

The Alabama Supreme Court affects the lives of all Alabamians

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On March 5, 2009, at the University of Alabama School of Law the Alabama Supreme Court held oral arguments for two cases, *Ex parte DBI Inc.*, and *Riley v. The Joint Fiscal Committee*. These cases, which pose complex issues of federal and state constitutional law, fascinated the law students, professors and others present.

Why are these cases and the Alabama Supreme Court itself important to all Alabamians?

The nine justices of the Alabama Supreme Court, lead by Chief Justice Sue Bell Cobb, a native of Evergreen and a fifth generation Alabamian, usually have the last word on all court cases in Alabama. For Alabamians accused of crimes, including death penalty defendants, the Alabama Supreme Court is almost always their last chance for the “justice for all” that we routinely promise in the Pledge of Allegiance.

The outcome of the first case will substantially impact the ability of Alabamians to seek justice in Alabama’s courts. The plaintiff’s daughter was killed in an automobile accident. She is arguing the Alabama courts have “personal jurisdiction” over DBI, a South Korean corporation that manufactured the seatbelt that allegedly caused her daughter’s death.

DBI argued that it should not have to answer to the Alabama courts because it did not purposefully market the seatbelts in Alabama. The mother responded that DBI purposefully made its seatbelts available to car manufacturers in the United States, under circumstances where the cars could end up in any state, including Alabama, and, in fact the particular car was purchased in Mobile, from one of nine Alabama dealerships with cars equipped with DBI’s seatbelts.

For most people, the arguments surrounding the legal doctrine of “personal jurisdiction” – which focuses on “stream of commerce theory” and the “purposeful-direction test”- are incomprehensible. Even most lawyers, other than dyed-in-the-wool civil procedure buffs, find this area obscure. However the Alabama Supreme Court’s decision determines whether this mother, and similarly situated Alabamians suffering injuries from products made by foreign corporations have access to “justice for all.”

In the second case the Alabama Supreme Court must decide whether Governor Riley or the Legislature has the first opportunity to control which state agencies suffer greater budget cuts.

Governor Riley vetoed legislation that conditions full funding of all state agencies, except for six (Medicaid, Public Health, Senior Services, Human Resources, Mental Health, and Child Abuse and Neglect Protection) on sufficient funds being available. Governor Riley argued that this legislation conflicts with Alabama law requiring any proration to be proportional across the board for all state agencies, and, that failing to enforce this veto

effectively frustrates his right to line-item vetos. With Bobby Segall providing a theatrical presentation invoking humorous moments when several justices noted that the Legislature was getting more than their money's worth, the Legislature argued that Governor Riley's veto is illegitimate because a "condition" is not an "item" of an appropriation bill, and, these conditions operate outside the proration rules because they do not cut the absolute funding for any agency.

This case is a goldmine for students and professors interested in the intriguing nuances sorting out the separation of powers between the executive, legislative and judicial branches of government. The average person would find the twists and turns through the Alabama statutes and the 1901 Constitution impossible to follow. For those of us supporting reform of Alabama's 1901 constitution and tax structure this case represents one more piece of compelling evidence supporting our position. Indeed the need for elaborate proration and line item veto provisions is a direct result of our inadequate tax structure, which is anchored in the Constitution.

If the Governor wins, the predicted massive budget cuts will hit all agencies proportionally. If the Legislature wins, the six protected agencies will be hit less hard. The Alabama Supreme Court's decision, which is going to require the wisdom of Solomon, not only determines next year's budget but also impacts many future budgets given that we experience proration on average once every four years.

Although to most Alabamians the Alabama Supreme Court is "out of sight and out of mind," cloistered in Montgomery, they make decisions every day that affect all of us. Recognizing the critical link between the courts and "justice for all" Chief Justice Sue Bell Cobb is arguing for reforms in how we elect judges to minimize the influence of special interest groups fueling expensive campaigns. Given that "justice for all" is the bedrock of our democracy and given the importance of judges in protecting that right for all of us, we would be wise to pay attention to her.

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