



## AlaFile E-Notice

03-CV-2015-901130.00

To: JAMES MELVIN HASTING  
mhasting@hiwaay.net

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# NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

MELVIN HASTING V. GOVERNOR ROBERT BENTLEY ET AL  
03-CV-2015-901130.00

The following complaint was FILED on 7/14/2015 5:24:17 PM

Notice Date: 7/14/2015 5:24:17 PM

TIFFANY B. MCCORD  
CIRCUIT COURT CLERK  
MONTGOMERY COUNTY, ALABAMA  
251 S. LAWRENCE STREET  
MONTGOMERY, AL 36104

334-832-1260

**COVER SHEET  
CIRCUIT COURT - CIVIL CASE**

(Not For Domestic Relations Cases)

Case Number:  
**03-CV-201**

Date of Filing:  
07/14/2015



ELECTRONICALLY FILED  
7/14/2015 5:24 PM  
03-CV-2015-901130.00  
CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA  
TIFFANY B. MCCORD, CLERK

**GENERAL INFORMATION**

**IN THE CIRCUIT OF MONTGOMERY COUNTY, ALABAMA  
MELVIN HASTING v. GOVERNOR ROBERT BENTLEY ET AL**

**First Plaintiff:**  Business  Individual  
 Government  Other

**First Defendant:**  Business  Individual  
 Government  Other

**NATURE OF SUIT:**

**TORTS: PERSONAL INJURY**

- WDEA - Wrongful Death
- TONG - Negligence: General
- TOMV - Negligence: Motor Vehicle
- TOWA - Wantonnes
- TOPL - Product Liability/AEMLD
- TOMM - Malpractice-Medical
- TOLM - Malpractice-Legal
- TOOM - Malpractice-Other
- TBFM - Fraud/Bad Faith/Misrepresentation
- TOXX - Other: \_\_\_\_\_

**OTHER CIVIL FILINGS (cont'd)**

- MSXX - Birth/Death Certificate Modification/Bond Forfeiture  
Appeal/Enforcement of Agency Subpoena/Petition to Preserve
- CVRT - Civil Rights
- COND - Condemnation/Eminent Domain/Right-of-Way
- CTMP-Contempt of Court
- CONT-Contract/Ejectment/Writ of Seizure
- TOCN - Conversion
- EQND- Equity Non-Damages Actions/Declaratory  
Judgment/Injunction Election Contest/Quiet Title/Sale For  
Division

**TORTS: PERSONAL INJURY**

- TOPE - Personal Property
- TORE - Real Property

- CVUD-Eviction Appeal/Unlawful Detainer
- FORJ-Foreign Judgment
- FORF-Fruits of Crime Forfeiture
- MSHC-Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
- PFAB-Protection From Abuse
- FELA-Railroad/Seaman (FELA)
- RPRO-Real Property
- WTEG-Will/Trust/Estate/Guardianship/Conservatorship
- COMP-Workers' Compensation
- CVXX-Miscellaneous Circuit Civil Case

**OTHER CIVIL FILINGS**

- ABAN - Abandoned Automobile
- ACCT - Account & Nonmortgage
- APAA - Administrative Agency Appeal
- ADPA - Administrative Procedure Act
- ANPS - Adults in Need of Protective Services

**ORIGIN:** F  **INITIAL FILING**

A  **APPEAL FROM  
DISTRICT COURT**

O  **OTHER**

R  **REMANDED**

T  **TRANSFERRED FROM  
OTHER CIRCUIT COURT**

**HAS JURY TRIAL BEEN DEMANDED?**  Yes  No

**RELIEF REQUESTED:**  **MONETARY AWARD REQUESTED**  **NO MONETARY AWARD REQUESTED**

**ATTORNEY CODE:** HAS016

7/14/2015 5:24:04 PM

/s/ JAMES MELVIN HASTING

**MEDIATION REQUESTED:**  Yes  No  Undecided



**IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA**

MELVIN HASTING  
PLAINTIFF,

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CASE NO. CV-2015-

vs.

GOVERNOR ROBERT BENTLEY  
individually, and in his official capacity  
as Governor of the State of Alabama  
and as a member of the Alabama  
Historical Commission;  
and  
LISA JONES, individually and as Acting  
Executive Director of the Alabama  
Historical Commission  
and  
ALABAMA HISTORICAL COMMISSION  
DEFENDANT(s).

**COMPLAINT**

**COMES NOW**, the Plaintiff Melvin Hasting, by way of Complaint for Declaratory Judgment and a Complaint for Preliminary and Permanent Injunction, avers the following:

- 1) The plaintiff is over the age of 19 years and is a bona fide citizen and resident of Cullman County, Alabama and a citizen of the State of Alabama .
- 2) Defendant, Governor Robert Bentley is a duly elected person for the Office of Governor of the great State of Alabama and has been serving as Governor for the State of Alabama since January 2011.
- 3) Defendant Governor Robert Bentley, as governor, is an ex officio member of the Alabama Historical Commission.
- 4) Defendant Lisa Jones is the acting executive Director of the Alabama Historical Commission.
- 5) Defendant Alabama Historical Commission is the entity charged under the National Historical Preservation Act of 1966 (16U.S.C. 470 et seq.) as the

State Historic Preservation Officer for the State of Alabama and its duties and powers are statutorily conferred by Title 41-9-240, et seq., Code of Alabama (1975).

## **INTRODUCTION**

- 6) Plaintiff incorporates paragraphs 1-5 above as if set out fully herein.
- 7) This is an action for declaratory relief and a preliminary injunction to settle important questions concerning the purpose, powers and duties of the Alabama Historical Commission to “further foster the understanding and preservation of our heritage” (Alabama Code 41-9-240).
- 8) The Alabama Historical Commission is charged with the duty to:  
    “promote and increase knowledge and understanding of the history of this State from the earliest time to the present, including the archaeological, Indian, Spanish, British, French, Colonial, Confederate and American eras” (Alabama Code 41-9-249).
- 9) Upon information and belief, the Governor of the State of Alabama, Robert Bentley, on June 24, 2015 ordered the removal of four (4) confederate flags from a memorial at the Alabama State Capitol (Confederate Memorial Monument).
- 10) The Confederate Memorial Monument (a.k.a. Alabama Confederate Monument) is a 88-foot tall monument located on the grounds of the Alabama State Capitol which was dedicated at a ceremony on December 7, 1898.
- 11) This monument commemorates the 122,000 Alabamians who fought for the Confederacy during the Civil War as well as other citizens of the United States that fought for the Confederacy.
- 12) The Alabama State Capitol served as the first Capitol of the Confederacy from February 1861 until May 1861.

- 13) The Alabama State Capitol not only serves as a state historical monument, but as a national historic landmark listed on the National Register of Historic Places since October 15, 1966.

**COMPLAINT FOR DECLARATORY RELIEF**

- 14) The plaintiff hereby incorporates paragraphs 1-13 above as if fully set out herein.
- 15) This action arises out of the recent events, acts and occurrences both from the Alabama Governor's office and the Alabama Historic Commission.
- 16) Upon information and belief, on June 24, 2015, the Alabama Governor has ordered four (4) confederate flags removed from the grounds of the Alabama State Capitol.
- 17) Upon information and belief, the flags were positioned at the Confederate Memorial Monument located at the North entrance of the Alabama State Capitol.
- 18) The Alabama State Capitol is a national historical landmark protected by the National Historic Preservation Act and is subject to the statute concerning the Alabama Historical Commission.
- 19) The Alabama Historical Commission is charged with the duty to:  
    "promote and increase knowledge and understanding of the history of this State from the earliest time to the present, including the archaeological, Indian, Spanish, British, French, Colonial, Confederate and American eras" (Alabama Code 41-9-249).
- 20) Upon information and belief, the Governor of Alabama has no authority to order the removal of the confederate flags from this monument.
- 21) Upon information and belief the Alabama Historical Commission has no authority to order the removal of the confederate flags from this monument.
- 22) Upon information and belief, the Alabama Historical Commission is mandated by statute to promote and increase knowledge and understanding of the history of Alabama.

- 23) Upon information and belief, the Alabama Historical Commission is mandated by statute to preserve the history and heritage of the State of Alabama, including historical sites, buildings and objects from the Confederacy era.
- 24) That the Alabama Historical Commission has failed to act under its mandates.
- 25) That the Governor of the State of Alabama has overstepped his authority.
- 26) Lisa Jones, in her capacity as executive director of the Alabama Historical Commission is charged with preservation and promotion of historical and heritage objects, sites and buildings for the State of Alabama.
- 27) By reason of the foregoing, an actual and justiciable controversy exists between the Governor of the State of Alabama, the Alabama Historical Commission, and the mission and goals outlined in the Alabama State Comprehensive Historic Preservation Plan to promote and preserve our history and heritage.
- 28) Alabama Code 6-6-222 (1975) confers jurisdiction upon this Court to declare the rights, status, and other legal relations between the Governor's office, the Alabama Historical Commission and the preservation of landmarks and objects of historical and heritage significance for the State of Alabama.
- 29) That the plaintiff is an aggrieved citizen of the State of Alabama and is entitled to bring this action to declare the rights of the Defendants to unilaterally and unlawfully alter the historical and heritage significance of objects, buildings, monuments and landmarks from the Confederacy era.

WHEREFORE, the plaintiff requests this Court to make the Defendants party to this action, to require them to plead or answer otherwise the allegations set out in this Complaint, and after a hearing on the merits, enter an ORDER:

- A) Declaring that the Governor of the State of Alabama has no authority to order the removal of the confederate flags from the Confederate Memorial Monument or any other buildings, monuments, or sites located on the grounds of the Alabama State Capitol.
- B) Declaring that the Governor's order of June 24, 2015 is unlawful and Order that the confederate flags be returned to the memorial in their previous condition before the Governor ordered them removed.
- C) Declaring that the Governor cannot enter orders which are in direct conflict with the mission and goals of the Alabama State Comprehensive Historic Preservation Plan, the duties of the Alabama Historical Commission, and the National Historic Preservation Act of 1966.
- D) Declaring that the Governor has the constitutional duty to enforce the laws of the State of Alabama which include the promotion and preservation of the historical and heritage objects, monuments, and landmarks of the State.
- E) Declaring that the Alabama Historical Commission is prohibited from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.
- F) Declaring that the executive director of the Alabama Historical Commission is charged with the duty to promote and preserve all landmarks, objects, monuments and sites of historical and heritage significance for the state of Alabama.
- G) Make any other declarations and orders and such other relief as this Court deems proper.

**COMPLAINT FOR PRELIMINARY and FINAL INJUNCTION**

- 30) The plaintiff hereby incorporates paragraphs 1-29 above as if fully set out herein.
- 31) This action arises out of the recent events, acts and occurrences both from the Alabama Governor's office and the Alabama Historic Commission.
- 32) Upon information and belief, the Alabama Governor has usurped his authority when he ordered four (4) confederate flags removed from the grounds of the Alabama State Capitol.
- 33) Upon information and belief, the executive director of the Alabama Historical Commission has usurped her authority by removing for sale and/or directing that no objects or memorabilia containing or referencing the confederate flag shall be sold at the gift shops at the various historical sites within the state of Alabama.
- 34) Upon information and belief, the executive director of the Alabama Historical Commission has not fulfilled her duties in preserving the historical and heritage objects and monuments of the state of Alabama.
- 35) Upon belief of the plaintiff and other concerned citizens of the State of Alabama, this usurpation of authority and dereliction of duties will continue without the intervention of the judicial branch of the State of Alabama.
- 36) "The commission (Alabama Historical Commission) is granted powers under the Code to preserve the State's heritage through historic preservation" ***Floyd v. Alabama Historical Commission, 388 So.2d 182 (Ala. 1980).***
- 37) The Governor of the State of Alabama and the Alabama Historical Commission are not acting within their lawful bounds or performing their lawful duty.

WHEREFORE, the plaintiff respectfully request a judgment that:

- A) This complaint be treated as an affidavit in support of the motions and pleadings contained therein;
- B) This complaint be treated as Plaintiff's motion for temporary restraining order and preliminary injunction;




- C) Defendant Governor Robert Bentley and/or his successors to office or his delegates be temporarily restrained from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.
- D) Defendant Alabama Historical Commission be temporarily restrained from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.
- E) Defendant Lisa Jones and/or any of her successors to the office of executive director of the Alabama Historical Commission or delegates be temporarily restrained from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.
- F) Defendant Governor Robert Bentley and/or his successors to office or his delegates be permanently restrained from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.
- G) Defendant Alabama Historical Commission be permanently restrained from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.

- H) Defendant Lisa Jones and/or any of her successors to the office of executive director of the Alabama Historical Commission or delegates be permanently restrained from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.
- I) Declares that the Governor of the State of Alabama has no authority to order the removal of the confederate flags from the Confederate Memorial Monument or any other buildings, monuments, or sites located on the grounds of the Alabama State Capitol.
- J) Declares that the Governor's order of June 24, 2015 is unlawful and Order that the confederate flags be returned to the memorial in their previous condition before the Governor ordered them removed.
- K) Declares that the Governor cannot enter orders which are in direct conflict with the mission and goals of the Alabama State Comprehensive Historic Preservation Plan, the duties of the Alabama Historical Commission, and the National Historic Preservation Act of 1966.
- L) Declares that the Governor has the constitutional duty to enforce the laws of the State of Alabama which include the promotion and preservation of the historical and heritage objects, monuments, and landmarks of the State.
- M) Declares that the Alabama Historical Commission is prohibited from directing that any objects, monuments, sites, graves, bodies and landmarks concerning the history and heritage of the State of Alabama be removed, relocated, transferred, destroyed, or otherwise not maintained in their current status and location.

- N) Declares that the executive director of the Alabama Historical Commission is charged with the duty to promote and preserve all landmarks, objects, monuments and sites of historical and heritage significance for the state of Alabama.
- O) Awards Plaintiff reasonable attorney fees and the costs of this action.
- P) Awards Plaintiff such other and further relief as this Court may deem just and proper.

Done this 14<sup>th</sup> day of July, 2015.



Melvin Hasting, (HAS016)  
Attorney at Law  
407 2<sup>nd</sup> Ave SW  
P.O. Box 517  
Cullman, Al 35056-0517  
(256) 736-2230

**NOTARY STATEMENT**

I, Judie Baker, a notary public, hereby certify that MELVIN HASTING whose name is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the same, he executed the same voluntarily on the day the same bears date.

Given under my hand this 14<sup>th</sup> day of July, 2015.

Judie Baker  
NOTARY My Commission Expires: 09/02/2018