

No. 5-20-0371  
IN THE APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

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FEATHERSTUN, GAUMER, STOCKS )	
FLYNN AND ECK, LLP )	
)	NO. 5-20-0371
)	
Plaintiffs/Appellees, )	Appeal from the Circuit Court
)	of Shelby County, Illinois
vs. )	
)	Shelby County Circuit Court
SHELBY COUNTY and ERICA )	Cause No: 20-LM-22
FURNHABER, Shelby County )	
Treasure )	
)	
Defendants/Appellants. )	Hon. Kimberly Koester

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BRIEF AND ARGUMENT FOR  
APPELLANT MARK BENNETT

---

THOMAS G. DEVORE  
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118 N. 2<sup>ND</sup> ST.  
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ORAL ARGUMENT REQUESTED

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POINTS AND AUTHORITIES

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**B. The Statute Relied Upon Did Not Even Exist in 2014 When The Hiring Allegedly Occurred.**

*Skipper Marine Electronics, Inc. v. United Parcel Service, Inc.*, 210 Ill.App.3d 231, 235, 569 N.E.2d 55, 155 Ill.Dec. 55 (1991) .....10

## INTRODUCTORY PARAGRAPH

This cause of action was initiated when the Appellees on May 8, 2020 filed this cause of action in the Shelby County Court (20-LM-22) against Defendants the Shelby County Board and Erica Firnhaber as Treasurer of Shelby County. The cause of action was grounded in contract and quasi-contract principles. On or about May 18, 2020, Plaintiff's amended their complaint. The complaint alleges Edward Flynn, an attorney of Plaintiff's firm, was hired by the Shelby County Board in 2014. Appellees allege legal services were provided and the Defendants refused to pay certain sums. On or about June 09, 2020, Appellant Mark Bennett, a citizen and taxpayer of Shelby County, filed a complaint in the Shelby County Court (20-MR-35) against the Shelby County Board as well as Featherstun, Gaumer, Stocks, Flynn and Eck, LLP seeking a declaratory judgment that the Shelby County Board had no statutory authority to hire Edward Flynn and further sought an injunction barring payment from being made. These two causes were consolidated by Judge Koester. On or about September 04, 2020, Appellees filed an amended motion for summary judgment. In the amended motion for summary judgment, Appellees aver they were appointed to perform legal services by the states attorney Gina Vonderheide. The allegation in the motion as being appointed by the States Attorney was contrary to the allegation in the complaint of being hired by the County Board. An affidavit signed on July 07, 2020 was attached to the amended motion for summary judgment wherein states attorney Vondherheide swears under oath she had appointed Ed Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP to perform legal work since 2014 pursuant to authority granted her via section 4-2003 of the County Code. A hearing was held on October 30, 2020 on Appellees summary judgment.

Appellant Mark Bennett as well as Shelby County Treasurer Erin Firnhaber argued summary judgment was improper. Nonetheless, the circuit court granted summary judgment in favor of the Appellees.

STATEMENT OF JURISDICTION

The Court has jurisdiction over this matter pursuant to S. Ct. Rule 303, which allows a party to appeal final judgments of the circuit court within thirty days entry of the final judgment. The trial court granted the Appellees their motion for summary judgment on October 30, 2020. A timely notice of appeal was filed on November 04, 2020.

STANDARD OF REVIEW

The standard of review applied is de novo. *First American Bank v. Poplar Creek, LLC*, 2020 IL App (1st) 192450, (November 23, 2020)

**STATUTES INVOLVED**

(735 ILCS 5/2-1005) (from Ch. 110, par. 2-1005)

Sec. 2-1005. Summary judgments. (a) For plaintiff. Any time after the opposite party has appeared or after the time within which he or she is required to appear has expired, a plaintiff may move with or without supporting affidavits for a summary judgment in his or her favor for all or any part of the relief sought.

(55 ILCS 5/4-2003) (from Ch. 34, par. 4-2003)

Sec. 4-2003. Assistants.

(a) Except as provided in Section 4-2001, where assistant State's Attorneys are required in any county, the number of such assistants shall be determined by the county board, and the salaries of such assistants shall be fixed by the State's Attorney subject to budgetary limitations established by the county board and paid out of the county treasury in quarterly annual installments, on the order of the county board on the treasurer of said county. Such assistant State's Attorneys are to be named by the State's Attorney of the county, and when so appointed shall take the oath of office in the same manner as State's Attorneys and shall be under the supervision of the State's Attorney.

(b) The State's Attorney may appoint qualified attorneys to assist as Special Assistant State's Attorneys when the public interest so requires.

(Source: P.A. 100-669, eff. 1-1-19.)



**ISSUES PRESENTED FOR REVIEW**

I. Whether the trial court erred granting summary judgment in favor of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP on October 30, 2020.

## STATEMENT OF FACTS

This cause of action was initiated when the Appellees on May 8, 2020 filed this cause of action in the Shelby County Court (20-LM-22) against the Defendants the Shelby County Board and Erica Firnhaber as Treasurer of Shelby County. (See C9-C13) The cause of action was grounded in contract and quasi-contract principles. On or about May 18, 2020, Plaintiff's amended their complaint. (C30-C35). The amended complaint alleges Edward Flynn, an attorney of Plaintiff's firm, was hired by the Shelby County Board in 2014. (See paragraph 3 of the amended complaint at C-30) Appellees allege legal services were provided and the Defendants refused to pay certain sums. On or about June 09, 2020, Appellant Mark Bennett, a citizen and taxpayer of Shelby County, filed a complaint in the Shelby County Court (20-MR-35) against the Shelby County Board as well as Featherstun, Gaumer, Stocks, Flynn and Eck, LLP seeking a declaratory judgment that the Shelby County Board had no statutory authority to hire Edward Flynn and further sought an injunction barring payment from being made. (See related appeal 5-20-0370) These two cause were consolidated by Judge Koester. On or about September 04, 2020, Appellees filed an amended motion for summary judgment. (See C79-C82) In the amended motion for summary judgment, Appellees aver they were appointed to perform legal services by the states attorney Gina Vonderheide. (See paragraph 10 of the amended motion for summary judgment at C-80). An affidavit signed on July 07, 2020 was attached to the amended motion for summary judgment wherein states attorney Vondherheide swears under oath she had appointed Ed Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP to perform legal work since 2014 pursuant to authority granted her via section 4-2003 of the County Code. (See C-83-C86)

Shelby County Treasurer Erica Firnhaber filed a response to the amended motion for summary judgment. (C-101-C105). The Appellant, Mark Bennett, had filed a response to the summary judgment motion in the consolidated case of 2020-MR-35 and said response was considered by the circuit court. (See appeal record 5-20-0370 for Appellants Response) A hearing was held on October 30, 2020 on Appellees request for summary judgment. Appellant Mark Bennett as well as Shelby County Treasurer Erin Firnhaber argued summary judgment was improper as material questions of fact existed which questions also included which statutory authority was being relied upon by the Appellees. Nonetheless, the circuit court granted summary judgment in favor of the Appellees. The circuit court did not enter any written order of summary judgment as her ruling from the bench only. (See R55-R63)

## ARGUMENT

### I. THE TRIAL COURT'S RULING GRANTING SUMMARY JUDGMENT WAS IN ERROR AS THERE WERE MATERIAL ISSUES OF FACT IN THE RECORD

#### A. THE APPELLEES OWN PLEADINGS CREATED AN ISSUE OF MATERIAL FACT AS TO WHO HIRED EDWARD FLYNN AND HIS LAW FIRM.

Summary judgment is considered a drastic remedy and should not be granted unless the movant's right to judgment is unquestionable. *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 42-43, 809 N.E.2d 1248, 1256 (2004). In considering a motion for summary judgment all inferences are resolved in favor of respondent and summary judgment will not be granted unless, viewing all evidence most favorably to the respondent, there is no genuine issue of material fact. *Skipper Marine Electronics, Inc. v. United Parcel Service, Inc.*, 210 Ill.App.3d 231, 235, 569 N.E.2d 55, 155 Ill.Dec. 55 (1991). The right of the moving party to judgment must be clear beyond question. *Id.* The right of the moving party to entry of judgment must be clear and free from doubt and the evidence strictly construed against the moving party. *Id.* Accordingly, entry of summary judgment has two requisites: the absence of any issue as to material fact and the unmistakable conclusion of law that the moving party is entitled to the judgment he seeks. *Id.*

In this cause, the Appellees amended complaint alleges that in the year of 2014 they were approached by the Shelby County Board and the Board offered to retain the services of Edward Flynn. (See C-30). It is alleged Edward Flynn agreed to provide these services to Shelby County. (See C-30). The amended complaint makes no allegations that Appellees were appointed by the Shelby County States Attorney pursuant

to any authority granted her by the Illinois legislature. (Emphasis Added) However, in the Appellees amended motion for summary judgment, they allege to have been appointed by Shelby County States Attorney Gina Vonderheide to serve as a special assistant states attorney pursuant to 55 ILCS 5/4-2003(b). (See C-80). The Appellants own pleadings created a material issue of fact as to who hired Edward Flynn and his firm rendering summary judgment impossible. Was it the Shelby County Board as alleged in the complaint, or the Shelby County States Attorney as alleged in the amended motion for summary judgment. Whether or not the statutory citation within the county code is sufficient authority for the states attorney to hire outside counsel is not even necessary to be considered until such time as the Appellee might plead in its cause of action they were in fact appointed by the states attorney. In their complaint, the Appellees have averred they were hired by the Shelby County Board, and as such moving for summary judgment under the premise they were hired by anyone other than the Shelby County Board was fatal and summary judgment must have been denied.

This fatal error was raised by both Mark Bennett and Gina Vonderheide at oral argument on October 30, 2020. In addition, Gina Vonderheide raised this issue of material fact in her pleadings in her written response to the Appellees amended motion for summary judgment. (See C-103). Nonetheless, the circuit court found that no material issue of fact existed as to the hiring of outside counsel by the Shelby County States Attorney. (See R-58). This Honorable Court must reverse the entry of summary judgment entered in favor of the Appellees as the circuit court erred in finding the states attorney had appointed the Appellees due to the fact that the Appellees did not even allege as much in their complaint.

B. THE STATUTE RELIED UPON BY THE COURT AS AUTHORITY FOR STATES ATTORNEY TO HIRE APPELLEES DIDN'T EXIST IN 2014

The conclusions of law made by a trial court must have been unquestionable. See *Skipper Marine Electronics, Inc.*, 210 Ill.App.3d at 235. In her affidavit, the Shelby County States Attorney swore under oath that pursuant to Section 4-2003 of the Illinois County Code she had appointed Edward Flynn and his firm to act as special assistant states attorneys since 2014. (See C-64) Section 4-2003 has subpart (a) and subpart (b). The trial court ruled the Shelby County States Attorney did have authority under subsection (b) of 55 ILCS 5/4-2003 to hire outside counsel. <sup>1</sup>(See R-58). The trial court made this finding notwithstanding the fact that Section (b) of 4-2003 the County Code was not referenced in the States Attorney's affidavit and moreover the provision did not even exist in 2014. For these reasons, it was reversible error on the part of the trial court to infer the states attorney was relying on Section (b) of the county code.

CONCLUSION

Summary judgment is a drastic remedy and the trial court must have found the issues of fact and law were unquestionable and unmistakable. The trial court granted summary judgment in favor of the Appellees by finding the Shelby County States Attorney had appointed them as special assistants pursuant to Section (b) of 4-2003 of the County Code. The Appellees alleged they were hired by the Shelby County Board in 2014, and after performing legal services, they were not paid. In their motion for summary judgment, the Appellees inconsistently averred they were appointed by the

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<sup>1</sup> The States Attorney never proclaimed which section of 4-2003 she relied upon in 2014 when she allegedly appointed the Appellees. While the Court somehow found Section (b) was the authority which allowed the states attorney to make the appointment, Section (b) did not exist in 2014 and the states attorney never specified it was this section.

Shelby County States Attorney in 2014 as a special assistant pursuant to a particular section of the county code which did not even exist at the time. The States Attorney signed an affidavit under oath which proclaimed she did appoint the Appellees in 2014 under Section 4-2003 of the County Code, but she did not identify whether she relied upon Section (a) or (b). However, Section (b) did not even exist as the Illinois Legislature did not add Section (b) until January 01, 2019. Notwithstanding a material question of fact was created by the Appellees given their amended complaint and amended motion for summary judgment, along with the states attorney's unconcise affidavit, were contradictory, the trial court disregarded this material issue of fact. Furthermore, the trial court found the authority to hire outside counsel lied in a particular section of the county code which did not even exist in 2014 when the alleged appointment occurred. For these reasons, this Honorable Court must reverse the trial court's decision and return this matter back to the trial court for further proceedings.

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1 agree with my colleague that the pleading, the  
2 complaint, which is the essence doesn't say that Mr.  
3 Flynn was appointed by the State's Attorney -- I'm  
4 sorry -- by the board.

5 Does he want to file a new amended complaint?  
6 Because if in fact -- and I understand what Your Honor  
7 is saying -- the statute doesn't say, well, does it  
8 have to be in a written appointment? Can it be an  
9 oral? Mr. Flynn said there's a contract. He says  
10 there was a contract. Well we know contracts can be  
11 oral or they can be written. In the statute of fraud  
12 doctrine, we have to have offer, acceptance,  
13 consideration. We all learn that. I've heard nothing  
14 and see nothing in this affidavit where Ms. Vonderheide  
15 says I made an offer for this and that Mr. Flynn  
16 accepted this. So even those basic principles, even  
17 whether it needs to be in writing or not, haven't been  
18 met. So at this stage we believe summary judgment is  
19 improper. Thank you.

*court order*

20 THE COURT: All right. I think I've addressed  
21 everybody. First of all, I want to begin with making  
22 the comments that this is a unique case because of the  
23 parties that are involved.

24 We have the county board. We have an elected

1 official, the treasurer. We have the attorneys that  
2 are involved here, including two State's Attorneys from  
3 other counties who have absolutely nothing to do with  
4 Shelby County, and now in their role as State's  
5 Attorney have been asked to do -- perform a job by  
6 representing county boards and treasurers in other  
7 county in this matter. And that's a perfect example of  
8 the State's Attorney and the type of duties that  
9 State's Attorneys have. There's no way that we can  
10 codify or put into writing everything that a State's  
11 Attorney does. And, Ms. Vonderheide, on -- in her  
12 position as a State's Attorney, is in charge of  
13 prosecuting the criminal cases. She's also charged as  
14 a being a counsel to the county board. She's also  
15 charged with being responsible to provide advice to  
16 other elected county officials whenever necessary. So  
17 she has a lot of things on her plate, and as argued by  
18 some of the counsel, some of those issues are very  
19 complex. And some of those issues involve airports.  
20 They involve roads. They involve zoning issues. They  
21 involve all kinds of issues. Windmills now are  
22 becoming a huge issue for counties in the complex  
23 litigation that can occur as a result of windmills  
24 being presented.

1           So what my point, at this point, is that the  
2 State's Attorney has different hats that they have to  
3 wear every single day. And it is this Court's belief  
4 that the legislature have given them, pursuant to  
5 statute and by the statute subsection (b), the ability  
6 and they codified it into subsection (b), to give the  
7 State's Attorneys the ability to ask in effect for  
8 assistance to handle some of these jobs that are very  
9 complex. And the statute, I agree, Mr. DeVore, is  
10 somewhat vague. But it does codify the practice that  
11 has been in effect for years where State's Attorneys  
12 requested assistance from outside counsel for certain  
13 issues. One of the most common being labor  
14 negotiations. And labor negotiations are unique  
15 amongst in of itself is because she has to -- or the  
16 State's Attorney -- if they were involved in the labor  
17 negotiations are working to protect the county's  
18 interest in payment of salary to the very individuals  
19 that they are required to call as witnesses to  
20 investigate their criminal cases, and it can pose a  
21 uncomfortable, if not awkward, situation for them to be  
22 on -- on one day asking them to swear and testify to  
23 criminal proceedings that they have investigated, and  
24 the next day arguing that their salaries should not be

1 increased by any amount for whatever reasons.

2           So the Court believes that under the statute  
3 as cited by both parties in this case, that the Shelby  
4 County State's Attorney did have the authority under  
5 subsection (b), and that was to hire outside counsel to  
6 represent the county in complex labor negotiation.

7           Now the statute, however, is completely devoid  
8 of any description as to how that would occur. The  
9 information that this Court has in front of it is that  
10 sometime back in 2014, the county board was asked and  
11 the county board decided and even entered into a  
12 written agreement to hire Mr. Flynn for purposes of  
13 labor negotiation.

14           Labor negotiations, depending on the contract  
15 that is created, can be one year long or can happen  
16 every year. It can happen every other year. It can  
17 happen every five years, or if you're really lucky,  
18 longer than that. But labor negotiations occur on a  
19 regular basis between the county and the various union  
20 agencies.

21           In 2014, it was clear that the Shelby County  
22 Board was in favor of and was in agreement with the  
23 State's Attorney seeking outside counsel. This Court  
24 does not believe and does not believe it is necessary

1 that there be any written basis for Mr. Flynn to have  
2 represented the county during that period of time in  
3 2019, until March of 2020, I believe. And I have the  
4 dates incorrect, I -- I apologize.

5 And the argument was made is how did he get  
6 involved? Well I'll guarantee you that Mr. Flynn  
7 didn't just call the State's Attorney one day and say,  
8 "I'm here to do your labor negotiations." He had to  
9 have known that those labor negotiations were  
10 occurring. It is clear that Mr. Flynn was advised that  
11 it was time to begin the labor negotiations. He was  
12 asked by Ms. Vonderheide in some capacity. It could  
13 have been over the phone, it could have been e-mail, it  
14 could have been in writing. I don't know, only that  
15 the affidavit states that she requested his assistance  
16 for the purpose of labor negotiation and he did involve  
17 himself in that. And I assume, since I've not been  
18 advised that it was successful negotiations, and  
19 presented a bill to the county board.

20 Which then brings us to the position that we  
21 are in now. And although I have consolidated the two  
22 cases, we have a situation where the county board has  
23 confessed that the bill to Mr. Flynn was appropriate,  
24 and they agreed and they entered an order. Or the

1 statute says a warrant, although I don't like using  
2 that term. That the county board issued a warrant to  
3 the treasurer for payment of those bills.

4 They have confessed that, as State's Attorney  
5 Miller on behalf of the county has indicated, meaning  
6 they issued an order directing the treasurer to pay  
7 that bill out of the county funds.

8 The Court then took an opportunity. And  
9 because this is a -- it's such a unique case -- I  
10 wanted to review the statute to see what, if any,  
11 authority that a treasurer has to, in fact, oversee or  
12 to second-guess or to in effect determine whether or  
13 not the actions of the county board that are taken are  
14 appropriate.

15 And I'm going to summarize just a few of the  
16 duties, but the duties of a treasurer created by  
17 statute. They're not just an all-encompassing duty.  
18 They are created by statute. A treasurer of a county  
19 has certain duties to file monthly reports with the  
20 county board. They are to attend and complete  
21 treasurer's training program. They're subject to the  
22 Prompt Payment Act. They're subject to keeping their  
23 office open during certain hours of the day.

24 They are ordered, pursuant to statute, to

1 designate a bank for deposit of county funds. They are  
2 to comply with the Public Fund Investment Act.

3           They are to keep the books of monies received,  
4 what type of funds they are, A, B, C, or D-type of  
5 funds. And they are to render an accounting and make  
6 settlement on behalf of the county. Specifically, a  
7 treasurer is ordered, pursuant to statute, that when an  
8 order is received from the county board, the treasurer  
9 shall personally countersign and examine the records of  
10 the county board orders to make sure that the county  
11 board has in fact issued an order for payment of a  
12 bill. They are to make payments in accordance with an  
13 order of the county board, 55 ILCS 5/3-10014.

14           In addition, they are to maintain a petty cash  
15 form, keep records of deposits, and file annual reports  
16 of interest earned, et cetera. All of these are  
17 outlined, specifically, statutorily duties of the  
18 treasurer. And in reviewing that, and as argued here  
19 by the plaintiff in 20-LM-22, and as confessed by the  
20 county board in that same case and also in the  
21 companion case, there is not a duty by the treasurer to  
22 oversee or to monitor or to police the county board.  
23 That they are -- once a order is entered by the county  
24 board for payment of a bill, the treasurer is to do

1 that. And as argued, the reason why I took -- in  
2 stating this and making it clear is because as argued  
3 by counsel here today, the office of treasurer is one  
4 of the offices that clearly sets forth the provision of  
5 what the county board can do if a treasurer fails to  
6 perform the duties as set out by statute.

7           And the reason I'm bringing that up is because  
8 that is not something that the legislature would have  
9 instated if, in fact, their intention was that the  
10 treasurer was in fact a hand at a county board and  
11 could in fact determine and make sure that the county  
12 board is acting appropriately. The place and time for  
13 the arguments to have been made as to whether or not  
14 Mr. Flynn's bill was appropriate was at the time when  
15 it was presented to the county board through its  
16 financial committee. Whether or not they recommended  
17 that payment to have been made and that step was taken.  
18 There was no objection to it at that time from --  
19 according to the pleadings. That there was no  
20 objection raised until such time as this bill was  
21 presented to the treasurer for payment.

22           Taking all of that into consideration, it is  
23 the finding of this Court here today that in fact the  
24 Motion for Summary Judgment on behalf of the plaintiff



1 in 20-LM-22, and also in the companion case, is  
2 appropriate and I am entering summary judgment on  
3 behalf of the plaintiff and against the Shelby County  
4 Board and Erica Firnhaber, and also the private  
5 Mr. Bennett who has filed on behalf of him own --  
6 himself as a resident of Shelby County.

7 That is the Court's ruling here today. That  
8 will conclude the matter. Any questions, Mr. Flynn,  
9 regarding the Court's ruling?

10 MR. FLYNN: Only just, Judge, that two things. I  
11 did ask in my prayer for relief to be reimbursed for  
12 the telephone conference expense. I have the  
13 conference expenses if you'd like it as part of the  
14 court record. That total -- if you recall, the circuit  
15 clerk asked me to generate three different conference  
16 calls. So I used a conference -- telephone conference  
17 service for that and that expense is \$44.16. I  
18 indicated my court costs were \$306.25. My total prayer  
19 for relief is \$15,794.84. And I'd like to take  
20 Mr. Koester up on his offer, that subject to the  
21 Court's ruling, I receive a check shortly after we --  
22 we conclude these proceedings. And I have copies of  
23 these bills if you'd like it for the court file.

24 THE COURT: All right. Mr. Miller, do you wish to

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
FIFTH JUDICIAL DISTRICT  
FROM THE CIRCUIT COURT OF THE 4TH JUDICIAL CIRCUIT  
SHELBY COUNTY, ILLINOIS

MARK BENNETT	)	
	)	Case No. 2020-MR-35
Plaintiff,	)	
	)	Circuit Judge: Kim Koester
vs.	)	
	)	Notice of Appeal: November 04, 2020
SHELBY COUNTY BOARD; EDWARD	)	
FLYNN; FEATHERSTUN, GAUMER,	)	Judgment Date: October 30, 2020
STOCKS, FLYNN & ECK, LLP	)	
	)	
Defendants.	)	
<hr/>		
FLYNN; FEATHERSTUN, GAUMER,	)	Case No. 2020-LM-22
STOCKS, FLYNN & ECK, LLP	)	
	)	Circuit Judge: Kim Koester
Plaintiff,	)	
	)	Notice of Appeal: November 04, 2020
vs.	)	
	)	Judgment Date: October 30, 2020
SHELBY COUNTY,	)	
ERICA FIRNHABER	)	
	)	
Defendants.	)	

**NOTICE OF APPEAL**

An appeal is hereby taken from the final judgment entered in the above-entitled consolidated causes.

Appellant's Name: Mark Bennett

The Name and Address of Appellant's Attorney:

Name: Thomas DeVore & Silver Lake Group, Ltd.  
Address: 118 N. 2<sup>nd</sup> St., Greenville, IL 62246  
Telephone: 618-664-9439

The Cause of Action: Breach of Contract/Declaratory Judgment

Nature of Order from which appeal is taken:

Final judgment granting summary judgment in favor of Edward Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP on the consolidated cases.

Date Entered: October 30, 2020

Finding: The trial court found that no material issue of fact existed and Edward Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP were entitled to judgment as a matter of law.

Date: September 04, 2020

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By: /s/ Thomas DeVore  
Thomas G. DeVore  
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**CERTIFICATE OF SERVICE**

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF BOND        )

The undersigned hereby certifies, pursuant to the provisions of 735 ILCS 5/1-109, and the penalties therein provided, that a copy of the foregoing instrument was served upon each of the parties hereinafter set forth by electronic mail in Greenville, Illinois on November 04, 2020:

Mr. Edward f. Flynn  
Featherstun, Gaumer, Stocks, Flynn & Eck, LLP  
eflynn@decatour.legal

Mr. Chad Miller  
jcsa04@hotmail.com

Mr. Andrew T. Koester  
claycosa@msn.com

and that the original was filed with the Clerk of the Court in which said cause is pending.

/s/ Thomas DeVore  
Thomas G. DeVore  
IL Bar No. 06305737

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
 FIFTH JUDICIAL DISTRICT  
 FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT  
 SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS, FLYNN	)	
Plaintiff/Petitioner	)	Reviewing Court No: 5-20-0371
	)	Circuit Court No: 2020LM22
	)	Trial Judge: Kimberly G Koester
v	)	
	)	
	)	
SHELBY COUNTY ET AL	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS  
 FIFTH JUDICIAL DISTRICT  
 FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT  
 SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS, FLYNN	)	
Plaintiff/Petitioner	)	Reviewing Court No: 5-20-0371
	)	Circuit Court No: 2020LM22
	)	Trial Judge: Kimberly G Koester
v	)	
	)	
	)	
SHELBY COUNTY ET AL	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS  
FIFTH JUDICIAL DISTRICT  
FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT  
SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS, FLYNN	)	
Plaintiff/Petitioner	)	Reviewing Court No: 5-20-0371
	)	Circuit Court No: 2020LM22
	)	Trial Judge: Kimberly G Koester
v	)	
	)	
	)	
SHELBY COUNTY ET AL	)	
Defendant/Respondent	)	

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No. 5-20-0371  
IN THE APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

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<b>FEATHERSTUN, GAUMER, STOCKS</b>	)	
<b>FLYNN AND ECK, LLP</b>	)	
	)	<b>NO. 5-20-0371</b>
	)	
<b>Plaintiffs/Appellees,</b>	)	<b>Appeal from the Circuit Court</b>
	)	<b>of Shelby County, Illinois</b>
	)	
<b>vs.</b>	)	
	)	<b>Shelby County Circuit Court</b>
<b>SHELBY COUNTY and ERICA</b>	)	<b>Cause No: 20-LM-22</b>
<b>FURNHABER, Shelby County</b>	)	
<b>Treasure</b>	)	
	)	
<b>Defendants/Appellants.</b>	)	<b>Hon. Kimberly Koester</b>

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**CERTIFICATE OF COMPLIANCE**

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I, the undersigned, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 12 pages.

By: /s/ Thomas DeVore  
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No. 5-20-0371  
IN THE APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

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<b>FEATHERSTUN, GAUMER, STOCKS</b>	)	
<b>FLYNN AND ECK, LLP</b>	)	
	)	<b>NO. 5-20-0371</b>
	)	
<b>Plaintiffs/Appellees,</b>	)	<b>Appeal from the Circuit Court</b>
	)	<b>of Shelby County, Illinois</b>
	)	
<b>vs.</b>	)	
	)	<b>Shelby County Circuit Court</b>
<b>SHELBY COUNTY and ERICA</b>	)	<b>Cause No: 20-LM-22</b>
<b>FURNHABER, Shelby County</b>	)	
<b>Treasure</b>	)	
	)	
<b>Defendants/Appellants.</b>	)	<b>Hon. Kimberly Koester</b>

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**CERTIFICATION OF SERVICE**

I, Thomas DeVore, hereby state that on the 4<sup>th</sup> Day of February, 2020, I electronically filed the following:

**BRIEF AND ARGUMENT OF  
APPELLANT MARK BENNETT**

from Greenville, IL to the following Court:

John J. Flood, Clerk  
Appellate Court, 5<sup>th</sup> Circuit  
14<sup>th</sup> & Main Street  
Mt. Vernon, Illinois 62864-0018

And I did on that same date send an electronic copy to the following attorneys of record, at the following address:

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