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# **SUPREME COURT OF ALABAMA**

OCTOBER TERM, 2009-2010

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1090792

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**Ex parte Birmingham City Board of Education**

**PETITION FOR WRIT OF CERTIORARI  
TO THE COURT OF CIVIL APPEALS**

**(In re: Birmingham City Board of Education**

**v.**

**Carla Hawkins)**

**(Montgomery Circuit Court, CV-09-7;  
Court of Civil Appeals, 2080784)**

LYONS, Justice.

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The petition for the writ of certiorari is denied. See Rule 39(d)(3), Ala. R. App. P.

In denying the petition for the writ of certiorari, this Court does not wish to be understood as approving all the language, reasons, or statements of law in the Court of Civil Appeals' opinion. Horsley v. Horsley, 291 Ala. 782, 280 So. 2d 155 (1973).

WRIT DENIED.

Woodall, Stuart, Smith, Bolin, Parker, and Shaw, JJ., concur.

Cobb, C.J., and Murdock, J., dissent.

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COBB, Chief Justice (dissenting).

Although the petitioner in this case filed its petition in the form of a brief rather than by explicitly following the form specified by Rule 39, Ala. R. App. P., I believe the legal arguments and analysis in that brief were in substantial compliance with Rule 39. Under these circumstances, I conclude that the petitioner presented sufficient indicia of merit to support granting this petition. Accordingly, I respectfully dissent.

Murdock, J., concurs.