



AlaFile E-Notice

03-CV-2017-900286.00

Judge: HON. ROMAN ASHLEY SHAUL

To: KENNETH J. MENDELSON
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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

WARREN CRAIG POUNCEY V. MARY SCOTT HUNTER ET AL
03-CV-2017-900286.00

The following matter was FILED on 6/19/2017 10:58:15 AM

C001 POUNCEY WARREN CRAIG
SUPPLEMENT

[Filer: MENDELSON KENNETH JAY]

Notice Date: 6/19/2017 10:58:15 AM

TIFFANY B. MCCORD
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, ALABAMA
251 S. LAWRENCE STREET
MONTGOMERY, AL, 36104

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IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

| | | |
|---------------------------------|---|---------------------------------|
| WARREN CRAIG POUNCEY, |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| v. |) | |
| |) | CASE NO.: 2017-CV-900286 |
| MARY SCOTT HUNTER; et.al |) | |

PLAINTIFF’S SUPPLEMENTAL RESPONSE TO MOTIONS TO DISMISS

Dr. Pouncey hereby supplements his previous response by including the following information which will be beneficial to the Court in considering the Defendants’ Motions to Dismiss:

1. On October 13, 2016, the Alabama State Board of Education issued a Resolution entitled “RESOLUTION AUTHORIZING AN INVESTIGATION INTO THE UNAUTHORIZED AND POTENTIALLY ILLEGAL DISSEMINATION OF CONFIDENTIAL INFORMATION.”
http://www.alsde.edu/sites/boe/bdc/ALSDEBOE/BOE%20-%20Resolutions_3.aspx?ID=2298. (Exhibit A)
2. The Resolution was based on the possible illegal dissemination of information concerning Dr. Pouncey.
3. At the June 8, 2017, meeting of the Alabama State Board of Education, State Superintendent of Education Michael Sentance reported to the Board that the Department had completed its internal investigation and that the Attorney General’s Office was waiting for ASDOE to complete its investigation before considering any action. The Board requested that the Report be provided to it at the next work session.

<http://www.ustream.tv/recorded/104575050>. The work session is scheduled for June 21, 2017.

4. On today's date, the Alabama Political Reporter published an article which further confirms that an internal investigation has been completed. (Exhibit B)
5. On today's date, Pouncey filed a Notice of Non-Party Subpoena to the ASDOE seeking a copy of the report.
6. The ASDOE Report will likely shed light on the facts of this case, particularly on whether the Defendants were acting beyond their authority.
7. Although the Defendants' Motions can only be granted if "it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief" and the Supreme Court has held that "it is the rare case involving the defense of [State-agent] immunity that would be properly disposed of by a dismissal pursuant to Rule 12(b)(6), [Ala.R.Civ.P.]," the Court may wish to see the Report.

/s/Kenneth J. Mendelsohn
KENNETH J. MENDELSON (MEN001)

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CERTIFICATE OF SERVICE

I hereby certify that on the foregoing pleading has been served upon all parties of record via electronic filing on this the 19th day of June, 2017.

/s/Kenneth J. Mendelsohn
OF COUNSEL



[Alabama State Board of Education](#) > [Adopted Resolutions](#) > [Resolution](#)

RESOLUTION AUTHORIZING AN INVESTIGATION INTO THE UNAUTHORIZED AND POTENTIALLY ILLEGAL DISSEMINATION OF CONFIDENTIAL INFORMATION

WHEREAS, during the period of about June 2016 through August 2016, the Alabama State Board of Education conducted a search for a State Superintendent of Education; and

WHEREAS, on or about July 14, 2016, information about one of the candidates being considered for the position of Alabama State Superintendent of Education was anonymously disseminated to the members of the Alabama State Board of Education; and

WHEREAS, the Alabama State Board of Education of the state of Alabama has not authorized any member, subcommittee, or person to request an investigation into any matter pertaining to any candidate being considered for the position of Alabama State Superintendent of Education; and

WHEREAS, the Alabama State Board of Education has found and determined the following regarding the information believed to have been disseminated to the Alabama Ethics Commission: (1) Said information was of a 'private' and 'confidential' nature and due to be protected from unauthorized disclosure; (2) Said information was obtained by potentially unlawful means; and (3) The manner in which said information was obtained and disseminated to the Ethics Commission was, possibly, in violation of state laws concerning the handling of privileged, confidential, and/or sensitive personal information: