

IN THE ALABAMA COURT OF THE JUDICIARY

In the Matter of:

DOROTHEA BATISTE,
Jefferson County Circuit Judge

Case No. 43



SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT

COMES now Judge Dorothea Batiste, and by and through her undersigned counsel, moves this Honorable Court to supplement her pending Motion for Summary Judgment with the following submission. In further support, Judge Batiste contends there are no genuine disputes of material facts in the five sets of cases pending against her and that she is entitled to summary judgment as a matter of law.

I. Introduction

There are five sets of cases against my client, Judge Batiste, set forth in paragraphs 1-147 of the Complaint against Judge Batiste now before the Alabama Court of the Judiciary, in Case No. 43. These involve, respectively, her contempt proceedings against Sonja Bell in *Bearden vs. Bearden*; against Curtis Austin in *Austin vs. Austin*; against Kizzy Lacey, Kimberly Clark, and Candace Franklin in *Isom vs. Isom*; against Deva Walker in *Gibson vs. Gibson*; and the against Barbara Kyle in *Kyle vs. Kyle*.

Please be advised that in all these cases, not only did Judge Batiste act in good faith, but she had no ulterior motives, nothing to gain financially, politically, or otherwise, and she did not gain anything. She certainly had no favorites on either side. Judge Batiste was only acting in what she understood the law to be, and again she was acting in utmost good faith.

This particular submission will not address the driving force and personality behind many of these complaints. This will instead be a case by case explanation of why Judge Batiste did in fact act in good faith, and why she acted as she did.

II. Standard of Review

The legal standard for summary judgment is well-settled. Summary judgment is appropriate if this Court finds that there exists no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); Anderson v. Liberty Lobby, Inc., 477U.S. 242, 249 (1986); Turnes v. AmSouth Bank, N.A., 36 F.3d 1057, 1060 (11th Cir. 1994). Furthermore, while “claims of employment discrimination . . . present fact-intensive issues[,] . . . motions for summary judgment or judgment as a matter of law are appropriate to ‘police the baseline’ for [such] claims.” Mendoza v. Borden, Inc., F.3d 1238, 1244 (11th Cir. 1999) (citation omitted); see also Chapman v. AI Transport, 229 F.3d 1012, 1025 (11th Cir. 2000) (en banc) (holding that no special standard exists with respect to summary judgment in employment discrimination cases).

III. Argument

A.

Contempt Proceedings Against Sonja Bell

Barry Bearden v. Noland H. Bearden, DR 2009-1269

Please first review the Answer to the Complaint filed by Judge Batiste on May 14, 2013. Her responses are hereby incorporated by reference. Please also understand that, if Judge Batiste

had not used the contempt power as she did, it could well have resulted in a great miscarriage of justice for the litigants in *Bearden vs. Bearden*.

Please also understand that Judge Batiste inherited this case from Judge Gary Pate. Attached hereto is an Affidavit from Attorney Wayne Wheeler already submitted to Griffin Sikes on February 27, 2013. Mr. Wheeler was the attorney requesting Judge Batiste enforce his subpoena on Sonja Bell. Mr. Wheeler states under oath that "Mrs. Bell was the girlfriend of the husband who was having sex at his house with the husband in the presence of the young child of the parties." Mrs. Bell was subpoenaed for deposition several times to her attorney. After numerous attempts, she finally came to the deposition, but even then her attorney refused to allow her to answer any questions, in direct violation of the law and rules.

As a result, Attorney Wheeler caused Ms. Bell to be served personally with a court subpoena for her appearance at trial on two separate settings. Ms. Bell did not appear at either time. After two such non-appearances, and all the other deposition problems, Mr. Wheeler requested that the court issue a pick-up order, because of the violation of Mrs. Bell on the pending subpoena and her conduct on the other matter. Mr. Wheeler also requested the Rule 45(e) contempt order, to make Ms. Bell come to court by personally-served trial subpoena that she had repeatedly ignored.

As Mr. Wheeler also states, **"the Court had no choice...."** Further, in his **"opinion as a lawyer of 46 years, practicing regularly in the divorce court, the judge was too nice to Mrs. Bell. The Court should have left her in jail and taxed all the attorney's fees and costs against her!"** says Attorney Wheeler.

Indeed, Attorney Wheeler concluded that **"I was unhappy with the extremely nice treatment that she received from the judge because her (Mrs. Bells') actions were**

deliberate, intentional, and without any justification or excuse. She forced the defendant's attorney and his client to expend money and time in securing relief. Also, she caused a waste of judicial time in dealing with her conduct."

His parting words are words that all judges need be concerned about. Attorney Wheeler stated that unless a Court can enforce a subpoena like Judge Batiste did, "otherwise, people like Mrs. Bell can 'thumb their noses' at the Court and walk away. At no time did the Court mistreat Mrs. Bell in any way and all her problems were self-inflicted." [See copy of the Affidavit of Wayne Wheeler attached hereto as Exhibit A, together with correspondence attached thereto].

Further, as stated in answers to paragraphs 19-20 of the complaint, we believe the *Code of Alabama* 12-21-182 and Alabama Case Law in *Palmer v. Palmer*, 556 So. 2d 390 (1989) gave Judge Batiste the discretion to exercise the contempt power that she did. Further, if any member of this panel believes that she did not exercise the contempt power correctly, or misunderstood the same, we simply refer you to the famous words of the head of this AJIC panel, namely Judge McLaughlin found on pages 245-246 of the AJIC transcript of January 18, 2013, in which he stated,

"Judge, regardless of what comes of this proceeding, I would urge you to do a careful study of the law of contempt. I think you have a misunderstanding of some of the aspects of contempt. A lot of judges do. It's sort of a difficult aspect of the law; and we don't deal with it as much as we do some other aspects; and, consequently, we don't - - just not as familiar with it as we need to be."

B.

Contempt Proceedings Against Curtis Austin

Comelia Austin v. Curtis Austin, DR-2004-421.01 and CV-2012-0949

Attached as Exhibit B is an affidavit of an attorney involved in this case, namely **Douglas M. Roy, Jr., who represented Comelia Austin Williams**. As can be seen, Attorney Roy says that after numerous problems earlier, on May 22, 2012, **“I drafted and filed an amended petition for modification and Rule Nisi with the Court and perfected service on the Defendant”** by mailing the same to the Defendant, he added that **“this mailing was NOT returned to my office, therefore the Defendant received same.”** [See also para. 40 of Judge Batiste’s Answer to the Complaint, not only quoting Judge McLaughlin of the AJIC, but also stating that she followed the case of *Hayes v. Hayes*, 472 So. 2d 646 (1985), **stating that service by mail was valid** since this was not the initial proceeding but a continuation of prior proceedings].

Attorney Roy also adds that the plaintiff’s daughter spoke to her father and asked if he was attending the hearing on June 21st and he told her no, he had no intention of hearing the hearing. Therefore, we are certain the defendant knew it was a trial setting by his receipt of the Scheduling Order and the Amended Petition and Pleadings. Attorney Roy adds that **“this was NOT a default hearing, this was a trial setting.”**

On June 21, 2012, the Plaintiff and Attorney Roy “attended the Trial Setting before the Honorable Dorothea Batiste. The Defendant did not appear at the Trial Setting. The Court took the testimony of the plaintiff, Comelia Austin Williams. **The Court entered an order finding**

the Defendant in contempt of court for failing to pay child support and medical expenses for the minor children.”

Out of an abundance of caution, Judge Batiste asked legal counsel to obtain information for an Order of Attachment. Attorney Roy provided all the necessary information to the Court for said Attachment and the Judge issued her Order on July 11, 2012. In doing so, **Judge Batiste** was not only acting within her authority, but she was **providing badly needed justice against a father who repeatedly had thumbed his nose against the authority of the Court.**

Let the record be clear that **Judge Batiste had no personal interest one way or the other in the outcome of this case; she had no personal friendship with either of the parties of this case;** and she was equally cordial with the attorneys on both sides.

We also cite paragraph 49 of our Answer in which Judge Batiste, while disagreeing with several of the purported quotes attributed to the Alabama Court of Civil Appeals by the AJIC, nonetheless acknowledges that the issue of contempt was not substantially addressed in the opinion of that court. Indeed, Judge Batiste believes that the **Alabama Court of Civil Appeals agrees with what Judge McLaughlin so famously said about how judges misunderstand contempt, and that how difficult an aspect of the law it is.**

Under the circumstances, **Judge Batiste acted in the utmost good faith in this case,** and it would be hard put for the AJIC to argue otherwise.

C.

Contempt Proceedings Against Kizzy Casey, Kimberly Clark, and Candace Franklin

Allan Isom v. Cynthia Isom, DR-2010-803

Once again, Judge Batiste insists that she acted in the utmost good faith in using her contempt power against these three sets of witnesses who were repeatedly violating court orders. Attached hereto is an affidavit of Virginia Meigs, which was filed in open court on September 14, 2011. [See Affidavit with attachments all of which are stamped as Exhibit C-1; also attached as Exhibit C-2 is a statement of the relevant facts, together with copies of subpoenas and letters of notice and decrees ordering Instant Attachment for the three sets of witnesses so attached]. All of this material was hand delivered to Griffin Sikes on February 27, 2013, with a cover letter from Attorney Julian McPhillips.

The afore-referenced affidavit, subpoena, and other documents are hereby incorporated by reference the same as if set forth more fully herein, and together make a strong case that Judge Batiste acted in utmost good faith in these set of subpoenas.

Further, as Judge Batiste states in paragraph 66 of her answer, she feels strongly that she attempted to comply with Rule 70-A because she was following the authority of the Code of Alabama x 12-21-82 and Palmer v. Palmer 556 So. 2d 390 (1989).

D.

Contempt Proceedings Against Deva Walker

Materia S. Gipson v. Michael A. Gipson, DR-2010-1395

Please refer to paragraph 74-75 of Judge Batiste's Answers to the AJIC Complaint. As Judge Batiste states, Ms. Walker was an essential witness for an unresolved custody battle with many important issues, and she greatly prejudiced and inconvenienced everyone by her continued absences.

As Judge Batiste also convincingly concludes in paragraph 75 of her Answers to the Complaint, there was no way Ms. Walker could have in good faith believed that the case had

been concluded. As Judge Batiste says, “she may have wishfully hoped that, because she had a number of embarrassing vulnerabilities, including having a baby out of wedlock for the husband, Mr. Gibson, in the divorce case, and because Ms. Walker took the children of the husband, Mr. Gibson, to a “shot house” (where gambling, prostitution, etc. occurs), and Mr. Gibson had even been arrested for that. Because Ms. Walker failed to appear as a witness, it forced two young kids to have to get on the witness stand and testify to some of the foregoing, including pornography and then seeing the father doing certain things to himself. The father’s conduct was outrageous, and Ms. Walker’s repeated absence only complicated matters, especially for the children. I even took a 30-minute recess during trial to give Mr. Gibson a chance to have the witness present, but she did not show up.” [See Judge Batiste’s Answer to AJIC Complaint attached as Exhibit D].

E.

Contempt Proceedings Against Barbara Kyle

Richard Ingram Kyle v. Barbara Dill Kyle, DR-2009-1260

Judge Batiste refers AJIC first of all to her answers paragraph 89-117 of the AJIC Complaint. Focus especially on paragraph 105 wherein Judge Batiste states that **the initial order to Barbara Kyle was issued by Judge Pate as far back as December 10, 2009, and that Judge Pate issued a subsequent order on February 24, 2010, and that Judge Batiste issued another order on August 20, 2011. None of these orders were followed** and as Judge Batiste further states that in violation of numerous orders of two judges, and in prejudice of the rights of other parties, **Barbara Kyle deliberately disposed of \$184,000 in marital assets, and for 99% of what she disposed of she had no receipts for or other proof of what she spent the money on.** Further, in open court and with a smirk on her face and looking directly at Judge Batiste, Ms.

Kyle answered opposing counsel by saying she was **“going to make sure that he (her ex-husband) will never see a dime of my inheritance.”**

In other words, Barbara Kyle deliberately thumbed her nose at the court and defied the court’s authority.

Attached hereto as Exhibit E is a letter addressed to Judge Scott Vowell, in which Attorney Laura Burns responds, in very clear words, that, in her opinion, Judge Batiste had acted very properly in this case.

Further, the undersigned have seen the ex-parte appearance of Laura Burns before the AJIC on May 17, 2013, in which she makes it very clear that she was not upset in any way with Judge Batiste, and that **Attorney Rusty Wright, now deceased, did not file any Motion for a Continuance on the grounds that Ms. Kyle was in California.**

See also paragraph 99 of **Judge Batiste’s answer to the AJIC complaint wherein Laura Burns clearly denies “that Mr. Wright informed me anything as to where Ms. Kyle was. In fact, I deliberately quizzed him as to her whereabouts, and he either evasively, or due to his lack of knowledge, would not tell me.** Further, Mr. Wright’s motion complaining about Ms. Kyle’s being sick or out of state was not filed until a day after I had issued the writ of attachment.”

Further, the Court had to wait quite a while for Mr. Wright to even get to the hearing. Perhaps it was due to health problems or whatever, given that Mr. Wright is now deceased. **It is obvious that Barbara Kyle, apparently with the help of her now-deceased attorney, was deliberately thumbing her nose to the authority of the Court by removing herself as far away from Alabama as she possibly could. That she was in California, a fact only known to the Court on the day of the hearing, was part of her deception and scheme to avoid the process of**

the Court. In fact, if Rusty Wright and Barbara Kyle wanted in good faith to bring to the Court's attention her absence away in California, they should have done so at least the day before the date of Court.

Further, Judge Batiste reminds the AJIC that Rusty Wright had had a Motion to Alter or Amend or Vacate the Decree, pending since October, 2011, so he and his client well knew about the upcoming hearing date in November, 2011.

Once again, there is **no evidence that Judge Batiste favored litigants on either side, or the attorneys on either side. She had nothing to gain personally. There was no corrupt motive or bad faith. She was simply attempting to do her job as best she saw fit.**

We also attach as Exhibit F the Affidavit of Teresa Love. Although unsigned, she made it clear to the AJIC that everything in the affidavit was true as if it had been signed, and that nothing had been influenced or coached by Judge Batiste telling her what to say. We therefore agree with the one panelist on the AJIC (name unknown), who questioned the motive of Ms. Love coming in later and attempting to testify against Judge Batiste. That AJIC panelist smoked out the fact that Ms. Love did not get the raise that she had hoped to get.

F. Requisite Element of Bad Faith Lacking

The handbook entitled, "**Judicial conduct and Ethics (A Reference Manual for Alabama Judges)**" issued by the State of Alabama Judicial Inquiry Commission (AJIC), states at the bottom of page 1 (Exhibit G):

The Commission...does not review...abuse of judicial discretion during a court proceeding absent evidence of bad faith.

The Complaint filed by the AJIC on April 19, 2013, is **virtually absent of any allegation of bad faith**, except for an indirect reference in subparagraph 7-a wherein certain

language from Canon's 1, 2A, 2B, 3A(1), and 3A(4), requires the establishment of (a) bad faith, malice, ill will, or improper motive, or a state of mind driven by a furtive design or (b) incompetence or lack of knowledge of the law of contempt..., in order to be violated.

The AJIC's complaint does not really specify that Judge Batiste engaged in bad faith, etc., but rather states that Judge Batiste's actions "establishes either or both" of the above subsections (a) and (b). **It is obvious that the AJIC is traveling under subsection (b) concerning incompetence or lack of knowledge of the law of contempt.** Indeed, the word "bad faith" is not mentioned again directly in any of the other 146 paragraphs of the AJIC complaint, except by its catch-all "repeat and re-allege" language.

Even though the AJIC only sparsely hints at bad faith, in the alternative, the fact is that the AJIC cannot point to one shred of evidence that Judge Batiste did engage in bad faith. As such, the AJIC does not meet the requirement of its own Rules which state that,

It (AJIC) does not review either final judgments or allegations of legal error or abuse of judicial discretion during a court proceeding absent evidence of bad faith.

As has been amply argued in the preceding pages of this motion and brief, there is a total absence of bad faith on the part of Judge Batiste, and as a result Judge Batiste is due to receive a summary judgment in her favor on this issue. As aforesaid, all the complaints against her revolve around her allegedly misguided or misinformed use of the contempt power in a court proceeding. **The AJIC Rules do not allow the AJIC or the Court of the Judiciary to review either "allegations of legal error or abuse of judicial discretion during a court proceeding absent evidence of bad faith."** But that is what the AJIC has done. Hence, Judge Batiste is entitled to summary judgment.

Finally, reflecting on a standard for measuring Judge Batiste's good faith, when compared to other judges, are five copies of orders from a white female judge, Suzanne Childers, all in 2011-2012 (the same time period Batiste is being questioned about), wherein Judge Childers confined parties, respectively, for 325 days, 520 days, 310 days, 355 days, and 255 days. By contrast, the most Judge Batiste ever ordered someone confined was for 12 days, and usually no more than 2-3 days. (See Exhibits H, I, J, K and L).

IV. MATERIAL CITED IN SUPPORT OF THIS MOTION

In support of this motion, Judge Batiste cites:

1. **This Supplemental Motion for Summary Judgment and Exhibits A-L thereto;**
2. The prior June 13, 2013, **Motion to Strike Complaint, or, in the Alternative, Motion for Summary Judgment filed with this Court**, which is therefore already of record with this Court;
3. The **AJIC Complaint filed on April 19, 2013**, which is also of record with this Court; and
4. The **Answer to Complaint filed on May 14, 2013**, which is also of record with this Court.

V. Conclusion

Summing up the foregoing Brief and Argument, it should be abundantly clear to the Court of the Judiciary that the AJIC cannot prove the necessary element of bad faith, and has even scarcely alleged the same in its complaint against Judge Batiste. Therefore, based on appropriate case law cited in this Motion for Summary Judgment, as well as the prior Motion to

Strike, or, on the Alternative, for Summary Judgment, including the appropriate Memorandum of Law on Contempt Power, the AJIC has fallen well short of the requisite bad faith necessary to sustain an arguable case.

Hence, Judge Batiste is entitled to summary judgment because there is no genuine dispute of material facts, and based on the requisite standards for summary judgment, she is entitled to such a judgment, as a matter of law and established legal precedent.

Respectfully submitted,

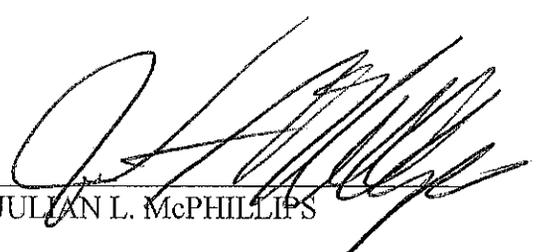
By **s/Julian McPhillips**
Julian McPhillips (MCP004)
Attorney for Plaintiff

OF COUNSEL:
McPHILLIPS SHINBAUM L.L.P.
P.O. Box 64
516 South Perry Street
Montgomery, Alabama 36104
(334) 262-1911
(334) 263-2321 FAX

CERTIFICATE OF SERVICE

I hereby certify that I have e-filed the foregoing, and have served the same, via hand-delivery and electronically upon the following, on this the 26th day of June, 2013:

Griffin Sikes, Esq.
Alabama Judicial Inquiry Commission
401 Adams Street
Suite 720
Montgomery, Alabama 36104


JULIAN L. McPHILLIPS

State of Alabama)
Jefferson County)

AFFIDAVIT OF M. WAYNE WHEELER

My name is M. Wayne Wheeler. I represented the Defendant (the wife) in the case styled **Bearden vs. Bearden**, DR 2009, 1269 before Judge Batiste.

My large file is in storage. Due to time constraint, I am enclosing what records remain on my disc files. This affidavit is to the best I remember without reviewing my closed file.

I am the attorney who requested Judge Batiste to enforce my subpoena to Sonja Bell. The pending divorce involved was a litigated matter. Mrs. Bell was the girl friend of the husband (H) who was having sex with the husband at his house in the presence of the young child of the parties. Mrs. Bell was subpoenaed for deposition several times with Notice given to her attorney. After numerous attempts, she finally came to the deposition. Her attorney refused to allow her to answer any questions in direct violation of the law and the Rules. As a result, I served her personally with a Court subpoena for her appearance at trial on two separate settings. She did not appear at either time. As I remember, the case got passed the first time, but was to be tried the second time. Since she did not appear for the second trial, I requested the Court to issue a pickup Order because of the violation of Mrs. Bell on the pending subpoena and her conduct on the other matter. I requested a 45(e) Contempt Order to make her come to Court as required by a personally served trial subpoena which she had ignored.

The Court had no choice. Either Mrs. Bell was going to defy the Subpoena and get away without testifying; or the Court had to force her to be present. It is my understanding, that the Order was issued on a Friday; and she was placed in jail for the weekend.

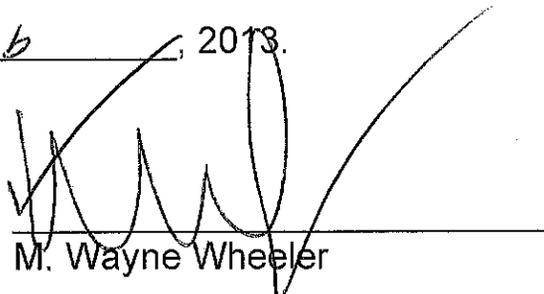
On the following Monday, there was a hearing before the Court. The Court was very firm with her because of her wilfull disobedience since it was without excuse, plus, she was represented by her attorney. The Court talked to Mrs. Bell about her offense. After some discussion, the Court agreed to release her provided she attended the next trial setting.

In my opinion as a lawyer of 46 years, practicing regularly in the divorce court, the Judge was just too nice to Mrs. Bell. The Court should have left her in jail and taxed all of the attorney fees and costs against her! To a degree, I was unhappy with the extremely nice treatment she received from the Judge because her actions were deliberate, intentional, and without any justification or excuse. She forced the Defendant's attorney and his client to expend money and time in securing relief. Also, she caused a waste of judicial time in dealing with her conduct.

In my view, any Court must upon request follow the law and enforce the Rules of a Trial Subpoena. Otherwise, people like Mrs. Bell can "thumb their noses" at the Court and walk away. At no time did the Court mistreat Mrs. Bell in anyway and all her problems were self inflicted.

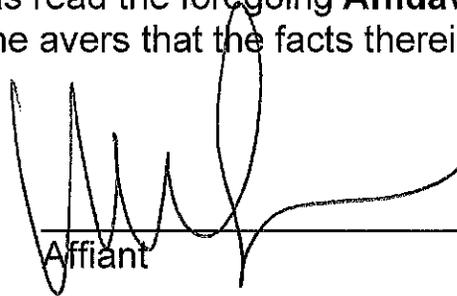
Copies of what documents that were still in the office are attached.

Dated this the 27 day of Feb, 2013.


M. Wayne Wheeler

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

Before me, the undersigned, a Notary Public in and for said County in said State personally appeared **M. Wayne Wheeler**, who, being by me first duly sworn makes oath that he has read the foregoing **Affidavit** and knows the contents thereof, and that he avers that the facts therein are true and correct.



Affiant

Sworn to and subscribed before me this 27 day of Feb., 2013.

My Commission expires:
1/23/17



Notary Public

February 4, 2011

Kristi A. Dowdy, Esq.
Attorney for Sonja Bell
14 Financial Center
505 North 20th Street
Birmingham, AL 35203-2626

Re: Bearden vs. Bearden

Dear Ms. Dowdy:

As your client did not appear at the deposition, I filed a motion to compel her attendance for the deposition. In addition, I enclose a subpoena for her appearance at trial on February 28th, 2011 at 9:00 a.m. Since, you are her attorney, a courtesy copy of the subpoena is enclosed.

Yours Very Truly,

M. Wayne Wheeler

MWW:sj
Enclosure

cc: Nolanda Bearden

May 25, 2011

Via Fax: 205-252-4907

Kristi A. Dowdy, Esq.
Attorney for Sonja Bell

Re: Bearden vs. Bearden

Dear Ms. Dowdy:

The Deposition of Mrs. Bell is set Tuesday, April 19, 2011 at 4:00 p.m. at my office. I will expect her to comply with the Court's Order and my Motion. She will need to bring a certified check payable to M. Wayne Wheeler Trust Account at that time.

Yours Very Truly,

M. Wayne Wheeler

MWW:sj
Enclosure

cc: Nolanda Bearden

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
DOMESTIC RELATIONS DIVISION**

Barry Bearden,)	
)	
Plaintiff,)	
)	Case Number: DR 2009 1269 JGP
v.)	
)	
Nolanda H. Bearden,)	
)	
Defendant.)	

MOTION TO COMPEL DEPOSITION OF SONJA BELL

COMES NOW, the Defendant in the above styled cause and moves the Court for relief as follows:

1. That this Court by Order dated the 14th day of March, (Exhibit A) granted the Motion of the Defendant (Exhibit B).
Date: March 14, 2011.
2. That the deposition was duly scheduled on April 19, 2011 at 4:00 p.m. and the Deponent, Sonja Bell failed to appear or to comply with the Court's Order. (Exhibit C)
3. Further, that Sonja Bell was duly served with Subpoena to appear at the Court's last trial setting and failed to appear.
4. That the said Sonja Bell is in violation of the Court's Order as well as a duly served Subpoena.
5. That said Defendant has rescheduled the deposition of Sonja

Bell for June 7, 2011 at 2:30 p.m. (Exhibit D)

WHEREFORE PREMISE CONSIDERS, the Defendant moves the Court for the following:

1. To compel the Deponent, Sonja Bell to appear at the scheduled deposition.
2. To comply fully with the prior Order of the Court's Order as to the terms of that Order.
3. To personally appear at the trial of this case that is now set on June 22, 2011 at 8:45 a.m.

M. Wayne Wheeler,
Attorney for the Defendant
2230 Third Avenue North
Birmingham, AL 35203
205-322-0627
WHE004
Abogato@aol.com

NOTICE OF HEARING

This Motion is set for hearing before The Honorable Judge _____ at _____ .m., on the _____ day of _____, 2011, in Room _____ of the Jefferson County Domestic Relations Courthouse.

M. WAYNE WHEELER

Page 3 of MOTION TO COMPEL DEPOSITION of SONJA BELL
Bearden v. Bearden
Case No. DR 2009 1269 JGP
February 26, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion to Compel Deposition of Sonja Bell on the following counsel of record, either fax or by placing a copy of same in the U.S. Mail, postage paid, this the ___ day of _____, 2011:

Danita Haskins, Esq.
1918 3rd Avenue North
Birmingham, AL 35203

Kristi A. Dowdy, Esq.
Attorney for Sonja Bell
1400 Financial Center
505 North 20th Street
Birmingham, AL 35203-2626

M. WAYNE WHEELER

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
DOMESTIC RELATIONS DIVISION**

Barry Bearden,)
)
Plaintiff,)
) Case Number: DR 2009 1269 JGP
v.)
)
Nolanda H. Bearden,)
)
Defendant.)

DEPOSITION NOTICE OF SONJA G. BELL

The attorney for the Defendant in the above styled cause, gives notice that at the time specified below on Wednesday, **December 15, 2010**, at 9:00 a.m., at the office of M. Wayne Wheeler, 2230 Third Avenue North, Birmingham, Alabama 35203, the Defendant will take the deposition of the following named person, upon oral examination, before Sallie NeSmith Gunter, a notary public, or before some other officer authorized by law to administer oaths.

<u>NAME</u>	<u>ADDRESS</u>	<u>TIME</u>
Sonja G. Bell	Blue Cross & Blue Shield of Ala. 450 Riverchase Parkway East Birmingham, AL 35298	9:00 a.m.

NOTICE TO CLERK

Please issue deposition subpoena to Sonja G. Bell at the above address.

/s/ M. Wayne Wheeler
M. WAYNE WHEELER
Attorney for the Defendant
2230 Third Avenue North
Birmingham, AL 35203
(205) 322-0627
WHE004

Page 2 of Deposition Notice of Sonja G. Bell
Case No. DR 2009 1269 JGP
Bearden v. Bearden
February 26, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Deposition Notice of the Sonja G. Bell has been served upon the following counsel of record by hand delivery or by placing same in the United States Mail, properly addressed and postage paid on this the 19th day of November, 2010:

Danita Haskins, Esq.
211 22nd Street North
Birmingham, AL 35203

/s/ M. Wayne Wheeler
M. WAYNE WHEELER

cc: Sallie NeSmith Gunter (Via Fax)

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
DOMESTIC RELATIONS DIVISION**

Barry Bearden,)	
)	
Plaintiff,)	
)	Case Number: DR 2009 1269 JGP
v.)	
)	
Nolanda H. Bearden,)	
)	
Defendant.)	

AMENDED DEPOSITION NOTICE OF SONJA G. BELL

The attorney for the Defendant in the above styled cause, gives notice that at the time specified below on Monday, **January 24, 2011**, at 10:00 a.m., at the office of M. Wayne Wheeler, 2230 Third Avenue North, Birmingham, Alabama 35203, the Defendant will take the deposition of the following named person, upon oral examination, before Sallie NeSmith Gunter, a notary public, or before some other officer authorized by law to administer oaths.

<u>NAME</u>	<u>ADDRESS</u>	<u>TIME</u>
Sonja G. Bell	c/o Kristi A. Dowdy 14 Financial Center. 505 North 20 th Street Birmingham, AL 35203-2626	10:00 a.m.

M. WAYNE WHEELER
Attorney for the Defendant
2230 Third Avenue North
Birmingham, AL 35203
(205) 322-0627
WHE004

Page 2 of Amended Deposition Notice of Sonja G. Bell
Case No. DR 2009 1269 JGP
Bearden v. Bearden
February 26, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Amended Deposition Notice of the Sonja G. Bell has been served upon the following counsel of record by hand delivery or by placing same in the United States Mail, properly addressed and postage paid on this the 14th day of December, 2010:

Danita Haskins, Esq.
P.O. Box 2626
Birmingham, AL 35203

Kristi A. Dowdy, Esq.
Attorney for Sonja Bell
14 Financial Center
505 North 20th Street
Birmingham, AL 35203-2626

M. WAYNE WHEELER

cc: Sallie NeSmith Gunter (Via Fax)

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
DOMESTIC RELATIONS DIVISION**

Barry Bearden,)	
)	
Plaintiff,)	
)	Case Number: DR 2009 1269 JGP
v.)	
)	
Nolanda H. Bearden,)	
)	
Defendant.)	

SECOND AMENDED DEPOSITION NOTICE OF SONJA G. BELL

The attorney for the Defendant in the above styled cause, gives notice that at the time specified below on **Tuesday, April 19, 2011**, at 4:00 p.m., at the office of M. Wayne Wheeler, 2230 Third Avenue North, Birmingham, Alabama 35203, the Defendant will take the deposition of the following named person, upon oral examination, before Sallie NeSmith Gunter, a notary public, or before some other officer authorized by law to administer oaths. A copy of the Motion and Order are attached as Exhibit A & B.

<u>NAME</u>	<u>ADDRESS</u>	<u>TIME</u>
Sonja G. Bell	c/o Kristi A. Dowdy 300 N. Richard Arrington, Jr., Blvd. Suite 200 Birmingham, AL 35203	4:00 p.m.

/s/M. Wayne Wheeler
M. WAYNE WHEELER
Attorney for the Defendant
2230 Third Avenue North
Birmingham, AL 35203
(205) 322-0627
WHE004

Page 2 of Second Amended Deposition Notice of Sonja G. Bell
Case No. DR 2009 1269 JGP
Bearden v. Bearden
April 15, 2011

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Second Amended Deposition Notice of the Sonja G. Bell has been served upon the following counsel of record by hand delivery or by placing same in the United States Mail, properly addressed and postage paid on this the 15th day of April, 2011:

Danita Haskins, Esq.
1918 3rd Avenue North
Birmingham, AL 35203

Kristi A. Dowdy, Esq.
Attorney for Sonja Bell
300 N. Richard Arrington, Jr., Blvd.
Suite 200
Birmingham, AL 35203

/s/M. Wayne Wheeler
M. WAYNE WHEELER

cc: Sallie NeSmith Gunter (Via Fax)

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
DOMESTIC RELATIONS DIVISION**

Barry Bearden,)	
)	
Plaintiff,)	
)	Case Number: DR 2009 1269 JGP
v.)	
)	
Nolanda H. Bearden,)	
)	
Defendant.)	

THIRD AMENDED DEPOSITION NOTICE OF SONJA G. BELL

The attorney for the Defendant in the above styled cause, gives notice that at the time specified below on **Tuesday, June 7, 2011**, at 2:30 p.m., at the office of M. Wayne Wheeler, 2230 Third Avenue North, Birmingham, Alabama 35203, the Defendant will take the deposition of the following named person, upon oral examination, before Sallie NeSmith Gunter, a notary public, or before some other officer authorized by law to administer oaths.

<u>NAME</u>	<u>ADDRESS</u>	<u>TIME</u>
Sonja G. Bell	c/o Kristi A. Dowdy 300 N. Richard Arrington, Jr., Blvd. Suite 200 Birmingham, AL 35203	2:30 p.m.

M. WAYNE WHEELER
Attorney for the Defendant
2230 Third Avenue North
Birmingham, AL 35203
(205) 322-0627
WHE004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Third Amended Deposition Notice of the Sonja G. Bell has been served upon the following counsel of record by hand delivery or by placing same in the United States Mail, properly addressed and postage paid on this the ____ day of _____, 2011:

Danita Haskins, Esq.
1918 3rd Avenue North
Birmingham, AL 35203

Kristi A. Dowdy, Esq.
Attorney for Sonja Bell
300 N. Richard Arrington, Jr., Blvd.
Suite 200
Birmingham, AL 35203

M. WAYNE WHEELER

cc: Sallie NeSmith Gunter (Via Fax)

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

IN RE THE MARRIAGE OF:	*		
	*		
COMELIA AUSTIN WILLIAMS,	*		
PLAINTIFF,	*		
	*		
VS	*	CASE NO. DR 04-421.01	DB
	*		
CURTIS AUSTIN,	*		
DEFENDANT,	*		

AFFIDAVIT OF ATTORNEY

I, Douglas M. Roy, Jr., Esquire to hereby aver that the following facts are true and correct to the best of my knowledge and belief:

I was initially retained by Comelia Austin Williams on February 18, 2004 for a divorce. On that date I filed a Divorce Complaint with service perfected on the Defendant on February 26, 2004.

After several filings, etc. the parties reached an agreement in July 2004 wherein the Plaintiff agreed to a downward deviation in child support due to the Defendant having been fired from his job recently.

The Final Judgment of Divorce was signed by Judge J Gary Pate on July 8, 2004. My initial representation ended with the signing of the Final Judgment of Divorce.

To the best of my understanding on December 29, 2011, the Plaintiff has not received child support on a regular basis since the filing of the Final Judgment, the Plaintiff then filed a Petition for Modification, Pro Se.

The Defendant was served on March 2, 2012 however said service was not reported to the court clerk's office until after the Plaintiff filed an Alias Petition for Modification on March 20, 2012. The Defendant was served with a copy of the Petition for Modification.

On April 26, 2012, the Plaintiff filed a hand written request for a Hearing with the Clerk's office.

On May 11, 2012, this Honorable Court entered a Scheduling Order setting this matter for a Settlement Conference on May 21, 2012 and a Trial date of June 21, 2012. The Court mailed a copy of said Scheduling Order to both the Plaintiff and Defendant at their correct mailing addresses.

On May 16, 2012, the Plaintiff retained my legal services to represent her in the modification trial on June 21, 2012.

On May 21, 2012, I attended the Settlement Conference with the Plaintiff. The Defendant did not appear at the hearing. The case was continued to the Trial setting on June 21, 2012.

The Plaintiff's teen age daughter spoke to her father the night before the Hearing on May 21, 2012 and he informed her that he knew about the hearing but had no intention of attending.

On May 22, 2012, I drafted and filed an Amended Petition for Modification and Rule Nisi with the Court and perfected service on the Defendant by placing a copy of same in the United State mail, postage paid. This mailing was NOT returned to my office, therefore the Defendant received same.

Further, again the Plaintiff's daughter spoke to her father and asked him if he was attending the hearing on June 21st and he told her NO, he had no intention of attending the hearing. Therefore we are certain that the Defendant knew it was a trial setting by his receipt of the Scheduling Order and the Amended Petition and pleadings.

Let me state that this was NOT a Default Hearing, this was a trial setting.

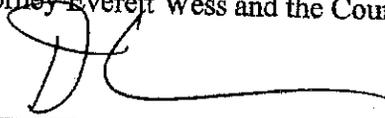
On June 21, 2012, the Plaintiff and I attended the Trial setting before the Honorable Judge Dorothea Batiste. The Defendant did not appear at the Trial setting. The Court took the testimony of the Plaintiff, Comelia Austin Williams. The Court entered an Order finding the Defendant in contempt of court for his failure to pay child support and medical expenses for the minor children.

Judge Batiste asked legal counsel to obtain information for an Order of Attachment. I provided all necessary information to the Court for said Attachment. The Judge entered the Order of Attachment on July 11, 2012.

It is my understanding that the Defendant was arrested on or about July 12, 2012 for his failure to pay his court ordered child support and medical expenses for the minor children.

On Friday, July 13, 2012, the Judge's judicial assistant called your Movant's office and stated that the Defendant's new wife was in the Judge's office wanting to pay \$7500.00 to have the Defendant released from jail. My office agreed to this amount with the remainder to be paid monthly with the new court ordered child support. Later the same day, the Judge's office called and said the Defendant's wife had no money to pay to get him out of jail.

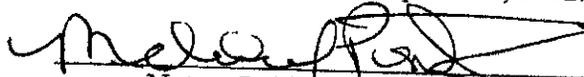
The rest of the case involves attorney Everett Wess and the Court has a record of same.



Douglas M. Roy, Jr., Esquire

STATE OF ALABAMA
JEFFERSON COUNTY

Sworn and subscribed before me on this the 14th day of September, 2012.

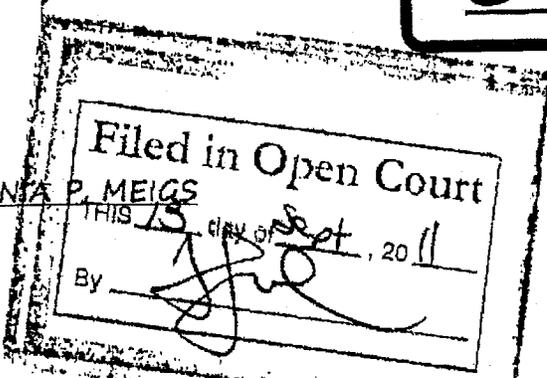


Notary Public

My commission expires:

Melinda J. Porter

My Commission expires
3/18/2013



AFFIDAVIT OF VIRGINIA P. MEIGS

State of Alabama)
County of Jefferson)

Comes now the affiant and after first being duly sworn ~~to the truth~~ and say: My name is Virginia P. Meigs, [REDACTED] Alabama, and I am ^{over} eighteen (18) years. I am the attorney for the Defendant in Case Number, DR-2010-803, Birmingham Division, Jefferson County, Alabama, Domestic Relations.

I, at the request of my client, Cynthia Isom, filed in the clerk's office, the following three trial subpoenas for the listed individuals:

Kizzy Lacey, [REDACTED]

Kimberly Clark, [REDACTED]

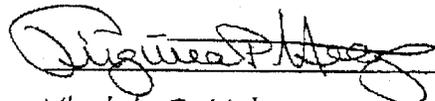
Cande Gray Franklin, [REDACTED]

These three individuals were served, as recorded in the clerk's office, last November, 2010, and have been notified of each and every subsequent court date. They were notified via letter of this last court date, September 12, 2011, and failed to appear. I did not personally serve Ms. Franklin or Ms. Clark, but Ms. Isom hand delivered the letters to these two women by placing them on the property. I personally notified Ms. Lacey via her cell phone, 9/12/2011, where a voice message was left to be in court on September 13, 2011 at 1:30 p.m., the cell phone message identified that it was Ms. Lacey's phone number.

RECEIVED SEP 14 2011

page two/Affidavit/ Isom

I realize there are serious penalties for making a false statement and with that knowledge I swear that this affidavit is true and correct.


Virginia P. Meigs

State of Alabama)
County of Jefferson)

Sworn to and subscribed before me a Notary Public in and for said County and State on this the 13th day of September, 2011


Notary Public **COMMISSION EXPIRES 07/15/13**

Copies of this Order mailed to:
Danita Haskins, Esq.
Virginia Meigs, Esq.
Pursuant to Rule 77(d) of the
Alabama Rules of Civil Procedure
this date. September 13, 2011

Dated: _____

cc: Circuit Clerk

DESCRIPTION OF Kimberly Clark
RACE/SEX: [REDACTED]

HEIGHT: [REDACTED]
WEIGHT: [REDACTED]

EYE COLOR: [REDACTED]
HAIR COLOR: [REDACTED]

DATE OF BIRTH: Age 32

SOCIAL SECURITY NUMBER:
DRIVER'S LICENCE NUMBER:

ATTACH AT: [REDACTED]

PHOTOGRAPH: NO
VEHICLE:

RECEIVED SEP 14 2011

Copies of this Order mailed to:
Danita Haskins, Esq.
Virginia Meigs, Esq.
Pursuant to Rule 77(d) of the
Alabama Rules of Civil Procedure
this date. September 13, 2011

Dated: _____

cc: Circuit Clerk

DESCRIPTION OF Rizzy Lacey
RACE/SEX: [REDACTED]

HEIGHT: [REDACTED]
WEIGHT: [REDACTED]

EYE COLOR: [REDACTED]
HAIR COLOR: [REDACTED]

DATE OF BIRTH: [REDACTED]

SOCIAL SECURITY NUMBER:
DRIVER'S LICENCE NUMBER:

ATTACH AT: [REDACTED]
 [REDACTED]

PHOTOGRAPH: NO
VEHICLE:

RECEIVED SEP 14 2011

Copies of this Order mailed to:
Danita Haskins, Esq.
Virginia Meigs, Esq.
Pursuant to Rule 77(d) of the
Alabama Rules of Civil Procedure
this date. September 13, 2011

Dated: _____

cc: Circuit Clerk

DESCRIPTION OF CANDE GRAY FRANKLIN
RACE/SEX: [REDACTED]

HEIGHT: [REDACTED]
WEIGHT: [REDACTED]

EYE COLOR: [REDACTED]
HAIR COLOR: [REDACTED]

DATE OF BIRTH: [REDACTED]

SOCIAL SECURITY NUMBER:
DRIVER'S LICENCE NUMBER:

ATTACH AT: [REDACTED]
 [REDACTED]

PHOTOGRAPH: NO
VEHICLE:

RECEIVED SEP 14 2011

ALLAN ISOM
PLAINTIFF,

CIRCUIT COURT

VS.

FILED IN OFFICE

TENTH JUDICIAL CIRCUIT OF ALABAMA

CYNTHIA ISOM
DEFENDANT.

SEP 20 2011

CIVIL ACTION NO. DR 2010-803-DE

JEFFERSON COUNTY
CIRCUIT COURT
DOMESTIC RELATIONS DIVISION
ANNE-HEATHER ADAMS, CLERK

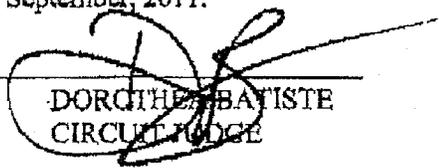
ORDER

THIS MATTER, came to heard on the 20th day of September, 2011, submitted upon Review of this Court's Order of the 13th day of September, 2011 and upon due consideration of same, the Court is of the opinion that the following Order is due to be entered. Accordingly, it is therefore,

ORDERED, ADJUDGED, AND DECREED by the Court:

1. That the Decree Ordering Attachment dated the 13th day of September, 2011 is hereby recalled and held to be of no effect.
2. This Court directs the Sheriff of this County or any other County in the State of Alabama, to disregard said Order of the 13th day of September 2011, and not to attach the witness, Kizzy Lacey, or take her into custody.
3. That the attachment is hereby **DISMISSED.**
4. That costs of Court are hereby taxed to the witness, Kizzy Lacey.

DONE and ORDERED this the 20 day of September, 2011.

as said DB

DORCIHE BAYISTE
CIRCUIT JUDGE

Copies of this Order mailed to:
Pursuant to Rule 77(d) of the
Alabama Rules of Civil Procedure
this date.

Dated: SEP 20 2011

ENTERED SEP 20 2011

Copy to: JEFFERSON COUNTY SHERIFF'S DEPARTMENT

ALLAN ISOM	FILED IN OFFICE	CIRCUIT COURT
PLAINTIFF,	SEP 20 2011)
VS.	JEFFERSON COUNTY) TENTH JUDICIAL CIRCUIT OF ALABAMA
	CIRCUIT COURT)
	DOMESTIC RELATIONS DIVISION)
CYNTHIA ISOM	ANNIE-MARIE ADAMS, CLERK)
DEFENDANT.)	CIVIL ACTION NO. DR 2010-803-DB

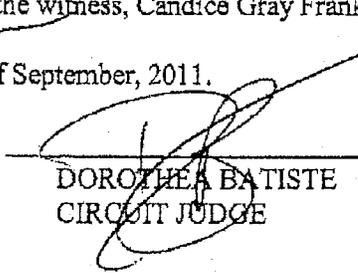
ORDER

THIS MATTER, came to heard on the 20th day of September, 2011, submitted upon Review of this Court's Order of the 13th day of September, 2011 and upon due consideration of same, the Court is of the opinion that the following Order is due to be entered. Accordingly, it is therefore,

ORDERED, ADJUDGED, AND DECREED by the Court:

1. That the Decree Ordering Attachment dated the 13th day of September, 2011 is hereby recalled and held to be of no effect.
2. This Court directs the Sheriff of this County or any other County in the State of Alabama, to disregard said Order of the 13th day of September 2011, and not to attach the witness, Candice Gray Franklin, or take her into custody.
3. That the attachment is hereby **DISMISSED**.
4. That costs of Court are hereby taxed to the witness, Candice Gray Franklin.

DONE and ORDERED this the 20th day of September, 2011.


 DOROTHEA BATISTE
 CIRCUIT JUDGE

Copies of this Order mailed to:
 Pursuant to Rule 77(d) of the
 Alabama Rules of Civil Procedure
 this date.

Dated: SEP 20 2011 *Annie-Marie Adams*

Copy to: JEFFERSON COUNTY SHERIFF'S DEPARTMENT

ENTERED SEP 21 2011

ALLAN ISOM
PLAINTIFF,

CIRCUIT COURT

VS.

FILED IN OFFICE

TENTH JUDICIAL CIRCUIT OF ALABAMA

CYNTHIA ISOM
DEFENDANT.

SEP 20 2011

JEFFERSON COUNTY
CIRCUIT COURT
DOMESTIC RELATIONS DIVISION
ANDRE-MARIE ADAMS, CLERK

CIVIL ACTION NO. DR 2010-803-DB

ORDER

THIS MATTER, came to heard on the 20th day of September, 2011, submitted upon Review of this Court's Order of the 13th day of September, 2011 and upon due consideration of same, the Court is of the opinion that the following Order is due to be entered. Accordingly, it is therefore,

ORDERED, ADJUDGED, AND DECREED by the Court:

1. That the Decree Ordering Attachment dated the 13th day of September, 2011 is hereby recalled and held to be of no effect.
2. This Court directs the Sheriff of this County or any other County in the State of Alabama, to disregard said Order of the 13th day of September 2011, and not to attach the witness, Kimberly Clark, or take her into custody.
3. That the attachment is hereby **DISMISSED**.
4. That costs of Court are hereby taxed to the witness, Kimberly Clark.

DONE and ORDERED this the 20th day of September, 2011

DOROTHEA BATESTE
CIRCUIT JUDGE

Copies of this Order mailed to:
Pursuant to Rule 77(d) of the
Alabama Rules of Civil Procedure
this date. SEP 20 2011
Dated: _____

Copy to: JEFFERSON COUNTY SHERIFF'S DEPARTMENT

2011 SEP 21 AM 9:13
SHERIFF'S DEPARTMENT

ENTERED SEP 20 2011

Isom

Statement of Relevant Facts

Defendant's attorney (Virginia Meigs) served the alleged paramours (Kizzy Lacey, Kimberly Clark, Candice Franklin) on Nov. 23, 2010. The subpoena notified Lacey, Clark, and Franklin of their obligation to attend a Dec. 7, 2010, trial date. This case, due to various reasons/circumstances, was passed until a Sept. 12, 2011, trial date. Defendant's attorney then mailed a letter to Lacey, Franklin, and Clark detailing the trial's new setting date and their obligation to be present. The letter was sent to the same addresses at which each witness was originally served. Defendant's attorney filed a sworn Affidavit on Sept 15, 2011. The Affidavit attested to the fact that the witnesses were properly informed of the new trial date. Lacey, Franklin, and Clark failed to appear at the Sept. 12, 2011, trial date. A Writ of Attachment was issued for each of the defaulting witnesses and the Jefferson County Sheriff was directed to take them into custody. Lacey then obtained an attorney (Nakita Blocton), who promptly filed an Emergency Motion to Recall Attachment and/or Request for an Immediate Hearing on Sept. 16, 2011. Clark hired an attorney (Shera Grant), who filed a Motion to Recall Outstanding Writ on Sept. 19, 2011. Three Orders were handed down on Sept. 20, 2011. The Orders recalled each of the respective Writs of Attachment and directed the Jefferson County Sheriff to disregard the pick-up Orders. The defaulting witnesses were never placed into custody. Lacey's attorney makes note of this fact in her Emergency Motion to Recall Attachment.

Issue

Whether each witness was properly notified of the Sept. 12, 2011, Court date?

The Court, in *Tarpley*, has stated that "[w]hen an attorney set up specific time for medical doctor to be in court and testify as witness in civil action for which doctor had received "on call" subpoena, that time agreed upon by attorney and doctor became the command of the subpoena" 300 So.2d 409, (Ala. 1974) . The Court has made it clear that if a witness is given adequate notice of a subsequent Court date, that the new date becomes the command of the subpoena. An attorney is not required to reissue and serve

Isom

the witness with a new subpoena. Each witness (Lacey, Franklin, and Clark) was properly served with subpoenas on Nov. 23, 2010. The witnesses appeared on the Nov. 23, 2010, setting. Defendant's attorney (Virginia Meigs) notified the witnesses of the new Court date of Sept. 12, 2011. Defendant's attorney filed a sworn affidavit, attesting to the fact that she properly notified the witnesses of the new Court date. The Alabama Civil Court of Appeals would likely reason that the witnesses were given adequate notice of the new Court date.

Issue

Whether a Court can compel a subpoenaed witness to appear by holding them, without bond, until a specified hearing date?

The Legislature has given the Court the power to compel subpoenaed witnesses to appear when they fail to do so. A failure to appear can be deemed as a contempt of court by the defaulting witness. The Court has the ability to issue writs of attachment, directing the sheriff's office to apprehend subpoenaed witnesses, when they fail to appear. The Legislature gives the Court this power in *ARCP 45 (e)*;

(e) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

The Alabama Civil Court of Appeals has held that a witness who fails to appear, after being subpoenaed, is committing a civil contempt of Court. The Court in *Tarpley* held, that a "failure of medical doctor to appear as witness in civil action pursuant to an 'on call' subpoena is punishable as a constructive, that is, indirect contempt of court." *Ex parte Tarpley, 300 So.2d 409 (Ala., 1974)*. A failure to appear, by a defaulting witness, is deemed as a constructive contempt of court.

Isom

The Legislature has provided the Court with *ARCP 70A* as framework for dealing with civil constructive contempt. *ARCP 70A (a)(2)(d)* states:

(D) "Civil contempt" means willful, continuing failure or refusal of any person to comply with a court's lawful writ, subpoena, process, order, rule, or command that by its nature is still capable of being complied with.

The statute also provides the Court with a method of punishment for anyone who fails to comply with its Order *70A(d)*;

(d) Failure to Appear; Issuance of Writ of Arrest. If an alleged contemnor who has been duly given notice of a contempt hearing fails to appear at the hearing, the court may, in its discretion, issue a writ of arrest to compel the presence of the alleged contemnor.

It is clear that the Legislature intended to provide the Courts with an effective method for enforcing its Orders. The statute also makes mention of the punishment available to the Courts in *70A(e)(2)*;

(2) Commitment in Cases of Civil Contempt. The court may order that a person who had been found to be in civil contempt be committed to the custody of the sheriff until that person purges himself or herself of the contempt by complying with the court's writ, subpoena, process, order, rule, or command.

The Court is clearly acting within its discretion when it incarcerates a defaulting witness until such time as the matter can be reset for hearing. The statutes, which guide the Courts in these matters, make no mention of a bond requirement for defaulting witnesses. The Court has the power to hold a witness, who has committed civil constructive contempt, until such time as that witness can purge themselves of the contempt.

IN THE Circuit COURT OF Jefferson ALABAMA
 (Circuit, District or Municipal) (Name of County or Municipality)

State of Alabama
 Municipality of _____
 Plaintiff ALAN ISOM v. CYNTHIA ISOM Defendant

(For juvenile cases only):
 In the Matter of: _____

FILED IN OFFICE
 NOV 22 2010

Kizzy Lacey
 3000 1st AVE N. (Distribution Bldg)
 Bham, AL 35202

- A. Issued at the request of:
1. Plaintiff/State
 2. Defendant
 3. Grand jury
- B. Special Instructions
 You are ordered to:
1. Appear at trial/hearing
 2. Produce records or documents-See attached schedule(s)
 3. Appear at deposition
 4. Other _____

JEFFERSON COUNTY
 CIRCUIT COURT
 DOMESTIC RELATIONS DIVISION
 ANNE-MARIE ADAMS, CLERK

You may contact: _____

YOU ARE ORDERED TO APPEAR before the court as stated below until otherwise excused. Failure to obey this subpoena may be deemed a contempt of court from which the subpoena was issued.

DATE: 12-7-10
 TIME: 9:00 Am
 ROOM: Judge Pate
 ADDRESS: Domestic Relations Ct
8124 7th Ave North
Bham AL 35208

NOV 22 2010
 Date Issued

ADDITIONAL INSTRUCTIONS

Any inspection or production of documents or records must be completed within 15 days.

Anne Marie Adams

Signature of Court Clerk

Deputy Clerk Initials

TO ANY SHERIFF OF THE STATE OF ALABAMA OR ANY AUTHORIZED PERSON

You are ordered to serve this order on the above named person and make return to this court.

RETURN ON SERVICE

I certify that I personally delivered a copy of this order to Kizzy Lacey on 11/23/10 at 3:10

Valerie Beecher
 Signature and Title of Server

209 minimum Ave D'la...

(For criminal cases only)

Served by mail
 Date mailed _____

Sheriff

Deputy Sheriff



VIRGINIA P. MEIGS
ATTORNEY AT LAW
The Alexander House
2320 Arlington Avenue, South
Birmingham, Alabama 35205



Office (205) 930-9800

Facsimile (205) 930-9809

August 19, 2011

Kizzy Lacey
3600 1st Ave. North (Distribution Bldg)
Birmingham, AL 35222

Re: Contested Divorce
Case No.: DR-10-803 JGP

Dear Ms. Lacey:

I hope you are doing well. Please be aware there is a new trial date. The new trial date, September 12, 2011, at 8:45 a.m. before the Honorable D. Batiste at the Domestic Relations Courthouse. **Please be aware you are court ordered to be present. The trial will be in the same courtroom as the last time you were present.**

Thank you for your cooperation in this matter.

Sincerely,

Virginia P. Meigs

Enc. Order

COURT IS TUESDAY, 1:30 P.M. AT THE DOMNESTIC ELATIONS COURTHOUSE. YOU ARE COURT ORDERED TO BE PRESENT OR SUBJECT TO CONTEMPT.

IN THE Circuit COURT OF Jefferson ALABAMA
 (Circuit, District or Municipal) (Name of County or Municipality)

State of Alabama
 Municipality of
 Plaintiff AVIAN ISOM v. CYNTHIA ISOM Defendant

(For juvenile cases only):
 In the Matter of: _____

Kimberly Clark
 3508 34th Ave. N.
 Bham, Al. 35007

FILED IN OFFICE
 NOV 22 2010
 JEFFERSON COUNTY
 CIRCUIT COURT
 DOMESTIC RELATIONS DIVISION
 ANN-MARIA ADAMS, CLERK

- A. Issued at the request of:
1. Plaintiff/State
 2. Defendant
 3. Grand jury
- B. Special Instructions
 You are ordered to:
1. Appear at trial/hearing
 2. Produce records or documents-See attached schedule(s)
 3. Appear at deposition
 4. Other _____

You may contact: _____

YOU ARE ORDERED TO APPEAR before the court as stated below until otherwise excused. Failure to obey this subpoena may be deemed a contempt of court from which the subpoena was issued.

DATE: 12-7-10
 TIME: 9:00 AM
 ROOM: Judge Pate
 ADDRESS: Domestic Relations Ct.
2124 7th Ave N.
Bham AL 35203
 NOV 22 2010
 Date Issued

ADDITIONAL INSTRUCTIONS

Any inspection or production of documents or records must be completed within 15 days.

Ann-Maria Adams
 Signature of Court Clerk [] Deputy Clerk (initials)

TO ANY SHERIFF OF THE STATE OF ALABAMA OR ANY AUTHORIZED PERSON You are ordered to serve this order on the above named person and make return to this court.

RETURN ON SERVICE

I certify that I personally delivered a copy of this order to Kimberly Clark
NOV on 24, 2010.
Vahum
 Signature and Title of Server

(For criminal cases only)
 Served by mail
 Date mailed _____
 Sheriff [] Deputy Sheriff

RECEIVED NOV 22 2010



**VIRGINIA P. MEIGS
ATTORNEY AT LAW
The Alexander House
2320 Arlington Avenue, South
Birmingham, Alabama 35205**



Office (205) 930-9800

Facsimile (205) 930-9809

August 19, 2011

Kimberly Clark
3508 34th Ave. North
Birmingham, AL 35207

Re: Contested Divorce
Case No.: DR-10-803 JGP

Dear Ms. Clark:

I hope you are doing well. Please be aware there is a new trial date. The new trial date, September 12, 2011, at 9:00 a.m. before the Honorable D. Batiste at the Domestic Relations Courthouse. **Please be aware you are court ordered to be present. The trial will be in the same courtroom as the last time you were present.**

Thank you for your cooperation in this matter.

Sincerely,

Virginia P. Meigs

Enc. Order

ALLAN ISOM,)
)
 PLAINTIFF,)
)
 VS.) TENTH JUDICIAL CIRCUIT OF ALABAMA
)
 CYNTHIA ISOM.)
)
 DEFENDANT.) CIVIL ACTION NO. DR 2010-803 DB

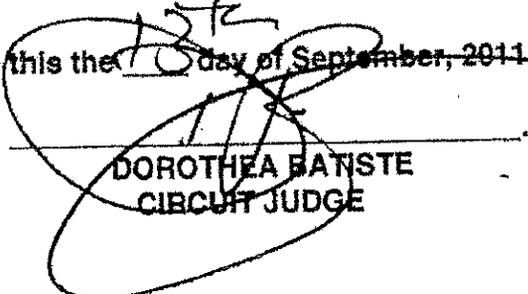
DECREE ORDERING INSTANTER ATTACHMENT

IT APPEARING to the Court that Candice Gray Franklin was duly served with a subpoena at the request of the Defendant to appear as a witness in this cause on the 12th day of September at 1:30 p.m. and said witness did not appear or otherwise respond to said subpoena. Upon consideration thereof, together with Defendant's Affidavit for Attachment, a copy of which is attached hereto as Exhibit A, and a copy of the subpoena which is attached hereto as Exhibit B, the Court is of the opinion the following Order should be entered. Accordingly, it is

ORDERED and ADJUDGED by the Court:

1. That the **SHERIFF OF ANY COUNTY IN THE STATE OF COUNTY ALABAMA** attach the said Candice Gray Franklin returnable instanter to Courtroom 230, Jefferson County, Alabama and the Sheriff make due return thereof.
2. The said Candice Gray Franklin may not be released on bond.
3. That the Clerk of this Court is directed to forthwith deliver a copy of this Order to the **Sheriff of Jefferson County, Alabama**, for delivery to the **SHERIFF OF BUTLER COUNTY, ALABAMA** for the attachment of the said witness.

DONE and ORDERED this the 13th day of September, 2011.


DOROTHEA BANISTE
CIRCUIT JUDGE

*Copies of this Order mailed to
Danita Huskins and Virginia Meigs
pursuant to Rule 77(d) of the Alabama
Rules of Civil Procedure this date.
Dated this the 13th day of September, 2011.*

By:

IN THE Circuit COURT OF Jefferson ALABAMA
(Circuit, District or Municipal) (Name of County or Municipality)

State of Alabama
 Municipality of _____
 Plaintiff ALLAN ISOM v. Cynthia ISOM Defendant

(For juvenile cases only):
 In the Matter of: _____

FILED IN OFFICE

A. Issued at the request of: **NOV 22 2010**
 Plaintiff/State
 Defendant
 Grand jury

B. Special Instructions
 You are ordered to:
 1. Appear at trial/hearing
 2. Produce records or documents-See attached schedule(s)
 3. Appear at deposition
 4. Other _____

Cande Gray Franklin
~~4381 Church Lane~~
~~New Castle, AL 35119~~
 OR
424 Dean Drive
Gardendale, AL 35071
 You may contact: 35073 205-631-9155 601-8709

YOU ARE ORDERED TO APPEAR before the court as stated below until otherwise excused. Failure to obey this subpoena may be deemed a contempt of court from which the subpoena was issued.

DATE: 12-7-10
 TIME: 9:00 Am
 ROOM: Judge Pate
 ADDRESS: Domestic Relations CH
2124 7th Ave North
Bham, AL 35203
NOV 22 2010

ADDITIONAL INSTRUCTIONS
 Any inspection or production of documents or records must be completed within 15 days.

Anna Marie Adams
 Signature of Court Clerk Deputy Clerk Initial

TO ANY SHERIFF OF THE STATE OF ALABAMA OR ANY AUTHORIZED PERSON You are ordered to serve this order on the above named person or and make return to this court.

RETURN ON SERVICE

I certify that I personally delivered a copy of this order to Cande Gray Franklin NOV on 24, 2010.

Valerie Beck
 Signature and Title of Server
308 mig non AVE
Bham, AL 35215
205 962-9508

(For criminal cases only)
 Served by mail
 Date mailed _____

 Sheriff Deputy Sheriff

RECEIVED NOV 24 2010



VIRGINIA P. MEIGS
ATTORNEY AT LAW
The Alexander House
2320 Arlington Avenue, South
Birmingham, Alabama 35205



Office (205) 930-9800

Facsimile (205) 930-9809

August 18, 2011

Cande Gray Franklin
4381 Church Lane
New Castle, AL 35119

Re: Contested Divorce
Case No.: DR-10-803 JGP

Dear Ms. Franklin:

I hope you are doing well. Please be aware there is a new trial date. The new trial date, September 12, 2011, at 8:45 a.m. before the Honorable D. Batiste at the Domestic Relations Courthouse. **Please be aware you are court ordered to be present. The trial will be in the same courtroom as the last time you were present.**

Thank you for your cooperation in this matter.

Sincerely,

Virginia P. Meigs

Enc. Order



IN THE ALABAMA COURT OF THE JUDICIARY

In the Matter of:

DOROTHEA BATISTE,
Jefferson County Circuit Judge

Case No. 43

ANSWER TO COMPLAINT

COMES now the respondent, Judge Dorothea Batiste, and, as Answer to the Complaint against her before the Alabama Court of the Judiciary, states:

1. Admits the allegations of paragraph 1.
2. Denies the allegations of paragraph 2 of the Complaint, for reasons set forth more fully in my responses to paragraphs 9-117 of the Complaint; further avers that the entire proceeding against her by the AJIC is an abuse of process and travesty of justice spurred on by retaliation by Judge Scott Vowell against her for Batiste's having rejected Vowell's sexual advances during the first year-and-one-half of her judgeship in Jefferson County, 2011-2012. Judge Batiste also asserts that she is a victim of race discrimination because of the disparate way she, as a black person, has been treated for her use of the contempt power of the judiciary, when compared to certain other white circuit court judges in Jefferson and Chilton Counties who have used, and/or abused, the contempt power for far greater lengths of time and under much more questionable circumstances. Judge Batiste also believes that her identification as a "colored Republican," so derisively referred to by Scott Vowell as such, has also factored into Scott Vowell's actions against her.
- 3-7. Denies the allegation of paragraph 3-7 of this Complaint.

A.

Contempt Proceedings Against Sonja Bell

Barry Bearden v. Nolanda H. Bearden, DR 2009-1269

8. Admits that the AJIC realleges paragraphs 1-7 of the Complaint.
9. Denies paragraph 9, because the returned subpoena states that it was personally served upon Ms. Bell.
10. Admits the subpoena was served on Ms. Bell.

11. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 11.
12. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 12.
13. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 13, but maintains that the subpoena was valid on its face, and gave Ms. Bell notice of an obligation to be present in court.
14. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 14, but admits that it is routine for my staff to tell litigants what time they are supposed to be in court.
15. Denies the allegation of paragraph 15, but avers that the subpoena for her to appear in court on August 10, 2011, reflected that Ms. Bell had been personally served with said subpoena. As to what advice Ms. Bell received from her attorney, I do not know.
16. Admits that Ms. Bell did not appear in court, but denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 16.
17. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 17.
18. Admits that the Bearden case was not tried on August 10, 2011, and was continued because of the refusal of Ms. Bell as it was continued because of the refusal of Ms. Bell to be present in court. Ms. Bell was the key witness, and numerous previous attempts to have Ms. Bell in court for depositions, court appearances, etc., to which she had been subpoenaed had failed. Further, the contempt power was only exercised at the request of the opposing party's counsel "due to numerous failures to appear by the witness." (Also, denies Footnote No. 7).
19. Denies the allegation of paragraph 19, and avers that pursuant to Code of Ala. 12-21-182 and Alabama case law, Palmer vs. Palmer, 556 So. 2d 39011989, I had the discretion to exercise the contempt power that I did.
20. Admits that I issued a writ of attachment with a proviso that Ms. Bell "not be released on bond" but vigorously deny that it violates any state law, including the Alabama Constitution, or Sullivan v. Sullivan.
21. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 21.
22. Denies knowledge or information sufficient to form a belief as to the truth of the first phrase of paragraph 22, but admits that Ms. Walls filed some motion on Ms. Bell's behalf, but is not sure when said Motion was filed.

23. Admits that Mr. Walls attempted to come by my office, but I am not sure what date that was.
24. Denies knowledge or information sufficient to know what conversations my judicial assistant was having with Mr. Walls.
25. Denies knowledge or information what Mr. Walls relayed to Ms. Bell, and denies knowledge or information of what management position Ms. Bell may have had at Blue Cross-Blue Shield, and further denies knowledge or information as to what theories or mental machinations Ms. Bell had.
26. Denies knowledge or information of the exact time when Ms. Bell reported to jail and exactly how long she stayed. Refer the AJIC to court records.
27. Objects to the symantic phrase, "[I]n return," but admits there was a motion hearing in my courtroom.
28. Denies that I did not allow Ms. Walls to be heard in arguing the law or facts concerning the motion or that I refused to hear any testimony. The AJIC has misleadingly quoted only a small portion (less than a page) of a hearing with a 26-page transcript. During the course of that hearing, Ms. Bell's counsel argued at great length (at least 14 pages) espousing why his client has been treated wrongly.
29. Admit the allegations of paragraph 29.

B.

Contempt Proceedings Against Curtis Austin

Camelia Austin vs. Curtis Austin, DR 2004-421.01 and CU2012-0949

30. Admits that AJIC realleges its allegations.
31. Admits that the Austins were earlier divorced, and that a petition to modify child support payments was made and that other things, like health insurance and medical support, were also requested. Admits that Curtis Austin was actually served on March 20, 2012, **not** April 5, 2012.
32. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 32.
33. Admits that I entered a scheduling order, but deny that the motion was not served on Mr. Austin, or that he did not receive a copy of it, or have prior knowledge. On the contrary, in his complaint to the AJIC, Mr. Austin admits, in paragraph 3 of his complaint, that he knew about the conference date, called, and said he missed it. Since the trial date was on the same piece of paper as the conference date, which paper was May 11, 2012, it is a

blatant falsehood for Mr. Austin to deny he knew about the trial date, since it was staring him in the face on the same paper.

34. Admits that the caption of the motion from the attorney for Amanda Austin should have given Mr. Austin or his attorney ample notice of the contempt portion of the hearing.
35. Denies that the motion did not seek new or additional relief, which is one reason why the Alabama Court of Civil Appeals upheld my ruling.
36. Denies the AJIC's interpretation of Rule 5, ARCP, but admits that the motion was served on Mr. Austin, one way or the other, and therefore he should have had knowledge of it, if he had bothered to take a look at it.
37. Admits that there was a hearing on June 21, 2012, but denies that Mr. Austin did not have notice or knowledge of the hearing, such that he should have been present.
38. Admits the allegations of paragraph 38.
39. Admits that I did issue a Decree Ordering Attachment. However, it is misleading for the AJIC to refer to my former order as unspecified. Instead, Mr. Austin had first violated Judge Pate's order of 2004, and he had also violated my previous order, and the Alabama Court of Civil Appeals upheld my order that Mr. Austin owed back child support and should pay it.
40. Denies that I did not comply with the appropriate rule concerning contempt petitions, as I understood them, but I quote Judge McLaughlin of the AJIC as stating to me as follows on January 18, 2013:

“Judge, regardless of what comes of this proceeding, I would urge you to do a careful study of the law of contempt. I think you have a misunderstanding of some of the aspects of contempt. A lot of judges do. It's sort of a difficult aspect of the law; and we don't deal with it as much as we do some other aspects; and, consequently, we don't -- just not as familiar with it as we need to be.”

Further, I followed the case of Hayes v. Hayes, 472 So. 2d 646 (1985), which stated that service by mail was valid, since this was not the initial proceeding but a continuation of prior proceedings.

41. Admits that Mr. Austin was arrested, but the AJIC has stated the incorrect date.
42. Admits that Mr. Austin did eventually have an attorney who sought certain relief, but is unsure of the exact date.

43. Denies knowledge or information as to if, or when, Mr. Wess may have contacted my office, but admits that a hearing was not initially set, because the two sets of attorneys appeared to be resolving the matter between themselves. However, a later hearing date was scheduled on July 26, 2012, in the afternoon.
44. Vigorously denies the allegations of paragraph 44.
45. Vigorously denies the allegations of paragraph 45, and believes it would have been improper to have ex-parte conversations with an attorney.
46. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 46.
47. Admits that some kind of legal paperwork made its way to Judge Vance, apparently due to the intervention of Scott Vowell on July 20; admits that I had some conversations with Judge Vance in which I expressed my dismay at my case being taken away from me. I further informed him that the attorneys were to appear in my court. Judge Vance replied that he did not care, and that he was going to hear the case anyway.
48. Admits that Judge Vance's writ allowed Mr. Austin to be released from jail (denies knowledge or information concerning Footnote No. 8).
49. Admits that Mr. Austin appealed his case to the Alabama Court of Civil Appeals and that said court reversed my ruling. I disagree, however, with several of the purported quotes attributed to the Alabama Court of Civil Appeals by the AJIC. I do acknowledge, however, that the issue of contempt was not substantially addressed in the opinion, and I believe that is the case because the Alabama Court of Civil Appeals agrees with what Judge McLaughlin said quoted in paragraph 40 above.
50. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 50.

C.

Contempt Proceedings Against Kizzy Lacey,

Kimberly Clark, and Candace Gray Franklin

Allan Isom v. Cynthia Isom, DR 2010-803

51. Admits that AJIC realleges its allegations.
52. Admits the allegations of paragraph 52.
53. Admits the allegations of paragraph 53.

54. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 54.
55. Admits the allegations of paragraph 55.
56. Admits the allegations of paragraph 56.
57. Denies that the affidavit of Mr. Isom's attorney says anything about August 18 and 19, 2011, but admits that the affidavit acknowledges both a September 12 and a September 13 court date.
58. Admits that the affidavit purports to make certain attributions of fact, but denies knowledge or information sufficient to confirm the truth of said facts.
59. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 59.
60. Denies knowledge or information of the allegations of paragraph 60, except to say that at no time did I release Ms. Lacy as a witness.
61. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 61, except avers that the affidavit of attorney Virginia Meigs states that she notified her witnesses to be present at a continued trial date.
62. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 61, except avers that the affidavit of attorney Virginia Meigs states that she notified her witnesses to be present at a continued trial date.
63. Admits the allegations of paragraph 63.
64. Admits that I did issue an attachment order for the three witnesses, and denies that I incorrectly stated that subpoenas were served, because I have seen, and have in my possession, the initial subpoenas, copies of which have already been provided to the AJIC.
65. Admits that the three decrees directed attachment of the three witnesses, but the correct word was not "bail" but "bond."
66. Denies that I did not comply with Rule 70A, because I was following the authority of Code of Alabama, §12-21-182 and Palmer v. Palmer, 556 So. 2d 390 (1989).
67. Denies that I violated state law, and AJIC attorney Sikes has mis-cited Sullivan v. State, 939 So. 2d 5-8 at 64 (Al. Civ. App. 2006), because that case was not concerning a subpoenaed witness but was instead in regards to an attorney named Sullivan, who was charged with obstructing justice, because she had allegedly prevented a witness from

coming to court. As a result, the Court found said attorney in direct contempt, and put her (the attorney) in jail.

68. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 68.
69. Admits that these witnesses may have hired attorneys to represent them, but denies any further knowledge about the allegations of the complaint.
70. Denies that I recalled the attachment order due to a lack of knowledge. Instead, I put it on the record that said witnesses were aware of the next court day, and I received the witnesses' assurances that they would be present.

D.

Contempt Proceedings Against Deva Walker

Materia S. Gipson v. Michael A. Gipson. DR 2010-1395

71. Admits that the AJIC realleges its allegations.
72. Admits that Deva Walker was served with a subpoena to be present in court.
73. Admits that the case was not tried on September 12, 2011, but disagrees that it was continued to January 25, 2012.
74. Denies that Ms. Walker was ever told that the case had been settled or resolved. I am sure I did not tell her such a thing. Ms. Walker was an essential witness for an unresolved custody battle, with many important issues, and she greatly prejudiced and inconvenienced everyone by her continued absences.
75. Denies that Ms. Walker ever in good faith believed that the case had been concluded. She may have wishfully hoped that, because she had a number of embarrassing vulnerabilities, including having a baby out of wedlock for the husband, Mr. Gibson, in the divorce case, and because Ms. Walker took the children of the husband, Mr. Gibson, to a "shot house" (where gambling, prostitution, etc. occurs), and Mr. Gibson had even been arrested for that. Because Ms. Walker failed to appear as a witness, it forced two young kids to have to get on the witness stand and testify to some of the foregoing, including pornography and then seeing the father doing certain things to himself. The father's conduct was outrageous, and Ms. Walker's repeated absence only complicated matters, especially for the children. I even took a 30-minute recess during trial to give Mr. Gibson a chance to have the witness present, but she did not show up.
76. Admits that the Gibson divorce case was not concluded on that initial occasion.
77. Admits that the Gibson divorce case was not tried until June 27, 2012.

78. Denies that counsel for Materea Gibson requested issuance and service of six subpoenas, but that he asked me to extend the trial subpoenas, which I did. I did not issue a Rule NISI against these witnesses, but instead issued a Rule NISI hearing.
79. Admits the allegations of paragraph 79.
80. Admits the allegations of paragraph 80.
81. Admits that back in February 28, 2012, I issued an order in open court for all witnesses to be present, and the attorney for Mr. Gibson attested in open court that he had contacted the witnesses. That is why the 30-minute recess was taken.
82. Admits that I issued an order on June 27, 2012 for attachment, because witness Deva Walker was not there, contrary to my earlier orders that she be present. I have no knowledge as to why exhibits A and B were not attached to an order on the Alacourt website.
83. Deny that I did not comply with Rule 70 (A). Indeed, as in answer to paragraph 66, I was following the authority of the Code of Alabama, § 12-21-182 and Palmer v. Palmer, 556 So. 2d 390 (1989).
84. Admits that I issued a writ of attachment for Ms. Walker, but vehemently deny that I violated state law. Further, I believe that Sullivan v. State, as stated in my answer to paragraph 67, is inapplicable.
85. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 85, but insists that my earlier order in court, and confirmation from counsel, that witnesses had been notified is what I relied upon.
86. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 86.
87. Denies the allegation of paragraph 87. I did not discover that this order had been issued until recently. In hindsight, I now suspect that my judicial assistant Teresa Love may have issued this order without telling me, shortly before she quit. This was after I warned her, upon discovering that this had happened in another case, that she would be terminated if it happened again. I told her this was “unacceptable behavior, and I would not tolerate her” doing it again. I made Ms. Love repeat these words back to me.
88. Admits the allegations of paragraph 88.

E.

Contempt Proceedings Against Barbara Kyle

Richard Ingram Kyle v. Barbara Dill Kyle, DR 2009-1260

89. Admits that the AJIC realleges its allegations.
90. Admits the allegations of paragraph 90, except adds that Barbara Kyle was also ordered to make her monthly payments on the house.
91. Denies the allegation of paragraph 91; Ms. Kyle was ordered to continue making payments on all marital debts jointly owned by the parties. This was the same as Judge Pate's order, and included the mortgage payments, among others.
92. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 92.
93. Denies that the divorce decree did not require Ms. Kyle to "pay and catch up the mortgage" and admits that Mr. Kyle's attorney did file two Emergency Motions.
94. Admits that I did set an order as an emergency motion, but that was on defendant's motion to alter, amend, or vacate.
95. Denies knowledge or information sufficient to form a belief as to the truth of this allegation of paragraph 95.
96. Denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the existence, or extent, of Ms. Kyle's fear or what airline reservations she attempted to make.
97. Denies knowledge or information sufficient to form a belief as to the truth of any allegations of what Ms. Kyle attempted to email to her now-deceased attorney.
98. Admits that a hearing was held on November 3, 2011 but denies knowledge as to where Ms. Kyle was.
99. Denies that Mr. Wright informed me anything as to where Ms. Kyle was. In fact, I deliberately quizzed him as to her whereabouts, and he either evasively, or due to his lack of knowledge, would not tell me. Further, Mr. Wright's motion complaining about Ms. Kyle's being sick or out of state was not filed until a day after I had issued the writ of attachment.
100. Admits the allegations of paragraph 100.
101. Denies that I did not comply with Rule 70(A). As stated in my answer to paragraphs 66 and 83, I was following the authority of the Code of Alabama, § 12-21-182 and Palmer v. Palmer, 556 So. 2d 390 (1989) and Alabama Rules of Civil Procedure 5(d), and no objection was made to service at the November 3 hearing.
102. Denies that I violated any law, and I repeat again that Sullivan v. State is not applicable to this case.

103. Admits the allegations of paragraph 103.
104. Admits that Mr. Wright filed a motion, but I deny the allegations contained in his motion.
105. Admits that I denied the motion, but states that the initial order to Ms. Kyle was issued by Judge Pate on December 10, 2009, and he issued a subsequent order on February 24, 2010, and I issued another order on August 10, 2011, that she did not follow. Thus, Ms. Kyle was in violation of numerous orders of two judges. Contrary to our orders, and in prejudice of the rights of other parties, Ms. Kyle disposed of \$184,000 in marital assets, and for 99% of what she disposed of, she had no receipts for, or other proof of, what she spent the money on. Further, in open court (which is in a transcript), Ms. Kyle stated that her health was good. With a smirk on her face, and looking directly at me, Ms. Kyle answered opposing counsel by saying she was "going to make sure that he (her ex-husband) will never see a dime of my inheritance."
106. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 106.
107. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 107.
108. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 108.
109. Denies knowledge or information sufficient to form a belief as to what motion Ms. Wright filed on March 26, 2012, but I later learned that some such motion had been filed. These alleged complaining parties against me before the AJIC wanted me to issue a writ of attachment on the court reporter, even though she did not for me, and a subpoena had not been served on her.
110. Admits that Randall W. Nichols filed a notice of appearance in court, but he did not issue a subpoena duces tecum, but only a subpoena.
111. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 111.
112. Admits that Mr. Kyle's attorney filed some kind of motion, but does not recall the timing or substance, as a copy of said order is not in my file.
113. Admits that I can neither admit nor deny this allegation because I cannot recall the same, and I do not have a copy of said order in my file. Further, the AJIC's suspension of me from my office prevents me from looking at Alacourt records.
114. Admits to the best of my knowledge (which is limited since I am now denied access to my office), the allegations of paragraph 114.

115. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 115.
116. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 116.
117. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 117.
- 118-
147. Denies the allegations of paragraphs 118-147 and demands strict proof thereof.

AFFIRMATIVE DEFENSES

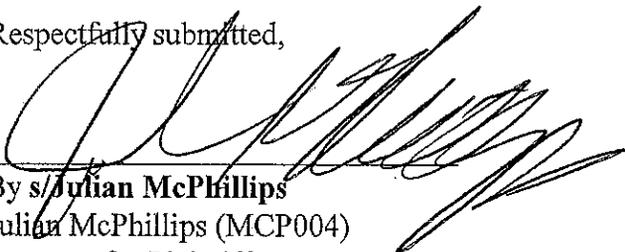
As further affirmative defenses, the respondent, Dorothea Batiste, shows:

1. The Complaint fails to state a claim upon which relief can be granted.
2. The entire Complaint is an abuse of process, and travesty of justice, as set forth more fully in Respondent Batiste's Rule 19 Petition for Relief for Violation of AJIC Rules by the Alabama Judicial Inquiry Commission, etc. ("Rule 19 Petition"), being filed contemporaneously with this Answer, in the Supreme Court of Alabama.
3. This entire Complaint, in its original instance, was wrongfully motivated by a sexual harassment retaliation by Judge Scott Vowell due to Respondent Batiste's having rejected Vowell's sexual advances early in her judgeship (See copy of Batiste's EEOC charge No. 420-2013-01858 attached to Batiste's Discovery Responses).
4. This Complaint also amounts to a form of race discrimination by the AJIC and Scott Vowell, due to the disparate treatment of Judge Batiste when compared to at least two other white Circuit Court judges, Susan Childers of Jefferson County, and Sibley Reynolds of Chilton County, who have engaged in far more lengthy, frequent, and draconian uses of the contempt power without penalty or discipline by the AJIC. (See copy of Batiste's EEOC charge No. 420-2013-01858 attached to Batiste's Discovery Responses).
5. The Complaint violates the AJIC's own handbook entitled "Judicial Conduct and Ethics" (A Reference Manual for Alabama Judges) by failing to allege, or prove, bad faith by Batiste, in connection with her alleged abuse of judicial discretion.
6. The Complaint, or at least parts of it, also violates the AJIC's afore-mentioned handbook by its failure to have been instituted by verified complaints filed by a member of the public, instead of simply letters forwarded by the afore-referenced Scott Vowell for highly-biased and improper reasons.

7. The Complaint also violates respondent Batiste's right of due process of law because it has denied Batiste an opportunity to confront her accusers, and even take the deposition of Scott Vowell, which deposition was requested by her attorney before the AJIC's Complaint was issued, all before respondent Batiste was suspended by the AJIC. (See Exhibit A). The AJIC ignored attorney McPhillips' request to take Scott Vowell's deposition, or did not answer it, but instead rushed to file its complaint against Batiste before the Court of the Judiciary.

8. The Complaint also violates respondent Batiste's right to equal protection of the laws guaranteed by the 14th Amendment's equal protection clause, because the Complaint treats Batiste in a disparate manner, in seeking to sanction and punish Batiste for alleged misuse of her contempt power when far greater misuses of said powers have been exercised by white circuit judges in Alabama without penalty or sanction by the AJIC.

Respectfully submitted,


By s/Julian McPhillips
Julian McPhillips (MCP004)
Attorney for Plaintiff

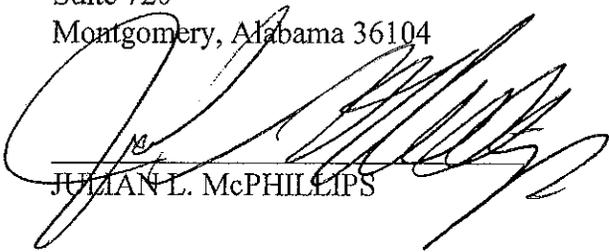
OF COUNSEL:
McPHILLIPS SHINBAUM L.L.P.
P.O. Box 64
516 South Perry Street
Montgomery, Alabama 36104
(334) 262-1911
(334) 263-2321 FAX

CERTIFICATE OF SERVICE

I hereby certify that I have e-filed the foregoing, and have served the same, via e-file, upon the following, on this the 14th day of May, 2013:

Griffin Sikes, Esq.
401 Adams Street
Montgomery, Alabama 36104

Alabama Judicial Inquiry Commission
401 Adams Street
Suite 720
Montgomery, Alabama 36104


JULIAN L. McPHILLIPS



VIA U.S. MAIL

J. Scott Vowell, Presiding Judge
Jefferson County Courthouse
716 North Richard Arrington Jr. Blvd
Room 370
Birmingham, Alabama 35203

November 30, 2011

EXHIBIT

E

Re: *Kyle v. Kyle*
DR 2009-001260 DB

Dear Judge Vowell:

I hope this correspondence finds you well. I represent the Plaintiff, Richard Ingram Kyle in the above-referenced Domestic Relations case. I understand that complaints have been made in regards to the Honorable Judge Dorothea Batiste and the nature of her rulings in this particular case. I would like to take a moment to give you my point of view, as I have been actively litigating this case for over two years.

The Honorable Judge J. Gary Pate was the original Judge in this case, and it is important to know a bit of this history before Judge Batiste took the bench. A complaint for divorce was filed in August of 2009, beginning the process of dissolving a thirty-one year marriage. Through the discovery process, I learned that the Defendant had inherited a piece of property which had been sold at a benefit to her of approximately \$275,000.00. Bank and credit card records showed that this money was regularly used for household expenses and benefitted both Mr. and Mrs. Kyle, despite the fact that Mr. Kyle was unaware of the sum of Mrs. Kyle's inheritance.

Based on the current case law, I strongly felt this money had been commingled and was a marital asset, subject to equitable distribution. Acting in the best interest of my client, I filed a Motion for a Temporary Restraining Order which Judge Pate granted on April 6, 2010. Additionally, the parties were under a Pendente Lite Order, entered on November 2, 2009, that required the Defendant, Mrs. Kyle, to pay all of the household bills, with the Plaintiff providing her with a set sum of money per week.

Despite the Temporary Restraining Order, Mrs. Kyle continued to spend and give away the inherited money. For example, she gave both of the parties' grown children \$25,000 each and bought both children new cars. In addition, she failed to pay the bills she was ordered to pay. Because of Mrs. Kyle's actions, I had to file a total of five Petitions for Contempt and Rule Nisi. In total, I made approximately thirteen court appearances simply to prevent Mrs. Kyle from spending the money.

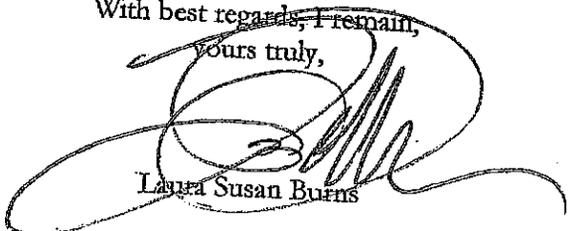
After numerous continuances, a trial was held on August 10th and 11th of this year. During the trial, Mrs. Kyle's testimony proved that she had repeatedly violated the Temporary Restraining Order as well as the Pendente Lite Order. At the conclusion of the trial, Judge Batiste determined the Defendant had violated the Court's orders on thirteen occasions and held the Defendant in contempt.

Judge Batiste's Final Judgment accurately reflected the evidence that was presented during the trial. Mrs. Kyle testified that she no longer had any of the inherited funds. Because of this, and the fact that the inheritance was found to be marital property due to commingling, Mr. Kyle was awarded the marital residence and Mrs. Kyle was ordered to pay all of the joint debt accumulated during the marriage.

I believe Judge Batiste did an excellent job litigating this case. While the final outcome was certainly not completely in my client's favor, I felt it accurately and fairly reflected the evidence presented. I believe the record shows that Judge Batiste was professional, fair and judicious throughout the course of the litigation.

I appreciate you taking the time to read my perspective on this matter. Please feel free to contact me if you have any further questions.

With best regards, I remain,
yours truly,


Laura Susan Burns

LSB/mab



LASHUNDRA LEWIS FOWLER,)	CIRCUIT COURT
)	
PLAINTIFF,)	
)	
VS.)	TENTH JUDICIAL CIRCUIT OF ALABAMA
)	
EDDIE E. FOWLER, II.,)	
)	
DEFENDANT.)	CIVIL ACTION NO. DR-11-000411-DB

AFFIDAVIT OF TERESA A. LOVE

I, Teresa A. Love, am the Judicial Assistant to the Honorable Dorothea Batiste. I have been with Judge Batiste since the beginning; we came in office January 2011, and we work very well together. I would like to submit this affidavit in support to her and to respond on her behalf to the allegations and pending appeal filed in the above style case.

First of all, I would like to say that Judge Batiste is a very fair and partial Judge, not Bias. She is a very hard worker and follows the law to the fullest. She is easy to get along with and she appreciates her staff. Our office carries and maintains many cases, we have a very large docket every week and Judge will take up time with each and every case. Judge Batiste is fast and efficient with her work and her numbers should speak for themselves. She is very strong but soft spoken with a warm heart. She respects the Court and it shows when she is on the bench. She loves her kids and they are her main concern. Attorneys from all over the counties call our office wanting advice or opinion from Judge because she is very knowledgeable and follows the law. When you are in Judge Batiste's Court, you will get a fair day in Court because that is the kind of Court she runs.

The above style case was filed on March 11, 2011, there were issues between the Plaintiff and the Defendant, they both had attorneys and needed immediate relief. Both counsels filed the necessary motions that needed to be filed for their client. Ms. Blockton and Ms. Fowler's prior attorney was able to work together and resolve issues. This case was set for pendente lite hearing on June 23, 2011, Judge heard testimony from both sides, the

attorneys asked the Court if they could talk and they came in our office and announced that they had settled the pending issues. An Order was prepared and signed by Judge and there were no problems, this case we set for Compliance in August and set for trial November 11, 2011. On August 26, 2011 the Plaintiff's prior attorney withdrew for reasons she stated in her motion. On October 12, 2011 Valerie Walker Walker entered her name and filed a Notice of Appearance as attorney of record for Ms. Fowler. Ms. Walker had few cases before Judge Batiste, but not many. She would only call me when things are not going her way, such as, orders, court dates, and she would like to argue and debate about everything this Court does. On November 11, 2011 this case was set for trial, Ms. Walker was not prepared, Judge called her trial docket but Ms. Walker insisted on trying to bully the Court into reopening the pendente lite matter because she did not agree with Judge ruling. Judge notice the tension in the Court room between the two attorneys and asked that the meet in her chambers. Judge had a huge docket that day and need to finish calling the docket. Ms. Walker wanted something done right then and kept demanding that her case be heard. She and Ms. Blocton was in Judge chambers, Valerie Walker became very angry with Judge when she was told that she would not reopen a case that has already settled and that Ms. Walker would not tell her how to run her Court. Shortly after, Matthew and I heard something, Judge's door opened and Valerie Walker abruptly came out yelling at Judge and say very loudly so that we all could hear her, stating "I am going to tell everyone" everyone will know!!! She went out of the door leaving her case unattended and not knowing what Judge wanted them to next. When she received the order resetting this case for a new trial date she called me asking why did we pick that date? I told her that there were already other case previously set for trial, and that our docket was full for the year. Valerie Walker is very confrontational and always has to have the last word. She started to make comments about our office and I told her that I was not going to put up with that and that she was being very disrespectful to Judge Batiste. I reminded her how she stormed out of her chambers yelling out what she was going to. I also told her that I had heard about a list that a few attorneys had started to get rid of Judge Batiste. Valerie Walker said to me that she has never put her name

on any list and that she was there at the meeting with other attorney discussing Judge Batiste, she witnessed and knows them all by name but she never filled out the affidavit. I said, oh really, and she said I promise you Teresa I never filled anything out. I told Judge Batiste about this because this was truly unfair and they were picking on her because she is a good Judge who follows the law. The Trial setting was March 14, 2012, a few days before Valerie Walker filed several motions and one was for Judge to recuse herself off this case. The motion hearing was set; Valerie Walker came in with her guards up, very argumentative, cooperative and disrespectful to Judge Batiste. Judge needed security in the Courtroom and her staff was there. The case did not get very far because Valerie Walker would not even listen to what Judge had to say. Judge asked Deputy Brown to take Valerie Walker downstairs and place her in holding to cool off. She refuses to listen to Deputy Brown, when she went to the holding cell she used her cell phone calling one person after another the entire time. Judge Batiste never ordered the deputy to take her to jail. Valerie Walker created this by trying to run Judge Batiste's Court she angry with Judge Batiste when she would reopen an issue that was closed and settled.

In closing, I would like to say I stand behind Judge Batsite all the way and I am honored and I am enjoying this experience in my life of having the pleasure to be her Judicial Assistant. I have known her for many years, she very kind hearted person. When she took her oath as Judge she meant just that and she get rave reviews from attorney's as well as the litigants that go before her. She is not afraid and making a difference and the change is good.

TERESA A. LOVE

JUDICIAL INQUIRY COMMISSION

* * *

COMMISSION MEMBERS

Norman E. Waldrop, Jr., Esq.
Chairman
Attorney at Law
Mobile

Hon. P. Ben McLauchlin, Jr.
First Vice Chairman
Presiding Judge, 33rd Judicial Circuit
Ozark

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Presiding Judge, 9th Judicial Circuit
Fort Payne

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Judge, Court of Civil Appeals
Montgomery

Hon. George N. Hardesty, Jr.
District Judge, Mobile County
Mobile

Mr. Ralph Malone
Masada Resource Group
Huntsville

Mr. David Scott
Scott Builders Supply, Inc.
Opelika

Dr. David Thrasher
Physician
Montgomery

Fournier Gale, Esq.
Attorney at Law
Birmingham

Background, Jurisdiction, and Authority
Prior to 1972, the method for discipline and removal of state judges in Alabama was by impeachment. The Alabama Constitution provided for impeachment of justices of the supreme court for the same grounds and in the same manner as that applicable to impeachment of the governor and other statewide executive officers, *i.e.*, by legislative action, with the house of representatives preferring the charges and the senate sitting as the court of impeachment. Other judges could be removed from office by impeachment proceedings before the Alabama Supreme Court.

In January 1972, the Alabama Judicial Commission was created by constitutional amendment. The Alabama Judicial Commission was authorized to investigate allegations of wrongdoing by judges, conduct hearings on the conduct and qualifications of judges, and make recommendations to the Alabama Supreme Court with regard to the retirement, censure, suspension, or removal of judges. The grounds for Judicial Commission action were willful misconduct in office, willful and persistent failure to perform duties, habitual intemperance, conduct prejudicial to the administration of justice that brought the judicial office into disrepute, and disability that seriously interfered with the performance of duties and was likely to become permanent.

The Judicial Inquiry Commission was established in December 1973 as part of Amendment 328 to the Constitution of Alabama of 1901. Under Amendment 328, a new judicial disciplinary system for the State was created under which the Commission is convened permanently as an independent agency within the judicial branch of government, with authority to receive and initiate complaints; to conduct investigations; and, where reasonable basis is found by a majority of its members to exist, to file and prosecute complaints before the Court of the Judiciary charging violation of any canon of judicial ethics, misconduct in office, failure to

perform duties, or physical or mental inability to perform duties.

A 1996 constitutional amendment made changes in the composition of the Commission but did not alter the powers and responsibilities of the Commission. ALA. CONST. amend. 581, §6.17. The provision governing the Commission is now Article VI, § 156 of the Official Recompilation of the Alabama Constitution of 1901, as Amended.

Another constitutional amendment adopted in 1996 provides that the measures for impeachment in ALA. CONST. art. VII, §173, also apply to Supreme Court justices and judges of the appellate courts. However, no such impeachment proceeding may be initiated or continue while the same matter or charge is pending before the Judicial Inquiry Commission or the Court of the Judiciary. A finding of a lack of probable cause or a termination without a finding of wrongdoing by either the Commission or the Court of the Judiciary is a complete defense to an impeachment proceeding. A judge who has been tried before the Court of the Judiciary may not be impeached on the same subject matter.

The Commission has jurisdiction over all judges of any court of the judicial system of this state. This includes the justices of the Alabama Supreme Court and all appellate, circuit, district, probate, municipal, and retired judges serving in an active duty status, as well as judges pro tempore and other part-time judges who are required to comply with certain canons of judicial ethics. The Commission does not have authority over court employees, referees, masters, or administrative law judges.

The Commission's authority is limited to matters of judicial misconduct and disability. The Commission does not act as an appellate court. It cannot reverse, vacate, or otherwise modify any judicial decision, nor may it interfere in ongoing litigation. It does not review either final judgments or allegations of legal error or abuse of judicial discretion during a court proceeding absent evidence of bad faith. For example, absent

of the fact that a particular judge is under investigation.

(B) The commission shall have no power to restrict speech or communications by persons other than the members, staff, and agents of the commission itself.

C. No mandate for confidentiality shall be construed to abrogate or to restrict in any way the obligations of the commission to communicate with, and to disclose information to, a judge under investigation or charge.

Rule 6. Investigations.

A. Investigations may be instituted by the commission only upon a verified complaint filed either by a member of the public or by a member of the commission and only upon the affirmative vote of a majority of all members of the commission at a duly called meeting agreeing to investigate the complaint.

~~B. Within 42 days after a complaint is filed with the commission, whether by a member of the public or of the commission, the commission must meet and vote on whether or not to investigate the complaint. A complaint shall become null and void if the commission fails to meet for such a vote within the 42 days allowed or if, upon the vote at a meeting, fewer than a majority of all members of the commission vote to investigate it. The commission shall promptly notify the judge named in the complaint upon its becoming null and void.~~

~~C. Within ten days after any person, whether a member of the public or of the commission, files a complaint with the commission, the commission must serve upon the judge who is the subject of the complaint copies of the complaint and any and all documents, photographs, tape recordings, transcripts, notes, and other materials of any nature whatsoever constituting, supporting, or accompanying the complaint.~~

D. Within ten days of instituting an investigation upon the vote required by subdivision A above, the commission must serve on the judge to be investigated a full description of the conduct to be investigated and all information received, gathered, or possessed by

the commission tending to establish or to refute that the conduct occurred or that the investigation is appropriate and must serve on the judge copies of any and all documents, photographs, tape recordings, transcripts, notes, and other materials of any nature whatsoever tending to prove or to disprove the occurrence of the conduct to be investigated or the appropriateness of the investigation.

E. Every four weeks after serving the disclosures, statements, and materials required by subdivision D of this rule, the commission must serve on the judge being investigated or to be investigated copies of any and all materials of any nature whatsoever not already served upon him or her tending to establish that the conduct either did or did not occur or that the investigation is or is not still appropriate and shall serve upon the judge a full statement of whether the commission then intends to continue the investigation.

~~(F) Any failure to serve disclosures, statements, or materials upon the judge as required by subdivisions C and D of this rule shall bar any prosecution for the conduct being investigated or to be investigated and shall bar the continuation of the investigation.~~

G. Any failure to serve disclosures, statements, or materials upon the judge as required by subdivisions E of this rule shall bar any prosecution for the conduct being investigated or to be investigated and bar the continuation of the investigation if the judge moves the commission to supply the overdue subdivision E disclosures, statements, or materials and the commission does not serve them within seven days thereafter.

H. No judge may be compelled to give evidence against himself or herself; provided, however, that a judge who chooses to testify on his or her own behalf shall be subject to cross-examination.

I. Service shall be by personal service or by certified mail. Service by certified mail shall be deemed complete upon mailing.

Rule 7. Subpoenas and other process.

A. Subpoenas for attendance of witnesses or

3. That Defendant will be released from jail by paying a cash bond to the Clerk of this Court in the amount of \$6,000.00. He may purge his contempt by paying said cash bond, and by paying his current child support and arrearage payments as previously ordered. The Court retains jurisdiction of this proceeding for any further appropriate orders.

DONE AND ORDERED this the 3 day of May, 2012.



SUZANNE S. CHILDERS
CIRCUIT JUDGE



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
DOMESTIC RELATIONS DIVISION

State of Alabama, ex rel.)
 In Re:)
 ANDRETIA F. BIBBS,)
 Plaintiff,)
 VS.)
 SHAWN M. BIBBS,) CASE NO: DR 2002-1250.01 SSC
 Defendant.)

CONTEMPT ORDER

THIS CAUSE came before the Court on February 23, 2012 for trial/compliance. Upon consideration thereof, it is:

ORDERED, ADJUDGED AND DECREED by the Court:

1. That the Defendant, Shawn M. Bibbs, is in criminal and civil contempt of Court for his failure to abide by the previous orders of this Court.
2. Defendant has failed to pay child support on 104 different occasions, and currently owes the sum of \$59,318.39 principal, plus interest in the amount of \$22,457.12.
3. Defendant is sentenced to incarceration in the Jefferson County Jail for a term of 520 days which represents 5 days for each time he failed to pay. The Sheriff of Jefferson County is directed to incarcerate the Defendant forthwith.
4. Defendant may purge himself of contempt by paying \$6,000.00 to the Clerk of this Court, cash bond only.
5. The Sheriff of Jefferson County is directed to release the Defendant upon submission of proof of payment of the cash bond as set out herein.

EXHIBIT
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EXHIBIT
S

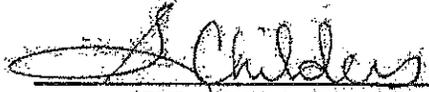
6. When the Defendant is released, the Sheriff of Jefferson County shall prepare a cost bill for the incarceration of Defendant and submit it to the Clerk of the Court for payment by the Defendant.

7. A copy of this Order shall be submitted to the Sheriff of Jefferson County and the Defendant.

8. Defendant shall pay the sum of \$254.00 as current child support plus \$353.00 per month as arrearage as previously ordered.

* * * * *

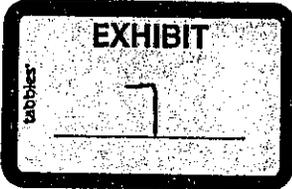
DONE AND ORDERED this the 23 day of Feb, 2012.



SUZANNE S. CHILDERS
CIRCUIT JUDGE

Order e-filed & mailed;
Sheriff of Jefferson County
Pursuant to Rule 77 (d) ARCP

325



102870118-49 AM
DR-2003-000248.04
CIRCUIT COURT OF
JEFFERSON COUNTY ALABAMA
ANNE MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
DOMESTIC RELATIONS DIVISION

State of Alabama, ex rel.,

RITA JACKSON,
Plaintiff,

VS.

KEITH MUEHAMMAD,
Defendant.

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CASE NO: DR 03-248.03 SSC
& DR 03-248.04 SSC

CONTEMPT ORDER

THIS CAUSE came before the Court on October 6, 2011 for trial on the Plaintiff's and the State's Contempt Petition for Non-Payment of Support, and the Defendant's Answer. After the hearing, the Defendant was incarcerated by this Court for civil and criminal contempt of this Court's previous orders in this cause. The Defendant has filed a Motion to Set Bond in this matter. Upon consideration thereof, the Court is of the opinion that the following Order should be entered. Accordingly, it is Ordered, Adjudged and Decreed:

1. The Defendant currently owes child support arrearage in the amount of \$67,329.95 plus interest in the amount of \$32,667.20 for a total of \$100,735.58. The Defendant is in total civil and criminal contempt of Court for his failure to pay on 65 separate occasions, and he is sentenced to a term of incarceration of 325 days in the Jefferson County jail.

2. The Defendant may purge himself of contempt by paying a cash bond to the Clerk of this Court in the amount of \$10,000.00 as well as paying his currently monthly child support obligation of \$738.43, and his arrearage payment of \$475.00 per



Month.

3. Costs here previously been taxed to the Defendant. for which let execution issue.

DONE AND ORDERED this the 27 day of Oct, 2011.


SUZANNE S. CHILDERS
CIRCUIT JUDGE

Copies of this Order hand delivered:

Sheriff of Jefferson County
Keith Muhammad
Jack Wallace Esq
Rita Jackson

Pursuant to Rule 77 (d) ARCP

Dated: _____

By _____