IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

JOHNNY REYNOLDS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	**CIVIL ACTION NO.**
	)	**2:85cv665-MHT**
ALABAMA DEPARTMENT OF	)	**(WO)**
TRANSPORTATION, et al.,	)	
	)	
Defendants.	)	

OPINION AND ORDER

This long-standing litigation is now before the court on the special master's recommendation that the defendants' motion for summary judgment on claimant Gary B. Smith's individual-contempt claims should be denied in part and granted in part. The plaintiffs and the defendants have filed objections to the recommendation. In their objections, the defendants contend that all non-barred relief (declaratory and injunctive) is now moot because Smith has retired. In their objections, the plaintiffs contend that the "adjustment for retirement" is not barred because the money for such will go to a

third-party (the State Retirement Systems) and thus would not have been subject to Smith's bankruptcy. It appears that the special master was unaware that Smith had retired and thus the special master could not have taken into consideration what the implications are from Smith's retirement, in particular, the implications raised in the defendants' objections and the plaintiffs' objections. After an independent and de novo review of the record, the court concludes that the special master's recommendation should be rejected, albeit without prejudice, at this time and the matter remanded to the special master for reconsideration in light of Smith's retirement.

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It is therefore the ORDER, JUDGMENT, and DECREE of the court as follows:

(1) The special master's recommendation (Doc. No. 8688) is rejected without prejudice.

(2) The plaintiffs' and the defendants' objections (Doc. Nos. 8694 & 8696) are overruled without prejudice.

(3) The defendants' motion for summary judgment (Doc. No. 8655) with regard to claimant Gary B. Smith's individual-contempt claims is referred back to the special master for further proceedings in light of claimant Smith's retirement.

DONE, this the 28th day of November, 2011.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE