

BEFORE THE COURT OF THE JUDICIARY  
OF  
ALABAMA



In the Matter of )  
JO CELESTE PETTWAY, )  
District Judge of the ) Court of the Judiciary  
Wilcox County ) Case No. 44  
of Alabama )

COMPLAINT

The Alabama Judicial Inquiry Commission brings this Complaint against Judge Jo Celeste Pettway, District Judge of Wilcox County, Alabama. The facts and charges upon which this complaint is based, averred separately and severally, are as follows:

I.

NATURE OF THE CHARGES

1. Jo Celeste Pettway (hereinafter "Judge Pettway") took office as a district judge of Wilcox County, Alabama on or about August 4, 1984, and continues to serve in that capacity. In her capacity as District Judge, Judge Pettway regularly presides over district court criminal and civil

matters, including small claims cases. This complaint concerns primarily Judge Pettway's small claims docket.

2. This complaint arises from Judge Pettway's pattern and practice of such inattention to her small claims docket and irregular application of the law as to constitute an almost complete failure to operate or administer her small claims docket in accordance with the law, rules of court, and effective administrative procedures.

3. Judge Pettway's failure to follow the procedures provided for small claims court has greatly complicated small claims practice by requiring extra steps of both parties and court officials, thwarting the beneficial impact of small claims court and thereby the administration of justice.

4. In addition, Judge Pettway has almost completely ignored the court system's easy and simple means of assessing and processing small claims matters over the last seven years. She has failed to learn and regularly use AlacourtPlus, Alabama's electronic court filing, docketing, and case management system.

5. Judge Pettway's actions and inactions are biased or have, at the very least, exhibited an appearance of bias, in favor of small claims defendants.

6. Judge Pettway's actions and inactions have prolonged litigation and thereby prolonged the entry and execution of those judgments in favor of the plaintiffs; allowed defendants to designate a payment plan to the court without notice to or participation of the plaintiffs; and unlawfully interfered with execution of judgments by releasing garnishments without cause and without following the procedures required by law.

7. More specifically, in small claims cases filed over the last few years (less than 150 per year), Judge Pettway has:

- a. Failed to manage court business in a timely manner due to her long delays in ruling on motions for routine default judgments, motions for consent judgments, and other motions;
- b. Failed to manage court business in an effective manner:

1. By failing to establish an effective review of pending matters to expeditiously move cases through the court;
  2. By failing to establish or follow available procedures to assure that court documents are timely and properly filed and recorded and that the parties are notified of docket activity;
  3. By failing to provide and render enforceable final judgments; and
  4. By entering duplicate and contradictory final judgments in the same case;
- c. Failed to maintain professional competence in the law and rules of court or follow even basic requirements of law:
1. By allowing defendants to make installment payments to the court on small claims civil judgments without the consent of the plaintiff and without legal authority;
  2. By releasing garnishments or interfering with garnishments without legal authority and without the knowledge of the plaintiff in

whose favor the garnishments were issued and where the judgment had not been satisfied; and

3. By taking action in cases long after she had lost jurisdiction;

d. Failed to maintain professional competence in judicial administration as implemented through Alabama's electronic filing, docketing, and case management system, which was fully implemented for all state courts in 2008, such that neither the court, litigants, nor attorneys appearing in small claims court benefit from this economical and efficient records system;

e. Failed to remedy or attempt to remedy these shortcomings after repeated notice of the problems; and

f. Made statements and engaged in practices that indicate bias or give the appearance of bias in favor of defendants in small claims cases.

8. Judge Pettway's actions and inactions have resulted in such disarray as to allow innumerable unnecessary and harmful delays in reaching judgments as

well as unenforceable judgments and impeded execution of judgments, and have generally hindered the efficient and economical resolution of claims for which the small claims court was designed.

Background

9. Wilcox County is a small rural county serviced by a single district court judge. It is the sixth least populated county in Alabama, and its district court's caseload is substantially smaller than those of many other single-judge counties in Alabama. This disparity is demonstrated by the following examples of caseloads of single-judge district courts from 2013 Annual Report compiled by the Administrative Office of Courts (AOC):

County	Total Cases Filed	Cases Disposed
Wilcox	2,725	2,236
Autauga	8,386	9,048
Butler	9,194	10,110
Pike	6,518	6,917

2013 AOC Annual Report 128, 62, 68, 117.

10. Small claims cases are a very small percentage of the caseload in a district court. In Wilcox County, small claims cases constituted only 7% of the district court's caseload, i.e., 161 of the cases reported in the 2013

annual report. The percentage of other district courts' dockets range from a high of 20% (Butler County) to a low of 3% (Coosa County).

11. Debt collections enforced through default judgments and garnishments or joint consent agreements constitute the majority of the small claims cases filed. Small claims court provides a means for large creditors, e.g., hospitals, credit card companies, etc. to collect small amounts (\$6,000 and under) through the enforcement of judgments where necessary.

#### The Small Claims Process

12. The small claims process for the collection of a debt in district court is a very simple one. See Rules A through N, Alabama Small Claims Rules (Ala.Sm.Cl.R.). The simplicity of the rules for district court is designed "to secure the just, speedy and inexpensive determination of every case." Rule A, Ala.Sm.Cl.R.

13. The small claims process is initiated by the filing of a complaint in district court by the plaintiff (the creditor or collection agency in a debt collection case). Rule C, Ala.Sm.Cl.R. Upon proper filing and docketing, a case file is opened, the case is given a

number, and a case action summary (CAS)<sup>1</sup> is established in the State's electronic case management system.

14. The complaint is then served on the defendant. Service may be by personal service by the sheriff or another process server or by certified mail. Rule D, Ala.Sm.Cl.R. The clerk should timely record service or non-service on the CAS and, upon docketing, electronically transmit the fact of service to the plaintiff's attorney and self-represented plaintiffs who have electronic access and by hard copy to self-represented litigants who do not. If service is unsuccessful, the plaintiff may decide to try other means of obtaining service.

15. After service of the complaint, the defendant has 14 days to file an answer. Rule F, Ala.Sm.Cl.R. The answer should be scanned into the AlacourtPlus case file and docketed on the CAS, and the fact of filing and docketing will be transmitted to the plaintiff.

16. When service is perfected, the defendant/debtor may approach the creditor and seek a settlement agreement to pay the debt; file an answer within 14 days admitting or

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<sup>1</sup> All filings in the case and all actions taken are recorded or docketed on the CAS along with the date on which any document is filed and docketed or action taken.

denying the debt; or do nothing (which could result in a default judgment against the defendant).

17. If the parties reach a settlement agreement, the agreement may be reduced to a judgment or joint consent judgment, which can then be enforced by the plaintiff if necessary. The agreement between the parties may specify the amount owed and include an agreed-upon repayment schedule. The agreement itself may or may not be filed with the court. Such an agreement cannot be effected by only one party. Nor does the judge have authority to enter a consent judgment setting up payment terms without the consent of both parties.

18. The judge may also enter a consent judgment based on a defendant's answer admitting to the allegations of the complaint. The judge does not, however, have the authority to order installment payments of the civil judgment without the consent of both parties.

19. When the defendant has been served with the complaint but fails to enter into a joint consent settlement, fails to answer within 14 days after service of the summons and complaint, or fails to appear when the case is set for trial, the plaintiff may file a motion for

default judgment and, provided the legal requirements are met, is entitled to have the default entered and a judgment against the defendant rendered by the district court.

20. The motion for default judgment must include proof of service of the complaint, the allegation the defendant has failed to answer or appear, and an affidavit of proof of the amount of the debt and the recovery sought.<sup>2</sup> Attorneys usually include a proposed order specifying the amount of the judgment and providing a space for the judge's signature and date of the order.

21. The judge's rendering of a default judgment after a motion has been filed should happen within at most 30 days of the filing, absent extraordinary circumstances regarding the judge's docket or schedule.

22. In debt collection cases, to effect the "just, speedy and inexpensive determination" of the case, the

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<sup>2</sup> A default judgment is actually two actions, the entry of a default on the record by the clerk and the rendering of a judgment in favor of the plaintiff for a specified sum based on the default. The proof of service and failure to answer or appear shows the defendant is in default and allows a default to be entered. The judge then enters a judgment in favor of the plaintiff for a sum certain. Where the amount is undisputed and a sum certain is requested, the clerk may enter the default judgment.

judgment should include the amount of the judgment or recovery for the plaintiff.

23. If the judgment order does not specify the amount of recovery, the plaintiff must take additional steps to secure a statement of the judgment amount on which to execute or enforce. These additional (and unnecessary if judgment is rendered in a specific amount) steps add time and costs to what is designed to be a "speedy" and "inexpensive" process.

24. If a judgment in a specific amount for the plaintiff is not paid in full immediately, one method of collecting the judgment is through garnishment of the defendant's wages or funds, e.g., bank account.<sup>3</sup>

25. The plaintiff institutes a garnishment by filing notice of garnishment, including an affidavit that judgment has been entered and the specific amount of the judgment. The notice is filed with the court clerk who forwards it for service on the garnishee, an employer or other holder of funds named in the garnishment.

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<sup>3</sup>See Rule L, Ala.Sm.Cl.R., and §§ 6-6-370 through -484, Code of Alabama 1975. Prior to incurring the costs of filing suit, most plaintiffs have ascertained that the defendant is employed and earns wages sufficient for garnishment or has other available funds.

26. The judge plays no role in the garnishment process unless an issue arises concerning an exemption or waiver.

See Rules 64A and 64B, Ala.R.Civ.P.

27. Upon service of the garnishment, the garnishee withholds the amount of the garnishment from the defendant's wages or other funds and forwards the amount to the court clerk who distributes the funds to the creditor or collection agency on a monthly basis.

28. Proficiency and efficiency in the handling of small claims debt-collection cases are essential to the proper administration of justice in those cases and to achieve the goal of a "just, speedy and inexpensive determination of every case." Judge Pettway has exhibited neither proficiency nor efficiency; rather, her actions and inactions have often frustrated, prolonged, or obstructed the process.

AlacourtPlus, the Court's Gateway to Alabama's  
Electronic Court Files

29. To enhance the efficiency of the Alabama trial court system, the Administrative Office of Courts created and implemented an electronic filing, docketing, and case management system, AlacourtPlus. The electronic system

provides a quicker and more economical method of processing, utilizing, and maintaining court records.

30. AlaFile, Alacourt, and AlacourtPlus have particularly increased court efficiency by creating a paperless system that allows both judges and attorneys immediate electronic access to case files and pending motions.

31. The electronic system includes AlaFile, used by lawyers to file documents in the courts (e-filing); Alacourt, used by the public, including attorneys, to access court files; and AlacourtPlus, used by the courts for records-keeping and by judges to review filings, enter orders, set and manage dockets, and generally manage caseloads.

32. Since the advent of e-filing under the AlaFile system, the following pertinent pleadings, among others, may be filed electronically: the complaint; answer; and motion for default. The court's orders may also be e-filed and, since June 2015, garnishments may be e-filed. With each electronic filing, the court's notice to the parties is automatically generated and electronically transmitted

to the parties.<sup>4</sup> AlaFile moves pleadings and orders quickly and efficiently through the system.

33. Properly e-filed documents are directed first to the clerk who checks them for filing fees and style accuracy (with the correct case number), docketed them, and releases them to the appropriate judge. In a very short time thereafter, motions are presented and electronically available to the judge. Judges can access dockets and motions anywhere at any time an AOC computer (PC or laptop) and internet service are available. Everything the judge needs (i.e., the contents of the motion, whether service has been perfected and whether an answer has been filed) to grant or deny a default judgment is at the judge's fingertips. The judge can review and rule on the motion in a matter of minutes. Notice of the filing of any document docketed is automatically sent to the parties through the electronic system.

34. When paper documents are filed with the clerk, the clerk must docket them and scan the documents into the

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<sup>4</sup> Electronic notices are sent to attorneys and some self-represented litigants. However, most self-represented litigants are still served by mail.

system. If done properly, the fact of the filing is automatically transmitted to the parties.

35. AlacourtPlus provides judges with a number of conveniences covering almost all aspects of case management. The following are examples available to a judge and pertinent to this case:

- a. A list of cases on the judge's docket, generated by various search options: by filing date, by type, e.g., small claims, etc.;
- b. All case information showing the status of each case, e.g., active or disposed;
- c. A list of all motions pending action in the judge's court, sorted by case type and/or by date filed, giving the judge immediate access to the motion itself with access to each case file;
- d. Since June 2015, a list of all cases in which service has not been perfected;
- e. A list of cases with proposed orders and access to those proposed orders; and,
- f. A "motion queue," updated in real time, showing pending motions needing action, e.g. motions to dismiss, for default, for consent judgment, etc.

36. AlacourtPlus also includes a special program for certain items specified by named buttons: "Motions"; "E-filed Items"; "Proposed Orders"; and most recently, "NSOD" (No Service Order to Dismiss). These buttons continuously alert the judge of such matters pending by flashing when new items are filed.

37. By accessing his or her AlacourtPlus page, and checking the appropriate button, a judge can identify immediately any new motions filed, new items e-filed, proposed orders filed, new cases filed, or cases in which service has not been perfected and the time to answer has expired. By clicking the appropriate button, e.g., "Motion Queue," the judge can immediately access not only all of his or her cases in which motions are pending but the entire case file as well.

38. By checking the Motion Queue several times a day or several times during the week, the judge, literally with a click on a "button," can stay abreast of all motions pending for decision.

39. In a district court with a caseload as small as that of Wilcox County, a judge familiar with the processing of small claims cases through the court system (what should

be filed, what action should be taken, and when this action should occur) and intent on efficiency can easily use AlacourtPlus to detect problems in the processing of cases arising either in the clerk's office or from the judge's failure to act.

40. The AlacourtPlus system became available for use statewide in 2006, and it has been in general daily use by most courts since 2008.

41. AOC has conducted extensive training of judges, clerk's, and court personnel, both during implementation of the electronic system and afterwards. AOC has held regional training sessions, statewide training sessions at judicial conferences and clerks' conferences, and separate, more specific training in all 67 counties in Alabama. In addition, AOC provides on-line downloadable user manuals specifically for judges, clerks, and court personnel.

42. AOC's staff includes a trainer or trainers who are available to provide additional training where and when requested. AOC also maintains a "Help Desk" available to answer questions and solve problems every day during work hours.

43. When she met with the Judicial Inquiry Commission on June 25, 2015, Judge Pettway admitted to having little knowledge of AlacourtPlus or how to use it to enhance the functioning of her court. She was completely unaware of the special programs on AlacourtPlus designed to give judges immediate access to motions, proposed orders, new filings, etc.

II.

COUNT ONE

TIMELY AND EFFECTIVE MANAGEMENT OF COURT BUSINESS

A. Delay in Ruling

44. Judge Pettway's pattern and practice of inattention to court business is most obvious in her practice of allowing matters submitted for decision or ruling to remain on her docket for lengthy periods of time with no action taken.

45. In numerous small claims cases, Judge Pettway has, at least over the last several years, failed to timely rule on motions and issue enforceable judgments. Her lengthy delays range from two months to beyond two years on matters as routine as motions for default judgment, motions to dismiss the complaint, and motions for consent judgment,

all of which ordinarily should be handled within a few days of filing. With the advent of e-filing and the overall small caseload in the Wilcox County District Court, ruling on matters in these cases should have been handled quickly, certainly within 30 days of filing. These delays continued after repeated efforts to bring them to the Judge Pettway's attention.

46. In general, by allowing the delays, Judge Pettway failed to uphold the "just, speedy and inexpensive" standard for small claims cases, as prescribed in the Alabama Small Claims Rules. Her actions have complicated the simplicity, economy, and efficiency of the small claims process.

47. Most relief in small claims court is obtained through default judgments or consent judgments, as described above. In both instances, litigants have experienced numerous delays before obtaining a final judgment that can be executed. The records of the district court of Wilcox County demonstrate the extreme delays experienced by litigants in that court.

48. In 2014, 124 small claims cases were e-filed in the Wilcox County District Court. The delays in deciding those cases have been numerous and lengthy <sup>5</sup>

49. Forty-nine of the 124 cases e-filed in 2014 were decided as default judgments. Judge Pettway took more than 30 days and up to 488 days to rule in 40 of those 49 cases, as demonstrated in the chart below.<sup>6</sup>

<u>Case Number SM-2014-900...</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Default Granted on Court's Motion</u>	<u>Default Motion or Service Docketed</u>	<u>Default Judgment Signed</u>	<u># of Days</u>
005	TCN Bank	Green	X	4/11/14	8/12/15	488
014	WAC	Ross		5/29/14	6/10/15	377
051	Unifund CCR	Able		7/1/14	7/13/15	377
021	WAC	Brooks		6/4/14	6/10/15	371
058	Portfolio RA	Boykins	X	8/28/14	8/12/15	349
064	Midland Funding	Davis	X	8/28/14	8/12/15	349
069	Paul Jones Hospital	Brewer	X	8/28/14	8/12/15	349
046	Harbin LLC	Steele		8/12/14	7/8/15	330
034	HBS	Heath Mill		10/6/14	7/30/15	297

<sup>5</sup> The Commission chose 2014 and 2011, supplemented with sampling from 2012 and 2013, for a more in-depth view of the small claims docket in Wilcox County to determine the pervasiveness of the problems.

<sup>6</sup> All dates, unless otherwise indicated, give the judge the benefit of the doubt. In the cases in which the default was based on a motion or the defendant's failure to answer, the time for the ruling was calculated from the date the motion or was docketed or the answer was due to the earliest date on which a ruling or judgment rendered. The delay would be longer if the starting date was the date of the e-filing of the motion or the filing or docketing of the ruling.

050	Midland Funding	Lawson		9/25/14	7/8/15	286
044	WAC	McCaskey		9/16/14	6/26/15	283
054	Portfolio RA	Jackson	X	11/15/14	8/12/15	270
080	Midland Funding	Stallworth		10/27/14	7/8/15	254
009	Discover Bank	Moton		9/25/14	6/2/15	250
016	MAS	Retic		5/5/14	1/9/15	249
062	WAC	Hall		12/4/14	6/30/15	208
087	WAC	Harris		12/16/14	7/8/15	204
045	Harbin LLC	Dulaney		12/23/14	6/30/15	189
106	Midland Funding	Mosley		12/23/14	6/30/15	189
111	Midland Funding	Edwards		1/16/15	7/23/15	188
103	MAS	Hall		1/13/15	7/14/15	182
029	LVNV Funding	Fore		11/20/14	5/18/15	179
084	WAC	Ratcliff		10/29/14	4/21/15	174
061	Midland Funding	Kennedy		11/6/14	4/22/15	167
091	Community NB	Simmons		1/16/15	6/29/15	164
015	Guardian CU	McKinley		9/10/14	2/18/15	161
023	LVNV Funding	Lucy		1/29/15	7/8/15	160
055	Unifund CCR	Tolar		7/7/14	12/11/14	157
033	LVNV Funding	Portis		2/17/15	6/29/15	132
026	MAS	Craig		3/19/15	7/14/15	117
075	Merchants AS	McMillian		3/19/15	7/14/15	117
121	Midland Funding	Kennedy		3/4/15	6/29/15	117
010	Tech. Auto Sales	Rothschild		4/7/14	7/22/14	106
095	MAS	Carstarphen		1/13/15	4/21/15	98
059	Portfolio RA	Allen	X	5/7/15	8/12/15	97
094	Midland Funding	Dailey		1/20/15	4/24/15	94
007	Ratcliff's Hardware	GH Mills		10/6/14	12/12/14	67
066	Midland Funding	McMillan		10/6/14	12/8/14	63
089	McGraw-Webb	Wilkerson		4/20/15	6/9/15	50
104	WAC	Johnson		5/21/15	6/29/15	39
049	Harbin LLC	Simmons		4/15/15	5/11/15	26
053	Alabama Power	Smith		6/6/15	6/29/15	23
036	MAS	Rodgers		6/23/14	7/9/14	16
041	Gulf Coast FA	Cheeseboro		6/23/14	7/8/14	15
025	MAS	Saulsberry		6/23/14	7/7/14	14
118	Capital One Bank	Collins		6/15/15	6/29/15	14
042	Acceptance Loan	Shamburger		6/19/14	6/27/14	8
120	WAC	Marzette		6/24/15	6/29/15	5
119	WAC	Marzette		6/24/15	6/26/15	2

50. As the chart in paragraph 49 shows, Judge Pettway, a judge with 30 years' experience, delayed ruling between 30 and 91 days in 4 cases; between 90 days and 181 days (six months) in 15 cases; and more than 180 days in 21 cases. Also, in six<sup>7</sup> of these cases, Judge Pettway rendered default judgments without a motion, based on the failure to answer. Those 6 cases experienced delays of 97 to 488 days.

51. All of these delays occurred despite the fact that Judge Pettway scheduled district civil and small claims cases on her court calendar for one day each month, except for July and November in 2014.

52. The delay in these 40 of 49 default judgment cases frustrates the purpose of small claims court as a vehicle for the "just, speedy, and inexpensive" determination of these cases.

53. Judge Pettway likewise delayed in rendering consent judgments pursuant to the plaintiff's motion for

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<sup>7</sup> SM-2014-900005 (Green); SM-2014-900054 (Jackson); SM-2014-900058 (Boykin); SM-2014-900059 (Allen); SM-2014-900064 (Davis); and SM-2014-900069 (Brewer).

consent judgment and/or the defendant's answer admitting the complaint.<sup>8</sup>

54. The chart below shows the distribution of days for ruling on motions for consent and/or defendants' answers admitting the complaint. Again, the time for ruling is run from the date of docketing the motion<sup>9</sup>.

<u>Case Number</u> SM-2014-900...	<u>Plaintiff</u>	<u>Defendant</u>	<u>Joint Consent</u> <u>Motion/Answer</u>	<u>Joint Consent</u> <u>Motion/ Answer</u> <u>Docketed</u>	<u>Consent Judgment Signed</u>	<u># of Days</u>
011	Portfolio RA	Huff	jt	7/14/14	8/12/15	394
019	Asset Acceptance	Bridges	jt	7/25/14	7/23/15	363
057	Midland Funding	Kendrick	jt	7/25/14	7/14/15	354
078	Midland Funding	Godbold	jt	10/6/14	7/8/15	275
072	Midland Funding	Tolbert	jt	10/14/14	7/8/15	267
085	Midland Funding	Nickelson	jt	10/20/14	7/14/15	267
081	Midland Funding	Norwood	jt	10/20/14	6/30/15	253
111	Midland Funding	Edwards	jt	1/16/15	6/30/15	165
086	WAC	Marzette	A	10/27/14	4/7/15	162
109	Cavalry SPV I	Kendrick	jt	1/26/15	6/30/15	155
088	Midland Funding	Perryman	jt	3/17/15	6/29/15	104

<sup>8</sup> The consent agreement is reduced to judgment so that the judgment may be subject to garnishment if the defendant fails to make payments under the separate agreement with the plaintiff.

<sup>9</sup> The chart does not include the date of filing or even e-filing. AlacourtPlus alerts the judge to any matter e-filed on the date it is e-filed. The judge, therefore, has notice of the filing, even before the document is docketed.

008	Springleaf FS	D Sims	jt	3/5/14	6/13/14	100
083	Midland Funding	Perryman	jt	4/15/15	6/29/15	75
039	Midland Funding	Montgomery	jt	4/30/14	6/4/14	35
038	Midland Funding	Kynard	jt	5/6/14	6/4/14	29
082	MAS	Harvell	jt	11/17/14	12/8/14	21
032	LVNV Funding	Hall	A	5/15/14	6/4/14	20
070	Midland Funding	Jenkins	jt	6/9/15	6/29/15	20
083	Midland Funding	Perryman	A	3/31/15	4/8/15	8
076	Ratcliff's Hard.	Cannon	A	9/10/14	9/17/14	7
123	Midland Funding	Wilson	jt	8/7/15	8/14/15	7
028	LVNV Funding	Lawson	A	3/18/14	3/20/14	2
030	Midland Funding	Pickett	A	3/18/14	3/20/14	2
013	ACL, Inc.	Ausbon	A	3/12/14	3/12/14	0
022	LVNV Funding	Stabler	A	3/12/14	3/12/14	0
040	Cach, LLC	Lawson	A	6/4/14	6/4/14	0
062	WAC	Hall	A	10/2/14	10/2/14	0
068	Paul Jones Hosp.	Oliver	A	10/9/14	10/9/14	0
085	Midland Funding	Nickelson	A	10/9/14	10/9/14	0
088	Midland Funding	Perryman	A	3/11/15	3/11/15	0
090	Gulf Coast FA	Edwards	A	10/20/14	10/20/14	0
111	Midland Funding	Edwards	A	1/14/15	1/14/15	0
114	Main Street Acq.	Burkett	A	1/13/15	1/13/15	0
123	Midland Funding	Wilson	A	6/6/15	6/6/15	0

55. Thirty-four consent judgments were rendered in cases e-filed in 2014. Twelve, or about one-third, were rendered 99 days or more after the motion or answer was filed. Two were rendered between 34 and 76 days of docketing, and 20 received rulings within 30 days.

56. While 20 consent judgments were rendered in 30 days or less, all but 4 of these were based on only the answer of the defendant admitting to the debt alleged in the complaint. No motion was filed. Where joint motions

were filed, granting the consent judgment generally took longer.

57. Motions to dismiss in cases e-filed in 2014 likewise languished in long delays awaiting a ruling.

58. The following are examples of delayed rulings on plaintiffs' motions to dismiss in cases e-filed in 2014.

<u>Case Number SM-2014-900...</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Motion to Dismiss Docketed</u>	<u>Dismissal Judgment Signed</u>	<u># of Days</u>
018	Portfolio RA	McKinney	4/9/2014	8/11/2015	489
052	Midland Funding	Lawson	5/27/2014	7/13/2015	412
073	Midland Funding	Ransom	10/27/2014	7/8/2015	254
065	First United Bank	Edmond	11/19/2014	7/8/2015	231
020	Portfolio RA	Garner	12/4/2014	6/30/2015	208
112	Merchants Bank	Ptomey	1/13/2015	6/30/2015	168
097	Portfolio RA	Gallaher	1/20/2015	6/30/2015	161
024	PYOD LLC	Smith	1/23/2015	6/30/2015	158
114	Main Street Acq.	Burkett	2/5/2015	6/29/2015	144
117	Midland Funding	Boggan	2/26/2015	6/29/2015	123
098	Paul Jones Hospital	Smith	5/12/2015	6/29/2015	48
037	Portfolio RA	Solsberry	5/15/2015	6/29/2015	45

59. In 10 of 12 cases set out in paragraph 58, there were significant delays of 123 days or more in disposing of plaintiffs' motions to dismiss. Only 2 of the 12 motions were decided within 48 days. None were decided within 30 days.

60. In summary, litigants experienced significant delays in obtaining judgments or rulings in at least 66<sup>10</sup> instances in 59 of the 124 cases e-filed in small claims cases in 2014. In 9 cases, as of September 4, 2014, complaints were pending without service or any action having been taken toward service. Judge Pettway, therefore, acted within 30 days in no more than 56 of the 124 small claims cases e-filed in 2014. In 16 of those 56, the defendant confessed judgment in the answer, and Judge Pettway entered a consent judgment based on the answer.

61. This problem is not a recent one in Judge Pettway's court. Her handling of the small claims cases e-filed in 2011 produced similar results.

62. In 2011, 109 small claims cases were electronically filed in the Wilcox County District Court. In those cases, there were 38 routine motions for default judgment, consent judgment, etc. filed. The time for ruling on the motions ranged from 38 to 1,179 days. A chart showing the date of docketing and the date the judgment or ruling was signed for these simple motions is set out below:

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<sup>10</sup> A few cases had more than one delayed motion.

<u>Case Number</u> <u>SM-2011-900...</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Motion</u> <u>Docketed</u>	<u>Order Signed</u>	<u># of Days</u>
081	SCIL, Inc.	Abrams	2/22/12	5/6/15	1179
028	Midland Funding	Morrisette	12/10/12	7/8/15	940
059	Capital One Bank	Spencer	11/22/11	2/4/14	805
105	Capital One Bank	Pettaway	3/7/13	4/24/15	778
099	Capital One Bank	Day	5/28/13	7/8/15	771
057	Capital One Bank	Thompson	9/20/13	7/8/15	656
107	Midland Funding	Moultry	5/3/12	2/5/14	643
048	TCN Bank	Timmons	6/22/11	3/13/13	630
003	Capital One Bank	Mooney	6/6/11	12/27/12	570
108	Midland Funding	Johnson	7/31/12	2/5/14	554
059	Capital One Bank	Spencer	11/22/11	4/12/13	507
002	Capital One Bank	Dukes	2/21/14	7/8/15	502
058	Capital One Bank	Luker	2/6/12	4/12/13	431
100	Capital One Bank	Powe	2/6/12	3/21/13	409
011	Capital One Bank	Carlton	6/13/14	7/13/15	395
091	Midland Funding	Johnson	3/30/12	4/13/13	379
062	Nat'l College SLT	Davis	12/4/12	11/6/13	337
104	LVNV Funding	Autry	8/18/14	7/8/15	324
069	LVNV Funding	Bennett	8/13/12	6/21/13	312
016	Capital One Bank	Malone	6/26/12	4/13/13	291
122	Gulf Coast FA	McCants	6/8/12	3/21/13	287
088	Capital One Bank	Hamilton	8/1/12	4/12/13	254
102	Riverwalk Holdings	Fry	2/6/12	9/27/12	234
058	Capital One Bank	Luker	8/30/12	4/9/13	222
090	First United Security	Welch	2/22/12	9/19/12	210
018	Mutual Savings CU	Square	12/28/11	7/9/12	194
082	TCN Bank	Montgomery	10/9/12	4/12/13	185
077	FIA Card Services	Collins	2/6/12	8/7/12	183
069	LVNV Funding	Bennett	9/20/13	2/5/14	138
108	Midland Funding	Johnson	3/30/12	8/7/12	130
026	TCN Bank	Lewis	4/28/14	8/12/14	106
027	TCN Bank	Gaines	9/10/14	12/12/14	93
096	ASECU	Gaines	2/8/12	5/8/12	90
010	Midland Funding	Kennedy	8/15/11	11/8/11	85
053	Midland Funding	Manson	1/5/12	3/6/12	61

101	Velocity Investments	Mack	3/30/12	5/30/12	61
008	GE Money Bank	Anderson	11/8/11	12/20/11	42
003	Capital One Bank	Mooney	6/6/11	7/14/11	38

63. As shown in paragraph 62, only two of the motions were ruled on within 60 days. Fifteen of the 38 motions received rulings from 61 to 260 days, and 21 of the 38 motions took longer than 9 months to receive a ruling. Sixteen of those 21 motions were pending without ruling for more than a year, i.e., 365 days or more.

64. As of June 26, 2015—the day after Judge Pettway appeared before the Commission to discuss the complaints against her, 42 of the 109 cases e-filed in 2011, almost half, had been pending on the small claims docket for over two years since the last action was taken. These include matters where the only action recorded on the CAS is the filing of the complaint (9); the last action is the filing of the answer (4), one of which was a contested case that should have been set for trial; service had been attempted, but had not been perfected (12); service had been perfected, but no further action taken (12); the last action was reissuance of service (3); and a motion to dismiss was still pending (1).

65. The 42 cases referred to in paragraph 64 are shown in the chart below. The delay is calculated from the date of the last action recorded to June 26, 2015, the day after Judge Pettway appeared before the Judicial Inquiry Commission:

<u>Case Number</u> <u>SM-2011-900...</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Status</u>	<u>Last Action</u> <u>Taken</u>	<u>End Date</u> <sup>11</sup>	<u># of Days</u>
004	McGraw-Webb Chev.	Powe	Complaint	1/18/11	6/26/15	1621
012	Midland Funding	Dale	Complaint	1/28/11	6/26/15	1611
022	TCN Bank	Love	Complaint	2/23/11	6/26/15	1585
021	TCN Bank	Barge	Answer	3/21/11	6/26/15	1559
017	Mutual Savings CU	Kennedy	No Service	6/3/11	6/26/15	1485
044	TCN Bank	Dale	Service	8/22/11	6/26/15	1405
072	Paul's Place	Nelson	Complaint	8/29/11	6/26/15	1398
071	Paul's Place	Powell	Complaint	8/29/11	6/26/15	1398
052	LVNV Funding	Atwood	Service	8/29/11	6/26/15	1398
078	Wade Bonding	Fore	Complaint	9/14/11	6/26/15	1382
083	TCN Bank	Dukes	Complaint	10/5/11	6/26/15	1361
086	TCN Bank	Huckabee	Complaint	10/5/11	6/26/15	1361
087	TCN Bank	Dailey	Complaint	10/5/11	6/26/15	1361
068	Zenith Acquisition Corp.	West	Answer, contesting amount	11/29/11	6/26/15	1306
065	First United Security Bank	January	Answer	12/7/11	6/26/15	1298
067	Capital One Bank	Boykin	Alias Statement of Claim	1/11/12	6/26/15	1263
076	Capital One Bank	Evans	Motion to Dismiss	2/22/12	6/26/15	1221
009	McGraw-Webb Chev.	Butler	Service Reissued	4/27/12	6/26/15	1156
084	TCN Bank	Vick	Service Reissued	4/30/12	6/26/15	1153
043	TCN Bank	Harrison	Service Reissued	5/2/12	6/26/15	1151
098	Mutual Savings CU	Gant	Answer	6/11/12	6/26/15	1111

<sup>11</sup> "End Date" does not signify a ruling; rather, it signifies Judge Pettway had taken no action as of June 26, 2015, the day after her appearance before the Commission and

038	TCN Bank	McWilliams	No Service	6/21/12	6/26/15	1101
045	TCN Bank	Heaven	No Service	7/24/12	6/26/15	1068
046	TCN Bank	Heaven	No Service	7/24/12	6/26/15	1068
079	McGraw-Webb Chev.	Spencer	No Service	7/24/12	6/26/15	1068
035	TCN Bank	Franklin	Service	7/24/12	6/26/15	1068
094	Camden Jewelry	Holt	Service	7/24/12	6/26/15	1068
033	TCN Bank	Marcet	Service	7/24/12	6/26/15	1068
029	TCN Bank	Fails	Service	7/25/12	6/26/15	1067
032	McGraw-Webb Chev.	Chandler	No Service	8/13/12	6/26/15	1048
041	TCN Bank	Nettles	Service	8/24/12	6/26/15	1037
036	TCN Bank	Franklin	Service	9/6/12	6/26/15	1024
007	McGraw-Webb	Nicholson	Service	10/25/12	6/26/15	975
005	McGraw-Webb Chev.	Pettway	No Service	11/5/12	6/26/15	964
006	McGraw-Webb Chev.	Blackmon	No Service	11/5/12	6/26/15	964
039	TCN Bank	Dortch	No Service	11/5/12	6/26/15	964
042	TCN Bank	Castophney	No Service	11/5/12	6/26/15	964
040	TCN Bank	Higgenbottom	No Service	12/12/12	6/26/15	927
050	Maness	Spencer	Service	2/27/13	6/26/15	850
034	TCN Bank	Jones	No Service	3/20/13	6/26/15	829
025	TCN Bank	Rodgers	Service	7/18/13	6/26/15	709
095	Cambridge Park Apts.	Portis	Service	11/21/13	6/26/15	592

66. Judge Pettway's practice of delaying rulings or permitting inactivity for lengthy periods of time was not limited to 2014 and 2011. A sampling of the 2013 electronically filed cases—the first 10, SM-2013-900050 through SM-2013-900059, and the last 10—and the first 10 cases electronically filed in 2012 show a similar pattern of conduct.

67. Out of the first 10 cases filed in 2012, delays of 3 months or more occurred in 4, or almost one-half of the sample of 10.

68. Out of the 30 cases examined from 2013, as set out below, delays of 3 months or more from the docketing of motions to the disposition occurred in 11 matters in 10 cases, or one-third of the 30 cases:

<u>Case Number</u> <u>SM-2013-</u> <u>900...</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Motion Type</u>	<u>Docketed</u>	<u>Action Taken</u>	<u># of days</u>
3	DCH Healthcare Auth.	Hicks	Dismiss	5/28/13	7/8/15	772
4	Portfolio RA	Stogner	Dismiss	5/28/13	7/8/15	772
7	Portfolio RA	Snell	90 days cont. for service	5/28/13	7/8/15	772
2	Velocity Investments, LLC	Williams	Consent	8/16/13	7/8/15	692
53	Portfolio RA	Kendrick	Consent	3/4/14	9/23/15	569
115	TNC Bank	Hudson	Dismiss	2/21/14	7/8/15	503
121	Ala. Power Co.	Cole	Dismiss	3/7/14	7/8/15	489
5	Portfolio RA	Swanner	Default	7/7/14	7/23/15	382
117	Midland Funding	Carter	Default	9/23/14	7/8/15	289
5	Portfolio RA	Swanner	Dismiss	1/16/15	6/30/15	166
6	Midland Funding	Coleman	Consent	4/23/13	7/23/13	92
56	Portfolio RA	McMillan	Default	11/19/13	2/5/14	79
52	Portfolio RA	Smith	Ans./Denial	8/29/13	10/8/13	40
57	MAS	Davis	Default	1/13/14	2/8/14	27
54	GCFA	Franklin	Default	1/13/14	2/5/14	24
50	Portfolio RA	Anderson	Consent	9/20/13	10/10/13	21
53	Portfolio RA	Kendrick	Dismiss	6/10/15	6/29/15	20
51	Ala Power Co.	Smith	Default	11/18/13	11/26/13	9
58	WAC	Murphy	Default	3/4/14	3/11/14	8
1	Portfolio RA	Williams	Default-FTA	4/13/13	4/17/13	4
8	Portfolio RA	Winn	Dismiss	8/16/13	8/19/13	4
55	Velocity Investments ,LLC	Davis	Dismiss	11/18/13	11/20/13	3
119	WAC	James	Default	3/5/14	3/7/14	2
113	Town & Country Nat'l Bank	Finney	Default after 11/17/14 Service	9/21/15	9/22/15	1
114	Town & Country Nat'l Bank	Lett	Default after 11/17/14 Service	10/1/15	10/2/15	1

10	Midland Funding	Parnell	Dismiss	11/18/13	11/18/13	0
59	WAC	Pettway	Ans./Consent	2/10/14	2/10/14	0
116	Midland Funding	Carter	Default	6/26/15	6/26/15	0
9	Ratcliff's Hardware, Inc.	Davis	Non-Service	1/23/13	Pending	
112	TCN	Sims	Service	5/6/15	Pending	
118	Midland Funding	Montgomery	Ans./Denial	4/9/14	Pending	
120	Midland Funding	Works	Non-Service	8/7/14	Pending	

69. As shown in the chart in paragraph 68, an answer denying the claim in case number SM-2013-900118 was filed in April of 2014 and is still awaiting court action to set a trial date.

70. Mr. Gregory McAtee, an attorney who regularly represented plaintiffs in Judge Pettway's small claims court, on numerous occasions brought the delay issue to the court's attention. See paragraphs 129 and 130.

71. Specifically in the cases set out below, Mr. McAtee contacted the court or Judge Pettway on numerous occasions about delays in rendering judgments.

<u>Case</u>	<u>Docketed</u>	<u>Ruling</u>	<u># of Days</u>
a. <u>MAS v. Walker</u> SM-2012-000054 - Mr. McAtee contacted the court <u>three</u> times about the delay, including in his letter to Judge Pettway dated June 17, 2013. Although service had been perfected on January 19, 2012, 18 months earlier, Judge Pettway erroneously replied that she had not ruled because there was no service. Further letters were sent to the court dated September 11, and October 8, 2013.	10/4/12	2/5/14	490 days
b. <u>MAS v. Davis</u>	11/27/13	12/8/14	377 days



amount of the judgment, at a minimum gives the appearance that Judge Pettway did not even review the file when granting the default judgment. In most cases, she did not avail herself of these properly written proposals.

73. Even after all of Mr. McAtee's efforts, Judge Pettway failed to remedy her gross inattention to small claims matters before her court. In her testimony before the Commission on June 25, 2015, Judge Pettway told the Commission that she was not aware of all of Mr. McAtee's efforts. Regarding those of which she was aware, she said that she thought he was seeking preferential treatment and she refused to be "bullied."

74. Judge Pettway repeatedly admitted before the Commission there is no excuse for the delays in entering judgments in default and consent judgments.

75. In her testimony before the Commission on June 25, 2015, when discussing delays, especially those set out in Mr. McAtee's letters to the court, the following occurred:

Q. Would you agree or disagree or have any reason to dispute those times?

A. [JUDGE PETTWAY] No. And I would agree that I obviously am not doing things as efficiently as they should but it's not purposefully or maliciously. I do need to start, reviewing more

often, doing some things differently. And I admit that.

(R. 32-33.)

Q. There's just no reason for [rulings] not to get done.

A. . . . There is no reason.

(R. 57.)

76. Throughout her testimony, Judge Pettway repeatedly admitted there was no excuse for her inactions: "[J]ust my not doing it. My error again." (R. 48); "This mess is mine." (R. 59); and "There's no excuse." (R.87).

77. In addition to delays in ruling on motions, Judge Pettway failed to act promptly on other matters. In Midland Funding v. Carmichael, SM-2014-900060, Judge Pettway failed to set a trial date for over a year after the defendant's answer putt the amount owed at issue. The answer was filed and docketed on July 24, 2014. Judge Pettway set a trial date of October 6, 2015, by order rendered and docketed on August 12, 2015.

78. Judge Pettway's delays in ruling on matters in small claims court, as described above, have been so pervasive as to establish a pattern and practice of gross inattention to her duties as the Judge of that court, and

that pattern and practice continued all the way up to her appearance before the Commission on June 25, 2015—despite numerous notifications to her of deficiencies and delays and the concerns of the Commission.

B.

Additional Inefficient Management of Court Business

79. While simply delaying ruling on judgments led to substantial delay in the resolution of small claims cases, other practices by Judge Pettway often contributed to additional delay and confusion in the processing of these cases.

80. In numerous cases in 2012 to date, Judge Pettway's issuance of "final" judgments that were not final in accordance with the law created avoidable confusion as to the status of those cases and required additional action by the plaintiffs to procure judgments on which execution could issue.

81. "Orders" that Judge Pettway issued that created avoidable confusion as to the status of cases include:

- a. "Final Judgments" indicated only on the CAS without a signed or dated order;
- b. "Final Judgments" without a specific amount of recovery;

- c. Orders signed on one date and entered (filed) months later;
- d. Conflicting final judgments in the same case, e.g., motion for default judgment granted after a motion to dismiss is granted or after rendering a consent judgment; and
- e. Duplicate orders rendered or docketed on different dates.

Most often, the duplicate and/or conflicting (second) final judgments were rendered long after the court had lost jurisdiction pursuant to the first order. Many of these issues could have been avoided had Judge Pettway merely reviewed the case file before ruling and/or used an appropriate proposed order frequently submitted by the movant.

82. The practices listed in paragraph 81, among others, led to additional delay in reaching final resolution of small claims cases, as well as required additional work by the clerk and/or the parties to resolve conflicts or insufficient orders created by Judge Pettway's actions and/or inactions, and/or her failure to review the complete file, which usually consists of very few documents.

83. The following are examples of the numerous cases in which no signed, e-signed or initialed final judgment was entered:<sup>13</sup>

Community NB v. Simmons, SM-2014-900091

January 7, 2015	Acceptance of Service on October 20, 2014 docketed & scanned
January 13, 2015	Motion for Default Judgment filed
March 2, 2015	"Disposed of by Consent" on CAS with terms of the Order
June 29, 2015	General default judgment without amounts of judgment or costs, rendered, e-filed and docketed

MAS v. Rodgers, SM-2014-900036

July 9, 2014	CAS entry "Disposed of by (Default Judgment) on 7/9/2014," with no signed or initialed document in Alacourt file
July 14, 2015	Satisfaction of judgment rendered and entered, and case dismissed with prejudice.
August 8, 2015	Signed Order entered - Motion for Default is moot. Granted on July 9, 2014

GCFA v. Cheesboro, SM-2014-900041

June 6, 2014	Motion for Default filed with proposed order
July 8, 2014	CAS entry - "Disposed of by (Default Judgment) on 7/8/2014," with no signed or initialed order in Alacourt file

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<sup>13</sup> Pursuant to Rule 58, Ala.R.Civ.P. and Olsen v. State, 975 So.2d 357 (Ala. Civ. App. 2007) to be valid and enforceable an order must be signed or initialed by the Judge rendering the Order.

WAC v. Ross, SM-2014-900014

May 9, 2014	Service signed
May 28, 2014	Service scanned and docketed as "Summons Issued"
	Motion for Default e-filed and docketed
June 10, 2015	CAS entry - "Disposed of by (Default Judgment) on 6/10/2015," with no signed or initialed order in Alacourt file
August 14, 2015	Order e-filed - Motion for Default Moot - Granted on June 10, 2015

84. In at least 30 of the cases filed in 2014 in which "judgments" were entered, the "judgments" did not include the specific amount of recovery. Examples of these cases include:

Asset Acceptance v. Bridges, SM-2014-900019 (Amount of recovery on the CAS, but not in Order)

MAS v. Craig, SM-2014-900026 (Amount on the CAS, but not in Order)

LVNV Funding v. Lucy, SM-2014-900023 (No amount of recovery in Order or on CAS)

Harbin LLC v. Delaney, SM-2014-900045 (No amount of recovery in Order or on CAS)

Harbin LLC v. Steele, SM-2014-900046 (No amount of recovery in Order or on CAS)

85. In numerous other 2014 cases, there were substantial delays between the signing of an order and the filing or docketing of the order on the CAS. Examples of



December 27, 2012 Default judgment granted for  
\$1,795 (17 months later, after  
the court lost jurisdiction)

Capital One Bank v. Calhoun, SM-2012-900087

January 21, 2013 Motion for Default e-filed  
March 7, 2013 Motion for Default docketed  
June 27, 2013 Plaintiff's Motion to Dismiss  
June 28, 2013 CAS note Dismissal granted  
July 9, 2013 Satisfaction of Judgment scanned  
and docketed  
February 5, 2014 Default Judgment granted

World Acceptance Corp. v. Hall, SM-2014-900062

October 2, 2014 Answer admitting claim  
Consent Judgment entered  
December 4, 2014 Motion for Default docketed  
March 31, 2015 Satisfaction of Judgment  
docketed  
June 30, 2015 Motion for Default granted

Community Nat'l Bank v. Simmons et al., SM-2014-  
900091

March 2, 2015 Bench trial for Plaintiff's  
Motion for Default  
Notation on the CAS - Consent  
judgment in the amount of  
\$2,202.94  
June 3, 2015 Plaintiff's garnishment, stating  
that judgment for \$2,202.94 had  
been rendered, was docketed  
June 29, 2015 Judge Pettway rendered and e-  
filed a generic order  
granting the plaintiff's  
motion for default judgment  
August 28, 2015 Judge Pettway's Order noting her  
error in granting the  
default judgment after a  
consent judgment had been  
granted on March 2, 2015.  
(The March 2, 2015 Order is

still not a part of the  
Alacourt file.)

Velocity Investments v. Davis, SM-2013-900055

November 1, 2013	Motion to Dismiss Without Prejudice filed (No service)
November 8, 2013	Summons showing service on October 10, 2013 scanned into Alacourt
November 18, 2013	Motion to Dismiss docketed
November 20, 2014	Motion to Dismiss granted

Portfolio RA v. McMillan, SM-2013-900057

September 9, 2013	Service
November 11, 2013	Motion for Default docketed
November 19, 2013	CAS - bench verdict for the plaintiff
January 10, 2014	Garnishment entered
February 5, 2014	Default Judgment granted

Town and Country National Bank v. Sims, SM-2013-900112

December 11, 2013	Complaint filed
July 12, 2014	Service signed
May 6, 2015	Return of Service scanned into Alacourt (9 months after service)

Midland Funding LLC v. Kimberly, SM-2014-900057

July 25, 2014	Motion for Consent Judgment docketed
July 9, 2015	Plaintiff's Motion to Dismiss with Prejudice docketed
July 13, 2015	Motion to Dismiss granted
July 14, 2015	Consent Judgment granted

87. Based on the Commission's in-depth review of 2011 and 2014 cases and samplings of 2012 and 2013 cases, these

fundamental irregularities persist throughout at least the last four years.

88. Failure to sign written orders, enter written orders, specify the amount of judgment, or have written orders properly and timely docketed, and entering conflicting or duplicate orders interrupt the flow of information that assures the "just, speedy, and inexpensive" determination of small claims cases. These deficiencies also increase the amount of time the clerk and Judge Pettway have to devote to these matters by requiring orders to be entered, supplemented, or clarified two or three times time rather than efficiently disposing of the matter when the Judge Pettway makes her initial decision.

#### CHARGES

##### Charge 1

89. By engaging in a pattern and practice of failing to rule promptly on matters pending in small claims court, Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self

observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 2B:** A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office . . . diligently.

**Canon 3A(5):** A judge should dispose promptly of the business of the court, being ever mindful of matters taken under submission.<sup>15</sup>

**Canon 3B(1):** A judge should diligently discharge [her] administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.<sup>16</sup>

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<sup>15</sup> **Commentary:** "Prompt disposition of the court's business requires a judge to devote adequate time to [her] duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants, and their lawyers cooperate with [her] to that end."

<sup>16</sup> Id.

Charge 2

90. By issuing unenforceable, inadequate, duplicate, contradictory, and/or confusing final judgments, and, thereby, aggravating her pattern and practice of delay in ruling, Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 2B:** A judge should . . . avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office . . . diligently.

**Canon 3A(5):** A judge should dispose promptly of the business of the court, being ever mindful of matters taken under submission.<sup>17</sup>

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<sup>17</sup> Id.

**Canon 3B(1):** A judge should diligently discharge [her] administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.<sup>18</sup>

Charge 3

91. By failing to become cognizant of delays in docketing, which in turn contributed to delays in implementing a just, speedy, and inexpensive determination of cases in small claims court, and/or take steps to correct that deficiency, Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

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<sup>18</sup> Id.

**Canon 2B:** A judge should . . . avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office . . . diligently.

**Canon 3A(5):** A judge should dispose promptly of the business of the court, being ever mindful of matters taken under submission.<sup>19</sup>

**Canon 3B(1):** A judge should diligently discharge [her] administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.<sup>20</sup>

**Canon 3B(2):** A judge should require [her] staff and court officials subject to [her] direction and control to observe the standards of fidelity and diligence that apply to [her].

## COUNT TWO

### PATTERN AND PRACTICE OF RULING WITHOUT OR CONTRARY TO LEGAL AUTHORITY

92. Judge Pettway has established a pattern and practice in several areas of ruling or operating her court in a manner that is without legal authority or inconsistent with established law. Judge Pettway has established a pattern and practice of (1) allowing defendants to make installment payments to satisfy a small claims judgment without the plaintiff's consent to accept the amount of the

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<sup>19</sup> Id.

<sup>20</sup> Id.

judgment in installments paid to the court; (2) releasing garnishments or interfering with garnishments without legal authority to do so and without notice to the plaintiff, thereby denying the plaintiff an opportunity to be heard; (3) issuing final judgements or taking action in cases long after she has lost jurisdiction to act; and (4) rendering final judgments she has not signed, e-signed or initialed judge.

93. In several cases, Judge Pettway substituted her own procedure for established law regarding garnishment procedure by explicitly prohibiting the plaintiff from issuing a garnishment or by releasing garnishments lawfully entered and allowing or ordering the defendant, without the consent of the plaintiff, to pay lesser amounts in installment payments to the clerk's office rather than having income withheld by the debtor's employer at a higher statutory rate.

94. The proper procedure for filing and enforcing a garnishment is set out in paragraphs 24 through 27 of this complaint. The judge has no legal authority to interfere in the garnishment process except under very limited circumstances. See Rules 64A and B, Ala.R.Civ.P., Claim of

Exemption from Garnishment. None of those limited circumstances was present in the cases described in the following paragraphs.

95. In Capital One Bank (USA), NA v. Powe, SM-2011-900100, the CAS shows the case was "disposed of by (default judgment) on 3/21/2013..."; "Judgment of \$1,403.21 ... on 3/21/2013"; and "Costs of: \$41.00 ... on 3/21/2013." The plaintiff's garnishment against the defendant's bank account was docketed on May 30, 2013 and again on June 14, 2013. The garnishee-bank held insufficient funds to pay the \$1,403 judgment on those dates.

96. On December 9, 2014, a new garnishment was filed in Powe and on December 16, 2014, this new garnishment was scanned and docketed. The December 9, 2014 garnishment was again scanned on January 14, 2015. A January 20, 2015 CAS entry shows the garnishee's answer had been filed on December 18, 2014 (showing \$1,312 in the garnished account) and that on December 16, 2014, two days prior, Judge Pettway released the garnishment. The Alacourt file does not contain either a written request to release the garnishment or any indication of any grounds for which the garnishment could be released. Nor is there any notice or

service on the plaintiff advising the plaintiff that the garnishment had been released.

97. On January 23, 2015, the plaintiff in Powe filed a motion to set aside the release of garnishment.<sup>21</sup> In the motion, the plaintiff stated that the garnished bank account held \$1,312, i.e., an amount nearly sufficient to pay all of the \$1,403 judgment. The plaintiff also noted the plaintiff had not been given notice and did not have an opportunity to respond to any request for release of the garnishment. The plaintiff alleged the request for release was made ex parte and there were no documents in the court file to support it.

98. On June 30, 2015, Judge Pettway electronically signed and filed, and the clerk docketed, in Powe, an order granting the plaintiff's motion for default judgment (which had already been granted, as per the CAS, on March 21, 2012, nearly three years earlier). Almost a month later, Judge Pettway rendered and entered an order, electronically dated and filed, on July 27, 2015, ruling the motion to set aside the garnishment was moot because the motion had been

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<sup>21</sup> A copy of Judge Pettway's Order of December 16, 2014, releasing the garnishment is attached to the January 23, 2015 motion.

granted on February 13, 2015, although nothing on the CAS so indicates.

99. Judge Pettway ordered the garnishment released on December 16, 2015, without any authority to do so, without any notice to the plaintiff, and, according to the plaintiff's motion to set aside the release, pursuant to an ex parte communication that the defendant was making installment payments.

100. In MAS v. Nettles, SM-2011-000161, Judge Pettway entered a consent judgment agreed upon by the plaintiff and the defendant. However, when the plaintiff filed a garnishment for the collection of the judgment, Judge Pettway ordered that the garnishment be released and that the defendant make installment payments to the clerk of court. The plaintiff did not ask for the garnishment release, did not consent to the garnishment release, did not have any notice that possible release of the garnishment was an issue, and did not participate in proceedings to release the garnishment. The defendant did not file any claim of exemption as to the garnishment. Nor did Judge Pettway have authority to release the garnishment

and order the defendant to pay the judgment by installment payments to the clerk.

101. Judge Pettway's explanation for releasing the Nettles garnishment was, "I thought - I thought it was - - I was legally able to do it, and I did it." (R. 38.) Thus, Judge Pettway, a judge with 30 years' experience, concerning an issue in an area of the law constantly before her, admitted she did not know the law she is called upon to apply.

102. In MAS v. Carstarphen, SM-2013-900044, as part of the judgment for the plaintiff, Judge Pettway ordered \$30-per-month installment payments to the clerk of the court without the consent of the plaintiff and further ordered that "no garnishment or other collection method is to be employed" so long as the defendant remained current on the payments, thus prohibiting the plaintiff from executing on a judgment on which the plaintiff was entitled to execute. Again, Plaintiff had no opportunity to be heard and did not consent to the installment arrangement.

103. In MAS v. Rebecca Moody, SM-2012-900077, another case in which Judge Pettway entered an ex parte order for installment payments to the clerk, Judge Pettway interfered

with the plaintiff's right to collect the judgment by twice releasing garnishments filed by the plaintiff and ordering installment payments. Again, she had no authority to release the garnishments or to order the installment payments, and she gave the plaintiff no notice of her anticipated action.

104. In Moody, after the complaint for collection of a debt was served on the defendant, the defendant answered saying she admitted the debt and could pay \$20 per month toward the judgment. The plaintiff did not agree to the \$20 installment payments.

105. Based solely on Ms. Moody's answer and without any authority to do so, Judge Pettway entered an order for a consent judgment for \$566 to be paid to the clerk in installments of \$20 per month. The \$20-per-month payment does not cover the cost to the plaintiff of processing the individual payments.

106. In the following interchange during Judge Pettway's appearance before the Commission, Judge Pettway admitted that in her court the plaintiff does not have to consent to the installment payments and that she ordered the installment payments without the plaintiff's consent:

A. [The defendant answered in Moody] saying she'll pay \$20 a month toward the judgment.

Q. Now, when she files that answer, what happens next that says she'll pay \$20?

A. Normally, we do a judgment and enter the order for them to make those payments.

Q. To make \$20 payments?

\* \* \*

A. Normally, there's a lag time that's between the time that the answer goes and we do a judgment. It's not done on the same date.

(R. 39, 41.)

107. In MAS v. Carstarphen, SM-2013-900044, Judge Pettway entered a consent judgment for \$838.41 based on the defendant's answer and the plaintiff's motion for a consent judgment, however, similarly to Moody, Judge Pettway entered an order for installment payments to the clerk of the court of \$30 per month based on the defendant's unilateral offer to pay \$30 per month. The plaintiff did not agree or consent to installment payments.

108. In Powe, Nettles, Moody, and Carstarphen, Judge Pettway simply accepted and entered orders according to the defendant's answer admitting the debt and stating the debtor can pay a certain amount in installment payments.

She entered these orders ex parte without hearing from the plaintiff and without the plaintiff's consent. Her orders effectively interfered with the right of the plaintiff to execute on the judgment which the defendant admits owing.

109. Judge Pettway knows of no authority that allows for installment payments of a judgment in a civil case without the consent of the plaintiff. According to her testimony before the Commission, she is under the impression that "administrative policies" allow her to do so in consent-judgment cases. (R.36.) However, Judge Pettway's has established a pattern and practice in her small claims court that, when the defendant admits the debt in the answer and offers to make installment payments in a specific amount, she renders "consent judgments" for installment payments to the court clerk in the specified amount, whether or not the plaintiff actually consents to those terms.

110. According to Judge Pettway, plaintiffs that do not agree with her "consent judgments" may respond by appeal, an action that taxes an already overcrowded court system, as well as adding extra cost to the plaintiff who is attempting to collect a small debt.

111. In addition, Judge Pettway, contrary to law,<sup>22</sup> issues orders exercising jurisdiction over matter over 14 days after judgment has been rendered, been entered, and become final. This is especially true if the CAS entries are not accompanied by the judge's or clerk's signature or initials and are considered final orders under Rule 58, Ala.R.Civ.P. The examples discussed below, among others, demonstrate cases in which Judge Pettway issued orders after losing jurisdiction to do so.

- a. In Capital One Bank v. Mooney, SM-2011-900003, Judge Pettway rendered and the clerk entered a default judgment in favor of the plaintiff for \$578. Over a year later, she issued a second default judgment in the amount of \$1,795, the amount specified in the original complaint.
- b. In World Acceptance Corp. v. Hall, SM-2014-900062, Judge Pettway rendered a consent judgment on October 2, 2014 (the date the answer was docketed) and almost nine months later, on June 30, 2015, entered a default judgment.
- c. In Community Nat'l Bank v. Simmons, SM-2014-900091, Judge Pettway rendered a consent judgment on March 3, 2015 and a default judgment almost 4 months later on June 29, 2015.
- d. In Midland Funding v. Edwards, SM-2014-900111, Judge Pettway entered consent judgments on

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<sup>22</sup> The District Court's judgement becomes final and the court loses jurisdiction 14 days after judgement if no further action is taken within that time.

January 14, 2015, and June 30, 2015, and on July 23, 2015, she entered a default judgment almost 6 months after her first consent judgment and 24 days after the second one.

112. Judge Pettway's actions as stated in the preceding paragraph establish a pattern and practice of ruling in matters after she had lost jurisdiction.

113. Contrary to Rule 58, Ala.R.Civ.P., and Olsen v. State, 975 So. 2d 357 (Ala.Civ.App. 2007), Judge Pettway has also established a pattern and practice of using entries on the CAS that are not signed, e-signed, or initialed by her, as rendering final judgments in many cases, more specifically examples of those cases are listed in paragraph 83.

#### CHARGES

##### Charge 5

114. By engaging in a pattern and practice of interfering with the plaintiffs' right to execute on judgments by allowing defendants to forego payment of judgment via garnishment and to make monthly installment payments to the court clerk and/or by otherwise prohibiting plaintiffs from using garnishment to execute on a judgment, Judge Pettway violated the following provisions of the Alabama Canon of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self

observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 2B:** A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office impartially and diligently.

**Canon 3A(1):** In performing adjudicative responsibilities, a judge should be faithful to the law and maintain professional competence in it.

#### Charge 6

115. By releasing a garnishment without the defendant's filing a claim for exemption and thereby failing to give the plaintiff the attendant rights pursuant to Rules 64A and B, Ala.R.Civ.P., i.e., notice, opportunity to contest, and a hearing if the release is contested, id., Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 2B:** A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office impartially and diligently.

**Canon 3A(1):** Adjudicative Responsibilities. A judge should be faithful to the law and maintain professional competence in it.

#### Charge 7

116. By ex parte issuing orders to release garnishments, Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 2B:** A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office impartially and diligently.

**Canon 3A(4):** A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte communications concerning a pending or impending proceeding.

#### Charge 8

117. By ruling in cases after losing jurisdiction of the matter before the court, Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 2B:** A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office impartially and diligently.

**Canon 3A(1):** Adjudicative Responsibilities. A judge should be faithful to the law and maintain professional competence in it.

Charge 9

118. By rendering "judgments" as CAS entries that are not signed, e-signed, or initialed by the judge, contrary to Rule 58, Ala.R.Civ.P., Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge should respect and comply with the law and should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 2B:** A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

**Canon 3:** A judge should perform the duties of [her] office impartially and diligently.

**Canon 3A(1):** Adjudicative Responsibilities. A judge should be faithful to the law and maintain professional competence in it.

COUNT THREE

FAILURE TO MAINTAIN PROFESSIONAL COMPETENCE IN JUDICIAL  
ADMINISTRATION AND TO CORRECT DELAYS IN RULING AND  
DEFICIENCIES IN THE APPLICATION OF THE LAW

119. In addition to lengthy delays in ruling and failing to rule according to the law, Judge Pettway has otherwise managed her court in a manner that has led to disorder and disorganization in the processing of small claims cases in her court. She has failed to learn and utilize Alabama's electronic court filing, docketing, and case management system and also failed to respond to repeated notices of the issues presented in this Complaint that amply warned her of the problems that exist.

120. Although AlacourtPlus has been fully implemented since 2008, Judge Pettway, a judge with over 30 years of experience, had not learned to use it by June 25, 2015, the date she appeared before the Commission. Nor had she made the effort to learn how AlacourtPlus can enhance and simplify her performance as a judge to meet the objectives of small claims courts of providing a "just, speedy, and

inexpensive determination" of every case as more fully described in paragraphs 29 through 39 of this Complaint.

121. Judge Pettway repeatedly admitted she is unfamiliar with the AlacourtPlus program. When she voluntarily appeared before the Judicial Inquiry Commission on June 25, 2015, to address the issues concerning the Wilcox County small claims court, the following occurred concerning her use of the electronic system, AlacourtPlus:

- Q. Do you use or refer to the processes of - in e-filing or Alacourt?
- A. I do.
- Q. On a regular basis?
- A. I do on - not as regular as I probably should, because I'm still getting acclimated to the process and I still like to feel the - the file, if that makes any sense. . . . But I normally try to go on at least once or twice a week to see what's going on and see what's been filed and address those issues.
- Q. . . . [Do you use the motion queue]?
- A. Normally what I do is click on the search, if I have a case number, and see what's going on with a particular case. And I click on the case action summary and see where it is as far as actions are concerned and react to what's been done.
- Q. So you're only using it, then, to check specific cases rather than to get a listing of

what's gone into the system that you need to work on?

A. Normally, proposed orders on it and check for particular cases that I've been given.

(R. 21-23.)

Q. But how do you know when a case needs attention?

A. I've been asking her [the clerk] verbally, and she's been giving me things physically.

\* \* \*

Q. Okay. And then the clerk . . . tells you when something needs to be done in any case. And you don't look at that at the queue.

A. I have not looked at the queue. I have not looked at the queue.

(R. 60-61.)

122. AlacourtPlus allows a judge to instantly receive notice of docketed motions by simply clicking on the "Motion Queue" button. Even if e-filed material is not docketed, the judge can monitor electronic filings simply by clicking on the "E-filed" button, which lists all cases in which e-filings have been received, starting with the most recent filings.

123. The "Motion Queue" and the "E-filings" buttons produce material that, when compared, indicates to the

judge whether the clerk is promptly docketing pleadings that come into small claims court.

124. Despite the electronic system's efficiency and ease of usage, even after she was notified of the concerns raised in this complaint, Judge Pettway, in her letter to the Commission of December 23, 2014, failed to address the delay issues and failed to thereafter learn and take advantage of the AlacourtPlus system.

125. As late as June 25, 2015, as she admitted in her testimony before the Commission, Judge Pettway had not sought any additional training in the electronic system:

Q. . . . You said you're working to master the AlaFile system. What specifically-or have you done anything specifically to do that?

A. Well, I'm working on it more religiously than I have done in the past and becoming more familiar with it, so I can navigate the site and navigate to do things that I need to do

Q. Have you sought any additional training to be able to do that?

A. No, I have not.

(R.49-50.) Nor has Judge Pettway contacted AOC for individual instruction. (R.50, 67.)

126. Judge Pettway is correct in her statements above that there is no excuse for her failing to operate an

efficient small claims court, especially in a court that has a caseload is much smaller than many other one-judge courts.

127. The impact on the administration of justice is great where a judge with 30 years of experience in small claims allows her court to dissipate into the disarray of Judge Pettway's small claims court, especially in the light of repeated warnings regarding the issues presented in this complaint.

128. Since mid-June, 2013, Judge Pettway has been put on notice on numerous occasions that the above stated deficiencies exist.

129. Mr. Gregory McAtee, an attorney who practices regularly in the small claims court of Wilcox County has experienced all of the problems described in the preceding paragraphs. As also discussed in paragraphs 70 and 71, he made numerous unsuccessful attempts to bring these matters to Judge Pettway's attention.

130. Mr. McAtee's efforts include:

- a. Letter of June 17, 2013, concerning Judge Pettway's delay in default judgments and release of garnishments, listing specifically four cases awaiting rulings on default judgment motions (GCFA v. McCants, SM-2011-000122; MAS v. Louallen, SM 2012-000025; GCFA

v. Lymon, SM 2012-000050; and MAS v. Walker, SM 2012-000054) and two (Nettles and Moody) in which Judge Pettway had released garnishments without notification to the plaintiffs' attorney.

(Judge Pettway responded to Mr. McAtee's letter by rendering judgments in the default cases, by letter of July 26, 2013, she advised him of her rulings; stated that the garnishment releases were justified and would not be set aside; and declared she was not derelict in her duties, but acted when she was advised cases were ready for action.)

- b. Letter of August 6, 2013, concerning Judge Pettway's delay in ruling in Walker, her garnishment release in Nettles, lack of consent and problems with installment payments in Moody, and delay in Boykin, Boulware, and Lett. Mr. McAtee further informed Judge Pettway he had attempted, unsuccessfully, to return her call on July 9, July 16, and July 23, 2013. In his letter, Mr. McAtee respectfully disagreed with her assertion that she was not derelict in the performance of her duties, pointing out that three of the cases mentioned in his previous letter "languished from six to nine months" without the court's action. Mr. McAtee also pointed out the harm to plaintiffs that have to wait long periods of time for rulings in small claims cases and that delays were not a problem in other courts.
- c. Letter of September 11, 2013, sent by e-mail to Judge Pettway's Alacourt e-mail address, concerning default judgment applications (in Boykin, Boulware, Lett, and Walker) pending more than five months and asking Judge Pettway to "talk to the clerk" about these cases.

- d. Letter of October 18, 2013, sent by e-mail to Judge Pettway's Alacourt e-mail address, attaching Mr. McAtee's letter of September 11, to which Judge Pettway had not responded and again simply seeking rulings.
- e. Letter of March 12, 2014, specifically about Judge Pettway's release of the garnishments and authorization of \$20 installment payments in Moody. Mr. McAtee also reminded her of his concerns regarding her delays in rendering default judgments.
- f. Letter of June 11, 2014, with letter of March 12, 2014 attached and concerning Judge Pettway's releasing the garnishment in Moody, her delayed default judgments, and the clerk's failure to forward summons to the sheriff for service and to docket return of service. This letter references Mr. McAtee's four previous letters concerning the delay in Lett.
- g. Letter of July 15, 2014, to Presiding Judge Marvin Wiggins seeking assistance and advising if Judge Wiggins could not help, McAtee would seek relief either through mandamus or a complaint to the Judicial Inquiry Commission.
- h. Copy of Mr. McAtee's complaint to the JIC referenced in Judge Pettway's unsolicited letter of December 23, 2014, to the Commission in which she acknowledged the issues set out in this complaint and, among other things, denied having a problem with delays in ruling, stating she was relying on the clerk's office to remain current in her cases.

131. Judge Pettway's response to Mr. McAtee's letters, phone calls, and emails was to make no change in her practices.

132. Even in her letter of December 23, 2014, to the Commission, Judge Pettway did not take the allegations seriously or recognize her own conduct.

133. In spite of the conditions existing in her court as set out above, Judge Pettway, in her letter of December 23, 2014, to the Commission, gave the following assurances:

At no time have I failed to enforce the judicial process and purposefully or negligently delayed the handling of cases and default judgments. As the Wilcox County District Judge, I have worked to keep the docket current . . . .

I have some cases that need orders, but I have set aside time each day, to work to reduce that area.

I have worked to ensure that justice is fair, impartial and speedy in all courts.

We are working to lessen the number of cases awaiting judgments . . . .

I handle cases, as stated before, in a timely manner. I process all of my cases, as rapidly as possible . . . .

I am indeed faithful, to the law, professional, competent, fair, and impartial in the treatment of parties and cases that I hear.

I love the law and have faithfully and honestly served . . . and have worked every [day] to . . . treat parties fairly, . . . impartially, and deliver justice in a timely manner.

I believe in the rule of law and I follow the rules in my professional life . . . .

134. Concerning her consideration of Mr. McAtee's complaints, Judge Pettway further stated:

When Attorney McAtee wrote me, last year, I believed that he was not seeking fair treatment but wanted preferential treatment; he wanted his cases moved to the top of the pile and the head of the line. I perceived that he was trying to intimidate me and bully me and I refuse to be bullied or intimidated.

135. In her letter of December 23, 2014, Judge Pettway mentioned her intention to address the timeliness of her rulings, stating

To ensure that my cases are handled timely, I have asked the Clerk who handles the district civil docket to keep me abreast of filings and what cases are pending; based on that information and my records I have not filed any cases as lingering over six (6) months.

136. Judge Pettway blamed any deficiencies in handling her small claims docket on her "heavy dockets" in a single-judge county and her "challenges" in using the AOC electronic filing program that had been in statewide use for five years, as follows:

I admit that I have challenges with the paperless system and am working daily to become as efficient as I was with the paper system. The paperless system causes an expenditure of more effort, switching from screen to screen to ascertain the status and needed action, but I am working to navigate it more efficiently and expeditiously.

137. Judge Pettway's next response to notice of her conduct described in this complaint was to the JIC's invitation of February, 27, 2015, to provide further response. The Commission informed her, after receiving her initial response of December 23, 2014, that the Commission had opened an investigation based on a complaint and invited her to respond additionally to several specific questions including (a) what prevents her from ruling within 30 days on motions for default judgment and (b) what procedures have been implemented to assure a timelier disposition of default judgment cases.

138. On March 25, 2015, Judge Pettway responded to the Commission's invitation of February 27, 2015. Among other things, she informed the Commission that inadequate staffing in the Clerk's office did not always allow for prompt docketing. Regarding procedures implemented to assure a timelier disposition of default judgments, she wrote

I am working to navigate the on-line system more efficiently and expeditiously; to that end, I have implemented the following practices that will increase the granting of timely judgments:

- (A) Daily review of cases to determine the readiness for default judgments;

- (B) Allocating set periods of time, daily, to review filings listed on Alacourt plus and filed in our clerk's office;
- (C) Reviewing cases with clerk's office so we can maintain a current case load.
- (D) Making the processing of small-claims cases more of a priority in my work-load.

139. As of June 25, 2015, the date of her appearance before the Commission and three months after her letter of March 25, 2015, to the Commission, Judge Pettway had made very little progress on issuing rulings in older cases.

140. Of the 40 delayed default judgment motions on cases e-filed in 2014, only 14 received judgements prior to Judge Pettway's June 25, 2015 appearance before the Commission; 4 of those were before December 23, 2014, the date of Judge Pettway's initial letter to the Commission, and 5 were between the Commission's May 14, 2015 invitation to appear and her appearance.<sup>23</sup>

141. As for delayed consent judgments based on motions, in the e-filed 2014 cases, only 4 of 17 were ruled on prior to Judge Pettway's June 25, 2015 appearance before the Commission.<sup>24</sup>

142. Of the 12 examples of Motions to Dismiss in the 2014 e-filed cases, on which rulings were delayed, none

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<sup>23</sup> Chart in paragraph 49.

<sup>24</sup> Chart in paragraph 54.

were ruled on prior to Judge Pettway's appearance on June 25, 2015.<sup>25</sup>

143. Paragraphs 140 through 142 show that, in the 2014 e-filed cases, Judge Pettway had ruled on only 18 of 69 motions prior to her appearance before the Commission on June 25, 2015, despite repeated notices since as early as June 17, 2013 of extraordinary delays in small claims cases.

144. Since her appearance before the Commission, Judge Pettway has issued numerous orders in older cases. Those efforts have again produced a number of inconsistent judgments and judgments rendered more than 14 days after a final judgment has been docketed.

145. In her letter of December 23, 2014, to the Commission, Judge Pettway states she has not had any cases pending more than six months. During her June 25, 2015 appearance, she stated she had filed six-month reports, as required by Canon 3A(5) and would provide the Commission with copies. The Commission has received not copies of reports. The above described records speak for themselves.

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<sup>25</sup> Chart in paragraph 58.

CHARGES

Charge 10

146. By failing to recognize the validity of the issues raised in this complaint or make any real attempt to resolve them, Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. . . .

**Canon 3:** A judge should perform the duties of [her] office . . . diligently.

**Canon 3A(5):** A judge should dispose promptly of the business of the court, being ever mindful of matters taken under submission.

**Canon 3B(1):** A judge should diligently discharge [her] administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

Charge 11

147. By failing to learn and utilize Alabama's electronic court filing, docketing, and case management system to promote the prompt administration of justice,

Judge Pettway violated the following provisions of the Alabama Canons of Judicial Ethics:

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. . . .

**Canon 3:** A judge should perform the duties of [her] office . . . diligently.

**Canon 3A(5):** A judge should dispose promptly of the business of the court, being ever mindful of matters taken under submission.

**Canon 3B(1):** A judge should diligently discharge [her] administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials

COUNT FOUR

BIAS IN FAVOR OF SMALL CLAIMS DEFENDANTS

148. Judge Pettway manifested bias in favor of small claims defendants by allowing defendants to forego payment of judgment via garnishments; allowing defendants to set their monthly payment amounts, resulting in payments extended far longer than if collected via garnishment and far smaller payment amounts than allowed by law or likely

to make the creditor whole; releasing garnishments without compliance with the law; permitting and considering ex parte communications by or on behalf of defendants, as indicated by the fact she released garnishments on her own motion shortly after garnishments were filed; explicitly prohibiting plaintiffs from filing garnishments to execute on final judgments; and quickly rendering consent judgments on only the defendant's answer and offer to pay a certain amount, but delaying many consent judgments based on the joint motions of parties. All of these actions are more particularly described in the preceding paragraphs of this complaint.

149. In her letter of December 23, 2014, to the Commission, Judge Pettway repeatedly acknowledged her bias in favor of defendant-debtors, stating the following:

I believe that if a person is willing to pay their debts, the lender can be patient and get their money.

Most of the people, who come before our court would probably be eligible to file bankruptcy and avoid paying their debts, but they want to pay, what they owe and as a Judge, I believe I am obligated to work with all parties to give them an opportunity to pay their debts.

We allowed Defendants to pay per month so they would not be placed in a financial situation and wreck their financial stability. It was and is

our belief that when Defendants are willing to pay it is only fair to allow them to pay.

I understand that there are collection practices and the more money they collect the more they receive but there are people truly scrapping by and it seems fair to me to allow them to pay a monthly amount.

150. In the statements above, Judge Pettway repeatedly acknowledged she disregards the rights of the creditor and focuses on the debtor, regardless of the law.

151. A judge may violate the law prohibiting bias by allowing her personal beliefs and/or opinions to influence her rulings. Judge Pettway has substituted her personal beliefs for the law by ordering installment payments rather than allowing plaintiffs to execute on judgments, by releasing garnishments, and by ignoring the law and court rules in debt-collection actions, and by delaying rulings favorable to plaintiffs.

#### CHARGE

#### Charge 12

152. By engaging in the actions and making the statements averred in this complaint, summarized in paragraphs 148 through 151, Judge Pettway engaged in a pattern and practice of actions showing bias toward

defendants in small claims court in violation of the following provisions of Alabama Canons of Judicial Ethics

**Canon 1:** A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should [her]self observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

**Canon 2:** A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

**Canon 2A:** A judge . . . should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Canon 3.** A judge should perform the duties of [her] office impartially and diligently.

**Canon 3A(1):** (1) A judge . . . should be unswayed by partisan interests, public clamor, or fear of criticism.

Done this this 1<sup>st</sup> day of October, 2015.

THE ALABAMA JUDICIAL INQUIRY  
COMMISSION



Billy C. Bedsole  
Chairman

BY ORDER OF THE COMMISSION