



## AlaFile E-Notice

03-CV-2020-900877.00

Judge: BROOKE E REID

To: DAVID ALAN LUDDER  
court.notices@enviro-lawyer.com

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# NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

BOBBY LEWIS ET AL V. ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT ET  
03-CV-2020-900877.00

The following matter was FILED on 3/15/2021 11:04:34 AM

[Filer: LUDDER DAVID ALAN]

Notice Date: 3/15/2021 11:04:34 AM

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

334-832-1260

State of Alabama  
Unified Judicial System  
Form ARAP-1 (front) Rev.1/97

**NOTICE OF APPEAL TO THE** (Check appropriate court)  
 SUPREME COURT OF ALABAMA  
 COURT OF CIVIL APPEALS OF ALABAMA



ELECTRONICALLY FILED  
3/15/2021 11:04 AM  
03-CV-2020-900877.00  
CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA  
GINA J. ISHMAN, CLERK

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

**APPELLANT** BOBBY LEWIS; MICHAEL DEL VECCHIO; DAVID DEL VECCHIO; PEGGY R. DEL VECCHIO; WILLIAM P. NOVACK; and TARA NOVACK

**V. APPELLEE** ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT; (ADDITIONAL APPELLEES LISTED IN THE ATTACHED)

**TRIAL JUDGE** BROOK E. REID

**DATE OF JUDGMENT:** FEBRUARY 2, 2021

**DATE OF POST – JUDGMENT ORDER:**

**NOTICE IS HEREBY GIVEN THAT** \_\_\_\_\_ all of the above-named Appellants \_\_\_\_\_ appeal(s) to the above-named court from the  Final Judgment  Order \_\_\_\_\_ entered in this cause. (describing it)

CHECK THE PROPER DESCRIPTION OF THE APPEALED CASE UNDER THE APPROPRIATE COURT:

**SUPREME COURT**

- 1  Summary Judgment, amount claimed more than \$ 50,000
- 2  Judgment Amount exceeds \$50,000
- 3  Amount Sought in trial court more than \$50,000, Judgment for defendant
- 4  Equitable Relief, except for domestic relations
- 5  Other: \_\_\_\_\_

**COURT OF CIVIL APPEALS**

- 1  Summary Judgment, amount claimed \$ 50,000 or less
- 2  Judgment Amount \$50,000 or less
- 3  Amount Sought \$50,000 or less, judgment for defendant
- 4  Workmen’s Compensation
- 5  Domestic Relations
- 6  Other: Final judgment affirming agency action in \_\_\_\_\_ contested case under Ala. Code s. 41-22-20

**APPELLANT FILES WITH THIS NOTICE OF APPEAL:**

- 1.  Security for costs of appeal
- 2.  A supersedeas bond in the amount of \$ \_\_\_\_\_
- 3.  Deposited cash security in the amount of \$ \_\_\_\_\_
- 4.  Is exempted by law from giving security for costs of appeal by virtue of \_\_\_\_\_

Filed \_\_\_\_\_ (Date)

9150 McDougal Ct  
Address  
Tallahassee, FL 32312 (850) 386-5671  
Telephone Number

CERTIFIED AS A TRUE COPY

David A. Ludder (LUD)  
Attorney for Appellant

Circuit Clerk

Email davidaludder@enviro-lawyer.com

**SECURITY FOR COSTS**

We hereby acknowledge ourselves security for costs of appeal. For the payment of all costs secured by this undertaking, we hereby waive our right of exemption as to personal property under the Constitution and laws of the State of Alabama.

Executed with our seals this 15th day of March, 2021.

Filed and approved: \_\_\_\_\_ (Date) \_\_\_\_\_ (L.S.)  
Appellant-principal

s/ David A. Ludder \_\_\_\_\_ (L.S.)  
Surety

Circuit Clerk  
(Amended November 9, 1976; October 1, 1991.)

\_\_\_\_\_  
Surety

**SUPERSEDEAS BOND**

We, the undersigned principal and sureties, hereby acknowledge ourselves bound unto \_\_\_\_\_ in the sum of \_\_\_\_\_ Dollars, for the payment of which we bind ourselves, and each other, our heirs, executors, [(for amount of bond see Rule 8(a) and administrators, jointly and severally, and as part of this undertaking we hereby waive our rights of exemption as to personal property under the Constitution and laws of the State of Alabama.

Form ARAP-1 (back)

Rev. 1/97

NOTICE OF APPEAL TO THE

Supreme Court of Alabama

Court of Civil Appeals of Alabama

WHEREAS, the above-named appellee (s) recovered a judgment against appellant (s) for the sum of \_\_\_\_\_ Dollars (and the further acts or duty \_\_\_\_\_) [describing judgment in addition to or other than for money only] \_\_\_\_\_ Dollars, the costs in that behalf expended.

NOW, therefore, the condition of the foregoing obligation is such that, if the appellant shall prosecute this appeal to effect, and satisfy such judgment, penalties, and costs including costs of appeal as may be rendered in this case, then the said obligation to be null and void, otherwise to remain in full force and effect.

Executed with our seals this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Filed and approved: \_\_\_\_\_ (Date) \_\_\_\_\_ Appellant-principal (L.S.)

\_\_\_\_\_  
Surety (L.S.)

Circuit Clerk

\_\_\_\_\_  
Surety (L.S.)

EXECUTION OF JUDGMENT STAYED:

Bond fixed at: \$ \_\_\_\_\_ (Not required for money judgment only.) \_\_\_\_\_ Circuit Judge (L.S.)

**DESIGNATION OF RECORD ON APPEAL**

DESIGNATION OF CLERK'S RECORD: Appellant requests the clerk to include the following checked materials in the clerk's record:

- 1.  Complaint
- 2.  Answer
- 3.  Counter-claim
- 4.  Cross-Claim
- 5.  Third-party Complaint
- 6.  Third-party Answer
- 7.  Motion to dismiss
- 8.  Pretrial order

- 9.  Entire record (less those items set forth in Rule 10 (a))
- 10.  Motion for summary judgment
- 11.  Opposition to motion for summary judgment
- 12.  Final (Judgment) (Order)
- 13.  Motion for New Trial
- 14.  Ruling on Motion
- 15.  Others: Docs. 42, 44, & 53; Agency Record (DVD)
- 16.  Exhibit Number: \_\_\_\_\_

**TRANSCRIPT STATUS**

- Transcript will not be ordered. [See Rule 10(b), ARAP.]
- Transcript will be ordered. [See Rules 10(b)(2) and 11 (a)(2), ARAP. Form 1A or 1B.] Court reporter(s):

NOTE: If more than one court reporter was involved in this case, you must file a Transcript Purchase Order Form in compliance with Rules 10(b) and 11(c), Form 1A or 1B of the ARAP, for each court reporter. (Amended October 1, 1991.)

**CERTIFICATE OF FILING**

I certify that I have this date filed with the clerk of the trial court the original and \_\_\_\_\_ no \_\_\_\_\_ copies of the foregoing notice of appeal (along with \$ 200 docket fee), and such other instruments as have been completed and included herein. A true copy of each of these items will be served by the clerk of the trial court on each of the following:

- 1) Clerk of the appellate court, (the \$ 200 docket fee shall be transmitted with this filing) or affidavit of hardship.
- 2) Court Reporter.
- 3) Counsel for appellee, or appellee if no counsel.

Name: \_\_\_\_\_ (See Attached List of Counsel for Appellees)  
Address: \_\_\_\_\_

DATED this 15th day of March, 2021.

s/ David A. Ludder (LUD)  
Attorney for Appellant

(Amended October 1, 1991.)

**ADDITIONAL APPELLEES:**

DOCUMENT 61

LANCE R. LEFLEUR, in his official capacity as Director of the Alabama Department of Environmental Management; ENVIRONMENTAL MANAGEMENT COMMISSION OF THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT; SAMUEL L. MILLER, KEVIN MCKINSTRY, THOMAS P. WALTERS, RUBY L. PERRY, MARY J. MERRITT, and JOHN H. MASINGILL, III, in their official capacities as members of the Environmental Management Commission of the Alabama Department of Environmental Management; and the CITY OF DOTHAN, ALABAMA

**COUNSEL FOR APPELLEES:**

A. Todd Carter  
Paul Christian Sasser, Jr.  
Attorneys for ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT and LANCE R. LEFLEUR  
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P.O. Box 301463  
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atcarter@adem.alabama.gov  
pcsasser@adem.alabama.gov

Robert D. Tambling  
Attorney for ENVIRONMENTAL MANAGEMENT COMMISSION OF THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT COMMISSION; SAMUEL L. MILLER, KEVIN MCKINSTRY, THOMAS P. WALTERS, RUBY L. PERRY, MARY J. MERRITT, and JOHN H. MASINGILL, III  
Office of the Attorney General  
P.O. Box 300152  
Montgomery, AL 36130-0152  
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F. Lenton White  
Attorney for CITY OF DOTHAN, ALABAMA  
126 N. Saint Andrews Street  
Dothan, AL 36301  
lwhite@dothan.org

William S. Cox  
Attorney for CITY OF DOTHAN, ALABAMA  
Bradley Arant Boult Cummings LLP  
1819 Fifth Avenue North  
Birmingham, AL 35203  
bcox@bradley.com



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CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA  
GINA J. ISHMAN, CLERK

State of Alabama  
Unified Judicial System  
Form ARAP-25 (front) 10/2019

**DOCKETING STATEMENT**  
**Appeal to the Alabama Court of**  
**Civil Appeals**

**NOTE: COMPLETED CIVIL CASE COVER SHEET MUST BE ATTACHED**

COUNTY MONTGOMERY	CIVIL ACTION NUMBER 03-CV-2020-900877.00	TRIAL JUDGE BROOKE E. REID
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**PARTY FILING APPEAL (Appellant) :**

BOBBY LEWIS; MICHAEL DEL VECCHIO; DAVID DEL VECCHIO; PEGGY R. DEL VECCHIO; WILLIAM P. NOVACK;  
and TARA NOVACK

**v. PARTY APPEALED AGAINST (Appellee)**

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT; etc. (SEE ATTACHED)

**APPELLANT'S ATTORNEY:** DAVID A. LUDDER

Email: davidaludder@enviro-lawyer.com

Telephone Number

(850) 386-5671

Address 9150 McDougal Ct.	City Tallahassee	State FL	Zip Code 32312
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**APPELLEE'S ATTORNEY:** SEE ATTACHED

Email:

Telephone Number

Address	City	State	Zip Code
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**TYPE OF APPEAL:**  Appeal  Cross-Appeal

**JURISDICTION (TYPE OF CASE):** Please check the proper description of the appealed case:

- A**  Summary Judgment, amount claimed equal to or less than \$ 50,000      **E**  Workmen's Compensation  
**B**  Judgment Amount equal to or less than \$ 50,000      **F**  Administrative Agency  
**C**  Amount Sought in trial court \$ 50,000 or less, judgment for defendant      **G**  Juvenile  
**D**  Domestic Relations      **H**  Other \_\_\_\_\_

**JURISDICTION (FINALITY):** Date of entry of judgment appealed from: February 2, 2021  
Month Day Year

1. Is the judgment or order appealed from in compliance with Rule 58, Ala. R. Civ. P.?  Yes  No  
2. Is the order or judgment appealed from a final judgment (i.e., does it dispose of the case as to all claims by all parties)?  Yes  No  
3. If the judgment was not final, did the trial court direct the entry of a judgment pursuant to Rule 54(b), Ala. R. Civ. P.?  Yes  No  
4. If judgment was entered pursuant to Rule 54(b), Ala. R. Civ. P., did the trial court expressly determine that there was no just reason for delay and expressly direct that judgment be entered?  Yes  No  
5. If there is no final judgment or if there has not been full compliance with Rule 54(b), Ala. R. Civ. P., please explain the basis for seeking appellate review and cite the authority for the appeal:  
\_\_\_\_\_  
\_\_\_\_\_

**POST-JUDGMENT MOTIONS:** List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rule 59.1, Ala. R. Civ. P.):

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Day	Year		Month	Day	Year
			None			

**Form ARAP-25 (back) 10/2019** **DOCKETING STATEMENT Appeal to the Court of Civil Appeals**

CONSTITUTIONAL ISSUES: 1. Are the provisions of Rule 44, Ala. R. App. P., applicable to this appeal?  Yes  No  
 2. If so, have the provisions been complied with?  Yes  No

**NATURE OF CASE ON APPEAL:** In the left column of boxes preceding the categories listed below, check the box (check only one) that best describes or categorizes the basis or theory of the primary issue on appeal. In the right column of boxes, check any secondary theories that are applicable to the suit. These topics need to be checked only if the issues on appeal vary from the information supplied in the same columns on the civil case "cover sheet" filed in the trial court.

<p><b>TORTS – Personal Injury</b></p> <p>A <input type="checkbox"/> Bad Faith</p> <p>B <input type="checkbox"/> Fraud</p> <p>C <input type="checkbox"/> Legal Malpractice</p> <p>D <input type="checkbox"/> Med. Malpractice</p> <p>E <input type="checkbox"/> Other Malpractice</p> <p>F <input type="checkbox"/> Products/AEMLD</p> <p>G <input type="checkbox"/> Gen. Negligence</p> <p>H <input type="checkbox"/> Vehicular Negligence</p> <p>I <input type="checkbox"/> Other _____</p>	<p><b>TORTS – Property Damage</b></p> <p>J <input type="checkbox"/> Personalty</p> <p>K <input type="checkbox"/> Realty</p> <p><b>CONTRACTS</b></p> <p>L <input type="checkbox"/> Commercial</p> <p>M <input type="checkbox"/> Personal</p> <p>N <input type="checkbox"/> Pension</p> <p>O <input type="checkbox"/> Insurance</p> <p>P <input type="checkbox"/> Employment</p> <p>Q <input type="checkbox"/> Other _____</p>	<p>R <input type="checkbox"/> REAL PROPERTY</p> <p>S <input type="checkbox"/> CIV RTS: Prisoner</p> <p>T <input type="checkbox"/> CIV RTS: Other</p> <p>U <input type="checkbox"/> Other _____</p> <p><b>EQUITY/Non-Damages Action</b></p> <p>V <input type="checkbox"/> Domestic Relations</p> <p>W <input type="checkbox"/> Declar. Judgment</p> <p>X <input type="checkbox"/> Injunc. Commercial</p> <p>Y <input type="checkbox"/> Injunc. Employment</p>	<p>Z <input type="checkbox"/> Injunc. Other</p> <p>1 <input type="checkbox"/> Extrad. Writ</p> <p>2 <input type="checkbox"/> Other _____</p> <p><b>STATUTES/RULES</b></p> <p>3 <input checked="" type="checkbox"/> Admin. Agency</p> <p>4 <input type="checkbox"/> Term. Parental Rts.</p> <p>5 <input type="checkbox"/> Workmen's Comp.</p> <p>6 <input type="checkbox"/> Wrongful Death</p> <p>7 <input type="checkbox"/> Other: _____</p>
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IF THE CASE WENT TO TRIAL, HOW MANY DAYS DID THE TRIAL TAKE? Not Applicable

**BRIEFLY SUMMARIZE THE ISSUE(S) ON APPEAL. THIS INFORMATION IS FOR CASE PROCESSING AND STATISTICAL PURPOSES ONLY.**

Whether the Order of the Environmental Management Commission and final action of the Alabama Department of Environmental Management approving the renewal and modification of a permit authorizing the City of Dothan to construct and operate an existing and expanded landfill is (1) in violation of statutory provisions or pertinent agency rules; or (2) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?

WITHOUT ARGUMENT, BRIEFLY SUMMARIZE THE FACTS TO INFORM THE COURT OF THE NATURE OF THE CASE. THIS INFORMATION IS FOR CASE PROCESSING AND STATISTICAL PURPOSES ONLY.

The Alabama Department of Environmental Management granted a permit renewal and modification authorizing the City of Dothan to construct and operate an existing and expanded landfill. On a de novo appeal to the Environmental Management Commission brought by neighboring residents, the appointed hearing officer recommended that the permit be disapproved because it was granted in violation of statutory provisions and pertinent agency rules. The Commission rejected the hearing officer's recommendation and approved the permit. The Circuit Court affirmed.

**SETTLEMENT CONFERENCE:** The court may require that this appeal be subject to a moderated settlement conference. Do you think the case on appeal would be appropriate for such a conference? No

Explain: Differences on legal issues dominate the case

**Date of Filing of the Notice of Appeal:** March 15, 2021

s/ David A. Ludder (LUD)  
**Signature of Attorney / Party Filing this Form**

**Date** March 15, 2021

**Certificate of Service**

I certify I have this date filed electronically with the clerk of the trial court the foregoing docketing statement through the trial court electronic-filing system or that I have this date hand-filed the original and \_\_\_\_\_ (number) copies of the foregoing docketing statement. A true or electronic copy of the docketing statement will be served by the clerk of the trial court or by the trial court's electronic-filing system on each of the following: (1) the clerk of the appellate court; (2) the court reporter; and (3) attorney for each appellee or the appellee if no attorney as follows (provide names and addresses): \_\_\_\_\_

I further certify pursuant to Rules 3(d), 25(d), and 57(h)(5), Ala. R. App. P, that I have this date served a copy of this Notice of Appeal on each party to the proceedings in the trial court in the manner indicated below (attach additional pages if necessary):

Name of Party	Method of Service (US Mail, AlaFile, etc.)	Service Address
	SEE ATTACHED	

\*If electronic service is selected, the e-mail address at which service was made via AlaFile must be listed as the service address.

s/ David A. Ludder (LUD) David A. Ludder Date: March 15, 2021

(Signature of Appellant or Attorney for Appellant) (Printed Name)

**ADDITIONAL APPELLEES:**

DOCUMENT 62

LANCE R. LEFLEUR, in his official capacity as Director of the Alabama Department of Environmental Management; ENVIRONMENTAL MANAGEMENT COMMISSION OF THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT; SAMUEL L. MILLER, KEVIN MCKINSTRY, THOMAS P. WALTERS, RUBY L. PERRY, MARY J. MERRITT, and JOHN H. MASINGILL, III, in their official capacities as members of the Environmental Management Commission of the Alabama Department of Environmental Management; and the CITY OF DOTHAN, ALABAMA

**COUNSEL FOR APPELLEES:**

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Attorneys for ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT and LANCE R. LEFLEUR  
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