

## **State of Alabama Settles Lawsuit Challenging the Constitutionality of In-person Lobbyist Training Requirements Under the Ethics Act**

On April 14, 2017, the State of Alabama settled a federal lawsuit filed by the Marijuana Policy Project (“MPP”) which challenged the constitutionality of certain lobbyist training requirements under the Alabama Ethics Act. *See* Complaint, *Ellinger-Locke v. Strange*, Case No. 2:16-CV-716 (N.D. Ala. 2016). MPP is a policy organization in Washington, D.C. that wished to encourage Alabama legislators to expand the legal use of marijuana to treat seizure disorders and other debilitating illnesses. It was represented in the lawsuit by the Institute for Justice (“IJ”), a conservative/libertarian legal think tank near Washington, D.C. *See*, Paul Sherman, Op-Ed, *Does Alabama’s Lobbying Policy Violate the First Amendment?* Al.com, August 29, 2016.

MPP’s lawsuit was originally filed in August 2016 and targeted to requirements enacted in 2010 and codified in Ala. Code 36-25-4.2 along with an Advisory Opinion issued earlier that year by the Ethics Commission to MPP. In Advisory Opinion 2016-15, the Commission had concluded that MPP’s representative was a lobbyist and had to physically attend the ethics training class required by the Ethics Act. Those classes were only offered four times a year and were only held in Montgomery. The suit argued that the training requirement upheld by the Commission posed an unconstitutional burden on a lobbyist’s First Amendment right to petition the government.

The case did not go to trial and instead the parties chose to settle the lawsuit. Pursuant to the agreement entered with the court, the Ethics Commission will now accept the viewing of a virtual simulcast of the training session as sufficient compliance with the Ethics Act. The agreement also stipulates that, if a lobbyist has a legitimate conflict that would preclude a lobbyist from attending or live-streaming one of the regularly scheduled training sessions, the Commission will permit such individuals to schedule a makeup session. Finally, the agreement provides that, pending the establishment of a permanent virtual platform, the Commission will permit MPP’s lobbyist to obtain her training through one of the pre-recorded, online ethics training sessions that are currently available on the Commission’s website.