



## AlaFile E-Notice

03-CV-2017-901909.00

Judge: HON. ROMAN ASHLEY SHAUL

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# NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

VICTORIA TUGGEY ET AL V. JOHN MERRILL, SECRETARY OF STATE ET AL  
03-CV-2017-901909.00

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

334-832-1260



**IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA**

VICTORIA TUGGEY,	)	
PAUL HARD,	)	
PAMELA MILES,	)	
DAN DANNENMUELLER ET AL,	)	
Plaintiffs,	)	
	)	
V.	)	Case No.: CV-2017-901909.00
	)	
JOHN MERRILL, SECRETARY OF	)	
STATE,	)	
PACKARD ED,	)	
Defendants.	)	

**ORDER GRANTING A PRELIMINARY INJUNCTION**

On December 7, 2017 Plaintiffs filed a request for a preliminary injunction in this cause. On December 8, 2017, the Court set this matter for a hearing to be held on December 11, 2017 at 9AM. At that hearing counsel for Plaintiffs, the Attorney General's office and the Secretary of State's office appeared. Defendants opposed the relief requested, primarily on the grounds that they are not the proper parties. After hearing arguments and reviewing the filings, it appears that Plaintiffs and similarly situated voters would suffer irreparable and immediate harm if digital ballot images are not preserved. Some of the important facts relevant to the decision are:

1. A highly contested election is being held in which there is a reasonable belief that the results may be close;
2. There was little argument, although somewhat contested, that the law at issue requires digital images to be preserved as a matter of Alabama law and Federal law;
3. The Secretary of State's Office, although alleged to be an improper party, does have the ability to provide election information to election officials as a matter course and routinely does so; and,
4. Importantly, all parties agreed that the relief requested would only require nominal resources and cost on the part of Defendants. Therefore, even if the Secretary of State were an improper party, the only action being requested of him at this point is to send a communication through a system that already exists and is routinely used.

It is therefore ORDERED that a preliminary injunction be issued to Defendants (and their officers, agents, servants, employees and attorneys) are it is further ordered that Defendants communicate and send to all probate judges and election officials in the State of Alabama, the following ORDER:

**All counties employing digital ballot scanners in the Dec. 12, 2017 election are hereby ORDERED to set their voting machines to save ALL PROCESSED IMAGES in order to preserve all digital ballot images. This order applies to those machines that have such a setting and does not apply to any machine that does not allow for processed images to be saved.**

Sending a copy of this order to the above stated election officials will be deemed sufficient notice and compliance with this Court's order.

This case is set for a full hearing on December 21, 2017 at 1:30 PM, in courtroom 4A, Montgomery County Courthouse, to consider whether the injunction should be made permanent and/or whether some other form of relief is appropriate.

**DONE this 11<sup>th</sup> day of December, 2017.**

**/s/ HON. ROMAN ASHLEY SHAUL**  
**CIRCUIT JUDGE**