



accompanying motion to strike *any* of the JIC's exhibits to which he now objects, despite the fact that this Court's order plainly required that any "other responsive pleading to *any* filings submitted by the Commission" be filed at the same time. *See id.* at 2. Rather, in the Chief Justice's Reply, he raised only evidentiary one objection concerning the January 6, 2016 Liberty Counsel Press Release (Exhibit S to the JIC's Motion for Summary Judgment). There, the Chief Justice assailed that exhibit on relevancy, hearsay, and authentication grounds. *See* July 26, 2016 Reply Brief at 12-13. Other than this, the Chief Justice articulated no other evidentiary objections in his Reply and filed no accompanying motion to strike.

Instead, the Chief Justice waited until 3:30 p.m. on the last business day before this Court's August 8, 2016 oral argument—a full two weeks after the original deadline—to interject his objections to eight separate JIC exhibits. Because this filing is untimely, because it interposes unnecessary delay into these judicial discipline proceedings, which the COJ Rules require to be handled as "expeditiously as possible," and because it further distracts from this Court's previously-scheduled August 8, 2016 oral argument, the Chief Justice's evidentiary filing should be stricken from the record.

To be fair, on August 1, 2016, this Court instructed the parties to be prepared for a pretrial hearing at the "conclusion of the oral arguments." *See* COJ August 1, 2016 Order at 1. In that order, the Court instructed the parties to be prepared to address, among other things, "any objections and the bases for such objections the parties have to any exhibits to the various pleadings filed by the parties." *Id.* In accordance with this order, the JIC is and has been prepared to address the Chief Justice's objection to Exhibit S (the Liberty Counsel Press Release), which was the only objection raised in his July 26, 2016 Reply. That is, until this past Friday at 3:30 p.m., the JIC had no notice whatsoever of the remaining seven evidentiary objections recently

interjected by the Chief Justice. On the other hand, the Chief Justice has been in possession of the JIC's Complaint since May, attached to which are all but three of the exhibits to which the Chief Justice now untimely objects. And he has been on notice of the JIC's intent to use Exhibit S, Exhibit T, and Exhibit U since at least July 15, 2016, when the JIC attached them as exhibits to its Motion for Summary Judgment.

The fact is, the Chief Justice filed no motion to strike any of these additional exhibits by the original July 22, 2016 deadline, and failed to do so even after obtaining an extension. Then, he included only one evidentiary objection in his July 26, 2016 Reply. The Chief Justice's additional, untimely-filed objections on the eve of the August 8, 2016 oral argument are late, barred by this Court's deadline, and should be stricken from the record.

**B. The Chief Justice's evidentiary objections are without merit**

In addition to being untimely, the Chief Justice's evidentiary objections are without merit. The majority of the Chief Justice's objections are relevancy objections—but the fact is, Alabama continues to embrace a “liberal test of relevancy,” under which judges may exercise considerable discretion and may admit evidence if it “has *any* tendency to make the existence of the fact for which it is offered more or less probable than it would be without the evidence.” *See Hayes v. State*, 717 So. 2d 30, 36 (Ala.Crim.App.1997) (quoting C. Gamble, *Gamble's Alabama Rules of Evidence* § 401(b), at 75 (3d. Ed. 2014)) (“Alabama recognizes a liberal test of relevancy, which states that evidence is admissible ‘if it has any tendency to lead in logic to make the existence of the fact for which it is offered more or less probable than it would be without the evidence.’”); *see also Draper v. State*, 886 So. 2d 105, 119 (Ala. Crim. App. 2002) (“[A] fact is admissible against a relevancy challenge if it has any probative value, *however[] slight*, upon a matter in the case.”) (emphasis added).

For the following reasons, the Chief Justice's evidentiary objections also belie a fundamental misunderstanding of the ethical canons with which he has been charged with violating in this case. They are unsupported by and contrary to the Alabama Rules of Evidence and should be disregarded.

**1. Exhibits B and C are relevant to this Court's determination of the appropriate sanctions in this case, as well as to the Chief Justice's notice of the potentially damaging effect of his January 6th Order; also, these Exhibits are not unfairly prejudicial**

Exhibits B & C relate to the Chief Justice's 2003 removal from office for his defiance of a federal injunction ordering him to remove his Ten Commandments monument from the Alabama Supreme Court building. Exhibit B is the Court of the Judiciary's ("COJ's") Final Judgment removing him from office for that defiance, and Exhibit C is the Alabama Supreme Court's opinion affirming the COJ's decision to remove him. The Chief Justice argues that these exhibits represent (1) irrelevant, 404(a) character evidence that shed no light on this Court's determination of the ethical significance of the issuance of the January 6th Order, and are (2) otherwise overly prejudicial under Alabama Rule of Evidence 403. These objections are wrong.

First, the Chief Justice argues that Alabama Rule of Evidence 404(a) prohibits this Court from considering the Chief Justice's 2003 defiance of the federal Ten Commandments injunction as evidence of his guilt of the 2016 ethical charges here. *See* Ala. R. Evid. 404(a) (excluding prior character evidence offered to prove guilt and action in conformity therewith). But this is not the purpose for which the JIC has offered Exhibits B and C. Rather, the JIC has offered them for two wholly relevant and proper purposes—(1) for this Court's determination of the appropriate sanctions in this case, and (2) as evidence of the Chief Justice's notice of the potentially

damaging effect of his January 6th Order.<sup>1</sup> See Ala. R. Evid. 404(b) (evidence of prior bad acts may be admissible if offered for purposes other than proving action in conformity therewith).

With respect to sanctions, this Court's ultimate determination of the Chief Justice's sanction here involves a wide assessment of his past and present conduct, including but not limited to "(a) whether the misconduct evidenced a *pattern of conduct*; (b) the nature, extent and frequency of occurrence of the acts of misconduct; . . . [and] (h) *whether there have been prior complaints about this judge*." See JIC Mot. For Summ. J. at 52 (emphasis added) (citing *In re Deming*, 736 P.2d 639, 659 (Wash. 1987)); see also *id.* at 50, n.26 (citing *In the Matter of Carpenter*, 17 P.3d 91,95 (Ariz. 2001) (listing aggravating factors, such as "the repeated nature of the misconduct," as appropriate considerations for sanctioning). The fact is, in 2003, the Chief Justice was removed from office for ignoring a federal injunction. In 2016, he is once again charged—and should be found guilty of—ordering 68 probate judges in this state to ignore a federal injunction as well. This is a pattern of misconduct that is plainly relevant to sanctions.

With respect to notice, Exhibits B and C establish that the Chief Justice was on notice of the magnitude of potential damage that could be caused by his January 6th Order. That is, ordering 68 probate judges to ignore a federal injunction that prohibits them from following Alabama laws—when the Chief Justice was on notice that, if the judges actually obeyed his order in defiance of that federal injunction, they too may be facing removal from their own offices—goes directly to whether the Chief Justice upheld his duty under Canons 1 and 2 of the Alabama Canons of Judicial Ethics "to uphold the independence, integrity, and impartiality of

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<sup>1</sup> The JIC maintains that the Chief Justice's subjective state of mind is immaterial to the Court's disposition of the present summary judgment motion. But the Chief Justice, for example, has introduced internal Supreme Court memoranda to support the notion that he issued the January 6th Order *only* to urge his fellow colleagues on the Court to go ahead and rule on the pending API briefs—not for any other improper purpose, such as standing up against the federal judiciary. To the extent this Court considers these memoranda for that purpose, the JIC is similarly entitled to introduce additional extrinsic evidence to rebut this notion, in the form of Exhibits B, C, F, H, I, S, T, and U.

the judiciary” and “to avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.” Among other things, issuing an order that, if followed, could result in disciplinary violations for 68 subordinate probate judges plainly constitutes “conduct prejudicial to the administration of justice.” In sum, his removal from office in 2003 is relevant to the above purposes, and the notion that these exhibits somehow have no tendency whatsoever to aid in this Court’s determination of the ethical violations in this case is wrong.

Second, the Chief Justice argues that Alabama Rule of Evidence 403 prohibits the introduction of Exhibits B and C because their probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. *See* Ala. R. Evid. 403. This is wrong too. There is no question that this evidence is prejudicial to the Chief Justice and that is precisely why the JIC attached it to its Motion for Summary Judgment—to establish, among other things, a pattern of conduct mandating that the Chief Justice’s sanction should be nothing less than removal from judicial office. Indeed, “all relevant evidence should be prejudicial to the party against whom it is offered. The power to exclude on this ground exists only when the unfair prejudice rises to the level of substantially outweighing the probative value.” *See* C. Gamble, *Gamble’s Alabama Rules of Evidence* § 403, at 91 (3d. Ed. 2014). Because determining sanctions here involves a wide assessment of the Chief Justice’s past and present conduct, Exhibits B and C are fundamentally relevant to the severity of sanctions in this case. *See* JIC Mot. For Summ. J. at 52 (emphasis added) (citing *In re Deming*, 736 P.2d 639, 659 (Wash. 1987)). Thus, their probative value is extremely high. Accordingly, their high probative value must be weighed against any danger that this Court will somehow be confused or misled by them. And the fact is, this case is not being tried before a jury, but rather on dispositive motion before a constitutionally competent, nine-member Court of the Judiciary, comprised of judges,

lawyers, and lay members appointed by members of the executive branch of this State. The danger of unfair prejudice is low in such a sophisticated forum, and the evidence's probative value remains high. The Chief Justice's 403 challenge similarly fails.

## **2. Exhibits F, H, and I are relevant**

Exhibits F, H, and I are the Chief Justice's 2015 public letters to Governor Bentley and to Alabama's probate judges<sup>2</sup>—the same probate judges to whom he directed his January 6th Order. At its core, the Chief Justice's evidentiary objection here is to urge the Court to read and interpret the Chief Justice's January 6th Order in pure isolation—as if nothing ever happened before it was issued and as if the context of the January 6th Order and the Chief Justice's conduct leading up to its issuance in no way informs its natural meaning. Instead, the Chief Justice argues that this Court should limit its determination of the ethical significance of the January 6th Order—which must be done in light of the Alabama Canons of Judicial Ethics—merely to the four corners of the document itself. And he even refers the Court to principles of contract law as a suggested means of interpretation thereof. *See* July 26, 2016 Reply at 2. Finally, he argues that any extrinsic facts that are not embodied in the language of the order itself have no relationship to the ethical significance of his January 6th Order. This argument offends common sense and belies a fundamental misunderstanding of the “appearance of impropriety” standard mandated by the canons.

The Chief Justice's January 6th Order is not a contract, where the language is agreed upon by the parties and where the document somehow embodies a traditional “meeting of the minds.” To the contrary, the January 6th Order was issued to be received, interpreted, and followed by 68 probate judges in this state, most of whom are not law trained. The January 6th Order was issued not long after the Chief Justice's very public and undisputed statements about

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<sup>2</sup> Exhibit I is the 27-page memorandum of law attached to the Chief Justice's letter to the probate judges.

standing up to “federal tyranny” (Exhibit F), and not long after his letter to those same probate judges about “federal intrusion into state sovereignty” (Exhibits H and I), as well as not long after his now-public memoranda in which he argued that the “suppression of all dissent” was underway, quoting anti-Nazi theologians to compare the federal judiciary to Nazi Germany.<sup>3</sup>

The fact is, the *appearance* of the language in his January 6th Order is just as much at issue in this disciplinary proceeding as the language of the Order itself. And this is why the JIC charged the Chief Justice with violating Canon 2 of the Alabama Canons of Judicial Ethics when he issued an order that directs—or “appears to direct”—defiance of a federal injunction. *See* Compl. at 26. Avoiding the “appearance of impropriety” is precisely what Canon 2 of the Alabama Canons of Judicial Ethics demand, i.e., that his January 6th Order not just avoid ordering defiance of a federal injunction, but that it avoid the appearance of ordering defiance of that federal injunction. This is not a difficult ethical concept, but it can be made even clearer by a simple analogy.

Suppose an honest and ethical judge is assigned a case in which one of the litigants happens to be his own brother. Despite this, the judge obtains no waiver from the other party, presides over the case, and issues a decision and judgment in which his brother is the prevailing party. A neutral examination of the decision itself reveals that the decision is legally sound and that the law clearly favored his brother’s position. Even if nothing about the words contained in the four corners of the judge’s decision reveals any bias or impartiality, and even if nothing in the decision ever mentions that the judge and the prevailing party are brothers, there is still a potentially serious ethical problem. That is, on its face, the decision may appear sound—but it is the “extrinsic fact” of the judge and the litigant’s familial relationship which is what gives the

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<sup>3</sup> *See* Exhibits A and B to Chief Justice’s August 2, 2016 Response to JIC’s Motion for Production of Summary Judgment Documents.

appearance of impropriety—not just to the other litigant but to the public at large—and which would potentially subject that judge to obvious discipline. The principle that judges should not only behave properly but *appear* to behave properly is foundational. This is because, if judges do not appear to act properly, public confidence in the judiciary erodes and “people will lose faith in those officials and in the institutions of government that they serve.” *See* Charles Gardner Geyh, James J. Alfani, Steven Lubet, & Jeffery M. Shaman, *Judicial Conduct & Ethics*, § 1.04 (5th Edition 2013) (quoting a 2003 American Bar Association Report).

The test for whether the Chief Justice’s January 6th Order rises to Canon 2’s ethical mandate of “avoiding the appearance of impropriety,” requires that this Court examine the extrinsic—and in this case, undisputed—facts that make up the context in which it was issued. In doing so, this Court’s charge is to determine whether his January 6th Order “would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.” *See* 1990 ABA Model Code of Judicial Conduct, Canon 2 Commentary. Similarly, the test for Canon 3’s requirement as to whether a judge has performed “the duties of his office impartially”—which the JIC has charged the Chief Justice with violating as well—is whether “a disinterested observer fully informed of *the relevant facts* would entertain a significant doubt that the judge in question was impartial.” *See* *Judicial Conduct & Ethics*, § 4.05 (emphasis added).

Examining both the plain language of the January 6th Order—as well as the context in which it was issued—it is undisputed that the Chief Justice wholly failed to avoid the appearance of impropriety and that any disinterested observer would indeed entertain significant doubts about his impartiality. In an order that purports to clarify confusion, the Chief Justice conspicuously omits any mention of the primary source of that alleged confusion—the existing

federal injunction. In an order that disclaims providing guidance to the probate judges of Alabama regarding *Obergefell's* effect on Alabama marriage laws, the Chief Justice then goes on to spend at least three paragraphs of copy and pasted legal analysis supporting his well-documented legal position that *Obergefell* somehow may have no effect. In an order that directs probate judges that Alabama laws requiring them *not* to issue same-sex marriage licenses are still in full force and effect, the Chief Justice fails even to mention the federal injunction enjoining them from abiding by those very laws.

It is undisputed that the Chief Justice issued a letter to Governor Bentley urging him to stand up to “federal tyranny” in the months leading up to his January 6th Order. It is undisputed that the Chief Justice issued a letter to state probate judges regarding “federal intrusion into state sovereignty” in the months leading up to his January 6th Order. These are relevant and undisputed extrinsic facts that possess, not just *any* tendency, but a strong tendency to inform this Court’s ultimate decision about whether the Chief Justice failed to avoid the appearance of impropriety and failed to act impartially when he issued his January 6th Order. The Chief Justice’s evidentiary objections to Exhibits F, H, and I belie a fundamental misunderstanding of the ethical canons with which he has been charged for violating in this case. They are plainly relevant to this Court’s determination of the ethical significance of the January 6th Order.

**3. Exhibit S is authentic, relevant, non-hearsay introduced to show the January 6th Order’s effect on the listener under Canon 2’s “appearance of impropriety” standard**

Exhibit S is a January 6, 2016 Liberty Counsel Press Release, which was issued on the same day as the Chief Justice’s January 6th Order, and which purports to publically interpret the order’s meaning. It was issued by the Liberty Counsel; it is still present on the Liberty Counsel’s website as of the date of this writing; and it quotes the Chief Justice’s current counsel—Mat

Staver, the Founder and Chairman of the Liberty Counsel—who was, at the time, representing the petitioners in the API suit that was pending before the Chief Justice. The Chief Justice now assails Exhibit S as irrelevant merely because the Liberty Counsel did not represent the Chief Justice at the time. He also assails it as inadmissible hearsay and unauthenticated. These objections fail.

The relevancy and hearsay objections fail for the same reason—which is, the JIC has not offered the Liberty Counsel Press Release to prove the truth of what the January 6th Order *actually* means. Rather, the JIC has offered Exhibit S to demonstrate at least one way in which order was received, not just by members of the public, but by members of the bar, and even attorneys involved in the pending *API* case. This is important because “[a] statement offered for a reason other than to establish the truth of the matter asserted therein is not hearsay. *Deardorff v. State*, 6 So. 3d 1205, 1216 (Ala. Crim. App. 2004). And a “statement constitutes nonhearsay when . . . it is offered to prove the state of mind of the hearer.” *Ex parte Bunn*, 611 So. 2d 399, 401 (Ala. 1992)); *see also United States v. Trujillo*, 561 F. App'x 840, 842 (11th Cir. 2014) (“Generally, an out-of-court statement admitted to show its effect on the listener is not hearsay.”). Offering the Liberty Counsel Press Release for this purpose is, by definition, a non-hearsay purpose.

And this non-hearsay purpose is also plainly relevant to this Court’s determination of whether the Chief Justice’s issuance of the January 6th Order violates Canon 2’s appearance of impropriety standard. This is because Canon 2 requires that the Court determine whether his January 6th Order “would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.” *See* 1990 ABA Model Code of Judicial Conduct, Canon 2 Commentary. How members of the

public—even lawyers and especially probate judges—reasonably received the Chief Justice’s order on the very day that it was issued is a relevant inquiry under the above objective standard. At the time the Chief Justice issued his January 6th Order, the Founder and Chairman of the Liberty Counsel publically interpreted the January 6th Order to mean that judges “must uphold” Alabama marriage laws despite the existence of the federal injunction and that “[i]n Alabama and across America, state judiciaries and legislatures are *standing up against the federal judiciary* or anyone else who wants to come up some cockeyed view that somehow the Constitution now births some newfound notion of same-sex marriage.” *See* Exhibit S. The effect the January 6th Order had on members of the public, like Mr. Staver, is a non-hearsay purpose. That it came from a person who now serves as the Chief Justice’s present counsel, and who now argues on the Chief Justice’s behalf that the January 6th Order was only meant to clear up confusion and should not now be interpreted as taking a stand against the federal judiciary, is telling, but it is also inconsequential to this evidentiary inquiry. Because this non-hearsay purpose is relevant to this Court’s determination of whether that order “would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired,” the Chief Justice’s relevancy objections similarly fail.

The Chief Justice’s authenticity challenge fails too. Under Alabama Rule of Evidence 901(a), the requirement of authentication is a low bar, and is satisfied “by evidence sufficient to support a finding that the matter is what the proponent claims.” Ala. R. Evid. 901(a). The fact is, the Liberty Counsel Press Release is exactly what the JIC says it is. It was issued by the Liberty Counsel; it is still present on the Liberty Counsel’s website as of the date of this writing; and Exhibit S itself bears the distinctive hallmarks of authenticity under Alabama Rule of Evidence

901(b)(4). *See* Ala. R. Evid. 901(b)(4) (holding that distinctive characteristics, such as internal patterns in and the content of the document itself, taken in conjunction with circumstances, satisfy Rule 901(a)). In courts all around this country, Rule 901(b)(4) is “one of the most frequently used [rules] to authenticate email and other electronic records.” *See* C. Gamble, *Gamble's Alabama Rules of Evidence*, § 901(b)(4) at 578 (3d. Ed. 2014). Here, the Liberty Counsel Press Release, taken as an electronic screen shot from the Liberty Counsel’s website, contains internal patterns and contents that bear all the hallmarks of authenticity. Exhibit S contains the Liberty Counsel’s website address at the bottom of the document—

**<https://www.lc.org/newsroom/details/alabama-chief-justice-says-judges-must-uphold-sanctity-of-marriage-amendment>**

*See* Exhibit S. It also contains the Liberty Counsel’s official name at the top of the document, as well as the Liberty Counsel’s own Post Office Box address. The document also contains statements made by Mat Staver, the Founder and Chairman of the Liberty Counsel, numerous times in the document. If the Chief Justice insists on objecting to the authenticity of this self-authenticating document, then, under Rule 901(b)(1), which provides that the “testimony of a witness with knowledge,” can similarly authenticate a document under Rule 901(a), the JIC is willing to call either of the counsel for Liberty Counsel present in these proceedings to testify as to why this Press Release is not what the JIC claims it to be. The JIC respectfully submits, however, that such an examination is unnecessary in light of the document’s self-authenticating characteristics.

#### **4. Exhibits T and U are relevant**

Exhibit T is the Chief Justice’s 2013 Administrative Order in which he ordered that “it is not the role of the Chief Justice of the Alabama Supreme Court to dictate the manner in which trial courts should comply” with the law. Exhibit U represents portions of the Chief Justice’s

testimony before the JIC on April 7, 2016, where the Chief Justice testified to his notice about allegations against him involving his alleged “comments on a pending case.” The Chief Justice assails these exhibits as irrelevant.

With respect to Exhibit T, the JIC introduced the Chief Justice’s 2013 Administrative Order in its opposition to the Chief Justice’s unavailing contention that his January 6th Order, at worst, represents mere legal error which should be insulated from ethical scrutiny. The JIC will not now belabor the myriad reasons why the January 6th Order is not mere legal error, and even more importantly, if it is, why such legal error would still subject him to ethical scrutiny for commenting on a pending case and attempting to address substantive law issues in an administrative order. But suffice it to say, under Alabama’s low relevance bar, the notion that the Chief Justice’s own prior administrative order has no tendency to make the absence of his alleged legal error more or less probable is illogical. It is some of the most relevant evidence available to support this proposition.

With respect to Exhibit U, the suggestion that the Chief Justice’s own testimony in this very JIC proceeding, in which he admitted to having actual notice of charges and allegations against him involving his “comments on a pending case,” is somehow not relevant to whether he had notice of these very charges simply strains belief and is beyond the ability of the JIC to explain further. *See* Exhibit U. The Chief Justice’s testimony, given as a part of these very proceedings, is relevant to these proceedings.

### **CONCLUSION**

The Chief Justice’s evidentiary objections in his August 5, 2016 filing are untimely. This Court’s June 27, 2016 Order required the Chief Justice “to file a reply *or other responsive pleading to any filings submitted by the Commission . . .* by July 22, 2016.” Even after obtaining

an extension, the Chief Justice still failed to file a motion to strike any of the exhibits attached to the JIC's Motion for Summary Judgment. Instead, he waited until the eve of the summary judgment oral argument to file eight, late-coming evidentiary objections. This untimely filing should be stricken from the record. Moreover, for the reasons outlined above, the Chief Justice's evidentiary objections belie a fundamental misunderstanding of the ethical canons with which he is charged with violating and are otherwise unsupported by the Alabama Rules of Evidence.

Finally, the Chief Justice's untimely evidentiary objections do not create genuine issues of fact. It is undisputed that the Chief Justice was removed from office in 2003 for his defiance of a federal injunction—the Chief Justice just argues that this undisputed fact is irrelevant. *See* Exhibits B and C. It is undisputed that the Chief Justice issued a letter to Governor Bentley urging him to stand up to federal tyranny in the months leading up to his January 6th Order—the Chief Justice just argues that this too irrelevant. *See* Exhibit F. It is undisputed that the Chief Justice issued a letter to state probate judges regarding “federal intrusion into state sovereignty” in the months leading up to his January 6th Order (*See* Exhibits H and I); that the Liberty Counsel issued a press release on January 6th, 2016 publically interpreting the January 6th Order to mean that judges “must uphold” Alabama marriage laws (Exhibit S); that the Chief Justice issued an Administrative Order in 2013 ordering the “it is not the role of the Chief Justice of the Alabama Supreme Court to dictate the manner in which trial courts should comply” with the law (*See* Exhibit T); and that the Chief Justice testified before the JIC on April 7, 2016, about allegations against him involving his alleged “comments on a pending case.” *See* Exhibit U. These facts are all undisputed and remain undisputed.

The Chief Justice only challenges them on evidentiary grounds—mostly as to their relevance to the Court's ethical inquiry here. But as shown above, these objections are

unsupported by the Alabama Rules of Evidence. The relevancy bar in Alabama is liberal and low, and the notion that the JIC's exhibits have no tendency whatsoever to aid in this Court's ultimate determination of the ethical significance of his January 6th Order, or of the appropriate sanctions in this case, is simply wrong. This Court should strike the Chief Justice's objections as untimely, or in the alternative, disregard them under the Alabama Rules of Evidence.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that I have this 8<sup>th</sup> day of August, 2016, served a copy of this notice on attorneys  
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