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# **SUPREME COURT OF ALABAMA**

**OCTOBER TERM, 2025-2026**

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**SC-2025-0391**

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**Ex parte Mobile County Board of Health and Family Oriented  
Primary Health Care Clinic**

**PETITION FOR WRIT OF MANDAMUS**

**(In re: Mobile County Board of Health and Family Oriented  
Primary Health Care Clinic**

**v.**

**Richard Sackler et al.)**

**(Mobile Circuit Court: CV-19-902806)**

MENDHEIM, Justice.

The Mobile County Board of Health and the Family Oriented Primary Health Care Clinic (referred to collectively as "Mobile Health") petition this Court for a writ of mandamus directing the Mobile Circuit Court to vacate its order awarding litigation expenses to Hand Arendall Harrison Sale LLC ("Hand Arendall") based on an attorney lien Hand Arendall filed in a lawsuit it helped Mobile Health commence. We grant the petition and issue the writ.

### I. Facts

The cases implicated by this petition concern an area of litigation this Court has encountered several times in the past five years: litigation against manufacturers, distributors, marketers, and dispensers of prescription opioids for allegedly causing an epidemic of abuse, addiction, and death that has cost the health-care industry millions of dollars for treatment of individuals harmed by those opioids. See, e.g., Ex parte McKesson Corp., 393 So. 3d 1180 (Ala. 2023); Ex parte Endo Health Sols. Inc., 354 So. 3d 488 (Ala. 2021); Ex parte Abbott Lab'y's, 342 So. 3d 186 (Ala. 2021); Ex parte Johnson & Johnson, 330 So. 3d 480 (Ala. 2020). As the cases encountered by this Court indicated, numerous public entities

in Alabama commenced actions in both federal and state court against the same defendants asserting similar claims.

Directly pertinent to the present petition is a suit filed by the Alabama Attorney General on behalf of the State of Alabama in the Montgomery Circuit Court styled State of Alabama v. Endo Health Solutions, Inc., CV-2019-901174 ("the State lawsuit"), in which the State initially named as defendants Purdue Pharma L.P. and related entities, Endo Health Solutions, Inc., and Endo Pharmaceuticals, Inc. (referred to collectively as "Endo"), and McKesson Corporation ("McKesson").<sup>1</sup> The Montgomery Circuit Court provided relevant background in an order entered on June 13, 2022, that granted a motion filed by Endo against Mobile Health to enforce a settlement Endo had reached with the State:

"On June 20, 2019, the State filed an action (the 'Alabama AG Action') alleging various common law and statutory claims against Endo and others concerning the marketing and distribution of prescription opioid medication in Alabama. Separately, more than 200 individual municipalities, counties, county health boards, other governmental entities and public officials in Alabama filed

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<sup>1</sup>In multiple amendments to its complaint, the State subsequently added as defendants, among others, Johnson & Johnson; Janssen Pharmaceuticals, Inc., and related entities; Cardinal Health, Inc., and related entities; Allergan Limited and related entities; Teva Pharmaceuticals Industries, Ltd., and related entities; Wal-Mart, Inc.; CVS Pharmacy, Inc.; and Walgreen Co.

more than 160 separate actions against Endo in both federal and state courts, based largely on the same factual allegations and cause of action as the Alabama AG Action (the 'Other Alabama Opioid Actions').<sup>[2]</sup> Among those was a suit filed by [Mobile Health] on October 15, 2019, four months after the filing of the Alabama AG Action. ..."

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<sup>2</sup>The lawsuits that were filed in federal district courts, as well as some of the lawsuits that were filed in circuit courts, were transferred for consolidated pretrial proceedings to a multidistrict-litigation court. As this Court observed in Ex parte Abbott Laboratories, 342 So. 3d 186, 192 n.5 (Ala. 2021):

"[O]n December 5, 2017, the United States Judicial Panel on Multidistrict Litigation ('JPML') ordered the transfer to the United States District Court for the Northern District of Ohio of 64 civil actions filed by cities, counties, and states pending in nine districts for centralized pretrial proceedings. See In re National Prescription Opiate Litig., 290 F. Supp. 3d 1375 (U.S. Jud. Panel Multidist. Litig. 2017). All of those actions alleged that 'opioid manufacturers, opioid distributors, and opioid-selling pharmacies and retailers acted in concert to mislead medical professionals into prescribing, and millions of Americans into taking and often becoming addicted to, opiates.' In re National Prescription Opiate Litig., 976 F.3d 664, 667 (6th Cir. 2020). The JPML concluded that 'the actions involved common questions of fact, centralization would serve convenience of the parties and witnesses and promote just and efficient conduct of the litigation, and would substantially reduce the risk of duplicative discovery, minimize the possibility of inconsistent pretrial obligations, and prevent conflicting rulings on pretrial motions.' Jason B. Binimow, Annotation, Opioid Marketing, Promoting, and Distributing Claims Against Manufacturers and Distributors, 39 A.L.R. 7th Art. 4, § 4 (2018)."

Hand Arendall was one of two law firms -- the other being Mantiply & Associates -- that represented Mobile Health in the filing of its opioid action in the Mobile Circuit Court ("the Mobile Health lawsuit"). Four days before filing the complaint, both law firms executed a "Legal Representation and Contingency Fee Agreement" with Mobile Health ("the representation agreement"). With respect to attorney fees, the representation agreement provided that counsel would be entitled to 33.3% "of the gross amount of any settlement or verdict obtained by Counsel's efforts on behalf of [Mobile Health]." With respect to litigation costs, the representation agreement provided that

"if there are funds received by settlement with any of the individuals or entities (or their insurance carriers) against whom claims may be pursued by Counsel on behalf of [Mobile Health], the first One Hundred Thousand and 00/100 (\$100,000.00) of such funds shall be paid into the Trust Account of Hand Arendall Harrison Sale LLC, to be maintained there for the payment of litigation expenses as the matter proceeds through discovery and trial, and, if necessary, through appeal. ... [Mobile Health] and Counsel further agree that expenses incurred in the pursuit of the claims referenced above are to be deducted from [Mobile Health's] share of the proceeds of any settlements or verdicts, and that any funds remaining in the expense fund will be paid to [Mobile Health] at the time that Counsel's representation of [Mobile Health] is finally concluded."

The representation agreement also gave the law firms the right to cancel the agreement: "[Mobile Health] further acknowledge[s] that Counsel shall have the right to cancel this Agreement and withdraw from this matter if, in Counsels' professional opinion, the matter does not have merit or does not have a reasonably good possibility of recovery, or as permitted under the Rules of Professional Conduct."

According to an October 6, 2022, affidavit submitted by Hand Arendall's lead counsel, George Walker, in August 2020 Hand Arendall

"[had] concluded that the [Mobile Health lawsuit] did not have a reasonably good possibility of recovery for many reasons, particularly including: (1) it was not then (or now) clear whether [Mobile Health's] claims will be barred by the State's settlement of its opioid claims, and that issue would not become clear until there is a settlement by the State and some subsequent litigation establishing its effect on other litigation; (2) the defendants had filed or were threatening to file bankruptcy, and by then the prospects of recovery from a defendant through bankruptcy appeared slim; and (3) the likelihood was that [Mobile Health] or [Hand Arendall] would incur substantial expense in conducting discovery in the case with no assurance that there would be an actionable claim left to try or a financially viable defendant left for [Mobile Health] to collect from in the event of a favorable verdict at the end of the case."

In a letter dated August 13, 2020, Walker informed Mobile Health that Hand Arendall was withdrawing its representation in the Mobile Health lawsuit:

"Because we do not believe that there is a reasonably good possibility of recovery in this matter under the current circumstances, my firm hereby cancels the Legal Representation and Contingency Fee Agreement executed on October 11, 2019, between [Mobile Health], Mary Beth Mantiply, attorney at law, and Hand Arendall Harrison Sale LLC, pursuant to Section 4 of that Agreement."

On August 31, 2020, Hand Arendall filed a notice of withdrawal in the Mobile Circuit Court. In a letter dated September 28, 2020, Walker informed Mobile Health that Hand Arendall "claims a lien for litigation expenses incurred and for attorneys' fees earned during our representation of [Mobile Health] from September of 2019 through August of 2020." Walker further asserted that Hand Arendall was owed \$126,775.70 "for litigation expenses incurred in the course of our representation." (Id.)

In the meantime, litigation in the State lawsuit continued, as detailed by the Montgomery Circuit Court in its June 13, 2022, order:

"As the Alabama AG Action proceeded, the State, Endo and other defendants vigorously litigated the State's claims before this Court through extensive document productions, depositions of numerous witnesses and experts, and several dispositive motions, including motions for summary judgment filed by both the State and Endo. On October 29, 2021, shortly before trial was set to begin, the State, through the Alabama Attorney General, and Endo entered into a broad, statewide settlement of all claims against Endo and related entities, including Par [Pharmaceuticals, Inc.], concerning the alleged

conduct at issue in the Alabama AG Action and the Other Alabama Opioid Actions.

"The AG Settlement, which was the product of months of extensive negotiations, with significant involvement and oversight by this Court, fully and finally resolved all opioid-related claims that have been, could have been, or could in the future be brought against Endo or Par by any state or local public entity in Alabama. In order to effectuate the settlement, the State, in its representative capacity for all underlying municipalities, counties and other governmental and public entities in this State, agreed to release and secure dismissals of all claims asserted in this action and the Other Opioid Actions against Endo and other releasees defined in the AG Settlement. The AG Settlement further requires that the State deliver to Endo signed agreements from every governmental plaintiff in any pending Other Alabama Opioid Action expressly stating that the plaintiffs accept the terms of the AG Settlement, will immediately cease any future litigation activity, and will dismiss their action within 14 days of the releases becoming effective. Only once the conditions of the AG Settlement are satisfied will it become effective and Endo's obligations to pay ripen. At that point, the AG Settlement provides for the allocation of settlement funds to municipalities, counties and agencies throughout the State."

(Emphasis added.) The State subsequently reached statewide settlement agreements with the other defendants in the State lawsuit predicated on the same stipulations.

Each of the statewide settlement agreements covered Mobile Health. For example, the Janssen Alabama Statewide Opioid Settlement Agreement ("the JASSA") provided for the release of all claims against

Janssen Pharmaceuticals, Inc., and related entities ("Janssen"), asserted by "Litigating Special Districts."<sup>3</sup> The McKesson Alabama Settlement Agreement ("the MASA") provided for the release of all claims against McKesson asserted by "Releasors."<sup>4</sup>

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<sup>3</sup>A "Special District" is defined in the JASSA as "a formal and legally recognized sub-entity of the State that is authorized by State law to provide one or more limited number of designated functions, including ... healthcare and hospital districts, and emergency services districts." A "Litigating Special District" is one "that brought any Released Claims against any Released Entities on or before the Effective Date [April 1, 2022,] that were not separately resolved prior to that date." Moreover, "[t]he Mobile County Board of Health" is listed in Exhibit F of the JASSA as a "Litigating Special District." A "Special District" is different than a "Subdivision." The JASSA defines a "Subdivision" as

"a formal and legally recognized sub-entity of the State that provides general governance for a defined area, including a county, parish, city, town, village, or similar entity. Unless otherwise specified, 'Subdivision' includes all functional counties and parishes and other functional levels of subentities of the State that provide general governance for a defined area."

The Wal-Mart Alabama Statewide Opioid Settlement Agreement, the Allergan Public Global Opioid Settlement Agreement, and the Teva Global Opioid Settlement Agreement all contain identical or very similar definitions of "Special District[s]," "Litigating Special District[s]," and "Subdivision[s]."

<sup>4</sup>The MASA defines "Releasors" as including "the State of Alabama and all Subdivisions, and all their past, present, and future agencies, authorities, boards (including the State Board of Health and all county boards of health), commissions, councils, departments, districts,

The statewide settlement agreements provided that any payments to subdivisions, special districts, and releasors would be allocated as determined by the State. That process of allocation was overseen by a special master appointed by the Montgomery Circuit Court, Joseph Tann. Because of a dispute between certain special districts as to how the percentage of settlement proceeds allocated to them should be distributed, Special Master Tann, in conformity with a memorandum of understanding between those special districts, assigned an arbitrator to determine the distribution of funds to those special districts.

Additionally, the statewide settlement agreements contained specific provisions for attorney fees and litigation expenses. For example, the JASSA contained a section titled "Attorney Fees and Cost Payments" that provided that "Janssen shall pay to the State of Alabama \$5,074,243.46, to be available to reimburse attorney fees for the State, Participating Litigating Subdivisions, and Special Districts." Participating special districts were required to submit an executed

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divisions, subdivisions, offices, entities, public instrumentalities ...." The Distributor Settlement Agreement, the CVS Settlement Agreement, and the Walgreen Settlement Agreement all contain essentially identical definitions of "Releasors."

"Settlement Participation Form" in order to be eligible to receive a portion of those funds. The Settlement Participation Form requires the "Governmental Entity" to "dismiss with prejudice any Released Claims that it has filed." It also requires that "[t]he Governmental Entity submit[] to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement." The Janssen Alabama Litigating Local Government & Litigating Local Government Public Health Entities Special Master Report specifically stated with respect to attorney fees that "[c]ounsel for the [Litigating Local Governments and Litigating Local Government Public Health Entities] waived enforcement of their contracts other than in compliance with the terms and conditions contained within this report.<sup>5</sup> The arbitrator assigned by Special Master Tann also was assigned the task of determining the distributions of funds allocated to local public entities for attorney fees.

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<sup>5</sup>The MASA and Wal-Mart Alabama Statewide Opioid Settlement Agreement contain identical statements about counsel waiving their contracts.

Despite the language in Endo Settlement Agreement ("the ESA"), Mobile Health initially refused to join the ESA or to dismiss Endo from the Mobile Health lawsuit. Instead, on April 18, 2022, Mobile Health filed in the Mobile Circuit Court a "Request for Declaratory Judgment Against the Endo and Par Defendants," which sought a judgment declaring that the ESA did not apply to Mobile Health. That prompted Endo to file in the Montgomery Circuit Court a motion "seeking an order compelling [Mobile Health] to terminate [its] litigation." The attorney general filed a brief in support of Endo's motion, agreeing with Endo that the 'State has the authority to resolve the[] claims' of [Mobile Health] and other Alabama subdivisions and that 'it has effectively done so.'" On April 29, 2022, the Mobile Circuit Court denied Mobile Health's motion for a declaratory judgment.

Subsequently, Mobile Health filed responses to Endo's motion in the Montgomery Circuit Court, arguing that the Montgomery Circuit Court was an improper venue and lacked jurisdiction, and Mobile Health additionally presented arguments on the merits of Endo's motion. The Montgomery Circuit Court rejected all of Mobile Health's arguments. As relevant here, Mobile Health had contended that the Montgomery Circuit

Court "should yield to the Mobile County Circuit Court on the ground that it has 'already ... exercised' jurisdiction over these matters -- in essence invoking the 'first-filed' rule ...." However, in its June 13, 2022, order, the Montgomery Circuit Court observed that this argument

"misstates the chronology of the litigation. [Mobile Health's] action was not the first filed. As explained above, the State commenced this action against Endo in June of 2019, and sought relief that was statewide in scope, inclusive of Mobile County. ... [Mobile Health] filed [its] suit four months later, in October 2019, making factual allegations and asserting theories of recovery that essentially duplicated the State's allegations."

(Emphasis added.)

On the merits, the Montgomery Circuit Court concluded that the "Attorney General had the authority to release and did release [Mobile Health's] claims." The Montgomery Circuit Court also concluded that it had the authority to enforce the ESA against Mobile Health. In the course of reaching that conclusion, the Montgomery Circuit Court noted that "[a] court's power to act is at its apex in the settlement context because parallel actions that pose a threat to a settlement strike at the core of a court's 'ability to dispose of the broader action pending before it.'"

(Quoting Corrugated Container Antitrust Litig., 659 F.2d 1332, 1335 (5th Cir. 1981).) The Montgomery Circuit Court thus concluded:

"It is indisputable that this action has reached the settlement stage at which the Court's need to protect its jurisdiction is at its strongest. After extensive discovery, the parties to this action entered into a final comprehensive settlement of both the State's claims asserted in this action and the claims asserted by the other governmental and public plaintiffs in the Other Alabama Opioid Actions. For the reasons discussed above, the settlement is binding on [Mobile Health]. Because [Mobile Health] continue[s] to press [its] released claims against Endo and Par, however, [Mobile Health's] efforts directly 'interfere' with this Court's 'ability to dispose of the broader action pending before it.' See Corrugated Container, 659 F.2d at 1335. Accordingly, an injunction is necessary and appropriate to preserve this Court's ability to protect its jurisdiction and resolve this complex litigation."

The Montgomery Circuit Court ordered Mobile Health to dismiss with prejudice its claims against Endo and to "take any additional steps that are required to comply with the terms of the AG Settlement."

On June 29, 2022, the Mobile Circuit Court ordered, "[p]ursuant to the Joint Stipulation of the parties involved," the dismissal with prejudice of Endo from the Mobile Health lawsuit. Pursuant to joint stipulations of dismissal filed by Mobile Health and the designated defendants, the Mobile Circuit Court subsequently dismissed from the Mobile Health lawsuit several more defendants, including McKesson, Johnson & Johnson, Janssen, Wal-Mart, Inc., Walgreen Co., Allergan

Limited and related entities, and Teva Pharmaceuticals Industries, Ltd., and related entities.

On October 6, 2022, Hand Arendall filed in the Mobile Circuit Court a "Notice of Attorneys' Fees Lien and Motion to Confirm Lien." Hand Arendall asserted its right to a lien based upon § 34-3-61, Ala. Code 1975, the attorney-lien statute. Hand Arendall claimed it was owed \$868,627.73 in attorney fees and \$126,701.73 in costs. On February 2, 2023, Hand Arendall filed in the Mobile Circuit Court a "Motion to Refer Attorney Lien Dispute to Special Master for Report and Recommendation." On March 14, 2023, the Mobile Circuit Court ordered that "any attorney fee disputes which might arise" shall be referred to Special Master John R. Lockett; the circuit court originally had appointed Lockett as special master for other matters in the Mobile Health lawsuit on June 5, 2020.

After the Mobile Health's dismissal of its claims against most of the defendants in the Mobile Health lawsuit, Mobile Health began receiving allocations of funds from the State pursuant to the allocation proceedings in the State lawsuit in the Montgomery Circuit Court. As of November 2023, Mobile Health had received a total of \$1,355,092.25 from

McKesson, Janssen, and Wal-Mart specifically allocated for opioid abatement. Mobile Health held those funds in a general account pending resolution of attorney liens filed in the Mobile Health lawsuit. Mobile Health's counsel of record, Mary Beth Mantiply, had received a total of \$581,000.69 that was held in a trust account pending resolution of the attorney liens.<sup>6</sup>

On December 22, 2023, OnderLaw LLC ("OnderLaw") filed in the Mobile Circuit Court a motion to intervene for the purpose of filing an attorney lien upon the settlement proceeds "received by [Mobile Health] pursuant to [Mobile Health's] claims against individuals and entities alleged to be responsible for the opioid epidemic in Mobile County." According to its motion and the filings that accompanied it, OnderLaw

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<sup>6</sup>In a hearing on April 27, 2023, before Special Master Lockett, counsel for Mobile Health stated that the amount allocated for opioid abatement was \$2.2 million and the amount allocated for attorney fees was between \$650,000 and \$700,000. Hand Arendall asserted in a filing in the Mobile Health lawsuit that Mobile Health had received a total of \$674,791.84 allocated to attorney fees from the MASA, the JASSA, and the Wal-Mart Alabama Statewide Opioid Settlement Agreement. In a letter dated February 6, 2025, Mantiply wrote to the Mobile Circuit Court, she stated that "[t]he total amount of attorney fee awards we have been paid to date resulting from my firm's participation in the arbitration procedure is \$862,300.16."

had represented Mobile Health in the Mobile Health lawsuit from November 10, 2020, until May 31, 2023. OnderLaw asserted that, after settlements with certain defendants but before settlements with other defendants, Mobile Health had terminated its contract with OnderLaw. OnderLaw claimed it was owed \$2,180,145.67 in litigation costs.<sup>7</sup> On March 25, 2024, the Mobile Circuit Court granted OnderLaw's motion to intervene "for the limited purpose of protecting [its] attorney's fee lien." The Mobile Circuit Court referred issues concerning OnderLaw's attorney lien to Special Master Lockett.

On January 11, 2024, Special Master Lockett entered his report and recommendation concerning Hand Arendall's attorney-lien claim. In the report and recommendation, Special Master Lockett noted that Hand Arendall had withdrawn from representation of its own accord and that it had done so before any "funds by way of settlement or verdict had been awarded or received by [Mobile Health]." Focusing on the representation agreement, Special Master Lockett observed that the agreement provided that Hand Arendall "would be entitled to 'fees and costs

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<sup>7</sup>OnderLaw also claimed entitlement to attorney fees, but Mobile Health subsequently reached a settlement with OnderLaw with respect to its attorney fees.

incurred prior to the discharge or termination'" but that "[t]he cancellation provision upon which the Hand [Arendall] firm relies, made no such provision." Based on Hand Arendall's own decision to withdraw from representation and the terms of the representation agreement, Special Master Lockett concluded that Hand Arendall "is not entitled to ... reimbursement of its fees and expenses," and he therefore recommended that the Mobile Circuit Court deny Hand Arendall's motion to approve its attorney lien.

On August 1, 2024, Hand Arendall filed an objection to the report and recommendation of Special Master Lockett. On January 30, 2025, the Mobile Circuit Court held a hearing concerning Hand Arendall's objection.

On April 2, 2025, the Mobile Circuit Court entered an order that stated, in pertinent part:

"This Court adopts and incorporates by reference herein the findings and conclusions of the Special Master in his order dated July 11, 2024, with one exception. This Court finds that Hand Arendall [Harrison] Sale, LLC be and is entitled to reimbursement of its expenses incurred in prosecuting this action on behalf of [Mobile Health] totaling \$126,775.73. [Mobile Health is] hereby ordered to pay said monies to Hand Arendall Harrison Sale, LLC from the settlement proceeds received by [Mobile Health] as soon as practical. All other findings of fact, conclusions of law, and all other conditions of

said Special Master are specifically adopted by this Court and incorporated by reference as if fully set out herein."

Thus, the Mobile Circuit Court denied Hand Arendall's motion to the extent that it sought reimbursement of attorney fees, but it granted the motion with respect to reimbursement of its litigation expenses in the amount of \$126,775.73, and it ordered Mobile Health to pay Hand Arendall's litigation expenses "from the settlement proceeds received by [Mobile Health] as soon as practical."

On May 1, 2025, Mobile Health filed in the Mobile Circuit Court a postjudgment motion to alter, amend, or vacate the Mobile Circuit Court's April 2, 2025, order. As of the date Mobile Health's reply brief was filed in this case, August 22, 2025, the Mobile Circuit Court had not ruled on the postjudgment motion.

On June 3, 2025, Mobile Health petitioned this Court for a writ of mandamus directing the Mobile Circuit Court to vacate its April 2, 2025, order confirming Hand Arendall's attorney lien for litigation expenses. On July 24, 2025, this Court ordered answers and briefs in response to Mobile Health's petition.

On July 31, 2025, OnderLaw filed a motion for leave to file an answer to Mobile Health's petition as an interested party because of

OnderLaw's pending attorney lien for litigation expenses in the Mobile Health lawsuit. On August 1, 2025, OnderLaw's motion was granted. In its answer, OnderLaw expressly states that "[i]t is from that settlement money that OnderLaw seeks reimbursement of its litigation costs." OnderLaw's answer, p. 9. So far as this Court is aware, Special Master Lockett has yet to issue a report and recommendation concerning OnderLaw's attorney lien, and the Mobile Circuit Court has not yet ruled on OnderLaw's claim for reimbursement of litigation expenses.

## II. Standard of Review

Mobile Health's central argument in its petition for a writ of mandamus is that the Mobile Circuit Court lacks jurisdiction to grant a lien over funds that were obtained by the State in the State lawsuit and that were awarded in an allocation process overseen by the Montgomery Circuit Court. In essence, the argument is akin to claiming that the Mobile Circuit Court lacks *in rem* jurisdiction over the settlement proceeds.<sup>8</sup>

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<sup>8</sup>In its petition, Mobile Health articulates the question before us in terms of subject-matter jurisdiction, but its argument and the cases it cites involve concepts of abatement and *in rem* jurisdiction. For example, Mobile Health quotes Ex parte Stewart, 985 So. 2d 404, 408 (Ala. 2007), for the proposition that "'where two courts have equal and concurrent

"It is well settled that questions of jurisdiction -- whether lack of subject-matter jurisdiction or lack of jurisdiction over the person or thing at issue -- are reviewable by a petition for a writ of mandamus. See, e.g., Ex parte PinnOak Res., LLC, 26 So. 3d 1190, 1198 (Ala. 2009) (subject-matter jurisdiction);

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jurisdiction, the court that first commences the exercise of its jurisdiction in a matter has the preference and is not to be obstructed in the legitimate exercise of its powers by a court of coordinate jurisdiction.'" Mobile Health's petition, p. 16. That is the concept of abatement, which is codified in § 6-5-440, Ala. Code 1975. This Court has explained that § 6-5-440 "'does not operate on the jurisdiction of the trial court. The statute does not provide that the trial court "is deprived of" jurisdiction over the second-filed action, or that the second-filed action "is void.''" Washington Mut. Bank, F.A. v. Campbell, 24 So. 3d 435, 437 n.2 (Ala. 2009) (quoting First Tennessee Bank, N.A. v. Snell, 718 So. 2d 20, 27 (Ala. 1998) (See, J., concurring in the result)). Likewise, Mobile Health argues that the Mobile Circuit Court "does not have subject matter jurisdiction to lien settlement funds over which the Montgomery County Circuit Court enjoys continuing jurisdiction." Mobile Health's petition, p. 16. In other words, Mobile Health is contending that the Mobile Circuit Court does not have jurisdiction over the settlement funds, which is *in rem* jurisdiction. See, e.g., Hare v. Mack, 359 So. 3d 253, 257 n.8 (Ala. 2022) ("The term 'in rem jurisdiction' refers to the 'power to adjudicate the rights to a given piece of property, including the power to seize and hold it.' Black's Law Dictionary 1019 (11th ed. 2019).").

In its reply brief, Mobile Health appears to back away from its previous use of the term "subject-matter jurisdiction." Instead, Mobile Health argues that "[t]he [Montgomery Circuit Court] has preferential jurisdiction to entertain attorney lien claims regarding the settlement corpus and allocation proceeding in the first-filed lawsuit before it, as well as intimate knowledge of the complex settlements in that case." Mobile Health's reply brief, pp. 9-10 (emphasis added). "Preferential jurisdiction" alludes to the concept of abatement, and the references to "the settlement corpus" allude to *in rem* jurisdiction.

Elliott v. Van Kleef, 830 So. 2d 726, 729 (Ala. 2002) (personal jurisdiction). As to such questions, this Court's review is de novo. See, e.g. PinnOak Res., 26 So. 3d at 1198; Elliott, 830 So. 2d at 729.

"As this Court has stated:

"'Mandamus is a drastic and extraordinary writ, to be issued only where there is (1) a clear legal right in the petitioner to the order sought; (2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; (3) the lack of another adequate remedy; and (4) properly invoked jurisdiction of the court.'

"Ex parte Integon Corp., 672 So. 2d 497, 499 (Ala. 1995)."

Ex parte Scott, 220 So. 3d 1042, 1050 (Ala. 2016) (footnote omitted).

### III. Analysis

As we observed in the Standard of Review, Mobile Health's primary argument -- and the only argument we deem necessary to address -- is that the Mobile Circuit Court lacks jurisdiction to grant a lien over funds that were obtained by the State in the State lawsuit and that were awarded in an allocation process overseen by the Montgomery Circuit Court. Mobile Health's contentions are simple and straightforward. The settlement funds upon which Hand Arendall claims a lien were obtained by the State in the State lawsuit as a result of the State's settlements with defendants in the State lawsuit, and the allocation of the settlement

funds has been overseen by the Montgomery Circuit Court in accordance with the terms of the settlement agreements, not in accordance with any contract between attorneys and the public entities that are receiving payments under those settlement agreements. Therefore, Mobile Health reasons, the Mobile Circuit Court has no jurisdiction under the guise of the Mobile Health lawsuit to order the payment of any settlement funds received by Mobile Health as a result of the settlement agreements produced by the State lawsuit and governed by the Montgomery Circuit Court.

In support of that argument, Mobile Health notes that, in its June 13, 2022, order, the Montgomery Circuit Court rejected Mobile Health's contention that the Mobile Health lawsuit was the first-filed action and concluded that it had the authority to enforce the ESA -- and, by extension, other statewide settlement agreements -- against Mobile Health. Likewise, on April 29, 2022, the Mobile Circuit Court denied Mobile Health's motion seeking a judgment declaring that Mobile Health was not bound by the ESA -- and, by extension, other statewide settlement agreements. Moreover, the State Committee of Public Health ordered Mobile Health to "join the State of Alabama's proposed

settlement agreements against any and all opioid-related defendants." In accordance with those circuit court rulings and the State's directive, Mobile Health subsequently dismissed its claims in the Mobile Health lawsuit against numerous defendants. The result of all that, Mobile Health asserts, is that there is no award to which Hand Arendall's lien could attach or for the Mobile Circuit Court to have jurisdiction over for ordering Mobile Health to pay Hand Arendall litigation expenses "from the settlement proceeds received by [Mobile Health]."

Hand Arendall responds that Mobile Health "settled its claims in this action against opioid defendants as a participant in the State of Alabama's settlements with each of those defendants." Hand Arendall's answer, p. 20 (emphasis in original). Hand Arendall also puts it this way:

"It is clear what happened here: [Mobile Health] dismissed with prejudice its claims against its opioid defendants that settled with the State of Alabama in exchange for distributions of funds provided by those opioid defendants to the State in return for State-mandated executions of dismissals by [Mobile Health]. Only by elevating form over substance can [Mobile Health] argue that its receipt of the settlement funds was not for settlement of this action."

Id., pp. 21-22 (emphasis in original).

The problem for Hand Arendall is that it seeks reimbursement for -- and the Mobile Circuit Court sought to order recovery for -- Hand

Arendall's legal expenses based on the existence of an attorney lien in the Mobile Health lawsuit. Our courts have repeatedly and unequivocally stated that an attorney lien exists only for a recovery or judgment gained by an attorney's services rendered in the case that generated the recovery or produced the judgment.

"Our supreme court ... has held: 'An attorney's lien exists and is enforceable only against moneys or personal property acquired by services rendered in the particular action or proceeding by which the money or property is produced ....' Johnson v. Riddle & Ellis, 204 Ala. 408, 409, 85 So. 701, 703 (1920)."

CSX Transp., Inc. v. Wettermark, 644 So. 2d 969, 970 (Ala. Civ. App. 1994) (emphasis added). See also Lee v. Winston, 68 Ala. 402, 404 (1880) ("There are many cases which hold an attorney has a lien on a judgment recovered through his services, for his proper compensation therefor." (emphasis added)); Harris v. Capell & Howard, P.C., 280 So. 3d 419, 424 (Ala. Civ. App. 2019) ("[A]n attorney's lien attaches to either the expected monetary judgment or to the real or personal property that is the subject of the action at the time that the defendant or respondent is served in the action in which the attorney's services are rendered." (emphasis added)). Cf. King v. Acuff, 218 Ala. 619, 620, 119 So. 833, 833 (1929) ("[T]he lien [in favor of attorneys] cannot be extended beyond the fair intendment of

the statute, the effect of which, in agreement with the principles of the common law, is to place the attorney in the position of an equitable assignee of the judgment obtained by him for his client." (emphasis added)); Hale v. Tyson, 202 Ala. 107, 108, 79 So. 499, 500 (1918) ("[T]he lien, when enforced, was against the 'fund' procured or recovered for the client by the attorney." (emphasis added)).

There has been no recovery or judgment in the Mobile Health lawsuit against the relevant opioid defendants because there was no settlement with, and therefore no proceeds recovered from, those defendants in the Mobile Health lawsuit. Indeed, the claims against the relevant opioid defendants in that case were dismissed. The settlements with the relevant opioid defendants were procured by the State in the State lawsuit from efforts expended by attorneys for the State. Whether any of that recovery is dispensed to attorneys for the special districts is entirely dependent upon the terms of the settlement agreements, the stipulations explained in the Montgomery Circuit Court Special Master reports concerning those settlement agreements, and the arbitration proceedings ordered by the Montgomery Circuit Court Special Master that determine the distributions of funds allocated to local public entities

for attorney fees.<sup>9</sup> There was nothing for Hand Arendall's attorney lien to attach to in the Mobile Health lawsuit because the recovery occurred in the State lawsuit. In short, the Mobile Circuit Court has no jurisdiction over funds derived from a lawsuit filed and settled in the Montgomery Circuit Court by attorneys for a different party.

The foregoing conclusion is implicit in the language of the attorney-lien statute -- specifically, in § 34-3-61(b) -- which provides:

"(b) Upon actions and judgments for money, [attorneys-at-law] shall have a lien superior to all liens but tax liens, and no person shall be at liberty to satisfy the action or judgment, until the lien or claim of the attorney for his or her fees is fully satisfied; and attorneys-at-law shall have the same right and power over action or judgment to enforce their liens as their clients had or may have for the amount due thereon to them."

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<sup>9</sup>In its answer, OnderLaw attempts to draw a distinction between attorneys' fees and litigation expenses, contending that the settlement agreements, special master's reports, and memorandums of understanding concerning the settlement agreements addressed attorneys' fees, not litigation expenses. See Onderlaw's answer, p. 11. But that is simply incorrect. The settlement agreements define "Attorney Fee and Cost Payment" as including "attorneys' fees, expenses, and costs." The portions of the settlement agreements that specifically address attorney reimbursement are titled "Attorney Fee and Cost Payments" and those sections reference "fees and costs" and "attorney fee and cost payments." Thus, when the special master's reports expressly addressed the funds allotted for "Attorneys' Fees," those sections necessarily included payments for litigation costs. Likewise, the memorandums of understanding specifically provided that "attorneys' fees ... were allocated ... pursuant to the terms and guidelines set forth in [the] settlement agreements."

(Emphasis added.) Mobile Health has no right to demand in the Mobile Circuit Court what is owed to it from the settlements obtained in the State lawsuit because the Montgomery Circuit Court, not the Mobile Circuit Court, has jurisdiction over those settlement proceeds. That is precisely why Mobile Health had to file settlement-participation forms in the Montgomery Circuit Court, forms which required public entities like Mobile Health to submit to the jurisdiction of the Montgomery Circuit Court for purposes of resolving disputes related to those settlements, and why Mantiply, representing Mobile Health, has participated in the arbitration proceedings ordered under the authority of the Montgomery Circuit Court for the distribution of funds allocated to local public entities. Mobile Health's right to any settlement proceeds is solely derived from the State lawsuit in the Montgomery Circuit Court, not from the Mobile Health lawsuit in the Mobile Circuit Court. Under § 34-3-61(b), Hand Arendall has no more right or power in the Mobile Circuit Court over the settlement proceeds than Mobile Health does, which is to say that it has none because the Mobile Circuit Court has no jurisdiction over those settlement proceeds.

In sum, as the Montgomery Circuit Court explained in its June 13, 2022, order, the State lawsuit was commenced before the Mobile Health lawsuit, making the State lawsuit the first-filed action against the opioid defendants.<sup>10</sup> The State also executed settlements in the State lawsuit under the jurisdiction of the Montgomery Circuit Court with the same defendants Mobile Health had sued before any of Mobile Health's claims were resolved in the Mobile Circuit Court. Furthermore, the Montgomery Circuit Court has presided over the allocation and distribution of the settlement proceeds received by the State from the opioid defendants. Despite all of that, the Mobile Circuit Court purported to order Mobile Health to pay Hand Arendall's litigation expenses "from the settlement proceeds received by [Mobile Health] as soon as practical" based on the attorney lien Hand Arendall filed in the Mobile Health lawsuit. (Emphasis added.) The Mobile Circuit Court lacked jurisdiction to enter

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<sup>10</sup>In its answer, OnderLaw asserts that, "[w]ith the sole exception of claims against McKesson, the [Mobile Health lawsuit] was filed prior to all of the State's claims against the Settling Defendants." OnderLaw's answer, p. 19. That statement artfully avoids which lawsuit was the first-filed action. As Mobile Health observes in its reply brief, OnderLaw has failed to cite a single authority establishing that because the State added defendants to the State lawsuit after Mobile Health had commenced the Mobile Health lawsuit, the State lawsuit was not the first-filed action. See Mobile Health's reply brief, p. 6.

an order pertaining to the proceeds from the settlements in the State lawsuit. Therefore, we grant Mobile Health's petition.

IV. Conclusion

Based on the foregoing, we grant Mobile Health's petition for a writ of mandamus and direct the Mobile Circuit Court to vacate its April 2, 2025, order awarding litigation expenses to Hand Arendall.<sup>11</sup>

**PETITION GRANTED; WRIT ISSUED.**

Stewart, C.J., and Shaw, Wise, Bryan, Sellers, Cook, McCool, and Parker, JJ., concur.

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<sup>11</sup>Because the resolution of this issue is dispositive, we pretermitted discussion of other issues and arguments raised by the parties.