

March 30, 2017

Steven T. Marshall
Alabama Attorney General



For More Information, contact:

Mike Lewis (334) 353-2199

Joy Patterson (334) 242-7491

Page 1 of 2

**AG MARSHALL, REVENUE COMMISSIONER MAGEE
ANNOUNCE VICTORY IN FEDERAL COURT IN CSX CASE**
Ruling Could Return More than \$10 million to State Schools

(MONTGOMERY) – Attorney General Steven T. Marshall and Revenue Commissioner Julie P. Magee announced that the federal District Court for the Northern District of Alabama has dismissed CSX Transportation’s lawsuit challenging the application of Alabama’s four percent sales tax to CSX’s purchase of diesel fuel, a ruling that could return more than \$10 million in unpaid taxes to Alabama’s Education Trust Fund.

Beginning in 2008, four railroad companies sued the Alabama Department of Revenue and its commissioner, claiming that the department’s application of the State’s general four percent sales tax to the railroads’ purchase of diesel fuel discriminated against railroads because neither trucks nor barges who transport goods across state lines pay the four percent sales tax on their purchases of diesel fuel. The railroads sought an order barring the State from applying the sales tax to future purchases of diesel fuel, plus the return of millions of dollars the companies had already paid. The lead case brought by CSX Transportation has been the subject of two opinions by the U.S. Supreme Court, the second of which ordered the June 2016 trial that resulted in Wednesday’s opinion dismissing CSX’s lawsuit.

In its opinion, the district court ruled that Alabama is justified in not applying its four percent sales tax to trucking companies’ purchases of diesel fuel because trucks pay Alabama’s more expensive 19 cents per gallon motor fuels tax, a tax that railroad companies could choose to pay instead of the four percent sales tax. The district court ruled that Alabama was justified in not applying its four percent sales tax to interstate barges, who pay a 29.1 cents per gallon federal fuel tax, because doing so might violate the federal Constitution, thus exposing the State to litigation brought by the barge companies. The court also found that CSX was not injured by Alabama’s exemption for interstate barges because the barges against whom CSX competes purchase their diesel fuel outside Alabama.

--more--



Attorney General Marshall and Commissioner Magee both stated that they are pleased with the Court's opinion.

Attorney General Marshall said, "I hope that Wednesday's opinion signals the end of nine years of litigation that has resulted in millions of dollars being withheld from Alabama's public schools. Everyone in this State benefits from stronger schools, so everyone, including railroad companies, needs to pay their fair share of taxes to support our schools."

Commissioner Magee added, "The Court's decision vindicates the State's imposition of sales tax on the railroad's purchase of fuel and clearly shows that the State never discriminated against CSX."

In light of Wednesday's ruling, which CSX may appeal, the State will seek to recoup the sales taxes that CSX has withheld since filing its lawsuit, an amount that is estimated to exceed \$10 million. The cases initiated by the three remaining railroad companies have been stayed pending resolution of CSX's lawsuit, and the amounts of withheld taxes involved in those cases are not presently available.

Attorney General Marshall commended Assistant Attorneys General Laura Howell and Winfield Sinclair and Special Deputy Attorney General Corey Maze for their successful work on the 2016 trial and Solicitor General Andrew Brasher for his work on the successful 2015 appeal. The Attorney General also commended attorneys Margaret McNeill and Keith Maddox of the Alabama Department of Revenue for their assistance in the case.