No. 1180945

IN THE SUPREME COURT OF ALABAMA

BRETT/ROBINSON GULF CORPORATION; CLAUDETTE BRETT; THOMAS BRETT; WILLIAM T. ROBINSON, JR.; AND BRETT REAL ESTATE AND ROBINSON DEVELOPMENT COMPANY, INC.,

Appellants,

v.

PHOENIX ON THE BAY II OWNERS ASSOCIATION, INC.; AND PAMELA MONTGOMERY,

Appellees.

From the Circuit Court of Baldwin County
CV-2015-900942

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND BRIEF OF *AMICUS CURIAE* COMMUNITY ASSOCIATIONS INSTITUTE

Steven F. Casey
JONES WALKER LLP
420 20TH Street North Suite 1100
Birmingham, Alabama 35203
(205) 244-5200
scasey@joneswalker.com
Attorneys for *Amicus Curiae*, Community Associations Institute

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF APPELLEE

The Community Associations Institute respectfully moves the Court for permission to appear as *amicus curiae* and to submit the attached brief in support of the Appellees, Phoenix on the Bay II Owners Association, Inc., and Pamela A. Montgomery.

INTEREST OF *AMICUS CURIAE*

Amicus curiae Community Associations Institute ("CAI"), located in Falls Church, Virginia, is composed of over 40,000 members, has 64 chapters worldwide, including Canada, the Middle East and South Africa, and has relationships with housing leaders in a number of other countries, including Australia and the United Kingdom. CAI provides information, education and resources to the homeowner volunteers who govern communities and the professionals who support them. CAI members include association board members and other homeowner leaders, community managers, association management firms and other professionals who provide products and services to associations. CAI regularly advocates on behalf of common-interest communities and industry professionals before legislatures, regulatory bodies and the courts, and

publishes the largest collection of resources available on community association management and governance.

CAI is concerned that the position taken by the Appellants (hereinafter referred to collectively as the "Developer") is not only directly contrary to the statutes and established principles governing condominium creation and development, but that, if adopted, would grant inordinate power to condominium developers to the detriment of condominium owners and upset the balance of interests legislatively mandated by the Alabama Uniform Condominium Act. CAI also believes that the remedy of reformation adopted and utilized by the trial court herein is the most fitting remedy available to right the wrongs committed by the Developers and should be affirmed by this Court.

Accordingly, CAI respectfully requests that this Court grant it leave to appear as *amicus curiae* and accept the attached brief.

Respectfully submitted,

s/ Steven F. Casey
Attorney for *Amicus Curiae*, Community Associations Institute

OF COUNSEL
Steven F. Casey
JONES WALKER LLP
420 20th Street North, Suite 1100
Birmingham, Alabama 35203
(205) 244-5200
scasey@joneswalker.com
Attorneys for *Amicus Curiae*,
Community Associations Institute

==========

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

BRIEF OF AMICUS CURIAE

ARGUMENT

I. Background

This appeal involves a desperate attempt by a condominium developer to hang on to management fees in perpetuity based on a weak interpretation of poorly-drafted condominium declaration language to the detriment of the unit owners misled by the public offering statement provided to them. The Developer's dilemma is its own fault, and despite its cry of impending calamity, the ruling below poses no threat to condo development on Alabama's Gulf Coast.

Furthermore, the remedy of reformation naturally flows from the trial court's findings and is, in fact, the only real remedy available to restore order and make the Association and its Unit Owners whole.

II. Introduction

A condominium is established by a declaration[1] which sets forth the rights of the developer and the owners of the condo units. A condominium owners association is created alongside

[1] "[T]he declaration is the instrument which creates and defines the units and common elements." Ala. Code §35-8A-203 cmt. 2. *See also* Ala. Code §35-8A-103(10).

the condo for the purpose of operating the condo. The declaration establishes a time period within which the developer controls the condo association; thereafter, the association's members — the unit owners — control the condo association and are free to exercise operational control, including entering into contracts with a management company of their own choice.

Here, the Developer seeks to have one of its affiliates maintain management rights over the condo in perpetuity, stripping the condo association and owners of one of their basic rights under the Alabama Uniform Condominium Act.

The Developer does so by asserting that it owns four commercial units in the condo, although no such commercial units were created by the Declaration for Phoenix on the Bay Two.[2] This really is nothing more than a heavy-handed attempt by the Developer to hang on to management fees forever. That very notion violates the Alabama Uniform Condominium Act. It also reflects an inaccurate view of the Developer's rights as articulated in the founding document, the Declaration.

[2] Phasing Amendment One to Phoenix On the Bay II Phase Two (the "Declaration"), beginning C. 49.

The Declaration is very clear that the condo is to be used solely for single family residences. It is also very clear that the condo consists solely of 104 residential units. While there is some passing reference in the Declaration to commercial units, the language of the Declaration itself neither creates any such units, nor reserves the right to do so.

III. The Declaration Contains Vagaries and Inconsistencies That Solidify Appellee's Position and Compel Affirmance

The Developer's efforts to collect management fees for itself and its affiliate into perpetuity fail here because its scheme to do so violates both the Alabama Uniform Condominium Act and the Developer's poorly drafted Declaration. The Developer claims that vague references to "commercial units" in the Declaration and a few brief notations on a drawing attached thereto are sufficient to have created four commercial condominium units in a condominium which is described numerous times as one comprised solely "for single family residences." Declaration at §15.01, C. 49.

Apparently, the Developer realized at some point that it had not properly created commercial units, so it made undisclosed changes to exhibits C and C-1 to the Declaration

in an attempt to allocate a portion of common elements owned by the previous buyers of residential units to the four "commercial units." C. 62 & 64.

The claim that it created four "commercial units" cannot be sustained in the face of the numerous contradictory and inconsistent references and language found elsewhere in the Declaration, which overwhelm and drown out any notion of "commercial unit" creation in this condominium.

A. The Declaration Creates An Exclusively Residential Condominium

The Declaration makes it clear that this condominium is strictly for single family residential use. Specifically, the Declaration states that "*[t]he condominium property shall be only for single family residences . . . Each of the units shall be occupied **only** by a single family and its guests as a residence **and for no other purpose***." Declaration at §15.01, C. 49 (emphasis added). Despite that language, the Developer argues that it kept for itself four "commercial units," which it claims to have deeded over to what appears to be a captive management company. Appellants' Brief at 9.[3] The Developer's

[3] The Developer's Brief (Appellants' Brief) cites to section 5.04 of the Declaration (C. 9) which contains their quoted language. Interestingly, that section of the Declaration is entitled "Easements – Developer's Retained and

after the fact conversion of common elements into commercial units forces the Association and its Unit Owners to contract solely with the Developer's own captive management company, depriving the Association of its right to freely contract with the management company of its choice. Not only is the Developer's analysis wrong and misleading, but it violates another of the Association's rights clearly stated in the Declaration, which the Developer drafted.[4]

Those instances of opposing language alone put the Developer's position at odds with any notion of clarity in the Declaration. As is the case in almost every jurisdiction,

---

the Association's." *Id.* The title clearly has nothing to do with the creation of any "commercial units." The language quoted in Appellants' Brief is certainly there, but follows a great deal of language describing Developers' rights in the supposed "commercial unit" spaces as a "perpetual nonexclusive easement," and reserving it for the same purposes that the "commercial units" are to be used for. It additionally states that the Developer "retains the right to use and control the check-in area, sales office, housekeeping, maintenance areas, ..." *Id*. The language of easement and retained rights is hardly the language of unit creation or ownership.

[4] "The operation and administration of condominium shall be by the Association of the Unit Owners." Declaration at p. 16 (unnumbered paragraph with heading, "Association," C. 42; "The powers of the Association shall include but not be limited to the maintenance, management and operation of the condominium property." Declaration at §12.02, C. 42.

the law of Alabama is that ambiguity is to be interpreted against the interests of the drafter. *See United States Fid. & Guar. Corp. v. Elba Wood Products, Inc.*, 337 So. 2d 1305 (Ala. 1976), where this court held that ". . . at the very least, the circumstances surrounding the contract leave the clause ambiguous, in which case it would be interpreted against the drafter, Fidelity. *Id.* at 1309. The two instances cited above are not the only ones that demonstrate the absurdity of the Developer's stance. Rather, the Declaration is chock full of other, clear wording that speaks to the sole residential nature of the condominium. For example,

- "Phase Two of the project consists of one (1) building containing a total of One Hundred Four (104) Residential Units . . . ." Declaration at ¶5 (one of the unnumbered "WHEREAS" paragraphs), C. 27.
- "There are a total of one hundred four (104) condominium residential Units as shown on the Plans." Declaration at §5.01, C. 30.
- In the portion of the Declaration entitled "Descriptions," there are 8 separately numbered paragraphs, one of which is entitled "Private Residential

Elements." Others are labeled "Common Elements," "Limited Common Elements," and "Unit Boundaries." There is no paragraph labeled "Commercial Units," or anything of the like. Declaration, pp. 6-11, C. 32-37.

The Alabama Uniform Condominium Act does not contemplate open-ended, eternal developer involvement and will not condone such here. *See* Ala. Code §35-8A-205(8). The instant Declaration provides for developer control over a condo association for only a finite period and that period, for this condo, has ended. ("The rights of the Developer . . . shall cease and terminate ten (10) years from the date of the recording of this Declaration in the Office of the Judge of Probate of Baldwin County, Alabama." Declaration at §18.06, C. 52).

B. The Declaration Does Not Create Commercial Units

Any unit created by a declaration must be "designed for separate ownership or occupancy" and its boundaries "are [to be] described pursuant to section 35-8A-205(a)(5)." Ala. Code §35-8A-103(26). Section 35-8A-205(a)(5) provides that a "declaration . . . must contain . . . a description of the boundaries of each unit . . . including the unit's identifying number." An identifying number, as the term is used in the

subject Declaration, has a specific definition: "Each Unit is assigned an alpha/numeric name which is indicated on the drawings . . . . The first number shall designate the floor of the Unit; this shall be followed by a letter which shall designate the Unit type; followed by a number designating the specific Unit." Declaration at §6.02 a), C. 32.

The Developer itself failed to provide qualifying identifying numbers for its supposed commercial units. Indeed, the Declaration only refers only to "MAINT. ROOM," "CHECK-IN," "SALES OFFICE," and "HOUSEKEEPING," (Declaration, Exhibit "B", C. 58, 62) or "Type Check-In," "Type Maintenance," "Type Housekeeping," and "Type Sales Office." Declaration, Exhibit "C-1," C. 64; see also, Declaration at §5.04, C. 31. At no place in the Declaration are the fictitious commercial units designated as section 6.02 of the Declaration itself requires. Not only does this failure violate the terms of the Declaration, of course, but it also violates the requirements of the Alabama Code. Section 35-8A-205(5) states that "[a] description of the boundaries of each unit created by the declaration, including *the unit's identifying* ***number***" must be included in the declaration. Ala. Code §35-8A-205(5) (emphasis added).

All of the other Units in this condominium are designated with numbers, and as specific areas, with specific measurements, enclosed by walls. The supposed commercial units are not so designated. The so-called "commercial units" are just general areas depicted on a drawing. C. 471-473.

Further, since the fictitious commercial units were not sufficiently created, the spaces that the Developer wishes it had so designated are actually Common Elements, defined as "[a]ll portions of a condominium other than the units." Ala. Code §35-8A-1-3(4). And, since they are Common Elements, the actual Unit Owners in this condominium own undivided interests in them and the Developer cannot convey them to anyone, much less its affiliate.

A deed conveying an interest in property that is outside the chain of title is a "wild deed" and conveys no interest. *First Properties, L.L.C. v. JP Morgan Chase Bank, Nat'l Ass'n*, 993 So. 2d 438 (Ala. 2008). Here, by virtue of conveyance of the residential units, the Developer also conveyed an undivided percentage interest in the common elements to each residential unit owner. Ala. Code §35-8A-207(a) ("The declaration must allocate to each unit in a condominium a fraction or percentage of undivided interests in the common

elements . . . to each unit and state the formulas used to establish allocations of interest. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.")

The declaration must contain any special developer rights that the developer seeks the ability to exercise. Ala. Code §35-8A-205(a)(8) ("[The declaration for a condominium must contain:] A description of any development rights specified in Section 35-8A-103(11) and other special declarant rights specified in Section 35-8A-103(24) reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time limit within which each of those rights must be exercised.") The term "development rights" is defined in section 35-8A-103(11) as "[a]ny right or combination of rights reserved by a declarant in the declaration to: . . . (ii) **create units**, common elements, or limited common elements within a condominium; (iii) subdivide units or **convert units into common elements or common elements into units**; . . . ." (emphasis added).

No such rights to convert common elements into units was reserved to the Developer under the Declaration. Hence, the

residential unit owners (the members of the Association) have a record title to the common elements that is indefeasible. Any deed purporting to convey an interest in property owned by the residential unit owners was, thus, "wild" and therefore invalid.

C. The Rule Applied Against the Drafter of Legal Documents Applies in Favor of the Association and Unit Owners

In addition, the Declaration here is so full of ambiguity that the Developer's intent cannot fully be determined and, so, the law interpreting vagary against the drafter must be applied. "[T]he general rule that ambiguities in a contract should be strictly construed against the party who drafted it" is alive and well in Alabama. *Western Sling and Cable Co. v. Hamilton*, 545 So. 2d 29, 31 (Ala. 1989).

The few, scant portions of Declaration language that refer to "commercial units" have already been mentioned. When juxtaposed against other language describing rights purportedly reserved to the Developer (even though insufficient to do so, as demonstrated hereinabove), the vagueness of any rights the Developer might have reserved to itself is apparent. For example,

- "[e]asements are reserved to the Developer . . . throughout the Common Elements as may be reasonably necessary for the purpose of discharging the Developer's or Building Manager's obligations." Declaration at §5.04, C. 31.
- "Developer . . . reserves a perpetual nonexclusive easement . . . for the purpose of real estate sales or any other business operated by the Developer on such property, including all areas reserved by the Developer." *Id*.
- "[T]he Developer . . . retains the exclusive right to use and control the check-in area, sales office, housekeeping, maintenance areas, workshops, storage areas . . . ." *Id*.
- "The Developer may maintain sales offices, management offices, leasing and operations offices . . . in any Unit of the Condominium or on Common Elements . . . ." Declaration, §18.06, C. 51.

If the Developer really intended to create commercial units, it would presumably not have gone to such great lengths to attempt to reserve the referenced easement rights. In fact, it could not have converted common elements into

commercial units without expressly reserving that right. Ala. Code §35-8A-205(8). What it did, instead, was muddy the water so badly with respect to its rights as to render them essentially useless.

Applying the general rule construing vague contract language against the drafter, we must conclude that the Developer failed to create its supposed "commercial units." This is the inevitable result when viewing the Declaration's vast amount of vague language against the Developer and in favor of the Association and Unit Owners, since it encroaches least upon the Unit Owners' rights and ownership interests. Interpreting these inconsistencies in favor of the Developer would not only stand the general rule of law on its head, but would confiscate ownership interests of Unit Owners.

Of course, after the underlying issue here surfaced, the Developer attempted to convey, by deed, the phantom commercial units to its affiliate, Brett/Robinson Gulf Corporation (one of the Appellants). The main problem with this attempt, as demonstrated above, is that the Developer had no property to convey. And, even if the Developer now wishes to attempt to convey any of the vague easement rights it wrote about in the Declaration, any such easement rights

no longer exist: "[t]he rights of the Developer . . . shall cease and terminate ten (10) years from the date of recording of this Declaration . . . ." Declaration at §18.06, C. 52. The Declaration was recorded on February 7, 2007 (C. 23), well more than ten years ago now.

IV. The Differences Between the Offering Statement and the Declaration Violate the Alabama Uniform Condominium Act

The Offering Statement did not describe the so-called "commercial units." DX43, C. 4639, 4640, 4643; C.Supp. 29-30. Although ineffectively, as demonstrated hereinabove, the Declaration does mention them. This difference alone violates the Alabama Uniform Condominium Act. The requirements of an offering statement for a condominium sale are set forth in section §35-8A-403 of the Alabama Code. Those provisions require that an offering statement list "[t]he number of units in the condominium" (Ala. Code §35-8A-403(3)), "[a]ny restraints on sale . . . of any units in the condominium and any restrictions . . . [o]n use" (*Id*. at §35-8A-403(14)& -8A-43(14)(a)), and that "[a] declarant shall promptly amend the offering statement to report any material change in the information required . . . ." *Id*. at §35-8A-403(c). The instant Offering Statement described the condominium as consisting solely of 104 residential units,

did not mention any restraints on sale of any units, and the Developer failed to "promptly amend" the Offering Statement to include its later-devised notion of commercial units.

An important provision of the Alabama Uniform Condominium Act states that a "declarant . . . who offers a unit . . . to a purchaser . . . is liable . . . for any false or misleading statement set forth therein or for any omission of material fact." Ala. Code §35-8A-402(c). Here, the Developer, found in violation of these and other provisions of the Alabama Uniform Condominium Act, is so liable. That liability pointed the Association to section 35-8A-414, which provides that a failure to comply may result in a "claim for actual damages or appropriate equitable relief. The court, in an appropriate case, may award reasonable attorney's fees to any party." The trial court here found violations, crafted equitable relief, and awarded attorney's fees, all of which are amply supported by the record and allowed by the statute.

V. The Trial Court's Ruling Does Not Create Any Danger to Condominium Development On Alabama's Gulf Coast

The trial court's ruling is consistent with the law, finding that the Developer created no commercial units and, hence, any attempt at conveying units of any type to its captive management company failed. This does not create a

situation worthy of being called “dangerous” (Appellants’ Brief at 2), and does not threaten to “undermine” the Alabama Uniform Condominium Act (*Id.*).

The wealthy, influential Developer has sounded an alarm and, along with its impressive array of *amicus curiae*, attempt to persuade the Court that condominium development on Alabama’s Gulf Coast will grind to a halt if the Court does not reverse the trial court’s sensible and just findings. Despite the outcry from the Developer and its friends, there is no such danger as they describe.

The only danger here is that a reversal of the trial court’s decision will allow unscrupulous developers to have free rein to dupe good faith condo buyers at the beach, and elsewhere in Alabama, for years to come, by allowing the drafters of condominium declarations to craft a document that is either so intentionally vague it allows the developer an oceans’ worth of leeway to maneuver its way through the business climate without end, or so poorly done that no one is able to understand what the buyers’ interests actually are. Both would be inequitable to the condo purchaser by allowing a fraud to be perpetrated without fear of a remedy that places the parties back in the position the developer

represented. Plus, an affirmance will leave the Developer free to accomplish what it here desires, if it simply drafts its declaration in a manner consistent with the Alabama Uniform Condominium Act.

If the Developer desired to preserve to itself four commercial units, then it should have drafted the Declaration and public offering statement in such a way that its intention was clear and unambiguous and complied with the requirements of the Alabama Uniform Condominium Act, which create unambiguous techniques for doing so. Creating a condominium that is subject to declarant rights is allowed by the Alabama Uniform Condominium Act. Where, though, a declarant fails to follow the explicit provisions of law, it would be unjust to reward it with a result that prejudices the residential owners.

Neither the Developer here nor any other condominium developer needs to fear the dangers it warns about in its brief. All it has to do is comply with the Condominium Act and draft a clearly-worded declaration. This Court need not reverse the wisely rendered trial court decision in order to avert a result that can be that easily avoided.

VI. Reformation is the Remedy Perfectly Suited for the Wrongs Committed Here.

Once the trial court ruled in favor of the Association[5] and its president, the only real remedy available to put the parties back in the position that they were in when the condominium was created and the Association's members purchased their units, is reformation, which was rightly applied.

The Association, in addition to its president, has suffered damage here, too. Just as an example, it has been expending its own funds – the funds of its members – to maintain the "commercial units." C. 2390 at ¶40; 2596, 2699-2700, 2812-2813; R. 24, 26-27, 152, 206.

First, the Alabama Uniform Condominium Act states that the remedies it provides "shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed." Ala. Code §35-8A-110. The language of section 35-8A-414 specifically

[5] The Association has authority under the Alabama Uniform Condominium Act to "[i]nstitute, defend, or intervene in litigation . . . in its own name on behalf of itself or two or more unit owners on matters affecting the condominium." Ala. Code §35-8A-302(a)(4).

allows the courts to use "appropriate equitable relief" in fashioning a remedy to make the wronged party whole.

Cedar Bend Ass'n v. Owens, 628 So. 2d 506 (Ala. 1993) stands for the proposition that reformation is an appropriate remedy in a matter involving a condominium declaration. A well-reasoned Florida case found that reformation is proper when there is a mistake on the part of one side of a transaction and inequitable conduct on the other. *Providence Square Ass'n, Inc. v. Biancardi*, 507 So. 2d 1366, 1370-71 (Fla. 1987). The Law Professors' amicus brief filed on behalf of the Developer makes the point that certainty is the touchstone of real estate transactions. Law Professor's Amicus at 19-21. We agree, and recognize that reformation is what is needed here to accomplish that certainty. The trial court rightly divined what the muddy waters of the developer's transaction must mean and it used reformation to clear the cloudiness away. No other remedy here fits.

And, again, lest we fall prey to the argument that the declarant alone gets to decide what the intent of the language in such a document means, it is the declarant, here, who clouded the waters. A drafter who intended that the declarant have the right to convert common elements into units has a

duty to create clear and well-defined governing documents that make that intent evident to purchasers. The failure to do so should not fall on those who relied on the terms of the public offering statement and declaration they received. To find otherwise leaves purchasers with no adequate remedy.

Furthermore, having demonstrated that the so-called commercial units are really part of the condominium common elements here, any attempt to convey common element must be consented to by all members of the Association, according to the provisions of section 35-8A-312. Any attempt to do so—as was done here by the developer—is void according to section 35-8A-312(d). The Developer's attempt to convey common area (by calling it "commercial units") is again, a tribute to the confusion in the Developer-drafted language of the Declaration, and cries out for reformation as the only proper way to repair the brokenness of this condominium.

One amicus group for the developer (Associated Builders and Contractors of Alabama, Inc.) suggests that the remedy applied by the trial court is akin to declaring that a swimming pool does not exist. Assuming the swimming pool was actually built in that amicus writer's theoretical fact situation, it would be unwise to try to "reform" it away.

The difference, of course, between that hypothetical and the instant facts is that the "commercial units" are, themselves, hypothetical and fictitious. They were not created properly under the Alabama Uniform Condominium Act and, therefore, do not exist. And, even if a makeshift check-in desk, sales and maintenance areas do exist,[6] they are not, in their present format, unequivocally commercial in nature and are part of the common element. In the *amicus* pool hypothetical, if the pool were never built, then a court order acknowledging such creates no difficulty for anyone, however, and is the most appropriate ruling for the trial court to make.

Money damages would not make the Association and its members whole. First, reformation puts this condominium right where the Association and its members understood it should be, according to the public offering statement representations. Second, if the Court decides that reformation is inappropriate and that money damages will suffice, is the Developer prepared to refund the purchase price to each Unit Owner?[7] And, even if it does, what will

[6] The so-called housekeeping unit has never existed.

[7] It certainly hasn't offered to do that so far.

the market be for a condominium project whose affiliate claims the right to management fees ad infinitum with no opportunity for the Association to shop the price of such management around? What of the confusion caused by the Developer's scheme that has caused the Association to pay for maintenance and utility costs for the commercial units all these years? That, certainly, is evidence of direct injury to the Association. That kind of problem, which the Developer and its powerful *amicus* sidekicks are either inviting or overlooking, is what would send this project and the Gulf Coast condominium economy into disarray.

VII. Conclusion.

The trial court's wise decision poses no threat to condominium development in Alabama. In fact, it impressively divines the wrongs that were thrust on Appellees and applies the precise remedy under Alabama law that is best suited to set things aright. It is also consistent with the intent of the Alabama Uniform Condominium Act.

Based on the above, *amicus curiae* Community Associations Institute respectfully requests that this Court affirm the judgment of the trial court.

Respectfully submitted,

s/ Steven F. Casey
Attorney for *Amicus Curiae*, Community Associations Institute

OF COUNSEL
Steven F. Casey
JONES WALKER LLP
420 20th Street North, Suite 1100
Birmingham, Alabama 35203
(205) 244-5200
scasey@joneswalker.com
Attorneys for *Amicus Curiae*,
Community Associations Institute

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on this 2nd day of April, 2020, to the following by United States mail and/or electronic mail:

Robert E Poundstone
BRADLEY ARANT BOULT CUMMINGS LLP
445 Dexter Avenue
Montgomery, AL 36104
bpoundstone@bradley.com

Marc James Ayers
BRADLEY ARANT BOULT CUMMINGS LLP
1819 Fifth Avenue North
Birmingham, AL 35203
mayers@bradley.com

Albert L. Jordan
Oscar M. Price, III
WALLACE, JORDAN, RATLIFF & BRANDT L.L.C.
800 Shades Creek Parkway, Suite 400
Birmingham, AL 35209
bjordan@wallacejordan.com
oprice@wallacejordan.com

Daniel G. Blackburn
Grant Blackburn
Blackburn & Conner PC
P.O. Box 458
Bay Minette, AL 36507
dblackburn@blackburnpc.com
gblackburn@blackburnpc.com

Steve Marshall
Edmund G. Lacour Jr.
Kelsey J. Curtis
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, AL 36130
Edmund.Lacour@AlabamaAG.gov

E. Hamilton Wilson, Jr.
BALL, BALL, MATTHEWS & NOVAK
445 Dexter Avenue, Suite 9045
Montgomery, AL 36104
hwilson@ball-ball.com

Forrest S. Latta
BURR & FORMAN LLP
Post Office Box 2287
Mobile, AL 36652-2287
Forrest.latta@burr.com

Ed R. Haden
Robert V. Baxley
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203
ehaden@balch.com
rbaxley@balch.com

s/ Steven F. Casey
Of Counsel