# Bailey, Freeman, and Bailey Granted Motions to Dismiss in Claims Against Alabama Electric Distribution Cooperatives

Shareholders Dennis Bailey and Mac Freeman, with associate Evans Bailey, were granted motions to dismiss in two putative class action complaints seeking immediate cash refund of millions in patronage capital credits forming the equity of an electric distribution cooperative. The plaintiffs contended that an Alabama statute passed in the 1930s required yearly cash refunds of statutory excess revenues.

Because the cooperative had outstanding loans with the Rural Utilities Service (formerly REA), the cases, originally filed in Dallas County, were removed to the United States District Court for the Southern District of Alabama where a motion to dismiss for failure to state a claim was filed. The plaintiffs moved to remand the cases.

The motions to remand were denied August 11, 2015. See 2015 WL 2354414. On September 8, 2015, U.S. District Judge William H. Steele granted the motions to dismiss for failure to state a claim for which relief could be granted under a plain statutory construction of the Alabama statute the plaintiffs were asserting as the basis for their case. See *Caver v. Central Alabama Electric Cooperative*, CV-15-0129-WS-C, Doc. 40 (S.D. Ala. Sept. 9, 2015) and *Davis v. Central Alabama Electric Cooperative*, CV 15-0131-WS-C, Doc. 34 (S.D. Ala. Sept. 9, 2015). (WestLaw citations not yet available).

These cases are two of over 30 cases filed against Alabama electric distribution cooperatives making similar class claims for cash refunds of patronage capital credit accounts.