

IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:

DOROTHEA BATISTE,  
JEFFERSON COUNTY CIRCUIT JUDGE

CASE NO. 43



**OPPOSITION RESPONSE TO MOTION TO STAY JUDGE BATISTE'S  
REINSTATEMENT AS A CIRCUIT JUDGE AND/OR FOR  
SUCH OTHER RELIEF AS THE COURT DEEMS APPROPRIATE**

Comes now Dorothea Batiste, and by and through her undersigned attorney, hereby submits the following "Opposition Response to the Motion to Stay Judge Batiste's Reinstatement as a Circuit Judge." As grounds therefore the undersigned shows the following:

1. Attached hereto as exhibit A is an email from Matthew Griffin, legal aide to Judge Batiste, forwarding to the undersigned attorney an earlier email from Monica Byrd, then serving as a legal aide to Judge Pate (Batiste's temporary replacement while suspended) in which it's also noted that Benita Conley (aide to Judge Houston Brown) has forwarded a memo (attached as page 2 to exhibit A) to all judges of the Jefferson County Circuit Court urging all to attend a CLE on August 22 entitled "**Understanding Contempt and Using the Writ of Habeas Corpus.**" That CLE was in the courtroom in the Mel Baile Justice Center (see attached).
2. As requested by Judge Houston Brown and transmitted through the above-named two aides, **Judge Batiste did in fact attend said CLE workshop and hereby attaches as exhibit B a copy of the CLE program on the law of contempt which she received at said CLE workshop.**
3. The undersigned has read Judge Houston Brown's affidavit. In the first paragraph, it is notable that the affiant admits the affidavit has been "**prepared and is being given at the request of the Alabama Judicial Inquiry Commission.**"
4. The undersigned conferred with Dorothea Batiste by telephone this morning, as Judge Batiste was just preparing to leave her family's home in Louisiana to travel up to Montgomery to be at the undersigned's office by 2:00 p.m., to participate in the 3:00 p.m. conference with Judge Joiner. **The undersigned read to Judge Batiste today for the first time the affidavit from Judge Houston Brown, and Judge Batiste was surprised to read the language in paragraphs 4 - 7 of said affidavit, especially in paragraph 6 where Judge Brown is quoted as saying, "At no time subsequent ... to August 6 have I been requested to agree to Judge Batiste's attendance at any similar formal judicial training or educational opportunity."**
5. **Apparently Judge Houston Brown, with so many other judges present, must have forgotten that he had eye-to-eye contact with Judge Batiste at said August 22**

**seminar described in paragraphs one and two above. In fact Judge Batiste has authorized the undersigned to state that she very well recalls seeing Judge Brown at August 22 seminar and that, while they did not speak words to one another, there was eye contact and a nodding of heads, indicating to Judge Batiste that Judge Brown knew she was there and appreciated it.**

6. The order of the court dated August 6, 2013, on page 29 states that while Judge Batiste was ordered to attend the general jurisdiction course at the National Judicial College in Reno, Nevada. However immediately afterwards the Order states that "in the event that Judge Batiste has previously attended the general jurisdiction course, Judge Batiste is hereby ordered to undertake such other training or educational course as may be agreed upon between Judge Batiste and the presiding circuit judge of Jefferson County." **It is a well known fact that Judge Batiste had already attended said Reno, Nevada seminar, as she so stated during the trial before the Court of the Judiciary on July 29-31, 2013.**
7. **Judge Batiste therefore construed Judge Houston Brown's email request of her referenced in paragraph one above (and evidenced in exhibit A) as tantamount to an agreement on his part that the seminar on August 22 on the subject of "Understanding Contempt and Using the Writ of Habeas Corpus" (or "Contempt of Court: an Overview") was an adequate replacement for the Reno, Nevada seminar, or she would have been told otherwise by Judge Brown, but she was not.**
8. **Judge Batiste acknowledges that during most of the months of September and October 2013 she was back at her family's home in the Slidell, Louisiana area attending to pressing personal medical needs. However Judge Houston Brown had her cell phone number and certainly knew how to reach her attorney Julian McPhillips in Montgomery, had he needed to reach Judge Batiste.**
9. Nonetheless, Judge Batiste maintained constant contact with Judge Houston Brown, even calling him from her hospital bed in her mother's presence. Judge Batiste spoke to Judge Brown on numerous occasions, including twice on Monday, October 28, 2013.
10. **For this court's information Judge Batiste had very serious health issues that caused her to have to go to an emergency room at Ochsner Clinic in Slidell on September 6, 2013 and remain in said hospital for the next nine days, while doctors performed surgery [REDACTED]. After that Judge Batiste continues to remain under a doctor's care in Slidell until October 5, at which point she was released by her first set of doctors. At that point a second doctor, waiting for Judge Batiste's recovery, performed [REDACTED] surgery on her on October 15, and she remained under his care until she was recently released this past Tuesday, October 29, ready to return to work. (See Exhibit E, copy of letter of November 4, 2013 from Dr. Mahmoud Daftary attached).**
11. **Judge Batiste has also been in touch with Judge Quentin Brown, another circuit**

**judge in Jefferson County unrelated to Houston Brown, who has agreed to be her continuing mentor on contempt issues and jurisprudence generally. In addition she has signed herself up for a domestic relations seminar update for November 14-15. See attached exhibit C.**

12. Moreover, Judge Batiste has attended three CLE's this year, including **2013 Judges Mid-winter Training, 2013 Birmingham Bar Bench/Bar Retreat (Ethics and Professionalism) and Understanding Contempt and Using the Writ of Habeas Corpus.** (See Exhibit D).
13. The undersigned has heard from experienced domestic relations lawyer Wayne Wheeler of Jefferson County **that the Domestic Relations court in the Birmingham division is in dire need of Judge Batiste's return, especially now that her temporary replacement, Judge Pate, has left.** Indeed even before his departure there has been a great need for Judge Batiste's return, such that Attorney Wheeler called the undersigned a couple of months ago inquiring if there was any way Judge Batiste could return sooner than her November 5 planned date of return.
14. As stated above Judge Batiste will be available on a conference call from the undersigned attorney's office with the undersigned attorney also present on this afternoon, November 4, at 4:00 p.m., and she will gladly answer any questions.

Wherefore premises considered the undersigned submits that there is no good reason why Judge Batiste should not return to her active judicial role in the Jefferson County Domestic Relations Court on November 5, 2013.

Respectfully submitted,

Dorothea Batiste

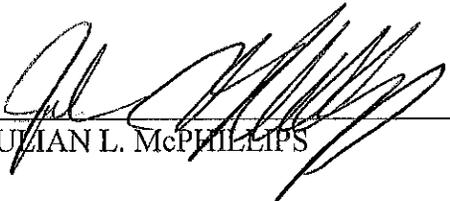
/S/Julian McPhillips  
Julian McPhillips (MCP004)  
Attorney for Plaintiff

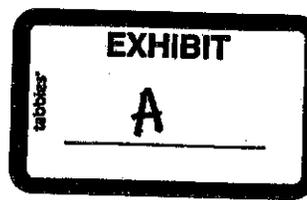
OF COUNSEL:  
**McPHILLIPS SHINBAUM L.L.P.**  
P.O. Box 64  
516 South Perry Street  
Montgomery, Alabama 36104  
(334) 262-1911  
(334) 263-2321      FAX

## CERTIFICATE OF SERVICE

I hereby certify that I have e-filed the foregoing, and have served the same, via hand-delivery and electronically upon the following, on this the 4<sup>th</sup> day of November, 2013:

Griffin Sikes, Esq.  
Alabama Judicial Inquiry Commission  
401 Adams Street  
Suite 720  
Montgomery, Alabama 36104

  
JULIAN L. McPHILLIPS



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**Subject:** FW: Seminar-"Understanding Contempt and Using the Writ of Habeas Corpus"  
**From:** "Matthew A. Griffin" <Matthew.Griffin@alacourt.gov>  
**Date:** Mon, November 4, 2013 8:26 am  
**To:** "julianmcphillips@msg-lawfirm.com" <julianmcphillips@msg-lawfirm.com>  
**Priority:** Normal  
**Options:** [View Full Header](#) | [View Printable Version](#) | [Download this as a file](#)

Dear Mr. McPhillips,

Per J. Batiste's instructions, I am forwarding you a copy of the email we received from J. Brown' Office last August. It is in regards to a CLE that J. Batiste was required to attend. Our entire office attended the CLE. Thanks

Matt Griffin  
Court Attendant

---

From: Monica Byrd  
Sent: Monday, November 04, 2013 8:21 AM  
To: Matthew A. Griffin  
Subject: FW: Seminar-"Understanding Contempt and Using the Writ of Habeas Corpus"

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From: Monica Byrd  
Sent: Wednesday, August 14, 2013 11:10 AM  
To: 'Batiste and Associates'  
Subject: FW: Seminar-"Understanding Contempt and Using the Writ of Habeas Corpus"

---

From: Bonita Conley  
Sent: Wednesday, August 14, 2013 11:07 AM  
To: Monica Byrd  
Subject: FW: Seminar-"Understanding Contempt and Using the Writ of Habeas Corpus"

Please forward to Judge Batiste immediately. Thanks.

Bonita G. Conley  
Judicial Assistant to  
Houston L. Brown, Presiding Judge  
Tenth Judicial Circuit of Alabama  
370 Jefferson County Courthouse  
716 Richard Arrington, Jr. Blvd. N.  
Birmingham, Alabama 35203  
Telephone: (205) 325-5200

Facsimile: (205) 325-8743

---

From: Bonita Conley  
Sent: Wednesday, August 14, 2013 10:43 AM  
To: Annetta Verin; Carole Smitherman; Caryl Privett; Clyde Jones; David Hobdy; Dav  
Carpenter; Donald Blankenship; Dorothea Batiste; Elisabeth French; Eugene Verin;  
Helen Lee; Jim Hughey; Joseph Boohaker; Julie Palmer; Laura Petro; Michael G.  
Graffeo; Patricia Stephens; Raymond Chambliss; Robert Vance; Stephen Wallace; Tere  
Pulliam; Tom King; Tommy Nail; Tracie Todd; Virginia Vinson; Alan Summers; Carnell  
Norman; David Lichtenstein; Edward B. Vines; Eric Fancher; Jack Lowther; John Amar  
Katrina Ross; Lorraine Pringle; Robert Bynon; Shanta Owens; Shelly Watkins  
Cc: Sandra Turner  
Subject: Seminar--"Understanding Contempt and Using the Writ of Habeas Corpus"

Dear Judges:

Judge Brown has requested that I forward the message below to each of you and to request that your responses be made to this email so that a record can be made by the sender.

"Recent events have caused the Presiding Judge to become concerned about our depth of understanding of the contempt powers possessed by Judges and the processes employed in exercising such power over litigants, witnesses and others. I have thought of the establishment of a committee of Circuit and District Judges that might formulate a CLE program for all of us in an effort to further our knowledge and understanding of this difficult area of the law. In the interim, I have discovered that the Criminal Justice Section of the Birmingham Bar Association is sponsoring a CLE "Understanding Contempt and Using the Writ of Habeas Corpus" on August 22, 2013 at 11:30 a.m. to 1:00 p.m. in the lower Courtroom in the Mel Baile Justice Center. The cost of the seminar is \$20.00. A hot dog lunch will be provided.

I am prepared to request reimbursement for those of you who wish to attend. You will however need to respond as quickly as possible to this email advising of your intent to attend so that I might initiate the reimbursement process. I truly urge your attendance at this Seminar.

Thank you for your prompt response to this message".

Houston L. Brown  
Presiding Judge

Bonita G. Conley  
Judicial Assistant to  
Houston L. Brown, Presiding Judge  
Tenth Judicial Circuit of Alabama  
370 Jefferson County Courthouse  
716 Richard Arrington, Jr. Blvd. N.  
Birmingham, Alabama 35203  
Telephone: (205) 325-5200  
Facsimile: (205) 325-8743

**Attachments:**

[untitled-\[2\].html](#)

19 k

[ text/html ]

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From: "Matthew A. Griffin" <Matthew.Griffin@alacourt.gov>  
 Subject: CLE Workbook  
 Date: Mon, November 4, 2013 8:32 am  
 To: "julianmcphillips@msg-lawfirm.com" <julianmcphillips@msg-lawfirm.com>, "batistelaw@gmail.com" <batistelaw@gmail.com>

---

Here is the Contempt Info we received at the CLE, as well. Thanks

Matthew Griffin  
 Court Attendant  
 J. Dorothea Batiste, Domestic Relations

**Attachments:**

<b>untitled-[1.2].html</b>	
Size:	2.3 k
Type:	text/html
<b>CLE BOOK.pdf</b>	
Size:	769 k
Type:	application/pdf
Info:	CLE BOOK.pdf

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**CONTEMPT OF COURT:  
AN OVERVIEW**

Prepared by the Legal Division  
Administrative Office of Courts

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## CONTEMPT OF COURT

### I. PROCEDURE - RULE 70A, ALABAMA RULES OF CIVIL PROCEDURE (ARCP), AND RULE 33, ALABAMA RULES OF CRIMINAL PROCEDURE (ARCrP)

#### A. SCOPE

Rule 70A(a)(1), ARCP, applies to all criminal and civil contempt proceedings arising out of civil actions.

Rule 33, ARCrP, applies to all criminal and civil contempts arising out of criminal actions.

#### B. DEFINITIONS - Rule 70A(a)(2)(A), ARCP, and Rule 33.1(b)(1), ARCrP

##### 1. DIRECT VS. INDIRECT CONTEMPT

a. Direct Contempt - Misconduct committed in open court, in the presence of the judge, that disturbs the court's business, where all essential elements of the misconduct occur in the presence of the court & are actually observed by the court. Where immediate action is necessary to prevent diminution of the court's dignity and authority before the public.

b. Constructive (Indirect) Contempt - Any criminal or civil contempt other than direct.

##### 2. CRIMINAL VS. CIVIL CONTEMPT

###### a. Criminal Contempt

(i) obstructs the administration of justice and is committed in the court's presence or so near as to interrupt, disturb, or hinder court's proceedings;

OR

Willful disobedience or resistance to a lawful writ, subpoena, process, order, rule, or command.

(ii) Purpose is to punish for accomplished conduct.

###### b. Civil Contempt

(i) Willful continuing failure or refusal to comply with a court's lawful writ, subpoena, process, order, rule, or command, where compliance is possible.

(ii) Purpose is to **compel or coerce** compliance for contemplated or ongoing conduct.

(iii) Civil contempt can occur in criminal cases. - for example, a witness refuses to submit to a deposition or otherwise refuses to obey a lawful order of the court.

**C. SUMMARY DISPOSITIONS OF DIRECT CONTEMPT - Rule 70A(b), ARCP, and Rule 33.2, ARCrP**

**1. RESTRICTED USE**

Alabama's procedural rules authorize a summary finding of direct contempt, but do not permit summary punishment except in extreme situations and provide the contemnor with significant procedural rights in all cases.

Summary Dispositions:

- a. May only be utilized if direct contempt.
- b. Require immediate notification of finding.
- c. Require a written order reciting grounds for finding, including specific statement that judge observed the contemptuous conduct.
- d. Require that the order must be signed by the judge and entered on the record.

**2. MITIGATION - Rule 70A(b)(2), ARCP, and Rule 33.2(b), ARCrP**

Contemnor must be given reasonable opportunity to present evidence or argument excusing or mitigating the conduct.

**3. DELAYED SENTENCING - Rule 70A(b)(3), ARCP, and Rule 33.2(c), ARCrP**

Sentence shall be pronounced:

- a. In open court
- b. In the presence of contemnor - Rule 33.2(c) allows contemnor to waive right to be present under Rule 9.1(b), ARCrP.

c. Within seven (7) days after the completion of the proceeding out of which contempt arose.

**D. CONSTRUCTIVE (INDIRECT) CONTEMPT PROCEEDINGS - Rule 70A(c), ARCP, and Rule 33.3, ARCrP**

**1. RULE 70A(c), ARCP**

(a) Initiation of Action - Proceeding initiated by filing a petition seeking finding of contempt (or may be via Rule 13 counterclaim or cross-claim). Petition provides contemnor with notice and essential facts of alleged contemptuous conduct.

(b) Issuance of Process and Notice/Citation

(i) Upon filing of petition, the court clerk issues process unless petition is initiated by counterclaim or cross-claim.

(ii) Notice shall include the time and place of the hearing on the petition and that failure to appear at hearing may result in writ of arrest.

(c) Right to Counsel - In actions involving criminal contempt, counsel is appointed upon request of contemnor and proof of indigency. Right to appointed counsel may be waived (in writing or on record) after court determines alleged contemnor knowingly, intelligently and voluntarily desires to forego right to counsel. The court may appoint advisory counsel. Parcus v. Parcus, 615 So.2d 75 (Ala. Civ. App. 1992), certiorari denied, 615 So.2d 78 (Ala. 1993).

(d) Clear and Present Danger Doctrine (applicable to out-of-court statements). See page 16 for discussion of this doctrine.

**2. RULE 33.3, ARCrP**

(a) Except where disposition is authorized (See Rule 33.2(a), ARCrP), no person shall be found in contempt without a hearing held after citation of the charge is given.

(b) *Citation must:*

(i) be in writing;

(ii) include an order that the person appear before the court to show cause why he should not be found in contempt as charged or should not be punished or incarcerated as provided by law;

(iii) State the essential facts constituting the cited contempt;

(iv) Specify the time and place of the hearing. Rule 33.3(b), ARCrP.

(c) *Arrest:*

The citation for contempt must be accompanied by an arrest warrant. Rule 33.3(c), ARCrP.

(d) *Hearing:*

The hearing must be scheduled so as to allow a reasonable time for the preparation of the defense. At the hearing, the contemnor must be afforded opportunity to present exculpatory evidence and evidence of mitigating and extenuating circumstances, shall be entitled to subpoena witnesses, and shall be entitled to be represented by counsel. Rule 33.3(d), ARCrP.

(e) *Sentence:*

(i) Pronounced in open court;

(ii) Not later than seven (7) days after the completion of all proceedings under this rule, or the completion of the proceedings during which the contemptuous conduct occurred. Rule 33.3(e), ARCrP.

## **E. JUROR CONTEMPTS**

### **Section 12-16-82. Effect of failure of person summoned as juror to obey summons.**

If any person summoned as a grand or petit juror shall fail to obey such summons without good excuse, to be determined by the court, he or she shall be deemed guilty of a contempt of court; and, if no sufficient excuse is rendered for him or her at the time of his or her default, an order shall be entered for him or her to show cause why he or she shall be entered for him or her to show cause why he or she shall not be adjudged guilty of contempt and punished accordingly; and, if he shall fail at the next session after the service of such notice to render such excuse, he or she shall be fined by the court not more than three hundred dollars (\$300) and may be imprisoned in the county jail for not more than 10 days. In courts holding sessions longer than 30 days, the order shall be made returnable 20 days after it issues, and the person in

default shall have 10 days after service in which to appear and render his excuse (Emphasis added).

**Section 12-16-89. Negligent failure of sheriff or deputy to summon juror.**

If the sheriff or any deputy shall negligently fail to summon any person to serve as a juror whom he is commanded to summon, **he shall be held and deemed guilty of a contempt of court and shall be fined not more than \$100.00 in every case where the person is not so served, and he may also be imprisoned in the county jail for not more than five days.**

The return of any such person as "not found" shall be prima facie evidence of negligence on the part of the sheriff or deputy making the return, and he shall be punished by the court unless the court is reasonably satisfied from evidence produced that he was not negligent (Emphasis supplied).

**F. COURT COSTS**

1. Rule 33.4, ARCrP – Contempts Arising from Criminal Cases

- (a) When assessed: Upon finding of contempt;
- (b) Amount: Same court costs as authorized for non-traffic misdemeanor offense;
- (c) Distribution: Same as for non-traffic misdemeanor costs;
- (d) Exception: Contempts arising from municipal ordinance cases – same court costs and distribution scheme as for non-traffic municipal ordinance violations. Rule 33.4(c), ARCrP.

2. Rule 70A, ARCP – Contempts Arising from Civil Cases

**RULE 7 ARJA**

*Any filing for which there is no express cost under the consolidated fee structure shall be treated as an original filing for cost purposes unless the payment of a docket or filing fee is specifically waived by law.*

- (a) When Assessed: Upon filing (not applicable for direct contempts);
- (b) Amount and Distribution: Same as original civil filing in applicable court.

## **G. FAILURE TO APPEAR/ISSUANCE OF WRIT OF ARREST**

### **Rule 70A(d), ARCP**

A writ of arrest may be issued by the court to compel the presence of the contemnor.

- (a) Where contemnor has been given notice of hearing, and
- (b) Fails to appear at hearing.

## **H. DISQUALIFICATION OF JUDGE - Rule 70A(f), ARCP, and Rule 33.5, ARCrP**

### **1. Recusal required if:**

- (a) The contempt "involves gross disrespect for or personal attack" on judge's character OR;
- (b) "[T]he judge's conduct is so integrated with the alleged contempt that the judge contributed to or was otherwise involved in the contemptuous conduct:

Mayberry v. Pennsylvania, 400 U.S. 455 (1971): The Due Process Clause of the 14th Amendment requires that a defendant in a criminal contempt proceeding be given a trial before a judge other than the one reviled by the contemnor. Committee Comments to Rule 33.5, ARCrP.

### **2. Exception:**

Where the conduct constitutes direct contempt and requires summary procedure.

## **I. PUNISHMENT - Rule 70A(e), ARCP, and Rule 33.4, ARCrP**

### **1. Criminal Contempt**

- (a) May not punish under the provisions of Rules 70A, ARCP, and 33.4, ARCrP, by imprisonment or a fine exceeding the maximum term of imprisonment or maximum amount of fine as provided by law.

- (b) Statutory Limitations

Supreme Court - § 12-2-7(5) – not exceeding \$100 fine and/or not exceeding 10 days imprisonment

Circuit - § 12-11-30(5) – not exceeding \$100 fine and/or not exceeding 5 days imprisonment

District - § 12-12-6 – not exceeding \$100 fine and/or not exceeding 5 days imprisonment

Municipal - §12-14-31 – not exceeding \$50 fine and/or not exceeding 5 days imprisonment.

## 2. Civil Contempt

Contemnor committed to custody of sheriff until he purges himself of contempt by compliance.

### Periodic Review:

Courts should provide the contemnor with another due process hearing when imprisoned for a substantial length of time. State v. Thomas, 550 So. 2d 1067 (Ala. 1989).

## **J. REVIEW OF CONTEMPT PROCEEDINGS - Rule 70A(g), ARCP, and Rule 33.6, ARCrP**

1. Where contemnor is in custody, reviewable by appeal unless writ of habeas corpus is an available remedy.

2. Where contemnor is not in custody, reviewable by appeal to the "appropriate appellate court" which could include the circuit court. The scope of review is limited only to questions of law in the appellate court, but can be de novo in the circuit court.

## 3. Attorneys and Court Officials

The statute granting the right of appeal to attorneys and court officials, Section 12-1-11, provides:

"Any attorney or officer who is ordered to be punished for a contempt in the circuit court may appeal to the appropriate appellate court and may stay the execution of any fine or sentence imposed by the execution of a bond, payable to the state, with two sufficient sureties, to be approved by the tribunal appealed from, in a penalty to be fixed by said tribunal, not exceeding \$300.00, conditioned to pay the fine and costs, in case of affirmance in whole or in part.

"The appellant shall be entitled to bail in such cases upon the execution of an appearance bond, with two or more such sureties, in the penalty of \$300.00, payable to the state, conditioned to appear in the court to which his appeal is

prosecuted and to abide the result of such appeal, which may be approved by the sheriff or other officer in whose custody the appellant may be.

"On such appeal the question shall be whether the appellant was guilty of contempt, and the sentence or order of the court below may be affirmed, reversed, annulled or modified, according to the judgment of the appellate court. All such appeals shall be tried on the record, which shall be prepared and transmitted to the appropriate appellate court in accordance with the Alabama Rules of Appellate Procedure. On demand of any person so condemned, the judge shall make findings of fact upon which such judgment was predicated within one day from the filing or making of such demand."

## II. CASES

### Right to Counsel

State ex rel Payne v. Empire Life Insurance Co., 351 So.2d 538 (Ala. 1977)

Parcus v. Parcus, 615 So.2d 75 (Ala.Civ.App. 1992), certiorari denied 615 So.2d 78 (Ala. 1993), rehearing denied (5/7/93): "(T)he accused in a contempt proceeding is entitled to assistance of counsel, if requested."

### Multiple Contempts

Lowe v. Lowe, 561 So.2d 240 (Ala.Civ.App. 1990): Defendant continued to harass the plaintiff in defiance of a court order. He was sentenced to 30 days imprisonment for "many separate and distinct prohibited telephone contacts." This case was reversed because the trial court failed to specify the number of acts it viewed as contemptuous, and it failed to specify the number of days punishment for each contempt.

Note: Be sure to specify the facts constituting the contempt in the order.

### Direct Contempt

Quick v. State of Alabama, 699 So.2d 1300 (Ala.Crim.App. 1997). rehearing denied (3/21/97), certiorari denied (7/18/97).

Attorney's failure to appear at client's sentencing hearing was not a direct contempt, but a constructive contempt. Failure to appear as a witness for an "on call" subpoena is punishable as a constructive contempt of court. "Where there is doubt as to the character of the alleged contempt, that is, whether it is direct, or constructive, the doubt should be resolved in favor of its being constructive, especially where the contempt charged is a criminal contempt." quoting International Brotherhood of Electrical

Workers, Local 136 v. Davis Constructors & Engineers, Inc., 334 So.2d 892 at 896 (Ala. 1976).

Hawthorne v. State, 611 So.2d 436 (Ala.Crim.App. 1992), certiorari denied (12/18/92).

During closing arguments of a criminal case, defense attorney referred to someone as a "son-of-a-bitch." Ten days later the trial judge gave the defense attorney an opportunity to be heard as to whether he should be held in contempt for the use of the phrase and found him guilty of direct criminal contempt six days later. The Court of Criminal Appeals reversed, holding that "while the attorney's language was unprofessional, indecorous, unnecessary and unbecoming of a member of the bar," it did not amount to conduct which could be punished by use of the court's criminal contempt power.

The Court reasoned that there was no evidence that immediate action was essential to prevent diminution of the court's dignity and authority before the public. In fact, the trial court waited almost an hour before reprimanding the attorney. The trial court argued that the court's business was disturbed by the attorney's conduct since the judge was working on his entrapment charge to the jury during closing arguments. The Court of Criminal Appeals held that this was "simply an insufficient interruption, disturbance, or hindrance to the court's proceedings to support a finding of direct criminal contempt of court.

Note: Must show **immediate** disturbance of the court's business for direct contempt. Note the contempt and punish the conduct at that point! Don't let any time lapse for direct contempt.

#### **"Unprofessional"/Vulgar Language**

In determining that the appellant's use of said phrase was not direct contempt, the court cited other cases in which "unprofessional language" was also held not contemptuous:

Eaton v. City of Tulsa, 415 U.S. 697 (1973) - Appellant used an indecorous term in reference to defendant, not to judge or officer of the court, and therefore it was held not to be an obstruction to the administration of justice.

George v. Toal, 6 Ill. App.3d 329, 286 N.E.2d 41 (1972) - Counsel's statement to opposing counsel before the court but out of presence of jury, "May I complete my God damn statement?" held not contemptuous.

Carroll v. State, 350 So.2d 723 (Ala.Crim.App. 1977) - Vulgar remarks

5 days or 10 days?   
 time to hear? not deemed relevant

made to a female court reporter while court was in session, but judge was away from the bench, was held contemptuous because such conduct "not only tended to diminish...respect due to the judicial tribunals...but disturbed, obstructed and delayed administration of justice and orderly proceedings of court in the sense that [the court] reporter, who was waiting in courtroom...had to leave to escape petitioners unwarranted and unwanted attention."

### **Periodic Review - Due Process; Continued Imprisonment for Civil Contempt is a Violation of Due Process**

State v. Thomas, 550 So.2d 1067 (Ala. 1989) - After a civil contemnor has been incarcerated for a substantial length of time, the trial judge should bring the contemnor before him for another due process hearing in which he can evaluate the factual basis for the first adjudication.

### **Indigency**

Carr v. Broyles, 652 So.2d 299 (Ala.Civ.App. 1994) - Child support arrearage case. Mother found in contempt and incarcerated for failure to pay child support. Appellate court found that mother was improperly ordered incarcerated and improperly cited for contempt. Lack of ability to pay delinquent amount of child support is a complete defense to civil contempt. In such a case, burden shifts to parent to whom child support is due to prove beyond a reasonable doubt that the obligated parent is financially able to pay amount of child support ordered. The trial court's finding of contempt is reviewed according to the abuse of discretion standard. See Seay v. Seay, 678 So.2d 1189 (Ala.Civ.App. 1996). See Falkner v. State of Alabama ex rel. Falkner, 769 So.2d 933 (Ala.Civ.App. 2000).

White v. White, 589 So.2d 740 (Ala.Civ.App. 1991) - Inability to pay is a complete defense in a contempt proceeding.

### **Failure to Pay Workers' Compensation Benefits**

Collins v. Taco Bell Corp., 689 So.2d 863 (Ala.Civ.App. 1996) - When an employer willfully refuses to pay an injured employee's medical expenses pursuant to a court order, the trial court making such order is authorized to hold the employer in contempt and to order an award of fees to the attorney of that injured employee. See Argo Const. Co. v. Rich, 603 So.2d 1078 (Ala.Civ.App. 1992).

### **Award of Attorney Fees**

Ex parte J.R.W., 667 So.2d 88 (Ala. 1995) - Stepfather was held in

contempt for failure to comply with court order granting natural father custody of child. Attorney fee was awarded in this criminal contempt proceeding. This is improper, but does not void judgment. Court could have imposed a fine and sentence and awarded attorney fee pursuant to adjudication that stepfather was subject to sanctions for only civil contempt, or could have adjudicated that stepfather was subject to sanctions for both civil contempt and guilty of criminal contempt. (See § 12-11-30(5)).

University of South Alabama v. Springhill Hospitals, Inc., 628 So.2d 859 (Ala.Civ.App. 1993) - Recovery of Attorneys fees in civil contempt proceedings is at the discretion of the trial judge.

### **Method of Review**

Savage v. Ingram, 675 So.2d 892 (Ala. Civ. App. 1996) - Failure to pay child support. Trial court cited with contempt and incarcerated the father until he paid the attorney fees and delinquent child support. The remedy available for review was a writ of habeas corpus because the contemnor was not arrested and incarcerated until one year after the court's finding of contempt, well past the 42 days from original contempt proceedings provided for an appeal by Rule 70(A).

### **Jurisdiction of Contempt**

Ex parte Philip Dale Segrest, 718 So.2d 1 (Ala. 1998) -Three prerequisites to a trial court's use of its contempt power to protect its proceedings from interference are (1) jurisdiction over an underlying legal proceeding; (2) jurisdiction over the subject matter, the contempt; and (3) jurisdiction over the person, the contemnor. In this case, an attorney was ruled to have engaged in conduct causing significant interference with the trial court's proceedings because he had failed to inform the court that he had a scheduling conflict on a specific court date, then failed to appear, thereby causing the case to be continued for three weeks, although the attorney was never officially the attorney of record.

### **Scope of Review**

Graham v. Graham, 481 So.2d 903 (Ala.Civ.App. 1985)

1. Scope of review in contempt cases is limited to questions of law and does not extend to weight and sufficiency of the evidence.
2. Power of courts to punish for contempt is essential to due

administration of justice and cannot be taken away or abridged.

3. "The object of a civil contempt proceeding . . . is not to punish . . . but to coerce [the defendant] to obey the court's order. It is founded on the unwillingness of the party to obey, and there must be something wrong beyond the mere failure to pay."

### **No Inherent Power to Prohibit Lawyer from Practicing Law**

Graham v. State, 427 So.2d 998 (Ala.Crim.App. 1983)

Although the circuit court has the authority to punish lawyers for contempt pursuant to § 12-11-30(5), Code, circuit courts "do not have the inherent power to prohibit an attorney from practicing before it. Such is vested in the Supreme Court and the state bar disciplinary board." See Alabama Standards for Imposing Lawyer Discipline.

### **Canons of Judicial Ethics - Recusal Required Where Impartiality Reasonably Questioned**

In the Matter of Billy Joe Sheffield, A Judge, 465 So.2d 350 (Ala. 1984)

This case held that the judge violated Canon 3(c)(1) by failing to recuse himself from a contempt hearing in which he found a person who had written a letter to the editor criticizing the judge on a previous ruling, to be in contempt of court. The judge's refusal to recuse himself and abstain from publically commenting on the merits of the case warranted the judge's two month suspension without pay.

In so holding, we do not wish to appear that we are unconcerned with the improper use of the contempt power by our judges. As the Pennsylvania Supreme Court said, "[T]he law of contempt is not made for the protection of judges who may be sensitive.... Judges are supposed . . . be [persons] of fortitude, able to thrive in a hardy climate'.... The authority of a judge to hold one in contempt, depriving as it does a person of liberty, is an authority that should be used rarely, and with extreme caution. Matter of Johnson, 483 Pa. 227, 395 A.2d 1319, 1326 (1978) (quoting Craig v. Harney, 331 U.S. 367, 396, 67 S.Ct. 1249, 1264, 91 L.Ed. 1546 (1947) (Jackson, J., dissenting). ***We caution our judges to heed the above advice*** (Emphasis supplied).

### **Clear and Present Danger**

Contempt based on an out-of-court statement involves the constitutionally guaranteed liberty of free expression and is subject to punishment by the

courts only in cases in which there is a clear and present danger to the administration of justice. Accordingly, a publication relating even to pending litigation will be protected from punishment for contempt under the constitutional guaranties of freedom of speech and press unless it appears that under all the circumstances shown it embraced a clear and present danger that the administration of justice would be impeded.

17 Am.Jur.2d Contempt § 127 (1990)

Bridges v. California, 314 U.S. 252, 62 S.Ct. 190, 86 L.Ed. 192 (1941) – The "clear and present danger" test requires that "the substantive evil must be extremely serious and the degree of imminence extremely high before utterances can be punished."

Commission for Lawyer Discipline v. Benton, 980 S.W.2d 425, 432-34 (Tex. 1998) - Letter sent to jurors by attorney after trial criticizing them for their verdict posed a clear and present danger to the administration of justice. Therefore, professional disciplinary actions against attorney were proper

Wasserman v. State of Florida, 671 So.2d 846 (Fla.App. 2 Dist. 1996) – Attorney's out-of-court statements to a judicial assistant which profanely criticized both the assistant and the judge failed to constitute a clear and present danger to the orderly administration of justice, particularly where the judge had not established any findings of fact indicating how the business of the court was disrupted, and where no evidence existed to support such a finding. However, the attorney's right to free speech did not protect him from disciplinary suspension from the practice of law:

"[I]t necessarily follows that a careful distinction must be made between communications which are merely personally offensive and those which pose an imminent threat of interference with the trial court's business. Consequently, the identification of a statement as constituting a clear and present danger to the administration of justice can only be made after taking into account the setting in which the statement is made. This approach recognizes the purpose of the contempt power, which is to protect the proper administration of justice and not to satisfy an offended judge. Ex parte Earman, 85 Fla. 297, 95 So. 755 (1923)." See Wood v. Georgia, 370 U.S. 375, 82 S.Ct. 1364, 8 L.Ed.2d 569 (1962); See Bridges v. State of California, 314 U.S. 252, 263, 62 S.Ct. 190, 194, 86 L.Ed.192 (1941); See Craig v. Harney, 331 U.S. 367, 373-376, 67 S.Ct. 1249, 1253-1255, 91 L.Ed. 1546 (1947).

#### **Appellate Review**

Shellhouse v. Bentley, 690 So.2d 401 (Ala.Civ.App. 1997)

"[W]hether a party is in contempt of court is a determination committed to the sound discretion of the trial court, and, absent an abuse of discretion or unless the judgment of the trial court is unsupported by evidence so as to be plain and palpably wrong, this [appellate] court will affirm." See Stack v. Stack, 646 So.2d 51 (Ala. Civ. App. 1994), rehearing denied (4/8/94); certiorari denied (8/5/94); See Watson v. Watson, 696 So.2d 1071 (Ala. Civ. App. 1996), rehearing denied (1/17/97), certiorari dismissed (5/7/97); "When a trial court bases a decision on ore tenus evidence, this court will presume that the decision is correct." See Swann v. Swann, 627 So.2d 429, 430 (Ala. Civ. App. 1993), certiorari denied (8/27/93).

### III. LAW REVIEW ARTICLE

A. Raveson, Advocacy and Contempt: Constitutional Limitations on the Judicial Contempt Power -Part One: The Conflict Between Advocacy and Contempt, 65 Wash.L.Rev.477, 558-559 (July 1990).

"With respect to all of the component interests of justice that may at times compete with the vigorousness of advocacy, interference with any or all of them must threaten imminent harm to the administration of justice of some sufficient magnitude in order to warrant exercise of the contempt power. The contempt power should not respond to a demand for the imposition of order for order's sake, or respect purely for the sake of respect. These interests are insufficient in themselves to merit enforcement by contempt sanctions; it is only where they are encroached upon so egregiously as to create an obstruction of the trial that exercise of the contempt power may be appropriate.

"Similarly, where conduct disrespectful of the court is at issue, it should not be targeted as a cognizable harm under the contempt power unless it is so extreme or occurs in circumstances so sensitive as to threaten the administration of justice. Disrespect for the judge in the courtroom carries the potential for influencing other participants in the trial process to take the judge and the rules of our justice system less seriously. An attorney's face-to-face insult of a judge can also interfere with the judge's own ability to do her job properly."

### IV. FILING PROCEDURES FOR CONTEMPTS ARISING FROM CRIMINAL AND CIVIL CASES

#### Contempts Arising from Criminal Cases

Contempt cases arising out of a district court criminal case or a circuit court criminal case should be filed as a criminal case in the respective court with the point designator .40 assigned to indicate a contempt case. The style of the case should read "In the Matter of Criminal Contempt of Contemnor's Name." The arrest date is entered as "000000," and the filing date is the date the court enters

the order of contempt. The charge code of "CONT" is entered for these cases. Since contempt cases are classified as violations (and not misdemeanors or felonies), the \$25 Crime Victim's Assessment should not be collected. Pursuant to Rule 33.4, ARCrP, court costs and the distribution thereof for contempts arising from criminal cases are the same as authorized for non-traffic misdemeanor cases. Rule 33.4 provides an exception for contempts arising from municipal ordinance cases; these cases have the same court costs and distribution scheme as non-traffic municipal ordinance violations.

### **Contempts Arising From Civil Cases**

Contempts arising from district and circuit civil cases should be filed as a district or circuit civil case with a point designator of .01 (or the next appropriate number) should be assigned to indicate a civil contempt case. The style of the case should read "In the Matter of Civil Contempt of Defendant's Name." The file date is the date the court enters the order of contempt.

The amount of distribution is the same as an original civil filing in the applicable court.

See §12-19-71, Code. Pursuant to Rule 7 ARJA, a civil docket fee should be assessed and collected upon the filing of a petition for contempt. A proceeding for contempt for failure to comply with the decree of the court is a "case" within the meaning of the words "cases filed" in §12-19-71, Code. See Opinion of the Clerk, 345 So.2d 1338 (Ala. 1977). A proceeding for indirect or constructive contempt is a "case" within the meaning of the words "cases filed" in §12-19-71, whether it is prior or subsequent to the final decree or judgement in the main cause. Opinion of the Clerk, 375 So.2d 1066 (Ala. 1979).

5 day rule

**WRIT OF HABEAS CORPUS**

Code of Alabama

**§ 15-21-1. Persons entitled to prosecute writ -- Generally.**

Any person who is imprisoned or restrained of his liberty in the State of Alabama on any criminal charge or accusation or under any other pretense whatever, except persons committed or detained by virtue of process issued by a court of the United States or by a judge thereof in cases of which such courts have exclusive jurisdiction under the laws of the United States or have acquired exclusive jurisdiction by the commencement of actions in such courts, may prosecute a writ of habeas corpus according to the provisions of this chapter to inquire into the cause of such imprisonment or restraint.

**§ 15-21-4. Application to be made by petition; contents of petition.**

Application for a writ of habeas corpus must be made by petition, signed either by the party himself for whose benefit it is intended or by some other person on his behalf, must be verified by the oath of the applicant to the effect that the statements therein contained are true to the best of his knowledge, information and belief and must state, in substance, the name of the person on whose behalf the application is made, that he is imprisoned or restrained of his liberty in the county, the place of such imprisonment, if known, the name of the officer or person by whom he is so imprisoned and the cause or pretense of such imprisonment; and, if the imprisonment is by virtue of any warrant, writ or other process, a copy thereof must be annexed to the petition or the petition must allege that a copy thereof has been demanded and refused or must show some sufficient excuse for the failure to demand a copy.

**15-21-15. Subpoenas for witnesses.**

(a) On the application of either party, subpoenas for witnesses must be issued at any time before the hearing on a writ of habeas corpus by the clerk of the circuit court of the county to which the writ is returnable.

(b) Such subpoenas must be directed to the sheriff or any constable of the county in which the witness resides and must be executed and returned as in other cases.

**§ 15-21-18. Person and original detaining warrant, writ, etc., to be produced with return; exception.**

At the time of making the return, one must also produce the person on whose behalf the writ of habeas corpus was sued out, according to the command of the writ, and the original warrant, writ or other written authority under which he was detained; but, if from sickness or infirmity the party cannot be produced without danger, that fact must be stated in the return, verified by oath and, if required, established by other sufficient evidence.

**15-21-21. When party to be discharged or remanded.**

Upon a hearing on a writ of habeas corpus, if no legal cause for the imprisonment or restraint of a party is shown, he must be discharged; but, if it appears that he is held or detained in custody by virtue of process issued by a court or judge of the United States in a case of which such court or judge has exclusive jurisdiction or by virtue of any legal engagement or enlistment in the army or navy of the United States or, being subject to the rules and articles of war is confined by anyone legally acting by authority thereof, or is in custody for any public offense committed in any other state or territory for which, by the Constitution and laws of the United States, he should be delivered up to the authority of such state or territory or that he is otherwise legally detained, he must be remanded.

**15-21-24. Grounds for discharge of person in custody under process legally issued.**

If it appears that the party is in custody by virtue of process from any court legally constituted or issued by any officer in the course of judicial proceedings before him authorized by law, he can only be discharged under a writ of habeas corpus where:

- (1) The jurisdiction of such court has been exceeded, either as to matter, place, sum or person;
- (2) Though the original imprisonment was lawful, the party has become entitled to his discharge by reason of some subsequent act, omission or event;
- (3) The process is void in consequence of some defect in matter or substance required by law;
- (4) The process, though in proper form, was issued in a case or under circumstances not allowed by law;
- (5) The process is not authorized by any judgment, order or decree nor by any provision of the law; or
- (6) The person who has the custody of him under any order or process is not the person authorized by law to detain him.

**§ 15-21-26. Reimprisonment for same cause after discharge.**

When a person has once been discharged on habeas corpus, he cannot be again imprisoned, restrained or kept in custody for the same cause, unless he is indicted therefore or, after a discharge for defect of proof, is again arrested on sufficient proof and committed by legal process.

**15-21-27 Penalty -- Unlawful detention or arrest after discharge order; civil action for damages.**

Any officer or other person who has the custody of a party produced on habeas corpus and who detains him after an order of the court or judge for his discharge or enlargement or afterwards arrests him without a legal and proper cause, warrant or other process shall be fined, on conviction thereof, not less than \$50.00 nor more than \$500.00, and is also responsible in a civil action for any damages the party may have sustained.

CIRCUIT COURT OF JEFFERSON COUNTY (BIRMINGHAM DIVISION)

	)	
Petitioner,	)	
	)	
v.	)	Case No. _____
	)	
	)	
of the	)	
	)	
Defendant	)	

*, in his official capacity as Sheriff*  
*Jail,*

PETITION FOR A WRIT OF HABEAS CORPUS

To the Circuit Court of Jefferson County, Alabama:

1. I am imprisoned and restrained of my liberty at the Jefferson County Jail and the officer or person by whom I am so restrained is the Defendant, Sheriff
2. I have not been committed and am not detained by virtue of any final judgment or decree, or any final order, mandate, or process.
3. The cause or pretense of such imprisonment or restraint, according to my best knowledge and belief, is an arrest warrant issued by the Circuit Court,  

a (Attached as Exhibit A), based on my alleged contempt for failing to  
comply

I respectfully request that a Writ of Habeas Corpus issue to the above-referenced Defendant or any other person that has custody of me before this Court, Jefferson County Circuit Court, Criminal Division, 801 Richard Arrington Jr. Blvd., N., at the earliest opportunity so that this Court may inquire into the legality of my detention.

Dated: \_\_\_\_\_

\_\_\_\_\_  
↑ Petitioner

I hereby swear or affirm that the statements contained in this petition are true to the best of my knowledge, information and belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

CIRCUIT COURT OF JEFFERSON COUNTY  
BIRMINGHAM DIVISION

Petitioner, )  
 )  
v. ) Case No. \_\_\_\_\_  
 )  
of the , in his official capacity as Sheriff )  
Defendant Jail, )

MOTION FOR LEAVE TO FILE THE ATTACHED PETITION  
FOR A WRIT OF HABEAS CORPUS *IN FORMA PAUPERIS*

Petitioner. \_\_\_\_\_ respectfully asks leave to file the attached Petition for a Writ of Habeas Corpus without prepayment of costs and to proceed *in forma pauperis*. The petitioner's affidavit in support thereof is attached to this Motion.

Dated: \_\_\_\_\_  
\_\_\_\_\_ )  
Petitioner

CIRCUIT COURT OF JEFFERSON COUNTY  
BIRMINGHAM DIVISION

Petitioner, )  
 )  
v. ) Case No. \_\_\_\_\_ )  
 )  
Sheriff of the \_\_\_\_\_ in his official capacity as )  
Jail, )  
Defendant. )

---

**ORDER**

The Court **GRANTS** Petitioner's Motion to Proceed *In Forma Pauperis* and waives the filing fee applicable to the petition.

Date: \_\_\_\_\_

Signed,

\_\_\_\_\_  
CIRCUIT COURT JUDGE

**CIRCUIT COURT OF JEFFERSON COUNTY  
BIRMINGHAM DIVISION**

\_\_\_\_\_ )  
 )  
Petitioner, )  
 )  
v. ) Case No. \_\_\_\_\_ )  
 )  
\_\_\_\_\_, *in his official capacity as* )  
*Sheriff of the \_\_\_\_\_ Jail,* )  
 )  
Defendant. )

---

**ORDER**

The Court sets Petitioner \_\_\_\_\_ Petition for a Writ of Habeas Corpus for a hearing at \_\_\_\_\_ a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2013. This hearing will be held in Courtroom \_\_\_\_\_, 801 Richard Arrington Jr. Blvd. N., Birmingham, AL 35203.

A representative of the \_\_\_\_\_ ordered to attend this hearing on behalf of the State of Alabama.

Date: \_\_\_\_\_

Signed,

\_\_\_\_\_  
CIRCUIT COURT JUDGE



From: "Batiste and Associates" <batistelaw@gmail.com>  
Subject: FW: Domestic Relations Seminar Update - November 14-15  
Date: Mon, November 4, 2013 9:54 am  
To: "julianmcphillips@msg-lawfirm.com" <julianmcphillips@msg-lawfirm.com>

Sent from my Windows Phone

-----  
From: Julie Palmer  
Sent: 10/29/2013 9:38 AM  
To: [batistelaw@gmail.com](mailto:batistelaw@gmail.com)  
Subject: FW: Domestic Relations Seminar Update - November 14-15

Here ya go!!

-----  
\*From:\* Karen Trussell  
\*Sent:\* Monday, October 28, 2013 4:02 PM  
\*To:\* Philip Lisenby; Elizabeth Hamner; Sibley Reynolds; Rosemary D. Chambers; Donald Banks; Julie Palmer; Patricia Stephens; Edward B. Vines; Dorothea Batiste; Billy Bell; Michelle Thomason; Hewitt Conwill; Bill Bostick; Anita L. Kelly; Bob Bailey; Calvin Williams; Butch Binford; Mike Fellows; Laura Phillips; Brenda Stedham  
\*Cc:\* April Johnson  
\*Subject:\* Domestic Relations Seminar Update - November 14-15  
\*Importance:\* High

Good Afternoon,

We are working diligently to complete the agenda for the Domestic Relations Seminar - November 14-15, at the Alabama 4-H Center in Columbiana.

\*We are\* \*thrilled that Chief Justice Roy Moore will be joining us to present the recent Bayliss decision\*. To accommodate his schedule, the first seminar will begin \*promptly at 11:00 a.m.\* and registration will begin at 10:30 a.m. I have attached a draft agenda but please note that we are awaiting responses from presenters for two sessions.

In order to plan for meals and lodging, we must have your completed registration form. If you have not previously completed it, please do so and e-mail it asap to [april.johnson@alacourt.gov](mailto:april.johnson@alacourt.gov) .

If you have any questions, please do not hesitate to e-mail me. Thanks so much, Karen

Karen B. Trussell, Director

Family Court Division

Administrative Office of Courts

300 Dexter Avenue

Montgomery, AL 36104-3741

Office - 334-954-5063

Fax - 334-954-3170

Office Hours: Mon. - Fri. 7:30 a.m. - 4:00 p.m.

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**Attachments:**

**untitled-[1.2].html**

Size:7.4 k

Type:text/html

**DRRetreatAgenda2013.doc**

Size:38 k

Type:application/msword

**DOMESTIC RELATIONS JUDGES MINI.doc**

Size:70 k

Type:application/msword

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Sent from my Windows Phone

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**From:** Batiste and Associates  
**Sent:** 10/29/2013 12:24 PM  
**To:** Julie Palmer  
**Subject:** RE: Domestic Relations Seminar Update - November 14-15

Got it. ☐ Tks.

Sent from my Windows Phone

---

**From:** Julie Palmer  
**Sent:** 10/29/2013 9:38 AM  
**To:** [batistelaw@gmail.com](mailto:batistelaw@gmail.com)  
**Subject:** FW: Domestic Relations Seminar Update - November 14-15

Here ya go!!

☐

---

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**Cc:** April Johnson  
**Subject:** Domestic Relations Seminar Update - November 14-15  
**Importance:** High

☐

Good Afternoon,

☐

We are working diligently to complete the agenda for the Domestic Relations Seminar ☐ November 14-15, at the Alabama 4-H Center in Columbiana. ☐ **We are thrilled that Chief Justice Roy Moore will be joining us to present the recent Bayliss decision.** ☐ To accommodate his schedule, the first seminar will begin promptly at **11:00 a.m.** and registration will begin at 10:30 a.m. ☐ I have attached a draft agenda but please note that we are awaiting responses from presenters for two sessions.

☐

In order to plan for meals and lodging, we must have your completed registration form. ☐ If you have not previously completed it, please do so and e-mail it asap to [april.johnson@alacourt.gov](mailto:april.johnson@alacourt.gov) .

☐

If you have any questions, please do not hesitate to e-mail me. ☐ Thanks so much, Karen

☐

Karen B. Trussell, Director  
Family Court Division  
Administrative Office of Courts  
300 Dexter Avenue  
Montgomery, AL ♦ 36104-3741  
Office - 334-954-5063  
Fax - 334-954-3170  
Office Hours: ♦ Mon. - Fri. 7:30 a.m. - 4:00 p.m.

☐

**DOMESTIC RELATIONS JUDGES SEMINAR**  
**ALABAMA 4-H CENTER**  
**November 14-15, 2013**

Thursday, November 14, 2013

- 11:00 - 12:00      *The Overruling of the Bayliss Case*  
Hon. Roy Moore  
Chief Justice, Supreme Court of Alabama
- 12:00 - 12:45      **Lunch** (Dining Hall - Main Lodge)
- 12:45 - 2:15      *Alabama Court of Civil Appeals Panel*  
Hon. William Thompson, Presiding Judge  
Hon. Scott Donaldson  
Hon. Terry Moore  
Hon. Craig Pittman  
Hon. Terri Thomas
- 2:15 - 2:30      **BREAK**
- 2:30 - 3:30
- 3:30 - 4:30      *Alabama Judicial Inquiry Commission Panel*  
Jenny Garrett, Esq.  
Executive Director, Alabama Judicial Inquiry Commission  
.....
- 6:00              **Dinner** (Dining Hall - Main Lodge)
- 7:00 - 9:00      What's On Your Mind? (optional)

Friday, November 15, 2013

- 7:30 - 8:30      **Breakfast** (Dining Hall - Main Lodge) **and Check-Out**
- 8:30 - 9:30

9:30 - 10:15      *Legislative Update*  
Professor Penny Davis  
Associate Director, Alabama Law Institute

10:15 - 10:30      **BREAK**

10:30 - 12:00        *TITLE?*    
Randy Nichols, Esq.,  
Massey, Stotser & Nichols, P.C.

12:00 - 12:45      **Lunch** (Dining Hall - Main Lodge)

12:45 - 1:45      *Challenges and Solutions in DR*  
Hon. John Davis  
Retired Circuit Judge, 15<sup>th</sup> Judicial Circuit

## DOMESTIC RELATIONS JUDGES MINI-RETREAT

**Assigned Dates:** November 14 & 15, 2013  
**Location:** 4 H Center, Lay Lake, Columbiana, AL  
**Time:** Registration -10:30 am (Thursday); Lunch - Noon;  
Session -11:00 am

### Registration Form

**I will be attending/will not be attending. (circle one)** All participants are expected to be in attendance at all sessions of the seminar.

NAME: \_\_\_\_\_

COUNTY: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

EMAIL: \_\_\_\_\_

*Please check to reserve lodging and meals:*

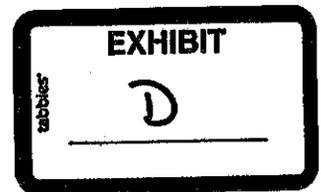
\_\_\_\_\_ **I will arrive Thursday no later than 10:30 a.m. and will depart no sooner than 3 p.m. on Friday;**

\_\_\_\_\_ **Please include me for lunch on Thursday.**

\_\_\_\_\_ **I will be staying overnight at the 4 H Center on Thursday night;**

\_\_\_\_\_ **I have some dietary restrictions:** \_\_\_\_\_

Registration forms must be faxed (334-954-3172) or emailed to April Johnson ([april.johnson@alacourt.gov](mailto:april.johnson@alacourt.gov)). Please submit registration form by **October 15, 2013**.



Sent from my Windows Phone

**From:** [cle@alabar.org](mailto:cle@alabar.org)  
**Sent:** 8/30/2013 9:00 PM  
**To:** [batistelaw@gmail.com](mailto:batistelaw@gmail.com)  
**Subject:** CLE Express Transcript Update

### on-line MCLE transcript for 2013

**Name:** Hon. Dorothea Batiste  
**Bar ID:** ASB-5303-A40B  
**Status:** Good Standing  
**Date Admitted:** 09/26/2003  
**Address:** PO Box 101291  
**Birmingham, AL 35210-6291**

2012 Carryover Credits: **12.0**

			Credits		
Sponsor	Start Date	Description	CLE	Teaching	Ethics
Alabama Judicial College	01/23/2013	2013 Judges Mid-Winter Training	7.2	0.0	1.0
Birmingham Bar Association	03/01/2013	2013 Birmingham Bar Bench/Bar Retreat (Ethics & Professionalism) - BBA Members Only	2.8	2.0	0.0
Birmingham Bar Association	08/22/2013	Understanding Contempt and Using the Writ of Habeas Corpus (BBA Criminal Justice Section)	1.0	0.0	0.0

Total to Date: **25.0**

#### Please Note:

- CLE credit hours for approved seminars are posted when received from Sponsors.
- Carryover credit hours may vary depending on your membership status or exemption status.
- [Click Here](#) for mandatory CLE rules, the CLE calendar of upcoming seminars, or an application to apply for CLE credit approval(Uniform Application)



November 4, 2013

Ochsner Health Center -  
Slidell MOB  
Urology  
1850 Gause Blvd E, Ste. 101  
Slidell LA 70461-5442  
Phone: 985-639-3777

November 4, 2013  
Patient: **Dorothea Batiste**  
Date of Birth: **7/18/1966**  
Date of Visit: **11/4/2013**

To Whom It May Concern:

It is my medical opinion that Dorothea Batiste has been unable to work due to a recent medical condition that has required surgery. She has been under my care for the dates of 10/02/13 through 10/29/13.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

Mahmoud Daftary, MD