No. SC-2026-0540

IN THE SUPREME COURT OF ALABAMA

STATE OF ALABAMA ex rel.
BROOKE LYNN DORGAN and JUSTIN JUDGE LEBLANC,

***Appellants*,**

v.

THOMAS HAWLEY TUBERVILLE,

***Appellee*.**

FROM THE CIRCUIT COURT OF MONTGOMERY COUNTY
CASE NO. 2026-CV-901053

THE ALABAMA REPUBLICAN PARTY'S MOTION TO FILE BRIEF OF *AMICUS CURIAE* IN SUPPORT OF THOMAS HAWLEY TUBERVILLE

The Alabama Republican Party moves this Court for leave to file the Brief of *Amicus Curiae* in support of Appellee, Thomas Hawley Tuberville, which is conditionally filed with this Motion. In support of this Motion, the Party states as follows:

Interest of *Amicus Curiae*

The Alabama Republican Party (the "Party") is the state affiliate of the national Republican Party. It is governed by over 400 persons elected from each of Alabama's 67 counties to serve on the State Executive Committee of the Party. Through its powers delegated by the Alabama Legislature, the Party administers and oversees the qualification of candidates for primary ballots and the resulting nomination of successful primary candidates, including, for example, the recent Republican gubernatorial nomination of Appellee Thomas Hawley Tuberville ("Tuberville").

The present challenge against Tuberville has an evident and direct interest to the Party that the Court likely expects. On May 19, 2026, a Republican primary election was held where Tuberville received a majority of the votes cast to be the Republican nominee for the office of governor. On May 27, 2026, the Party certified Tuberville to the Secretary of State as the Party's official nominee for governor. In addition, following a post-primary election contest disputing Tuberville's eligibility as the Party's nominee, the Party conducted a hearing to evaluate the dispute pursuant to its statutory authority to administer

and settle such disputes. Based on the evidence, the Party held that Tuberville satisfies the eligibility requirements to be governor of Alabama, particularly that Tuberville has been a "resident citizen[] of this state at least seven years next before the date of [his] election." as required by § 117 the State Constitution. Accordingly, on June 14, 2026, the Party confirmed Tuberville as its gubernatorial nominee.

The Party strongly supports dismissal of Appellants' claims. In addition to the direct impact an outcome against Tuberville, as the Party's official nominee, would have on the Party, permitting Appellants' claims to proceed before the trial court may unlock an opportunity for litigants to impose on the jurisdiction exclusively reserved for the State's respective political parties, and as in this case, to bypass legitimate findings already determined pursuant to the Party's express powers.

Why an *Amicus* Brief is Desirable

The Party's *Amicus* Brief provides a direct, inside look into the explicit authority it maintains to administer and resolve primary election disputes, including the present, from the time a candidate is qualified and continuing through the time a nominee is officially certified. And more specifically, how that authority has already been exercised here.

The Brief will also address the potential intrusion permitting litigation to proceed will have on those powers.

Timeliness

Pursuant to Ala. R. App. P. 29(d), the Party's *Amicus* Brief "shall be filed within the time allowed the party whose position on the appeal the *amicus* brief will support" (*i.e.*, here, Tuberville). On August 17, 2026, this Court granted Tuberville an extension to file his Response Brief to August 27. Applying that extension here, the Party's brief is timely.

CONCLUSION

For these reasons, the Party respectfully requests that this Court grant this Motion for Leave to File *Amicus* Brief, accept the attached *Amicus* Brief for filing, and consider the arguments it raises.

Respectfully submitted this the 27th day of August, 2026.

/s/ Jason B. Tompkins
Counsel for *Amicus Curiae*, Alabama Republican Party

OF COUNSEL:
David K. Bowsher
Email: dbowsher@balch.com
Jason B. Tompkins
Email: btompkins@balch.com
Riley K. Lancaster
Email: rlancaster@balch.com
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Ste. 1500
Birmingham, AL 35203
Telephone: (205) 251-8100

CERTIFICATE OF COMPLIANCE

I certify that this Brief complies with the word limitations set forth in Ala. R. App. P. 29(a)(3), 27(d), and 32(d)(5) (i.e., 2,000 words for a motion). According to the word-count function of Microsoft Word, this Brief contains 542 words. I further certify that this Brief, prepared in Century Schoolbook font using 14-point type, complies with the font requirements set forth in Ala. R. App. P. 32(a)(7). *See* Ala. R. App. P. 32(d) (certificate of compliance).

/s/ Jason B. Tompkins
Counsel for *Amicus Curiae*, Alabama Republican Party

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, electronically filed on August 27, 2026, will be served upon the following by regular U.S. Mail, properly addressed and postage prepaid, or by email under Rule 57(h)(5), Ala. R. App. P., where indicated:

Attorneys for Appellants:
Barry A. Ragsdale
Email: katie.bragsdale@dfhlaw.com
Robert S. Vance, III
Email: rvance@dfhlaw.com
DOMINICK FELD HYDE, PC
1130 22nd Street South, Suite 1400
Birmingham, Alabama 35205
Tel.: (205) 536-8888

Jimmy B. Pool
Email: jimmybypoole@aol.com
621 South Hull Street
Montgomery, Alabama 36104

Attorneys for Appellee:
Joe Espy
Email: jespy@mewlegal.com
William "Bill" Espy
Email: wespy@mewlegal.com
MELTON, ESPY & WILLIAMS, PC
P. O. Drawer 5130
Montgomery, Alabama 36103
Tel.: (334) 263-6621

Albert L. Jordan
Email: bjordan@wallacejordan.com
Steve Shaw
Email: sshaw@wallacejordan.com
WALLACE JORDAN RATLIFF & BRANDT, LLC
Synovus Center
800 Shades Creek Parkway, Suite 400
Birmingham, Alabama 35209
Tel.: (205) 870-0555

/s/ Jason B. Tompkins
Of Counsel

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AMICUS CURIAE BRIEF ON BEHALF OF THE ALABAMA REPUBLICAN PARTY

Attorneys for *Amicus Curiae*, Alabama Republican Party:

David K. Bowsher
Email: dbowsher@balch.com
Jason B. Tompkins
Email: jtompkins@balch.com
Riley Kate Lancaster
Email: rlancaster@balch.com
BALCH & BINGHAM LLP
1901 6th Avenue North, Suite 1500
Birmingham, Alabama 35203
Tel.: (205) 251-8100

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STATEMENT OF INTEREST

The Alabama Republican Party (the "Party") is the state affiliate of the national Republican Party. It is governed by over 400 persons elected from each of Alabama's 67 counties to serve on the State Executive Committee of the Party. Through its powers delegated by the Alabama Legislature, the Party administers and oversees the qualification of candidates for primary ballots and the resulting nomination of successful primary candidates, including, for example, the recent Republican gubernatorial nomination of Appellee Thomas Hawley Tuberville ("Tuberville").

The present challenge against Tuberville has an evident and direct interest to the Party that the Court likely expects. On May 19, 2026, a Republican primary election was held where Tuberville received a majority of the votes cast to be the Republican nominee for the office of governor. On May 27, 2026, the Party certified Tuberville to the Secretary of State as the Party's official nominee for governor. In addition, following a post-primary election contest disputing Tuberville's eligibility as the Party's nominee, the Party conducted a hearing to evaluate the dispute pursuant to its statutory authority to administer

and settle such disputes. Based on the evidence, the Party held that Tuberville satisfies the eligibility requirements to be governor of Alabama, particularly that Tuberville has been a "resident citizen[] of this state at least seven years next before the date of [his] election." as required by § 117 the State Constitution. Accordingly, on June 14, 2026, the Party confirmed Tuberville as its gubernatorial nominee.

The Party strongly supports dismissal of Appellants' claims. In addition to the direct impact an outcome against Tuberville, as the Party's official nominee, would have on the Party, permitting Appellants' claims to proceed before the trial court may unlock an opportunity for litigants to impose on the jurisdiction exclusively reserved for the State's respective political parties, and as in this case, to bypass legitimate findings already determined pursuant to the Party's express powers.

SUMMARY OF THE ARGUMENT

To the extent Appellants' lawsuit challenges the process by which the Party qualified and nominated Tuberville as its candidate for governor, it is an effort to circumvent both the authority granted by the Legislature to political parties to decide primary election contests and an already determined, lawful decision by the Party as to Tuberville's selection as the Party's nominee. Appellants' claims rest entirely on the allegation that Tuberville fails to satisfy Alabama's residency requirement established under Ala. Const., Art. V, § 117. Meanwhile, pursuant to its express, statutory authority to administer and resolve contests regarding candidate nominations, *see, e.g.*, Ala. Code §§ 17-13-83, 17-13-88, the Party's Candidate Committee, exercising the authority delegated to it by the Party's State Executive Committee, has already conducted a live hearing, viewed the relevant evidence, heard arguments, and issued a Final Decision determining that Tuberville satisfies § 117's residency requirement. This Final Decision is consistent with this Court's precedent, compliant with the Party's Rules Governing Contests of Primary Elections, and most importantly, expressly authorized by the

Alabama Legislature. Appellants cannot now use this action to interpose on the Party's jurisdiction of determining nomination contests.

It is well-established that the State's political parties have the authority to resolve election contests from the time a candidate is qualified continuing to the time a nominee is certified—for instance, here, the Alabama Republican Party maintains the authority to resolve any contests regarding Tuberville's nomination for the office of governor, as the Party's nominee. This vesting of power is expressly provided to the political parties by the Legislature, *see, e.g.*, Ala. Code §§ 17-13-7(a), 17-13-83, 17-13-88, and has historically been respected by Alabama courts, *see Ex parte Baxley*, 496 So. 2d 688, 693 (Ala. 1986) ("For over 50 years, the courts in this state have adhered to the legislative mandate that political parties are empowered to settle their own disputes in primary elections.").

Moreover, the Legislature intentionally limited courts' jurisdiction from hearing election disputes, instead granting the State's political parties' *exclusive* authority to settle their respective primary election contests. The Legislature made clear, absent explicit authority set out by statute, that no competent jurisdiction exists for courts to "entertain any

proceeding for ascertaining the legality, conduct, or results of any election." Ala. Code § 17-16-44 (commonly referred to as the "jurisdiction stripping statute"). To the extent Appellants' lawsuit seeks to unwind the Party's qualification and nomination of Tuberville, there is no statutory authority granting courts authority to entertain a challenge against a party nominee's eligibility, and the jurisdiction stripping statute bars the trial court from adjudicating Appellants' claim.

ARGUMENT

I. Following a Lawful Hearing Conducted Pursuant to its Express Statutory Authority, the Party's Candidate Committee Already Determined Tuberville to Be an Alabama Resident as Required Under the Constitution.

Tuberville's qualifications under Ala. Const., Art. V, § 117, particularly his residence, have been properly evaluated and determined by the Party's Candidate Committee in a Final Decision. *See* C. 64–70. As discussed in further detail below, *see infra* § II(a), the Party has the express statutory authority to determine the qualifications of its respective primary candidates, *see* Ala. Code § 17-13-7(a), and administer relevant contests and appeals in accordance with Chapter 13 of Title 17 of the Code of Alabama, *see* Ala. Code § 17-13-83, and the State Executive Committee delegated that authority to the Party's Candidate Committee

in the 2026 Primary Resolution; *see also* Ala. Code § 17-13-88 ("The state executive committee may prescribe such other additional rules governing contests and other matters of party procedure as it may deem necessary not in conflict with this chapter."). Pursuant to these powers, the Party crafted a set of regulations, the Rules Governing Contests of Primary Elections (the "Rules"), documenting the procedure for hearing challenges to primary election nominations, including, for example, a challenge to a nominee's eligibility under the State's residency requirements.

Here, the entire basis for Appellants' Complaint for Quo Warranto and Declaratory Relief is that Tuberville "fails to satisfy the 7-year durational residency requirement contained in the Alabama Constitution." C. 5. To the extent the claims therein challenge the process by which the Party qualified and nominated Tuberville, they are subject to the Party's exclusive jurisdiction, *see infra* § II, and are an attempt to have a court relitigate the June 14, 2026 Final Decision by the Party, following a challenge to Tuberville's eligibility evaluated in accordance with the Rules. There, the Party concluded that "Tuberville meets the requirements of Sec. 117 [of the Alabama Constitution.]" C. 64.

By way of background, on May 27, 2026, shortly after Tuberville was certified as the Party's official nominee for governor, Republican primary candidate Ken McFeeters ("McFeeters") filed a post-primary election contest of nomination with the Party, in which he challenged Tuberville's candidate qualifications—specifically, the residency requirement established by Article V, Section 117 of the Alabama Constitution.[1] *See* C. 64. Pursuant to its explicit power to administer contests against nominations, *see* Ala. Code § 17-13-83, the Party evaluated McFeeters's post-primary election contest in accordance with the Rules, considering written evidentiary submissions and conducting a hearing where it heard live testimony. Based on its evaluation, the Party found that not only did McFeeters fail to meet his burden to prove that

[1] Prior to filing the May 27, 2026 contest, on January 27, 2026, McFeeters filed his first Candidate Challenge against Tuberville, *see* C. 24–25 at ¶ 77; *id.* at 67, and on March 24, 2026, initiated a civil lawsuit against Tuberville and the Party in Covington County Circuit Court, *see McFeeters v. Tuberville et al.*, Complaint (Doc. 1), No. 23-cv-2026-900042; *see also* C. 24–25 at ¶ 77; *id.* at 67, both seeking to contest Tuberville's eligibility under Alabama's residency requirements. The January 2026 Challenge was considered and dismissed by the Party on February 1, 2026, *see* C. 67, and the Covington County civil action was dismissed by the Circuit Court for lack of jurisdiction on May 18, 2026, *McFeeters*, Order (Doc. 23), No. 23-cv-2026-900042; *see also infra* § II (discussing the trial court's lack of jurisdiction to hear contests against nominee eligibility).

Tuberville does not satisfy the subject residency requirements, but also, to the contrary, that Tuberville presented sufficient evidence to establish that he does in fact satisfy the subject residency requirements under Alabama law. C. 70.

The Party reasoned:

> Under Alabama law, the term "resident," when used in the context of political rights and office eligibility, is legally synonymous with "domicile." *Mitchell v. Kinney*, 5 So. 2d 788, 793 (Ala. 1942) ("the terms 'legally resides,' 'inhabitant,' 'resident,' etc., when used in connection with political rights are synonymous with domicile") (citing *Shepherd v. Sartain*, 64 So. 57 (Ala. 1913)).
>
> . . . .
>
> Domicile is defined as residence at a particular place accompanied by an intention to remain there permanently, or for an indefinite length of time. *Mitchell*, 5 So. 2d at 203. Alabama courts have consolidated this principle into two distinct elements for determining one's domicile: (1) one's physical presence in the chosen place of residence, and (2) an accompanying intent to remain there, either permanently or for an indefinite length of time. *Rabren v. Mudd*, 285 Ala. 531, 535 (Ala. 1970); *see also Livermore v. Livermore*, 822 So. 2d 437, 442 (Ala. 2001).

C. 64–65.

Recognizing that this Court has identified several factors "as relevant to determining the domicile" of a challenged resident in the

context of elections, the Party considered the following evidence in light of Alabama precedent:

Evidence	Precedent
Tuberville registered to vote in AL and obtained an AL driver's license in March 2019. Tuberville also voted in AL in the 2020, 2022, and 2024 elections.	"Registration to vote is a 'potent consideration' for a court to take into account when determining one's domicile." *Harris v. McKenzie*, 703 So. 2d 309, 311 (Ala. 1997) (quoting *Ambrose v. Vandeford,* 167 So. 2d 149, 153 (Ala. 1964)). "Voting is indicative of intention with respect to the question of domicile and is regarded as importantly bearing upon the place of domicile." *Id.* (quoting *Ex parte Weissinger,* 22 So. 2d 510, 514 (Ala. 1945)) (alterations adopted).
Tuberville spends time in AL, FL, and DC. His time in DC is particularly due to the fact that in 2019 and 2020, Tuberville successfully ran to be one of AL's U.S. Senators, and served as such beginning in January 2021.	"That temporary absence from the state shall not cause a forfeiture of residence once obtained." Ala. Const. Art. I, § 31. "Temporary absence from one's residence for the purposes of his employment and the like, without the intent to abandon the home town and acquire a domicile elsewhere permanently, or for an indefinite time, does not forfeit his right to vote." *Jacobs v. Ryals*, 401 So. 2d 776, 778 (Ala. 1981) (quoting *Wilkerson v. Lee*, 181 So. 296, 298 (Ala. 1938)).

Evidence	Precedent
While Tuberville owns and pays property taxes on homes in both AL and FL, Tuberville moved to AL after purchasing a home in Auburn, AL prior to registering to vote.	*Harris* demonstrates that owning a home outside the claimed domicile is "nondispositive" and can be overcome by "evidence of [] fixed habitation" in the claimed domicile, "where [the challenged resident] and his family live[.]" 703 So. 2d at 313.
In 2018, Tuberville filed an AL tax return indicating split residency in AL and FL. Beginning in 2019, Tuberville's tax returns indicate residency in AL alone.	*Harris* demonstrates that tax returns indicating residency in the claimed domicile is evidence favorable to the challenged resident. *See id.* (noting that tax returns, insurance applications, a driver's license, and a pistol license was "cumulative evidence favorable" to the challenged resident).

C. 67–70.

"Based on applicable precedent from the Alabama Supreme Court," the Party found, "this evidence is sufficient for us to conclude that Tuberville has been physically present in Alabama with the intent to remain here." C. 69 (dismissing McFeeters's contest and confirming Tuberville as the Party's nominee).

Considering as such, Appellants' lawsuit—to the extent it questions the process by which the Party qualified and nominated Tuberville,

including its determination regarding his residency—acts as an improper effort to bypass that finding as well as the legislatively authorized process that led to it. The Party's Final Decision, however, is (1) consistent with this Court's precedent, *e.g.*, *Harris*, 703 So. 2d 309, (2) compliant with the Party's Rules,[2] and (3) most importantly, expressly authorized by the Alabama Legislature, *e.g.*, Ala. Code § 17-13-88; *see also infra* § II. As analyzed further below, Appellant has no authority to undermine, much less circumvent, this valid Final Decision with a complaint for quo warranto or declaratory relief that challenge the process that led to it.

II. The Party, *Not* the Trial Court, Maintains Competent Jurisdiction to Hear a Challenge Against Tuberville's Eligibility to Be the Party's Nominee.

Absent dismissal, Appellants' claims may permit the trial court to intrude on the Party's exclusive prerogative to administer and resolve nomination contests, and more critically, improperly exercise jurisdiction explicitly reserved for the Party.

[2] *See* C. 68–69 (acknowledging the Rules provisions governing deposition and document subpoenas, which were discovery methods available to McFeeters, but contrasting them against McFeeters's minimal efforts to obtain evidence challenging Tuberville's residency); *contra* C. 25.

A. It is well-established that the exclusive prerogative to resolve election contests lies with the State's respective political parties from the time a candidate is qualified continuing to the time a nominee is certified.

Consistent with the traditional notion that the selection of a political party nominee is a political function, *see Ex parte State ex rel. Bragg*, 197 So. 32, 36 (Ala. 1940), the power to administer contests thereto is vested within the respective political parties themselves. *See* Ala. Code §§ 17-13-83, 17-13-88. This delegation of power is far from a novel concept. *E.g.*, *Lett v. Dennis*, 129 So. 33, 35 (Ala. 1930) ("As to qualifications of candidates, the lawmakers have left such matters where they originally existed, in the governing body of the party."). In 1931, recognizing that election disputes "require an early resolution," the Legislature developed a statutory scheme that "gave the political parties the tools" to handle election contests from the time a candidate is qualified continuing to the time they are certified as a party nominee. *Accord Ex parte Baxley*, 496 So. 2d 688, 693 (Ala. 1986) (emphasis added); *Bragg*, 197 So. at 36. *See, e.g.*, Ala. Code §§ 17-13-70 *et seq*.

"These laws vest the political parties with authority to conduct primary elections and with jurisdiction to decide contests of those

elections." *Ex parte Graddick*, 495 So. 2d 1367, 1369 (Ala. 1986). As a result, where parties, like Appellants, attempt to seek judicial relief for such contents, courts are quick to value the political parties' unique position, and for nearly a century of election litigation, "the courts in this state have adhered to the legislative mandate that political parties are empowered to settle their own disputes in primary elections." *Ex parte Baxley*, 496 So. 2d at 693; *Ex parte Graddick*, 495 So. 2d at 1370 ("Political parties have legitimate constitutional authority to promulgate rules for the regulation of their affairs and, in Alabama, the legislature has specifically authorized them to do so."). This Court once held, "[c]learly enough, and it does not seem to be questioned, that if the Executive Committee has jurisdiction of this contest, the circuit court has no jurisdiction to interfere with its exercise of that jurisdiction." *Bragg*, 197 So. at 36.

B. The Legislature explicitly stripped trial courts of jurisdiction to hear disputes regarding party nominations.

Ridding any doubt that the State's political parties maintain the *exclusive* jurisdiction to settle election disputes, the Legislature enacted Ala. Code § 17-16-44 (commonly referred to as the "jurisdiction stripping

statute"), which "severely restricts a court's jurisdiction to hear actions challenging the conduct or results of elections[,]" *Rice v. Chapman*, 51 So. 3d 281, 284 (Ala. 2010):

> No jurisdiction exists in or shall be exercised by any judge or court to entertain any proceeding for ascertaining the legality, conduct, or results of any election, except so far as authority to do so shall be specially and specifically enumerated and set down by statute[.]

Ala. Code § 17-16-44 (emphasis added); *see also Rice*, 51 So. 3d at 284 (concluding that "petitioners' lawsuit implicates the jurisdiction-stripping statute because it seeks to impact the 'conduct' of the [underlying] Republican primary election by having the court either remove the name of one of the candidates . . . from the ballot or instruct the Republican Party not to canvass votes cast for [said candidate]"). The Legislature made clear, absent explicit statutory authority, no competent jurisdiction exists for courts to settle disputes against party nominations. Relevant here, there is no statutory authority granted to courts to entertain the eligibility contest against Tuberville to be the Party's nominee.

For instance, when McFeeters—discussed above—attempted to challenge Tuberville's eligibility in Covington County Circuit Court (Case

No. 23-cv-2026-900042), the trial court granted the Party's Motion to Dismiss, which argued that "Alabama's 'jurisdiction-stripping statute' requires dismissal of McFeeters's complaint." *Accord McFeeters*, Motion to Dismiss (Doc. 12), p. 4, No. 23-cv-2026-900042 ("Here, McFeeters has not—and, indeed, cannot—point to any Alabama statute giving this Court authority to entertain his underlying eligibility challenge. McFeeters's inability to do so is attributable to the well-settled Alabama law that such authority lies with the respective state political parties—here, ALGOP—not with the state courts[.]"); *McFeeters*, Order (Doc. 23), No. 23-cv-2026-900042.00 (dismissing McFeeters's claims). Hence, McFeeters then filed his post-primary election contest with the Party to proceed to a hearing administered by the Party and governed by the Rules.

Appellants' post-primary election eligibility challenge against Tuberville here should suffer the same fate to the extent that Appellants, like McFeeters, challenge the process by which the Party qualified and nominated Tuberville as its candidate for governor.

CONCLUSION

This Court should affirm the trial court's ruling dismissing Appellants' lawsuit. To the extent they are challenging the process by which the Party qualified and nominated Tuberville for governor, Appellants seek to circumvent an already lawful, final decision determining Tuberville's eligibility, impose on the Party's exclusive prerogative to administer and resolve primary election disputes, and exercise jurisdiction that the Legislature intentionally stripped from the trial courts.

Respectfully submitted,

/s/ *David K. Bowsher*
Attorney for *Amicus Curiae,* Alabama Republican Party

OF COUNSEL:
David K. Bowsher
Email: dbowsher@balch.com
Jason B. Tompkins
Email: jtompkins@balch.com
Riley Kate Lancaster
Email: rlancaster@balch.com
BALCH & BINGHAM LLP
1901 6th Avenue North
Suite 1500
Birmingham, Alabama 35203
Tel.: (205) 251-8100

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/s/ Jason B. Tompkins
Counsel for *Amicus Curiae*, Alabama Republican Party

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Attorneys for Appellants:
Barry A. Ragsdale
Email: katie.bragsdale@dfhlaw.com
Robert S. Vance, III
Email: rvance@dfhlaw.com
DOMINICK FELD HYDE, PC
1130 22nd Street South, Suite 1400
Birmingham, Alabama 35205
Tel.: (205) 536-8888

Jimmy B. Pool
Email: jimmybypoole@aol.com
621 South Hull Street
Montgomery, Alabama 36104

Attorneys for Appellee:
Joe Espy
Email: jespy@mewlegal.com
William "Bill" Espy
Email: wespy@mewlegal.com
MELTON, ESPY & WILLIAMS, PC
P. O. Drawer 5130
Montgomery, Alabama 36103
Tel.: (334) 263-6621

Albert L. Jordan
Email: bjordan@wallacejordan.com
Steve Shaw
Email: sshaw@wallacejordan.com
WALLACE JORDAN RATLIFF & BRANDT, LLC
Synovus Center
800 Shades Creek Parkway, Suite 400
Birmingham, Alabama 35209
Tel.: (205) 870-0555

/s/ Jason B. Tompkins
Of Counsel