



AlaFile E-Notice

03-CV-2023-000231.00

Judge: JAMES H ANDERSON

To: SOMERVILLE WILLIAM GLASSE
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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

ALABAMA ALWAYS, LLC V. STATE OF ALABAMA MEDICAL CANNABIS COMMISSION
03-CV-2023-000231.00

The following matter was FILED on 9/5/2023 5:10:59 PM

D001 STATE OF ALABAMA MEDICAL CANNABIS COMMISSION

MOTION TO PERMIT TESTIMONY BY AFFIDAVIT

[Filer: WEBSTER WILLIAM HOUSTON]

Notice Date: 9/5/2023 5:10:59 PM

GINA J. ISHMAN
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, ALABAMA
251 S. LAWRENCE STREET
MONTGOMERY, AL, 36104

334-832-1260

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

ALABAMA ALWAYS, LLC, *et al.*,)
)
Plaintiffs,)
)
v.)
)
STATE OF ALABAMA MEDICAL)
CANNABIS COMMISSION,)
)
Defendant.)

Case Number: CV-2023-000231

**DEFENDANT’S MOTION TO RECONSIDER THE GRANT OF PLAINTIFF’S
 MOTION TO PERMIT TESTIMONY BY AFFIDAVIT**

COMES NOW the Defendant, the Alabama Medical Cannabis Commission (hereafter, “AMCC” or “the Commission”), respectfully requesting that this Court reconsider its grant of the Motion to Permit Testimony by Affidavit filed by Plaintiff Alabama Always, LLC (“Plaintiff” or “AA”) (“Motion”). In further support, the Commission states as follows:

1. On September 1, 2023, AA filed a Motion to Permit Testimony by Affidavit at the Preliminary Hearing (“Hearing”) scheduled to continue on September 6, 2023.
2. On September 5, 2023, at 2:44 p.m., CDT, this Court granted Plaintiff’s Motion. (Doc. 291).
3. The Commission was preparing to submit an Objection and Response in Opposition to the Plaintiff’s Motion when the Court granted the Plaintiff’s Motion.
4. As a practical matter, Plaintiff’s Motion has been mooted by the events of August 31, 2023, when the Commission met and voted to stay further processes and proceedings relating to the August 10 award of licenses. The stay is intended to give the Commission latitude to consider at its next meeting options that might push a *de novo* award vote further down the road. However,

out of an abundance of caution, AMCC requests that this Court reconsider its order granting AA's motion.

5. Plaintiff's Motion improperly urges the Court to stray from the plain language of the Open Meetings Act ("OMA") § 36-25A-9(c), this time to require the Commission to forgo its right to cross-examination of witnesses. The Affidavits supplied by AA provide only an incomplete picture of the executive session, omitting that USA representatives were present during executive session for only the portion of the meeting relating to their representatives, and omitting that the questioning of USA's representatives did indeed relate to the general reputation, character, and professional competence of individuals – the USA personnel themselves.

6. AMCC will be improperly prejudiced unless this Court reconsiders its Order and precludes the introduction of the affidavits submitted by Plaintiff, at least to the extent that those affidavits are not submitted in conjunction with live testimony allowing AMCC to cross-examine said witnesses, so that a complete picture of USA's involvement during the executive session may emerge.

WHEREFORE, the Commission respectfully urges the Court to reconsider granting Plaintiff's Motion.

Respectfully submitted on this the 5th day of September 2023.

/s/ William H. Webster
WILLIAM H. WEBSTER (WEB030)
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Alabama Medical Cannabis Commission

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2023, I electronically filed the foregoing with the Clerk of the Court using the AlaFile system, which will send notification of such filing to all counsel of record.

/s/ William H. Webster

Of Counsel