

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 )  
Circuit of Alabama ) Case No. 40

RESPONSE IN OPPOSITION TO RESPONDENT'S MOTION TO COMPEL

COMES NOW the Judicial Inquiry Commission of Alabama ("the Commission"), by and through counsel, and in opposition to Respondent, Retired Judge Patricia Warner's Motion to Compel Discovery, respectfully offers the Court the following:

1. On July 21, 2011, Warner served the Commission with interrogatories, which request the Commission to pinpoint and cite portions of transcripts and/or audiotapes that support particular allegations raised against Warner in the Commission's Complaint filed with this Court on June 20, 2011.

2. On August 12, 2011, the Commission served Warner with the Commission's objections to Warner's interrogatories.

3. On August 12, 2011, the Commission also filed its Motion for Protective Order, asking the Court to strike Warner's Rule 30(b)(6) notice of deposition to

the Commission, whereby Warner seeks to depose one or more members of the Commission.

4. As set out fully in the Commission's Motion for Protective Order and Reply in Support of Motion for Protective Order, Warner is not entitled to seek any discovery from the Commission.<sup>1</sup> In addition, even if Warner could propound discovery on the Commission, which is currently prosecuting her before this Court, Warner's interrogatories are wholly inappropriate given that Warner is in possession of the very transcripts and audiotapes that she is asking the Commission to use to answer her interrogatories. In other words, Warner already has the answers to her own interrogatories contained within the transcripts and audiotapes, but instead of reviewing this evidence for herself, Warner asks the Court to force the Commission to do her work for her and pinpoint exactly what portions within each transcript or audiotape support the Commission's charges. Warner has the same transcripts and

---

<sup>1</sup> The Commission adopts and incorporates its Motion for Protective Order and Reply in Support of Motion for Order herein by reference. Just as Warner is precluded from deposing the Commission, Warner is also precluded from propounding any form of discovery on the Commission, including her interrogatories to the Commission.

audiotapes as the Commission, and like the Commission, she can interview and depose complainants and other witnesses concerning the charges in the Commission's complaint. Rules 26 and 33 of the Alabama Rules of Civil Procedure, however, are not designed to allow Warner to force the Commission to summarize the evidence for her.

5. Because Warner is not entitled to seek discovery from the Commission, and because Warner is already in possession of documents and audio recordings containing the information she now seeks from the Commission through her interrogatories, the Commission requests the Court sustain its objections to Warner's attempts to obtain discovery from the Commission and deny Warner's Motion to Compel.

WHEREFORE, ABOVE-PREMISES CONSIDERED, the Commission respectfully requests this Honorable Court to sustain the Commission's objections to Warner's discovery requests and deny Warner's Motion to Compel.

Respectfully submitted,

/s/Richard Trewhella  
RICHARD E. TREWHELLA, JR. (TRE010)  
Counsel for the Judicial Inquiry  
Commission

**OF COUNSEL:**

CARR ALLISON  
100 Vestavia Parkway  
Birmingham, AL 35216  
(205) 822-2006  
(205) 822-2057 (facsimile)  
rtrewhella@carrallison.com

**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 8<sup>th</sup> day of September, 2011:

Charles A. Dauphin, Esq.  
Baxley, Dillard, Dauphin, McKnight, James  
2008 Third Avenue South  
Birmingham, AL 35223  
cdauphin@baxleydillard.com

/s/Richard Trewhella  
OF COUNSEL