



IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:)	
ANITA KELLY,)	Court of the
Circuit Judge,)	Judiciary
15th Judicial Circuit)	Case No. 50
)	

MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

COMES NOW the Judicial Inquiry Commission ("Commission"), and respectfully moves the Court, pursuant to Ala. R. Civ. P. 15, for leave to file an Amended Complaint, a copy of which is attached. The Amended Complaint maintains 5 of the 6 charges in the Original Complaint; strikes Charge 6 and all references to the Davis Treatment Center; includes summaries of 42 additional cases the Commission intends to use as evidence at trial; modifies Section VI.E by summarizing Judge Kelly's lack of compliance with Canon 3A(5); and corrects several typographical errors, incorrect dates, formatting mistakes, and removes several instances of gender, age, and/or fact-specific information related to juveniles in the Original Complaint.

1. On August 16, 2017, the Commission filed a Complaint against Judge Anita Kelly in the Court of the Judiciary, giving rise to the instant action.

2. On September 15, 2017, Judge Kelly filed an answer and a motion to dismiss.

3. The parties have conducted extensive discovery the past several months. A significant portion of that discovery consisted of emails from or to Judge Kelly concerning a variety of matters, including cases in need of orders. The Commission was previously unaware of some of those cases and intends to use such cases as evidence in support of its allegations against Judge Kelly.

4. Given the significant factual developments of the past several weeks, good cause for amending the Original Complaint is clear and in the interests of justice. E-mails obtained pursuant to discovery requests, deposition testimony, and further investigation by Commission staff have altered some of the substance and extent of evidence the Commission will seek to introduce at trial.

5. For instance, after hearing deposition testimony from a number of witnesses with personal knowledge of the events surrounding the funding issues of the Davis

Treatment Center, the Commission seeks leave to strike Charge 6 and all references to the Davis Treatment Center from the Complaint to promote judicial economy in the Court's consideration of the remaining charges against Judge Kelly.

6. Further, since the filing of the Original Complaint the Commission has become aware of a number of cases assigned to Judge Kelly that the Commission will seek to introduce as evidence at trial of her pattern and practice of unreasonable and unjustifiable delay. To give Judge Kelly notice of these cases now, rather than on the December 18, 2017 deadline to exchange "all exhibits and evidence" per this Court's October 25, 2017 order, and to facilitate the Court's understanding of the additional cases, the Commission seeks to include these case summaries in an Amended Complaint.

7. There has been no bad faith or delay by the Commission. The additional cases the Commission seeks to include in the Complaint have only recently been investigated and/or deemed relevant to the Commission's case. The Commission is giving notice in sufficient time for Judge Kelly to review the cases before trial,

particularly given that the Commission is dismissing Charge 6—the charge that would have likely required the most trial testimony.

8. The inclusion of these additional cases in the amended complaint will not require additional discovery. The additional cases are domestic relations and child support cases assigned to Judge Kelly, the same type of cases already extensively examined in the Original Complaint. Judge Kelly's defenses against the cases in the Original Complaint will apply to the additional cases in the Amended Complaint.

9. The interests of justice will best be served by having all allegations, and relevant case summaries in support of those allegations, before the Court in the proposed Amended Complaint. The Commission is not introducing new issues or expanding the scope of the issues to be litigated at trial. Rather, the Commission merely seeks to summarize, for the benefit of all parties and the Court, all cases intended to be used at trial. Summarizing these cases while in trial would be inefficient, time-consuming, and difficult to follow.

10. The Commission also seeks to modify Section VI. E, "Canon 3A(5) Six-Month Reports" by including a chart summarizing Judge Kelly's biannual reports. The chart includes both cases included on Judge Kelly's reports and cases the Commission has discovered that she improperly excluded from her reports. Judge Kelly has been on notice since the filing of the Original Complaint that the Commission considered her six-month reports as evidence of her pattern and practice of delay. Allowing the Commission to modify Section VI.E will facilitate the Court's understanding of this evidence and promote judicial efficiency.

11. Finally, the Commission seeks to remove Charge 6 and any references to the Davis Treatment Center from the Original Complaint in order to clarify and narrow the scope of issues at trial.

WHEREFORE, the Commission respectfully requests that this Court enter an Order granting this Motion for Leave to File an Amended Complaint that would:

1) remove Charge 6 and any references to the Davis Treatment Center;

2) add summaries of 42 cases assigned to Judge Kelly as further evidence of her pattern and practice of unreasonable and unjustifiable delay, and supplement several case summaries in the Original Complaint;

3) modify Section VI.E to include a chart and discussion summarizing Judge Kelly's Canon 3A(5) six-month reports; and,

4) correct inaccurate dates, typographical errors, and formatting, and combine Footnotes 36 and 37 (Original Complaint, pg. 133) as they refer to the same document.

Respectfully submitted, this 6th day of December, 2017.



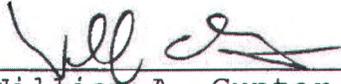
William A. Gunter V
Attorney for the Commission

CERTIFICATE OF SERVICE

I certify that, on this 6th day of December, 2017, a copy of the foregoing has been filed electronically with the Court of the Judiciary and a copy of the same has been served on attorneys for Respondent, through electronic mail with a hard copy sent via regular U.S. mail to:

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