

No. 5-20-387  
IN THE APPELLATE COURT OF THE STATE OF ILLINOIS  
FIFTH DISTRICT

SHELBY COUNTY AND ERICA	)	
FIRNHABER, not individually, but in her	)	
official capacity as Shelby County	)	Appeal from the 4 <sup>th</sup> Judicial Circuit Court
Treasurer,	)	
	)	Shelby County, Illinois
Defendants/Appellants,	)	Circuit Court Case No. 20-LM-22
v.	)	
	)	Trial Judge Kimberly Koester
FEATHERSTUN, GAUMER, STOCKS	)	
FLYNN & ECK, LLP,	)	
	)	
Plaintiffs/Appellees.	)	

---

**APPELLANT’S BRIEF**

---

Robert T. Hanlon, Attorney No. 6286331  
Law Offices of Robert T. Hanlon & Assoc., P.C.  
131 East Calhoun Street  
Woodstock, IL 60098  
Phone: (815) 206-2200  
Facsimile: (815) 206-6184  
E-mail: [robert@robhanlonlaw.com](mailto:robert@robhanlonlaw.com)

*Counsel for Firnhaber, Defendant/Appellant*

---

**ORAL ARGUMENT REQUESTED**

---

## **TABLE OF CONTENTS**

<b>POINTS AND AUTHORITIES.....</b>	<b>ii</b>
<b>STATEMENT OF JURISDICTION.....</b>	<b>1</b>
<b>STANDARD OF REVIEW.....</b>	<b>2</b>
<b>APPLICABLE STATUTES .....</b>	<b>3</b>
<b>ISSUES PRESENTED FOR REVIEW.....</b>	<b>4</b>
<b>NATURE OF THE CASE.....</b>	<b>5</b>
<b>STATEMENT OF FACTS.....</b>	<b>6</b>
<b>ARGUMENT.....</b>	<b>7</b>
<b>A) Introduction.....</b>	<b>7</b>
<b>B) Discussion Related to Granting of Summary Judgment and Error         Below.....</b>	<b>7</b>
<b>C) Plaintiff Moved for Summary Judgment Under the Wrong Code         Section.....</b>	<b>10</b>
<b>D) Plaintiff Failed to Meet its Burden on Breach of Contract (Count I).</b>	<b>11</b>
<b>E) Application of Law Fails for Quantum Meruit Claim.....</b>	<b>13</b>
<b>F) Ashton v Cook County Negates any Quantum Meruit Claim.....</b>	<b>14</b>
<b>G) Issuance of Writ of Mandamus was Error.....</b>	<b>15</b>
<b>H) Exception to the Mootness Doctrine.....</b>	<b>15</b>
<b>CONCLUSION.....</b>	<b>19</b>

## **APPENDIX**

### **PART I**

#### **REPORT OF PROCEEDINGS – TABLE OF CONTENTS**

2020-LM-22 SHELBY COUNTY-MOTION SUM JDGMNT JGETZ	R2-R67
--------------------------------------------------	--------

### **PART II**

#### **COMMON LAW RECORD – TABLE OF CONTENTS**

COMPLAINT	C9-C28
-----------	--------

AMENDED COMPLAINT	C30-C50
-------------------	---------

ANSWER TO AMENDED COMPLAINT	C95-C99
-----------------------------	---------

MOTION FOR SUMMARY JUDGMENT	C58-C65
-----------------------------	---------

AFFIDAVIT OF STATES ATTORNEY	C7-C70
------------------------------	--------

AMENDED MOTION FOR SUMMARY JUDGMENT	C75-C78
-------------------------------------	---------

AMENDED MOTION FOR SUMMARY JUDGMENT	C79-C86
-------------------------------------	---------

RESPONSE TO MOTION FOR SUMMARY JUDGMENT	C101-C105
-----------------------------------------	-----------

NOTICE OF APPEAL	C117-C118
------------------	-----------

ORDER APPEALED DATED	R55-R67
----------------------	---------

RECORD ON APPEAL	APPENDIX PART II
------------------	---------------------

**CERTIFICATE OF COMPLIANCE**

**CERTIFICATE OF SERVICE**

## **POINTS AND AUTHORITIES**

<b><u>CASES</u></b>	<b><u>PAGES</u></b>
<b><i>Ashton v. Cook County,</i></b> 384 Ill. 287, 51 N.E.2d 161 (1943).....	14
<b><i>Bier v. Leanna Lakeside Property Ass'n,</i></b> 305 Ill. App. 3d 45, 50, 711 N.E.2d 773, 238 Ill. Dec. 386 (1999)	7
<b><i>Bonaguro v. County Officers Electoral Board,</i></b> 158 Ill. 2d 391, 395 (1994).....	15-18
<b><i>Chatham Foot Specialists, P.C. v. Health Care Service Corp.,</i></b> 216 Ill. 2d 366, 376, 837 N.E.2d 48, 297 Ill. Dec. 268 (2005).....	8
<b><i>Cinkus v. Vill. of Stickney,</i></b> 2008 Lexis 294 (2008).....	16-18
<b><i>Crestview Builders, Inc. v. Noggle Family Ltd. Partnership,</i></b> 352 Ill. App. 3d 1182, 1184, 816 N.E.2d 1132, 287 Ill. Dec. 921 (2004).....	8
<b><i>Felzak v Hruby,</i></b> 226 Ill. 2d 382 at 393.(2007).....	
<b><i>First American Bank v. Poplar Creek, LLC,</i></b> 2020 IL App (1st) 192450, (November 23, 2020).....	2
<b><i>First National Bank of Springfield v. Malpractice Research, Inc.,</i></b> 179 Ill.2d 353, 365, 228 Ill.Dec. 202, 688 N.E.2d 1179, 1185 (1997).....	13
<b><i>Goodman v. Ward,</i></b> 241 Ill.2d 398 (2011).....	17
<b><i>Hayes Mech., Inc. v. First Indus., L.P.,</i></b> 351 Ill. App. 3d 1, 9, 812 N.E.2d 419, 426, 2004 Ill. App. LEXIS 693, *17, 285 Ill. Dec. 599, 606.....	13
<b><i>Henderson-Smith &amp; Associates, Inc. v. Nahamani Family Service Center, Inc.,</i></b> 323 Ill. App. 3d 15, 27, 752 N.E.2d 33, 256 Ill. Dec. 488 (2001).....	11
<b><i>HPI Health Care Services, Inc. v. Mt. Vernon Hospital, Inc.,</i></b> 131 Ill.2d 145, 160, 137 Ill.Dec. 19, 545 N.E.2d 672, 679 (1989)....	13



<b><i>In re A Minor,</i></b> 127 Ill. 2d 247, 255, 537 N.E.2d 292, 130 Ill. Dec. 225 (1989).....	16
<b><i>Kurczak v. Cornwell,</i></b> 359 Ill. App. 3d 1051, 1059, 835 N.E.2d 452, 296 Ill. Dec. 418 (2005).....	
<b><i>Lucas v. Laskin,</i></b> 175 Ill. 2d 166, 170, 676 N.E.2d 637, 221 Ill. Dec. 834 (1997).....	16-18
<b><i>Medina v. Air-Mite Devices, Inc.</i></b> 161 Ill. App. 3d 502, 509, 515 N.E.2d 770, 113 Ill. Dec. 785 (1987)..	11
<b><i>Morris v. Margulis (1987),</i></b> 197 Ill. 2d 28, 35, 754 N.E.2d 314, 257 Ill. Dec. 656 (2001).....	10-12
<b><i>Northern Illinois Emergency Physicians v. Landau, Omahana &amp; Kopka, Ltd.,</i></b> 216 Ill. 2d 294, 305-06, 837 N.E.2d 99, 297 Ill. Dec. 319 (2005)...	7
<b><i>Orenic v. Illinois State Labor Relations Board,</i></b> 127 Ill. 2d 453, 467-68, 130 Ill. Dec. 455, 537 N.E.2d 784 (1989)..	15
<b><i>Partipilo v. Hallman,</i></b> 156 Ill.App.3d 806, 810, 109 Ill.Dec. 387, 510 N.E.2d 8, 11 (1987)..	13
<b><i>People v. Shelby R. (In re Shelby R.),</i></b> 2013 IL 114994, P40, 995 N.E.2d 990, 2013 Ill. LEXIS 858, 374 Ill. Dec. 493, 502.....	18
<b><i>Pesticide Public Police Foundation v. Village of Wauconda,</i></b> 117 Ill. 2d 107, 112, 510 N.E.2d 858, 861, 109 Ill. Dec. 790 (1987)...	9
<b><i>Rutledge v. Housing Authority of the City of East St. Louis,</i></b> 88 Ill.App.3d 1064, 1068–69, 44 Ill.Dec. 176, 411 N.E.2d 82, 86 (1980).....	13, 14
<b><i>Senn Park Nursing Center v. Miller,</i></b> 104 Ill. 2d 169, 182, 83 Ill. Dec. 609, 470 N.E.2d 1029 (1984).....	15
<b><i>Somoye v. Klein,</i></b> 349 Ill. App. 3d 209, 212, 811 N.E.2d 296, 285 Ill. Dec. 55 (2004)...	7
<b><i>Tim Thompson, Inc. v. Village of Hinsdale,</i></b> 247 Ill. App. 3d 863, 871, 617 N.E.2d 1227, 1234, 187 Ill. Dec. 506, 513.....	11

<b><i>Timan v. Ourada,</i></b> 972 N.E.2d 744, 751, 2012 Ill. App. LEXIS 533, 2012 IL App (2d) 100834, P24, 362 Ill. Dec. 29, 36 (2012).....	11
<b><i>Walter v. Board of Education of Quincy School District No.</i></b> 172, 93 Ill. 2d 101, 105, 66 Ill. Dec. 309, 442 N.E.2d 870 (1982)...	15
<b><i>Wisnasky-Bettorf v. Pierce,</i></b> 2012 IL 111253, ¶ 12, 965 N.E.2d 1103, 358 Ill. Dec. 624.....	19
 <b><u>STATUTES</u></b>	
55 ILCS 5/3-10014.....	3, 8
735 ILCS 5/2-1005(b).....	3, 10
55 ILCS 5/3-10005.....	3, 9
55ILCS5/4-2003.....	3
 <b><u>TREASTISES</u></b>	
66 Am.Jur.2d. <i>Restitution and Implied Contracts</i> § 6 (2001).....	13, 14

## **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. (See R55-65) A timely Notice of Appeal was filed on November 06, 2020 (C117).

## **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**

Plaintiff brought its Motion for Summary Judgment pursuant to:

(735 ILCS 5/2-1005(b))

(b) For defendant. A defendant may, at any time, move with or without supporting affidavits for a summary judgment in his or her favor as to all or any part of the relief sought against him or her.

(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 equal 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.)

(55 ILCS 5/3-10005) (from Ch. 34, par. 3-10005)

Sec. 3-10005. Functions, powers and duties of treasurer. The treasurer has those functions, powers and duties as provided in the Sections following this Section and preceding Section 3-10006. He shall receive and safely keep the revenues and other public moneys of the county, and all money and funds authorized by law to be paid to him, and disburse the same pursuant to law. He shall appoint his deputies, assistants and personnel to assist him in the performance of his duties. His deputies shall take and subscribe the same oath for the discharge of their duties as is required of him, which oath shall be entered of record in the office of the county clerk. The Treasurer shall, in all cases, be responsible for the acts of his deputies. The functions and powers of the county treasurers shall be uniform in the various counties of this State.

55 ILCS 5/3-10014

**ISSUES PRESENTED FOR REVIEW**

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

### **NATURE OF THE CASE**

Plaintiff, a law firm, Featherstun, Gaumer, Stocks, Flynn and Eck, LLP, brought an action containing three counts. Count I was for Breach of Contract, Count II was for Quantum Meruit, and Count III was a complaint for issuance of a Writ of Mandamus against Shelby County Treasurer Erica Firnhaber over what was purported to be an obligation of \$15,444.43. Plaintiff filed an Amended Complaint correcting minor issues with the Complaint on July 13, 2020. The essence of the Complaint is that the County Treasurer Erica Firnhaber (hereinafter “Treasurer”) refused to make payment of a purported contract. The Treasurer’s rationale for not paying the invoice is because she believed the contract was illegal, because the Shelby County Board had not voted on the hiring of Plaintiff in a meeting open to the public. Rather, numerous irregularities existed. The Treasurer alleged the contract was entered into by the Shelby County Board (not the State’s Attorney). Moreover, Plaintiff offers the Affidavit of Gina Vonderheide as proof that Plaintiff was hired by her in her capacity as the then State’s Attorney at the time the purported appointment took place. The Affidavit by former State’s Attorney Vonderheide points to an appointment statute that was not in effect at the time of the purported hiring of Plaintiff.

### **STATEMENT OF THE FACTS**

Plaintiff contends that Plaintiff's partner Edward Flynn was hired by members of the Shelby County Board. Neither the First Amended Complaint nor the Motion for Summary Judgment states which members were involved with these discussions. See First Amended Complaint at paragraph 2. (C.30) Importantly, the claims in this case relate to a purported "Oral Contract" with Shelby County. See First Amended Complaint paragraph 2-6. (C30-31). No written contract between Plaintiff and Shelby County exists and no written contract was attached to the First Amended Complaint or the Motion for Summary Judgment or the Amended Motion for Summary Judgment. No parol evidence is attached to Plaintiff's Amended Motion for Summary Judgment and no Rule 191 Affidavit depicting either the offer or the purported acceptance. No public record is attached to the Motion for Summary Judgment supporting that the Shelby County voted in an open public meeting to retain outside counsel, no Rule 191 Affidavit concerning standard hourly rates in the community, the standard hourly rate of Plaintiff, the definite and specific terms of a contract. The Amended Motion for Summary Judgment itself does not identify which of the three counts summary judgment was sought under. The Amended Motion for Summary Judgment offers no evidence of either contract or breach of contract.



## **ARGUMENT**

### **A) Introduction.**

This Court ought to reverse the Circuit Court's grant of Plaintiff's Amended Motion for Summary Judgment. This is because Plaintiff failed to demonstrate a clear right to the relief in order to obtain summary judgment. Moreover, a material issue of fact existed at the time of the entry of summary judgment. The questions of fact include: (a) under what authority did Plaintiff act, (b) what approval existed at the time of the formation of the purported oral contract, (c) which members of the Shelby County Board purportedly hired Plaintiff, (d) under what authority was Plaintiff actually hired, and (e) did a majority of the Shelby County Board act as it is alleged. In addition, significant legal issues were not briefed and these legal questions are not addressed by the court below. Those legal questions include but are not limited to: Is an oral agreement binding on a county? In the absence of strict compliance with the legislative mandate can a party receive compensation under the theories advanced by Plaintiff?

### **B) Discussion Related to Granting of Summary Judgment and Error Below.**

Because summary judgment is a drastic means of disposing of litigation, a court must exercise extraordinary diligence in reviewing the record so as not to preempt a party's right to fully present the factual basis for its claim." *Northern Illinois Emergency Physicians v. Landau, Omahana & Kopka, Ltd.*, 216 Ill. 2d 294, 305-06, 837 N.E.2d 99, 297 Ill. Dec. 319 (2005); see also *Somoye v. Klein*, 349 Ill. App. 3d 209, 212, 811 N.E.2d 296, 285 Ill. Dec. 55 (2004), quoting *Bier v. Leanna Lakeside Property Ass'n*, 305 Ill. App. 3d 45, 50, 711 N.E.2d 773, 238 Ill. Dec. 386

(1999) (noting that " '[s]ummary judgment is a drastic means of resolving litigation'"). In ruling on a motion for summary judgment, the court must construe the evidence liberally in favor of the nonmoving party and strictly against the moving party. *Chatham Foot Specialists, P.C. v. Health Care Service Corp.*, 216 Ill. 2d 366, 376, 837 N.E.2d 48, 297 Ill. Dec. 268 (2005); *Crestview Builders, Inc. v. Noggle Family Ltd. Partnership*, 352 Ill. App. 3d 1182, 1184, 816 N.E.2d 1132, 287 Ill. Dec. 921 (2004). Summary judgment should be granted only if the right of the moving party is clear and free from doubt. *Morris v. Margulis*, 197 Ill. 2d 28, 35, 754 N.E.2d 314, 257 Ill. Dec. 656 (2001); *Kurczak v. Cornwell*, 359 Ill. App. 3d 1051, 1059, 835 N.E.2d 452, 296 Ill. Dec. 418 (2005). Plaintiff's Amended Motion for Summary Judgment lacks the clarity necessary and fails to demonstrate the right is for such a motion to be granted. Because the proofs must be construed against the movant (Plaintiff) an examination of the proofs is warranted and was not done in this case. In particular, Plaintiff relies upon an affidavit that claims Plaintiff was appointed in 2014 under a statute that was not in existence at that time. The contention that an appointment was made under a statute that did not then exist is demonstrative of the error the court made in construing evidence against the movant. This ought to have been readily resolved against Plaintiff.

When rendering the decision of the Circuit Court, the Court there looked at the statutory framework to ascertain the treasurer's functions, but missed the mark on the appropriate statutory section. The Court sua sponte looked to 55 ILCS 5/3-10014. (R 61) However, the section conveying powers to the treasurer is found in 55 ILCS 5/3-10005. Section 55 ILCS 5/3-10005 provides as follows:

(55 ILCS 5/3-10005) (from Ch. 34, par. 3-10005)

Sec. 3-10005. Functions, powers and duties of treasurer. The treasurer has those functions, powers and duties as provided in the Sections following this Section and preceding Section 3-10006. He shall receive and safely keep the revenues and other public moneys of the county, and all money and funds authorized by law to be paid to him, and disburse the same pursuant to law. He shall appoint his deputies, assistants and personnel to assist him in the performance of his duties. His deputies shall take and subscribe the same oath for the discharge of their duties as is required of him, which oath shall be entered of record in the office of the county clerk. The Treasurer shall, in all cases, be responsible for the acts of his deputies. The functions and powers of the county treasurers shall be uniform in the various counties of this State.

(Source: P.A. 86-962.)

Thus, the Circuit Court was in error because it looked at the wrong code section to ascertain the powers of the treasurer. Since the treasurer has the power to disburse only pursuant to law, it invokes Dillon's Rule. The statutory powers of an office are governed by "Judge Dillon's Rule," which was applicable to all units of local government in Illinois under the 1970 Constitution. Under Dillon's Rule, a non-home-rule unit or a statutory officer may exercise only those powers specifically granted to it or them by the Constitution or by statute. Ill. Const. 1970, art. VII, S6, Constitutional Commentary, at 512 (Smith-Hurd 1993). "Under **[Dillon's Rule]**, non-home-rule municipalities may only exercise powers granted by law or by the Illinois Constitution." Id. Non-home-rule municipalities possess "only those powers expressly granted, powers incident to those expressly granted, and powers indispensable to the accomplishment of the declared objects and purposes of the municipal corporation." *Pesticide Public Police Foundation v. Village of Wauconda*, 117 Ill. 2d 107, 112, 510 N.E.2d 858, 861, 109 Ill. Dec. 790 (1987). That decision was followed by this District in a Rule 23 opinion (not cited by Rule.). Under Dillon's Rule, the treasurer by

extension may determine what is or what is not lawful to ascertain if she is to disburse monies because it incident to those specifically authorized powers to disburse only on lawful claims. In this case, there was no Shelby County Board meeting to hire Plaintiff, no roll call vote, no agenda and no documentation that Plaintiff was lawfully hired by the Shelby County, and no documentation that a contract was formed with the State's Attorney. Thus, in application of Dillon's Rule, the treasurer has the power to ascertain if the bill is lawful or not. Accordingly in granting summary judgment the Court's sua sponte investigation was obvious error. Based on that error, this Court ought to reverse the grant of summary Judgement.

**C) Plaintiff moved for Summary Judgment under the Wrong Code Section.**

Plaintiff moved for summary judgment under 735 ILCS 5/2-1005(b). (C 75)

That section of the code of civil procedure states as follows:

(b) For defendant. A defendant may, at any time, move with or without supporting affidavits for a summary judgment in his or her favor as to all or any part of the relief sought against him or her.

Here, Plaintiff moved for summary judgment under a code section reserved for defendants. Accordingly, the Circuit Court ought to have rejected the Amended Motion for Summary Judgment on its face because it does not contain the proper code section. Thus, the exacting standard showing that the right to the relief was clear and free from doubt required under *Morris v Margulis* and *Kurczak v Cornwell*, could not have been followed by the Circuit Court as it granted a motion under a code section reserved for a defendant for Plaintiff. The court which articulated its decision from the bench orally only. See (Report of Proceedings, pg R59). In rendering the decision, the Circuit Court uses the following phrases: "I assume", "I don't know", "It

could have been” and “And I assume since I’ve not been advised”. These phrases are indicia of Plaintiff’s failure to meet the burden required for summary judgment and the court was aware that the burden was not met. Otherwise the court would have articulated something along the lines of “we know X because of Z”. Instead of demanding the Amended Motion for Summary Judgment be supported with facts, the Circuit Court substitutes the burden imposed upon the plaintiff with its own conjecture.

**D. Plaintiff Failed to Meet its Burden on Breach of Contract (Count I).**

The burden is on Plaintiff to establish a clear right to summary judgment. The nonmoving party is under no obligation to prove its case; it logically follows that the standard of proof cannot be operative. (Cf. *Medina v. Air-Mite Devices, Inc.* (1987), 161 Ill. App. 3d 502, 509, 515 N.E.2d 770, 113 Ill. Dec. 785 ("manifest weight of the evidence is only supportive of a determination that has been made by the trier of fact, but has no bearing to summary judgment").) *Tim Thompson, Inc. v. Village of Hinsdale*, 247 Ill. App. 3d 863, 871, 617 N.E.2d 1227, 1234, 1993 Ill. App. LEXIS 1068, \*15, 187 Ill. Dec. 506, 513. That is, Plaintiff has the burden to establish his claim first. In doing so, in a breach of contract case, a plaintiff must offer facts and evidence on the elements for a claim of a breach of contract which are: (1) the existence of a valid and enforceable contract; (2) performance by the plaintiff; (3) breach of contract by the defendant; and (4) resultant injury to the plaintiff.” *Henderson-Smith & Associates, Inc. v. Nahamani Family Service Center, Inc.*, 323 Ill. App. 3d 15, 27, 752 N.E.2d 33, 256 Ill. Dec. 488 (2001). *Timan v. Ourada*, 972

N.E.2d 744, 751, 2012 Ill. App. LEXIS 533, \*16, 2012 IL App (2d) 100834, P24, 362 Ill. Dec. 29, 36.

Here, Plaintiff does nothing to supply any evidence, parol or otherwise to substantiate the elements of a contract. Nothing to support that there was an offer and acceptance, and definite and specific terms. Here, Plaintiff does not sync its Amended Motion for Summary Judgment to the First Amended Complaint that was before the Circuit Court. Plaintiff relies upon the affidavit of the former State's Attorney to establish an appointment as a Special Assistant State's Attorney. This appointment is not documented in any way outside of the questionable affidavit and the affidavit does not articulate when the purported appointment took place. Thus, the right of Plaintiff to be entitled to the drastic remedy of summary judgment before any active discovery or even the deposition of Plaintiff is not free from all doubt as required under *Morris v Margulis* and *Kurczak v Cornwell*. Assuming the former State's Attorney's Affidavit is true, a fact Defendant Treasurer believes, upon discovery, will be shown to be false or at least substantially inaccurate, the Affidavit does nothing to establish the definite and specific terms of a contract. How exactly was the rate of compensation arrived at? Where in the Affidavit are the facts to support that the hours expended were reasonable and necessary for the work completed.

Plaintiff also states that "the undersigned and her assistant routinely work hand in hand with the Sheriff's Department and its staff regarding criminal prosecutions. (C.59) The first "undersigned" is Plaintiff's attorney, Edward Flynn.<sup>1</sup> While Plaintiff may have intended to reference the State's Attorney, they effectively pled that they

---

<sup>1</sup> But see rules of Professional Conduct prohibiting an attorney from being a witness and an attorney in the same case.

were incompetent to perform the services provided by being sloppy with their Amended Motion for Summary Judgment.

**E. Application of Law Fails for Quantum Meruit Claim.**

In *Hayes Mechanical Inc., v First Industrial, L.P.* the Illinois Appellate Court, uses the terms Quantum Meruit and Unjust Enrichment synonymously. 351 Ill.App3d 1, at 15. A quasi-contract, or contract implied in law, is one in which no actual agreement between the parties occurred, but a duty is imposed to prevent injustice. 66 Am.Jur.2d. *Restitution and Implied Contracts* § 6 (2001). The prevention of unjustness is the fundamental aspect of the doctrine of quasi-contracts. *Rutledge v. Housing Authority of the City of East St. Louis*, 88 Ill.App.3d 1064, 1068–69, 44 Ill.Dec. 176, 411 N.E.2d 82, 86 (1980). Quasi-contract claims include unjust enrichment and *quantum meruit* actions. See 66 Am.Jur.2d. *Restitution and Implied Contracts* §§ 2, 8 (2001). The two types of actions are similar, in that the plaintiff must show that valuable services or materials were furnished by the plaintiff, received by the defendant, under circumstances which would make it unjust for the defendant to retain the benefit without paying. See generally *HPI Health Care Services, Inc. v. Mt. Vernon Hospital, Inc.*, 131 Ill.2d 145, 160, 137 Ill.Dec. 19, 545 N.E.2d 672, 679 (1989); *Partipilo v. Hallman*, 156 Ill.App.3d 806, 810, 109 Ill.Dec. 387, 510 N.E.2d 8, 11 (1987); *First National Bank of Springfield v. Malpractice Research, Inc.*, 179 Ill.2d 353, 365, 228 Ill.Dec. 202, 688 N.E.2d 1179, 1185 (1997).

In a *quantum meruit* action, the measure of recovery is the reasonable value of work and material provided, whereas in an unjust enrichment action, the inquiry focuses on the benefit received and retained as a result of the improvement

provided. 66 Am.Jur.2d *Restitution and Implied Contracts* § 9 (2001). Notably, even when a person has received a benefit from another, he is liable for payment “ ‘only if the circumstances of its receipt or retention are such that, as between the two persons, it is unjust for him to retain it. The mere fact that a person benefits another is not of itself sufficient to require the other to make restitution therefor.’ ” *Rutledge*, 88 Ill.App.3d at 1069, 44 Ill.Dec. 176, 411 N.E.2d at 86, quoting Restatement of Restitution § 1, Comment c (1937).

In this case, Plaintiff never discussed the issue of application of the law for quantum meruit relief. He discusses neither the value or market for his services nor the benefit received by Shelby County. The court is in error if the cause of action requires a value determination and no value evidence is advanced. It is also important to note that value is not equal to the cost of anything and depends on the value definition used. According to the Appraisal of Real Estate cost and value are not equal. Accordingly because summary Judgment mandates a clear right to the relief both causes of action in quasi-contract fail because Plaintiff did not advance any evidence on the value of their services. It is therefore impossible that summary judgment could have been advanced on either theory of quasi contractual relief. Likewise, Plaintiff never discussed the legal arguments for application of the requirements of unjust enrichment.

**F. Ashton v Cook County Negates any Quantum Meruit Claim.**

*Ashton v. Cook County*, 384 Ill. 287, 51 N.E.2d 161 (1943) stands for the proposition that. only the legislature can authorize the hiring of third parties and quantum meruit principles will not support a payment for services rendered. *Id.* The



reasoning is fairly simple, in order for our government to interact with its citizens it is necessary that the business of the government be conducted openly with decisions made by the people in a majority setting. This cannot happen if the courts imply a contract at law. It is completely clear that the only two basis for asserting a claim of money made in this case was under the theory of an implied contract or an oral agreement with unspecified members of the Shelby County Board. Thus, mandamus fails as the Plaintiff cannot establish a clear right to the relief sought and under *Ashton* the idea of quantum meruit fails completely.

#### **G. Issuance of the Writ of Mandamus was Error.**

A writ of mandamus is an extraordinary remedy that will not be granted unless plaintiff can show a clear, affirmative right to relief, a clear duty of the defendant to act, and clear authority in the defendant to comply with the writ. *Orenic v. Illinois State Labor Relations Board*, 127 Ill. 2d 453, 467-68, 130 Ill. Dec. 455, 537 N.E.2d 784 (1989); *Senn Park Nursing Center v. Miller*, 104 Ill. 2d 169, 182, 83 Ill. Dec. 609, 470 N.E.2d 1029 (1984); *Walter v. Board of Education of Quincy School District No. 172*, 93 Ill. 2d 101, 105, 66 Ill. Dec. 309, 442 N.E.2d 870 (1982).

The Circuit Court committed error on writ of mandamus because Plaintiff failed to provide a clear, affirmative right to relief, and a clear duty to act on the part of Defendant, Treasurer.

#### **H. Exception to the Mootness Doctrine.**

The Illinois Supreme Court has applied the public interest exception where matters are otherwise moot and it is anticipated that Plaintiff will attempt to invoke this doctrine because the order on mandamus was followed. In *Bonaguro v. County*

*Officers Electoral Board*, 158 Ill. 2d 391, 395 (1994), *Bonaguro* sought judicial review of the electoral board's decision in the Circuit Court of Cook County. There the Supreme Court noted, as did the Appellate Court, the obvious fact that the November 1992 election has already occurred, and also that *Bonaguro* won. However, they agreed with the Appellate Court that this cause was not moot, finding one exception to the mootness doctrine which allows a court to resolve an otherwise moot issue if the issue involves a substantial public interest. See *Bonaguro* at 395.

In the case at bar, a substantial public interest question relates to the powers of the Treasurer to ascertain whether or not a bill is lawful in order to be paid.

Similarly, in *Cinkus v. Vill. of Stickney*, 2008 Lexis 294 (2008), the court addressed a preliminary mootness matter raised by stating the following:

“Esposito invites us to declare this case moot. A case on appeal becomes moot where the issues presented in the trial court no longer exist because events subsequent to the filing of the appeal render it impossible for the reviewing court to grant the complaining party effectual relief. *In re A Minor*, 127 Ill. 2d 247, 255, 537 N.E.2d 292, 130 Ill. Dec. 225 (1989) (collecting cases). In this case, the April 17, 2007, election obviously has come and gone. Indeed, Cinkus filed his petition for leave to appeal on the day of the election. According to Esposito, Cinkus sought to have his name placed on the April 17, 2007, ballot and that is no longer possible.

However, one exception to the mootness doctrine allows a court to resolve an otherwise moot issue if that issue involves a substantial public interest. The criteria for application of the public interest exception are: (1) the question presented is of a public nature; (2) an authoritative resolution of the question is desirable to guide public officers; and (3) the question is likely to recur. *Lucas v. Lakin*, 175 Ill. 2d 166, 170, 676 N.E.2d 637, 221 Ill. Dec. 834 (1997); *A Minor*, 127 Ill. 2d at 257. A clear showing of each criterion is necessary to bring a case within the public interest exception. *Bonaguro v. County Officers Electoral Board*, 158 Ill. 2d 391, 395, 634 N.E.2d 712, 199 Ill. Dec. 659 (1994). The present case meets this test. This appeal raises a question of election law, which inherently is a matter of public concern. Also, this issue is likely to recur in a future municipal

election. Being in arrears of a debt owed to a municipality can involve common items, such as unpaid parking tickets or village utility bills. Thus, an authoritative resolution of the issue is desirable to guide public officers. Therefore, we decline to dismiss this appeal as moot. We proceed to additional preliminary matters.  
*Cinkus* at 6-7.

When applying *Cinkus* to the case at bar, a parallel set of facts exists with the application of the mootness doctrine and its exceptions. In particular, the complained of relief sought payment and payment was had but only because of the Circuit Court's erroneous order. Here, the question involves a substantial public interest related to the powers of the county treasurer in determining for himself whether or not a bill is lawful.

In *Goodman v. Ward*, 241 Ill.2d 398 (2011), the issue in the case was whether a candidate who seeks the office of circuit judge in a judicial subcircuit must be a resident of that subcircuit at the time he or she submits a petition for nomination to the office. In this case both the primary and general elections had passed, and the vacancy involved in the case had been filled, the court considered whether the case was moot.

*See Goodman* at 403 & 404. The Court stated:

The public interest exception permits a court to reach the merits of a case which would otherwise be moot if the question presented is of a public nature, an authoritative resolution of the question is desirable for the purpose of guiding public officers, and the question is likely to recur. *Bonaguro v. County Officers Electoral Board*, 158 Ill. 2d 391, 395, 634 N.E.2d 712, 199 Ill. Dec. 659 (1994). All three factors are present here. The instant appeal raises a question of election law which, inherently, is a matter of public concern *Lucas v. Lakin*, 175 Ill. 2d 166, 170, 676 N.E.2d 637, 221 Ill. Dec. 834 (1997). With the establishment and addition of subcircuits, disputes over residency requirements for subcircuit vacancies are likely to arise in future cases. Moreover, a definitive ruling by this court will unquestionably aid election officials and lower courts in deciding such disputes promptly, avoiding the uncertainty in the electoral process which inevitably results when threshold eligibility questions cannot be fully resolved before voters

begin casting their ballots. We will therefore proceed to the merits of the appeal.

*See Goodman* at 403-04.

*Bonaguro, Cinkus, Goodman, and Lucas v. Laskin*, 175 Ill. 2d 166, 170, 676 N.E.2d 637, 221 Ill. Dec. 834 (1997), stand for the proposition that this Court ought to apply the public interest exception to the mootness doctrine. The public interest exception should be used where all three criteria have been satisfied.

The requirements are addressed below. Plaintiff has satisfied all three criteria, therefore, the public interest exception should be applied here, and Plaintiff's Amended Motion for Summary Judgment should be denied.

The Illinois Supreme Court in *People v. Shelby R. (In re Shelby R.)*, 2013 IL 114994, P40, 995 N.E.2d 990, 2013 Ill. LEXIS 858, 374 Ill. Dec. 493, 502, 2013 WL 5278442 stated:

Since our formal adoption of the public interest exception in *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 622, 104 N.E.2d 769 (1952), this court has reviewed a variety of otherwise moot issues under this exception. See, e.g., *In re E.G.*, 133 Ill. 2d 98, 549 N.E.2d 322, 139 Ill. Dec. 810 (1989) (whether a minor has the right to refuse medical treatment); *Bonaguro v. County Officers Electoral Board*, 158 Ill. 2d 391, 634 N.E.2d 712, 199 Ill. Dec. 659 (1994) (whether a political party may fill a vacancy in nomination for judicial office by party resolution); *Roberson*, 212 Ill. 2d 430, 819 N.E.2d 761, 289 Ill. Dec. 265 (whether a defendant is entitled to a credit on a violation-of-bail-bond sentence for time spent in custody awaiting trial on the underlying charge that was dismissed); *In re Christopher K.*, 217 Ill. 2d 348, 841 N.E.2d 945, 299 Ill. Dec. 213 (2005) (whether the law of-the-case doctrine bars consideration of an extended juvenile jurisdiction motion after the denial of a discretionary transfer motion is affirmed on appeal); *Wirtz v. Quinn*, 2011 IL 111903, 953 N.E.2d 899, 352 Ill. Dec. 218 (whether an appropriations bill impermissibly contained substantive law).

The public interest exception to the mootness doctrine is narrowly construed, and “requires a clear showing of each of the following criteria: (1) the question presented is of a public nature; (2) an authoritative determination of the question is desirable for the future guidance of public officers; and (3) the question is likely to recur.

*Wisnasky-Bettorf v. Pierce*, 2012 IL 111253, ¶ 12, 965 N.E.2d 1103, 358 Ill. Dec. 624; *Felzak*, 226 Ill. 2d at 393.” *Id.* at 16.

Here, all three criteria are met in this case because the question is clearly of a public nature and an authoritative determination of the question is desirable for the guidance of public officers and the issue is likely to occur again, and thus the public interest exception should be applied to this case.

### **CONCLUSION**

Accordingly, this Appellate Court ought to reverse the decision of the Circuit Court to grant summary judgment.

Wherefore, Defendant, ERICA FIRNHABER, prays that this Honorable Court grant the following relief:

- 1) Reverse the decision of the Circuit Court which granted summary judgment and remand this case for further proceedings.

# APPENDIX

- I. Report of Proceedings
- II. Common Law Record

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: 5-20-0387
	)	Circuit Court No: 2020LM22
	)	Trial Judge: Kimberly G Koester
v	)	
	)	
	)	
SHELBY COUNTY ET AL	)	
Defendant/Respondent	)	

**REPORT OF PROCEEDINGS - TABLE OF CONTENTS**

Page 1 of 1

**Date of**

**Proceeding**

**Title/Description**

**Page No**

12/23/2020

2020-LM-22 SHELBY COUNTY-MOTION SUM JUDGMT J GETZ

R 2 - R 67

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

FEATHERSTUN, GAUMER,	)	
STOCKS, FLYNN AND ECK,	)	
LLP,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 2020-LM-22
	)	
SHELBY COUNTY and ERICA	)	
FIRNHABER, Shelby County	)	
Treasurer,	)	
	)	
Defendants.	)	

**MOTION FOR SUMMARY JUDGMENT**

REPORT OF PROCEEDINGS of the hearing before CIRCUIT  
JUDGE KIMBERLY G. KOESTER, on the 30th day of October,  
2020.

**APPEARANCES:**

MR. EDWARD F. FLYNN,  
Attorney at Law,  
with the Plaintiffs;

MR. CHAD M. MILLER,  
Attorney at Law,  
with the County Board;

MR. ANDREW T. KOESTER,  
Attorney at Law,  
with the Treasurer, Ms. Firnhaber.

Jaclyn K. Getz, CSR  
CSR #084004781  
Official Court Reporter  
301 East Main Street  
Shelbyville, Illinois 62565



**TRANSCRIPT OF PROCEEDINGS**

1  
2 THE COURT: All right. The next case I'm going to  
3 call is 20-MR -- or 20-LM-22. That is the case  
4 involving -- and we have two cases. This particular  
5 case is Featherstun, Gaumer, Stocks, Flynn versus  
6 Shelby County. And then we also have a matter that is  
7 entitled 20-MR-35, in which that's Mark Bennett versus  
8 the Shelby County Board and the Featherstun, Gaumer,  
9 Stocks, and Flynn.

10 First of all, in the 20-LM-22, that matter was  
11 actually set for hearing today. There was a Motion to  
12 Consolidate that has been filed, but let me address,  
13 first of all, the parties that are present in 20-LM-22.  
14 And I have for the record.

15 MR. MILLER: And, Judge, if I may? I know you're  
16 announcing the parties --

17 THE COURT: Yes --

18 MR. MILLER: -- but Mr. Koester, if you recall, he  
19 had to go do drug court at 11 for our circuit drug  
20 court program.

21 THE COURT: Okay.

22 MR. MILLER: He's still down there, and he was set  
23 -- he's been here all --

24 THE COURT: I -- yes --

1           MR. MILLER: He was early and he's been set up to  
2 do that. So we're waiting on him to get back up here.  
3 I'm hoping they would have done him first at 11. There  
4 was this other hearing that hopefully gave him the time  
5 to get that accomplished --

6           THE COURT: Okay --

7           MR. MILLER: -- and he should be up here so.

8           THE COURT: All right. Let me get everybody else.  
9 I do agree that we need to wait for Mr. Koester to come  
10 in. I didn't realize he wasn't in here, but I -- first  
11 of all, I have Mr. Flynn present.

12          MR. FLYNN: Yes. Good morning, Your Honor.

13          THE COURT: Good morning.

14          MR. FLYNN: My name is Ed Flynn. When I'm  
15 speaking, may I take my mask off --

16          THE COURT: You do not need to wear your mask when  
17 you're speaking, sir.

18          MR. FLYNN: Okay. Thank you.

19          THE COURT: So you're here on behalf of the  
20 plaintiff in 20-LM-22. You're also here on behalf of  
21 the defendant in 20-MR-35, correct?

22          MR. FLYNN: That's correct. And --

23          THE COURT: All right --

24          MR. FLYNN: -- the motions that are pending are the

1 motions that I filed. And I would respectfully request  
2 that we first address the Motion for Summary Judgment  
3 in 20-LM-22.

4 THE COURT: Okay.

5 MR. FLYNN: I think that's a well-founded motion;  
6 and if it's granted, then the Motion to Consolidate  
7 would be moot and not necessary.

8 THE COURT: Okay. Let me get the rest of the  
9 parties. First of all, in 20-LM-22, we have Shelby  
10 County present by.

11 MR. MILLER: Yes.

12 THE COURT: By -- well, who's here with the County  
13 with you?

14 MR. MILLER: I am present, Judge, for the Shelby  
15 County Board. Chad Miller, Jasper County State's  
16 Attorney, that was appointed in this case. There are  
17 --

18 THE COURT: Do you have any of the members of the  
19 county board --

20 MR. MILLER: There are some members --

21 THE COURT: Okay --

22 MR. MILLER: -- of the county board that are  
23 present here today. They're not all seated --

24 THE COURT: You don't have to come up, sir. You

1 can stay back there. I just wanted to make sure I know  
2 who's all present, but we have some of the county board  
3 members. If you could raise your hand if you're county  
4 board members.

5 All right. So I have Mr. Miller present here  
6 for the Shelby County Board. We've got Mr. Koester,  
7 who is handling another matter, and he's here on behalf  
8 of the treasurer, Erica Firnhaber, who is present. She  
9 is present, and am I missing any other parties here  
10 today?

11 Okay. Where is Ms. Vonderheide?

12 MR. DEVORE: Your Honor, I wasn't sure, but I'm  
13 here on behalf of Mr. Bennett. I'm sorry, that's on  
14 the 35 case.

15 THE COURT: Okay. And then on the 20-MR-35, we  
16 have all the same parties, but then, in addition, I  
17 have Attorney DeVore present on behalf of Mark Bennett.  
18 And is he present? He's not present. Okay.

19 Well we can't really do anything until  
20 Mr. Koester arrives so we will hopefully -- can you --  
21 where is he at? Where is he at doing this hearing?

22 THE CLERK: I don't know where --

23 THE COURT: Do you know where he's at?

24 MR. MILLER: Judge, somewhere on the second

1 floor --

2 TREASURER FIRNHABER: Courtroom B, I believe.

3 Courtroom B, I believe.

4 THE COURT: Okay.

5 MR. MILLER: I do believe they may have had one  
6 participant that was going to have to be addressed  
7 longer.

8 THE COURT: Okay.

9 And just so the record is clear, Mr. Flynn,  
10 you have an Amended Motion for Summary Judgment that  
11 was filed September 4th. Is that the one that you're  
12 proceeding on?

13 MR. FLYNN: Yes, Judge. There was a typographical  
14 error in the original motion. It's a -- an Amended  
15 Motion to Clarify is the typographical error.

16 THE COURT: It sounds like it's going to be about  
17 five more minutes, folks.

18 MR. KOESTER: I apologize. I was running late.

19 THE COURT: Your -- no problem. Mr. Koester has  
20 entered the courtroom, and I do want to, again, just  
21 bring him up to speed. We're back on the record in  
22 20-MR-22 -- or, I'm sorry, I keep saying that wrong.  
23 20-LM-22 and also 20-MR-35.

24 As I indicated previously, the parties that

1 are present include Mr. Flynn on behalf of the  
2 plaintiff in 20-LM-22. I have Mr. Koester present now  
3 on behalf of Ms. Firnhaber, and I have Mr. Miller here  
4 on behalf of the Shelby County Board. We also have, in  
5 the 20-MR-35, Mr. DeVore present on behalf of the  
6 plaintiff in that case. Mr. Mark Bennett, who does not  
7 appear.

8 Now, Mr. DeVore -- well, first of all,  
9 Mr. Koester, I do want to again reiterate for the  
10 record and for the parties that are present and for the  
11 record in this case, that you were appointed to  
12 represent the treasurer of Shelby County -- I've got to  
13 remember which county I'm in -- Shelby County. And  
14 that there -- I want the record to be perfectly clear  
15 -- that there is no personal, family, or even social  
16 relationship, between you and I; is that correct?

17 MR. KOESTER: That is correct, Judge.

18 THE COURT: We just happen to share the last name,  
19 is that also correct?

20 MR. KOESTER: Yes.

21 THE COURT: All right. With that said then,  
22 Mr. DeVore, I'm going to turn to you. The procedure  
23 suggested by Mr. Flynn is that we first address the  
24 Motion for Summary Judgment in 20-LM-22.

1           Then once that has been resolved or concluded,  
2   that we then address, if necessary, the Motion to  
3   Consolidate. Your position on that or how we should  
4   proceed at this time?

5           MR. DEVORE: Well, Judge, subsequent to the  
6   deposition that was done of the State's Attorney, it  
7   doesn't surprise me that counsel would make that  
8   proposition. But I would refer the Court to the docket  
9   entry in the 2020-LM-22 case of 9-25, where the Court  
10   specifically said that it will consider the Motion to  
11   Consolidate prior to the hearing on the Motion for  
12   Summary Judgment. I'd ask the Court to continue with  
13   that process. These cases are fundamentally identical.  
14   They overlap, where an order in one will resolve the  
15   order in the other. And, again, my client is asking --  
16   has never objected, as the Court's aware, to the  
17   consolidation. I think all attorneys will agree they  
18   need to be consolidated. And, again, for Mr. Flynn to  
19   ask that after the deposition, which likely will be --  
20   hopefully detrimental to his request for summary  
21   judgment -- I think that request is improper and  
22   contradicts the Court's prior order. Thank you.

23           THE COURT: Mr. Koester, what's your position on  
24   the Motion to Consolidate? Having it being heard

1 before the Motion for Summary Judgment.

2 MR. KOESTER: Judge, that was my understanding what  
3 was going to happen today. It seemed like at the Zoom  
4 hearing we had back in September, that -- that  
5 essentially all parties were almost prepared to agree  
6 to the Motion to Consolidate on that date, however the  
7 Court wanted to give both myself and Mr. Miller time to  
8 consider the motion further since we were just recently  
9 appointed.

10 I don't think it makes much sense to me to  
11 have the Motion for Summary Judgment heard in the LM  
12 case prior to the Motion to Consolidate. I could be  
13 mistaken, but I think the Motion to Consolidate was  
14 actually Mr. Flynn's motion. So it seems odd to me  
15 that -- that now we're postponing that after it was --  
16 what I thought was to be essentially an agreed motion  
17 to take place before the Motion for Summary Judgment.

18 Whatever the Court chooses to do, but I would  
19 -- I would propose we take up the Motion to Consolidate  
20 first before we start arguing on the merits in either  
21 case.

22 THE COURT: All right. Mr. Miller, on behalf of  
23 the county board?

24 MR. MILLER: Judge, I had a chance to -- I spoke



1 with Mr. Flynn about this this morning, and I knew that  
2 he was going to perhaps make that request. Certainly I  
3 see both arguments to that. And other than that, I'll  
4 state that from the county board's position, we want to  
5 see this resolved as quickly as possible. Whatever  
6 means the Court thinks needs to procedurally take place  
7 in the Motion to Consolidate first, I don't really take  
8 a strong position either way.

9 THE COURT: Okay. The Court has -- Mr. Flynn, do  
10 you have anything else you want the Court to consider  
11 before I decide?

12 MR. FLYNN: Only that if what Mr. DeVore said is  
13 that if the Motion for Summary Judgment in the LM case  
14 takes care of the motion in the MR, the entire -- if  
15 that -- if what I understood him to say is that  
16 essentially dismisses the MR case, then I'm okay with  
17 consolidating the cases. However, there is a slight  
18 difference between the two cases. In the -- the two --  
19 the LM case only deals with fees in 2019, of which, in  
20 my motion, I've cited the statute. It was 2019 and  
21 2020. And I've cited the statute, which appoints --  
22 which allows for the appointment of a special --  
23 Special Assistant State's Attorney that was passed in  
24 January 1st of 2019.

1           The MR case deals with issues prior to 2019,  
2     so there is a slight difference. I'm prepared to  
3     address the MR case as well, however, I think the --  
4     they have such a slight difference that I -- two  
5     things. One, they're my motions, and I think with all  
6     due respect, I'm entitled to call them as up as I deem  
7     appropriate. And, second, this slight difference  
8     allows -- should allow for the 2000 -- or the LM case  
9     to be addressed first and it was the first case on the  
10    docket. Whatever the Court's pleasure is I'm happy to  
11    abide by.

12           MR. DEVORE: Judge, may I address that?

13           THE COURT: You may --

14           MR. DEVORE: I think I can help.

15           Your Honor, in the pleadings of my client at  
16    this point in time, we do address some of the  
17    historical matters going back to 2014 and '15, that  
18    kind of started these relationships. But as it's been  
19    pled right now, my client's only seeking relief as it  
20    relates to the current outstanding indebtedness. If  
21    the parties don't believe that's clear as it's pled  
22    today, we would stipulate that on -- on the record.  
23    Obviously we would reserve the right at some point in  
24    time to however amend, if it's possible, to -- to --

1 for any potential disgorgement, et cetera, prior to  
2 what's due, but at this point in time, we're not taking  
3 that position. We're merely addressing, as pled today,  
4 that particular issue.

5 MR. FLYNN: If that's the case, Judge, I have no  
6 objection to consolidating them. I wasn't able to  
7 discern that from the complaint. It looked to me like  
8 they were trying to call back issues from 2014 to the  
9 present. And if that were the case, because of the  
10 lack of clarity in the pleading, I was going to ask --  
11 subject to what happens in the LM case -- for time to  
12 file a Motion to Dismiss on issues of lack of standing  
13 and statute of limitations. If we're only talking  
14 about the issue at hand of the fees from December 2019,  
15 through the time that I completed the interest  
16 arbitration on behalf of Shelby County, I'm happy to  
17 have the matter consolidated.

18 THE COURT: And that was my reading of the motion  
19 -- the Complaint for Declaratory Judgment filed on  
20 behalf of Mr. Bennett. I am looking at your relief  
21 paragraph right now, Mr. DeVore.

22 MR. DEVORE: Yes --

23 THE COURT: It does not specifically state 2019,  
24 this outstanding bill. In paragraph B, you ask that

1 the -- for relief of the -- declare any contract  
2 between the board and the firm is void and invalid and  
3 of no force and effect whatsoever since its inception  
4 is what you say. But there is no request or relief in  
5 there that you're asking, so to speak, for them to  
6 repay the monies that have already been paid to them.

7 MR. DEVORE: Understood. And I understand my  
8 colleague's position. We would clarify, again, at this  
9 point in the pleadings, Judge, we would not be asking,  
10 absence some request of leave that my colleague could  
11 argue is inappropriate, for anything regarding  
12 disgorgement of prior fees.

13 THE COURT: Okay.

14 MR. DEVORE: To the extent that's ambiguous, I  
15 would say as of today, we're not asking that.  
16 Obviously subject to being able to ask from minutes  
17 later, I don't foresee that, but -- but to satisfy his  
18 concerns, as of today we're not asking the Court for  
19 that.

20 THE COURT: Okay. Well I'm going to grant the  
21 Motion to Consolidate with the understanding that the  
22 relief requested is merely the current outstanding bill  
23 that's owed to the firm.

24 MR. DEVORE: As of today, our pleadings, we would

1 accept -- we acknowledge that, Your Honor.

2 THE COURT: All right.

3 MR. DEVORE: And whether you would let us amend  
4 later is a different conversation.

5 THE COURT: Okay. Understand that, Mr. Flynn?

6 MR. FLYNN: I do, Your Honor.

7 THE COURT: Motion to Consolidate is granted. The  
8 Court will hear the combined motions.

9 Before we proceed to that motion, I want to  
10 address Mr. Miller on behalf of the county board. I do  
11 not see an answer from the county board on -- filed by  
12 you, on behalf of the county board, in either of these  
13 two cases.

14 MR. MILLER: The -- and I can -- the MR case did  
15 not involve the treasurer's office, Judge. So at one  
16 point, through the pleadings -- the docket entry in the  
17 LM, I was led to believe I represented the county in  
18 the LM. What's -- what you're going to hear in a  
19 minute is I didn't file an answer. We confess the  
20 petition that has been filed by Mr. Flynn for summary  
21 judgment. The county would.

22 THE COURT: The county is confessing that?

23 MR. MILLER: We are.

24 THE COURT: Okay.

1 MR. MILLER: So I did not file a specific answer.  
2 We had nothing in dispute with the petition --

3 THE COURT: Okay --

4 MR. MILLER: -- on file. And in the MR, I didn't  
5 file a response. I guess I was a little unclear if I  
6 represented the county on that since there was just the  
7 county being sued by a taxpayer.

8 THE COURT: Okay.

9 MR. MILLER: So I apologize if I --

10 THE COURT: And --

11 MR. MILLER: -- had been appointed to represent  
12 them. I'm not saying I --

13 THE COURT: We will need to address that after  
14 we've taken up the --

15 MR. MILLER: Sure --

16 THE COURT: -- Motion for Summary Judgment.

17 MR. MILLER: Certainly.

18 THE COURT: This -- since the inception of this  
19 case, this Court took quite a bit of time to determine  
20 representation for the various parties since there were  
21 potential for conflicts between the -- the various  
22 parties. So because of that -- and then while that was  
23 going on -- the selection process -- the MR case was  
24 filed, which was not filed or was a separate proceeding

1 from 20-LM-22. So we have not clarified Mr. Miller's  
2 role in the 20-MR-35, which we will need to address  
3 here today. But for purposes of 20-LM-22, the county  
4 board's position is they are confessing the motion and  
5 agreeing that the fees requested by the plaintiff are  
6 proper.

7 MR. MILLER: Yes.

8 THE COURT: And should be paid.

9 MR. MILLER: Yes.

10 THE COURT: All right. With that said then, again,  
11 I have an Amended Motion for Summary Judgment. And,  
12 Mr. Flynn, you may proceed with your argument in that  
13 in just a moment. Let me pull it up again.

14 All right. And, again, that Amended Motion  
15 for Summary Judgment filed September 4th, 2020.

16 You may proceed, Mr. Flynn.

17 MR. FLYNN: Thank you, Your Honor. May it please  
18 the Court and gentlemen?

19 THE COURT: Mr. Flynn.

20 MR. FLYNN: Your Honor, the -- since -- as I  
21 indicated in my pleading, since 2014, I've employed --  
22 I've provided employment, labor, personnel legal  
23 services to Shelby County. After the treasurer was  
24 elected, there became numerous complaint issues that

1 she became engaged in. I continued to participate and  
2 be involved in those matters. And if you'd look at my  
3 Motion for Summary Judgment, you'll note that in -- on  
4 December 20th, 2014, one of the issues that gave rise  
5 to my involvement was -- may I approach?

6 THE COURT: You may. Have you seen this,  
7 Mr. DeVore?

8 MR. FLYNN: No.

9 THE COURT: Mr. Koester and Mr. Miller, if you  
10 could show them the document.

11 MR. FLYNN: Sure.

12 THE COURT: Thank you.

13 MR. FLYNN: So on December 20th of 2019, I was  
14 contacted by the State's Attorney and advised the  
15 treasurer was refusing to pay expenses of the sheriff  
16 that had been approved by the county board. And  
17 despite the State's Attorney's efforts to address this  
18 issue with the treasurer, she continued to refuse to  
19 pay these bills. And so consequently, she asked me to  
20 lend a helping hand to address the issue.

21 I was tied up that morning. I asked a young  
22 man, one of my partners, to prepare this memorandum. I  
23 already knew what the law was, and the law is  
24 accurately stated in this memorandum dated



1 December 20th, 2019. And that is that the treasurer  
2 acts as, essentially a conduit, to pay the bills that  
3 have been approved by the sheriff and are within his  
4 budget.

5           So I came down that afternoon and I met with  
6 Ms. Firnhaber and our -- the State's Attorney here to  
7 address this issue. I provided this memorandum. After  
8 a meeting of some debate, I understood that she was  
9 going to pay those bills and she -- I made it perfectly  
10 clear that her role for bills that have been approved  
11 by the county board is to issue the check. She's a  
12 conduit. It doesn't create liability for her, and if  
13 she had a problem with -- with the bills of the  
14 sheriff's department, she and the State's Attorney can  
15 file a complaint with the Attorney General's Office for  
16 an independent investigation. So I think that  
17 concluded the issue. Unfortunately, I didn't know that  
18 that was going to put me in the crosshairs of the  
19 treasurer because she quit paying my bills from that  
20 point forward.

21           The -- so I represented Shelby County in an  
22 interest arbitration on February 5th, 2020. That's  
23 what all of these bills are -- are the genesis of that  
24 arbitration, with the exception of maybe the dealing

1 with the treasurer in December.

2 In 2018 and 2019, I was negotiating collective  
3 bargaining agreements for both the sheriff's office  
4 with the Fraternal Order of Police, and the county with  
5 the AFSCME Union. The AFSCME Union contract settled,  
6 the sheriff's contract did not, and we went to interest  
7 arbitration. As the Judge is probably aware, peace  
8 officers are not allowed to strike so we bring in an  
9 interest arbitrator to settle the issues for the  
10 correctional officers and the deputies.

11 That required a significant amount of time,  
12 required a trial right here in this building, and  
13 that's what all of these bills are for. Including --  
14 if you -- upon the Court's review, my bills indicate  
15 that I met with the treasurer on at least one occasion,  
16 but I know multiple occasions -- I probably only  
17 indicated once -- in obtaining financial information  
18 from the county in preparation for this interest  
19 arbitration.

20 Never once did the treasurer have the  
21 professionalism, common courtesy, or practical  
22 application to advise me, oh, by the way, I'm never  
23 going to pay your bills. Despite the fact that they  
24 were approved by the Shelby County Board.

1           In -- the Motion for Summary Judgment, I think  
2   is straightforward. The statute that I've cited in the  
3   Motion for Summary Judgment is 55 ILCS 5/4-2003(b).  
4   And it states the State's Attorney may appoint  
5   qualified attorneys to assist as Special Assistant  
6   State's Attorneys when the public interest so requires.

7           When we get right down to it, Your Honor, you  
8   know, the idea of a county just being this small unit  
9   of local government, those days have passed. Counties  
10  are multimillion dollar entities now. This county  
11  doesn't have it, but I represent other counties, too.  
12  You may have a nuclear power plant. You may have an  
13  airport. You could have a county hospital. Counties  
14  have multiple different functions, and it's not unusual  
15  that outside counsel are hired to handle these boutique  
16  matters. In this particular instance, I've been hired,  
17  not only by this county, but multiple other counties,  
18  public agencies, and private agencies to handle  
19  collective bargaining issues and labor matters. With  
20  that being said, the authority for my retention is  
21  clearly set forth in the statute that I've cited to you  
22  today and is part of my Motion for Summary Judgment.

23           The affidavit that I've filed with the Motion  
24  for Summary Judgment, signed by the State's Attorney's

1 Office, clearly fulfills each one of the elements of  
2 the statute that I've cited.

3 As Mr. Miller indicated, the county's going --  
4 is confessing the Motion for Summary Judgment. The  
5 county board has approved my bill and recommended that  
6 I be paid.

7 The -- so that leaves the treasurer's response  
8 to my Motion for Summary Judgment. The treasurer's  
9 response -- I will say this. I respect the fact that  
10 Mr. Koester has a client, as the Court has appointed  
11 him to represent. And I would submit that that client  
12 would be an extremely difficult client to represent so  
13 I understand the necessity of him filing a response. I  
14 must say, I don't find anything meritorious in the  
15 response that he's filed whatsoever.

16 In the response, if we break it down in point  
17 by point by point, he states that there's nothing that  
18 indicates the date, time, and duration for which I was  
19 appointed. There's nothing in the statute that  
20 necessitates that the date, time, and matters for which  
21 I'm appointed be specifically articulated.

22 The next point that he raises is that the --  
23 he raises that -- that the case that I have been hired  
24 -- or whether the appointment was made prior to the

1 enactment of 55 ILCS -- the statute that I've cited to  
2 you.

3 Well, Your Honor, the statute was passed in  
4 January 2019. All of the bills and time that are in  
5 dispute are post-January 2019. So the -- clearly my  
6 appointment has -- as established by the affidavit  
7 filed by the State's Attorney -- is in compliance with  
8 the statute that I've cited to.

9 Next he raises that there's -- what  
10 affirmative action was taken by the State's Attorney.  
11 She hired me and I did the work.

12 And then he raises an issue about what fees  
13 were approved by when and by whom. Well there's  
14 minutes of the county board that establish my fees have  
15 already been approved. I was going to ask you to take  
16 judicial notice of that, but that -- that issue is  
17 moot. The county board is confessing my motion. So  
18 obviously the county board has approved my fees and  
19 that issue is no longer -- should no longer be in  
20 debate.

21 So he also raises an issue of what cases and  
22 set of cases was I hired to handle for the county.  
23 There is nothing in that statute that necessitates a  
24 delineation of what case or cases that I'm hired for.

1 Just simply that I've been appointed to handle matters  
2 that are not within the germane of the State's  
3 Attorney. And in a small county like this, it makes  
4 perfect sense that outside counsel is used, because  
5 what State's Attorney would want to be involved in  
6 calling the deputies in the prosecution of a criminal  
7 case, and sitting across from them and debating their  
8 income and livelihood and benefits the next week. And  
9 so consequently -- not to mention the fact that, as was  
10 mentioned, the deposition of the State's Attorney was  
11 taken and she acknowledged on the -- in her deposition  
12 that she has no personnel experience, no labor  
13 litigation experience, no labor collective bargaining  
14 experience, and also mentioned the fact that she didn't  
15 want to be in an adversarial role with the deputies.

16 So, as I indicated, the points that are raised  
17 in the pleading by -- by Mr. Miller -- I recognize that  
18 -- and we all, as attorneys at times, have difficult  
19 clients that we have to represent as an officer of the  
20 Court and I respect that. But there's nothing  
21 meritorious, substantive, or -- it's -- it's in some  
22 respects almost comical that -- that the pleading  
23 raises the issues that are raised because this is such  
24 a straightforward, self-explanatory matter.

1           The -- in light of the county confessing my  
2 Motion for Summary Judgment, I respectfully request  
3 that my fees be granted in the amount of \$15,444.43. I  
4 have paid \$306.25 as a filing fee. And at the Court's  
5 request, I convened two conference calls and I have  
6 bills for those. The conference call expense was  
7 \$44.16. So the total that I'm requesting is  
8 \$15,794.84.

9           I would like to point out that if the  
10 treasurer, in her own omnipotent manner, continues to  
11 refuse to satisfy my bill or this Court so grants my  
12 Motion for Summary Judgment, that 55 IL -- excuse me.  
13 55 ILCS 5/3-10020 provides for the removal for cause of  
14 the treasurer.

15           In my experience with representing counties,  
16 the only elected official that has a statute that  
17 allows for the removal of cause is the treasurer. It's  
18 the statute that I've just cited. And that statute, in  
19 the germane portions, provides that if the county  
20 treasurer shall neglect or refuse to render an account,  
21 or make settlement at any time when required by law --  
22 and with all due respect, Judge, I think that she's  
23 required by law prior to me filing this Motion for  
24 Summary Judgment -- and is subject to being removed.

1 That's a whole different issue for the county board to  
2 address and not something that I've been retained for,  
3 but if she doesn't satisfy this Court's order, if my  
4 Motion for Summary Judgment is granted, she subjects  
5 herself to being removed; and she could also be found  
6 guilty of a misdemeanor, which is provided for in this  
7 statute.

8           So consequently, I take the position that the  
9 Motion for Summary Judgment is well-founded and  
10 respectfully request that you grant my prayer for  
11 relief in the amount of \$15,794.84. And I do not mean  
12 to be disrespectful to the Court, I don't mean to be  
13 disrespectful to Shelby County, who I've had a good  
14 relationship with up until the time that the treasurer  
15 started to take her unmeritus positions, I think I'm  
16 perfectly entitled to ask for statutory judgment  
17 interest. I'm not going to do that. I don't think  
18 that's -- I don't want to penalize my client that way.  
19 If there was a way to penalize the treasurer  
20 individually, I don't think I'd hesitate to do that,  
21 but I'm not going to ask for statutory interest on a  
22 breach of contract issue against the county.

23           In regards to the pleadings that were filed by  
24 Mr. DeVore. The -- I'll basically stand on my argument



1 with regards to the pleadings that were filed by Mr.  
2 DeVore. I would point out, though, that Mr. DeVore did  
3 provide in his pleadings a transcript of the  
4 codification of the statute that I cited that was  
5 passed in January 1st of 2019, and the transcript  
6 provides that, well, isn't -- aren't we just codifying,  
7 aren't we just taking care of an action that is already  
8 a common practice with State's Attorneys hiring outside  
9 counsel? My point being that both the treasurer and  
10 Mr. DeVore, and their related ancillary contacts,  
11 appear to believe that outside counsel are never  
12 allowed to be hired by State's Attorneys.

13 Well, in the county code, excuse me -- in the  
14 State's Attorney's Code -- and the citation for that is  
15 55 ILCS 53-9. I'm sorry, I misspoke. There is another  
16 subsection I want to refer to.

17 THE COURT: Okay.

18 MR. FLYNN: It's 55 ILCS 5/3-9006, paragraph (a),  
19 under the internal operations of the State's Attorney's  
20 Office. The State's Attorney shall control the  
21 internal operations, et cetera, et cetera, and hire  
22 services to perform the duties of that office.

23 Well that's how outside counsel have been  
24 hired for years to handle complex matters that are

1 beyond the skill set of the State's Attorneys. And  
2 under no stretch or any imagination am I being  
3 disrespectful to any State's Attorney, or any of the  
4 counties that I've done work for, or any other county  
5 that hires outside counsel. As I indicated -- well let  
6 me back up.

7 Judge, you and every judge in this state will  
8 never see me walk into a criminal courtroom. I don't  
9 know the first thing about criminal law, and I have no  
10 interest in ever pursuing or being engaged in that  
11 matter. So I fully respect what the State's Attorneys  
12 do. We all have the different boutique specialties  
13 that we engage in. The boutique specialty -- one of  
14 the boutique specialties I engage in involves the  
15 collective bargaining, personnel, and labor matters.  
16 I've negotiated close to 100 collective bargaining  
17 agreements. I've litigated cases before the National  
18 Labor Relations Board, the State Labor Relations Board,  
19 the Illinois Wage and Hour Division. I've tried  
20 multiple grievance cases in arbitrations and trials.  
21 So that's one of my boutique specialties. That's not,  
22 as the State's Attorney established in her deposition,  
23 one of her boutique specialties, but as I indicated  
24 earlier, the problems facing counties are even

1     expanding. Counties are facing wind farms now. They  
2     may operate an airport. They may operate a nuclear  
3     power plant. They may have industries that are filing  
4     tax complaints that are worth thousands and thousands  
5     of tax dollars to, not only the county, but the  
6     municipal and other units of local government that rely  
7     upon the county to collect those taxes. And those are  
8     boutique specialties that necessitate these counties to  
9     hire outside counsel. So the concept that the State's  
10    Attorney is supposed to handle everything known to  
11    mankind in these multimillion dollar corporations is as  
12    inconceivable as the fact that Archer-Daniels-Midland,  
13    who has an entire staff of legal department. When they  
14    hire me to handle certain matters for them, they're  
15    just like a major corporation. They hire people with  
16    boutique specialties to handle certain things that that  
17    department; or, in this case -- the State's Attorney's  
18    Office -- doesn't have the experience or the expertise  
19    to handle. So with all due respect, I'll stand on my  
20    prayer for relief and respectfully request that the  
21    Court grant my Motion for Summary Judgment.

22           THE COURT: Thank you, Mr. Flynn.

23           I'm going to ask -- you can have a seat. I'll  
24    come to you, but, Mr. Miller, do you wish to make any

1 argument or position, other than what you've already  
2 told me?

3 MR. MILLER: I don't, Judge. I met with the county  
4 board on October 14.

5 THE COURT: Okay --

6 MR. MILLER: A closed session after their regular  
7 scheduled board meeting that day. I discussed the  
8 matters of the complaint with them. I went back  
9 briefly in time with them to my understanding that they  
10 had authorized the payment of Mr. Flynn's fees at a  
11 previous board meeting prior to my appointment to the  
12 case. I don't wish to extend any further argument,  
13 Judge. I would just state that the county board, when  
14 I discussed this matter with them and the complaint  
15 that had been filed in this situation, they had asked  
16 and suggested this bill should be paid. They voted for  
17 it to be paid. They did spend some time discussing it  
18 at the time that it was initially raised and brought  
19 forward. The board members asked questions at that  
20 time, raised concerns. After those concerns were --  
21 were raised and addressed, they did vote and -- and  
22 pass the payment of this bill, and they would ask that  
23 this bill be paid as they've asked several months ago.  
24 Thank you.

1           THE COURT: Thank you. Then I'm going to turn to  
2 Mr. Koester. Mr. Koester, is your opportunity to  
3 respond to the Motion for Summary Judgment on behalf of  
4 the treasurer in both cases. You may proceed.

5           MR. KOESTER: Thank you, Judge.

6           I understand that Mr. Flynn thinks this is a  
7 simple issue and thinks this should be a  
8 straightforward Motion for Summary Judgment. And  
9 frankly I wish it was, but unfortunately, I think there  
10 are problems with the affidavit that -- would you like  
11 me to continue?

12                               (Noon whistle/siren.)

13           THE COURT: It will go for just a few seconds. It  
14 comes on every day at noon. I don't even hear it  
15 anymore sometimes.

16           MR. KOESTER: The affidavit wasn't signed until  
17 after this litigation was started. I wish Mr. Flynn  
18 would have alleged in his complaint that he was  
19 appointed as a Special Assistant State's Attorney  
20 beginning in sometime and I think that would have been  
21 a different issue. I think the big issue with this  
22 specific Motion for Summary Judgment is that it at  
23 least begs the question of whether this affidavit was  
24 signed in -- well, not even in anticipation of

1 litigation, but after this litigation had already  
2 begun.

3 As I point out in my response for -- to  
4 Mr. Flynn's Motion for Summary Judgment, the amended  
5 complaint -- and I don't think there were any  
6 substantive changes between the original complaint  
7 filed and the amended complaint filed -- but  
8 essentially there were two separate theories of payment  
9 to Mr. Flynn. The first that he was hired by the  
10 Shelby County Board of 2014, to provide services that  
11 the State's Attorney's Office did not or could not  
12 provide regarding labor negotiations. And the  
13 arguments of Mr. Flynn about whether the State's  
14 Attorney is in a position to provide all these services  
15 I think is well-taken. I mean, I think the -- there's  
16 no doubt that the statute could be -- regarding the  
17 statutory duties of the State's Attorney could be  
18 rewritten. It could be modified. I think all of Mr.  
19 Flynn's arguments would be well-taken in the -- on the  
20 house floor in Springfield regarding modifications to  
21 the State's Attorney statutory duties. In this day and  
22 age, it is very hard for a State's Attorney to not only  
23 handle the daily criminal call, handle county board  
24 matters, handle anything else that comes up, but in

1 addition, yeah, it would be tough to -- to handle labor  
2 negotiations matters with no -- with no prior  
3 experience. I think as a policy matter, that all makes  
4 sense, but unfortunately -- and what my client's  
5 position, I think has been from the start -- is that  
6 the way the law is written right now, does it allow for  
7 that? And, if so, when? And what hoops do you have to  
8 jump through before you can properly do it?

9           The second theory of payment is -- is a common  
10 law claim of quantum meruit where, at the end of the  
11 day, Ed provided a service to the county, and he should  
12 be compensated for that. That -- that's a second  
13 theory, but neither of those theories are brought up in  
14 the Motion for Summary Judgment. He proceeds solely on  
15 the theory that he was appointed as a Special Assistant  
16 State's Attorney sometime -- we don't know when -- to  
17 perform this work. And the affidavit specifically  
18 states since 2014. Well that -- that's the whole  
19 issue. I completely understand the statute was passed  
20 in 2019, and that the relief that Ed is asking for are  
21 bills from 20 -- later 2019, into 2020. I understand  
22 that. But the whole issue is is how could Gina  
23 Vonderheide appoint Ed Flynn as Special Assistant  
24 State's Attorney for all the work performed since 2014,

1 when that specific statutory provision that was relied  
2 on for the appointment did -- wasn't passed and wasn't  
3 made a law until January 1st of 2019?

4 That -- that's the issue. I mean, I  
5 completely understand if there was some document that  
6 showed that Gina -- Ms. Vonderheide -- I'm sorry to be  
7 casual, but Ms. Vonderheide had appointed Ed Flynn,  
8 let's say, March of 2019, after the statute had passed  
9 and he had performed that work since then, maybe that's  
10 a different conversation. But what we have here is an  
11 affidavit that says, that pursuant to section 4-2003 of  
12 the Illinois County Code, the undersigned, Ms.  
13 Vonderheide, states that she appointed Edward Flynn and  
14 his law firm to act as Special Assistant State's  
15 Attorneys for the purpose of this labor arbitration and  
16 for all the work performed by this law firm since 2014.

17 I would also make the argument that that's --  
18 there's not a lot of factual meat there. There's no  
19 supporting documentation, other than the affidavit that  
20 was signed in July. It doesn't say when. I understand  
21 that the statute is pretty open-ended as far as  
22 requirements, but there's got -- surely there has to be  
23 something, other than the internal thought of Ms.  
24 Vonderheide that she's going to appoint them,



1 especially if it's going to be retroactively since  
2 2014. And I think that -- that also begs the question,  
3 can you even do that? Can a State's Attorney  
4 retroactively appoint an attorney or a law firm to act  
5 as a Special Assistant State's Attorney when that  
6 provision didn't exist until January 1 of 2019?

7 The underlying question of this whole ordeal  
8 is under what basis had Mr. Flynn been performing legal  
9 work for Shelby County? It's clear that he's been  
10 working for Shelby County in some capacity since 2014.  
11 And the question is, was -- as was alleged in Mr.  
12 Flynn's complaint -- was he just -- was he an outside  
13 lawyer hired by the county board or was he a Special  
14 Assistant State's Attorney?

15 You got to pick one. It clearly isn't that he  
16 was acting as a Special Assistant State's Attorney  
17 since 2014, because the statutory provision relied on  
18 didn't exist until 2019.

19 So -- and if the argument is that it somehow  
20 changed between 2014, and today, after the statute was  
21 passed, what was the mechanism for doing so? Other  
22 than this affidavit that was prepared after the  
23 complaint was filed.

24 At the very least, at the summary judgment

1 stage, there's an issue of material fact as to when Ms.  
2 Vonderheide appointed Ed Flynn and his law firm as a  
3 Special Assistant State's Attorney. Is there any  
4 interoffice memo? Any document? Is there an  
5 engagement letter? Is there anything? Is there -- was  
6 there an oral conversation between Ed and -- Mr. Flynn  
7 and Ms. Vonderheide prior to this litigation starting,  
8 where they even discussed or said the word "Special  
9 Assistant State's Attorney?" We don't know. Based on  
10 -- based on this affidavit, it's really conclusory in  
11 nature. It just says, yeah, Ms. Vonderheide appointed  
12 Mr. Flynn as Special Assistant State's Attorney and  
13 that's that. You don't get to ask any more questions  
14 because you're not entitled to them.

15 I think, at the very least, there has to be  
16 some documentation of it somewhere, other than the  
17 affidavit itself, that was signed and prepared after  
18 this litigation had started to -- to show that there's  
19 no issue of material fact at this stage in the  
20 proceedings and to grant summary judgment.

21 I also think that, based on the posture of  
22 this case and when this affidavit was signed and filed  
23 with the Court, I think that -- viewing the affidavit  
24 in light -- in favor of the non-moving party, which --

1    which the Court is required to do at this stage of  
2    Motion for Summary Judgment, I think there's some  
3    credibility issues. I think a reasonable observer  
4    would think that maybe this was filed after the fact to  
5    try and clean up the mess that this -- has led to this  
6    litigation.

7               It just begs the question that it was prepared  
8    and signed after this litigation began, and there's  
9    nothing in the court record or anywhere else that I've  
10   seen that shows that Mr. Flynn was hired as a Special  
11   Assistant State's Attorney prior to this Motion for  
12   Summary Judgment being filed.

13              I also think that -- and the Court may  
14   disagree -- but I think from -- from, at least from my  
15   perspective -- my client's perspective -- I think it  
16   would be hard for the Court to grant summary judgment  
17   at this stage. What factual findings is the Court  
18   going to make based on that affidavit? Just that --  
19   that Mr. Flynn was appointed. We don't know when. We  
20   don't know with what limitations, if any. We don't  
21   know by what mechanism. Whether it was a conversation  
22   they had. Whether it was via letter or we don't know  
23   any of that.

24              The only thing we know, or that has been

1 presented, is an affidavit that was just prepared and  
2 signed four months ago that just says I've appointed  
3 Mr. Flynn to represent the county in a number of  
4 matters for this specific labor arbitration that Mr.  
5 Flynn has referred to in his argument, but also for all  
6 the work performed by this law firm since 2014. Well I  
7 just don't understand how that works. And how is that  
8 enough to get by at this stage a summary judgment where  
9 there's just been one deposition that that is what this  
10 Court is going to rest on that this appointment of  
11 Special Assistant State's Attorney and there's nothing  
12 else we need to do or look to in this case. I just --  
13 I don't see it, Judge. And I -- I understand that you  
14 know I'm pretty new to this case and I don't spend a  
15 whole lot of time in Shelby County. It's clear from  
16 Mr. Flynn's argument that -- that some personal animus  
17 has developed between particular parties of this  
18 litigation and I'm -- frankly, I'm sorry to see that.  
19 I don't think the county benefits. I don't think the  
20 people benefit, but I think at the end of the day, and,  
21 Judge, just so you know -- and let me address this as  
22 far as Mr. Flynn opening it to. If this Court rules  
23 that Mr. Flynn was -- was correctly hired or otherwise  
24 entitled to compensation in this case, my client's

1 going to cut the check. There's not going to be any  
2 issue after that. But my clients's position is I'm not  
3 sure this is right. I don't want to be held liable if  
4 I do cut the check. But obviously if the Court makes a  
5 finding that this payment needs to be made, she will go  
6 cut the check immediately. It won't be a question, but  
7 it was just a concern, especially based on this Motion  
8 for Summary Judgment in the Special Assistant State's  
9 Attorney statute, that maybe things weren't -- the  
10 correct procedure had not been taken to hire Mr. Flynn  
11 to do county work.

12 So I -- there -- regardless of what happens in  
13 this case, if the Court orders that Mr. Flynn should be  
14 paid, I promise the Court and Mr. Flynn and the parties  
15 that will be the end of it as far as these specific  
16 bills. But the underlying -- we made saying that there  
17 is an underlying legal issue that needs to be resolved  
18 on whether Mr. Flynn was appropriately hired or not.  
19 So, for those reasons, I think a Motion for Summary  
20 Judgment cannot stand at this stage in the litigation.  
21 I don't think that Mr. Flynn has met his burden. As  
22 far as a granting of summary judgment for those  
23 reasons, Ms. Firnhaber would respectfully request that  
24 this Court deny Mr. Flynn's Motion for Summary

1 Judgment.

2 THE COURT: Thank you, Mr. Koester.

3 And Mr. DeVore?

4 MR. DEVORE: Thank you very much, ma'am.

5 Your Honor, without being redundant, I just  
6 want to say I echo a lot of the points that my  
7 colleague made on behalf of the treasurer.

8 A couple of things, too, I'd like to point  
9 out. Specifically as to Mr. Flynn's -- some of his  
10 positions taken weren't necessarily legal in nature,  
11 but obviously my client is sensitive to those. It's no  
12 doubt that the obligations placed on the State's  
13 Attorney, as our society contends to develop, become  
14 ever more complicated. And, you know, asking a State's  
15 Attorney to handle all the criminal matters and all the  
16 county board matters, these complex types of issues,  
17 that's a tall order, right? But, I agree, that until  
18 the legislature might change that, that's what we have.  
19 There are provisions available -- my client's  
20 position -- to address that in the statute 5/4-2003(a).  
21 Again, there's an a and b, which are going to be  
22 important for the Court. Addresses the mechanism by  
23 which a State's Attorney can ask a county board to  
24 increase the number of assistants, to work with the

1 budget, to provide for that service. And if in fact  
2 the matter is, assistance like Mr. Flynn, have to be  
3 hired and budgeted for on top of the salary, but until  
4 something else changes, is at least a duty placed on  
5 the State's Attorney. That process is in place. That  
6 process is public. That process lets the citizens of  
7 the community know that, while, yes, we've elected a  
8 State's Attorney, we also have assistance of this  
9 amount for these reasons. There's a cost to that, and  
10 -- if that happens. I've talked to my client. I know  
11 he understands that and he accepts that.

12           That's not what we have here, Your Honor.  
13 Again, as to the issue of the affidavit, this request  
14 for summary judgment hinges on the affidavit of Ms.  
15 Vonderheide. Is that affidavit sufficient enough for  
16 this Court to be satisfied that it has enough facts to  
17 conclude, as a matter of law, that Mr. Flynn should be  
18 granted his relief?

19           Well, again, these were just consolidated and  
20 we haven't asked for summary judgment yet for a variety  
21 of reasons. If summary judgment was even proper, I  
22 believe it would be possibly from the other direction.  
23 But, again, we are not -- obviously haven't asked for  
24 that.

1           If the Court looks at the affidavit, and,  
2   again, there was a deposition. Both of my colleagues  
3   have talked about it. One of the things that didn't  
4   get pointed out yet that I think is important for the  
5   Court as to this July 2020 affidavit, is that it was  
6   believed by Ms. Vonderheide that Mr. Flynn actually  
7   drafted it. Then she went on to testify she wasn't  
8   sure, but it came from their firm. She further  
9   testified that prior to signing it on the day of July,  
10   she never seen it before. She read it that day, but  
11   she'd never seen it before. That's precarious being in  
12   a -- and, again, I know of the animus going on, Judge,  
13   and I'm trying real hard to stay away from it because  
14   it doesn't do anybody any good. But a State's Attorney  
15   being put in a position to being asked to sign an  
16   affidavit by somebody that her client, at that time,  
17   because you had not yet appointed anybody. Her client  
18   -- it was adverse to that. Nonetheless signed it after  
19   Mr. Flynn and his firm had prepared it. Saying that  
20   this legal authority lies and this is what I did to  
21   hire Mr. Flynn.

22           If the Court goes to paragraph 12 of that  
23   affidavit, it's really the only relevant paragraph.  
24   Before I talk about it, I would back up again to where



1 -- and, again, it's Ms. Vonderheide's affidavit. She  
2 has to own it, but, again, she did not prepare it. And  
3 it says on page -- I'm sorry, I'm going to go over the  
4 summary judgment. In the summary judgment, it talks  
5 about where the authority under 2003 subsection (b) was  
6 the basis by which Mr. Flynn was hired. That's the  
7 summary judgment request.

8 Paragraph 12, Your Honor, signed by Ms.  
9 Vonderheide, says that pursuant to Section 4/2003. It  
10 doesn't say subsection (b). Was it subsection (b)?  
11 Was it subsection (a)? Very different. Now subsection  
12 (b), being new, it's really very vague and uncertain as  
13 to what that means. When they can use it. How they  
14 have to go about making the appointment, et cetera.  
15 That's an issue of law, but as to the issue of fact,  
16 was it (a) or was it (b)? Because if it was subsection  
17 (a), there's all kinds of problems there, too.

18 Ms. Vonderheide was asked that question. Your  
19 affidavit doesn't specifically reference subsection  
20 (b), she's correct. If you believed that was the  
21 provision it's relying upon. Yes. And would it be  
22 your testimony that if we needed to know for certain,  
23 we'd have to ask Mr. Flynn and whoever in his firm  
24 prepared this document. Correct.

1           That's important, Your Honor, because whether  
2           or not Mr. Flynn is ever able to be paid could very  
3           well hinge upon whether -- I don't -- strike that. I  
4           don't think it matters under (a) or (b). I think my  
5           client is going -- you know, has a good argument either  
6           way. But as of today, we don't even know, because the  
7           affidavit doesn't say. The motion says, ma'am, but the  
8           affidavit does not.

9           Another problem, I think, is my client -- or  
10          my colleague pointed to it; and, again, I'm not trying  
11          to point fingers at anybody, Your Honor, but there is a  
12          -- the animus is known -- is the credibility of the  
13          affidavit itself. There's a big credibility issue,  
14          ma'am. Again, it was not prepared by Ms. Vonderheide  
15          by her own sworn testimony. If the Court looks, just a  
16          couple of months prior, at the exhibit that I attached  
17          where Ms. Vonderheide asked the attorney general for an  
18          opinion. Number 1, was the Shelby County Board in  
19          compliance with 55 ILCS 5/4-2003, when Attorney Flynn  
20          was hired?

21          Her affidavit says that she hired him pursuant  
22          to that section. Just a few months prior she says the  
23          county board did it. That's a big deal too, Your  
24          Honor. A very big deal. Again, it goes to the

1     credibility of the affidavit. And, again, I understand  
2     that it very well may have been an oversight when Mr.  
3     Flynn or his firm drafted it, but it's inconsistent  
4     with the letter that she sent to the Attorney's  
5     General's Office.

6             Ms. Flynn -- or sorry -- Mr. Flynn. Ms.  
7     Vonderheide was also asked one very other important  
8     question, Your Honor. Prior to this July affidavit  
9     that was signed, is there any other document in writing  
10    any where that supports the proposition that Mr. Flynn  
11    was hired as Special Assistant State's Attorney? The  
12    answer was no. If the Court wants a copy of the  
13    affidavit -- or the transcript, we can give it to you.  
14    My colleagues both were there. No, nothing else in  
15    writing. And, again, it was pointed out briefly going,  
16    how do we know when there was an appointment? And what  
17    manner was there an appointment? Was the affidavit  
18    itself intended to be the appointment? Whether that's  
19    legitimate or not. That obviously was done months  
20    after these bills were incurred. So for those reasons,  
21    Your Honor, again, I'm not going to repeat everything  
22    my colleague said, we believe that summary judgment  
23    would be improper at this time. Thank you.

24            THE COURT: Before I give Mr. Flynn an opportunity

1 to respond, I have a couple questions, Mr. DeVore. Is  
2 there statutory requirement or case authority that  
3 requires written documentation for hiring Assistant  
4 State's Attorneys or hiring private counsel to handle  
5 work?

6 MR. DEVORE: As to subsection (a), again, I think  
7 it's pretty specific that the statute actually lays it  
8 out. As to subsection (b), I don't find any authority  
9 or caselaw outlining that anywhere --

10 THE COURT: You're saying even subsection (a)  
11 requires written documentation of a contract?

12 MR. DEVORE: No. I think subsection (a), if you  
13 look at that, actually requires a public process  
14 wherein the county board specifically has to increase  
15 the number of Assistant State's Attorneys. Right now  
16 it's set at one, and I believe that position is filled.  
17 So under subsection (a), the county -- there would be a  
18 process publically where they would increase the number  
19 of assistants to two, and then they would budget for  
20 that in the State's Attorney budget. Again, none of  
21 that was done at this time. So subsection (a), I  
22 believe if that's in fact what they were relying upon,  
23 there's a lot of things they did not do. Subsection  
24 (b), there's really nothing. You know, it's

1 interesting, Your Honor. My -- and, again, Mr. Flynn  
2 pointed out, the debate on the floor was -- there was a  
3 dearth of debate. But when there was a question by a  
4 representative of our state how do they get paid  
5 because subsection (b) of this statute doesn't even  
6 talk about how you get paid. And the response was well  
7 that provision -- that mechanism is already in place.  
8 Are they referring to subsection (a), which has, again,  
9 a whole budgetary provision. And I've actually laid it  
10 out in my motion. That's not clear. It's really not.  
11 So, but as to (b), we don't know how that would happen,  
12 ma'am. We don't.

13 THE COURT: Okay. But, again, there's no statutory  
14 authority that you're aware of that it requires a  
15 written document in order to hire a Special Assistant  
16 State's Attorney under either section (a) or (b)?

17 MR. DEVORE: I'm not aware of it.

18 THE COURT: All right. And then, Mr. Koester,  
19 again, before I return to Mr. Flynn. Can you tell --  
20 or can you cite me to a section or statutory authority  
21 or case law that allows the treasurer -- an elected  
22 treasurer -- to determine, oversee, or somehow  
23 determine whether the actions of the county board are  
24 appropriate?

1           MR. KOESTER: The answer to your question is no,  
2 but would you -- I think -- I think my client's  
3 position is, and it becomes more tangled when -- and  
4 this is another issue that State's Attorneys have when  
5 they represent all the county offices, including the  
6 county board. I think that it became an issue in this  
7 litigation where my client felt like there were issues  
8 with asking Ms. Vonderheide, because Ms. Vonderheide  
9 obviously has issues, where if the treasurer has some  
10 concerns with what the county board is doing, that puts  
11 everybody in a tight spot. So I think what my client  
12 was -- was seeking was some sort of legal  
13 representation regarding this issue because she didn't  
14 want to be in any way liable or held responsible if  
15 that was some unlawful action. But the answer to your  
16 question is no, but that's the situation that my client  
17 found herself in.

18           THE COURT: If I'm -- and I don't have the section  
19 on the top of my head, but I believe there is a  
20 statutory authority that says that there is no  
21 liability to the treasurer for any warrants or any  
22 bills that he or she may pay on behalf of the county.  
23 Is that correct?

24           MR. KOESTER: And that may be true, Judge. I just

1 haven't seen it. But I don't doubt this Court that  
2 that exists.

3 THE COURT: All right. Thank you.

4 Mr. Flynn, your response to the arguments of  
5 counsel, if any?

6 MR. FLYNN: Thank you, Your Honor.

7 Judge, initially when I inquired, okay, why is  
8 my bill not being paid? It was -- I was told that the  
9 treasurer took the position that the county and State's  
10 Attorney had no authority to hire me and it's an  
11 illegal contract. So what I provided for the Court in  
12 this motion for summary judgment is the statutory  
13 authority for me to provide the services that are  
14 subject to this dispute and the statutory authority for  
15 me to be paid.

16 So now when I -- in my initial presentation to  
17 you, I was trying to be as courteous and polite to  
18 Mr. Koester as I could, giving him a pass on  
19 representing a very difficult client. But then when I  
20 listened to his argument, and he says that there's  
21 nothing signed as to an agreement. Your Honor, that  
22 section (b) of the statute that I've cited is so  
23 elementary that a Jr. High School student could read it  
24 and recognize there's nothing required to be signed.

1 The very first law school class I sat in, the  
2 instructor walked in and it was contracts. And they  
3 said, "What's a contract?" Of course we're all sitting  
4 there dumber than a box of rocks and not knowing how to  
5 answer the question. But that's the simplest legal  
6 concept there is. Offer and acceptance.

7 And the State's Attorney's Office hires me.  
8 They offered me the opportunity to provide these  
9 services. I accept. We have a contract.

10 Now Mr. Koester then went on to say that the  
11 -- or tries to confuse the situation by saying that the  
12 county board hired me. Well he didn't read the  
13 complaint. The county board approached me about doing  
14 -- about providing services for them. Then the very  
15 next paragraph in the complaint states that I was  
16 hired, subject to the approval of the State's Attorney.  
17 The inquiry whether I would do work for Shelby County  
18 was made by the county board. The contract that was  
19 entered into for me to provide services for Shelby  
20 County was between me and the State's Attorney. And it  
21 -- while I don't see anybody here who was on the  
22 negotiating committee over the years that I've  
23 represented the county, I can tell you that if they  
24 were called to testify, they would have heard me say



1 multiple times. They'd asked me to do things and I'd  
2 say I work for the State's Attorney. I don't work for  
3 you. I'm providing services for you. I work for the  
4 State's Attorney. That goes back to the original  
5 internal operations statute that I cited to the Court  
6 how outside counsel were hired prior to 2019 and  
7 subsequently.

8 As you correctly pointed out, there's no  
9 requirement of a written contract. I'm just asked to  
10 provide the services. That's all that paragraph b in  
11 the statute that I cited to you requires.

12 The -- Mr. Koester indicated there's no  
13 documentation. If I leave here today and drive down  
14 the street and go to McDonald's and ask for a diet  
15 coke, I made an offer and there's acceptance to give me  
16 a diet coke and I pay for it. We have a contract. We  
17 don't have a written document, we have a contract.  
18 That's exactly what took place here.

19 And then the idea that the affidavit was  
20 signed after the litigation started. I've been doing  
21 civil litigation for a lot of years. I've never seen  
22 an affidavit signed in pretext of the litigation  
23 because you don't know what the issues are. When I  
24 find out that I'm not being paid and file a lawsuit and

1 then am told that the treasurer says I entered into an  
2 illegal contract and there's no authority for the  
3 contract, I provide the affidavit, Gina signs it. And  
4 with all due respect, I think the Motion for Summary  
5 Judgment is well-founded and should be granted at that  
6 point.

7           So, in addition, I pointed out that the work  
8 that I did prior to 2019, was due to the internal  
9 operation statute of the State's Attorney. I've heard  
10 the arguments -- I don't want to take unnecessary time  
11 of the Court. I think the arguments that have been  
12 made are fluff, and respectfully request that I'll take  
13 Mr. Koester up on his offer. And if you grant Motion  
14 for Summary Judgment, I'd like to walk out of here with  
15 payment of my fees in the total amount that I requested  
16 originally in my Motion for Summary Judgment. Thank  
17 you, Judge.

18           THE COURT: Thank you, Mr. Flynn. And, Mr. Miller,  
19 any brief response in light of his further comment?

20           MR. MILLER: No, thank you.

21           THE COURT: Mr. Koester, any further brief remarks?

22           MR. KOESTER: Just briefly --

23           THE COURT: On behalf of the treasurer.

24           MR. KOESTER: And I -- I appreciate him being

1 courteous in his initial response. And it's okay. I  
2 mean, we can -- we can take the kid gloves off and it's  
3 okay. I don't feel like you need to be overly  
4 courteous to me, but I think -- I did read the  
5 complaint, and I guess I'm just confused because in  
6 paragraph 3 of the amended complaint, it states this  
7 relationship started in 2014, when Edward F. Flynn was  
8 approached by members the Shelby County Board to  
9 provide these services. After a brief meeting, Shelby  
10 County offered to retain Edward F. Flynn for his  
11 services. And in the next paragraph it says that he  
12 agreed to provide these legal services subject to the  
13 approval of the Shelby County State's Attorney. And, I  
14 think, maybe -- maybe parsing words here, but I think  
15 there is a difference between what Mr. Flynn just said  
16 in his argument and what the complaint says. It sounds  
17 like he was approached by the Shelby County Board and  
18 Shelby County -- just reading those two sentences  
19 together -- the Shelby County Board offered to retain  
20 Edward F. Flynn. Now -- now Gina -- Ms. Vonderheide  
21 may have very well been involved in that meeting, and  
22 it may have been Ms. Vonderheide that offered to retain  
23 Mr. Flynn, but I don't think it's clear from that  
24 amended complaint. But I -- the point regarding the

1 affidavit, I completely understand that typically  
2 affidavits aren't prepared before litigation when those  
3 certain issues are being litigated. I think the  
4 problem is is nobody knows -- there's nothing that  
5 exists, other than that affidavit, that ever says that  
6 Mr. Flynn was appointed as Special Assistant State's  
7 Attorney.

8           There's -- there's -- and it just -- it just  
9 begs the question that was this a -- an effort to -- to  
10 clean up this litigation rather than was this the  
11 actual -- was this the truth? Was this actually what  
12 happened? Was Mr. Flynn appointed Special Assistant  
13 State's Attorney sometime in 2019, to provide these  
14 services? And I'll rest on my prior argument. I don't  
15 want to beat a dead horse here, but my client's  
16 position is and my position is is that burden, at this  
17 summary judgment stage, has not been met.

18           THE COURT: All right. And then, Mr. DeVore, any  
19 final comments?

20           MR. DEVORE: Just briefly. Thank you, ma'am. Your  
21 Honor, again, as to the issue of whether -- what  
22 section of the statute, et cetera, a or b. We've made  
23 that point. But let's talk about subsection (b) just  
24 briefly. It says the State's Attorney may appoint. I

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.

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

1 take any position on the total request of \$15,794.84?

2 MR. MILLER: Judge, I won't take any position on --  
3 I don't have any knowledge about the phone conference  
4 order. That would be certainly within the purview of  
5 the Court. I don't question that that happened, I just  
6 -- I didn't -- I didn't know that had happened so.  
7 It's certainly not something I would have discussed  
8 with the county board at this point, but I'll leave --  
9 I think that's up -- firmly within the Court's  
10 discretion to allow for costs associated with the  
11 litigation. I won't take any strong position on that.  
12 The costs I certainly -- and the other bill, I didn't  
13 know of, but I don't dispute that it exists.

14 MR. FLYNN: The other bill is my filing fee.

15 MR. MILLER: And the filing fee, correct.

16 THE COURT: All right. Mr. Koester, any comment  
17 you wish to make in regards to the total amount  
18 requested?

19 MR. KOESTER: Judge, based on the Court's ruling  
20 today, I don't know if I have any say in that or not.  
21 Based on the finding the Court made today.

22 THE COURT: Okay.

23 MR. KOESTER: So no comment.

24 THE COURT: And Mr DeVore?

1           MR. DEVORE: As to that issue, no. I would ask the  
2 Court for clarity on something, but not as to that  
3 issue, sir -- or ma'am.

4           THE COURT: Okay. In regards to the total  
5 requested -- and I appreciate you bringing that to my  
6 attention -- the Court is not going to award the \$44.16  
7 in conference call. Quite frankly, when we inquired of  
8 that, this was at the actual request of the Court to  
9 allow for Zoom hearings, conference calls, et cetera,  
10 was a courtesy to the Court so I do not believe that  
11 the County should incur the cost of that, but I am  
12 granting him the \$15,443.43 in outstanding fees and  
13 \$306.25 in the filing fee.

14           Mr. Devore, you said you had further  
15 clarification you wish to me to address.

16           MR. DEVORE: Yes, ma'am. If I understand the  
17 Court's order, it's granting summary judgment in favor  
18 of Mr. Flynn in the 22-case.

19           THE COURT: Yes.

20           MR. DEVORE: Obviously, as it relates to my  
21 client's case -- I just want make sure so I can advise  
22 him. Does that mean the Court's rendering his cause of  
23 action moot or dismissing it or -- I'm just trying to  
24 understand how to tell him.

1 THE COURT: If I --

2 MR. DEVORE: I'm confused myself to be honest,  
3 ma'am.

4 THE COURT: Okay. And the case of 20-MR-35 that  
5 was bought on behalf of Mr. Bennett against the county.  
6 And there was a Motion for Summary Judgment. We  
7 consolidated the cases. And I have granted summary  
8 judgment on behalf of Mr. Flynn and against the county  
9 and the treasurer, and your client was not a member of  
10 the county board. He's brought this as a private  
11 citizen, but the Motion for Summary Judgment applies to  
12 him also.

13 MR. DEVORE: Got it. Thank you.

14 THE COURT: Okay.

15 MR. DEVORE: Definitely.

16 THE COURT: Any other clarification regarding the  
17 Court's ruling?

18 MR. KOESTER: No, Your Honor.

19 THE COURT: All right. We will be in recess.  
20 Thank you.

21 (End of proceedings.)  
22  
23  
24



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

CERTIFICATE OF REPORTER

I, Jaclyn K. Getz, CSR#084004781, an Official Court Reporter for the Circuit Court of Shelby County, Fourth Judicial Circuit of Illinois, reported in machine shorthand the proceedings had on the hearing in the above-entitled cause and transcribed the same by Computer Aided Transcription, which I hereby certify to be a true and accurate transcript of the proceedings had before Circuit Judge Kimberly G. Koester.

  
Official Court Reporter

DATED this 6th day of November, 2020.

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: 5-20-0387

Circuit Court No: 2020LM22

Trial Judge: Kimberly G Koester

v

SHELBY COUNTY ET AL

Defendant/Respondent

**CERTIFICATION OF RECORD**

The record has been prepared and certified in the form required for transmission to the reviewing court.  
It consists of:

1 Volume(s) of the Common Law Record, containing 134 pages.

1 Volumes(s) of the Report of Proceedings, containing 67 pages.

0 Volume(s) of the Exhibits, containing 0 pages.

I hereby certify this record pursuant to Supreme Court Rule 324, this 31st day of December, 2020.

KARI ANN KINGSTON, Clerk of the Circuit Court

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: 5-20-0387
	)	Circuit Court No: 2020LM22
	)	Trial Judge: Kimberly G Koester
v	)	
	)	
	)	
SHELBY COUNTY ET AL	)	
Defendant/Respondent	)	

**COMMON LAW RECORD - TABLE OF CONTENTS**

Page 1 of 2

<u><b>Date Filed</b></u>	<u><b>Title/Description</b></u>	<u><b>Page No</b></u>
	*Record sheet	C 4 - C 8
05/08/2020	COMPLAINT	C 9 - C 28
05/12/2020	PAYMENT	C 29 - C 29
05/18/2020	AMENDED COMPLAINT	C 30 - C 50
06/12/2020	ASSIGNMENT ORDER-6/12/2020	C 51 - C 51
06/15/2020	AFFIDAVIT AND REQUEST FOR THE APPOINTMENT OF COUNSEL-6/	C 52 - C 53
06/15/2020	PROPOSED ORDER-6/15/2020	C 54 - C 54
07/13/2020	MOTION TO CONSOLIDATE	C 55 - C 57
07/13/2020	MOTION FOR SUMMARY JUDGMENT	C 58 - C 65
07/13/2020	NOTICE OF HEARING	C 66 - C 68
07/14/2020	MOTION FOR THE APPOINTMENT OF COUNSEL FILED.	C 69 - C 69
07/21/2020	AFFIDAVIT OF STATE'S ATTORNEY	C 70 - C 70
07/30/2020	CALL INFORMATION-7/30/2020	C 71 - C 71
08/21/2020	MOTION FOR APPOINTMENT OF COUNSEL	C 72 - C 74
09/04/2020	AMENDED MOTION FOR SUMMARY JUDGMENT	C 75 - C 78
09/04/2020	AMENDED MOTION FOR SUMMARY JUDGMENT	C 79 - C 86
09/09/2020	DOCKET ENTRY-9/9/2020	C 87 - C 88
09/22/2020	ENTRY OF APPEARANCE	C 89 - C 89
09/22/2020	MOTION FOR EXTENSION OF TIME	C 90 - C 91
09/22/2020	NOTICE OF HEARING	C 92 - C 92
09/22/2020	PROOF OF SERVICE/CERTIFICATE OF SERVICE	C 93 - C 93
10/16/2020	ORDER	C 94 - C 94
10/16/2020	ANSWER TO AMENDED COMPLAINT	C 95 - C 99
10/20/2020	735 ILCS 5/2-610 AFFIDAVIT	C 100 - C 100
10/27/2020	RESPONSE TO MOTION FOR SUMMARY JUDGMENT	C 101 - C 105

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: 5-20-0387
	)	Circuit Court No: 2020LM22
	)	Trial Judge: Kimberly G Koester
v	)	
	)	
	)	
SHELBY COUNTY ET AL	)	
Defendant/Respondent	)	

**COMMON LAW RECORD - TABLE OF CONTENTS**

Page 2 of 2

<u><b>Date Filed</b></u>	<u><b>Title/Description</b></u>	<u><b>Page No</b></u>
11/04/2020	ENTRY OF APPEARANCE ON BEHALF MARK BENNETT	C 106 - C 107
11/04/2020	NOTICE OF APPEAL	C 108 - C 110
11/05/2020	INFORMATION CONCERNING NOTICE OF APPEAL-11/5/2020	C 111 - C 111
11/05/2020	CERTIFICATE OF MAILING-11/5/2020	C 112 - C 113
11/06/2020	PAYMENT	C 114 - C 114
11/06/2020	APPEARANCE	C 115 - C 116
11/06/2020	NOTICE OF APPEAL	C 117 - C 118
11/06/2020	LETTER FROM AP CT CONFIRMING RECEIPT OF NOTICE OF APPEAL	C 119 - C 122
11/30/2020	MOTION TO VACATE APPOINTMENT AS COUNSEL	C 123 - C 125
11/30/2020	INFORMATION CONCERNING NOTICE OF APPEAL	C 126 - C 126
11/30/2020	CERTIFICATE OF MAILING	C 127 - C 128
11/30/2020	LETTER FROM AP CT CONFIRMING RECEIPT OF NOTICE OF APPEAL	C 129 - C 131
12/02/2020	LETTER FROM AP CT	C 132 - C 132
12/07/2020	NOTICE OF HEARING ON MOTION TO VACATE APPOINTMENT	C 133 - C 133
12/07/2020	PROOF OF SERVICE/CERTIFICATE OF SERVICE	C 134 - C 134

**FEATHERSTUN, GAUMER, STOCKS, FLYNN VS. SHELBY COUNTY ET AL**

---

**Judge CR**

<b>05/08/2020</b>	Complaint filed.	
	Complaint set for 06/25/2020 at 1:15 in courtroom A.	
<b>05/12/2020</b>	Payment of \$306.00 applied on 05/08/2020.	
<b>05/18/2020</b>	Amended Complaint filed.	
<b>05/28/2020</b>	Judge Ade-Harlow recused.	AAH
	Complaint set for 06/25/2020 at 1:15 in courtroom A.	
	Complaint set for 06/25/2020 at 1:15 in courtroom A.	
<b>06/10/2020</b>	Judge Lolie recused.	AFL
<b>06/11/2020</b>	CHIEF JUDGE ASSIGNS ITSELF TO HANDLE MATTER DUE TO RECUSALS. COURT	KGK
	IS UNAVAILABLE ON 6-25-20. PARTIES ARE DIRECTED TO CONTACT THE CHIEF	KGK
	JUDGE OFFICE TO RESCHEDULE HEARING WITH JUDGE KOESTER. CLERK TO	KGK
	NOTIFY PARTIES OF SAID ENTRY.	KGK
<b>06/12/2020</b>	Assignment Order entered.	KGK
	Copy and 6/11/20 docket entry emailed to parties	KGK
<b>06/15/2020</b>	Affidavit and Request for the Appointment of Counsel filed-E.Firnhaber	
	Proposed Order of Appointment of Counsel emailed to Judge Koester	
<b>07/13/2020</b>	Motion to Consolidate filed.	
	Motion for Summary Judgment filed.	
	Notice of Hearing filed.	
<b>07/14/2020</b>	Complaint set for 09/25/2020 at 1:15 in courtroom A.	
	COURT REVIEWS THE MOTION FOR APPOINTMENT OF COUNSEL. SAID AFFIDAVIT	KGK
	OF THE DEFENDANT FIRNHABER ALLEGE THAT THE STATE'S ATTORNEY OF SHELBY	KGK
	COUNTY HAS "CHOSEN TO REPRESENT THE INTERESTS OF THE SHELBY COUNTY	KGK
	BOARD AND THOSE INTERESTS IN THIS CASE ARE IN DIRECT CONFLICT WITH	KGK
	THOSE OF SHELBY COUNTY TREASURER'S OFFICE". STATUTORILY, THE STATE'S	KGK
	ATTORNEY IS THE REPRESENTATIVE OF THE OFFICE HOLDERS OF EACH COUNTY	KGK
	AND THEREFORE THIS COURT REQUIRES THE STATE'S ATTORNEY TO FILE AN	KGK
	AFFIDAVIT AS TO WHETHER OR NOT SHE HAS A DIRECT CONFLICT WITH	KGK
	REPRESENTING THE DEF. TREASURER BEFORE THIS COURT WILL ASSIGN OTHER	KGK
	COUNSEL. IF SAID AFFIDAVIT IS FILED AND APPROVED BY THIS COURT, THE	KGK
	COURT WILL APPOINT ALTERNATIVE COUNSEL PURSUANT TO STATUTE. STATE'S	KGK
	ATTORNEY TO FILE SAID AFFIDAVIT WITHIN 7 DAYS OF THIS ENTRY. CLERK	KGK
	TO NOTIFY ALL PARTIES OF SAID ENTRY.	KGK
	Motion for the Appointment of Counsel filed.	
	COURT REVIEWS SECOND MOTION FOR APPOINTMENT OF COUNSEL FILED ON	KGK

		<u>Judge</u>	<u>CR</u>
	TODAY'S DATE. COURT NOTES THAT THE FILING OF THE MOTION WAS NOT	KGK	
	E-FILED IN COMPLIANCE WITH SUPREME COURT RULE. COURT ALSO NOTES THAT	KGK	
	THIS COURT ADDRESSED THIS ISSUE IN AN EARLIER RULING TODAY. COURT	KGK	
	DEEMS THIS SECOND MOTION TO BE MOOT. CLERK TO NOTIFY ALL PARTIES OF	KGK	
	SAID ENTRY.	KGK	
	Docket entries sent to all parties		
07/16/2020	Judge review set for 07/21/2020 at 8:59 in courtroom A.		
07/21/2020	Affidavit of State's Attorney filed.	KGK	
	COURT REVIEWS AFFIDAVIT OF STATE'S ATTORNEY. PURSUANT TO THE	KGK	
	AFFIDAVIT, THE CHIEF JUDGE'S OFFICE REQUEST REPRESENTATION FOR MS	KGK	
	FIRNHABER. CLERK TO NOTIFY PARTIES. MATTER STANDS CONFIRMED FOR	KGK	
	HEARING 9-25-20 @ 1:15PM	KGK	
	Parties notified		
07/30/2020	Conference call scheduled for 7/31/20 at noon. Call Information		
	provided to Judge Koester, Attorney Devore, Erica Firnhaber and Gina		
	Vonderheide. Attorney Flynn initiated.		
	Conference call set for 07/31/2020 at 12:00 in courtroom A.		
08/21/2020	Motion for Appointment of Counsel filed.		
09/01/2020	Conference call set for 09/04/2020 at 11:45 in courtroom A.		
09/04/2020	Amended Motion For Summary Judgment filed.		
	Amended Motion For Summary Judgment filed.		
09/09/2020	T/C WITH ATTY. FLYNN, SA VONDERHEIDE AND ERICA FIRNHABER.	KGK	
	COURT ADVISES ALL PARTIES THAT SHE HAS APPOINTED JASPER COUNTY STATE'S	KGK	
	ATTORNEY CHAD MILLER TO REPRESENT THE SHELBY COUNTY BOARD IN THIS	KGK	
	PROCEEDING AND HAS APPOINTED CLAY COUNTY STATE'S ATTORNEY ANDREW	KGK	
	KOESTER	KGK	
	TO REPRESENT DEFENDANT ERICA FIRNHABER, TREASURER, IN THIS MATTER.	KGK	
	THIS	KGK	
	MATTER STANDS SET FOR HEARING ON 9-25-20 @ 1:15 P.M. CLERK TO NOTIFY	KGK	
	SA	KGK	
	MILLER, SA KOESTER, AND ALL PARTIES OF SAID ENTRY. THIS COURT FURTHER	KGK	
	NOTES THAT SHE HAS BEEN CONTACTED BY ATTY. DEVORE IN SHELBY COUNTY	KGK	
	20-MR-35 AND WAS ADVISED THAT HE WAS NOT NOTICED IN ON THE ABOVE	KGK	
	HEARING. COURT NOTES THAT AN ORDER CONSOLIDATING THE CASES HAS NOT	KGK	
	BEEN	KGK	

		<u>Judge</u>	<u>CR</u>
	MADE TO DATE. THE COURT WILL ADDRESS ANY SUCH MOTION AT THE HEARING	KGK	
	ON	KGK	
	9-25-20. BECAUSE OF THIS, THE CLERK IS ALSO DIRECTED TO PROVIDE ATTY.	KGK	
	DEVORE OF THIS ENTRY. FINALLY, THE COURT NOTES FOR THE RECORD THAT SHE	KGK	
	ADVISED ALL PARTIES ON THE CONFERENCE CALL THAT THERE IS NO FAMILY	KGK	
	RELATIONSHIP BETWEEN HER AND SA KOESTER AND THAT THEY SIMPLY SHARE THE	KGK	
	SAME LAST NAME.	KGK	
	Docket entry email to all parties of record and Thomas Devore		
09/18/2020	Complaint set for 09/25/2020 at 1:15 in courtroom B.		
09/22/2020	Entry of Appearance filed.		
	Motion for Extension of Time filed.		
	Notice of Hearing filed.		
	Proof of Service/Certificate of Service filed.		
09/23/2020	Status hearing set for 09/25/2020 at 1:00 in courtroom B.		
	Video court set for 09/25/2020 at 1:00 in courtroom B.		
09/24/2020	Status hearing reset to 09/25/2020 at 1:00 in courtroom A.		
	Video court reset to 09/25/2020 at 1:00 in courtroom A.		
	Status hearing reset to 09/25/2020 at 1:00 in courtroom A.		
	Video court reset to 09/25/2020 at 1:00 in courtroom A.		
	Status hearing set for 09/25/2020 at 1:00 in courtroom B.		
	Video court set for 09/25/2020 at 1:00 in courtroom B.		
09/25/2020	Zoom hearing w/Plaintiff by Attorney Flynn; Deft-Shelby County by	KGK	JP
	State's Attorney Miller; Deft-Treasurer by State's Attorney Koester.	KGK	JP
	Motion called for extention of time by defendant, Treasurer.	KGK	JP
	Said motion granted w/out objection. Matter reset to 10/30/20 @	KGK	JP
	11:00 am for an in person hearing in Shelby County. Court to consider	KGK	JP
	Motion to Consolidate prior to hearing on Motion for Summary	KGK	JP
	Judgment. Clerk to notify parties of said entry.	KGK	JP
	Motion hearing set for 10/30/2020 at 11:00 in courtroom A.		
	Docket entry provided to all parties.		
10/16/2020	Order denied.		
	Answer to Amended Complaint filed.		
10/20/2020	735 Ilcs 5/2-610 Affidavit filed.		
10/27/2020	Response to Motion for Summary Judgment filed.		
10/30/2020	ATTY FLYNN FOR PLAINTIFF, SA MILLER FOR	KGK	JG

		<u>Judge</u>	<u>CR</u>
	SHELBY COUNTY BOARD, SA KOESTER FOR TREASURER FIRNHABER ALL APPEAR.	KGK	JG
	MOTION TO CONSOLIDATE IS ARGUED AND GRANTED. THIS CASE IS CONSOLIDATED	KGK	JG
	WITH 2020-MR-35. CAUSE FURTHER CALLED ON MOTION FOR SUMMARY JUDGMENT.	KGK	JG
	ARGUMENTS ARE PRESENTED. COURT RULES AS FOLLOWS: DEFENDANT SHELBY	KGK	JG
	COUNTY BOARD CONFESSES MOTION FOR SUMMARY JUDGMENT. PLAINTIFF HAS	KGK	JG
	SHOWN	KGK	JG
	THAT SUMMARY JUDGMENT IS APPROPRIATE FOR THE REASONS STATED ON THE	KGK	JG
	RECORD. COURT FINDS ON BEHALF OF PLAINTIFF AND AGAINST SHELBY COUNTY	KGK	JG
	BOARD AND SHELBY COUNTY TREASURER AND DIRECTS THE TREASURER TO PAY TO	KGK	JG
	THE PLAINTIFF \$15,750.68 TOTAL FOR SERVICES RENDERED. SAID AMOUNT IS	KGK	JG
	FOR	KGK	JG
	SERVICES RENDERED IN REPRESENTING SHELBY COUNTY IN LABOR NEGOTIATIONS	KGK	JG
	AND FOR COURT COSTS INCURRED IN THIS MATTER.	KGK	JG
11/04/2020	Entry of Appearance on behalf Mark Bennett filed.		
	Notice of Appeal filed.		
11/05/2020	Information Concerning Notice of Appeal filed		
	Certificate of Mailing filed		
11/06/2020	Payment of \$181.00 applied on 11/04/2020.		
	Appearance filed.		
	Notice Of Appeal filed.		
	Letter from Ap Ct confirming receipt of Notice of Appeal and		
	assigning reviewing # 5-20-0371		
11/30/2020	Motion to Vacate Appointment as Counsel filed.		
	Information Concerning Notice of Appeal filed		
	Certificate of Mailing filed		
	Letter from Ap Ct confirming receipt of Notice of Appeal and		
	assigning reviewing #5-20-0387		
12/02/2020	Letter from Ap Ct re:docketing stmt, dates due 12-23-20 t-scripts/ 1-6-21 Appeal due		
12/04/2020	case set for a brief zoom hearing on Judge Koester's calendar. Zoom invitation sent to all parties.		
12/07/2020	Notice of Hearing on Motion to Vacate Appointment filed.		
	Proof of Service/Certificate of Service filed.		
12/08/2020	Attorney Flynn for plaintiff, Jasper County State's Attorney Miller	KGK	LH
	for the Shelby County Board, Clay County Koester for Treasurer	KGK	LH



	<b><u>Judge</u></b>	<b><u>CR</u></b>
Firnhaber, Shelby County State's Attorney, Attorney Hanlon and	KGK	LH
Treasurer Firnhaber in attendance. Cause called on Motion to Vacate	KGK	LH
Appointment of Counsel. Arguments heard. Court deems motion is a	KGK	LH
Motion to Withdraw. Motion granted for reasons stated on record.	KGK	LH
Attorney Koester is allowed to withdraw as counsel for Treasurer	KGK	LH
Firnhaber.	KGK	LH
<b>12/23/2020</b>		
Transcript rec'd from J Getz for date of 10-30-20		

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
SHELBY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN AND ECK, LLP  
Plaintiffs,

v.

SHELBY COUNTY and ERICA FIRNHABER,  
Shelby County Treasurer,  
Defendants,

Case No. 20-LM-

2020LM22

**COMPLAINT**

NOW COMES the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP, here  
and after Plaintiffs and in support of its Complaint states:

**COUNT I - BREACH OF CONTRACT**

1. Edward F. Flynn is a partner in the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.
2. Since 2014, Edward F. Flynn has provided legal service for Shelby County on general civil matters primarily focusing upon employment, collective bargaining and contractual matters.
3. This relationship started in 2014 when Edward F. Flynn was approached by members of the Shelby County board to provide these services. After a brief meeting, Shelby County offered to retain Edward F. Flynn for his services.
4. Edward F. Flynn agreed to provide these legal services.
5. Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP have fulfilled requests made by Shelby County by providing all the legal services requested.

6. Defendant Shelby County has failed to fulfill their obligation in that Defendants have failed to pay to law firm Featherstun, Gaumer, Stocks, Flynn and Eck, LLP the sum of \$15,443.43; a copy of the unpaid legal bills is attached hereto marked as Exhibit "A".

7. Featherstun, Gaumer, Stocks, Flynn and Eck, LLP have sent repeated demands for the payments that were due for the services that were rendered.

8. Defendants have still failed and/or neglected to fulfill their obligation to satisfy their payment for the services rendered.

9. As of the time of the filing of this Complaint the amount due to Plaintiffs from Defendants is plus prejudgment interest.

WHEREFORE, Plaintiffs pray that judgment be entered in their favor against Defendants in the sum of \$15,443.42 plus costs and prejudgment interest.

#### **COUNT II – QUANTUM MERUIT**

1. Plaintiffs repeat and alleges paragraph 1,2,5-9 from Count I as for paragraphs 2-7 in Count II.

8. Plaintiffs have performed all services requested of them including but not limited to a labor arbitration, in which Plaintiffs represented Defendants held on the 5th day of February 2020.

9. The services provided by Plaintiffs for Defendants benefited Defendants in the defense of the claims raised by the FDP union in labor trial and all other related employment matters.

10. It is unjust for the Defendants to reap the benefits of Plaintiffs' services without paying Plaintiffs for the services rendered.

WHEREFORE, Plaintiffs prays that judgment be entered in their favor against

Defendants in the sum of \$15,444.43 plus costs.

**COUNT III - COMPLAINT FOR ISSUANCE OF WRIT OF MANDAMUS  
AGAINST SHELBY COUNTY TREASURER, ERICA FIRNHABER**

NOW COMES, Plaintiffs, Featherstun, Gaumer, Stocks, Flynn and Eck, LLP in support of their Issuance of Writ Mandamus states as follows:

1. This action is brought pursuant to 735 ILCS 5/14-101 et seq., mandamus.
2. Plaintiffs restates and alleges paragraphs 1-9 of Count I as in for paragraphs 2- 10 of Count 3.
11. Erica Firnhaber is the elected Treasurer of Shelby County and upon information the belief is the Shelby County official responsible for satisfying and paying the approved bills and expenses of Shelby County.
12. Upon information and belief, the Shelby County Board has approved for payment of all the bills attached hereto sent to Shelby County by Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.
13. Edward F. Flynn has been advised that Erica Firnhaber refuses to pay these legal bills on the basis that Featherstun, Gaumer, Stocks, Flynn and Eck, LLP was hired illegally.
14. Edward F. Flynn has discussed this matter with the Shelby County States Attorney who stated she has advised Erica Firnhaber to pay the legal bills of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.
15. Erica Firnhaber assisted in providing information and data to Edward F. Flynn for the defense of the Shelby County in the labor arbitration and never advised Edward F. Flynn that she was going to refuse to pay Featherstun, Gaumer, Stocks, Flynn and Eck, LLP for their legal services.

16. Erica Firnhaber on February 14, 2020 and various times in 2019 reached out to Edward F. Flynn seeking legal advice; all of the legal fees for services rendered at the request of Erica Firnhaber in 2019 were paid in full.

17. Erica Firnhaber is exceeding her statutory authority by refusing to pay the legal expenses to Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.

18. Erica Firnhaber's decision to refuse to pay the bills is based on the determination; without the support of the Shelby County States Attorney, that hiring Featherstun, Gaumer, Stocks, Flynn and Eck, LLP was illegal is tantamount to the unauthorized practice of law.

WHEREFORE, Plaintiffs pray this Court enter a judgment in their favor against Defendant, Erica Firnhaber in the form of a Writ of Mandamus ordering and directing her to pay the attorney's fees of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP, \$15,4443.43 plus costs and prejudgment interest and to pay future legal fees approved the by Shelby County Board.

Featherstun, Gaumer, Stocks, Flynn and Eck, LLP,

Plaintiffs,

By: FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
Their Attorneys,

By: /s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Ste. 240  
P. O. Box 1760  
Decatur, IL 62525-1760  
Telephone: (217) 429-4453  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)

STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF MACON     )

**RULE 222(b) AFFIDAVIT**

I, Edward F. Flynn, being duly sworn under oath, do hereby affirm that the damages for which recovery is sought in the cause herein does not exceed \$50,000 that Exhibit "A" attached hereto set for the Plaintiffs claims; and that the undersigned will testify under oath this allegations set forth in this Complaint are true and accurate to the best of his knowledge.

Further affiant sayeth not.

/s/ Edward F. Flynn

Subscribed and sworn to before me this 8th day of May, 2020.

  
Notary Public



Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Ste. 240  
P. O. Box 1760  
Decatur, IL 62525-1760  
Telephone: (217) 429-4453  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

Shelby County  
 Shelby County  
 Attention: Erica Firnhaber  
 Shelbyville, IL 62565

**Billing Summary**

Date of Bill	Matter No. Matter Description	Prior Balance	Payments Received	New Billing	Current Balance
<b>Shelby County</b>					
4/20/2020	3958 Shelby County - General	1,904.50	0.00	\$780.00	\$2,684.50
4/20/2020	4635 Shelby County - Negotiations - 2018 - County Emplo	92.50	92.50	\$77.99	\$77.99
4/20/2020	4636 Shelby County - Negotiations - 2018 - Sheriff	12,681.94	0.00	\$0.00	\$12,681.94
		<u>14,678.94</u>	<u>92.50</u>	<u>\$857.99</u>	<u>\$15,444.43</u>
<b>Total Amount Due:</b>					<u>\$15,444.43</u>

\* - Prior Balance/Payment not included in the Current Balance

\*\* - Current Balance does not include all prior balances and payments received



**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

January 20, 2020

Invoice No. 8989

Shelby County  
Attention: Dave Cruitt  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County  
Matter Number: 3958 Shelby County - General  
**For Services Rendered Through 12/31/2019.**

---

<b>Fees</b>				
<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
12/10/2019	RJM	Research FOIA requirements to determine if request by Treasurer to police department is valid and enforceable.	0.30	\$55.50
12/17/2019	EFF	meeting with Gina regarding issues arising between elected officials	2.40	\$444.00
12/20/2019	EFF	Meeting with Brian; review his research; Conferred with Gina and Erica	3.00	\$555.00
12/20/2019	BDE	confer w/ EFF re legal question on county officer discretion to expend funds appropriated, ministerial nature of treasurer's duty in said circumstances; legal research regarding same and drafted memorandum to EFF re same	2.50	\$462.50
12/31/2019	EFF	Draft correspondence to client regarding arbitration status	0.25	\$46.25
<b>Billable Hours / Fees:</b>			<u>8.45</u>	<u>\$1,563.25</u>

---

**Timekeeper Summary**

Timekeeper EFF worked 5.65 hours at \$185.00 per hour, totaling \$1,045.25.

Timekeeper BDE worked 2.50 hours at \$185.00 per hour, totaling \$462.50.

Timekeeper RJM worked 0.30 hours at \$185.00 per hour, totaling \$55.50.

---



Client Number: 2410  
Matter Number: 3958

1/20/2020  
Page: 2

### Payment Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>
1/10/2020	Check Number 071426 against Inv# 8766	(\$111.00)
Total Payments Received:		(\$111.00)

---

### Current Invoice Summary

Prior Balance:	\$111.00	
Payments Received:	(\$111.00)	Last Payment: 1/10/2020
Unpaid Prior Balance:	\$0.00	
Current Fees:	\$1,563.25	
Advanced Costs:	\$0.00	
<b>TOTAL AMOUNT DUE:</b>	<b>\$1,563.25</b>	

Thank You for Letting Us Serve You.  
Payment Due Upon Receipt.  
Please include Invoice Number with Payment

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

February 25, 2020

Invoice No. 9313

Shelby County  
Attention: Erica Firnhaber  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County  
Matter Number: 3958 Shelby County - General  
For Services Rendered Through 1/31/2020.

---

<b>Fees</b>				
<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
1/21/2020	EFF	put together chart regarding comparable county population, household income, medial home values and per capita income	1.25	\$243.75
<b>Billable Hours / Fees:</b>			<u>1.25</u>	<u>\$243.75</u>

---

**Timekeeper Summary**

Timekeeper EFF worked 1.25 hours at \$195.00 per hour, totaling \$243.75.

---

**Current Invoice Summary**

<b>Prior Balance:</b>	\$1,563.25
<b>Payments Received:</b>	\$0.00
<b>Unpaid Prior Balance:</b>	<u>\$1,563.25</u>
<b>Current Fees:</b>	\$243.75
<b>Advanced Costs:</b>	<u>\$0.00</u>
<b>TOTAL AMOUNT DUE:</b>	<u>\$1,807.00</u>

Thank You for Letting Us Serve You.  
NOW ACCEPTING ALL MAJOR CREDIT CARDS  
Please include Invoice Number with Payment  
Payment Due Upon Receipt.

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

March 18, 2020

Invoice No. 9433

Shelby County

Attention: Erica Firnhaber

Shelbyville, IL 62565

Client Number: 2410 Shelby County

Matter Number: 3958 Shelby County - General

For Services Rendered Through 2/29/2020.

Fees				
<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
2/6/2020	EFF	Draft opinion letter regarding new union legislation	0.50	\$97.50
Billable Hours / Fees:			0.50	\$97.50

**Timekeeper Summary**

Timekeeper EFF worked 0.50 hours at \$195.00 per hour, totaling \$97.50.

**Current Invoice Summary**

Prior Balance:	\$1,807.00
Payments Received:	\$0.00
Unpaid Prior Balance:	\$1,807.00
Current Fees:	\$97.50
Advanced Costs:	\$0.00
<b>TOTAL AMOUNT DUE:</b>	<b>\$1,904.50</b>

Thank You for Letting Us Serve You.

NOW ACCEPTING ALL MAJOR CREDIT CARDS

Please include Invoice Number with Payment

Payment Due Upon Receipt.

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

February 25, 2020

Invoice No. 9313

Shelby County

Attention: Erica Firnhaber

Shelbyville, IL 62565

Client Number: 2410 Shelby County

Matter Number: 3958 Shelby County - General

For Services Rendered Through 1/31/2020.

**Fees**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
1/21/2020	EFF	put together chart regarding comparable county population, household income, medial home values and per capita income	1.25	\$243.75
			<b>Billable Hours / Fees:</b>	
			1.25	\$243.75

**Timekeeper Summary**

Timekeeper EFF worked 1.25 hours at \$195.00 per hour, totaling \$243.75.

**Current Invoice Summary**

<b>Prior Balance:</b>	\$1,563.25
<b>Payments Received:</b>	\$0.00
<b>Unpaid Prior Balance:</b>	\$1,563.25
<b>Current Fees:</b>	\$243.75
<b>Advanced Costs:</b>	\$0.00
<b>TOTAL AMOUNT DUE:</b>	<b>\$1,807.00</b>

Thank You for Letting Us Serve You.

NOW ACCEPTING ALL MAJOR CREDIT CARDS

Please include Invoice Number with Payment

Payment Due Upon Receipt.

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

April 20, 2020

Invoice No. 9566

Shelby County

Attention: Erica Firnhaber

Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 3958 Shelby County - General

For Services Rendered Through 3/31/2020.

---

**Fees**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
3/4/2020	EFF	edit closing argument brief	1.50	\$292.50
3/5/2020	EFF	Internet Arbitration - finalize brief for internet arbitration	2.50	\$487.50
<b>Billable Hours / Fees:</b>			<u>4.00</u>	<u>\$780.00</u>

---

**Timekeeper Summary**

Timekeeper EFF worked 4.00 hours at \$195.00 per hour, totaling \$780.00.

---

Client Number: 2410  
Matter Number: 3958

4/20/2020  
Page: 2

### Current Invoice Summary

Prior Balance:	\$1,904.50
Payments Received:	\$0.00
Unpaid Prior Balance:	\$1,904.50
Current Fees:	\$780.00
Advanced Costs:	\$0.00
<b>TOTAL AMOUNT DUE:</b>	<b>\$2,684.50</b>

Thank You for Letting Us Serve You.  
NOW ACCEPTING ALL MAJOR CREDIT CARDS  
Please include Invoice Number with Payment  
Payment Due Upon Receipt.

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

April 20, 2020

Invoice No. 9567

Shelby County  
Attention: Dave Cruitt  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County  
Matter Number: 4635 Shelby County - Negotiations - 2018 - County Emplo  
**For Services Rendered Through 3/31/2020.**

---

**Cost Detail**

<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Check No.</u>
3/11/2020	VENDOR:UPS; INVOICE#:0000F3752R100; DATE:3/11/2020 - Courier Charges-UPS - Greg Szuter IL <b>Payee: UPS</b>	\$49.53	42434
3/11/2020	VENDOR:UPS; INVOICE#:0000F3752R100; DATE:3/11/2020 - Courier Charges-UPS Greg Szuter OH <b>Payee: UPS</b>	\$28.46	42434
<b>Total Costs</b>		<u>\$77.99</u>	

**Payment Detail**

<u>Date</u>	<u>Description</u>	<u>Amount</u>
3/15/2019	Check Number 068960 against Inv# 6299	(\$92.50)
<b>Total Payments Received:</b>		<u>(\$92.50)</u>

---

Continued On Next Page

C 22

Client Number: 2410  
Matter Number: 4635

4/20/2020  
Page: 2

### Current Invoice Summary

Prior Balance:	\$92.50	
Payments Received:	(\$92.50)	Last Payment: 3/15/2019
Unpaid Prior Balance:	\$0.00	
Current Fees:	\$0.00	
Advanced Costs:	\$77.99	
<b>TOTAL AMOUNT DUE:</b>	<b>\$77.99</b>	

Thank You for Letting Us Serve You.  
NOW ACCEPTING ALL MAJOR CREDIT CARDS  
Please include Invoice Number with Payment  
Payment Due Upon Receipt.



**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

February 17, 2020

Invoice No. 9125

Shelby County  
Attention: Dave Cruitt  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 4636 Shelby County - Negotiations - 2018 - Sheriff

**For Services Rendered Through 1/31/2020.**

---

<b>Fees</b>				
<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
1/17/2020	EFF	send FOIA request to 12 counties to prepare comparables for the arbitration; review Union and employer final proposals; meeting with Bruce Cannon; review insurance documentation	5.50	\$1,072.50
1/22/2020	EFF	preparation for arbitration multiple conferences with Union attorney regarding comparable counties review and summarize the contracts from Moultrie, Christian, Douglas Counties and the employer and Union proposals	4.00	\$780.00
1/23/2020	EFF	meeting with Shelby County Negotiations Committee; meeting with Treasurer; meeting with County Clerk, multiple conferences with Union attorney	4.20	\$819.00
1/24/2020	EFF	prepare for arbitration - regarding comparable counties review and examine the population, median household income, median home value, median family income and per capital income for Bond, Christian, Clark, Clay, Dewitt, Douglas, Edgar, Fayette, Logan, Moultrie, and Piatt Counties vs Shelby County. REview and calculate FY 18, 19 & 20 wages in comparable counties for deputies and correction officers at base, and start of 5 year, 10 year, 15 and 20 year	6.00	\$1,170.00
1/26/2020	EFF	review and edit pre hearing arbitration stipulation Drafted correspondence to FOP attorney; draft correspondence to FOP attorney with reply to request for information	0.75	\$146.25

Continued On Next Page

C 24

Client Number: 2410  
Matter Number: 4636

2/17/2020  
Page: 2

1/29/2020	RJM	Meet with EFF to discuss exhibits needed for labor arbitration trial on 2/5/20. Draft/revise salary comparison exhibits for deputies, corrections, and dispatch employees.	3.00	\$585.00
1/29/2020	EFF	edit joint stipulation (2) conferences with FOP counsel	1.20	\$234.00
1/30/2020	RJM	Draft exhibit of "civilian" employees with salaries comparable to non-union employees with similar job duties. Draft/revise exhibits comparing salaries of deputies, corrections, and dispatch employees. Phone call to Moultrie, Clay, Fayette & Douglas Counties to determine whether their dispatch employees were subject to a collective bargaining agreement.	4.00	\$780.00
1/31/2020	RJM	Meet with EFF to finalize exhibits for labor arbitration trial on 2/5/20. Draft/revise exhibits based on comments and suggestions from EFF.	3.50	\$682.50
1/31/2020	EFF	review and evaluate the exhibits and wage calculations in the exhibits ; Conferred with Sheriff and Rob; draft final offer proposal	2.70	\$526.50
Billable Hours / Fees:			34.85	\$6,795.75

---

### Timekeeper Summary

Timekeeper EFF worked 24.35 hours at \$195.00 per hour, totaling \$4,748.25.

Timekeeper RJM worked 10.50 hours at \$195.00 per hour, totaling \$2,047.50.

---

### Payment Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>
10/30/2019	Check Number 070918	(\$629.00)
Total Payments Received:		(\$629.00)

---

Continued On Next Page

Client Number: 2410  
Matter Number: 4636

2/17/2020  
Page: 3

### Current Invoice Summary

Prior Balance:	\$629.00	
Payments Received:	(\$629.00)	Last Payment: 10/30/2019
Unpaid Prior Balance:	\$0.00	
Current Fees:	\$6,795.75	
Advanced Costs:	\$0.00	
<b>TOTAL AMOUNT DUE:</b>	<b>\$6,795.75</b>	

Thank You for Letting Us Serve You.  
Payment Due Upon Receipt.  
Please include Invoice Number with Payment

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

March 18, 2020

Invoice No. 9434

Shelby County  
Attention: Dave Cruitt  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 4636 Shelby County - Negotiations - 2018 - Sheriff

**For Services Rendered Through 2/29/2020.**

---

<b>Fees</b>				
<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
2/3/2020	RJM	Prepare comparable county map exhibits for trial. Prepare exhibits for trial related to recreational activities offered in comparable counties. Draft/revise wage comparison exhibits for trial.	1.50	\$292.50
2/3/2020	EFF	Multiple conferences with Union attorney; exchange emails with Arbitrator; prepare trial notebook and arguments	8.40	\$1,638.00
2/4/2020	RJM	Calculate hours worked per year by deputies using a 4 on/4 off schedule. Draft wage comparison exhibit for deputies using hourly wages instead of annual wages. Calculate employer wages for wage comparison exhibits with cost of insurance subtracted from wages paid. Review/proofread exhibit packet to be used at trial. Meet with EFF to discuss comments and suggestions on exhibit packet.	3.00	\$585.00
2/4/2020	EFF	multiple emails with Union attorney; Telephone conference with Gina; Telephone conference with Erica(2); finalize arbitration proposal; prepare oral argument	6.75	\$1,316.25
2/5/2020	EFF	Attend labor arbitration	6.50	\$1,267.50
2/19/2020	EFF	Conferred with Union attorney regarding arbitrator bill and briefing issue; draft correspondence to client regarding bill	0.25	\$48.75
2/23/2020	EFF	Review Union exhibits and AFSCME Contract; review County proposal and exhibits; dictate first draft of Brief	3.60	\$702.00

Continued On Next Page

C 27

Client Number: 2410  
Matter Number: 4636

3/18/2020

Page: 2

Billable Hours / Fees: 30.00 \$5,850.00

---

### Timekeeper Summary

Timekeeper EFF worked 25.50 hours at \$195.00 per hour, totaling \$4,972.50.

Timekeeper RJM worked 4.50 hours at \$195.00 per hour, totaling \$877.50.

---

### Cost Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Check No.</u>
2/6/2020	VENDOR:UPS; INVOICE#:0000F3752R050; DATE:2/6/2020 - Courier Charges-UPS Overnight to James Daniels Payee: UPS	\$36.19	42330
Total Costs		\$36.19	

---

### Current Invoice Summary

Prior Balance:	\$6,795.75
Payments Received:	\$0.00
Unpaid Prior Balance:	\$6,795.75
Current Fees:	\$5,850.00
Advanced Costs:	\$36.19
TOTAL AMOUNT DUE:	\$12,681.94

Thank You for Letting Us Serve You.  
NOW ACCEPTING ALL MAJOR CREDIT CARDS  
Please include Invoice Number with Payment  
Payment Due Upon Receipt.

CIRCUIT CLERK SUSAN ARTHUR  
JUDICIAL CIRCUIT #04  
COUNTY OF Shelby  
PO BOX 469  
SHELBYVILLE IL 62565-0000  
217/774-4212

R E C L A S S I F I C A T I O N 5/08/2020 10:15

Receipt no. 449222  
Receipt date 5/12/2020  
Reclass date 5/12/2020  
Case number 2020LM000022P 001B001  
FEATHERSTUN, GAUMER, STOCKS, FLYNN FLYNN, EDWARD  
VS.  
SHELBY COUNTY ET AL  
Payor FEATHERSTUN, GAUMER, STOCKS, FLYNN FLYNN, EDWARD  
Comment EF ID=001168923  
Agency  
Misc.  
Payment type EFile 2  
Check in  
Check out 0000000000  
Ten percent N  
Forfeit  
Bond 306.00  
Refund  
Court 85.00  
Automation 20.00  
Law Library 15.00  
Judicial Security 50.00  
Document Storage 20.00  
Clerk Op Add-Ons 5.00  
Access to Justice 2.00  
SC Special Purpose 9.00  
Clerk SCHED 100.00  
Workstation DSP02  
User ID SU  
Branch  
Thank You!

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
SHELBY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN AND ECK, LLP

Plaintiffs,

v.

SHELBY COUNTY and ERICA FIRNHABER,  
Shelby County Treasurer,

Defendants,

Case No. 20-LM- 22

**AMENDED COMPLAINT**

NOW COMES the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP, here  
and after Plaintiffs and in support of its Complaint states:

**COUNT I - BREACH OF CONTRACT**

1. Edward F. Flynn is a partner in the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.
2. Since 2014, Edward F. Flynn has provided legal service for Shelby County on general civil matters primarily focusing upon employment, collective bargaining and contractual matters.
3. This relationship started in 2014 when Edward F. Flynn was approached by members of the Shelby County board to provide these services. After a brief meeting, Shelby County offered to retain Edward F. Flynn for his services.
4. Edward F. Flynn agreed to provide these legal services subject to the approval of the Shelby County State's Attorney to approve of Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn and Eck, LLP to provide legal services.

5. Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP were approved by the Shelby County State's Attorney to provide legal services; and have fulfilled all of the legal services requested by the Shelby County State's Attorney.

6. Edward F. Flynn advised members of the Shelby County Board Official on multiple occasions that he and his firm provide legal services for Shelby County subject to the approval of the State's Attorney.

7. Edward F. Flynn from 2014 to the present has kept the Shelby County State's Attorney advised of all of the legal services provided.

8. Defendant Shelby County has failed to fulfill their obligation in that Defendants have failed to pay to law firm Featherstun, Gaumer, Stocks, Flynn and Eck, LLP the sum of \$15,443.43; a copy of the unpaid legal bills is attached hereto marked as Exhibit "A".

9. Featherstun, Gaumer, Stocks, Flynn and Eck, LLP have sent repeated demands for the payments that were due for the services that were rendered.

10. Defendants have still failed and/or neglected to fulfill their obligation to satisfy their payment for the services rendered.

11. As of the time of the filing of this Complaint the amount due to Plaintiffs from Defendants is plus prejudgment interest.

WHEREFORE, Plaintiffs pray that judgment be entered in their favor against Defendants in the sum of \$15,443.42 plus costs and prejudgment interest.

### **COUNT II – QUANTUM MERUIT**

1. Plaintiffs repeat and alleges paragraph 1,2,5-9 from Count I as for paragraphs 2-7 in Count II.



8. Plaintiffs have performed all services requested of them including but not limited to a labor arbitration, in which Plaintiffs represented Defendants on the 5th day of February 2020 in the labor arbitration.

9. The services provided by Plaintiffs for Defendants benefited Defendants in the defense of the claims raised by the FOP union in labor arbitration and all other related employment matters.

10. It is unjust for the Defendants to reap the benefits of Plaintiffs' services without paying Plaintiffs for the services rendered.

WHEREFORE, Plaintiffs prays that judgment be entered in their favor against Defendants in the sum of \$15,444.43 plus costs.

**COUNT III - COMPLAINT FOR ISSUANCE OF WRIT OF MANDAMUS  
AGAINST SHELBY COUNTY TREASURER, ERICA FIRNHABER**

NOW COMES, Plaintiffs, Featherstun, Gaumer, Stocks, Flynn and Eck, LLP in support of their Issuance of Writ Mandamus states as follows:

1. This action is brought pursuant to 735 ILCS 5/14-101 et seq., mandamus.  
2. Plaintiffs restates and alleges paragraphs 1-9 of Count I as in for paragraphs 2- 10 of Count 3.

11. Erica Firnhaber is the elected Treasurer of Shelby County and upon information the belief is the Shelby County official responsible for issuing checks for the payment of approved bills and expenses of Shelby County.

12. Upon information and belief, the Shelby County Board has approved for payment of all the bills attached hereto sent to Shelby County by Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.

13. Edward F. Flynn has been advised that Erica Firnhaber refuses to pay these legal bills on the basis that Featherstun, Gaumer, Stocks, Flynn and Eck, LLP was hired illegally.

14. Edward F. Flynn has discussed this matter with the Shelby County States Attorney who stated she has advised Erica Firnhaber to pay the legal bills of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.

15. Erica Firnhaber assisted in providing information and data to Edward F. Flynn for the defense of the Shelby County in the labor arbitration and never advised Edward F. Flynn that she was going to refuse to pay Featherstun, Gaumer, Stocks, Flynn and Eck, LLP for their legal services.

16. Erica Firnhaber on February 14, 2020 and various times in 2019 reached out to Edward F. Flynn seeking legal advice; all of the legal fees for services rendered at the request of Erica Firnhaber in 2019 were paid in full.

17. Erica Firnhaber is exceeding her statutory authority by refusing to pay the legal expenses to Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.

18. Erica Firnhaber's decision to refuse to pay the bills is based on her legal conclusion; without the support of the Shelby County States Attorney, that hiring Featherstun, Gaumer, Stocks, Flynn and Eck, LLP was illegal is tantamount to the unauthorized practice of law.

WHEREFORE, Plaintiffs pray this Court enter a judgment in their favor against Defendant, Erica Firnhaber in the form of a Writ of Mandamus ordering and directing her to pay the attorney's fees of Featherstun, Gaumer, Stocks, Flynn and Eck, LLP, \$15,4443.43 plus costs and prejudgment interest and to pay future legal fees approved the by Shelby County Board.

Featherstun, Gaumer, Stocks, Flynn and Eck, LLP,  
Plaintiffs,

By: FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
Their Attorneys,

By: /s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Ste. 240  
P. O. Box 1760  
Decatur, IL 62525-1760  
Telephone: (217) 429-4453  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)

STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF MACON     )

**RULE 222(b) AFFIDAVIT**

I, Edward F. Flynn, being duly sworn under oath, do hereby affirm that the damages for which recovery is sought in the cause herein does not exceed \$50,000 that Exhibit "A" attached hereto set for the Plaintiffs claims; and that the undersigned will testify under oath this allegations set forth in this Complaint are true and accurate to the best of his knowledge.

Further affiant sayeth not.

/s/ Edward F. Flynn

Subscribed and sworn to before me this 18<sup>th</sup> day of May, 2020.

Suzanne Hackl  
Notary Public

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Ste. 240  
P. O. Box 1760  
Decatur, IL 62525-1760  
Telephone: (217) 429-4453  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)



**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

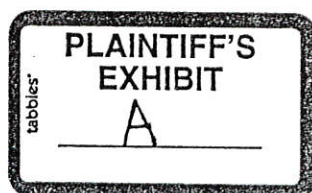
Shelby County  
 Shelby County  
 Attention: Erica Firnhaber  
 Shelbyville, IL 62565

**Billing Summary**

Date of Bill	Matter No. Matter Description	Prior Balance	Payments Received	New Billing	Current Balance
<b>Shelby County</b>					
4/20/2020	3958 Shelby County - General	1,904.50	0.00	\$780.00	\$2,684.50
4/20/2020	4635 Shelby County - Negotiations - 2018 - County Emplo	92.50	92.50	\$77.99	\$77.99
4/20/2020	4636 Shelby County - Negotiations - 2018 - Sheriff	12,681.94	0.00	\$0.00	\$12,681.94
		<u>14,678.94</u>	<u>92.50</u>	<u>\$857.99</u>	<u>\$15,444.43</u>
				<b>Total Amount Due:</b>	<u>\$15,444.43</u>

\* - Prior Balance/Payment not included in the Current Balance

\*\* - Current Balance does not include all prior balances and payments received



**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

January 20, 2020

Invoice No. 8989

Shelby County  
Attention: Dave Cruitt  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County  
Matter Number: 3958 Shelby County - General  
For Services Rendered Through 12/31/2019.

---

**Fees**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
12/10/2019	RJM	Research FOIA requirements to determine if request by Treasurer to police department is valid and enforceable.	0.30	\$55.50
12/17/2019	EFF	meeting with Gina regarding issues arising between elected officials	2.40	\$444.00
12/20/2019	EFF	Meeting with Brian; review his research; Conferred with Gina and Erica	3.00	\$555.00
12/20/2019	BDE	confer w/ EFF re legal question on county officer discretion to expend funds appropriated, ministerial nature of treasurer's duty in said circumstances; legal research regarding same and drafted memorandum to EFF re same	2.50	\$462.50
12/31/2019	EFF	Draft correspondence to client regarding arbitration status	0.25	\$46.25
Billable Hours / Fees:			<u>8.45</u>	<u>\$1,563.25</u>

---

**Timekeeper Summary**

Timekeeper EFF worked 5.65 hours at \$185.00 per hour, totaling \$1,045.25.

Timekeeper BDE worked 2.50 hours at \$185.00 per hour, totaling \$462.50.

Timekeeper RJM worked 0.30 hours at \$185.00 per hour, totaling \$55.50.

---

Client Number: 2410  
Matter Number: 3958

1/20/2020  
Page: 2

### Payment Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>
1/10/2020	Check Number 071426 against Inv# 8766	(S111.00)
Total Payments Received:		(S111.00)

---

### Current Invoice Summary

Prior Balance:	\$111.00	
Payments Received:	(S111.00)	Last Payment: 1/10/2020
Unpaid Prior Balance:	\$0.00	
Current Fees:	\$1,563.25	
Advanced Costs:	\$0.00	
TOTAL AMOUNT DUE:	<u>\$1,563.25</u>	

Thank You for Letting Us Serve You.  
Payment Due Upon Receipt.  
Please include Invoice Number with Payment

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

February 25, 2020

Invoice No. 9313

Shelby County

Attention: Erica Firnhaber

Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 3958 Shelby County - General

For Services Rendered Through 1/31/2020.

---

**Fees**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
1/21/2020	EFF	put together chart regarding comparable county population, household income, medial home values and per capita income	1.25	\$243.75
			<b>Billable Hours / Fees:</b>	<u>1.25</u> <u>\$243.75</u>

---

**Timekeeper Summary**

Timekeeper EFF worked 1.25 hours at \$195.00 per hour, totaling \$243.75.

---

**Current Invoice Summary**

Prior Balance:	\$1,563.25
Payments Received:	<u>\$0.00</u>
Unpaid Prior Balance:	\$1,563.25
Current Fees:	\$243.75
Advanced Costs:	<u>\$0.00</u>
<b>TOTAL AMOUNT DUE:</b>	<u><b>\$1,807.00</b></u>

Thank You for Letting Us Serve You.

NOW ACCEPTING ALL MAJOR CREDIT CARDS

Please include Invoice Number with Payment

Payment Due Upon Receipt.



**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

March 18, 2020

Invoice No. 9433

Shelby County

Attention: Erica Firnhaber

Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 3958 Shelby County - General

For Services Rendered Through 2/29/2020.

---

**Fees**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
2/6/2020	EFF	Draft opinion letter regarding new union legislation	0.50	\$97.50

Billable Hours / Fees:	0.50	\$97.50
------------------------	------	---------

---

---

**Timekeeper Summary**

Timekeeper EFF worked 0.50 hours at \$195.00 per hour, totaling \$97.50.

---

**Current Invoice Summary**

Prior Balance:	\$1,807.00
Payments Received:	\$0.00
Unpaid Prior Balance:	\$1,807.00
Current Fees:	\$97.50
Advanced Costs:	\$0.00
TOTAL AMOUNT DUE:	\$1,904.50

---

Thank You for Letting Us Serve You.

NOW ACCEPTING ALL MAJOR CREDIT CARDS

Please include Invoice Number with Payment

Payment Due Upon Receipt.

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

February 25, 2020

Invoice No. 9313

Shelby County

Attention: Erica Firnhaber

Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 3958 Shelby County - General

For Services Rendered Through 1/31/2020.

---

**Fees**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
1/21/2020	EFF	put together chart regarding comparable county population, household income, medial home values and per capita income	1.25	\$243.75
			<hr/>	<hr/>
			Billable Hours / Fees:	1.25 \$243.75

---

**Timekeeper Summary**

Timekeeper EFF worked 1.25 hours at \$195.00 per hour, totaling \$243.75.

---

**Current Invoice Summary**

Prior Balance:	\$1,563.25
Payments Received:	\$0.00
Unpaid Prior Balance:	<hr/> \$1,563.25
Current Fees:	\$243.75
Advanced Costs:	\$0.00
TOTAL AMOUNT DUE:	<hr/> \$1,807.00

Thank You for Letting Us Serve You.

NOW ACCEPTING ALL MAJOR CREDIT CARDS

Please include Invoice Number with Payment

Payment Due Upon Receipt.

Featherstun, Gaumer, et al.

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

April 20, 2020

Invoice No. 9566

Shelby County  
Attention: Erica Firnhaber  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County  
Matter Number: 3958 Shelby County - General  
For Services Rendered Through 3/31/2020.

---

Fees				
<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
3/4/2020	EFF	edit closing argument brief	1.50	\$292.50
3/5/2020	EFF	Internet Arbitration - finalize brief for internet arbitration	2.50	\$487.50
Billable Hours / Fees:			4.00	\$780.00

---

Timekeeper Summary

Timekeeper EFF worked 4.00 hours at \$195.00 per hour, totaling \$780.00.

---

Client Number: 2410  
Matter Number: 3958

4/20/2020  
Page: 2

### Current Invoice Summary

Prior Balance:	\$1,904.50
Payments Received:	\$0.00
Unpaid Prior Balance:	<u>\$1,904.50</u>
Current Fees:	\$780.00
Advanced Costs:	<u>\$0.00</u>
TOTAL AMOUNT DUE:	<u>\$2,684.50</u>

Thank You for Letting Us Serve You.  
NOW ACCEPTING ALL MAJOR CREDIT CARDS  
Please include Invoice Number with Payment  
Payment Due Upon Receipt.

Featherstun, Gaumer, et al.

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

April 20, 2020

Invoice No. 9567

Shelby County

Attention: Dave Cruitt

Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 4635 Shelby County - Negotiations - 2018 - County Emplo

For Services Rendered Through 3/31/2020.

---

Cost Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Check No.</u>
3/11/2020	VENDOR:UPS; INVOICE#:0000F3752R100; DATE:3/11/2020 - Courier Charges-UPS - Greg Szuter IL Payee: UPS	\$49.53	42434
3/11/2020	VENDOR:UPS; INVOICE#:0000F3752R100; DATE:3/11/2020 - Courier Charges-UPS Greg Szuter OH Payee: UPS	\$28.46	42434
Total Costs		\$77.99	

---

Payment Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>
3/15/2019	Check Number 068960 against Inv# 6299	(\$92.50)
Total Payments Received:		(\$92.50)

---

Client Number: 2410  
Matter Number: 4635

4/20/2020  
Page: 2

### Current Invoice Summary

Prior Balance:	\$92.50	
Payments Received:	(\$92.50)	Last Payment: 3/15/2019
Unpaid Prior Balance:	<u>\$0.00</u>	
Current Fees:	\$0.00	
Advanced Costs:	<u>\$77.99</u>	
TOTAL AMOUNT DUE:	<u>\$77.99</u>	

Thank You for Letting Us Serve You.  
NOW ACCEPTING ALL MAJOR CREDIT CARDS  
Please include Invoice Number with Payment  
Payment Due Upon Receipt.

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

February 17, 2020

Invoice No. 9125

Shelby County  
Attention: Dave Cruitt  
Shelbyville, IL 62565

---

Client Number: 2410 Shelby County

Matter Number: 4636 Shelby County - Negotiations - 2018 - Sheriff

For Services Rendered Through 1/31/2020.

---

Fees				
<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
1/17/2020	EFF	send FOIA request to 12 counties to prepare comparables for the arbitration; review Union and employer final proposals; meeting with Bruce Cannon; review insurance documentation	5.50	\$1,072.50
1/22/2020	EFF	preparation for arbitration multiple conferences with Union attorney regarding comparable counties review and summarize the contracts from Moultrie, Christian, Douglas Counties and the employer and Union proposals	4.00	\$780.00
1/23/2020	EFF	meeting with Shelby County Negotiations Committee; meeting with Treasurer; meeting with County Clerk, multiple conferences with Union attorney	4.20	\$819.00
1/24/2020	EFF	prepare for arbitration - regarding comparable counties review and examine the population, median household income, median home value, median family income and per capital income for Bond, Christian, Clark, Clay, Dewitt, Douglas, Edgar, Fayette, Logan, Moultrie, and Piatt Counties vs Shelby County. REview and calculate FY 18, 19 & 20 wages in comparable counties for deputies and correction officers at base, and start of 5 year, 10 year, 15 and 20 year	6.00	\$1,170.00
1/26/2020	EFF	review and edit pre hearing arbitration stipulation Drafted correspondence to FOP attorney; draft correspondence to FOP attorney with reply to request for information	0.75	\$146.25

Continued On Next Page

C 46

Client Number: 2410  
Matter Number: 4636

2/17/2020

Page: 2

1/29/2020	RJM	Meet with EFF to discuss exhibits needed for labor arbitration trial on 2/5/20. Draft/revise salary comparison exhibits for deputies, corrections, and dispatch employees.	3.00	\$585.00
1/29/2020	EFF	edit joint stipulation (2) conferences with FOP counsel	1.20	\$234.00
1/30/2020	RJM	Draft exhibit of "civilian" employees with salaries comparable to non-union employees with similar job duties. Draft/revise exhibits comparing salaries of deputies, corrections, and dispatch employees. Phone call to Moultrie, Clay, Fayette & Douglas Counties to determine whether their dispatch employees were subject to a collective bargaining agreement.	4.00	\$780.00
1/31/2020	RJM	Meet with EFF to finalize exhibits for labor arbitration trial on 2/5/20. Draft/revise exhibits based on comments and suggestions from EFF.	3.50	\$682.50
1/31/2020	EFF	review and evaluate the exhibits and wage calculations in the exhibits ; Conferred with Sheriff and Rob; draft final offer proposal	2.70	\$526.50
Billable Hours / Fees:			34.85	\$6,795.75

---

### Timekeeper Summary

Timekeeper EFF worked 24.35 hours at \$195.00 per hour, totaling \$4,748.25.

Timekeeper RJM worked 10.50 hours at \$195.00 per hour, totaling \$2,047.50.

---

### Payment Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>
10/30/2019	Check Number 070918	(\$629.00)
Total Payments Received:		(\$629.00)

---



Client Number: 2410  
Matter Number: 4636

2/17/2020  
Page: 3

### Current Invoice Summary

Prior Balance:	\$629.00	
Payments Received:	(\$629.00)	Last Payment: 10/30/2019
Unpaid Prior Balance:	<u>\$0.00</u>	
Current Fees:	\$6,795.75	
Advanced Costs:	<u>\$0.00</u>	
TOTAL AMOUNT DUE:	<u>\$6,795.75</u>	

Thank You for Letting Us Serve You.  
Payment Due Upon Receipt.  
Please include Invoice Number with Payment

**Featherstun, Gaumer, et al.**

Federal Tax ID: 37-0561810

P. O. Box 1760

Decatur, IL 62525-1760

Telephone: 217-429-4453

Fax: 217-425-8892

March 18, 2020

Invoice No. 9434

Shelby County  
Attention: Dave Cruitt  
Shelbyville, IL 62565

Client Number: 2410 Shelby County

Matter Number: 4636 Shelby County - Negotiations - 2018 - Sheriff

For Services Rendered Through 2/29/2020.

**Fees**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
2/3/2020	RJM	Prepare comparable county map exhibits for trial. Prepare exhibits for trial related to recreational activities offered in comparable counties. Draft/revise wage comparison exhibits for trial.	1.50	\$292.50
2/3/2020	EFF	Multiple conferences with Union attorney; exchange emails with Arbitrator; prepare trial notebook and arguments	8.40	\$1,638.00
2/4/2020	RJM	Calculate hours worked per year by deputies using a 4 on/4 off schedule. Draft wage comparison exhibit for deputies using hourly wages instead of annual wages. Calculate employer wages for wage comparison exhibits with cost of insurance subtracted from wages paid. Review/proofread exhibit packet to be used at trial. Meet with EFF to discuss comments and suggestions on exhibit packet.	3.00	\$585.00
2/4/2020	EFF	multiple emails with Union attorney; Telephone conference with Gina; Telephone conference with Erica(2); finalize arbitration proposal; prepare oral argument	6.75	\$1,316.25
2/5/2020	EFF	Attend labor arbitration	6.50	\$1,267.50
2/19/2020	EFF	Conferred with Union attorney regarding arbitrator bill and briefing issue; draft correspondence to client regarding bill	0.25	\$48.75
2/23/2020	EFF	Review Union exhibits and AFSCME Contract; review County proposal and exhibits; dictate first draft of Brief	3.60	\$702.00

Continued On Next Page

Client Number: 2410  
Matter Number: 4636

3/18/2020

Page: 2

Billable Hours / Fees: 30.00 \$5,850.00

---

### Timekeeper Summary

Timekeeper EFF worked 25.50 hours at \$195.00 per hour, totaling \$4,972.50.

Timekeeper RJM worked 4.50 hours at \$195.00 per hour, totaling \$877.50.

---

### Cost Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Check No.</u>
2/6/2020	VENDOR:UPS; INVOICE#:0000F3752R050; DATE:2/6/2020 - Courier Charges-UPS Overnight to James Daniels Payee: UPS	\$36.19	42330
Total Costs		\$36.19	

---

### Current Invoice Summary

Prior Balance:	\$6,795.75
Payments Received:	\$0.00
Unpaid Prior Balance:	\$6,795.75
Current Fees:	\$5,850.00
Advanced Costs:	\$36.19
TOTAL AMOUNT DUE:	\$12,681.94

Thank You for Letting Us Serve You.  
NOW ACCEPTING ALL MAJOR CREDIT CARDS  
Please include Invoice Number with Payment  
Payment Due Upon Receipt.

STATE OF ILLINOIS  
FOURTH JUDICIAL CIRCUIT

ASSIGNMENT ORDER

**F I L E D**  
JUN 12 2020

*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL

It is hereby ordered that **Judge Kimberly G. Koester** is assigned to hear the  
following Shelby County Case:

**FEATHERSTUN, GAUMER, STOCKS,  
FLYNN AND ECK, LLP,**

**Plaintiffs,**

**vs.**

**SHELBY COUNTY and ERICA FIRNHABER,  
Shelby County Treasurer,**

**Defendants.**

**Case No. 2020-LM-22**

ENTER: June 11, 2020

  
\_\_\_\_\_  
Kimberly G. Koester, Chief Judge

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

EDWARD FLYNN and  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP.

Petitioners,

vs.

SHELBY COUNTY BOARD and  
ERICA FIRNHABER, SHELBY COUNTY TREASURER

Defendants.

Case Number: 2020-LM-22

**F I L E D**  
**JUN 15 2020**  
*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL

AFFIDAVIT AND REQUEST FOR THE APPOINTMENT OF COUNSEL

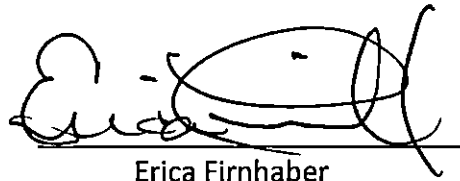
I, Erica Firnhaber, being first duly sworn, depose and state as follows:

1. That I am the duly elected Treasurer of Shelby County, Illinois;
2. That I am being sued in my professional capacity, in Shelby County case 2020-MR-22, wherein Ed Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn, and Eck, LLP, is seeking to compel payment of certain legal fee incurred pursuant to a Shelby County Board Resolution;
3. That I have discussed this case, 2020-LM-22, and 2020-MR-35 with the Shelby County State's Attorney, Gina Vonderheide;
4. That, upon information and belief, the State's Attorney has chosen to represent the interests of the Shelby County Board and those interests in this case are in direct conflict with those of Shelby County Treasurer's Office;
5. That I have contacted the Piatt County State's Attorney's Office concerning this conflict and the Piatt County State's Attorney, Dana Rhoades, and Assistant State's Attorney, Elizabeth Dobson, are willing to accept representation of my interests and those of my office, if they are duly appointed by the Court.

WHEREFORE, I respectfully request that the Piatt County State's Attorney's Office be appointed to represent me, in my official capacity, and the Shelby County Treasurer's Office in Shelby County cases 2020-LM-22 and, if needed, 2020-MR-35.

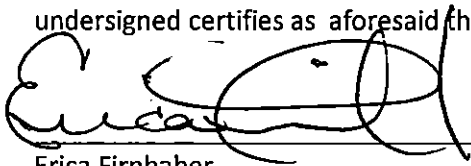
FURTHER AFFIANT SAYETH NOT.

6/15/2020  
DATE

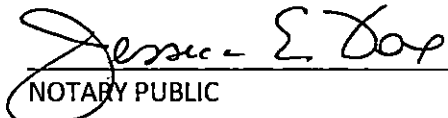
  
Erica Firnhaber  
Treasurer, Shelby County, IL

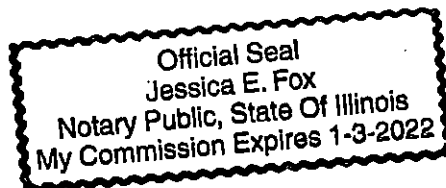
**VERIFICATION**

Under penalties 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, and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

  
Erica Firnhaber

DATE: June 15, 2020

  
NOTARY PUBLIC



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

EDWARD FLYNN and	)	
FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN & ECK, LLP.	)	
	)	
Petitioners,	)	Case Number: 2020-LM-22
vs.	)	
	)	
SHELBY COUNTY BOARD and	)	
ERICA FIRNHABER, SHELBY COUNTY TREASURER	)	
	)	
Defendants.	)	

ORDER OF APPOINTMENT OF COUNSEL

This cause comes on for hearing on the Application of the Shelby County Treasurer, Erica Firnhaber, for the appointment of counsel to represent the interests of herself and her office in connection with the suit filed in 2020-LM-22 and that the State's Attorney of Shelby County has elected to represent the County Board of Shelby County and take a position contrary to that of the Shelby County Treasurer,

THE COURT HEREIN FINDS that the interests of justice requires the appointment of counsel to represent Erica Firnhaber and the Shelby County Treasurer's Office in this matter.

IT IS THEREFORE ORDERED: That the Application for appointed counsel to represent Erica Firnhaber and the Shelby County Treasurer's Office is ALLOWED:

- A. The Court hereby requests the Piatt County State's Attorney's Office to accept representation of Erica Firnhaber and the Shelby County Treasurer's Office in Shelby County cases 2020-LM-22 and 2020-MR-35. State's Attorney Dana Rhoades and Assistant State's Attorney Elizabeth Dobson are herein appointed.
- B. All parties are directed to provide all documents, reports, or other information related to this case, as they would to counsel of the existing parties, to the Piatt County State's Attorney's Office.

DATE: \_\_\_\_\_

ENTER: \_\_\_\_\_

JUDGE

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP,	)	
Plaintiffs,	)	
	)	
v.	)	No. 2020 LM 22
	)	
SHELBY COUNTY and ERICA FIRNHABER,	)	
Shelby County Treasurer,	)	
Defendants,	)	
<u>AND</u>	)	
	)	
MARK BENNETT	)	
Plaintiff,	)	
	)	
v.	)	No. 2020 MR 35
	)	
SHELBY COUNTY BOARD; EDWARD	)	
FLYNN; FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP	)	
Defendant,	)	
	)	

**MOTION TO CONSOLIDATE**

Now comes the Plaintiff/Defendant, Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, and Edward Flynn, and for this Motion to Consolidate pursuant to 735 ILCS 5/-2-1006 states:

1. Both of the above actions arise from the same issues in dispute.
2. That the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP is the Plaintiff seeking to recover attorney's fees that have been approved by the Shelby County State's Attorney and the Shelby County Board and have not been paid due to the refusal of the Shelby County Treasurer to issue the check.
3. In 2020-MR-35, the Plaintiff, Mark Bennett, has sued the Shelby County Board, Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, claiming



that the legal fees sought in Case No. 2020-LM-22 should not be paid because the work performed by Edward Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP should have been performed by the Shelby County State's Attorney.

4. Consolidation of these two cases will serve the ends of judicial economy and prevent the risk of inconsistent judicial rulings.

5. No unfair prejudice will result to any party by consolidating 2020-LM-22 and Case No. 2020-MR-35.

WHEREFORE, Plaintiff/Defendant, Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, and Edward Flynn, respectfully request that this Court consolidate the two above cases and that all claims continue in 2020-LM-22.

EDWARD F. FLYNN AND FEATHERSTUN,  
GAUMER, STOCKS, FLYNN & ECK, LLP  
Plaintiff/Defendant,

BY: FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP,  
Their Attorneys

BY: /s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

### **CERTIFICATE OF SERVICE**

I certify that on the 13<sup>th</sup> day of July, 2020, at or before 5:00 p.m., a copy of the foregoing was filed with the Clerk of the Court using the e-filing system which will send notifications of each filing to the following; also, the undersigned hereby states that a copy of this document was directly e-mailed and sent regular U. S. mail to the following:

**VIA E -MAIL:** tom@silverlakelaw.com  
Thomas DeVore  
DeVore Law Offices., Ltd.  
118 N. 2nd St  
Greenville, IL 62246

*Attorney for Mark Bennett*

**VIA E-MAIL:** [statesattorney@shelbycounty-il.com](mailto:statesattorney@shelbycounty-il.com)  
Gina Vonderheide  
Shelby County State's Attorney  
301 E. Main St., Suite 11  
Shelbyville, IL 62565

*Attorney for Shelby County Board and Erica Firnhaber*

/s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP,	)	
Plaintiffs,	)	
	)	
v.	)	No. 2020 LM 22
	)	
SHELBY COUNTY and ERICA FIRNHABER,	)	
Shelby County Treasurer,	)	
Defendants,	)	

**MOTION FOR SUMMARY JUDGMENT PURSUANT TO 735 ILCS 5/2-1005(b)**

Now comes the Plaintiff, Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, and Edward Flynn, and for their Motion for Summary Judgment pursuant to 735 ILCS 5/2-1005(b) states as follows:

1. Plaintiff's Amended Complaint alleges three Counts, Count I – Breach of Contract; Count II - Quantum Meruit and Count III – Complaint for Issuance of Writ of Mandamus against Shelby County Treasurer, Erica Firnhaber.

2. The basis of the Complaint is that Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP have provided legal services for Shelby County for general civil matters focusing upon employment, collective bargaining, contractual matters and personnel issues since 2014.

3. That at all times during the allegations of this Complaint these services had been requested and approved by the Shelby County State's Attorney.

4. That Shelby County has failed to fulfill their obligation in that Defendants have failed to pay the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP the sum of \$15,443.43 for legal services provided by Plaintiff on behalf of Defendant.

5. The Shelby County Board has approved these bills.

6. Erica Firnhaber, Treasurer of Shelby County, has refused to issue the check for the payment of these bills.

7. Upon information and belief, Erica Firnhaber has refused to pay these bills on the basis that Featherstun, Gaumer, Stocks, Flynn & Eck, LLP was hired without legal authority.

8. Attached hereto is the Affidavit of Shelby County State's Attorney, Gina Vonderheide which states that she has held this position for over six (6) years which includes the entire time that Plaintiff has provided legal services for Shelby County.

9. The Shelby County State's Attorney's Office consists of the State's Attorney and one assistant. Neither of these attorneys has any experience in negotiating collective bargaining contracts, employment law or personnel matters.

10. The State's Attorney, in her discretion, appointed Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys to represent Shelby County when the public interest so requires, including but not limited to in labor negotiations, employment law and personnel matters.

11. The Illinois County Code authorizes State's Attorneys to appoint qualified attorneys to assist as a Special Assistant State's Attorney when the public interest so requires. 55 ILCS 5/4-2003(b). (See copy attached and incorporated herein.)

12. The recent labor negotiation with the Fraternal Order of Police regarding the contract for Shelby County Deputies, Corrections, Dispatch, Secretaries, and Bookkeepers resulted in a labor arbitration.

13. That the undersigned and her assistant never have engaged or participated in a labor arbitration.

14. That the undersigned and her assistant routinely work hand in hand with the Sheriff's Department and its staff regarding criminal prosecutions.

15. For the State's Attorney and/or the assistant to negotiate these collective bargaining agreements would create a tenuous relationship, and therefore, it was (and is) the opinion of the State's Attorney that it was in the public interest to appoint qualified attorneys to assist as Special Assistant State's Attorneys for employment, labor, personnel matters and to negotiate the above-referenced collective bargaining issues.

16. The Affidavit of Shelby County State's Attorney, Gina Vonderheide, is attached hereto and made a part of this Motion for Summary Judgment.

WHEREFORE, Plaintiff prays that this Court enter a judgment in its favor and against Shelby County and further order Shelby County Treasurer, Erica Firnhaber, in the form of a Writ of Mandamus, to pay the attorney's fees of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP of \$15,443 plus costs, pre-judgment interest, and to pay any future legal fees approved by the Shelby County Board.

EDWARD F. FLYNN AND FEATHERSTUN,  
GAUMER, STOCKS, FLYNN & ECK, LLP  
Plaintiff,

BY: FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP,  
Their Attorneys

BY: /s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453

Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

**CERTIFICATE OF SERVICE**

I certify that on the 13<sup>th</sup> day of July, 2020, at or before 5:00 p.m., a copy of the foregoing was filed with the Clerk of the Court using the e-filing system which will send notifications of each filing to the following; also, the undersigned hereby states that a copy of this document was directly e-mailed and sent regular U. S. mail to the following:

**VIA E -MAIL:** [tom@silverlakelaw.com](mailto:tom@silverlakelaw.com)  
Thomas DeVore  
DeVore Law Offices., Ltd.  
118 N. 2nd St  
Greenville, IL 62246

*Attorney for Mark Bennett*

**VIA E-MAIL:** [statesattorney@shelbycounty-il.com](mailto:statesattorney@shelbycounty-il.com)  
Gina Vonderheide  
Shelby County State's Attorney  
301 E. Main St., Suite 11  
Shelbyville, IL 62565

*Attorney for Shelby County Board and Erica Firnhaber*

/s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP,	)	
Plaintiffs,	)	
	)	
v.	)	No. 2020 MR 22
	)	
SHELBY COUNTY and ERICA FIRNHABER,	)	
Shelby County Treasurer,	)	
Defendants,	)	
AND	)	
<hr/>		
MARK BENNETT	)	
Plaintiff,	)	
	)	
v.	)	No. 2020 MR 35
	)	
SHELBY COUNTY BOARD; EDWARD	)	
FLYNN; FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP	)	
Defendant,	)	
	)	

**AFFIDAVIT OF SHELBY COUNTY, ILLINOIS STATE'S ATTORNEY,**  
**GINA VONDERHEIDE**

The undersigned does hereby affirm and certify that, if called as a witness in the cause herein, I could testify to the following based on personal knowledge:

1. The undersigned is the duly elected State's Attorney for Shelby County, Illinois and has held this position for over six (6) years.
2. That the State's Attorney's office in Shelby County, Illinois consists of the undersigned and one assistant.
3. That the undersigned and the sole assistant do not have any experience in negotiating collective bargaining contracts, employment law, and/or personnel matters.

4. That the State's Attorney in her discretion has appointed Edward F. Flynn and the Law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys to represent Shelby County when the public interest so requires, including but not limited to labor negotiations, employment law matters and personnel issues.

5. That Section 4-2003 of the Illinois County Code authorizes the State's Attorney to appoint qualified attorneys to assist as Special Assistant State's Attorneys when the public interest so requires.

6. That the recent labor negotiations with the FOP regarding the contract for the Shelby County Deputies, Corrections, Dispatch, Secretaries and Bookkeepers resulted in a labor arbitration.

7. That the undersigned and her assistant have never engaged or participated in a labor arbitration.

8. That the undersigned and her assistant routinely work hand in hand with the Sheriff's Department and its staff regarding criminal prosecutions.

9. For the State's Attorney and/or the assistant to negotiate these collective bargaining agreements would create a tenuous relationship and therefore, it is the opinion of the undersigned that it is in the public interest to appoint qualified attorneys to assist as Special Assistant State's Attorneys for employment, labor and personnel matters and to negotiate the above-referenced collective bargaining agreement.

10. The appointment of Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP has proven to be a valuable benefit to the Shelby



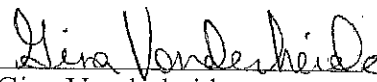
County State's Attorney's office and in the public's best interest for numerous years while they provided these services for Shelby County.

11. That the Treasurer of Shelby County, despite the County Board's approval of the bill for legal services provided by Edward F. Flynn, has refused to satisfy the outstanding legal expenses for the recent labor arbitration trial in which Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP represented Shelby County.

12. That pursuant to Section 4-2003 of the Illinois County Code, the undersigned states that she appointed Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys for the purpose of this labor arbitration and for all of the work performed by this law firm since 2014 when Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP was originally hired to perform the services for Shelby County.

13. Attached hereto is a copy of Section 4-2003 of the Illinois County Code upon which the undersigned relies and formulates the opinion set forth above.

July 7, 2020

  
Gina Vonderheide

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

  
Gina Vonderheide

3 720 ILCS 5/1-1 et seq.

4 625 ILCS 5/1-100 et seq.

5 625 ILCS 5/16-102.

6 65 ILCS 5/11-40-1, 5/11-40-2, 5/11-40-2a, and 5/11-40-3.

7 625 ILCS 5/11-100 et seq.

#### Repeal

*Text of section repealed by P.A. 100-987, § 905-43, eff. July 1, 2019.*

#### 5/4-2003. Assistants

##### § 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.

P.A. 86-962, Art. 4, § 4-2003, eff. Jan. 1, 1990. Amended by P.A. 86-1303, § 1, eff. Jan. 1, 1991; P.A. 91-273, § 5, eff. Jan. 1, 2000; P.A. 91-357, § 73, eff. July 29, 1999; P.A. 100-669, § 5, eff. Jan. 1, 2019.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2003.

#### 5/4-2004. Collection and disposition of fines and forfeitures

*Text of section effective until July 1, 2019. See, also, text of section 55 ILCS 5/4-2004, effective July 1, 2019.*

§ 4-2004. Collection and disposition of fines and forfeitures. It shall be the duty of State's attorneys to attend to the collection of all fines and forfeitures in criminal cases, and they shall, without delay, pay over all fines and forfeitures collected by them to the county treasurer to be deposited into the general corporate fund of the county, except as otherwise specifically provided by law and except for such portion as is required by Section 9.1 of "The Illinois Police Training Act"<sup>1</sup> and Section 5-9-1 of the "Unified Code of Corrections"<sup>2</sup> to be paid into The Traffic and Criminal Conviction Surcharge Fund in the State Treasury, unless the fines and forfeitures are subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.<sup>3</sup>

P.A. 86-962, Art. 4, § 4-2004, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2004.

<sup>1</sup> 50 ILCS 705/9.1.

<sup>2</sup> 730 ILCS 5/5-9-1.

<sup>3</sup> 705 ILCS 105/27.5.

#### 5/4-2004. Collection and disposition of fines and forfeitures

*Text of section effective July 1, 2019. See, also, text of section 55 ILCS 5/4-2004, effective until July 1, 2019.*

§ 4-2004. Collection and disposition of fines and forfeitures. It shall be the duty of State's attorneys to attend to the collection of all fines and forfeitures in criminal cases, and they shall, without delay, pay over all fines and forfeitures collected by them to the county treasurer to be deposited into the general corporate fund of the county, except as otherwise specifically provided by law.

P.A. 86-962, Art. 4, § 4-2004, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992; P.A. 100-987, § 905-40, eff. July 1, 2019.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2004.

#### 5/4-2005. Payment of salaries; disposition of fees

*Text of section effective until July 1, 2019. See, also, text of section 55 ILCS 5/4-2005, effective July 1, 2019.*

§ 4-2005. Payment of salaries; disposition of fees. The salaries of the State's attorneys, excepting that part which is to be paid out of the State treasury as now provided for by law, and the salaries of all Assistant State's attorneys shall be paid out of the general corporate fund of the county treasury of the county in which the State's attorney resides, on the order of the county board by the treasurer of the county: The fees which are now, or may hereafter, be provided by law to be paid by the defendant or defendants, as State's attorney's fees, shall be taxed as costs and all fees, fines, forfeitures and penalties shall be collected by the State's attorney, except for those amounts required by Section 9.1 of the "Illinois Police Training Act"<sup>1</sup> and Section 5-9-1 of the "Unified Code of Corrections"<sup>2</sup> to be paid into The Traffic and Criminal Conviction Surcharge Fund and those amounts subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.<sup>3</sup> and shall be paid by him directly into the county treasury to be deposited into the general corporate fund of the county. The county treasurer shall receipt therefor.

P.A. 86-962, Art. 4, § 4-2005, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2005.

<sup>1</sup> 50 ILCS 705/9.1.

<sup>2</sup> 730 ILCS 5/5-9-1.

<sup>3</sup> 705 ILCS 105/27.5.

#### 5/4-2005. Payment of salaries; disposition of fees

*Text of section effective July 1, 2019. See, also, text of section 55 ILCS 5/4-2005, effective until July 1, 2019.*

§ 4-2005. Payment of salaries; disposition of fees. The salaries of the State's attorneys, excepting that part which is to be paid out of the State treasury as now provided for by law, and the salaries of all Assistant State's attorneys shall be paid out of the general corporate fund of the county treasury of the county in which the State's attorney resides, on the order of the county board by the treasurer of the county: The fees which are now, or may hereafter, be provided by law to be paid by the defendant or defendants, as State's attorney's fees, shall be taxed as costs and all fees, fines, forfeitures and penalties shall be collected by the State's attorney, except as otherwise specifically provided by law, and shall be paid by him directly into the county treasury to be deposited into the general corporate fund of the county. The county treasurer shall receipt therefor.

P.A. 86-962, Art. 4, § 4-2005, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992; P.A. 100-987, § 905-40, eff. July 1, 2019.

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP,	)	
Plaintiffs,	)	
	)	
v.	)	No. 2020 LM 22
	)	
SHELBY COUNTY and ERICA FIRNHABER,	)	
Shelby County Treasurer,	)	
Defendants,	)	
<u>AND</u>	)	
	)	
MARK BENNETT	)	
Plaintiff,	)	
	)	
v.	)	No. 2020 MR 35
	)	
SHELBY COUNTY BOARD; EDWARD	)	
FLYNN; FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP	)	
Defendant,	)	
	)	

**NOTICE OF HEARING**

To: All Attorneys of Record

On Friday, September 25, 2020, at 1:15 P.M., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Kimberly G. Koester, or any Judge sitting in her stead, in the Courtroom usually occupied by her in Courtroom No. A, Shelby County Courthouse, 301 E. Main Street, Shelbyville, IL 62565, and at that time and place we will present to the Judge our Motion to Consolidate in Cause No. 2020-LM-22, Motion for Summary Judgment Pursuant to 735 ILCS 5/2-1005(b) in Cause No. 2020-LM-22, Motion to Consolidate in Cause No. 2020-MR-35 and Motion for Summary Judgment Pursuant to 735 ILCS 5/2-1005(b) in Cause No. 2020-MR-35, copies of which were previously served upon all counsel of record, and request that the Judge

make Rulings and enter Orders thereon.

EDWARD F. FLYNN AND FEATHERSTUN,  
GAUMER, STOCKS, FLYNN & ECK, LLP  
Plaintiff/Defendant,

BY: FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP,  
Their Attorneys

BY: /s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

## **CERTIFICATE OF SERVICE**

I certify that on the 13<sup>th</sup> day of July, 2020, at or before 5:00 p.m., a copy of the foregoing was filed with the Clerk of the Court using the e-filing system which will send notifications of each filing to the following; also, the undersigned hereby states that a copy of this document was directly e-mailed and sent regular U. S. mail to the following:

**VIA E -MAIL:** tom@silverlakelaw.com  
Thomas DeVore  
DeVore Law Offices., Ltd.  
118 N. 2nd St  
Greenville, IL 62246

*Attorney for Mark Bennett*

**VIA E-MAIL:** [statesattorney@shelbycounty-il.com](mailto:statesattorney@shelbycounty-il.com)  
Gina Vonderheide  
Shelby County State's Attorney  
301 E. Main St., Suite 11  
Shelbyville, IL 62565

*Attorney for Shelby County Board and Erica Firnhaber*

/s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER., STOCKS,  
FLYNN AND ECK, LLP,

Plaintiffs,

--vs--

SHELBY COUNTY and ERICA FIRNHABER,  
Shelby County Treasurer,

Defendants.

No 2020-LM-22

FILED  
JUL 14 2020

*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL

**MOTION FOR THE APPOINTMENT OF COUNSEL**

NOW COMES Shelby County, IL Treasurer Erica Firnhaber, personally and pro se, as a Defendant in the above-entitled cause and moves this Honorable Court for the appointment of counsel to represent me in these proceedings, and is support thereof, state as follows:

1. That I am the duly elected Treasurer of Shelby County, IL;
2. That I am a Defendant in the above entitled cause of action, being named in the Amended Complaint filed May 18, 2020, and in the Motion for Summary Judgment filed July 13, 2020;
3. That I require legal counsel to assist me in these proceedings.
4. That the Shelby County State's Attorney, Gina Vonderheide is a witness in this case, according to her affidavit filed with the Motion for Summary Judgment and therefore cannot represent my interests or the interests of the Shelby County, IL Treasurer's Office;
5. That the taxpayers and constituents of Shelby County, IL have a right to have the issue of the legality of the appointment of Plaintiffs to conduct legal work in Shelby County, IL, when such legal work is the constitutional responsibility of the State's Attorney, litigated and resolved.

WHEREFORE, Defendant Erica Firnhaber respectfully requests that this Honorable Court to appoint counsel to represent me in these proceedings. Further, it is my understanding that the State's Attorney's Office of Piatt County, IL, is willing to undertake this representation at no additional cost to Shelby County, IL, if the Court was inclined to make this appointment.

Date: 7/14/2020

BY: 

Erica Firnhaber  
Shelby County Treasurer

STATE OF ILLINOIS        )  
                                           ) ss.  
 COUNTY OF SHELBY        )

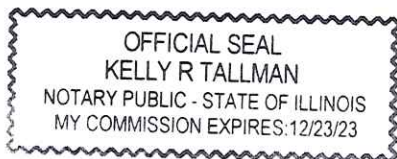
**AFFIDAVIT**

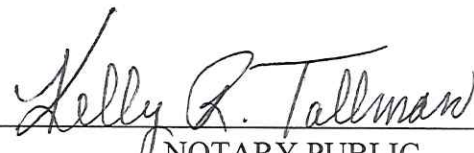
1. I, Gina Vonderheide, am an adult over the age of 18 years, and am under no legal disability.
2. That I am the Shelby County State's Attorney and have served in this capacity since 2012.
3. That I am aware of the instant litigation and the position in the litigation of both the Shelby County Board and the Shelby County Treasurer.
4. That as Shelby County State's Attorney, it would be my statutory duty to represent both a Shelby County officeholder and the Shelby County Board in any litigation.
5. That it is my opinion that there is a direct conflict that prevents me from representing both the Shelby County Board and the Shelby County Treasurer in this litigation as the positions of the Board and the Treasurer are in direct opposition.
6. That I am executing this document of my own free will and have not been threatened or coerced in any way.

Further affiant sayeth not.

  
 AFFIANT

Subscribed and sworn before me this 17th day of July, 2020.



  
 NOTARY PUBLIC

# **SUSAN ARTHUR**

Shelby County Circuit Court Clerk  
PO Box 469  
Shelbyville, Illinois 62565

Phone: 217-774-4212

Fax: 217-774-4109

July 30, 202

In Re:

20-LM-22 Flynn v. Shelby County

20-MR-35 Bennett v. Shelby County

There is a conference call scheduled with Judge Koester on July 31, 2020 at noon for the above captioned cases. These are the numbers you will need for the call.

If you have any questions, please let me know.

DIAL IN NUMBER : 1-888-909-7654

PARTICIPANT PASSCODE : 670181

A handwritten signature in cursive script that reads "Susan Arthur".

Susan Arthur  
Shelby County Circuit Clerk



IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT OF ILLINOIS

SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN & ECK, LLP,	)	
	)	
Plaintiffs,	)	
	)	
-vs-	)	No. 2020-LM-22
	)	
SHELBY COUNTY and ERICA	)	
FIRNHABER, Shelby County	)	
Treasurer,	)	
	)	
Defendants.	)	

**MOTION FOR APPOINTMENT OF COUNSEL**

Now comes Gina Vonderheide, State's Attorney of Shelby County, Illinois, and moves this Honorable Court to appoint counsel for the Defendant, Shelby County, in the above-captioned matter, and in support thereof, states as follows:

1. That the positions of the Shelby County Board and the Shelby County Treasurer are adverse in this matter.

2. That the State's Attorney of Shelby County is unable to represent both the County Board and the Treasurer in this litigation.

3. That the undersigned has executed an Affidavit in this litigation, making her a potential witness in this case and as such, it would be untenable for her to represent the Shelby County Board.

4. That the Court has previously expressed its willingness to appoint counsel for the Shelby County Treasurer. The Court expressed that it had attempted contact with the Illinois Attorney General's Office and if that office could not provide representation, an inquiry would be made with the State's Attorney's Appellate Prosecutor's Association. If neither of those offices could provide representation, the Court indicated it likely would appoint a State's Attorney from the Fourth Circuit.

5. That the Shelby County Board requests an attorney appointed, following the same process as used with the Shelby County Treasurer. If the Illinois Attorney General's Office, the State's Attorney's Appellate Prosecutor's Office or a different State's Attorney are all not available, the Shelby County Board requests that certain attorneys from the firm of Nixon Peabody be allowed to enter their appearance as special assistant state's attorneys in this litigation.

WHEREFORE, the Shelby County State's Attorney respectfully requests this Court grant her Motion, appoint counsel for the Shelby County Board, and for such other and further relief that the Court deems just and equitable.

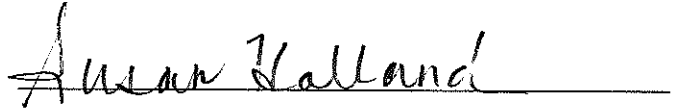
Dated: August 21, 2020.

  
\_\_\_\_\_  
State's Attorney

Gina Vonderheide  
Shelby County State's Attorney  
Shelby County Courthouse  
301 E. Main Street, Suite 11  
Shelbyville, Illinois 62565  
Telephone: (217) 774-5511

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument was served upon the parties of record in the above-captioned cause by hand delivery and/or e-filing the same on August 21, 2020.

A handwritten signature in cursive script, reading "Susan Halland", is written over a horizontal line.

To: Edward F. Flynn  
Attorney at Law  
P. O. Box 1760  
Decatur, IL 62525

Erica Firnhaber  
Shelby County Treasurer  
301 E. Main Street  
Shelbyville, IL 62565

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP,	)	
Plaintiffs,	)	
	)	
v.	)	No. 2020 LM 22
	)	
SHELBY COUNTY and ERICA FIRNHABER,	)	
Shelby County Treasurer,	)	
Defendants,	)	

**AMENDED**  
**MOTION FOR SUMMARY JUDGMENT PURSUANT TO 735 ILCS 5/2-1005(b)**

Now comes the Plaintiff, Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, and Edward Flynn, and for their Motion for Summary Judgment pursuant to 735 ILCS 5/2-1005(b) states as follows:

1. Plaintiff's Amended Complaint alleges three Counts, Count I – Breach of Contract; Count II - Quantum Meruit and Count III – Complaint for Issuance of Writ of Mandamus against Shelby County Treasurer, Erica Firnhaber.

2. The basis of the Complaint is that Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP have provided legal services for Shelby County for general civil matters focusing upon employment, collective bargaining, contractual matters and personnel issues since 2014.

3. That at all times during the allegations of this Complaint these services had been requested and approved by the Shelby County State's Attorney.

4. That Shelby County has failed to fulfill their obligation in that Defendants have failed to pay the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP the sum of \$15,443.43 for legal services provided by Plaintiff on behalf of Defendant.

5. The Shelby County Board has approved these bills.
6. Erica Firnhaber, Treasurer of Shelby County, has refused to issue the check for the payment of these bills.
7. Upon information and belief, Erica Firnhaber has refused to pay these bills on the basis that Featherstun, Gaumer, Stocks, Flynn & Eck, LLP was hired without legal authority.
8. Attached hereto is the Affidavit of Shelby County State's Attorney, Gina Vonderheide which states that she has held this position for over six (6) years which includes the entire time that Plaintiff has provided legal services for Shelby County.
9. The Shelby County State's Attorney's Office consists of the State's Attorney and one assistant. Neither of these attorneys has any experience in negotiating collective bargaining contracts, employment law or personnel matters.
10. The State's Attorney, in her discretion, appointed Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys to represent Shelby County when the public interest so requires, including but not limited to in labor negotiations, employment law and personnel matters.
11. The Illinois County Code authorizes State's Attorneys to appoint qualified attorneys to assist as a Special Assistant State's Attorney when the public interest so requires. 55 ILCS 5/4-2003(b). (See copy attached and incorporated herein.)
12. The recent labor negotiation with the Fraternal Order of Police regarding the contract for Shelby County Deputies, Corrections, Dispatch, Secretaries, and Bookkeepers resulted in a labor arbitration.

13. That the affiant<sup>1</sup> and her assistant never have engaged or participated in a labor arbitration.

14. That the affiant<sup>2</sup> and her assistant routinely work hand in hand with the Sheriff's Department and its staff regarding criminal prosecutions.

15. For the State's Attorney and/or the assistant to negotiate these collective bargaining agreements would create a tenuous relationship, and therefore, it was (and is) the opinion of the State's Attorney that it was in the public interest to appoint qualified attorneys to assist as Special Assistant State's Attorneys for employment, labor, personnel matters and to negotiate the above-referenced collective bargaining issues.

16. The Affidavit of Shelby County State's Attorney, Gina Vonderheide, is attached hereto and made a part of this Motion for Summary Judgment.

WHEREFORE, Plaintiff prays that this Court enter a judgment in its favor and against Shelby County and further order Shelby County Treasurer, Erica Firnhaber, in the form of a Writ of Mandamus, to pay the attorney's fees of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP of \$15,443 plus costs, pre-judgment interest, and to pay any future legal fees approved by the Shelby County Board.

EDWARD F. FLYNN AND FEATHERSTUN,  
GAUMER, STOCKS, FLYNN & ECK, LLP  
Plaintiff,

BY: FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP,  
Their Attorneys

BY: /s/ Edward F. Flynn

---

<sup>1, 2</sup> This is the only amendment to the Motion for Summary Judgment.

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

### **CERTIFICATE OF SERVICE**

I certify that on the 4<sup>th</sup> day of September, 2020, at or before 5:00 p.m., a copy of the foregoing was filed with the Clerk of the Court using the e-filing system which will send notifications of each filing to the following; also, the undersigned hereby states that a copy of this document was directly e-mailed and sent regular U. S. mail to the following:

**VIA E -MAIL:** tom@silverlakelaw.com  
Thomas DeVore  
DeVore Law Offices., Ltd.  
118 N. 2nd St  
Greenville, IL 62246

*Attorney for Mark Bennett*

**VIA E-MAIL:** [statesattorney@shelbycounty-il.com](mailto:statesattorney@shelbycounty-il.com)  
Gina Vonderheide  
Shelby County State's Attorney  
301 E. Main St., Suite 11  
Shelbyville, IL 62565

*Attorney for Shelby County Board and Erica Firnhaber*

/s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN, & ECK, LLP,	)	
Plaintiffs,	)	
	)	
v.	)	No. 2020 LM 22
	)	
SHELBY COUNTY and ERICA FIRNHABER,	)	
Shelby County Treasurer,	)	
Defendants,	)	

**AMENDED**  
**MOTION FOR SUMMARY JUDGMENT PURSUANT TO 735 ILCS 5/2-1005(b)**

Now comes the Plaintiff, Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, and Edward Flynn, and for their Motion for Summary Judgment pursuant to 735 ILCS 5/2-1005(b) states as follows:

1. Plaintiff's Amended Complaint alleges three Counts, Count I – Breach of Contract; Count II - Quantum Meruit and Count III – Complaint for Issuance of Writ of Mandamus against Shelby County Treasurer, Erica Firnhaber.

2. The basis of the Complaint is that Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP have provided legal services for Shelby County for general civil matters focusing upon employment, collective bargaining, contractual matters and personnel issues since 2014.

3. That at all times during the allegations of this Complaint these services had been requested and approved by the Shelby County State's Attorney.

4. That Shelby County has failed to fulfill their obligation in that Defendants have failed to pay the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP the sum of \$15,443.43 for legal services provided by Plaintiff on behalf of Defendant.



5. The Shelby County Board has approved these bills.
6. Erica Firnhaber, Treasurer of Shelby County, has refused to issue the check for the payment of these bills.
7. Upon information and belief, Erica Firnhaber has refused to pay these bills on the basis that Featherstun, Gaumer, Stocks, Flynn & Eck, LLP was hired without legal authority.
8. Attached hereto is the Affidavit of Shelby County State's Attorney, Gina Vonderheide which states that she has held this position for over six (6) years which includes the entire time that Plaintiff has provided legal services for Shelby County.
9. The Shelby County State's Attorney's Office consists of the State's Attorney and one assistant. Neither of these attorneys has any experience in negotiating collective bargaining contracts, employment law or personnel matters.
10. The State's Attorney, in her discretion, appointed Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys to represent Shelby County when the public interest so requires, including but not limited to in labor negotiations, employment law and personnel matters.
11. The Illinois County Code authorizes State's Attorneys to appoint qualified attorneys to assist as a Special Assistant State's Attorney when the public interest so requires. 55 ILCS 5/4-2003(b). (See copy attached and incorporated herein.)
12. The recent labor negotiation with the Fraternal Order of Police regarding the contract for Shelby County Deputies, Corrections, Dispatch, Secretaries, and Bookkeepers resulted in a labor arbitration.

13. That the affiant<sup>1</sup> and her assistant never have engaged or participated in a labor arbitration.

14. That the affiant<sup>2</sup> and her assistant routinely work hand in hand with the Sheriff's Department and its staff regarding criminal prosecutions.

15. For the State's Attorney and/or the assistant to negotiate these collective bargaining agreements would create a tenuous relationship, and therefore, it was (and is) the opinion of the State's Attorney that it was in the public interest to appoint qualified attorneys to assist as Special Assistant State's Attorneys for employment, labor, personnel matters and to negotiate the above-referenced collective bargaining issues.

16. The Affidavit of Shelby County State's Attorney, Gina Vonderheide, is attached hereto and made a part of this Motion for Summary Judgment.

WHEREFORE, Plaintiff prays that this Court enter a judgment in its favor and against Shelby County and further order Shelby County Treasurer, Erica Firnhaber, in the form of a Writ of Mandamus, to pay the attorney's fees of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP of \$15,443 plus costs, pre-judgment interest, and to pay any future legal fees approved by the Shelby County Board.

EDWARD F. FLYNN AND FEATHERSTUN,  
GAUMER, STOCKS, FLYNN & ECK, LLP  
Plaintiff,

BY: FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP,  
Their Attorneys

BY: /s/ Edward F. Flynn

---

<sup>1, 2</sup> This is the only amendment to the Motion for Summary Judgment.

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

**CERTIFICATE OF SERVICE**

I certify that on the 4<sup>th</sup> day of September, 2020, at or before 5:00 p.m., a copy of the foregoing was filed with the Clerk of the Court using the e-filing system which will send notifications of each filing to the following; also, the undersigned hereby states that a copy of this document was directly e-mailed and sent regular U. S. mail to the following:

**VIA E -MAIL:** [tom@silverlakelaw.com](mailto:tom@silverlakelaw.com)  
Thomas DeVore  
DeVore Law Offices., Ltd.  
118 N. 2nd St  
Greenville, IL 62246

*Attorney for Mark Bennett*

**VIA E-MAIL:** [statesattorney@shelbycounty-il.com](mailto:statesattorney@shelbycounty-il.com)  
Gina Vonderheide  
Shelby County State's Attorney  
301 E. Main St., Suite 11  
Shelbyville, IL 62565

*Attorney for Shelby County Board and Erica Firnhaber*

/s/ Edward F. Flynn

Edward F. Flynn  
ARDC No. 06192240  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP  
101 S. State Street, Suite 240  
P. O. Box 1760  
Decatur, Illinois 62525  
Telephone: (217) 429-4453  
Fax: (217) 425-8892  
E-mail: [eflynn@decatur.legal](mailto:eflynn@decatur.legal)  
glw

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

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN, & ECK, LLP,  
Plaintiffs,

v.

SHELBY COUNTY and ERICA FIRNHABER,  
Shelby County Treasurer,  
Defendants,

AND

MARK BENNETT  
Plaintiff,

v.

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

No. 2020 MR 22

No. 2020 MR 35

AFFIDAVIT OF SHELBY COUNTY, ILLINOIS STATE'S ATTORNEY,  
GINA VONDERHEIDE

The undersigned does hereby affirm and certify that, if called as a witness in the cause herein, I could testify to the following based on personal knowledge:

1. The undersigned is the duly elected State's Attorney for Shelby County, Illinois and has held this position for over six (6) years.
2. That the State's Attorney's office in Shelby County, Illinois consists of the undersigned and one assistant.
3. That the undersigned and the sole assistant do not have any experience in negotiating collective bargaining contracts, employment law, and/or personnel matters.

4. That the State's Attorney in her discretion has appointed Edward F. Flynn and the Law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys to represent Shelby County when the public interest so requires, including but not limited to labor negotiations, employment law matters and personnel issues.

5. That Section 4-2003 of the Illinois County Code authorizes the State's Attorney to appoint qualified attorneys to assist as Special Assistant State's Attorneys when the public interest so requires.

6. That the recent labor negotiations with the FOP regarding the contract for the Shelby County Deputies, Corrections, Dispatch, Secretaries and Bookkeepers resulted in a labor arbitration.

7. That the undersigned and her assistant have never engaged or participated in a labor arbitration.

8. That the undersigned and her assistant routinely work hand in hand with the Sheriff's Department and its staff regarding criminal prosecutions.

9. For the State's Attorney and/or the assistant to negotiate these collective bargaining agreements would create a tenuous relationship and therefore, it is the opinion of the undersigned that it is in the public interest to appoint qualified attorneys to assist as Special Assistant State's Attorneys for employment, labor and personnel matters and to negotiate the above-referenced collective bargaining agreement.

10. The appointment of Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP has proven to be a valuable benefit to the Shelby

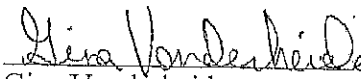
County State's Attorney's office and in the public's best interest for numerous years while they provided these services for Shelby County.

11. That the Treasurer of Shelby County, despite the County Board's approval of the bill for legal services provided by Edward F. Flynn, has refused to satisfy the outstanding legal expenses for the recent labor arbitration trial in which Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn & Eck, LLP represented Shelby County.

12. That pursuant to Section 4-2003 of the Illinois County Code, the undersigned states that she appointed Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys for the purpose of this labor arbitration and for all of the work performed by this law firm since 2014 when Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP was originally hired to perform the services for Shelby County.

13. Attached hereto is a copy of Section 4-2003 of the Illinois County Code upon which the undersigned relies and formulates the opinion set forth above.

July 7, 2020

  
Gina Vonderheide

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

  
Gina Vonderheide

3 720 ILCS 5/1-1 et seq.

4 625 ILCS 5/1-100 et seq.

5 625 ILCS 5/16-102.

6 65 ILCS 5/11-40-1, 5/11-40-2, 5/11-40-2a, and 5/11-40-3.

7 625 ILCS 5/11-100 et seq.

#### Repeal

*Text of section repealed by P.A. 100-987, § 905-43, eff. July 1, 2019.*

#### 5/4-2003. Assistants

##### § 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.

P.A. 86-962, Art. 4, § 4-2003, eff. Jan. 1, 1990. Amended by P.A. 86-1803, § 1, eff. Jan. 1, 1991; P.A. 91-273, § 5, eff. Jan. 1, 2000; P.A. 91-357, § 73, eff. July 29, 1999; P.A. 100-669, § 5, eff. Jan. 1, 2019.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2003.

#### 5/4-2004. Collection and disposition of fines and forfeitures

*Text of section effective until July 1, 2019. See, also, text of section 55 ILCS 5/4-2004, effective July 1, 2019.*

§ 4-2004. Collection and disposition of fines and forfeitures. It shall be the duty of State's attorneys to attend to the collection of all fines and forfeitures in criminal cases, and they shall, without delay, pay over all fines and forfeitures collected by them to the county treasurer to be deposited into the general corporate fund of the county, except as otherwise specifically provided by law and except for such portion as is required by Section 9.1 of "The Illinois Police Training Act"<sup>1</sup> and Section 5-9-1 of the "Unified Code of Corrections"<sup>2</sup> to be paid into The Traffic and Criminal Conviction Surcharge Fund in the State Treasury, unless the fines and forfeitures are subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.<sup>3</sup> P.A. 86-962, Art. 4, § 4-2004, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2004.

<sup>1</sup> 50 ILCS 705/9.1.

<sup>2</sup> 730 ILCS 5/5-9-1.

<sup>3</sup> 705 ILCS 105/27.5.

#### 5/4-2004. Collection and disposition of fines and forfeitures

*Text of section effective July 1, 2019. See, also, text of section 55 ILCS 5/4-2004, effective until July 1, 2019.*

§ 4-2004. Collection and disposition of fines and forfeitures. It shall be the duty of State's attorneys to attend to the collection of all fines and forfeitures in criminal cases, and they shall, without delay, pay over all fines and forfeitures collected by them to the county treasurer to be deposited into the general corporate fund of the county, except as otherwise specifically provided by law.

P.A. 86-962, Art. 4, § 4-2004, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992; P.A. 100-987, § 905-40, eff. July 1, 2019.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2004.

#### 5/4-2005. Payment of salaries; disposition of fees

*Text of section effective until July 1, 2019. See, also, text of section 55 ILCS 5/4-2005, effective July 1, 2019.*

§ 4-2005. Payment of salaries; disposition of fees. The salaries of the State's attorneys, excepting that part which is to be paid out of the State treasury as now provided for by law, and the salaries of all Assistant State's attorneys shall be paid out of the general corporate fund of the county treasury of the county in which the State's attorney resides, on the order of the county board by the treasurer of the county. The fees which are now, or may hereafter, be provided by law to be paid by the defendant or defendants, as State's attorney's fees, shall be taxed as costs and all fees, fines, forfeitures and penalties shall be collected by the State's attorney, except for those amounts required by Section 9.1 of the "Illinois Police Training Act"<sup>1</sup> and Section 5-9-1 of the "Unified Code of Corrections"<sup>2</sup> to be paid into The Traffic and Criminal Conviction Surcharge Fund and those amounts subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act,<sup>3</sup> and shall be paid by him directly into the county treasury to be deposited into the general corporate fund of the county. The county treasurer shall receipt therefor.

P.A. 86-962, Art. 4, § 4-2005, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 4-2005.

<sup>1</sup> 50 ILCS 705/9.1.

<sup>2</sup> 730 ILCS 5/5-9-1.

<sup>3</sup> 705 ILCS 105/27.5.

#### 5/4-2005. Payment of salaries; disposition of fees

*Text of section effective July 1, 2019. See, also, text of section 55 ILCS 5/4-2005, effective until July 1, 2019.*

§ 4-2005. Payment of salaries; disposition of fees. The salaries of the State's attorneys, excepting that part which is to be paid out of the State treasury as now provided for by law, and the salaries of all Assistant State's attorneys shall be paid out of the general corporate fund of the county treasury of the county in which the State's attorney resides, on the order of the county board by the treasurer of the county. The fees which are now, or may hereafter, be provided by law to be paid by the defendant or defendants, as State's attorney's fees, shall be taxed as costs and all fees, fines, forfeitures and penalties shall be collected by the State's attorney, except as otherwise specifically provided by law, and shall be paid by him directly into the county treasury to be deposited into the general corporate fund of the county. The county treasurer shall receipt therefor. P.A. 86-962, Art. 4, § 4-2005, eff. Jan. 1, 1990. Amended by P.A. 87-670, § 2, eff. Jan. 1, 1992; P.A. 100-987, § 905-40, eff. July 1, 2019.

**20-LM-22, Featherstun, Gaumer, Stocks, Flynn & Beck, LLP vs. Shelby County and Erica Firnhaber**

9/9/20 2:50 PM

From: "Circuit Clerk - Susan Arthur" &lt;cc@shelbycounty-il.com&gt;

To: &lt;jcsa04@hotmail.com&gt;, &lt;claycosa@msn.com&gt;, "efflynn@decatur.legal" &lt;efflynn@decatur.legal&gt;, "Shelby County Treasurer - Erica Firnhaber" &lt;shcotre@shelbycounty-il.com&gt;, "States Attorney" &lt;statesattorney@shelbycounty-il.com&gt;, "tom@silverlakelaw.com" &lt;tom@silverlakelaw.com&gt;

Please find the docket entry made in the above captioned case by Judge Koester on 9/9/20.

Susan Arthur  
Shelby County Circuit Clerk  
301 E. Main St  
Shelbyville, IL 62565  
Ph (217)774-4212  
Fax (217)774-4109  
cc@shelbycounty-il.com

**Attachments:**

- DOCKET ENTRY-9\_9\_2020.pdf

**F I L E D**  
**SEP - 9 2020**

*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL





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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	No. 2020-LM-22
Plaintiffs,	)	
v	)	
	)	
SHELBY COUNTY and ERICA	)	
FIRNHABER, Shelby County	)	
Treasurer,	)	
Defendants.	)	
	)	

**Entry of Appearance**

The State's Attorney of Clay County, Illinois, Andrew T. Koester, hereby enters his appearance on behalf of ERICA FIRNHABER, the Shelby County Treasurer, in the above cause.

  
**ANDREW T. KOESTER, CLAY  
 COUNTY STATE'S ATTORNEY**

Andrew T. Koester  
 Clay County State's Attorney  
 Clay County Courthouse  
 Post Office Box 190, Louisville, Illinois 62858  
 Phone: (618) 665-3522  
 Email: claycosa@msn.com

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	No. 2020-LM-22
Plaintiffs,	)	
v	)	
	)	
SHELBY COUNTY and ERICA	)	
FIRNHABER, Shelby County	)	
Treasurer,	)	
Defendants.	)	
	)	

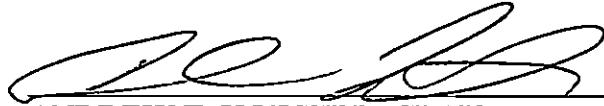
**Motion for Extension of Time to File Responsive Pleadings**

The State's Attorney of Clay County, Illinois, Andrew T. Koester, on behalf of ERICA FIRNHABER, the Shelby County Treasurer, and for her Motion for Extension of Time to File Responsive Pleadings under Illinois Supreme Court Rule 183, states as follows:

1. The Plaintiff filed a Complaint against the named Defendants on May 8, 2020.
2. The Plaintiff filed an Amended Complaint on May 18, 2020.
3. The Plaintiff filed a Motion for Summary Judgment on July 13, 2020.
4. The Plaintiff filed an Amended Motion for Summary Judgment on September 4, 2020.
5. Above-named counsel was appointed to represent the Defendant, Erica Firnhaber, by Court Order on September 9, 2020.
6. Under Illinois Supreme Court Rule 183, Ms. Firnhaber is asking this Court for additional time to file responsive pleadings to the above-mentioned Amended Complaint and Amended Motion for Summary Judgment.

7. Illinois Supreme Court Rule 183 states that the Court, for good cause shown on motion after notice to the opposite party, may extend the time for filing any pleading or the doing of any act which is required by the rules to be done within a limited period, either before or after the expiration of the time.
8. While counsel for Ms. Firnhaber has had a chance to review all pleadings, additional time is necessary to determine the appropriate response to both the Amended Complaint and Amended Motion for Summary Judgment.

WHEREFORE, counsel Erica Firnhaber respectfully requests this Court grant Defendant's request for additional time to file responsive pleadings to Plaintiff's Amended Complaint and Amended Motion for Summary Judgment, and asks that the Court grant an additional 21 days to file such responsive pleadings from the date of the Order, or for any other relief this Court deems equitable and just.



**ANDREW T. KOESTER, CLAY  
COUNTY STATE'S ATTORNEY**

Andrew T. Koester  
Clay County State's Attorney  
Clay County Courthouse  
Post Office Box 190, Louisville, Illinois 62858  
(618) 665-3522  
[claycosa@msn.com](mailto:claycosa@msn.com)

IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT

SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,  
 FLYNN AND ECK, LLP,

Plaintiffs,

vs.

SHELBY COUNTY and ERICA  
 FIRNHABER, Shelby County Treasurer

Defendant.

)  
 ) Case No. 2020-LM-22  
 )  
 )  
 )  
 )  
 )  
 )  
 )

**NOTICE OF HEARING**

TO: **Edward F. Fynn**  
[eflynn@decatgur.legal](mailto:eflynn@decatgur.legal)

**Chad Miller**  
[jcsa04@hotmail.com](mailto:jcsa04@hotmail.com)

**YOU ARE HEREBY NOTIFIED** that on the 25th day of September, 2020 at 1:15 p.m., or as soon as possible thereafter, I shall appear before the Judge then presiding at the Courthouse in Louisville, Clay County, Illinois, and present the attached Motion for Extension of Time to File Responsive Pleadings, at which time you may be present if you so desire.



**ANDREW KOESTER**  
**CLAY COUNTY STATE'S ATTORNEY**

**ANDREW KOESTER**  
 Clay County State's Attorney  
 Clay County Courthouse  
 Post Office Box 190  
 Louisville, Illinois 62858  
[claycosa@msn.com](mailto:claycosa@msn.com)  
 (618) 665-3522

## IN THE CIRCUIT COURT OF SHELBY COUNTY, ILLINOIS

## FOURTH JUDICIAL CIRCUIT

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN AND ECK, LLP,

Plaintiffs,

vs.

SHELBY COUNTY and ERICA  
FIRNHABER, Shelby County Treasurer

Defendant.

Case No. 2020-LM-22

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the attached Entry of Appearance and Motion for Extension of Time to File Responsive Pleadings were served upon:

Edward F. Flynn  
eflynn@decatur.legal

Chad Miller  
jcsa04@hotmail.com

\_\_\_\_\_ By personally hand-delivering a copy of said document to said attorney at the Clay County Courthouse in Louisville, Clay County, Illinois

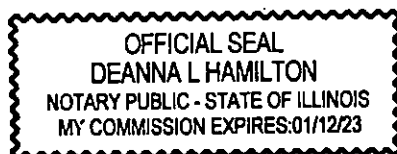
  X   By means of an electronic transmission to each attorney at the e-mail address above shown.

\_\_\_\_\_ By means of placing a copy of said pleading in an envelope addressed to said attorney at the address hereinabove shown, with postage fully pre-paid, and by placing the same in a U. S. Post Office mail box in Louisville, Clay County, Illinois

on the 22ND day of September, 2020.

*Karen Phillips*

Subscribed and sworn to before me September 22, 2020.



*Deanna L. Hamilton*  
NOTARY PUBLIC

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	No. 2020-LM-22
Plaintiffs,	)	
v	)	
	)	
SHELBY COUNTY and ERICA	)	
FIRNHABER, Shelby County	)	
Treasurer,	)	
Defendants.	)	
	)	

**ORDER**

THIS MATTER, coming before this Court on Defendant ERICA FIRNHABER's Motion for Extension of Time to File Responsive Pleadings, and the Court having considered the matter, the pleadings and the record, being fully advised in the premises, hereby grants Defendant ERICA FIRNHABER an additional 21 days to file responsive pleadings to the Plaintiff's Amended Complaint and Amended Motion for Summary Judgment.

Dated: \_\_\_\_\_

Enter: \_\_\_\_\_  
Judge

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	No. 2020-LM-22
Plaintiffs,	)	
v	)	
	)	
SHELBY COUNTY and ERICA	)	<b>DEFENDANT DEMANDS</b>
FIRNHABER, Shelby County	)	<b>TRIAL BY JURY</b>
Treasurer,	)	
Defendants.	)	
	)	

**ANSWER**

NOW COMES the Defendant, ERICA FIRNHABER , by the State's Attorney of Clay County, Illinois, Andrew T. Koester, and for her Answer to Plaintiff's Amended Complaint, states:

**COUNT I – BREACH OF CONTRACT**

1. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 1 of Count I of the Complaint and therefore denies.
2. Defendant admits that Ed Flynn performed legal services in the past for Shelby County. Defendant has insufficient knowledge on the breadth and time period of the legal services performed and therefore denies the remaining allegations set forth in Paragraph 2 of Count I of the Complaint.
3. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 3 of Count I of the Complaint and therefore denies.
4. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 4 of Count I of the Complaint and therefore denies.



5. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 5 of Count I of the Complaint and therefore denies.
6. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 6 of Count I of the Complaint and therefore denies.
7. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 7 of Count I of the Complaint and therefore denies.
8. Defendant admits that the Shelby County Board has not paid the sum of \$15,443.43, the total of the invoices attached as Plaintiff's Exhibit A.
9. Defendant admits that Plaintiff has requested payment from Shelby County.
10. Defendant admits that she has not satisfied Plaintiff's invoices but denies that she has an obligation or is authorized to remit said payment(s).
11. Defendant denies the allegations set forth in paragraph 11 of Count I the Complaint.

WHEREFORE, the Defendant, Erica Firnhaber, prays that judgment be entered in her favor and against Plaintiff, at Plaintiff's costs.

**DEFENDANT DEMANDS A JURY OF 12 PERSONS.**

**COUNT II – QUANTUM MERUIT**

1. Defendant repeats each and every answer to every allegation in paragraphs 1,2,5-9 from Count I as for paragraphs 2-7 in Count II.
8. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 8 of Count II the Complaint and therefore denies.
9. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 9 of Count II of the Complaint and therefore denies.

10. Defendant objects to the legal conclusions set forth in Paragraph 10 of Count II of the Complaint and denies the remaining allegations set forth therein.

WHEREFORE, the Defendant, Erica Firnhaber, prays that judgment be entered in her favor and against Plaintiff, at Plaintiff's costs.

**DEFENDANT DEMANDS A JURY OF 12 PERSONS.**

**COUNT III – COMPLAINT FOR ISSUANCE OF WRIT OF MANDAMUS  
AGAINST SHELBY COUNTY TREASUER, ERICA FIRNHABER**

1. Defendant admits the allegations in Paragraph 1 of Count III of the Complaint
2. Defendant Firnhaber repeats each and every answer to every allegation in paragraphs 1-9 of Count I as for paragraphs 2-10 of Count III.
11. Defendant admits the allegations of paragraph 11 of Count III of the Complaint.
12. Defendant admits the allegations of paragraph 12 of Count III of the Complaint.
13. Defendant admits the allegations of paragraph 13 of Count III of the Complaint.
14. Defendant has insufficient knowledge to either admit or deny the allegations set forth in Paragraph 14 of Count III of the Complaint and therefore denies
15. Defendant admits the allegations of paragraph 15 of Count III of the Complaint.
16. Defendant denies the allegations of paragraph 16 of Count III of the Complaint.
17. Defendant denies the allegations set forth in paragraph 17 of Count III of the Complaint.
18. Defendant denies the allegations set forth in paragraph 18 of Count III of the Complaint.

WHEREFORE, the Defendant, Erica Firnhaber, prays that judgment be entered in her favor and against Plaintiff, at Plaintiff's costs.

**DEFENDANT DEMANDS A JURY OF 12 PERSONS.**

**AFFIRMATIVE DEFENSES**

NOW COMES the Defendant, ERICA FIRNHABER , by the State's Attorney of Clay County, Illinois, Andrew T. Koester, and in support of her Affirmative Defenses to the Complaint pursuant to 735 ILCS 5/2-613(d) states:

**LACK OF AUTHORITY AND ILLEGALITY**

1. The "contract" allegedly entered into between Plaintiff and the Shelby County Board was illegal in that the County Board did not have the authority by one 2014 resolution to engage indefinitely in the retention of Ed Flynn and/or his law firm for an endless variety of legal services without supervision by the Shelby County State's Attorney or without further supervision or official action by the full Shelby County Board. Further, no written contract or letter of engagement exists between Ed Flynn, his firm, and the Shelby County Board or the Shelby County State's Attorney.
2. The "appointment" of Ed Flynn and/or his law firm as a "special assistant State's Attorney" by Shelby County State's Attorney Gina Vonderheide under 55 ILCS 5/4-2003(b) beginning in 2014 is non-effective as that statutory provision did not exist until January 1, 2019. Further, there is no record, intraoffice memo, or any document memorializing such an appointment. The only reference to such an appointment is in an affidavit attached to Plaintiff's Amended Motion for Summary Judgment that was signed and executed after litigation in this matter began. Because there is no evidence that the Shelby County State's Attorney ever appointed Ed Flynn and/or his law firm as a special assistant State's Attorney

except an *ex post* affidavit signed in the middle of this litigation, and the statutory provision Plaintiff relies on did not exist in 2014, the appointment is non-effective and void.



**ANDREW T. KOESTER, CLAY  
COUNTY STATE'S ATTORNEY**

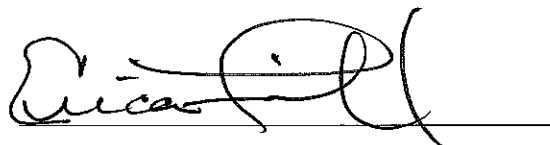
Andrew T. Koester  
Clay County State's Attorney  
Clay County Courthouse  
Post Office Box 190, Louisville, Illinois 62858  
(618) 665-3522  
[claycosa@msn.com](mailto:claycosa@msn.com)

STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF SHELBY    )

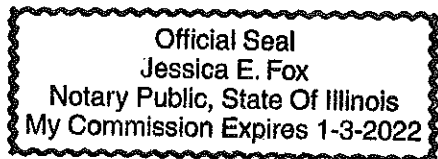
**735 ILCS 5/2-610 AFFIDAVIT**

I, Erica Firnhaber, being duly sworn under oath, do hereby affirm that the responses in  
her Answer are true and accurate to the best of her knowledge.

Further affiant sayeth not.



Subscribed and sworn to me before this 16<sup>th</sup> day of October, 2020.

  
Notary Public

IN THE CIRCUIT COURT  
 OF THE FOURTH JUDICIAL CIRCUIT  
 EFFINGHAM COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	
Plaintiffs,	)	
	)	
v.	)	No. 20-LM-22
	)	
SHELBY COUNTY, and ERICA	)	
FIRNHABER, Shelby County Treasurer,	)	
	)	
Defendants.	)	

**RESPONSE TO MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Defendant, ERICA FIRNHABER, by Andrew T. Koester, Clay County State's Attorney, and for her Response to Plaintiff's Amended Motion for Summary Judgment, states:

**Standard for Summary Judgment**

1. The trial court may grant summary judgment after considering the pleadings, depositions, admissions, exhibits, and affidavits on file in the case and construing that evidence in favor of the nonmoving party. *Wilkerson v. County of Cook*, 379 Ill.App.3d 838 (1st Dist. 2008). Summary judgment is to be granted only where the evidence, when construed most strongly against the moving party, establishes clearly and without doubt the movant's right to relief. *Prodromos v. Forty E. Cedar Condominium Ass'n*, 264 Ill. App. 3d 363, 367 (1<sup>st</sup> Dist. 1997). Because it is such a drastic measure, a motion for summary judgment should be granted only when the pleadings, depositions, admissions, and affidavits on file, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law. *In re Estate of Ciesiolkiewicz*, 243 Ill. App. 3d 506, 510 (1<sup>st</sup> Dist. 1993).

**Appointment as a “Special Assistant State’s Attorney”**

2. Plaintiff filed an Amended Complaint with three separate counts—breach of contract, *quantum meruit*, and a request for a writ of mandamus.

3. The Amended Complaint rests on two separate theories of payment:

a. Ed Flynn “was approached by members of the Shelby County board to provide . . . services. After a brief meeting, Shelby County offered to retained Edward F. Flynn for his services.” Amended Complaint, Count I ¶ 3. Ed Flynn “agreed to provide these legal services subject to the approval of the Shelby County State’s Attorney to approve of Edward F. Flynn and Featherstun, Gaumer, Stocks, Flynn and Eck, LLP to provide legal services.” Amended Complaint, Count I ¶ 4. Essentially, the Shelby County Board hired Ed Flynn in 2014 with the consent of Gina Vonderheide, the Shelby County State’s Attorney.

b. *Quantum meruit*—even if no contract existed between Ed Flynn and the Shelby County Board, “the services provided by Plaintiffs for Defendants benefited Defendants in the defense of the claims raised by the FOP union in labor arbitration and all other related employment matters.” Amended Complaint, Count II ¶ 9. “It is unjust for the Defendants to reap the benefits of Plaintiffs’ services without paying Plaintiffs for the services rendered.” Amended Complaint, Count II ¶ 10. Essentially, this is a common law claim stating that because Ed Flynn provided services for the County, regardless of whether a contract existed, it would be unjust to allow him to go unpaid for his services.

4. The only theory put forward in Plaintiff's Amended Motion for Summary Judgment is one that is *never mentioned in Plaintiff's Amended Complaint*—that Gina Vonderheide appointed Ed Flynn as a special assistant state's attorney and therefore Plaintiff should be compensated for his work as a special assistant state's attorney. There is no mention in the court record of Ed Flynn or his law firm's appointment as a special assistant state's attorney until the Amended Motion for Summary Judgment and adjoining affidavit were filed. The affidavit was signed July 7, 2020, well after this lawsuit had been filed.

5. There is no record that has yet been presented or any mention of Ed Flynn being appointed as a special assistant state's attorney prior to the *ex post* affidavit.

6. In support of Plaintiff's Amended Motion for Summary Judgment, Plaintiff attached an Affidavit signed by Gina Vonderheide on July 7, 2020, after this litigation had already begun, stating that "pursuant to Section 4-2003 of the Illinois County Code, the undersigned states that she appointed Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP to act as Special Assistant State's Attorneys for the purpose of this labor arbitration and **for all of the work performed by this law firm since 2014** when Edward F. Flynn and the law firm of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP was originally hired to perform the services for Shelby County." (emphasis added).

7. The only discovery that has taken place up to this point in this litigation is the deposition of Gina Vonderheide. A number of unanswered questions of material fact still remain with respect to the appointment of Ed Flynn as a special assistant state's attorney, including but not limited to:

a. The date and time that Ed Flynn was appointed, and for what duration;



- b. The case or set of cases that Ed Flynn was specifically appointed to represent the State of Illinois or Shelby County as a special assistant state's attorney;
- c. Whether the appointment was made prior to the existence of 55 ILCS 5/4-2003(b);
- d. What affirmative action that Gina Vonderheide took, if any, to appoint Ed Flynn as a special assistant state's attorney;
- e. What fees were approved for the work of Ed Flynn as a special assistant state's attorney, and by whom they were approved;
- f. Whether those fees have been increased over time, and if so, whether those increases have been approved by Gina Vonderheide or the Shelby County Board; and
- g. Under which subsection of 55 ILCS 5/4-2003, (a) or (b), Gina Vonderheide appointed Ed Flynn as a special assistant state's attorney.

8. Plaintiff points to the fact that neither Gina Vonderheide nor her assistant state's attorney, Brian Bach, have any experience in negotiating collective bargaining contracts, employment law or personnel matters. That may be true. It may be true that Ed Flynn could more competently handle labor negotiations. But that is not relevant to this particular issue. The issue is whether Ed Flynn was, as a legal matter, appropriately appointed to serve as a special assistant state's attorney. The Plaintiff has not met his burden on this point, and, at the very least, significant issues of material fact are still unanswered. A single affidavit that creates more questions than answers cannot carry the day at a summary judgment hearing in this case.

WHEREFORE, the Defendant, ERICA FIRNHABER, respectfully requests that this Court deny Plaintiff's Amended Motion for Summary Judgment, and for any other relief this Court deems equitable and just.

Respectfully submitted,

ERICA FIRNHABER, Defendant.

By: s/ Andrew T. Koester  
Clay County State's Attorney

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

FLYNN; FEATHERSTUN, GAUMER,  
STOCKS, FLYNN & ECK, LLP,

Plaintiff,

vs.

SHELBY COUNTY, ERICA FIRNHABER

Defendants.

Case No. 2020-LM-22

**ENTRY OF APPEARANCE**

Comes now, Thomas G. DeVore and the Silver Lake Group Ltd., and enters their appearance on behalf of, MARK BENNETT, and requests that all pleadings, correspondence and other communications be sent to counsel at the following:

Thomas G. DeVore  
**silver lake group, ltd.**  
118 N. 2nd St.  
Greenville, IL 62246  
Telephone - 618-664-9439  
Facsimile 618-664-9486  
tom@silverlakelaw.com

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

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served electronic means, on November 4, 2020 to:

Mr. Edward F. Flynn  
Featherstun, Gaumer, Stocks, Flynn & Eck, LLP  
[eflynn@decatur.legal](mailto:eflynn@decatur.legal)

Mr. Chad Miller  
[Jcsa04@hotmail.com](mailto:Jcsa04@hotmail.com)

Mr. Andrew T. Koester  
[claycosa@msn.com](mailto:claycosa@msn.com)

/s/ Thomas DeVore  
Thomas G. DeVore

Thomas DeVore  
Silver Lake Group  
118 North Second Street  
Greenville, IL 62246  
(618)-664-9439

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	)	Judgment Date: October 30, 2020
FLYNN; FEATHERSTUN, GAUMER,	)	
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

Thomas G. DeVore  
**silver lake group, ltd.**  
118 N. 2<sup>nd</sup> St.  
Greenville, IL 62246  
Telephone - 618-664-9439  
Facsimile 618-664-9486  
tom@silverlakelaw.com

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

# 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@decatur.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

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

SHELBY COUNTY, ILLINOIS

Flynn, Featherstun, Gaumer, Stocks,  
Flynn & Eck, LLP

v

No. 20-LM-22  
(Consolidated w/ 20-MR-35)

Shelby County  
Erica Firnhaber

INFORMATION CONCERNING NOTICE OF APPEAL

1. Date Notice of Appeal filed: November 4, 2020
2. Reporter taking report of Proceedings:
  - a. Name: **TO BE NOTIFIED BY ATTORNEY**
  - b. Address:
  - c. Dates notes taken:
- a. Name:
  - b. Address:
  - c. Date notes taken:
- a. Name:
  - b. Address:
  - c. Date notes taken:
3. Judge who handled judgment or order appealed:
  - a. Name: Kimberly G Koester
  - b. Address: Fayette Co. Courthouse, 221 S 7<sup>th</sup> St, Vandalia, IL 62471
4. Date report of proceedings is due in Clerk's Office: December 23, 2020
5. Date record on appeal is to be filed with Appellate Court: January 6, 2021

**F I L E D**  
**NOV - 5 2020**  
*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL



SUSAN ARTHUR, CIRCUIT CLERK SHELBY COUNTY  
SHELBYVILLE, ILLINOIS

Herein certifies that she has mailed a copy of the Notice of Appeal  
Filed November 4, 2020  
20-MR-35, 20-LM-22

Appellate Court Clerk John Flood  
(Transmitted electronically on 11-5-20)

Chief Judge Kimberly G Koester  
Fayette County Courthouse  
221 South 7<sup>th</sup> St  
Vandalia, IL 62471

Thomas DeVore  
118 N 2<sup>nd</sup> St.  
Greenville, IL 62246

Edward Flynn  
101 S State St, Suite 240  
PO Box 1760  
Decatur, IL 62525

Chad Miller  
Jasper Co State's Attorney  
Courthouse  
100 W Jourdan  
Newton, IL 62448

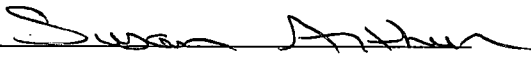
Andrew Koester  
Clay Co State's Attorney  
Courthouse  
PO Box 190  
Louisville, IL 62858

Gina Vonderheide  
301 East Main St  
Shelbyville, IL 62565

**F I L E D**  
**NOV - 5 2020**

*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL

By mailing to them a copy thereof at the addresses referred to above in envelopes  
duly addressed to them, bearing proper first class postage and deposited in the United States  
mail at Shelbyville, Illinois on the 5<sup>th</sup> day of November, 2020

A handwritten signature in black ink, appearing to read "Susan Arthur", is written over a horizontal line.

SUSAN ARTHUR  
CIRCUIT CLERK SHELBY COUNTY

CIRCUIT CLERK SUSAN ARTHUR  
JUDICIAL CIRCUIT #04  
COUNTY OF Shelby  
PO BOX 469  
SHELBYVILLE IL 62565-0000  
217/774-4212

R E C L A S S I F I C A T I O N 11/04/2020 8:43

Receipt no. 451033  
Receipt date 11/06/2020  
Reclass date 11/06/2020  
Case number 2020LM0000220 001B001  
FEATHERSTUN, GAUMER, STOCKS, FLYNN FLYNN, EDWARD  
VS.  
SHELBY COUNTY ET AL VONDERHEIDE, GINA  
Payor BENNETT, MARK DEVORE, THOMAS  
Comment EF ID=001433013  
Agency  
Misc.  
Payment type EFile 2  
Check in  
Check out 0000000000  
Ten percent N  
Forfeit  
Bond 181.00  
Refund  
Court 20.00  
Automation 20.00  
Law Library 15.00  
Judicial Security 35.00  
Document Storage 20.00  
Clerk Op Add-Ons 5.00  
Access to Justice 2.00  
SC Special Purpose 9.00  
Clerk SCHED 55.00  
Workstation DSP03  
User ID LG  
Branch  
Thank You!

IN THE CIRCUIT COURT OFSHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	
Plaintiffs,	)	
	)	No. 20-LM-22
V.	)	
	)	
SHELBY COUNTY, and ERICA	)	
FIRNHABER, Shelby County Treasurer,	)	
	)	
Defendants.	)	

**APPEARANCE**

The undersigned, as attorney, hereby enters his appearance on behalf of the  
Defendant, Erica Firnhaber, Shelby County Treasurer.

By: /s/ Robert T. Hanlon  
Robert T. Hanlon,

Robert Hanlon, ARDC #6286331  
Law Offices of Robert T. Hanlon  
& Associates, P.C.  
131 East Calhoun Street  
Woodstock, IL 60098  
(815)206-2200; (815)206-6184 (Fax)  
[robert@robhanlonlaw.com](mailto:robert@robhanlonlaw.com)

### **CERTIFICATE OF SERVICE**

I, Robert T. Hanlon, an attorney, certify that on November 6, 2020, the foregoing document was served on all parties and attorneys of record in this action by electronic mail and by United States Mail.

Andrew Koester  
Clay County State's Attorney  
P.O. Box 190  
Louisville, IL 62858  
[claycosa@msn.com](mailto:claycosa@msn.com)

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN AND ECK, LLP  
101 S. State Street  
Suite 240  
Decatur, IL 62523

/s/Robert Hanlon

IN THE  
APPELLATE COURT OF THE FIFTH APPELLATE DISTRICT  
APPEAL FROM THE DECISION OF THE CIRCUIT COURT OFSHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN ANO ECK, LLP	)	
Plaintiffs,	)	
	)	No. 20-LM-22
V.	)	
	)	
SHELBY COUNTY, and ERICA	)	
FIRNHABER, Shelby County Treasurer,	)	
	)	
Defendants.	)	

**NOTICE OF APPEAL**  
**(Dated 11/6/2020)**

To: Andrew Koester  
Clay County State's Attorney  
P.O. Box 190  
Louisville, IL 62858  
[claycosa@msn.com](mailto:claycosa@msn.com)

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN ANO ECK, LLP  
101 S. State Street  
Suite 240  
Decatur, IL 62523

Notice is hereby given that Defendant, Erica Firnhaber, Shelby County Treasurer appeals to the Illinois Court of Appeals, Fifth District, from the orders entered in this action as follows:

A) The Decision and order of October 30, 2020, granting summary judgment to Plaintiffs.

Dated: November 6, 2020

Respectfully submitted,

By: /s/ Robert Hanlon  
One of the Attorneys for  
Erica Firnhaber, Shelby County Treasurer

## CERTIFICATE OF SERVICE

I, Robert T. Hanlon, an attorney, certify that on November 6, 2020, the foregoing document was served on all parties and attorneys of record in this action by electronic mail and by United States Mail.

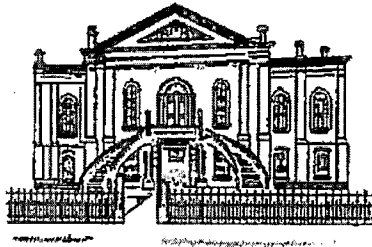
Andrew Koester  
Clay County State's Attorney  
P.O. Box 190  
Louisville, IL 62858  
[claycosa@msn.com](mailto:claycosa@msn.com)

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN AND ECK, LLP  
101 S. State Street  
Suite 240  
Decatur, IL 62523

By: /s/ Robert Hanlon

Robert T. Hanlon, Attorney No. 6286331  
LAW OFFICES OF ROBERT T. HANLON  
& ASSOC., P.C.  
131 East Calhoun Street  
Woodstock, IL 60098  
[robert@robhanlonlaw.com](mailto:robert@robhanlonlaw.com)  
(815) 206-2200  
(815) 206-6184 (Fax)

JOHN J. FLOOD  
CLERK  
(618) 242-3120



APPELLATE COURT, FIFTH DISTRICT  
14TH & MAIN ST., P.O. BOX 867  
MT. VERNON, IL 62864-0018

November 6, 2020

Thomas Guy DeVore  
P.O. Box 469  
Shelbyville, IL 62565

RE: Bennett v. Shelby County Board et al.  
General No.: 5-20-0371  
County/Agency: Shelby County  
Trial Court/Agency No: 20LM22

FILED  
NOV - 6 2020

*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL

Please be advised the Notice of Appeal in the above cause was received, filed, and docketed as General No. 5-20-0371.

Complete the enclosed civil docketing statement (Supreme Court Rule 312) with proof of service and pay the \$50 filing fee within 14 days of the filing of the notice of appeal in the trial court. A copy of the written request(s) to the Court Reporter(s) asking for preparation of the report(s) of proceeding(s) must be attached to the docketing statement when filed in the Appellate Court.

If the appellant is indigent and unable to pay the \$50 filing fee, a request for waiver of the filing fee (see [illinoiscourts.gov](http://illinoiscourts.gov)) must be submitted at the time the docketing statement is filed. If approved by the Appellate Court, the waiver of filing fee applies only to the \$50 Appellate Court filing fee and does not address the fees for preparation of the record on appeal by the Circuit Court Clerk, reports of proceedings, or any other costs incurred in litigation of the appeal. The Office of the State Appellate Defender is not subject to the \$50 filing fee.

The Record on Appeal is due to be filed in this office on or before 01/06/2021.

Clerk of the Appellate Court

c: Chad Michael Miller  
Edward F. Flynn  
Shelby County Circuit Court



Docket Number in the Reviewing Court

Case Title (Complete) ) Appeal from \_\_\_\_\_ County  
) Circuit Number \_\_\_\_\_  
) Trial Judge \_\_\_\_\_  
) Date of Notice of Appeal \_\_\_\_\_  
) Date of Judgment \_\_\_\_\_  
) Date of Post-judgment Motion Order \_\_\_\_\_  
) \_\_\_\_\_  
) Supreme Court rule which confers  
jurisdiction upon the reviewing court  
\_\_\_\_\_

DOCKETING STATEMENT  
(Civil)

1. Is this a cross-appeal, separate appeal, joining in a prior appeal, or related to another appeal which is currently pending or which has been disposed of by this court? \_\_\_\_\_

If so, state the docket number(s) of the other appeal(s):  
\_\_\_\_\_

2. If any party is a corporation or association, identify any affiliate, subsidiary, or parent group:  
\_\_\_\_\_

3. Full name and complete address of appellant(s) filing this statement:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email address: \_\_\_\_\_

\*use additional page if multiple appellants.

Counsel on Appeal for appellant(s) filing this statement:

Name: \_\_\_\_\_ ARDC # \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Fax: \_\_\_\_\_

4. Full name and complete address of appellee(s): (Use additional page for multiple appellees.)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Counsel on Appeal for appellee(s): (Use additional page for multiple appellees.)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

ARDC # if known \_\_\_\_\_ Email address: \_\_\_\_\_

Fax: \_\_\_\_\_

5. Court reporting personnel: (If more space is needed, use other side.)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email address: \_\_\_\_\_

6. Is this appeal from a final order in a matter involving child custody pursuant to Illinois Supreme Court Rule 311(a) which requires **Mandatory Accelerated Disposition of Child Custody Appeals**?

Yes: \_\_\_\_\_

No: \_\_\_\_\_

\*If yes, this docketing statement, briefs and all other notices, motions and pleadings filed by any party shall include the following statement in bold type on the top of the front page:

**THIS APPEAL INVOLVES A QUESTION OF CHILD CUSTODY, ADOPTION, TERMINATION OF PARENTAL RIGHTS OR OTHER MATTER AFFECTING THE BEST INTERESTS OF A CHILD.**

7. State the general issues proposed to be raised (failure to include an issue in this statement will not result in the waiver of the issue on appeal):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

As \_\_\_\_ attorney for the appellant \_\_\_\_ *Pro Se* appellant, I hereby certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, I asked / made a written request to the clerk of the circuit court to prepare the record on appeal, and on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, I made a written request to the court reporting personnel to prepare the transcript(s).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Appellant's Attorney

\_\_\_\_\_  
*Pro Se* Appellant

In lieu of court reporting personnel's signature I have attached the written request to the court reporting personnel to prepare the transcript(s).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Appellant's Attorney

\_\_\_\_\_  
*Pro Se* Appellant

I hereby acknowledge receipt of an order for the preparation of a report of proceedings.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Court Reporting Personnel  
or Supervisor

**NOTE: Please attach proof of service on opposing counsel or party  
as required by Supreme Court Rule 312(a).**

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

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	No. 2020-LM-22
Plaintiffs,	)	
v	)	(as consolidated with 2020-MR-35)
	)	
SHELBY COUNTY and ERICA	)	
FIRNHABER, Shelby County	)	
Treasurer,	)	
Defendants.	)	
	)	

**Motion to Vacate Appointment as Counsel to Defendant Erica Firnhaber**

NOW COMES Andrew Koester, Clay County State's Attorney, and appointed counsel for Erica Firnhaber, Defendant, with last known address shown in the Motion, and moves this Court to vacate appointment as counsel for Erica Firnhaber, and in support states:

1. On September 9, 2020, the Court appointed alternate counsel to represent Defendant Erica Firnhaber and Defendant Shelby County in 2020-LM-22, as the Shelby County State's Attorney was conflicted in the matter and could not represent either party. I was appointed to represent Defendant Erica Firnhaber.
2. As a result of the appointment, I entered my appearance on behalf of Ms. Firnhaber in 2020-LM-22 and filed responsive pleadings and affirmative defenses on her behalf.
3. On October 30, 2020, this Court consolidated the above-styled case with 2020-MR-35 without objection by any party. The Court proceeded to hear arguments on Plaintiff's Motion for Summary Judgment and granted summary judgment in favor of Plaintiff Featherstun, Gaumer, Stocks, Flynn and Eck, LLP.

4. On November 6, 2020, attorney Robert Hanlon entered his appearance on behalf of Defendant Erica Firnhaber and also filed a Notice of Appeal on behalf of Defendant Firnhaber.
5. I have attempted to communicate with both Ms. Firnhaber and Mr. Hanlon on how they would like to proceed with the appeal, including whether they intend for me to be involved at all.
6. As of the writing of this Motion, I have not been given any clear direction from either Ms. Firnhaber or Mr. Hanlon on how they intend to proceed or whether Ms. Firnhaber has hired Mr. Hanlon in lieu of my appointment as counsel.
7. Even though Mr. Hanlon has entered his appearance on behalf of Defendant Firnhaber and filed a timely Notice of Appeal on November 6, 2020, I have contacted both the Shelby County Clerk's Office and the Fifth District Appellate Court Clerk's Office to ensure that the Notice of Appeal was received so that my client's right to appeal is not endangered in any way before requesting my appointment be vacated.
8. Due to there no longer being a need for appointed counsel for Ms. Firnhaber in this matter, and a Notice of Appeal being on file on Ms. Firnhaber's behalf signed by Mr. Hanlon, I am respectfully requesting the Court vacate my conflict appointment in 2020-LM-22, as consolidated with 2020-MR-35.

WHEREFORE, Clay County State's Attorney Andrew Koester respectfully requests that this Court vacate its appointment of the undersigned as counsel for Defendant Erica Firnhaber in this matter, or for any other relief this Court deems equitable and just.



**ANDREW T. KOESTER, CLAY  
COUNTY STATE'S ATTORNEY**

**NOTICE TO DEFENDANT ERICA FIRNHABER: Please be advised, in accordance with Supreme Court Rule 11, that to insure notice of any action in said cause, you should retain other counsel herein or file with the clerk of the court, within 21 days after entry of the order of withdrawal, your supplementary appearance stating therein an address at which service of notices or other documents may be had upon you.**

**Last Known Address of Erica Firnhaber:  
Erica Firnhaber  
Shelby County Treasurer  
Shelby County Treasurer's Office  
301 E. Main Street  
Shelbyville, IL 62565**

Filed By: Andrew T. Koester  
Clay County State's Attorney  
Clay County Courthouse  
Post Office Box 190, Louisville, Illinois 62858  
Phone: (618) 665-3522  
Email: claycosa@msn.com

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

SHELBY COUNTY, ILLINOIS

Featherstun, Gaumer, Stocks,  
Flynn & Eck, LLP

v

No. 20-LM-22  
(Consolidated w/ 20-MR-35)

Shelby County  
Erica Firnhaber, Shelby County Treasurer

INFORMATION CONCERNING NOTICE OF APPEAL

1. Date Notice of Appeal filed: November 6, 2020
2. Reporter taking report of Proceedings:
  - a. Name: **TO BE NOTIFIED BY ATTORNEY**
  - b. Address:
  - c. Dates notes taken:
  - a. Name:
  - b. Address:
  - c. Date notes taken:
  - a. Name:
  - b. Address:
  - c. Date notes taken:
3. Judge who handled judgment or order appealed:
  - a. Name: Kimberly G Koester
  - b. Address: Fayette Co. Courthouse, 221 S 7<sup>th</sup> St, Vandalia, IL 62471
4. Date report of proceedings is due in Clerk's Office: December 25, 2020
5. Date record on appeal is to be filed with Appellate Court: January 8, 2021

**F I L E D**  
**NOV 30 2020**

*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL

SUSAN ARTHUR, CIRCUIT CLERK SHELBY COUNTY  
SHELBYVILLE, ILLINOIS

Herein certifies that she has mailed a copy of the Notice of Appeal  
Filed November 6, 2020  
20-LM-22

Appellate Court Clerk John Flood  
(Transmitted electronically on 11-30-20)

Chief Judge Kimberly G Koester  
Fayette County Courthouse  
221 South 7<sup>th</sup> St  
Vandalia, IL 62471

Thomas DeVore  
118 N 2<sup>nd</sup> St.  
Greenville, IL 62246

Edward Flynn  
101 S State St, Suite 240  
PO Box 1760  
Decatur, IL 62525

Chad Miller  
Jasper Co State's Attorney  
Courthouse  
100 W Jourdan  
Newton, IL 62448

Andrew Koester  
Clay Co State's Attorney  
Courthouse  
PO Box 190  
Louisville, IL 62858


Gina Vonderheide  
301 East Main St  
Shelbyville, IL 62565

Robert Hanlon  
131 East Calhoun Street  
Woodstock, IL 60098

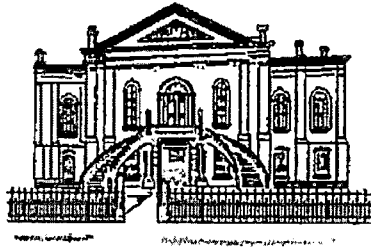
**F I L E D**  
**NOV 30 2020**  
*Susan Arthur*  
Clerk of the Circuit Court, Fourth Judicial Court  
Shelby County, IL



By mailing to them a copy thereof at the addresses referred to above in envelopes  
duly addressed to them, bearing proper first class postage and deposited in the United States  
mail at Shelbyville, Illinois on the 30<sup>th</sup> day of November, 2020

  
\_\_\_\_\_  
SUSAN ARTHUR  
CIRCUIT CLERK SHELBY COUNTY

JOHN J. FLOOD  
CLERK  
(618) 242-3120



APPELLATE COURT, FIFTH DISTRICT  
14TH & MAIN ST., P.O. BOX 867  
MT. VERNON, IL 62864-0018

December 1, 2020

Robert Thomas Hanlon  
P.O. Box 469  
Shelbyville, IL 62565

RE: Bennett v. Shelby County Board et al.  
General No.: 5-20-0387  
County/Agency: Shelby County  
Trial Court/Agency No: 20LM22

The Notice of Appeal was filed and docketed as General No. 5-20-0387. Supreme Court Rule 312 requires the appellant to file a docketing statement with proof of service and pay the \$50 filing fee within 14 days of the filing of the notice of appeal in the trial court. A copy of the written request(s) to the Court Reporter(s) for preparation of the report(s) of proceeding(s) must be attached to the docketing statement.

If the appellant is indigent and unable to pay the \$50 filing fee, a request for waiver of the filing fee must be submitted at the time the docketing statement is filed. If approved by the Appellate Court, the waiver applies only to the \$50 Appellate Court filing fee and does not address the fees for preparation of the record on appeal by the Circuit Court Clerk, reports of proceedings, or any other costs incurred in litigation of the appeal.

Forms for the docketing statement and the application to waive the filing fee are available at <http://illinoiscourts.gov/Forms/approved/appellate/appellate.asp>.

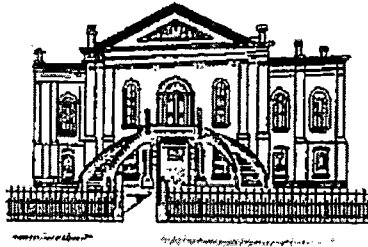
Other Resources for self-represented litigants are available at <http://rebrand.ly/AppellateSelfHelp> including additional forms, general information about the appellate process, and a free legal help desk where an indigent litigant can submit specific questions to a lawyer.

The Record on Appeal is due to be filed in this office on or before **01/08/2021**.

  
Clerk of the Appellate Court

c: Chad Michael Miller  
Edward F. Flynn  
Shelby County Circuit Court

JOHN J. FLOOD  
CLERK  
(618) 242-3120



APPELLATE COURT, FIFTH DISTRICT  
14TH & MAIN ST., P.O. BOX 867  
MT. VERNON, IL 62864-0018

December 1, 2020

Office of the State Appellate Defender, Fifth District  
909 Water Tower Circle  
Mt. Vernon, IL 62864

RE: People v. Wiley, Kasey M.  
General No.: 5-19-0388  
County/Agency: Shelby County  
Trial Court/Agency No: 17CF106

The court has this day, December 01, 2020, entered the attached order in the above entitled cause:

A handwritten signature in black ink, appearing to read "J. Flood", is written over a horizontal line.

Clerk of the Appellate Court

c: Shelby County Circuit Court  
State's Attorney's Appellate Prosecutor, Fifth District

**FILED**  
December 01, 2020  
APPELLATE  
COURT CLERK

5-19-0388

---

THE PEOPLE OF THE STATE OF  
ILLINOIS,  
Plaintiff-Appellee,  
v.  
KASEY M. WILEY,  
Defendant-Appellant.

Shelby County  
Trial Court/Agency No.: 17CF106

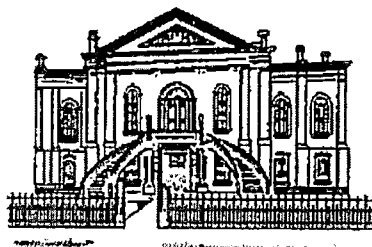
---

ORDER

This cause coming on to be heard on defendant-appellant's motion for extension of time to file brief, and the court being advised in the premises:

IT IS THEREFORE ORDERED that defendant-appellant's motion for extension of time to file brief is granted; said extension to and including March 11, 2021. A further extension will be looked upon with disfavor.

JOHN J. FLOOD  
CLERK  
(618) 242-3120



APPELLATE COURT, FIFTH DISTRICT  
14TH & MAIN ST., P.O. BOX 867  
MT. VERNON, IL 62864-0018

December 2, 2020

Thomas Guy DeVore  
Silver Lake Group, Ltd.  
118 N. 2nd Street  
Greenville, IL 62246

RE: Bennett v. Shelby County Board et al.  
General No.: 5-20-0371  
County/Agency: Shelby County  
Trial Court/Agency No: 20LM22

The docketing statement in the above cause has been filed. The court hereby sets forth the following due dates.

Report of Proceedings, bystander's report, or agreed statement of facts due 12/23/2020  
to be filed in the Trial Court. (S. Ct. R. 323):

Record on Appeal due in the Appellate Court. (S. Ct. Rs. 325, 326): 01/06/2021

The brief of the appellant shall be filed in the reviewing court within 35 days from the filing of the record on appeal. Within 35 days from the due date of the appellant's brief, or in the case of multiple appellants, the latest due date of any appellant's brief, the appellee's brief is due. Within 14 days from the due date of the appellee's brief, or in the case of multiple appellees, the latest due date of any appellee's brief, the appellant may file a reply brief.

  
Clerk of the Appellate Court

c: Chad Michael Miller  
Edward F. Flynn  
Shelby County Circuit Court

IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT

SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP,	)	Case No. 2020-LM-22
Plaintiffs,	)	
vs.	)	
	)	
SHELBY COUNTY and ERICA	)	
FIRNHABER, Shelby County Treasurer	)	
	)	
Defendant.	)	

**NOTICE OF HEARING**

TO: <b>Edward F. Fynn</b>	<b>Chad Miller</b>	<b>Robert Hanlon</b>
<u><a href="mailto:eflynn@decatur.legal">eflynn@decatur.legal</a></u>	<u><a href="mailto:jcsa04@hotmail.com">jcsa04@hotmail.com</a></u>	<u><a href="mailto:robert@robhanlonlaw.com">robert@robhanlonlaw.com</a></u>

**YOU ARE HEREBY NOTIFIED** that on the 8th day of December, 2020 at 1:00 p.m., or as soon as possible thereafter, I shall appear before the Judge then presiding at the Courthouse in Louisville, Clay County, Illinois, and present the attached Motion to Vacate Appointment as Counsel to Defendant Erica Firnhaber, at which time you may be present if you so desire.



**ANDREW KOESTER**  
**CLAY COUNTY STATE'S ATTORNEY**

**ANDREW KOESTER**  
 Clay County State's Attorney  
 Clay County Courthouse  
 Post Office Box 190  
 Louisville, Illinois 62858  
[claycosa@msn.com](mailto:claycosa@msn.com)  
 (618) 665-3522

IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT

SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,	)	
FLYNN AND ECK, LLP	)	
	)	
Plaintiffs,	)	
	)	
Vs.	)	No. 20-LM-22
	)	
SHELBY COUNTY, and ERICA	)	
FIRNHABER, Shelby County	)	
Treasurer,	)	
	)	
Defendants.	)	

PROOF OF SERVICE

The undersigned certifies that a copy of the Motion to Vacate Appointment as Counsel to Defendant Erica Firnhaber and Notice of Hearing were served upon the following parties:

Edward F. Flynn - eflynn@decatur.legal  
 Chad Miller - jcsa04@hotmail.com  
 Robert Hanlon - robert@robhanlonlaw.com

  X   By means of an electronic transmission to each attorney at the e-mail address above shown on the 7th day of December, 2020.

Under penalties 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 Proof of Service are true and correct.

Karen Schultz

No. 5-20-387  
IN THE APPELLATE COURT OF THE STATE OF ILLINOIS  
FIFTH DISTRICT

SHELBY COUNTY and ERICA	)	
FIRNHABER, not individually, but in her	)	
official capacity as Shelby County Treasurer	)	Appeal from the 4 <sup>th</sup> Judicial Circuit Court
	)	
	)	Shelby County, Illinois
Defendants,-Appellants.	)	Circuit Court Case #20-LM-22
v.	)	
	)	Trial Judge Kimberly Koester
FEATHERSTUN, GAUMER, STOCKS	)	
FLYNN & ECK, LLP	)	
Plaintiffs/Appellees,	)	

---

**CERTIFICATE OF COMPLIANCE**

---

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 (e) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 19 pages.

/s/ Robert T. Hanlon  
Robert T. Hanlon, Attorney No. 6286331  
Law Offices of Robert T. Hanlon & Assoc., P.C.  
131 East Calhoun Street  
Woodstock, IL 60098  
Phone: (815) 206-2200  
Facsimile: (815) 206-6184  
E-mail: [robert@robhanlonlaw.com](mailto:robert@robhanlonlaw.com)

*Counsel for Defendant/Appellant*



No. 5-20-387  
IN THE APPELLATE COURT OF THE STATE OF ILLINOIS  
FIFTH DISTRICT

SHELBY COUNTY and ERICA	)	
FIRNHABER, not individually, but in her	)	
official capacity as Shelby County Treasurer	)	Appeal from the 4 <sup>th</sup> Judicial Circuit Court
	)	
	)	Shelby County, Illinois
Defendants,-Appellants.	)	Circuit Court Case #20-LM-22
v.	)	
	)	Trial Judge Kimberly Koester
FEATHERSTUN, GAUMER, STOCKS	)	
FLYNN & ECK, LLP	)	
Plaintiffs/Appellees,	)	

---

**CERTIFICATE OF SERVICE**

---

I, the undersigned, certify that on February 4, 2021, I electronically filed the following:

Brief and Argument of Appellant Erica Firnhaber with the Appellate Court, 5<sup>th</sup> District as follows”

to the Clerk  
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:

Mr. Edward F. Flynn  
Attorney for Appellees  
eflynn@decatur .legal

Mr. Chad Miller  
Attorney for Shelby County  
Jesa04@hotmail.com

Thomas Devore  
Attorney for Appellant Mark Bennett  
Tom@silverlakelaw.com

/s/ Robert T. Hanlon  
Robert T. Hanlon, Attorney No. 6286331  
Law Offices of Robert T. Hanlon & Assoc., P.C.  
131 East Calhoun Street  
Woodstock, IL 60098  
Phone: (815) 206-2200  
Facsimile: (815) 206-6184  
E-mail: [robert@robhanlonlaw.com](mailto:robert@robhanlonlaw.com)

*Counsel for Defendant/Appellant*