

May 25, 2016

**News Release - For Immediate Release**

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**Update: Petition for Removal Civil Case: *Fleming et al v. Joel Baker*  
Plaintiffs decline to share information with Smith County DA,  
citing his recusal in ATS case and possible impact on criminal cases**

**Tyler, Texas** – JoAnn Fleming, plaintiff in the *Fleming et al v. Joel Baker* civil suit aimed at removing Smith County Judge Joel P. Baker from office, released an update on the case.

Fleming said, “Plaintiffs’ attorneys Trey Trainor and Joe Nixon have declined turn over documents and materials and to answer a series of questions posed by Smith County District Attorney Matt Bingham. Mr. Bingham is in the process of evaluating the claims made by plaintiffs in their Petition to Remove.”

In e-mail communications with plaintiffs’ attorneys and Assistant Attorney General Daniel Brody, Bingham states, “As part of my evaluation of said claims, I am trying to gather as much information as possible to determine if those claims are warranted or not under the applicable law.” Bingham has a deadline of May 27 to make his decision on the Petition to Remove Judge Joel Baker.

Plaintiffs’ attorneys have asserted DA Bingham disqualified himself from joining the civil suit, based on his recusal to investigate the original **May 2015** complaint filed by Grassroots America regarding the ten-year Smith County Commissioners Court traffic camera contract with American Traffic Systems (ATS). The ATS contract is one of two causes of action cited in the *Fleming et al v. Joel Baker* Petition for Removal. (The sexting allegations against Judge Baker are the second cited cause for removal.)

Stating, “*Attorney-client privilege is very sacred,*” [[Tyler Morning Telegraph, 5/14/15](#)] Bingham said the DA’s office would not handle the investigation into the ATS traffic camera case because of its relationship to the Commissioners Court. He said it would be a conflict of interest for his office to prosecute the case because Assistant District Attorney Phillip Smith serves as the Commissioners Court’s attorney and advises them on legal matters. Smith’s legal advisory role included the process by which the contract with ATS was constructed, and later executed, by County Judge Joel Baker and attested to by Assistant DA Phillip Smith on January 28, 2015.

In declining to answer the District Attorney’s questions and his request for “documents, records, recordings, or other evidence collected” in the two Petition causes, plaintiffs’ attorneys referred to the May 9, 2016, e-mail in which DA Bingham posed questions to the Attorney General about the ATS contract investigation from which he recused himself. In addition, plaintiffs’ attorney Joe Nixon stated, “Because some of our clients have been interviewed by both the Attorney General and the FBI, they are reluctant to allow us to share that information at this time.”

In an effort to keep citizens informed about the case, Fleming released the e-mail exchanges between DA Bingham and Assistant Attorney General Daniel Brody. Also released, was plaintiffs’ attorney Joe Nixon’s May 23, 2016, e-mail response to DA Bingham in which he declined the DA’s request for information regarding materials and evidence shared with the Office of Attorney General and the FBI.

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