

IN THE CIRCUIT COURT
FOR THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

MARK BENNETT)
)
 Plaintiff,)
) Case No. 2020-MR-_____
)
 vs.)
)
 SHELBY COUNTY BOARD; EDWARD)
 FLYNN; FEATHERSTUN, GAUMER,)
 STOCKS, FLYNN & ECK, LLP)
)
 Defendants.)

COMPLAINT FOR DECLARATORY RELIEF

COMES NOW, Mark Bennett, by and through his counsel Thomas DeVore and the Silver Lake Group, Ltd., and for his Complaint for Declaratory Relief against the Defendants, hereby states as follows:

FACTUAL BASIS

1. Plaintiff is a resident and taxpayer in Shelby County.
2. Plaintiff brings this cause on his own behalf and on behalf of all other taxpayers similarly situated.
3. The Shelby County Board (hereinafter the "Board") is a body politic and corporate, created to perform governmental functions related to public matters in Shelby County, and has only such powers as are expressly conferred by the Illinois legislature.
4. Edward Flynn (hereinafter "Flynn") is a licensed attorney authorized to practice law in the State of Illinois.
5. Featherstun, Gaumer, Stocks, Flynn & Eck, LLP (hereinafter the "Firm") is a duly organized law firm for which Flynn is a partner.

6. On or about March 12, 2014, The Board approved a resolution (hereinafter the “Resolution”) to hire Flynn to provide legal services for labor relations matters for the fiscal year of 2014-2015 (See attached Exhibit A.)
7. Upon information and belief, The Firm submitted certain invoices since that time for services rendered by Flynn as well as other counsel and staff of The Firm.
8. On or about May 08, 2020, The Firm sued The Board, as well as Ms. Erica Firnhaber as the Shelby County Treasurer. (See Shelby County cause 2020-LM-22)
9. On or about May 18, 2020, The Firm filed an amended complaint. (See Shelby County cause 2020-LM-22)
10. The Firm alleges it is currently owed \$15,444.43 for legal services rendered. (See Shelby County cause 2020-LM-22)
11. The invoices attached to the amended complaint includes charges for services provided by persons other than Flynn, and also for services rendered beyond the 2014-2015 fiscal year. (See Shelby County cause 2020-LM-22)
12. The Firm alleges the legal theory of breach of contract and in the alternative quantum meruit. (See Shelby County cause 2020-LM-22)

COUNT I
DECLARATORY JUDGMENT

13. The Plaintiff hereby re-alleges paragraphs 1 through 12 as if fully stated herein.
14. The State’s Attorney of each county is the attorney and legal advisor for county officials with respect to all business of the county.
15. The Board had no authority to retain a private attorney to perform the duties the State’s Attorney is obligated to perform, unless either 1) the court appoints a special state’s

- attorney; or 2) the county officer is expressly authorized by statute to retain a private attorney.
16. The Board's award of any contract which expends taxpayer funds in violation of their authority renders the contract void *ab initio*.
 17. The Board had no statutory authority to enter into an express contract with Flynn to perform legal services.
 18. Furthermore, Quasi Contract theories have no application when a contract is wholly void and created no rights and imposed no obligations.
 19. To permit recovery by Flynn or the Firm under the theory of quantum meruit, would in legal effect, give sanction to the giving of public funds to private use for the performance of duties which the law imposed upon the State's Attorney and for which she receives a salary from the taxpayers fixed by law.
 20. The Plaintiff as a citizen and taxpayer within Shelby County has a right to insist that any public funds expended by The Board be only as allowed by law.
 21. Upon information and belief, The Board desires to make further payment to The Firm with taxpayer dollars.
 22. Upon information and belief, The Board desires to take action of some sort against the Shelby County Treasurer for her current refusal to pay The Firm.
 23. Flynn, The Firm, and The Board's interests are in opposition to the Plaintiff regarding the use of taxpayer funds by The Board.
 24. The Plaintiff, as a taxpayer in Shelby County, will be liable to replenish funds to Shelby County for any funds paid to Flynn or the Firm for legal services for which the State's Attorney has been compensated to provide.

25. An actual controversy exists between the parties in regard to the authority of The Board to contract for private legal services with Flynn or The Firm.
26. An immediate and definitive determination is necessary to clarify the rights and interests of all parties affected.

WHEREFORE, Plaintiff, Mark Bennett, herein request that this court enter an Order:

- A. Finding that The Resolution passed by the Board hiring Flynn to perform legal services was an act that was in excess of their authority;
- B. Declaring the any contract between The Board and Flynn, or The Firm, is void *ab initio*, invalid and of no force and effect whatsoever since its inception;
- C. Declaring quantum meruit does not allow for the payment of taxpayer funds to The Firm;
- D. That the Court grant such other and further relief as is just and proper.

Respectfully submitted,

By: /s/ Thomas DeVore

IL Bar Reg. No. 06305737
silver lake group ltd.
Attorneys for Plaintiff
118 N. 2nd St.
Greenville, IL 62246
Telephone - 618-664-9439

VERIFICATION

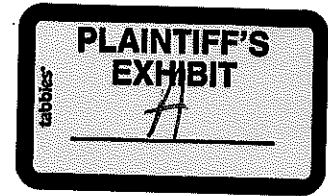
Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, if any, and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Date: June 09, 2020

By: /s/ Mark Bennett

Mark Bennett

Thomas G. DeVore
IL Bar No. 06305737
silver lake group, ltd.
Attorneys for Mark Bennett
118 North Second Street
Greenville, Illinois 62246
Telephone 618.664.9439
Facsimile 618.664.9486



SHELBY COUNTY BOARD MEETING

March 12, 2014 – 9:00 A.M.

The Shelby County Board met on Wednesday, March 12, 2014, at 9:00 A.M. at the Courthouse in Shelbyville, Illinois.

Chairman Bruce Cannon called the meeting to order. Pastor Jay Huddleston of the Herrick Baptist Church said the prayer and all present recited the Pledge of Allegiance.

County Clerk Jessica Fox called the roll. Warren was absent.

Following the roll call, Chairman Cannon thanked Yolanda Nation and the 4-H Federation representatives who treated the County Board to cinnamon rolls before the meeting. Nation briefed the board on the activities planned to celebrate 4-H Week beginning March 15th.

Minutes for the February 13, 2014 board meeting were presented for approval. Mulholland moved to approve the minutes as presented. Hunter seconded said motion, which passed by voice vote. (20 yes, 0 no)

States Attorney Gina Vonderheide presented a Resolution to raise the Competitive Bid Limit for Shelby County to the maximum amount the statute allows, which is \$30,000.00. Mulholland made a motion to approve the Resolution raising the competitive limit to the maximum of \$30,000.00. Simpson seconded said motion, which passed by voice vote. (20 yes, 0 no) (Resolution attached to these minutes)

Chairman Bruce Cannon addressed the board requesting they approve a Resolution to hire attorney Edward Flynn from Decatur for Labor Relations for Fiscal Year 2014-2015 at a rate of \$150.00 per hour. Flynn currently does labor relations for both Moultrie and Macon Counties. Discussion was held. Bennett made a motion to approve the Resolution to hire Edward Flynn to represent the County for Labor Relations for Fiscal Year 2014-2015 at a rate of \$150.00 per hour. Kearney seconded said motion, which passed by roll call vote. (20 yes, 0 no) (Resolution attached to these minutes)

Sheriff Mike Miller presented a Resolution for the Board's approval that would allow the Court to collect a \$10.00 fee which could then be put into a fund for Inmate Medical expenses (730 ILCS 125/17). States Attorney Vonderheide, Judge Bennett, and the Law Enforcement Committee have all reviewed and support this Resolution. Mulholland made a motion to approve the Resolution to collect a \$10.00 fee to fund Inmate Medical expenses. Wetherell seconded said motion, which passed by voice vote. (20 yes, 0 no) (Resolution attached to these minutes)

At this time Chairman Cannon called for the County Highway Engineer's report.

Alan Spesard, County Highway Engineer presented a Resolution to award oil bids and an Agreement between the County and the Department of Commerce and Economic Opportunity (DCEO) for the Board's approval. Presenting the Oil and Patch Mix Resolution, Spesard stated that the bid letting was held Friday March 7th, and the low and only bid was submitted by Howell Paving. The overall costs were lower by a few cents than last year; however the Patch Mix will be made in Mattoon this year and transported to Shelby County. The agreement Spesard presented was between Shelby County and DCEO for a \$160,000.00 reimbursement grant. This grant is 100% funded and is a continuation of the process for getting the money and getting the projects built. This money will be used to fix a couple of 4 way stop intersections and to do some micro surface seal coating.

Clark made a motion to approve the Resolution to award the oil bids. Simpson seconded said motion, which passed by voice vote. (20 yes, 0 no) (Resolution attached to these minutes)

Jordan made a motion to approve the Agreement between Shelby County and DCEO for the \$160,000.00 reimbursement grant. Wetherell seconded said motion, which passed by voice vote. (20 yes, 0 no) (Agreement attached to these minutes)


Continuing with department updates, Spesard informed the Board the IDOT has approved the bid letting for the Lakewood Bridge which will be held locally on April 4th at 9:00 A. M. The funding for this bridge is 75% FEMA funds, which are administered by IEMA. The Highway Department has been busy with inspecting County Bridges in the Eastern part of the County. Another Bridge in Richland Township was closed last week by the County due to rotted piles. This bridge is located approximately 1 – 2 miles north of the Village of Strasburg on an

RESOLUTION NO. 2014-07

WHEREAS, the County of Shelby, State of Illinois, resolves to hire Attorney Ed Flynn, currently practicing with the firm of Featherstun, Gaumer, Postlewait, Stocks, Flynn & Hubbard to be a special assistant State's Attorney, for the purpose of labor negotiations for the 2014-2015 Budget Year at a cost of \$150.00 per hour.

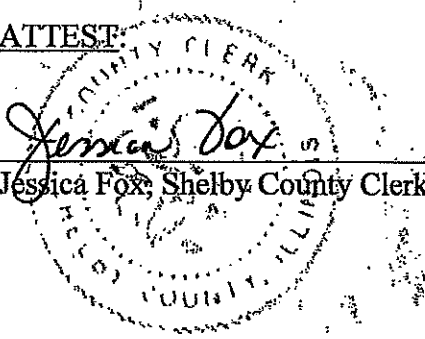
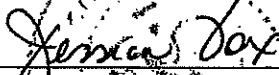
NOW, THEREFORE, it is hereby resolved that Shelby County shall immediately hereby hire Attorney Ed Flynn as a special assistant State's Attorney for the purpose of labor negotiations:

Duly presented, adopted and approved this 12th day of March, 2014.



Bruce Cannon, Shelby County Board Chairman

ATTEST:

Jessica Fox, Shelby County Clerk

IN THE CIRCUIT COURT
FOR THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

MARK BENNETT)

Plaintiff,)

Case No. 2020-MR-_____)

vs.)

SHELBY COUNTY BOARD; EDWARD)
FLYNN; FEATHERSTUN, GAUMER,)
STOCKS, FLYNN & ECK, LLP)

Defendants.)

SUMMONS

Respondent: Shelby County Board
c/o Ms. Jessica Fox, Shelby County Clerk
301 E. Main St., Shelbyville, IL 62565

YOU ARE SUMMONED and required to appear in this cause, or otherwise file your answer, in the office of the Clerk of the Circuit Court, Shelby County, 301 E. Main St. #12, Shelbyville, IL 62565, within thirty (30) days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT, A COPY OF WHICH IS ATTACHED HERETO.

E-filing is now mandatory for documents in civil cases with limited exemptions. To e- file, you must first create an account with an e-filing service provider. Visit <https://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/FAQ/gethelp.asp>, or speak to your local Circuit Clerk's Office.

To the officer:

This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed. This summons may not be served and returned later than three (3) days before the date of appearance.

Clerk of the Circuit Court

DATED: _____

By: _____

Thomas G. DeVore
IL Bar Reg. No. 06305737
DeVore Law Offices, LLC.
Attorneys for Plaintiffs
118 N. 2nd St.
Greenville, IL 62246
Telephone - 618-664-9439
tom@silverlakelaw.com

Date of Service: _____, 2020.
(To be inserted by officer on copy left with defendant or other person)

AFFIDAVIT OF SERVICE

I certify that I served the foregoing Summons along with a copy of the complaint in this matter on the defendant as follows:

(a) (Individual Defendants-personal):

(The officer or other person making service, shall (a) identify as to sex, race and approximate age of the Defendant with whom he left the Summons, and (b) state the place where (whenever possible in terms of an exact street address and the date and time of the day when the Summons was left with the Defendant.)

(b) (Individual defendants-abode):

By leaving a copy of this summons and a copy of the Complaint at the usual place of abode of each individual defendant with a person or his/her family, of the age of 13 years or older, informing that person of the contents of the Summons. (The officer or other person making service, shall (a) identify as to sex, race and approximate age of the person, other than the Defendant, with whom he left the Summons, and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of day when the Summons was left with such person.)

And also by sending a copy of the Summons and of the Complaint in a sealed envelope with postage fully prepaid, addressed to each individual Defendant at his/her usual place of abode, as follows:

Name of Defendant Mailing Address Date of Mailing

(c) (Corporation defendants)

By leaving a copy of this Summons and a copy of the Complaint with the registered agent, officer or agent of each Defendant corporation, as follows:

Defendant Corporation Registered agent, officer or agent Date of Service

By: _____

IN THE CIRCUIT COURT
FOR THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

MARK BENNETT)

Plaintiff,)

Case No. 2020-MR-_____)

vs.)

SHELBY COUNTY BOARD; EDWARD)
FLYNN; FEATHERSTUN, GAUMER,)
STOCKS, FLYNN & ECK, LLP)

Defendants.)

SUMMONS

Respondent: Edward Flynn
101 S. State Street, Suite 240
P.O. Box 1760
Decatur, Illinois 62525

YOU ARE SUMMONED and required to appear in this cause, or otherwise file your answer, in the office of the Clerk of the Circuit Court, Shelby County, 301 E. Main St. #12, Shelbyville, IL 62565, within thirty (30) days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT, A COPY OF WHICH IS ATTACHED HERETO.

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By: _____

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IL Bar Reg. No. 06305737
DeVore Law Offices, LLC.
Attorneys for Plaintiffs
118 N. 2nd St.
Greenville, IL 62246
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By: _____

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STOCKS, FLYNN & ECK, LLP)

Defendants.)

SUMMONS

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101 S. State Street, Suite 240
P.O. Box 1760
Decatur, Illinois 62525

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Defendant Corporation Registered agent, officer or agent Date of Service

By: _____