



**LIST OF DECISIONS ANNOUNCED BY  
COURT OF CIVIL APPEALS OF ALABAMA  
ON FRIDAY, SEPTEMBER 2, 2011**

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**JUDGE PITTMAN**

2090690 Edward Davidson v. Shirley Collins Davidson (Appeal from Calhoun Circuit Court: DR-09-191)

**Affirmed. No Opinion.**

Circuit Judge, Brenda Stedham, (256) 231-1830  
Apl. Atty., Carey Neal Kirby, (256) 820-0222  
Aple. Atty., Jayme Kirkland Amberson, (256) 237-6671  
Aple. Atty., Peggy P. Miller, (256) 237-6671

2090721 O'Charley's, Inc. v. Zoning Board of Adjustment of the City of Tuscaloosa (Appeal from Tuscaloosa Circuit Court: CV-08-900463)

**Affirmed. No Opinion.**

Circuit Judge, Charles R Malone, (205) 349-3870  
Apl. Atty., John Owens, (205) 750-0750  
Aple. Atty., Thomas D. Bobitt, II, (205) 248-5140

2090836 Donnell Critten v. Perdue Farms, Inc. (Appeal from Houston Circuit Court: CV-09-451)

**Affirmed. No Opinion.**

Circuit Judge, Brady E. Mendheim, (334) 677-4881  
Apl. Atty., Donnell Critten, (334) 792-1420  
Apl. Atty., Joseph A. Morris, (334) 792-1420  
Aple. Atty., Alan C Livingston, (334) 792-4156  
Aple. Atty., William W Nichols, (334) 792-4156

2091053 Angela D. Franklin and Charles L. Franklin v. Walter Mitchell d/b/a Southern Classic Construction (Appeal from Madison Circuit Court: CV-09-186)

**Affirmed.**

Circuit Judge, Karen K. Hall, (256) 532-3455  
Apl. Atty., Clement J. Cartron, (256) 533-0900  
Resp. Atty., Nicole Leigh Schroer, (256) 533-0202  
Aple. Atty., Robert Victor Wood, Jr, (256) 533-0202

2091089 Lindsey Owens McKeown v. Donald Ray Owens (Appeal from Talladega Circuit Court: DR-05-35.01)

**Affirmed. No Opinion.**

Circuit Judge, Jeb Fannin, (256) 761-2113  
Aplt. Atty., Richard Martin Adams, (205) 244-1920  
Aple. Atty., Steven D. Adcock, (256) 362-3848

2091132 Tarrant Bradley v. City of East Brewton, B.C. Cooper, Kenny Brazile, and Terry Clark (Appeal from Escambia Circuit Court: CV-09-102)

**Affirmed. No Opinion.**

Circuit Judge, Bradley E Byrne, (251) 867-0281  
Aplt. Atty., Gregory Lamar Albritton, (251) 578-6900  
Aplt. Atty., Leston Curtiss Stallworth, Jr, (251) 575-5438  
Aple. Atty., Lara Bishop Keahey, (251) 275-3112  
Aple. Atty., Joseph J. Minus, (251) 432-4481  
Aple. Atty., William E. Shreve, Jr, (251) 441-8224

2091212 Ryan Musick v. Gordon L. Davis (Appeal from Montgomery Circuit Court: CV-09-900089)

**Reversed And Remanded.**

Circuit Judge, Charles Price, (334) 832-5331  
Aplt. Atty., Richard D Lively, (334) 491-4911

**JUDGE BRYAN**

2100189 Jamie Prince v. A.D. Hartline (Appeal from DeKalb Circuit Court: CV-02-133)

**Affirmed. No Opinion.**

Circuit Judge, David A Rains, (256) 927-5452  
Aplt. Atty., Stephen Paul Bussman, (256) 845-7900  
Aple. Atty., Ralph K Strawn, Jr, (256) 543-9790

2100247 Tracy Lynn Mullins v. Lisa Christine Sellers (Appeal from Madison Circuit Court: DR-95-859.85)

**Affirmed In Part; Reversed In Part; And Remanded With Instructions.**

Circuit Judge, Bruce E Williams, (256) 532-3754  
Aplt. Atty., Clifford Eazeb Kerry, Jr., (256) 527-5386  
Aple. Atty., Julia Smeds Roth, (256) 353-6761

2100315 Shaun King v. Yolanda King (Appeal from Shelby Circuit Court: DR-10-900198)

**Affirmed. No Opinion.**

Circuit Judge, D Al Crowson, (205) 669-3800  
Aplt. Atty., Tessie P. Clements, (205) 758-3500  
Aple. Atty., Julie Katz Callaway, (205) 933-8700  
Aple. Atty., Rachel Terry Fleming, (205) 425-1606

2100346 Council of the City of Phenix City et al. v. Phenix City Board of Education (Appeal from Russell Circuit Court: CV-10-270)

**Reversed And Remanded.**

Circuit Judge, Albert L Johnson, (334) 297-1366  
Aplt. Atty., Eric Barbee Funderburk, (334) 297-2900  
Aplt. Atty., James P Graham, Jr., (334) 291-0315  
Aple. Atty., Sydney Smith Smith, (334) 298-2679

2100647 Ex parte Jennifer Ann Vest (Herron). PETITION FOR WRIT OF MANDAMUS (In re: Jennifer Ann Vest (Herron) v. David Jeremy Vest) (Elmore Circuit Court: DR-01-492.02)

**Petition Denied.**

Circuit Judge, Julian Donald Banks, (251) 574-8488  
Circuit Judge, Sibley G Reynolds, (205) 755-0311  
Pet. Atty., Jacqueline E. Austin, (334) 567-4874  
Pet. Atty., J. Pratt Austin-Trucks, (334) 567-4874  
Resp. Atty., G. Houston Howard, II, (334) 567-4356  
Resp. Atty., Keith A. Howard, (334) 567-4356  
Resp. Atty., William C. Poole, (251) 344-5015

**JUDGE THOMAS**

2100262 Bendt P. Petersen, III v. Kathryn W. Petersen (Appeal from Mobile Circuit Court: DR-04-500711.02 and DR-04-500711.03)

**Affirmed. No Opinion.**

Circuit Judge, Julian Donald Banks, (251) 574-8488  
Aplt. Atty., David Stephen Conrad, (251) 433-3968  
Aplt. Atty., Kristine Kendra McCulloch, (251) 433-3968  
Aple. Atty., Thomas Richard Boller, (251) 433-2133  
Aple. Atty., Donald M Briskman, (251) 433-7600

2100269 Ernest Kreitzberg v. Myra Kreitzberg (Appeal from Baldwin Circuit Court: DR-09-900369)

**Appeal - Affirmed In Part; Reversed In Part; And Remanded With Instructions.  
Cross-Appeal - Affirmed.**

District Judge, Michelle M Thomason, (251) 972-8573  
Aplt. Atty., William L. Pfeifer, Jr, (800) 737-3702  
Aple. Atty., David Perry Shepherd, (251) 928-4400

2100388 Bella Investments, Inc. v. Multi Family Services, Inc. (Appeal from Jefferson Circuit Court: CV-08-3794)

**Appeal Dismissed.**

Circuit Judge, Tom King, Jr., (205) 325-5025  
Aplt. Atty., Thomas Blake Liveoak, (205) 314-0640  
Aple. Atty., Kile T. Turner, (205) 328-6643

2100609 F.Z. v. S.P. (Appeal from Jefferson Juvenile Court: JU-07-50282.01)

**Appeal Dismissed With Instructions.**

2100776 Ronald Sutton v. Governor Bob Riley, Attorney General Troy King, and  
Commissioner Richard Allen (Appeal from Montgomery Circuit Court: CV-10-1184)

**Affirmed. No Opinion.**

Circuit Judge, Tracy McCooey, (334) 832-4950  
Aple. Atty., Bart Gregory Harmon, (334) 353-3881  
Aple. Atty., Todd E. Hughes, (334) 242-7374

2100892 Ex parte Mountain Pointe Development Group, L. L. C. PETITION FOR WRIT OF  
MANDAMUS (In re: Wilson, Dillon, Pumroy, & James, L. L. C. v. Larry Ginsburg,  
Leonard Goldschein, and Mountain Pointe Development Group, L. L. C.) (Calhoun  
Circuit Court: CV-05-691)

**Petition Granted; Writ Issued.**

Circuit Judge, Debra H. Jones, (256) 231-1822  
Pet. Atty., James M Campbell, (256) 238-8543  
Resp. Atty., Jon E Lewis, (205) 254-3927  
Resp. Atty., Douglas H Mooneyham, (256) 231-1143  
Resp. Atty., James Ronald Shaw, (205) 251-1193

**JUDGE MOORE**

2100170 Linda Smith v. City of Union Springs (Appeal from Bullock Circuit Court:  
CV-09-900026)

**Affirmed. No Opinion.**

Circuit Judge, Burt Smithart, (334) 738-3286  
Aplt. Atty., Elizabeth Peyton Faulk, (334) 263-7733  
Aplt. Atty., Jay Brady Lewis, (334) 263-7733  
Aple. Atty., Alex Lafayette Holtsford, Jr, (334) 215-8585  
Aple. Atty., Rick Howard, (334) 215-8585  
Aple. Atty., April Willis McKay, (334) 215-8585

2100571 Desiree Nicole Whited v. Manuel Durand Whited (Appeal from Jackson Circuit  
Court: DR-05-238.01)

**Affirmed. No Opinion.**

## ON REHEARING

2091103 Derek Lee Harvel v. Cecelia M. Harvel (Appeal from Morgan Circuit Court: DR-06-60.01)

### **Application For Rehearing Overruled.**

Circuit Judge, Steven E Haddock, (256) 351-4750  
Aplt. Atty., Kevin D Teague, (256) 351-1265  
Aple. Atty., R Eric Summerford, Sr, (256) 350-8885

2100421 Michelle Lynn O'Donnell v. Joseph Steven O'Donnell (Appeal from Bessemer Circuit Court: DR-09-218)

### **Application For Rehearing Overruled.**

Circuit Judge, Eugene R Verin, (205) 481-4198  
Aplt. Atty., Nancy Katherine Pritchett, (205) 824-8123  
Aple. Atty., Fred F Ledbetter, (256) 362-6670  
Aple. Atty., Huel Mckinley Love, Jr, (256) 362-3073

2100407 P.E.M. v. Bibb County Department of Human Resources (Appeal from Bibb Juvenile Court: JU-09-71.06)  
(Consolidated with 2100408.)

### **Application For Rehearing Overruled.**

2100408 P.E.M. v. Bibb County Department of Human Resources (Appeal from Bibb Juvenile Court: JU-09-133.05)  
(Consolidated with 2100407.)

### **Application For Rehearing Overruled.**