



IN THE ALABAMA COURT OF THE JUDICIARY

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

JOINT RESPONSE OF NON-PARTY ALABAMA DEPARTMENT OF HUMAN RESOURCES AND JUDGE ANITA KELLY TO DECEMBER 1, 2017 ORDER

Non-party Alabama Department of Human Resources (“DHR”) and Judge Anita Kelly respectfully submit their joint response to the Order of this Court entered December 1, 2017, as follows:

1. On November 21, 2017, in response to a civil subpoena duces tecum served on behalf of Judge Kelly, ADHR filed a “Motion to Quash by Non-Party Alabama Department of Human Resources for Protective Order and Compensation.”

2. On December 1, 2017, the Court entered an order directing DHR and Judge Kelly to, among other things, “work together to attempt to resolve the issues raised in DHR’s motion”; and “file with the Court by 4:00 p.m. on Friday, December 8, 2017, a joint list of any discovery issues or pending discovery items that they have been unable to resolve.” Order entered December 1, 2017, at 1-2.¹

3. Since entry of the Order, counsel for DHR and Judge Kelly have communicated several times by telephone and e-mail, and met in person for approximately four-and-one-half hours on the afternoon of December 7, 2017, to try to resolve disputes resulting from DHR’s

¹ Although being filed on December 8, 2017, this joint response is being filed after 4:00 p.m. The parties’ timely filing was hindered in part by the closure of the Gordon Persons Building (site of ADHR’s main office) at 3:00 p.m. today because of the winter weather alert; and in greater part by extended consultation among members of Judge Kelly’s team regarding the current status of DHR’s response to the requests, and other related issues, for which Judge Kelly’s counsel takes full responsibility.

objections to many of Judge Kelly's 46 document requests. As a result of these efforts, counsel for DHR and Judge Kelly have significantly reduced the number of issues that may require judicial decision.

4. DHR and Judge Kelly have been unable to resolve their dispute relating to request number 28 of Judge Kelly's subpoena duces tecum, which seeks information regarding the identity of and contact information for former employees of Montgomery County DHR, i.e., persons "who resigned or transferred, were terminated, or were involuntarily transferred from their employment with the Montgomery County DHR at any time from January 1, 2012 through the present."² Counsel for DHR and Judge Kelly agree the dispute over request number 28 *will* require judicial resolution.³

5. As to most (but not all) of Judge Kelly's requests that DHR asserts would more appropriately be answered by the Alabama Administrative Office of Courts, Judge Kelly will seek the requested information from AOC directly and not from DHR. Accordingly, as to at least the following requests to DHR, DHR's objections will *not* require judicial resolution: request numbers 8 and 13 through 19.

² Request number 28 reads in its entirety as follows:

28. As to any and all persons who resigned or transferred, were terminated, or were involuntarily transferred from their employment with the Montgomery County DHR at any time from January 1, 2012 through the present, produce a list of all such persons, identifying for each such person their name, last position with the Montgomery County DHR, current employer (if known), and last known address and telephone number(s); or alternatively, produce documents sufficient to identify all such persons, including for each such person their name, last position with the Montgomery County DHR, current employer (if known), and last known address and telephone number(s).

³ Counsel for Judge Kelly respectfully requests a reasonable opportunity to respond to DHR's objections to request number 28 before that dispute is submitted to the Court for resolution. Judge Kelly had not yet responded to DHR's motion to quash, which included objections to request number 28 (among numerous others), when the Court entered its Order dated December 1, 2017.

6. As to the remainder of the requests to which DHR has asserted objections, counsel for DHR and Judge Kelly have made substantial progress toward resolving or reducing their disputes.

7. On numerous items, information provided by DHR counsel has either satisfied the purpose for which Judge Kelly propounded the request, or otherwise persuaded Judge Kelly's counsel not to pursue the request further as to DHR.

8. Furthermore, DHR Counsel for DHR has agreed to provide specified documents and other information to counsel for Judge Kelly promptly. Depending upon the documents and information provided, counsel for Judge Kelly believes there is a high likelihood that a) the documents and information will resolve, or b) Judge Kelly will choose not to pursue, the remaining disputed requests. At most, only a few disputed requests will require judicial resolution; and counsel will advise the Court of any remaining disputes forthwith upon receipt and review of the promised information from DHR counsel.

Respectfully submitted this 8th day of December, 2017.

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Certificate of Service

I hereby certify that a copy of the foregoing has been FILED electronically with the Court of the Judiciary and a copy of the same emailed and/or hand delivered to the person(s) shown below on this 8th day of December, 2017, as follows:

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