



**JUDGE MARK ANTHONY SCOTT**

Superior Court of DeKalb County  
556 North McDonough Street  
Suite 6210  
Decatur, Georgia 30030

RECEIVED  
Campaign Finance Commission

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Post Mark Date  
Dec 13, 2013

TELEPHONE (404) 371-7010  
FACSIMILE (404) 687-3978

December 10, 2013

C.F.C.  
2013-04

Kevin Abernethy, Esq.  
Chair  
Campaign Finance Commission  
200 Piedmont Avenue, SE  
Suite 1402 – West Tower  
Atlanta, GA 30334

RE: DeKalb County Superior Court Judge Mark Anthony Scott  
Payment of Legal Fee From Campaign Contributions

Dear Attorney Abernethy:

This letter serves as a request for the Georgia Government Transparency and Campaign Finance Commission (Commission) to determine whether I may expend funds deposited into my campaign account to defray legal defense costs incurred in my official capacity as a sitting Superior Court Judge.

On March 22, 2013, I was served with a Writ of Mandamus and Motion for Immediate Interlocutory Injunction. This action was filed in response to an Order I issued in my capacity as a DeKalb County Superior Court Judge In Re 2012 DeKalb County Special Purpose Grand Jury, DeKalb County Superior Court CAFN: 13CV1024.

The Fourth Judicial Circuit Court Administrator Cathy McCumber informed me that DeKalb County would not represent my interest because I am considered a state employee, and suggested that I contact the Council for Superior Court Judges (CSCJ). The CSCJ Executive Director, Sandy Lee, informed me, through my staff, that “This issue has arisen before, and the council has always taken the position that the staff are not allowed to represent a single judge, nor do we have the resources to hire outside representation for them.”

I requested that the Georgia Attorney General represent my interest, and received a letter denying my request. “Due to the potential for a conflict of interest arising in any representation that this Office may provide regarding that action, this Office must, unfortunately, decline to represent you therein.”

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The Georgia Attorney General's Office informed me that it does not have the authority to pay a private attorney to represent me at the Attorney General hourly rate and suggested that I notify the Governor's Office.

On March 27, 2013, I filed a formal Request for Representation with the DeKalb County Legal Department. Then Interim DeKalb County Attorney O.V. Brantley, who is now the appointed DeKalb County Attorney, informed me that "I have reviewed the Defense and Indemnification sections of the DeKalb County Code (Sec. 2-91 et seq.), and unfortunately the county will not be able to provide for your defense in this matter."

The Office of the Governor informed me on May 16, 2013 that it cannot accommodate my request to provide funds for legal representation.

I renewed my request with the Georgia Attorney General's Office, and was informed that the Attorney General's constitutional and statutory authority to provide legal representation to government officials and agencies is limited to the Executive Branch of state government, and that it does not have funds in its budget to cover private attorney's fees or other expenses.

The Georgia Department of Administrative Services (DOAS) informed me, on September 3, 2013, that it is not authorized to pay the legal fees because the legal fees were not incurred in connection with any charge of wrongdoing asserted by the State Bar of Georgia or the Judicial Qualifications Commission. The Writ of Mandamus and Motion for Immediate Interlocutory Injunction does not seek to discipline me as a lawyer or judge or otherwise affect my law license, and I was not charged with any criminal conduct.

The Georgia Judicial Council also denied my request to pay for the legal fees.

I have exhausted every known avenue in the State of Georgia to address the issue of which government agency should be responsible for providing legal representation or the funds to pay for legal representation for a sitting Superior Court Judge, who gets sued for doing his or her job.

On June 3, 2013 and September 17, 2013, I requested guidance from the Judicial Qualifications Commission (JQC) regarding whether I have the authority to raise funds to pay the legal fees. I was informed that the Canons of Judicial Conduct permit a judge to raise funds for his campaign, consistent with Canon 3 (Judges Shall Perform the Duties of Their Office Impartially and Diligently) and Canon 7 (Judges Shall Refrain from Political Activity Inappropriate to Their Judicial Office), and deposit those funds into his campaign account for distribution as may be permitted by law. The JQC also informed me that "Whether such funds

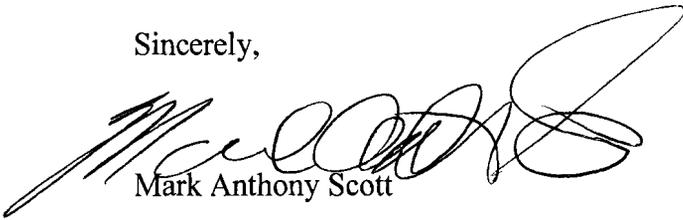
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can be expended to defray legal defense costs is a question within the purview of the Georgia Government Transparency and Campaign Finance Commission and not this Commission”.

My specific question for the Commission is whether I have the authority to raise funds, deposit the funds in my campaign account and expend the funds to defray the legal fees incurred, which presently exceed \$122,000.00?

Thank you very much for your time and consideration. I look forward to the Commission’s response to my query.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Anthony Scott', with a large, stylized flourish at the end.

Mark Anthony Scott

MAS/dmw

**MARK ANTHONY SCOTT, JUDGE**  
SUPERIOR COURT  
STONE MOUNTAIN CIRCUIT  
DECATUR, GEORGIA 30030

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