

BEFORE THE COURT OF THE JUDICIARY OF ALABAMA



In the Matter of)
PATRICIA D. WARNER,)
Circuit Judge of the) Court of the Judiciary
Fifteenth Judicial Circuit) Case No. 40
of Alabama)

OBJECTIONS TO RESPONDENT'S INTERROGATORIES
TO JUDICIAL INQUIRY COMMISSION

COMES NOW the Judicial Inquiry Commission of Alabama ("the Commission"), by and through counsel, and serves its objections to Respondent's Interrogatories to Judicial Inquiry Commission separately and severally, as follows:

SPECIFIC OBJECTIONS TO INTERROGATORIES

1. Please identify in each and every transcript each and every statement or testimony AJIC relies upon to support the following appellations in its Complaint:

A. Paragraph 11:

Warner rarely allowed Ms. Raybon to speak;

When Raybon or Norris talked with the Judge, she was inattentive.

B. Paragraph 28:

It was apparent Judge Warner was upset that Morris had requested the GAL be replaced;

Warner was clearly rude and hostile to Morris;

Warner tried to intimidate and embarrass Morris;

C. Paragraph 36:

At the status hearing on December 1, Warner acted in a "hostile" manner.

D. Paragraph 40:

Warner was openly hostile to Johnson, Morris' attorney;

Warner made off-hand and inappropriate comments to Johnson about his client.

E. Paragraph 69:

Warner exhibited improper demeanor toward Maier and her attorney;

Warner's prejudice was evident from her demeanor and the way she addressed Maier's attorney;

On March 5, 2009 - Warner openly accused Maier's attorney of impropriety and threatening to frighten the Maiers' sixteen year old son.

F. Paragraph 85:

Evidence that Warner was condescending, rude and hostile toward SBJ.

OBJECTION: The Commission objects to this interrogatory as it is overly-broad, unduly burdensome, vague, ambiguous, susceptible to more than one interpretation and calls for information prepared in anticipation of litigation, protected by the attorney-client privilege, the work product doctrine, and/or otherwise not discoverable under Rule 26 of the Alabama Rules of Civil Procedure. The Commission further objects to this interrogatory because, although the Commission is prosecuting this action pursuant to the Commission's constitutional mandate found in Article VI, Section 156 of the Constitution of Alabama of 1901, the Commission, itself, is not a party to this action, but instead represents the State of Alabama and acts as "an investigatory body analogous to a grand jury." In

re Samford, 352 So. 2d 1126, 1128-29 (Ala. 1977). As such, the Commission cannot be the subject of Respondent's discovery requests. Finally, without waiving any of the foregoing objections, the Commission has already identified and/or produced to Respondent copies of all transcripts, documents, and/or recordings the Commission has obtained during the course of its investigation.

2. Please identify in each and every tape recording in AJIC's possession, each and every statement or testimony AJIC relies upon to support the following allegations in its Complaint:

A. Paragraph 11:

Warner rarely allowed Ms. Raybon to speak;

When Raybon or Norris talked with the Judge, she was inattentive.

B. Paragraph 28:

It was apparent Judge Warner was upset that Morris had requested the GAL be replaced;

Warner was clearly rude and hostile to
Morris;

Warner tried to intimidate and embarrass
Morris;

C. Paragraph 36:

At the status hearing on December 1,
Warner acted in a "hostile" manner.

D. Paragraph 40:

Warner was openly hostile to Johnson,
Morris' attorney;

Warner made off-hand and inappropriate
comments to Johnson about his client.

E. Paragraph 69:

Warner exhibited improper demeanor toward
Maier and her attorney;

Warner's prejudice was evident from her
demeanor and the way she addressed
Maier's attorney;

On March 5, 2009 - Warner openly accused
Maier's attorney of impropriety and
threatening to frighten the Maiers'
sixteen year old son.

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has already identified and/or produced to Respondent copies of all transcripts, documents, and/or recordings the Commission has obtained during the course of its investigation.

GENERAL OBJECTIONS

These objections apply to each and every interrogatory and are incorporated by reference in each response thereto.

1. The Commission objects to the interrogatories to the extent they, individually or cumulatively, purport to impose on the Commission duties and obligations beyond those permitted by the Rules of Procedure of the Judicial Inquiry Commission, Rules of Procedure of the Court of the Judiciary, and/or the Alabama Rules of Civil Procedure.

2. The Commission reserves all objections as to the competency, relevancy, materiality and admissibility of all of its documents or information or the subject matter thereof, all objections as to burden, vagueness, over breadth and ambiguity, and all rights to object on any ground to the use of any document or information, or the subject matter thereof,

in any subsequent proceeding, including without limitation the trial of this, or any other action.

3. The Commission objects to any request on the grounds that same is overly broad, vague, ambiguous, unduly burdensome or fails to specify the information or documents sought with reasonable particularity, and to the extent it seeks information or documents that are not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence or are otherwise outside the scope of discovery permitted by the Rules of Procedure of the Judicial Inquiry Commission, Rules of Procedure of the Court of the Judiciary, and/or the Alabama Rules of Civil Procedure.

4. The Commission objects to the requests to the extent they purport to require the Commission to produce documents or provide information outside its possession, custody, or control.

5. The Commission objects to the requests to the extent they require the Commission to produce any documents or information that are publicly available on the grounds such documents and information are just as

readily available or obtainable by Respondent, and, therefore, the Commission should not have to bear the burden of disclosure outside the Commission's mandated duties under the Commission's Rules of Procedure.

6. The Commission objects to the requests to the extent they are repetitive and/or substantially overlap with other requests and the Commission's duty to disclose under the Commission's Rules of Procedure, and/or require the Commission to provide the same information or documents more than once, on the ground such duplicative disclosure is unduly burdensome, and meant to annoy and harass the Commission.

7. The Commission objects to the requests to the extent they seek documents or information that constitute or disclose confidential information, not mandated for disclosure pursuant to the Commission's Rules of Procedure. The Commission objects to the requests to the extent they require the Commission to violate any applicable constitutional obligations.

8. The Commission objects to the requests to the extent they require the Commission to produce information or documents that were prepared for or in

anticipation of litigation, constitute attorney work product, are protected by the attorney-client privilege, constitute or disclose the mental impressions, conclusions, opinions, or legal theories of any attorney or other representative of the Commission concerning this or any other litigation, or are protected by another applicable privilege, statute, rule or immunity. Such information will not be produced to Respondent, and any inadvertent production shall not be deemed a waiver of any privilege with respect to such information or of any work product doctrine which may apply.

9. The specific responses of the Commission to Respondent's requests made now or in the future are based upon information now available to the Commission and the Commission reserves the right at any time to revise, correct, add to, or clarify these objections or responses now made or made hereinafter to Respondent's requests.

10. Any response or objection to any or all of the requests does not necessarily mean that any information or documents exist or are in the possession, custody or

control of the Commission that are responsive to any specific request.

11. In each and every response, or sub-part thereof, where the Commission interposes an objection, such objection shall be construed to preserve all of the Commission's rights to enter similar objections as to any future supplemental response to such request. Moreover, a failure to object herein shall not constitute a waiver of any objection the Commission may interpose as to any future supplemental answer or response.

12. The Commission's objections and responses to the requests are made expressly without in any way waiving or intending to waive, but, rather, to the contrary, preserving and intending to preserve:

(a) All questions as to the competence, relevance, materiality, privilege, admissibility as evidence, or use for any purpose of the documents or information, or the subject matter thereof, in any aspect of this or any other action, proceeding, or investigation.

(b) The right to object on any ground to the use of any such document or information, or the subject matter thereof, in any aspect of this or any other action, proceeding, or investigation.

(c) The right to object at any time to a demand for any further response to this or any other interrogatory and/or deposition notice.

(d) The right at any time to revise, supplement, correct, amend or clarify these objections and responses.

Respectfully submitted,

/s/Richard Trehella
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Commission

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing pleading upon all counsel of record in this cause via electronic mail and by placing a copy of same in the United States mail, postage prepaid, addressed as follows on this the 12th day of August, 2011:

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/s/Richard Trewhella
OF COUNSEL