



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)

MOTION FOR LEAVE TO FILE EXHIBITS UNDER SEAL

Judge Anita Kelly respectfully moves for leave to file under seal the exhibits cited in her brief in support of her motion to dismiss. Each exhibit Judge Kelly cited is from proceedings before the Judicial Inquiry Commission that remain confidential. Furthermore, each exhibit contains names and/or other information that is confidential by law and not subject to disclosure. As further support for her request, Judge Kelly shows the following:

1. Judge Kelly filed her brief in support of her motion to dismiss on yesterday, October 11, 2017.

2. Judge Kelly's brief cited, but did not attach copies of, multiple exhibits (A through R).

In each instance Judge Kelly indicated the exhibit would be submitted under seal.

3. All of those exhibits consisted of correspondence between the Judicial Inquiry Commission (JIC) and Judge Kelly, some of them with extensive enclosures, referencing complaints (by complainant's name) before JIC.

4. With one exception (composite Exhibit I), all other exhibits refer by name to the original individual complainant in this matter, whose case is not included in the complaint JIC filed in this Court in this matter (COJ complaint). Composite Exhibit I and at least one other exhibit (Exhibit H) refer by name to two other individual complainants (a former husband and a former wife) who each filed a complaint with JIC against Judge Kelly, later dismissed, arising out of their individual action. Their case likewise is not included in the COJ complaint.

5. Two of the exhibits (Exhibit B and composite Exhibit I) include copies of the complaints filed with JIC by those complainants. Exhibits C and I contain Judge Kelly's responses to JIC concerning these two cases (three individual complaints), again which are not part of the COJ complaint.

6. In addition to the names of complainants, a number of the letters cited as exhibits include as enclosures various discovery materials (sometimes over one hundred pages) that JIC obtained in its investigation and produced (in these instances as hard copies) to Judge Kelly pursuant to JIC Rule 6. Some of these materials reference names or initials of children in juvenile proceedings pending before Judge Kelly or other confidential or personal information. Numerous of the juvenile cases cited in these discovery materials likewise are not part of the COJ complaint.

7. By rule (as adopted by the Alabama Supreme Court), except for the filing of a complaint with this Court (and four other narrow exceptions not applicable here), "[a]ll proceedings of the [JIC] shall be confidential." Rule 5(A), Rules of Procedure of the Judicial Inquiry Commission. JIC's filing of the COJ complaint did *not* lift the confidentiality of the earlier proceedings. Likewise, information from proceedings in juvenile court is confidential by law. *E.g.*, Code of Alabama §12-15-133. Accordingly, even apart from JIC Rule 5, information concerning juvenile proceedings *not* listed in the COJ complaint, numerous of which are referenced in the discovery materials enclosed in the exhibits, would remain confidential.

8. Collectively, the exhibits consist of probably 400 to 500 pages. Even if the exhibits did not remain confidential under JIC Rule 6, redaction of confidential information for filing is not practical here. Given the size of the filing, even with appropriate software, attempting to redact confidential information from those exhibits would require quite time-consuming review,

with at least some likelihood that the review (particularly if done by undersigned counsel) would miss at least some confidential information.

9. To protect the confidentiality of these documents and/or protected information contained throughout those documents, Judge Kelly requests she be allowed to file the referenced exhibits under seal. The exhibits cited in her brief (Exhibits A through R) are being submitted with this motion.

WHEREFORE, PREMISES CONSIDERED, Judge Kelly requests that her motion for leave to file under seal be granted, and that she be permitted to file under seal the exhibits cited in her brief in support of her motion to dismiss (Exhibits A through R).

Respectfully submitted this 12th day of October, 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 12th day of October, 2017, as follows:

Mr. Billy C. Bedsole – Chairman
Mrs. Jenny Garrett – Executive Director
Rosa H. Davis, Esq.
William A. Gunter V, Esq.
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/s/ Mark Englehart
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