

State of Alabama  
Unified Judicial System

LETTER OF TRANSMITTAL OF  
NOTICE OF APPEAL TO APPELLATE CLERK  
BY TRIAL CLERK

Appellate Case Number

Form ARAP - 2

Rev. 2 / 92

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, ALABAMA

APPELLANT

Roy S. Moore, Chief Justice of the Supreme Court of Alabama

V. APPELLEE

Alabama Judicial Inquiry Commission

Civil Action Number

COJ #46

Date of Judgment

September 30, 2016

Date of Post - Judgment Order

Written notice of appeal has been filed on the date indicated hereon (within 42 days from the entry of judgment or post-judgment order).

A certified copy of the written notice of appeal is forwarded herewith for filing with the Clerk of the (Supreme) Court (of Civil Appeals) along with the \$ 200 docket fee.

I certify that I have served a copy of this letter of transmittal along with a copy of the notice of appeal on each of the following:

1. Court Reporter Jeana Boggs, Boggs Reporting & Video LLC
2. Appellant's Counsel Horatio G. Mihet
3. Appellee's Counsel John L. Carroll, Rosa H. Davis, R. Ashby Pate

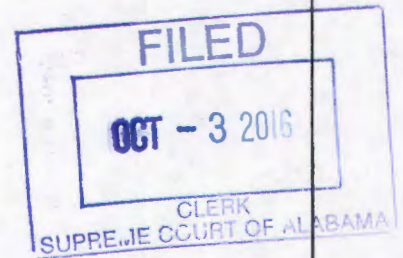
DATED this 3rd day of October, 2016

*Rebecca C. Oates Secretary*  
~~Circuit Clerk~~ Secretary, Court of  
the Judiciary

Copied to  
Other Attorneys  
For Chief Justice Moore:

Mathew D. Staver, Esq.  
Liberty Counsel  
P O Box 540774  
Orlando, FL 32854

Phillip Jauregui, Esq.  
Judicial Action Group  
7013 Lake Run Drive  
Birmingham, AL 35242



State of Alabama Unified Judicial System Form ARAP-1 (front) Rev.1/97	<b>NOTICE OF APPEAL TO THE</b> (Check appropriate block) <input checked="" type="checkbox"/> SUPREME COURT OF ALABAMA <input type="checkbox"/> COURT OF CIVIL APPEALS OF ALABAMA	Civil Action Number: COJ #46
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IN THE ALABAMA COURT OF \_\_\_\_\_ THE JUDICIARY

APPELLANT	Roy S. Moore, Chief Justice of the Supreme Court of Alabama
V. APPELLEE	Alabama Judicial Inquiry Commission
TRIAL JUDGE	J. Michael Joiner (Chief Judge)
DATE OF JUDGMENT:	September 30, 2016
DATE OF POST - JUDGMENT ORDER:	



NOTICE IS HEREBY GIVEN THAT Chief Justice Roy S. Moore appeal(s) to the above court from the  Final Judgment  Order of "suspension" without pay for the remainder of term entered in this cause. (describing it)

CHECK THE PROPER DESCRIPTION OF THE APPEALED CASE UNDER THE APPROPRIATE COURT:

<p><b>SUPREME COURT</b></p> <p>1. <input type="checkbox"/> Summary Judgment, amount claimed more than \$ 50,000</p> <p>2. <input type="checkbox"/> Judgment Amount exceeds \$50,000</p> <p>3. <input type="checkbox"/> Amount Sought in trial court more than \$50,000. Judgment for defendant</p> <p>4. <input type="checkbox"/> Equitable Relief, except for domestic relations</p> <p>5. <input checked="" type="checkbox"/> Other: <u>Final COJ Judgment (Al. Const. Sec. 157(b))</u></p>	<p><b>COURT OF CIVIL APPEALS</b></p> <p>1. <input type="checkbox"/> Summary Judgment, amount claimed \$ 50,000 or less</p> <p>2. <input type="checkbox"/> Judgment Amount \$50,000 or less</p> <p>3. <input type="checkbox"/> Amount Sought \$50,000 or less, judgment for defendant</p> <p>4. <input type="checkbox"/> Workmen's Compensation</p> <p>5. <input type="checkbox"/> Domestic Relations</p> <p>6. <input type="checkbox"/> Other: _____</p>
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APPELLANT FILES WITH THIS NOTICE OF APPEAL:

- Security for costs of appeal
- A supersedeas bond in the amount of \$ \_\_\_\_\_
- Deposited cash security in the amount of \$ \_\_\_\_\_
- Is exempted by law from giving security for costs of appeal by virtue of \_\_\_\_\_

Filed 09/30/2016 10-03-16 (Date)

Horatio G. Mihet  
 Address P.O. BOX 540774 407-875-1776  
Orlando, FL 32854 Telephone Number  
 Appellant or Attorney for Appellant  
 Email hmihet@lc.org

CERTIFIED AS A TRUE COPY  
Rebecca C. Oates, Secretary  
 Circuit Clerk Secretary, Court of the Judiciary

**SECURITY FOR COSTS**

We hereby acknowledge ourselves security for costs of appeal. For the payment of all costs secured by this undertaking, we hereby waive our right of exemption as to personal property under the Constitution and laws of the State of Alabama.

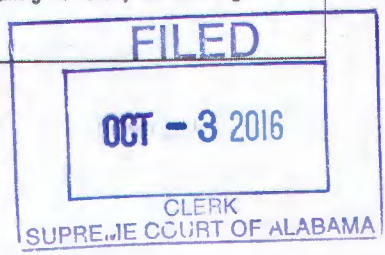
Executed with our seals this 30th day of September, 2016

Filed and approved: 10-03-16 (Date)

Roy S. Moore (S.)  
 Appellant-principal  
Horatio G. Mihet, V.P. Legal Affairs, Liberty Counsel (L.S.)  
 Surety  
Rebecca C. Oates, Secretary (L.S.)  
 Surety  
 (Amended November 9, 1976; October 1, 1991.)

**SUPERSEDEAS BOND**

We, the undersigned principal and sureties, hereby acknowledge ourselves bound unto \_\_\_\_\_ Dollars, for the payment of which we bind ourselves, and each other, our heirs, executors, [(for amount of bond see Rule 8(a) and administrators, jointly and severally, and as part of this undertaking we hereby waive our rights of exemption as to personal property under the Constitution and laws of the State of Alabama.



WHEREAS, the above-named appellee (s) recovered a judgment against appellant (s) for the sum of \_\_\_\_\_ Dollars (and the further acts or duty \_\_\_\_\_) [describing judgment in addition to or other than for money only] \_\_\_\_\_ Dollars, the costs in that behalf expended.

NOW, therefore, the condition of the foregoing obligation is such that, if the appellant shall prosecute this appeal to effect, and satisfy such judgment, penalties, and costs including costs of appeal as may be rendered in this case, then the said obligation to be null and void, otherwise to remain in full force and effect.

Executed with our seals this \_\_\_\_\_ day of \_\_\_\_\_.

Filed and approved: \_\_\_\_\_ (Date) \_\_\_\_\_ (L.S.)  
Appellant-principal

\_\_\_\_\_  
Surety (L.S.)

\_\_\_\_\_  
Surety (L.S.)

Circuit Clerk

EXECUTION OF JUDGMENT STAYED:

Bond fixed at: \$ \_\_\_\_\_ (L.S.)  
(Not required for money judgment only.) \_\_\_\_\_  
Circuit Judge

DESIGNATION OF RECORD ON APPEAL

DESIGNATION OF CLERK'S RECORD: Appellant requests the clerk to include the following checked materials in the clerk's record:

1.  Complaint  
2.  Answer  
3.  Counter-claim  
4.  Cross-Claim  
5.  Third-party Complaint  
6.  Third-party Answer  
7.  Motion to dismiss  
8.  Pretrial order

9.  Entire record (less those items set forth in Rule 10 (a))  
10.  Motion for summary judgment  
11.  Opposition to motion for summary judgment  
12.  Final (Judgment) (Order)  
13.  Motion for New Trial  
14.  Ruling on Motion  
15.  Others: \_\_\_\_\_  
16.  Exhibit Number: \_\_\_\_\_

TRANSCRIPT STATUS

- Transcript will not be ordered. [See Rule 10(b), ARAP.]  
 Transcript will be ordered. [See Rules 10(b)(2) and 11 (a)(2), ARAP. Form 1A or 1B.] Court reporter(s):  
Jeanne Boggs

NOTE: If more than one court reporter was involved in this case, you must file a Transcript Purchase Order Form in compliance with Rules 10(b) and 11(c), Form 1A or 1B of the ARAP, for each court reporter.  
(Amended October 1, 1991.)

CERTIFICATE OF FILING

I certify that I have this date filed with the clerk of the trial court the original and 5 copies of the foregoing notice of appeal (along with ~~\$ 400~~ <sup>200</sup> docket fee), and such other instruments as have been completed and included herein. A true copy of each of these items will be served by the clerk of the trial court on each of the following:

- 1) Clerk of the appellate court, (the ~~\$ 400~~ <sup>200</sup> docket fee shall be transmitted with this filing) or affidavit of hardship.  
2) Court Reporter.  
3) Counsel for appellee, or appellee if no counsel.  
Name: John L. Carroll, Rosa H. Davis, P.O. Box 303400, Montgomery, AL 36130  
Address: R. Ashby Pate, 400 N. 20th St., Birmingham, AL 35203

DATED this 30th day of September, 2016

Harry Clark  
Attorney for Appellant

(Amended October 1, 1991.)

State of Alabama  
Unified Judicial System  
Form ARAP-24 (front) 1/97

**DOCKETING STATEMENT**  
**Appeal to the Supreme Court of Alabama**  
*NOTE: completed Civil Case Cover Sheet must be attached*

Appellate Case Number  
(to be filled in by appellate court)

COUNTY \_\_\_\_\_ CIVIL ACTION NUMBER COJ # 46 TRIAL JUDGE J. Michael Joiner (Chief Judge)

I. PARTY/ PARTIES FILING  
 APPEAL (Appellant) : Roy S. Moore, Chief Justice of the Supreme Court of Alabama  
 APPELLANT'S ATTORNEY: Horatio G. Mihet ( 407 ) 875-1776  
 P.O. Box 540774 Orlando FL Telephone Number 32854  
 Address City State Zip Code

II. PARTY/ PARTIES APPEALED  
 APPEAL (Appellee) : Alabama Judicial Inquiry Commission  
 APPELLEE'S ATTORNEY: John L. Carroll ( 334 ) 242-4089  
 P.O. Box 303400 Montgomery AL Telephone Number 36130  
 Address City State Zip Code

III. APPELLANT IS THE TRIAL COURT:  Plaintiff  Defendant  Other IV. IS THIS A CROSS-APPEAL?  Yes  No

V. RELIEF AWARDED/REQUESTED: please check the appropriate block (s):  
 A.  Monetary damages were either sought or awarded, as set out below:  
 1. Compensatory damages were: (a)  awarded in the amount of \$ \_\_\_\_\_; (b)  not awarded, but sought in the amount of \$ \_\_\_\_\_; (c)  sought, but not awarded - the amount sought was not specified in the complaint.  
 2. Punitive damages were: (a)  awarded in the amount of \$ \_\_\_\_\_; (b)  not awarded, but sought in the amount of \$ \_\_\_\_\_; (c)  sought, but not awarded - the amount sought was not specified in the complaint.  
 3. A general award of damages ( not differentiating between compensatory and punitive ) was: (a)  made in the amount of \$ \_\_\_\_\_; (b)  not made, but sought in the amount of \$ \_\_\_\_\_; (c)  sought, but not made - the amount sought was not specified in the complaint.  
 4. Other monetary damages (Type: \_\_\_\_\_) were: (a)  awarded in the amount of \$ \_\_\_\_\_; (b)  not awarded, but sought in the amount of \$ \_\_\_\_\_; (c)  sought, but not awarded - the amount sought was not specified in the complaint.  
 5. Was there a remittitur or additur at issue in the trial court?  Yes  No  
 (if yes, please provide the details in the "FACTS" section on the back of this form)  
 B.  Equitable and/or declaratory relief was sought in the trial court  
 C.  Other "Suspension" of Chief Justice Moore without pay for remainder of his term.  
 (Please provide in the details of the issue(s) before the Court in the "ISSUES" section on the back of this form.)



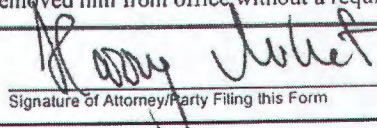
VI. TYPE OF JUDGMENT OR ORDER APPEALED. (Please check one) :  
 A  Judgment based on a jury Verdict D  Order granting a New Trial G  Dismissal  
 B  Judgment based on a Non-jury Decision E  Judgment as a Matter of Law H  Default Judgment  
 C  Judgment Notwithstanding the Verdict (JNOV) F  Summary Judgment I  Other

VII. IF THE CASE WENT TO TRIAL, HOW MANY DAYS DID THE TRIAL TAKE? 1

VIII. FINALITY OF JUDGMENT: Date of entry of judgment or order appealed from: September 30 2016  
 Month Day Year  
 1. Is the judgment or order appealed from in compliance with rule 58, A.R.Civ.P.?  Yes  No  
 2. Does the order appealed from constitute a disposition of all claims as to all parties?  Yes  No  
 3. If not, did the trial court enter an order intended to make the order final pursuant to rule 54(b)?  Yes  No  
 4. If the trial court intended to make the order appealed from final pursuant to rule 54 (b), did the court in the Rule 54 (b) order expressly determine that there was no just reason for delay and expressly direct that final judgment be entered?  Yes  No  
 5. If the answer to question 2 is "NO", and the trial court did not make the order final by full compliance with Rule 54(b), please explain the basis for seeking appellate review and cite the authority for this appeal:  
 \_\_\_\_\_

IX. POST-JUDGMENT MOTIONS: List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rule 59.1, A.R.Civ.P.):

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Date	Year		Month	Date	Year

Form ARAP-25 (back)	1/97	<b>DOCKETING STATEMENT Appeal to the Supreme Court of Alabama</b>
<b>X. CONSTITUTIONAL ISSUES:</b>		1. Are the provisions of Rule 44, A.R.App.P., applicable to this appeal? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span> 2. If so, have the provisions been complied with? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>
<b>XI. NATURE OF CASE ON APPEAL:</b> In the left column of boxes proceeding the categories listed below, check the box ( <u>check only one</u> ) that best describes or categorizes the basis or theory of the primary issue on appeal. In the right column of boxes, check any secondary theories that are applicable to the suit.		
<b>TORTS:</b> 01 <input type="checkbox"/> Bad Faith 02 <input type="checkbox"/> Fraud 03 <input type="checkbox"/> Legal Malpractice 04 <input type="checkbox"/> Medical Malpractice 05 <input type="checkbox"/> Other Malpractice 06 <input type="checkbox"/> Products/AEMLD 07 <input type="checkbox"/> Negligence (Vehicular) 08 <input type="checkbox"/> Negligence (Gen./other) 09 <input type="checkbox"/> Personal Property	10 <input type="checkbox"/> Real property 11 <input type="checkbox"/> Wrongful Death (All Types) 12 <input type="checkbox"/> Wantonness 13 <input type="checkbox"/> Conversion 14 <input type="checkbox"/> Wrongful Employ Termination 15 <input type="checkbox"/> Premises Liability 16 <input type="checkbox"/> Outrage 29 <input checked="" type="checkbox"/> Other: <u>COJ discipline</u> <b>CONTRACTS</b> 30 <input type="checkbox"/> Commercial	31 <input type="checkbox"/> Personal 32 <input type="checkbox"/> Pension 33 <input type="checkbox"/> Insurance 34 <input type="checkbox"/> Employment 35 <input type="checkbox"/> Other: _____ <b>OTHER:</b> 40 <input type="checkbox"/> Real Property 41 <input type="checkbox"/> Civ Rights (Prisoner) 42 <input type="checkbox"/> Civil Rights (Other) 43 <input type="checkbox"/> Wills/Trusts/ Estates 44 <input type="checkbox"/> Declaratory judgment 45 <input type="checkbox"/> Injunction (Commercial) 46 <input type="checkbox"/> Injunction (Employment) 47 <input type="checkbox"/> Injunction (Other) 48 <input type="checkbox"/> Extraordinary Writ 49 <input type="checkbox"/> Pub. Service Comm 50 <input type="checkbox"/> RR/Seaman(FELA) 51 <input type="checkbox"/> RICO 99 <input type="checkbox"/> Other: _____
<b>XII. APPELLATE REVIEW:</b> Please take notice that your case may be initially reviewed by the Court of Civil Appeals. Pursuant to § 12-2-7, Code of Alabama 1975, the Supreme Court has the authority to transfer any civil case within its jurisdiction to the court of Civil Appeals, except cases presenting a substantial question of federal or state constitutional law; cases involving a novel legal question, the resolution of which will have significant statewide impact; utility rate cases appealed pursuant to § 31-1-140, Code of Alabama 1975, bond validation cases appealed pursuant to § 6-6-754, Code of Alabama 1975, or Alabama State bar disciplinary proceedings.  If you believe this case should not be transferred to the Court of Civil Appeals, please state with specificity the reason(s) why it should <u>not</u> be transferred, referring to pertinent sections of § 12-2-7. Reasons should be supported in the ISSUES and FACTS sections of this docketing statement.  <u>This is a direct appeal of an adverse disciplinary ruling by the Alabama Court of the Judiciary, pursuant to Section 157(b) of the Alabama Constitution.</u>		
<b>XIII. ISSUES:</b> Briefly summarize the issue(s) on appeal.  Whether the Judicial Inquiry Commission proved each of the six charges in its Complaint by clear and convincing evidence?  Whether the Judicial Inquiry Commission violated its own rules and Alabama law by breaching confidentiality during its investigation, or by prosecuting charges without a sworn complaint?  Whether the JIC and COJ have jurisdiction to investigate or punish judges for issuing administrative orders?  Whether the automatic disqualification provision of Al. Const. Sec. 159 violates Due Process guarantees?  Whether the COJ can impose a de facto removal from office without a unanimous vote?		
<b>XIV. FACTS:</b> without argument, briefly summarize the facts to inform the court of the nature of the case.  On January 6, 2016, Chief Justice Roy S. Moore issued an Administrative Order advising Alabama's probate judges that, until further decision by the Alabama Supreme Court, they remained bound by that Court's prior writ of mandamus enjoining same-sex marriages. The Administrative Order was factually and legally correct. Even if it was erroneous, neither the JIC nor the COJ have jurisdiction to investigate and punish the Chief Justice for such error, because this Court retains exclusive jurisdiction over the Administrative Order. The Judicial Inquiry Commission failed to prove any of its six charges with clear and convincing evidence, and violated its own rules and Alabama law by breaching confidentiality during its investigation and by prosecuting a charge that was never included in a sworn complaint. By "suspending" the Chief Justice without pay for the remainder of his term, the COJ essentially removed him from office without a required unanimous vote.		
September 30, 2016 _____ Date		 _____ Signature of Attorney/Party Filing this Form