



**LIST OF DECISIONS ANNOUNCED BY  
COURT OF CIVIL APPEALS OF ALABAMA  
ON FRIDAY, NOVEMBER 30, 2012**

---

**PRESIDING JUDGE THOMPSON**

2110625 James Carl Pritchard, Jr. and Gaynelle P. Willoughby v. Alabama Power Company  
(Appeal from Tallapoosa Circuit Court: CV-08-14)

**Affirmed. No Opinion.**

Circuit Judge, Steven Richard Perryman, (334) 756-3800  
Aple. Atty., John Russell Campbell, (205) 251-8100  
Aple. Atty., J. Eric Getty, (205) 226-8789  
Aple. Atty., John P. Oliver, II, (256) 825-9296  
Aple. Atty., Jason B. Tompkins, (205) 251-8100  
Aple. Atty., Mark Allen Treadwell, (256) 825-9296

2110891 K.M. v. C.S.M. (Appeal from Jackson Juvenile Court: JU-03-89.02 and  
JU-11-79.01)

**Affirmed. No Opinion.**

**JUDGE PITTMAN**

2110312 Jimmie L. Holifield v. Shirley J. Lambert (Appeal from Jefferson Circuit Court:  
DR-10-1192)

**Appeal Dismissed.**

Circuit Judge, Suzanne S Childers, (205) 324-1038  
Apl. Atty., Jeffery D. Toney, Sr, (850) 651-0354  
Aple. Atty., Victor R. Spencer, (205) 780-3300

2110432 Robert W. Woody and Maurice J. Flannery v. Patricia C. Cushing and the City of  
New Hope (Appeal from Madison Circuit Court: CV-08-634)

**Affirmed. No Opinion.**

District Judge, Ruth Ann Hall, (256) 532-3618  
Apl. Atty., Scott A Rogers, (256) 513-8200  
Aple. Atty., Douglas C Martinson, (256) 533-1667  
Aple. Atty., S. Dagnal Rowe, (256) 533-0202  
Aple. Atty., Morris Lilienthal, (256) 533-1667

## JUDGE BRYAN

2110420 James Kevin Taylor v. Michelle Taylor (Appeal from Lauderdale Circuit Court: DR-09-847)

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

Circuit Judge, Gilbert Porterfield Self, (256) 760-5820  
Aplt. Atty., Randall W. Nichols, (205) 838-9002  
Aple. Atty., Heath F. Trousdale, (256) 767-1058

2110551 G.S. and S.S. v. Pike County Department of Human Resources (Appeal from Pike Juvenile Court: JU-09-97.02, JU-09-98.02, JU-09-99.02, JU-09-100.02, JU-09-101.02, JU-09-102.02, and JU-09-103.02)

**Affirmed. No Opinion.**

2110793 D.M. v. L.S., C.S., and Cullman County Department of Human Resources (Appeal from Cullman Juvenile Court: JU-11-210.02)

**Affirmed. No Opinion.**

2110854 H.H. v. Madison County Department of Human Resources (Appeal from Madison Juvenile Court: JU-09-1709.01)

**Affirmed. No Opinion.**

2111024 Amy Andrews v. Geico General Insurance Company (Appeal from Mobile Circuit Court: CV-10-901537)

**Affirmed. No Opinion.**

Circuit Judge, Roderick P. Stout, (251) 574-8482  
Aplt. Atty., C S Chiepalich, (251) 478-1666  
Aplt. Atty., John Ronald Spencer, (251) 445-0590  
Aple. Atty., Benjamin Connell Heinz, (251) 338-2721

2111092 Wilma Kieran, personal representative of William Kieran v. Continental Casualty Company (Appeal from Jefferson Circuit Court: CV-10-901885)

**Affirmed. No Opinion.**

Circuit Judge, Edward L Ramsey, (205) 325-5280  
Aplt. Atty., Kenneth Edward Sexton, II, (205) 716-3000  
Aple. Atty., Ollie A Cleveland, (205) 254-1000  
Aple. Atty., Michael Mulvaney, (205) 488-3547

2111014 Affinity Hospital, LLC, d/b/a Trinity Medical Center of Birmingham v. St. Vincent's Health System (Appeal from Montgomery Circuit Court: CV-10-901590)  
(Consolidated with 2111015, 2111062, 2111063.)

**Reversed And Remanded.**

District Judge, Jimmy B Pool, (334) 832-2559  
Aplt. Atty., David R. Boyd, (334) 269-3132  
Aplt. Atty., Jennifer Hoover Clark, (205) 521-8020  
Aplt. Atty., Ed R. Haden, (205) 226-8795  
Aplt. Atty., Colin H Luke, (205) 251-8100  
Aplt. Atty., Carey B McRae, (205) 521-8014  
Aplt. Atty., Robert D Segall, (334) 834-1180

Aple. Atty., C. Mark Bain, (334) 263-6621  
Aple. Atty., Dana H. Billingsley, (334) 265-1500  
Aple. Atty., Joseph W. Carlisle, (205) 547-5558  
Aple. Atty., David M. Hunt, (205) 547-5552  
Aple. Atty., James Flynn Mozingo, (334) 263-6621  
Aple. Atty., Mark D. Wilkerson, (334) 265-1500  
Aple. Atty., James E. Williams, (334) 263-6621  
Amicus Aplt. Atty., Raymond P Fitzpatrick, Jr, (205) 320-2255  
Amicus Aplt. Atty., Michael Leon Jackson, (205) 874-0315  
Amicus Aplt. Atty., William R. Justice, (205) 669-6783  
Amicus Aplt. Atty., Oscar Monfort Price, III, (205) 874-0370

2111015 Affinity Hospital, LLC, d/b/a Trinity Medical Center of Birmingham v. Brookwood Health Services, Inc., d/b/a Brookwood Medical Center (Appeal from Montgomery Circuit Court: CV-10-1587)  
(Consolidated with 2111014, 2111062, 2111063.)

**Reversed And Remanded.**

District Judge, Jimmy B Pool, (334) 832-2559  
Aplt. Atty., David R. Boyd, (334) 269-3132  
Aplt. Atty., Jennifer Hoover Clark, (205) 521-8020  
Aplt. Atty., Ed R. Haden, (205) 226-8795  
Aplt. Atty., Colin H Luke, (205) 251-8100  
Aplt. Atty., Carey B McRae, (205) 521-8014  
Aplt. Atty., Robert D Segall, (334) 834-1180  
Aple. Atty., C. Mark Bain, (334) 263-6621  
Aple. Atty., Dana H. Billingsley, (334) 265-1500  
Aple. Atty., Joseph W. Carlisle, (205) 547-5558  
Aple. Atty., David M. Hunt, (205) 547-5552  
Aple. Atty., James Flynn Mozingo, (334) 263-6621  
Aple. Atty., Mark D. Wilkerson, (334) 265-1500  
Aple. Atty., James E. Williams, (334) 263-6621  
Amicus Aplt. Atty., Raymond P Fitzpatrick, Jr, (205) 320-2255  
Amicus Aplt. Atty., Michael Leon Jackson, (205) 874-0315  
Amicus Aplt. Atty., William R. Justice, (205) 669-6783  
Amicus Aplt. Atty., Oscar Monfort Price, III, (205) 874-0370

2111062 State Health Planning and Development Agency v. St. Vincent's Health System (Appeal from Montgomery Circuit Court: CV-10-901590)  
(Consolidated with 2111014, 2111015, 2111063.)

**Reversed And Remanded.**

District Judge, Jimmy B Pool, (334) 832-2559  
Aplt. Atty., Dana H. Billingsley, (334) 265-1500  
Aplt. Atty., Jennifer Hoover Clark, (205) 521-8020  
Aplt. Atty., Mark D. Wilkerson, (334) 265-1500  
Aple. Atty., C. Mark Bain, (334) 263-6621  
Aple. Atty., David R. Boyd, (334) 269-3132  
Aple. Atty., Joseph W. Carlisle, (205) 547-5558  
Aple. Atty., Ed R. Haden, (205) 226-8795  
Aple. Atty., David M. Hunt, (205) 547-5552  
Aple. Atty., Colin H Luke, (205) 251-8100

Aple. Atty., Carey B McRae, (205) 521-8014  
Aple. Atty., James Flynn Mozingo, (334) 263-6621  
Aple. Atty., Robert D Segall, (334) 834-1180  
Aple. Atty., James E. Williams, (334) 263-6621  
Amicus Aplt. Atty., Raymond P Fitzpatrick, Jr, (205) 320-2255  
Amicus Aplt. Atty., Michael Leon Jackson, (205) 874-0315  
Amicus Aplt. Atty., William R. Justice, (205) 669-6783  
Amicus Aplt. Atty., Oscar Monfort Price, III, (205) 874-0370

2111063 State Health Planning and Development Agency v. Brookwood Health Services, Inc., d/b/a Brookwood Medical Center (Appeal from Montgomery Circuit Court: CV-10-1587)

(Consolidated with 2111014, 2111015, 2111062.)

**Reversed And Remanded.**

District Judge, Jimmy B Pool, (334) 832-2559  
Aplt. Atty., Dana H. Billingsley, (334) 265-1500  
Aplt. Atty., Jennifer Hoover Clark, (205) 521-8020  
Aplt. Atty., Mark D. Wilkerson, (334) 265-1500  
Aple. Atty., C. Mark Bain, (334) 263-6621  
Aple. Atty., David R. Boyd, (334) 269-3132  
Aple. Atty., Joseph W. Carlisle, (205) 547-5558  
Aple. Atty., Ed R. Haden, (205) 226-8795  
Aple. Atty., David M. Hunt, (205) 547-5552  
Aple. Atty., Colin H Luke, (205) 251-8100  
Aple. Atty., Carey B McRae, (205) 521-8014  
Aple. Atty., James Flynn Mozingo, (334) 263-6621  
Aple. Atty., Robert D Segall, (334) 834-1180  
Aple. Atty., James E. Williams, (334) 263-6621  
Amicus Aplt. Atty., Raymond P Fitzpatrick, Jr, (205) 320-2255  
Amicus Aplt. Atty., Michael Leon Jackson, (205) 874-0315  
Amicus Aplt. Atty., William R. Justice, (205) 669-6783  
Amicus Aplt. Atty., Oscar Monfort Price, III, (205) 874-0370

**JUDGE THOMAS**

2110363 Shonika McCreless v. Steven Valentin (Appeal from Morgan Circuit Court: DR-05-540.04)

**Reversed And Remanded With Instructions.**

Circuit Judge, Sherrie W Paler, (256) 351-4751  
Aplt. Atty., Sharon Kay Doviet, (256) 539-7337  
Aple. Atty., Fulton S Hamilton, (256) 533-7171

2110817 Johnny H. Bimbo, Jr. v. Ethelyne Thomas (Appeal from Jefferson Circuit Court: CV-11-1687)

**Affirmed. No Opinion.**

Circuit Judge, Elisabeth A. French, (205) 325-5020  
Aplt. Atty., Thomas W Buck, (205) 252-7661

2110820 S.W. v. Alabama Department of Human Resources (Appeal from Tuscaloosa Juvenile Court: JU-09-887.03)

**Affirmed. No Opinion.**

2111047 Ibrahim Ahmed I. Owian v. Olympia Village, LLC, et al. (Appeal from Jefferson Circuit Court: CV-11-901281)

**Affirmed. No Opinion.**

Circuit Judge, Robert S Vance, Jr, (205) 325-5035  
Aplt. Atty., Keith W. Veigas, Jr, (205) 212-1000  
Aple. Atty., Robert R BAugh, (205) 930-5100  
Aple. Atty., Jaime Cowley Erdberg, (205) 930-5189

## **JUDGE MOORE**

2110427 Huntsville City Board of Education v. Ann Frasier et al. (Appeal from : FMCS: 11-02946)

**Reversed And Remanded.**

Aplt. Atty., William W. Sanderson, (256) 535-1100  
Aple. Atty., Brian Austin Oakes, (256) 355-1100  
Aple. Atty., Quisha Riche  
Aple. Atty., Elmer Jacobs Watson, (256) 536-8373

2110812 Florence Surgery Center, L.P., d/b/a Shoals Outpatient Surgery, and SCA-Florence, LLC v. Eye Surgery Center of Florence, LLC; Valley Surgery Center, L.L.C.; and Alabama State Health Planning and Development Agency (Appeal from : Declaratory Ruling-141)

**Reversed And Remanded With Instructions.**

Aplt. Atty., Neah Lynn Mitchell, (334) 269-3139  
Aplt. Atty., JoClaudia Moore, (334) 269-3148  
Aplt. Atty., Dorman Walker, (334) 269-3138  
Aple. Atty., Dana H. Billingsley, (334) 265-1500  
Aple. Atty., Joseph W. Carlisle, (205) 547-5558  
Aple. Atty., Gregg Brantley Everett, (334) 272-8781  
Aple. Atty., Gilpin Givhan, (334) 272-8781  
Aple. Atty., David M. Hunt, (205) 547-5552  
Aple. Atty., Mark D. Wilkerson, (334) 265-1500

2110828 First United Security Bank and Paty Holdings, LLC v. W. Hardy McCollum, Judge of Probate of Tuscaloosa County, et al. (Appeal from Tuscaloosa Circuit Court: CV-10-901031)

**Affirmed.**

Circuit Judge, John H England, Jr, (205) 349-3870  
Aplt. Atty., Burt W. Newsome, (205) 747-1970  
Aple. Atty., Stan Brobston, (205) 425-4361  
Aple. Atty., Travis Russell Wisdom, (334) 826-0722

2110890 K.N.H.D. v. Tuscaloosa County Department of Human Resources (Appeal from Tuscaloosa Juvenile Court: JU-10-446.02)

**Affirmed. No Opinion.**

2110915 R.P.M. v. P.D.A. (Appeal from Limestone Juvenile Court: CS-11-17)

**Appeal Dismissed.**

2110899 A.J. v. Cullman County Department of Human Resources (Appeal from Cullman Juvenile Court: JU-06-556.03)

(Consolidated with 2110900, 2110901, 2110902, 2110903, 2110904.)

**Appeal Dismissed.**

2110900 A.J. v. Cullman County Department of Human Resources (Appeal from Cullman Juvenile Court: JU-10-376.02)

(Consolidated with 2110899, 2110901, 2110902, 2110903, 2110904.)

**Appeal Dismissed.**

2110901 A.J. v. Cullman County Department of Human Resources (Appeal from Cullman Juvenile Court: JU-11-206.02)

(Consolidated with 2110899, 2110900, 2110902, 2110903, 2110904.)

**Appeal Dismissed.**

2110902 T.J. v. Cullman County Department of Human Resources (Appeal from Cullman Juvenile Court: JU-06-556.03)

(Consolidated with 2110899, 2110900, 2110901, 2110903, 2110904.)

**Appeal Dismissed.**

2110903 T.J. v. Cullman County Department of Human Resources (Appeal from Cullman Juvenile Court: JU-10-376.02)

(Consolidated with 2110899, 2110900, 2110901, 2110902, 2110904.)

**Appeal Dismissed.**

2110904 T.J. v. Cullman County Department of Human Resources (Appeal from Cullman Juvenile Court: JU-11-206.02)

(Consolidated with 2110899, 2110900, 2110901, 2110902, 2110903.)

**Appeal Dismissed.**

## PER CURIAM

2060068 Alvin Murray v. Prison Health Services, Inc., and Kay Wilson, R.N., H.S.A. (Appeal from Montgomery Circuit Court: CV 04-1592)

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

Circuit Judge, Eugene W Reese, (334) 832-4950  
Apl. Atty., L. Peyton Chapman, III, (334) 206-3225  
Apl. Atty., Richard Brett Garrett, (334) 206-3138

## ON REHEARING

2100988 Kenneth Cooper and Barbara Cooper v. Larry Heath Miller (Appeal from Jefferson Circuit Court: DR-09-1733)

**Application For Rehearing Overruled.**

Circuit Judge, Dorothea Batiste, (205) 325-5022  
Apl. Atty., Roger Charles Appell, (205) 252-9462  
Apl. Atty., Sara J Senesac, (205) 592-0780  
Apl. Atty., Wendy Brooks Crew, (205) 326-3555

2110077 Lana Kelley v. Kevin Kelley (Appeal from Montgomery Circuit Court: DR-08-900023.01)

**Application For Rehearing Overruled.**

Circuit Judge, Anita L Kelly, (334) 832-1375  
Apl. Atty., Jacob A Dubin, (334) 296-5666  
Apl. Atty., Debora E Palmer, (334) 262-0400

2110109 Christopher Lee Tucker v. Amy Michelle Tucker (Appeal from Morgan Circuit Court: DR-07-944 and DR-07-949)

**Application For Rehearing Overruled.**

Circuit Judge, Sherrie W Palar, (256) 351-4751  
Apl. Atty., James Timothy Kyle, (256) 353-7641  
Apl. Atty., Sharon A. Johnston, (256) 512-9990  
Apl. Atty., Brian Mitchell White, (256) 355-1100

2110152 Select Specialty Hospitals, Inc., d/b/a Select Specialty LTCH-Birmingham v. Alabama State Health Planning and Development Agency and Noland Health Services, Inc. (Appeal from Montgomery Circuit Court: CV-10-900124 and CV-10-900802)

**Application Overruled; Opinion Of September 21, 2012, Modified By Substitution of Pages 20-21.**

Circuit Judge, Tracy McCooey, (334) 832-4950  
Apl. Atty., Joseph W. Carlisle, (205) 547-5558  
Apl. Atty., David M. Hunt, (205) 547-5552  
Apl. Atty., Dana H. Billingsley, (334) 265-1500  
Apl. Atty., Roy J. Crawford, (205) 716-5293  
Apl. Atty., Mark D. Wilkerson, (334) 265-1500  
Apl. Atty., Brian G. Wilson, (205) 716-5273

2110481 City of Montgomery and T.D. James v. Jacquard Merritt (Appeal from Montgomery Circuit Court: CV-10-1016)

**Application For Rehearing Overruled.**

Circuit Judge, Johnny Hardwick, (334) 832-1380  
Aplt. Atty., Jason Cole Paulk, (334) 241-2050  
Aple. Atty., Joe M. Reed, (334) 834-2000

2110508 Correlius Monte Rogers v. State of Alabama (Appeal from Henry Circuit Court: CV-11-900039)

**Application For Rehearing Overruled.**

Circuit Judge, J Michael Conaway, (334) 677-4889  
Aplt. Atty., M Wayne Sabel, (334) 271-2770  
Aplt. Atty., Edward M. Wayland, (334) 409-9688  
Aple. Atty., Banks T Smith, (334) 677-4894  
Aple. Atty., Douglas Albert Valeska, (334) 677-4894

2110679 John Vanderbleek v. Jillane S. Vanderbleek (Appeal from Calhoun Circuit Court: DR-03-984.03)

**Application For Rehearing Overruled.**

Circuit Judge, Brenda Stedham, (256) 231-1830  
Aplt. Atty., Arthur F. Fite, III, (256) 231-9330  
Aple. Atty., Carey Neal Kirby, (256) 820-0222

2110847 Joe Holt v. Sergeant W. Burks et al. (Appeal from Montgomery Circuit Court: CV-11-1281)

**Application For Rehearing Overruled.**

Circuit Judge, Tracy McCooey, (334) 832-4950  
Aple. Atty., Elizabeth Sees, (334) 353-3857

2110671 E.M. v. Limestone County Department of Human Resources (Appeal from Limestone Juvenile Court: JU-08-374.04)  
(Consolidated with 2110672.)

**Application For Rehearing Overruled.**

2110672 E.M. v. Limestone County Department of Human Resources (Appeal from Limestone Juvenile Court: JU-08-375.04)  
(Consolidated with 2110671.)

**Application For Rehearing Overruled.**