge of Probate
- B. Can be waived by the Judge of Probate only "for good cause shown"
- C. Can be waived by the Judge of Probate or "other qualified officer charged with issuing motor vehicle licenses"
- D. Can be waived by the Judge of Probate or "other qualified officer charged with issuing motor vehicle licenses" only "for good cause shown"

E. Cannot be waived

F. None of the above

5. According to Code of Alabama § 32-6-213, who possesses the authority to issue a temporary license tag and a temporary registration certificate to the owner of a motor vehicle?

A. The Judge of Probate

B. The Judge or Probate or other county official authorized and required by law to issue motor vehicle license tags

C. The Judge of Probate only where "just cause exists"

D. The Judge of Probate or other county official authorized and required by law to issue motor vehicle license tags only where "just cause exists"

E. None of the above

6. Individuals seeking disability access parking privileges for the first time must obtain the signature of a licensed physician verifying that they qualify for the parking credentials. The form (MVR 32-6-230) must be completed by a licensed physician before an Alabama disability access placard and/or disability access license plate is issued.

A. True

B. False

7. Is emission testing a prerequisite to registering a vehicle in Elmore County?

A. No

B. No, not if the vehicle is a 1996 model or newer and is equipped with a Diagnostic System Check feature.

C. No, only if the vehicle is currently titled in Alabama.

D. Yes

E. Yes, if the vehicle is a 1996 model or older or is not equipped with a Diagnostic System Check feature.

F. Yes, if the vehicle is not currently titled in Alabama.

G. None of the above

8. According to Code of Alabama § 32-7A-5, the owner of a semitrailer, travel trailer, pole trailer, boat trailer and/or utility trailer designed to be used on a public highway does not have to cover said trailer by a liability insurance policy, commercial automobile liability insurance policy, motor vehicle liability bond, or deposit of cash.

A. True

B. False

9. Pursuant to Code of Alabama § 32-7A-6, "every operator of a motor vehicle subject to the provisions of Section 32-7A-4 shall carry within the vehicle evidence of _____."

- A. Certificate of registration
- B. Bill of Sale
- C. Title or title application
- D. Insurance
- E. All of the above
- F. None of the above

10. According to Code of Alabama § 32-7A-12(a), the state shall suspend the vehicle registration of any motor vehicle determined to be operated without a liability insurance policy. According to subsection (c), a driver's first violation of subsection (a) shall require him or her to pay a reinstatement fee of \$200. According to subsection (d), anyone in violation of subsection (a) a second time shall pay a reinstatement fee of

- A. \$250
- B. \$300
- C. \$350

- D. \$400
- E. \$450
- F. \$500
- G. None of the above

11. According to Code of Alabama § 32-6-214, "Each temporary license tag and temporary registration certificate issued hereunder shall be valid for 20 days from the date of issuance and shall be used only on the vehicle for which issued. No temporary license tag shall be renewed nor shall successive temporary license tags be issued in connection with the same motor vehicle. Provided, however, that a probate judge or other county official authorized and required by law to issue motor vehicle license tags issuing a temporary license tag under the provisions of Section 32-6-213 may issue a temporary license tag for a motor vehicle which has previously received a temporary license tag issued by some other designated agent, manufacturer, or dealer and further may issue successive temporary license tags in connection with the same motor vehicle for periods not to exceed a total of 60 days."

On Tuesday, April 1, 2014, a customer was issued a temporary license tag, for good cause shown, based upon Code of Alabama § 32-6-214. On Friday, April 18, 2014, the customer was issued a second temporary license tag. Two weeks later, on Friday, May 2, 2014, the customer

obtained a third temporary license tag. The customer was scheduled to go out-of-town on Thursday, May 22. So, on Monday, May 19, 2014, the customer came to the courthouse to get his fourth temporary license tag. The tag clerk indicated that she would not be able to issue a fourth temporary license tag to the customer. The customer stated: "Ma'am, according to Code of Alabama § 32-6-214 you 'may issue successive temporary license tags in connection with the same motor vehicle for periods not to exceed a total of 60 days.' My first tag was issued April 1, 2014. It is May 19, 2014. It has not yet been 60 days. The law is clear. The math is clear. I demand you provide me with a fourth temporary license tag or I'll report you!"

The tag clerk should:

A. Renew the temporary license tag per the Alabama Department of Revenue Administrative Code, Section 810-5-1-.228(11), which states, in pertinent part, that "A Judge of Probate, in his/her discretion, may . . . issue temporary license plates to one vehicle owner/lessee for one motor vehicle for a period not to exceed 60 days, regardless of the number of temporary license plates issued during said 60 day period."

B. Renew the temporary license tag per Section 32-6-214 of the Code of Alabama, which states, in pertinent part, that a probate clerk

"may issue successive temporary license tags in connection with the same motor vehicle for periods not to exceed a total of 60 days."

- C. Not renew the temporary license tag per the Alabama Department of Revenue Administrative Code, Section 810-5-1-.228(11), which states, in pertinent part, that "A Judge of Probate, in his/her discretion, may . . . issue up to three (3) temporary license plates to one vehicle owner/lessee for one motor vehicle."
- D. Not renew the temporary license tag per Section 32-6-214 of the Code of Alabama, which states, in pertinent part, "No temporary license tag shall be renewed nor shall successive temporary license tags be issued in connection with the same motor vehicle."
- E. Call her manager
- F. None of the above

12. According to Section 32-6-65(b) of the Code of Alabama, in defining the phrase "late registration of a motor vehicle" uses the phrase "date of purchase or acquisition." There are many ways one may acquire a motor vehicle, including:

- A. Gift
- B. Prize
- C. Divorce settlement

- D. Estate settlement
- E. All of the above
- F. None of the above

13. Situations occur where a vehicle's date of purchase is different from its date of acquisition.

- A. True
- B. False

14. Section 32-6-65(b) of the Code of Alabama provides for a \$15 penalty for anyone failing to renew his or her vehicle registration during his or her designated renewal month. In the event a motor vehicle owner has a current and valid Alabama license plate that may be transferred to a newly acquired vehicle, and fails to do so within the 20-day grace period, and also fails to timely renew his or her vehicle registration in the designated renewal month,

A. Only the \$15 transfer penalty shall be applicable.

Only the \$15 penalty authorized under Section 32-6-65(b) of the Code of Alabama for failure to timely renew shall be applicable.

B. Both the \$15 transfer penalty and the \$15 penalty authorized under Section 32-6-65(b) of the Code of Alabama for failure to timely renew shall be applicable.

C. The \$15 transfer penalty is applicable under Section 32-6-65(b) of the Code of Alabama, but under Section 32-6-65(c) of the Code of Alabama, the \$15 transfer penalty "shall be excused when the owner/lessee of a newly acquired motor vehicle is conveyed to said owner/lessee as a gift from a next-of-kin relative."

D. Neither penalty shall be applicable.

E. None of the above

15. According to the Alabama Department of Revenue Administrative Code, Section 810-5-1-.206(1), "active members of the United States Armed Forces Reserve, who are residents of Alabama, shall be entitled to claim a registration fee exemption for _____ passenger vehicle(s) owned by the active member of a reserve unit."

A. One

B. Two

C. Three

D. Four

E. Any and all

F. None of the above

16. The customer, a female, is an active member of the Alabama National Guard and a resident of Alabama. She drives a 2008 Honda Accord and her non-military husband drives a 2012 Ford F-150. She wishes to claim a registration fee exemption for both vehicles.

A. According to the Alabama Department of Revenue Administrative Code, Section 810-5-1-.208(1), active members of the Alabama National Guard, who are residents of Alabama, shall be entitled to claim a registration fee exemption for one passenger vehicle owned by an active guardsman.

B. According to the Alabama Department of Revenue Administrative Code, Section 810-5-1-.208(1), active members of the Alabama National Guard, who are residents of Alabama, shall be entitled to claim a registration fee exemption for all passenger vehicles owned by an active guardsman.

C. According to the Alabama Department of Revenue Administrative Code, Section 810-5-1-.208(1), active members of the Alabama National Guard, who are residents of Alabama, shall be entitled to claim a registration fee exemption for all passenger vehicles owned by an active guardsman and his/her spouse.

D. According to the Alabama Department of Revenue Administrative Code, Section 810-5-1-.208(1), active members of the Alabama

National Guard, who are residents of Alabama, shall be entitled to claim a registration fee exemption for all passenger vehicles owned by an active guardsman and his/her spouse and/or children.

E. According to the Alabama Department of Revenue Administrative Code, Section 810-5-1-.208(1), active members of the Alabama National Guard, who are residents of Alabama, shall be entitled to claim a registration fee exemption for any passenger vehicle whose title bears the name of an active guardsman.

F. None of the above

17. Donna owns a rare 1969 Chevrolet Camaro COPO, #9560, which boasts a unique all-aluminum engine. It is a rare to find a COPO in such pristine condition as their primary use back in the day was on the nation's drag strips and therefore most of their engines were blown and the cars thrown away. COPOs are considered Blue Chip investments by all muscle car collectors, like Donna. That's why Donna didn't hesitate to spend \$850,000 on the COPO three months ago. Donna registered and tagged her COPO as a "vintage vehicle" as defined in Code of Alabama Section 40-12-290(d). Donna doesn't like drag racing, but enjoys the much slower pace of parades and car shows, and that's all she uses the COPO for. During the Millbrook Mardi Gras Day Parade, Donna drove her COPO as part of the Elmore County Camaro Club. Ann, a spectator, saw Donna's COPO and fell in love with it. After the parade, Ann

convinced Donna to sell her the COPO for \$1.1 million. Ann, an avid drag racer, planned to use the COPO for drag racing on the weekends. Ann had always wanted to own a COPO and she'd finally found "the one." When Ann purchased the COPO, Donna left her "vintage vehicle" tag on the COPO. Ann is at your teller window boasting about all of the money she anticipates winning by drag racing her new COPO. Ann insists that the "vintage vehicle" tag on the COPO is transferrable from Donna to her. Is the "vintage vehicle" tag on the COPO transferrable from Donna to Ann?

- A. Yes, according to Code of Alabama Section 40-12-290(b)(3),
"Vintage vehicle' license plates shall remain with the vehicle when sold or otherwise disposed of, and the new owner shall transfer the registration into his or her name in accordance with the provisions of Sections 40-12-260 and 40-12-261."
- B. Yes, according to Code of Alabama Section 40-12-290(b)(3),
"Vintage vehicle' license plates shall remain with the vehicle when sold or otherwise disposed of, and the new owner shall transfer the registration into his or her name in accordance with the provisions of Sections 40-12-260 and 40-12-261, if the vehicle will be operated in accordance with this section, and, if not, standard license plates shall be obtained."

- C. No, according to Code of Alabama Section 40-12-290(b)(3),
"Vintage vehicle' license plates shall remain with the vehicle when sold or otherwise disposed of, and the new owner shall transfer the registration into his or her name in accordance with the provisions of Sections 40-12-260 and 40-12-261, if the vehicle will be operated in accordance with this section, and, if not, standard license plates shall be obtained."
- D. No, according to Code of Alabama Section 40-12-290(b)(3),
"Vintage vehicle' license plates shall remain with the seller of said vehicle or otherwise disposed of when said vehicle is sold by the seller, and the new owner shall register the vehicle in his or her name in accordance with the provisions of Sections 40-12-260 and 40-12-261 and standard license plates shall be obtained."
- E. None of the above

18. For the purpose of this section, a "vintage vehicle" is:

- A. (i) a private passenger automobile, truck or truck tractor which weighs not more than 26,000 pounds gross weight, motorcycle, or fire truck, (ii) over 20 years old, (iii) operated as a collector's item, including participation in club activities, exhibitions, tours, parades, and not used for general transportation purposes, (iv) a vehicle having the original or substantially similar vehicle body,

chassis, engine, and transmission as designated for that make, model, year, and age vehicle.

B. (i) a private passenger automobile, truck or truck tractor which weighs not more than 26,000 pounds gross weight, motorcycle, or fire truck, (ii) over 30 years old, (iii) operated as a collector's item, including participation in club activities, exhibitions, tours, parades, and not used for general transportation purposes, (iv) a vehicle having the original or substantially similar vehicle body, chassis, engine, and transmission as designated for that make, model, year, and age vehicle.

C. (i) a private passenger automobile, commercial passenger automobile, truck or truck tractor which weighs not more than 26,000 pounds gross weight, motorcycle, or fire truck, (ii) over 20 years old, (iii) operated as a collector's item, including participation in club activities, exhibitions, tours, parades, and not used for general transportation purposes, (iv) a vehicle having the original or substantially similar vehicle body, chassis, engine, and transmission as designated for that make, model, year, and age vehicle.

D. (i) a private passenger automobile, commercial passenger automobile, truck or truck tractor which weighs not more than 26,000 pounds gross weight, motorcycle, or fire truck, (ii) over 30 years old, (iii) operated as a collector's item, including

participation in club activities, exhibitions, tours, parades, and not used for general transportation purposes, (iv) a vehicle having the original or substantially similar vehicle body, chassis, engine, and transmission as designated for that make, model, year, and age vehicle.

E. None of the above

19. According to Code of Alabama § 32-6-64(a)(2), license plates in the State of Alabama shall be numbered as follows: Jefferson County, 1; Mobile County, 2; Montgomery County, 3. All other counties shall be ranked alphabetically and assigned consecutive numbers beginning with 4 and concluding with 67.

A. True

B. False

20. Donna owns an enclosed utility trailer. She just renewed her tag for her enclosed utility trailer yesterday. Today, she inherited a flatbed utility trailer from her grandmother. Donna's grandmother never obtained a license plate for the flatbed utility trailer because she never used it outside of the boundaries of her farm. Donna, on the other hand, wants to retire her enclosed utility trailer and utilize the flatbed utility trailer she just inherited. The two trailers are identical in

length, width, and color. They're even made by the same manufacturer. Donna decides to take her license plate off the enclosed trailer and use it on the flatbed trailer. Is that allowed by law?

- A. According to Code of Alabama § 40-12-252(c)(2), Donna cannot display a permanent trailer plate on a vehicle other than the trailer originally registered with the trailer plate.
- B. According to Code of Alabama § 40-12-252(c)(2), Donna may pay a one-time registration fee of sixty dollars (\$60) for the permanent trailer plate and attach it to any trailer she owns.
- C. According to Code of Alabama § 40-12-252(c)(2), Donna may transfer the permanent trailer plate from the enclosed trailer to the flatbed trailer for a fee.
- D. According to Code of Alabama § 40-12-252(c)(2), Donna must register the flatbed trailer under the same registration as the enclosed trailer, pay a one-time sixty dollar (\$60) transfer fee and then she may move the permanent trailer plate from the enclosed trailer to the flatbed trailer and vice-versa.
- E. None of the above

21. Two years ago Donna purchased a state-of-the-art, custom-made utility trailer to haul goods for her business. She utilizes the trailer at least once a week for deliveries. A member of the county commission

asks Donna to use her state-of-the-art, custom-made utility trailer at the local harvest festival to provide hay rides. The commissioner agrees to pay Donna \$300 for gas and her time. Donna agrees and signs an agreement with the commissioner. The harvest festival is to take place on Saturday, May 17, 2014 at a local park and Donna will be hauling hay riders down a route on a local dirt road. It is now Monday, May 19, 2014 and Donna is at your window to renew her utility trailer license plate. You enjoyed a hay ride in Donna's really cool state-of-the-art, custom-made trailer on Saturday and then treated her to a hotdog. Donna wants to know if she's subject to taxes under Code of Alabama § 40-12-252, which states, "The following annual license taxes and registration fees are hereby imposed and shall be charged for each trailer, other than manufactured homes, operated on the public highways of this state:" Is Donna subject to taxes for her trailer?

- A. Yes, Donna must pay \$12 because under Code of Alabama § 40-12-252(a)(1) it states that "For each privately owned utility trailer or travel trailer, which is not operated for hire, lease, or rental, twelve dollars (\$12)."
- B. No, Donna traveled a route on a local dirt road for the hay ride, not "the public highways of this state." Therefore, Donna is not subject to a \$12 fee under Code of Alabama § 40-12-252(a)(1).

C. No, Donna does not have to pay \$12 because she was "hired" to operate the trailer and under Code of Alabama § 40-12-252(a)(1) it states that "For each privately owned utility trailer or travel trailer, which is *not* operated for hire, lease, or rental, twelve dollars (\$12)."

D. Yes, Donna must pay \$15 because under Code of Alabama § 40-12-252(a)(2) it states that "For each utility trailer, rented or leased for compensation of any kind or nature, fifteen dollars (\$15)."

E. No, Donna was paid for gas and her time, not her "utility trailer." Therefore, Donna is not subject to a \$15 fee under Code of Alabama § 40-12-252(a)(2).

F. None of the above.

22. In the State of Alabama, an "abandoned" motor vehicle has been left by the owner, or some person acting for the owner, with an automobile dealer, repairman, or wrecker service for repair or for some other reason and has not been called for by the owner or other person within a period of _____ days, generally. See Code of Alabama § 32-13-1(1).

A. 30

B. 45

C. 60

- D. 75
- E. 90
- F. 180
- G. 365
- H. None of the above

23. In the State of Alabama, an "abandoned" motor vehicle has been left unattended on a public street, road, or highway or other public property for a period of at least _____ days. See Code of Alabama § 32-13-1(2).

- A. 30
- B. 45
- C. 60
- D. 75
- E. 90
- F. 180
- G. 365
- H. None of the above

24. The fee for the title and registration records for an abandoned vehicle records request including owner and lienholder information is \$10.00 for each vehicle subject to the Alabama title law or \$5.00 for

each vehicle not subject to the Alabama title law. The required fees are collected in accordance with Code of Alabama § 32-8-6(a)(7), and Department of Revenue Rule and Regulation 810-5-75-.31.02.

- A. True
- B. False

25. The Affidavit of Correction to a Document To Support an Application for a Certificate of Title is form:

- A. MVT 5-1
- B. MVT 5-5
- C. MVT 5-7
- D. ADR 5-1
- E. ADR 5-5
- F. ADR 5-7
- G. None of the above

26. Donna drives a truck tractor on the public highway (you've probably been behind her when you're late for work). Donna pays annual license taxes and registration fees based on the gross vehicle weight in pounds pursuant to Code of Alabama § 40-12-248(b).

Donna has asked for a clarification as to what "gross weight" actually means. You tell her that it is:

- A. The empty weight of the truck tractor.
- B. The empty weight of the truck tractor plus the heaviest load to be carried.
- C. The empty weight of the truck tractor plus the heaviest load to be carried and, in the case of combinations, it includes the empty weight of the heaviest trailer to be connected plus the heaviest load to be carried.
- D. The heaviest load to be carried.
- E. The maximum operating weight as specified by the manufacturer.
- F. The maximum operating weight as specified by the manufacturer, including the truck tractor's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers, and cargo/load.
- G. None of the above.

27. An IRS form 2290 is used for which of the following actions:

- A. Figure and pay the tax due on highway motor vehicles used during the period with a taxable gross weight of 55,000 pounds or more.

- B. Figure and pay the tax due on a vehicle for which you completed the suspension statement on another Form 2290 if that vehicle later exceed the mileage use limit during the period.
- C. Figure and pay the tax due if, during the period, the taxable gross weight of a vehicle increases and the vehicle falls into a new category.
- D. Claim suspension from the tax when a vehicle is expected to be used 5,000 miles or less (7,500 miles or less for agricultural vehicles) during the period.
- E. Claim a credit for tax paid on vehicles that were destroyed, stolen, sold, or used 5,000 miles or less (7,500 miles or less for agricultural vehicles).
- F. Report acquisition of a used taxable vehicle for which the tax has been suspended.
- G. Figure and pay the tax due on a used taxable vehicle acquired and used during the period.
- H. All of the above
- I. None of the above

28. Pursuant to Code of Alabama § 40-12-253(a)(3), no license shall be issued to operate a motor vehicle on the public highways of Alabama, nor shall any transfer be made by the license issuing

official, until the ad valorem tax on the motor vehicle is paid in the county.

A. True

B. False

29. Ann, a highfalutin bigwig in Jefferson County, Alabama, owns a multi-million dollar summer home in Elmore County, Alabama on Lake Martin. Ann only visits her Elmore County residence a few times each summer, but her children live there from May through August every year. Ann collects cars and loves drag racing. Ann recently acquired a very rare 1969 Chevrolet Camaro COPO, #9560, which boasts a unique all-aluminum engine. Ann spent \$1.1 million on the COPO and the ad valorem taxes on the vehicle are likely to be a lot. Ann keeps the COPO in Elmore County, locked inside a special storage facility located on her lakefront property. What Ann does not know is that her children sometimes take the COPO out for a spin, always returning it to the storage facility. Ann knows that vehicle registration is a lot less expensive in Elmore County than in Jefferson County. Ann wishes to register the COPO in Elmore County. May she?

- A. Yes, because according to Code of Alabama § 40-12-253(a)(3), valuation for ad valorem tax assessment purposes is based, as specified by law, on the location of the vehicle from January 1 through December 31.
- B. Yes, because according to Code of Alabama § 40-12-253(a)(3), ad valorem taxes are paid in the county where the vehicle is based. A vehicle is based where the vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled, and from which it ordinarily departs and to which it ordinarily returns.
- C. No, because according to Code of Alabama § 40-12-253(a)(3), valuation for ad valorem tax assessment purposes is based, as specified by law, on the location of the owner of the vehicle from January 1 through December 31.
- D. No, because according to Code of Alabama § 40-12-253(a)(3), ad valorem taxes are paid in the county where the owner of the motor vehicle resides, if the motor vehicle is owned by an individual.
- E. None of the above

30. Brent is a veteran of the War in Afghanistan. While in Afghanistan, Brent was severely injured, rendering him 100% disabled. Upon his return to the U.S., the Administrator of Veterans' Affairs, under the authority of an act of the U.S. Congress, furnishes

Brent with an automobile paid for by the V.A. You saw Brent and his new car at Walmart yesterday. Brent had a conspicuous magnet on his front driver's side door that read: **DISABLED VET - WILL DRIVE ANYWHERE FOR THE RIGHT PRICE!** Brent is at your window and provides you with an application for exemption and explains that he is exempt from all license fees and ad valorem taxes required by law. He has sworn to and affirmed all statements in the application for exemption. Is Brent exempt?

- A. Yes, because according to Code of Alabama § 40-12-254, any vehicle paid for by the V.A. for a disabled veteran is exempt from all license fees and ad valorem taxes required or prescribed by law.
- B. Yes, because according to Code of Alabama § 40-12-254, so long as Brent provides a sworn affidavit on a form prescribed by the Department of Revenue and signed off by the V.A., Brent is exempt from all license fees and ad valorem taxes required or proscribed by law.
- C. No, because according to Code of Alabama § 40-12-254, any vehicle paid for by the V.A. for a disabled veteran is exempt from all license fees and ad valorem taxes required or prescribed by law provided that the veteran keeps the motor vehicle only for private use.

D. No, because according to Code of Alabama § 40-12-254, only disabled veterans from World War II qualify for exemption from all license fees and ad valorem taxes required or prescribed by law.

E. None of the above

31. A lienholder, according to Code of Alabama § 32-8-2(7) is defined as "any person, firm, copartnership, association, or corporation holding a lien as herein defined on a motor vehicle."

A. True

B. False

32. According to Code of Alabama § 32-8-12, a person is guilty of a Class C felony who, with fraudulent intent:

A. Alters, forges, or counterfeits a certificate of title.

B. Alters or forges an assignment of certificate of title, or an assignment or release of a security interest, on a certificate of title or a form the department of revenue prescribes.

C. Has possession of or uses a certificate of title, knowing it has been altered, forged, or counterfeited.

D. Uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title.

E. All of the above

F. None of the above

33. According to Code of Alabama § 32-8-13, a person is guilty of a Class A misdemeanor who:

A. With fraudulent intent, permits another, not entitled thereto, to use or have possession of a certificate of title.

B. Willfully fails to mail or deliver a certificate of title or application therefor to the department within 10 days after time required by this chapter.

C. Willfully fails to deliver to his or her transferee a certificate of title within 10 days after the time required by this chapter.

D. Knowingly and willfully commits a fraud in any application for a title or registration.

E. All of the above

F. None of the above

34. The Elmore County Judge of Probate, according to Code of Alabama § 32-8-34(a), is a designated agent of the Department of

Revenue and may perform his or her duties either personally or through any of his or her deputies.

A. True

B. False

35. Brent recently purchased a 2015 Ford Super Duty F-350 Platinum truck. However, Sarah Kathryn, his two-year-old daughter, found the certificate of title and colored all over it with permanent marker. Brent is the legal owner of the truck. He is at your window and provides you with a copy of his license and registration and shows you his illegible certificate of title. Brent has read the language in Code of Alabama § 32-8-43(a) wherein it states, "This is a replacement certificate and may be subject to the rights of a person under the original certificate." Brent does not want that language to appear on his title. He spent more than \$50,000 on his new truck and he does not want a title that bears such language. Brent argues that he is the original owner, he is showing you the original certificate, and that you know that he is who he says he is. He also argues that according to Code of Alabama § 32-8-43(c), you can remove the language. Can you have the language removed from the replacement certificate of title?

- A. Yes, according to Code of Alabama § 32-8-43(c), the department, upon surrender of the original certificate of title by the original, verified owner and application made on a replacement certificate of title, the original owner shall receive a replacement certificate bearing the following legend, "This is a replacement certificate issued to the original, verified owner and is therefore subject only to the rights of the person(s) whose name it bears as owner(s) thereof."
- B. Yes, according to Code of Alabama § 32-8-43(c), the department, upon surrender of the original certificate of title by the original, verified owner, the original owner shall receive a replacement certificate bearing the following language in the legend, "This is a replacement certificate issued to the original, verified owner and is therefore subject only to the rights of the person(s) whose name it bears as owner(s) thereof."
- C. No, according to Code of Alabama § 32-8-43(c), the original, verified owner shall promptly make application for and may obtain a replacement title upon furnishing information satisfactory to the department and the department shall furnish a replacement title within 15 calendar days after the application for a replacement title is received.
- D. No, according to Code of Alabama § 32-8-43(a), the replacement certificate of title shall contain the legend, "This is a replacement

certificate and may be subject to the rights of a person under the original certificate."

E. None of the above

F. All of the above

36. Per Administrative Code Section 810-5-75-.03 and in accordance with Code of Alabama § 32-8-42, "a vehicle not manufactured to comply with federal and state statutes governing safety, emissions, and antitheft standards is considered a '_____ market' vehicle."

A. Aftermarket

B. Altered

C. Black

D. Gray

E. White

F. Non-

G. Illegal

H. None of the above

37. According to Administrative Code Section 810-5-75-.09(1)(b), a form MVT 5-6 is used to

A. Support an application for a replacement title.

- B. Support an Affidavit of Heirship regarding the vehicle.
- C. Support a power-of-attorney form.
- D. Support a probated estate's ownership of the vehicle.
- E. All of the above
- F. None of the above

38. River Bank and Trust, on May 20, 2014, loaned Brent \$65,000 to purchase a loaded 2015 Ford Super Duty F-350 Platinum truck. Six months later, on November 20, 2014, Brent had not made a single payment to River Bank and Trust. On November 21, 2014, River Bank and Trust repossessed Brent's truck. However, River Bank and Trust's name was never recorded on the certificate of title as a lienholder. Jimmy, a representative of River Bank and Trust, is now at your window with a copy of the certificate of title for the truck. You point out to Jimmy that River Bank and Trust's name does not appear on the certificate of title. Jimmy's eyebrows raise, his eyes open wide, and his mouth gapes open before he exclaims, "What do we do? We have \$65,000 wrapped up in this truck!" You tell him that according to Administrative Code § 810-5-75-.17(2), River Bank and Trust is first required to title the truck in their name prior to transferring the truck to a new owner. In order to title the truck in their name, however, River Bank and Trust must provide the following documents to support their application for certificate of title:

- A. A copy of the certificate of origin or certificate of title issued to or assigned to the owner in default.
- B. A copy of the assigned owner's vehicle registration card.
- C. A form MVT 15-3, Repossessed Motor Vehicle Affidavit and Disposition of Vehicle Under Lien.
- D. An affidavit stating that River Bank and Trust is not subordinate to any other lienholder on the truck.
- E. An affidavit stating that River Bank and Trust is subordinate to another lienholder but that it is the first lienholder recorded on the certificate of title and is therefore entitled to repossess the truck before the lienholder to whom it is subordinate.
- F. None of the above
- G. All of the above

39. As of 1981, per Callie and Donna, but not yet verified, a vehicle identification number has _____ digits.

- A. 15
- B. 16
- C. 17
- D. 18
- E. 19

F. 20

G. None of the above

40. Brent buys a metallic silver Porsche 918 Spyder at the September 2013 Frankfurt Motor Show and has it shipped to Elmore County. The Porsche 918 Spyder is a mid-engined plug-in hybrid sports car powered by a 4.6 liter V8 engine, developing 608 horsepower, with two electric motors delivering an additional 279 horsepower for a combined output of 887 horsepower. Brent, who prefers to be self-insured, presents you with a bond instead of an insurance policy. Can you accept Brent's bond?

A. Yes, because according to Code of Alabama § 32-7A-4(b)(2), a bond is acceptable so long as it is not below the minimum amounts of liability coverage for bodily injury or death and for destruction of property.

B. Yes, because according to Code of Alabama § 32-7A-4(b)(2), a bond is acceptable so long as it is not below the minimum amounts of liability coverage for bodily injury or death and for destruction of property and it is conditioned on the payment of the amount of any judgment rendered against Brent.

C. Yes, because according to Code of Alabama § 32-7A-4(b)(2), a bond is acceptable so long as it is not below the minimum amounts

of liability coverage for bodily injury or death and for destruction of property and it is conditioned on the payment of the amount of any judgment rendered against Brent or any person responsible for the operation of Brent's vehicle with his express or implied consent.

D. No, because according to Code of Alabama § 32-7A-4(b)(2), a bond is not acceptable even if it exceeds the minimum amounts of liability coverage for bodily injury or death and for destruction of property.

E. No, because according to Code of Alabama § 32-7A-4(b)(2), a bond is not acceptable even if it exceeds the minimum amounts of liability coverage for bodily injury or death and for destruction of property, and it is conditioned on the payment of the amount of any judgment rendered against Brent.

F. No, because according to Code of Alabama § 32-7A-4(b)(2), a bond is not acceptable even if it exceeds the minimum amounts of liability coverage for bodily injury or death and for destruction of property and it is conditioned on the payment of the amount of any judgment rendered against Brent or any person responsible for the operation of Brent's vehicle with his express or implied consent.

G. None of the above

41. Brent, a tightwad and cheapskate, purchased a 1990 Ford Probe for \$250 on eBay and successfully registered it on May 20, 2013. On May 21, 2013 Brent moved into an old, dilapidated, but livable, garage apartment for \$150 a month. Within 30 days of registering the Gremlin, Brent's insurance lapsed. The Alabama Department of Revenue found out about Brent's lapse in insurance coverage and mailed a written notice to him via U.S. Postal Service. The notice was mailed to Brent's last known address as reflected on the Alabama Department of Revenue's motor vehicle registration records. Brent, wanting to save money on gas, never went to the post office and had his mail forwarded to his new address. Brent never got the notice from the Alabama Department of Revenue.

It's May 2014 and Brent is at your window. Brent is unable to renew his vehicle registration. Brent asks what he can do today to register his vehicle. What should you tell him?

- A. According to Code of Alabama § 32-7A-8, Brent must furnish evidence of insurance in effect on the verification date in question.
- B. According to Code of Alabama § 32-7A-8, Brent must furnish evidence of insurance in effect on the verification date in question. But if Brent cannot furnish said evidence, then he must, in

accordance with Code of Alabama § 32-7A-12(c), pay a reinstatement fee of \$200.

C. According to Code of Alabama § 32-7A-8, Brent must furnish evidence of insurance in effect on the verification date in question. But if Brent cannot furnish said evidence, then he must, in accordance with Code of Alabama § 32-7A-12(c), pay a reinstatement fee of \$400.

D. According to Code of Alabama § 32-7A-8, Brent must furnish evidence of insurance in effect on the verification date in question. But if Brent cannot furnish said evidence, then he must, in accordance with Code of Alabama § 32-7A-12(c), pay a reinstatement fee of \$200 and submit proof of current insurance.

E. According to Code of Alabama § 32-7A-8, Brent must furnish evidence of insurance in effect on the verification date in question. But if Brent cannot furnish said evidence, then he must, in accordance with Code of Alabama § 32-7A-12(c), pay a reinstatement fee of \$400 and submit proof of current insurance.

F. None of the above

42. The definition of a "utility trailer," according to Code of Alabama § 40-12-240(27), is "A trailer primarily designed to be drawn by a passenger car or pickup truck, including luggage trailers, folding or

collapsible camping trailers, and other small trailers of similar size and function, but shall not include _____ trailers."

- A. Boat
- B. Circus
- C. Horse
- D. Motorcycle
- E. Movable
- F. None of the above

Questions 43 - 46 are derived from Code of Alabama § 32-6-150.

43. "Distinctive tags shall be valid for _____ years."

- A. 2
- B. 3
- C. 4
- D. 5
- E. 6
- F. None of the above

44. Distinctive tags "shall be replaced at the end of the period with _____ tags."

- A. Conventional tags
- B. Dog
- C. Other personalized tags
- D. None of the above
- E. All of the above

45. Personalized tags are assessed a/an _____ fee of _____ dollars.

- A. Annual, \$25
- B. One-time, \$25
- C. Annual, \$50
- D. One-time, \$50
- E. Annual, \$75
- F. One-time, \$75
- G. None of the above

46. In lieu of numbers, a personalized tag shall include _____.

- A. Letters

- B. Figures
- C. Numbers
- D. Marks
- E. Emblems
- F. Symbols
- G. Badges of distinction or personal prestige
- H. None of the above
- I. At least two of the above
- J. At least three of the above
- K. At least four of the above
- L. At least five of the above
- M. All of the above

47. Ann and her husband are at your window. Ann asks for a University of Alabama tag with the following letters, "COPO4ME." No one else has a tag with this inscription. Her husband asks for a University of Alabama tag with the following letters, "ACOPO4U." May you issue the plates to Ann and her husband?

- A. Yes, because the tags are not identical, no one else in the state of Alabama has identical tags, and pursuant to Code of Alabama § 32-6-153 every requirement has been met.

- B. Yes, because the tags are not identical, no one else in the state of Alabama has identical tags, and pursuant to Code of Alabama § 32-6-153 every requirement has not been met.
- C. Yes, because the tags are not identical, no one else in the state of Alabama has identical tags, the tags have been applied for within the prescribed time to apply for renewal, and pursuant to Code of Alabama § 32-6-153 every requirement has been met.
- D. No, because the tags are identical, no one else in the state of Alabama has identical tags, and pursuant to Code of Alabama § 32-6-153 every requirement has been met.
- E. No, because the tags are not identical, no one else in the state of Alabama has identical tags, and pursuant to Code of Alabama § 32-6-153 every requirement has been met.
- F. No, because the tags are not identical, no one else in the state of Alabama has identical tags, and pursuant to Code of Alabama § 32-6-153 every requirement has not been met.
- G. None of the above

48. The State of Alabama's online insurance verification system, according to Code of Alabama § 32-7B-4, shall

- A. Be accessible by authorized personnel of the department for direct inquiry. Access by the courts, insurers, law enforcement, and

offices of the licensing officials charged with motor vehicle registration and titling responsibilities shall be through authorized personnel of the department. Insurer access shall be limited to data or information transmission as required to operate the online insurance verification system.

- B. Be able to verify, on a 24-hour, seven days per week basis, minus permitted down time for system maintenance as prescribed by the advisory council, the insurance status of a motor vehicle via the Internet, or similar electronic system consistent with insurance industry and IICMVA recommendations and the specifications and standards of the IICMVA model dated May 8, 2008, or later models as recommended by the advisory council and adopted by the department.
- C. Be able to access insurers by using multiple keys for greater matching accuracy, including, but not limited to: Insurer NAIC number, vehicle identification numbers, policy number and other key or keys specified by the advisory council.
- D. Provide data security for the type of information transferred as prescribed by the advisory council.
- E. Utilize open and agreed to data and data transmission standards and standard schema as specified by the advisory council.
- F. None of the above
- G. Two of the above

H. Three of the above

I. All of the above

49. Subject to subsection (b) of Code of Alabama § 32-6-62, "all motor vehicle license plate designs shall be valid for not less than _____ years."

A. One

B. Two

C. Three

D. Four

E. Five

F. Six

G. Seven

H. Eight

I. Nine

J. Ten

K. None of the above

Questions 50 - 53 are derived from Code of Alabama § 40-12-255(a).

50. When Brent registers his manufactured home each year he is assessed a _____ dollar issuance fee.

- A. 5
- B. 24
- C. 48
- D. 96
- E. None of the above

51. Brent's issuance fee is divided as follows:

- A. \$4 to the county general fund and the remaining \$1 to an account in the office of the county treasurer for use by the issuing official or designated representative.
- B. \$20 to the county general fund and the remaining \$4 to an account in the office of the county treasurer for use by the issuing official or designated representative.
- C. \$40 to the county general fund and the remaining \$8 to an account in the office of the county treasurer for use by the issuing official or designated representative.
- D. \$90 to the county general fund and the remaining \$6 to an account in the office of the county treasurer for use by the issuing official or designated representative.
- E. None of the above

52. The issuing official may use the accumulated moneys only for

- A. Establishing and maintaining equipment
- B. Improvement of operations
- C. Performance of his or official duties
- D. Supplementing salaries
- E. None of the above
- F. All of the above

53. The issuing official's accumulated money constitutes a discretionary account.

- A. True
- B. False

Questions 54 – 66 are derived from Code of Alabama § 40-12-255(b).

54. When Brent fails to register his manufactured home he is subject to a delinquent fee of _____ dollars.

- A. 5
- B. 10

- C. 15
- D. 20
- E. 25
- F. 50

55. Brent will be assessed a delinquent fee if payment is made on or after _____.

- A. October 1
- B. November 1
- C. December 1
- D. January 1

56. Additionally, Brent may also be assessed a delinquent fee if he _____.

- A. Fails to display the identification decal on his manufactured home.
- B. Fails to display the identification decal anywhere on the property where his manufactured home is situated.
- C. Fails to display the identification decal upon request of the county license inspector.
- D. Fails to display the identification decal to the probate judge or other licensing official when renewing his decal.

E. None of the above

57. If Brent does not make a payment by the due date in question 55, he will be subject to a citation fee of _____ dollars.

A. 10

B. 15

C. 20

D. 25

E. 30

F. 50

G. None of the above

58. There is no difference between a delinquent fee and a citation fee.

A. True

B. False

59. If Brent fails to pay his delinquent fee and citation fee within 15 calendar days of the date he was cited, he will be assessed a penalty fee of _____ dollars.

- A. 12
- B. 18
- C. 24
- D. 32
- E. 36
- F. 42
- G. 50
- H. None of the above

60. Who possesses the authority to issue citations and assess penalties?

- A. County license inspector
- B. County deputy license inspector
- C. The county official charged with administering the law
- D. County tax assessor
- E. County appraiser
- F. None of the above
- G. Two of the above
- H. Three of the above
- I. All of the above

61. The county official charged with the responsibility of administering these laws shall have the authority to designate employees of his office as deputy license inspectors.

- A. True
- B. False

62. Tag clerks in the Elmore County Tag Department have been named deputy license inspectors by John E. Enslin, Judge of Probate of Elmore County.

- A. True
- B. False

63. The _____ fee(s) shall accrue to an account in the office of the county treasurer for use by the judge of probate if an employee of that office issues the citation.

- A. Delinquent
- B. Citation
- C. Penalty
- D. None of the above
- E. All of the above

64. The fee in question 63 shall be used only for performance of the issuing official's official duties.

A. True

B. False

65. The official's accumulated money constitutes a discretionary account.

A. True

B. False

66. An issuing official and his or her designee may waive any fees and penalties due before a decal may be issued to the manufactured home owner.

A. True

B. False

Questions 67 – 71 are derived from Code of Alabama § 40-1-47, § 40-1-48, and § 45-26-81.40.

67. The official charged with assessing and/or collecting ad valorem taxes shall invest the ad valorem taxes collected in short term investments for the period of time between collection of said taxes and distribution of same as required by law.

A. True

B. False

68. All interest earned on short term investments mentioned in question 67 shall be paid into the county general fund for use as determined by the county governing body (county commission), except that 10 percent of said interest earned on such investments shall be maintained by the county treasurer in separate funds designated as the special fund for the official charged with assessing and/or collecting ad valorem taxes.

A. True

B. False

69. The 10 percent interest earned on the invested ad valorem taxes shall be expended for any and all reasonable and necessary expenses incurred in carrying out the official's official duties, including

education of employees, but not for usual and ordinary expenses of operating the office otherwise furnished by the county commission.

A. True

B. False

70. The county commission is responsible for furnishing the probate judge's license division with suitable quarters, necessary forms, books, stationary, records, equipment, and supplies. The county commission shall also provide clerks and other assistants for the judge of probate as shall be necessary from time to time for the proper and efficient performance of the duties of his or her office.

A. True

B. False

71. The official's 10 percent interest does not constitute a discretionary fund.

A. True

B. False

Questions 72 – 81 are derived from Code of Alabama § 32-7A-12, with an emphasis on subsection (f).

72. The Alabama Department of Revenue suspends the vehicle registration of any motor vehicle that does not carry liability insurance. The first violation will require the owner of the vehicle to pay a _____ reinstatement fee and submit proof of insurance.

- A. \$100
- B. \$150
- C. \$200
- D. \$250
- E. \$300
- F. \$350
- G. \$400
- H. \$450
- I. \$500
- J. None of the above

73. After a first violation, if the owner of a vehicle incurs a second or subsequent violation for not carrying liability insurance, the owner of

the vehicle will pay a _____ reinstatement fee and provide proof of insurance.

- A. \$100
- B. \$150
- C. \$200
- D. \$250
- E. \$300
- F. \$350
- G. \$400
- H. \$450
- I. \$500
- J. None of the above

74. The fees in questions 72 and 73 are collected by the county license plate issuing official. Therefore, the official must remit the entire fee to the Alabama Department of Revenue, except for _____ percent of the fee, which is then distributed between the county general fund and the county license plate issuing official.

- A. 10
- B. 20

- C. 30
- D. 40
- E. 50
- F. 60
- G. 70
- H. 80
- I. 90
- J. 100
- K. None of the above

75. Regarding the percentage of the fee retained in question 74, how much is distributed to the county general fund?

- A. 10
- B. 20
- C. 30
- D. 40
- E. 50
- F. 60
- G. 70
- H. 80
- I. 90
- J. 100

K. None of the above

76. Regarding the percentage of the fee retained in question 74, how much is distributed to the county license plate issuing official?

A. 10

B. 20

C. 30

D. 40

E. 50

F. 60

G. 70

H. 80

I. 90

J. 100

K. None of the above

77. Regarding the fee retained by the county license plate issuing official, the funds shall be used for the improvement of the equipment and operations in the office of the licensing official charged with motor vehicle registration and titling responsibilities.

A. True

B. False

78. The fee retained by the county license plate issuing official may be expended only with the approval of the county commission.

A. True

B. False

79. The fee retained by the county license plate issuing official shall not accumulate in excess of ten thousand (\$10,000) during any fiscal year.

A. True

B. False

80. If more than ten thousand (\$10,000) accrues during any fiscal year, the excess funds shall be remitted by the county license plate issuing official to the Alabama Department of Revenue.

A. True

B. False

81. The fee retained by the county license plate issuing official constitutes a discretionary fund.

- A. True
- B. False

Questions 82 – 91 are derived from Code of Alabama § 40-12-260, with an emphasis on subsection (a)(5).

82. Any person failing to register a motor vehicle by timely transferring the license plate shall pay a penalty of _____ dollars.

- A. 10
- B. 15
- C. 20
- D. 25
- E. 30
- F. 35
- G. 40
- H. 45
- I. 50
- J. None of the above

83. The penalty shall be paid into the _____.

- A. County treasury/county general fund
- B. County license plate issuing official's fund
- C. County treasury at a rate of 75 percent and the county license plate issuing official's fund at a rate of 25 percent
- D. County treasury at a rate of 50 percent and the county license plate issuing official's fund at a rate of 50 percent
- E. County treasury at a rate of 25 percent and the county license plate issuing official's fund at a rate of 75 percent
- F. None of the above

84. The penalty fee shall be maintained as a special training fund.

- A. True
- B. False

85. Multiple special training funds may be maintained in a county – one for vehicle and motorcycle registration, one for titling motor vehicles, one for abandoned vehicles, and one for salvage vehicles.

- A. True

B. False

86. The special training funds shall be used for all reasonable and necessary official educational expenses directly related to the assessment and collection of taxes on motor vehicles or registration and titling of motor vehicles.

A. True

B. False

87. The special training fund shall be for the use of the county license plate issuing official at his or her sole discretion.

A. True

B. False

88. The county commission's sole responsibility with regard to the special training fund is to disperse monies for the payment of the motor vehicle related educational expenses of the county license plate issuing official and his or her employees.

A. True

B. False

89. The fee retained by the county license plate issuing official shall not accumulate in excess of _____ during any fiscal year.

A. \$1,000

B. \$2,000

C. \$3,000

D. \$4,000

E. \$5,000

F. \$6,000

G. \$7,000

H. \$8,000

I. \$9,000

J. \$10,000

K. None of the above

90. If more than the amount in question 89 accrues during any fiscal year, the excess funds shall be remitted by the county license plate issuing official to the county commission.

A. True

B. False

91. The special training fund constitutes a discretionary fund.

- A. True
- B. False

92. Chief Cannon is your next door neighbor. You always feel secure because he is the chief of police of the city in which you live. Chief Cannon has known your family for years. In fact, she recently purchased a camper from your aunt. Chief Cannon also recently purchased a 2014 SuperLow 1200T model Harley Davidson for \$11,799. Chief Cannon wishes to obtain, as an active member of the Fraternal Order of Police and resident of the state of Alabama, a license plate bearing the words "Fraternal Order of Police." She theorizes that if she is barreling down the interstate at speeds in excess of 100 miles per hour and she is tailed by a police officer, she is less likely to be ticketed because of her license plate. The annual additional fee (over and above the regular fees required by law for license plates) for Fraternal Order of Police distinctive motorcycle license plates is _____ dollars.

- A. 0
- B. 5
- C. 10
- D. 15

- E. 20
- F. 25
- G. 30
- H. 35
- I. 40
- J. 45
- K. 50
- L. None of the above

93. According to Code of Alabama § 40-12-271, the county license plate issuing official shall be allowed a fee of _____ for issuing each license for operating motor vehicles.

- A. \$0.25
- B. \$1.25
- C. \$2.25
- D. \$3.25
- E. \$4.25
- F. \$5.25
- G. None of the above

94. The fee in question 93 shall be paid to the county license plate issuing official by the owner of the vehicle at the time of the issuance of the license plate.

- A. True
- B. False

95. According to Code of Alabama § 32-6-51, every motor vehicle operated upon any city street or other public highway of or in this state shall at all times _____.

- A. Keep attached and plainly visible on the front end of such motor vehicle a license tag or license plate.
- B. Keep attached and plainly visible on the rear end of such motor vehicle a license tag or license plate.
- C. Keep attached and plainly visible on the front end of such motor vehicle a license tag or license plate sticker connoting the year of eligibility of said license tag or license plate.
- D. Keep attached and plainly visible on the rear end of such motor vehicle a license tag or license plate sticker connoting the year of eligibility of said license tag or license plate.

- E. Keep attached and plainly visible on the front end of such motor vehicle a license tag or license plate sticker connoting the month of eligibility of said license tag or license plate.
- F. Keep attached and plainly visible on the rear end of such motor vehicle a license tag or license plate sticker connoting the month of eligibility of said license tag or license plate.
- G. None of the above

Questions 96 and 97 are derived from Code of Alabama § 32-6-59.

96. Ann has a small mini-truck imported to the U.S. It resembles the one her father drove in Japan and it reminds her of him. Ann spent a few years in Japan while her family was stationed there with the Air Force. Ann mentions that she sometimes drives her mini-truck to the gas station and Walmart. She always, however, takes the "back roads." Must Ann register her mini-truck and pay an annual license tax and registration fee?

- A. Yes, according to Code of Alabama § 32-6-59(c), if the mini-truck is operated on a public highway, road, or street then the mini-truck must be registered.
- B. No, according to Code of Alabama § 32-6-59(c), mini-trucks may not be operated on interstate highways and therefore are not required to be registered.

C. None of the above

97. Assume for this question that Ann had to register her mini-truck and pay an annual license tax. Are the annual license tax and registration fee distributed in the same manner as for a private passenger automobile.

A. Yes

B. No

98. The Elmore County Probate Office and Tag Department generate an annual combined revenue of about \$9.7 million. Of that, \$2.5 million, or 26% of total revenue, is sent specifically to the Elmore County Commission. The other 74% is allocated as follows: 54% goes to the state of Alabama, 15% to the Elmore County Board of Education, and 6% to cities and towns within the boundaries of Elmore County.

A. True

B. False

Questions 99 and 100 are derived from Code of Alabama § 32-6-61.

99. The staggered system for the licensing, registration, and taxation of motor vehicles shall be implemented thusly: The first letter of an individual's last name shall determine the month in which a vehicle owner shall register his or her vehicle(s), as indicated below:

January	A, D
February	B
March	C, E
April	F, G, N
May	H, O
June	M, I
July	P, L
August	J, K, R
September	Q, S, T
October	U, V, W, X, Y, Z, trucks, commercial and fleet vehicles
November	Trucks, commercial and fleet vehicles
December	Santa's sleigh

A. True

B. False

100. All license plates issued to commercial and fleet vehicles for which licensing, registration, and taxation are due in October and November shall expire on _____.

A. September 30

B. October 1

C. October 31

D. November 1

E. November 30

F. December 1

G. December 31

X. DISCRETIONARY PAYMENTS TO PROBATE OFFICE EMPLOYEES FOR ELECTION RELATED SERVICES

You inquire as to the discretionary payments that I have made to employees for election duties.

Since taking office, I have been a part of three election cycles: a special election for House District 31, the gubernatorial election cycle of 2014, and the presidential election cycle of 2016. In each of those three election cycles, I have served as the chief elections official of Elmore County, the chair of the appointing board, and a member of the canvassing board. (See Sections 17-1-3(b) and 17-10-2(f), Code of Alabama.)

In fall of 2013, Representative Barry Mask resigned his position as a member of the Alabama House of Representatives. Representative Mask's district was House District 31, which covered a rather large portion of Elmore County. The Governor ordered a Special Election be held to elect a replacement for Representative Mask. The primary election was scheduled for December 3, 2013 and the primary run-off election was scheduled for January 28, 2014. We also exhausted the primary and primary run-off elections in Elmore County to finally elect Representative Mike Holmes.

Special Elections are governed by Chapter 15 of Title 17 of the Code of Alabama. While counties front the election expenses for a state-only special election, Section 17-16-4, Code of Alabama, states that "the State of Alabama shall reimburse a county for all sums expended by the county in payment of expenses as provided for in Sections 17-16-2 and 17-16-2.1 and incurred in holding and conducting an election in which only candidates for . . . state offices are nominated . . . or state officials are elected." If you are interested in "all sums expended" for an election for which Elmore County seeks reimbursement, I suggest you seek that information from the county commission as they are the entity who fills out the state-required reimbursement requests. For purposes of your question, suffice it to say that poll workers are a reimbursable expense and therefore covered at 100% by the state for the House District 31 Special Election.

Poll workers are appointed by the appointing board, which consists of the Judge of Probate, Sheriff, and Circuit Clerk. Section 17-8-1(a), Code of Alabama. The three elected officials work together, not unilaterally, in selecting and appointing qualified poll workers. In selecting poll workers, it is prohibited that the appointing board appoint as a poll worker any member of a candidate's immediate family to the second degree of kinship by

affinity or consanguinity or any member of a candidate's principal campaign committee. (Section 17-8-1(a), Code of Alabama.) There are no prohibitions against appointing employees of any federal, state, or local government as poll workers.

It is actually difficult to find qualified poll workers, and they are needed not only to work the polls during the day, but also to help with the receipt of numerous documents that must be returned to the election center from the closing of the polls.

In addition to my other duties, I am vested with the authority to designate the place to which election returns are brought by the sheriff. Section 17-13-12, Code of Alabama. In Elmore County, I have designated that place for the first time to be the Wetumpka Civic Center. Not only is it centrally located, but it can house hundreds of spectators on election night. And in addition to holding physical spectators, because of its available technology, it also allows Elmore County to do something unique—broadcast election results in real-time over the internet, faster than any other county or entity in the State of Alabama.

Part of providing the fastest real-time election results in the State of Alabama is appointing experienced poll workers. Most of the employees of the probate office have been working the returns on election night for years. Not only are they knowledgeable and efficient, they possess more experience and expertise than anyone else in Elmore County. For the appointing board to not appoint such talent on election night would defy reason and logic.

All poll workers, including employees of federal, state, and local governments, if applicable, are compensated in accordance with Alabama law. Section 17-8-12, Code of Alabama. Further, all poll workers must undergo state-mandated training and/or be certified as a "qualified" poll worker by me. Section 17-8-12(b), Code of Alabama. All of my employees have been individually trained and certified as "qualified" by me. Inspectors are compensated, in Elmore County, at \$125 per day while poll workers are compensated \$100. All employees of the probate office that work at the Wetumpka Civic Center on election night are compensated \$100, the statutorily prescribed amount, nothing more and nothing less. I am pleased to showcase the names of the probate office employee poll workers who have helped Elmore County lead the state in technological advances in election night reporting. Never, that I am aware of, has any county broadcasted a live video feed of election results. Never, that I am aware of, has any county broadcasted a live online feed of real-time election results. Yet that is exactly what we have done and continue to do

for the citizens of Elmore County and we continue to have more and more online participation and positive feedback.

Before I provide to you the names of the probate office employee poll workers, I extend to you a twofold personal invitation: 1) I invite you to come to Elmore County on November 8, 2016, the night of the Presidential returns, to witness the efficiency of my staff on election night; and 2) I invite you to ask other probate judges throughout the State of Alabama who their election night poll workers are. For some of the same reasons I just provided to you, you will find that other probate judges and appointing boards select and appoint experienced probate office employees to handle election night returns.

For the House District 31 Special Election cycle, which consisted of a primary and primary-runoff election, the following nine probate office employees were appointed to at least one of the two elections as election night poll workers:

1. Hattie Jean Duke
2. Linda Baker
3. Stephanie Davis
4. Callie Cook
5. Sherri Markos
6. Hannah Hall
7. Shirley Moseley
8. Judy Shaw
9. Hope Ford

Pursuant to Section 17-8-12(b), Code of Alabama, each of the nine probate office employee poll workers was compensated \$100 for their service. And because "only candidates for . . . state offices [were] nominated," Elmore County was reimbursed 100% for the nine probate office employee poll workers' excellent service on election night. Therefore, neither the county general fund nor my discretionary accounts paid any portion of their \$100 compensation.

For the 2014 gubernatorial election cycle, which consisted of a primary, primary run-off, and general election, the following 21 probate office employees were appointed to at least one of the three elections as election night poll workers:

1. Hattie Jean Duke
2. Linda Baker

3. Stephanie Davis
4. Callie Cook
5. Sherri Markos
6. Hannah Hall
7. Shirley Moseley
8. Judy Shaw
9. Linda Blankenship
10. Lisa Hinson
11. Bridget Lewis
12. Christina Womble
13. Tateyanna Edwards
14. Talaine Cannon
15. Lori White
16. Donna Bingham
17. April Canales
18. Ann Webb
19. Ivory Bowe
20. Melissa Boutwell
21. Hannah Pose

Pursuant to Section 17-8-12(b), Code of Alabama, each of the 21 probate office employee poll workers was compensated \$100 for their service. And in accordance with Section 17-16-3, Code of Alabama, because "candidates for both federal or state and county offices" were nominated, Elmore County was reimbursed 50% for the 21 probate office employee poll workers' excellent service on election night. While the county general fund was responsible for 50% of the probate office employee poll workers' compensation, it was an expense that was requested by me and unanimously approved by the county commission in the annual general fund elections budget.

For the 2016 presidential election cycle, which has, at the time of this letter, consisted only of a primary and primary run-off election, the following 18 probate office employees were appointed to at least one of the two elections as election night poll workers:

1. Hattie Jean Duke
2. Linda Baker
3. Stephanie Davis
4. Callie Cook
5. Sherri Markos

6. Hannah Hall
7. Judy Shaw
8. Lisa Hinson
9. Bridget Lewis
10. Christina Womble
11. Lori White
12. Donna Bingham
13. April Canales
14. Ann Webb
15. Melissa Boutwell
16. Katie Carey
17. Beverly Martin
18. Tateeyanna Edwards

Pursuant to Section 17-8-12(b), Code of Alabama, each of the 18 probate office employee poll workers was compensated \$100 for their service. And because the primary and primary-run off elections in 2016 were "presidential preference primary" elections," the State of Alabama reimbursed Elmore County 100% for the 18 probate office employee poll workers' excellent service on election night. Section 17-13-100, Code of Alabama. Therefore, neither the county general fund nor my discretionary accounts paid any portion of their \$100 compensation.

My discretionary account has **NEVER** been used to pay any of the forenamed poll workers for election duties.

XI. BONUSES PAID BY THE PROBATE OFFICE

You inquire as to how many bonus payments I have given to my employees. The answer is **ZERO**.

Section 68 of the *Alabama Constitution* prohibits elected officials from giving bonuses to government employees. Employees cannot be given a retrospective payment for services already rendered which the employee was obligated to render anyway, nor can the employee be given a seasonal bonus such as a Christmas bonus.

I must admit that each of the 25 employees who work under my supervision have received annually a \$100 Christmas gift for the past two Christmas seasons, but those gifts were paid entirely from my own personal funds as an expression of friendship and appreciation for underpaid, yet loyal, public servants, and not from governmental or taxpayer funds.

**XII. THE DISPARITY BETWEEN
SALARIES PAID TO THE COUNTY COMMISSION STAFF
AND SALARIES PAID TO THE PROBATE OFFICE STAFF**

Employees of Elmore County are paid based on a Mercer Grade system. Here is the Mercer Grade Chart:

Mercer Pay Scale

<u>Department</u>		<u>Mercer Grade</u>	<u>Starting pay</u>
countywide	Admin Assist	5	9.78
courthouse	Grounds Keeper	5	9.78
sheriff's office	CO-Civil Process Server	5	9.78
Task Force 1	Admin Assist-DTF	5	9.78
countywide	Sign Tech/Engineer Tech	7	10.43
countywide	Operator I	7	10.43
license inspector	License Inspector	7	10.43
probate office	Clerk-Recording	7	10.43
probate office	Clerk-Probate	7	10.43
probate office	Clerk-License	7	10.43
reappraisal	Clerk Mapping	7	10.43
reappraisal	Clerk-appraisal	7	10.43
revenue commisssion	Clerk Collections	7	10.43
revenue commisssion	Clerk-Assessment	7	10.43
tag department	Clerk-tag	7	10.43
countywide	Operator II	8	11.38
countywide	Engineer Tech II	8	11.38
countywide	Sign Tech II	8	11.38
emergency tech	Dispatcher	8	11.38 12.89
jail	CO	8	11.38
sheriff's office	SO-admin Officer	8	11.38
tag department	Asst Super	8	11.38
animal control	Animal Control Officer	8	11.38
commission office	Clerk Commission	9	11.92
countywide	Operator III	9	11.92
countywide	Group Leader	9	11.92
countywide	Office Admin	9	11.92
countywide	Operator III	9	11.92
emergency mgmt	Admin Assist-EMA	9	11.92
emergency tech	Dispatch Supervisor	9	11.92
jail	SERGEANT-CO	9	11.92
jail	Admin Assist to Warden	9	11.92
sheriff's office	SO-lt/admin officer	9	11.92
tag department	Tag Supervisor	9	11.92
animal control	Deputy	10	14.00 **
commission office	Account Clerk	10	14.00
commission office	Executive Assistant	10	14.00

<u>Department</u>		<u>Mercer Grade</u>	<u>Starting pay</u>
countywide	Construction Super	10	14.00
countywide	Sub division Inspector	10	14.00
countywide	Shop Mgr	10	14.00
countywide	Construction Super	10	14.00
countywide	Project Inspector	10	14.00
courthouse	Maint	10	14.00
domestic violence	Deputy -DV	10	14.00
emergency mgmt	EMA deputy director	10	14.00
jail	LIEUT-CO	10	14.00
reappraisal	Chief assessment clerk	10	14.00
reappraisal	GIS Mapper	10	14.00
reappraisal	Appraiser I	10	14.00
reappraisal	Appraiser I Real	10	14.00
revenue commisssion	chief collections	10	14.00
sheriff's office	Deputy-SO	10	14.00
task force	Deputy-DTF	10	14.00
countywide	Asst Superintendent	11	15.25
jail	CAPT-Corrections	11	15.25
SO	Capt-Admin	11	15.25
reappraisal	Appraiser II	11	15.25
sheriff's office	SO-Investigator	11	15.25
countywide	Superintendent	12	17.00
domestic violence	DV-LIEUT	12	17.00
domestic violence	DV-LIEUT	12	17.00
domestic violence	DV-LIEUT	12	17.00
jail	WARDEN	12	17.00
reappraisal	Appraiser III	12	17.00
sheriff's office	SO-Lieut	12	17.00
sheriff's office	SO-Chief Admin	12	17.00
jail	Jail Administrator	13	17.75
reappraisal	Chief Mapper	13	17.75
sheriff's office	SO-Capt	13	17.75
sheriff's office	SO-Chief Investigator	13	17.75
task force	DTF Commander	13	17.75
sheriff's office	SO-Chief Deputy	14	21.63
reappraisal	Chief Appraiser	18	26.50

Grade	0-1	2-5 year	6-10 year	11-15 Years	16-20 Years	21-25 Years	26-30 Years
5	9.78	9.88	10.28	10.80	11.35	11.93	12.54
7	10.43	10.53	10.96	11.52	12.11	12.73	13.38
8	11.38	11.49	11.96	12.57	13.21	13.89	14.59
9	11.92	12.04	12.53	13.17	13.84	14.54	15.29
10	14.00	14.14	14.71	15.46	16.25	17.08	17.95
11	15.25	15.40	16.30	16.85	17.70	18.61	19.56
12	17.00	17.17	17.87	18.78	19.74	20.74	21.80
13	17.75	17.93	18.66	19.61	20.61	21.66	22.76
14	21.63	21.85	22.73	23.89	25.11	26.39	27.74
18	26.50	26.77	27.85	29.27	30.77	32.34	33.98
			34.58	40.08	46.47	53.87	62.45

A review of the Mercer Grade system reveals that probate office and tag department clerks start at a Mercer Grade 7, which pays \$10.43 an hour. This has been the starting pay for probate office and tag department clerks for at least 10 years, maybe more. I just hired a new clerk at that rate this month.

Generally speaking, the lowest paid employees are in the probate office and the revenue commission office, the two offices that bring the county commission money as opposed to only using it. You'll notice, however, that the first appearance of a commission clerk is at the Mercer Grade 9 level, which pays \$11.92 an hour. A few years ago, however, the county commission eliminated that Mercer Grade 9 level commission clerk position and created the position of Deputy County Administrator, which likely pays more than does the position of Chief Clerk in my office. Therefore, the Mercer Grade 9 county commission clerk position no longer exists.

Today, the lowest Mercer Grade position filled by a county commission clerk is that of a level 10, which pays \$14.00 an hour, or \$3.57 more an hour on day one than a starting probate office and tag department clerk. Interestingly, the job description for a Mercer Grade 10 commission clerk requires no training, experience, or education above that of a probate office or tag department clerk, yet the pay is drastically different.

What's more, the tag department employs a supervisor and assistant supervisor. The tag department supervisor is a Mercer Grade 9 and the assistant supervisor is an 8. Whereas Mercer Grade 10 commission clerks have no supervisory authority or responsibility, the tag department supervisor and assistant supervisor manage thirteen employees, including an office manager, in three geographical locations. The duties of tag department supervisor and assistant supervisor exceed the requirements and duties of a Mercer Grade 10 commission clerk.

There is one other difference. They both deal with money. We collect it and send it to the commission to spend. The collection is harder work. You deal with people standing in line who are about to give up their hard earned money, and they don't enjoy doing that. We deal with the irate customers face to face. County commission clerks never see them. My staff must know the numerous complex laws relating to the collection of the taxes and fees.

To better put this into perspective, please allow me to relate an example of how this blatant disparity works in the real life of an employee:

I have a tag department employee, Sarah Edwards, who has been working for more than 15 years in the tag department. Mrs. Edwards makes \$1.48 per hour less than that which a brand new, right-out-of-high-

school commission clerk would make on their first day on the job! And the educational and training and experience requirements of the two jobs are the same.

I know the commission has talked about having incrementally increased employee pay by 30% over the last 20 years with cost of living raises, but that is misleading. There have been no disparity corrections between the probate office clerks and the county commission clerks during the past 20 years, and when the commission gave the cost of living raises, they did not raise the starting pay for any position. Consequently, anyone hired in my office in the last five years at the \$10.43 per hour starting pay has not received a 30% raise.

What is the result of low wages paid to highly trained people? They are recruited to higher paying jobs, and the time and cost involved in replacing the departed employee and training the new employee is substantial.

For these, and other reasons, I have been relentless in my pursuit to bridge the disparity in wages paid to my office staff and the office staff of the county commission. Every year since I've been in office I have gone before the county commission to request an increase in pay for my employees. The increase I have sought is not \$3.57 an hour, though I would welcome that increase if the county commission were amenable, but a mere \$1.49 an hour per clerk employee, still less than the county commission clerks.

What's interesting is this fact: The amount of funds I have requested each year to increase the pay of my employees by \$1.49 an hour has been less than the amount of unexpended general fund money I have returned to the county commission each fiscal year. I think it would be helpful to look at contracts on a fiscal year basis.

I took office mid-January 2013. I served as probate judge the last eight months of fiscal year 2012-13 and commenced stewardship over three general fund accounts: 1) probate office; 2) tag department; and 3) elections. During those last eight months of fiscal year 2012-13, I exercised judicious care of the public's funds. At the end of fiscal year 2012-13, I was able to return a total of \$106,205.44 of unexpended funds to the county commission. (\$40,864.77 from the probate office; \$47,060.48 from the tag department; and \$18,280.19 from the elections budget.) In public service, many irresponsible officials will make sure they use up all of their budgeted funds, i.e., waste them, in order to make sure their budget is not reduced the next year.

Pursuant to Alabama law, those unexpended funds were then supposed to be carried forward into the respective general fund accounts for the

succeeding year and made available for my office. (See Section 11-8-6, Code of Alabama.)

The following 8 employees have left employment in the probate office for higher paying jobs:

1. Wendy Thornton went to work for the City of Tallassee.
2. Charlie Rankin went to work for Alabama Power Company.
3. Hope Ford went to work for Adam's Drugs.
4. Tiffany Langley went to work for the Department of Corrections.
5. Kimberly Rawls went to work teaching school.
6. Donna Scott went to work for Budget Car Rental.
7. Talaine Cannon went to work for Jackson Thornton.
8. Hannah Hall went to work for an investment firm.
9. Brent Helms opened his own law firm.

After being trained, 39.1% of my staff has left for better paying jobs.

Fiscal year 2013-14 was my first full fiscal year as probate judge. I was asked to submit a budget on or before July 1, 2013. I did so. My budget called for an increase in pay of \$1.49 per hour per employee.

Soon after submission of my budget, I was asked to meet with then county administrator Lynda Feaga and Commissioner Joe Faulk. On the appointed day, I, along with Brent Helms, my Chief Clerk, Hattie Jean Duke, my Deputy Chief Clerk, and Lori White, my Tag Department Supervisor, met with Commissioner Faulk and Mrs. Feaga in Commissioner Faulk's office. It was then that Commissioner Faulk explained that a \$1.49 per hour per employee increase in pay was too drastic. I was instructed to revise my budget and request a 75 cent per hour per employee increase in pay for fiscal year 2013-14 and then again in fiscal year 2014-15. I was assured that the revised proposal would be adopted by the commission and my employees (excepting my Chief Clerk) would receive, over the course of two fiscal years, an increase in pay of \$1.50 per hour per employee.

Pursuant to Commissioner Faulk's instructions, I instructed Brent Helms, my Chief Clerk, to amend the budget and comply with Commissioner Faulk's request. The next day, my Chief Clerk delivered the revised budget to Lynda Feaga. Commissioner Faulk and the other four commissioners met for no more than 10 minutes to pass fiscal year 2013-14's \$33,410,691 budget. I announced the raise to my employees. While

the budget passed by the county commission in fiscal year 2013-14 included an increase in pay of 75 cents per hour per employee, as soon as I tried to enforce the increase in pay, the county commission reneged on their promise and all of my employees were denied the budgeted 75 cents per hour per employee increase in pay. There was nothing I could do.

In fiscal year 2013-14, I returned a total of \$115,813.33 to the general fund in unexpended funds from the three general fund budgets over which I have stewardship. \$22,787.42 from the probate office, \$27,344.83 from the tag department, and \$65,681.08 from elections.

Having recently returned over \$100,000 of unexpended funds to the county commission for the second fiscal year in a row, I asked for an increase in pay of \$1.49 per hour per employee in fiscal year 2014-15. The increase in pay included an increase of \$29,519.11 for the probate office and \$45,146.16 for the tag department and included ancillary increases in federal and state tax liabilities and retirement. The request for increase in pay for fiscal year 2014-15 for the probate office and tag department totaled \$74,046.48. My request was denied.

In addition to denying my request for increase in pay for fiscal year 2014-15, the county commission cut my probate office, tag department, and election budgets by a total of \$357,310.10, or 21%, in fiscal year 2014-15. Nevertheless, despite huge budget cuts in fiscal year 2014-15, I returned a total of \$97,046.48 to the general fund in unexpended funds from the three general fund budgets over which I have stewardship. (\$36,345.50 from the probate office, \$30,442.64 from the tag department, and \$29,958.34 from elections.) Again, the nearly \$100,000 returned to the commission was to be carried forward into the respective funds for the succeeding year and used for my office. (Section 11-8-6, Code of Alabama) And again, the funds returned would have more than paid for the \$1.49 per hour per employee increase in pay I requested from the commission.

Having returned approximately \$320,000 in unexpended funds to the county commission over the last three fiscal years, in fiscal year 2015-16, I asked again for an increase in pay of \$1.49 per hour per employee but was denied by the county commission.

XIII. INCENTIVE PAY AND/OR SUPPLEMENTARY SALARIES PAID BY THE PROBATE OFFICE TO KEY EMPLOYEES

You inquire as to "additional pay" or supplemental pay that has been paid by the probate office to its employees.

Recognizing that county commissions may at times underpay employees working in the probate office, the Alabama Legislature passed two local statutes which establish two discretionary funds. These two statutes grant to the Probate Judge of Elmore County the authority, in his sole discretion, to "supplement" from either of those two discretionary funds the salaries of the employees he supervises. Those two code sections are Section 45-26-81.21 and Section 45-26-81.22(d), Code of Alabama.

The earmark for "supplementing salaries" found in those two code sections contains absolutely no requirements above and beyond my sole discretion. I could have legally and unilaterally, without county commission approval, and without requiring extra work, given raises, even permanent raises, to my employees. However, I have chosen not to do so. Notwithstanding the blatant disparity between the salaries which the commission pays its own staff and the salaries paid to the probate office and revenue commission staffs, I have chosen not to supplement any salaries in the form of a "raise."

The only method I have used to provide additional pay to employees is the incentive pay method. The incentive payments I have paid for extra work actually accomplished do not begin to close the disparity between what those employees are paid in comparison with the salaries paid to commission staff employees.

Please allow me to make this point clear: I do not take the position that commission staff employees are overpaid. I only take the position that probate office staff employees are underpaid.

Since taking office, a total of 7 higher level employees have received incentive pay: 2 employees in the Wetumpka tag department, 1 employee in the Millbrook tag department, 2 employees in the probate court, 1 employee in the elections division, and my chief clerk, all under written contracts which comply with my incentive pay policy adopted in February of 2013, shortly after taking office. The attached contract(s) for each employee provides the obvious benefits that inure to the citizens of Elmore County.

You will find that every incentive payment disbursed to an employee by me is tied to a written agreement. You will also find that the incentive pay is prospective in nature, is treated as a regular part of the employee's

compensation, is made pursuant to a written policy, and is in exchange for additional consideration provided by the employee. The "additional consideration" consists of work completed outside the normal scope of the employee's job duties, which are found in his or her job description.

Before I provide a breakdown of payments to the seven employees, let me remind you that a county commission clerk on day one earns \$14.00 per hour. That figure, however, is theoretical. Currently, no county commission clerk earns only \$14.00 per hour. To get a better understanding of the big picture, I suggest you make an open records request to find out just how much county commission employees make, including the administrator, assistant administrator, county engineer, emergency management director, and commission staff members. Then, compare their salaries with those of my employees, taking into account the education and experience that is needed for each position.

Here is a description of the incentive payments I have made to the seven employees from my discretionary fund:

1. Lori White-Lori is the overall supervisor of the tag department. She has worked for the county for 15 years. Her salary at the time of entering into the incentive pay contract was \$15.29 per hour. That is \$1.29 per hour more than a brand new county commission clerk fresh out of high school on day one. Lori oversees the work of 12 to 13 other employees. For extra work described in her incentive pay contract, she was paid \$3,000 on November 20, 2015. That is the only incentive pay she has ever received. It had the effect of raising her current pay \$1.44 per hour for that past fiscal year only. The substantial list of difficult assignments she accomplished is contained in her incentive contract which reads as follows:

State of Alabama)
Elmore County)

AGREEMENT

This Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and Lori White, Tag Department Supervisor ("Supervisor"). This agreement has an effective date of February 2, 2015.

Judge and Supervisor have contemplated Supervisor's performance of additional services not included in Supervisor's job description. Judge and Supervisor agreed that Supervisor would be compensated with incentive pay for performance of additional services. Supervisor will begin to provide additional services on February 2, 2015 and continue with the same through October 31, 2015.

NOW, THEREFORE, Judge and Supervisor do hereby express their agreement as follows:

- 1. TERM OF AGREEMENT.** This Agreement shall cover services rendered from February 2, 2015 through October 31, 2015.

- 2. SERVICES TO BE PROVIDED.** In addition to Supervisor's regular duties and responsibilities, Supervisor shall:
 - Handle online boat renewals.

- Successfully complete course study (including passing a comprehensive examination) and receive certification for the Introduction to the Titling Process from the Center for Governmental Services.
- Successfully complete course study for Certified Public Manager I classwork and register for Certified Public Manager II classes.
- Verify employee time sheets for accuracy.
- Create paperless end of month reporting.
- Create procedures for the electronic storage of information pursuant to applicable laws and regulations, prepare and deliver a PowerPoint presentation to Judge or Brent Helms, draft a report indicating the implementation process, anticipated future savings and efficiencies, and other pertinent and relevant information, implement procedures, and train employees.
- Attend staff meetings of probate office supervisors.
- Learn the EasyTag application, implement it in Elmore County, train employees on the application, and troubleshoot issues.
- Handle technical issues associated with boats and business licenses (and driver licenses) when Brent Helms or Vicki Stewart are absent or unavailable.
- Participate in the hiring of new tag department employees.
- Manage the issuance of driver's licenses in the Millbrook Satellite Office and the issuance of boat decals in the Millbrook and Tallassee Satellite Office, balance said work daily, and appropriately disperse funds from said work at the end of each month.

- Act as one of a handful of statewide advisors/consultants to the Alabama Department of Revenue regarding issues with MV Trip, ETAPS, MLI, and tag renewal-related software programs. Attend online and telephonic interviews on a monthly basis.
- Prepare for review by probate judge a suggested preliminary budget for the tag office for the 2015 – 2016 fiscal year.

3. COMPENSATION. Supervisor shall be compensated with incentive pay as follows:

- **Amount.** Compensation under this Agreement shall be \$3,000.00.
- **Payment.** For work under this Agreement, payment shall be made in full no later than the last scheduled payday of December 2015. Judge retains complete discretion as to the account from which Supervisor is to be paid.

4. MODIFICATION. This Agreement constitutes the entire agreement between Judge and Supervisor. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Supervisor.

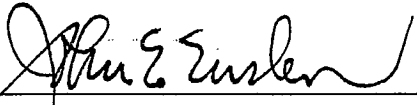
5. ALABAMA LAW. This Agreement shall be construed in accordance with the laws of the State of Alabama.

6. INTERPRETATION. This Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

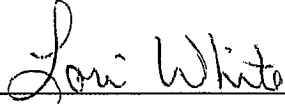
IN WITNESS WHEREOF, the Judge and Supervisor have executed this Agreement on the date below.

Judge



Signature

Supervisor



Signature

2. Melissa Boutwell-Melissa is an assistant supervisor in the tag department. She has worked for the county for 14 years. Her salary at the time of entering into the incentive contract was \$13.98 per hour. That amount is \$.02 per hour less than the current starting salary of a brand new county commission clerk fresh out of high school on day one. She works primarily in the area of balancing the financial records on a daily basis. For extra work described in her incentive pay contract, she was paid \$1,000 on November 20, 2015. That is the only incentive pay she has ever received. It had the effect of raising her current pay \$.48 an hour for that past fiscal year only. The substantial list of difficult assignments Melissa accomplished is contained in her incentive pay contract which reads as follows:

State of Alabama)
Elmore County)

AGREEMENT

This Agreement ("Agreement") is entered into by and between John E. Enslen, Judge of Probate of Elmore County ("Judge"), and Melissa Boutwell, Assistant Supervisor of the Elmore County Tag Department ("Clerk"). This agreement has an effective date of February 2, 2015.

Judge and Clerk have contemplated Clerk's performance of additional services not included in Clerk's job description. Judge and Clerk agreed that Clerk would be compensated with incentive pay for performance of additional services. Clerk will begin to provide additional services on February 2, 2015 and continue with the same through October 31, 2015.

NOW, THEREFORE, Judge and Clerk do hereby express their agreement as follows:

1. TERM OF AGREEMENT. This Agreement shall cover services rendered from - February 2, 2015 through October 31, 2015.

2. SERVICES TO BE PROVIDED. In addition to Clerk's regular duties and responsibilities, Clerk shall:

- Ensure adequate office supplies are on hand and order additional office supplies when necessary.

- Balance the daily collections of Millbrook Satellite Office tag clerks.
- Fulfill the duties of Tag Department Supervisor when the Tag Department Supervisor is not in the office.
- Assist in handling online boat renewals.
- Assist in handling technical issues associated with boats and business licenses when Vicki Stewart and Brent Helms are absent or unavailable.
- Assist in managing the issuance of driver's licenses in the Millbrook Satellite Office and the issuance of boat decals in the Millbrook and Tallasseé Satellite Office, balance said work daily, and appropriately disperse funds from said work at the end of each month.
- Perform safety inspections of the tag department work areas.
- Monitor the use of computers to insure that they are being used for official business purposes.
- Make arrangements for the timely delivery of tags and supplies to the Millbrook Tag Office.

3. COMPENSATION. Clerk shall be compensated as follows:

- **Amount.** Compensation under this Agreement shall be \$1,000.00.
- **Payment.** For work under this Agreement, payment shall be made in full no later than the last scheduled payday of December 2015. Judge retains complete discretion as to the account from which Clerk is to be paid.

4. **MODIFICATION.** This Agreement constitutes the entire agreement between Judge and Clerk. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Clerk.

5. **ALABAMA LAW.** This Agreement shall be construed in accordance with the laws of the State of Alabama.

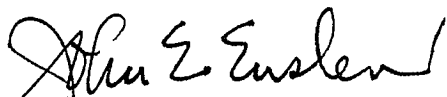
6. **INTERPRETATION.** This Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS WHEREOF, the Judge and Clerk have executed this Agreement on the date below.

Judge

Clerk

 2-2-15

Signature

Signature

3. Christina Womble-Christina is the supervisor of the tag department at the satellite probate office in Millbrook. She has worked for the county for 11 years. Her salary at the time of entering into the incentive contract was \$13.52 per hour. That amount is \$.48 per hour less than the current starting salary of a brand new county commission clerk fresh out of high school on day one. Christina oversees the work of 3 other employees. For extra work described in her incentive pay contract, she was paid \$1,000 on November 20, 2015. That is the only incentive pay she has ever received. It had the effect of raising her current pay \$.48 per hour for that past fiscal year only. The substantial list of difficult assignments she accomplished is contained in her incentive contract which reads as follows:

State of Alabama)
Elmore County)

AGREEMENT

This Agreement ("Agreement") is entered into by and between John E. Enslen, Judge of Probate of Elmore County ("Judge"), and Christina Womble, Office Manager of the Millbrook Satellite Office ("Office Manager"). This agreement has an effective date of February 2, 2015.

Judge and Office Manager have contemplated Office Manager's performance of additional services not included in Office Manager's job description. Judge and Office Manager agreed that Office Manager would be compensated with incentive pay for performance of additional services. Office Manager will begin to provide additional services on February 2, 2015 and continue with the same through October 31, 2015.

NOW, THEREFORE, Judge and Office Manager do hereby express their agreement as follows:

1. **TERM OF AGREEMENT.** This Agreement shall cover services rendered from February 2, 2015 through October 31, 2015.

2. **SERVICES TO BE PROVIDED.** In addition to Office Manager's regular duties and responsibilities, Office Manager shall:
 - Ensure adequate office supplies are on hand.

- Make change for clerks' cash drawers.
- Train new employees and provide input on employee performance evaluations and disciplinary actions.
- Handle the day-to-day scheduling of employee lunch breaks, work periods, and coverage of work stations.
- Oversee the issuance of driver's licenses in the Millbrook Satellite Office and the issuance of boat decals in the Millbrook Satellite Office.
- Perform safety inspections of the Millbrook Satellite Office.
- Monitor the use of computers to insure that they are being used for official business purposes.
- Schedule and make arrangements for the timely delivery of tags and supplies to the Millbrook Satellite Office.
- Maintain and secure the Millbrook Satellite Office at opening and closing.
- Act as the only administrator of the Ingenuity licensing software program in the Millbrook Satellite Office.

3. COMPENSATION. Office Manager shall be compensated as follows:

- **Amount.** Compensation under this Agreement shall be \$1,000.
- **Payment.** For work under this Agreement, payment shall be made in full no later than the last scheduled payday of December 2015. Judge retains complete discretion as to the account from which Office Manager is to be paid.

4. **MODIFICATION.** This Agreement constitutes the entire agreement between Judge and Office Manager. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Office Manager.

5. **ALABAMA LAW.** This Agreement shall be construed in accordance with the laws of the State of Alabama.

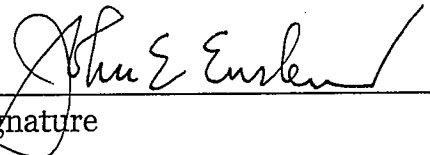
6. **INTERPRETATION.** This Agreement shall be interpreted as though it were prepared by both parties.

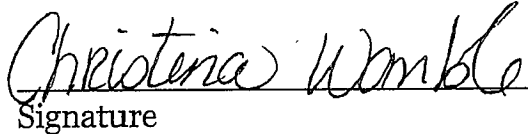
7. **PRESERVATION OF AGREEMENT.** Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS WHEREOF, the Judge and Office Manager have executed this Agreement on the abovementioned effective date.

Judge

Office Manager


Signature


Signature

4. Shirley Moseley- Shirley has been one of only two clerks working in the probate court. She has worked for the county for an accumulated total of 12 years. Her salary at the time of entering into the incentive contract was \$11.45 an hour. That amount is \$2.55 per hour less than the current starting salary of a brand new county commission clerk fresh out of high school on day one. For extra work described in her incentive pay contract, she was paid \$4,000 on November 20, 2015. That is the only incentive pay she has ever received. It had the effect of raising her current pay \$1.92 per hour for that past fiscal year only. The substantial list of difficult assignments she accomplished is contained in her incentive contract which reads as follows:

State of Alabama)
Elmore County)

AGREEMENT

This Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and Shirley Moseley Elmore County Probate Court Secretary ("Secretary"). This agreement has an effective date of February 2, 2015.

Judge and Secretary have contemplated Secretary's performance of additional services not included in Secretary's job description as a probate clerk. Judge and Secretary agreed that Secretary would be compensated with incentive pay for performance of additional services. Secretary will begin to provide additional services on February 2, 2015 and continue with the same through October 31, 2015.

NOW, THEREFORE, Judge and Secretary do hereby express their agreement as follows:

- 1. TERM OF AGREEMENT.** This Agreement shall cover services rendered from February 2, 2015 through October 31, 2015.

- 2. SERVICES TO BE PROVIDED.** In addition to Secretary's regular duties and responsibilities, Secretary shall:
 - Receive and screen incoming phone calls for Judge.
 - Interface for Judge with higher level officials when Judge is not available.
 - Create and maintain non-case office files at the discretion of Judge.

- Word process correspondence of Judge when assigned.
- Monitor the need for supplies for Judge and probate court and coordinate the ordering of these supplies.
- Assist the probate court clerk with the set up and take down of the tables, table covers, microphones, chairs, and other physical facilities associated with the courtroom as necessary.
- Assist with the operation of the recording system for court.
- Assist with the operation of and adjust the microphones and speakers in the courtroom.
- Assist in initiating procedures to improve the security of the courtroom during hearings.
- Serve as a notary public and notarize court-initiated documents as directed by Judge.
- Assist in the creation of a complete list of probate court fees allowed by law and post a copy in a conspicuous place and furnish electronic copies on request.
- Assist in handling Judge's calendar.
- Open, review, and route incoming probate court mail, reports, interoffice memoranda, etc. to the appropriate party.
- Assist in preparing annual financial and statistical reports for Judge.
- Maintain an electronic copy of the court's docket.
- Maintain an electronic copy of the case index book.
- Fill in for the probate court clerks when necessary.
- Assist in coordinating travel arrangements for training for Judge and Brent Helms, Chief Clerk of the Probate Office.
- Assist court clerk in preparing clear, accurate, and concise minutes, records, and reports in legitimation proceedings.
- Assist in the training of interns, externs, and new probate office clerks.

3. COMPENSATION. Secretary shall be compensated as follows:

- **Amount.** Compensation under this Agreement shall be \$4,000.00.

- **Payment.** For work under this Agreement, payment shall be made in full no later than the last scheduled payday of December 2015. Judge retains complete discretion as to the account from which Secretary is to be paid.

4. **MODIFICATION.** This Agreement constitutes the entire agreement between Judge and Secretary. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Secretary.

5. **ALABAMA LAW.** This Agreement shall be construed in accordance with the laws of the State of Alabama.

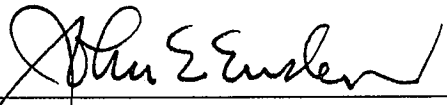
6. **INTERPRETATION.** This Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

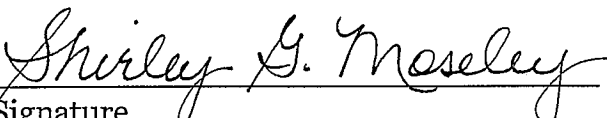
IN WITNESS WHEREOF, the Judge and Secretary have executed this Agreement on the date below.

Judge

Secretary



Signature



Signature

5. Latishia Elmore- Tish, as we call her, has been one of only two clerks working in the probate court. She is the chief clerk of the probate court. She has worked for the county for an accumulated total of 18 years. Her salary at the time of entering into the incentive contract was \$14.66 an hour, only \$.66 per hour more than the current starting salary of a brand new county commission clerk fresh out of high school on day one. For extra work described in her incentive pay contract, she was paid \$4,000 on November 20, 2015. That is the only incentive pay she has ever received. It had the effect of raising her current pay \$1.92 per hour for that past fiscal year only. The substantial list of difficult assignments she accomplished is contained in her incentive contract which reads as follows:

State of Alabama)
Elmore County)

AGREEMENT

This Agreement ("Agreement") is entered into by and between John E. Enslen, Judge of Probate of Elmore County ("Judge"), and Latishia Elmore, Elmore County Probate Court Clerk ("Court Clerk"). This agreement has an effective date of February 2, 2015.

Judge and Court Clerk have contemplated Court Clerk's performance of additional services not included in Court Clerk's job description. Judge and Court Clerk agreed that Court Clerk would be compensated with incentive pay for performance of additional services. Court Clerk will begin to provide additional services on February 2, 2015 and continue with the same through October 31, 2015.

NOW, THEREFORE, Judge and Court Clerk do hereby express their agreement as follows:

- 1. TERM OF AGREEMENT.** This Agreement shall cover services rendered from February 2, 2015 through October 31, 2015.

- 2. SERVICES TO BE PROVIDED.** In addition to Court Clerk's regular duties and responsibilities, Court Clerk shall:
 - Act as Head Administrator for PROMIS (e.g., set up new accounts, delete old accounts, change username and password settings for users, grant/deny access to PROMIS, monitor searching and printing, run statistical reports for Judge, etc.)
 - Set up, balance, internally audit, and oversee probate court fiduciary accounts.

- Develop and implement a legal process for escheating estates to the State of Alabama, create a step-by-step guide on the legal process, and train and oversee interns, externs, and other probate court staff as they escheat property to the State of Alabama.
- Assist in setting up and taking down tables, table covers, microphones, chairs, and other physical facilities associated with the courtroom as necessary.
- Assist in operating the recording system for court.
- Assist in operating and adjusting the microphones and speakers in the courtroom.
- Assist in initiating procedures to improve the security of the courtroom during hearings.
- Assist in the creation of a complete list of probate court filing, recording, and copy fees allowed by law and post a copy in a conspicuous place and furnish electronic copies on request.
- Produce itemized receipts for billing and collecting probate court fees.
- Handle Judge's calendar.
- Assist in preparing annual financial and statistical reports for Judge.
- Maintain a case action summary on each case.
- Maintain an electronic copy of the court's docket.
- Maintain an electronic copy of the case index book.
- Fill in for probate office Court Clerks when necessary.
- Coordinate travel arrangements associated with training for Judge and Brent Helms, Chief Clerk of the Probate Office.
- Prepare clear, accurate, and concise minutes, records, and reports in legitimation proceedings.
- Assist in the training of interns, externs, and new probate office court clerks.
- Prepare the entire certified file for the transfer of cases that are to be transferred to a higher court.
- Coordinate and supervise the preparation of the record on appeal, including the clerk's record and the transcript of the testimony.

3. COMPENSATION. Court Clerk shall be compensated as follows:

- **Amount.** Compensation under this Agreement shall be \$4,000.00.
- **Payment.** For work under this Agreement, payment shall be made in full no later than the last scheduled payday of December 2015. Judge retains complete discretion as to the account from which Court Clerk is to be paid.

4. MODIFICATION. This Agreement constitutes the entire agreement between Judge and Court Clerk. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Court Clerk.

5. ALABAMA LAW. This Agreement shall be construed in accordance with the laws of the State of Alabama.

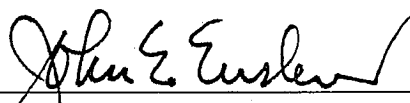
6. INTERPRETATION. This Agreement shall be interpreted as though it were prepared by both parties.

7. PRESERVATION OF AGREEMENT. Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

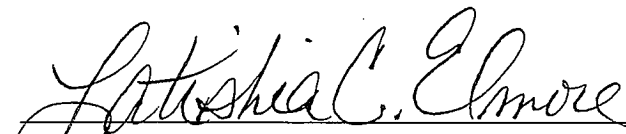
IN WITNESS WHEREOF, the Judge and Court Clerk have executed this Agreement on the date below.

Judge

Court Clerk



Signature



Signature

6. Vicki Stewart- Vicki has been working as the county elections specialist since 2014. She has a college degree, extensive banking experience, and serves as the CFO of the probate office. She submits all monthly financial reports, and she serves as my personal assistant with regard to discretionary accounts. She also supervises the purchase of supplies for all probate office departments. Her salary at the time of entering into the incentive contract was \$17.31 an hour, \$3.31 per hour more than the current starting salary of a brand new county commission clerk fresh out of high school on day one. For extra work described in her incentive pay contract, she was paid \$3,000 on November 20, 2015. That is the only incentive pay she has ever received. It had the effect of raising her current pay \$1.44 per hour for that past fiscal year only. The substantial list of difficult assignments she accomplished above and beyond her regular duties is contained in her incentive contract which reads as follows:

State of Alabama)
Elmore County)

AGREEMENT

This Agreement ("Agreement") is entered into by and between John E. Enslen, Judge of Probate of Elmore County ("Judge"), and Vicki Stewart, Administrative Assistant of the Elmore County Probate Office ("Administrative Clerk"). This agreement has an effective date of February 2, 2015.

Judge and Administrative Clerk have contemplated Administrative Clerk's performance of additional services not included in Administrative Clerk's job description. Judge and Administrative Clerk agreed that Administrative Clerk would be compensated with incentive pay for performance of additional services. Administrative Clerk will begin to provide additional services on February 2, 2015 and continue with the same through October 31, 2015.

NOW, THEREFORE, Judge and Administrative Clerk do hereby express their agreement as follows:

1. **TERM OF AGREEMENT.** This Agreement shall cover services rendered from - February 2, 2015 through October 31, 2015.
2. **SERVICES TO BE PROVIDED.** In addition to Administrative Clerk's regular duties and responsibilities, Administrative Clerk shall:
 - Maintain ongoing detailed inventory of probate office supplies.

- Monitor the use of supplies by employees.
- Develop and report projections for each line item in the probate office and elections budgets and make recommendations for changes to budgets for the 2015 – 2016 fiscal year.
- Visit the Wetumpka driver license office on a regular basis and monitor the operations.
- Maintain a petty cash fund for the probate office and increase or decrease the petty cash fund as necessary.
- Establish and maintain an adequate internal control structure for the probate office concerning emergency purchasing situations.
- Resolve problems with vendors.
- Coordinate with the county commission to dispose of surplus equipment and property.
- Create end of month reports and move toward balancing entirely in Ingenuity.
- Draft an emergency evacuation plan for natural and manmade disasters, train employees, and conduct and oversee mock tests of emergency situations.
- Assist in handling driver license, boat, and business license renewals and the issuance of marriage licenses.
- Assist in handling technical issues associated with boat, marriage, driver, and business licenses when Hattie Jean Duke and Brent Helms are absent or unavailable.
- Insure probate office computers are being used for official probate office business by probate office employees.
- Handle easy I.T. work such as fixing computer and software issues and hooking up new computers and printers and act as one of two submitters of work orders to the county I.T. department.
- Handle returned check collections from the initial notice to walking them over and filing them with the District Attorney's office.
- Maintain an ongoing current report on each of the probate judge's discretionary funds.

3. COMPENSATION. Administrative Clerk shall be compensated as follows:

- **Amount.** Compensation under this Agreement shall be \$3,000.00.
- **Payment.** For work under this Agreement, payment shall be made in full no later than the last scheduled payday of December 2015. Judge retains complete discretion as to the account from which Administrative Clerk is to be paid.

4. MODIFICATION. This Agreement constitutes the entire agreement between Judge and Administrative Clerk. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Administrative Clerk.

5. ALABAMA LAW. This Agreement shall be construed in accordance with the laws of the State of Alabama.

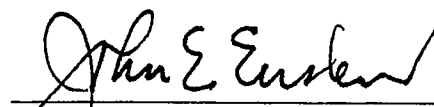
6. INTERPRETATION. This Agreement shall be interpreted as though it were prepared by both parties.

7. PRESERVATION OF AGREEMENT. Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS WHEREOF, the Judge and Administrative Clerk have executed this Agreement on the date below.

Judge

Administrative Clerk



Signature



Signature

7. Brent Helms---Brent worked as my chief clerk until he left to open his own law practice earlier this year. He has served as a special probate judge and handled from the bench all commitment cases relating to the mentally impaired. He served as the probate judge and sole manager of the office during my long out-of-state absences to care for my dying wife who succumbed to pancreatic cancer in January of 2015 after a five-year battle.

Brent has a juris doctorate and is a licensed member of the Alabama Bar Association. In addition to fulfilling all of his duties as a chief clerk and replacing me for long periods of time, he effectively served in an in-house legal counsel capacity on an as needed basis. I have a conflict of interest with the county attorney who represents the county commission and could not use him. As previously stated, I am on the other side of litigation with the county commission. Further, the county attorney's hourly charges are more than twice that of Brent's, and the county commission refused my request to provide a budget for legal services. I have been forced to use my discretionary fund to pay for legal services, and seeking the best deal available led me to Brent. I did not have to pay for the time it would take to educate an outside attorney because Brent was already very familiar with all of the operations of the office.

Brent's salary at the time of entering into the incentive contracts was \$21.59 an hour or \$44,900.00 a year. He made less than the sheriff's chief deputy. He made less than the Revenue Commission appraiser. Compare his salary with that of the county administrator or the assistant administrator. Compare his salary with the county engineer who has less education. But keep in mind that I am not saying any of those others are being overpaid. I am simply saying that Brent was being underpaid for the work he was accomplishing.

Brent had a total of 8 different incentive contracts, each of which is attached. For extra work described in his incentive pay contracts, he was paid \$2,000.00 for work done in fiscal year 2013-2014, \$9,000 for work done in fiscal year 2014-15, and \$15,500.00 for work done in fiscal year 2015-2016. Even in the largest incentive payment year, Brent's salary was less than \$61,000, a tremendous bargain for the people of Elmore County.

The legal work which Brent did for the probate office saved the county thousands of dollars. Just one example would be his assisting me with the same-sex marriage litigation in the Alabama Supreme Court. I had a prominent role in that case, being the only probate judge in the state who was aligned with the petitioners. I am the probate judge who gave standing

to the case as a result of my alignment with the petitioners. My name is in the caption of the official reported case. Other counties, where the probate judges played much lesser roles, spent hundreds of thousands of dollars for legal representation, either through their insurance or their general funds.

Brent also provided me with legal assistance in two circuit court cases involving elections----one case where the circuit judge disqualified the incumbent superintendent of education from the Republican Primary, and another case where the judge declared the same candidate qualified to run as an independent.

Brent also researched the Code of Alabama to make sure we were in compliance with current law on the collection of all court costs. He researched the Code to make sure we were in compliance with the current law on the requirements for the collection of recording fees. He researched election law on an independent candidacy and on the requirement for a third party or minority party candidacy. He has taken a major role in my current lawsuit against the county commission. With all of this work, not a single dollar of the county general fund has been used. Their legal services budget for my office in the amount of \$1,500 is a pathetic joke when compared with the amount of budgeted funds the county commission spends on legal services.

The substantial list of difficult assignments Brent accomplished is contained in his 8 incentive contracts which read as follows:

State of Alabama)
Elmore County)

**AGREEMENT FOR MANAGEMENT AND SUPERVISION
OF WORK DONE IN RELATION TO VERIFICATION OF
PETITIONS FOR ACCESS TO THE 2014 GENERAL
ELECTION BALLOT BY THIRD PARTY**

This Agreement for Management and Supervision of Work Done in Relation to Verification of Petitions for Access to the 2014 General Election Ballot by Third Party ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Clerk"), this 4th day of June, 2014.

Judge and Clerk contemplate Clerk's performance of additional services not included in Clerk's job description and outside of Clerk's current contract with Judge. Judge and Clerk agree that Clerk will be compensated for performance of additional services. Clerk will provide additional services accomplished outside regular work hours, beginning this date and terminating when the job has been completed.

NOW, THEREFORE, Judge and Clerk do hereby express their agreement as follows:

1. **TERM OF AGREEMENT.** This Agreement shall cover services rendered from June 4, 2014 until the job is completed.

2. **SERVICES TO BE PROVIDED.** In addition to Clerk's regular duties and responsibilities, Clerk shall manage independent contractors and assist in:
 - Verifying all signatures (pursuant to ALA. CODE § 17-9-3(a)(3)) on petitions submitted by the Constitution Party of Alabama for the establishment of ballot access pursuant to ALA. CODE § 17-8-2.1(a).

- Verifying that petitions for the establishment of ballot access for the Constitutionalist Party include at the top of each page pagination and a statement that includes the name of the political party seeking ballot access, the date of the general election for which access is sought, and the name of political subdivision for which ballot access is sought.
- Verifying that each person signing said petitions provided the following information: name, residential address, county of residence; city of residence (if applicable), voting place, date of birth, and signature.
- Verifying that no signatory has withdrawn his or her signature from a petition prior to the petition's being filed with the verifying authority.
- Verifying that no duplicate signatures exist on the petitions.
- Verifying that no amended certifications of candidates have been filed up to the deadline for amending certifications, which, as a practical matter, occurs when the ballots for a particular race have been printed.

3. COMPENSATION. Clerk shall be compensated as follows:

- **Amount.** Compensation under this Agreement shall be \$2,000.00.
- **Payment.** For work under this Agreement, payment shall be made in full on or around July 15, 2014. Judge retains complete discretion as to the account from which Clerk is to be paid.

4. TERMINATION. Judge and Clerk shall each have the right to terminate this Agreement without cause by hand delivering two days' written notice to the other party. Should a notice of termination of this Agreement be delivered by either party, Clerk shall not be compensated.

5. **MODIFICATION.** This Agreement constitutes the entire agreement between Judge and Clerk and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Clerk.

6. **ALABAMA LAW.** This Agreement shall be construed in accordance with the laws of the State of Alabama. Any action commenced about this Agreement shall be filed in the Elmore County District Court.

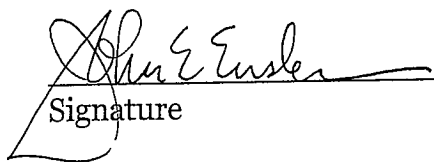
7. **INTERPRETATION.** This Agreement shall be interpreted as though it were prepared by both parties.


8. **PRESERVATION OF AGREEMENT.** Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS WHEREOF, the Judge and Clerk have executed this Agreement on the date below.

Judge

Clerk


Signature


Signature

June 4, 2014
Date

June 4, 2014
Date

State of Alabama)
Elmore County)

AGREEMENT

This Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Chief Clerk"). This agreement has an effective date of February 2, 2015.

Judge and Chief Clerk have contemplated Chief Clerk's performance of additional services not included in Chief Clerk's job description. Judge and Chief Clerk agreed that Chief Clerk would be compensated with incentive pay for performance of additional services. Chief Clerk will begin to provide additional services on February 2, 2015 and continue with the same through October 31, 2015.

NOW, THEREFORE, Judge and Chief Clerk do hereby express their agreement as follows:

- 1. TERM OF AGREEMENT.** This Agreement shall cover services rendered from February 2, 2015 through October 31, 2015.

- 2. SERVICES TO BE PROVIDED.** In addition to Chief Clerk's regular duties and responsibilities, Chief Clerk shall:

- Become a notary public and administer oaths relating to the business of the court and take and certify acknowledgments and proof of instruments authorized to be filed or recorded.
- Review and sign end of month checks under the direction and with the express authorization of the probate judge.
- Create a complete list of probate court filing, recording, and copy fees allowed by law and post a copy in a conspicuous place and furnish electronic copies on request.
- Train probate court staff on billing and collecting applicable probate court fees and disbursing fees in accordance with the law.
- Develop proposed annual budgets and monitor monthly expenditures for the probate office and tag department.
- Assist with ensuring that the county commission office and the county administrator adhere to governing laws and regulations concerning all matters that directly affect the probate office.
- Study and analyze administrative operations of the probate office and tag department and elections department; identify problem areas; prepare reports of findings; and make recommendations regarding changes or adjustments, if any, to be made.
- Handle disciplinary matters with employees, including the tag department, as directed by Judge.
- Institute procedures to improve the security of the courtroom during hearings.
- Visit Millbrook Tag Office on a regular basis and monitor the operations.

3. **COMPENSATION.** Chief Clerk shall be compensated with incentive pay as follows:

- **Amount.** Compensation under this Agreement shall be \$6,000.00.
- **Payment.** For work under this Agreement, payment shall be made in full no later than the last scheduled payday of December 2015. Judge retains complete discretion as to the account from which Chief Clerk is to be paid.

4. **MODIFICATION.** This Agreement constitutes the entire agreement between Judge and Chief Clerk. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Chief Clerk.

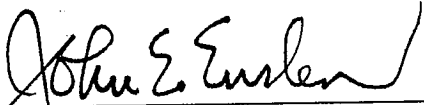
5. **ALABAMA LAW.** This Agreement shall be construed in accordance with the laws of the State of Alabama.

6. **INTERPRETATION.** This Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.


IN WITNESS WHEREOF, the Judge and Chief Clerk have executed this Agreement on the date below.

Judge



Signature

Chief Clerk



Signature

State of Alabama)
Elmore County)

**SUPPLEMENTAL SALARY AGREEMENT TO RESEARCH
ELECTION-RELATED ISSUES AND DRAFT A
DECLARATORY JUDGMENT PETITION PERTAINING
TO ISSUES RELATED TO THE ELMORE COUNTY
SUPERINTENDENT RACE**

This Supplemental Salary Agreement ("Agreement") is entered into by and between John E. Enslen, Judge of Probate of Elmore County ("Judge"), and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Chief Clerk"). This Supplemental Salary Agreement has an effective date of November 13, 2015.

Judge and Chief Clerk contemplate Chief Clerk's performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's base appointment salary of \$44,900.00 will be supplemented for performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's salary supplement will be paid pursuant to Ala. Code § 45-26-81.22(d) (2014) wherein it states that funds in Judge's discretionary account 003 "shall be . . . expended at the discretion of [Judge] for . . . supplementing salaries." Chief Clerk will begin to provide the specific additional services contemplated herein on November 13, 2015 and continue with the same through December 31, 2015.

NOW, THEREFORE, Judge and Chief Clerk do hereby express their agreement as follows:

1. TERM OF AGREEMENT. This Supplemental Salary Agreement shall cover specific services to be rendered or accomplished between November 13, 2015 and December 31, 2016.

2. SERVICES TO BE PROVIDED. In addition to Chief Clerk's regular duties and responsibilities, Chief Clerk shall:

- Verify the statutory deadline by which a certificate from the state superintendent of education must be filed in the office of the probate judge.
- Verify whether a certificate from the state superintendent of education was filed by André Harrison with the probate judge before the statutory deadline.
- Research the issues at hand: whether André L. Harrison is a legal candidate for the office of superintendent and whether his name should or should not appear on the ballot and whether or not any votes cast for him should or should not be counted.
- At minimum, research the Code of Alabama regarding election-related sections pertaining to the issues at hand.
- At minimum, research Attorney General Opinions regarding election-related sections pertaining to the issues at hand.
- At minimum, research case law regarding election-related sections pertaining to the issues at hand.
- Provide a memo to the Judge outlining the legal answers to the issues at hand.
- If necessary, assist in the drafting of a Petition for Declaratory Judgment.

- If necessary, create a certificate of service and ensure that all parties are properly served.
- If necessary, file the Petition in the Circuit Court of Elmore County.
- If necessary, requisition payment for the filing of the Petition and pay said filing fee in a timely manner.
- If necessary, draft a letter regarding Judge's decision regarding the issues at hand.
- If necessary, deliver the letter regarding Judge's decision regarding the issues at hand to the appropriate party or parties.

3. COMPENSATION. Chief Clerk's base appointment salary of \$44,900.00 shall be supplemented by Judge pursuant to Ala. Code § 45-26-81.22(d) (2014) as follows:

- **Amount.** Compensation under this Supplemental Salary Agreement shall be a \$2,000 lump sum and is based on a complicated legal research project that will require far in excess of 20 hours to complete.
- **Payment.** For work under this Supplemental Salary Agreement, lump sum payment shall be made in full no later than Friday, January 15, 2016. Pursuant to Ala. Code § 45-26-81.22(d) (2014), Judge shall supplement Chief Clerk's base appointment salary from discretionary account 003.

4. **MODIFICATION.** This Supplemental Salary Agreement constitutes the entire agreement between Judge and Chief Clerk. This Supplemental Salary Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Chief Clerk.

5. **ALABAMA LAW.** This Supplemental Salary Agreement shall be construed in accordance with the laws of the State of Alabama.

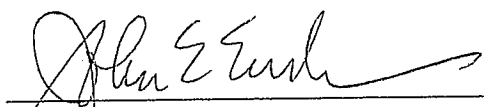
6. **INTERPRETATION.** This Supplemental Salary Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Supplemental Salary Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS WHEREOF, the Judge and Chief Clerk have executed this Supplemental Salary Agreement on the effective date above.

Judge

Chief Clerk



Signature

Signature

State of Alabama)
Elmore County)

**SUPPLEMENTAL SALARY AGREEMENT TO ASSIST
WITH THE PRIMARY ELECTION ON MARCH 1, 2016**

This Supplemental Salary Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Chief Clerk"). This Supplemental Salary Agreement has an effective date of January 2, 2016.

Judge and Chief Clerk contemplate Chief Clerk's performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's base appointment salary of \$44,900.00 will be supplemented for performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's salary supplement will be paid pursuant to Ala. Code § 45-26-81.22(d) (2014) wherein it states that funds in Judge's discretionary account 003 "shall be . . . expended at the discretion of [Judge] for . . . supplementing salaries." Chief Clerk will begin to provide the specific additional services contemplated herein on January 2, 2016 and continue with the same through March 1, 2016.

NOW, THEREFORE, Judge and Chief Clerk do hereby express their agreement as follows:

1. **TERM OF AGREEMENT.** This Supplemental Salary Agreement shall cover specific services to be rendered or accomplished between January 2, 2016 and March 1, 2016.

2. **SERVICES TO BE PROVIDED.** In addition to Chief Clerk's regular duties and responsibilities, Chief Clerk shall:

- Draft responses to all open records requests for election-related materials for review by the Judge.
- Ensure that all statutory publications and notices required by law are timely published in the newspaper in the fashion outlined by law.
- Assist in preparing the list of qualified electors.
- Ensure that verbiage on the list of qualified electors published in the newspaper includes a statement that any elector whose name was inadvertently omitted from the list of qualified voters shall have 10 days in which to have his or her name entered upon the list of qualified voters.
- Assist in furnishing inspectors of each precinct with an electronic list of all qualified electors in Elmore County.
- Provide the Judge with access to immediate online availability of the list of qualified voters.
- Assist in maintaining and organizing filings of political action committees and/or principal campaign committees.
- Maintain all filings of political action committees and/or principal campaign committees for public inspection.

- Accept and maintain petitions from independent and minority party candidates for validation after March 1, 2016.
- Provide legal research as necessary to the Judge regarding election-related procedures and issues.
- Oversee and manage the elections specialist.
- Assist in preserving all certificates and petitions of nomination filed in the probate office for six months after the election for which such nominations are made.
- Act as the contact for ES&S and other third party election-related vendors.
- Assist with testing real-time election night uploads to the Secretary of State and oversee the real-time election night results upload to the Secretary of State.
- Assist precincts on election day with election day responsibilities, including opening the polls, troubleshooting election-related issues (e.g., provisional voting, appropriate procedures, inspector and clerk responsibilities, machine repair, etc.), closing the polls, and delivering election results to the Wetumpka Civic Center.
- Instruct probate office employees to act as a state-designated voter registration agency and provide voter registration services when taxpayers apply for services, recertify for services provided, or file a change of address with the probate office.
- Assist in submitting all voter registration forms collected by the probate office to the county-specific board of registrars.

3. **COMPENSATION.** Chief Clerk's base appointment salary of \$44,900.00 shall be supplemented by Judge pursuant to Ala. Code § 45-26-81.22(d) (2014) as follows:

- **Amount.** Compensation under this Supplemental Salary Agreement shall be a \$3,000.00 lump sum.
- **Payment.** For work under this Supplemental Salary Agreement, lump sum payment shall be made in full no later than March 25, 2016 or, if the funds in discretionary account 003 are frozen, at the first opportunity after said funds are unfrozen. Pursuant to Ala. Code § 45-26-81.22(d) (2014), Judge shall supplement Chief Clerk's base appointment salary from discretionary account 003.

4. **MODIFICATION.** This Supplemental Salary Agreement constitutes the entire agreement between Judge and Chief Clerk. This Supplemental Salary Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Chief Clerk.

5. **ALABAMA LAW.** This Supplemental Salary Agreement shall be construed in accordance with the laws of the State of Alabama.

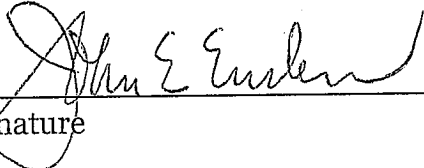
6. **INTERPRETATION.** This Supplemental Salary Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Supplemental Salary Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

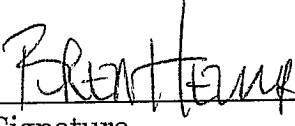
IN WITNESS WHEREOF, the Judge and Chief Clerk have executed this Supplemental Salary Agreement on the effective date above.

Judge

Chief Clerk



Signature



Signature

State of Alabama)
Elmore County)

**SUPPLEMENTAL SALARY AGREEMENT TO RESEARCH
ELECTION-RELATED ISSUES AND DRAFT A
DECLARATORY JUDGMENT PETITION PERTAINING
TO ISSUES RELATED TO THE ELMORE COUNTY
SUPERINTENDENT RACE**

This Supplemental Salary Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"); and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Chief Clerk"). This Supplemental Salary Agreement has an effective date of January 4, 2016.

Judge and Chief Clerk contemplate Chief Clerk's performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's base appointment salary of \$44,900.00 will be supplemented for performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's salary supplement will be paid pursuant to Ala. Code § 45-26-81.22(d) (2014) wherein it states that funds in Judge's discretionary account 003 "shall be . . . expended at the discretion of [Judge] for . . . supplementing salaries." Chief Clerk will begin to provide the specific additional services contemplated herein on January 4, 2016 and continue with the same through March 1, 2016.

NOW, THEREFORE, Judge and Chief Clerk do hereby express their agreement as follows:

1. **TERM OF AGREEMENT.** This Supplemental Salary Agreement shall cover specific services to be rendered or accomplished between January 4, 2016 and March 1, 2016.

2. **SERVICES TO BE PROVIDED.** In addition to Chief Clerk's regular duties and responsibilities, Chief Clerk shall:

- Draft a response to André Harrison's January 4, 2016 letter to Judge.
- Read the Republican Party Bylaws.
- Research the issues at hand: whether or not André Harrison is subject to the prohibition of Section 17-9-3(b) of the Code of Alabama, and whether or not Harrison may legally be an independent candidate for the office he seeks, and whether or not his name should appear on the general election ballot in November in the event he supplies the requisite petition, and whether or not any votes cast for him, if his name is placed on the general election ballot, should be counted.
- At minimum, research election-related statutes to include Code of Alabama Sections 17-9-3 and any and all other statutes pertaining to the issues at hand.
- At minimum, research election-related case law (*Hadnott v. Amos*, 320 F. Supp. 107, 124 (M. D. Ala. 1970)) pertaining to the issues at hand.
- Provide a memo to the Judge outlining the legal answers to the issues at hand.
- Assist in the drafting of a Petition for Declaratory Judgment.
- Create a certificate of service and ensure that all parties are properly served.

- File the Petition in the Circuit Court of Elmore County.
- Requisition payment for the filing of the Petition and pay said filing fee in a timely manner.

3. COMPENSATION. Chief Clerk's base appointment salary of \$44,900.00 shall be supplemented by Judge pursuant to Ala. Code § 45-26-81.22(d) (2014) as follows:

- **Amount.** Compensation under this Supplemental Salary Agreement shall be a \$2,000 lump sum and is based on a complicated legal research project that will require far in excess of 20 hours to complete.
- **Payment.** For work under this Supplemental Salary Agreement, lump sum payment shall be made in full no later than March 25, 2016 or whenever the funds in discretionary account 003 become available. Pursuant to Ala. Code § 45-26-81.22(d) (2014), Judge shall supplement Chief Clerk's base appointment salary from discretionary account 003.

4. MODIFICATION. This Supplemental Salary Agreement constitutes the entire agreement between Judge and Chief Clerk. This Supplemental Salary Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Chief Clerk.

5. ALABAMA LAW. This Supplemental Salary Agreement shall be construed in accordance with the laws of the State of Alabama.

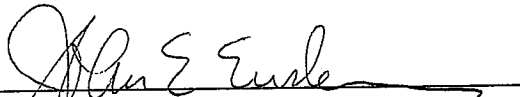
6. **INTERPRETATION.** This Supplemental Salary Agreement shall be interpreted as though it were prepared by both parties.

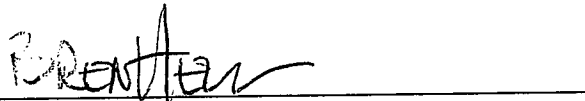
7. **PRESERVATION OF AGREEMENT.** Should any provision of this Supplemental Salary Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS WHEREOF, the Judge and Chief Clerk have executed this Supplemental Salary Agreement on the effective date above.

Judge

Chief Clerk


Signature


Signature

State of Alabama)
Elmore County)

**SUPPLEMENTAL SALARY AGREEMENT TO ASSIST
WITH ANSWERING INTERROGATORIES AND
FINDING, ORGANIZING, AND PROVIDING
DOCUMENTS REQUESTED UNDER THE PRODUCTION
OF DOCUMENTS REQUEST BY THE COUNTY
COMMISSION**

This Supplemental Salary Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Chief Clerk"). This Supplemental Salary Agreement has an effective date of January 5, 2016.

Judge and Chief Clerk contemplate Chief Clerk's performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's base appointment salary of \$44,900.00 will be supplemented for performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's salary supplement will be paid pursuant to Ala. Code § 45-26-81.22(d) (2014) wherein it states that funds in Judge's discretionary account 003 "shall be . . . expended at the discretion of [Judge] for . . . supplementing salaries." Chief Clerk will begin to provide the specific additional services contemplated herein on January 5, 2016 and continue with the same through the date upon which all interrogatories and production of documents is complete.

NOW, THEREFORE, Judge and Chief Clerk do hereby express their agreement as follows:

TERM OF AGREEMENT. This Supplemental Salary Agreement shall cover specific services to be rendered or accomplished between January 5, 2016 and the date upon which all interrogatories and production of documents is complete.

1. SERVICES TO BE PROVIDED. In addition to Chief Clerk's regular duties and responsibilities, Chief Clerk shall:

- Make himself available, at minimum:
 - A. February 10, 2016 – 12:00 – 4:30 p.m.
 - B. February 11, 2016 – 12:00 – 4:30 p.m.
 - C. February 12, 2016 – 8:00 a.m. – 4:30 p.m.
 - D. February 16, 2016 – 8:00 a.m. – 4:30 p.m.
 - E. February 17, 2016 – 8:00 a.m. – 12:00 p.m.
 - F. February 19, 2016 – 8:00 a.m. – 4:30 p.m.
- Outside of the abovementioned times, Chief Clerk shall:
 - A. Create a detailed spreadsheet of every expenditure from discretionary account 003 since its inception, including the payee's name, the date of the expenditure, the purpose of the expenditure, and the page number of the supporting documentation for each entry.
 - B. Create a detailed spreadsheet of every deposit into discretionary account 003 since its inception.

C. Create a folder containing the following information:

- 1) A list of disbursements to the county commission into discretionary account 003 since its inception.
- 2) A breakdown of \$1 copy costs collected in-house.
- 3) A breakdown of \$1 copy costs collected online.
- 4) Every bank statement for discretionary account 003 since its inception.

D. Research incorrect and unauthorized deductions by the county commission from discretionary account 003 since its inception and provide explanations.

- Assist in answering interrogatories enumerated in Exhibit A.
- Assist in compiling the documents enumerated in the request for the production of documents found in Exhibit A.

2. COMPENSATION. Chief Clerk's base appointment salary of \$44,900.00 shall be supplemented by Judge pursuant to Ala. Code § 45-26-81.22(d) (2014) as follows:

- **Amount.** Compensation under this Supplemental Salary Agreement shall be a \$6,000.00 lump sum.
- **Payment.** For work under this Supplemental Salary Agreement, lump sum payment shall be made in full no later than the payday subsequent to the date upon which all interrogatories and production of documents is complete or, if the funds in discretionary account 003 are frozen, at the first opportunity after said funds are unfrozen. Pursuant to Ala. Code § 45-26-81.22(d) (2014), Judge shall

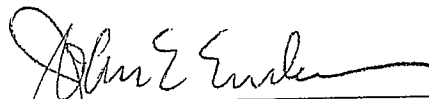
supplement Chief Clerk's base appointment salary from discretionary account 003.

3. **MODIFICATION.** This Supplemental Salary Agreement constitutes the entire agreement between Judge and Chief Clerk. This Supplemental Salary Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Chief Clerk.
4. **ALABAMA LAW.** This Supplemental Salary Agreement shall be construed in accordance with the laws of the State of Alabama.
5. **INTERPRETATION.** This Supplemental Salary Agreement shall be interpreted as though it were prepared by both parties.
6. **PRESERVATION OF AGREEMENT.** Should any provision of this Supplemental Salary Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

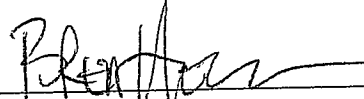
IN WITNESS WHEREOF, the Judge and Chief Clerk have executed this Supplemental Salary Agreement on the effective date above.

Judge

Chief Clerk



Signature



Signature

EXHIBIT A

February 4, 2016

John Marsh
Ball Ball Mathews & Novak, PA
445 Dexter Ave., Ste. 9045
Montgomery, AL 36104

Re: John Enslin v. Elmore County Commission
CV-2015-900262

Dear John:

Enclosed please find the Defendant's First Interrogatories and Request for Production and the Defendant's Notice to Take the Deposition of Probate Judge John Enslin. Let me know if you have any questions.

~~Very truly yours,~~

A handwritten signature in black ink, appearing to be 'ED' with a vertical line extending upwards from the 'D' and a horizontal line extending to the left, crossing the 'V' in the phrase 'Very truly yours' above.

Edward A. Ted Hosp

EAH:ts

IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

JOHN E. ENSLEN, in his)
official capacity as the duly elected)
Probate Judge of Elmore County,)
Alabama,)
Plaintiff,)
v.)
ELMORE COUNTY, ALABAMA;)
ELMORE COUNTY COMMISSION,)
and the following duly elected)
members of the Elmore County)
Commission in their official capacities:)
DAVID BOWEN, JOE FAULK,)
MARK HRAGYL, TREY TAYLOR,)
and STEPHANIE DANIELS SMOKE.)
Defendants.)

29-cv-2015-900262

**DEFENDANTS' FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

Defendants, Elmore County, Elmore County Commission and County Commissioners sued in their Official Capacities, David Bowen, Joe Faulk, Mark Hragyl, Trey Taylor and Stephanie Daniels Smoke (collectively referred to as "Defendants" or "the County"), by and through their counsel of record, submit the following interrogatories and requests for production to Plaintiff, Probate Judge John Enslen ("the Probate Judge"), to be answered separately and fully in writing and under oath, within thirty (30) days of the service hereof, in accordance with the requirements of Rule 33 and 34 of the Alabama Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

For purposes of these discovery requests:

(a) "You" and "your" means Plaintiff, Probate Judge John Enslen, and his agents, employees, attorneys, and all other persons who have acted on his behalf.

(b) "Documents" means all written, recorded, electronic, or graphic matter, however produced and reproduced, including but not limited to all correspondence, memoranda, papers, records, notes, reports, statistical or other data, compilations, ledgers, tape recordings, telegrams, plans, drawings, summaries, and any other documents as that term is used in Rule 34 of the Alabama Rules of Civil Procedure, including all non-identical copies of such documents.

(c) "Identify" when used with reference to: (i) an individual person means to state his or her full name, employer, job title, present or last known address and telephone number, and present or last known business address and telephone number; (ii) a document means to state the type of document (*e.g.*, letter, memorandum, etc.) and its date, author, addressee, general subject matter and present location and custodian. (If any document was, but no longer is, in your possession, state what disposition was made of it and the facts or reasons for such disposition.)

(d) "Person" or "persons" means any natural person, firm, proprietorship, partnership, joint venture, corporation, association, or other business entity, and all present and former officers, directors, agents, employees, and others acting for or purporting to act on behalf of such natural person, firm, proprietorship, partnership, joint venture, corporation, association, or other business entity with respect to the matter referred to in the discovery request and/or your answer thereto.

(e) "Relate(s) to" or "relating to" means refer(s) to, reflect(s) or in any way logically or factually connect(s) with the matter described in the discovery request.

(f) If any discovery request cannot be answered in full, then answer to the extent possible and state the reason or reasons for your inability to provide a complete answer.

(g) With regard to your answer to each discovery request, identify the person(s) providing the information contained in the answer and state whether the information furnished is

within the personal knowledge of the person providing the information and, if not, the identity, if known, of each person with whom the information is a matter of personal knowledge.

(h) These discovery requests shall be deemed continuing, and supplemental answers shall be filed to the extent required by the Alabama Rules of Civil Procedure. If further information is obtained of the nature sought by these discovery requests after the service of your answer, you are specifically requested to supply such further information to Defendants.

(i) If any privilege is claimed with respect to the information requested in any discovery request, state the privilege claimed and the basis for asserting such privilege.

(j) PLEASE NOTE that a request is not necessarily objectionable merely because an answer to the discovery request involves an opinion or contention that relates to fact or the application of law to fact.

INTERROGATORIES

1. State your full name, date of birth, and your current residence address.
2. Provide your employment history since graduation from law school.
3. Have you ever drafted legislation before? If so, identify all legislation drafted by you or at your direction by someone working with or for you. This request includes any legislation drafted by you or at your direction at any level of Government (Federal, State, County, Municipal).
4. Identify any and all individuals who assisted in drafting House Bill 92, the 2014 legislation that became Act 2014-106.
5. Identify any and all individuals with whom House Bill 92, the Legislation that became Act 2014-106, was discussed prior to its introduction, and provide a summary of the nature of those discussions.

6. Identify any and all members of the Elmore County Commission with whom House Bill 92, the Legislation that became Act 2014-106, was discussed prior to its introduction.
7. State whether House Bill 92, the Legislation that became Act 2014-106, was discussed prior to its introduction with the preceding Probate Judge .
8. Identify any and all members of the Legislature with whom House Bill 92, the Legislation that became Act 2014-106 was discussed prior to its introduction.
9. Did the Probate Judge or anyone from the Office of the Probate Judge visit the Legislature in order to advocate for the passage of the legislation
 - a. If the answer to this question is "yes" identify any and all legislators with whom the Probate Judge or anyone acting on behalf of the Probate Judge or the Office of the Probate Judge communicated at the Legislature;
 - b. Describe the substance of those discussions including specifically discussions regarding the legislation and its impact on the county, counties budget, and the probate judge office.
10. Identify all individuals in the Attorney General's Office with whom you, any or your employees, attorneys or agents, and anyone acting on your behalf or on behalf of the Office of the Probate Judge discussed the Legislation, the request for the Attorney General Opinion 2015-23, and the request for opinion by the Elmore County commission.
11. Identify any and all individuals with whom you discussed the request for Attorney General Opinion 2015-023 prior to it being submitted to the Office of the Attorney General or while the request was pending with the Attorney General's

office. This request includes not only discussions with personnel in the Attorney General's Office, but also any discussions regarding the request for Attorney General Opinion 2015-023 with any individuals outside the Attorney General's office, including any advisors, attorneys, government officials or employees with the County.

12. Was the request for Attorney General 2015-23 discussed with any of the members of the Elmore County Commission prior to submission to the Attorney General's office. If so, identify the Commissioner or Commissioners with whom the request was discussed, the date and time the conversation or conversations took place and the substance of that discussion or discussions.
13. Identify with specificity all expenditures from Discretionary Account 003 since that account was created.
14. Identify how any expenditures have been or are being made for any personnel costs, bonuses or incentive pay from Discretionary Account 003, and set forth the process by which such payments were or are being made including the method by which taxes are withheld (or are not withheld) and how retirement contributions are made (or if they are not being made).
15. Identify each expert witness whom you intend to call as a witness at trial. Separately summarize each expert's anticipated testimony/opinions and separately provide all background facts, data, studies, survey, articles etc. on which each expert relies.

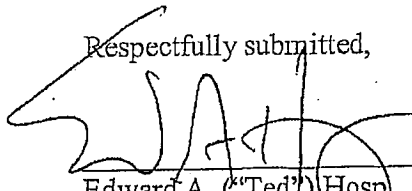
REQUESTS FOR PRODUCTION

Please produce the following:

1. All documents and things from any source which in any way relate to or support the allegations contained in the Petition for Writ of Mandamus/Complaint for Declaratory Judgment.
2. Produce all legislation, including drafts of such legislation, identified in your Response to Interrogatory No. 3.
3. All drafts of the Legislation that became House Bill 92, the Legislation that became Act 2014-106.
4. All notes, memoranda, and/or correspondence, including any and all emails, related to House Bill 92, the Legislation that became Act 2014-106. This includes a request for all correspondence that occurred before and after the introduction and or passage of the Legislation.
5. Any and all drafts of any requests for Attorney General Opinion 2015-23 relating to Act 2014-106.
6. Any and all notes, memoranda, and/or correspondence, including any e-mails, with any person regarding the request for Attorney General Opinion 2015-23 regarding Act 2014-106.
7. Any and all notes, memoranda, and/or correspondence, including e-mails, with any person related to the County's request for an Attorney General Opinion regarding Act 2014-106.
8. Provide detailed records regarding all expenditures made from Discretionary Account 003 since that account was created.

9. Any and all documents and/or communication(s) between you and any Defendant or any of their representatives relating to the allegations in the Petition/Complaint or any of the factual events underlying your claims in this lawsuit, including but not limited to voicemail recordings, audio recordings, e-mail, written correspondence, and/or verbal communications regarding your job duties, job assignments, job titles, promotions, compensation and/or Defendant's policies and/or procedures regarding the same.
10. Any and all documents utilized or relied upon to answer Defendants' Interrogatories.
11. Any and all written statements taken from any person concerning the matters alleged in this lawsuit.
12. All documents provided to any expert witness and/or any expert consultant with whom Petitioner/Plaintiff and/or his attorneys have consulted in connection with any matter related to the allegations in the Complaint.
13. With respect to any expert witness you intend to call in this case: (1) all documents relating in any way to such witness' qualifications as an expert; (2) a written summary of such person's opinion and intended testimony and the facts underlying such opinion or testimony and (3) documents stating whether such person has ever been retained for consultation in any lawsuit.

Respectfully submitted,



Edward A. ("Ted") Hosp
Attorney for Defendants

MAYNARD, COOPER & GALE, P.C.
1901 Sixth Avenue North, Suite 2400
Birmingham, Alabama 35203
Phone: (205) 254-1077
Email: thosp@maynardcooper.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing First Interrogatories and Requests for Production was delivered by hand and electronically to counsel for the Plaintiff on February 9, 2016.

/s Edward A. Hosp
Of Counsel

IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

JOHN E. ENSLEN, in his)
official capacity as the duly elected)
Probate Judge of Elmore County,)
Alabama,)
)
Plaintiff,)
)
v.)
)
ELMORE COUNTY, ALABAMA;)
ELMORE COUNTY COMMISSION,)
and the following duly elected)
members of the Elmore County)
Commission in their official capacities:)
DAVID BOWEN, JOE FAULK,)
MARK HRAGYL, TREY TAYLOR,)
and STEPHANIE DANIELS SMOKE.)
)
Defendants.)

29-cv-2015-900262

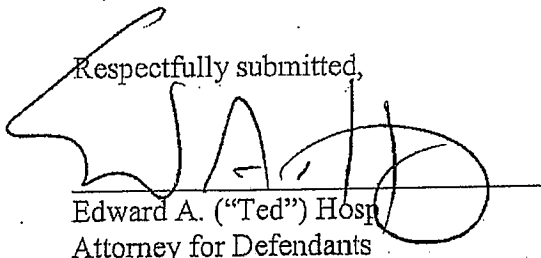
DEFENDANTS' NOTICE TO TAKE THE
DEPOSITION OF PROBATE JUDGE JOHN ENSLEN

To: Mr. Saxon Main
Mr. John Marsh
Ball Ball Matthews & Novak, PA
445 Dexter Avenue
9th Floor
Montgomery, AL 36014

Please take notice that on a date and time mutually agreed upon by the parties following receipt of Responses to Defendants Interrogatories and Requests for Production, at the offices of Maynard, Cooper & Gale, 445 Dexter Avenue, Suite 8040, Montgomery, AL 36014, Defendants, Elmore County, Elmore County Commission and County Commissioners sued in their Official Capacities, David Bowen, Joe Faulk, Mark Hragyl, Trey Taylor and Stephanie Daniels Smoke (collectively referred to as "Defendants" or "the County"), pursuant to *Alabama Rule of Civil Procedure 30*, will take the testimony by deposition upon oral

examination of Probate Judge John Enslin, before an officer duly authorized to administer oaths and swear witnesses for the purpose of discovery or for use as evidence in this action. The deposition shall be recorded stenographically. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully submitted,



Edward A. ("Ted") Hosp
Attorney for Defendants

MAYNARD, COOPER & GALE, P.C.
1901 Sixth Avenue North, Suite 2400
Birmingham, Alabama 35203
Phone: (205) 254-1077
Email: thosp@maynardcooper.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Deposition was delivered by hand and electronically to counsel for the Plaintiff on February 4, 2016.

/s Edward A. Hosp
Of Counsel

State of Alabama)
Elmore County)

**SUPPLEMENTAL SALARY AGREEMENT TO RESEARCH
AND DELINEATE ELECTION RESPONSIBILITIES
PRESCRIBED BY ALABAMA LAW**

This Supplemental Salary Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Chief Clerk"). This Supplemental Salary Agreement has an effective date of June 10, 2015.

Judge and Chief Clerk contemplate Chief Clerk's performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's base appointment salary of \$44,900.00 will be supplemented for performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's salary supplement will be paid pursuant to Ala. Code § 45-26-81.22(d) (2014) wherein it states that funds in Judge's discretionary account 003 "shall be . . . expended at the discretion of [Judge] for . . . supplementing salaries." Chief Clerk will begin to provide the specific additional services contemplated herein on June 10, 2015 and continue with the same through August 31, 2015.

Chief Clerk's salary supplement shall appear as a lump sum on Chief Clerk's regular payroll check. Chief Clerk's lump sum salary supplement shall be included in all benefit calculations except health insurance. Chief Clerk's lump sum salary supplement shall be

paid using the same calculations that are used to calculate Chief Clerk's base appointment salary. Chief Clerk's lump sum salary supplement is not incentive pay and shall not be treated or calculated as such.

NOW, THEREFORE, Judge and Chief Clerk do hereby express their agreement as follows:

1. TERM OF AGREEMENT. This Supplemental Salary Agreement shall cover specific services to be rendered or accomplished between June 10, 2015 and August 31, 2015.

2. SERVICES TO BE PROVIDED. In addition to Chief Clerk's regular duties and responsibilities, Chief Clerk shall:

- Create a spreadsheet of election-related responsibilities for the following elected officials and government entities:
 - 1) Judge of Probate
 - 2) Sheriff
 - 3) Circuit Clerk
 - 4) County Commission
 - 5) Board of Registrars
- Cite all election-related legal responsibilities of the election participants mentioned above found in the Code of Alabama, the Administrative Code of Alabama, and opinions of the Office of the Attorney General of Alabama.

- Apprise Judge of current areas of noncompliance by any election participant(s) mentioned above.
- Provide to Judge for possible distribution to election participants mentioned above a list of the respective election-related legal responsibilities of the election participants mentioned above.

3. COMPENSATION. Chief Clerk's base appointment salary of \$44,900.00 shall be supplemented by Judge pursuant to Ala. Code § 45-26-81.22(d) (2014) as follows:

- **Amount.** Compensation under this Supplemental Salary Agreement shall be a \$3,000.00 lump sum and is based on a complicated legal research project that will require far in excess of 30 hours to complete.
- **Payment.** For work under this Supplemental Salary Agreement, lump sum payment shall be made in full no later than the last scheduled payday of September 2015. Pursuant to Ala. Code § 45-26-81.22(d) (2014), Judge shall supplement Chief Clerk's base appointment salary from discretionary account 003.

4. MODIFICATION. This Supplemental Salary Agreement constitutes the entire agreement between Judge and Chief Clerk. This Supplemental Salary Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Chief Clerk.

5. **ALABAMA LAW.** This Supplemental Salary Agreement shall be construed in accordance with the laws of the State of Alabama.

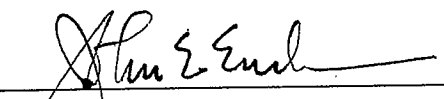
6. **INTERPRETATION.** This Supplemental Salary Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Supplemental Salary Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

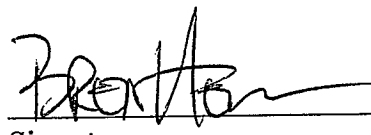
IN WITNESS WHEREOF, the Judge and Chief Clerk have executed this Supplemental Salary Agreement on the effective date above.

Judge

Chief Clerk



Signature
June 10, 2015



Signature

State of Alabama)
Elmore County)

**SUPPLEMENTAL SALARY AGREEMENT TO
PROOFREAD AND FILE A PLEADING IN THE
ALABAMA SUPREME COURT ON JUDGE'S BEHALF
AND IDENTIFY, ORGANIZE, AND LINK FEDERAL
LICENSES, PERMITS, AND CERTIFICATES**

This Supplemental Salary Agreement ("Agreement") is entered into by and between John E. Enslin, Judge of Probate of Elmore County ("Judge"), and J. Brent Helms, Chief Clerk of the Probate Office of Elmore County ("Chief Clerk"). This Supplemental Salary Agreement has an effective date of September 22, 2015.

Judge and Chief Clerk contemplate Chief Clerk's performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's base appointment salary of \$44,900.00 will be supplemented for performance of specific additional services not included in Chief Clerk's job description. Judge and Chief Clerk agree that Chief Clerk's salary supplement will be paid pursuant to Ala. Code § 45-26-81.22(d) (2014) wherein it states that funds in Judge's discretionary account 003 "shall be . . . expended at the discretion of [Judge] for . . . supplementing salaries." Chief Clerk will begin to provide the specific additional services contemplated herein on September 22, 2015 and continue with the same through September 28, 2015.

NOW, THEREFORE, Judge and Chief Clerk do hereby express their agreement as follows:

1. **TERM OF AGREEMENT.** This Supplemental Salary Agreement shall cover specific services to be rendered or accomplished between September 22, 2015 and September 28, 2015.

2. **SERVICES TO BE PROVIDED.** In addition to Chief Clerk's regular duties and responsibilities, Chief Clerk shall:

- Proofread and file Judge's "Adoption of Argument and Assertion of First Amendment Rights" with the Supreme Court of Alabama.
- Serve notice of Judge's "Adoption of Argument and Assertion of First Amendment Rights" filing on all parties.
- Search section headings of the Code of Federal Regulations for all licenses, permits, and certifications required by the federal government.
- In a searchable Word document, provide a list of every license, permit, and certification found in section headings of the Code of Federal Regulations organized by title, regulatory entity, part, subpart, section number, section heading, and context.
- Link every title, regulatory entity, part, subpart, section number, and section heading to the Code of Federal Regulations in said searchable Word document.
- Create a Word document with a reasonable sampling of licenses, permits, and certifications required by the federal government.
- Cite each section of the Code of Federal Regulations included in the sampling pursuant to The Bluebook.

3. COMPENSATION. Chief Clerk's base appointment salary of \$44,900.00 shall be supplemented by Judge pursuant to Ala. Code § 45-26-81.22(d) (2014) as follows:

- **Amount.** Compensation under this Supplemental Salary Agreement shall be a \$2,500.00 lump sum and is based on a complicated legal research project that will require far in excess of 25 hours to complete.
- **Payment.** For work under this Supplemental Salary Agreement, lump sum payment shall be made in full no later than Friday, October 9, 2015. Pursuant to Ala. Code § 45-26-81.22(d) (2014), Judge shall supplement Chief Clerk's base appointment salary from discretionary account 003.

4. MODIFICATION. This Supplemental Salary Agreement constitutes the entire agreement between Judge and Chief Clerk. This Supplemental Salary Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by Judge and Chief Clerk.

5. ALABAMA LAW. This Supplemental Salary Agreement shall be construed in accordance with the laws of the State of Alabama.

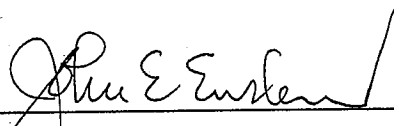
6. INTERPRETATION. This Supplemental Salary Agreement shall be interpreted as though it were prepared by both parties.

7. **PRESERVATION OF AGREEMENT.** Should any provision of this Supplemental Salary Agreement be found invalid or unenforceable, that decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

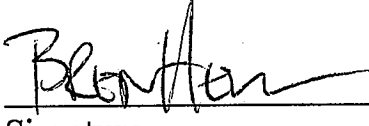
IN WITNESS WHEREOF, the Judge and Chief Clerk have executed this Supplemental Salary Agreement on the effective date above.

Judge

Chief Clerk



Signature



Signature

XIV. CONCLUSION

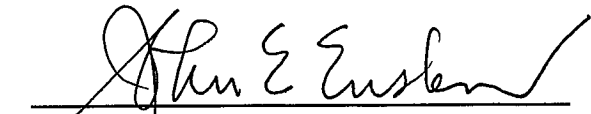
Mutual respect amongst public officials is necessary for the proper functioning of our government. Denigrating another's motives, misrepresenting another's position, refusing to cooperate even on matters where there should be basic agreement, and failing to communicate undermine the relationships needed in order for government to serve the people.

On the subject of communicating, despite multiple invitations, Commissioner Trey Taylor has never once visited my office to chat with me, or invited me to come chat with him at any location. Commissioner Stephanie Smoke has requested my presence once----to chastise me for one of my management decisions which she poorly understood. Commissioner Smoke has sat down in my office only once during her entire tenure on the commission. On that one occasion on January 15, 2014, she was in company with Commissioner David Bowen, and they were there to assure me that we would have a brick and mortar satellite office in Millbrook under construction by October of that year through a joint venture with the City of Millbrook. Their assurances were so unrealistic, so pie-in-the-sky, that I placed no stock in them, and their plan never made it to first base.

Needless to say, I am looking forward to November of this year when a new commission will take office. I believe the people will see a great improvement in the management of their tax dollars. I believe the people will see more cooperation between all of the public officials and the county commission, although we will naturally have our occasional disagreements. We will see respect for the officials who were elected to supervise the operations of their respective offices. We will see less control exercised by an unelected bureaucracy which will always fill in the management vacuum when those in charge neglect their duties. We will not see commissioners playing arm chair general or unsolicited interveners in the manner in which the probate office and other offices are operated.

If you are interested in a real story on the expenditure of public funds, how about looking into the cost over-runs on the multi-million dollar new Emergency Management Building. Those monetary figures will dwarf what I am carefully and judiciously spending in discretionary funds to improve government for the people of Elmore County, which includes a good number of my 27 grandchildren.

With appreciation for your shining a fair and balanced light on local government and all other issues of public interest. If I can provide additional information, I will cheerfully do so.



John E. Enslin
Probate Judge of Elmore County