

BEFORE THE COURT OF THE JUDICIARY
OF
ALABAMA



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

MOTION TO SET A HEARING DATE

The Alabama Judicial Inquiry Commission respectfully requests this Honorable Court to set a date for a public hearing before the entire Court, pursuant to Rule 16, Rules of Procedure for the Alabama Court of the Judiciary, to hear and determine, after that public hearing, whether this Court will accept the proposed alternate dispute resolution the parties approved after a proceeding mandated by Rule 10, Rules of Procedure of the Judicial Inquiry Commission.

The Alabama Supreme Court, in its promulgation of Rule 10, mandated that the Commission must conduct a hearing to attempt to resolve the Commission's charge against a judge in the Court of the Judiciary if the charged judge demands that hearing. The Commission has

conducted that hearing in compliance with Rule 10, and the parties are ready to present the terms of that proposal in a joint motion to this Court.

Pursuant to the requirements of Article VI, § 157(a), Constitution of Alabama of 1901, a public hearing before this entire Court is required for this Court to consider the parties' proposed alternate dispute resolution. That provision states, in pertinent part, the following:

The court shall be convened to hear complaints filed by the Judicial Inquiry Commission. The court shall have authority, after notice and public hearing . . . to remove from office, suspend without pay, or censure a judge, or apply such other sanction as may be prescribed by law, for violation of a Canon of Judicial Ethics, misconduct in office, failure to perform his or her duties"

The Alabama Supreme Court, in promulgating Rule 16, Rules of Procedure for the Alabama Court of the Judiciary, recognized this constitutional mandate for a public hearing before the entire Court to consider an alternate-dispute-resolution proposal. Rule 16 provides, "The Court may, after notice and a public hearing, consider any proposed resolution of the charge or charges submitted by joint motion of the parties."

See also Rule 9, Rules of Procedure for the Alabama Court of the Judiciary ("All hearings on the complaint shall be public before all qualified members of the Court"); Rule 19 ("The Court shall conduct the hearing at such place or places in the state as it shall determine will best serve the public.").

WHEREFORE, ABOVE-PREMISES CONSIDERED, the Commission respectfully requests this Honorable Court enter an order setting the date for a hearing on the parties' alternate-dispute-resolution proposal.

Respectfully submitted,

/s/Richard Trehella
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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 addressed as follows on this the 19th day of December, 2011:

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/s/Richard Trehella
OF COUNSEL