

NO. _____

IN THE ALABAMA COURT OF CRIMINAL APPEALS

EX PARTE BURTON WHEELER NEWSOME, Petitioner

(In re: State of Alabama

v.

*Burton Wheeler Newsome, Defendant,
Circuit Court of Shelby County
Case Number CC 2015-000121)*

PETITION OF BURTON WHEELER NEWSOME
FOR THE WRIT OF CERTIORARI,
OR IN THE ALTERNATIVE, FOR THE WRIT OF MANDAMUS

TO THE HONORABLE H. L. CONWILL, CIRCUIT JUDGE
AND THE HONORABLE MARY H. HARRIS, CIRCUIT CLERK

(VOLUME 2 of 4)

ATTORNEY FOR PETITIONER
BURTON WHEELER NEWSOME:

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EXHIBITS IN THIS VOLUME

9. Claiborne Seier's "Petition to Set Aside Expungement Pursuant to Ala. Code § 15-27-17 and Joinder in Victim's Motion" stamped "filed" on May 19, 2016.

10. The "Response of Burt W. Newsome to Motion of John Bullock to Use Contents of Expunged File" delivered to Bonita Davidson on June 1, 2016, after the Circuit Clerk refused to accept the document for filing.

Exhibits to the "Response of Burt W. Newsome":

A. Complaint in *Newsome v. John W. Bullock*, CV 2015-900190, Jefferson County, filed January 14, 2015.....23

B. Motion to Dismiss of Claiborne Seier in *Newsome v. Bullock*, et al, CV 2015-900190, Jefferson County.....39

C. Motion to Dismiss of John Bullock in *Newsome v. Bullock*, et al, CV 2015-900190, Jefferson County.....43

D. Motion to Dismiss of Clark Cooper in *Newsome v. Bullock*, et al, CV 2015-900190, Jefferson County in *State v. Newsome*, CC 2015-000121, Shelby County.....52

E. Newsome's "Petition for Expungement of Records," *State v. Newsome*, CC 2015-000121, Shelby County.....54

F. "Notice of Service of Discovery Documents" in *Newsome v. John Bullock*, CV 2015-900190, Jefferson County, together with Interrogatory Answers and Response to Request for Production filed and served electronically by Newsome on April 21, 2015.....56

G. Order Dismissing John Bullock in *Newsome v. John Bullock*, CV 2015-900190, Jefferson County.....110

H. Order Dismissing Claiborne Seier in *Newsome v. John Bullock*, CV 2015-900190, Jefferson County.....111

I. Plaintiff's Motion to Reconsider Order Dismissing Bullock and Seier in *Newsome v. John Bullock*, CV 2015-900190, Jefferson County.....112

J. "State's Response to Petition for Expungement of Records" in *State v. Newsome*, CC 2015-000121, Shelby County, filed July 10, 2015.120

EXHIBIT 9 TO NEWSOME'S PETITION

Claiborne Seier's "Petition to Set Aside
Expungement Pursuant to Ala. Code § 15-27-
17 and Joinder in Victim's Motion" stamped
"filed" on May 19, 2016.

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA)	
)	
Plaintiffs,)	
)	
v.)	
)	
BURTON WHEELER NEWSOME)	
)	
Defendant.)	

RECEIVED AND FILED
 MARY H HARRIS
 MAY 19 2016
 CIRCUIT & DISTRICT
 COURT CLERK
 SHELBY COUNTY, ALABAMA

CASE NO. CC 2015-000121

**PETITION TO SET ASIDE EXPUNGEMENT PURSUANT TO
 ALA. CODE 1975 § 15-27-17 AND JOINDER IN VICTIM'S MOTION**

COMES NOW Claiborne Porter Seier, Esq., one of the Defendants in a currently pending civil action brought by Defendant Burt Newsome related to the above-captioned criminal case and, pursuant to the provisions of Ala. Code 1975 § 15-27-17, hereby files the instant Petition to Set Aside an expungement that the undersigned was erroneously granted by a previous judge of this Court based on false pretenses presented by Defendant Newsome. To the extent necessary, Attorney Seier further joins in Victim John Bullock's pending motion to allow the use of records related to Newsome's conviction in the pending civil action. As grounds therefore, Attorney Seier would show the Court the following.

1. On or about December 19, 2012, Defendant Burt Newsome illegally produced and brandished a weapon while threatening Victim John Bullock in a parking

lot shared between Newsome's law office, a dentist (with whom Mr. Bullock had an appointment), and other businesses. Newsome was subsequently arrested and charged with the crime of menacing.

2. On or about November 12, 2013, Defendant Burt Newsome pled guilty to and entered into a deferred prosecution agreement with the Shelby County District Attorney with respect to the menacing charge.

3. In conjunction with the deferred prosecution agreement, Newsome entered into a "Deferred Prosecution and Release Agreement," which was ultimately approved and adopted by the sentencing judge. A copy of that agreement is attached hereto as Exhibit 1.

4. After learning that his mugshots and other information regarding his arrest were circulated between an attorney with the law firm of Balch & Bingham and a mutual client, on or about January 14, 2015, Newsome then filed a civil lawsuit in the Circuit Court of Jefferson County. See Exhibit 2.

5. In this civil lawsuit, beyond suing Balch for defamation, tortious interference and other claims related to the circulation of the mugshot and other information related to the menacing charge, Newsome additionally named Victim John Bullock and the undersigned's client, Attorney Claiborne Porter Seier, as defendants. The lawsuit generally alleges that Newsome's production of the gun, threatening of Bullock and subsequent arrest and plea were the result of some sort of conspiracy between Balch, Bullock and Seier to "frame" him of the offense charged.

6. To date, Newsome has produced absolutely no evidence of any conspiracy or even a relationship of any kind between Balch, Bullock and Seier – much less one entered into in order to “frame” him of the offense of which he was undoubtedly guilty. He has further completely failed to respond to any written interrogatories or requests for production tendered to him as said responses would undoubtedly reveal the frivolity of his meritless allegations. This is now the subject of a pending motion to compel.

7. Newsome has, however, moved the Jefferson County Circuit Court to strike the use of all “expunged documents” in the civil conspiracy case and has even gone so far as to allege that the use of these documents (specifically including the Deferred Prosecution and Release Agreement) amounts to criminal conduct. See Exhibit 3. He apparently wants to take the position that he can introduce evidence of the arrest and prosecution, while also claiming that the expungement somehow precludes the Defendants from (1) moving to dismiss his case based on the general release contained in the Deferred Prosecution and Release Agreement and/or (2) pointing out that he didn’t actually contest the underlying criminal charges. This is a logical non sequitur and is wholly unsupported in law, but nonetheless bears particularly on the proceedings currently in front of the Court.

8. Newsome additionally filed a Petition for Expungement of his menacing plea in this Court during the pendency of the Jefferson County civil conspiracy action. Attorney Seier was given no notice of this Petition or the hearing held thereon by now-retired Circuit Judge Dan Reeves. Victim John Bullock was apparently given notice, but

the notice was defective in that it was given outside the time during which a legally valid objection could be filed.

9. Alabama's expungement statute states in relevant part:

Section 15-27-3 (Submission of sworn statement and records; service).

(a) A petition filed under this chapter shall include a sworn statement made by the person seeking expungement under the penalty of perjury stating that the person has satisfied the requirements set out in this chapter and whether he or she has previously applied for an expungement in any jurisdiction and whether an expungement has been previously granted.

Section 15-27-12 (Prerequisites to expungement).

No order of expungement shall be granted unless all terms and conditions, including court ordered restitution, are satisfied and paid in full, including interest, to any victim, or the Alabama Crime Victim's Compensation Commission, as well as court costs, fines, or statutory fees ordered by the sentencing court to have been paid, absent a finding of indigency by the court.

Section 15-27-17 (Filing under false pretenses).

Upon determination by the court that a petition for expungement was filed under false pretenses and was granted, the order of expungement shall be reversed and the criminal history record shall be restored to reflect the original charges.

9. In the present case, Newsome submitted information to this Court in conjunction with his Petition for Expungement alleging that all terms and conditions of his underlying agreement and sentence had been completed. In fact, however, Newsome was (and remains) in direct violation of the Deferred Prosecution and Release Agreement through his prosecution of a civil action against – among others – the victim of the offense.

10. These false pretenses demand that the expungement order be set aside and the criminal conviction reinstated. They further call into question the continuing validity of the deferred prosecution agreement itself, and at least potentially merit returning the case to the active criminal docket for either trial or plea.

11. Beyond the arguments raised herein, Attorney Seier further joins in the arguments of Victim John Bullock and all pleadings filed by him in these proceedings. Copies of the briefs filed by Attorney Seier in the Jefferson County civil conspiracy action on this topic are attached hereto for the Court's review as Exhibits 4 and 5. Attorney Seier submits (and has submitted in the Jefferson County proceedings) that Newsome has waived any protections afforded to him with respect to his now-expunged records by placing his arrest and plea at issue in the pending civil action. Additionally and/or alternatively, Attorney Seier submits (and has submitted in the Jefferson County proceedings) that any Court of competent jurisdiction has independent authority to allow the use of any expungement records pursuant to the relevant statutory provisions of Alabama's Expungement Statute.

WHEREFORE, THE PREMISES CONSIDERED, Attorney Seier moves the Court to resolve the issues presently before it by dissolving the previously-granted expungement pursuant to its authority under Ala. Code 1975 § 15-27-17 due to Newsome's original filing under false pretenses. Additionally and/or alternatively, Attorney Seier joins in the motion of Victim John Bullock and requests an Order affirmatively allowing the future, further dissemination of records related the Newsome's criminal conviction as may be necessary or appropriate related to the pending civil action.

Respectfully submitted this the 18th day of May 2016,

/s/ Robert M. Ronnlund

Robert M. Ronnlund (RON006)

ASB-5137-E63R

Attorney for Defendant Claiborne P. Seier

OF COUNSEL:

SCOTT, SULLIVAN, STREETMAN & FOX, P.C.

P.O. Box 380548

Birmingham, Alabama 35238

205-967-9675; FAX: 205-967-7563

ronnlund@sssandf.com

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of May 2016, served a copy of the foregoing on counsel for all parties by electronic mail or by placing same in the United States Mail, properly addressed and first-class postage prepaid, to:

William R. Justice

ELLIS, HEAD, OWENS & JUSTICE

P.O. Box 587

Columbiana, AL 35051

State of Alabama

A. Gregg Lowery

Assistant District Attorney

P.O. Box 706

Columbiana, AL 35051

James E. Hill, Jr.

Attorney for John W. Bullock

Hill, Weisskopf & Hill, P.C.

P.O. Box 310

Moody, AL 35004

/s/ Robert M. Ronnlund

OF COUNSEL



IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

DI JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

STATE OF ALABAMA V. Burton Wheeler Newsome CASE NO. DI 2013-1434

This matter comes before the Court by the specific AGREEMENT of the parties. The Defendant is present, is represented by counsel and has NOT knowingly and voluntarily waived the right to the same. After due consideration and pursuant to said agreement, all of the following as specifically noted below is hereby ORDERED, ADJUDGED and DECREED.

- This matter is Dismissed with _____ prejudice.
- This matter is Contined until 4/01/14 9:00 then to be Dismissed with prejudice, provided that the defendant have no further incidents/arrests
- This matter is placed on the Administrative Docket until _____, then to be Dismissed with _____ prejudice, provided that _____
- DEFENDANT MUST APPEAR IN COURT ON THE ABOVE DATE.

COURT COSTS ARE TAXED AS FOLLOWS:

\$ _____ in further Recoupment to the Fair Trial Tax Fund
 \$ 368.00 in Court Costs including \$102.00 Bail Bond Fee
 \$ 20.00 as Jail Housing Costs and all jail Medical Expenses
 \$ 25.00 to the Crime Victims' Compensation Fund
 \$ _____ to the Forensic Science Trust Fund (Act No. 93-733 does _____ apply)
 \$ _____ in Restitution to _____
 \$ _____ as Worthless Check Cost (IWC # _____)

\$ 413.00 TOTAL to be deducted from Cash Bond

PAYMENT MAY BE MADE BY CERTIFIED CHECK, MONEY ORDER, OR IF IN PERSON BY CASH TO COURT CLERK, P.O. BOX 1810, COLUMBIANA, AL. 35051. THE ABOVE CASE NUMBER SHOULD APPEAR ON ALL PAYMENTS NOTE: IF THE DEFENDANT FAILS TO MAKE SUCH PAYMENTS AND FAILS TO APPEAR IN COURT ON THE ABOVE DATES SHOWN, THIS MATTER WILL NOT BE DISMISSED AND AN ARREST WARRANT AND BOND FORFEITURE CAN BE ISSUED FOR THE DEFENDANT.

The Defendant does hereby grant a full, complete and absolute Release of all civil and criminal claims stemming directly or indirectly from this case to the State of Alabama, its agents and employees, including, but not limited to the District Attorney for Shelby County, Alabama, his agents and employees; to Shelby County, Alabama, its agents and employees, including, but not limited to the Sheriff of said County, his agents and employees, to any other law enforcement or investigative agencies, public or private, their agents and employees; to any other complainants, witnesses, associations, corporations, groups, organizations or persons in any way related to this matter, to also include the Office of the Public Defender of Shelby County, Alabama, its agents and employees, from any and all actions arising from the instigation, investigation, prosecution, defense, or any other aspect of this matter. The Defendant freely makes this release knowingly and voluntarily. In exchange for this release, this case will be either dismissed immediately, or pursuant to conditions noted above

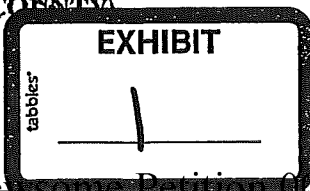
ANY FEES OR COSTS NOT SPECIFICALLY TAXED ABOVE ARE HEREBY REMITTED.

The foregoing duly reflects the Agreement of the parties as entered above and as attested by their signatures below

John Bellamy Complaining Witness Vanda Felt District Attorney [Signature] Defendant [Signature] Defendant's Attorney

Done and ordered: 11-12-13

[Signature]
DISTRICT JUDGE (SHELBY COUNTY)





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CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W. NEWSOME; and)
NEWSOME LAW, LLC,)
Plaintiffs,)
v.)
CLARK ANDREW COOPER;)
BALCH & BINGHAM, LLP;)
JOHN W. BULLOCK, JR.;)
CLAIBORNE PORTER SEIER;)
Fictitious Defendants 1-4 being the true)
and correct names of the named Defendants;)
Fictitious Defendants 5-15 being those)
individuals and/or entities who conspired)
with any of the named Defendants in the)
commission of the wrongs alleged herein)
and whose true and correct identities are)
currently unknown but will be substituted)
upon discovery; Fictitious Defendants)
16-26 being those individuals and/or)
entities who participated in or otherwise)
committed any of the wrongs alleged)
herein and whose true and correct)
identities are currently unknown but will)
be substituted upon discovery;)
Defendants.)

CASE NO.: CV-2014-_____

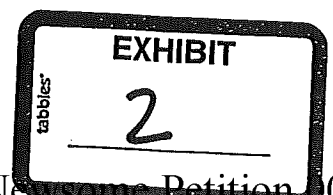
COMPLAINT

The Plaintiff's, Burt W. Newsome and Newsome Law, LLC, as their complaint allege as follows:

PARTIES

1. The Plaintiff, Burt W. Newsome, (hereinafter "Newsome"), is an Alabama citizen, resident of Shelby County, Alabama, over the age of 19 years, and is engaged in the private practice of law in the State of Alabama.

2. The Plaintiff, Newsome Law, LLC, (hereinafter "Newsome Law"), is an Alabama limited liability company with its principal place of business in Shelby County, Alabama.



3. The Defendant, Clark Andrew Cooper, (hereinafter “Clark Cooper”) upon information and belief, is an Alabama citizen, a resident of Jefferson County, Alabama, over the age of nineteen years, and engaged in the private practice of law as a partner in Balch & Bingham, LLP.

4. The Defendant, Balch & Bingham, LLC, (hereinafter “Balch”) is an Alabama Registered Limited Liability Partnership, with its principal place of business in Jefferson County, Alabama.

5. The Defendant, John W. Bullock, Jr., (hereinafter “Bullock”), upon information and belief, is an Alabama citizen, a resident of St. Clair County, Alabama, and over the age of nineteen years.

6. The Defendant, Claiborne Porter Seier, (hereinafter “Claiborne Seier”), upon information and belief, is an Alabama citizen, a resident of Jefferson County, Alabama, and over the age of nineteen years.

7. Fictitious Defendants 1-4 are the true and correct names of the above-named Defendants and whose true and correct names are otherwise unknown and will be substituted upon discovery.

8. Fictitious Defendants 5-15 are those individuals and/or entities who conspired with any of the named Defendants in the commission of the wrongs alleged herein and whose true and correct identities are currently unknown but will be substituted upon discovery.

9. Fictitious Defendants 16-26 are those individuals and/or entities who participated in or otherwise committed any of the wrongs alleged herein and whose true and correct identities are currently unknown but will be substituted upon discovery.

FACTS

10. Beginning on or about June 9, 2010, in Aliant Bank v. Sharyn K. Lawson, 01-CV-2010-902033, Circuit Court of Jefferson County, Newsome represented Aliant Bank against Sharyn K. Lawson for breach of contract involving a note evidencing indebtedness to Aliant Bank.

11. On or about October 5, 2010, Newsome obtained a judgment in favor of Aliant Bank against Sharyn K. Lawson in the amount of \$189,930.08 more or less.

12. In and around December 2011 and January 2012, Newsome was attempting to depose Sharyn K. Lawson in an effort to discover post-judgment assets.

13. Upon information and belief, Sharyn K. Lawson was the wife of Alfred Wallace Seier (hereinafter "Alfred Seier").

14. On or about January 30, 2012, Alfred Seier went to the offices of Newsome Law in Shelby County, Alabama.

15. Alfred Seier waited in his vehicle outside the offices of Newsome Law for Newsome to exit the building.

16. When Newsome exited the building and approached his vehicle, Alfred Seier, whose vehicle was parked adjacent to Newsome's vehicle, exited his vehicle, walked towards Newsome, blocking Newsome from his vehicle, pointed a gun at Newsome and told him he would never "fuck" with his wife again.

17. Newsome was unarmed.

18. Newsome was in fear for his life and ran away to the back of the building.

19. Newsome entered the offices of Newsome Law through the back door, called law enforcement and stayed until they arrived.

20. On or about February 2, 2012, Newsome filed a criminal complaint against Alfred Seier for the offense of menacing, a violation of Ala. Code §13A-6-23 (1975, as amended).

21. Upon information and belief, Claiborne Seier was the brother of Alfred Seier.

22. Upon information and belief, Claiborne Seier is a lawyer engaged in the private practice of law in Jefferson County, Alabama.

23. After Alfred Seier was arrested on the criminal charges filed by Newsome, Claiborne Seier contacted Newsome and requested Newsome to drop the criminal charges.

24. During at least one conversation with Claiborne Seier, Newsome told Claiborne Seier that he [Newsome] carried a handgun, but was not carrying his handgun that day or Alfred Seier could have been shot.

25. Claiborne Seier told Newsome that Alfred Seier had a terminal illness and was not expected to live in an attempt to convince Newsome to drop the criminal charges.

26. Claiborne Seier called Newsome on at least two more occasions trying to pressure Newsome into dropping the charges.

27. Newsome refused to drop the criminal charges against Alfred Seier.

28. On or about May 8, 2012, in State of Alabama v. Alfred Wallace Seier, 58-DC-2012-000431, in the District Court of Shelby County, Alabama, Alfred Seier was convicted of menacing, a violation of Ala. Code §13A-6-23 (1975, as amended).

29. Alfred Seier was sentenced to a 30-day suspended sentence, placed on two years' probation, ordered to stay away from Newsome, Newsome's residence, and Newsome's place of business, and ordered to pay a fine of \$50.00, plus court costs and other court ordered monies.

30. Upon information and belief, on or about November 18, 2012, Alfred Seier passed away.

31. On or about December 19, 2012, Newsome was scheduled to appear in court for on a personal legal matter for a client.

32. Upon information and belief, Clark Cooper was aware of Newsome's scheduled court appearance on December 19, 2012.

33. Upon information and belief, Clark Cooper had discussed the personal legal matter and scheduled court appearance with Newsome's client.

34. On December 19, 2012, prior to Newsome's scheduled court appearance, Bullock parked outside the offices of Newsome Law in Shelby County, Alabama.

35. Upon information and belief, Bullock waited in his vehicle outside the offices of Newsome Law for Newsome to exit the building.

36. When Newsome exited the building and approached his vehicle, Bullock, whose vehicle was parked adjacent to Newsome's vehicle, exited his vehicle, blocking Newsome from his vehicle.

37. Bullock's conduct was substantially identical to the conduct of Alfred Seier during the incident that occurred on January 30, 2012.

38. Because of the previous incident involving Alfred Seier, Newsome was armed with his handgun.

39. Because of the substantial similarities with the Alfred Seier incident, Newsome produced his handgun and directed Bullock to move out of his way and to get back in his vehicle.

40. Bullock complied.

41. Newsome got into his vehicle without further incident and left for court.

42. Upon information and belief this incident was staged and contrived to set-up Newsome for possible criminal charges under circumstances substantially similar to those that resulted in Newsome's criminal charges against Alfred Seier.

43. On or about January 14, 2013, almost a month after the incident, Bullock filed a criminal complaint against Newsome for the offense of menacing, a violation of Ala. Code §13A-6-23 (1975, as amended).

44. On or about May 2, 2013, Newsome was stopped for a minor traffic violation.

45. During the stop, Newsome was arrested on the menacing warrant resulting from Bullock's criminal complaint.

46. During the foregoing events and particularly at the time of his arrest, Newsome had a lawyer-client relationship, professional business relationship, and a contractual relationship with Iberiabank Corp.

47. During the foregoing events and particularly at the time of his arrest, Newsome had a lawyer-client relationship, professional business relationship, and a contractual relationship with Renasant Bank.

48. During the foregoing events and particularly at the time of his arrest, Newsome had a lawyer-client relationship, professional business relationship, and a contractual relationship with Bryant Bank.

49. Upon information and belief, Clark Cooper was aware of Newsome's ongoing lawyer-client relationship, professional business relationship, representation of and contractual relationship with Iberiabank Corp, Renasant Bank, and Bryant Bank.

50. Upon information and belief, shortly after Newsome's arrest, Clark Cooper sent emails and/or other communications to officers and bank officials with Iberiabank Corp,

Renasant Bank, and Bryant Bank containing a copy of Newsome's mug shot, asking if they had seen Newsome's mug shot, and questioning the effect of Newsome's arrest on his license to practice law and intentionally casting Newsome and Newsome Law in a bad light.

51. Newsome was not convicted on the criminal charges, which were dismissed with prejudice on or about April 1, 2014.

52. Upon information and belief, shortly after Newsome's arrest, Clark Cooper improperly sent other emails and/or communications to officers and bank officials referencing specific cases in which Newsome was appearing as counsel for the bank and requesting work from Newsome's client knowing that the client was represented by Newsome in the matter.

COUNT I

MALICIOUS PROSECUTION

53. Plaintiffs re-allege the material allegations of paragraphs 1–52 as if fully set forth herein.

54. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26, set-up and entrapped Plaintiff, Newsome, into engaging in the conduct occurring on or about December 19, 2012.

55. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 instituted a prior judicial proceeding without probable cause and with malice, said judicial proceeding ended in favor of Plaintiff, Newsome, and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT II
ABUSE OF PROCESS

56. Plaintiffs re-allege the material allegations of paragraphs 1-55 as if fully set forth herein.

57. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 wrongfully used the judicial process and in so doing acted with malice and were motivated by an ulterior improper purpose or proper purpose accomplished through improper and/or wrongful conduct, and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT III
FALSE IMPRISONMENT

58. Plaintiffs re-allege the material allegations of paragraphs 1-57 as if fully set forth herein.

59. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 acted in bad faith without probable cause to believe Plaintiff, Newsome, had engaged in any criminal conduct, which resulted in Plaintiff Newsome’s unlawful detention wherein Plaintiff Newsome was wrongfully and unlawfully deprived of his personal liberty, and as a proximate consequence of the Defendants’ conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT IV
OUTRAGE/INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS

60. Plaintiffs re-allege the material allegations of paragraphs 1-59 as if fully set forth herein.

61. By doing the foregoing, Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 intentionally engaged in conduct that was so outrageous, so extreme in degree as to go beyond all possible bounds of decency, as to be regarded as atrocious and utterly intolerable in a civilized society, and as a proximate consequence of the Defendants’ conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT V
CONSPIRACY

62. Plaintiffs re-allege the material allegations of paragraphs 1-61 as if fully set forth herein.

63. Fictitious Defendants 5-15 conspired with each other and/or with Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 to achieve an unlawful purpose or a lawful purpose by unlawful means to engage in malicious prosecution and/or abuse or process and/or false imprisonment and/or outrage and/or intentional infliction of emotional distress, and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT VI
INTENTIONAL INTERFERENCE WITH A BUSINESS OR CONTRACTUAL
RELATIONSHIP

64. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

65. Plaintiffs had a valid and existing business and contractual relationship with Iberiabank Corp.

66. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 knew of the Plaintiffs' valid and existing business and contractual relationship with Iberiabank Corp.

67. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 were strangers to the business and contractual relationship between the Plaintiffs and Iberiabank Corp.

68. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or severally and/or collectively, intentionally and wrongfully interfered with the said business and contractual relations.

69. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT VII
INTENTIONAL INTERFERENCE WITH A BUSINESS OR CONTRACTUAL
RELATIONSHIP

70. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

71. Plaintiffs had a valid and existing business and contractual relationship with Renasant Bank.

72. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 knew of the Plaintiffs' valid and existing business and contractual relationship with Renasant Bank.

73. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 were strangers to the business and contractual relationship between the Plaintiffs and Renasant Bank.

74. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or collectively intentionally and wrongfully interfered with the said business and contractual relations.

75. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT VIII
INTENTIONAL INTERFERENCE WITH A BUSINESS OR CONTRACTUAL
RELATIONSHIP

76. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

77. Plaintiffs had a valid and existing business and contractual relationship with Bryant Bank.

78. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 knew of the Plaintiffs' valid and existing business and contractual relationship with Bryant Bank.

79. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 were strangers to the business and contractual relationship between the Plaintiffs and Bryant Bank.

80. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or collectively intentionally and wrongfully interfered with the said business and contractual relations.

81. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT IX
DEFAMATION

82. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

83. By engaging in the above conduct, Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately or severally made a false and defamatory statement concerning the Plaintiff.

84. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or severally made an unprivileged communication of that false and defamatory statement to a third party.

85. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or severally made the false and defamatory statements knowing they were false and defamatory at the time they were made or made them negligently without regard to their truth or falsity in an improper attempt to cast the Plaintiff in a bad light.

86. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT X
CONSPIRACY

87. Plaintiffs re-allege the material allegations of paragraphs 1-52, 65-69, 71-75, 77-81, and 83-86 as if fully set forth herein.

88. Fictitious Defendants 5-15 conspired with each other and/or with Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 to intentionally

interfere with a business or contractual relation and/or engage in defamation and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1-4 and/or Fictitious Defendants 5-15 and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT XI
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR

89. Plaintiffs re-allege the material allegations of paragraphs 1-52, 65-69, 71-75, 77-81, and 83-86 as if fully set forth herein.

90. While engaging in the above conduct, Defendant Clark Cooper and/or Fictitious Defendants 1-4 and/or Fictitious Defendants 5-15 and/or Fictitious Defendants 16-26 separately or severally were acting in the line, course and scope of their authority and capacity as a partner and/or employee and/or agent of Defendant Balch and/or Fictitious Defendants 1-4 and, therefore, Defendant Balch and/or Fictitious Defendants 1-4 are vicariously liable for the acts committed and complained of herein.

91. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Balch and/or Fictitious Defendants 1-4 and/or Fictitious Defendants 5-15 and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

/s/Robert E. Lusk, Jr
ROBERT E. LUSK, JR. (LUS005)
Attorney for the Plaintiffs BURT W. NEWSOME
and NEWSOME LAW, LLC.

LUSK LAW FIRM, LLC
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Fairhope, AL 36533
251-471-8017
251-478-9601 Fax
rlusk@lusklawfirmllc.com

PLAINTIFFS DEMAND A JURY ON ALL ISSUES SO TRIABLE.

To Clerk of the Court:

Plaintiffs request service of the Summons and Complaint upon each Defendant by United States certified mail, restricted delivery, return receipt requested, pursuant to A.R.Civ.P., Rule 4.1(c).

/s/Robert E. Lusk, Jr
ROBERT E. LUSK, JR. (LUS005)
Attorney for the Plaintiffs BURT W. NEWSOME
and NEWSOME LAW, LLC.

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10/22/2015 4:56 PM
01-CV-2015-900190.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W. NEWSOME;
NEWSOME LAW, LLC,

Plaintiffs

v.

CLARK ANDREW COOPER;
ET AL

Defendants

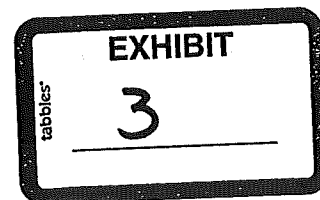
Case No.: CV 2015- 900190.00

PLAINTIFFS' MOTION TO STRIKE EXPUNGED DOCUMENTS

Come now the plaintiffs and move the court to strike and not considered the "Release Agreement" dated November 12, 2013, which was filed by the defendant Bullock with his Motions to Dismiss on February 24, 2015, and March 20, 2015, and which was also filed by the Balch defendants with their Motion for Summary Judgment on August 12, 2012. As grounds for this motion the plaintiffs show the court the following:

1. Section 15-27-6(a) of the Alabama Code provides, "[U]pon the granting of a petition pursuant to this chapter, the court, pursuant to Section 15-27-9, shall order the expungement of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records . . ."

2. On September 10, 2105, the Circuit Court of Shelby County entered an order expunging "[a]ll records concerning the charge, arrest, and incarceration of Burton Wheeler Newsome, on the misdemeanor of menacing . . ." The records "expunged" included all "data, whether in documentary or electronic form relating to the arrest or charge." The order of expungement appears of record as document 265 and was filed with the plaintiffs' Motion to Alter, Amend, or Vacate on September 28, 2015.



3. The "Release Agreement" was and is part of the file on the misdemeanor prosecution of the plaintiff for menacing.

4. Section 15-27-16(a) further provides, "[A]n individual who knows an expungement order was granted pursuant to this chapter and who intentionally and maliciously divulges, makes known, reveals, gives access to, makes public, uses, or otherwise discloses the contents of an expunged file without a court order, or pursuant to a provision of this chapter, shall be guilty of a Class B misdemeanor."

5. The expunged "Release Agreement" is not lawful evidence.

WHEREFORE, the plaintiffs move the court to strike and not consider the above mentioned "Release Agreement."

Respectfully submitted this the 22d day of October 2015.

/s/ Robert E. Lusk, Jr.
ROBERT E. LUSK, JR. (LUS005)
Attorney For Plaintiffs BURT W. NEWSOME
AND NEWSOME LAW, LLC

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CERTIFICATE OF SERVICE

I hereby certify that I have filed electronically and served a copy of the foregoing upon the below listed parties to this action by placing a copy of same in the United States Mail, postage prepaid and properly addressed, this the 22d day of October 2015.

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Robert Romlund
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/s/ Robert E. Lusk, Jr.
ROBERT E. LUSK, JR. (LUS005)
Attorney For Plaintiffs

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01-CV-2015-900190.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA,
BIRMINGHAM DIVISION

BURT W. NEWSOME; and
NEWSOME LAW, LLC,

Plaintiffs,

v.

CV-2015-900190.00

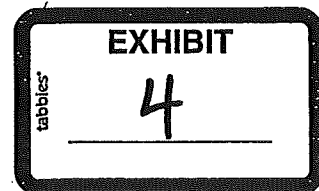
CLARK ANDREW COOPER;
BALCH & BINGHAM, LLP;
JOHN W. BULLOCK, JR.;
CLAIBORNE PORTER SEIER,

Defendants.

**DEFENDANT CLAIBORNE P. SEIER, ESQ.'S
OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE EXPUNGED
DOCUMENTS OR, IN THE ALTERNATIVE, MOTION TO
ALLOW USE OF PLAINTIFF'S EXPUNGED FILE**

COMES NOW one of the Defendants, Claiborne P. Seier, Esq., and hereby files the following Opposition to Plaintiff's Motion to Strike Expunged Documents. Additionally and/or alternatively, Attorney Seier moves the Court to affirmatively enter an Order allowing the use of Plaintiff's expunged documents in the present litigation. As grounds therefore, Attorney Seier would show the Court the following:

1. This case originated when Burt Newsome, without legal provocation or justification, produced and brandished a firearm at John Bullock in a public parking lot shared by Bullock's dentist and Newsome's law practice.
2. Newsome was charged with the crime of menacing as a result of that illegal



conduct, in response to which he voluntarily entered into a deferred prosecution agreement with the Shelby County District Attorney. He did not plead "not guilty," and he never requested a trial of any kind for this conduct and related charge. His deferred prosecution agreement was approved by a Shelby County District Judge.

3. In fact, at no point since entering into this deferred prosecution agreement has Newsome ever sought to recant his plea or face trial for the underlying offense.

4. Instead, after Newsome learned that his conduct had become known and discussed amongst colleagues and clients, he then later brought the instant action alleging that he was somehow "set-up" for this crime.

5. Newsome further filed a Petition for Expungement, requesting that a different Shelby County judge expunge the records related to his criminal conduct following his completion of the terms of the aforementioned deferred prosecution agreement. This Petition was filed with absolutely no notice to this Defendant, and the Petition granted by a judge with absolutely no connection to the underlying case without this Defendant having any opportunity to appear and be heard related to Plaintiff's Petition.

6. Newsome now asks this Court strike any reference to his underlying criminal offense and the deferred prosecution agreement that he entered into with respect therewith on the basis of the aforementioned expungement.

7. Said request confuses and conflates the terms "expungement" and "innocence," and is nothing more than a further manifestation of Newsome's apparent inability to accept responsibility for the underlying criminal conduct which, again, he has never requested be

tried by a judge or jury of his peers in any forum where he could face personal repercussions for those actions. More salient to the issue before the Court, however, this position is also legally wrong.

8. With the recent enactment of Alabama's expungement statute, Alabama appellate courts have yet to address the precise legal issue presented by Plaintiff in his present Motion to Strike, however, (unsurprisingly) other courts nationally have. These courts have unanimously denied plaintiffs the relief sought by Newsome in the instant case.

9. In *Batterton v. Thurman*, 105 Ill.App.3d 798, 801 (Ill. App. Ct. 1982), for example, the appellate court found that an admission made a defendant in his expunged criminal case was properly admitted in a later civil trailt seeking damages for assault and battery arising out of the same transaction or occurrence despite the party's plea that the expungement of those criminal proceedings barred the introduction of that admission into evidence.

10. In fact, courts have found that a person can, in effect, "unexpunge" his records by putting those records at issue in another proceeding. *See, e.g., In re State Bar of Texas*, 440 S.W.3d 621, 625 (Tex. 2014) (the appellate court finding that a trial court's denial of a party's request to use expunged criminal records in related administrative disciplinary action arising out of the same occurrence was an abuse of discretion). *See also W.V. v. State*, , 669 S.W.2d 376, 379 (Tex. App.-Dallas 1984) ("If the petitioner should file a civil action arising out of his arrest, he necessarily by his own allegations makes the materials contained in the expunged records, as well as the contents of the expunction file, a

matter of public record subject to discovery proceedings.”); *Ulinsky v. Avignone*, 148 N.J.Super. 250, 372 A.2d 620 (1977) (“The remedy of expungment was never intended as a device by which a plaintiff in a malicious prosecution suit could control the availability of evidence relative thereto.” The court held that a refusal to consent to disclosure of the record required dismissal of the civil action).

7. This is a common-sense result, as there is simply no logical basis upon which a party should be allowed to affirmatively thrust a matter into Court, only to then claim that his prior admissions and/or conduct with respect to the same transaction in related criminal proceedings should be barred from introduction.

8. Additionally and/or alternatively, Attorney Seier would request this Court to enter an order pursuant to Ala. Code 1975 § 15-27-16, permitting him to utilize the contents of Plaintiff’s expunged file, so that Defendant can properly defend himself in the foregoing civil action. Section 15-27-16(a) specifically contemplates the entry of such an Order, and there can be no more justified application of this provision than the instant case.

Respectfully submitted this the 11th day of March 2016,

/s/ Robert M. Ronnlund

Robert M. Ronnlund (RON006)

ASB-5137-E63R

Attorney for Defendant Claiborne P. Seier, Esq.

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have this the 11th day of March 2016, served a copy of the foregoing upon counsel for all parties via the Electronic Filing System and by placing same in the United States Mail, properly addressed and first-class postage prepaid to the following non-E-File participants:

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Katie Clements

BALCH & BINGHAM LLP

1901 Sixth Avenue North, Suite 1500

Birmingham, AL 35203-4642

Judge James E. Hill, Jr.

Joel Watson

HILL, WEISSKOPF & HILL, P.C.

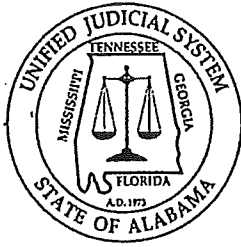
Moody Professional Building

2603 Moody Parkway, Suite 200

Moody, Alabama 35004

/s/ Robert M. Ronnlund

OF COUNSEL



AlaFile E-Notice

01-CV-2015-900190.00

Judge: CAROLE C. SMITHERMAN

To: ROBERT MOORE RONNLUND
ronnlund@sssandf.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W NEWSOME ET AL V. CLARK ANDREW COOPER ET AL
01-CV-2015-900190.00

The following matter was FILED on 3/11/2016 2:50:25 PM

D003 SEIER CLAIBORNE P
RESPONSE TO MOTION TO STRIKE
[Filer: RONNLUND ROBERT MOORE]

Notice Date: 3/11/2016 2:50:25 PM

ANNE-MARIE ADAMS
CIRCUIT COURT CLERK
JEFFERSON COUNTY, ALABAMA
JEFFERSON COUNTY, ALABAMA
716 N. RICHARD ARRINGTON BLVD.
BIRMINGHAM, AL 35203

205-325-5355
anne-marie.adams@alacourt.gov

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01-CV-2015-900190.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA,
BIRMINGHAM DIVISION

BURT W. NEWSOME; and)
NEWSOME LAW, LLC,)

Plaintiffs,)

v.)

CV-2015-900190.00

CLARK ANDREW COOPER;)

BALCH & BINGHAM, LLP;)

JOHN W. BULLOCK, JR.;)

CLAIBORNE PORTER SEIER,)

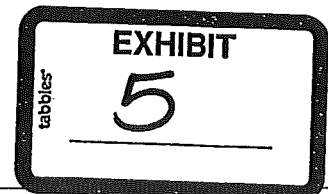
Defendants.)

DEFENDANT CLAIBORNE P. SEIER, ESQ.'S
SUPPLEMENTAL REPLY TO PLAINTIFF'S MOTION TO STRIKE
EXPUNGED RECORDS

COMES NOW one of the Defendants, Claiborne P. Seier, Esq., and hereby files the following supplement in response and opposition to Plaintiff's Motion to Strike Expunged Documents, which Plaintiff revised and refiled after the filing of Attorney Seier's principal opposition brief.

1. Plaintiff provides the Court with a citation to a Virginia appellate court's decision in *Ein v. Com.*, 246 Va. 396 (1993). With respect to *Ein*, Plaintiff represents that "the court rejected an argument that the complaining party in an expunged, criminal case should be allowed to use the expunged file to defend a civil suit by the former defendant." See Doc. 489, Plaintiff's Motion to Strike, at ¶ 11.

2. In actuality, the very first sentence of the court's opinion in *Ein* states that



“[t]he sole issue in this appeal is whether the trial court had jurisdiction to declare void and vacate its previous order that expunged certain police and court records.” 246 Va. at 397.

3. *Ein* made no judgment about the use of records that were disclosed prior to an expungement being granted, or about a third-party’s ability to use such records in defense of proceedings brought by someone who obtained an expungement.

4. *Ein* instead concerned the ability of a party to collaterally attack an expungement in a separate legal proceeding for various reasons after it had been granted. No such collateral attack has been asserted or is pending in the instant case.

5. Of further relevance, the Virginia statute at issue in *Ein* was apparently substantially stricter than the Alabama statute at issue in this case, with the Virginia statute allowing for disclosure of records only when “needed for a pending criminal investigation in which life or property will be jeopardized without immediate access to the records” *Id.* at 398-99. In contrast, Alabama’s statute appears to allow any Court to enter an Order allowing the unlimited use of expunged records in its discretion. *See* Ala. Code 1975 § 15-27-16.

6. Finally, as set forth in Attorney Seier’s previously-filed pleading on this issue, Courts that have addressed the actual issue here – that being a plaintiff’s ability to offensively use an expungement to strike or preclude the introduction of materials already either in evidence or in the possession of other parties in a civil case that said plaintiff brought over the same transaction or occurrence – have soundly rejected Plaintiff’s position. *See, e.g., W.V. v. State*, 669 S.W.2d 376, 379 (Tex. App.-Dallas 1984) (“If the petitioner should file

a civil action arising out of his arrest, he necessarily by his own allegations makes the materials contained in the expunged records, as well as the contents of the expunction file, a matter of public record subject to discovery proceedings.”); *Ulinsky v. Avignone*, 148 N.J.Super. 250, 372 A.2d 620 (1977) (“The remedy of expungement was never intended as a device by which a plaintiff in a malicious prosecution suit could control the availability of evidence relative thereto.”).

7. In fact, one appellate court has even gone so far as to dismiss a plaintiff’s claim for failing to sign whatever documents were necessary to allow for the other parties in his subsequently-filed civil suit to gain access to his expunged record. *See Ulinsky, supra*.

8. Thus, as set forth in Attorney Seier’s previous brief, the Court should deny Plaintiff’s Motion to Strike. Additionally and/or alternatively the Court should affirmatively find that the records are subject to introduction pursuant to Ala. Code 1975 § 15-27-16.

Respectfully submitted this the 11th day of March 2016,

/s/ Robert M. Ronnlund

Robert M. Ronnlund (RON006)

ASB-5137-E63R

Attorney for Defendant Claiborne P. Seier

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CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of March 2016, served a copy of the foregoing on counsel for all parties by electronic mail or by placing same in the United States Mail, properly addressed and first-class postage prepaid, to:

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Judge James E. Hill, Jr.
Joel Watson
HILL, WEISSKOPF & HILL, P.C.
Moody Professional Building
2603 Moody Parkway, Suite 200
Moody, Alabama 35004

/s/ Robert M. Ronnlund
OF COUNSEL

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01-CV-2015-900190-00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

246 Va. 396
Supreme Court of Virginia.

Robert J. EIN

v.

COMMONWEALTH of Virginia.

Record No. 930094.

Nov. 5, 1993.

Following expungement of police and court records pertaining to criminal charge, defendants in related civil action brought by former criminal defendant filed motions for disclosure of expunged records. The Circuit Court, Arlington County, Benjamin N.A. Kendrick, J., vacated expungement order. Former criminal defendant appealed. The Supreme Court, Stephenson, J., held that the Circuit Court lacked jurisdiction to vacate expungement order.

Reversed.

West Headnotes (4)

[1] Criminal Law

⇒ Expungement or Correction; Effect of Acquittal or Dismissal

Criminal defendant who had been acquitted of charges of aggravated sexual battery of his daughter and who then sued his accusers was not required to notify defendants in his civil action of his request for expungement of police and court records pertaining to the charge; while any party aggrieved by the order could appeal, only Commonwealth was entitled to notice of the expungement proceeding. Sup.Ct.Rules, Rule 1:1; Code 1950, § 19.2-392.2, subds. D, F.

1 Cases that cite this headnote

[2] Criminal Law

⇒ Expungement or Correction; Effect of Acquittal or Dismissal

Criminal defendant who had been acquitted of charges of aggravated sexual battery of his daughter did not commit fraud on the

court by failing for expungement of police and court records pertaining to the charge, that his accusers were defendants in his civil action, then pending. Sup.Ct.Rules, Rule 1:1; Code 1950, § 19.2-392.2, subds. D, F.

Cases that cite this headnote

[3] Fraud

⇒ Presumptions and burden of proof

Law does not presume fraud; to the contrary, presumption is always in favor of innocent conduct.

Cases that cite this headnote

[4] Fraud

⇒ Weight and Sufficiency

Burden is on party alleging fraud to prove it by clear and convincing evidence.

Cases that cite this headnote

Attorneys and Law Firms

**611 *397 John M. DiJoseph, Arlington (Sattler & DiJoseph on briefs), for appellant.

Kathleen B. Martin, Asst. Atty. Gen. (Stephen D. Rosenthal, Atty. Gen., on brief), for appellee.

David D. Hudgins, Alexandria, Paul T. Emerick, Springfield, Hudgins, Carter & Coleman, Alexandria, on brief, amicus curiae in support of appellee.

Robert Ellis; Louise DiMatteo; Siciliano, Ellis, Dyer & Boccarosse, Fairfax, on brief, amicus curiae in support of appellee.

*396 Present: All the Justices.

Opinion

STEPHENSON, Justice.

The sole issue in this appeal is whether the trial court had jurisdiction to declare void and vacate its previous order that expunged certain police and court records.

Upon allegations made by Charlotte D. Barry and Ann M. Lewis and after an investigation by the Arlington County Police Department, Robert John Ein was charged with aggravated sexual battery of his five-year-old daughter. Following a trial in the Circuit Court of Arlington County, Ein was acquitted of the charge on May 17, 1992.

On July 14, 1992, Ein filed a petition in the Circuit Court of Arlington County, pursuant to Code § 19.2-392.2, requesting the expungement of the police and court records pertaining to the charge. As required by the statute, the Commonwealth was named the respondent in the proceeding, and notice of the proceeding was given to the Arlington County Commonwealth's Attorney. In its answer, the Commonwealth objected to the expungement "on the ground that the continued existence and possible dissemination of information relating to the arrest of [Ein] have not and would not cause circumstances which would constitute a manifest injustice to [Ein]."

*398 Following a hearing on September 23, 1992, the circuit court ordered the expungement of the records, finding that "the continued existence and possible dissemination of information relating to [Ein's] arrest may cause circumstances that constitute a manifest injustice to [Ein]." The Commonwealth did not appeal from the expungement order.

Prior to the expungement hearing, Ein had filed a civil action in the Circuit Court of Arlington County, which was removed to the United States District Court for the Eastern District of Virginia, against Barry and Lewis, alleging malicious prosecution, intentional infliction of emotional distress, and conspiracy in relation to the sexual battery charge. Ein had not informed the court conducting the expungement hearing about his pending civil action.

In early November 1992, Barry and Lewis filed motions for disclosure of the expunged records, claiming that the records were "germane and of the highest importance" to them in their defense of the civil action. They further claimed that their defense would be "seriously jeopardized without immediate access to [the] records."

On November 12, 1992, the trial court conducted a hearing on the motions which consisted only of a colloquy between counsel and the court. No evidence was presented. Throughout the hearing, the trial court questioned whether it

had jurisdiction to hear the motions because more than 21 days had expired since the entry of the expungement order. Rule 1:1.¹

**612 Counsel for Barry and Lewis stated that they were not seeking an order "reversing" the expungement order; rather, they only sought access to the records for use in the civil action. Counsel contended that Code § 19.2-392.3 gave the court jurisdiction to grant the relief sought.

The trial court rejected this contention. The court correctly observed that Code § 19.2-392.3 authorizes only a Commonwealth's Attorney to petition for access to expunged records when the records are needed for a pending criminal investigation in which life *399 or property will be jeopardized without immediate access to the records.²

Ultimately, however, the trial court concluded that Barry and Lewis were entitled to notice of the expungement proceeding because they were defendants in Ein's civil action and, therefore, would be "aggrieved" persons under Code § 19.2-392.2(F). The court further stated from the bench that "[k]eeping that information [of the pending civil action] from the Court not only creat[ed] a suspicion of fraud, but it also was improper" in relation to Barry and Lewis.

Consequently, on November 12, 1992, the trial court entered two essentially identical orders. The orders read, in pertinent part, as follows:

IT APPEARING TO THE COURT that Robert J. Ein obtained the order of expungement after the commencement of his civil action against [Barry and Lewis] in this Court, ...; and

IT FURTHER APPEARING TO THE COURT that the Arlington County criminal records contain information pertinent to the pending civil matter; and

IT FURTHER APPEARING TO THE COURT that Robert J. Ein knew at the time the order of expungement was entered that [Barry and Lewis] would be aggrieved pursuant to VA CODE § 19.2-392.2(F), but that Robert J. Ein failed to give notice to [Barry and Lewis], or any other interested party, of his request for the order of expungement; and

IT FURTHER APPEARING TO THE COURT that manifest injustice would result from the enforcement of the order of expungement, which was procured in

contravention of the statement of policy set forth in VA CODE § 19.2-392.1; and so it is hereby

*400 ORDERED, ADJUDGED and DECREED that this Court's Order dated September 23, 1992 is void *ab initio*, that jurisdiction resides in this Court to grant the relief requested, and that [Barry and Lewis] shall be granted access to any and all records of Arlington County relating to the criminal proceedings against Robert J. Ein.

We awarded Ein an appeal from these orders. We also permitted Barry and Lewis to file *amicus* briefs.

Ein, relying upon Rule 1:1, contends that, because more than 21 days had expired after entry of the expungement order, the trial court lost jurisdiction of the matter and could not modify, vacate, or suspend the order. The Commonwealth contends, on the other hand, that the trial court correctly ruled that the expungement order was void and, therefore, subject to attack. Each party states accurate principles of law. Therefore, we must decide which principle is applicable in the present case.

[1] [2] The trial court ruled that the expungement order was void because Ein failed to give Barry and Lewis, who would be parties "aggrieved" pursuant to Code § 19.2-392.2(F), notice of the proceeding. However, we find nothing in the expungement statutes that would have required Ein to give notice to Barry and Lewis. Code § 19.2-392.2(D) provides that "[a] copy of the [expungement] petition shall be served on the attorney for the Commonwealth of the ... county in which the petition is **613 filed." Subsection F of Code § 19.2-392.2 provides that the Commonwealth shall be made the party defendant to the expungement proceeding. Subsection F further provides that "[a]ny party aggrieved by the decision of the court [respecting the expungement order] may appeal, as provided by law in civil cases." The trial court's reliance upon subsection F is misplaced because subsection F merely defines who may appeal the court's judgment. Clearly, only the Commonwealth was entitled to notice of the expungement

proceeding. Therefore, the expungement order was not void for Ein's failure to give notice to Barry and Lewis.

The Commonwealth, however, claims that the expungement order was void, and subject to collateral attack, because Ein committed a fraud on the court in failing to disclose that Barry and Lewis were defendants in his civil action then pending. Our reading of the record does not indicate that the trial court made a finding of fraud on the court. The trial court's order does not reflect such a *401 finding. Furthermore, although the trial court stated from the bench that keeping from the court the information about the civil action created a "suspicion" of fraud, a *suspicion* of fraud is not a *finding* of fraud.

[3] [4] Additionally, even if the trial court's remark could be construed as a finding of fraud, the record does not support such a finding. The law does not presume fraud; to the contrary, the presumption is always in favor of innocent conduct. *Jenkins v. Trice*, 152 Va. 411, 429-30, 147 S.E. 251, 257 (1929). Moreover, the burden is upon the party alleging fraud to prove it by clear and convincing evidence, *Winn v. Aleda Const. Co.*, 227 Va. 304, 308, 315 S.E.2d 193, 195 (1984), and, in the present case, the trial court heard no evidence. Clearly, neither the Commonwealth nor Barry and Lewis carried their burden of proving fraud by clear and convincing evidence. Therefore, the expungement order was not void for fraud on the court.

~~Consequently, we hold that the trial court did not have jurisdiction to vacate the expungement order. Accordingly, we will reverse and vacate the trial court's judgment and reinstate the expungement order.~~

Reversed and final judgment.

All Citations

246 Va. 396, 436 S.E.2d 610

Footnotes

1 Rule 1:1, in pertinent part, provides as follows:

All final judgments, orders, and decrees, irrespective of terms of court, shall remain under the control of the trial court and subject to be modified, vacated, or suspended for twenty-one days after the date of entry, and no longer.

2 A court's authority to permit a "review" of an expunged police or court record is strictly limited to the provisions of Code § 19.2-392.3. That section merely empowers a Commonwealth's Attorney to seek such a review when the record is "needed by a law-enforcement agency for the purposes of employment application as an employee of a law-enforcement agency or for a pending criminal investigation [provided] the investigation will be jeopardized or that life or property will be endangered without immediate access to the record."

Ein v. Com., 246 Va. 396 (1993)

436 S.E.2d 610

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Ulinsky v. Avignone, 148 N.J.S. 250 (1977)
372 A.2d 620



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CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

148 N.J.Super. 250
Superior Court of New Jersey,
Appellate Division.

Ronald ULINSKY, Plaintiff-Respondent,
v.
Ellen AVIGNONE and Mrs. Frank
Avignone, Defendants-Appellants.

Submitted Feb. 14, 1977.

Decided March 10, 1977.

In a malicious prosecution action, defendants challenged an order of the Superior Court, Law Division, denying them access to records concerning plaintiff's arrest, detention and trial which had been previously expunged at plaintiff's request. The Superior Court, Appellate Division, Morgan, J.A.D., held that as a condition of maintaining a suit for malicious prosecution based upon events reflected in records which have been expunged, a plaintiff must consent to defendants' request for inspection and copy of the expunged records and authorize the court to order the custodian thereof to make available to defendants all of the records which have been expunged.

Reversed and remanded.

West Headnotes (4)

[1] **Criminal Law**

⇒ Access and Dissemination, and Limitations Thereon

Remedy of expungement was never intended as device by which plaintiff in malicious prosecution suit could control availability of evidence relevant thereto. N.J.S.A. 2A:85-17, subd. b, 2A:115-1.

4 Cases that cite this headnote

[2] **Criminal Law**

⇒ Expungement or Correction; Effect of Acquittal or Dismissal

Expungement is privilege accorded only at request of person seeking it and when no law

enforcement au
objection; since it was designed for his benefit,
its protection can be waived whenever it is in his
best interest that disclosure of expunged record
be made, even though statute makes no express
provision therefor. N.J.S.A. 2A:85-17, subd. b;
2A:115-1; Rules of Evidence, rule 37, N.J.S.A.
2A:84A-29.

1 Cases that cite this headnote

[3] **Criminal Law**

⇒ Expungement or Correction; Effect of Acquittal or Dismissal

Where, although expungement statute did not, in express terms, make expunged records available to one who obtained expungement, there was no question but that records were so available at his request, he was privileged to authorize and consent to their disclosure to others, and custodian of records was obligated to respond to such request. N.J.S.A. 2A:85-17, subd. b; 2A:115-1.

3 Cases that cite this headnote

[4] **Pretrial Procedure**

⇒ Transcripts or Records of Prior Proceedings

As condition to maintaining suit for malicious prosecution based upon events reflected in records which have been expunged, plaintiff must consent to defendants' request for inspection and copying of expunged records and authorize court to order custodian thereof to make available to defendants all records which have been expunged; court in which such suit is filed has jurisdiction to enter such order if consented to by plaintiffs in malicious prosecution action, and refusal to consent to such request and to authorize disclosure of expunged record in such circumstances will require dismissal of malicious prosecution suit. N.J.S.A. 2A:85-15, 16, 17, subd. b; 18, subd. b, 21; 2A:115-1; Rules of Evidence, rule 37, N.J.S.A. 2A:84A-29.

10 Cases that cite this headnote

Attorneys and Law Firms

****621 *252** Adams, Adubato, Tafro & Connelly, South Orange, for defendants-appellants (Maurice H. Connelly, South Orange, on the brief).

David J. Zendell, Paterson, for plaintiff-respondent (Edward H. Brown, Paterson, on the brief).

***251** Before Judges BISCHOFF, MORGAN and FURMAN.

Opinion

The opinion of the court was delivered by

MORGAN, J.A.D.

In this malicious prosecution action defendants challenge a trial court order denying them access to records concerning plaintiff's arrest, detention and trial which had been expunged at plaintiff's request pursuant to N.J.S.A. 2A:85-17(b). We granted defendants' leave to appeal.

The facts pertinent to this appeal exist without material dispute. Defendants caused plaintiff's arrest when they filed a complaint in the Bloomfield Municipal Court charging him with indecent exposure, in violation of N.J.S.A. 2A:115-1. Although there is some dispute as to whether the police investigation preceded or followed the filing of the complaint, there is no question but that it was filed and that plaintiff was arrested as a result. The ensuing municipal court trial, which took place on December 19, 1974 and January 23, 1975, resulted in plaintiff's acquittal.

During the spring of 1975 plaintiff applied to the Bloomfield Municipal Court for an order expunging all records pertaining to his arrest, detention and trial. No law enforcement authority objected to the granting of the application and on July 16, 1975 an order expunging all of the records pertaining to this matter was granted.

Several months later, in November 1975, plaintiff filed his Superior Court complaint alleging that defendants, Ellen Avignone, an infant, and Mrs. Frank Avignone, her mother, 'falsely, maliciously and without reasonable and probable cause' charged plaintiff with the offense for which he was later tried and acquitted. Substantial money damages were sought as a result of the alleged injury to plaintiff's reputation

and good name, forced change of employment and the ***253** necessity to expend monies in defense of the disorderly persons offense of which he was accused.

After they filed an answer to the complaint defendants successfully obtained from plaintiff's attorney the transcript of one of the two days of trial, copies of defendants' statements and one of Theresa Limongello, copies of defendants' complaint against plaintiff, and the arrest and incident report of the Bloomfield police. Contending, however, that these records were not complete-lacking one day of trial, the police investigation, interviews with witnesses, and other records of which they may not have knowledge-defendants moved before the municipal court judge, who had expunged the records at plaintiff's request, for production of all of the records and a complete trial transcript. The application was denied, the municipal judge taking the position that it lacked jurisdiction to grant the requested relief.

A motion in the Superior Court was next filed, again seeking production of all of the records pertaining to plaintiff's arrest, detention and trial. That application was also denied, reluctantly, and on the same grounds, that the court lacked jurisdiction to grant the requested relief. We granted defendants leave to appeal.

N.J.S.A. 2A:85-15 grants to any person acquitted of a violation of a municipal ordinance, the Disorderly Persons Law, a misdemeanor or a high misdemeanor, the right to petition for expungement of all evidence ****622** of his arrest, including evidence of detention related thereto. N.J.S.A. 2A:85-16 requires the court, by order, to fix a date for a hearing on the application for expungement and to serve a copy of the order upon the Attorney General, the prosecutor of the county wherein the court is located, the chief of police or other executive head of the police department of the municipality in which the arrest occurred, and upon the chief law enforcement officer of any other law enforcement agency of the State which participated in the arrest in question. The purpose of notifying these authorities of the pending application for expungement and the date of the scheduled hearing ***254** thereon is to provide those agencies with the opportunity of tendering their objection to expungement. If any of the law enforcement agencies notified object, expungement is denied, but the records may be sealed, in which case their content may be released upon motion and for good cause shown, and then only in accordance with the limitations set forth in the order. N.J.S.A. 2A:85-18(b). If, however, no objection is received from law enforcement

authorities, the court may order the records expunged, in which case the records or the information contained therein are not to be released 'for any reason.'

N.J.S.A. 2A:85-17(b) provides:

If an order expunging the records is granted by the court, all the records specified in the order shall be removed from the files and placed in the control of a person who shall be designated to retain control over the expunged records and who shall ensure that the records or the information contained therein is not released for any reason. In response to requests for information or records on the person who was arrested, the law enforcement officers and departments shall reply, with respect to the arrest and proceedings which are the subject of the order, that there is no record.

N.J.S.A. 2A:85-21 describes the effect of expungement or sealing in the following terms:

If an order expunging or sealing a record of arrest is granted, the arrest and any proceedings related thereto shall be deemed not to have occurred and the petitioner may answer accordingly any question relating to their occurrence.

In the present case no objection to expungement from law enforcement authorities was received, the records were expunged and, under the literal terms of the statute by which the trial judge conceived himself bound, could not be released 'for any reason.'

The statutory sense of this enactment is clear. Its purpose is to provide the means of insulating one acquitted of a charge of criminal conduct from the disabilities or adverse effects which could be foreseen as resulting from dissemination *255 of the fact of his mere involvement with law enforcement. The protection made available is, according to its literal terms, quite complete; the expunged records can be exhibited to no one for any reason, not even to the person who sought and obtained expungement. Theoretically, even were plaintiff to attempt to view them for his own purposes, he would be denied access; unable to obtain them

for himself, he is in no position to consent to others viewing them. Taking literally, the records, although in existence, are in contemplation of law nonexistent.

[1] ~~The events which they concern and evidence do nonetheless have existence indeed in this case they have been specifically drawn in issue by plaintiff himself. Hence plaintiff eschews the statutory fiction that his arrest and the related proceedings shall be deemed not to have occurred. N.J.S.A. 2A:85-21. He asserts, understandably and correctly, that his arrest and trial did occur, seeks to visit on defendants liability for their occurrence, but, at the same time, seeks the protection of the statute in denying defendants access to the records which evidence this occurrence. This he cannot do. The remedy of expungement was never intended as a device by which a plaintiff in a malicious prosecution suit could control the availability of evidence relevant thereto.~~

[2] **623 Although not so characterized, expungement is a privilege accorded only at the request of the person seeking it and when no law enforcement authority notified of the request has any objection. See State v. San Vito, 133 N.J.Super. 508, 511, 337 A.2d 624 (App.Div.1975). Since it was designed for his benefit, its protection can be waived whenever it is in his best interest that disclosure of the expunged records be made, even though the statute makes no express provision therefor. See Evid.R. 37. For example, were plaintiff to find himself subjected to a second prosecution for this same offense, he could undoubtedly authorize and consent to disclosure of the expunged records in this case to demonstrate incontrovertibly a former acquittal on the merits in support *256 of a claim of double jeopardy. To hold otherwise would convert the privileges of expungement from a haven into a trap for the unwary. The Legislature could have intended no such absurd result.

[3] Hence, although the statute does not, in express terms, make the expunged records available to the one who obtained expungement, there is no question but that the records are so available at his request. That being so, he is privileged to authorize and consent to their disclosure to others, again in his own best interests, and the custodian of the records is obligated to respond to such a request.

By initiating the present suit plaintiff has made disclosure to defendants and the court of the events reflected in the expunged records. His complaint affirmatively pleads the filing of the municipal court complaint, its contents, his resulting arrest, detention, trial and the alleged damage

resulting to him therefrom. Trial of the issue will be in a public forum from which the public is not excluded. Any judgment in his favor will, of necessity, be based upon a finding that the events evidenced in the expunged records did occur. In these circumstances, construction of N.J.S.A. 2A:85-17(b) to forbid disclosure of the expunged records reflecting precisely those events which plaintiff has voluntarily disclosed in his own pleadings is unwarranted. Disclosure to defendants, who already have full knowledge of plaintiff's arrest, detention and trial, would neither injure plaintiff nor subvert the purposes of the expungement statute; disclosure would not increase the sum of defendants' knowledge of the incident reflected in the expunged records, but would simply provide them with the wherewithal to defend against the allegations in the complaint.

~~[4] We therefore hold that as a condition to maintaining a suit for malicious prosecution based upon events reflected in records which have been expunged, a plaintiff must consent to defendants' request for inspection and copying of the expunged records and authorize the court to order the custodian thereof to make available to defendants all of the records which have been expunged. The court in which such a suit is filed has the jurisdiction to enter such an order if consented to by the plaintiff in the malicious prosecution action. A refusal to consent to such a request and to authorize disclosure of the expunged records in such circumstances will require the dismissal of the malicious prosecution suit.~~

Although not presented in precisely this form, the projected issue is not entirely novel. In *Brogan v. Passaic Daily News*, 22 N.J. 139, 151-152, 123 A.2d 473 (1956), the court held that in a libel case assertion by the newspaper of the defense of fair comment and good faith constituted a waiver of a newspaper's privilege against disclosure of sources. See also, *Beecroft v. Point Pleasant Print. & Publ. Co.*, 82 N.J.Super. 269, 275-277, 197 A.2d 416 (Law Div.1964). A governmental privilege against disclosure of official information has been denied in proceedings instituted by the government to which the privileged matter is relevant. See *United States v. Cotton Valley Operators Comm.*, 9 F.R.D. 719, 721 (W.D.La.1949), *aff'd* 339 U.S. 940, 70 S.Ct. 793, 94 L.Ed. 1356 (1950); *United States ex rel. Schlueter v. Watkins*, 67 F.Supp. 556, 561 (S.D.N.Y.), *aff'd* 158 F.2d 853 (2 Cir. 1946). See also, McCormick, *The Law of Evidence* (2 ed. 1972), s 110. The confidentiality **624 accorded to a juvenile's records has been breached to the extent necessary to insure the right of cross-examination of the juvenile who filed the complaint. *State v. Parnes*, 134 N.J.Super. 61, 63, 338 A.2d

223 (App.Div.1975); see also *In re A.S.*, 130 N.J.Super. 388, 392-393, 327 A.2d 260 (Cty.Ct.1974). In short, plaintiff must choose: either he leaves the events evidenced in the expunged records in the obscurity from which a trial, with its attendant discovery, may draw them, or he must expose them in full for trial purposes. He cannot do both. See *United States v. Andolschek*, 142 F.2d 503, 506 (2 Cir. 1944).

By our holding we do not undermine the protection afforded by N.J.S.A. 2A:85-17(b). The person whose records are expunged can still insist upon their inviolability and strict enforcement of the order of expungement. He *258 cannot, however, insist upon their continued unavailability while, at the same time, depriving defendants of materials possibly relevant to their defense. The shield of expungement cannot be converted into a sword upon which to impale defendants in malicious prosecution suits. Law enforcement authorities, cognizant of the possibility of such civil actions following an arrest, can require a covenant against such suits as a condition to their consent (or lack of objection) to expungement. See *State v. San Vito*, *supra*. No similar opportunity is afforded the private litigant since the latter is not notified of the application for expungement. His exposure to civil action is, however, as real as that of the officer making the arrest; the same means of making defense to such charges should be made available to him. The Legislature could not have intended otherwise.

We, therefore, reverse the trial court order denying defendants access to the expunged records. The matter is remanded to the trial court for a hearing, on the record, in which plaintiff will be asked whether he consents to defendants' request for access to the expunged records. If he refuses to consent, the complaint should be dismissed. If he consents, the court should order the custodian to release the records to defendants or their counsel only and provide for their return after inspection or copying. Defendants and their counsel should be placed on notice in the order that disclosure of the contents of the expunged records to any other person, except during the course of trial or pretrial depositions conducted in connection therewith, will constitute contempt of court and may, in addition, subject them to civil suit for damages resulting from disclosure in violation of the limitations contained in the order.

Reversed and remanded.

Ulinsky v. Avignone, 148 N.J.Su. 250 (1977)

372 A.2d 620

All Citations

148 N.J.Super. 250, 372 A.2d 620 .

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EXHIBIT 10 TO NEWSOME'S PETITION

The "Response of Burt W. Newsome to Motion of John Bullock to Use Contents of Expunged Filed" delivered to Bonita Davidson on June 1, 2016,

STATE OF ALABAMA
COUNTY OF SHELBY

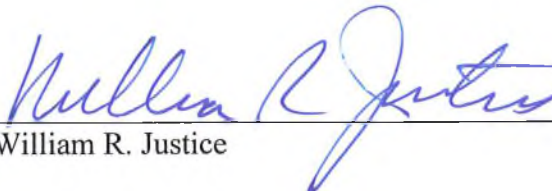
AFFIDAVIT

Before me, the undersigned authority, personally appeared William R. Justice, who being known to me and being by me first duly sworn, deposed and said as follows:

My name is William R. Justice. I am a practicing attorney with the law firm Ellis, Head, Owens & Justice in Columbiana, Shelby County, Alabama. At all time pertinent to the matters covered by this Affidavit, I was representing Burton Wheeler Newsome in an expungement proceeding related to Case No. CC 2015-000121 in the Circuit Court of Shelby County, Alabama.

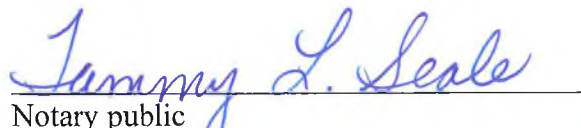
On June 1, 2016, I appeared in the Shelby County Circuit Clerk's Office with a document entitled Response of Burt W. Newsome to Motion of John Bullock to Use Contents of Expunged File consisting of 20 pages and 220 pages of exhibits, a true and correct copy of which is attached to this affidavit. I attempted to file this document in Case No. CC 2015-000121 and was told by Deputy Clerk Jill Smitherman that I should remember that she previously had told me that nothing, including my document, could be filed in that case because it had been expunged by order of Judge Reeves, Circuit Judge of Shelby County, Alabama. I responded that another attorney had filed something in the case just a few days before, and she replied that that had been done by mistake. She told me I could leave a copy with Judge Conwill, who was now handling the proceedings. I then went to Judge Conwill's office and left a copy of the attached document with his legal assistant, Bonita Davidson.

This the 10th day of June, 2016.



William R. Justice

Sworn to and subscribed before me
this 10th day of June, 2016.



Notary public

My commission expires: 09-09-2019





IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA,)
)
Plaintiff,)
)
v.)
)
BURTON WHEELER NEWSOME,)
)
Defendant.)

CASE NO. CC 2015-000121

RESPONSE OF BURT W. NEWSOME TO MOTION
OF JOHN BULLOCK TO USE CONTENTS OF EXPUNGED FILE

I. SUMMARY OF ARGUMENT

This court previously expunged the records of John Bullock’s prosecution of Burt W. Newsome for menacing. Bullock now seeks to use an expunged “dismissal and release order” to defend a civil case filed by Newsome. This court has no jurisdiction of Bullock’s motion for three reasons (1) Bullock’s motion was filed more than thirty days after the expungement order was entered. (2) The expungement statute does not authorize the issuing court to permit the use of expunged documents in civil litigation. (3) The issues Bullock raises were litigated or could have been litigated in the expungement case; consequently, Bullock’s arguments are barred by res judicata and collateral estoppel.

II. STATEMENT OF THE FACTS

A. The Factual Background

1. On October 5, 2010, Newsome obtained a judgment against Sharon K. Lawson on behalf of Aliant Bank, and he began collection efforts.

2. On January 30, 2012 – after Newsome noticed Ms. Lawson for a post-judgment deposition and garnished her wages – Alfred Seier parked his vehicle backwards adjacent to

Newsome's vehicle in Newsome's parking lot. When Newsome came out of his office, Seier left his vehicle and blocked Newsome from entering his car. *Seier was Lawson's common-law wife.*

3. Seier pointed a pistol at Newsome and told him he would "never fuck with his wife again." Newsome was unarmed and escaped by dodging behind his vehicle and running in the back door of his office building.

4. On February 2, 2012, Newsome filed a warrant against Seier, and Seier was arrested. Claiborne Seier, the brother of Alfred Seier, called Newsome and pressed him to drop the charges; his brother was dying of cancer.

5. Newsome refused to drop the charges and told Claiborne Seier that he sometimes carried a pistol and his brother was lucky he was not carrying his pistol. Claiborne Seier became angry and threatened Newsome.

6. On May 8, 2012, Alfred Seier was convicted of menacing in the District Court of Shelby County, *State of Alabama v. Alfred Wallace Seier*, 58 – DC – 2012 – 000431, Alabama.

7. On November 18, 2012, Alfred Seier died.

B. The Menacing Case against Newsome

8. On December 19, 2012 – a month after Seier's death – Newsome was scheduled to appear in court at Pell City in a case for Brian Hamilton.

9. Brian Hamilton knew Clark Cooper at Balch & Bingham, and he told Cooper about the hearing, where Newsome would appear for him.

10. On December 19, 2012, Newsome saw an unknown vehicle parked backwards adjacent to his vehicle outside his office. When Newsome left his office and approached his vehicle, John Bullock – who he did not know – got out of his vehicle and blocked Newsome from entering his vehicle.

11. Bullock's conduct was identical to that of Alfred Seier on January 30, 2012, and Newsome was afraid for his safety. He had a pistol permit, and he was carrying a .22 caliber pistol, which he took out of his coat pocket and held pointed downward by his side. He asked Bullock to close the door of his car so that he (Newsome) could get in his car. Bullock moved, and Newsome entered his car and left for Pell City.

12. On January 14, 2013, almost a month later, Bullock filed a criminal complaint against Newsome for menacing.

13. On May 2, 2013 – almost four months later – Newsome was stopped for speeding and arrested on the menacing warrant.

14. Newsome refused to plead guilty, write a letter at Bullock's request saying he was guilty of any crime and/or sign a guilty plea under the "deferred adjudication" program. On November 12, 2013, the District Judge entered a Form "Dismissal & Release Order." Newsome and Bullock also signed the order. The order continued the case until April 1, 2014, and provided that the case would be dismissed with prejudice at that time "if the defendant had no further incidents/arrests." The order also contained a Release of "civil and criminal claims."

15. On April 4, 2014, the criminal prosecution against Newsome was dismissed with prejudice.

C. Newsome's Civil Case

16. On January 14, 2015, Newsome filed a civil suit in the Circuit Court of Jefferson County against John Bullock, Claiborne Seier, Clark Cooper, and Balch-Bingham (**Exhibit A**). Newsome alleged that Seier and Bullock had staged the event that led to his arrest for the purpose of fabricating a false charge of menacing. He asserted claims against them for malicious prosecution, abuse of prosecution, false arrest, and outrage.

Newsome alleged that Cooper and Balch-Bingham had defamed him by sending emails and pictures of his mugshot to Newsome and Cooper's common clients implying that he was guilty of menacing, that he had violated the *Rules of Professional Conduct*, and that his arrest would adversely affect his law license and his ability to practice law.

Newsome also alleged that Cooper and Balch-Bingham had interfered with his business and contractual relationships by sending emails to his clients soliciting employment in the middle of specific cases in which Newsome was already representing the clients.

17. On February 13, 2015, Seier filed a motion to dismiss the civil suit based on the dismissal-release order (**Exhibit B**).

18. On February 24, 2015, Bullock filed a motion to dismiss the civil suit based on the dismissal-release order (**Exhibit C**).

19. On March 23, 2015, Balch-Bingham and Cooper filed a motion to dismiss the civil suit based on the dismissal-release order (**Exhibit D**).

D. Newsome's Expungement Action

20. On February 19, 2015, Newsome filed this action to expunge the records of his prosecution for menacing (**Exhibit E**).

21. On April 21, 2015, Newsome served discovery responses in the civil suit stating that he had filed a Petition for Expungement. The Petition for Expungement was attached to the discovery responses, and the responses and the Petition were filed and served on all parties electronically – including Bullock's attorney – as provided by rule 5(d) (**Exhibit F**).¹

¹ Ala. R. Civ. P. 5(d) (“All discovery material may be served electronically using the court's electronic filing system.”).

E. The Dismissal and Motion to Reconsider in Newsome's Civil Suit

22. On May 7, 2015, the Circuit Court of Jefferson County dismissed Newsome's claims against Bullock and Seier based on the dismissal-release order (**Exhibits G-H**). The court did not, however, dismiss Newsome's claims against Balch and Cooper, and as a result, the dismissal was not an appealable judgment.

23. On June 2, 2015, Newsome filed a Motion to Reconsider the orders dismissing his claims against Bullock and Seier (**Exhibit I**).

F. The Dismissal of Newsome's Expungement Case

24. On July 10, 2015, the State filed an objection to Newsome's Petition for Expungement, but gave no ground. It stated only, "[T]he State of Alabama and the victim in the underlying case objects [*sic*] to Plaintiff's Petition for Expungement of Records" (**Exhibit J**).

25. On August 24, 2015, Bullock filed a separate objection to the expungement petition through his attorney, James E. Hill, Jr. As grounds for his objection, he alleged that "Newsome ha[d] instituted unsuccessful legal action against [him]" and had "filed [a] motion to reinstate" the action "after dismissal" (**Exhibit K**).

26. Newsome's Petition for Expungement was set for a hearing on August 31, 2015, and both Bullock and his attorney, James E. Hill, Jr., were present for the hearing (**Exhibit L**).

27. The State filed a second objection to the petition at 9:01 A.M. – during the hearing. The State now argued that menacing was a "violent crime" and that a charge of menacing was not subject to expungement (**Exhibit M**).

28. The court accepted this new argument, and it entered an order denying Newsome's petition the same day (**Exhibit N**).

G. The Dismissal of Newsome's Civil Case

29. Again, on the same day – August 31, 2015 – the Circuit Court of Jefferson County entered orders dismissing Newsome's civil action against all parties (**Exhibit O**).

H. Newsome's Post-Trial Motion in the Expungement Case

30. On September 2, 2015, Newsome filed a post-trial motion in this court (the expungement case). He argued that (a) the misdemeanor of menacing is not excluded by the expungement statute, (b) that neither the State nor the victim had filed a timely objection to the petition for expungement, and (c) that he had satisfied the statutory requirements for expungement (**Exhibit P**).

31. Bullock served a seven-page objection to the motion, but the objection does not bear a filing date, and the certificate of certificate shows only "September __, 2015" (**Exhibit Q**).

32. On September 10, 2015, this court granted Newsome's post-trial motion and entered an order of expungement (**Exhibit R**).

I. Newsome's Post-Trial Motion in the Civil Case

33. On September 28, 2015, Newsome filed a post-trial motion in his civil case, and he attached a copy of the expungement order to the motion. He argued that the expunged release was "not a lawful basis" for dismissing his civil action. He also argued that *use* of the expunged release was "now a criminal offense" (**Exhibit S**, pages 6-7; *see* Ala. Code § 15-27-16).

J. Expiration of the Time for Filing Post-Judgment Motions

34. Neither the State nor Bullock filed a post-trial motion, and the time for filing such a motion expired on October 12, 2015.

35. Neither the State nor Bullock filed a petition for certiorari with any appellate court, and the time for filing such a petition expired on October 22, 2015.²

K. The Reinstatement of Newsome's Civil Case

36. On December 16, 2015, the Circuit Court of Jefferson County granted Newsome's rule 59 motion and reinstated his claims against all parties (**Exhibit T**).

III. BULLOCK'S MOTION "TO USE" THE EXPUNGED FILE

On January 15, 2016 – over four months after this court expunged the records of Newsome's prosecution – Bullock filed a document titled, "Victim John Bullock's Motion To Use Contents Of Expunged File." He seeks to use the expunged "dismissal and release order" to defend Newsome's civil case. Newsome objects to Bullock's *use* of the expunged "**DISMISSAL & RELEASE ORDER**" dated "11-12-13" and signed by Judge Ronald E. Jackson and/or any other of the expunged documents and respectfully contends, for the reasons set out below, that this court has no jurisdiction of Bullock's motion.

IV. NEWSOME'S ARGUMENT

A. This Court Has No Jurisdiction of Bullock's Motion because It Was Filed More than Thirty Days after the Order of Expungement Was Entered.

The order of expungement was entered on September 10, 2015. Under both the *Rules of Civil Procedure* and the *Rules of Criminal Procedure*, Mr. Bullock and the State had 30 days to

² Section 15-27-5(c) provides a trial court's ruling on a Petition for Expungement is "subject to certiorari review." The Court of Criminal Appeals has held that the procedure is governed by rule 21 of the *Alabama Rules of Appellate Procedure*. "The writ shall comply in form and timing with Rule 21(a), Ala. R. App. P." *Bell v. State*, CR -15- 0618 (Ala. Crim. App. April 29, 2016), slip op. at 4-5. Under rule 21(a), "The petition shall be filed within a reasonable time. The presumptively reasonable time for filing a petition seeking review of an order of a trial court or of a lower appellate court shall be the same as the time for taking an appeal." The time for taking an appeal is 42 days from the date of the order (Ala. R. App. P. 4(a)).

file a post-trial motion.³ That deadline expired on Monday **October 12, 2015**. Bullock did not file his “Motion to Use Contents of Expunged File” until over three months later – on January 15, 2016.

This was too late. This court has no jurisdiction of Bullock’s motion. In *SSC Selma Operating Company, LLC v. Gordon*, 56 So. 3d 598, 601 (Ala. 2010), the court held:

Initially, we note that the defendants’ motion to reconsider, which appears to be, in substance, a Rule 59(e) Ala. R. Civ. P., motion to alter, amend, or vacate the judgment, was untimely. This Court held in *George v. Sims*, 888 So. 2d 1224, 1227 (Ala. 2004):

“Generally, a trial court has no jurisdiction to modify or amend a final order more than 30 days after the judgment has been entered, except to correct clerical errors. See Rule 59(e) and Rule 60, Ala. R. Civ. P.; *Cornelius v. Green*, 477 So. 2d 1363, 1365 (Ala.1985) (holding that the trial court had no jurisdiction to modify its final order more than 30 days after its final judgment); *Dickerson v. Dickerson*, 885 So. 2d 160, 166 (Ala. Civ. App. 2003) (holding that, absent a timely postjudgment motion, the trial court has no jurisdiction to alter, amend, or vacate a final judgment); and *Superior Sec. Serv., Inc. v. Azalea City Fed. Credit Union*, 651 So. 2d 28, 29 (Ala. Civ. App. 1994) (‘It is well settled that after 30 days elapse following the entry of a judgment, the trial court no longer has authority to correct or amend its judgment, except for clerical errors.’).”

Therefore, the trial court’s ruling purporting to deny the defendants’ motion to alter, amend, or vacate is a nullity and has no bearing on this appeal.

In *People v. Holum*, 166 Ill. App. 3d 658, 662, 520 N.E.2d 419, 421 (1988), the court applied this rule to expungements: “[T]he State, by failing to challenge or appeal the order within 30 days, lost its opportunity to attack the expungement order. Concomitantly, the court lacked jurisdiction to amend the order.”

In *Ein v. Commonwealth*, 246 Va. 396, 436 S.E.2d 610 (1993) (**Exhibit U**), the court rejected an argument similar to Bullock’s: that the complaining party in the expunged criminal case needed the expunged file to defend a civil suit brought by the former defendant.

³ Although a Petition for Expungement is filed “in the criminal division of circuit court,” Ala. Code § 15-27-1, the statute does not say whether the proceedings are governed by the *Rules of Civil Procedure* or the *Rules of Criminal Procedure*. In either event, a post-trial motion must be filed no later than 30 days after the order contested. Ala. R. Civ. P. 59; Ala. R. Crim. P. 24.1.

The defendant in *Ein* was arrested for sexual battery on his daughter based on the allegations of Barry and Lewis. After he was acquitted, he filed suit “against Barry and Lewis, alleging malicious prosecution, intentional infliction of emotional distress, and conspiracy” (246 Va. at 398, 436 S.E.2d at 611). While the civil suit was pending, he also filed an action to expunge the records of his arrest and the expungement was granted.

Barry and Lewis were not notified of the expungement proceeding, and they “filed motions for disclosure of the expunged records, claiming that the records were ‘germane and of the highest importance,’ to them in their defense of the civil action” (246 Va. at 398, 436 S.E.2d at 611). The trial court granted the motions, but the Supreme Court of Virginia reversed, holding, “The trial court did not have jurisdiction to vacate the expungement order” (246 Va. at 401, 436 S.E.2d at 613).

The only material difference between this case and *Ein* is that Bullock was notified of the expungement proceeding, he objected to the expungement and he argued to be able to use the expunged records in the pending civil case at the hearing on the Petition for Expungement. He now seeks to relitigate the expungement and the use of the expunged records in the civil case that is pending in Jefferson County, Alabama. This court has no jurisdiction of his motion because it was filed more than 30 days after the order of expungement.

B. With One Exception Not Applicable Here, The Expungement Act Does Not Authorize a Circuit Court to Allow the “Use” of Documents It Previously Expunged.

Bullock argues, “[T]his Court has the authority to enter an order allowing an individual to divulge, make known, reveal, give access to, make public, use, or otherwise disclose the contents of the file expunged by this Court” (Bullock Motion ¶ 4). Bullock cites no authority, but the underlined language paraphrases part of section 15-27-16.

Section 15-27-16 does not, however, authorize a court to allow the “use” of expunged documents; it creates a criminal offense:

Notwithstanding any other provision of this chapter, an individual who knows an expungement order was granted pursuant to this chapter and who intentionally and maliciously divulges, makes known, reveals, gives access to, makes public, uses, or otherwise discloses the contents of an expunged file without a court order, or pursuant to a provision of this chapter, shall be guilty of a Class B misdemeanor.

This statute lists two circumstances when “use” of expunged documents is not a criminal offense: (1) when a court order permits use of the documents and (b) when a provision of the act permits “use” of the documents. Each of these exceptions to criminal liability is defined by the Act.

A court may allow “any government regulatory or licensing agency, any utility . . . or any bank or other financial institution” to use expunged documents:

[T]he petitioner whose record was expunged shall have the duty to disclose the fact of the record and any matter relating thereto to any government regulatory or licensing agency, any utility and its agents and affiliates, or any bank or other financial institution. In these circumstances, the government regulatory or licensing agency, utility and its agents and affiliates, or the bank or other financial institution shall have the right to inspect the expunged records after filing notice with the court (Ala. Code § 15-27-6(b)).

This is the only circumstance when a court may order the use of expunged documents. Other provisions of the Act permit “criminal justice agencies” and the Alabama Securities Commission to use expunged documents without a court order (Ala. Code § 15-27-7(a); Ala. Code § 15-27-14).

Statutes in Maryland,⁴ New Jersey,⁵ and Louisiana⁶ permit expunged documents to be used for “good cause.” Senator Bedford – the sponsor of the Alabama Act – “studied similar laws in

⁴ **Exhibit V** (Md. Code, Crim. P. § 10-108)

⁵ **Exhibit W** (N.J. Stat. § 2C: 52-19).

⁶ **Exhibit X** (La. Code Crim. P. art. 973A(2)).

other states,” (Exhibit Y), but the bill he introduced – and the law enacted – did not contain a similar provision.

With the exceptions stated above, the Alabama Act limits *use* of expunged documents to *criminal-justice purposes*:

Such records may not be used for any non-criminal justice purpose and may only be made available to criminal justice agencies upon acknowledgment of an investigation or other criminal matter involving the person related to the expungement (Ala. Code § 15 -27-7(a)).

Mr. Bullock seeks to use the expunged release for a “non-criminal justice purpose”; he seeks to use it in a “related civil trial” (Bullock Motion, *Introduction*). The statute specifically prohibits this.

This construction is confirmed by the *Criminal Record Expungement FAQ* – prepared by the “Alabama Law Enforcement Agency”

Who can see an expunged record?

Expunged records may not be used for any non-criminal justice purpose and may only be made available to criminal justice agencies upon acknowledgement of an investigation or other criminal matter involving the person related to the expungement.

Exhibit Z.⁷ As a matter of law, this court has no jurisdiction to allow Mr. Bullock to “use” the expunged release in Newsome’s civil case.

C. Even If this Court Has Jurisdiction of Bullock’s Motion, the Issues Bullock Raises Are Barred by Res Judicata and Collateral Estoppel.

“The doctrines of collateral estoppel and res judicata are applicable to criminal cases as well as civil cases.” *Parker v. State*, 516 So. 2d 859 (Ala. Crim. App. 1987). “The elements of res judicata are (1) a prior judgment on the merits, (2) rendered by a court of competent jurisdiction, (3) with substantial identity of the parties, and (4) with the same cause of action presented in both

⁷ <http://www.alea.gov/Home/wfContent.aspx?ID=70&PLH1=plhInformation-ExpungementFAQ>.

actions.” *Greene v. Jefferson County Comm’n*, 13 So. 3d 901, 910 (Ala. 2008). Each of these elements is present in this case.

(1) A Prior Judgment on the Merits. The Expungement Order decided the substantive issue of whether the records of Newsome’s prosecution could be “used.” It held that they could not. “All ‘records’ concerning the charge, arrest, and incarceration of Burton Wheeler Newsome . . . are expunged” (Exhibit R). This is “a prior judgment on the merits.”

(2) A Court of Competent Jurisdiction. Section 15-27-1(b) provides, “The Circuit Court shall have exclusive jurisdiction of a petition [for expungement]. . . .” The Expungement Order was entered by the Circuit Court of Shelby County; this was “a court of competent jurisdiction.”

(3) A Substantial Identity of Parties. In *Century 21 Preferred Properties, Inc. v. Alabama Real Estate Commission*, 401 So. 2d 764, 770 (Ala. 1981), the court held,

Judgments can bind persons not party (or privy) to the litigation in question where the nonparties’ interests were represented adequately by a party in the original suit. *Southwest Airlines Co. v. Texas International Airlines*, 546 F.2d 84, 94-95 (5th Cir. 1977). A person may be bound by a judgment even though not a party to a suit if one of the parties to the suit is so closely aligned with his interests as to be his virtual representative. *Aeroflot-General Corporation v. Askew*, 511 F.2d 710, 719 (5th Cir. 1975). Moreover, if a party has “a sufficient ‘laboring oar’ in the conduct” of the litigation, then the principle of res judicata can be actuated. *Montana v. U. S.*, 440 U.S. 147, 155, 99 S. Ct. 970, 974, 59 L.Ed.2d 210 (1979).

Bullock participated in the expungement case through his personal attorney, James E. Hill, Jr. He filed an “Objection to [the] Petition for Expungement” (Exhibit K); he appeared at the hearing and argued against the expungement being granted and to be able to use the records sought to be expunged in the pending civil case (Exhibit L); and he filed a response to Newsome’s post-judgment motion (Exhibit Q). Without regard to whether he was a party, he had a “laboring oar’ in the conduct of the litigation.” This establishes “a substantial identity of the parties.”

(4) The Same Cause of Action. “Res judicata applies not only to the *exact legal theories* advanced in the prior case, but to *all legal theories and claims* arising out of the same nucleus of operative facts.” *Greene v. Jefferson County Comm’n*, 13 So. 3d 901, 913 (Ala. 2008). “[R]es judicata bars any claim that was or could have been raised at trial or on direct appeal.” *Miller v. State*, 99 So. 3d 349, 354 (Ala. Crim. App. 2011).

The issues Bullock raises in his “Motion to Use Contents of Expunged File” “aris[e] out of the same nucleus of operative facts” as the expungement proceeding – namely, whether the record of Bullock’s prosecution of Newsome will be “open” or “closed.”

In addition, the issues Bullock now raises “could have been raised at trial or on direct appeal.” Bullock’s “Objection to [the] Petition for Expungement” asserted that Newsome had sued him, that Newsome’s suit had been dismissed, and that Newsome had “filed a motion to reinstate” his claims (**Exhibit K**).

On **September 28, 2015** – before the time for Bullock to file a post-trial motion expired – Newsome gave Bullock notice of his contention that the expunged release was not admissible evidence in the civil suit. On that day, Newsome filed and served electronically a rule 59 motion in the civil case; he argued that the expunged release was not “a lawful basis for dismissing Newsome’s claims” (**Exhibit S**, pages 6-7).

Bullock’s right to file a Motion for a New Trial from the Expungement Order did not expire until **October 12, 2015**, and his right to file a Petition for Certiorari did not expire until **October 22, 2015** – long after Newsome filed his rule 59 motion.

In summary, the issues Bullock raises in his “Motion to Use Contents of Expunged File” could have been – and should have been – raised at trial, in a Motion for a New Trial, or in a

Petition for Certiorari. As a result, *res judicata* prevents Bullock from now re-litigating these issues.

D. If Bullock Had No Standing To File a Motion for a New Trial in October 2015, Then He Had No Standing To File the “Motion to Use Contents of Expunged File” in January 2016.

Bullock argued in a hearing in Newsome’s civil case that he did not file a Motion for a New Trial from the Expungement Order because he had no standing to do so. This is incorrect. The victim is a *de facto* party to an expungement case. Section 15-27-3(c) permits the victim “to file a written objection to the granting of the petition.” Section 15-27-5(a) requires the court to hold a hearing “[i]f the . . . victim files an objection.” Bullock filed an objection, and the court held a hearing. Certainly if Bullock had a statutory right to file an objection, he also had the right to contest the court’s ruling on his objection. See *F.V.C. v. Department of Public Welfare*, 987 A.2d 223, 227 (Pa. Commonwealth 2010) (mother of child had standing to appeal removal of alleged sex abuser from registry).

In any event, even *if Bullock was not a party*, he could have filed a Motion to Intervene – coupled with a motion for a new trial. Alabama courts have held, “The news media generally have standing to intervene in a criminal proceeding to object to a motion to ‘seal’ court records . . .” *Ex parte Birmingham News Co.*, 624 So.2d 1117, 1120 (Ala. Crim. App. 1993). Clearly, Bullock had the same right.

If this court had denied his motion to intervene, then he had a remedy by appeal. The “denial of a motion to intervene is always an appealable order.” *State v. Yarbrough*, 156 So.3d 947, 951 (Ala. 2014)

Bullock chose to waive these rights and *gamble* that the Circuit Court of Jefferson County would deny Newsome's rule 59 motion – wherein Newsome argued that the expunged release was not admissible evidence. Bullock gambled, and he lost. He must bear the consequences.

The simple fact is, *if Bullock had no standing to file a Motion for a New Trial or a Petition for Certiorari in October 2015 (before the deadlines expired), then he had no standing to file his "Motion to Use Contents of Expunged File" on January 15, 2016.* Bullock is bound by the Order of Expungement, which he failed to contest. Nothing has changed since October 2015 except that the Circuit Court of Jefferson County granted Newsome's rule 59 motion. But that order has no effect on Bullock's standing in this court.

The "Dismissal & Release Order" Is Not Enforceable Anyway

1. The "dismissal & release order" is not enforceable because part of the consideration was Newsome's "agreement" not to file any "criminal claims." The "dismissal & release order" purports to grant "a full, complete, and absolute Release of all [of Newsome's] civil and criminal claims . . ." A "criminal claim" is a "criminal prosecution." *See City of Mobile v. Cooks*, 915 So. 2d 29, 32 (Ala. 2005) (referring to criminal prosecution as a "criminal claim"); *Wade v. Collier*, 783 F.3d 1081, 1087 n.3 (7th Cir. 2015) (referring to criminal prosecution as a "criminal claim"); the order thus purports to bar Newsome from filing criminal charges based upon his arrest and prosecution.

The agreement that Newsome surrender "criminal claims" is illegal. "A person commits the crime of compounding if he gives or offers to give or accepts or agrees to accept any pecuniary benefit or other thing of value in consideration for: (1) refraining from seeking prosecution of a crime. . . ." (Ala. Code § 13A-10-7).

This illegality renders the “dismissal & release order” unenforceable in its entirety. In *Raia v. Goldberg*, 33 Ala. App. 435, 34 So. 2d 620, 623 (1948), the court held,

It has long been settled in this State that if an agreement express or implied to suppress a criminal prosecution forms even a part of the consideration of a contract, the transaction is against public policy, and the courts will not enforce it. . . .

That which renders the transaction illegal is an agreement express or implied not to prosecute.

In *Baker v. Citizens Bank of Guntersville*, 282 Ala. 33, 208 So. 2d 601 (1968), the court applied this rule:

If the consideration for the note and mortgage was in part illegal, it avoided the whole note and mortgage. *Wynne v. Whisenant*, 37 Ala. 46, 48.

That a contract, the consideration of which is in part illegal, is invalid and cannot be enforced at law, is a question too well settled to admit of doubt. *Petit's Adm'r v. Petit's Distributees*, 32 Ala. 288; 1 Brick. Dig. 282, § 116. Neither can it be doubted that a contract based upon a promise or agreement to conceal or keep secret a crime which has been committed is opposed to public policy and offensive to the law. *Clark v. Colbert*, 67 Ala. 92; *Moog v. Strang*, 69 Ala. 98; *U.S. Fidelity & Guar. Co. v. Charles*, 131 Ala. 658, 31 So. 558, 57 L.R.A. 212. And it makes no difference if the contract contains an additional consideration that is legal and valuable. Whenever a crime is committed, and especially one that involves moral turpitude, the public good calls for a prosecution of the guilty party, and any effort to prevent the punishment of the offender by suppression or concealment is opposed to public policy. *Folmar v. Siler*, 132 Ala. 297, 302, 303, 31 So. 719. *See also: People's Bank & Trust Co. v. Floyd*, 200 Ala. 192, 75 So. 940; and *Orman v. Scharnagel*, 210 Ala. 381, 98 So. 123.

If part of the consideration for execution of the note and mortgage by W. D. Baker was the promise by Moore that the prosecution of Baker's daughter or her husband, or both, would be continued and finally suppressed, then the note and mortgage are against public policy and unenforceable. . . .

On the evidence which we have set out, we are of opinion that the conclusion is required that part of the consideration for the note and mortgage was the agreement stated by Moore to Baker to effect that, if Baker signed the note and mortgage, Moore would see that the case was continued from time to time, with the further assurance that upon payment of the mortgage indebtedness the bank would not prosecute them unless forced to do so by the state and “I had the agreement of the Solicitor that whatever we decided would be done.”

This is a promise to continue the criminal cases upon execution of the note and mortgage and not to prosecute if the note and mortgage debt were paid. Baker did execute the note

and mortgage and Moore did continue the case against Lessie Mays several times because of the agreement which the parties had.

The consideration was in part illegal and avoided the whole note and mortgage.

If Bullock fabricated the charge of menacing, as Newsome alleges, then Bullock committed perjury when he signed the warrant; the “dismissal & release order” purports to prohibit Newsome from prosecuting this criminal offense – or any other criminal offense arising from his arrest. This “agreement” is in direct violation of section 13A-10-7 and renders the “dismissal & release order” unenforceable in its entirety. “[I]t makes no difference if the contract contains an additional consideration that is legal and valuable.” *Baker v. Citizens Bank of Guntersville*, 282 Ala. at 39, 208 So. 2d at 606.

2. The “dismissal & release order” was an interlocutory order that terminated when the criminal prosecution was dismissed. “[A]n interlocutory order [is] one that [does] not dispose of all the issues before the court . . .” *Walker v. State*, 127 So. 3d 437, 439 (Ala. Crim. App. 2012). The “dismissal & and release order” was an interlocutory order; it “did not dispose of all the issues before the court. It required Newsome to appear in court again on April 1, 2014, or suffer arrest .

All issues in the case were, however, disposed of on April 4, 2014, when the court dismissed the case with prejudice. “Pursuant to earlier written agreement, with no objection by A.D.A. Willingham, this case is DISMISSED with prejudice. Apply cash bond.”

This order did not state that the “dismissal & release order” would survive the dismissal of the case. Consequently, and as a matter of law, the “dismissal & release order” became unenforceable when the case was dismissed with prejudice. In *KLR v. KGS*, No. 2140882 (Ala. Civ. App. Jan. 8, 2016), the court held,

“As a general rule, interlocutory orders become unenforceable upon a final judgment of dismissal.” *Ex parte W.L.K.*, 175 So.3d 652, 661 (Ala. Civ. App. 2015) (citing *Maddox v.*

Maddox, 276 Ala. 197, 199, 160 So.2d 481, 483 (1964) (discussing *Duss v. Duss*, 92 Fla. 1081, 111 So. 382 (1927))). Generally, the dismissal of an action operates to annul previously entered orders, rulings, or judgments. See *Ex parte Sealy, L.L.C.*, 904 So. 2d 1230, 1236 (Ala. 2004) (quoting 27 C.J.S. *Dismissal and Nonsuit* § 39 (1959)) (holding that a voluntary dismissal renders the proceedings a nullity and “carries down with it previous proceedings and orders in the action”). . . .
The order of the juvenile court dismissing the action for lack of subject-matter jurisdiction dissolved the orders that are the subject of this appeal .

This rule also applies in criminal cases. In *Ronning v. Yellowstone County*, 360 Mont. 108, 253 P.3d 818 (2011), the court held that a plea agreement did not survive the entry of judgment:

Upon sentencing, a plea agreement terminates. That is, once each party has fulfilled its obligations under the agreement (each party has performed), the plea agreement has served its purpose and any duties under the contract are discharged. See *Restatement (Second) of Contracts* § 235 (1981). The controlling document becomes the judgment and sentence, which embodies the plea agreement in whatever form the court accepted (360 Mont. at 111, 253 P.3d at 821).

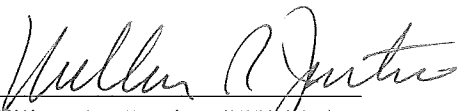
In *State v. Anaya*, 95 Wn. App. 751, 976 P.2d 1251, 1256 (Wash. App. Div. 1, 1999), the court held a no-contact order did not survive dismissal of the prosecution: “[W]e hold that the no-contact order entered at arraignment against Anaya expired upon the dismissal of the underlying domestic violence charge.” See also *State v. Feliciano*, 81 P.3d 1184 (Hawaii 2003) (restitution order did not survive expiration of defendant’s probation).

As a matter of law, the dismissal of criminal case on April 4, 2014, “operate[d] to annul previously entered orders, rulings, or judgments” – including the “dismissal & release order” on which Bullock bases his arguments. Even if the “dismissal & release order” was originally valid, it ceased to be enforceable when the criminal prosecution was dismissed.

IV. CONCLUSION

For the reasons stated above, “John Bullock’s Motion to Use the Contents of Expunged File” is due to be DENIED.

This the 1st day of ^{June} ~~May~~ 2016.


William R. Justice (JUS001)
Attorney for Defendant

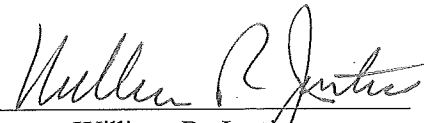
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CERTIFICATE OF SERVICE

I hereby certify that on this ^{June} 01st day of ~~May~~ 2016, I have hand delivered a copy of the above document to the counsel listed below or a clerk or person in charge of their offices:

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Attorney for John W. Bullock
Hill, Weisskopf & Hill, P.C.
P.O. Box 310
Moody, AL 35004



William R. Justice



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W. NEWSOME; and)
 NEWSOME LAW, LLC,)
 Plaintiffs,)

v.)

CASE NO.: CV-2014-_____

CLARK ANDREW COOPER;)
 BALCH & BINGHAM, LLP;)
 JOHN W. BULLOCK, JR.;)
 CLAIBORNE PORTER SEIER;)
 Fictitious Defendants 1-4 being the true)
 and correct names of the named Defendants;)
 Fictitious Defendants 5-15 being those)
 individuals and/or entities who conspired)
 with any of the named Defendants in the)
 commission of the wrongs alleged herein)
 and whose true and correct identities are)
 currently unknown but will be substituted)
 upon discovery; Fictitious Defendants)
 16-26 being those individuals and/or)
 entities who participated in or otherwise)
 committed any of the wrongs alleged)
 herein and whose true and correct)
 identities are currently unknown but will)
 be substituted upon discovery;)
 Defendants.)

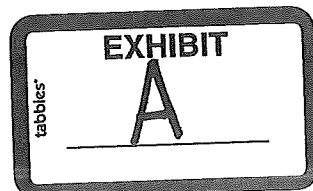
COMPLAINT

The Plaintiff's, Burt W. Newsome and Newsome Law, LLC, as their complaint allege as follows:

PARTIES

1. The Plaintiff, Burt W. Newsome, (hereinafter "Newsome"), is an Alabama citizen, resident of Shelby County, Alabama, over the age of 19 years, and is engaged in the private practice of law in the State of Alabama.

2. The Plaintiff, Newsome Law, LLC, (hereinafter "Newsome Law"), is an Alabama limited liability company with its principal place of business in Shelby County, Alabama.



3. The Defendant, Clark Andrew Cooper, (hereinafter “Clark Cooper”) upon information and belief, is an Alabama citizen, a resident of Jefferson County, Alabama, over the age of nineteen years, and engaged in the private practice of law as a partner in Balch & Bingham, LLP.

4. The Defendant, Balch & Bingham, LLC, (hereinafter “Balch”) is an Alabama Registered Limited Liability Partnership, with its principal place of business in Jefferson County, Alabama.

5. The Defendant, John W. Bullock, Jr., (hereinafter “Bullock”), upon information and belief, is an Alabama citizen, a resident of St. Clair County, Alabama, and over the age of nineteen years.

6. The Defendant, Claiborne Porter Seier, (hereinafter “Claiborne Seier”), upon information and belief, is an Alabama citizen, a resident of Jefferson County, Alabama, and over the age of nineteen years.

7. Fictitious Defendants 1-4 are the true and correct names of the above-named Defendants and whose true and correct names are otherwise unknown and will be substituted upon discovery.

8. Fictitious Defendants 5-15 are those individuals and/or entities who conspired with any of the named Defendants in the commission of the wrongs alleged herein and whose true and correct identities are currently unknown but will be substituted upon discovery.

9. Fictitious Defendants 16-26 are those individuals and/or entities who participated in or otherwise committed any of the wrongs alleged herein and whose true and correct identities are currently unknown but will be substituted upon discovery.

FACTS

10. Beginning on or about June 9, 2010, in Aliant Bank v. Sharyn K. Lawson, 01-CV-2010-902033, Circuit Court of Jefferson County, Newsome represented Aliant Bank against Sharyn K. Lawson for breach of contract involving a note evidencing indebtedness to Aliant Bank.

11. On or about October 5, 2010, Newsome obtained a judgment in favor of Aliant Bank against Sharyn K. Lawson in the amount of \$189,930.08 more or less.

12. In and around December 2011 and January 2012, Newsome was attempting to depose Sharyn K. Lawson in an effort to discover post-judgment assets.

13. Upon information and belief, Sharyn K. Lawson was the wife of Alfred Wallace Seier (hereinafter "Alfred Seier").

14. On or about January 30, 2012, Alfred Seier went to the offices of Newsome Law in Shelby County, Alabama.

15. Alfred Seier waited in his vehicle outside the offices of Newsome Law for Newsome to exit the building.

16. When Newsome exited the building and approached his vehicle, Alfred Seier, whose vehicle was parked adjacent to Newsome's vehicle, exited his vehicle, walked towards Newsome, blocking Newsome from his vehicle, pointed a gun at Newsome and told him he would never "fuck" with his wife again.

17. Newsome was unarmed.

18. Newsome was in fear for his life and ran away to the back of the building.

19. Newsome entered the offices of Newsome Law through the back door, called law enforcement and stayed until they arrived.

20. On or about February 2, 2012, Newsome filed a criminal complaint against Alfred Seier for the offense of menacing, a violation of Ala. Code §13A-6-23 (1975, as amended).

21. Upon information and belief, Claiborne Seier was the brother of Alfred Seier.

22. Upon information and belief, Claiborne Seier is a lawyer engaged in the private practice of law in Jefferson County, Alabama.

23. After Alfred Seier was arrested on the criminal charges filed by Newsome, Claiborne Seier contacted Newsome and requested Newsome to drop the criminal charges.

24. During at least one conversation with Claiborne Seier, Newsome told Claiborne Seier that he [Newsome] carried a handgun, but was not carrying his handgun that day or Alfred Seier could have been shot.

25. Claiborne Seier told Newsome that Alfred Seier had a terminal illness and was not expected to live in an attempt to convince Newsome to drop the criminal charges.

26. Claiborne Seier called Newsome on at least two more occasions trying to pressure Newsome into dropping the charges.

27. Newsome refused to drop the criminal charges against Alfred Seier.

28. On or about May 8, 2012, in State of Alabama v. Alfred Wallace Seier, 58-DC-2012-000431, in the District Court of Shelby County, Alabama, Alfred Seier was convicted of menacing, a violation of Ala. Code §13A-6-23 (1975, as amended).

29. Alfred Seier was sentenced to a 30-day suspended sentence, placed on two years' probation, ordered to stay away from Newsome, Newsome's residence, and Newsome's place of business, and ordered to pay a fine of \$50.00, plus court costs and other court ordered monies.

30. Upon information and belief, on or about November 18, 2012, Alfred Seier passed away.

31. On or about December 19, 2012, Newsome was scheduled to appear in court for on a personal legal matter for a client.

32. Upon information and belief, Clark Cooper was aware of Newsome's scheduled court appearance on December 19, 2012.

33. Upon information and belief, Clark Cooper had discussed the personal legal matter and scheduled court appearance with Newsome's client.

34. On December 19, 2012, prior to Newsome's scheduled court appearance, Bullock parked outside the offices of Newsome Law in Shelby County, Alabama.

35. Upon information and belief, Bullock waited in his vehicle outside the offices of Newsome Law for Newsome to exit the building.

36. When Newsome exited the building and approached his vehicle, Bullock, whose vehicle was parked adjacent to Newsome's vehicle, exited his vehicle, blocking Newsome from his vehicle.

37. Bullock's conduct was substantially identical to the conduct of Alfred Seier during the incident that occurred on January 30, 2012.

38. Because of the previous incident involving Alfred Seier, Newsome was armed with his handgun.

39. Because of the substantial similarities with the Alfred Seier incident, Newsome produced his handgun and directed Bullock to move out of his way and to get back in his vehicle.

40. Bullock complied.

41. Newsome got into his vehicle without further incident and left for court.

42. Upon information and belief this incident was staged and contrived to set-up Newsome for possible criminal charges under circumstances substantially similar to those that resulted in Newsome's criminal charges against Alfred Seier.

43. On or about January 14, 2013, almost a month after the incident, Bullock filed a criminal complaint against Newsome for the offense of menacing, a violation of Ala. Code §13A-6-23 (1975, as amended).

44. On or about May 2, 2013, Newsome was stopped for a minor traffic violation.

45. During the stop, Newsome was arrested on the menacing warrant resulting from Bullock's criminal complaint.

46. During the foregoing events and particularly at the time of his arrest, Newsome had a lawyer-client relationship, professional business relationship, and a contractual relationship with Iberiabank Corp.

47. During the foregoing events and particularly at the time of his arrest, Newsome had a lawyer-client relationship, professional business relationship, and a contractual relationship with Renasant Bank.

48. During the foregoing events and particularly at the time of his arrest, Newsome had a lawyer-client relationship, professional business relationship, and a contractual relationship with Bryant Bank.

49. Upon information and belief, Clark Cooper was aware of Newsome's ongoing lawyer-client relationship, professional business relationship, representation of and contractual relationship with Iberiabank Corp, Renasant Bank, and Bryant Bank.

50. Upon information and belief, shortly after Newsome's arrest, Clark Cooper sent emails and/or other communications to officers and bank officials with Iberiabank Corp,

Renasant Bank, and Bryant Bank containing a copy of Newsome's mug shot, asking if they had seen Newsome's mug shot, and questioning the effect of Newsome's arrest on his license to practice law and intentionally casting Newsome and Newsome Law in a bad light.

51. Newsome was not convicted on the criminal charges, which were dismissed with prejudice on or about April 1, 2014.

52. Upon information and belief, shortly after Newsome's arrest, Clark Cooper improperly sent other emails and/or communications to officers and bank officials referencing specific cases in which Newsome was appearing as counsel for the bank and requesting work from Newsome's client knowing that the client was represented by Newsome in the matter.

COUNT I

MALICIOUS PROSECUTION

53. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

54. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26, set-up and entrapped Plaintiff, Newsome, into engaging in the conduct occurring on or about December 19, 2012.

55. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 instituted a prior judicial proceeding without probable cause and with malice, said judicial proceeding ended in favor of Plaintiff, Newsome, and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT II
ABUSE OF PROCESS

56. Plaintiffs re-allege the material allegations of paragraphs 1-55 as if fully set forth herein.

57. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 wrongfully used the judicial process and in so doing acted with malice and were motivated by an ulterior improper purpose or proper purpose accomplished through improper and/or wrongful conduct, and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT III
FALSE IMPRISONMENT

58. Plaintiffs re-allege the material allegations of paragraphs 1-57 as if fully set forth herein.

59. Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 acted in bad faith without probable cause to believe Plaintiff, Newsome, had engaged in any criminal conduct, which resulted in Plaintiff Newsome’s unlawful detention wherein Plaintiff Newsome was wrongfully and unlawfully deprived of his personal liberty, and as a proximate consequence of the Defendants’ conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT IV
OUTRAGE/INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

60. Plaintiffs re-allege the material allegations of paragraphs 1-59 as if fully set forth herein.

61. By doing the foregoing, Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 intentionally engaged in conduct that was so outrageous, so extreme in degree as to go beyond all possible bounds of decency, as to be regarded as atrocious and utterly intolerable in a civilized society, and as a proximate consequence of the Defendants’ conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT V
CONSPIRACY

62. Plaintiffs re-allege the material allegations of paragraphs 1-61 as if fully set forth herein.

63. Fictitious Defendants 5-15 conspired with each other and/or with Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 to achieve an unlawful purpose or a lawful purpose by unlawful means to engage in malicious prosecution and/or abuse of process and/or false imprisonment and/or outrage and/or intentional infliction of emotional distress, and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants John Bullock and/or Claiborne Seier and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT VI
INTENTIONAL INTERFERENCE WITH A BUSINESS OR CONTRACTUAL
RELATIONSHIP

64. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

65. Plaintiffs had a valid and existing business and contractual relationship with Iberiabank Corp.

66. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 knew of the Plaintiffs' valid and existing business and contractual relationship with Iberiabank Corp.

67. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 were strangers to the business and contractual relationship between the Plaintiffs and Iberiabank Corp.

68. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or severally and/or collectively, intentionally and wrongfully interfered with the said business and contractual relations.

69. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT VII
INTENTIONAL INTERFERENCE WITH A BUSINESS OR CONTRACTUAL
RELATIONSHIP

70. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

71. Plaintiffs had a valid and existing business and contractual relationship with Renasant Bank.

72. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 knew of the Plaintiffs' valid and existing business and contractual relationship with Renasant Bank.

73. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 were strangers to the business and contractual relationship between the Plaintiffs and Renasant Bank.

74. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or collectively intentionally and wrongfully interfered with the said business and contractual relations.

75. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will; loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT VIII
INTENTIONAL INTERFERENCE WITH A BUSINESS OR CONTRACTUAL
RELATIONSHIP

76. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

77. Plaintiffs had a valid and existing business and contractual relationship with Bryant Bank.

78. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 knew of the Plaintiffs' valid and existing business and contractual relationship with Bryant Bank.

79. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 were strangers to the business and contractual relationship between the Plaintiffs and Bryant Bank.

80. Defendant Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 separately and/or collectively intentionally and wrongfully interfered with the said business and contractual relations.

81. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1–4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT IX
DEFAMATION

82. Plaintiffs re-allege the material allegations of paragraphs 1-52 as if fully set forth herein.

83. By engaging in the above conduct, Defendant Clark Cooper and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 separately or severally made a false and defamatory statement concerning the Plaintiff.

84. Defendant Clark Cooper and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 separately and/or severally made an unprivileged communication of that false and defamatory statement to a third party.

85. Defendant Clark Cooper and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 separately and/or severally made the false and defamatory statements knowing they were false and defamatory at the time they were made or made them negligently without regard to their truth or falsity in an improper attempt to cast the Plaintiff in a bad light.

86. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT X
CONSPIRACY

87. Plaintiffs re-allege the material allegations of paragraphs 1-52, 65-69, 71-75, 77-81, and 83-86 as if fully set forth herein.

88. Fictitious Defendants 5-15 conspired with each other and/or with Defendant Clark Cooper and/or Fictitious Defendants 1-4, and/or Fictitious Defendants 16-26 to intentionally

interfere with a business or contractual relation and/or engage in defamation and as a proximate consequence of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Fictitious Defendants 1-4 and/or Fictitious Defendants 5-15 and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

COUNT XI
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR

89. Plaintiffs re-allege the material allegations of paragraphs 1-52, 65-69, 71-75, 77-81, and 83-86 as if fully set forth herein.

90. While engaging in the above conduct, Defendant Clark Cooper and/or Fictitious Defendants 1-4 and/or Fictitious Defendants 5-15 and/or Fictitious Defendants 16-26 separately or severally were acting in the line, course and scope of their authority and capacity as a partner and/or employee and/or agent of Defendant Balch and/or Fictitious Defendants 1-4 and, therefore, Defendant Balch and/or Fictitious Defendants 1-4 are vicariously liable for the acts committed and complained of herein.

91. As approximate result of the Defendants' conduct Plaintiffs have suffered damages to their character, good name, reputation, good will, loss of business, loss of business income, loss of future business, loss of business opportunity, emotional distress and mental anguish, and have otherwise been injured and damaged.

Wherefore, Plaintiffs demand judgment separately and severally against Defendants Clark Cooper and/or Balch and/or Fictitious Defendants 1-4 and/or Fictitious Defendants 5-15 and/or Fictitious Defendants 16-26 for compensatory and punitive damages in excess of the minimum jurisdictional limits of this Court and costs.

/s/Robert E. Lusk, Jr
ROBERT E. LUSK, JR. (LUS005)
Attorney for the Plaintiffs BURT W. NEWSOME
and NEWSOME LAW, LLC.

LUSK LAW FIRM, LLC
P. O. Box 1315
Fairhope, AL 36533
251-471-8017
251-478-9601 Fax
rlusk@lusklawfirmllc.com

PLAINTIFFS DEMAND A JURY ON ALL ISSUES SO TRIABLE.

To Clerk of the Court:

Plaintiffs request service of the Summons and Complaint upon each Defendant by United States certified mail, restricted delivery, return receipt requested, pursuant to A.R.Civ.P., Rule 4.1(c).

/s/Robert E. Lusk, Jr
ROBERT E. LUSK, JR. (LUS005)
Attorney for the Plaintiffs BURT W. NEWSOME
and NEWSOME LAW, LLC.

CLARK ANDREW COOPER
Balch & Bingham LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203-4642

CLAIBORNE P. SEIER
3557 Al Seier Drive
Birmingham, AL 35226

BALCH & BINGHAM, LLP
C/O ALAN T. ROGERS
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203-4642

JOHN FRANKLIN BULLOCK, JR.
1917 Cogswell Avenue
Pell City, AL 35125



ELECTRONICALLY FILED
2/13/2015 9:36 AM
01-CV-2015-900190.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA,
BIRMINGHAM DIVISION

BURT W. NEWSOME; and)
NEWSOME LAW, LLC,)

Plaintiffs,)

v.)

CV-2015-900190.00

CLARK ANDREW COOPER;)
BALCH & BINGHAM, LLP;)
JOHN W. BULLOCK, JR.;)
CLAIBORNE PORTER SEIER,)

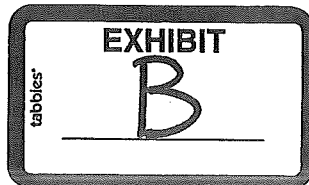
SET FOR HEARING:
March 6, 2015, 10:00 AM

Defendants.)

DEFENDANT CLAIBORE P. SEIER, ESQ.'S MOTION TO DISMISS

COMES NOW one of the Defendants, Claiborne P. Seier, Esq., and hereby moves the Court to dismiss all allegations asserted against him on the basis that said claims are barred by a release executed by the Plaintiff in favor of this Defendant. In further support thereof, Attorney Seier would show the Court the following:

1. Plaintiff's Complaint against Attorney Seier in this matter is premised on the false, defamatory and libelous assertion that Attorney Seier conspired with another named Defendant, John Bullock, to somehow frame the Plaintiff for the crime of menacing.
2. There is absolutely no factual or other good-faith basis to support this claim – a fact which will be addressed future filings to be made with this Court.
3. Regardless, it is undisputed that Plaintiff was charged with the crime of menacing after pulling a pistol on and making threatening statements towards Defendant John Bullock in the parking lot of Plaintiff's law office. This charge was brought in the District Court of Shelby County, Alabama and assigned



case number 58-DC-2013-001434.00.

4. In response to this charge of menacing, Plaintiff accepted and entered into a deferred prosecution agreement with the Shelby County District Attorney in a compromise settlement of the allegations asserted against him. A copy of the Deferred Prosecution Agreement and Release signed by Plaintiff is attached hereto. Attorney Seier requests that this Court take judicial notice of this document as it is publicly available in the court records of the District Court of Shelby County, Alabama, and publicly available for review through the AlaFile electronic court records system.
5. According to the general release contained within the Deferred Prosecution and Release Agreement signed by the Plaintiff, Plaintiff agreed to “grant a full, complete, and absolute Release of all civil and criminal claims stemming directly or indirectly from this case to...any other complainants, witnesses, associations, corporations, groups, organizations or persons in any way related to this matter...” The release further states that “[t]he Defendant freely makes this release knowingly and voluntarily. In exchange for this release, this case will either be dismissed immediately, or pursuant to the conditions noted above.”
6. After the Plaintiff’s execution of the Deferred Prosecution and Release Agreement, the Plaintiff’s payment of Court Costs, a Bail Bond Fee, Jail Housing Costs, and a contribution to the Alabama Crime Victims’ Compensation Fund, and the Plaintiff’s lack of any subsequent criminal warrants or indictments for a period of six months, the menacing charges against the Plaintiff were dismissed under the terms of that Agreement.
7. Plaintiff’s instant Complaint against Attorney Seier is undisputedly a “civil claim...stemming directly or indirectly from [the criminal menacing] case,” thus bringing it within the scope of released claims contemplated by the Deferred Prosecution and Release Agreement. In fact, the whole premise of

the Complaint as to Attorney Seier is that, for some unknown (and illogical) reason, Attorney Seier conspired to have Plaintiff framed for the menacing crime.

8. Moreover, as an alleged co-conspirator with the complainant as set forth in the Plaintiff's Complaint, Attorney Seier is clearly a "person[] in any way related to this matter." Attorney Seier must correspondingly be deemed a released person under the terms of the Deferred Prosecution and Release Agreement executed by the Plaintiff, and the charges against him dismissed with prejudice under that Agreement's terms.

WHEREFORE, THE PREMISES CONSIDERED, Attorney Seier requests that this Court dismiss all claims against him with prejudice.

Respectfully submitted this the 13th day of February 2015,

/s/ Robert M. Ronnlund

Robert M. Ronnlund (RON006)

ASB-5137-E63R

Attorney for Defendant Claiborne P. Seier

OF COUNSEL:

SCOTT, SULLIVAN, STREETMAN & FOX, P.C.

P.O. Box 380548

Birmingham, Alabama 35238

205-967-9675; FAX: 205-967-7563

ronnlund@sssandf.com

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of February 2015, served a copy of the foregoing on counsel for all parties by electronic mail or by placing same in the United States Mail, properly addressed and first-class postage prepaid, to:

Robert E. Lusk, Jr.
LUSK LAW FIRM, LLC
P. O. Box 1315
Fairhope, AL 36533
251-471-8017
251-478-9601 Fax
rlusk@lusklawfirmllc.com

S. Allen Baker, Jr.
Amelia K. Steindorff
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203-4642

Judge James E. Hill, Jr.
HILL, WEISSKOPF & HILL, P.C.
Moody Professional Building
2603 Moody Parkway, Suite 200
Moody, Alabama 35004

/s/ /Robert M. Ronnlund
OF COUNSEL

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W. NEWSOME; and)
 NEWSOME LAW, LLC,)
)
 Plaintiffs,)
)
 v.)
)
 JOHN W. BULLOCK, JR., et al.)
)
 Defendant.)

CASE NO. CV-2015-900190.00

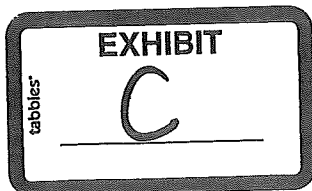
FILED IN OFFICE
 CIRCUIT CIVIL DIVISION
 FEB 24 2015
 ANNE-MARIE ADAMS
 CLERK

MOTION TO DISMISS

COMES NOW Defendant, John W. Bullock, Jr., and moves this honorable Court to DISMISS the claims against him in the above style case based on the following:

Plaintiff has executed a release in favor of Mr. Bullock that precludes Plaintiff from bringing this action against Mr. Bullock. Plaintiff states in the Complaint that he was arrested for menacing and that charge was later dismissed with prejudice. (Complaint ¶ 45, 51). Plaintiff fails to mention that in order to secure a dismissal he specifically agreed to release Mr. Bullock from all civil and criminal arising out of that case. (See Exhibit 1, attached). To quote the agreement and order of the Shelby County District Court:

The Defendant [Burt Newsome] does hereby grant a full, complete and absolute **Release** of all civil and criminal claims stemming directly or indirectly from this case to [the State of Alabama, its District Attorney, law enforcement officers associated with this case, and] any other complainants, witnesses, associations, corporations, groups, organizations, or person in any way related to this matter . . . , from any and all actions arising from the instigation, investigation, prosecution, defense, or any other aspect of this matter.



(Exhibit 1). This release plainly includes Mr. Bullock. He is both a "complainant" and "witness" because he both complained of and witnessed Plaintiff perform the conduct that was the basis of that case. (See Exhibit 2, attached). The Plaintiff, his attorney in that case, and Mr. Bullock all signed the release. If there remained any doubt in the mind as to whether this release includes Mr. Bullock, the fact that he signed the release in the area designated for the "Complaining Witness" is decisive. Mr. Bullock was not only clearly contemplated in the language of the release; he was an actual signatory to that document.

WHEREFORE, PREMISES CONSIDERED, the Defendant requests that this Motion be set for argument on March 6, 2015 to coincide with the previously set hearing on that date and, having shown that an absolute and total release bars the very initiation of this matter, prays that this Court will enter a judgment in favor of Defendant, that these claims be DISMISSED with prejudice, that Defendant be awarded reasonable attorneys fees, and have such other, further, and different relief to which it may be entitled.

Respectfully submitted,



JAMES E. HILL (HIL005),
Attorney for Defendant John W. Bullock

OF COUNSEL:

**HILL, WEISSKOPF & HILL, P.C.
2603 MOODY PARKWAY, SUITE 200
P.O. BOX 310
MOODY, ALABAMA 35004
(205) 640-2000**

CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing with the Clerk of Court, and have served a copy of the foregoing on the parties listed below, those being the only parties currently known to me due to the temporary seal on the case, by first class U.S. mail on this 24th day of February 2015.

Robert E. Lusk, Jr.
P.O. Box 1315
Fairhope, AL 36533

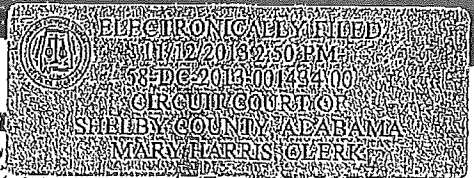
Clark Andres Cooper
Balch & Bingham LLP
1901 Sixth Avenue North, Suite 1500
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Blach & Bingham, LLP
C/O Alan T. Rogers
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203-4642

Clairborne P. Seier
2557 AL Seier Drive
Birmingham, AL 35226

/s/ James E. Hill, Jr.
OF COUNSEL

Exhibit 1



IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA v. Burton Wheeler Newsome

DI CASE NO. DC 2013-1434

This matter comes before the Court by the specific AGREEMENT of the parties. The Defendant is present, is represented by counsel and has NOT knowingly and voluntarily waived the right to the same. After due consideration and pursuant to said agreement, all of the following as specifically noted below is hereby ORDERED, ADJUDGED and DECREED.

- This matter is Dismissed with _____ prejudice.
- This matter is Contingued until 4/10/14 9:00 then to be Dismissed with prejudice, provided that the defendant have no further incidents/arrests
- This matter is placed on the Administrative Docket until _____, then to be Dismissed with _____ prejudice, provided that _____
- DEFENDANT MUST APPEAR IN COURT ON THE ABOVE DATE.

COURT COSTS ARE TAXED AS FOLLOWS:

\$ _____ in further Recoupment to the Fair Trial Tax Fund

\$ 308.00 in Court Costs including \$102.00 Bail Bond Fee

\$ 20.00 as Jail Housing Costs and all jail Medical Expenses

\$ 25.00 to the Crime Victims' Compensation Fund

\$ _____ to the Forensic Science Trust Fund (Act No. 93-733 does _____ apply)

\$ _____ in Restitution to _____

\$ _____ as Worthless Check Cost (IWC # _____)

\$ 413.00 TOTAL to be deducted from Cash Bond

PAYMENT MAY BE MADE BY CERTIFIED CHECK, MONEY ORDER, OR IF IN PERSON BY CASH TO COURT CLERK, P.O. BOX 1810, COLUMBIANA, AL. 35051. THE ABOVE CASE NUMBER SHOULD APPEAR ON ALL PAYMENTS' NOTE: IF THE DEFENDANT FAILS TO MAKE SUCH PAYMENTS AND FAILS TO APPEAR IN COURT ON THE ABOVE DATES SHOWN, THIS MATTER WILL NOT BE DISMISSED AND AN ARREST WARRANT AND BOND FORFEITURE CAN BE ISSUED FOR THE DEFENDANT.

The Defendant does hereby grant a full, complete and absolute Release of all civil and criminal claims stemming directly or indirectly from this case to the State of Alabama, its agents and employees, including, but not limited to the District Attorney for Shelby County, Alabama, his agents and employees; to Shelby County, Alabama, its agents and employees, including, but not limited to the Sheriff of said County, his agents and employees, to any other law enforcement or investigativo agencies, public or private, their agents and employees; to any other complainants, witnesses, associations, corporations, groups, organizations or persons in any way related to this matter, to also include the Office of the Public Defender of Shelby County, Alabama, its agents and employees, from any and all actions arising from the instigation, investigation, prosecution, defense, or any other aspect of this matter. The Defendant freely makes this release knowingly and voluntarily. In exchange for this release, this case will be either dismissed immediately, or pursuant to conditions noted above

ANY FEES OR COSTS NOT SPECIFICALLY TAXED ABOVE ARE HEREBY REMITTED.

The foregoing duly reflects the Agreement of the parties as entered above and as attested by their signatures below

[Signature] Complainant Witness [Signature] District Attorney [Signature] Defendant [Signature] Defendant's Attorney

Done and ordered: 11-12-13

[Signature]
DISTRICT JUDGE (SHELBY COUNTY)

Exhibit 2

THIS SIDE OF FORM IS CONFIDENTIAL UNLESS RELEASED AT THE DISCRETION OF THE CHIEF LAW ENFORCEMENT OFFICER

Incident/Offense Report - Continued
83 Date of Report (MM/DD/YYYY) 12/19/12
84 Time of Report 09:20
85 Agency Case Number 2101201910771
86 Suffix
87 Offender Suspect Missing Person
88 Reported By (Last, First, Middle Name) Victim Or

94 Victim # 1
95 Victim (Last, First, Middle Name) Bullock, John Franklin Jr.
96 Suffix
97 Address (Street, City, State, Zip) 1917 Cogswell Ave Pell City, AL 35125
98 Home Phone 936-8315
99 Work Phone 936-8315
100 Other Phone 936-8315
101 Employer/School Self (The pink party store)
102 Occupation Owner
103 Address (Street, City, State, Zip) 3508 Cogswell Ave Pell City, AL 35125
104 Work Phone 936-8315
105 Other Phone 936-8315
108 Sex M
107 Race W
109 English
110 HGT 5'9"
111 WGT 185
112 Date of Birth 11/09/66
113 Age 46
114 Victim SSN 419-15-4210
115 Ethnicity Other
116 Hispanic
117 Injury No
118 Offender known to victim? No
119 Victim was? Stranger
120 Relationship Code
121 Weapons Used Firearm
122 Description of Weapons/Firearms/Tools Used in Offense Black semi-auto with brown handles (possibly a .380)
123 Place of Occurrence In front of 194 Narrows Drive Suite: 103 Birmingham, AL 35242
124 Type None
125 Sector EAST171

125 Circumstances: Homicide & Assault
126 Location: Rape
127 Assault Simple
128 Treatment for Assault? No
129 Verify for Rape Exam? No
130 Treatment for Rape? No
132 Off # 1
133 Name (Last, First, Middle) Newsome, Burton W.
134 SFX
135 Alias
136 Social Security # 255-27-7001
137 Race W
138 Sex M
139 Date of Birth 09/04/66
140 Age 46
141 Address (Street, City, State, Zip) 1005 Belvedere Cove Birmingham, AL 35242
142 HGT 5'8"
143 WGT 180
144 Ethnicity Other
145 Language English
146 Probable Destination Newsome Law, LLC, 194 Narrows Drive Suite: 103 Bhamg, AL 35242
147 Eye BRO
148 Hair BRO
149 Complexion Fair
150 Armed Black semi-auto, possibly a .380 Weapon
151 Clothing PX (205) 747-1970
152 Scars Marks Tattoos Amputations
153 Arrested Wanted
154 Off # NA
155 Name (Last, First, Middle)
156 SFX
157 Alias
158 Social Security #
159 Race
160 Sex
161 Date of Birth
162 Age
163 Address (Street, City, State, Zip)
164 HGT
165 WGT
166 Ethnicity
167 Language
168 Probable Destination
169 Eye
170 Hair
171 Complexion
172 Armed
173 Clothing
174 Scars Marks Tattoos Amputations
175 Arrested Wanted

176 Name (Last, First, Middle) None
177 Sex M
178 Race W
179 Date of Birth
180 Address
181 Home
182 Work
183 Other
184 Name (Last, First, Middle)
185 Sex M
186 Race W
187 Date of Birth
188 Address
189 Home
190 Work
191 Other
192 Name (Last, First, Middle)
193 Sex M
194 Race W
195 Date of Birth
196 Address
197 Home
198 Work
199 Other
200 Witness # 1 SSN
201 Witness # 2 SSN
202 Witness # 3 SSN

203 Mr. Bullock states that he arrived for an 8:00 AM dentist appointment at Narrows Family Dentistry and bucked his car in to a parking spot. When he got out of his car he saw a man standing beside a blue VW Jetta pointing a gun at Mr. Bullock. The man asked Mr. Bullock what he was doing and Mr. Bullock stated "going to the dentist". He stated that the man continued pointing the gun at him and told him to get back into his car. Mr. Bullock got back into his car and states that the man got into the VW and left. Mr. Bullock wrote down the tag number (AL 58AZ366). The tag comes back to a 2006 VW Jetta registered to Burton W. Newsome. Mr. Bullock was shown a license picture of Mr. Newsome and verified that he is the man that pointed a gun at him. Mr. Newsome has a Law practice (Newsome Law, LLC) located two doors down from the dentist office Mr. Bullock was visiting. Mr. Bullock states that he has never seen Mr. Newsome before and doesn't know him. The warrant process was explained to Mr. Bullock.

204 Continued on Supplement Yes No
205 Assisting Agency ORI
206 Assisting Agency Case Number
207 SFX
208 Warrant Signed Yes No
209 Add. Cases Closed Narrative Y N

I hereby affirm that I have read this report and that all the information given by me is correct to the best of my knowledge. I will assume full responsibility for notifying the agency if any stolen property or missing person herein reported is returned.
210 Signature John Bullock
211 Local Use
212 State Use

ALABAMA UNIFORM INCIDENT/OFFENSE REPORT

12-20-12

1 ORI # AL10159101010	2 Date of Report 12/19/12	3 Time of Report 09:20	4 Incident Type MIL	5 Supplement Date	6 Agency Case Number 210112101910171	7 Suffix
8 Agency Name Shelby County Sheriff's Office						9 Sector East
10 Type of Incident or Offense Menacing		11 Degree (Circle) 1 2 3		12 UCR Code		13 State Code/Local Ordinance 13A-6-23
14 Type of Incident or Offense		15 Degree (Circle) 1 2 3		16 UCR Code		17 State Code/Local Ordinance
18 Place of Occurrence 194 Narrows Drive Suite 103 Birmingham, AL 35242			Victim Demographics (Where victim is an individual)			
19 Sex M		20 Race W		21 Ethnicity Hispanic		22 Multiple Victims LE Officer
23 Age 46		24 Offender Suspected of Using Alcohol, Drugs, Computer Equipment, N/A		25 Juvenile Gang, Adult Gang, None/Unknown		26 Hate Bias Yes/No
28 Point of Entry Door, Roof, Window, Other		30 Method of Entry Forcible, Attempted Forcible, No Force		32 Lighting Natural, Moon, Artificial Exterior, Artificial Interior, Unknown		33 Weather Clear, Cloudy, Rain, Fog, Snow, Hail, Unknown
34 Local Use		35 Occurred from MM/DD/YYYY 12/19/12		36 Time of Event 07:30		37 Day of Week S M T W T F S
38 Occurred to MM/DD/YYYY 12/19/12		39 Time of Event 08:30		40 Day of Week S M T W T F S		41 # Promises Entered (Burglary)
42 Type Criminal Activity Buying/Receiving, Distributing/Selling, Operating/Promoting, Transporting/Importing, Cultivating/Manufacturing, Exploiting Children, Possessing/Concealing, Using/Consuming			43 Victim Type Individual, Business, Financial (Bank), Government, Religious Org, Society			
44 Loss Code		45 Property Code		46 Dollar Value		49 Recouped
46 Dollar Value		47 Property Description		48 Stolen		49 Damaged
49 Damaged		49 Recouped		49 Date		49 Value
Loss Code (Enter letter in loss code column): S Stolen, R Recovered, D Damaged/Destroyed, C Confiscated/Sold, B Burned, F Forged/Counterfeited, N None						
Property Code (Enter # in property type column): 01 Aircraft, 02 Autos, 03 Bicycles, 04 Buses, 05 Computers, 06 Clothes, 07 Computer, 08 Consumables, 09 Credit Card, 10 Drugs, 11 Drug Equip, 12 Farm Equip, 13 Firearms, 14 Gambling Equipment, 15 Heavy Construction, 16 Household Goods, 17 Jewelry, 18 Livestock, 19 Merchandise, 20 Money, 21 Negotiable Instrument, 22 Non-negotiable Instru, 23 Office Equipment, 24 Other Motor Vehicle, 25 Purse/Wallet, 26 Radios/TV/VCR, 27 Recordings, 28 RV's, 29 Structure - Single Occupancy Dwelling, 30 Structure - Other Dwelling, 31 Structure - Other Commercial, 32 Structure - Industrial/Manufacturing, 33 Structure - Public/Community, 34 Structure - Storage, 35 Structure - Other, 36 Tools - Power/Hand, 37 Trucks, 38 Vehicle Parts/Accessories, 39 Watercraft, 77 Other						
50 Stolen Vehicle Only		51 Ownership verified by:		52 Veh. Categories		53 Vehicle Year
53 Vehicle Year		54 Vehicle Make		55 Vehicle Model		56 Number Veh Stolen
56 Number Veh Stolen		57 Vehicle Description		58 License		59 Vehicle Style
59 Vehicle Style		60 License		61 ST		62 LIY
62 LIY		63 Tag Color		64 Vehicle VIN Number		65 Warrant Signed
65 Warrant Signed		66 Stolen in your jurisdiction?		67 Recovered in your jurisdiction?		68 Case #
67 Recovered in your jurisdiction?		68 Case #		69 SFX		70 Case #
69 SFX		70 Case #		71 SFX		72 Case #
71 SFX		72 Case #		73 SFX		74 Case Status
72 Case #		73 SFX		74 Case Status		75 Multiple Cases Closed Listed Above
74 Case Status		75 Multiple Cases Closed Listed Above		76 Case Disposition		77 Exceptional Clearance (Circle One)
75 Multiple Cases Closed Listed Above		76 Case Disposition		77 Exceptional Clearance (Circle One)		78 Reporting Officer
76 Case Disposition		77 Exceptional Clearance (Circle One)		78 Reporting Officer		79 Assisting Officer
77 Exceptional Clearance (Circle One)		78 Reporting Officer		79 Assisting Officer		80 Supervisor Approval
78 Reporting Officer		79 Assisting Officer		80 Supervisor Approval		81 Watch Commander
79 Assisting Officer		80 Supervisor Approval		81 Watch Commander		82 Watch Commander

STATE OF ALABAMA Unified Judicial System	Revised 3/5/08 <input type="checkbox"/> District Court <input checked="" type="checkbox"/> Circuit Court	Case No. <i>CV-2015-100190</i>
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Style of case: <i>Burt Newsome, et al.</i> v. <i>John W. Bullock, et al.</i>	CIVIL MOTION COVER SHEET Name of Filing Party: <i>John W. Bullock</i>
---	---

Name, Address, and Telephone No. of Attorney or Party (If Not Represented), <i>James E Hill, Jr.</i> <i>1603 Moody Parkway, Suite 402</i> <i>(No 5) 640-2000</i> Attorney Bar No.: <i>HIL005</i>	<input checked="" type="checkbox"/> Oral Arguments Requested
--	--

TYPE OF MOTION

Motions Requiring Fee	Motions Not Requiring Fee
<input type="checkbox"/> Default Judgment (\$50.00) Joinder in Other Party's Dispositive Motion (i.e. <input type="checkbox"/> Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Judgment on the Pleadings (\$50.00) <input checked="" type="checkbox"/> Motion to Dismiss, or in the Alternative Summary Judgment (\$50.00) Renewed Dispositive Motion (Summary Judgment, <input type="checkbox"/> Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Summary Judgment pursuant to Rule 56 (\$50.00) <input type="checkbox"/> Motion to Intervene (\$297.00) <input type="checkbox"/> Other _____ pursuant to Rule _____ (\$50.00) *Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees. <input type="checkbox"/> Local Court Costs \$ _____	<input type="checkbox"/> Add Party <input type="checkbox"/> Amend <input type="checkbox"/> Change of Venue/Transfer <input type="checkbox"/> Compel <input type="checkbox"/> Consolidation <input type="checkbox"/> Continue <input type="checkbox"/> Deposition <input type="checkbox"/> Designate a Mediator <input type="checkbox"/> Judgment as a Matter of Law (during Trial) <input type="checkbox"/> Disburse Funds <input type="checkbox"/> Extension of Time <input type="checkbox"/> In Limine <input type="checkbox"/> Joinder <input type="checkbox"/> More Definite Statement <input type="checkbox"/> Motion to Dismiss pursuant to Rule 12(b) <input type="checkbox"/> New Trial <input type="checkbox"/> Objection of Exemptions Claimed <input type="checkbox"/> Pendente Lite <input type="checkbox"/> Plaintiff's Motion to Dismiss <input type="checkbox"/> Preliminary Injunction <input type="checkbox"/> Protective Order <input type="checkbox"/> Quash <input type="checkbox"/> Release from Stay of Execution <input type="checkbox"/> Sanctions <input type="checkbox"/> Sever <input type="checkbox"/> Special Practice in Alabama <input type="checkbox"/> Stay <input type="checkbox"/> Strike <input type="checkbox"/> Supplement to Pending Motion <input type="checkbox"/> Vacate or Modify <input type="checkbox"/> Withdraw <input type="checkbox"/> Other _____ pursuant to Rule _____ (Subject to Filing Fee)

FILED IN OFFICE
CIRCUIT CIVIL DIVISION
FEB 24 2015
ANNE-MARIE ADAMS
CLERK

Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees) <input type="checkbox"/>	Date: <i>2/24/15</i>	Signature of Attorney or Party:
---	-------------------------	---------------------------------

*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.
 **Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(h) and are in fact Motions for Summary Judgments are subject to filing fee.



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
 BIRMINGHAM DIVISION

BURT W. NEWSOME; and NEWSOME)
LAW, LLC)

Plaintiffs,)

v.)

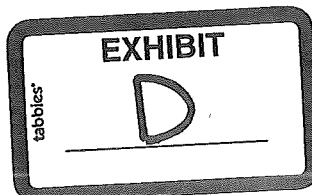
CLARK ANDREW COOPER; BALCH &)
BINGHAM, LLP; JOHN W. BULLOCK,)
JR.; CLAIBORNE PORTER SEIER;)
 Fictitious Defendants 1-4 being the true and)
 correct names of the named Defendants;)
 Fictitious Defendants 5-15 being those)
 individuals and/or entities who conspired with)
 any of the named Defendants in the commission)
 of the wrongs alleged herein and whose true and)
 correct identities are currently unknown but will)
 be substituted upon discovery; Fictitious)
 Defendants 16- 26 being those individuals)
 and/or entities who participated in or otherwise)
 committed any of the wrongs alleged herein and)
 whose true and correct identities are currently)
 unknown but will be substituted upon)
 discovery))

Defendants.)

CASE NO.: 01-CV-2015-900190.00

MOTION TO DISMISS OF CLARK COOPER
AND BALCH & BINGHAM LLP

In furtherance of their counsel’s oral motion before this Court at its March 16, 2015 hearing, Clark Cooper (“Cooper”) and Balch & Bingham LLP (“B&B”) respectfully move to dismiss all claims filed against them pursuant to Alabama Rule of Civil Procedure 12(c). Based upon the oral argument made by Newsome’s counsel at said March 16, 2015 hearing that B&B conspired with Defendants Bullock and Seier, the undersigned adopts and incorporates those



motions to dismiss previously filed and argued by Defendants John Bullock and Claiborne Seier, and specifically states that Cooper and B&B have been placed squarely within the protection provided by that Deferred Prosecution and Release Agreement signed by Newsome.

Respectfully submitted,

Amelia K. Steindorff

One of the Attorneys for Defendant, Clark Andrew
Cooper and Balch & Bingham LLP

OF COUNSEL:

S. Allen Baker Jr.
Amelia K. Steindorff
BALCH & BINGHAM LLP
1901 Sixth Avenue North
Suite 1500
Birmingham, AL 35203
Telephone: (205) 226-3416
Telephone: (205) 226-3421
Facsimile: (205) 488-5880
Facsimile: (205) 488-5613
E-mail: abaker@balch.com
E-mail: asteindorff@balch.com

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2015 I filed a copy of the foregoing with the Clerk of the Court using the Alafire/E-File System which will automatically generate service on all parties to this action.

s/ Amelia K. Steindorff

Of Counsel

State of Alabama Unified Judicial System Form CR-65 7/2014	PETITION FOR EXPUNGEMENT OF RECORDS	Case No. DC-2013-001434 CC 13-121
--	---	--

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA
(Name of County)

STATE OF ALABAMA v. BURTON W. NEWSOME,
 Defendant/Petitioner

MUNICIPALITY OF _____ v. _____,
 Defendant/Petitioner *(Name of Municipality)* *(Name)*

CASE NUMBER DC-2013-001434

CHARGE MENACING

(Name or Describe the Offense; Only One Offense per Petition)

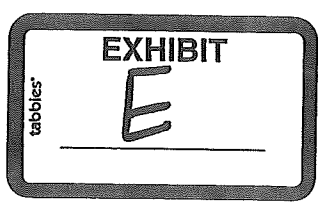
I, the above-named Defendant/Petitioner, was charged with the above-named Offense which is

- a misdemeanor criminal offense,
- a violation,
- a traffic violation,
- a municipal ordinance violation,
- a non-violent felony,

RECEIVED & FILED
 APR 19 2015
 MARY F. HARRIS
 CIRCUIT & DISTRICT COURT CLERK
 SHELBY COUNTY

I hereby file this petition with the circuit court in order to have the records relating to the above charge expunged for one of the following circumstances:

- The charge was dismissed with prejudice.
- The charge was not billed by a grand jury.
- I was found not guilty of the charge.
- (Non-felony only)* The charge was dismissed without prejudice more than two years ago and was not refiled, and I have not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous two years.
- (Non-violent Felony only)* The charge was dismissed after successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program after one year from successful completion of the program.



State of Alabama
Unified Judicial System
Form CR-65 7/2014

PETITION FOR EXPUNGEMENT OF
RECORDS

Case No. DC-2013-001434

CC19-121

(Non-violent Felony only) The charge was dismissed without prejudice more than five years ago, was not refiled, and I have not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years.

(Non-violent Felony only) Ninety days have passed from the date of dismissal with prejudice, no-bill, acquittal, or nolle prosequi and the charge has not been refiled.

Attached to this petition is a certified record of arrest, disposition, or the case action summary from the appropriate agency for the court record I seek to have expunged, as well as a certified official criminal record obtained from the Alabama Criminal Justice Information Center.

I am providing the following additional information as required by Act # 2014-292 (codified at Ala. Code 1975, § 15-27-1 et seq.):
I was charged with menacing and a warrant was issued for my arrest. On May 2, 2014, I was arrested by a Shelby County Deputy and booked into Shelby County Jail.

(specify what criminal charges from the record are to be considered, further specify the agency or department that made the arrest and any agency or department where the petitioner was booked or was incarcerated or detained pursuant to the arrest or charge sought to be expunged). Further, I have satisfied and paid in full all terms and conditions, including court ordered restitution, including interest, to any victim or the Alabama Crime Victims Compensation Commission, as well as court costs, fines, or statutory fees ordered by the sentencing court to have been paid, absent a finding of indigency by the court.

I swear or affirm, under the penalty of perjury, that I have satisfied the requirements set out in Act # 2014-292 (codified at Ala. Code 1975, § 15-27-1 et seq.) that I have not have previously applied for an expungement in any other jurisdiction, specifically

_____ and, if I have applied for an expungement in any other jurisdiction, the expungement was previously granted denied.

9/6/2015
Date

[Signature]
Signature of Petitioner

SWORN TO AND SUBSCRIBED BEFORE ME:

9/6/2015
Date

[Signature]
Person Authorized to Administer Oaths
Jessie Earl
Notary Public, Alabama State of Large
City Commission Expires October 4, 2016



ELECTRONICALLY FILED
4/21/2015 11:41 AM
01-CV-2015-900190.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W. NEWSOME; and)
NEWSOME LAW, LLC,)
)
Plaintiffs,)
vs.)
CLARK ANDREW COOPER, et al.,)
)
Defendants.)

CASE NO. CV-2015-900190

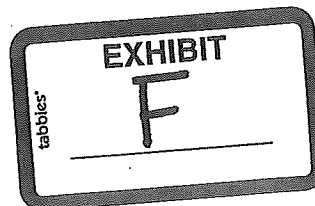
NOTICE OF SERVICE OF DISCOVERY DOCUMENTS

PLEASE TAKE NOTICE that the following discovery documents have been served on the Defendant, Clark Andrew Cooper, by Plaintiff, BURT W. NEWSOME and NEWSOME LAW, LLC.:

- () Interrogatories
- () Request for Production of Documents
- () Request for Admissions
- (X) Answers to Interrogatories
- (X) Response to Request for Production of Documents
- () Response to Request for Admissions
- () Notice of Deposition for Plaintiff/Defendant
- () Notice of Intent to Serve Subpoena on Non-Party – _____
- () Other: _____

/s/Robert E. Lusk, Jr.
ROBERT E. LUSK, JR. (LUS005)
Attorney For Plaintiffs BURT W. NEWSOME
and NEWSOME LAW, LLC.

LUSK LAW FIRM, LLC
P. O. Box 1315
Fairhope, AL 36533
251-471-8017
251-478-9601 Fax
rlusk@lusklawfirmllc.com



Certificate of Service

I hereby certify that I have filed electronically and served a copy of the foregoing upon the below listed parties to this action by placing a copy of same in the United States Mail, postage prepaid and properly addressed, this the 21st day of April, 2015.

S. Allen Baker
Amelia K. Steindorff
Balch & Bingham
1901 Sixth Avenue North
Suite 1500
Birmingham, AL 35203

James E. Hill, Jr.
Hill, Weisskopf & Hill
Moody Professional Bldg
2603 Moody Parkway
Suite 200
Moody, Alabama 35004

Robert Ronnlund
P.O. Box 380548
Birmingham, AL 35238

/s/ Robert E. Lusk, Jr.
ROBERT E. LUSK, JR. (LUS005)
Attorney For Plaintiffs

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W. NEWSOME; and)
NEWSOME LAW, LLC,)
))
Plaintiffs,)
vs.)
))
CLARK ANDREW COOPER, *et al.*,)
))
Defendants.)

CASE NO. CV-2015-900190

PLAINTIFFS' RESPONSE TO DEFENDANT'S FIRST SET OF CONSOLIDATED DISCOVERY REQUESTS

COMES NOW, the Plaintiffs and submits the following responses to the Defendant's First Set of Consolidated Discovery Requests to the Plaintiffs. The Plaintiffs state:

GENERAL OBJECTIONS

Each of Plaintiffs' responses to the interrogatories and requests below is made subject to the General Objections stated below.

1. Plaintiff objects to each and every interrogatory and request to the extent that they call for information and/or documents protected by the attorney-client privilege, that constitute work product, or that are otherwise privileged or protected from disclosure.
2. Plaintiff objects to each and every request to the extent they purport to impose obligations that differ from or exceed those imposed by the Alabama Rules of Civil Procedure.
3. Plaintiff objects to each and every interrogatory and request to the extent they are not reasonably limited as to time, scope, geography or subject matter, call for confidential and/or trade secret information, and/or call for legal conclusions.
4. Plaintiff objects to each and every interrogatory and every request to the extent they seek information or documents in the public domain, which is as readily available to the Plaintiff as it is to Plaintiff.
5. Plaintiff objects to each and every interrogatory and every request to the extent they seek information from entities or individuals other than Plaintiff.
6. Plaintiff objects to each and every interrogatory and every request to the extent that they are vague, ambiguous, overly broad, unduly burdensome, and/or seek information

and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible information and/or documents.

7. The objections made by Plaintiff are based on information now available to his, and Plaintiff specifically reserves the right to amend, modify, or supplement his objections if he obtains additional responsive information during the course of its investigation or discovery.

8. Plaintiff does not waive any protections, rights, or privileges by responding to this discovery. All responses stated below incorporate the above-stated objections and are provided subject to and without waiving any of the objections stated above. The fact that Plaintiff may not repeat all of the foregoing objections for each specific interrogatory and request shall not waive any of the above-stated objections.

9. Plaintiff reserves the right to supplement his responses interrogatories and requests upon discovery of additional responsive information.

INTERROGATORIES

1. Identify all of the damages you claim to have suffered as a result of the facts and legal claims you allege against Defendant Clark Cooper and/or Balch in the Complaint to the Instant Action.

RESPONSE: Damage to my good name and reputation, the good name and reputation of my firm, resulting in the loss of revenue from Renasant Bank.

2. Identify each and every fact that you contend supports your claim against Clark Cooper in connection to the claims for Intentional Interference with a Business or Contractual Relationship related to Iberiabank Corp., Renasant Bank, and Bryant Bank, as alleged in Counts VI, VII, and VIII of the Complaint.

RESPONSE: Cooper sent emails of my mug shot to common clients, making statements and questioning the impact my arrest would have on my law license and consequent ability to continue to represent these clients in matters I was currently representing them; he also tracked my cases on Alacourt and emailed common clients with reference to specific cases in which I was representing those common clients asking about doing work for them on those and other existing cases.

3. Identify each and every fact that you content supports your claim in connection to the Defamation claim, as alleged in Count IX in the Complaint, with respect to Clark Cooper.

RESPONSE: The copies of my emails with statements implying the arrest would have some negative impact on my law license and ability to represent clients. The rapid sending of my mug shot after my arrest and the specific targeting of common clients.

4. Identify each and every fact that you contend supports your claim in connection to the Conspiracy claim, as alleged in Count X in the Complaint, with respect to Clark Cooper.

RESPONSE: The copies of my emails with statements implying the arrest would have some negative impact on my law license and ability to represent clients. The rapid sending of my mug shot after my arrest. The specific targeting of common clients.

5. Identify, provide facts, and explain how Burt Newsome became aware that Clark Cooper sent his mug shot to Iberia Bank.

RESPONSE: I was told by both Mark Reiber and Brian Hamilton of IBERIABANK and by Bill Stockton of Renasant Bank.

6. Identify any and all persons or entities that you contend received a mug shot sent by Clark Cooper.

In response, please attach copies to your responses of any written evidence or proof that anyone received a copy of Burt Newsome's mug shot that you contend was originated by Clark Cooper.

RESPONSE: IBERIABANK

7. Identify all individuals who are likely to have knowledge of any of the facts alleged in the Complaint in the Instant Action, including their full name, home address, business address, home telephone number, business telephone number, mobile telephone number, email address, and a detailed description of the facts of which you believe they have knowledge.

RESPONSE: Bill Stockton
John Bentley
Brian Hamilton
Mark Reiber
David Agee
John Bullock
Claiborne Seier

Jennifer Choi

8. Identify all banking clients whom Burt Newsome or Newsome Law has represented since January 2005, indicating the length of the representation and whether the client terminated the relationship.

RESPONSE: AmSouth (Dissolved by merger)
Alamerica
Iberia
Premier Bank (Taken over by FDIC)
Red Mountain Bank (Dissolved by merger)
Renasant
Aliant
Frontier Bank (Dissolved by merger)
Summit Bank
M&F (Dissolved by merger)
Regions
First Community Bank

9. Identify all banking clients currently or previously represented by Burt Newsome or Newsome Law whom have been dissatisfied with the manner in which matters were handled, including any and all disagreements between the client and Burt Newsome.

RESPONSE: Regions – sent me the wrong mortgage on a file to foreclose and said I should have realized that prior to starting foreclosure.

10. Identify any instances where a banking client has fired, terminated a legal relationship, or removed an active file from Burt Newsome or Newsome Law, including all individuals and facts involved.

RESPONSE: None; some of my clients have been dissolved by the FDIC and/or merged and I did not represent the new bank post merger.

11. Identify all communications to any banking clients which reference or refer to Clark Cooper and/or Balch.

RESPONSE: Objection. Vague, ambiguous, confusing, overly broad, unduly burdensome, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence; and calls for information protected by attorney-client privilege.

12. Identify all cases currently being handled, or those that have been handled since 2010 by Burt Newsome or Newsome Law LLC, for Iberiabank Corp., Bryant Bank, and Renasant Bank, and describe the nature of the action, including contacts at each bank.

RESPONSE: Objection. Vague, ambiguous, confusing, overly broad, unduly burdensome, information requested is equally available to Defendant Cooper and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence; and calls for information protected by attorney-client privilege.

13. Identify any and all lawsuits where Burt Newsome and/or Newsome Law has been the plaintiff or the defendant.

RESPONSE: Defendants, Cooper and Balch already have a list of these lawsuits.

14. Identify whether Burt Newsome has ever been sued for legal malpractice, and for each instance describe the facts surrounding the action, and the resolution of the action.

RESPONSE: No.

15. Identify any instances of prejudice and/or harm caused to a client due to the actions or inactions associated with representation by Burt Newsome or Newsome Law

RESPONSE: None.

16. Identify whether Burt Newsome or Newsome Law has ever had to refund or pay money back to a client.

RESPONSE: None – unless a client inadvertently overpaid on a bill.

17. Identify every law firm where Burt Newsome has worked and/or been employed and identify the length of employment, the reason for leaving, and any terminations of Burt Newsome's employment.

RESPONSE: Wolfe Sores & Boswell	2 years	Moved to Tuscaloosa
Hubbard Smith	2 years	Started firm
Nelson, Dorroh, Grace & Newsome	2 years	Moved to Birmingham

18. Identify whether Burt Newsome has ever made a claim against an insurance carrier with whom he held a policy.

RESPONSE: None.

19. Identify any and all disciplinary actions taken against Burt Newsome by the Alabama State Bar, any court, or other disciplinary body.

RESPONSE: None.

20. Identify date(s), subject matter, and outcome for any bar complaint filed in every state in which you are licensed, and provide all documents in your possession relating to each and every such complaint.

RESPONSE: None.

21. Identify any and all revenue earned for legal work performed from 2010 through the present with respect to Iberiabank Corp., Renasant Bank, and Bryant Bank and indicate how much revenue was earned from each bank.

RESPONSE: Objection. Overly broad, unduly burdensome, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence.

22. Identify any and all Alabama State Bar complaints and any informal complaints (written or oral) related to Burt Newsome's practice of law.

RESPONSE: None.

23. List each and every time either Burt Newsome or any client Burt Newsome represented received an Alabama Litigation Accountability Act ("ALAA") letter, including the case, the style of the case, whether a subsequent ALAA motion was filed and what the outcome was of any motion.

RESPONSE: Objection. Overly broad, vague, ambiguous, unduly burdensome and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence. This objection notwithstanding, all ALAA motions were denied and decided in mine or my clients' favor or withdrawn.

24. Identify any instance where a court has entered sanctions or awarded attorney's fees against Burt Newsome and/or Newsome Law,

RESPONSE: None.

25. Identify all arrest records of Burt Newsome and all facts associated with each arrest.

RESPONSE: One arrest – Bullock matter

26. Identify all criminal records of Burt Newsome.

RESPONSE: One arrest – Bullock matter

27. Identify whether Burt Newsome has ever been sued for or charged with rape, and state how the action was resolved, and/or whether a settlement was reached between any involved parties.

RESPONSE: Never been charged with any criminal wrong-doings except the Bullock matter, which has already been provided.

28. State whether Burt Newsome has ever taken any action to have an arrest record removed in Alabama, or any other state, including where the arrest occurred, and the alleged crime,

RESPONSE: Yes, Filed a motion to have Bullock arrest expunged from my record.

29. State whether Burt Newsome has had his driver's license suspended, indicating the reason for suspension and the period of time during which the license was suspended.

RESPONSE: Objection. Overly broad, vague, ambiguous, unduly burdensome and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence.

30. State whether Burt Newsome held a gun permit from January 2012 to the present and indicate time periods during which a gun permit was held.

RESPONSE: No, held a gun permit up and until the Bullock matter.

31. Identify every state in which Burt Newsome is, has ever been, or has ever applied to become licensed to practice law, including the number of times Bert Newsome has taken the respective state bar exam for those states listed,

RESPONSE: Alabama - 1

32. List the name and address of each healthcare provider, including but not limited to any physician, nurse practitioner psychiatrist, therapist, or other licensed health professional that Burt Newsome have seen or been treated by in the last 10 years.

RESPONSE: Objection. Overly broad, vague, ambiguous, unduly burdensome and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence, and seeks information protected by the Health Insurance Portability and Accountability Act.

REQUEST FOR PRODUCTION

1. All documents relied on, referred to, alluded to or considered in the formation of Burt Newsome's and Newsome Law LLC's responses to the above Interrogatories.

RESPONSE: See Attached Exhibit

2. All non-privileged documents which support a contract, including letter of engagement, of any kind with Iberiabank Corp., Renasant Bank, and/or Bryant Bank.

RESPONSE: Objection. Privileged

3. All Communication or correspondence, including but not limited to emails and text messages, in your possession, custody, or control that refer to, relate to, are addressed to, or were sent by Clark Cooper and/or Balch.

RESPONSE: See Attached Exhibit

4. Any internal communications, including but not limited to emails and text messages, in your possession, custody, or control that refer to or relate to the facts alleged in the Complaint to the Instant Action including but not limited to allegations regarding Clark Cooper, Balch, Iberiabank Corp., Renasant Bank and Bryant Bank.

RESPONSE: See Attached Exhibit

5. Any documents which support your allegation that Clark Cooper sent emails and/or communications to officers and/or bank officials of Iberiabank Corp., Renasant Bank, and/or Bryant Bank.

RESPONSE: See Attached Exhibit

6. Any non-privileged communications or correspondence, including but not limited to emails and text messages, in your possession, custody, or control that refer to or relate to the Instant Action.

RESPONSE: See Attached Exhibit

7. All Documents that you have subpoenaed from third parties.

RESPONSE: Have not received any answers or documents yet to supply.

8. All Statements you have obtained from any person in the course of the Instant Action.

RESPONSE: None.

9. All Documents in your possession, custody, or control that you contend supports your claim for Intentional Interference with a Business or Contractual Relationship, as alleged in Counts VI, VII, and VIII of the Complaint in the Instant Action.

RESPONSE: See Attached Exhibit

10. All Documents in your possession, custody, or control that you contend supports your claim for Defamation, as alleged in Count IX of the Complaint in the Instant Action.

RESPONSE: See Attached Exhibit

11. All Documents in your possession, custody, or control that you contend supports your claim for Conspiracy, as alleged in Count X of the Complaint in the Instant Action.

RESPONSE: See Attached Exhibit

12. The face page of any lawsuit you are handling or have previously handled for Iberiabank Corp., Renasant Bank, or Bryant Bank.

RESPONSE: Objection. Vague, ambiguous, confusing, overly broad, unduly burdensome, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence; and calls for information protected by attorney-client privilege.

13. A copy of Burt Newsome's deposition in the matter Carmen Purser v. Wolfe, Jones & Boswell and Burton Newsome, CV-02-B-1023-NE.

RESPONSE: Objection. Vague, ambiguous, confusing, overly broad, unduly burdensome, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence. This objection notwithstanding, I was never deposed.

14. A copy of Carmen Purser's deposition in the matter Carmen Purser v. Wolfe, Jones & Boswell and Burton Newsome, CV-02-B-1023-NE, N.D. Al.

RESPONSE: Objection. Unduly burdensome, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence; calls for information equally available to Cooper and Balch through a third party. This objection notwithstanding, I do not have a copy in my possession.

15. A copy of every Answer filed by Burt Newsome in the matter Carmen Purser v. Wolfe, Jones & Boswell and Burton Newsome, CV-02-B-1023-NE, N.D. Al.

RESPONSE: Objection. Unduly burdensome, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence; calls for information equally available to Cooper and Balch through a third party. This objection notwithstanding, I do not have a copy in my possession.

16. All tax returns from 2010 through the present.

RESPONSE: Objection. Unduly burdensome, overly broad, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence.

17. Copies of any gun permit identified in Interrogatory #28.

RESPONSE: Do not have.

18. For each of the cases listed below, provide a copy of the complaint and any amended complaints, all answers filed in the action, all discovery requests and responses related to the action, and any settlement agreements:

RESPONSE: Objection. Unduly burdensome, and/or seeks information and/or documents that are not relevant to the issues in this litigation and that are not reasonably calculated to lead to the discovery of admissible evidence and are unreasonable as to scope of time

- Newsome v. Chambers, CV-1993-000547, Montgomery Co.
- In re The Estate of Faulk, CV-1995-000025, Geneva Co.
- Newsome v. Alabama Department of Public Safety, CV-96-000090, Shelby Co.
- Newsome Bankruptcy, 9-01394-BGC7.
- Purser v. Wolfe, Jones & Boswell and Newsome, CV-02-B-1023-NE, N.D. Ala.
- AllState Insurance Company v. Burton W Newsome and Carmen Purser, 5:03-cv 00019-SLB, N.D. Ala.
- Newsome v. Delta Airlines Inc. and Expedia Inc., DV-2002-001135, Tuscaloosa Co.
- Newsome v. Hardin, SM-2003-000405, Madison Co.
- Newsome v. Delta Airlines, Inc., DV-2005-001518, Tuscaloosa Co.
- Newsome v. Precision Plumbing & Repair Inc., CV-2006-001068, Tuscaloosa Co.
- Newsome v. dad's Carpet & Upholstery Cleaning, Inc., DV-2007-900305, Shelby Co.
- Newsome v. Drew Jeffrey Gunnells, St. Vincent's, et al., CV-2009-901168, Jefferson Co.
- Newsome v. BP Exploration & Production, Inc. d/b/a BP, DV-2010-900814, Baldwin Co.

RESPONSE: Could not use condo due to oil spill

- Newsome v. Sprint Communications Company, L.P., CV-2010-900178, Shelby Co.

RESPONSE: Sending me cell phone bills when I have never had a Sprint account.

- Newsome v. Wildigan Investments I, LLC, DV-2011-900457, Shelby Co.

RESPONSE: Would not refund money for delayed flight

- Newsome v. Shelby County Board of Equalization and Adjustment, CV-2011000468, Shelby Co.

RESPONSE: Pursuing the opportunity to lower my property taxes

- Newsome v. All My Sons Moving and Storage of Birmingham, Inc., CV-2012900968, Shelby Co.

RESPONSE: Moving Company lost connectors to all my furniture during my move

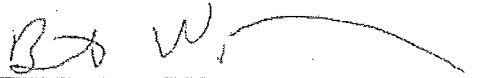
- State of Alabama v. Newsome, DC-2013-001434, Shelby Co.

RESPONSE: Bullock matter

- Newsome v. Diversified Sales, Inc, d/b/a Don's Carpet One Floor & Home, CV-2014-900721, Shelby Co.

RESPONSE: Don's Carpet One failed to lay hardwood flooring properly in my home.

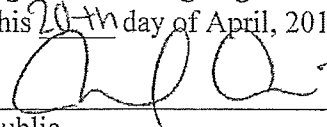
Respectfully submitted this the 20th day of April, 2015.



BURT W. NEWSOME

STATE OF ALABAMA)

Before me, a Notary Public in and for said State, hereby certify that the BURT W. NEWSOME, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that the facts alleged in the foregoing are true and correct to the best of his knowledge, information and belief on this 20th day of April, 2015.



Notary Public

Jennifer Choi
Notary Public Alabama State at Large
My Commission Expires October 4, 2016

My Commission expires: _____

/s/ Robert E. Lusk, Jr
ROBERT E. LUSK, JR. (LUS005)
Attorney for Plaintiffs: BURT W. NEWSOME
and NEWSOME LAW, LLC.

LUSK LAW FIRM, LLC
P. O. Box 1315
Fairhope, AL 36533
251-471-8017
251-478-9601 Fax
rlusk@lusklawfirmllc.com

Certificate of Service

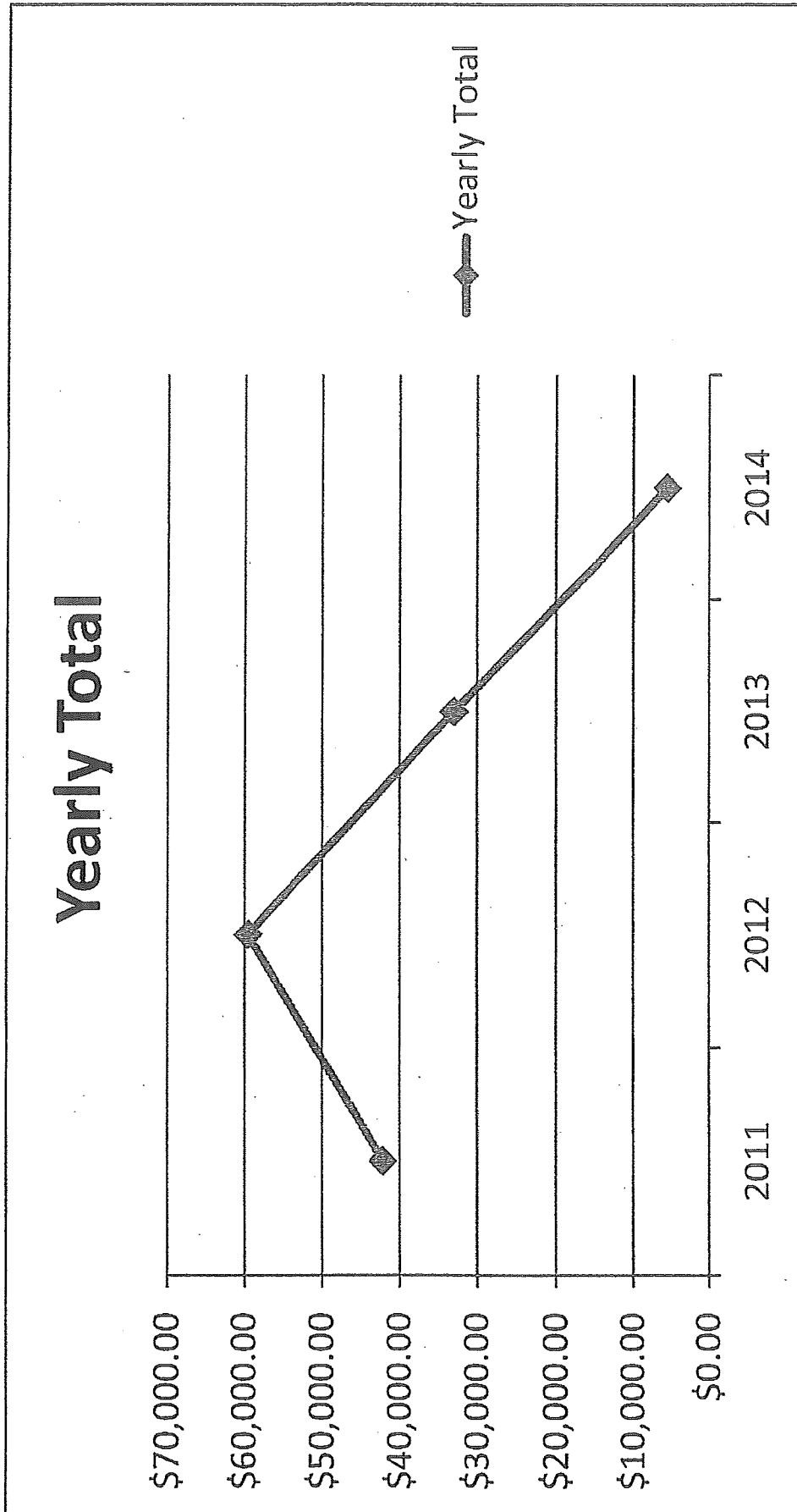
I hereby certify that I have filed electronically and served a copy of the foregoing upon the below listed parties to this action by placing a copy of same in the United States Mail, postage prepaid and properly addressed, this the 21st day of April, 2015.

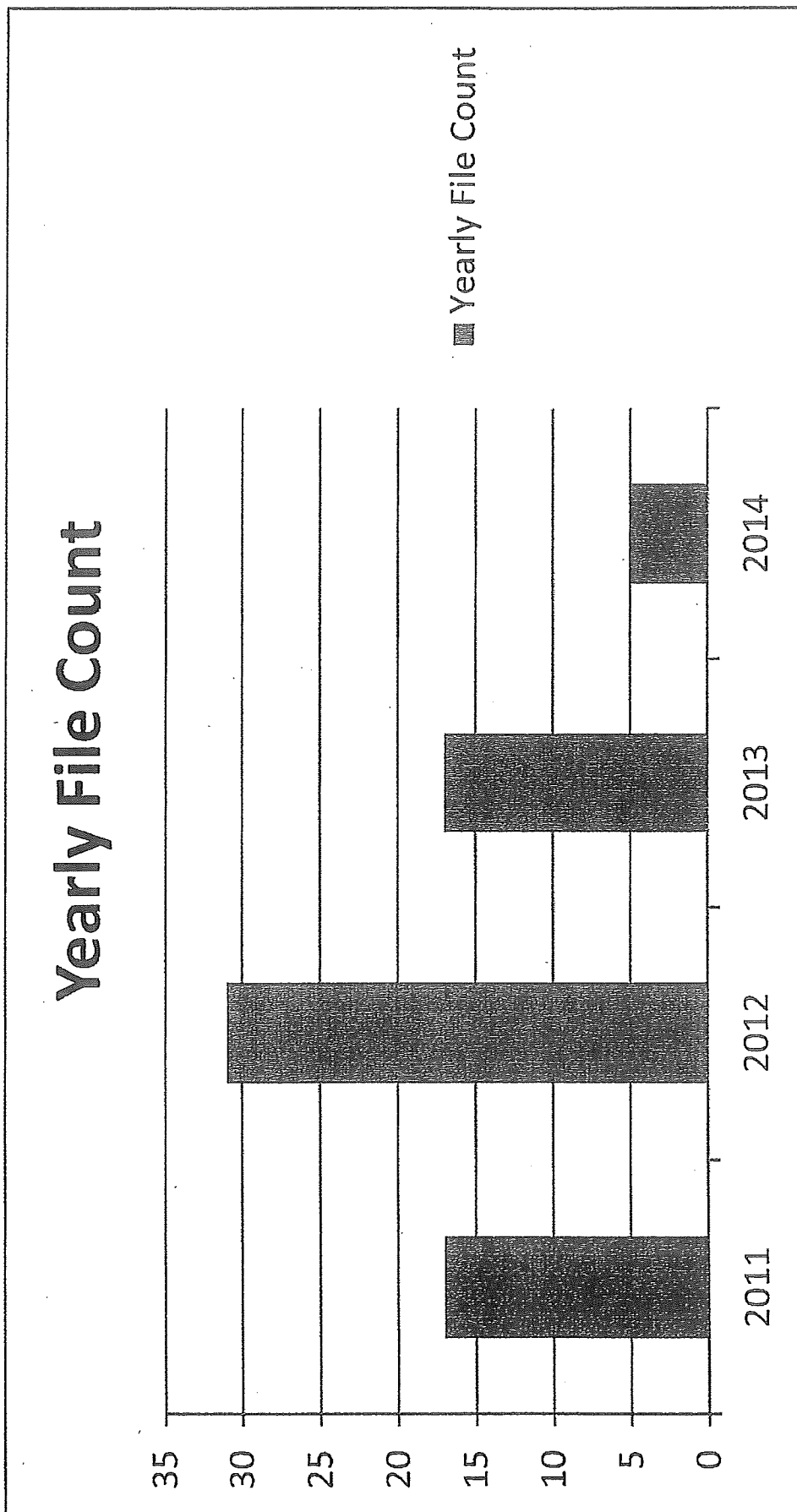
S. Allen Baker
Amelia K. Steindorff
Balch & Bingham
1901 Sixth Avenue North
Suite 1500
Birmingham, AL 35203

James E. Hill, Jr.
Hill, Weisskopf & Hill
Moody Professional Bldg
2603 Moody Parkway
Suite 200
Moody, Alabama 35004

Robert Ronnlund
P.O. Box 380548
Birmingham, AL 35238

/s/ Robert E. Lusk, Jr.
ROBERT E. LUSK, JR. (LUS005)
Attorney for Plaintiffs





Cooper, Clark

From: Cooper, Clark
Sent: Friday, November 07, 2014 8:54 AM
To: Brian Hamilton (Brian.Hamilton@iberiabank.com)
Subject: Case filed by Iberia in Jefferson County

Hello Brian,

I noticed that the below case was recently filed by Iberia in Jefferson County. If you think I should reach out to anyone else in your department to build a relationship, please let me know. They may be happy with counsel they are using for smaller deals.

Thanks

Clark

IberiaBank Contract. Defendants owe plaintiff more than \$100,000 Burt Newsome
v. for default on a loan.
John C. Wicker; The Wicker
Agency Inc.
11/6/2014 01-CV-14-904617
(Birmingham)

BALCH
BIRMINGHAM LLP

Clark A. Cooper, Partner, Balch & Bingham LLP
1901 Sixth Avenue North • Suite 1500 • Birmingham, AL 35203-4642
t: (205) 226-8762 f:(205) 488-5765 e: ccooper@balch.com
www.balch.com

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Cooper-0007

Cooper, Clark

From: Cooper, Clark
Sent: Wednesday, July 24, 2013 10:50 AM
To: David Agee
Subject: Suit filed by Bryant Bank

Hello David,

I hope you are doing well. I see that the below suit was filed by Newsome. Anything I can do so that I could work with you?

Thanks

Clark

Shelby County
Shelby

Bryant Bank
v.
Landsouth Contractors Inc.
7/19/2013 58-CV-13-900835 Conwill
(Shelby)

Breach of contract. Defendant

BALCH
S BINGHAM LLP

Clark A. Cooper, Partner, Balch & Bingham LLP
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t: (205) 226-8762 f: (205) 488-5765 e: ccooper@balch.com
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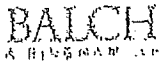
From: Cooper, Clark [mailto:ccooper@balch.com]
Sent: Wednesday, January 30, 2013 4:19 PM
To: Hamilton, Brian
Subject: Iberia

Brian,

I see that Bert Newsome has filed a claim for Iberia against Print One. Is there anything you recommend I do to assist me in obtaining more files from Iberia?

Thanks and no word from Benton yet

Clark



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Thank You.

Cooper, Clark

From: Cooper, Clark
Sent: Wednesday, January 30, 2013 4:34 PM
To: 'Hamilton, Brian'
Subject: RE: Iberia

Ha ha!

From: Hamilton, Brian [<mailto:Brian.Hamilton@iberiabank.com>]
Sent: Wednesday, January 30, 2013 4:31 PM
To: Cooper, Clark
Subject: RE: Iberia

That what she said.

Brian Hamilton
Vice President, Business Credit Services

IBERIABANK
3595 Grandview Parkway, Suite 500
Birmingham, Alabama 35243
Phone: 205-803-5872
Cell: 205-420-2879

From: Cooper, Clark [<mailto:ccooper@balch.com>]
Sent: Wednesday, January 30, 2013 4:31 PM
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That makes sense. Save me for the bigger ones

Thanks

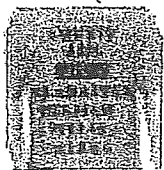
From: Hamilton, Brian [<mailto:Brian.Hamilton@iberiabank.com>]
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Vice President, Business Credit Services

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Cell: 205-420-2879

Cooper-0004



Shelby County Inmates

NEWSOME, BURTON WHEELER

05/02/2013 05/02/2013

MENACING



Cooper-0003

message and kindly notify the sender by reply email. Please advise immediately if you or your employer do not consent to Internet email for messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of the bank shall be understood as neither given nor endorsed by it.
Thank You.

Cooper, Clark

From: Cooper, Clark
Sent: Saturday, May 04, 2013 5:40 PM
To: Hamilton, Brian
Subject: Re: Burt Newsome arrested for menacing

Agreed. I'm going to see what I can find out.

On May 4, 2013, at 5:37 PM, "Hamilton, Brian" <Brian.Hamilton@iberiabank.com> wrote:

Great mugshot. With the suit on, I bet he was in court or something. My guess is he threatened to kick someone's a\$\$.

Sent with Good (www.good.com)

-----Original Message-----

From: Cooper, Clark [ccooper@balch.com]
Sent: Saturday, May 04, 2013 04:35 PM Central Standard Time
To: Hamilton, Brian
Subject: Re: Burt Newsome arrested for menacing

Section 13A-6-23 - Menacing.

(a) A person commits the crime of menacing if, by physical action, he intentionally places or attempts to place another person in fear of imminent serious physical injury.

It is a class B misdemeanor. Not sure how this will affect his law license

On May 4, 2013, at 4:29 PM, "Cooper, Clark" <ccooper@balch.com<<mailto:ccooper@balch.com>>> wrote:

Have you seen this? Not sure how it's going to affect his law license. Bizarre

Clark A. Cooper, Partner, Balch & Bingham LLP
1901 Sixth Avenue North • Suite 1500 • Birmingham, AL 35203-4642
t: (205) 226-8762 f: (205) 488-5765 e: ccooper@balch.com<<mailto:ccooper@balch.com>>
www.balch.com<<http://www.balch.com>>

<image001.png>

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From: Cooper, Clark
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Hello Brian,

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Thanks

Clark

IberiaBank
v.
John C. Wicker; The Wicker
Agency Inc.
11/6/2014 01-CV-14-904617
(Birmingham)

Contract. Defendants owe plaintiff more than \$100,000 for default on a loan. Burt Newsome

BALCH
BALCH & BINGHAM LLP

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Cooper-0007

Cooper, Clark

From: Cooper, Clark
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Subject: Suit filed by Bryant Bank

Hello David,

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Thanks

Clark

Shelby County
Shelby

Bryant Bank
v.

Breach of contract, Defendant

Landsouth Contractors Inc.
7/19/2013 58-CV-13-900835 Conwill
(Shelby)

BALCH
A BINGHAM LLP

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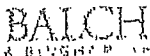
From: Cooper, Clark [mailto:ccooper@balch.com]
Sent: Wednesday, January 30, 2013 4:19 PM
To: Hamilton, Brian
Subject: Iberla

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Clark



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Brian Hamilton
Vice President, Business Credit Services

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Brian Hamilton
Vice President, Business Credit Services

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Cooper-0004

Exhibit B



Shelby County Inmates
NEWSOME, BURTON WHEELER

05/02/2013 05/02/2013

MENACING



Cooper-0003

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Subject: Re: Burt Newsome arrested for menacing

Agreed, I'm going to see what I can find out.

On May 4, 2013, at 5:37 PM, "Hamilton, Brian" <Brian.Hamilton@iberiabank.com> wrote:

Great mugshot. With the suit on, I bet he was in court or something. My guess is he threatened to kick someone's a\$\$.

Sent with Good (www.good.com)

-----Original Message-----

From: Cooper, Clark [ccooper@balch.com]
Sent: Saturday, May 04, 2013 04:35 PM Central Standard Time
To: Hamilton, Brian
Subject: Re: Burt Newsome arrested for menacing

Section 13A-6-23 - Menacing.

(a) A person commits the crime of menacing if, by physical action, he intentionally places or attempts to place another person in fear of imminent serious physical injury.

It is a class B misdemeanor. Not sure how this will affect his law license

On May 4, 2013, at 4:29 PM, "Cooper, Clark" <ccooper@balch.com<<mailto:ccooper@balch.com>>> wrote:

Have you seen this? Not sure how it's going to affect his law license. Bizarro

Clark A. Cooper, Partner, Balch & Bingham LLP
1901 Sixth Avenue North • Suite 1500 • Birmingham, AL 35203-4642
t: (205) 226-8762 f: (205) 488-5765 e: ccooper@balch.com<<mailto:ccooper@balch.com>>
www.balch.com<<http://www.balch.com>>

<image001.png>

Internet Email Confidentiality

Privileged/Confidential information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this

Cooper-0001

Exhibit A

Burt Newsome

From: Hamilton, Brian <Brian.Hamilton@iberiabank.com>
Sent: Wednesday, December 11, 2013 3:50 PM
To: Burt Newsome
Subject: FW: Burt Newsome arrested for menacing
Attachments: image001.png; ATT00001.txt

Brian Hamilton
Vice President, Business Credit Services iBERIABANK
3595 Grandview Parkway, Suite 500
Birmingham, Alabama 35243
Phone: 205-803-5872
Cell: 205-420-2879

-----Original Message-----

From: Cooper, Clark [<mailto:ccooper@balch.com>]
Sent: Saturday, May 04, 2013 4:30 PM
To: Hamilton, Brian
Subject: Fwd: Burt Newsome arrested for menacing

Have you seen this? Not sure how it's going to affect his law license. Bizarre

>
>
> Clark A. Cooper, Partner, Balch & Bingham LLP
> 1901 Sixth Avenue North * Suite 1500 * Birmingham, AL 35203-4642
> t: (205) 226-8762 f: (205) 488-5765 e: ccooper@balch.com
> www.balch.com
> ~~
>

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Thank you.

Joey Moore

From: Cooper, Clark <ccooper@balch.com>
Sent: Wednesday, July 24, 2013 10:50 AM
To: David Agee
Subject: Suit filed by Bryant Bank
Attachments: balch_logodc4917

Hello David,

I hope you are doing well. I see that the below suit was filed by Newsome. Anything I can do so that I could work with you?

Thanks

Clark

Shelby County
Shelby

Bryant Bank
v.
Landsouth Contractors Inc.
7/19/2013 58-CV-13-900835 Conwill
(Shelby)

Breach of contract. Defendant

[[image]]

Clark A. Cooper, Partner, Balch & Bingham LLP
1901 Sixth Avenue North • Suite 1500 • Birmingham, AL 35203-4642
t: (205) 226-8762 f: (205) 488-5765 e: ccooper@balch.com
www.balch.com<<http://www.balch.com/>>

IRS CIRCULAR 230: Unless explicitly stated to the contrary, this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

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ALABAMA JUDICIAL INFORMATION SYSTEM

* * * IN THE DISTRICT COURT OF SHELBY COUNTY * * *

AGENCY NUMBER: 201209077

WARRANT NUMBER: WR 2013 000171.00
OTHER CASE NBR:

C O M P L A I N T

BEFORE ME THE UNDERSIGNED JUDGE/CLERK/MAGISTRATE OF THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA, PERSONALLY APPEARED BULLOCK JOHN FRANKLI WHO BEING DULY SWORN DEPOSES AND SAYS THAT HE/SHE HAS PROBABLE CAUSE FOR BELIEVING, AND DOES BELIEVE THAT BURTON WHEELER NEWSOME DEFENDANT, WHOSE NAME IS OTHERWISE UNKNOWN TO THE COMPLAINANT, DID WITHIN THE ABOVE NAMED COUNTY AND

DID ON OR ABOUT 12/19/2012, BY PHYSICAL ACTION, INTENTIONALLY PLACE OR ATTEMPT TO PLACE JOHN FRANKLIN BULLOCK JR IN FEAR OF IMMINENT SERIOUS PHYSICAL INJURY BY AIMING A HANDGUN AT THE VICTIM & TELLING HIM TO RETURN TO HIS VEHICLE
IN VIOLATION OF 13A-006-023 OF THE CODE OF ALABAMA, AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.


COMPLAINANT'S SIGNATURE

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 14 DAY OF JANUARY, 2013.


JUDGE/CLERK/MAGISTRATE OF DISTRICT COURT

CHARGES: MENACING 13A-006-023 M MISDEMEANOR

WITNESS FOR THE STATE

BULLOCK JOHN FRANKLI/

OPERATOR: SRC DATE: 01/14/2013

WARRANT

STATE OF ALABAMA

SHELBY COUNTY

DISTRICT COURT

AGENCY NUMBER: 201209077

WARRANT NUMBER: WR 2013 000171.00
OTHER CASE NER:

TO ANY LAWFUL OFFICER OF THE STATE OF ALABAMA:

YOU ARE HEREBY COMMANDED TO ARREST BURTON WHEELER NEWSOME AND BRING HIM/HER BEFORE THE DISTRICT COURT OF SHELBY COUNTY TO ANSWER THE STATE OF ALABAMA ON A CHARGE(S) OF:

MENACING CLASS: B TYPE: M COUNTS: 001
AND HAVE YOU THEN AND THERE THIS WRIT WITH YOUR RETURN THEREON.

YOU WILL RECEIVE UNTO YOUR CUSTODY AND DETAIN HIM/HER UNTIL THE DAY OF _____, OR UNTIL LEGALLY DISCHARGED.

DATED THIS 14 DAY OF JANUARY, 2013.

BOND SET AT: (1) \$500.00 BOND TYPE:
(2) _____
(3) _____

CONDITION OF BOND:
DEFENDANT IS TO HAVE
NO CONTACT WITH VICTIM

JUDGE/CLERK/MAGISTRATE OF DISTRICT COURT

CHARGES: MENACING

NAME: BURTON WHEELER NEWSOME
ADDRESS: 1005 BELVEDERE COVE
ADDRESS: 194 NARROWS DR STE 103
CITY: BIRMINGHAM STATE: AL

ALIAS:
ALIAS:
ZIP: 35242 0000
PHONE: 000 000 0000 EXT: 000

EMPLOYMENT:
DOB: 09/04/1966 RACE: W SEX: M HAIR:
EYE: BRO HEIGHT: 5'08" WEIGHT: 180
SID: 000000000 SSN: 255277001 DL NUM: 9303132

SC90 NCIC ENTRY VALIDATION
DATE 1/15/13 AIR/NCIC 31502809
CASE# 2012-09077
WARRANT# 2013-000171
ENTRY OPR

EXECUTION VERIFIED BY

EXECUTED THE WITHIN WARRANT BY ARRESTING THE DEFENDANT AND

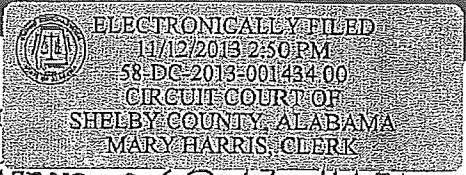
- (X) PLACING DEFENDANT IN THE SHELBY COUNTY JAIL
- () RELEASING DEFENDANT ON APPEARANCE BOND

THIS 2 DAY OF May 2013

RECEIVED
JAN 15 2013
Chris [Signature]
SHERIFF
Deputy T. Bowers 0126
BY

COMPLAINANT: BULLOCK JOHN FRANKLI

OPERATOR: SRC DATE: 01/14/2013



IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA v. Burton Wheeler Newsome

DI CASE NO. DC 2013-1434

This matter comes before the Court by the specific AGREEMENT of the parties. The Defendant is present, is represented by counsel and has NOT knowingly and voluntarily waived the right to the same. After due consideration and pursuant to said agreement, all of the following as specifically noted below is hereby ORDERED, ADJUDGED and DECREED.

- This matter is Dismissed with _____ prejudice.
- This matter is Contingued until 4/10/14 9:00 then to be Dismissed with prejudice, provided that the defendant have no further incidents/arrests
- This matter is placed on the Administrative Docket until _____, then to be Dismissed with _____ prejudice, provided that _____
- DEFENDANT MUST APPEAR IN COURT ON THE ABOVE DATE.

COURT COSTS ARE TAXED AS FOLLOWS:

\$ _____ in further Recoupment to the Fair Trial Tax Fund

\$ 308.00 in Court Costs including \$102.00 Bail Bond Fee

\$ 20.00 as Jail Housing Costs and all jail Medical Expenses _____

\$ 25.00 to the Crime Victims' Compensation Fund _____

\$ _____ to the Forensic Science Trust Fund (Act No. 93-733 does _____ apply)

\$ _____ in Restitution to _____

\$ _____ as Worthless Check Cost (IWC # _____)

\$ 413.00 TOTAL to be deducted from Cash Bond

PAYMENT MAY BE MADE BY CERTIFIED CHECK, MONEY ORDER, OR IF IN PERSON BY CASH TO COURT CLERK, P.O. BOX 1810, COLUMBIANA, AL. 35051. THE ABOVE CASE NUMBER SHOULD APPEAR ON ALL PAYMENTS. NOTE: IF THE DEFENDANT FAILS TO MAKE SUCH PAYMENTS AND FAILS TO APPEAR IN COURT ON THE ABOVE DATES SHOWN, THIS MATTER WILL NOT BE DISMISSED AND AN ARREST WARRANT AND BOND FORFEITURE CAN BE ISSUED FOR THE DEFENDANT.

The Defendant does hereby grant a full, complete and absolute Release of all civil and criminal claims stemming directly or indirectly from this case to the State of Alabama, its agents and employees, including, but not limited to the District Attorney for Shelby County, Alabama, his agents and employees; to Shelby County, Alabama, its agents and employees, including, but not limited to the Sheriff of said County, his agents and employees, to any other law enforcement or investigative agencies, public or private, their agents and employees; to any other complainants, witnesses, associations, corporations, groups, organizations or persons in any way related to this matter, to also include the Office of the Public Defender of Shelby County, Alabama, its agents and employees, from any and all actions arising from the instigation, investigation, prosecution, defense, or any other aspect of this matter. The Defendant freely makes this release knowingly and voluntarily. In exchange for this release, this case will be either dismissed immediately, or pursuant to conditions noted above

ANY FEES OR COSTS NOT SPECIFICALLY TAXED ABOVE ARE HEREBY REMITTED.

The foregoing duly reflects the Agreement of the parties as entered above and as attested by their signatures below

[Signature]
Complaining Witness

[Signature]
District Attorney

[Signature]
Defendant

[Signature]
Defendant's Attorney

Done and ordered: 11-12-13

[Signature]
DISTRICT JUDGE (SHELBY COUNTY)

IN THE District COURT OF SHELBY COUNTY, ALABAMA
STATE OF ALABAMA V. NEWSOME, Burton

CONSOLIDATED BOND
CASE NO. WR 13-0171

I, the Defendant as principal and we, the undersigned sureties agree to pay the State of Alabama \$ 500.00 and all costs incurred unless the above-named Defendant appears before the District Court of Shelby County, Alabama at 9:30 o'clock A.M on May 20, 2013 and from time to time thereafter until discharged by law or at the next session of the court of said county, there to await the action the grand jury and from session to session thereafter to answer to the charge of MURKING or any other charge as authorized by law

We hereby severally certify that we have property over and above all debts and liabilities that has a fair market value equal to or greater than the amount of the above bond Each of us hereby waives the benefit of all laws exempting property from levy and sale under execution or other process for the collection of debt, our rights to claim exempt our wages or salary, and our rights to homestead exemptions conferred by the Constitution and/or the Laws of the State of Alabama.

It is hereby agreed and understood that this is a consolidated bond, eliminating the necessity for multiple bonds and that it shall continue in full force and effect, unless modified by Court Order, until the Defendant is discharged by law or until the undersigned sureties are otherwise duly exonerated This bond does not apply to any appeal. It is also agreed and understood that all of the following shall serve as specific conditions of release under this bond, the willful failure of which will cause this bond to be revoked and the sureties thereby held liable **THE DEFENDANT SHALL:**

1. Appear and answer and submit to the orders and process of any court having jurisdiction in this matter;
2. Refrain from committing any criminal offense;
3. Not depart from the State of Alabama without permission of the Court;
4. Immediately notify the Court Clerk of any change of address;
5. Initiate no contact or communication in any form with the complainant(s) and/or alleged victim(s), nor be upon their premises;
6. Make all payments to the Alabama Fair Trial Tax Fund as ordered by the Court;
- 7.

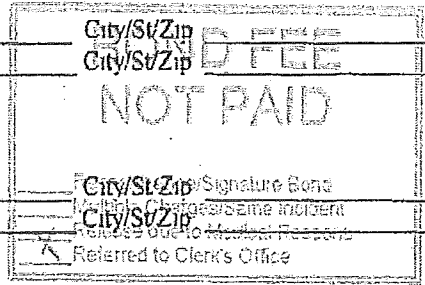
SIGNED AND SEALED, with notice that false statements made herein are punishable as perjury

[Signature]
 Defendant's Signature Mailing Address 7450 41 Hwy City/St/Zip Leeds AL 35094
 Physical Address _____ City/St/Zip _____
 Phone 205-669-8511 Race W Sex M DOB 9/9/66 SS# 255-27-7001 DL# 9303132 St AL

 Surety's Signature Mailing Address _____ City/St/Zip _____
 Physical Address _____ City/St/Zip _____
 Phone _____

 Surety's Signature Mailing Address _____ City/St/Zip _____
 Physical Address _____ City/St/Zip _____
 Phone _____

 Surety's Signature Mailing Address _____ City/St/Zip _____
 Physical Address _____ City/St/Zip _____
 Phone _____



DATE APPROVED 5/2/13 OFFICER [Signature] SHERIFF [Signature]
 Property Bond Professional Bond Secured/Cash Bond Pre-Trial Release Signature/Recognizance

(CASH BOND RELEASE)

I agree that the cash bond which I have posted in this case may be applied to any outstanding fines and costs I further understand that even though the cash bond may be applied, I AM STILL REQUIRED TO APPEAR IN COURT ON THE ABOVE DATE AND TIME.

DATE 5/2/13 DEFENDANT'S SIGNATURE [Signature]

ELECTRONICALLY FILED
11/12/2013 2:50 PM
58 DC 2013-001434-00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA V. Burton Wheeler Newsome

DI CASE NO. DC 2013-1434

This matter comes before the Court by the specific AGREEMENT of the parties. The Defendant is present, is represented by counsel and has NOT knowingly and voluntarily waived the right to the same. After due consideration and pursuant to said agreement, all of the following as specifically noted below is hereby ORDERED, ADJUDGED and DECREED.

- This matter is Dismissed with _____ prejudice.
- This matter is Contained until 4/01/14 9:00 then to be Dismissed with prejudice, provided that the defendant have no further incidents/arrests
- This matter is placed on the Administrative Docket until _____, then to be Dismissed with _____ prejudice, provided that _____
- DEFENDANT MUST APPEAR IN COURT ON THE ABOVE DATE.

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\$ 308.00 in Court Costs including \$102.00 Bail Bond Fee

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\$ 413.00 TOTAL to be deducted from Cash Bond

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The Defendant does hereby grant a full, complete and absolute Release of all civil and criminal claims stemming directly or indirectly from this case to the State of Alabama, its agents and employees, including, but not limited to the District Attorney for Shelby County, Alabama, his agents and employees; to Shelby County, Alabama, its agents and employees, including, but not limited to the Sheriff of said County, his agents and employees, to any other law enforcement or investigative agencies, public or private, their agents and employees; to any other complainants, witnesses, associations, corporations, groups, organizations or persons in any way related to this matter, to also include the Office of the Public Defender of Shelby County, Alabama, its agents and employees, from any and all actions arising from the instigation, investigation, prosecution, defense, or any other aspect of this matter. The Defendant freely makes this release knowingly and voluntarily. In exchange for this release, this case will be either dismissed immediately, or pursuant to conditions noted above

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[Signature]
Complaining Witness

[Signature]
District Attorney

[Signature]
Defendant

[Signature]
Defendant's Attorney

Done and ordered: 11-12-13

[Signature]
DISTRICT JUDGE (SHELBY COUNTY)

D&RORDER(3-11-05)





ELECTRONICALLY FILED
4/4/2014 2:58 PM
58-DC-2013-001434.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA)	
)	
V.)	Case No.: DC-2013-001434.00
)	
NEWSOME BURTON WHEELER)	
Defendant.)	

ORDER

Pursuant to earlier written agreement, with no objection by A.D.A. Willingham, this case is DISMISSED with prejudice. Apply cash bond.

DONE this 4th day of April, 2014.

/s/ RONALD E. JACKSON
DISTRICT JUDGE (amh)

NEWSOME LAW, L.L.C.

BURT W. NEWSOME
ATTORNEY AT LAW

194 NARROWS DRIVE, SUITE 103 (35242)
POST OFFICE BOX 382753
BIRMINGHAM, ALABAMA 35238

TELEPHONE (205) 747-1970
FACSIMILE (205) 747-1971

Writer's Direct Dial: 747-1972
Email: burt@newsomelawllc.com
Website: www.newsomelawllc.com

John Bullock, Jr.
1917 Cogswell Avenue
Pell City, AL 35125

Dear Mr. Bullock:

This letter is in explanation of the events that occurred in which you subsequently filed a police report. My law firm is a collection/foreclosure law firm. We have received several death threats during the bad economy. A short time before our meeting, an individual whose wife I had sued on a bad debt was parked in backwards near my car and jumped out and pulled a gun on me and threatened to kill me in the parking lot as I was about to get in my car. I was only able to escape by ducking behind my car and running around the backside of the office complex. In addition, there was a subsequent attack on my office by a retired postal employee who we had initiated foreclosure proceedings against in which the Sheriff's Department had to be called again for assistance.

On the day this incident occurred, your vehicle was parked in backwards with the motor running and you got out of your car just as I was nearing my car – actions that all mimicked the evening I was attacked placing me in fear of extreme bodily harm. I was preparing to defend myself in the event of another attack on me similar to the one that had just occurred in the same parking lot not long ago. I certainly never had any intent to harm anyone nor did I have any intent of appearing threatening to anyone in any way.

Sincerely,



Burt W. Newsome

IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

DISMISSAL & RELEASE ORDER

STATE OF ALABAMA V. Burton Wheeler Newsome CASE NO. DI 2013-1434

This matter comes before the Court by the specific AGREEMENT of the parties. The Defendant is present, is represented by counsel and has NOT knowingly and voluntarily waived the right to the same. After due consideration and pursuant to said agreement, all of the following as specifically noted below is hereby ORDERED, ADJUDGED and DECREED.

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\$ 25.00 to the Crime Victims' Compensation Fund _____

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\$ _____ in Restitution to _____

\$ _____ as Worthless Check Cost (IWC # _____)

\$ 413.00 TOTAL to be deducted from Cash Bond

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The foregoing duly reflects the Agreement of the parties as entered above and as attested by their signatures below

[Signature] [Signature] [Signature] [Signature]
 Complaining Witness District Attorney Defendant Defendant's Attorney

Done and ordered: 11-12-13

 DISTRICT JUDGE (SHELBY COUNTY)

Incident / Investigation Report

Shelby County Sheriff's Office

OCA: 2012-00795

Status Codes L = Lost S = Stolen R = Recovered D = Damaged Z = Seized B = Burned C = Counterfeit / Forged F = Found U = Unknown

D R U G S	Status	Quantity	Type Measure	Suspected Drug Type	

O F F E N D E R	Offender(s) Suspected of Using <input type="checkbox"/> Drugs <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Alcohol <input type="checkbox"/> Computer	Offender 1 SUI Age: 76 Race: W Sex: M	Offender 2 Age: Race: Sex:	Offender 3 Age: Race: Sex:	Primary Offender Resident Status <input type="checkbox"/> Resident <input checked="" type="checkbox"/> Non-Resident <input type="checkbox"/> Unknown
	Offender 4 Age: Race: Sex:	Offender 5 Age: Race: Sex:	Offender 6 Age: Race: Sex:		

S U S P E C T	Name (Last, First, Middle) <i>Seier, Alfred Wallace</i>				Home Address <i>7091 Bethel Road, Dora, AL 35062</i>			
	SUI Also Known As				Business Address			
	Occupation				Business Address			
	DOB. / Age	Race	Sex	Hgt	Wgt	Build	Hair Color	Eye Color
	<i>5/7/1935</i> / <i>76</i>	<i>W</i>	<i>M</i>	<i>6'02</i>	<i>190</i>		<i>Gray Or...</i>	<i>Brown</i>
	Scars, Marks, Tatoos, or other distinguishing features (i.e. limp, foreign accent, voice characteristics)				Glasses			
	Hat		Shirt/Blouse		Coat/Suit		Socks	
	Jacket		Tie/Scarf		Pants/Dress/Skirt		Shoes	
Was Suspect Armed?	Type of Weapon			Direction of Travel		Mode of Travel		
VYR	Make	Model	Style/Doors	Color	Lic/Lis	Vin		
Suspect Hate / Bias Motivated: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				Type:				

W I T N E S S	Name (Last, First, Middle)				D.O.B.	Age	Race	Sex
	Home Address				Home Phone	Employer	Phone	

N
A
R
R
I
V
E

MR. NEWSOME STATED THAT HE WAS WALKING TO HIS VEHICLE AND SAW SOMEONE WALKING TOWARDS HIM. MR. NEWSOME THEN RECOGNIZED THE PERSON TO BE ALFRED SEIER. ALFRED TOLD MR. NEWSOME THAT THIS WAS THE LAST TIME HE WAS GOING TO FUCK HIS WIFE OVER AND THEN POINTED AN UNK. TYPE FIREARM AT HIM. MR. NEWSOME THEN RAN AROUND THE BUILDING AND INTO HIS OFFICE. MR. SEIER WAS GONE PRIOR TO MY ARRIVAL.

MR. NEWSOME IS AN ATTORNEY FOR A BANK THAT IS SUIING AL'S WIFE.

THIS SIDE OF FORM IS CONFIDENTIAL UNLESS RELEASED AT THE DISCRETION OF THE CHIEF LAW ENFORCEMENT OFFICER

Incident/Offense Report - Continued		83 Date of Report (MM/DD/YY) 01 30 12		84 Time of Report 17 25		85 Agency Case Number 201200795		86 Suffix		87 <input type="checkbox"/> Offender <input checked="" type="checkbox"/> Suspect <input type="checkbox"/> Missing Person		<input type="checkbox"/> Check if Multiple			
88 Reported By (Last, First, Middle Name) NEWSOME, BURTON WHEELER				<input checked="" type="checkbox"/> Victim Or		89 Suffix		90 <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Non-Resident		91 Home Phone 205-699-8511		92 Work Phone			
94 Victim # 1		95 Victim (Last, First, Middle Name) NEWSOME, BURTON WHEELER				96 Suffix		97 Address (Street, City, State, Zip) 7450 DUNNVAULT VALLEY RD. LEES, AL 35094				98 Home Phone 205-699-8511		99 Work Phone	
101 Employer/School NEWSOME LAW FIRM		102 Occupation ATTORNEY		103 Address (Street, City, State, Zip) 194 NARROWS DR. SUITE 103 BHAM, AL 35242				104 Work Phone 205-747-1970		105 Other Phone					
106 Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F		107 Race <input checked="" type="checkbox"/> W <input type="checkbox"/> B		108 Language <input checked="" type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other		109 HGT 508"		110 WGT 180		111 Date of Birth 09 04 46		112 Age 45		113 Victim SSN 255-27-7001	
114 Complainant SSN		116 Ethnicity <input type="checkbox"/> Hispanic <input type="checkbox"/> Other		117 Injury <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		118 Offender known to victim? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		119 Victim was? (Explain Relationship) BUSINESS ASSOCIATE				120 Relationship Code			
121 Weapons Used <input checked="" type="checkbox"/> Firearm <input type="checkbox"/> Knife		122 Description of Weapons/Firearms/Tools Used in Offense Describe: UNK. TYPE OF FIREARM		<input checked="" type="checkbox"/> Handgun		<input type="checkbox"/> Rifle		<input type="checkbox"/> Shotgun		<input type="checkbox"/> Unknown					
123 Place of Occurrence 194 NARROWS DRIVE BHAM, AL 35242				124 Type of Injury <input checked="" type="checkbox"/> None <input type="checkbox"/> Broken Bones		125 Sector EAST		126 Circumstances: Homicide & Assault		127 Location: Rape		128 Assault <input type="checkbox"/> Simple <input type="checkbox"/> Aggravated		129 Treatment for Assault? <input type="checkbox"/> Yes <input type="checkbox"/> No	
132 Off # 1		133 Name (Last, First, Middle) SEIER, ALFRED WALLACE				134 SFX		135 Alias		136 Social Security # 421-44-3471		137 Race <input checked="" type="checkbox"/> W <input type="checkbox"/> B		138 Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	
141 Address (Street, City, State, Zip) 7091 BETHEL ROAD DORA, AL 35062				142 HGT 62"		143 WGT 190		144 Ethnicity <input type="checkbox"/> Hispanic <input type="checkbox"/> Other		145 Language <input checked="" type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other		146 Probable Destination		147 Eye BRO	
148 Hair GRY		149 Complexion MED		150 Armed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		151 Clothing		152 Scars <input type="checkbox"/> Scars <input type="checkbox"/> Marks <input type="checkbox"/> Tattoos <input type="checkbox"/> Amputations		153 Arrested <input checked="" type="checkbox"/> Arrested <input type="checkbox"/> Dual Arrest (Domestic Violence) <input type="checkbox"/> Wanted		154 Off #		155 Name (Last, First, Middle)	
156 SFX		157 Alias		158 Social Security #		159 Race <input type="checkbox"/> W <input type="checkbox"/> B		160 Sex <input type="checkbox"/> M <input type="checkbox"/> F		161 Date of Birth		162 Age			
163 Address (Street, City, State, Zip)				164 HGT		165 WGT		166 Ethnicity <input type="checkbox"/> Hispanic <input type="checkbox"/> Other		167 Language <input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other		168 Probable Destination		169 Eye	
170 Hair		171 Complexion		172 Armed <input type="checkbox"/> Yes <input type="checkbox"/> No		173 Clothing		174 Scars <input type="checkbox"/> Scars <input type="checkbox"/> Marks <input type="checkbox"/> Tattoos <input type="checkbox"/> Amputations		175 Arrested <input type="checkbox"/> Arrested <input type="checkbox"/> Dual Arrest (Domestic Violence) <input type="checkbox"/> Wanted		176 Name (Last, First, Middle)		177 Sex <input type="checkbox"/> M <input type="checkbox"/> F	
178 Race <input type="checkbox"/> W <input type="checkbox"/> B		179 Date of Birth		180 Address		181 Home		182 Work		183 Other		184 Name (Last, First, Middle)		185 Sex <input type="checkbox"/> M <input type="checkbox"/> F	
186 Race <input type="checkbox"/> W <input type="checkbox"/> B		187 Date of Birth		188 Address		189 Home		190 Work		191 Other		192 Name (Last, First, Middle)		193 Sex <input type="checkbox"/> M <input type="checkbox"/> F	
194 Race <input type="checkbox"/> W <input type="checkbox"/> B		195 Date of Birth		196 Address		197 Home		198 Work		199 Other		200 Witness # 1 SSN		201 Witness # 2 SSN	
202 Witness # 3 SSN		203		204 Continued on Supplement <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		205 Assisting Agency ORI		206 Assisting Agency Case Number		207 SFX		208 Warrant Signed <input type="checkbox"/> Yes <input type="checkbox"/> No		209 Add. Cases Closed Narrative <input type="checkbox"/> Y <input type="checkbox"/> N	
210		211 Local Use		212 State Use		I hereby affirm that I have read this report and that all the information given by me is correct to the best of my knowledge. I will assume full responsibility for notifying the agency if any stolen property or missing person herein reported is returned.		Signature		213		214		215	

VICTIM INFORMATION

SUSPECT INFORMATION

WITNESSES

NARRATIVE

MR. NEWSOME STATED THAT HE WAS WALKING TO HIS VEHICLE AND SAW SOMEONE WALKING TOWARDS HIM. MR. NEWSOME THEN RECOGNIZED THE PERSON TO BE ALFRED SEIER. ALFRED TOLD MR. NEWSOME THAT THIS WAS THE LAST TIME HE WAS GOING TO FUCK HIS WIFE OVER AND THEN POINTED AN UNK. TYPE FIREARM AT HIM. MR. NEWSOME RAN AROUND THE BUILDING AND INTO HIS OFFICE. MR. SEIER WAS GONE PRIOR TO MY ARRIVAL.

MR. NEWSOME IS AN ATTORNEY FOR A BANK THAT IS SUING AL'S WIFE.

Continued on Supplement
209 Add. Cases Closed Narrative Y N

I hereby affirm that I have read this report and that all the information given by me is correct to the best of my knowledge. I will assume full responsibility for notifying the agency if any stolen property or missing person herein reported is returned.

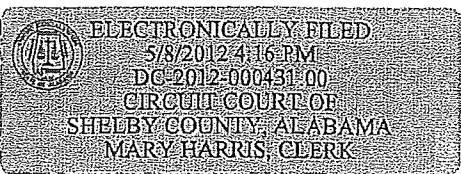
210
Signature

211 Local Use
212 State Use

IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA v. Alfred Soto

TRIAL (MISDEMEANOR)



This matter comes before the Court for trial on a complaint against the Defendant for the misdemeanor of Menacing in violation of Section 13A-6-23. Defendant has been duly advised of all relevant constitutional, substantive and procedural rights in this matter, including the right to appeal the judgment of this court, is represented by counsel: Barry Davis and has NOT waived the right to the same. The facts in this matter are NOT stipulated.

After hearing all the evidence and arguments duly presented, THE COURT FINDS THE DEFENDANT GUILTY AS CHARGED, OR _____

The Defendant is hereby SENTENCED to a term of 300 days (at hard labor if allowed by law) for Shelby County, Alabama, which will be suspended for 24 mos. Suspended Sentence will _____ be supervised by Shelby County Community Corrections. Supervision will last until all ordered programs are complete and all ordered costs are paid. The Defendant will be awarded all entitled JAIL TIME CREDIT. Said sentence will NOT run concurrently with that imposed in Any other case. The Defendant also is ordered to pay the following amounts by the dates given below.

- \$ _____ in further RECOUPEMENT to the Fair Trial Tax Fund by: _____
- \$ 138 in COURT COSTS by: _____
- \$ 20 in JAIL HOUSING COSTS by: _____ AND ALL MEDICAL EXPENSES incurred while in jail.
- \$ 25 to the CRIME VICTIMS COMPENSATION FUND by _____
- \$ 50 as a FINE by: _____
- \$ _____ in RESTITUTION to: _____ by: _____
- \$ _____ as ADDITIONAL FEES in accord with ALABAMA CODE §36-18-7(a) and § 12-19-181 by: _____
- \$ 333 TOTAL DUE by: within 40 days

All payments must be made to the COURT CLERK by cash, money order, or certified check, paid at the Shelby County Courthouse or mailed to: P.O. BOX 1810, COLUMBIANA, AL. 35051. The Defendant shall put the above case number on all payments and keep all receipts. The Defendant shall pay these amounts as ordered, including supervision fees, and complete the tasks otherwise ordered, and comply with all the provisions checked below as conditions of any suspended sentence, probation, parole, work release, SIR or any other similar program. Failure to pay or perform by the dates given may result in the revocation of any probation and the reinstatement of any sentence which was originally suspended in this case.

- Obey all laws and ordinances and, in so far as possible, maintain a full time job or full time student status.
- Avoid any and all contact with: Burt Newsome his residence or place of business
- Serve _____ consecutive days (at hard labor if allowed by law) in the Shelby County Jail _____ and Jail Time Credit will _____ be applied toward this portion of the sentence.
- Serve _____ days at the Shelby County Work Release Center, each day to be served from 8:00 A.M. to 4:00 P.M. on the following days: _____ Defendant is ordered to pay \$25.00 fee for each day of service at the Center, which is to be paid daily when Defendant arrives at the Center.
- Complete _____ hours of community service and give the Court proof of the same by: _____
- Complete a Defensive Driving Course, _____ and provide proof of completion to the Court by: _____
- Report to and successfully complete a drug and/or alcohol treatment program as directed by the CRO and appear in court to provide proof of the same on: _____ at _____. Defendant shall _____ pay for the program.
- The Defendant's driver's license/privilege shall be suspended for _____ months from the date of judgment.

ORDER OF COURT

The Defendant has 14 DAYS to perfect any appeal. Appeal bond is set at \$ 2,000. Any fines, fees, costs, etc., not specifically taxed herein, are hereby remitted. The Court Clerk shall furnish a copy of this order to Defendant.

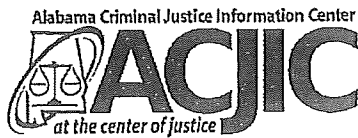
DONE AND ORDERED: 05-08-12 Ronald E. Jackson
HONORABLE RONALD E. JACKSON, DISTRICT JUDGE

A COPY OF THIS ORDER PROVIDED TO DEFT. THIS DATE BY: REJ

State of Alabama Unified Judicial System Form CR-65 7/2014	PETITION FOR EXPUNGEMENT OF RECORDS	Case No. <u>DC-2013-001434</u>
<p> <input type="checkbox"/> <i>(Non-violent Felony only)</i> The charge was dismissed without prejudice more than five years ago, was not refiled, and I have not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years. </p> <p> <input type="checkbox"/> <i>(Non-violent Felony only)</i> Ninety days have passed from the date of dismissal with prejudice, no-bill, acquittal, or nolle prosequi and the charge has not been refiled. </p> <p> Attached to this petition is a certified record of arrest, disposition, or the case action summary from the appropriate agency for the court record I seek to have expunged, as well as a certified official criminal record obtained from the Alabama Criminal Justice Information Center. </p> <p> I am providing the following additional information as required by Act # 2014-292 (codified at Ala. Code 1975, § 15-27-1 et seq.): <u>I was charged with menacing and a warrant was issued for my arrest. On May 2, 2014, I was arrested by a Shelby County Deputy and booked into Shelby County Jail.</u> </p> <hr/> <p style="text-align: center;"> <i>(specify what criminal charges from the record are to be considered, further specify the agency or department that made the arrest and any agency or department where the petitioner was booked or was incarcerated or detained pursuant to the arrest or charge sought to be expunged).</i> Further, I have satisfied and paid in full all terms and conditions, including court ordered restitution, including interest, to any victim or the Alabama Crime Victims Compensation Commission, as well as court costs, fines, or statutory fees ordered by the sentencing court to have been paid, absent a finding of indigency by the court. </p> <p> I swear or affirm, under the penalty of perjury, that I have satisfied the requirements set out in Act # 2014-292 (codified at Ala. Code 1975, § 15-27-1 et seq.) that I <input checked="" type="checkbox"/> have not <input type="checkbox"/> have previously applied for an expungement in any other jurisdiction, specifically _____ </p> <p> _____ and, if I have applied for an expungement in any other jurisdiction, the expungement was previously <input type="checkbox"/> granted <input type="checkbox"/> denied. </p> <p> _____ <i>Date</i> </p> <p> _____ <i>Signature of Petitioner</i> </p> <p> SWORN TO AND SUBSCRIBED BEFORE ME: </p> <p> _____ <i>Date</i> </p> <p> _____ <i>Person Authorized to Administer Oaths</i> </p>		

State of Alabama Unified Judicial System Form CR-65 7/2014	PETITION FOR EXPUNGEMENT OF RECORDS	Case No. <u>DC-2013-001434</u>
IN THE CIRCUIT COURT OF <u>SHELBY</u> COUNTY, ALABAMA <i>(Name of County)</i>		
<input checked="" type="checkbox"/> STATE OF ALABAMA v. <u>BURTON W. NEWSOME</u> , Defendant/Petitioner		
<input type="checkbox"/> MUNICIPALITY OF _____ v. _____, Defendant/Petitioner <i>(Name of Municipality)</i> <i>(Name)</i>		
CASE NUMBER <u>DC-2013-001434</u>		
CHARGE <u>MENACING</u>		
<hr/> <i>(Name or Describe the Offense; Only One Offense per Petition)</i>		
I, the above-named Defendant/Petitioner, was charged with the above-named Offense which is		
<input checked="" type="checkbox"/> a <u>misdemeanor criminal offense</u> ,		
<input type="checkbox"/> a <u>violation</u> ,		
<input type="checkbox"/> a <u>traffic violation</u> ,		
<input type="checkbox"/> a <u>municipal ordinance violation</u> ,		
<input type="checkbox"/> a <u>non-violent felony</u> ,		
I hereby file this petition with the circuit court in order to have the records relating to the above charge expunged for one of the following circumstances:		
<input checked="" type="checkbox"/> The charge was dismissed with prejudice.		
<input type="checkbox"/> The charge was no billed by a grand jury.		
<input type="checkbox"/> I was found not guilty of the charge.		
<input type="checkbox"/> <i>(Non-felony only)</i> The charge was dismissed without prejudice more than two years ago and was not refiled, and I have not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous two years.		
<input type="checkbox"/> <i>(Non-violent Felony only)</i> The charge was dismissed after successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program after one year from successful completion of the program.		

Appendix C – Chapter 265-X-2



Instructions for Law Enforcement Official taking the applicant's fingerprints on FBI "Applicant" Fingerprint Card FD-258 (Rev 12-10-07)

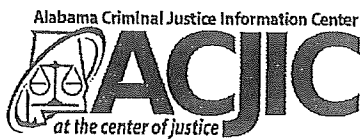
In accordance with Alabama law and the procedures established in Section 265-X-2 of the *Alabama Administrative Code*, individual citizens may request and may be provided with classifiable sets of their own fingerprints to accompany a request for his/her own Alabama criminal history record information (CHRI) from the Alabama Criminal Justice Information Center (ACJIC).

1. One of the requirements for an individual to request their own criminal history record information is that the individual to provide ACJIC with a classifiable set of his or her own fingerprints (taken by an authorized law enforcement agency with an FBI-issued ORI) with his or her application to Review or Challenge his or her own Alabama criminal history. This permits positive identification and insures that the proper criminal record is reviewed and/or challenged.
1. The individual you are fingerprinting should provide proper identification to your agency upon request.
2. The individual's fingerprints should be taken by law enforcement on an FBI "Applicant" Fingerprint Card (i.e. blue card). Please insure that your agency's name and ORI, AND your name and telephone number, are included on the completed fingerprint card. A sample of the FBI "Applicant" Fingerprint Card FD-258 (Rev 12-10-07) for your reference purposes is provided below.

3. Please return the completed fingerprint card to the applicant, as it is the APPLICANT's responsibility to mail the completed CHRI request form, along with his/her own fingerprint card and the other required documents to:

*Alabama Criminal Justice Information Center
P.O. Box 300660
Montgomery, Alabama 36130-0660, ATTN: Director*
4. If you have any questions, please call the Crime Statistics and Information Division of the Alabama Criminal Justice Information Center at (334) 517-2450. To request blank FBI APPLICANT cards, your law enforcement agency may contact the FBI's Identification and Investigative Services Section's Customer Service Group at (304) 625-5590 or by e-mail at laison@leo.gov

Appendix B – Chapter 265-X-2



Applicant Instructions

For completing the ACJIC Application to Review or
Challenge Alabama Criminal History Record
Information

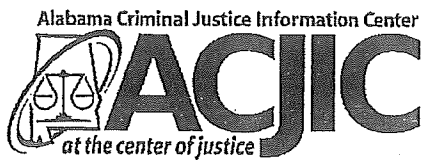
In order for your request to review, challenge or appeal your Alabama criminal history record information to be processed by the Alabama Criminal Justice Information Center (ACJIC), you must complete the *ACJIC Application to Review or Challenge AL Criminal History Record Information* in accordance with the following instructions:

1. Your application must include **ONE COPY** of at least one of the following forms of your own valid photo identification:
 - a. A valid unexpired United States state-issued photo driver license or photo ID (non-driver) card;
 - b. A valid unexpired United States Active Duty, Retiree or Reservist military ID card (DD Form 2 or 2A);
 - c. A valid unexpired United States Military Dependent ID card (for spouse or children of Active Duty Military personnel);
 - d. A valid unexpired United States Citizenship and Immigration Service Documentation, which may include either:
 - i. Certificate of Naturalization N-550, N-570, N-578; or
 - ii. Certificate of Citizenship N-560, N-561, N-645
 - e. A valid unexpired United States Passport; or
 - f. A valid unexpired Foreign Passport which meets the following requirements:
 - i. A foreign passport must contain a Valid United States Visa or I-94 to be used as a primary proof of identification; or
 - ii. A foreign passport, not issued in English, must be translated and accompanied by a Certificate of Accurate Translation. Passports are not acceptable if un-translated into English and/or expired.
2. Your application must include the required \$25.00 administrative fee in the form of only a cashier's check or a money order made payable to the "State of Alabama" (*sorry – personal and/or business checks are not accepted*); and
3. Your application must include a classifiable set of your own fingerprints, taken by an authorized law enforcement agency with an FBI-issued Originating Agency Number (ORI).
 - a. The fingerprints accompanying your application should be provided to ACJIC on an official FBI-approved "Applicant" fingerprint card or a FBI-approved AFIS printout of an official "Applicant" fingerprint card (i.e., FBI blue card) collected by an approved law enforcement agency with a valid FBI ORI. This permits positive identification and insures that the proper criminal record is reviewed.
 - b. Details for the fingerprinting agency may be found in APPENDIX C.
4. If your application includes a CHALLENGE of any part of your CHRI maintained by ACJIC, PART II of the application must include, at a minimum:
 - a. The charge and DATE of each specific arrest or disposition being challenged;
 - b. The Name of the ARRESTING AGENCY OR COURT for each arrest or disposition being challenged;
 - c. A listing of each specific arrest or disposition being challenged;
 - d. The details related to why each specific arrest is incorrect or incomplete;
 - e. What the applicant believes to be the correct information for each arrest or disposition being challenged;
 - f. Where the applicant obtained what he/she believes to be the correct supporting information (if applicable); and
 - g. Official documentation from the arresting agency or court (if applicable) to support each arrest or disposition being challenged.
5. Your completed request and all of the required documentation should be mailed to:

Alabama Criminal Justice Information Center
P.O. Box 300660
Montgomery, Alabama 36130-0660
ATTN: Director

Please allow a minimum of 5-10 business days from the date the application is received by ACJIC for ACJIC to process your request for review. Requests to Challenge CHRI information do NOT fall under this timeframe, as they require additional research, contact and verification with the arresting agencies, etc. If you have any questions concerning this procedure, you may contact the Alabama Criminal Justice Information Center by calling (334) 517-2400.

Appendix A – Chapter 265-X-2



ALABAMA CRIMINAL JUSTICE INFORMATION CENTER
**Application to Review or Challenge
 Alabama Criminal History Record
 Information**

PART II: Request to Challenge CHRI maintained by ACJIC

An individual may Challenge or Appeal any portion of his or her own Criminal History Record Information (CHRI) maintained by the Alabama Criminal Justice Information Center that he or she believes to be **incomplete** or **inaccurate**. This may be requested by completing the *ACJIC Application to Review or Challenge AL Criminal History Record Information* and returning it along with the required documentation to ACJIC within one calendar year of the date of the ACJIC response to the individual's request to review CHRI.

Please ATTACH IN WRITING to this completed application the following information regarding EACH arrest and/or disposition you wish to challenge:

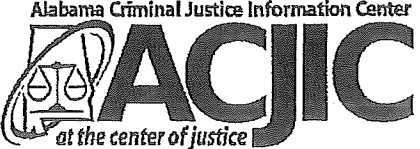
1. The charge and DATE of each specific arrest or disposition being challenged;
2. The Name of the ARRESTING AGENCY OR COURT for each arrest or disposition being challenged;
3. A listing of each specific arrest or disposition being challenged;
4. The details related to why each specific arrest is incorrect or incomplete;
5. What the applicant believes to be the correct information for each arrest or disposition being challenged;
6. Where the applicant obtained what he/she believes to be the correct supporting information (if applicable); and
7. Official documentation from the arresting agency or court (if applicable) to support each arrest or disposition being challenged.

Please mail your completed application, along with the required documentation to:

Alabama Criminal Justice Information Center
 P.O. Box 300660
 Montgomery, Alabama 36130-0660
 ATTN: Director

The *ACJIC Application to Review or Challenge AL Criminal History Record Information* will be reviewed by an ACJIC official, along with the documentation provided. The applicant will be notified as promptly as possible of the results of the challenge and you may appeal a decision that is unsatisfactory to you according to the procedures established by the ACJIC Commission.

Questions? Contact the Alabama Criminal Justice Information Center's Crime Statistics and Information Division by calling 334-517-2450. ACJIC's normal business hours are Monday through Friday, from 8:00 a.m. until 5:00 p.m. Central Standard Time (CST).

Appendix A – Chapter 265-X-2 Alabama Criminal Justice Information Center 	ALABAMA CRIMINAL JUSTICE INFORMATION CENTER Application to Review or Challenge Alabama Criminal History Record Information
PART I: Applicant Information	

Full Name (First, Middle, Last, Suffix): Burton Wheeler Newsome

Applicant Current Address: 7450 Dunnivant Valley Road

City: Leeds State: Alabama Zip Code: 35094

Alias or Nickname(s): _____ Sex/Gender: Male Female

Social Security Number: 255-27-7001 Date of Birth: 9/4/1966 (month/date/year)

Race: White Black Asian Indian Other (please specify) _____

Current Driver's License Number: 9303132 Issuing State: Alabama

Current e-mail address: burt@newsomelawllc.com

Home Phone #: (_____) _____ Cell Phone #: (205) 657-6579

Work Phone #: (205) 747-1972 Extension: _____

1. My request is to (check all that apply):
- Review a copy of my CHRI maintained by ACJIC;
- Challenge specific items in my CHRI maintained by ACJIC (see requirements in *Part II* of this application).
- Receive a Certified Official Criminal Record as required to file a Petition for Expungement of Record.
2. Included with my Application are the following items:
- The required copy of my valid photo identification (see "Appendix A" for application instructions for requirements and for accepted forms of identification).
- The required \$25.00 administrative fee (must be in the form of a money order or Cashiers checks made payable to the STATE OF ALABAMA).
- A classifiable copy of my own fingerprints taken by law enforcement as required (please see "Appendix C" for instructions).

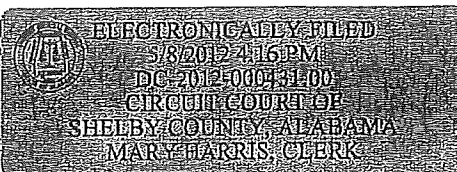
I, the above referenced individual, hereby request to Review or Challenge my Alabama criminal history record information (CHRI) maintained by the Alabama Criminal Justice Information Center, Alabama's official criminal history repository. By signing below and submitting this application, I hereby verify that the information listed in my application and in the attached documentation is correct. I also acknowledge that I understand that, in accordance with Section 41-9-601 of the Code of Alabama 1975, that any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information to any agency or person without authorization, may be guilty of a felony, and shall be fined not less than \$5,000 nor more than \$10,000 or imprisoned in the state penitentiary for not more than five years or both. §41-9-601, Code of Ala. (1975).

Applicant Signature  Date 10/8/2014

IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA v. Alfred Soler

TRIAL
(MISDEMEANOR)



This matter comes before the Court for trial on a complaint against the Defendant for the misdemeanor of Menacing in violation of Section 13A-6-23.

Defendant has been duly advised of all relevant constitutional, substantive and procedural rights in this matter, including the right to appeal the judgment of this court, is represented by counsel: Bobby Alvic and has NOT waived the right to the same. The facts in this matter are NOT stipulated.

After hearing all the evidence and arguments duly presented, THE COURT FINDS THE DEFENDANT GUILTY AS CHARGED, OR _____

The Defendant is hereby SENTENCED to a term of 300 days (at hard labor if allowed by law) for Shelby County, Alabama, which will be suspended for 24 mos Suspended Sentence will _____ be UN supervised by Shelby County Community Corrections. Supervision will last until all ordered programs are complete and all ordered costs are paid. The Defendant will be awarded all entitled JAIL TIME CREDIT. Said sentence will NOT run concurrently with that imposed in _____

Any other case. The Defendant also is ordered to pay the following amounts by the dates given below.

- \$ _____ in further RECOUPEMENT to the Fair Trial Tax Fund by: _____
- \$ 238 in COURT COSTS by: _____
- \$ 20 in JAIL HOUSING COSTS by: _____ AND ALL MEDICAL EXPENSES incurred while in jail.
- \$ 25 to the CRIME VICTIMS COMPENSATION FUND by _____
- \$ 50 as a FINE by: _____
- \$ _____ in RESTITUTION to: _____ by: _____
- \$ _____ as ADDITIONAL FEES in accord with ALABAMA CODE §36-18-7(a) and § 12-19-181 by: _____
- \$ 333 TOTAL DUE by: within 90 days

All payments must be made to the COURT CLERK by cash, money order, or certified check, paid at the Shelby County Courthouse or mailed to: P.O. BOX 1810, COLUMBIANA, AL. 35051. The Defendant shall put the above case number on all payments and keep all receipts. The Defendant shall pay these amounts as ordered, including supervision fees, and complete the tasks otherwise ordered, and comply with all the provisions checked below as conditions of any suspended sentence, probation, parole, work release, SIR or any other similar program. Failure to pay or perform by the dates given may result in the revocation of any probation and the reinstatement of any sentence which was originally suspended in this case.

- Obey all laws and ordinances and, in so far as possible, maintain a full time job or full time student status.
- Avoid any and all contact with: Burt Newsome his residence or place of business
- Serve _____ consecutive days (at hard labor if allowed by law) in the Shelby County Jail and Jail Time Credit will _____ be applied toward this portion of the sentence.
- Serve _____ days at the Shelby County Work Release Center, each day to be served from 8:00 A.M. to 4:00 P.M. on the following days: _____ Defendant is ordered to pay \$25.00 fee for each day of service at the Center, which is to be paid daily when Defendant arrives at the Center.
- Complete _____ hours of community service and give the Court proof of the same by: _____
- Complete a Defensive Driving Course, _____ and provide proof of completion to the Court by: _____
- Report to and successfully complete a drug and/or alcohol treatment program as directed by the CRO and appear in court to provide proof of the same on: _____ at _____. Defendant shall _____ pay for the program.
- The Defendant's driver's license/privilege shall be suspended for _____ months from the date of judgment.

ORDER OF COURT

The Defendant has 14 DAYS to perfect any appeal. Appeal bond is set at \$ 2,000. Any fines, fees, costs, etc., not specifically taxed herein, are hereby remitted. The Court Clerk shall furnish a copy of this order to Defendant.

DONE AND ORDERED: 05-08-12 Ronald E. Jackson
HONORABLE RONALD E. JACKSON, DISTRICT JUDGE

A COPY OF THIS ORDER PROVIDED TO DEPT. THIS DATE BY: REJ

SHELBY COUNTY
SHERIFF'S OFFICE
SHELBY COUNTY, ALABAMA



CHRIS CURRY
SHERIFF

380 McDOW ROAD
P.O. BOX 1095
COLUMBIANA, AL 35051
PHONE (205) 669-4181
FAX (205) 669-3865
WWW.SHELBYSO.COM

Date 5/2/13

Dear Mr. Newsome

Your pistol permit # 201209029 issued 7/10/12
is revoked, effective immediately. This action is the result of your recent
Menacing arrest by the Shelby County
Sheriff's Office

The permit is considered null & void.

An envelope is enclosed for your convenience in returning your permit. It must be returned to our office within 10 business days.

Your permit has been returned to us by the arresting agency.

If you have any questions regarding the revocation of your pistol permit you can contact the Shelby County Sheriff's Office at 669-3936.

Chris Curry, Sheriff
Shelby County Sheriff's Office



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
 BIRMINGHAM DIVISION

NEWSOME BURT W,
 NEWSOME LAW LLC,
 Plaintiffs,

V.

COOPER CLARK ANDREW,
 BALCH & BINGHAM LLP,
 SEIER CLAIBORNE P,
 BULLOCK JOHN FRANKLIN JR. ET AL,
 Defendants.

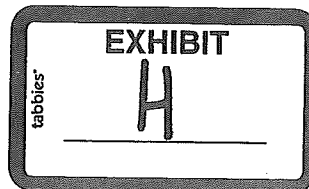
)
)
)
)
) Case No.: CV-2015-900190.00
)
)
)
)
)

ORDER

MOTION TO DISMISS PURSUANT TO RULE 12(B) filed by SEIER CLAIBORNE P is hereby GRANTED.

DONE this 7th day of May, 2015.

/s/ CAROLE C. SMITHERMAN
 CIRCUIT JUDGE





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6/2/2015 9:59 AM
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CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

BURT W. NEWSOME; and)
NEWSOME LAW, LLC,)
)
 Plaintiffs,)
vs.)
)
 CLARK ANDREW COOPER, *et al.*,)
)
 Defendants.)

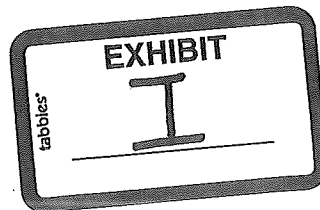
CASE NO. CV-2015-900190

PLAINTIFFS' MOTION TO RECONSIDER OR IN THE ALTERNATIVE MOTION
FOR CERTIFICATION UNDER ARCP 54(b)

The Plaintiffs, by and through their counsel of record, request this Court reconsider its orders dismissing defendants Cleiborne Seier and John Bullock, or, in the alternative, grant certification under Rule 54(b), Ala. R. Civ. P. for an interlocutory appeal, based on the following:

Plaintiffs request this Court reconsider its orders of May 7, 2015 granting Claiborne Seier's and John Bullock's Motions to Dismiss. This Court's summary dismissal of the defendants appears to be based on a release signed by Plaintiff Newsome in exchange for the dismissal of his menacing charge. An order dismissing those defendants, Claiborne Seier and John Bullock, for that reason is erroneous for the reasons stated in Plaintiffs' Response in Opposition, more fully stated below in Section I. For these same reasons, there are substantial grounds for difference of opinion as to the issue of whether a release in a case such as this has the effect of barring claims of which the plaintiff was not aware and against parties not contemplated by either the plaintiff or the prosecutor at the time the release was signed.

Under the Alabama Rules of Appellate Procedure, a party may request permission to appeal an interlocutory order where the trial judge certifies that certain conditions are met. *See,*



Rule 5, Ala. R. App. P. Those conditions are set out in subsection (a) of Rule 5, Ala. R. App. P., as follows:

[T]hat, in the judge's opinion, the interlocutory order involves a controlling question of law as to which there is substantial ground for difference of opinion, that an immediate appeal from the order would materially advance the ultimate termination of the litigation, and that the appeal would avoid protracted and expensive litigation.

If these conditions are met, the trial court may issue a certification for interlocutory appeal, including a statement of the controlling questions of law. *Id.* The presumptively reasonable time to certify issues under Rule 5 is 28 days. Rule 5(a)(1), Ala. R. App. P. All of these conditions are met in the instant case, and the Plaintiffs respectfully request such a certification from the Court, in the event the Court does not reconsider its earlier orders dismissing Defendants Seier and Bullock.

I. Substantial Grounds for Difference of Opinion.

The first requirement under Rule 5 is that the interlocutory orders contain controlling questions of law about which there are substantial grounds for difference of opinion. This Court's Orders from May 7, 2015 dismissing Defendants Bullock and Seier contain implicit rulings on questions of law about which there are substantial grounds for difference of opinion.

Although not specifically addressed in the Court's orders, the ultimate effect of the ruling was to hold that a release from civil liability signed in exchange for a deferred prosecution but which was obtained by fraud or mistake is still binding even as to parties and claims not contemplated by the plaintiff at the time of the release.¹

¹ The appropriate standard of review under Rule 12(b)(6), Ala. R. Civ. P., is whether, when the allegations of the complaint are viewed most strongly in the pleader's favor, it appears that the pleader could prove any set of circumstances that would entitle him to relief. In making this determination, a Court does not consider whether the plaintiff will ultimately prevail, but only whether he may possibly prevail. *Donoghue v. Am. Nat. Ins. Co.*, 838 So. 2d 1032, 1036 (Ala. 2002) (internal citations and quotations omitted). In dismissing these defendants, the court effectively determined that Plaintiffs could prove no set of facts which would result in a judgment in their favor.

A release obtained by fraud and/or misrepresentation is void. Clearly, the facts of what had transpired were misrepresented to the Plaintiff at the time he entered into the release and as such the release is void as to Co-Defendant Seier, as well as co-defendant Bullock. See *Underwood v. Allstate Insurance Company*, 590 So.2d 258 (Ala.1991), *Edmondson v. Dressman*, 469 So.2d 571 (Ala.1985), *Kashuva v. Jim Limbaugh Toyota, Inc.*, 669 So.2d 987 (Ala.Civ.App.1995) and *Taylor v. Dorough*, 547 So.2d 536 (Ala.1989).

Additionally, the release does not cover Defendants Bullock and Seier, nor does it cover Plaintiff's claims in this case arising from these defendants' conduct. All releases must be given effect according to their terms and the intentions of the parties thereto. *See*, Ala. Code § 12-21-109 (1975). The language of the release, in context, is clearly contemplated as a release designed to protect primarily government actors from a potential civil rights suit. The release does not expressly waive or release any person or entity from claims that were unknown to Newsome at the time he executed the release, and there is no evidence that it was the parties' intent to waive any unknown claims. In *Pierce v. Orr*, 540 So. 2d 1364, 1367 (Ala. 1989), the plaintiff settled a workmen's compensation claim and executed a general release granting a release to "any and all persons" in connection with the plaintiff's contraction of his disabling condition. Later, the plaintiff discovered a link between his disability and a drug prescribed by his doctor to treat his work-related injury. The plaintiff sued his doctor, who was not named in the release, for medical malpractice relating to the doctor's treatment of the plaintiff leading to the disability that was the subject of the workmen's compensation suit. The trial court granted the doctor's motion for summary judgment based on the release. In reversing the trial court's entry of summary judgment, the Supreme Court applied § 12-21-109 and overturned a long line of cases that held a general release was effective as to unnamed third parties. The court stated:

“We think the time is long past due to accept at face value the legislative will as expressed in § 12-21-109 and, thus, to give effect to contracts of release according to the intentions of the parties. *Henceforth, unnamed third-parties, referred to in the release as “any and all parties” or by words of like import, who have paid no part of the consideration and who are not the agents, principals, heirs, assigns of, or who do not otherwise occupy a privity relationship with, the named payors, must bear the burden of proving by substantial evidence that they are parties intended to be released, i.e., that their release was within the contemplation of the named parties to the release.* This shift in the burden of proof, of course, does not preclude unnamed third-parties from timely interposing a defense to the extent of claiming credit for any amounts paid by named parties to the release.” Pierce v. Orr, 540 So. 2d 1364, 1367 (Ala. 1989)

Defendant Seier, even if he may arguably be swept up in the language of the release, took no part in the discussion of the release agreement, was not brought up in those discussions, and gave no consideration for such a release. He is not an agent, heir, assign, or in a privity relationship with any of the named persons in the release, who are primarily government actors. Therefore, Seier was not a party intended to be released by the agreement Plaintiff entered into with the prosecutor to dismiss his criminal charge. Defendant Seier has, at best, raised an affirmative defense regarding the intent of the parties to the release, the disposition of which would not be appropriate at this early stage. Therefore, Seier’s motion to dismiss should be denied.

Further, neither Plaintiff nor the prosecutor likely intended for the release-dismissal agreement to cover Defendant Seier or his conduct. Nor did plaintiff or the prosecutor know at the time of Bullock’s involvement in a conspiracy to frame the plaintiff. The release of such claims were not discussed or bargained for. As such, and consistent with the foregoing, the release may be reformed or avoided due to the mutual mistake of the parties.

Finally, to hold that the dismissal agreement releases defendants in this situation would be contrary to public policy. Plaintiff alleges that his criminal charges, his arrest, his prosecution, and the damages he has suffered therefrom, were the product of a scheme involving Defendant Seier to frame him. To allow such an abuse of the judicial system to shield itself behind the broad language of a release signed to ensure the dismissal of the very criminal charges that were the object of the scheme would be a windfall. In *Town of Newton v. Rumery*, 480 U.S. 386, 107 S.Ct 1187, 94 L.Ed.2d 405 (1987), a plurality of the United States Supreme Court affirmed a release-dismissal agreement after concluding that the “agreement was voluntary, that there is no evidence of prosecutorial misconduct, and that enforcement of this agreement would not adversely affect the relevant public interests.” *Id.* at 398. Justice O’Connor, in her concurrence, noted that a relevant factor for determining the validity of a release-dismissal agreement included “the existence of a legitimate criminal justice objective for obtaining the release.” *Id.* at 401-02 (O’Connor, J., concurring in part and concurring in the judgment).

In this case, there is no legitimate criminal justice objective served by releasing defendants from Plaintiff’s claims. This is not a case under § 1983 against any government actor arising out of Plaintiff’s criminal charges and Plaintiff is in no way is asserting any wrongdoing by law enforcement and /or prosecutors. The public interests purportedly served by such a release-dismissal agreement, such as protecting government officials from civil rights claims are not relevant here. This case is a case between private entities, but it is intended to validate important public interests in the fair administration of justice. Allowing any of these defendants to benefit from the release-dismissal agreement does not serve any public policy interests, and potentially harms such interests. Therefore, the release-dismissal agreement should not bar Plaintiff’s claims against the defendants in this case. For these reasons, there is substantial

grounds for a difference of opinion regarding the effect of the release signed by Plaintiff

Newsome in this case.

II. Material Advancement and Avoidance of Protracted and Expensive Litigation

The Court's Orders dismissing Defendants Bullock and Seier would result in this case being litigated with only half of the original defendants. This decision would have to be appealed, even if the plaintiffs obtained a judgment against the remaining defendants. As an appeal of the Court's dismissals could only be pursued after the entire case is disposed of unless certification is granted by this Court under *ARCP* 54(b), having this initial question answered now would serve to establish certainty, materially advance the ultimate termination of the litigation and avoid expensive and protracted litigation. If a trial goes forward without an interlocutory appeal, a successful post-trial appeal by the plaintiffs would result in a second trial on the same issues, plus additional issues that would have not been fully developed. An appeal on the issues requested in this Motion guarantees that these issues will not require a second costly trial.

III. Proposed Issues for Certification

Plaintiffs request that this Court certify the following questions to the Supreme Court for interlocutory appeal if it does not vacate its orders dismissing Seier and Bullock:

1. Does a release obtained through fraud or mutual mistake in a criminal case bar civil claims against the parties who committed the fraud or caused the mistake?
2. Does a release in a criminal case bar civil claims against parties not named or contemplated by the plaintiff or the prosecutor at the time the release was signed?
3. Does public policy operate to limit the effect of releases obtained from criminal defendants?

WHEREFORE, premises considered, Plaintiffs respectfully ask this Court to reconsider its orders dismissing defendants Seier and Bullock, or, in the alternative, grant Plaintiffs' Motion to certify the aforementioned issues for interlocutory appeal under Rule 5, Ala. R. App. P.

Respectfully submitted this the 2nd day of June 2015.

/s/ Robert E. Lusk, Jr

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CERTIFICATE OF SERVICE

I hereby certify that I have filed electronically and served a copy of the foregoing upon the below listed parties to this action by placing a copy of same in the United States Mail, postage prepaid and properly addressed, this the 2nd day of June, 2015.

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/s/ Robert E. Lusk, Jr.
ROBERT E. LUSK, JR. (LUS005)
Attorney For Plaintiffs



IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA,)
)
 Plaintiff,)
 vs.)
)
 BURTON WHEELER NEWSOME,)
)
 Defendant,)

CASE NO: CC-2015-121

STATE'S RESPONSE TO PETITION FOR EXPUNGEMENT OF RECORDS

Comes now the State of Alabama, by and through A. Gregg Lowrey, Assistant District Attorney for the Eighteenth Judicial Circuit, and states as follows:

1. The State of Alabama and the victim in the underling case objects to Plaintiff's Petition for Expungement of Records, pursuant to Section 15-27-5, Code of Alabama.

THEREFORE, the State of Alabama objects to this Honorable Court granting said Petition for Expungement of Records.

Respectfully submitted on this the 10th day of July 2015.

/s/ A. Gregg Lowrey
A. Gregg Lowrey
Assistant District Attorney

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served upon Petitioner by E-File on this the 10th day of July 2015.

/s/ A. Gregg Lowrey
A. Gregg Lowrey
Assistant District Attorney

