FILED
JUL 07 2008
CIRCUIT COURT CLERK
BY _____ D.C.

IN THE CIRCUIT COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

Jimmy Moore, Clerk of Circuit Court of Shelby County, Tennessee, Petitioner, vs. David Lillard, Chairman of the Board of Commissioners of Shelby County, Tennessee, and A C Wharton, Jr., Mayor of Shelby County, Tennessee, Respondents.	)))))))))))))))	No. 64604-9 T.D.

ANSWER

COME NOW the HON. DAVID LILLARD, Chairman of the Board of County Commissioners and the HON. A C WHARTON, JR., Mayor of Shelby County, Tennessee, by and through the Shelby County Attorney, and in response to the Petition filed in this cause would state unto the Court as follows:

1. The allegations of paragraph 1 of the Salary Petition ("Petition") are admitted.
2. The allegations of paragraph 2 of the Petition are denied.
3. The allegations of paragraph 3 of the Petition are denied.
4. The allegations of paragraph 4 of the Petition are denied.
5. The allegations of paragraph 5 of the Petition are denied.
6. The allegations of paragraph 6 of the Petition are denied.

7. The allegations of paragraph 7 of the Petition are denied.

8. The allegations of paragraph 8 of the Petition are admitted.

9. The allegations of paragraph 9 of the Petition are denied.

10. The allegations of paragraph 10 of the Petition are denied.

AFFIRMATIVE DEFENSES

11. The Petition fails to state a claim upon which relief can be granted.

12. The Chairman of the Board of Commissioners is not a proper party to this action.

13. "Classified," or civil service, employees' salaries and benefits are not within the ambit of the Anti-Fee Statute, and therefore this Court lacks subject matter jurisdiction to the extent it requests relief as to classified employees.

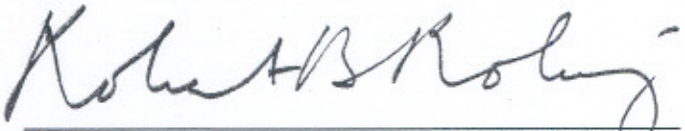
14. Petitioner failed to exhaust administrative remedies as to the classified positions.

WHEREFORE, having answered the Petition in full, Respondent moves that:

1. The Petition be dismissed at Petitioner's cost; and

2. For such other and further relief as the Court may deem appropriate.

Respectfully submitted,



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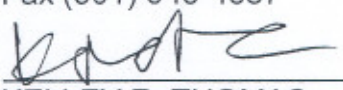

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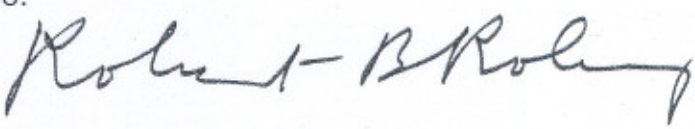
CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Answer by U.S. mail, postage pre-paid to David Kustoff, Attorney for Petitioner, 22 N. Front Street, Suite 660, Memphis, Tennessee 38103. Dated this 7th day of July, 2008.



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